

**BEFORE THE CONSUMER GRIEVANCES REDRESSAL FORUM
OF NORTHERN POWER DISTRIBUTION COMPANY OF A.P.
LIMITED: WARANGAL.**

3rd Day of September, 2010.

Present : Sri. T. Sadarlal : Chairman
Sri. M. Venkata Narayana : Member (Accounts)
Sri. K. Ramesh : Member (Legal)
Sri. A. Sudharshan Reddy : Co - Opted (Member)

C.G. No. 279/2010 of Adilabad Circle

Between

Sri. R. Godara
M/s. Divisional Engineer Railway Manager
(Traction Distribution)
S.C. No. ADB -148
South Central Railway
2nd Floor, Sanchalan Bhavan,
Secunderabad – 5000 71.

Complainant

AND

1. Divisional Engineer/Operation/Sirpur Khagaz Nagar.
2. Senior Accounts Officer/Operation Circle/NPDCL/Adilabad.
3. Superintending Engineer/Operation/Adilabad.
4. General Manager/Operation, IPC & Comml./NPDCL/Warangal.

Respondents

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Sri. R. Godara, M/s. Divisional Engineer Railway Manager (Traction Distribution) South Central Railway, 2nd Floor, Sanchalan Bhavan, Secunderabad, hereinafter called as the complainant in their complaint dated. 01-07-10, received and registered on 03-07-10, under Clause 5(7) of APERC Regulation 1 of 2004 read with Section 42(5) of Electricity Act 2003, stated the following :-

Factual Position of the Case :-

- i. South Central Railway has Service Connection No. ADB – 148 at its Traction Sub-station at Bellampalli with APNPDCL.
- ii. 132 KV power supply was availed to this Railway Traction Sub-station with a CMD of 6 MVA in the year 1994.
- iii. over the years, Railways demand had increased and though there were no MD Charges, Railways had enhanced the CMD from 6 MVA to 10 MVA in the Year 2006. (**Annexure – I**).
- iv. the introduction of penal charges on exceeding CMD was never informed to Railways (not even by publishing in media) and in the Tariff Order 2009-10 no demand charges have been mentioned against the Traction Tariff. These penal charges were mentioned only in the General Terms and Conditions which Railways could know only when penalty was levied after exceeding the CMD at different Traction Sub-stations. For S.C. No. ADB – 148 also the penal charges were laid first time in the bill of September 2009 for excess CMD of April 2009. (**Annexure – II**).
- v. when Railway had come to know of the situation, it had applied for enhancement of CMD from 10 MVA on 06.08.2009 and was ready to pay the requisite amounts but no demand note was given to this effect from APNPDCL. (**Annexure – III**).
- vi. further, pursuing the matter with Chairman & Managing Director /NPDCL/Warangal on several occasions latest one being on 30.12.2009, demand note for payment of development charges and security deposit was issued by Superintending Engineer / Operation/Adilabad only on 11.06.2010 that also for enhancement of CMD by 2 MVA (i.e., from 10 MVA to 12 MVA) though their demand was for 5 MVA (i.e., from 10 MVA to 15 MVA). (**Annexure – IV & V**).
- vii. immediately Railways have paid development charges of Rs. 15,00,000-00 and security deposit of Rs. 20,00,000-00 on 15.06.2010. (**Annexure – VI**).
- viii. APNPDCL instead of enhancing CMD and withdrawing penal charges levied in the bills, have issued a disconnection notice vide their Lr. No. SE/OP/ADB/SAO/HT/D. No. 1851/10/Dt. 02.06.10. (**Annexure – VII**).
- ix. in this regard attention is drawn to a similar case of APCPDCL for our Sanathnagar Traction Sub-station wherein Redressal Forum of APCPDCL has mentioned clearly that the matter be sorted out

with APERC by both the parties and no disconnection of service be taken up by APCPDCL. (**Annexure - VIII**).

- x. as the issue is still pending for final disposal of APERC, Chairman and Managing Director of APNPDCL was approached vide Lr. No. C/E.222/TRD/BPA/8/Dt. 09.06.10 for withdrawal of
 - a) Penal Charges
 - b) Disconnection notice
 - c) Early enhancement of CMD from 10 MVA to 15 MVA as applied by Railways. (**Annexure - IX**).
- xi. the Chairman & Managing Director/NPDCL/Warangal, in reply to the letter vide his Lr. No. CGM/Expr/GM(R)/AO/ R/JAO/HT / F-58/D. No. 249/10/Dt. 17.06.10 has stated that additional load will be released subject to payment of arrears of penal energy charges along with development charges and security deposit. (**Annexure - X**).
- xii. though Tariff Order was stated to have been issued, neither working instructions were received by Railways nor the Tariff Order was communicated to Railways formally or even through media.
- xiii. when Railways have applied for enhancement of CMD on 06.08.2009 and till date the demanded enhancement of CMD by 5 MVA is not materialized, responsibility rests with APNPDCL and Railways can in no way be penalized for not enhancing the CMD. This is against the IE Act, Part-VI, Sub-section (1), Section 43, which states that "Every distribution licensee, shall on an application by the owner occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply". (**Annexure - XI**).

Relief Sought For :-

- a) in the light of the above, it is requested that APNPDCL may be advised for restricting themselves for fair business deal and they must also advised for :-
 - a) waiver of penal charges levied on Railway from April 2009 for exceeding CMD.
 - b) withdrawal of disconnection notice issued VIDE Lr. No. SE/OP/ADB/SAO/HT/D. No. 1851/10/Dt. 02.06.10.
 - c) arranging early enhancement of CMD by 5 MVA i.e., from 10 MVA to 15 MVA.

2. As a sequel to the above complaint, Divisional Engineer/ Operation/ Sirpur Khagaz Nagar, Senior Accounts Officer/Operation Circle/Adilabad, Superintending Engineer/Operation/Adilabad and General Manager/ Operation, IPC & Comml./Warangal, were directed to file their written submissions vide notice dated. 06.07.2010.

The Senior Accounts Officer/Operation Circle/Adilabad, in his filings received on 15-07-2010, stated the following :-

- i. the DISCOMs have published the Tariff Schedule as ordered by Hon'ble APERC vide Lr. No. SECY./S-361-A/Secy.EA-MYT-09-04/2009-10/Dt. 21.03.09. And also it is to be noted that a note was also mentioned at the last para stating that "All the other conditions as per the Annexure, Schedule of Retail Tariff Rates and Terms and Conditions", in respect of the Four Distribution Companies to Tariff Order for 2009-10 will be applicable for the respective categories under LT and HT supply. The Tariff Order for the year 2009-10 is also available in APERC Website.
- ii. the consumer has been availing supply at 132 KV level with a contracted demand of 10 MVA since 2006.
- iii. as per Clause 12.3.1. of General Terms and Conditions of Power Supply "No HT Consume shall connect any additional load in the existing HT service connection installation without obtaining the approvals of the Chief Electrical Inspector to Government, Andhra Pradesh, as required under Rule 63 of the Indian Electricity Rules 1956 and without approval by the Company and without signing of the Company's Test Report. Failure to observe the above requirements shall render power supply liable to be disconnected summarily and the power supply shall remain disconnected till the unauthorized load is removed or regularized (by obtaining approval of the Chief Electrical Inspector to Government, approval of the Company and signing of the Company Test Report by the consumer) whichever is earlier. The reconnection will be done after inspection by the Designated Officer and after he is satisfied of compliance of these provisions".
- iv. as per Rule 12.3.2., of General Terms and Conditions of Power Supply, "If at any time the maximum demand of an HT Consumer exceeds his contracted demand or LT consumer exceeds the contracted load without prior approval of the Company, the consumer shall be liable to compensate the Company for all damages occasioned to its equipment or machinery if any, by

reason of this default, and shall also be liable to pay the charges payable by him on.

- v. account of such increase in demand or load and penalty as prescribed by the Commission from time to time, without prejudice to this right the Company may also cause the supply to consumer to be disconnected."
- vi. the consumer has exceeded Contracted Maximum Demand 10 MVA, hence additional energy charges levied on exceeding Contracted Maximum Demand from 04/09 as per the Tariff Order 2009-10 General Conditions of HT Supply Clause No. 6.
- vii. if in any month the Recorded Maximum Demand (RMD) of the consumer exceeds his contracted demand with Licensee, the consumer will pay the following charges on excess demand and energy.

Excess RMD over CMD	Demand Charges on Excess Demand	Energy Charges on Excess Energy
100 to 120 %	2 times of normal charge	Normal
Above 120% and up to 200%	2 times of normal charge	1.5 times of normal charge
More than 200%	2 times of normal charge	2 times of normal charge
Excess demand and energy shall be computed as follows :-		
Excess Demand = (RMD - CMD) if RMD is more than CMD with Licensee		
Excess Energy - (Excess Demand/RMD) X Recorded Energy.		

As per the above, the bills have been issued to the consumer every month.

- viii. hence the question of on informing to Railways against penal charges on exceeding Contracted Maximum Demand does not arise.
- ix. the consumer has given application for enhancement of load from 10 MVA to 15 MVA on 06.08.2009. The consumer is availing supply at 132 KV level. The transmission lines above 33 KV level are under the control of APTRANSCO. As soon as receipt of application from the consumer, the Chief Engineer/Commercial/APTRANSCO/Vidyut Soudha/Hyderabad, was requested to issue specific load approval for enhancement of load from 10 MVA to 15 MVA of S.C. No. ADB-148, vide Lr. No. CGM/OP, Commercial &IPC/NDPDCL/WGL/F. RTSS BPL/D. No. 307/09/Dt. 03.09.09.
- x. the Chief Engineer/TL&SS/Zone/Warangal has informed the field position to the Chief Engineer/Commercial/AP Transco/

Vidyut Soudha/Hyderabad i.e., releasing of additional load of 5.0 MVA to S.C. No. ADB-148 will be possible only after completion of the on going 220 KV Sub-station at Bellampalli, vide Lr. No. CE / TL&SS/Z/WGL/ADE (O&M)/AE-1/D. No. 1595/09/Dt. 05.12.09.

- xi. the Chief Electrical Engineer/South Central Railway has requested the Chief Engineer/Commercial/A.P. Transco/Vidyut Soudha/Hyderabad, vide Lr. No. E. 222/TRD/APTRANSCO/CMD/Dt. 05.03.2010 with the following comments.
 - a) during the meeting held on 03.03.10 with Director/Transmission it is informed that the additional load of 5 MVA cannot be released at Bellampalli due to the capacity of grid transformer.
 - b) to meet the present load conditions and to avoid additional energy charges levied by DISCOMs Railways need at least 2 MVA enhancement of CMD immediately till such time A.P. Transco overcome transformer issue and requested to process the additional CMD of 2 MVA.
- xii. based on the Chief Electrical Engineer/South Central Railway, vide Lr. No. E.222/TRD/APTRANSCO/CMD/Dt. 05.03.2010, the Chief General Manager/Operation, Commercial & IPC/ NPDCL/Warangal, vide Lr. No. CGM/OP, Comml. & IPC/NPDCL/WGL/F. RLY BPL/D. No. 776/09/Dt. 26.03.10, requested Chief Engineer /Commercial/A.P. Transco/Vidyut Soudha/Hyderabad for specific load approval for enhancement of CMD from 10 MVA to 12 MVA.
- xiii. the Chief Engineer/Commercial/AP Transco/Vidyut Soudha/Hyderabad has given load approval for enhancement of CMD from 10 MVA to 12 MVA vide Lr. No. CE/Comml./APT/SE/DE-II (C)/ADE-I/F. ADB-148/D. No. 329/10/Dt. 29.05.10.
- xiv. as soon as receipt of load approval from the Chief Engineer/Commercial/AP Transco/Vidyut Soudha/Hyderabad, instructions were issued to Superintending Engineer/ Operation/Adilabad, vide Memo. No. CGM/OP, Comml. & IPC/ NPDCL / WGL/F.ADB-148/D. No. 184/10/Dt. 08.06.10. Accordingly the Superintending Engineer/Operation/Adilabad has been issued demand notice for payment of development charges and security deposit charges for enhancement of CMD from 10 MVA to 12 MVA vide Lr. No. SE / OP/ADB/Comml./D. No. 477/10/Dt. 11.06.10.
- xv. the consumer can avail additional load only after release of additional load and after entering into an agreement and fulfilling

other departmental formalities. The unilateral utilization of additional load without completing the above formalities constitutes a breach to the terms and conditions of the agreement already in force. Hence the penal charges are levied as per the Terms and Conditions of the Tariff Order 2009-10. The General Conditions of HT Supply, Clause No. 6.

- xvi. as per the IE Act, Part-VI, Sub-section (1), Section 43, which states that every distribution licensee shall on an application by the owner or occupier of any premises give supply of electricity to such premises, within one month after receipt of the application requiring such supply.
- xvii. provided that where such supply requires extension of distribution mains, to commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.
- xviii. in view of the above, it is requested, that the Divisional Railway Manager/South Central Railway/Secunderabad may be advised for the following :-
 - a) pay the penal charges levied on S.C. No. ADB-148, from April, 2009 for exceeding contracted maximum demand as per the Tariff Order 2009-10. General Condition of HT Supply, Clause No. 6.
 - b) enhancement of Contracted Maximum Demand from 12 MVA to 15 MVA will be released as soon as completion of 220 KV SS, Bellampalli.

3. Hearing :-

A notice of hearing was issued by the Forum on 03.08.2010 requesting the complainant and the respondents to appear before the Forum on 12.08.2010, at 3.30. P.M. in the O/o. the Forum and to make submissions either in person/representative, if they so desired, along with additional information to be filed, if any.

The Following Members were present from the Forum :-

1. Sri. S. Surender, Chairman
2. Sri. M. Venkat Narayana, Member (Accounts)
3. Sri. K. Ramesh, Member (Legal).

On behalf of the complainants, the following were present :-

1. Sri. V. Shiva Prasad, Senior Technical Assistant, South Central Railway/Secunderabad.
2. Sri. K. Bisvas, Assistant Divisional Engineer (Traction Distribution)/South Central Railway/Secunderbad/Kazipet.

On behalf of the Respondents, the following were present :-

1. Sri. S. Ranga Rao, General Manager/IPC/NPDCL/Warangal.
2. Sri. R. Charandas, Senior Accounts Officer/Operation Circle/Adilabad.

Deposition of the Complainant :-

During the discussions made in the hearing, the complainant has made certain remarks on the subject matter and submitted a representation to the Forum. The contents of the representation as furnished by the complainant is as follows :-

- a. As countered by APNPDCL they agree to follow the tariff order published by APERC on 21.03.2009 for the Financial Year 2009-10 which does not contain anything about exceeding CMD.
- b. They also agree to the note given at the end of tariff schedule of FY 2009-10 and understood that whatever condition in vogue till that time were applicable to us. The conditions certainly did not contain anything for exceeding CMD.
- c. **Page - 2 : Para - 1** : - Chief Electrical Inspector to Government of AP is not applicable to Railways. For Railways, Chief Electrical Inspector to Government of India is only applicable.
- d. During the period from 2006 there were no charges on MD and therefore neither APNPDCL nor railways bothered to raise the point.

- e. **Page – 2 : Para – 2 :** - It is agreed that the consumer can be penalized on exceeding CMD but, General Terms and Conditions are not clear on the amount of penalty to be levied in such cases and in the tariff schedule there were no charges on the demand which makes this condition vague and hence inapplicable. Perhaps that is the reason no notice was given by Company.
- f. **Page – 3 : Para – 1 :-** As mentioned therein the bills as per the new terms and conditions of tariff were not issued till September 2009. Bills up to September 2009 were issued with new tariff but without the penalty for exceeding CMD. Hence the plea that “new condition of penal charges for exceeding CMD was informed to railways” is proved wrong.
- g. **Page – 3 : Para – 5 :** - As per Regulation 3/2004 of APERC and IE Act 2003, Part-VI, Sub-section 1 of Section 43, it is the responsibility of the licensee to provide power to the consumer within one month from the date of application and the internal formalities of the licensee like taking approval of competent authorities etc., should be completed within a month and in no way consumer can be penalized for delay on the licensee's part to extend supply.
- h. **Other Paras :** - All this is about the internal, correspondence of the licensee for which we do not have any comments, but the fact remains that the enhancement of CMD up to 12 MVA could have been done in the prescribed time of one month.

The attention of the Forum is also invited to the provision of Regulation 3/2004 of APERC and IE Act 2003, Part-VI, Sub-section 3 of Section 43 wherein it is mentioned that if the licensee fails to extend the supply to the consumer within the specified time a penalty of Rs. 1000 for each day of default has to be paid by the licensee to the consumer. Therefore the question of levying penalty on the consumer does not arise in this case.

- i. **Page – 5 : Para :** - In counter reply to Railways Paras 7, 8, 9, 10 & 11 regarding the provision of Regulation 3/2004 of APERC and IE Act 2003, Part-VI, Subsection 1 of Section 43 no comments have been given by APNPDC Ltd.

In view of above it is clear that no penal charges to be levied on railways for exceeding CMD at BPA Traction Sub-station from April 2009 to June 2010.

The case was posted for hearing on 25.08.2010 at 3.30 P.M.

5. **II Hearing on 25.08.2010 :-**

The following Members were present from the Forum :-

1. Sri. T. Sadarlal, Chairman
2. Sri. M. Venkata Narayana, Member (Accounts)
3. Sri. K. Ramesh, Member (Legal)
4. A. Sudharshan Reddy, Co-opted Member.

On behalf of the complainants, the following were present :-

1. Sri. R. Godara, Divisional Railway Manager (Traction Distribution)/South Central Railway, Secunderabad.
2. Sri. V. Shiva Prasad, Senior Technical Assistant/South Central Railway.
3. Sri. K. Bisvas, Assistant Divisional Engineer (Traction Distribution)/South Central Railway, Kazipet.

On behalf of the Respondents, the following were present :-

1. Sri. S. Ranga Rao, General Manager/IPC/NPDCL/Warangal.
2. Sri. R. Charandas, Senior Accounts Officer/Operation Circle/Adilabad.

Deposition of the Complainant :-

Sri. R. Godara, M/s. Divisional Engineer Railway Manager, (Traction Distribution), South Central Railway, Secunderabad, has submitted as follows :-

- a. Railways maintain that there was no information to Railways for change of tariff and hence does not amount to be case penalizing the railways.
- b. Even after the application of enhance of load in August 2009 the extension of load was done in June 2010, thereby violating the guidelines of the IE Act 2003 and Regulations of APERC (Regulation 3 of 2004).

- c. This change of condition of penalizing on exceeding CMD was a major change like that of condition of power factor and hence should have been given larger publicity.
- d. The Auditors of NPDCL, in view of railways can be replied accordingly as this point have arise from auditors only.

As per the hearings conducted on 12.08.10 & 25.08.10 at 3.30 P.M and as per the deposition made by the complainant/representation submitted against the report submitted by the respondents, this Forum has obtained information from the respondents i.e., from Senior Accounts Officer/ Operation Circle/Adilabad, General Manager/Operation, IPC & Comml./ Warangal and Divisional Engineer/Operation/Sirpur Khagaz Nagar on the deposition of the complainant/representation submitted to this Forum. Further some other information as required in this case is also obtained from the Chief General Manager/Projects & RAC/NPDCL/Warangal on implementation of Tariff Order for the Financial Year 2009-2010. The detailed information as furnished by the respondents in addition to the information already furnished and officials of APNPDCL is furnished as follows :-

1. General Manager/Operation, Coml. & IPC/NPDCL/Warangal :-

PARA - WISE REMARKS RAISED BY THE COMPLAINANT ON DATED. 25.08.2010, REPLIES SUBMITTED ON 30.08.2010.

Sl. No.	Contents of the Complainant	Information furnished by General Manager / Operation, Comml. & IPC /NPDCL / Warangal.
1.	<p><u>Page - 2 : Para - 1 :-</u></p> <p>Chief Electrical Inspector to Government of A.P. is not applicable to Railways. For Railways, Chief Electrical Inspector to Government of India is only applicable.</p>	<p>General Terms and Conditions of Supply rules are mentioned CEIG approval is not insisted from railways at any stage.</p>
2.	<p><u>Page - 3 : Para - 5 :-</u></p> <p>As per Regulation 3 of 2004 of APERC and IE Act - 2003 Part - VI, Sub- Section 1 of Section 43, it is the responsibility of the licensee to provide power to the consumer within one month from the date of application and the internal formalities of the licensee like taking approval of competent authorities etc., should be completed within a month and in no way consumer can be penalized for delay on the licensee's part to extend supply.</p>	<p>As per the IE Act, Part-VI, Sub-section-I, (Section - 43 which states that every distribution licensee, shall on an application by the owner or occupier of any premises give supply of electricity to such premises, within one month after receipt of the application requiring such supply.</p>

		<p>In addition to the above, provided that where such supply requires extension of distribution mains, or commissioning of new sub stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission.</p> <p>As per the above, such extension work i.e., construction of 220 KV Sub station at Bellampally is not completed and work is nearing to completion. After completion of the 220 KV, Sub station Bellampally, enhancement of load is to be released.</p> <p>The consumer can avail additional load only after release of additional load and after entering into an agreement and fulfilling other departmental formalities. The unilateral utilization of additional load without completing the above formalities constitutes a breach to the terms and conditions of the agreement already in force.</p> <p>As per Rule 12.3.2 of General Terms & Conditions of Supply, "If at any time the maximum demand of an HT consumer exceeds his contracted demand or LT consumer exceeds the contracted load without prior approval of the Company, the consumer shall be liable to compensate the Company for all damages occasioned to its equipment or machinery if any, by reason of this default and shall also be liable to pay the charges payable by him on account of such increase in demand or load and penalty, as prescribed by the Commission from time to time, without prejudice to this right the Company may also cause the supply to consumer to be disconnected".</p>
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3.	<p>Other Paras :-</p> <p>All this is about the internal correspondence of the licensee for which we do not have any comments, but the fact remains that the enhancement of CMD up to 12 MVA could have been done in the prescribed time of one month.</p> <p>Para - 3 :-</p> <p>The attention of the Forum is also invited to the provision of Regulation 3 of 2004 of APERC and IE Act-2003, Part-VI, Sub-section 3 of Section 43 wherein it is mentioned that if the licensee fails to extend the supply to the consumer within the specified time a penalty of Rs. 1000 for each day of default has to be paid by the licensee to the consumer. Therefore the question of levying penalty on the consumer does not arise in this case.</p>	<p>The Chief Electrical Engineers/South Central Railway has requested Chief Engineer/Commercial/APTRANSCO/Vidyut Soudha/Hyderabad, vide Lr. No. E.222/TRD/A.P. TRANSCO/ CMD/Dt. 05.03.10, with the following comments.</p> <p>During the meeting held on 03.3.10 with Director/transmission it is informed that the additional load of 5 MVA can not be released at Bellampalli due to the capacity constraints of grid transformer.</p> <p>To meet the present load conditions and to avoid additional energy charges levied by DISCOMs, railways need at least 2 MVA enhancement of CMD immediately till such time APTRANSCO overcome transformer issued and requested to process the additional CMD of 2 MVA.</p> <p>Based on Chief Electrical Engineer/South Central Railway letter Lr. No. E.222/TRD/APTRANSCO/CMD/Dt. 05.03.10, the Chief General Manager/Operation Commercial & IPC /NPDLC/Warangal, vide Lr. No. CGM/Op, Comml & IPC/NPDCL/WGL/ F.RLY/BPL/D. No. 776/09/Dt. 26.03.10 requested Chief Engineer/Commercial/A.P. Transco/Vidyuth Soudha/Hyderabad for specific load approval for enhancement of CMD from 10 MVA to 12 MVA.</p> <p>The Chief Engineer/Commercial /AP. Transco /Vidyut Soudha/hyderabad has given load approval for enhancement of CMD from 10 MVA to 12 MVA Vide Lr. No. CE/ Comml./APT SE/DE-II(C)/ADE-I/F.ADB-148/D.No. 329/10 /Dt. 29.05.10.</p> <p>As soon as receipt of load approval from Chief Engineer/Commercial/APTransco/instructions were issued to Superintending Engineer/ Operation/Adilabad, vide Memo. No. CGM/OP, Comml. & IPC/NPDCL/WGL/F.ADB-148/D. No. 184/10/Dt. 08.06.10. Accordingly the Superintending Engineer/operation/Adilabad has been issued demand notice for payment of development charges and security deposit charges for enhancement of CMD from 10 MVA to 12 MVA vide Lr. No. SE/OP/ADB/Coml/ D. No. 477/10/Dt. 11.06.10. After receipt of necessary charges the 2 MVA additional load is released on 16.06.10.</p>
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4.	<p>Page – 5 : Last Para :-</p> <p>In counter reply to Railways Paras 7, 8, 9, 10 & 11 regarding the provision of Regulation 3 of 2004 of APERC and IE Act – 2003, Part-VI, Sub-Section 1 of Section 43 no comments have been given by APNPDCL.</p> <p>In view of above it is clear that no penal charges are to be levied on Railways for exceeding CMD at BPA Traction Sub-station from April-09 to June -10.</p>	<p>The Chief Engineer/Commercial/ A.P. Transco/Vidyuth Soudha/Hyderabad has given load approval for enhancement of CMD from 10 MVA to 12 MVA Vide Lr. No. CE/Coml./APT/SE/DE-II(C)/ADE-I/F.ADB-148/D. No. 329/10/Dt. 29.05.10.</p> <p>As soon as receipt of load approval from Chief Engineer/Commercial/A.P. Transco, instructions were issued to Superintending Engineer / Operation/Adilabad, vide Memo. No. CGM /OP, Comml. & IPC/NPDCL/WGL/F. ADB-148/D. No. 184/10/Dt. 08.06.10. Accordingly the Superintending Engineer / Operation/ Adilabad has been issued demand notice for payment of development charges and security deposit charges for enhancement of CMD from 10 MVA to 12 MVA, vide Lr. No. SE /OP/ADB/Coml/D. No. 477/10/Dt. 11.06.10.</p>
5.	<p>Para No. – 7 :-</p> <p>Immediately Railways have paid development charges of Rs. 15,00,000/-and security deposit of Rs. 20,00,000/- on 15.06.2010. (Annexure – VI).</p>	<p>On receipt of demand notice from Superintending Engineer/Operation/Adilabad the consumer has paid development charges and security deposit charges and 2 MVA additional load released on 16.06.10.</p>
6.	<p>Para No. – 8 :-</p> <p>APNPDCL instead of enhancing CMD and withdrawing penal charges levied in the bills, have issued a disconnection notice vide their Lr. No. SE/OP/ADB/ SAO/HT/D. No. 1851/10/Dt. 02.06.10. (Annexure – VII).</p>	<p>The Chief Engineer/TL&SS/Zone/Warangal has informed the field position to Chief Engineer/Comml./A.P.Transco/Vidyut Soudha /Hyderabad i.e., releasing of additional load of 5.0 MVA to S.C. No. ADB-148 will be possible only after completion of the on going 220 KV Substation at Bellmapalli vide Lr. No. CE/TL&SS/Z/WGL/ADE(O&M)/AE-I/F/D. No. 1595/09/Dt. 05.12.09.</p> <p>The consumer has exceeded contracted maximum demand. Hence as per the Tariff Order 2009-10 General Conditions of HT supply Clause No. 6 the penal energy charges are levied on S.C. No. ADB-148 from April 2009 for exceeding contracted maximum demand. Due to non payment bills disconnection notice was issued by Superintending Engineer/ Operation /Adilabad, vide Lr. No. SE / OP / ADB/SAO/ HT/D. No. 1851/10/Dt. 02.06.10.</p>
7.	<p>Para No. – 9 :-</p> <p>In this regard attention is drawn to a similar case of APCPDCL for our Sanathnagar Traction Sub-station wherein Redressal Forum of APCPDCL has mentioned clearly that the matter be sorted out with APERC by both the parties and no disconnection of service be taken up by APCPDCL. (Annexure – VIII).</p>	<p>Not applicable to APNPDCL</p>

8.	<p>Para No. - 10 :-</p> <p>As the issue is still pending for final disposal of APERC, Chairman and Managing Director of APNPDCL was approached vide Lr. No. C/E. 222/TRD/BPA/8/Dt. 09.06.10 for withdrawal of</p> <ul style="list-style-type: none"> a) Penal Charges b) Disconnection notice c) Early enhancement of CMD from 10 MVA to 15MVA as applied by Railways. 	<p>The consumer has exceeded is contracted maximum demand. Hence as per the Tariff Order 2009-10 general terms and conditions of HT supply, Clause No. 6, the penal energy charges are levied S.C. No. ADB-148 from April 2009 for exceeding contracted maximum demand. Due to non payment bills disconnection notice was issued by Superintending Engineer/Operation/Adilabad, vide Lr. No. SE/OP/SAO/HT/D. No. 1851 / 10 /Dt. 02.06.2010.</p> <p>Enhancement of contracted Maximum Demand from 12 MVA to 15 MVA will be released as soon as completion of 220 KV SS Bellampalli.</p>
9.	<p>Para No. 11 :-</p> <p>The Chairman & Managing Director/ NPDCL/Warangal, in reply to the letter vide his Lr. No. CGM/Expr./GM(R)/AO/R/JAO/ HT/F-58/D. No. 249/10/Dt.17.06.10 has stated that additional load will be released subject to payment of arrears of penal energy charges along with development charges and security deposit. (Annexure - X).</p>	<p>The Chief Engineer/Commercial/A.P. Transco/Vidyuth Soudha/Hyderabad, has given load approval for enhancement of CMD from 10 MVA to 12 MVA vide Lr. No. CE /Coml /APT/ SE/DE-II (C)/ADE-I/F.ADB-148/D. No. 329/10/Dt. 29.05.10.</p> <p>As soon as receipt of load approval from Chief Engineer/Commercial/A.P. TRANSCO/ instructions were issued to Superintending Engineer/Operation/Adilabad, vide Memo. No. CGM/OP, Comml. & IPC/NPDCL/WGL/F. ADB -148/D. No. 184/10/Dt. 08.06.10. Accordingly the Superintending Engineer/Operation/ Adilabad has been issued demand notice for payment of development charges and security deposit charges for enhancement of CMD from 10 MVA to 12 MVA, vide Lr. No. SE/ OP / ADB /Coml/D. No. 477/10/Dt. 11.06.10.</p> <p>The consumer has exceeded contracted maximum demand. Hence as per the Tariff Order 2009-10 General Conditions of HT Supply, Clause No. 6 the penal energy charges are levied on S.C. No. ADB-148 from April 2009 for exceeding contracted maximum demand. Due to non payment of arrears bill, Chairman & Managing Director/NPDCL/Warangal has given reply to the consumers representation that the additional load will be released subject to payment of arrears and penal energy charges along with development charges and security charges.</p> <p>In view of the above, it is clear that the consumer as to pay the penal energy charges has per the notice issued vie reference Lr. No. CGM/Expenditure/GM(IR)/AAO/R/JAO/HT/ F. 58/D. No. 249/10/Dt. 17.06.10.</p>

2. Chief General Manager/Projects & RAC/NPDCL/Warangal :-

PARA – WISE REMARKS RAISED BY THE COMPLAINANT ON DATED. 25.08.2010, REPLIES SUBMITTED ON 30.08.2010.

Sl. No.	Contents of the Complainant	Information furnished by Chief General Manager/P& RAC/ NPDCL / Warangal.
1.	As countered by APNPDCL, they agree to follow the Tariff Order published by APERC on 21.03.2009 for the Financial Year 2009-10, which does not contain anything about CMD.	On 21.03.2009, the NPDCL published summary of the retail Supply Tariff Schedule of Tariff Order. In respect of CMD, please refer detailed Tariff Order which is available in the APERC 's Website
2.	<p><u>Page – 2 : Para – 2 :-</u></p> <p>They also agree to the note given at the end of tariff schedule of FY 2009-10 and understood that whatever condition in vogue till that time were applicable to us. The conditions certainly did not contain anything for exceeding CMD.</p>	<p>The Contention of the petitioner is not correct as in the public notice Dt. 21.03.2009, it was stated at the end of Tariff Schedule that "All other conditions as per the Annexure Schedule of the Retail Tariff Rates and Terms & Conditions in respect of the Four Distribution Companies to Tariff Order for Financial Year 2009-10 will be applicable for the respective categories under LT & HT supply".</p> <p>In the detailed Tariff Order 2009-10, Dt. 20.03.2009, vide paragraph 465 & 466, Page No. 179, it was stated that, "the tariffs takes effect from 01.04.2009" indicated in Annexure 'D' vide Serial Number 6. In the General Terms & Conditions of HT Supply of the afore said Annexure 'D' of the Tariff Order additional charges for maximum demand in excess of CMD have been mentioned.</p>
3.	During the period from 2006 there were no charges on MD and therefore neither APNPDCL nor Railways bothered to raise the point .	Though there are no charges on MD for HT-VI Railway Traction, the additional charges on energy for exceeding CMD is applicable as per General Terms and Conditions of HT Supply vide Serial Number (6).

3. Senior Accounts Officer/Operation Circle/Adilabad :-

PARA - WISE REMARKS RAISED BY THE COMPLAINANT ON DATED. 25.08.2010,
REPLIES SUBMITTED ON 30.08.2010.

Sl. No.	Contents of the Complainant	Contents of the Respondents
1.	<p><u>Para - 3 :-</u></p> <p>Over the years, Railways demand had increased and though there were no MD Charges, Railways had enhanced the CMD from 6 MVA to 10 MVA in the Year 2006. (Annexure - I).</p>	<p>As per the orders of CMD/CGM (P & RAC)/ NPDCL/RAC/Tariff/D. No. 79/09/Dt. 24.06.09, the excess energy charges were imposed whose RMD exceeded the contracted MD with licensee. The above orders are applicable with effect from 01.04.2009 (Copy enclosed).</p>
2.	<p><u>Page - 2 : Para - 2 :-</u></p> <p>It is agreed that the consumer can be penalized on exceeding CMD, but General Terms and Conditions are not clear on the amount of penalty to be levied in such cases and in the tariff schedule there were no charges on the demand which makes this condition vague and hence in applicable. Perhaps that is the reason no notice was given by Company.</p>	<p>General Terms and Condition of Power Supply are applicable to all the LT & HT Consumers as per the Tariff Order. The demand charges are not imposed to railways. The excess energy charges are levied who exceeds RMD more than CMD with licensee with effect from 01.04.09. The Tariff Order for the Year 2009-10 were communicated to all the HT consumers through post to their postal addresses.</p>
3.	<p><u>Page - 3 : Para - 1 :-</u></p> <p>As mentioned therein the bills as per the new terms and conditions of tariff were not issued till September - 2009 were issued with new tariff but without the penalty for exceeding CMD. Hence the plea that "new condition of penal charges for exceeding CMD was informed to Railways" is proved wrong.</p>	<p>As per the orders of CMD/ CGM (P & RAC) /NPDCL/RAC/Tariff/D. No. 79/09/Dt. 24.06.09, the excess energy charges were imposed whose RMD exceeded the contracted MD with licensee. The above orders are applicable with effect from 01.04.2009 (Copy enclosed).</p>
4.	<p><u>Para - 7 :-</u></p> <p>Immediately Railways have paid development charges of Rs. 15,00,000/-and security deposit of Rs. 20,00,000/- on 15.06.2010. (Annexure - VI).</p>	<p>On receipt of development charges and security deposit from railway authorities the additional load of 2 MVA was released on 16.06.10 as per the sanctioned order of Chairman & Managing Director / NPDCL / Warangal and also receipt of revised agreement from railway authorities.</p>
5.	<p><u>Para - 8 :-</u></p> <p>APNPDCLtd., instead of enhancing CMD and withdrawing penal charges levied in the bills, have issued a disconnection notice vide their Lr. No. SE/OP/ADB/ SAO/HT/D. No. 1851/10/Dt. 02.06.10. (Annexure - VII).</p>	<p>As per the demand notice issued to the railway authorities they were not paid in full against the bill. Hence the disconnection notice was issued for non payment of Rs. 1,41,19,083/-.</p>

4. Divisional Engineer/Operation/Sirpur Khagaz Nagar :-

PARA – WISE REMARKS RAISED BY THE COMPLAINANT ON DATED. 25.08.2010,
REPLIES SUBMITTED ON 30.08.2010.

Sl. No.	Contents of the Complainant	Contents of the Respondents
1.	<p><u>Page – 2 : Para – 2 :-</u></p> <p>It is agreed that the consumer can be penalized on exceeding CMD, but General Terms and Conditions are not clear on the amount of penalty to be levied in such cases and in the tariff schedule there were no charges on the demand which makes this condition vague and hence in applicable. Perhaps that is the reason no notice was given by Company.</p>	<p>The H.T. readings of S.C No. 148, Bellampally are regularly taken jointly and the exceeding of MD is intimated to the railway officials present at that instance.</p> <p>The public notice Dt. 21.03.2009 it was stated at the end of Tariff Schedule that "all other conditions as per the Annexure Schedule of the Retail Tariff Rates and Terms & Conditions in respect of the Four Distribution Companies to Tariff Order for Financial Year 2009-10 will be applicable for the respective categories under LT & HT Supply".</p> <p>In the detailed Tariff Order 2009-10, Dt. 20.03.2009, vide paragraph 465 & 466, Page No. 179, it was stated that, "the tariffs takes effect from 01.04.2009" indicated in Annexure 'D' vide Serial Number 6. In the General Terms & Conditions of HT Supply of the afore said Annexure 'D' of the Tariff Order additional charges for maximum demand in excess of CMD have been mentioned.</p>

6. **Analysis of the Case :-**

The complaint about levying of additional energy charges on drawal of excess energy attracts the jurisdiction of the Forum as per the Regulation 1 of 2004 of APERC.

The respondents are accepting that the SCR have given application for additional load of 5 MVA i.e., from 10 MVA to 15 MVA on 06.08.09 and the proposals were sent to APTRANSCO which has to permit the APNPDCL to avail additional load on EHT Lines.

It is a fact that the SCR had availed additional load for its Traction against S.C. No. ADB – 148, beyond 10 MVA without prior approval and estimate sanction by the licensee as well as from APTRANSCO from 04/2009.

The additional energy charges were levied on exceeding the contract demand as per Para 6 of General Conditions of HT Supply Tariff Order for the Year 2009-10 from 01.04.2009. Only energy charges on excess energy had been billed and demand charges on excess demand were not levied as there were no demand charges to the Railways.

Now the basic question is when there were 'no demand charges' for Railway Traction HT Category-V as per Tariff Order 2009-10, where is the question of levying additional energy charges for maximum demand in excess of the contracted demand and whether this Clause 6 of General Conditions of HT Supply can be applied to Railway Traction or not ?

As the main dispute between the SCR and the respondent APNPDCL is only regarding levying of additional energy charges on excess energy this must be clarified by the Hon'ble Commission and the licensee must seek clarification from the APERC.

This Forum has no jurisdiction over APTRANSCO to comment on delay in permitting to avail additional load on EHT Lines, as the releasing of additional load beyond 33 KV on EHT Line requires APTRANSCO permission and on receipt of permission and payment of requisite amount by the SCR, the additional load as required by the Consumer can be released as per Clause 3 of Regulation 3 of 2004 of APERC.

The argument of APNPDCL that "mere applying for additional load does not entitle the consumer to avail additional load" is acceptable to the Forum as the releasing of additional load on EHT side requires APTRANSCO

permission and the SCR has not entered into an agreement and signed 'Test Report' by paying all the requisite amount.

And the Forum finds fault with the SCR in availing the additional load unilaterally without prior approval and sanction from the APNPDCL as per Clause 12.3.1. of General Terms and Conditions of Power Supply.

As per Rule 12.3.2. of General Terms and Conditions of Power Supply, "if at any time the maximum demand of an HT Consumer exceeds their contracted demand without prior approval of the Company, the consumer shall be liable to compensate the Company for all damages occasioned to its equipment or machinery if any, by reason of this default, and shall also be liable to pay the charges payable by him on account of such increase in demand or load and penalty, as prescribed by the Commission from time to time, without prejudice to this right the Company may also cause the supply to consumer to be disconnected.

In view of the above, the argument of APNPDCL that "the unauthorized additional load by the SCR which contributed to excess/over draws resulting in penalization by APTRANSCO and overloading of the 220/132 KVA PTR caused to resort to unscheduled load shedding, is genuine.

As there was a loss to the APNPDCL as stated by the respondents, on availing of additional loads by the SCR without prior approval and sanction, the additional energy charges levied by the APNPDCL on exceeding contracted demand may be correct, but it requires clarification from APERC whether the additional charges as per Clause 6 of General Conditions of HT Supply can also be applied to the Railway Traction or not.

4. **ORDER :-**

Having verified, and heard the details of the case, the Forum is of the considered opinion that :-

- a) the APNPDCL/SCR may seek clarification from the 'APERC' with regard to applicability of Clause 6 of 'General Conditions of H.T. Supply' to 'Railway Traction' especially, additional energy charges on exceeding the contracted maximum demand. Where as in Tariff Order for the Year 2010-11 revision of Tariff with effect from 01.08.2010, it is stated that "In case of Category - H.T. V (Railway Traction) the energy charges shall computed at 1.05 times of normal charges on entire consumption in case RMD exceeds 120 % of CMD.
- b) the respondents shall release the additional load from 12 MVA to 15 MVA to S.C. No. ADB - 148, HT service as soon as completion of 220 KV SS, Bellampalli.
- c) the respondents shall not disconnect the HT S.C. No. ADB - 148, Railway Traction on account of 'additional energy charges and intimate the contents of the clarification soon on receipt from APERC to the SCR through 15 days notice.

The order shall be implemented within 15 days from the date of its receipt and compliance furnished to the Forum within a week thereafter.

5. Reasons for Delay :-

There is a delay of about 17 days in deciding the petition. The reasons for delay are :-

- i. Non-receipt of reports from respondents.
- ii. Insufficient information filed by the complainants.

6. If the complainant is aggrieved by the order of the forum he may represent to Vidyut Ombudsman, APERC, Singareni Bhavan, IVth Floor, Red Hills, Hyderabad-500 004, within (30) days of receipt of this order as

specified in clause (9) of Regulation 1 of 2004 of A.P. Electricity Regulatory Commission of A.P.

Signed on 3rd day of September, 2010.

Sd/-	Sd/-	Sd/-	Sd/-
K. RAMESH MEMBER (LEGAL)	M. VENKATANARAYANA MEMBER (ACCOUNTS)	A. SUDHARSHAN REDDY CO - OPTED (MEMBER)	T. SADARLAL CHAIRMAN

Endt. No./CM/C.G.R.F/NPDCL/C.G. No. 279/2010-1 Dt. 03.09.2010.

Copy to :

The Assistant Divisional Engineer/Operation/Sirpur Khagaz Nagar.

The Chief General Manager/Projects & RAC/NPDCL/Warangal.

The General Manager (IT)/Corporate Office/NPDCL/Warangal.

(He is requested to place the order in the Company's Website).

Sri. Dr. A. Sudharshan Reddy, President, Centre for Environmental Studies,

H. No. 2-2-421, Kishanpura, Hanamkonda, Warangal-Dist.

The Stock file.

//FORWARDED BY ORDER //

**Member (Legal)
Consumer Grievances Redressal Forum.**