



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No. 102 of 2016

M/s Thiruselvan Spinners (P) Ltd.,
71/C, Patel Road,
Virudhunagar 626 001.

..... Appellant
(Rep by Thiru.R.K. Thiruvenkatam)

Vs

The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
65/1 Ramamoorthy Road,
Virudhunagar.

..... Respondent
(Tmt. P. Latha, EE/General)

Date of hearing : 14-3-2017

Date of order : 28-3-2017

The petition dt. nil filed by M/s Thiruselvan Spinners (P) Ltd., Virudhunagar was registered as Appeal petition No. 102 of 2016. The above appeal petition came up for hearing before the Electricity Ombudsman on 14-3-2017. Upon perusing the appeal petition, Counter affidavit and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant: The Appellant prayed that the appeal may be allowed and the Respondent may be directed to ;

(a) Withdraw the order by Hon'ble Forum dt.23.11.2016

(b) Refund the amount of Rs.1,00,950/- which was paid to change the metering set and meter for effecting of reduction of demand since the changing of meter was not effected.

2. Brief History of the Case:

2.1 The Appellant M/s Thiruselvan Spinners (P) Ltd., is having its factory at SF No.94/2 & 3 Ayyan Puliankulam, Sulakkarai Virudhunagar which is coming under the jurisdiction of the Respondent. The HT SC No.119 was effected on 9.7.1992.

2.2 The Appellant requested for reduction of load from 275 kVA to 200 kVA in the above HT service connection.

2.3 The Appellant paid a sum of Rs.1,00,950/- on 21.7.15 while effecting the reduction of load towards changing of metering set and meter with 0.2s accuracy.

2.4 The metering set and meter was not changed and the HT service was also dismantled on 27.6.16 and a LTCT service was effected in the same premises on 27.6.16.

2.5 As the metering set and meter were not changed, the Appellant requested for refund of Rs.100950/- paid towards cost of replacement and filed a petition before the CGRF of Virudhunagar EDC.

2.6 The CGRF of Virudhunagar EDC has dismissed the petition. Aggrieved by the order of the forum, the Appellant filed this appeal before the Electricity Ombudsman.

3. Orders of the Forum

The CGRF of Virudhunagar EDC issued its order on 11/23.11.2016. The relevant paras of the order are extracted below :

“7. Finding of CGRF :

7.1 *The reduction of demand estimate was sanctioned under capital head 14.626 as per Memo No.IEMC/EE/A1/Load reduction/CR/2517/99, dt.15.1.1999.*

7.2 *As per above instruction amount chargeable to consumer includes only contingencies, storages, labour and transport, Estt., & supervision charge original erection charges of old metering set totally Rs.1,00,950/- which does not include 0.2s accuracy metering set cost.*

7.3 *As per TNERC regulation section 31 subsection (3) of Distribution Code states that “In case the intending consumer could not avail the supply under force majeure condition deposit shall be refunded to intending consumer.*

7.4 *In this case the amount chargeable to consumer i.e collected for reduction of demand does not include any category said in above regulation.*

7.5 *And also metering set cost is not collected from consumer and as per estimate sanction contingencies storage, labour and transport and erection charges of existing metering set only collected.*

7.6 *Hence, metering set cost is not refundable as per TNERC rules.*

8. Conclusion :

In view of above findings, except security deposit, development charges, meter caution deposit any other amount paid by petitioner is not refundable.

With the above findings the petition No. of 2016 is finally disposed off by CGRF ”

4. Contentions of the Appellant furnished in the appeal petition :

4.1 The appeal is filed against the order of the consumer grievance redressal forum, Virudhunagar vide Lr.No.SE/VREDC/ VDR/AEE/Dev/ TA/F.CGRF/ D.No.1154/16,dt.11/23.11.16. In the impugned order, the respondent had dismissed the appeal petition of the appellant praying for refund of Rs.100950/- levied by the Superintending Engineer in letter No.SE/VREDC/VDR/ AEE.GL/ AE1/HT.Doc/ D.No.1253/15, dt.15.7.2015.

4.2 The Appellant submits that they were requested to pay a sum of Rs.100950/- towards changing the existing metering set by 0.2s accuracy 100/5A metering set and AMR DMLS compatible 0.2s class static Trivector Meter based on their application for reduction of demand of 75 KVA from 275 KVA in their HTSC No.119.

4.3 The Appellant has also paid Rs.100950/- vide P.R.No.462V036126 dt.21.7.15.

4.4 No such work for changing 0.2s accuracy meter was made in their HTSC No.119. The Respondent had also stated in 6.4 of CGRF order dt.23.11.2016 that due to non availability of 0.2s class accuracy metering set was not changed in their HTSC No.119 at the time of effecting reduction of demand.

4.5 The Appellant submits that they were again paid Rs.54,570/- for permanent dismantling estimate charge for permanent surrender of their HTSC No.119.

4.6 The Hon'ble Forum failed to consider the valid objection raised by the Appellant but dismissed the appeal only on the ground that the amount was collected under capital head as per Memo No.IEMC/EE/A1/Load reduction/CR/2517/99, dt.15.1.1999.

4.7 It is pertinent to submit that the grievance for refund of metering set cost arises due to non fixing of new meter of 0.2s accuracy for effecting reduction demand of 75 KVA from their sanctioned demand of 275 KVA. Hence, the impugned order dt.23.11.2016 is discriminatory and is against equity and equality. Hence, the impugned order dt.23.11.2016 is liable to be set aside.

5. Contentions of the Respondent furnished in the petition :

5.1 If any proposal received for new HT Service connection and additional demand in existing HT service connection should be prepared only with metering set / CT with CT 0.2s class accuracy, PT with 0.2s class of accuracy and static meter of 0.2s class of accuracy for better accuracy and to augment the TANGEDCO revenue.

5.2 Based on the instructions dt.25.8.12 & 15.1.1999 the reduction of demand estimate was prepared & sanctioned for changing the existing metering set in to 0.2s class of accuracy metering set and meter.

5.3 The reduction of demand shall be effected only after replacing the existing metering set and meter by 0.2s class of accuracy. Based on repeated consumer request only on good faith the reduction of demand was effected with the existing metering set. Hence, the labour amount could not be refunded.

5.4 In this estimate the amount chargeable to consumer includes only contingencies, storage, labour and transport, establishment & supervision charge and original erection charges of old metering set i.e. totally Rs.100590/- only collected from the consumer which does not include the cost of 0.2s class of accuracy metering set.

5.5 The extract of estimate dated 15.7.2015 is detailed below :

Contingencies 5%	-	Rs. 6,324
Storage 3 %	-	Rs. 3,984
Labour & Transport 30%	-	Rs.41,038
Establishment & Supervision charges 22 %	-	Rs.39,123
Additional Original erection charges 10%	-	Rs.10,479
Round off	-	<u>Rs. 2</u> <u>Rs.100950</u>

from it is clear that labour and allied charges of Rs.100950/- only is collected and not metering set cost.

6. Hearing held by the Electricity Ombudsman:

6.1 To enable the Appellant and the Respondent to putforth their arguments in person, a hearing was conducted before the Electricity Ombudsman on 14.3.2017.

6.2 Thiru R.K. Thiruvencatam, has represented the Appellant and putforth his side arguments.

6.3 Tmt. P. Latha, Executive Engineer / General has represented the Respondent and putforth her side arguments.

7. Arguments putforth by the Appellant's representative on the hearing date :

7.1 Thiru. R.K. Thiruvengadam, the Appellant's representative reiterated the contents of the Appeal Petition.

7.2 He argued that the licensee has not changed the metering set and the meter, but they have collected the charges for replacing the existing meter & metering set by a 0.2s accuracy class equipments. As the work was not carried out he argued that the sum of Rs.100950/- paid by the Appellant has to be refunded.

7.3 The Appellant's representative also informed that the HT SC No.119 was permanently dismantled on 27.6.2016 and a LTCT service was effected on 27.6.2016.

7.4 He also informed that the Appellant has paid a sum of Rs.54,570/- towards dismantling charges for dismantling the HTSC No.119.

8. Arguments putforth by the Respondent's representative on the hearing date :

8.1 Tmt. P. Latha, Executive Engineer/General who has represented the Respondent has reiterated the contents of the counter.

8.2 She argued that as per their circular dt.25.8.2012 they have to change the metering set and the meter of a HT service with a 0.2s accuracy class metering set and meter whenever there is a change in load. Accordingly, the estimate was prepared following the guidelines issued in Memo dt.15.5.99.

8.3 The sum of Rs.100950/- collected from the Appellant is not the cost of metering set and meter, but it is the charges towards contingencies, storage, labour and transport, establishment charges and original erection charges covered in the

estimate sanctioned for changing the meter & meter set only. Due to non availability of the 0.2s accuracy class metering set and meter at the time of effecting reduction of load and as insisted by the consumer only, the reduction of load was effected with the old metering set and meter. As the reduction of load was effected as per the request of the Appellant pending changing of the metering set and meter the EE argued that the charges collected could not be refunded.

8.4 The EE also argued that the estimate prepared is under capital head and there is no provision to refund the amount collected under capital head.

8.5 The EE/General citing regulation 31(3) of the Distribution Code, argued that as per the regulation, there is provision to refund the security deposit and meter caution deposit only when the intending consumer not availed the service under force majeure condition. As the charges collected are other than the above, she argued that there is no provision to refund the sum of Rs.100950/- collected from the Appellant.

9. Findings of the Electricity Ombudsman :

9.1 On a careful consideration of the rival submissions, the issue to be considered is as below :

(i) Whether the sum of Rs.100950/- collected from the Appellant while effecting reduction of load could be refunded ?

9.2 The Appellant argued that the sum of Rs.100950/- was collected to replace the existing metering set and meter by the 0.2s accuracy class metering set and meter

while effecting the reduction of load. As the metering set and meter was not replaced he argued that the amount collected towards replacement has to be refunded.

9.3 The Appellant also informed that he has paid the dismantling charges separately while permanently dismantling the said HT service connection.

9.4 The Respondent argued that the reduction of load was effected without changing the metering set and the meter due to the request of the Appellant only. Hence, the charges collected could not be refunded.

9.5 The Respondent argued that the cost of 0.2s accuracy class metering set and the cost of meter has not been collected from the Appellant. Therefore, no need to refund the other estimate charges collected.

9.6 The estimate prepared for reduction of load is under the head capital. As per the procedure in vogue, the amount collected under capital head will not be refunded.

9.7 The EE/General also cited the instruction dt.15.5.99 in support of her argument to justify the collection of the said amount while replacing the metering arrangements in case of change in load.

9.8 The EE/General cited the instruction dt.25.8.2012 to justify the need for erection of 0.2s accuracy class metering set and meter in the Appellant's service.

9.9 The EE/General also cited regulation 31(3) and argued that the meter caution deposit, and security deposit alone has to be refunded to the intending consumer in case of non availing of supply under force majeure condition. Therefore, she argued that there is no provision to refund the other charges collected from the consumer.

9.10 As the Respondent has cited regulation 31(3) of the Distribution Code the relevant regulation was extracted below :

31 INSPECTIONS, TESTING AND EFFECTING SUPPLY:

XXX XXXX XXXX

XXXX XXX XXX

(3) If the intending consumer fails to avail the supply within the above period, a further three months notice in case of HT and one-month notice in case of LT will be sent to the intending consumer to avail the supply. If he does not avail himself the supply during this notice period, the application will be treated as lapsed and cancelled in the case of Low Tension supply and the application shall be treated as cancelled, terminating the agreement, in the case of High Tension supply. The service connection charges and the Security Deposit / development charges, etc. except Meter Caution Deposit will be forfeited. In case the intending consumer could not avail the supply under force majeure conditions, the Security Deposit and meter caution deposit shall be refunded to the intending consumer.

XXX XXX XXX”

9.11 On a careful reading of the said regulation, it is noted that if the intending consumer has not availed the supply within the notice period, the application shall be treated as cancelled and the agreement is treated as terminated. The service connection charges, security deposit and development charges etc., except meter caution deposit will be forfeited. In case the intending consumer is unable to avail the supply due to force majeure condition, the security deposit and meter caution deposit shall alone be refunded to the intending consumer.

9.12 The above regulation is applicable in the case of a intending consumer who applied for a service but not availed the service. But, the case on hand is reduction of load of a existing service connection. Here, the reduction of load was also effected pending replacement of the metering set and meter of 0.2s class accuracy and also permanently dismantled subsequently. Hence, I am of the considered opinion that the above regulation 31(3) of the Distribution Code is not applicable to this case.

9.13 On a careful examination of the break up furnished by the Respondent, it is noted that the Respondent has not charged the equipment cost. But, only charged the following towards replacement of the metering set and meter.

Contingencies 5%	-	Rs. 6,324/-
Storage 3 %	-	Rs. 3,984/-
Labour & Transport 30%	-	Rs.41,038/-
Establishment & Supervision charges 22 %	-	Rs.39,123/-
Additional Original erection charges 10%	-	Rs.10,479/-
Round off	-	<u>Rs. 2/-</u> <u>Rs.100950/-</u>

9.14 The Appellant is not disputing the levy of the above charges. But, argued that as the replacement of the metering set and meter was not done, the amount has to be refunded to him.

9.15 As the work of replacement of the metering set and meter was not taken up, the Respondent has not incurred any expenditure under any of the head mentioned above at the time of reduction of load or thereafter also. The above service was also dismantled subsequently without changing the meter.

9.16 As the licensee has not replaced the metering set and the meter with 0.2s accuracy class metering set and meter till permanently dismantling the said service, the licensee would not have incurred any expenditure covered in the estimate. Therefore, the charges collected towards the work which was not carried out amounts to unjust enrichment. Accordingly, estimate charges collected for the replacement of metering set and meter has to be refunded only.

10. Conclusion :

10.1 As the Respondent has not changed the metering set and the meter with 0.2s accuracy, till the service is permanently dismantled the Respondent is directed to refund the sum of Rs.1,00,950/- collected towards Contingencies, Storage, Labour & Transport, Establishment & Supervision charges etc., covered in the estimate sanctioned for replacement of the metering set and meter with 0.2s accuracy class within 30 days from the date of receipt of this order.

10.2 A compliance report on the above shall be furnished within 45 days from the date of receipt of the order.

10.3 With the above findings the A.P.No.102 of 2016 is finally disposed of by the Electricity Ombudsman. No Cost.

(A. Dharmaraj)
Electricity Ombudsman

To

1) M/s Thiruselvan Spinners (P) Ltd.,
71/C, Patel Road,
Virudhunagar - 626 001.
Cell No.94431 42536.

2) The Superintending Engineer,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
65/1 Ramamoorthy Road,
Virudhunagar.

3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Virudhunagar Electricity Distribution Circle,
TANGEDCO,
65/1 Ramamoorthy Road,
Virudhunagar.

4) The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai,
Chennai -600 002.

5) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmiipathy Salai,
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Chennai – 600 008.

6) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**
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