



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

:: Present ::

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

Appeal No. 23 of 2018

Between

A. Sankaraiah, 1-255, 1st Floor, Ganesh Nagar Post, Tadipatri, Anantapur.

...Appellant/ Complainant

And

1. The AE/Operation/Tadipatri-Rural/APSPDCL/Anantapur District
2. The ADE/Operation/Tadipatri/APSPDCL/Anantapur District
3. The DE/Operation/Gooty/APSPDCL/Anantapur District

... Respondents

The above appeal filed on has come up for final hearing before the Vidyut Ombudsman on 18-1-2019 at Anantapur. The complainant, as well as the respondents, was present. Having considered the appeal, the oral submissions made by the complainant and the respondents present, the Vidyut Ombudsman passed the following:

ORDER

1. This appeal has been preferred by the appellant-complainant against the order dated.28-08-2018 in C.G.NO:275/2017-18/Anantapur Circle, passed by the Forum for Redressal of Consumer Grievances in Southern Power Distribution Company of A.P Limited, Tirupati, dismissing the complaint filed by the complainant-consumer alleging grievance against current consumption bills with respect to the Industrial service connection No.7231127001351 of the complainant at Sajaladinne village of Tadiparthi Sub-Division for the months of September,2017 and October,2017 besides

the month of April,2018.

2.The case of the complainant is that he, as the sole proprietor of 'New Raja Slabs', got the above Service connection released by the respondents in the name of the above industry, that the above industry did not work completely during September,2017 and it worked partially during October,2017, but, current consumption bills with abnormal amounts for Rs.16,179/ and Rs.12083/ for those two months, respectively, were issued, and that his objection regarding the above cc bills by representation to the second respondent was not considered. He prayed to pass necessary orders for revising those two bills by taking actual meter reading.

3.The second respondent alone filed his response stating that in the month of October,2017,it was noticed that no reading was displayed in the meter of the above service connection and as such, bill was issued on the average consumption of electricity, as per the guideline in the clause 7.5.1.4.1 of the GTCS-2006, that the defective meter was changed on 30-10.2017 and that as the consumer had not consumed electricity from 6.10.2017 to 13.10.2017 due to heavy rains and as such, an amount of Rs.3331/ for October month was withdrawn vide RJ No.17/11/2017. He prayed to dismiss the complaint

4.The complainant, during the pendency of the case before the Forum, sent a letter to the Forum alleging that the cc bill for the month of April,2018 was also issued with an abnormal amount for Rs.11,145/ .The Forum in its order, by majority, also considered the grievance of the complainant with respect to the month of April,2018 as second point though no response was filed by the respondents in that regard.

5.No oral or documentary evidence was adduced by both parties before the Forum. The Forum, after considering the material available on record, dismissed the complaint with respect to the grievance of the complainant against the cc bills for the months of October,2017 and April,2018 accepting the case of the 2nd respondent and holding that the bills for the months of October,2017 and April,2018 were in accordance with the clause 7.5.1.4.1 of the GTCS-2006 without considering the grievance of the complainant against the cc bill for the month of September,2017. Not

satisfied with the above order of the Forum, the complainant preferred this representation-appeal.

6.The complainant, in his written submissions, submitted that the respondents ought to have followed the procedure laid down under the clauses 7.5.1.1,7.5.1.2 and 7.5.1.3 of the GTCS-2006 before following the clause 7.5.1.4.1 of the GTCS-2006 and the said procedure is not followed in this case, that though the above submission was made by him before the Forum, yet the Forum did not consider the above submission and that after the orders of the Forum, the respondents disconnected the electricity supply without prior notice and as such, the complainant sustained loss to a tune of Rs.40,000/,that after payment of Rs.23,199/,electricity service connection was restored and that therefore, he prayed to pass an order directing the respondents to refund the above amount collected from him. The respondents submitted that they followed the prescribed procedure in this case and there are no merits in this case. They supported the order of the Forum. Evidence is not adduced authority even before this authority.

7.The following points are framed for consideration :

1. Is the procedure laid down in respect of defective meters under the Clause 7.5.1 of the GTCS-2006 not adopted in this case?

2. Can the representation be upheld?

8.Point No.1: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. 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. According to the complainant, a copy of the prescribed inspection report of the authorized inspecting officer recording the observations made by him at the time of inspection of the defective meter is to be served to him at the end of the inspection, as per the clause 7.5.1.1 of the GTCS-2006,but,the same was not served to him. His further argument is that the CT/PT was not tested, that the meter was not sent to the MRT laboratory for testing the meter and that the assessment notice for short billing as per the format was not issued to him. The submission of the

respondents is that they followed the prescribed procedure and guidelines. In this case, the above submissions are made by the complainant without any pleading. There is no material to say that the above submissions were made by the complainant before the Forum. Even there is no material placed by the respondents to say that the procedure laid down under the clause 7.5.1 of the GTCS-2006 is adopted in this case by the inspecting officer. It is for the respondents to prove their case that the procedure stated supra was adopted by the Inspecting Officer. However, the respondents have an opportunity to produce documentary evidence to prove that the above submission of the complainant is false, but they did not do so. Neither pleading nor evidence is available on the above aspect. Hence, it is not possible to give a definite finding that the procedure laid down under the clause 7.5.1 of the GTCS-2006 was adopted by the Inspecting Officer or not. The complainant did not admit that the meter was defective. There is no clear finding given by the Forum as to the date of the inspection of the meter or as to defect in the meter at the time of inspection. Hence, This point is left undecided.

9. The second submission made by the complainant is with respect to an event that occurred subsequent to passing the order by the Forum. There is no material available to appreciate the above submission. I am very much doubtful if this authority being an appellate authority can deal with the above submission of the complainant without any finding of the Forum. If the complainant was not satisfied with the order of the Forum, he would have approached the appellate authority and obtained interim orders immediately. It appears he did not do so. So, I am unable to deal with the above submission now. The second submission of the complainant is thus answered.

10. Point No.2. The main question to be seen in this case is whether following the guideline given in the clause 7.5.1.4.1 for computation of units is correct ?. The complainant in this case disputes cc bills for three months viz., September, 2017, October, 2017 and April, 2018. That dispute can be resolved by the licensee under clause 4.7 of the APERC Regulation No.5/2004(Electricity Supply Code). According to the 2nd respondent, as

the meter was defective, it was changed on 30.10.2017 and the number of units were billed for those two months as per the guideline given in the clause 7.5.1.4.1 of the GTCS-2006. The guideline stated in that clause is 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 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. Perused the order of the Forum. Even if the case of the 2nd respondent that the meter was defective and it was changed on 30.10.2017 is accepted to be true and correct, I am of the view that this representation is to be upheld and the order of the Forum is liable to be set aside for the following reasons:

1) The Forum in its order did not consider the grievance of the complainant with respect to the consumption of electricity for the month of September, 2017.

2) The Forum, while considering the grievance of the complainant for the month of October, 2017 under Point No.1 in its order, took the average of the electricity supplied during the preceding three billing cycles Viz., July, 2017, August, 2017 and September, 2017, following the guideline given in the clause 7.5.4.1.1 of the GTCS-2006. Taking the average of electricity supplied during the billing cycle of September, 2017 along with two preceding billing cycles of July and August, 2017 is not in accordance with the guideline given in the above clause. It appears the Forum did not notice the words of the proviso used in the above guideline "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". The Forum erred in accepting the case of the respondents that they took the average of three preceding billing cycles from July, 2017 to September, 2017 for billing the number of units for the month of October, 2017, as per the above guideline, as the

complainant also disputes the consumption of electricity during September, 2017 and as the case of the 2nd respondent is that the meter was defective during that month. So, the finding of the Forum on the point No.1 is not correct.

3) There is no material to say that the meter was defective or it ceased to function during April, 2018. I am unable to understand how the Forum can rely upon the guideline given in the clause 7.5.4.1.1 of the GTCS-2006. Apart from it, there was no response filed by the respondents with regard to the fresh allegation of the complainant regarding the cc bill for the month of April, 2018. So, the finding of the Forum on the second point is also incorrect. Apart from the above guideline touching the aspect of defective meters, two more relevant guidelines are given in the clauses 7.5.1.4.2 and 7.5.1.4.3 of the GTCS-2006. It is the job of the licensee to select the guideline applicable among the above three guidelines. For the above reasons, I set aside the order of the Forum and upheld the representation. This point is thus answered.

11. Considering the above facts of this case, I am inclined to remand this case to the Forum for fresh disposal of this case.

12. 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. This representation is thus disposed of.

13. This order is corrected and signed on this 22nd day of June, 2018.

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

Sd/- N.BASAVIAH
VIDYUT OMBUDSMAN

1. A.Sankaraiah, 1-255, 1st Floor, Ganesh Nagar Post, Tadipatri, Anantapur District -
2. The Assistant Engineer, Operation, Tadipatri-Rural, APSPDCL, Anantapur District - 515441
3. The Assistant Divisional Engineer, Operation, Tadipatri, APSPDCL, Anantapur District - 515411
4. The Divisional Engineer, Operation, Gooty, APSPDCL, Anantapur District - 515402

Copy to:

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