

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 06-10-2010

Appeal No. 39 of 2010

Between

Sri Lalith Kumar Jain
Jeevan Nivas
Beside Himagiri Theatre
Vizianagaram.

... Appellant

And

1. Assistant Engineer / operation /Gurla
2. Assistant Divisional Engineer / Operation / Lines / Vizianagaram
3. Divisional Engineer/Operation/ Vizianagaram

....Respondents

The appeal / representation received on 27.08.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 28.09.2010 for respondents represented by Sri Jyothieswar, Advocate and Sri Lalit Kumar Jain appellant present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

The appellant filed a complaint before the Consumer Grievance Redressal Forum (Forum), APEPDCL that the respondents are refusing to provide 24 hours power supply to Jivarlal Oil Mill bearing SC No.1, LT Cat-III, Atchuthapuram in Gurla Mandal from the nearest point of supply given to the HT service of M/s Navarang Stone Crusher. He prayed for intimation letter for payment of charges

for providing lines as requested to his service to avail 24 hours supply facility to his factory.

2. The contention of the respondents in the written submissions as hereunder:

“The existing SC No.1 Atchuthapuram presently feeding from 11kV Atchuthapuram feeder and if the consumer wants 24 hours supply he is advised to approach Town Call Centre, Vizianagaram and register an application. Then only they have to prepare the estimate and if the consumer pays the estimate amounts, they will extend the 24 hours supply from 33/11KV SS Gurla (erecting 9KM 11KV line). Even though the consumer service is nearer to 11 KV Garividi RECS Feeder (1.4KM) they cannot give LT supply from that feeder, due to agreement conditions. If the consumer applied for HT service they extend 24 hrs. supply from 11KV Garividi RECS feeder.”

3. When the Chairperson contacted the respondents on phone, the respondent No. 2 stated that if the consumer wants 24 hours supply facility he is advised to approach the concerned call centre, Vizianagaram and register an application, so that an estimation will be prepared and 24 hrs supply can be extended from 33/11KV SS Gurla by erecting 9KM 1 KV line after payment of necessary charges.

4. The Forum has observed that 24 hours supply facility may be extended to the service of the appellant provided that the licensee, M/s. Rural Electricity Cooperative Society, Cheepurupalli and the appellant comes to positive mutual agreement within the ambit of rules or if the consumer wants 24 hours supply facility he is advised to approach the concerned call centre, Vizianagaram and register an application, so that an estimation will be prepared and 24 hrs supply can be extended from 33/11KV SS Gurla by erecting 9KM 1 KV line after payment of necessary charges.

5. Aggrieved by the said order, the appellant preferred this appeal, questioning the same, that he is getting 3 phase supply for only 7 hours a day in two spells resulting in under utilization of installed capacity, non-viable operations and consequential losses. The unit is paying minimum charges reckonable 24 hours supply, but is supplied power only for 7 hours a day. Unless, it is run for atleast 16 hours a day, it is very difficult to survive and provide employment for about 60 persons in that rural area.

6. It is argued by him that when such a facility is allowed in respect of a similar consumer, denial to the appellant is opposed to the provisions of the Constitution and repugnant to the canons of natural justice. The submissions made by the respondent Nos.2 and 4 are in correct and it is also very difficult from 33/11KV to erect 9KM, 11kV line on payment of cost / charges as it would go more than 10 lakhs; and that the orders of the Forum are biased, untenable, contrary to the provisions of the Act and rules and requested this authority directing the respondents No.2 and 4 to supply 24 hours LT supply from Garividi RECS SS from the point at Penubarthi which is at a distance of 1KM from the appellant's unit on payment of charges by the appellant for erecting 1KM or 1.4KM LT line or direct respondent No.2 to supply 24 hours LT supply from the near by Gujjangi Valasa which is at a distance of about 4KM on collection of charges for erecting line for 1.4KM only from the appellant unit.

7. Now, the point for consideration is, "whether the impugned order, dated 16.07.2010, is liable to be set aside? If so, on what grounds?"

8. The appellant who has appeared before this authority has submitted that 24 hours supply facility has been enjoyed by the neighbouring industry and he is entitled for the same as it is 1KM away from his premises and that a direction ought to have been given by the Forum. It is difficult for him to have a line of 9KM 11KV line which is highly expensive as his industry is a seasonal industry

and 60 people who are coming from neighbouring villages are also going to suffer due to shortage of power supply and has to incur lakhs of rupees for getting service line and it is against to principles of natural justice. The appellant has contended that the submissions made by the respondents are all untenable and the same have to be simply ignored.

9. Whereas the respondents represented by Jyothi Eswar, Advocate submitted that there is no procedure to provide connection from the nearest place as that industry is HT industry and industry of the appellant is having 3phase supply and merely because several works are working it cannot be extended to the premises of the appellant and the Forum has rightly considered the same and the appeal preferred by the appellant is liable to be dismissed.

10. The contention raised by the appellant is that 24 hours supply is there to a M/s. Navarang Stone Crusher at a distance of 1KM from his industry and refusal for extension of 24 hours service, merely on the ground, that his service connection is a 3phase connection, though a separate HT meter is provided to his premises and that he has been regularly paying the bills as received by him and that his industry is only a seasonal industry is not valid and tenable. The respondents are prepared to extend the service provided the consumer i.e., appellant is prepared to convert his service into HT service and it is not possible for them to convert the same for 3phase service and the same can be provided by extending the same from 33/11KV SS Gurla by erecting 9KM 11kV line after payment of necessary charges.

11. No doubt this aspect is not covered either in the Terms & Conditions of Supply of APERC or under the Tariff conditions. It may not be a difficult for the appellant to take HT service provided, his industry is not a seasonal industry. At the same time it is difficult for him to obtain HT service because his industry is a seasonal industry. The respondents have not denied that the appellant's industry is not a seasonal industry.

12. If a provision / rule is provided either in the Regulation or in the Tariff Order and if supply is not given for 24 hours, it directly falls within the ambit of deficiency of service. But that is not the case herein. So, it can not be said that it is deficiency of service and the Forum or this authority cannot be meddle with the Regulation / Tariff as the very scope and powers to be exercised by the Forum or this authority are very limited.

13. In the light of the above said circumstances, the contention raised by the appellant for supply from RECS, Cheepurupalli cannot be acceded, since the request made by the appellant is not covered either in the Terms and Conditions of APERC or under the Tariff conditions. However, it is necessary to incorporate the same by taking into account about the similar cases in the present tariff by making necessary additions / amendments to suit the industries like the appellant's herein. It is also necessary to ensure the survival of the seasonal industry instead of allowing them for extinguishment. **It is also necessary to inform the Tariff wing to provide a suitable provision / clause for the industries like the appellant's herein for supply of 24 hours from the nearest point even under 3 phase services in the present tariff, which is likely to be issued within a short period in the interest of survival of seasonal industries.**

14. In view of the above said discussion, the request made by the appellant cannot be considered and the appeal preferred by him is liable to be dismissed.

15. In the result, the appeal is dismissed and **address tariff wing / Secretary, APERC to take appropriate steps to consider the cases of the above said industries in the forthcoming tariff order.** No order as to costs.

This order is corrected and signed on this day of 6th October 2010

VIDYUT OMBUDSMAN