



BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh :: Hyderabad

:: Present ::

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

Date:08-05-2017

Appeal No. 14 of 2016



Between

Sri. T. Subba Rao, S/o, Kamaraju, Patha Perumallapuram, Near Cyclone Shelter, Thondangi Mandal, East Godavari District.

...Appellant/ Complainant

And

1. The AE/Operation/APEPDCL/Payakaraopeta-R/Visakhapatnam
2. The AAO/ERO-Anakapalli/Anakapalli/Visakhapatnam
3. The ADE/Operation/APEPDCL/Yelamanchili/Visakhapatnam
4. The DE/Operation/APEPDCL/Anakapalli/Nidanamdhodi/Visakhapatnam

... Respondents

The above appeal- representation filed on 02-06-2016 has come up for final hearing before the Vidyut Ombudsman on 18-04-2017 at Visakhapatnam. The complainant, as well as the respondents 1 to 4 above was present. Having considered the appeal, the submissions made on behalf of the complainant and the respondents, the Vidyut Ombudsman passed the following:

ORDER

1. This appeal has been preferred by the appellant-complainant against the order dated.14-05-2016 in C.G.No:04/2016/Visakhapatnam Circle, passed by the Forum for Redressal of Consumer Grievances in Eastern Power Distribution Company of A.P Limited, Visakhapatnam, whereby and where-under the above Forum passed the order as follows:

- “The Forum, duly taking into cognizance of the written submissions of the 1st and 2nd Respondents, the following order is hereby passed:



N. Basavaiah

- The complaint about impugned notices issued in Lr.No.AAO/ERO/AKP/VSP/JAO/D-list/F.ERO/D.No.1122/15, Dt.07/12/2015 and Lr.No. AAO/ERO/AKP/VSP/JAO/D-list/F.ERO/D.No.1224/16, Dt.05/01/2016 against the Sc.No. 000373 LT Ct-II made by Sri. T. Subba Rao, Patha Perumallapuram, Near Cyclone Shleter, Thondangi Mandal, Visakhapatnam District, has been examined and found to be in order. The AAO/ERO/Anakapalli had levied shortfall for defective period duly following the clause 7.5.1.4.1 of GTCS approved by APERC, Dt.06/01/2006. In the result, the complaint is dismissed.
- Therefore, the complainant is hereby advised to pay the amounts as arrived at by AAO/ERO/Anakapalli for the months of June & July 2015 against the Sc.No.000373, LT Cat-II with immediate effect or otherwise it would become liable for disconnection.
- A compliance report shall be submitted to the FORUM within 15 days from the date of receipt of this order.
- Accordingly, the C.G.No. 04/2016 is disposed off.”

2. The facts leading to file this appeal- representation are that service number 373, LT Cat- II with the contracted load of 36 KW at Palman Peta, Payakraopeta Rural Mandal, Visakahapatnam was released in the name of the complainant on 25-02-2015, that meter readings were thrice noted with respect to the above service connection from the date of supply to 25.6.2015 and they are 24830, 40230 and 40230 as on 24.4.2015, 21.5.2015 and 25.6.2015, respectively, that on 25.6.2015, it was noticed that the meter was stuck up, and as such, a minimum bill for 105 units was issued by giving 02 status to it, that on 30.6.2015, a new meter was installed in the place of old stuck up meter by the then ADE/O/Anakapalli, that the new meter reading noted as on 25.7.2015 is 7460, that the CC bill for the month of July 2015 for total units of 14842 on the basis of preceding 3 months average under 04 status was issued for payment of Rs.1,46,860/ to the



B. Saravaram

complainant, that the complainant represented to the 1st respondent on 26-09-2015 to revise the bill since the meter had been struck up only for six days, that the above representation with the counter signature of the third respondent was transmitted by the first respondent to the second respondent by making a recommendation that only the 5 days average units(30.6.2015 - 25.6.2015) are to be taken, that after expiry of two months, the complainant received a letter dated 07/012/2015 from the second respondent through the first respondent for payment of Rs.1,49,985/, that the CC bills were revised for the months of June and July, 2015 assessing the consumed units at 13410 (Average of three months units) and 9617 (New meter reading plus 5 days average units) for payment of Rs1,32.778/- and of Rs.96439/-, respectively and that the second respondent gave a reply dated 05-01-2016 to the complainant asking him to pay Rs. 1,46.478/. The complainant filed the complaint dated.8.1.2016 alleging some facts stated supra and stating that provisional assessment notice ought to have been issued by the ADE/O/Yelamanchili and final order ought to have been given by the DE/Anakapalli, that the second respondent in this case has no power to issue notice for payment and that therefore, he prayed to do justice.

3. The 1st respondent supported the case of the complainant while the case of the second respondent is that the guidelines given in clause No.7.5.1.4.1 of GTCS-2006 are followed and the procedure followed by the 1st respondent in issuing the minimum bill for the month of June 2015 in this case by mentioning only 105 units is incorrect and that he is vested with powers to raise shortfall as per the GTCS when the same is observed in billing.

4. No oral or documentary evidence was adduced before the Forum. After considering the material available on record, the Forum passed the order as stated supra. Not satisfied with the above order, the complainant preferred this appeal-representation.



N. Basavanth

5. PW1 (M. Veerababu), a third party on behalf of the complainant, is examined and RW1, the second respondent, is examined and Exs.R1 to R5 are marked, on behalf of the respondents, before this authority.

6. My efforts for mediation between the parties are not successful. The complainant submitted that he did not consume the power as stated by the respondents, that the second respondent is not competent to issue assessment notice to him, that he had incurred loss in his business and he is not in a position to pay the amount claimed and that however, he is prepared to pay Rs. 25,000/ in two monthly instalments. The respondents submitted that the complainant has to pay the entire amount as it was fixed as per the GTCS -2006, that if the complainant is able to produce any document to show that he did not consume power during June 2015, they would reconsider the claim, that the complainant in his letter admitted that he consumed supply for pumping and storing water in the tank meant for prawn culture and that meter readings may be compared before and after 2015. The complainant in his reply submitted that he did not consume the power during that period.

7. The following point is framed for consideration:

Whether the complaint is fit and proper for being considered?

8. Point: The main grievance of the complainant is with regard to the assessment of units billed from 26.5.2015 to 30.6.2015 when the meter was stuck up. The specific case of the second respondent is that the assessment was made as per the clause 7.5.1.4.1 of GTCS-2006 and that issuance of minimum bill for 105 units as stated supra by the 1st respondent is not in accordance with the correct procedure as it is evident from billed history and as the billing machine with respect to meter with 02 status will generate average units automatically as per programme. The oral or documentary evidence adduced in this case before this authority is not much helpful to decide this case. Except the statement of the complainant, there is no other material to accept his statement that he did not consume any power during the above period. Even the evidence of PW1 is not



M. Basavanth

specific and his evidence is general in nature. The oral evidence of RW1, the second respondent, on the above aspect, is not direct and is not so helpful. The complainant or the respondents did not produce the copy of the said Designated Officers' Notification issued by the licensee either to accept the plea of the complainant that the 2nd respondent is not entitled to issue the notice to him, or to accept the plea of the 2nd respondent that he is empowered to issue such a notice. Though I made several efforts to secure that notification for the last 15 days, I could not get it. However, it does not matter.

9. This is a case of no admissible evidence. This authority is aware that oral evidence is not necessary under the Regulation No.1/2004 and the case can be decided on the basis of documents produced. Issuance of a minimum bill for 105 units for the period from 25.5.2015 to 25.6.2015 is a circumstance to be considered supporting the case of the complainant. Since it is the case of the 2nd respondent that as the assessment of units made by the 1st respondent is incorrect and as such, he revised the assessment of units made by the 1st respondent initially, it is for him to prove his plea that the units billed were determined as per clause 7.5.1.4.1 of GTCS-2006. In my opinion, the 2nd respondent determined the billed units not in accordance with the above clause. Clause 7.5.1.4.1 of the GTCS-2006 says that the number of units to be billed during the period in which the meter ceased to function or became defective, shall be determined by taking the average of the electricity supplied during the preceding three billing cycles to the billing cycle in which the said meter ceased to function or became defective provided that the condition with regard to use of electricity during the said three billing cycles were not different from those which prevailed during the period in which the meter ceased to function or became defective. According to the 2nd respondent, he followed the above guideline. Taking the average of the electricity supplied during the preceding three billing cycles is the first part of the above clause and the second part of the above clause (proviso) is that the condition with regard to use of electricity during the said three billing cycles were not different



[Handwritten signature]

from those which prevailed during the period in which the meter became defective. The decision in this case mainly depends upon the fact whether the 2nd respondent took the proviso of the above clause into consideration or not, before the billed units were determined in this case. It appears the second respondent determined the number of units to be billed for the above period mechanically only on the basis of the part of the guideline given in the first part of above clause without considering the remaining part of guideline given in the proviso of the above clause stated supra and I formed the above opinion on the basis of the submission made by the respondents that if the complainant is able to produce any document to show that he did not consume power during the disputed period, they would re-consider the claim in this case as the said submission gives an indication that the second part(proviso) of the above clause was not taken into consideration prior to issuing the notice to the consumer. If the respondents are aware of the proviso of the above clause prior to issuing the notice, the respondents would have collected some material from the consumer or the subordinates of the respondents going to the field(line man, Line inspector and the meter reader) to say that they followed the entire guideline given in the above clause including the proviso before issuing the notice. Apart from it, the cc bill for the entire month from 25.6.2015 to 25.7.2015, even after new meter was installed on 30.6.2015, was issued on the basis of units assessed as per the above clause. After an objection in that regard was raised, that bill was revised as stated in the beginning of my order. The submission of the respondents that the complainant in his letter admitted that he consumed supply for pumping and storing water in the tank meant for prawn culture is devoid of merit as the complainant in his letter, Ex. R5, did not admit that he consumed power supply either in the month of May or June, 2015. I perused Ex.R5 and from Ex.R5, it cannot be held that the complainant made an admission as submitted by the respondents and the reference made in it relates to July, 2015. There is no dispute as to power consumption by the complainant during July, 2015. It is another circumstance supporting the case of the complainant. The final submission of the respondent is that if the meter readings are compared before and

after June,2015, it will support the case of the respondents, but I cannot reject or discard the case of the complainant that he did not consume power during June,2015 on the basis of making observation of meter readings before and after June,2015 and it is irrelevant to decide the core point whether the proviso in the above clause was considered or not by the 2nd respondent. The above submission does not support the case of the respondents. The submission of the complainant that he is prepared to pay Rs.25,000/- gives an indication that his plea that he did not consume any power during June,2015 is not so correct and however, on that basis, I cannot accept the plea of the 2nd respondent. So, It is difficult to uphold the contention of the contesting respondents that they followed the guideline given in the clause 7.5.1.4.1 for computation of the assessed units for the disputed period. There is no material placed how the assessment of units made by the 1st respondent is incorrect. Therefore, I hold that the billed units were determined not in accordance with the above clause 7.5.1.4.1 and were determined without taking the proviso of the above clause into consideration. The Forum did not consider the above aspect and as such, the order of the Forum is to be set aside. So, I have to pass an order that fresh demand assessment notice to the consumer-complainant be issued by the designated officer of the Distribution Company after the re-assessment of units to be billed is made as per the guidelines applicable to this case. For the above reasons, I am of the view that the complaint is fit and proper for being considered. This point is thus answered.

10. In the result, I allow the appeal-representation, set aside the order of the Forum and order that fresh demand assessment notice to the consumer-complainant be issued by the designated officer of the Distribution Company after the re- assessment is made with regard to the units to be billed as per the guidelines applicable to this case. The appeal-representation is thus disposed of. There is no order as to costs.

11. This order is corrected and signed on this 8th day of May, 2017.



Basavaraj

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

AB Saravali
VIDYUT OMBUDSMAN 8/5/17

To

1. Sri. T. Subba Rao, S/o, Kamaraju, Patha Perumallapuram, Near Cyclone Shelter, Thondangi Mandal, East Godavari District - .
2. The Assistant Engineer, Operation, APEPDCL, P R Peta-Rural is, Payakaraopeta Mandal, Visakhapatnam District - 531126.
3. The Assistant Accounts Officer, Accounts, ERO, APEPDCL, Nidanamdhodi, Gavarapalem, Anakapalli, Visakhapatnam District -
4. The Assistant Divisional Engineer, Operation, APEPDCL, Operation Sub-Division, Yelamanchili, Visakhapatnam District -
5. The Divisional Engineer, Operation, Anakapalli, APEPDCL, Nidanamdhodi, Gavarapalem, Anakapalli, Visakhapatnam District -

Copy to:

6. The Chairman, C.G.R.F., APEPDCL, P & T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam - 530 013.
7. The Secretary, APERC, 11-4-660, 4th Floor, SingareniBhavan, Red Hills, Hyderabad - 500 004.