



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004

O. P. No. 92 of 2015

Dated 20.01.2016

Present

Sri. Ismail Ali Khan, Chairman
Sri. H. Srinivasulu, Member

Between

M/s Sugna Metals Limited
1-8-673, Azamabad,
Hyderabad – 500 020.

.... Petitioner

AND

1. The Vidyut Ombudsman for the State of Telangana,
1st Floor, 33/11 kV SS, Hyderabad Boats Club Lane,
Lumbini Park, Hyderabad – 500 033
2. The Divisional Engineer, Operation,
Vikarabad, Southern Power Distribution
Company of Telangana Limited
Vikarabad, R R District.
3. The Senior Accounts officer, Operation Circle
(R R South), Southern Power Distribution
Company of Telangana Limited,
Nalanagar X Road, Mehdipatnam,
Hyderabad – 500 028.
4. The Superintending Engineer, Operation Circle
(R R South), Southern Power Distribution
Company of Telangana Limited,
Nalanagar X Road, Mehdipatnam,
Hyderabad – 500 028.

.... Respondents

This petition and application having come up for hearing on 02.11.2015, 23.11.2015, and 23.12.2015. Sri. N. Vinesh Raj counsel for the petitioner appeared on 02.11.2015 and 23.12.2015. Sri. G. Pavan Kumar Advocate representing

Sri. N. Vinesh Raj counsel for the petitioner appeared for the petitioner on 23.11.2015 and Sri. Y. Rama Rao, Standing Counsel for the petitioner along with Sri. J. Ashwini Kumar and Sri. P. Venkatesh, Advocates appeared on various other dates mentioned above. The petition having stood for consideration to the date, the Commission passed the following:

ORDER

M/s. Sugna Metals Limited (petitioner) has filed a petition under sec 142 of the Electricity Act, 2003 (Act, 2003) seeking to impose penalty on the licensee for not complying with the orders passed by the Vidyut Ombudsman in Appeal Nos. 45 and 52 of 2015.

2. The petitioner stated that it is a High Tension (HT) Consumer with the Southern Power Distribution Company of Telangana State Limited, the respondent Nos. 2 to 4 with H.T. No. RRS 1247 with a contracted maximum demand (CMD) of 9999 KVA, 33 KV Transformer with a dedicated feeder in Operation Circle, Ranga Reddy South at Vikarabad, R R District. It also consumes energy and demand from other sources, i.e., Open Access.

3. The petitioner stated that the respondent Nos. 2 to 4 raised the CC charges bill of August 2014, billing month, by levying the voltage surcharge rates even though the same was not applicable to the petitioner. Aggrieved by the claim of respondents Nos. 2 to 4, it approached the Consumer Grievances Redressal Forum – 2 (CGRF-2) vide C. G. No. 316 of 2014 for re-dressal of the issue. The CGRF-2 directed the respondent Nos. 2 to 4 to recalculate the August' 2014 revised bill with the open access adjustments excluding the voltage surcharge until clarification is received from the Commission vide its order dated 09.12.2014. But the respondent Nos. 2 to 4 have not implemented the said orders.

4. The petitioner stated that being aggrieved for the non-implementation of orders of CGRF – 2 dated 09.12.2014, approached the Vidyut Ombudsman for the State of Telangana vide Appeal No. 45 and 52 of 2015. The Vidyut Ombudsman for the state of Telangana vide its order dated 06.07.2015 set aside the levy of voltage surcharge by the respondent.

5. The petitioner stated that it vide its letter No. SML / F. Appeal No. 45 & 52 of 2015 / dated 13.07.2015 filed a copy of order dated 06.07.2015 of Vidyut Ombudsman for the state of Telangana before the Respondent Nos. 2 to 4 with a request to implement the order and send the revised C.C. charges bill of August 2014, billing month, duly withdrawing the voltage surcharge and open access adjustment in April, May and July, 2014 billing months.

6. The petitioner stated that the respondent Nos. 2 to 4 have not implemented the above said order of the Vidyut Ombudsman for the state of Telangana inspite of expiry of more than 35 days and violated the provisions of Act, 2003 and regulations framed thereunder.

7. The petitioner has sought the following prayer in the petition.

“Hence, it is prayed that the Commission may be pleased to punish respondent No. 2 to 4 or any other responsible officer consequently direct the respondent No.2 to 4 to implement the orders of the Vidyut Ombudsman for the state of Telangana dated 06.07.2015 passed in Appeal No. 45 and 52 of 2015 and pass such other order or orders as may deed fit by the Commission under the circumstances of the case.”

8. Heard the counsel for the petitioner and the counsel for the respondent and perused the record. Despite time being granted for filing the counter affidavit or to report compliance of the order passed by the ombudsman, no response is coming forth from the respondents. Therefore, we are constrained to dispose of the matter without any further delay.

9. The case of the petitioner is a straight and simple case. It being aggrieved by the action of the licensee in levying voltage surcharge for service connection for drawing power supply, had approached the Consumer Grievance Redressal Forum of the licensee, as such levy was contrary to the order passed by the Commission while determining the retail supply tariff applicable to such consumers. The CGRF had rejected the case of the consumer. Being further aggrieved by the said order of CGRF, the consumer filed an appeal before the appellate authority being the Vidyut Ombudsman.

10. The Vidyut Ombudsman having considered the submission of the consumer and the licensee has allowed the appeal and held as follows.

“11. The Appellant is a HT Consumer with SC No. RRS 1247. Its CMD is 9999 KVA being fed through 33 KV dedicated feeder. During the month of August’ 2014 the appellant purchased about 18 KVA (8,33,978 units) through a third party on open access. The respondents claim that through this additional drawal of power of 18 KVA through open access, the Appellant exceeded the CMD $9990+18 = 10,008\text{KVA}$ and therefore, as per the Tariff orders 2015-16 issued by the TSERC, the Appellant is liable to pay voltage surcharge.

12. The issue of CC bill with voltage surcharge for August, 2014 relates to Tariff order of 2013-14 (TO of 2014-15 has not been issued) and not of 2015-16 as claimed by the Respondents. Now it is to be seen how the voltage surcharge is prescribed in the tariff order to apply to the matter on the hand.

13. Clause 6(4), Part B of chapter X1V relates to voltage surcharge and contains criteria in a table form for imposing voltage surcharge. The entire clause is reproduced below for clarity.

VOLTAGE SURCHARGE

“H.T Consumers who are now getting supply at voltage different from the declared voltages and who want to continue taking supply at the same voltage will be charged as per the rates indicated below:

Sl.No.	Contracted demand with licensee and other sources (in KVA)	Voltage at which supply should be availed (in KV)	Voltage at which consumer is availing supply (in KV)	Rates % extra over the normal rates	
				Demand charges	Energy Charges
A. For HT consumers availing supply through common feeders					
1.	1501 to 5000	33	11	12%	10%
2.	Above 5000	132 or 220	66 or below	12%	10%
B. For HT consumers availing supply through independent feeders					
1.	2501 to 10000 kVA	33	11	12%	10%
2.	Above 10000 kVA	132 or 220	66 or below	12%	10%
Note: In case of consumers who are having supply arrangements from more than one source, the RMD or CND only with the licensee, whichever is higher shall be the basis for levying voltage surcharge.					

14. In the present case, the Respondents claim that during August’ 2014 the Appellant availed 9999 KVA plus 18 KV through open access totalling 10017 KVA and thus the Appellant exceeded CMD which falls in Column No. 2 of “B” category in the Table above and thus the Appellant is liable to pay voltage surcharge. When the Respondents 1 & 2 are asked how this table is applicable, they have represented that once the power drawn exceeds 10000 KVA, the last

column of the table applies and the Appellant should then draw power at 132 or 220 voltage and further the Appellant should have been availing at 66 KV or below, without understanding the Table and the purpose behind imposing voltage surcharge.

For imposition of voltage surcharge the preamble itself gives the guidance. It has three components. They are:-

- i) HT Consumers should have contracted for supply of power through a particular voltage*
- ii) HT Consumers should be getting supply at different voltage from the declared voltage.*
- iii) HT Consumers should be continuing to take/draw supply through the said different voltage.*

For example the HT Consumers availing supply through independent feeders have to fall within the parameters prescribed in the table.

15. If a consumer has CMD of 2501 to 10000 KVA, voltage at which supply should be availed is 33 KV and the consumer in a given case instead should be drawing power at 11KV. In the present case, there is no allegation that the Appellant, who was getting supply at 33 KV through independent feeders, has deviated in any way and availing supply in 11 KV. When the Appellant is availing power in 33 KV, there is no deviation and no question of applicability of 11 KV as shown in the table. Consequently, the three requisites for the application of voltage surcharge are not met. The repetition of Respondents that once the CMD of 9999 exceeds, the 2nd column of clause "B" applies and therefore, suddenly the Appellant should have drawn power at 132 or 220 KV is totally absurd, does not stand to reason and it is not the intention of the Tariff order. The application of the entire clause 6(4) to the present bill is unwarranted, unreasonable and it is vitiated."

11. It is the contention of the counsel for the petitioner that the order of the ombudsman has dealt with all the aspects of the issue. The Ombudsman has considered the issue at length by taking into consideration the order passed by the Commission determining the tariff. The counsel also contended that the Ombudsman had rebutted the contention that the petitioner was liable to pay the voltage surcharge since it was exceeding the voltage level as provided in the tariff order. The licensee appears to be under the mistaken impression that principles of 2015 – 2016 tariff order are to be taken into consideration according to the petitioner's counsel. Another relevant contention of the petitioner's counsel is that the licensee choose not to challenge the order of the Vidyut Ombudsman before the appropriate forum, thus cannot urge that it is not bound to implement the order, there being no stay or modification from such appropriate forum.

12. However, the counsel for the respondent sought further time to inform the Commission about the status of implementation of the order of Ombudsman. Upon instructions he stated that the petitioner is liable to pay the voltage surcharge as it is exceeding the contracted demand with the licensee. The counsel stated that the petitioner already approached the Hon'ble High court on the same issue, therefore, cannot prosecute the matter before the Commission. He also sought time to file counter affidavit in the matter.

13. Replying to the submission of the counsel for the respondent, the counsel for the petitioner sought to urge that nothing has come forward in the matter as the counsel took time place before the Commission, the counter affidavit of the respondents or for that matter the status implementation of the order. The counsel for the petitioner stated that the petitioner has approached the Hon'ble High Court not on the same issue but for preventing a threat of disconnection and obtained the order.

14. We have considered the submission of the parties and the rival contentions put forth herein above. Indeed the order of the Vidyut Ombudsman as extracted by us above, has given a clear insight into the case. The finding of the Ombudsman is clear on facts and interpretation sought to be placed in respect of the tariff order. We see no reason why the order should not be implemented by the licensee. We are in agreement with the counsel for the petitioner that finding is clear that the petitioner is not liable for any voltage surcharge. That being so the licensee is bound to implement the order of the Vidyut Ombudsman. As also rightly pointed by the counsel for the petitioner, in the absence of any challenge to the order of the Vidyut Ombudsman before the appropriate forum and there being no order of stay or modification of the same, the licensee is bound to implement the same.

15. For the foregoing reasons we deem it appropriate that the licensee is liable to be punished with a penalty as is enunciated under sec 142 of the Electricity Act, 2003. We deem it appropriate in the facts and circumstances of the case to impose a penalty of Rs.10,000/- (Rupees Ten Thousand only) and direct the licensee to give benefit of the Vidyut Ombudsman order forth with. In case of continuing default, each day of delay will attract a penalty of Rs. 1,000/- (Rupees One Thousand only) per day from two (2) weeks from the date of receipt of this order.

16. The licensee shall comply with the order of the ombudsman immediately and not later than 2 weeks from the date of receipt of this order. The licensee shall pay the penalty within the two (2) weeks from the date of receipt of the order of the Commission.

17. In the circumstances and the orders made above, the petition is allowed. The parties are to bear their own costs.

This order is corrected and signed on this 20th day of January, 2016

**Sd/-
(H. SRINIVASULU)
MEMBER**

**Sd/-
(ISMAIL ALI KHAN)
CHAIRMAN**

CERTIFIED COPY