



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

:: Present ::

C. Ramakrishna

Date: 03-08-2016

Appeal No. 07 of 2016

Between

Sri. Perumalla Jagannadham, D.No. 5-14-69, Samithi Office Veedhi, Kothapeta, Tuni
Village and Mandal, East Godavari District,

... Appellant

And

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

... Respondents

The above appeal filed on 18-05-2016 has come up for final hearing before the Vidyut Ombudsman on 30-06-2016 at Visakhapatnam. The appellant, as well as respondents 1 to 4 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the complaint of the consumer about the calculation of additional security deposit made by the respondents. The appellant was not happy with the rejection of his complaint by the CGRF and hence the appeal.

3. The appellant stated in his appeal that the respondent AAO had served the ACD notice on him without considering his service category correctly; that his service connection bearing number 350 is under Category III and that issuing an ACD notice without considering his subcategory is incorrect.

4. Notices were issued for hearing the matter. The respondent AAO filed his written submission stating that the service connection was released on 19-12-2013 in LT III with a contracted load of 95 HP; that the subcategory of the service connection was changed from LT III Industrial to LT III Pisciculture / Prawn culture with effect from 07-12-2015; that the adequacy of the consumption deposit for the financial year 2015-16 was reviewed as per Regulation 6 of 2004 and a notice for payment of Rs. 1,38,870/- was issued towards ACD; that the change in category of the consumer's service connection for ACD review purpose relating to a previous financial year cannot be considered as the category change happened only during the financial year 2015-16; that this category change would be taken into account while calculating the ACD for the subsequent financial year i.e., 2016-17; and that therefore, the consumer is liable to pay the ACD demand that is still outstanding from him. The other respondents did not file any separate written submissions, but seconded the submissions made by the respondent AAO.

5. During the course of the hearing, the appellant and the respondents reiterated their written submissions. A perusal of the record revealed that the facts submitted by the respondents are indisputable. The appellant also did not question the facts submitted by the respondents. But the appellant submitted that in view of the losses faced by him on account of Hudhud Cyclone, his request needs to be considered sympathetically. The respondent AAO on the other hand, submitted that the appellant did not pay the ACD amount so far despite the demand already raised.

6. The key points that arose for consideration in this appeal are:

- a. Whether or not there is any merit in the contention of the appellant that the ACD amount has to be calculated taking his changed category into cognizance; and
- b. Whether or not there is any need to interfere with the CGRF's order.

7. Coming to the first issue, the Licensee is duty bound to review the adequacy of the amount of security deposit every year and such a review shall be based on the monthly average consumption of the previous financial year. An extract of the relevant clause in Regulation 6 of 2004 is reproduced below for ready reference:

6. Review and payment of Additional Security Deposit for the electricity supplied :

(1) General Review

Subject to the billing periods of three months or two months as specified in Clause 4, the adequacy of the amount of security deposit in respect of consumers shall be reviewed by the licensee generally once in every year (preferably after revision of tariff for the respective year) based on the average consumption for the period representing 12 (twelve) months from April to March of the previous year.

8. While reviewing the adequacy of the ACD amount for the financial year 2015-16, the tariff rate that has to be taken into account for calculation of the ACD amount would be the tariff applicable for the relevant financial year i.e., 2015-16 only. As the review is done well before the category of the consumer was changed to LT III Pisciculture / Prawn culture, the tariff applicable would remain at Rs. 6.38 as per the Tariff Order for 2015-16. A perusal of the record showed that the respondent AAO had calculated the ACD amount correctly in accordance with this rule position. There is no merit in the contention of the appellant that the tariff rate of Rs. 4.63 is to be applied for calculating the ACD amount due in the financial year 2015-16 for the reason that the category change to LT III Pisciculture / Prawn culture happened only after the date of the review of the ACD amount. Therefore, the appellant is liable to pay the ACD amount assessed on him. Thus, the first issue is held against the appellant.

9. Coming to the second issue, it is seen that the CGRF had correctly interpreted the rule position and rejected the complaint of the appellant.

10. However, there was a lot of time lapse. The consumer did not pay the ACD amount that was assessed on him. The respondents also did not press the collection by resorting to coercive measures. In the meantime, the financial year has changed and the need for a review of the ACD amount has again come. But this time, the ACD amount would have to be calculated duly taking the changed category into account. This, naturally, obviates the need for collecting the ACD demand for a bygone period. However, nonpayment of the assessed ACD amount cannot be shown any leniency.

11. Therefore, it is hereby ordered that:

- a. the respondents shall not press for the collection of the ACD amount due for the financial year 2015-16 at this stage;
- b. the respondents shall however, calculate surcharge on the ACD amount assessed (i.e., Rs. 1,38,870/-) at the rate of 18% per annum from the expiry of the 30th day of the ACD demand notice date or served date whichever is later, to the payment date of ACD amount that is assessed on the consumer for the subsequent financial year i.e., 2016-17;
- c. the respondents shall take cognizance of the changed category while calculating the ACD amount for the financial year 2016-17; and
- d. the respondents shall raise the surcharge demand as above within 15 days from the date of receipt of this award and submit compliance within 15 days from thereafter.

12. This order is corrected and signed on this 3rd day of August, 2016.

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

VIDYUT OMBUDSMAN

To

1. Sri. Perumalla Jagannadham, D.No. 5-14-69, Samithi Office Veedhi, Kothapeta, Tuni Village and Mandal, East Godavari District
2. The Assistant Engineer, Operation, PR Peta Rural, APEPDCL, Operation

Section Payakaraopeta Rural, Payakaraopeta (M), Visakhapatnam District -
531 126

3. The Assistant Accounts Officer, Accounts ERO-Anakapalli, Nidanamdhodi,
Gavarapalem, Anakapalli, Visakhapatnam - 531 001
4. The Assistant Divisional Engineer, Operation, Yelamanchili, Yelamanchili
Mandal, Visakhapatnam District - 531 055
5. The Divisional Engineer, Operation, Anakapalli, APEPDCL, Operation
Division, Nidanamdhodi, Gavarapalem, Anakapalli , Visakhapatnam - 531
001

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, Singareni Bhavan, Red Hills,
Hyderabad - 500 004