



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No. 94 of 2015

M/s Rattha Somerset Greenways Chennai (P) Ltd
C/o Sharan Tech & legal Solutions,
No.16, First Floor,
Corporation Complex ,
3rd Avenue, Indira Nagar, Chennai – 20.

..... Appellant

(Rep by Thiru. N. Senthil Viswaroopan, Advocate
on 12.2.2016, 31.3.2016 & 20.7.2016 &
Thiru. M. Srinivasan, Finance Manager on 3.5.16)

Vs

1) The Chairman,
(Superintending Engineer),
Chennai Electricity Distribution Circle/Central,
TANGEDCO (Formerly TNEB)
110-33-11 K V Valluvarkottam SS Complex,
M.G.R. Salai, Nungambakkam,
Chennai – 600 034.

2) The Executive Engineer/O&M,
T.Nagar,
Chennai Electricity Distribution Circle/Central,
TANGEDCO (Formerly TNEB)
110-33-11 K V Valluvarkottam SS Complex,
M.G.R. Salai, Nungambakkam,
Chennai – 600 034.

..... Respondent

(Rep by P. Prabhakaran, AEE/Teynampet on 12.2.2016,
Thiru. K. Rajendran, EE/T.Nagar on 31.3.16 & 20.7.16 &
Thiru. N. Asokan, AEE/Teynampet on 3.5.2016)

Date of hearing : 12.2.2016, 31.3.2016, 3.5.2016 & 20.7.2016

Date of Order : 5 .8. 2016

The Petition dt. 27.11.2015 filed by M/s Rattha Somerset Greenways (P) Ltd., Chennai was registered as Appeal Petition No.94 of 2015. The above appeal petition came up before the Electricity Ombudsman for hearing on 12.2.2016, 31.3.2016,3.5.2016 & 20.7.2016. Upon perusing the appeal petition, counter affidavit of the Respondent and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

To declare the order of the CGRF / Central in this matter as illegal, improper and without jurisdiction as per regulation 7(7) grievance handling procedure.

- (i) To direct the Chairman and members to strictly follow & abide by the rules framed in this regard.
- (ii) To direct the respondents to close the temporary supply accounts and refund the excess amount with interest within a time frame.

2. Brief history of the Case:

2.1 The Appellant obtained 3 nos temporary supply connections for construction purpose and the service connection numbers are 209-000-7, 209-000-8 and 209-000-9.

2.2 On completion of the work, the Appellant has got a HT service connection and the SC No is 2479. The temporary service connection were also dismantled on 25.2.2010.

2.3 The Appellant filed a petition before the CGRF of Chennai EDC/Central for refund of the balance amount available in the said three temporary service connections.

2.4 The Chairman/CGRF in letter dt.3.10.2015, has closed the petition stating that the grievance for refund of advance CC and other charges collected in the dismantled LT temporary supply service connection will be considered and fulfilled after collecting the required details from the field.

2.4 Aggrieved over the above orders, the Appellant filed this appeal petition before the Electricity Ombudsman.

3. Argument of the Appellant furnished in the Appeal Petition :

3.1 The Chairman, CGRF/Chennai EDC/Central having taken the complaint on file ought to have fixed an enquiry and speaking order by convening the forum. Instead, passed an order without convening CGRF, without the knowledge of the independent member appointed for this purpose without giving opportunity to the consumer thereby not only exceeded his jurisdiction holding the Regulation in this regard but also the principle of natural justice.

3.2 The Appellant has furnished the following in the petition filed before the CGRF.

(i) M/s Rattha Somerset Greenways Chennai (P) Ltd., at 94, Sathya Dev Avenue, MRC Nagar, R.A. Puram, Chennai 28, is the agreement holder of the service connections 209/000/7, 209/000/8 & 209/000/9 at the above said address. Based on its application for effecting new temporary service connections for the proposed construction purpose the new temporary supply service connections were effected during 9/2008 under tariff VI after collecting all the necessary deposits and other charges.

- (ii) They have paid all the advance CC charges as demanded on the fear of disconnection otherwise they have been put to severe damage in terms of cost & reputation.
- (iii) Though all the temporary supply service connections were dismantled during 2/2010 after the construction work was over. However the officials have not taken any action to close the temporary supply account even after dismantling of the service connection & effecting of permanent HT supply.
- (iv) It is clearly evident from the consumer meter details in the net, the service connection was already disconnected & dismantled during 2/2010 but the temporary supply accounts are yet to be closed and the deposits/advance CC charges paid in excess are not yet refunded by the department even after approaching the Accounts Officer & Other officers humpty number of times. While processing the dismantling application, instead of adjusting with the available deposits, he was compelled to pay all the charges on the assurance that the available advance CC charges and deposits collected in LT service connection will be refunded soon after closure of accounts.
- (v) Regulations of TNE Distribution Code which clearly envisages that the account of temporary supply account should be closed within 3 months from the date of termination (2/2010) and deposit refunded.
- (vii) He has made a reminder letter on 10.7.2014 to the officials concerned for early refund of deposits however no communication received in this regard. He therefore, approaching this Hon'be forum for immediate intervention and direction to the authorities concerned to properly close the account taking into

consideration the relevant facts already narrated & refund the excess advance CC charges collected in the dismantled temporary supply service connection 209/000/7, 209/000/8 & 209/000/9 at the above said address alongwith interest at 18% per annum, which stood in the name of M/s Rattha Somerset Greenways Chennai (P) Ltd., without any further delay.

4. Argument of the Respondent furnished in the Counter :

- 4.1 The CGRF appeal, the CGRF has given verdict that the grievance is considered and if any amount is pending in LT dismantled temporary supply service connection will be refunded after collecting the reports from field officers.
- 4.2 The petitioner has availed 3 nos LT temporary supply for 2 years in the name of M/s Rattha Somerset Greenways Chennai (P) Ltd., The petitioner has paid the amount of Rs.5,82,023/- Rs.5,23,826/- Rs.5,80,763/- for the service connections no.209/000/7, 209/000/8 & 209/000/9 respectively.
- 4.3 Whatever the consumer paid towards advance and security deposit against the temporary supply service connection are adjusted with CC charges and balance amount will be collected from consumer as per TNEB supply terms and condition.
- 4.4 As per TNEB tariff order of 2003, the consumer has to pay energy consumed charges at the rate of Rs.7/- per KWH Unit or Rs.50 per KW per day of sanctioned load, whichever is higher. In this condition during temporary supply service connection period, the petitioner has consumed at an average of 800 to 1000 units for every 15 days against the sanctioned load of 45 KW. For this the CC charges has worked out to Rs.5,600/- to Rs.7,000/- only. Whereas

as per TNEB tariff order for 45 KW, the CC minimum charges of Rs.33,750/- for every 15 days was collected as per the TNEB tariff order stating that whichever is higher rate basis.

- 4.5 The petitioner has paid the amount of Rs.5,23,826/- against service connection 209/000/8. It includes deposit and advance CC charges. Whereas the petitioner has to pay Rs.8,22,329/- for the period 16.9.2008 to 10.9.2009 as per the TNEB tariff order. The worksheet is submitted for consideration. As per the tariff order now the petitioner has to pay to balance amount of Rs.2,98,494.35 for the service connection 208/000/8 alone. The same procedure is followed for other 2 service connections. The detailed working sheets are submitted .
- 4.6 They are hereby pleading that the filed officer has followed the TNEB tariff order and no refund is arising from TANGEDCO end. In this condition they are praying that the petitioner has to pay balance pending amount of Rs.8,67,810.15 against the 3 nos temporary supply service connection.
- 4.7 They are praying to give direction to add the balance amount in the HT service connection available in the name M/s Rattha Somerset Greenways Chennai (P) Ltd No.94, Sathyadev Avenue, M.R.C. Nagar, Chennai 600 028.

5. Hearing held by the Electricity Ombudsman:

- 5.1 To enable the Appellant and the respondents to putforth their arguments in person, hearings were conducted on 12.2.2016, 31.3.2016, 3.5.2016 and on 20.7.2016.

5.2 On 12.2.2016 the Respondent's representative prayed that they need some more time to trace records and prayed for an adjournment. Accordingly, the hearing was adjourned.

5.3 On 31.3.2016, the advocate representing the Appellant prayed for an adjournment stating that they need some more time to locate the receipts for the payment made. Accordingly, the case was adjourned to 3.5.2016.

5.4 Thiru. N. Senthil Viswaroopan, Advocate has attended the hearing on behalf of the Appellant on 12.2.2016, 31.3.2016 & 20.7.2016, Thiru. M. Srinivasan, Finance Manager attended the hearing on behalf of the Appellant on 3.5.2016.

5.5 Thiru. P. Prabhakaran, Asst. Executive Engineer/Teynampet attended the hearing on 12.2.2016 on behalf of the Respondent Thiru. K. Rajendran, EE/T.Nagar attended the hearing on 31.3.2016 and 20.7.2016. Thiru. N. Asokan, Asst. Executive Engineer/Teynampet attended the hearing on 3.5.2016 on behalf of the Respondent.

6. Arguments put forth by the Appellant's Representative on the hearing dates:

6.1. The Appellant's representative reiterated the contents of the Appeal Petition.

6.2 Thiru. M. Srinivasan, Finance Manager informed that they have paid advance CC charges as detailed below which are not covered in the details furnished by the Respondent.

Sl.No	SC Nos	Amount	Receipt
1.	209-000-7	Rs.1,57,500/-	CHC209IA2D145 dt.13.1.2009
2.	209-000-7	Rs.1,57,500/-	CHC 209/IAIQ147 dt.13.3.2009
3.	209-000-8	Rs.1,41,750/-	CHC209/IA2/D143, dt.13.1.2009
4.	209-000-8	Rs.1,41,750/-	CHC209IA2Q145 dt.13.3.2009
5.	209-000-9	Rs.1,41,750/-	CHC209IA2D144, dt.13.1.2009
6.	209-000-9	Rs.1,41,750/-	CHC209IA1Q146, dt.13.3.2009

6.3 The Appellant's representative also informed that during 12.5.2009 also they have paid the following amounts vide Bank Pay Orders towards advance CC charges in favour of SE/CEDC/Central for the above.

- (i) Pay Order No.313090512500847 - Rs.1,41,750/-
- (ii) Pay Order No.313090512500848 - Rs.1,41,750/-
- (iii) Pay Order No.313090512500849 - Rs.1,57,500/-

They furnished the ABN-AMRO Bank statement in support of the above payment. They also informed that they are unable to trace out the receipts issued by the TANGEDCO for the above payments.

6.4 On 20.7.2016 the learned Advocate representing the Appellant argued that the responded have added 30 days minimum charges also in addition to the temporary supply period. The advocate argued that claiming the charges for 30 days notice period is not correct as the services closed are only temporary services.

7. Arguments putforth by the Representative of the Respondent.

7.1 The Respondent's representative reiterated their arguments given in the counter.

7.2 The Respondent's representative informed that as per the records the Appellant's have paid the following amounts only.

- (i) 209-000-7 - Rs.5,82,023/-
- (ii) 209-000-8 - Rs.5,23,820/-
- (iii) 209-000-9 - Rs.5,80,763/-

7.3 The Respondent's representative also informed that they will verify the payments details now given by the Appellant during the hearing conducted on 3.5.2016 with the accounts department and submit the details of receipt separately in the written argument.

8. Written argument of the Respondent :

8.1 The EE/T.Nagar has furnished the following in his written argument dt.23.5.2016.

(i) The advance current consumption charges payment details furnished by the consumer in respect of LT temporary supply No.209-000-7, 209-000-8 and 209-000-9 in the month of 1/2009, 3/2009 & 5/2009 are confirmed after verifying with their records and Bank statements.

(ii) The EE also furnished a revised statement on closure of the above LT temporary services and informed that a sum of Rs.63,906/-, Rs.59,256/- & Rs.1,22,029/- have to be refunded in SC No.209-000-7, 209-000-8 & 209-000-9 respectively.

9. Argument putforth by the Respondent on 20.7.2016

9.1 On 20.7.2016, the EE/T. Nagar informed that in respect of SC No.209-000-9, the amount to be refunded has been reworked as Rs.65,091/- instead of Rs.1,22,029/- indicated in letter dt.23.5.16. He informed that the above error is due to wrong adoption of payment details.

9.2 The EE argued that as per regulation 33 one month notice has to be given by the consumer for termination of agreement . Accordingly, the minimum charges for 30 days was included in the statement.

9.3 The EE also informed that the available meter caution deposit will also be refunded to the Appellant.

10. Findings of the Electricity Ombudsman:

10.1 On a careful consideration of the arguments put forth by the rival submissions, the issue to be resolved is what will be the amount available with the Respondent for refund after closure of the three number temporary supply services referred by the Appellant ?

10.2 The Appellant argued that they have availed the following temporary services duly paying the deposits and advance CC charges on 16.9.2008.

- (i) SC No.209-000-7
- (ii) SC No.209-000-8 &
- (iii) SC No.209-000-9

10.3 The Appellant informed that the above three temporary supply services have been disconnected and dismantled during 2/2010, but the accounts of the temporary supply services are yet to be closed and the balance amount available with the licensee has not been refunded.

10.4 The Appellant also furnished the further payment details during the hearing conducted on 3.5.2016.

10.5 The Respondent initially argued that as per the closure details of each service connection, the Appellant has to pay a sum of Rs.8,67,810.15 to the licensee in all the services put together.

10.6 On 3.5.2016, after getting the Xerox copies of the receipt/Bank statement in support of the payment made by the Appellant. The EE/T. Nagar has furnished a working sheet indicating the amount paid by the Appellant and the amount due to the licensee and the balance amount available for refund for each service separately. However, on 20.7.2016 he gave another working sheet as there was some mistake in respect of SC No.209-000-9.

10.7 As per the EE/T.Nagar final statement on closure of temporary supply furnished during the hearing conducted on 20.7.2016, the following amounts are to be refunded.

- (i) SC No.209-000-7 - Rs.63,905.65
- (ii) SC No.209-000-8 - Rs.59,255.65
- (iv) SC No.209-000-9 - Rs.65,091.55

10.8 As per the above final statement the temporary supply services were effected on 16.9.2008 and the services were disconnected on 10.10.2009. The sanctioned load and the payments made by the Appellant against each services are as below :

	<u>sanctioned load</u>	<u>Total payment made</u>
(i) SC No.209-000-7	50 kw	Rs.10,54,523/-
(ii) SC No.209-000-8	45 kw	Rs.9,49,076/-
(v) SC No.209-000-9	45 kw	Rs.9,49,076/-

10.9 In respect of the sanctioned load and payment made details there is no dispute between the Appellant and the Respondent .

10.10 The Respondent-2 EE/T.Nagar has also agreed to refund the available meter caution deposit also which was not included in their statement.

10.11 The licensee has claimed minimum charges for one month towards notice period in all the services. The Respondent-2 EE/T.Nagar argued that as per regulation 33(3) of the Distribution Code, the consumer has to give one month notice for termination of agreement. Hence, one month minimum charges was included in the closure proposal in lieu of notice period. He also argued that as the services were effected for construction and a new HT service was effected on completion of the construction, the above claim is as per regulation only.

10.12 The learned Advocate who represented the Appellant argued that in the original proposal, the charges for one month notice period was not included by the licensee. Further, he argued that the notice period will be applicable only for termination of the permanent services. As the services in dispute are temporary services, the Advocate argued that the claim of charges in lieu of one month notice period is not reasonable.

10.13 As the services in dispute are temporary services, I would like to refer the regulation 39 of the Distribution Code. Further, as the above services were effected on 16.9.2008 and supply closed on 10.9.2009, the relevant regulation 39 of the Distribution Code which was in force during the said period is extracted below :

“ 39.TEMPORARY SUPPLY:

Temporary supply of electricity to any premises will be considered by the Licensee on special terms and conditions as below :—

(1)The Licensee shall extend temporary supply on application from intending consumer with required ²[charges] and on receipt of deposit.

(2) *The deposit for temporary supply shall be calculated as below:*

<i>Total value of materials to be used on the extension and Service connection</i>	<i>A</i>
<i>Less: Value of meters / meter board / cut out</i>	<i>B</i>
<i>Net value of materials to be recovered from the consumer</i>	<i>A – B</i>
<i>Add: Labour charges to be incurred</i>	<i>C</i>
<i>Add: Overhead 15% on A – B + C</i>	<i>D</i>
<i>Probable consumption charges</i>	
<i>Advance current consumption (CC) charges</i>	<i>E</i>
<i>Total deposit to be obtained</i>	<i>F</i>
<i>(A – B + C + D + E)</i>	

(3) *On completion of temporary supply works, the following charges shall be adjusted against the deposit.*

- 1. 10% cost of the retrieved materials*
- 2. 10% cost of meter devoluted*
- 3. 100% cost of materials not retrieved*
- 4. original erection charges, dismantling charges and transport charges*
- 5. Overhead at 15% on the total cost of materials plus labour charges (including cost of meter)*

(4) *The Licensee shall refund the balance deposit if any after the temporary supply period is over within a period to be specified by the Commission.*

10.14 On a careful reading of the regulation 39(3), it is noted that the following charges shall be adjusted against the deposit on completion of temporary supply works.

1. 10% cost of the retrieved materials
2. 10% cost of meter devoluted
3. 100% cost of materials not retrieved
4. original erection charges, dismantling charges and transport charges
6. Overhead at 15% on the total cost of materials plus labour charges (including cost of meter)

10.15 As there is no provision to deduct one month minimum charges from the deposit available, I am of the view that the deduction of one month minimum charges towards notice period is not conforming to the regulation.

10.16 As per the Executive Engineer's letter the amount available for refund is as below:

- (i) SC No.209-000-7 - Rs.63,905.65
- (ii) SC No.209-000-8 - Rs.59,255.65
- (i) SC No.209-000-9 - Rs.65,091.55

10.17 On a careful study of the working sheet dt.19.2.2016, it is noted that the temporary services were availed on 16.9.2008 and supply was closed on 10.9.2009. In all the services, the minimum charges for 15 days is more than the CC charges. Therefore, in all the services only minimum charges have been collected from the date of service to the date of disconnection.

10.18 However, while scrutiny of the account closure statement dt.23.5.2016 it is noted that one month minimum charges was also included in the charges to be collected in each services.

10.19 As the services are temporary supply the issue of one month notice or including one month minimum charges for termination of agreement does not arise as per my findings in para 10.15. Hence, I am of the view that the monthly minimum charges of Rs.75,000/- Rs.67,500/- & 67,500/- included in the statement dt.23.5.2016 as charges to be collected in SC No.209-000-7, 209-000-8 & 209-000-9 respectively has to be excluded.

10.20 On a scrutiny of the statement of closure submitted, it is noted that it is not as per regulation. Hence, the Respondent is directed to work out the charges that are to be deducted from the deposit available as per regulation 39(3) duly taking into account of the amount already collected in each services and arrive at the refundable amount.

10.21 The Appellant has prayed for interest for the amount to be refunded. As per regulation 6 of the Distribution of Standard of Performance regulation, the balance deposit has to be refunded within 3 months from the date of disconnection of service after temporary supply period is over.

10.22 In the case on hand, the temporary supply was closed on 10.9.2009. Hence, the balance amount has to be refunded to the consumer within 3 month, (ie) the due date for refund is 9.12.2009.

10.23 As the balance deposit amount is still with the licensee it is held that the licensee has to pay interest as applicable to security deposit for the balance deposit amount upto the date of refund.

11. Conclusion :

11.1 In view of my findings in para 10 above, the Respondent is directed to rework the amount to be refunded in each service as per regulation 39(3) of the Distribution Code and arrange to refund the balance amount along with interest within 45 days from the date of receipt of this order. The balance amount may be adjusted in the future bills of the Appellants other services also if the Appellant opted for the above.

11.2 The interest for the balance amount shall be paid as per the rate applicable for Security Deposit upto the date of refund.

11.3 With the above findings, the A.P. No. 94 of 2015 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To

1) M/s Rattha Somerset Greenways Chennai (P) Ltd
C/o Sharan Tech & legal Solutions,
No.16, First Floor,
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M.G.R. Salai, Nungambakkam,
Chennai – 600 034.

4) The Chairman & Managing Director,
TANGEDCO,
NPKR Malaigai,
144, Anna Salai,
Chennai – 600 002.

5) The Secretary
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmiipathy Salai
Egmore,
Chennai – 600 008.

6) The Assistant Director (Computer) - **FOR HOSTING IN THE TNEO WEBSITE PLEASE**
Tamil Nadu Electricity Regulatory Commission,
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