



Delhi Electricity Regulatory Commission

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

F.11(1804)/DERC/2020-21

Petition No. 39/2020

Under Section 142 of the Electricity Act, 2003

In the matter of:

Rakesh Kumar Goyal

..... **Petitioner**

VERSUS

**Tata Power Delhi Distribution Ltd.
Through its: M.D**

..... **Respondent**

CORAM:

**Hon'ble Shri Justice Shabihul Hasnain 'Shastri', Chairperson
Hon'ble Dr. A. K. Ambasht, Member**

Appearance:

Mr. Bhagwat Aggarwal, Advocate for the Petitioner.

Mr. Manish Kumar Srivastava, Advocate for the Respondent.

ORDER

(Date of Order: 09.06.2022)

1. The Petitioner, Rakesh Kumar Goyal has filed the present Petition under Section 142 of the Electricity Act, 2003 against Tata Power Delhi Distribution Limited. for violation of the procedure laid down in the Regulations of the Delhi Electricity Regulatory (Supply Code and Performance Standards) Regulations, 2017.
2. The Petitioner in the petition has prayed for imposing penalty on the Respondent Company for contravention of violation of the procedure laid down in the Regulations 32(8)(i), 55(4), 63(2), 63(4) of the Delhi Electricity Regulatory Commission (Supply Code and Performance Standards Regulations), 2017 (hereinafter in short referred to as DERC Supply Code, 2017).
3. The Respondent in its reply against the notice issued by the Commission dealt with each violation under the DERC Supply Code, 2017 and refuted the allegation made by the Petitioner.

4. On the last date of hearing on 05.05.2022, both the parties had made their submissions and completed their arguments.

5. Considering the submissions and arguments put forth by the parties, the findings of the Commission are as follows:

(a)With regard to the violation of Regulation 32(8)(i) of DERC Supply code,2017, the Petitioner has alleged that meter was not tested in an accredited lab notified by the Commission. Per contra, the Respondent has submitted that, Since the ERTL, which was notified by this Commission has expressed its inability to test the meters on a number of occasions, the Respondent has been constrained to forward the suspected meters for testing to the EQDC (Electronic and Quality Development Center). The regulation 32 (8) (i) of DERC Supply Code, 2017 is provides as under;

“If the Licensee suspects a case of unauthorized use of electricity and theft of electricity through a tampered meter, the meter shall be tested in an accredited laboratory notified by the Commission for that purpose:

Provided further that in the absence of an accredited laboratory notified by the Commission, the meter shall be tested in any accredited laboratory other than that of the Licensee”.

The Commission observes that as per the meter testing report submitted by the respondent it is revealed that the meter was got tested in EQDC Lab, which is an accredited Lab, but not notified by the Commission, which in the circumstances due to lack of labs notified by the Commission and due to lack of resources at ERTL labs. For that reason, ERTL has rejected the meter testing most of the time, so, the respondent has been constrained to forward the suspected meter for testing to the EQDC (Electronic and Quality Development Center). It was subsequently notified by the commission vide notification dated 05.09.2018. The above said violation hence is held not attributable to the Respondent.

(b)With regard to the violation Regulation 55 (4) of DERC Supply Code, 2017, the Petitioner in its petition has alleged that the inspection proceeding was not videographed. The Respondent has denied that videography of the inspection was not done by the Respondent and submitted that a copy of the CD was supplied to the complainant along with the Speaking Order dated 16.04.2018.

During the course of final hearing on 05.05. 2022, the Petitioner withdrew the allegation on this count and did not press this issue.

Since the Petitioner has withdrawn the allegation, therefore the Commission views it that the Respondent has not committed the alleged violation.

(c)With regard to allegation for violation of Regulation 63 (2) of DERC Supply Code, 2017, the Petitioner has alleged that the inspection was carried out on 27.02.2018 and Respondent has assessed the theft bill for the period of 12 months preceding the date of inspection i.e. from 28.02.2017 to 27.02.2018, whereas the last inspection was carried out on 21.06.2019 when the seals of the meter box, etc. were replaced and data of the meter was downloaded. The action of the Respondent is against the Regulation because as per this regulation, the bill of theft of energy was required to be raised for the actual period based on the factors mentioned in the Regulation.

The Respondent has clarified that the allegation that the theft bill raised upon the Petitioner between 28.02.2017 to 27.02.2018 is in violation of the Regulation 63(2)(iii) is baseless and without any proof. It has been submitted that no checking of installation has been conducted by the Authorized officer of the Respondent hence the Regulation 63(2)(iii) does not apply in the present case. The Regulation 63(2)(iii) states that the actual period shall be assessed on the basis of preceding checking by authorized officer to the date of inspection. However, in the present case no document has been placed on record by the complainant evidencing that any such checking was done by any authorized officer of the Respondent.

The Regulation 63(2) of DERC Supply Code, 2017, stipulates as follows;

“The period of assessment for theft of electricity shall be for a period of 12 (twelve) months preceding the date of detection of theft of electricity or the exact period of theft if determined, whichever is less.

Provided further that period of theft of electricity shall be assessed based on the following factors: -

- (i) actual period from the date of commencement of supply to the date of inspection;*
- (ii) actual period from the date of replacement of component of metering system in which the evidence is detected to the date of inspection;*
- (iii) actual period from the date of preceding checking of installation by authorized officer to date of inspection;*
- (iv) data recorded in the energy meter memory wherever available.*
- (v) based on the document being relied upon by the accused person.”*

The Commission observes that downloading of data on 12.02.2018 for the purpose of meter reading and re-fixing of seal of meter box cannot be termed as 'inspection', nor the data downloaded by meter reader can be treated as "data recorded in the energy meter memory" in terms of Regulation 63(2). Hence, the Respondent cannot be held liable for violation of the provisions of Regulation 63 (2) (iii) of the DERC Supply Code Regulations, 2017.

(d)With regard to allegation for violation of Regulation 63 (4) of DERC Supply Code, 2017, the Petitioner submitted that the respondent was required to deduct the number of units consumed from the assessed units but in the present case the respondent failed to deduct the number of units consumed from the assessed units.

Per Contra, the Respondent has refuted the allegation of the Petitioner and stated that the various factors mentioned in the regulation 63(4) were duly followed.

Regulation 63(4) of DERC Supply Code,2017, states as follows;

“While making the assessment bill, the Licensee shall give credit to the consumer for the electricity units already paid by the consumer for the period of the assessment bill.”

It is observed from the document (annexure R8, Page No. 86 and 87) submitted by the Respondent, that the Respondent has given credit to the Petitioner in assessment bill. Therefore, Commission holds that the Respondent has not violated the above said provision of the Regulation.

6. For the reasons recorded above, the Petitioner has failed to prove the violations against the Respondent company with the supportive documents hence, Commission found Respondent has not violated any regulation of DERC Supply Code, 2017.

7. The Petition is disposed of and ordered accordingly.

Sd/-
(Dr. A.K. Ambasht)
Member

Sd/-
(Justice Shabihul Hasnain ‘Shastri’)
Chairperson