

DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110 017

F.11 (1269)/DERC/2015-16

Petition No. 59/2015

Under section 142 of the Electricity Act, 2003

In the matter of:

Amar Singh
4/779, Main Road,
Near Mani Ram Mandir,
Bhola Nath Nagar,
Shahdara, Delhi – 110032

.....**Complainant**

VERSUS

BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
New Delhi – 110092

.....**Respondent**

Coram:

Sh. Krishna Saini, Chairperson & Sh. B.P. Singh, Member

Appearance:

1. Shri Madan Lal, on behalf of the Petitioner;
2. Shri Ravnesh Mohan, Advocate for the Petitioner;
3. Shri Manish Srivastava, Advocate for Respondent.
4. Shri Arav Kapoor, Advocate for Respondent;
5. Shri Imran Siddiqi, Legal Officer, BYPL;
6. Shri Munish Nagpal, Sr. Manager, BYPL.

INTERIM ORDER

(Date of Hearing: 14.07.2016)

(Date of Order: 03.08.2016)

1. The instant petition has been filed by Sh. Amar Singh, under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid down in the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

2. A notice of the petition was issued on 11.08.2015 to Respondent to file its reply. In response to the above notice, the Respondent filed its reply on 16.10.2015.
3. The matter was listed for hearing on 14.07.2015, wherein the Counsel/representatives of both the parties were present. The Commission heard both the parties at length.
4. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission decided that the petition may be admitted as there exists a prima-facie case of violations of following Regulations:-

a) Violation of Reg. 52 (viii) of DERC Supply Code, 2007

Regulation 52 (viii) provides that:-

In case of suspected theft, the Authorised Officer shall Remove the old meter under a seizure memo and seal it in the presence of the consumer/ his representative. The Licensee shall continue the supply to the consumer with a new meter. The old meter shall be tested in a NABL accredited laboratory and the laboratory shall give a test report, in writing, which along with photographs/ videographs shall constitute evidence thereof.

As per Regulation, it is mandatory on the part of the Respondent to prepare Seizure Memo at the time of inspection and removal of the meter. However, the Commission observed that the meter was not seized at the time of its removal on 06.10.2014 as no copy of the seizure memo to that effect was furnished to the complainant. As per the Respondent, the seizure memo was prepared on 17.03.2015 i.e. at the time of second inspection. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

b) Violation of Regulation 52 (ix) of DERC Supply Code, 2007

Regulation 52 (ix) provides that:-

..... a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photographed. Simultaneously, the report shall be sent to the consumer under Registered Post.

The Commission observed that there is no proof on record to establish that the Respondent has made the Report at site and that it was handed over to the Petitioner or pasted at a conspicuous place in the premises or was sent to the consumer under a registered post. Further, along with the show cause notice, no copy of photographs/videography was supplied. Hence, it appears that the Respondent has apparently contravened the aforesaid provisions of Regulation 52 (ix) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

c) Violation of Provision to Regulation 52 (ix) of DERC Supply Code, 2007

Provision to Regulation 52 (ix) provides that:-

Provided that, in case of suspected theft, if the consumption pattern for last one year is reasonably uniform and is not less than 75% of the assessed consumption, no further proceedings shall be taken and the decision shall be communicated to the consumer under proper receipt within three days and connection shall be restored through original meter.

The Respondent submitted that the consumption was 15.69% of the assessed consumption. However, no supporting calculation for assessment is provided to verify the fact. Hence, it appears that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

d) Violations of Regulation 52 (x) and 52(xi) of DERC Supply Code, 2007

Regulation 52 (x) provides that:-

.....the Licensee shall, within seven days of inspection, serve on the consumer a seven days show cause notice giving reasons, as to why a case of theft

should not be booked against such consumer giving full details for arriving at such decision and points on which reply to be submitted.

Regulation 52 (xi) provides that:-

.....In case show cause notice is not served even after thirty days from date of inspection, the case of suspected theft shall be considered as dropped and no further action can be initiated against the consumer

Available records reveal that the meter was removed on 06.10.2014 and was tested in the Lab on 05.01.2015. The Show cause notice was issued on 17.03.2015 i.e. after 2 months 12 days even from the date of meter testing. Though the Respondent has submitted that a subsequent inspection was made on 17.03.2015 but failed to explain the reason for such subsequent inspection. The stipulated period of 30 days for issue of Show cause notice was violated. Secondly two Show cause notices were issued and two Personal hearings were held, whereas there is no provision of repeated Show cause notices and Personal hearings. Hence, the Respondent has apparently contravened the provisions of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

5. In view of the aforesaid, the Respondent is hereby directed to show cause as to why action u/s 142 of the Electricity Act, 2003 should not be taken against it for prima-facie violation of above Regulations. The Respondent is directed to file its reply within four weeks from the date of receipt of this notice and to serve a copy of the same to the complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week of above filing.
6. Take notice that in case the Respondent above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be

presumed that the Respondent has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.

7. The next date of hearing shall be intimated to the parties in due course.
8. Ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(Krishna Saini)
Chairperson