

Delhi Electricity Regulatory Commission

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

No. F. 11(641)/DERC/2010-11/2678

Petition No. 84/2010

In the matter of: Petition under Section 142 of the Electricity Act, 2003

In the matter of:

Smt. Vinita
D/o Shri B N Bhanot
E-8, Maurice Nagar
University of Delhi
Delhi

...Petitioner

Versus

M/s Tata Power Delhi Distribution Ltd.
Through its: CEO
Grid Sub-Station Building
Hudson Lines, Kingsway Camp,
Delhi-110009

...Respondent

Coram:

Sh. P. D. Sudhakar, Chairperson & Sh. J. P. Singh, Member.

Appearance:

1. Shri B P Agarwal, Counsel for the Petitioner.
2. Sh. Manish Srivastav, Counsel for the Respondent (TPDDL)
3. Sh. O P Singh, Sr. Manager, TPDDL.
4. Sh. Shailender, Sr. Manager, TPDDL.
5. Shri K Dutta, Advocate for the Respondent.
6. Shri Ashish Singh, Executive, TPDDL.

INTERIM ORDER

(Date of Hearing: 19.12.2013)

(Date of Order: 31.12.2013)

1. The instant petition has been filed by Smt. Vinita, under Section 142 of the Electricity Act, 2003 against Tata Power Delhi Distribution Ltd. for violation of the procedure laid down in Regulations 52 and 53 of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 while booking the case of theft.
2. In her petition, the Petitioner has mentioned about two DAE cases made against her. It is understood that the first DAE case, resulted due to inspection conducted on 22.7.2009, stands settled. Whereas, about the second DAE case, due to inspection conducted on

12.7.2010, she has alleged that while booking a false DAE case against her, procedure laid down under DERC Supply Code, 2007 has not been duly followed and has submitted that following violations have been committed by the Respondent:

- a) Regulation 52(viii) –
 - I. No Seizure memo was prepared when the inspection was conducted.
 - II. The meter was not sent to an NABL accredited laboratory for testing before making the allegation.
 - III. No Photographs/videographs was supplied along with the show cause notice.
- b) Regulation 52 (xii) - the respondent has not downloaded the data from the meter despite an electronic meter installed at the house of the complainant.
- c) Regulation 53(ii) - Speaking order was not issued within 3 days from the date of personal hearing.
- d) Regulation 2(n) – Connected load was increased without properly calculating it.
- e) Section 126(5) of the Electricity Act, 2003 – the period of assessment was not properly calculated and assessment bill was sent for a period even prior to the date of change of meter.

3. In response to the above notice, the Respondent filed its reply on 13.03.2013 and has sought dismissal of the above complaint on the following grounds that:

- i. The Commission has no jurisdiction to entertain the present complaint.
- ii. The old meter was sealed at site in her presence and was sent to the lab.
- iii. During the inspection the following anomalies were discovered in the meter:
 - a. Load of 8.567 KW against the sanctioned load of 8.00 KW for domestic light.
 - b. Meter box seals were found tampered.
 - c. Meter terminal seals were found tampered.
 - d. A device inserted inside the meter body to manipulate the recorded consumption.

4. The matter was listed for hearing on 19.12.2013 whereby representatives of both the parties were present.
5. The Commission heard both the parties. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission is of the opinion that the petition may be admitted as the Respondent prima-facie appears to be responsible for the following violations:-

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.

The Commission observed that the Respondent failed to produce evidence of Seizure memo when the inspection was conducted, and getting the meter tested in an NABL accredited lab. Further, along with the show cause notice, no copy of photographs/videography was supplied. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

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

Regulation 52 (xii) provides that:-

..... Theft of electricity may be established by analysis of metering data down-loaded by a third party authorized laboratory. In case theft of energy is determined by way of meter down load, the show cause notice will be sent to the consumer/user.

The Commission observed that the above Regulation provides that the theft of electricity may be established by analysis of metering data down-loaded by a third party authorized laboratory. However, in the instant case it appears that the Respondent has not downloaded data from the meter and therefore, violated the above provision.

c) Violation of Regulation 53 (ii) of DERC Supply Code, 2007

Regulation 52 (xii) provides that:-

.....During the personal hearing, the Licensee shall give due consideration to the facts submitted by the consumer and pass within three days, a speaking order as to whether the case of theft is established or not. Speaking order shall contain the brief of inspection report, submissions made by the consumers in his written reply and oral submissions during personal hearing and reasons for acceptance or rejection of the same.....

In this regard, it has been observed the Respondent in its show cause notice dated 11.08.2010 has directed the complainant to appear for personal hearing on 19.08.2010. The complainant replied the same vide its letter dated 18.08.2010. However, the speaking order was issued on 16.09.2010. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

d) Violation of Regulation 2(n) of DERC Supply Code, 2007

Regulation 2(n) provides that:-

***"Connected load"** means aggregate of the manufacture's rating of all energy consuming devices in the consumer's premises, which can be simultaneously used. This shall not include the load of spare plug, sockets, load exclusively installed for firefighting purposes. Only heating or cooling apparatus shall be taken into account as per prevailing season....*

In this regard, it has been observed that the connected load was not properly calculated. Heating devices and cooling devices both have been considered for connected load. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

e) Violation of Section 126(5) of the Electricity Act, 2003

Section 126(5) provides that:-

*If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, **the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place** and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.*

These provisions have not been complied with since the bill was raised for the period 13.07.2009 to 12.07.2010, whereas the meter was installed on 11.08.2209. Hence, it appears that the

Respondent has contravened to the provisions of DERC Supply Code, 2007.

6. In view of the above-mentioned findings, the Respondent above-named is hereby directed to show cause as to why proceeding u/s 142 of the Electricity Act, 2003 should not be initiated against it for prima-facie violation of above Regulations. The Respondent is directed to file its reply within four weeks from the 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.
7. Take notice that in case the Licensee above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Licensee has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.
8. The next date of hearing shall be intimated to the parties in due course.
9. Ordered accordingly.

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson