



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. A. Dharmaraj. Electricity Ombudsman

Appeal Petition No. 80 of 2016

Dr. A.K. Natesan,
Sri Rangasamy Educational Trust,
NH 47, Salem Main Road,
Pallakkapalayam,
Sankari West Post 637 303,
Namakkal Dist.

. Appellant
(Party in person)

Vs

The Executive Engineer,
Sankari,
Mettur Electricity Distribution Circle
TANGEDCO,
V.N. Palayam, Sankari 637 301.

. Respondent
(Thiru. K. Balasubramanian, EE/Sankari)

Date of hearing : 23.12.2016

Date of Order : 3.2.2017

The Petition dt. 3.10.2016 filed by Dr. A.K. Natesan, Sri Rangasamy Educational Trust was registered as Appeal Petition No.80 of 2016. The above appeal petition came up before the Electricity Ombudsman for hearing on 23.12.2016. 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:

The Appellant prayed that additional load has to be sanctioned in SC No.04-152-010-356, 04-152-010-357 and 04-152-010-525.

2. Brief History of the case:

- 2.1 SC No. No.04-152-010-356, 04-152-010-357 and 04-152-010-525 were effected in the name of Sri Rangasamy Educational Trust. The sanctioned load in these services are 54.4 kw 56.5 kw and 50 kw respectively.
- 2.2 The Appellant informed that he filed application for sanction of additional load in the said services of Mettur EDC in respect of SC No. No.04-152-010-356 and 04-152-010-357. As the additional load was not sanctioned by the licensee, the appellant filed a petition before the CGRF of Mettur EDC.
- 2.3 The CGRF of Mettur EDC issued its order on 18.6.2016. But, the order was dispatched to the Appellant under cover of letter dt.6.9.2016.
- 2.4 Aggrieved by the order of the CGRF the Appellant filed this appeal petition before the Electricity Ombudsman.

3.0 Orders of CGRF :

The CGRF of Mettur EDC has issued its Order on 18.6.2016. The relevant para of the order is extracted below: -

"ஆணை"

மனு மீது மின்நுகர்வோர் குறைதீர்க்கும் மன்றத்தால் பின்வருமாறு ஆணை பிறப்பிக்கப்படுகிறது.
மனுதாரர் திரு. A.K.நடேசன் சேர்மேன், ரங்கசாமி எஜுகேஷனல் ட்ரஸ்ட் அவர்களுக்கு அறிவிப்பது

3. எதிர்மனுதாரர்களுக்கு : Respondents are directed to revise the sanctioned load based on the recorded demand of the first two occurrences of exceeding the sanctioned load only as per TNERC supply code regulation 5 (2) (ii) C (III)(A) .The necessary charges for sanctioning the load shall also be included in the bill. Further revision of sanctioned load based on subsequent occurrences is not feasible since the charges for revising the sanctioned load to the level of the demand recorded were pending for the first two occurrences as arrears which is in accordance with the orders delivered by the Hon'ble Ombudsman for the appeal petition 26 of 2012 .The respondent is also directed to send the compliance report within 30 days from the date of receipt of this order.

மனுதாரருக்கு As per amendment issued for the TNERC Distribution code regulation- 8-21. on 7.10.2014 the petitioner is requested to opt for only one service in the contiguous premises.

மேற்கூறிய அறிவுறுத்தல்களுடன் இம்மனு மின் நுகர்வோர் மன்றத்தால் இறுதி முடிவு செய்யப்படுகின்றது.”

4.0 Arguments of the Appellant furnished in the Appeal Petition:

4.1 The additional load shall be sanctioned as below :

(i) SC No.04-152-010-356 :

Sl.No.	Month	Existing load sanctioned	Demand recorded in KVA	Demand to be sanctioned
1.	11/2015	54.4	63.52	63.52
2.	1/2016	54.4	61.84	61.84
3.	3/2016	54.4	64.22	64.22
4.	5/2016	54.4	73.22	73.22

(ii) SC No.04-152-010-357 :

Sl.No.	Month	Existing load sanctioned	Demand recorded in KVA	Demand to be sanctioned
1.	11/2015	56.5	64.33	64.33
2.	1/2016	56.5	70.845	70.845
3.	3/2016	56.5	81.293	81.793

4.2 In letter dt.3.11.2016, the Appellant has furnished the following arguments.

(i) SC No.04-152-010-356, 04-152-010-357 and 04-152-010-525 were availed during 2008 & 2009 and are in service. Whenever, the MD reached exceeded the sanctioned load, the sanctioned load shall be raised to the reached level after the 2nd occurrence. But such sanction of load was not done and because of this that they have paid penalty. They filed a petition before the CGRF of the Mettur EDC and the orders were issued for increasing the load to the level of first two occurrences. But, no action was taken as per the order of CGRF.

(ii) We are paying the CC charges regularly no CC charges is pending to be paid. Further, we apply for additional load from 2010 onwards. But, the additional load was not sanctioned. As per the orders of High Court in W.P.Nos19645/2008 dt.2.11.2011 and A.P.No.26 of 2012 dt.4.12.2012, load may be sanctioned as 112 kw and refund the penalty amount already paid along with interest.

5. Arguments of the Respondent furnished in the counter.

5.1 The consumer, Thiru. A.K. Natesan, Chairman, Sri Rengasamy Educational Trust, NH 47, Salem Main Road, Pallakkapalayam, Sankari West, Tirchengode Taluk, Namakkal District in his letter dt.24.2.2016 has given petition to the consumer redressal forum, Mettur EDC by requesting additional load in SC No.152-010-356, IIB2 and in Service No.152-010-357, IIB2. Both services are in the same premises of Excel Group of Institutions Run by Sri Rengasamy Educational Trust Chairman Thiru. A.K. Natesan.

5.2 The Sanctioned load details of the above services are illustrated below :

Sl.No.	Details	152-010-357
1.	Sanctioned load	56.5 kw
2.	Exceed the demand 1 st occurrence	64.33.kw (11/2015)
3.	Exceed the demand IInd occurrence	70.845 kw (1/2016)
4.	Maximum	70.845 kw

Sl.No.	Details	152-010-356
1.	Sanctioned load	54.4 kw
2.	Exceed the demand 1 st occurrence	63.52.kw (11/2015)
3.	Exceed the demand IInd occurrence	61.84 kw (1/2016)
4.	Maximum	63.52 kw

5.3 Besides the above services, there are 3 more services in the campus.

The details of 5 no services and given below.

Sl.No.	Name & SC No.	Date of SC	Sanctioned load	Exceeds the MD	Remarks
1.	N. Mathan Karthick 152-010-513	17.8.11	112 kw	10 times 122kw 27.10.15	
2.	Managing Trustee 152-010-339	5.9.07	111.8 kw	2 times 121 kw 30.4.12	
3.	Rangasamy Educational Trust 152-010-357	22.5.08	56.5 kw	10 times 81.72 kw 31.3.16	
4.	Tmt. Parvathi 152-010-525	16.11.11	50.0kw	9 times 56.76 kw 27.11.12	
5.	Rangasamy Edcational Trust 152.010-356	22.5.08	54.4 kw	4 times 73.2 kw 31.5.16	

5.4 The consumer's representation was carefully analysed by the CGRF and the CGRF issued order as below :

Respondent's are directed to revise the sanctioned load based on the recorded demand of the first two occurrences of the exceeding the sanctioned

load only as per the TNERC Supply Code Regulation 5(2)(II)C(III)A, the necessary charges for sanctioning the load shall also be included in the bill. Further revision of sanctioned load based on subsequent occurrences is not feasible since the charges for revising the sanctioned load of the level of the demand recorded were pending for the first two occurrences as arrears which is in accordance with the order delivered by the Hon'ble Ombudsman for the appeal petition 26 of 2012. The respondent is also directed to send the compliance report within 30 days from the date of receipt of this order.

5.5 As per amendment issued for the TNERC Distribution Code (Regulation 8.21) on 7.10.2014, the petitioner is requested to opt for only one service in the contiguous premises.

5.6 In SC No.152-010-356, IIB2 the maximum demand recorded during 11/2015 is 63.5 kw. So the demand has to be raised up to the level of 63.52 kw i.e. 64 kw.

5.7 In SC No.152-010-357, IIB2 the maximum demand recorded during 1/2016 is 70.845 kw, so the demand has to be raised up to the level of 70.845 kw. i.e. 71 kw.

5.8 The respondent in this case the EE/O&M/Sanakari is ready to revise the load in SC No.356 & 357 as ordered by CGRF. The consumer has not at all requested additional load in SC No.152-010-525 while applying for CGRF in appeal petition, the above service is included.

5.9 As per the procedure, and as per TNERC Supply Code instructions, revision of sanctioned load based on the recorded demand of the first two occurrences of exceeding the sanctioned load shall be regularized on collection of necessary charges for revision of sanctioned load.

5.10 The Excel Group of Institutions are functioning in one campus and only one gate is operated for all institutions functioning in the campus. Hence, the

AE/O&M/Pallakkapalayam has given letter dt.10.10.2013 and 2.6.2016 to opt single HT service by merging all LT & LTCT services in the campus as per TNERC Distribution Code regulation 15(A) (14) & (15).

5.11 Hence, revision of load in the above services 152-010-356 & 152-010-357 for first two occurrences and option to go only one HT service in the contiguous premises as ordered in CGRF petition is in order and as per CGRF order, the revision of sanctioned load in SC No.152-010-356 has been revised up to the level of 63.52.kw in SC No.152-010-357 has been revised up to the level of 70.845 kw and necessary charges has been included in the CC bill of the consumer.

5.12 Already required justice has been rendered to the consumer in the CGRF order as per the rules of TNERC. Hence, the relief sought by the consumer may be deferred and issue appropriate order as fit and render justice.

6.0 Hearing held by the Electricity Ombudsman:

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, hearing was conducted before the Electricity Ombudsman on 23.12.2016.

6.2 Thiru Dr, A.K. Natesan, the appellant herein has attended the hearing and putforth his arguments.

6.3 Thiru. K. Balasubramanian, Executive Engineer/Sankari the Respondent herein attended the hearing on behalf of the Respondent and putforth their arguments.

7.0 Arguments putforth by the Appellant on the hearing date :

7.1 The Appellant Dr. Natesan argued that as per regulation 5(2)(ii)(iii)A of the Supply Code, the sanctioned load of his services is to be revised to the level of the recorded demand within a month from the second occurrence. But, the licensee has not followed the above regulation.

7.2 The Appellant also argued due to non adoption of the said regulation, the Appellant has paid the penalty amount in all the services and they have to be refunded to him.

7.3 The Appellant also argued that they have availed these services during 2008 & 2009 whereas the regulation 27(15)(A) referred by the Respondent are come into effect only during 2014. The said regulation cannot be applied retrospectively. The Appellant cited order of the Hon'ble High Court of Madras in W.P.No.19645 of 2008 dt.2.11.2011 in support of the above argument.

7.4 The Appellant also cited the orders of Electricity Ombudsman in A.P.No.26 of 2012 dt.4.12.2012 and argued that the Electricity Ombudsman has already ordered that the load of a service has to be revised to the level of the recorded demand within one month of second occurrence of exceeding the demand. Hence, he argued that his prayer is conforming to the above order only.

7.5 He also argued that there was no arrears pending as stated by the Respondents in the said periods.

8. Arguments of the Respondent :

8.1 Thiru. Balasubramanian, EE/Sankari reiterated the contents of the appeal petition.

8.2 He informed that as directed by the CGRF they have revised the sanctioned load as 63.52 kw in SC No.152-010-356 and 70.845 kw in SC No.152-010-357 and the necessary charges have also been paid by the consumer.

8.3 The EE also argued that additional load can not be sanctioned when there is arrears of payment in the said service as per regulation 5(2)(iv) of Supply Code. The EE argued that as the sanctioned load was revised only on 11.11.2016 based on the orders of CGRF, further revision of load as per regulation for exceeding the sanction load will arise only after the second occurrence of exceeding the said load in the respective services after 11.11.2016.

8.4 He also argued that the Appellant is a single entity and is having 5 services in a single premises. Hence, all the services have to be merged as a single service as per regulation 27(15)A of the Distribution Code. He also pointed out that the notice to the effect was issued to the consumer on 10.10.2013 & 2.6.2016. But, the consumer has not come forward to merge the services.

8.5 The EE also argued that sanction of additional load in SC No.525 was not raised before the CGRF. Hence, it is a new issue raised before the Electricity Ombudsman.

9. Findings of the Electricity Ombudsman :

9.1 On a careful consideration of the rival submissions, the issues to be considered are :

(i) Whether the contention of the Appellant that the sanctioned load has to be revised to the level of recorded demand after the second occurrence of exceeding the sanctioned load is correct ?

(ii) Whether the argument of the Respondent that the occurrences of exceeding the sanctioned load has to be counted from the date of regularization of the previously exceeded sanctioned load is correct ?

(iii) Whether the contention of the Respondent that the charges for regularizing the load exceeded demand has not been paid and therefore, the regularization is not feasible is correct ?

(iv) Whether contention of the Respondent that the Appellant is having more than one service in a premises, therefore regularization of load for exceeding the sanctioned load is not acceptable ?

10. Findings on the first issue :

10.1 The Appellant argued that as per regulation 5(2)(ii)C(iii)A of the Supply Code, the recorded demand has to be regularized to the level of the demand recorded with in a month from date of the second occurrence of the exceeding the sanctioned demand. He has cited the order issued by the Electricity Ombudsman in A.P.No.26 of 2012 in support of his above argument.

10.2 As the appellant has cited regulation 5(2)(ii)C(iii)A of the Supply Code, the said regulation is extracted below :

“5. Miscellaneous Charges :

XXXX XXXX XXXXXX

(2) Excess demand charge

Whenever the consumer exceeds the sanctioned demand, excess demand charge shall be :

(i) xxx xxxx xxxx

(ii) In case of LT supply,

(a) For Domestic and Agricultural category of service, the excess demand charges shall not be applicable.

(b) For other categories of LT services with contracted demand equal to or less than 18.6 KW (25 HP), the excess demand charges shall not be applicable where the connected load is equal to or less than the contracted demand.

Note: For services with contracted demand less than or equal to 18.6 KW (25 HP), whenever the consumers connected load exceeds the contracted demand, the licensee shall install meters with demand recording facility and bring the consumer under the scope of excess demand chargeable category. After installation of the meter, if the recorded demand is in excess of contracted demand, the existing demand, shall, after intimation to the consumer, be revised to the level of recorded demand and all relevant charges applicable for extension of additional demand shall be included in the next bill. No excess demand charge is leviable till such time the licensee installs meter with demand recording facility and bring the consumer under the scope of excess demand chargeable category.

(c) For the remaining LT services other than those service connections covered in (a) and (b) above, when the contracted demand is in excess of 18.6KW (25HP) and for such of those consumers whose contracted demand is less than 18.6 KW (25HP) but opted for having meters with demand recording facility, the excess demand charges shall be -,

(l) Where the recorded demand does not exceed 112 KW, for every KW or part thereof in excess of the sanctioned demand, at the rate of 1% of the total energy charges;

(II) Where the recorded demand exceeds 112KW, for every KW or part thereof in excess of sanctioned demand:-

- at the rate of 1% of the charges for electricity supplied upto 112 kW*
- and at the rate of 1.5% for every KW or part thereof over and above 112KW for the first two occurrences;*
- and for the third occurrence, at the rate of 3% for every KW or part thereof over and above 112KW*
- and thereafter, that is the fourth and subsequent occurrences at the rate of 10% for every KW or part thereof over and above 112KW*

(III) Where the recorded demand exceeds the sanctioned demand for the second and subsequent times ,-

(A) In case the recorded demand has not exceeded 112 KW, the existing load sanction shall, after intimation to the consumer, be revised within one month of the second occurrence to the level of recorded demand and all the relevant charges applicable to the additional load shall be included in the next bill ;

10.3 On a careful reading of the said regulation 5(2)(ii)C(iii)(A), it is noted that in case the recorded demand has not exceeded the 112 kw, the existing load sanction shall after intimation to the consumer be revised within one month after the second occurrence to the level of recorded demand and all relevant charges applicable to the additional load shall also be included in the next bill.

10.4 It is noted from the above that the regulation clearly directs the licensee to revise the load to the level of the recorded demand within one month of second occurrence if the recorded demand is less than 112 kw. It also specified that the relevant charges applicable for additional load has to be included in the next bill. Therefore, I am of the view that the load has to be revised to the level of the recorded demand within a month of the second occurrence of exceeding the

sanctioned load if the recorded demand is within 112 kw. Hence, this issue is decided in favour of the Appellant.

11 Findings on the second issue :

11.1 The Respondent argued that the regularization of load due to exceeding the sanctioned load could be done only after regularizing the previous such case and the counting of the occurrence for further regularization starts only after regularization date of the previous such occurrence.

11.2 The Appellant argued that as per the regulation the licensee has to increase the load to the level of the recorded demand with in one month after the second occurrence whenever such occurrences of exceeding the sanctioned demand is noted. The delay on the part of the licensee to regularize the previous second occurrences of exceeding the sanctioned load shall not be a reason to withheld the sanction of additional load and to levy excess demand charges.

11.3 On a careful reading of the regulation 5(2)(ii)C)(iii)A, it is noted that as per the regulation, the licensee has to revise the load sanction within one month of the second occurrence of exceeding the sanctioned demand and all the relevant charges applicable to additional load shall be included in bill. It has also been informed that the consumer has to be informed about this. Therefore, it is understood that the recorded demand get its approval automatically within a month of second occurrences of exceeding the sanctioned demand and it is regularized on payment of the relevant charges applicable to the additional load by the consumer while making payment for the same in the next CC bill along with the CC charges. There is no specific direction in the regulation that the

occurrences that have occurred after the regularization of additional load only to be taken into account for further regularization. As per the Regulation no responsibility has been fixed on the consumer in revising the load based on the 2nd occurrence of exceeding the sanctioned load except making payment of the required charges towards sanction of additional load to the level of recorded demand. If the consumer has not paid the relevant charges, then the regularization may not happen. But, if there is any delay in regularizing the additional load by the licensee based on the 2nd occurrences of exceeding the sanctioned load, then the consumer shall not be penalized for further regularization of the additional load after second occurrences of exceeding the sanctioned demand subsequently.

11.4 As only information regarding revising the sanctioned load to the level of recorded demand and the charges to be paid are informed to the consumer in the next bill as per the regulation, I am of the view that the date of regularization of load is the date of payment of the next bill by the consumer. If the additional load is sanctioned belatedly by the licensee, the consumer can not be responsible for the same. Hence, the Respondent's arguments that they have regularized the additional load only on 11.11.2016, therefore, the next occurrences has to be counted from 11.11.2016 is not tenable.

12. Findings on Third issue :

12.1 The Respondent argued that as per regulation 5(2)(iv) of Supply Code when the consumer is having arrears of payment, additional load could not be sanctioned.

12.2 The Appellant informed that they do not have any arrears of payment. The additional load charges has been claimed only on 16.11.2016 and have been paid.

12.3 As the Respondent have cited regulation 5(2)(iv) of the Supply Code, the said regulation is extracted below :

5. Miscellaneous charges

xxx xxxx xxxx

(2) Excess demand charge

xxx xxx xxx xxx

xxxx xxx xxxx

(iv) No addition or reduction of load in case of LT service and no addition or reduction of demand in case of HT service, may be sanctioned unless the outstanding dues in the same service connection had been paid.

xx xxx xxxxx

12.4 On a plain reading of the said regulation, it is noted that no addition or reduction of load in case of HT & LT services could be sanctioned unless the outstanding dues in the said service connection are paid.

12.5 As per the said regulation, the argument of the Respondent that additional load could not be sanctioned if any due is pending is correct. But, in the case on hand, the licensee has not raised the bill for additional load in the next bill after the second occurrences of the exceeding the sanctioned load. They have raised the bill belatedly only after the orders of CGRF. It could be said that there is a due from the consumer if a bill has been served to them. But, without raising a bill, the licensee can not hold the sanction of subsequent additional load on the plea that the bill for first two occurrences of exceeding the limit is pending therefore, the subsequent revision of additional load consequent to the second occurrence of exceeding the demand sanctioned load is not

possible. Further, it is to be pointed out that the Appellant's request to sanction the additional load based on the subsequent occurrences of exceeding the sanctioned load is for the occurrences which were occurred even before 11.11.2016.

12.6 In view of the above, it is held that there is no bar to sanction additional load as per regulation 5(2)(ii)C(iii)A based on the subsequent occurrences of exceeding the sanctioned load, as there was no arrears pending as on the date of subsequent second occurrences of exceeding the sanctioned load in the disputed services.

13. Findings on the fourth issue :

13.1 The Respondent argued that the appellant is having more than one service in a single premises and hence, regularization of load is not feasible. He has cited regulation 27(15)(A) in support of his argument and argued that the petitioner was requested to opt for only one service in the contiguous premises.

13.2 The Appellant argued that all the institutions, are different and are separate entity and hence they cannot be merged. They also cited the judgment in W.P.No.19465 of 2008 dt.2.11.2011 and argued that the regulation can not be applied prospectively as the regulation 27(15)A, was enacted on 3.12.2014 whereas the services were effected during 2008 & 2009.

13.4 The merger of services in a contiguous premises is an another issue. If the licensee felt that the consumer has violated any regulation, it may take suitable action as per regulation. But, it cannot deny the sanction of additional

load to a service connection for exceeding the sanctioned load if there is a provision for such sanction in the regulation.

13.5 As sanction of additional load consequent to exceeding of the sanctioned load and merger of service connection in a contiguous premises are two difference issues, I am of the view that the merger issue may not be a bar for sanction of additional load to the level of recorded demand within one month of second occurrence of exceeding the sanctioned load in respect of the services where the load reached is less than 112 kw.

14. Conclusion :

14.1 In view of the findings in para 10 to 13, the Respondent is directed to follow regulation 5(2)(ii)C(iii)A of the Supply Code and revise the existing sanction of the service connection to the level of the recorded demand within one month of the second occurrence of exceeding the sanctioned demand . As there are more than two occurrences of exceeding the sanctioned demand in the case on hand during the disputed period the Respondent is directed to revise the sanctioned load of the disputed service connections for every such 2nd occurrences of exceeding the sanctioned load and arrive the sanctioned load accordingly, as on date for the said services. The relevant charges for sanction of additional load has also to be collected from the consumer for each case of sanction.

14.2 As the issue regarding service connection No.04-152-010-525 was not raised before the CGRF, I am not issuing any order in respect of SC No.04-152-010-525. Similarly, the refund of arrears was also not raised before the CGRF.

Hence, I am not issuing any order on refund of the excess demand charges collected if any.

14.3 With the above findings, A.P.No.80 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To

1) Dr. A.K. Natesan,
Sri Rangasamy Educational Trust,
NH 47, Salem Main Road,
Pallakkapalayam,
Sankari West Post 637 303,
Namakkal Dist.

2) The Executive Engineer,
Sankari,
Mettur Electricity Distribution Circle
TANGEDCO,
V.N. Palayam,
Sankari 637 301.

3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Mettur Electricity Distribution Circle,
TANGEDCO (Formerly TNEB),
Mettur Dam - 636 401, Salem District.

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