

To,

Date: 18-06-2011

The Hon'ble Sri Justice M. Karpaga Vinayagam,
Chairperson,
Appellate Tribunal for Electricity,
Scope Complex, Lodhi Road,
New Delhi.

Respected Sir;

Ref:- "Interactive Session on Consumer Awareness" held in Hyderabad on 2nd June, 2011

1. PMGER is a Hyderabad based organisation formed by likeminded organisations and individuals to give voice to people's concerns on issues related to electricity in Andhra Pradesh (AP). Since the introduction of regulatory process in the electricity sector in AP we are regularly participating in the public hearings conducted by AP Electricity Regulatory Commission (APERC). I am the convenor of the Organisation. I have attended the "Interactive Session on Consumer Awareness" held in Hyderabad on 2nd June, 2011. As I could not get a chance to express my views on that occasion and in response to your advice to send letters in writing I am writing this letter.

2. Sir, in your illuminating address you have explained that not only what we do and how we do are important but also for whom we do. I humbly submit that I am writing this letter with people's interest in mind.

3. Sir, you have respectfully quoted Bhagawan Sri Satya Sai Baba as saying, "*Mee* (your - consumers in the present context) *aanandam* (satisfaction/happiness) [is] *maa* (our - institutions in the present context) *aahaaram* (food/reason for existence)." Sir, I am constrained to admit on behalf of consumers that we were not happy with the way the 'interactive session' was conducted. In the programme meant for consumers, consumers got less than 25% of the time. Utility officials intelligently guided even this short time to get legitimacy for a dubious programme of theirs – HVDS distribution transformers for agricultural services. Two farmers – one from Nalgonda district and another from Anantapur district after listing some common problems rooted for HVDS programme. During this session itself Mr. Krishna Babu, CMD of APCPDCL one of the utilities in the state explained that it costs Rs. 70,000 to 1,00,000 per former to implement this programme. In spite of its high cost utilities in AP are going ahead with its implementation. Already more than rupees two thousand crores were spent on this programme during the past five years. We were demanding a transparent and public/open review/audit of this programme. But there was no response either from APERC or from the utilities in AP. Mr. Narayanan, a staffer from Consulate of USA located in Hyderabad eloquently stated the immense satisfaction derived by them from the services rendered by the utilities. If every consumer in AP

received such service and satisfaction there would have been no need for programmes like “Interactive Session” and institutions like Electricity Regulatory Commissions and Appellate Tribunals.

4.1 Sir, as stipulated by the Electricity Act 2003 the Appellate Tribunal for Electricity (ATE) admits petitions challenging the Orders issued by the ERCs. Usually utilities or other parties like independent power producers (IPP) file petitions challenging ERC Orders. At the ERCs in issues like the ones related to power purchases and annual tariff orders apart from the above two parties individuals and organisations from different walks of life representing the public are also parties to the petitions. When the ATE takes up the cases it hears the petitioner and the defendants mentioned by the petitioner only, Other parties, particularly those representing the public, are more or less in the dark about the petitions before the ATE, and the ATE pronounces Orders without hearing the public. To overcome this we suggest that when an Order issued by an ERC is challenged by one of the parties, either the party that files the petition shall notify all the other parties to the Order issued by the ERC not just one party as defendant or ATE ones it admits a petition it should cause a notice to be issued to all parties to the ERC’s Order and allow them to file written counters if they are not able to appear before ATE in person and ATE shall take all these written counters on record. This measure will help ATE to examine the case from all angles before pronouncing its Order.

4.2 Here we would like to submit that it is difficult for people from different parts of the country to access ATE. Setting up benches in different parts of the country will go along way in making institutions like ATE accessible to the public. Or the benches of ATE may hold hearings in respective states when dealing with the cases pertaining to those states. In the meantime financial assistance to individuals and organisations representing the public to cover travel and other costs need to be provided.

5.1 Sir, we are forced to conclude that the APERC has become near dysfunctional. At one time APERC was considered to be one of the best/efficient regulatory bodies in the country. Now, the less said the better. At present nearly 70 petitions are pending before the Commission. In the case of more than 10 petitions they were reserved for Orders after completion of hearings. Some petitions were reserved for more then two years. The Commission seems to move only if there were Orders from High Court, ATE or Supreme Court to issue Orders by a certain stipulated date. PPAs for new plants of APGENCO are pending before the Commission for more than two years. While the Commission is allowing the DISCOMs in the state to pay for power being drawn from these plants there is no sign of public hearing or Commission’s consent order on these PPAs.

5.2 In some cases which have considerable financial impact on the consumers the APERC issued Orders without submitting them to public processes like public hearings. The APERC issued an Order reviving the PPA with BPL Company for setting up a thermal power plant in the state without conducting any public hearing. Similarly, the Commission allowed DISCOMs to procure 2000 MW of power through Case I bidding without any public hearing. Public did not know about them until the final Orders were issued.

5.3 We have submitted a Review Petition on 27-08-2010 to the APERC seeking withdrawal of the Order issued by the APERC through the letter No. E-356/(a)/Engg/DD/(P&PP)2010-02 dated 31-05-2010

reviving PPA with BPL company for setting up a thermal plant in AP with out any public process. Until now there is no response from the APERC to this Review Petition. The APERC did not hold a hearing even to admit the Review Petition.

5.4 There is no periodic review performance of utilities in the state by the APERC.

5.5 Apart from indecisiveness or unwillingness to take up cases in a regular if not in proactive manner, the ranks of the Commission's support staff are also depleted. Some director level posts, some joint director level posts and some deputy director posts sanctioned by the state government are lying vacant for many years. Some of these posts are lying vacant for more than 5 years. In some cases like Ombudsman, applications were received but there was no further progress. While there is provision for a Secretary to the Commission, Ombudsman and four directors at present there are only two persons handling all the six positions. Given this sorry state of affairs at the Commission, the question of competence of the two persons to handle such diverse fields does not even cross the mind.

5.6 Sir, now look at the way one of the director posts is filled. The person appointed to the post of Director (Administration) it appears does not have the necessary qualifications and some of the certificates submitted by that person in support of his qualifications/experience seem to be not genuine. In response to a petition filed by some members of the staff the High Court directed the Commission to enquire in to it. But this did not move the Commission. Then the state government also appears to have advised the Commission through several letters to enquire in to this matter. But the Commission took a stand that as it is an autonomous and independent organisation it was not bound by the advice of the state government. Had the Commission taken such a 'bold' stand on all issues things would have been different in AP. And it has taken this 'bold' stand in a patently unjustified case. Later the High Court again admitted another petition related to this filed by the staff without foreclosing the option for the Commission to enquire in to this. This case has vitiated the working atmosphere in the Commission. While many competent members of the staff with more than a decade of experience in the Commission are waiting for their first promotion a person with doubtful qualifications and experience is placed in a post (Director – Administration) that in fact deals with all other staff members in the Commission. The sooner a proper, fair and correct decision is taken in this case the better for the health of the Commission.

5.7 Sir, at the venue of the interactive session some chairs were marked for 'State Advisory Committee' members. It may be that the personnel of the utilities entrusted with organizing the programme did not know that at present there is no 'State Advisory Committee'. The extended tenure of the previous Committee expired by February of this year. The Commission did not find it necessary to constitute a new 'State Advisory Committee'. It is another matter how seriously the Commission took the advice of this Committee in the past.

5.8 Besides this, the tenure of the consumer members of the Consumer Grievance Redressal Forums (CGRF) has expired and the utilities and the Commission are yet to act on this. So much for the eloquence with which the utilities' officials stated that they existed only because of the consumers.

5.9 These days it has become regular for the public hearings and meetings of the State Advisory Committee to start late. These proceedings are delayed by an hour. There were also cases when the proceedings started more than one hour after the scheduled time.

5.10 Sir, you have rightly described TEAM as 'together each achieve more'. When the leader refuses to move, will there be any thing to achieve? One should be happy if things do not slide down. For, in a dynamic situation nothing stays static – it has to move either forward or backward. As a facilitator and arbitrator, and as a 'friend, philosopher and guide' the ERC has to set an example in every sphere of its activity. Not only show the utilities how to keep their houses in order. When APERC itself does not keep its house in order, can it summon authority to discipline errant utilities? During the 'Interactive Session' top officials of the utilities described the Commission as a direct force and catalyst behind this programme. I shudder to put the question – Are they on the same page?

6.1 Sir, I would like place a few facts about the utilities for your consideration. CMD of APCPDCL claimed that the standards of performance (SOP) of AP utilities are one of the best in the country. Every year the utilities come out with reports of achieving almost 100% of every parameter under SOP. There is no way of verifying it. Given the ground experience it is difficult to accept the claims of the utilities. This indicated the need to subject the claims of utilities to third party verification. A few years back the APERC commissioned the Centre for Good Governance, Hyderabad to examine the utilities claims on SOP. And the study showed that the claims of the utilities need to be taken with a pinch of salt. Instead of presenting a long list of inadequacies of electricity utilities in AP with this letter I am enclosing photos of meters/meter boxes in heaps in the premises of a Meter Testing Lab in Chittoor, one of the circles in Southern DISCOM. The situation is not different in 24 other circles in the state. As pictures themselves speak eloquently I do not like to go into details.

6.2 The APERC issued SOP Regulation in the year 2004. Along with performance standards for each parameter the Regulations also include compensation to the consumers in case utilities fail to perform according to the set standards. This compensation was split in to two kinds – compensation it affects one consumer only and compensation if it affects more than one consumer. Most of the consumers in the state are not aware of their entitlements under these Regulations. The fact that the number of consumers who were paid compensation did not cross single digit in any of the four DISCOMs in the state in spite of the poor quality of power supplied show the level of awareness of the consumers in the state. There was no initiative either from the Commission or from the utilities to create awareness among the electricity consumers in the state.

7. Respected Sir, given the onerous responsibilities placed on your shoulders in the form of overseeing the working of more than 20 ERCs in the country it certainly will be difficult to pay more attention to one ERC, that too an ERC that was known to be one of the best in the country. But the crucial issue is it needs to be rescued before it becomes the worst.

The Appellate Tribunal for Electricity's observations in Appeal No. 12 of 2011 and I.A. 18 of 2011 show that already some complaints on working of APERC have come before the Hon'ble Chairperson and other members of ATE and that you have taken cognizance of the matter. Given the magnitude of the

problem what is needed is decisive action to set the house in order. We are also of the understanding that the Electricity Act, 2003 has invested the Office of the Chairperson of the Appellate Tribunal for Electricity with substantial powers to see that the ERCs function effectively and efficiently.

Through this letter we request you to see that former glory of APERC is restored and interests of the electricity consumers are protected in Andhra Pradesh.

Thanking you.

Sincerely yours,

M. Thimma Reddy,

Convenor.

Copy to:

Hon'ble Sri. Mahesh B. Lal, (Technical Member – ATE)

Hon'ble Sri. Rakesh Nath, (Technical Member – ATE)

Hon'ble Justice Sri. Partha Sakha Datta, (Judicial Member – ATE)

Hon'ble Sri. V. J. Talwar, (Technical Member – ATE)

Hon'ble Sri. Justice C. V. Nagarjuna Reddy, (Judge, High Court of AP)

Mr. K. Sahay, (Registrar- ATE)

Principal Secretary, Department of Energy, GoAP