



Delhi Electricity Regulatory Commission

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

F.11(1672)/DERC/2018-19

Petition No. 22/2019

Under section 142 of the Electricity Act, 2003

In the matter of:

Sh. Ravi Aggarwal

.....Petitioner

Versus

Tata Power Delhi Distribution Ltd.

.....Respondent

Coram:

Hon'ble Sh. Justice S S Chauhan, Chairperson

Hon'ble Sh. A.K. Singhal, Member

Hon'ble Dr. A.K. Ambast, Member

Appearance:

1. Shri B P Agarwal, Counsel for the Petitioner;
2. Shri Manish Srivastava, Advocate for Respondent;

ORDER

(Date of Order: 09.11.2020)

1. The instant Petition has been filed by Ravi Aggarwal, under Section 142 of the Electricity Act, 2003 against Tata Power Delhi Distribution Ltd. for violation of the procedure laid down in the DERC (Supply Code and Performance Standards) Regulations, 2017 (hereinafter referred to as SOP Regulations, 2017).
2. The Petitioner has alleged that while booking the case of theft of electricity, (Meter tampering), the Respondent has violated provisions of Regulations of SOP Regulations, 2017.
3. After considering the submissions made by the Respondent and after being satisfied by the Commission that the Respondent has prima facie violated provisions of SOP Regulations, 2017, vide Interim Order dated 10.01.2020, a Show-cause notice was issued to the Respondent for violation of Regulation 32 (8)(i); Regulation 63 (2) and Regulation 63(4) of SOP Regulations, 2017.
4. The Respondent in its reply to the Show cause Notice denied all the violations and submitted that the Petitioner is indulging in forum shopping and institution of the present complaint is merely an afterthought of the complainant to evade from its

liability to pay the bill raised on account of theft of electricity. The present complaint is liable to be dismissed on this ground alone.

5. On the date of last hearing i.e. on 01.10.2020, both the parties made submissions and completed their arguments. Considering the submissions and arguments put forth by the parties, the Commission's findings are as follows:

a) Violation of Regulation 32 (8) (i) of DERC Supply Code, 2017.

Regulation 32 (8) (i) is as follows: -

(8) Testing of tampered meter: -

(i) If the Licensee suspects a case of unauthorised 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:

The Respondent has clarified that since the ERTL (Electronic Regional Test Laboratory), which was notified by this Hon'ble Commission has expressed its inability to test the meters on a number of occasions, the Respondent has been constrained to forward the suspect meters for testing to the EQDC (Electronic and Quality Development Center). It is also submitted that the complainant has raised the baseless argument against the respondent for violation of the DERC Regulations, 2017 as the results of the EDQC, in terms of report from the forensic lab (M/S Truth Labs.), clearly establishes a case of theft of electricity by the complainant. It has further submitted that it has informed this Commission on a number of occasions regarding the inability of the ERTL to test the individual suspected meters in its laboratory.

The Commission observes that the EDQC Lab, where the meter was tested is an accredited laboratory but not notified by the Commission. If the law requires to do a thing in a particular manner it should be done in that manner only, other modes are prohibited. Therefore, the action of Respondent in getting the meter tested in a third party NABL accredited lab is considered as violation of the provisions of the Regulations. Hence, the Respondent is held liable for violation of Regulation 32 (8) (i) of SOP, Regulations, 2017.

b) Violation of Regulation 63 (2) of DERC Supply Code, 2017

Regulation 63 (2) is as follows: -

(2) 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 Petitioner alleged that the inspection was carried out on 08.07.2018 and Respondent has assessed the theft bill for the period of 12 months preceding the date of inspection i.e. from 08.07.2017 to 07.07.2018, whereas the last inspection was carried out on 30.06.2018 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 08.07.2017 to 07.07.2018 is in violation of the Regulation 63(2)(iii) is baseless and without any proof. It has 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. It is submitted that the complainant has wrongly mentioned the date of inspection as 30.06.2018 as on the said date the official of the Respondent only downloaded the date of the meter and the same was not an inspection. The Regulation 63(2)(ii) 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 Commission observes that downloading of data on 30.06.2018 for the purpose of meter reading and re-fixing of seal of meter box cannot be termed as 'inspection' neither the data downloaded by meter reader can be treated as "data recorded in the energy meter memory" in terms of Regulation 63(2)(ii) & (iii), respectively. Therefore, the contention of Petitioner that assessment has to be made from 30.06.2018 fails on merit. Hence, the Respondent cannot be held liable for violation of the provisions of Regulation 63 (2) (iii) of the SOP Regulations, 2017.

c) Violation of Regulation 63 (4) of DERC Supply Code, 2017

Regulation 63 (4) is as follows: -

(4) 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.

The allegation by the Petitioner is that while making the assessment bill, the Respondent has not given credit for the electricity units already paid, rather the

amount paid by the consumer during the period of assessment has been adjusted.

The Respondent has submitted that while preparing final bill, as per methodology adopted by the Respondent, amount already paid during the period of assessment has already been deducted from the final amount in the assessment bill of the Petitioner. Therefore, adjustment for regular bill paid by the Petitioner has already been given in the Final Assessment bill. It has further submitted that taking the observation of the Hon'ble Commission in consideration, it undertakes to revise the bill of the Petitioner as per methodology stated by the Hon'ble Commission in the Interim order dated 10.01.2020. Consequently, the Respondent has submitted a rectified bill wherein in place of amount paid, the units have been deducted from the assessed units. On the revised bill issued, the Petitioner has some concern about conversion of kWh units into kVAh units, which does not require deliberations by this Commission. The Respondent is supposed to clarify it to the Petitioner.

The Commission observed that it was incumbent upon the Respondent to adjust the electricity units already paid by the consumer for the period of the assessment bill and not the amount already paid by the consumer. Such practice tantamount to violation on the part of the Respondent. However, the Respondent has submitted that it has rectified the bill after adjustment of electricity units already paid by the consumer for the period of assessment of bill.

Considering the submission of the Respondent that adjustment of amount paid from the assessed bill was due to misunderstanding of the provisions of the Regulations and keeping in view the action of the Respondent whereby it has rectified the bill and has given due credit of units to the Petitioner, the Commission being satisfied has not imposed penalty on the Respondent in this regard, however, at the same time the Respondent is cautioned that it has to be more careful about the provisions of this Regulation and any such violation in future shall make it liable for an exemplary penalty.

6. For the reasons recorded above, the Commission imposes a penalty of Rs. 10,000/- (ten thousand only) in respect of violation of Regulation 32 (8) (i). The amount of penalty has to be paid within 30 days of the order.
7. The petition is disposed of and ordered accordingly.

Sd/-
(A.K. Ambasht)
Member

Sd/-
(A.K. Singhal)
Member

Sd/-
(Justice S S Chauhan)
Chairperson