



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

:: Present:: R. DAMODAR

Wednesday, the Twenty Seventh Day of January 2016

Appeal No. 73 of 2015

Preferred against Order Dt. 28-08-2015 of CGRF In

CG.No: 469/2015 of Karimnagar Circle

Between

M/s Viom Networks, Gowra Plaza, Door No-1-8-304-/308/444,
4th Floor, Sardar Patel Road, Begumpet,
Secunderabad - 500 003. Cell no-9030000947.

... Appellant

AND

1. The AE/ OP/ Alugunur/Karimnagar - 9440811438.
2. The ADE/OP/Town/ Karimnagar-9440811417.
3. The DE/OP/Karimnagar-9440811394.
4. The AAO/ERO/Rural/Karimnagar-9440811465.
5. The SAO/Circle office/ Karimnagar-9440811501.

... Respondents

The above appeal filed on 03.10.2015 coming up for hearing before the Viduyut Ombudsman, Telangana State on 07.01.2016 at Hyderabad in the presence of Sri. A.R.Subbarao on behalf of the Appellant and Sri. R. Shankaraiah - AE/OP/Manakondur, for the Respondents and having considered the record and submissions of both the parties, the Viduyut Ombudsman passed the following;

AWARD

The Appellant is a passive telecommunication infrastructure provider to telecom operators in the country. It has a service connection No. 2401 03608 LT Category - II with 12kw load was released on 22.09.2009 in Manakondur village. The Appellant claims that it has been paying the power consumption charges promptly. It has received a demand from the DISCOM to pay an amount of Rs 1,54,456/-

towards CC charges for the period from April,2013 to January,2015 by resorting to back billing on KVAH consumption basis. The Appellant raised an objection and could get no response from the Respondents. It then lodged a complaint with the CGRF.

2. Before the CGRF, the AE/OP/Rural/East/Karimnagar has submitted a report stating that the service connection was released in the name of M/s Wireless TT Info Service limited on 22.09.2009. According to him, as per the Tariff Order 2013-14 for the LT Category - II service for loads upwards of 10 kw, a LT trivector meter shall be provided and energy charges shall be computed on KVAH basis. He claimed that a trivector meter was fixed to the service in the month of May,2013 but the service was billed on the basis of Kwh consumption upto Dec,2014 due to “technical reasons”. Therefore, he pleaded that the difference between KWH and KVAH reading representing shortfall units was billed during January,2015 based on consumption during January,2015 and a demand was raised for Rs 1,54,456/-.

3. The Respondent No.1 submitted a report on similar lines stating additionally that the difference in KWH and KVAH consumption came to 16879 units for the period from April,2013 to January,2015 and a demand was raised for Rs 1,54,456/-. He further stated that the computed power factor of the service was found as 0.76 to 0.84 during the period from April,2013 to January,2015 due to non availability of capacitive load.

4. On hearing and going through the record, the CGRF came to a conclusion that the additional demand raised by the Respondents was correct, the meter reader committed a mistake and furnished KWH readings instead of KVAH units and upheld the back billing, while directing the 2nd Respondent to take action against the concerned for noting the wrong readings through the impugned orders.

5. Aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal stating that as per clause 7.5.1.4.4 of GTCS, the back billing should have been for a maximum period of 3 months prior to the date of inspection in case of domestic and agriculture and 6 months in the case of other categories and in the present case, the upholding of backbilling for a period beyond 6 months is illegal and liable to be set aside.

6. The 2nd Respondent, ADE/OP/Algunoor submitted a report in this Appeal stating that the trivector meter was fixed in the month of May,2013 and the service was billed with KWH consumption upto December,2014 due to “technical reasons” and therefore, the shortfall between KVAH and KWH reading was taken into consideration which came to 16,879 units and a demand for Rs 1,54,456/- was raised and supported the reasoning adopted by the CGRF. The 4th Respondent, AAO/ERO/Rural & the AAE/OP/Manakondur have submitted similar replies terming the shortfall as due to technical reasons.

7. The 3rd Respondent, DE/OP/Karimnagar submitted a show cause notice dt 17-12-2015 issued to the concerned AE/OP/Manakondur, who was stated to be the person responsible for making wrong reading, demanding an explanation from him and another show cause notice dt 5.1.2016 issued by DE/OP to sri R.Shankaraiah, AAE/OP/Manakondur demanding to show cause why minor punishment should not be imposed on him for the lapse. What happened thereafter is not known.

8. The efforts made to get the matter settled by way of mediation could not succeed, because of the nature of the dispute and stand of the parties and therefore, the matter is being disposed of on merits.

9. **Arguments Heard.**

10. The points for determination are:-

- i. Whether the claim of the Appellant that the back billing shall be restricted for a period of 6 months only prior to the date of inspection as per clause 7.5.1.4.4 of GTCS is valid?
- ii. Whether the back billing resorted to on the basis of shortfall of reading amounting to 16,879 units representing the difference in KWH and KVAH consumption for the period from April,2013 to January,2015 is valid?
- iii. Whether the impugned orders are liable to be set aside?

Points 1 to 3

11. The ADE/OP/Algunoor asserted that a LT trivector meter was provided in the month of May,2013 under which the consumption should have been recorded in KVAH and instead, it was shown as KWH consumption, resulting in the Appellant

being billed for 16,879 units additionally from April,2013 to January,2015 under KVAH consumption.

12. The AAO/ERO/Rural/Karimnagar addressed the Appellant on 5-8-2015 for payment stating that the back billing amount of Rs 1,54,456/- was arrived at due to change in the method of billing from KWH to KVAH.

13. The 4th Respondent, AAO/ERO/Rural addressed a letter dt 22-1-2015 to the service holder/Appellant to state that from April,2013 to 10th January,2015 KWH and KVAH readings detailed in the annexed statements to show the shortfall/ difference in units to 16,660 as follows:

**STATEMENT SHOWING THE SC NO. 2401-03608, CAT-II MANAKONDUR,
KWH AND KVAH READINGS WITH DIFFERENCE IN UNITS**

Sl. No	Month	KWH	Units already billed	KVAH	Units to be billed	Difference units to be billed
1	Apr - 13	393	393	465	465	72
2	May - 13	3622	3229	4249	3784	555
3	Jun - 13	6869	3247	8093	3844	597
4	Jul - 13	9520	2651	11246	3153	502
5	Aug - 13	12172	2652	14477	3231	579
6	Sep - 13	14875	2703	17723	3246	543
7	Oct - 13	18126	3251	21650	3927	676
8	Nov - 13	20775	2649	25118	3468	819
9	Dec - 13	23126	2351	28139	3021	670
10	Jan - 14	25592	2466	31177	3038	572
11	Feb - 14	28187	2595	34329	3152	557
12	Mar - 14	30398	2211	37112	2783	572
13	Apr - 14	32558	2160	39816	2704	544
14	May - 14	35409	2851	43386	3570	719
15	Jun - 14	38238	2829	46898	3512	683
16	Jul - 14	40756	2518	49983	3085	567
17	Aug - 14	43278	2522	52947	2964	442
18	Sep - 14	46301	3023	56774	3827	804
19	Oct - 14	49028	2727	60036	3262	535
20	Nov - 14	51841	2813	63504	3468	655

21	Dec - 14	55498	3657	68017	4513	856
22	Jan - 15	58353	2855	71515	3498	643
			58353		71515	13162

Note:- As on Jan'15 13162 + 3717 = 16879 units were arrived at as per the statement of consumption , billing, collection and arrears history (KVAH) of NPDCL enclosed with the letter of the AAO/ERO to the consumer vide Lr.No. AAO.ERO.R.KNR.JAO.BS.NS.D.No. 405/15 Dt 5-8-2015

14. The Appellant claimed that as per GTCS Clause 7.5.1.4.4, the DISCOM can resort to back billing for 6 months only, prior to the date of inspection and not for the entire alleged period. The contention of the Appellant is based on the unamended clause 7.5.1.4.4. The Clause in question was amended vide proceedings of APERC/Secy/96/2014 dt. 31.5.2014 to the following effect:

“7.5.1.4.4. The assessment shall be made for the entire period during which the status of defective meter can be clearly established, however, the period during which such status of defective meter cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.”

15. The amended clause w.e.f 31.5.2014 came into force from 31.5.2014 and therefore, the contention of the Appellant that the back billing can be resorted to for a period of 6 months only cannot be sustained, in view of the fact that the clause permits the DISCOM to assess the service for the entire period, if the status of defective meter can be clearly established from a particular period or if the wrong noting of meter reading if known clearly, the assessment shall be made for the entire period and only in cases where the status of the defective meter cannot be ascertained, then the back billing shall be restricted for a period of 12 months prior to the date of inspection. In the present case, the DISCOM is authorised to resort to back billing for the entire period as the exact period of defect is clearly established. Thus the contention of the Appellant on this aspect is untenable.

16. The Respondents claimed that a trivector meter was fixed to the service of the Appellant in May,2013 while the service was billed with KWH consumption upto December,2014 due to “technical reasons”. This technical reason admittedly is a

camouflage for the negligence of the meter reader, which the DISCOM was not ready to concede.

17. The Respondents have relied upon the schedule of retail supply tariffs and terms and conditions clause 2 under the head LT Category - II non domestic/commercial which specifies that for loads of 10 KW and above, a LT trivector meter shall be provided and energy charges shall be billed on KVAH basis. It also provided that for loads below 10 KW, the billing shall be based on KWH, apart from other points. Admittedly, the service of the Appellant had load of 12 KW which is above 10 KW and a suitable trivector meter was fixed to the service and if such is the case, as per the schedule of retail supply tariffs and terms and conditions, the energy charges can be billed on KVAH basis. In the present case, the Respondents claim that the service was billed under KWH instead of KVAH basis and as per the table noted supra, there was difference in the calculation of units. Had the billing been done on the basis of KVAH, the Appellant would have to pay for 71,515 units on KVAH basis, while it was actually billed for 58,353 units on KWH basis, leading to unbilled units of $13,162 + 3,717 = 16,879$ units. It is to be noted that there is no hand of the Appellant in this misreading of consumed units and it is totally the handiwork of a negligent meter reader which resulted in issue of a demand being raised by the DISCOM for Rs 1,54,456/-. Supported by amended clause 7.5.1.4.4 of GTCS, the Respondents are entitled to raise the demand for shortfall of units as a result of wrong calculation of units based on KWH instead of on KVAH. Therefore, the demand raised by the Respondents on the service connection of the Appellant is upheld in favour of the Respondents.

18. The next important aspect in this matter is raising of the bill for the service connection on the basis of KWH by the concerned AE, who was entrusted with the responsibility of reading the meter for raising the bills. The initial response of the Respondents as due to "technical reasons" is found to be the work of the meter reader. The concerned AE/OP/Manakondur from whom an explanation was called for and a show cause notice was issued. What reply the officer submitted is not on record. However, it is pretty clear that because of want of caution on the part of the meter reader, the present situation came up. It is also clear that the energy was consumed by the Appellant and it has to pay for such consumption. There is likelihood that the person responsible for this situation may be met with mild or no punishment, which would not help the Appellant in any manner. Therefore, there should be a direction to the DISCOM to pay Rs 5,000/- to the Appellant by

way of compensation for the negligence of its personnel. The DISCOM is at liberty to recover this amount from the person responsible for issuing the wrong bill to the Appellant.

19. The Appellant, for no fault, is being burdened with payment of Rs 1,54,456/- to pay at one time, which appears to be unreasonable. The Appellant is therefore found entitled to pay this back billing amount in 12 equal monthly installments, less the amount awarded as compensation, from the month of March,2016. Default in payment of this installment in any month would make the entire amount due for recovery with attendant consequences.

20. In the result, the Appeal is disposed of holding:

a) The back billing for the period from May,2013 to December,2014 is found to be as per the amended Clause 7.5.1.4.4 of GTCS and it is upheld.

b) The DISCOM shall pay Rs 5,000/- to the Appellant by way of compensation for subjecting the Appellant to back billing for the fault of its employee, who instead of reading the meter at KVAH, read with KWH resulting in short billing and adjust this amount in the future bills.

c) The amount of back billing shall be payable by the Appellant in 12 equal installments as permitted under the amended Clause 4.6.1 of Regulation 7/2013, less the amount of Rs 5,000/- to it as compensation, starting from the bill of March,2016 and in default of any single instalment, the entire amount of back billing shall become recoverable with all its consequences.

20. The impugned orders, in view of the aforementioned reasons, are confirmed.

21. This award shall be implemented within 15 days of the receipt of the Award at the risk of penalties as indicated in clauses 3.38, 3.39, 3.42 of the Regulation No. 3/2015 of TSERC.

Typed by cco, Corrected, Signed and Pronounced by me on this the 27th day of January, 2016.

Sd/-

VIDYUT OMBUDSMAN

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Sardar Patel Road, Begumpet, Secunderabad - 500 003.
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Copy to:

7. The Chairperson, CGRF, Vidyut Bhavan, Nakkalagutta, Hanamkonda, Warangal.
8. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad.