

Delhi Electricity Regulatory Commission

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

No. F.11(625)/DERC/2010-11/C.F.No.2604/506

Petition No. 40/2010

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

AND

In the matter of:

Akram (User) &
Sh. Abdul Khaliq
B-48/4, Joshi Colony,
Mandawali, Fazalpur,
Delhi-110 092

...Petitioner

VERSUS

BSES Yamuna Power Limited
Through its : CEO
Shakti Kiran Building,
Karkardooma,
Delhi-110 092

....Respondent

Coram:

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

Appearance:

1. Shri A.K. Dutta & Shri H M Sharma, Attorney for the Petitioner;
2. Shri Manish Srivastava, Advocate for Respondent;
3. Shri Manish Nagpal, Manager (Legal), of Respondent;
4. Ms. Ishani Chandra, Retainer, BYPL.

INTERIM ORDER

Date of Hearing: 17.10.2013
(Date of Order: 08.11.2013)

1. This instant petition has been filed by Shri Akram/Abdul Khaliq under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of Regulations of DERC Supply Code, 2007.
2. The Commission vide its Order dated 01.05.2012 referred the matter to the CGRF-BYPL for deciding the billing dispute and also to give its findings on the allegations of violations of Regulations of DERC after giving both the parties full opportunities for representing their case.

3. In reference to the above Order of the Commission, the CGRF-BYPL vide its Order dated 30.04.2013 has observed and found the Respondent in contravention of following Regulations of DERC Supply Code, 2007.
 - i. Regulation 52 (viii) of DERC Supply Code, 2007.
 - ii. Regulation 52 (ix) of DERC Supply Code, 2007.
 - iii. Regulation 52 (x) of DERC Supply Code, 2007.
 - iv. Regulation 52 (xi) of DERC Supply Code, 2007.
 - v. Regulation 53 (ii) of DERC Supply Code, 2007.

In view of the findings made by the CGRF-BYPL in its Order dated 30.04.2013, it prima-facie appears that it is a case of violations of above Regulations of DERC Supply Code, 2007 committed by the Respondent in the instant matter.

4. At the date of hearing on 8.8.2013, the attorney for the petitioner filed a written statement and submitted that in addition to the violations established by the CGRF, the respondent has also violated provisions of Regulation 52(vii) and 54 of the code. The counsel for the respondent sought time for submission of reply to the additional points raised by the petitioner. The respondent submitted its reply on 7.10.13.
5. The matter was listed for hearing on 17.10.2013. On that day both the parties were present. After considering the written statements and oral submissions of the parties, the Commission observed that prima facie the respondent have not adhered to the provisions of the regulations on certain additional counts also.
6. Apart from 5 violations as established by the CGRF, the Commission observed that there are also clear cut violation of Regulation 54 of Delhi Electricity Supply Code and Performance Standards Regulations, 2007, and Section 56 of Electricity Act, 2003, whereby clear 15 days notice is required for the payment of charges and subsequent disconnection. Whereas, the notices issued by the Discom had provided only two days period for payment of dues. This was also accepted by the Counsel for Respondent.

7. The Commission also observed that Assessment Order did not indicate the basis of calculation, whereas this ought to be provided to a person who is being penalized for an Act of commission or omission. This is also mandated by the Principles of Natural Justice. Even the Regulation 53(iv) says that the "Licensee shall assess the energy consumption for past twelve (12) months as per the assessment formula given in ANNEXE-XIII and prepare final assessment bill on two times the rates as per applicable tariff and serve on the consumer under proper receipt". This implies that the consumer shall be made aware of how the amount of assessment has been calculated, and therefore, not providing the details of assessment, is prima-facie a violation of Regulation 53 (iv).

The Commission was also surprised to note that the amount of assessment bill kept on changing and several payment notices were issued. The Commission expressed its displeasure over the state of affairs in the Discom.

8. Section 57(2) of the Electricity Act, 2003, provides that" *If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecutions be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission: Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.*"

The Petitioner has prayed this Commission for granting compensation also because the Respondent has failed to meet the Standards of Performance specified. The Respondent is put on a show cause as to why compensation be not granted to the Petitioner for alleged violations of Standards of Performance by the Respondent.

9. In view of the above-mentioned findings, the Respondent is directed to show-cause as to why penal action under Section 142 of the Electricity Act, 2003, for violating the Regulations of the code

and provisions of the Electricity Act, 2003 as mentioned in aforesaid paras 3 to 7, should not be taken against it. The Respondent is directed to file its reply within two weeks from the date of this order with service of a copy to the Complainant.

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

Sd/-
(J.P. Singh)
MEMBER

Sd/-
(P.D. Sudhakar)
CHAIRPERSON