



# TAMIL NADU ELECTRICITY OMBUDSMAN

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## BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

**Present: Thiru. A. Dharmaraj. Electricity Ombudsman**

**Appeal Petition No. 46 of 2016**

Tmt. P. Govindammal,  
No.122( Old No.136), Big Street,  
Tiruvallikeni,  
Chennai 600 005.

. .... Petitioner  
(Thiru. T. Ravikumar)

Vs

1) Executive Engineer/O&M/Anna Salai,  
Chennai Electricity Distribution Circle/Central,  
TANGEDCO,  
6, Lafond Street,  
Chintadripet,  
Chennai 600 002.

2) The Assistant Executive Engineer/O&M,  
Anna Salai,  
Chennai Electricity Distribution Circle/Central,  
TANGEDCO,  
6, Lafond Street,  
Chintadripet,  
Chennai 600 002.

. .... Respondents  
(Rep by Thiru. Velmurugan, EE/Anna Salai &  
Thiru. S. Selvanarayanan, AEE/Anna Salai)

**Date of hearing : 26.8.2016 & 8.9.2016**

**Date of Order : 9.2.2017**

The Petition dt.7.6.2016 filed by Tmt. P. Govindammal, Tiruvallikeni,  
Chennai 600 005 was registered as A.P.No.46 of 2016 & 8.9.2016. The above petition

came up before the Electricity Ombudsman for hearing on 26.8.2016. Upon perusing the above petition, counter affidavit, written arguments and after hearing both sides, the Electricity Ombudsman passes the following order.

## **ORDER**

### **1. Prayer of the Petitioner :**

To direct the licensee (TANGEDCO) to refund the deposit amount of Rs.1,44,807/- with interest and costs.

### **2. Brief History of the case:**

2.1 The Appellant has surrendered the following service connections on 5.5.2009 which were effected in her name.

(i) 103-054-193, (ii) 013-054-194, (iii) 103-054-195, (iv) 103-054-201,

(v) 103-054-203 & (vi) 103-054-205.

2.2 The Appellant obtained information under RTI about the security deposit available in the said services and applied for refund of the amount as furnished in the reply.

2.3 As refund was not made the appellant filed a petition before CGRF of Chennai EDC for refund of the said deposit amounts.

2.4 The licensee informed that the information given to the consumer about the deposit available in each service is not correct and it is given wrongly. The CGRF directed the licensee to compute the actual deposit amount due to the

consumer and settle the same at once.

2.5 Aggrieved over the above order of CGRF, the Appellant filed this appeal before the Electricity Ombudsman.

### **3. Orders of CGRF :**

3.1 The relevant paras of the order of CGRF in Chennai EDC/Central dt.3.2.2016 extracted below :

*“ 4. Findings & Orders Both the petitioner and licensees statements were heard and records were verified. The licensee states that there was no security deposit amount available in the account nos mentioned in the petition, and hence adjustment of the SD amount to the existing live services is not possible. The licensee’s also state that, for domestic connections, based on average consumption over the year deposit was calculated, collected if necessary and maintained in consumer’s account. Therefore, there was no possibility of taking such huge deposits from the consumer and that the said information under RTI was given due to some mistake in the system.*

*While this Forum accepts the arguments of the licensee, it also strongly condemns the utility for providing wrong information under RTI, which is an important, authentic tool for obtaining information from Government Departments. Thus, though it may be a system generated error this Forum directs the utility to be more vigilant while providing information under RTI and also to compute the actual deposit amount due to the consumer and settle the same at once to him. With the above direction the petition is disposed off.”*

### **3.0 Arguments furnished in the petition furnished in the Appeal Petition :**

3.1 The service connections 103-054-193, 103-054-194, 103-054-195, 103-054-201, 103-054-203, 103-054-205 were surrendered on 5.5.2009. The deposit has not been refunded till now.

3.2 The public information officer has categorically stated vide his communication EE/O&M/AS/AE/CAUP/F.RTI Act /D.2762/dated 20.6.2013 the deposit amount. The quantum of deposit to be refunded is Rs.1,44,807/- for the aforesaid 6 surrendered

connections.

3.3 The CGRF has accepted the stand of the licensee that these are domestic connection.

3.4 Factually these are commercial connections. So the licensee's contentions cannot be correct. Therefore, the reasoning of the CGRF is also not correct.

#### **4.0 Arguments of the Respondent furnished in the Counter :**

4.1 The Communication letter No.EE/O&M/AS/AE/CAUP/FRTI Act/D.No.2768/ dated 20.6.2013, the available deposit amount for all the surrendered service connection (6nos) is sent to the consumer to response under RTI Act,. The amount was furnished based on the entries available in the computer ACCD ledger. All the surrendered services are single phase commercial services and the license has not stated in the letter about the category of service.

4.2 In single phase service connection initially small amount of Rs.200/- will be collected at the time of effecting service connection, Additional deposit if any will be calculated based on the consumption only. In all the surrendered services, the current consumption is very less ranging from 0 unit to 20 units only during live period of the above services. Hence, it is not practical to collect additional deposit amount.

4.3 Hence, such a huge amount of deposit available in the consumer ledger is not correct. During computerizing the billing system the error might have occurred since the work was carried out by engaging outsourcing. The wrongly entered & deposit cannot be refundable.

## **6.0 Hearing held by the Electricity Ombudsman:**

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, hearings were conducted before the Electricity Ombudsman on 26.8.2016 & 8.9.2016.

6.2 Thiru. T. Ravikumar, Chennai 600008 has represented the Appellant and putforth his side arguments.

6.3 Thiru. T. Velmurugan, EE/Annasalai the Respondent-1 has attended the hearing on both the days and Thiru. S. Selvanarayanan, Asst.Exe.Engineer/Annasalai the Respondent-2 has attended the hearing on 26.8.2016.

## **7.0 Arguments of the Appellant putforth on the hearing date :**

7.1 Thiru. T. Ravikumar reiterated the contents of the appeal petition.

7.2 Thiru. T. Ravikumar argued that the Appellant is requesting refund of the amount available as security deposit in the respective service connections consequent to the closing of the said service connections. He also argued that the refund is pending for a long time. He also argued that he is only requesting refund as per the details furnished by the licensee under RTI.

7.3 The licensee's officers have given some figures as available deposit and now when refund is requested, arguing that the details given under RTI is wrong. The above is not acceptable as the information given under RTI are valid documents.

7.4 The have not produced any valid record to establish their arguments. They have not produced the ledger based on which the available deposit was furnished in the reply under RTI.

**8. Argument putforth by the Respondent on the hearing dates :**

8.1 Thiru. Velmurugan, Executive Engineer/O&M/Annasalai reiterated the contents of the counter.

8.2 The EE argued that while entering the data in the computer at the time of computerizing the LT billing system, the error might have been occurred as the work was done by engaging out sourcing. The consumer is not entitled to get the wrongly entered amount.

8.3 The EE also argued that the appellant has not given any documentary evidence such as S.D. paid receipt in support of her claim. But only rely on the wrongly furnished RTI information.

8.4 The EE also argued that on a review of the consumption recorded from 2003 to 4/2009 , the consumption in each service is in the order of around 100 units only. Hence, the available deposit could not be in the order of 24000/- Hence, argued that the available deposit intimated in response to RTI may be wrong.

**9. Written arguments of the Respondent :**

9.1 It is informed that the security deposit available in the service connection 103-054-193, 194,195, 201, 203 & 205 was communicated based on the request under RTI Act 2005 in letter dt. 20.6.13 as per the ACCD ledger entry in the computer system.

9.2 In all the surrendered services, the current consumption is very less ranging below 100 units only during live period of the above services and also the sanctioned load is 1 KW for all services. Hence, it is not practical to collect additional deposit

amount. Hence, such a huge amount of deposit available in the consumer ledger is not correct. During computerizing of the LT billing system from 2008 to 2009, the error might have occurred since the work was carried out by engaging out sourcing. The wrongly entered deposit amount cannot be refundable.

9.3 It was already informed to the consumer to submit the original receipt for these security amount for refund or transfer to the existing live services. Till date the consumer has not produced any receipt.

#### **10. Written Arguments of the Appellant :**

10.1 He did not receive any refund of the deposit. Hence, he gave an application under RTI Act 2005 regarding the amount of deposit that was available with the TANGEDCO and the public information officer by his communication dt.20.6.2013, replied to him that a sum of Rs.1,44,807/- Was available with him. He petitioned to the authorities for refund of the said sum but there was no response. Hence, he petitioned the CGRF, the CGRF accepted the contention of the licensee that the information under RTI was wrong and directed the licensee to compute the correct amount of deposit, and refund the same, by its order dt.3.2.2016. The licensee has also not done that so far.

10.2 Interest has been calculated at 5% on the initial deposit of Rs.60/- interest rates have been varying from 2003 but the same has not been taken into account by licensee.

10.3 For all connections the ACCD collected has been mentioned. However, the date of collection of ACCD has been not given. No interest has been calculated on the ACCD.

10.4 The amount mentioned as ACCD itself disputed.

10.5 All the working sheets are based on the consumption charges April 2006 to Feb 2007, April 2006 charges are high and the charges after that are constantly coming down or stagnating. Hence, it can easily be inferred all the connections were sparingly used in that period as stated by TANGEDCO. Before that period i.e. 2005 the connections were used as shops and their current consumption was high. Hence, the security deposit also would be on the higher side.

10.6 No documents have been furnished in proof of the consumption pattern.

10.7 Against 103-054-193 amounts regarding already ACCD available amounts viz., 966.64 is mentioned. Where as for all other connections no mention is made about already available ACCD. Surely even for minimum meter reading ACCD is calculated and collected. However, in this case not amount even if it is Rs.50/- mentioned. This is erroneous calculation and not supported by documents.

10.8 Point of law: a) ACCD ledger is a document available in 2013 as found in the reply to RTI query. But without producing them before the Hon'ble Ombudsman, TANGEDCO is trying to suppress the availability of the factual figure.

b) When a documents ACCD ledger is available with the licensee not producing the same before the Ombudsman, the Hon'ble Ombudsman can adverse inference and say that the licensee is trying to suppress material facts.

c) In support thereof I am producing the judgment of the Hon'ble Supreme Court reported in Hiralal Vs Badkulal,

d) RTI is a public documents and signed by a public authority. Therefore, a public authority cannot retract his statement at a later stage and say that the reply to RTI is

false for various reasons, especially when the reasoning is unsubstantiated.

**11. Findings of the Electricity Ombudsman :**

11.1 On a careful consideration of the arguments put forth by the rival parties, I find the following as issue. “whether, the prayer of the Appellant that a sum of Rs.1,44,807/- available as deposit as per letter dt.20.6.2013 is to be refunded is acceptable?”

11.2 The Appellant has furnished the following arguments in support of her claim.

(i) ACCD ledger is a document available in 2013 as found in the reply to RTI. But, the licensee has not produced the above documents. The Hon’ble Ombudsman can infer adversely and say that the licensee is trying to suppress the material facts.

(ii) RTI is a public documents and signed by the public authority. therefore, a public authority cannot retract his statement at a later stage and say that the reply to RTI is false for various reasons especially when the reasoning is unsubstantiated.

(iii) He has also cited the orders of Hon’ble Supreme Court dt.12.3.1953 reported in 1953 AIR in Hiralal and others Vs Badkulal and others in support of his argument.

(iv) All the working sheets are based on the consumption charges from April 06 to Feb 07. April 2006 charges are high and the charges after that are constantly coming down or stagnating. Hence, it can be easily be inferred all the connections were sparingly used in that period as stated by TANGEDCO. But before that period (ie) 2005, the connections were used as shops and their current consumption was high. Hence, the security deposit also would be on the higher side.

(v) The licensee has not produced any documentary evidence in proof of consumption pattern.

(vi) Interest has been calculated at 5% on the initial deposit of Rs.60/- interest rates are varying from 2003, the same has not been accounted.

(vii) Against 103-054-193, amount regarding already available ACCD (viz) 966.64 is mentioned whereas for all other connections no mention is made about already available ACCD. Even for minimum meter reading ACCD would have been calculated and collected but there is no mention. The working sheet is not supported by documents.

11.3 The Respondent putforth the following arguments.

(i) The security deposit available in SC No.103-054-193, 194, 195, 201, 203 & 205 was communicated based on a request made under RTI as per the ACCD ledger entry in the computer system.

(ii) In all the surrendered services, the consumption is very less ranging below 100 units during live period of the above services and also the connected load is 1 KW for all service. Hence, it is not practical to collect additional deposit and such a high amount of deposit available in the consumer ledger is not correct. During computerizing the LT billing system from 2008 to 2009, the error might have occurred as the work was carried out by engaging outsourcing. The wrongly entered deposit amount can not be refunded.

(iii) The consumer was requested to submit original receipt for these security deposit amount for refund or transfer to the existing live service. But till date the consumer has not produced any receipt.

(iv) As per records, the following are the security deposit available in the services as on 2008-2009. The working sheet also furnished.

- (a) 103-054-193 - Rs.1950/-  
 (b) 103-054-194 - Rs.260/-  
 (c) 103-054-195 - Rs.260/-  
 (d) 103-054-201 - Rs.630/-  
 (e) 103-054-203 - Rs.2583/-  
 (f) 103-054-203 - Rs.2141/-

11.4 As the Appellant has informed that he has obtained the available SD thro RTI, the relevant paras of PIO, letter dt.20.6.13 is extracted below :

“ TANGEDCO,

<p><i>From</i>  <i>Er.T. Seralathan, B.E.,</i>  <i>Public Information Officer &amp;</i>  <i>Executive Engineer/O&amp;M,</i>  <i>Anna Salai Division</i>  <i>No.6, Lafond Street,</i>  <i>Chintadripet, Chennai -2.</i></p>	<p><i>To</i>  <i>Tmt. P. Govindammal,</i>  <i>No.122 (old No.136),</i>  <i>Big Street, Triplicane,</i>  <i>Chennai 5</i></p>
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Lr.No.EE/O&M/AS/AE/CAUP/F.RTI Act/D.No.2768/13, dt.20.6.13

Sir,

*Sub: Elecy-CEDC/Central- Anna Salai Divisionn RTI Act 2005-  
 Reply Furnishing of – Regarding*  
*Ref: Your letter dated 14/5/13 received at this office on 21.5.2013.*

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*With reference to your letter, the following reply is furnished in respect of Anna Salai Division.*

<i>Sl.No.</i>	<i>A/c No</i>	<i>Date of Surrender</i>	<i>Deposit in Rs.</i>
<i>a.</i>	<i>103-054-193</i>	<i>5/5/2009</i>	<i>23176/-</i>
<i>b.</i>	<i>103-054-194</i>	<i>5/5/2009</i>	<i>24392/-</i>
<i>c.</i>	<i>103-054-195</i>	<i>5/5/2009</i>	<i>24391/-</i>
<i>d.</i>	<i>103-054-201</i>	<i>5/5/2009</i>	<i>24568/-</i>
<i>e.</i>	<i>103-054-203</i>	<i>5/5/2009</i>	<i>23517/-</i>
<i>f.</i>	<i>103-054-205</i>	<i>5/5/2009</i>	<i>24763/-</i>

*The copy of statement account for each services (totally 12 pages) will be furnished after receipt of necessary charges Rs.24/- (Rs.2/- per page).*

*For documents, court fee stamp could not be accepted since it is not the mode of payment.*

Hence, you can pay the charges in any of TANGEDCO collection centre and the receipt may be sent to this office. Necessary copies will be furnished on receipt of payment.

Sd/xxx xxx xxx  
Public Information Officer  
AnnaSalai Division”

11.5 The security deposit available as indicated in reply to the RTI and as furnished now by the licensee is tabulated below :

Sl.No.	Service connection Nos	Amount as per RTI Rs.	Amount available as per Respondents letter dt.19.9.16 Rs.
1	103-054-193	23176/-	1950/-
2	103-054-194	24392/-	260/-
3	103-054-195	24391/-	260/-
4	103-054-201	24568/-	630/-
5	103-054-203	23517/-	2583/-
6	103-054-205	24763	2141/-

11.6 It could be seen from the above statement that there are vast variation in the amount available as furnished by the public information officer and Executive Engineer/Anna Salai on 20.6.13 in response to a RTI query and in the written arguments furnished by the EE/Anna Salai on 19.9.2016.

11.7 In order to find out which of the figures given are correct we have to examine the statements and details furnished by the EE/Annasalai. I would like to examine the details in service connection wise.

(A) SC No. SC No.103-054-193:

(i) The date of effecting of service connection was not known. However, it was presumed that the service was effected during 1981. As per the consumer ledger the connected load is 1 KW The service was permanently dismantled on 5.5.2009. The

consumption from 2/2003 to 4/2009 is available as per the consumer ledger. The consumption was varying between 85 units to 510 units in the period from 12/2004 to 8/2006. In all the other assessment periods the consumption was varying between zero and 30.

(ii) On a careful reading of the collection details, it is noted that a sum of Rs.870/- was collected as CC deposit vide receipt No.CHC 103IA1Q569 dt.14.5.2008. From the above collection details, it is inferred that a sum of Rs.870/- was collected as additional security deposit. As Collection was based on a slip dt.24.3.2008, this collections would have been based on review period of 2006-2007. As per regulation 5(5)(b), the security deposit requirements has to be 3 times of the monthly average of the preceding 12 months. Applying the above principle, the period taken to arrive at the average / consumption charges is April 2006 to March 2007. The CC charges of the said period is furnished below :

4/2006	-	3061
6/2006	-	3365
8/2006	-	950
10/2006	-	141
12/2006	-	140
2/2007	-	<u>140</u>
		<u>7797</u>

∴ required Security Deposit is  $\frac{7797}{12} \times 3 =$  Rs.1949.25 or say Rs.1949/-

(iii) As the licensee has collected Rs.870/- on 14.5.2008 it is construed that the SD available on 1.4.2007 is less than the requirements by Rs.870/- Therefore, I am of the view that a sum of Rs.1079/-(1949-870) was the security deposit available as on 1.4.2007. Hence, the security deposit available as on date of refund has to be worked

out considering the S.D. available as on 1.4.2007 as 1079/- and the subsequent remittance as Rs.870/- on 14.5.2008. The amount of deposit available has to be worked out duly calculating the interest as applicable to the respective year upto the date of refund.

(B) SC No.103-054-194.

(i) The date of effecting of the service connection is not known. However, it is presumed that the service could be effected during 1981 like SC Nos 201 & 203. As per the consumer ledger, the connected load is 1 KW. The service was permanently dismantled on 5.5.2009. The consumption details from 2/2003 to 4/2009 is available. As per the above details, the consumption recorded is varying between zero to 60 units.

(ii) The Respondent has stated that ASD was collected during 5/2008 based on a slip dt.24.3.2008 in SC No.103-054-193, and the period taken for assessing the requirement of security deposit is from 4/2006 to 2/2007. Hence, adopting the same analysis, the requirements of SD was worked out based on 4/2006 to 2/2007, consumption charges which are detailed below :

4/2006	-	142
6/2006	-	143
8/2006	-	143
10/2006	-	171
12/2006	-	141
2/2007	-	<u>143</u>
	Total	<u>883</u>

Therefore, the required security deposit at the time of review is  $\frac{883}{12} \times 3 = 221/-$

Similarly, if the requirement is calculated for the previous review period of 2004-2005, the requirement works out to Rs.353/- As review of security deposit is done once in two years, it was presumed that the previous review was for 2004-2005.

(iii) On a careful examination of the consumer ledger furnished by the licensee, no ACCD is collected in the above service connection . Therefore, it is construed that the available security deposit is equal to Rs.353/- or more than Rs.353/- as on 1.4.2005. The Respondent also did not argue that any refund of security deposit has been made in the above service connection.

(iv) In view of the forgoing details, it could be construed that the available security deposit is equal to Rs.353/- or more as on 1.4.2005, but the exact amount available could not be worked out with the details furnished by the licensee.

(C) SC No.103-054-195

(i) The date of effecting of the service connection is not known. However, it is presumed that the service could be effected during 1981 like service connection nos 201 & 203. As per the consumer ledger, the connected load is 1 KW. The service was permanently dismantled on 5.5.2009. The consumption details from 2/2003 to 4/2009 is available. As per the above details, the consumption recorded is varying between zero to 80 units. As the Respondent has stated ASD was collected during 5/2008 based on a slip dt.24.3.2008 and the period taken for arriving the SD is from 4/2006 to 3/2007. Hence, based on the same analysis, the requirement of SD was worked out based on 4/2006 to 2/2007 CC charges as detailed below :-

4/2006	-	171
6/2006	-	227
8/2006	-	171
10/2006	-	142
12/2006	-	141
2/2007	-	<u>143</u>
Total		<u>995</u>

Therefore, the required security deposit at the time of review is  $\frac{995}{12} \times 3 = \text{Rs.}249/-$ .

Similarly, if the requirement of security deposit is worked out for the previous period (ie) 2004-2005, the requirement works out to Rs.452/-

(ii) On a careful examination of the consumer ledger copy furnished by the licensee, it is noted that no ACCD was collected during the period from 2/2003 to 4/2009. Therefore, it is construed that the available security deposit in the said service connection is equal to Rs.452/- or more. The Respondent has also not argued that refund of the excess security deposit has been made in the above service connection.

(iii) In view of the forgoing details, it could be construed that the available security deposit is equal to Rs.452/- or more as on 1.4.2005. But, the exact amount could not be arrived for want of details.

(D) SC No.103-054-201

(i) The date of effecting of the service connection is 7.11.81 . The SD collected at the time of effecting service is Rs.80/- As per the consumer ledger the connected load 1 KW. As per the test certificate dt.7.11.81, the connected load is 375 watts. The tariff adopted is tariff V.

(ii) The service was permanently dismantled on 5.5.2009.

As per the consumer ledger copy furnished by the licensee, consumption details are available from 2/2003 to 4/2009. As per the details the consumption varies from zero units to 100 units. per assessment period. and the maximum bi monthly consumption recorded as per the available records is 100 units.

(iii) As the respondent has stated that ASD was collected during 5/2008, in SC

No.103-054-193, the period taken for arriving the requirements of ASD is 4/2006 to 2/2007. The CC charges collected for the said period is furnished below :

4/2006	-	283
6/2006	-	338
8/2006	-	394
10/2006	-	617
12/2006	-	550
2/2007	-	<u>338</u>
Total		<u>2520</u>

Therefore, the required security deposit is Rs. $\frac{2520}{12} \times 3 = 630/-$

Similarly, if we calculate the security deposit requirement for the review period of 2005-2006 the required security deposit works out to Rs.744/-

(iv) On a careful reading of the consumer ledger copy furnished by the Respondent, no ACCD was collected. Therefore, it is construed that the available deposit is equal to or more than Rs.630/- as on 1.4.2007 and Rs.744/- or more as on 1.4.2005. The respondent have also not argued that they have refunded the excess ACCD available. Therefore, it may be construed that the SD available is equal to or more than 744/- as on 1.4.2005 but, the exact amount could not be worked out for want of details.

(E) SC No.103-054-203.

(i) The date of effecting of service connection is 7.11.81. The contracted load is 375 watts. The security deposit collected at the time of effecting service is Rs.80/- The tariff adopted is V.

(ii) The service was permanently dismantled on 5.5.2009.

(iii) As per the consumer ledger furnished by the licensee, the consumption details

are available from 2/2003 to 4/2009. As per the details, the consumption varies from 0 units to 620 units and the maximum consumption recorded is 620 units. The maximum bimonthly consumption recorded is during 12/2004 assessment period.

(iv) As the Respondent has stated that ASD was collected during 5/2008, in SC No.103-054-193, the period taken for arriving the requirement of ASD is 4/2006 to 2/2007. The CC charges collected for the said period is given below :

4/2006	-	139
6/2006	-	140
8/2006	-	617
10/2006	-	142
12/2006	-	140
2/2007	-	<u>140</u>
		<u>1318</u>

Therefore, the required security deposit is Rs.  $\frac{1318}{12} \times 3 = 330/-$

Similarly, if we calculate the requirement of security deposit for the previous review period (ie) 2004-2005, the requirement works out to Rs.3282/-

(v) On a careful reading of the consumer ledger copy, it is noted that there is no remittance of ACCD from 2/2003 to 4/2009. Therefore, the available deposit is equal to or more than Rs.3282/- as on 1.4.2005 then only there could not be any remittance of additional security deposit by the consumer.

(F) SC No.103-054-205.

(i) The above service connection was effected on 7.11.1981. The Security deposit collected at the time of effecting the service connection was Rs.80/- As per the Test

Report the connected load of the service is 375 Watts whereas as per consumer ledger, the connected load is 1 KW. The service was effected under commercial tariff (ie) Tariff VII at the time of effecting the service and is tariff V as per revised categorization. As per the consumer ledger furnished to the licensee the details of the consumption are available from 2/2003 to 4/2009. The consumption recorded varies from zero to 570 units per bimonthly.

(ii) As the Respondent has stated that ASD was collected during 5/2008 based on a slip dt.24.3.2008, in SC No.103-054-193, the period for arriving requirements of the security deposit is from 4/2006 to 2/2007. The said period consumption details as furnished in the consumer ledger are detailed below :

4/2006	-	1599
6/2006	-	1295
8/2006	-	1782
10/2006	-	1295
12/2006	-	1417
2/2007	-	<u>1173</u>
	Total	<u>8561</u>

Therefore, the required security deposit at the time of review is  $\frac{8561}{12} \times 3 = 2141/-$

(ie) The security deposit required to be maintained as Rs.2141/- as on 1.4.2007.

Similarly, if we calculate the requirement of security deposit for the previous review period of 2004-2005 the requirement works out Rs.2895/-

(iii) On a review of the consumer ledger, no ASD was collected in the said period. Therefore, it is construed that the available security deposit is equal to or more than the sum of Rs.2895/- as on 1.4.2005 then only, there could not be any remittance of ASD by the consumer. The Respondent also did not argue that the excess SD was

refunded. Hence, it could be construed that the available security deposit is equal to or more than Rs.2895/- as on 1.4.2005, but the exact amount could not be worked out for want of details.

11.8 It could be seen from the analysis made in para 11.7 that in SC No.103-054-193, alone the available security deposit is worked out as Rs.1079/- as on 1.4.2007 and subsequent remittance of Rs.870/- on 14.5.2008.

11.9 But, in all in the other services as per consumer ledger, no subsequent remittance is recorded. Therefore, the available security deposit in these services is equal to or more than the requirement worked out based on 2006-07 or 2004-2005 review period consumption pattern which ever is higher.

11.10 The Appellant informed that he does not have any receipt obtained for the payments of security deposit in all the said services to substantiate his claim. But, he argued that the information obtained under RTI from the licensee is a public document signed by a public authority and the authority cannot retract his statement at a later stage and say that the reply to RTI is false for various reasons especially when the reasoning is unsubstantiated.

11.11 The Appellant also citing a judgment dt.12.3.1953 of the Hon'ble Supreme Court in Hiralal and others Vs Badkulal and others argued that if a document is not produced, Electricity Ombudsman may infer adversely and assume that the licensee is suppressing the material facts as the Respondent has not produced the ASD ledger in support of the amount available in the respective service connections.

11.12 As per my findings in para 11(7)(A)(III) above, the requirement of security deposit as on 1.4.2007 in SC No.103-054-193 is Rs.1949/-. Further, the Appellant has also not produced any cash receipt in support of the security deposit amount collected. Hence, I am of the view that the sum of Rs.23176/- said to be available in the said service under RTI shall not be correct. Therefore, if Rs.23,176/- is ordered to be refunded then it amounts to unjust enrichment to the Appellant. Hence, the licensee is directed to work out the security deposit available as on 1.4.2007 as Rs.1079/- and subsequent remittance of Rs.870/- on 14.5.2008 after taking into account of interest accrued till the date of refund and arrange to refund the available deposit amount to the Appellant in respect of the said service connection no.103-054-193.

11.13 In respect of all other services the Respondent has not produced any documentary evidence to substantiate the available security deposit and has also not furnished any other records to establish that the details furnished under RTI is wrong, except the details of consumption from 2/2003 to 5.5.2009 the date on which the service were dismantled.

11.14 On a careful examination of the consumption pattern of the other services, it is noted that the consumption recorded during those period do not lead to confirm that the security deposit could be in the order of around Rs.24,000/- As per my findings in para 11.6, the consumption pattern suggests only the following amount could be required security deposit as on 1.4.2007 & 1.4.2005 against each services as details below :

			<u>As on 1.4.2007</u>	<u>As on 1.4.2005</u>
(i)	103-054-193	-	Rs.1949/-	Rs.569/-
(ii)	103-054-194	-	Rs.221/-	Rs.353/-

(iii)	103-054-195	-	Rs.249/-	Rs.452/-
(iv)	103-054-201	-	Rs.630/-	Rs.744/-
(v)	103-054-203	-	Rs.330/-	Rs.3282/-
(vi)	103-054-205	-	Rs.2141/-	Rs.2895/-

11.15 The Respondent have informed that the following amount is available as balance deposit in the above services as per RTI information.

(i)	103-054-193	-	Rs.23176/-
(ii)	103-054-194	-	Rs.24392/-
(iii)	103-054-195	-	Rs.24391/-
(iv)	103-054-201	-	Rs.24568/-
(v)	103-054-203	-	Rs.23517/-
(vi)	103-054-205	-	Rs.24763/-

11.16 On a careful analysis of the requirement of security deposit as on 1.4.2007 & 1.4.2005 worked out based on the consumption pattern as furnished in para 11.14 and the available deposit as per the Respondent's RTI information as detailed in para 11.15 above, it is noted that the highest requirement as per consumption pattern is around Rs.3282/- where as the amount said to be available as per RTI is more than Rs.23000/-. The Appellant has also not produced any copy of the receipt in support of the collection of security deposit amount to substantiate the claim furnished in the RTI report. Therefore, I am of the view that the available security deposit in each of the disputed service furnished in the RTI information seems to be wrong. Hence, I am of

the considered opinion that the Appellant may get unjust enrichment due to the wrong information furnished by the officers of the licensee if the amount specified in the RTI information was refunded to him.

11.17 As the Appellant has also not furnished any documentary proof in support of the claim of the balance deposit available and in view of the contention given in para 11.16 above, I am of the view that the amount of balance deposit available as detailed in RTI information is wrong only. In the absence of any documentary evidence in support of the either parties claim, I am of the view that the requirement of security deposit as on 1.4.2005 & 1.4.2007 worked out based on the consumption pattern which ever is higher shall be refunded to the Appellant.

11.18 It is also noted that the Respondent has taken 5% as the interest for the available deposit upto 2007-2008. But, the interest rate as per Commission notification is 6% from 10.12.2003 to 2011-2012 and it was increased to 9% for 12-13 to 14-15 and reduced to 8% in 2015-16. Hence, the licensee has to rework the security deposit available considering the rate of interest furnished as above from 10.12.2003 to till the date of refund.

## **12. Observation :**

12.1 It is noted that the licensee PIO has informed the available deposit against each service as details below vide his letter dt.20.6.2013.

1	103-054-193	23176/-
2	103-054-194	24392/-
3	103-054-195	24391/-
4	103-054-201	24568/-
5	103-054-203	23517/-
6	103-054-205	24763

12.2 The licensee's officers have now argued that while examining the consumption pattern of the services from 2003 onwards, the consumption pattern does not necessitates such a huge sum as required security deposit. But had the officers while furnishing the details of security deposit amount available under RTI applied their mind and checked the details, the situation like this would not have occurred. Further, it is regret to note that even now also, the licensee's officers are unable to produce, the details such as security deposit paid at the time of effecting the services, subsequent ACCDs collected and the interest accrued etc., to justify their stand. They simply said the ASD register is not traceable. They now argued that the amount intimated under RTI is high considering the consumption pattern of the services. But, unable to confirm the correct amount available. This shows that the licensees officers are not maintaining and keeping the records properly. Therefore, the licensee is directed to take necessary action to avoid such occurrences in future. Further, giving some information under RTI and then informing that the information already given under RTI is wrong is not correct. I strongly condemn the licensee's officers concerned for giving wrong information under RTI Act 2005. The consumer may take the above issue of furnishing wrong information to the appropriate forum for suitable remedy.

### **13. Conclusion :**

13.1 In view of my findings, the licensee is directed to refund the balance deposit amount available as detailed below with interest as applicable to security deposit upto the date of refund.

(i) SC No.103-054-193:

The Respondent is directed to work out the security deposit available

considering the security deposit as on 1.4.2007 as Rs.1079/- and subsequent remittance of Rs.870/- on 14.5.2008.

(ii) In respect of the other services in the absence of the documents to establish the available security deposit, as the requirement of security deposit worked out as on 1.4.2005 is higher than the requirement worked out as on 1.4.2007, the same has been considered as available security deposit for refund.

- (i) 103-054-194 - Rs.353/- as on 1.4.2005.
- (ii) 103-054-195 - Rs.452/- as on 1.4.2005.
- (ii) 103-054-201 - Rs.744/- as on 1.4.2005.
- (iv) 103-054-203 - Rs.3282/- as on 1.4.2005.
- (v) 103-054-205 - Rs.2895/- as on 1.4.2005.

13.2 The licensee is directed to adopt the correct rate of interest for the respective years, while arriving the balance amount in each service.

13.3 The balance deposit with interest shall be refunded to the Appellant within 30 days from the date of receipt of this order and a compliance report shall be furnished within 45 days the date of receipt of this order.

13.4 With the above findings the A.P.No.46 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

**(A. Dharmaraj)**  
Electricity Ombudsman

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