



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

I. A. (SR) No. 43 of 2016
in
O. P. (SR) No. 44 of 2016

Dated: 02.09.2016

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. Divisional Engineer, Operation,
Vikarabad, TSSPDCL, RR District.
2. Senior Accounts Officer, Operation,
RR South, TSSPDCL, Nanalnagar X Road,
Mehdipatnam, Hyderabad-500 028.
3. Superintending Engineer, Operation,
RR South, TSSPDCL, Nanalnagar X Road,
Mehdipatnam, Hyderabad-500 028.
4. Chief General Manager (Comml. & RAC),
Southern Power Distribution Company
of Telangana State Ltd., 6-1-50, Ground Floor,
Corporate Office, Mint Compound,
Hyderabad – 500 063.
5. M. Srinivasulu, SAO, Operation, RR South,
TSSPDCL, Operation,
RR South, TSSPDCL, Nanalnagar X Road,
Mehdipatnam, Hyderabad-500 028.

... Respondents.

This petition having been filed along with original petition for consideration of the Commission on 29.08.2016, considering the urgency in the matter, the Commission passed the following:

ORDER

M/s. Suguna Metals Limited (petitioner) has filed a petition under sec 146 and 151 of the Electricity Act, 2003 (Act, 2003) read with clause 26 of the regulation No. 2 of 2015 and clauses 2.53, 3.39 of the regulation No. 3 of 2015 in respect of non-implementation of the order of the Vidyuth Ombudsman (VO) in Appeal No. 154 of 2013 dated 27.10.2014 along with order dated 04.07.2016 in CMP No. 1 of 2016 in Appeal No. 154 of 2013 including the order Consumer Grievance Redressal Forum (CGRF) II of Southern Power distribution Company of Telangana Limited (TSSPDCL) dated 18.01.2016 and 23.02.2016 in CG No. 323 of 2015 and 648 of 2015 respectively.

2. The petitioner has also sought interim directions by filing a separate petition in the matter. The petitioner has sought the following prayer in the interlocutory application.

“Directing the respondents not to disconnect power supply to the HT No. RRS 1247 of appellant pending final decision by the Commission in the main appeal.”

3. The averments in support of this petition are stated below:

4. The petitioner stated that the it is a company registered under Companies Act under the above name and style situated at 1-8-673, Azamabad, Hyderabad – 500020 represented by its Director Sri Bharat Kumar and having a HT Consumer bearing No. H.T No. RRS 1247 with Contracted Maximum Demand (CMD) of 9499 KVA for supply of energy and demand from the respondents. It is stated that the petitioner is aggrieved by the various violations in implementing the tariff order and regulations by the respondents the petitioner has filed various complaints before the CGRF 2 and VO and the CGRF 2 and VO were pleased to allow various claims of the petitioner and it is entitled for the credit of the amounts as shown in the table which has to be paid back it as per the orders of the CGRF 2 and VO. It is pertinent to note that the petitioner has already paid these amounts and has to be returned back to the petitioner.

Sl.No.	C.G. No. / Appeal No.	Date of order	Period	Amount to be refunded Rs.
1	C.G.No.1245 of 2013-14	15.02.2014	Sep-2012 to Aug-2013	51,55,308

2	Appeal 154 of 2013	27.10.2014	Sep-2012 to Aug-2013	17,90,984
3	Appeal 154 of 2013	27.10.2014	Sep-2012 to Aug-2013	5,73,202
4	C. G. No. 323 of 2015	18.01.2016	Sep-2014 to Aug-2015	50,10,350
5	C. G. No. 648 of 2015-16	23.02.2016		64,02,402
	TOTAL			2,09,25,068

The details of order wise amounts to be refunded are as follows.

C. G. No. 1245 of 2013-14 – R & C PERIOD

Sl. No.	Billing Month	Billed amount Rs.	Date of payment	Amount paid
1	2	3	4	6
1	March, 2013	18766937	12.04.2013	13859393
2	April, 2013	17454067	10.05.2013 to 31.05.2013	14536649
3	June, 2013	22213377	10.07.2013 to 16.07.2013	19956894
4	August, 2013	30102314	10.10.2013 to 31.10.2013	25043578

It is stated that the amounts shown in column No. 3 are including FSA. As per orders of Hon'ble High Court the same is not paid. Amount paid shown in Column No. 5 is including demand charges of Rs. 51,55,308/- to be refunded as per order of CGRF 2 in C.G.No.1245 of 2013-14.

APPEAL NO. 154 OF 2013

Sl. No.	Billing Month	Billed amount Rs.	Date of payment	Amount paid
1	September, 2012	17266119	13.12.2012	17497264
2	October, 2012	16124269	12.11.2012 & 14.11.2012	15172777
3	February, 2013	13253263	15.03.2013 to 09.04.2013	18101421

4	May, 2013	21436459	09.06.2013 to 13.06.2013	21626764
5	July, 2013	20904399	13.08.2013 to 29.08.2013	14690357

It is stated that the amounts shown in column No. 3 are including FSA. As per orders of Hon'ble High Court, the same is not paid. Amount paid shown in column No.5 are including demand charges of Rs. 17,90,984/- to be refunded as per order of VO in Appeal No. 154 of 2013 dated 27.10.2014.

1	November, 2012	2158876	13.12.2012 to 10.01.2013	17561956
2	December, 2012	17438383	11.01.2013 & 30.01.2013	12472013
3	January, 2013	16900880	14.02.2013 to 03.03.2013	15993880

It is stated that Rs. 5,73,202/- has been claimed excessively towards late payment charges from September, 2012 to August, 2013 billing months. The respondents have to refund the same as per orders of VO dated 27.10.2014 in Appeal No. 154 of 2013. C. G. No. 323 of 2015:

5. The petitioner stated that respondents have claimed late payment charges of Rs. 50,10,350/- excess than payable during the period from September, 2014 to August, 2015, which was paid by the appellant. As per order dated 18.01.2016 the respondents have to refund. The details month-wise billed amount and paid amount are as follows.

Sl. No.	Billing Month	Billed amount Rs.	Date of payment	Amount paid
1	September, 2014	32186594	13.10.2014 to 20.10.2014	28010656
2	October, 2014	28811822	15.11.2014 to 25.11.2014	28316456
3	November, 2014	28528443	09.12.2014 to 29.12.2014	27910404
4	December, 2014	33862309	10.01.2015 to 22.01.2015	33080065
5	January, 2015	34505355	09.02.2015 to 23.02.2015	33919420
6	February, 2015	33059134	18.03.2015 to 25.03.2015	32571914
7	March, 2015	30909438	13.04.2015 to 23.04.2015	30474970

8	April, 2015	36789115	28.04.2015 to 09.06.2015	34831856
9	May, 2015	32559401	16.06.2015 to 30.06.2015	33511132
10	June, 205	26467203	10.07.2015 to 23.07.2015	26875519
11	July, 2015	26976308	12.08.2015 to 22.08.2015	26453483
12	August, 2015	32961444	14.09.2015 to 30.09.2015	40530037
13	VS amt paid in 7/2000			2762350
TOTAL		377616566		379248262

It is stated that the amount paid from September, 2014 to August, 2015 including excess amount paid in July, 2009 towards Voltage surcharge rate is Rs. 37,92,48,262/- against the payable amount of Rs. 37, 76,16,566/-, hence, an amount of Rs. 16, 31,696/- is excess paid. Also to be noted that the amount paid shown in column No.5 is including Rs. 50,10,350/-, which is to be refunded by the respondents. C. G. No. 648 of 2015-16.

6. The petitioner stated that the respondents on 27.01.2016 disconnected power supply without notice showing Rs. 1.92 crores as arrears which were covered by the above said orders. Under the pressure of disconnection the petitioner paid Rs. 64,02,402/- on 28.01.2016 and got restoration of power supply on 29.01.2016. Aggrieved by the action of respondents the appellant approached before CGRF 2 vide C. G. No. 648 of 2016. The CGRF 2 set aside the claim of respondents and directed the respondents to implement the pending four orders and full shape then only can arrived correct amount. Accordingly, the respondents have to refund Rs. 64,02,402/-.

7. The petitioner has raised the following grounds in the petition.

a) It is stated that as the respondents have not implemented the above said orders and paid back the amounts. The petitioner again approached the VO for implementation of the orders of the CGRF 2 and Ombudsman vide CMP No. 1 of 2016. The VO was pleased to direct the respondents to implement the orders of the CGRF 2 and VO and also imposed the compensation of Rs. 6 lakhs and

directed the respondents to implement all the orders immediately by order dated 04.07.2016.

b) It is stated that the respondent No. 5 who is officiating as respondent No.3 under the guise of his official position has been violating all the orders of the CGRF 2 and VO and has been avoiding to implement the said orders thereby not only violated order of the CGRF 2 and VO in his personal capacity but have also violated the orders as an official of the respondent 1 to 4. In this regard it is stated that the 5th respondent being the accounts officer of 1 and 2 respondents ought to have given due credit to the account of the appellant by implementing the orders of the CGRF 2 and VO and instead have been indulged in vendetta against this petitioner under the guise of his official position. It is stated that the 5th respondent attended almost all the proceedings before the CGRF 2 and VO and represented respondents No. 1 to 4. The appellant got issued a legal notice to the 5th respondent as he was violating the orders of the CGRF 2 and VO.

c) It is stated that the 5th respondent under guise of the 3rd respondent have proposed and got issued notice No. SF / OP / RRC (S) / SAO / HT / D. No.294 / 2016 dated 17.08.2016 claiming Rs. 73,42,055/- raising a new claim which was not earlier claimed by attempting to misinterpret the order of the VO. The 5th respondent under the guise of 3rd respondent have violated the orders of the CGRF 2 and the VO deliberately and wilfully and instead of giving credit of Rs. 2,09,25,068/- and returning back the said amounts to the appellant have further claimed an amount of Rs. 73,42,055/- vide letter No. SE / OP / RRC (S) / SAO / HT / D. No.294 /2016 dated 17.08.2016, which is utter violation of the orders of CGRF 2 and VO.

d) It is stated that the 5th respondent under the guise of 3rd respondent have violated various orders of CGRF 2 and VO deliberately and caused much hardship to the petitioner and caused huge financial loss, cause production loss, caused business loss not only jeopardize the petitioner but have also cause had report to the respondent 1 to 4 and exposed respondent 1 to 4 to the present proceeding thereby cause much embarrassment to respondent 1 to 4.

e) The item-wise details explained hereunder for consideration of the Commission.

C. G. No. 1245 of 2013-14:

Item No1: Demand charges normal rate:

The respondents claimed Rs. 2,00,97,059/- from September, 2012 to August, 2013 billing months towards demand charges normal rate which was in violation of R & C order issued by APERC. Aggrieved by the action of respondent the petitioner approached before CGRF 2 stating that the demand charges normal rate payable as per R & C orders is Rs. 1,30,50,767/- hence, the petitioner claimed relief of difference of Rs. 69,46,292/-.

In this regard the respondents deposed before CGRF 2 that the demand charges normal rates for the month of March, April, June and August, 2013 billing month has been withdrawn hence the difference is only Rs. 17,90,984/- and not Rs. 69,46,292/-. Accordingly, the difference of Rs. 51,55,308/- is to be withdrawn for the month March, April, June and August, 2013 billing month by issuing the revised bills but the respondents did not issue revised bills as on date. The above said deposition of the respondents was recorded by CGRF 2 in its order dated 15.02.2014 in C. G. No. 1245 of 2013-14.

Regarding claim of Off Peak Penal Energy Charges for November, 2012 billing month and claim of 10% demand charges the CGRF 2 did not grant any relief hence, the petitioner approached before VO vide Appeal No. 154 of 2013 for relief of Rs. 17,90,984/- of demand charges normal rate and Rs. 19,92,742/- of November, 2012. Item-wise details are discussed in the further paragraphs

Appeal No. 154 of 2013.

Item No.1: Demand Charges Normal Rate:

The petitioner approached the VO for relief of Rs.17,90,984/- claimed towards demand charges normal rate from September, 2012 to February, 2013 in violation of R & C Orders issued by the then APERC that is demand charges normal rate claimed on off peak demand charges on power on day, peak demand charges on power on day and off peak demand charges on power off days on prorated basis and from March to August, 2013 billing months on RMD for entire month without prorated rate that is full tariff rate claimed.

The Vidyut Ombudsman pleased direct the respondents vide order dated 27.10.2014 to withdraw 10% demand charges of power off days and issue the revised bill duly re-working. But the respondents did not issue the revised bill as per order of VO dated 27.10.2014 till date.

Item No.2: Off Peak Penal ECH Rate.

The petitioner claimed before Vidyut Ombudsman that the respondents during November, 2012 billing month taken entitlement of energy from 21.10.2012 to 06.11.2012 for 11 days and from 07.11.2012 to 21.11.2012 for 8 days and levied penal energy charges of Rs. 19,92,742/- whereas the entitlement is to be considered for 9 days upto 06.11.2012 and 9 days from 07.11.2012 to 21.11.2012 the working days are 15 accordingly the entitlement also to be taken for 9 days in each spell.

The VO directed the respondents to rework the off peak penal consumption charges for the month of November, 2012 duly taking 00.00 hrs as the starting period for computing the entitlements and penalties and not 6.00 hrs as was done by them. But the respondents have not done the reworking as per directions of the VO till date.

Item No.3: Late Payment Charge & Interest on ED.

The petitioner claimed before VO stating that the respondents have claimed Rs. 5,73,262/- excess towards late payment charges during the period from September, 2012 to August, 2013 billing months.

The VO pleased to directed the respondents stating that the respondents are not correct in charging delay payment charges at the rate of 1.5% on the total bill amount for the month, even when the delay less than a month. In other words, the delayed payment charges have to be levied only on the actual number of days delay that is payment of electricity bills. Accordingly, the respondents have to refund Rs. 5,73,262/- paid excess towards late payment charges from September, 2012 to August, 2013 billing months till date but not refunded.

C.G. No. 323 of 2015 before CGRF 2.

The petitioner approached before CGRF 2 vide C.G. No. 323 of 2015 towards claim of Rs. 50.10 lakhs towards late payment charges during the period from September, 2014 to August, 2015. The CGRF 2 pleased to direct the

respondents vide order dated 18.01.2016, that the excess claim of delay payment charges of Rs. 50,10,350/- as mentioned by the complainant may be settled by implementing the orders of Courts, VO, TSERC and CGRF 2 in respect of cross subsidy surcharge, R & C, Open Access demand and voltage surcharge respectively avoiding compensation for non compliance. But the respondents have not implemented the said order till date and not refunded Rs. 50,10,350/- till date.

C.G. No. 648 of 2015:

The petitioner approached before CGRF 2 vide C.G. No. 648 of 2015 towards the claim of arrears of Rs. 1.92 crores as on 27.01.2016. The appellant paid Rs. 64,02,402/- on 28.01.2016 and approached before the CGRF 2 to set aside the claim of Rs. 1.92 crores. The CGRF 2 pleased to direct the respondents that respondents can arrive the dues to be paid by the complainant by implementing the above four orders (i.e., Appeal No. 154 of 2013 of VO, C.G. No. 286 of 2015, C. G. No. 323 and Hon'ble High Court order in W. P. No. 16367) in full shape and set aside the claim. Accordingly, the Rs. 64,02,402/- is to be refunded.

C.M.P. 1 of 2016.

The petitioner stated that on 03.03.2016 approached before the VO vide CMP No. 1 of 2016 for implementation of order dated 27.10.2014 of Appeal No.154 of 2013. While the matter was pending before VO, the respondent No. 2 issued disconnection vide letter No. SE / OP / PRC (S) / SAO / HT / D. No. 1514 / 2016 dated 13.04.2016. Aggrieved by the action of respondent No. 2 the petitioner approached before VO with interim appeal on 16.04.2016. The VO was pleased to pass stay on disconnection. The VO pleased to pass an order dated 04.07.2016. The operational part of the order is as follows.

PARA NO. 11:

“COMPLIANCE OF DIRECTIONS OF VIDYUT OMBUDSMAN AND OF THE HON'BLE HIGH COURT:

- a) *The DISCOM cannot charge demand charges for 10% of the CMD during R & C period meant for maintenance.*
- b) *The respondents shall rework the off peak penal consumption charges for the month of November' 2012 duly taking 00.00 hrs as the starting period*

for computing the entitlement and penalties and they should revise the bills accordingly.

c) The delay payment charges should be levied on the actual No. of days delay in payment of electricity bills.

PARA NO. 13:

Rs. 6.00,000/- compensation is awarded.

PARA NO. 14:

It is hoped that the DISCOM even at this stage complies with directions as noted in para 11 supra and pay compensation for non compliance of orders as noted in para 13 supra without giving any excuses.”

8. The petitioner stated that as per directions of VO in clause (b) above the respondent No. 2 have to rework the off peak penal consumption charges for the month of November, 2012 only duly taking 00.00 hrs as the starting period for computing the entitlement and penalties but the respondent No.2 revised the bills for entire period from September, 2012 to August, 2013 billing months by taking consumption from 00 hours as starting period which is in violation of the directions of VO order dated 04.07.2016 in CMP No. 1 of 2016 and issued notice vide letter No. SE / OP / RRC (S) / SAO /HT / D. No.294 / 2016 dated 17.08.2016 for Rs. 73,42,055/-.

9. The petitioner stated it is pertinent to note at this juncture that the actual consumption in R & C period that is from September, 2012 to August, 2013 from 6 hrs to 6 hrs was as per directions of the respondents only as per letter No. CGM / O & M / SE (Spl) / DE / LMRC / F. No. /D. No. 312 / 12 dated 27.09.2012. Now revising the R & C Bills by taking consumption of 00 hours instead of 6 hours is also in violation of its own directions.

10. The petitioner stated that the respondents have not issued the R & C bills for the period from March, 2013 to August, 2013 billing months till date as per R & C orders and claiming normal bill with full demand charges which is in violation of R & C orders and directions of VO. It is stated that the respondents are liable for fine of Rs. 1,00,000/- as on 02.02.2016 and Rs. 6,000/- per day from 03.02.2016 till the date of implementation for non-implementation of order dated 23.02.2016 of C. G. No. 648 of 2015-16 of CGRF 2. It is stated that the respondents are liable for fine of Rs. 1,00,000/- as on 04.07.2016 and Rs. 6,000/- per day from 05.07.2016 till the date of

implementation for non-implementation of order dated 04.07.2016 of CMP No. 1 of 2016 of VO.

11. We notice from the pleadings made in the main petition, which are akin to the pleadings in this I. A. that there is gross violation of the orders of the CGRF and the Vidyut Ombudsman. Moreover from the material placed before us, there appears an imminent threat of dis-connection of power supply.

12. We also notice that several amounts under several heads of tariff and conditions of supply are the subject matter of the orders of the CGRF and Vidyut Ombudsman. However, any observations as to the implementation or otherwise of the orders of CGRF and Vidyut Ombudsman cannot be made, unless, the Commission hears both the parties. Apart from the above, there also appears that there are claims and counter-claims and different figures being shown by the parties, as such also a complete direction at this stage cannot be granted. To highlight this fact the letter addressed by the licensee demanding the petitioner to pay certain amounts with a threat of disconnection of the power in purport of implementation of the order of the Vidyut Ombudsman is to be seen, which is reproduced below:

“In obedience to the orders issued by the Hon’ble Vidyut Ombudsman under reference 6th and 7th cited, the R & C bills of the HT SC. No. RRS 1247 of M/s. Sugna Metals Pvt Ltd. has been revised duly taking 00.00 Hrs as day start from November-2012 onwards. Further the 10% demand levied on Power Off days is withdrawn duly revising the bills from September, 2012 onwards. The revised R & C Bills are communicated herewith.

On revision of R & C Bills and allowing of compensation amount as per the Hon’ble Vidyut Ombudsman Orders. M/s. Sugna Metals Pvt. Ltd. is liable to pay Rs. 67,42,055.00 as details below to this office.

Revision of R & C Bills from September-2012 onwards - Rs. 73,42,055.00 amount liable to pay (Statement enclosed)	
Less Compensation amount	- Rs. 6,00,000.00

	Rs. 67,42,055.00

Therefore, M/s. Sugna Metals Pvt. Ltd. is directed to pay the above amount to this office within (15) days from the date of issue of this communication or else service will be disconnected without any further notice.”

13. Having noticed the above position, we are of the view that the balance of convenience would rest in favour of the petitioner, but as we are not inclined to pass a full-fledged order of stay, we deem it appropriate to direct the parties to maintain status quo as on this date.

14. The office is directed to take the petitions on the file of the Commission and assign numbers appropriately, post the same as and when the Commission is hearing matters on adjudicatory side by issuing necessary notice.

This order is corrected and signed on this the 2nd day of September, 2016.

Sd/-
(H. SRINIVASULU)
MEMBER

Sd/-
(ISMAIL ALI KHAN)
CHAIRMAN

CERTIFIED COPY