

A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
- Mahatma Gandhi



TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai
Present :Thiru. S. Devarajan, Electricity Ombudsman

A.P.No. 55 of 2020

M/s. Southern Railway,
Divisional Office,
Traction Distribution Branch,
Madurai.

. Appellant
(Thiru Bachu Ramesh,
Sr. Divisional Electrical Engineer)

Vs.

The Superintending Engineer,
Dindigul Electricity Distribution Circle,
TANGEDCO,
Meenakshi Nayakkan Patty Post,
Dindigul - 624 002.

. Respondent
(Thiru R.K. Vinothan, SE/Dindigul EDC)

Date of Hearing: 23-12-2020

Date of order: 05-07-2021

The Appeal Petition received on 09.11.2020 filed by M/s. Southern Railway, Divisional Office, Traction Distribution Branch, Madurai was registered as Appeal Petition No. 55 of 2020. The above appeal petition came up for hearing before the Electricity Ombudsman on 23.12.2020. Upon perusing the Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The appellant have requested to refund the amount of Rs.3,28,98,000/- collected towards MD penalty charges upto September 2020.

2.0 Brief History of the case:

2.1 The Appellant has stated that he has approached TANGEDCO/Dindigul to enhance the Contract Maximum Demand (CMD) from 8000 kVA to 9000 kVA. Due to undue delay in processing the CMD application Railway is incurring huge loss by way of penalty charges.

2.2 Since the grievance of the Appellant was not settled by the TANGEDCO, the appellant filed a petition before the CGRF of Dindigul EDC on 18.06.2020. The CGRF of Dindigul EDC has issued an order dated 03.09.2020. Aggrieved over the order, the appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Dindigul Electricity Distribution Circle have issued its order on 03.09.2020. The relevant portion of the order is extracted below :-

“7. Findings of the CGRF

*7.1. **Undue Delay:** upon perusing the petition, reply and arguments the forum is satisfied that there is no intentional delay on the part of the respondent in processing of a proposal for enhancement of CMD from 8000 KVA to 9000 KVA to the petitioner as per Tamil Nadu Electricity Supply (Amendment) Code, 2012 (regulation 3) and Tamil Nadu Electricity Distribution (Amendment) Code, 2012 (regulation 26), under heading 'categories of supply' the existing arrangement needs to be converted in to Radial feeding arrangement. It is understood from the table furnished to the forum by the respondent that TANGEDCO has taken appropriate steps for processing additional demand application and the forum could not find any deliberate delay with ulterior motives.*

7.2. Refund of penalty amount

The petitioner argued to refund Rs.3,23,94,000/- paid as the penalty towards excess demand charges in the coming month's bill.

In this regard, the forum would refer TNERC supply code clause 5 (2) which is extracted;

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

(1). In case of HT supply, the maximum demand charges for any month shall be based on the KVA demand recorded in that month at the point of supply of such percentage of sanctioned demand as may be declared by the commission from time to time whichever is higher. The excess demand shall alone be charged double the normal rate.

Hence Penalty has been imposed as per the above TNERC supply code and the agreement executed between both parties for violation of exceeding contracted demand. Grid discipline is very much essential to the welfare of all the consumers connected and any violation should strictly curtailed to avoid any catastrophic failure by imposing penalties etc. The forum is satisfied that the petitioner has been penalized only for his act of gross violation of TNERC supply code and the agreement executed between both parties.

8. Conclusion

8.1 In view of the findings in para (7) above, the prayer of the petitioner to adjust the penalties paid in the coming monthly bill cannot be allowed. On payment of all charges the respondent is directed to effect additional demand immediately.

8.2. With the above findings the petition No.60/2020 is finally disposed of by the CGRF.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments a hearing was conducted on 23.12.2020 through Video conferencing.

4.2 The Appellant Thiru Bachu Ramesh, Sr. Divisional Electrical Engineer has attended the hearing and put forth his arguments.

4.3 The Respondent Thiru R.K. Vinothan, Superintending Engineer of Dindigul EDC has attended the hearing and put forth his arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing order. Further

the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone are discussed hereunder.

5.0 Arguments of the Appellant :

5.1 The Appellant has stated that this appeal made against CGRF order for the delay for Contract Maximum Demand (CMD) enhancement and refund of excess MD penalty in HT bill SC No. 339, Dindigul Railway Traction Substation under SE/DEDC/ TANGEDCO/Dindigul.

5.2 The Appellant has stated that there is an undue delay in processing the CMD application at Dindigul Traction substation (DG TSS) (HTSC No. 339) which is incurring huge loss of MD penalty charges and illustrated the same with comparative study.

5.3 Further, the appellant has stated that CMD enhancement from 5000KVA to 8000 KVA at same TSS in the year 2014-15 was done within 10 months with the same T.OFF arrangement, whereas the current proposal for CMD enhancement is done after lapse of 30 months. During 2018-19, VPT TSS which is also having same T.OFF arrangement, MD enhancement 4000 KVA to 5500 KVA was done within 10 months.

5.4 There is inordinate delay of two years for processing CMD application in the current case, which is not acceptable. It caused MD penalty charges of Rs.3,44,76,000/- paid by Railways up to Sep 2020. Maximum duration for CMD enhancement is taken as 10 months. By anticipating that MD enhancement is done within 10 months, Railways could have saved MD penalty of Rs.3,28,98,000/- upto Sep 2020.

5.5 The Respondent EB has cited that CMD enhancement for the current T.off arrangement is not in line with circular CE/Commercial/TNEB /Chennai letter No. CE/Comml/ EET/ AEE1 / F.Circular/ D.No.502/12, dt.01.08.12 as the reason for the delay. The Appellant has further submitted that illustration of letter in which CE/Comml/EB/Chennai accorded approval that CMD enhancement is to be done

after collection of necessary applicable charges, the supply at 110KV may be extended in the existing T.OFF arrangement as a temporary measure till the completion work vide letter No.SE/DEDG/DGL/AEE/GL/AE/I/ HT.DOC / D.No. 82 /19, dt.23.01.2019.

5.6 The Appellant has contended that the circular mentioned is a generalized one and does not indicate to implement at the time of CMD enhancement. Further as per the Respondent's circular

"If supply is to be extended at higher level for a demand less than that specified by TNERC if opted by applicant for genuine reasons, the proposal may be evolved with cost of extension chargeable to the applicant as per TNE supply and distribution code. In such cases, before registration of such HT/EHT application approval may be obtained from CMD".

5.7 Railway in principle had adhered to this special condition of circular & availed the supply at 110 KV for 5000 KVA duly paying estimate charges of Rs 2.2865 crore vide letter No. SE/DEDG/DGL/AEE/GL/AE.I/HT/DOC/D.No.1071/10 dt.23.06.2010. Railway has accorded approval in principle of the circular & not liable to pay any estimate charges. This is a CMD enhancement & not an extension of supply. Any way as it is enforced by EB, Railways has also agreed in principle for payment of estimate charges vide letter dt 09.02.2019 & Railways have further followed up with 4 letters vide letter dt 28.03.19, 23.04.19, 08.07.19, 30.01.20 & asking to give MD enhancement with existing T.OFF arrangement without further delay on account of estimate charges payment.

5.8 Further it is clearly understood that CMD enhancement is to be done after collection of necessary applicable charges and Railways have paid despite payment of EMD and development charges for CMD enhancement. But same is done on 17.10.2020 after lapse of 30 months. (EMD paid on 05.12.2019, Development charges paid on 18.06.2020)

5.9 The Appellant has stated that it is very clear that there was undue delay in CMD enhancement from EB side which incurred huge loss to railways towards MD penalty charges paid. Had the CMD enhancement was done at normal period of 10

months, Railways could have saved MD penalty of Rs.3,28,98,000/- upto Sep 2020 which is huge burden for railways revenue expenditure.

5.10 By considering the above factors, there was undue delay in processing CMD enhancement and caused MD penalty charges for 30 months and also delayed subsequent CMD enhancement. Hence, the Appellant has requested to refund to the tune of Rs.3,28,98,000/- upto September 2020 MD penalty charges paid as early as possible by considering MD enhancement is done within 10 months- normal period.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the comparative study made by the petitioner is not correct as it does not take into account the infrastructure development that took place throughout the length and breadth of the Dindigul District and the development in TNEB Grid during the last 5 years after the supply was first given to the petitioner. Much hardships are faced nowadays to get the Right of Way (RoW) for placing new Transmission Lines to strengthen the backward capacity of the Grid to extend enhanced CMD to the petitioner. The respondent has stated that they have taken consistent efforts on the application of the appellant for the enhancement of the contracted maximum demand and furnished the 68 numbers of correspondences activities/chronologically from the date of receipt of application till the load enhancement on 17.10.2020.

6.2 Further, the petitioner is misleading by hiding the facts of all developments that took place in TANGEDCO in accordance with the prevailing instructions and stipulations in extending CMD. Every HT/EHT consumer is well informed about the implementation of penalty for exceeding the sanctioned demand /CMD at the time of effecting new service connection itself. Hence it is the responsibility of every consumer to maintain their demand within the CMD. Otherwise paying the penalty is inevitable and TANGEDCO is no way responsible for the excess demand charges paid by the Railway for the exceeded CMD every time. They have executed an agreement agreeing all the conditions of supply stipulated by TNERC supply code.

Hence seeking relief on refund of excess demand charges paid by throwing responsibility on TANGEDCO is not acceptable.

6.3 The respondent has stated that the petitioner is not serious in predicting their demand and they are responsible to limit the demand within the sanctioned demand. Further it is also submitted that earlier the Southern Railway applied for an additional demand of 5000 KVA over and above the existing demand of 8000 KVA for which the TANGEDCO and TANTRANSCO agencies worked in tandem and when everything was made ready to effect the additional demand during 2016, the railways simply backed out and all the works of the above wings got wasted.

6.4 The respondent has stated that by constantly overdrawing the power without bothering about the consequential damages to respondent Grid by way of reduced life of equipment and associated lines and sudden failure, the petitioner is causing financial loss to the respondent. The petitioner is only compensating for the damages by paying penalties as per TNERC supply code clause 5(2) and for violation of the agreement executed between TANGEDCO and Southern Railways.

6.5 The instruction issued in Memo. No. CE/Comml/EET/AEE1/F.Circular/D.No. 502/12, Dt.01.08.2012 is applicable to every case of extension of supply whether it is new or enhancement of demand and the instruction is followed through out the state of Tamilnadu. But the petitioner has misunderstood that CMD enhancement is not an extension of supply. The petitioner aware that every time a consumer like him approaches for new or enhancement of demand, the back feeding Electrical infrastructure has to be strengthened and modified enough to extend supply for the enhanced demand.

6.6 The approval is accorded by Head Quarters for processing the HT application of the Divisional Railway Manager (Traction), Southern Railway, Madurai, for extension of EHT supply for an additional demand of 1000 KVA over and above the existing demand of 8000 KVA totalling to 9000 KVA at 110 KV in HT SC No.339, Railway traction 55 at Vellodu by providing 1 No. New 110 KV Bay with Breaker arrangements at both Dindigul 110KV SS (110 KV Sempatty - Dindigul Feeder) and Kosavapatty 110KV SS (110 KV Sempatty - Alagarkovil Grid feeder) with cost of extension and

other applicable charges chargeable to the applicant after observing all formalities as per Tamil Nadu Electricity Supply Code & Distribution Code. However, after collection of necessary applicable charges, the supply at 110 KV may be extended in the existing T.off arrangement as a temporary measure till the completion of work.

6.7 Tamil Nadu Electricity Supply (Amendment) Code, 2012 (regulation 3) and Tamil Nadu Electricity Distribution (Amendment) Code, 2012 (regulation 26), under heading 'categories of supply' 3.1(f) stipulates as follows,

"the consumer shall be provided supply at 110 KV for a demand above 10 MVA and up to 50 MVA If the consumer opt for higher voltage for demand less than that specified the consumer shall bear the extra expenses to be incurred by the licensee to provide supply at such higher voltage."

6.8 Supply at appropriate voltage level as approved by TNERC may be extended to the HT/EHT applicants/consumers either from nearby Sub stations with provision of separate Breaker as a radial feeder or through T.Off extension from the radial feeders feeding to other consumers. Citing to the grid reliability, it has been strictly instructed not to extend EHT supply from grid feeder either by T.off or LILO arrangement.

6.9 As the total demand of the applicant is less than 10 MVA, the existing 110 KV supply extended as a special case with T.off arrangement has to be converted as radial feeder arrangement to ensure grid reliability and the petitioner has to bear the extra expenses to extend the supply. After the receipt of in-principle approval of Chairman cum Managing director of TNEB, the necessary follow up works were carried out in strengthening electrical infrastructure for extending CMD to the petitioner commencing from 21.02.2019 to 16.10.2020. Hence it is submitted that the respondent TANGEDCO processed the application of the petitioner with all sincere efforts, for extension of 110KV supply for additional demand to the HT SC no. 339 for the 110/25KV railway traction SS at Vellodu, Dindigul DT and there is no delay on the part of the respondent.

6.10 The respondent has stated that the MD Penalty has been imposed as per TNERC supply code clause 5 (2) and the agreement executed between both parties for violation of exceeding contracted demand. Grid discipline

is very much essential to the welfare of all the consumers connected and any violation should be strictly curtailed to avoid any catastrophic failure by imposing penalties etc. The petitioner has been penalized only for his act of gross violation of TNERC supply code and the agreement executed between both parties and hence cannot be refunded. In view of the above, it is prayed to disallow the claim of the petitioner.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent. On a careful consideration of the rival submissions and perusal of documents, the following are the issues to be decided;

(i) What are the rules governing the excess demand charges for HT Supply?

(ii) Whether the excess demand charges levied by the respondent is correct?

8.0 Findings on the first issue :

8.1 The respondent has stated that they have calculated the excess demand charges as per Regulation 5 (2) of the Tamilnadu Electricity supply code. In this regard I would like to refer Regulation 5 (2) (i) of TNERC Supply Code, 2004 which is extracted below:

“5. Miscellaneous charges

(2) Excess demand charge

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

- (i) *In the case of HT supply, the maximum demand charges for any month shall be based on the KVA demand recorded in that month at the point of supply or such percentage of sanctioned demand as may be declared by the Commission from time to time whichever is higher. The exceeded demand shall alone be charged at double the normal rate.”*

8.2 On a plain reading of the above provision it is noted that in the case of HT supply, the maximum demand charges for any month shall be based on the KVA demand recorded in that month at the point of supply or such percentage of sanctioned demand (90% of the sanctioned demand as per Tariff Order) as may be declared by the Commission from time to time whichever is higher. The exceeded demand shall alone be charged at double the normal rate.

9.0 Findings on the second issue :

9.1 The Appellant in his arguments has stated that there is an undue delay in processing the CMD application at Dindigul Traction substation -HTSC No. 339. As there was an inordinate delay of two years for processing CMD application it caused MD penalty charges of Rs.3,44,76,000/- for the Railways up to Sep 2020. By anticipating that MD enhancement is done within 10 months, Railways could have saved MD penalty of Rs.3,28,98,000/- upto September' 2020.

9.2 The Appellant has contended that the circular issued vide CE/Commercial/TNEB /Chennai letter No. CE/Comml/ EET/ AEE1 / F.Circular/ D.No.502/12, dt.01.08.12 is a generalized one and does not indicate to implement at the time of CMD enhancement. Further as per the Respondent's circular *"If supply is to be extended at higher level for a demand less than that specified by TNERC if opted by applicant for genuine reasons, the proposal may be evolved with cost of extension chargeable to the applicant as per TNE supply and distribution code. In such cases, before registration of such HT/EHT application approval may be obtained from CMD"*.

9.3 Railway in principle had adhered to this special condition of circular & availed the supply at 110 KV for 5000 KVA duly paying estimate charges of Rs.2.2865 crore vide letter No. SE/DEDC/DGL/AEE/GL/AE.I/HT/DOC/D.No.1071/2010, dt.23.06.2010. In the present case it is a CMD enhancement & not an extension of supply and hence not liable to pay any estimate charges. Since, it is

enforced by EB, Railways has also agreed for payment of estimate charges vide letter dt.09.02.2019 and paid EMD on 05.12.19 & Development charges on 18.06.20. Further followed up with 4 letters vide letter dt.28.03.19, 23.04.19, 08.07.19, & 30.01.20 asking to give MD enhancement with existing T.OFF arrangement without further delay on account of estimate charges payment. But same is done on 17.10.2020 after lapse of 30 months.

9.4 The Appellant has stated that it is very clear that there was undue delay in CMD enhancement from EB side which incurred huge loss to railways towards MD penalty charges paid. Had the CMD enhancement was done at normal period of 10 months, Railways could have saved MD penalty of Rs.3,28,98,000/- upto Sep 2020 which is huge burden for railways revenue expenditure. Hence, the Appellant has requested to refund the MD penalty charges of Rs.3,28,98,000/- by considering MD enhancement is done within 10 months- normal period.

9.5 The Respondent on the other hand has submitted that the statement made by the petitioner is not correct as it does not take into account the infrastructure development that took place in TNEB Grid during the last 5 years after the supply was first given to the petitioner. The respondent has stated that they have taken consistent efforts on the application of the appellant for the enhancement of the contracted maximum demand and furnished the relevant correspondences from the date of receipt of application till the load enhancement on 17.10.2020.

9.6 The respondent has further stated that the petitioner is responsible to limit the demand within the sanctioned demand. By constantly overdrawing the power without bothering about the consequential damages to respondent Grid by way of reduced life of equipment and associated lines and sudden failure, the petitioner is causing financial loss to the respondent. The petitioner is only compensating for the damages by paying penalties as per TNERC supply code clause 5(2) and for violation of the agreement executed between TANGEDCO and Southern Railways.

9.7 Further, the instruction issued in the CE/Comml letter dated 01.08.2012 is applicable to every case of extension of supply whether it is new or enhancement of

demand. But the petitioner has argued that CMD enhancement is not an extension of supply. The petitioner aware that every time a consumer like him approaches for new or enhancement of demand, the back feeding Electrical infrastructure has to be strengthened and modified enough to extend supply for the enhanced demand.

9.8 Further, as the total demand of the applicant is less than 10 MVA, the existing 110 KV supply extended as a special case with T.off arrangement has to be converted as radial feeder arrangement to ensure grid reliability and the petitioner has to bear the extra expenses to extend the supply. After the receipt of in-principle approval of Chairman cum Managing director of TNEB, the necessary follow up works were carried out in strengthening electrical infrastructure for extending CMD to the petitioner commencing from 21.02.2019 to 16.10.2020. Hence it is submitted that the respondent TANGEDCO processed the application of the petitioner with all sincere efforts, for additional demand to the HT SC no. 339 at 110/25KV Railway Traction SS/ Vellodu, Dindigul and there is no delay on the part of the respondent.

9.9 The respondent has further stated that the MD Penalty has been imposed as per TNERC supply code clause 5 (2) and the agreement executed between both parties for violation of exceeding contracted demand. Grid discipline is very much essential to the welfare of all the consumers connected and any violation should be strictly curtailed to avoid any catastrophic failure by imposing penalties etc. The petitioner has been penalized only for his act of gross violation of TNERC supply code and the agreement executed between both parties and hence argued that MD penalty cannot be refunded.

9.10 From the foregoing paras, the issue to be decided is whether the MD penalty charged by the respondent is tenable? The contention of the Appellant is that they have paid MD penalty due to inordinate delay in sanctioning CMD proposal. The respondent has argued that there was no intentional delay on the part of licensee. In this regard, I have perused the events of correspondences right from the date of application to the date of sanction of additional demand. The correspondences show the technical

hurdles faced by the respondent in extending the additional demand. It is seen that there is a considerable delay in effecting additional demand on the part of the licensee.

9.11 It is the responsibility of every consumer to restrict their load within the contracted demand. Till the sanction of additional demand, the appellant should have maintained their usage within the sanctioned demand. There is a separate provision to seek compensation for the delay in effecting additional demand as per Tamilnadu Electricity Distribution Standards of Performance Regulations, 2004. Further I am of the view that the delay on the part of the licensee does not relieve the consumer for the payment of excess demand charges which has legal sanctity. As per my findings in the para 8 above, the calculation made by the respondent is in accordance with Regulation 5 (2) (i) of the Tamilnadu Electricity supply code. Therefore, the prayer of the Appellant to refund the excess demand charges of Rs.3,28,98,000/- upto September 2020 is not acceptable to me.

10.1 Conclusion:

10.1 As per my findings in para 9 above, the delay on the part of the licensee does not relieve the consumer for the payment of excess demand charges which has legal sanctity. The calculation for the excess demand charges made by the respondent is in accordance with Regulation 5 (2) (i) of the Tamilnadu Electricity supply code. Therefore, the prayer of the Appellant to refund the excess demand charges of Rs.3,28,98,000/- upto September 2020 is not feasible of compliance.

10.2 With the above findings the AP. No.55 of 2020 is finally disposed of by the Electricity Ombudsman. No Costs.

(S. Devarajan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. M/s. Southern Railway,
Divisional Office,
Traction Distribution Branch,
Madurai.

2. The Superintending Engineer,
Dindigul Electricity Distribution Circle,
TANGEDCO,
Meenakshi Nayakkan Patty Post,
Dindigul - 624 002.

3. The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
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– By Email

4. The Secretary,
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– By Email

5. The Assistant Director (Computer) – **For Hosting in the TNERC Website**
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