



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Amaravathi**

:: Present ::

N. Basavaiah, B.Sc, B.L.

Date: 26-3-2020

Appeal No. 49 of 2019-20

Between

A.Chandra Mohan, C/o M/s Shivani Servicing Centre, Venkatampalli (V),
Bogasamudram (M), Tadipatri, Anantapur District.

... Appellant

And

1. Assistant Accounts Officer/ERO/Tadipatri
2. Assistant Executive Engineer / O/Tadipatri
3. Deputy Executive Engineer / O/Tadipatri
4. Executive Engineer / O/Gooty

....Respondents

ORDER

The above appeal- representation has come up for final hearing before the Vidyut Ombudsman on 19-03-2020 at Vijayawada. The complainant, as well as the respondents, was present. Having considered the appeal-representation and the submissions made by the above persons present through video conference, the Vidyut Ombudsman passed the following:

1. This appeal has been preferred by the appellant-complainant against the

order ***dated.31-01-2020 in C.G.No. 20/2019-20/Anantapur Circle***, passed by the ***Forum for Redressal of Consumer Grievances in Southern Power Distribution Company of A.P Limited, Tirupati***, whereby and where under the above Forum dismissed the complaint disputing the correctness of service meter and questioning the wrong billing.

2. The case of the complainant, as stated in his complaint dated.16.4.2019, is that he obtained electricity supply with service connection No. 7231142 000276, LT category, from the respondents , that the monthly consumption of electricity for the above service connection was below 600 units from January, 2018 to July, 2018, that suddenly, the service meter was recording abnormal reading from the month of August,2018 onwards, and as such, he entertained a doubt that there was a defect in the meter and paid Rs.2645/ on 14.11.2018 as charges for testing the service meter, but the respondents did not respond for 80 days in that regard, that 6 days after his reminding letter dated 5.2.2019 to the third respondent, the technical staff inspected the above service and rectified the error, and thereafter, the service meter was recording energy normally, that suddenly, the technical staff replaced the meter recording the eenergy correctly with a new meter without informing him and issued a cc bill showing the consumption as 1116 units for the consumption month of May, 2019 without taking actual meter reading, that the respondents violated several provisions of the GTCS and that therefore, he prayed to waive off the improper charges from August, 2018 to March, 2019 and May, 2019 and order the respondents to issue revised cc bills for those nine months.

3. The 4th respondent filed his response stating that on 20-03-2019, he got the

above service inspected by AEE / CT meter - 2/Anantapur, and the meter was replaced after noting down all the parameters and downloading MRI dump, and that the AEE/CT meters submitted his report stating that the abnormal consumption recorded was due to the capacitors load only as the capacitors were kept in 'ON' condition at no load; the HPL make meter is ok; errors are within the permissible limits and at the time of inspection, 10 KVAR capacitor connected directly to the incoming side after the meter was removed. The 1st respondent has filed his response separately, stating that the cc bills were served in live status from August, 2018 to March, 2013 under KVAH units, that the meter was replaced on 20-3.2019, and from bill issue to meter changed period, average units of 760.5KVAH were taken and from the replaced period, the meter reading of 355 units were taken for billing purpose and that that there is no discrepancy in the bill showing 1116 units for April, 2019.

4. No evidence had been adduced by both parties. After considering the material available on record, the Forum observed that the complainant failed to place any evidence to show that there is defect in the meter, and it dismissed the complaint accepting the case of the first respondent. Not satisfied with the above order, the complainant preferred this representation.

5. It is submitted by the representative of the appellant complainant that the consumer never changed capacitors, and if the consumer had changed the capacitor, he would have restored it to its original position immediately after he received the cc bill for the month of August, 2018 and rectified the mistake by the complainant himself, and the complainant had no need to make a complaint falsely against the correctness of meter and pay money for testing the meter, that

had the meter been inspected within time, this problem would not have arisen, and he would not have sustained any loss, that the respondents did not offer any explanation why they did not inspect the service meter within the prescribed time and as per the provisions of the GTCS-2006, that the meter recorded the energy of 644 units during the consumption month of April, 2019, but the cc bill for the month of May, 2019 was issued showing the energy consumed as 1116 units for that month by taking average units for a portion of that consumption month as if the meter were defective and that even if the case of respondent is accepted to be true, they have not placed any supporting material to say that there is nexus between the service meter recording energy consumed and keeping the capacitor at a wrong place as stated by the respondents, and therefore, the representation may be allowed. The respondent submitted that inspection report shows that the cashier of the appellant complainant was present on behalf of the appellant complainant at the time of testing the meter at Anantapur on 20-03-2019 and there was no defect in the meter and that the capacitor was arranged at the incoming side instead of at load side and the above fact was noticed by the AE. The appellant complainant in his reply submitted that he paid some portion of the disputed amount as per Interim Order passed by the Forum restraining the respondents not to disconnect the service connection, and it was in force till the Forum decided the case finally.

6. The following point is framed for consideration:

Can the representation be upheld?

7. Point No.1: At the outset, I would like to say that the Forum passed the order not in accordance with the provisions of APERC Regulation No.3/2016. The Forum has to determine the complaint on merits on the pleadings and evidence available on record,

as per the clause 12.3 of the Regulation No.3/2016, and pass reasoned orders, as per the clause 13 of the above Regulation. Even this authority has to settle the representation on merits on the pleadings and evidence available on record and has to pass reasoned orders. In this case, only pleadings are available without any evidence. So, we have to decide this case only on the basis of admitted facts. There is no dispute that the amounts of energy supplied to the complainant recorded, as per the service meter, as mentioned in the order of the Forum from April, 18 to April, 2019, are 509, 635, 622, 503, 889, 1139, 1447, 1626, 1630, 1492, 1538, 1482 and 644, respectively. The main question to be seen in this case is whether the version of the complainant that recording energy through the service meter abnormally in this case from August, 2018 to March, 2019 is due to the meter defectiveness, or the version of the fourth respondent that the above abnormal recording energy is due to working of capacitors at no load, is probable? The Forum did not consider the above aspect. The Forum dismissed the complaint on the basis of the report of the AEE/CT-Meter-2 Anantapur coupled with an observation that the complainant failed to place any evidence that there was defect in the meter. The Forum accepted the above report, without examining the concerned AEE to prove the contents of the above report or without citing any provision of law to read the above report in evidence without examining the author of the above report. In my view, It has no evidentiary value. Even if it is held that the above report has any evidentiary value, it is only an opinion evidence without grounds on which it was given. The grounds on which that opinion was given are important, but they are not stated by the Forum in its order. I find some merit in the submission made on behalf of the complainant on the above aspect. It is not the case of either side that the meter installed in this case does not belong to the licensee, and it belongs to the consumer or that a check meter of consumer is allowed in this case in addition to the main meter installed by the licensee. The duty of the consumer is limited and is only to make a complaint about the meter functioning, or he has to make an application along with required fee for testing the meter. The nature of evidence expected from a consumer to prove that the meter is defective is not stated by the Forum in its order. I am unable to understand what type of evidence can be adduced by a consumer like the

complainant in this case to prove that the meter is defective. It is not case of the respondents that there is no reason for the consumer entertaining a doubt about the correctness of the meter. According to the complainant, the meter is not correct, while it is the case of the respondents that the meter is correct and that the defect is only upon the consumer as alleged by them. The respondents made a positive assertion, denied by the complainant. So, it is for the respondents to prove that the meter is correctly recording the energy supplied and that the defect lies upon the consumer. Therefore, I am of the view that the above observation of the Forum is absurd. The first respondent filed his response stating that the meter was replaced on 20-3-2019, and from bill issue to meter changed period average units of 760.5KVAH were taken. The electricity consumption for the consumption month of April, 2019, after replacing the meter on 20-3-19, is 644 units, and I am unable to understand how the above plea of the 1st respondent suits either for consumption month of April, 2018 or May, 2019. The Forum did not take the above fact into consideration. Hence, I am of the view that the order of the Forum dismissing the complaint on the ground that the complainant failed to place any evidence to show that there is defect in the meter is unjust. Apart from it, there is another grievance of the complainant as to the delay of about 80 days in inspection of meter. The above grievance is one of the guaranteed Standards of performance, and compensation to consumer in case of default can be awarded. The Forum did not touch the above aspect in its order, and non-consideration of the above aspect is also a defect in the order of the Forum. The submission made on behalf of the complainant on the above aspect does merit. For the above reasons, I am of the view that this representation is to be upheld and the order of the Forum is liable to be set aside and that this case is to be remanded to the Forum for fresh disposal on merits on all aspects.

8. In the result. I set aside the order of the Forum and remand this case to the Forum with a direction to dispose of the case afresh on merits on all aspects including the aspects pointed out supra in this order in accordance with the provisions of the GTCS-

2006 and the relevant Regulations made under the Electricity Act. The Forum shall take this case to its original number on its file, issue notices to both parties and give an opportunity to both parties to file additional pleadings and lead evidence, if parties want to do so, before the case is decided on merits. Considering the facts and circumstances of this case, I direct both parties to bear their respective costs. It is needless to mention that the interim order passed dated.6.8.2019 by the Forum in I.A.No.11/2019-20 will be in force till the Forum determines the complaint afresh after remand. This representation is thus disposed of

9. A copy of this order is made available at
www.vidyutombudsman.ap.gov.in

Sd/- N.Basavaiah

VIDYUT OMBUDSMAN

To

1. A.Chandra Mohan, C/o Shivani Servicing Centre, Venkatamalli (V), Bogasamudram (M), Tadipatri, Anantapur District
2. Assistant Accounts Officer/APSPDCL/ERO/Tadipatri
3. Assistant Executive Engineer / O/APSPDCL/Tadipatri
4. Deputy Executive Engineer / O/APSPDCL/Tadipatri
5. Executive Engineer / O/APSPDCL/Gooty

Copy To:

6. The Chairman, C.G.R.F., APSPDCL, 19/13/65/A, Srinivasapuram, Near 132 kV substation, Tirchanoor Road, Tirupati- 517 503.
7. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004 .