

**Delhi Electricity Regulatory Commission**  
**Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 17**

**Petition No. 34/2006**

**In the matter of:**

J.K. Oil Mills,  
189-91, 1A, Lawrence Road,  
Delhi.

**...Complainant**

Through: Shri V.K. Goel, Advocate,  
Ch. No. 749, W.W. Tis Hazari, Delhi.

**VERSUS**

North Delhi Power Ltd.  
Through: its **CEO**  
Sub-Station Building,  
Hudson Lines, Kingsway Camp,  
Delhi-110009.

**...Respondent**

**Coram:**

**Sh. Berjinder Singh, Chairman & Sh. K. Venugopal, Member**

Appearance:

1. Sh. V.K. Goel, Advocate on behalf of the Complainant;
2. Sh. Rakesh Goel, Complainant;
3. Sh. J.K. Goel, Complainant;
4. Sh. Anurag Bansal, Executive Legal, NDPL;
5. Sh. Shishir Singh, Manager;
6. Smt. Anshu Wadhwa, Advocate, NDPL;
7. Sh. Krishnendu Dutta, Advocate, NDPL;
8. Sh. Atul Singh, Advocate, NDPL;
9. Sh. O. P. Singh, AM, NDPL.

**ORDER**

(Date of Hearing: 16.09.2008)  
(Date of Order: 29.10.2008)

1. The case of the Complainant is that he is a registered consumer with K. No.32100138587 (K. No. 321099071566) and sought enhancement of the load of electricity from 78 kw to 200 kw and accordingly, deposited a sum of Rs. 10,000/- on 28.05.2004 but, instead of enhancing the load the Respondent issued a show-cause notice to levy LIP tariff alleging that his consumption exceeded 100 kw on two occasions i.e. 16.08.2005 and 17.09.2005. He represented to the Respondent and submitted that as per law 3% tolerance is permitted in the instrument accuracy and the alleged MDI reading recorded on 17.09.2005 is only marginally higher to 100 kw

and, therefore, is within the permissible limit of 3% tolerance. He further submitted that the overload should persist for 30 minutes continuously whereas, the perusal of the CMRI data revealed that the overload persisted only momentarily and not for half an hour.

2. The Respondent in their reply submitted that the data downloaded from the electronic meter on 25.01.2006 revealed that the maximum demand recorded by the meter was above 100 kw on the following two dates:

<b>Date</b>	<b>Maximum Demand (kW)</b>
06.06.2005	109.72
17.09.2005	101.80

3. The Respondent further submitted that they issued a demand note in response to the application of the Complainant for load enhancement on 18.08.2004. The receipt of the courier for despatching the demand note has also been annexed by the Respondent.
4. Sh. V. K. Goel, Ld. Counsel for the Petitioner, submitted before the Commission that the receipt produced by the Respondent is not reliable. He further submitted that the extract copies of the register also did not establish that the demand note was actually dispatched. He further submitted that the Respondent have now produced the receipt and the extract copies of the register, when the Commission had specifically directed them to do so; why they could not produce these documents earlier alongwith their reply is a question to be considered by the Commission.
5. The Counsel for the Respondent Sh. Krishnendu Datta, on the other hand, pleaded that the case pertains to the period of 2004, therefore, it was difficult to locate the relevant record and it took sometime to find out the record.
6. After going through the pleadings and hearing the arguments on both sides mainly two issues have emerged:
  - (i) Enhancement of load;
  - (ii) Levying of LIP penalty.

7. As regards the first issue it is not disputed that Complainant had applied for load enhancement on 28.05.2004 and deposited a sum of Rs. 10,000/-. The dispute is with respect to the demand note and whether it was ever raised by the Respondent or not. In this regard the provisions of Section 171 of the Electricity Act, 2003 and Regulation 16 of the Delhi Electricity Regulatory Commission Comprehensive (Conduct of Business) Regulations, 2001 are relevant and reproduced below:

**ELELCTRICITY ACT, 2003**

***"171. Services of notices, orders or documents:***

1. *Every notice, order or document by or under this Act required, or authorised to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt therefor or by registered post or such means of delivery as may be prescribed -*
  - a) *where the Appropriate Government is the addressee, at the office of such officer as the Appropriate Government may prescribe in this behalf;*
  - b) *where the Appropriate Commission is the addressee, at the office of the Appropriate Commission;*
  - c) *where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the head office of the company in India;*
  - d) *where any other person is the addressee, at the usual or last known place of abode or business of the person.*
2. *Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.*

***Additional mode of delivery as notified by the Government of India vide 'The means of delivery, order or documents' Rules, 2004, notified on 21.06.2004-***

*Every notice, order or document by or under this Act required, or authorised to be addressed to any person may in addition to the means provided in sub-section (1) of Section 171 may also be delivered by any of the following means:*

- a) *Through special messenger and obtaining signed acknowledgement; or*
- b) *By telegraphic message, or*
- c) *By fax, or*
- d) *By e-mail.*

**DELHI ELECTRICITY REGULATORY COMMISSION COMPREHENSIVE (CONDUCT OF BUSINESS) REGULATIONS, 2001**

**16. Service of notices and processes issued by the Commission**

- (i) Any notice, process or summons to be issued by the Commission may be served by any one or more of the following modes as may be directed by the Commission:
  - (a) service by any of the parties to the proceedings as may be directed by the Commission;
  - (b) by hand delivery through a messenger;
  - (c) by registered post with acknowledgement due;
  - (d) by publication in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices, processes, etc. on any person in the manner mentioned above.
  - (e) in any other manner as considered appropriate by the Commission.
- (ii) -----
- (iii) -----
- (iv) -----
- (v) Where a notice is served by a party to the proceedings either in person or through registered post, an affidavit of service shall be filed by such party with the Commission giving details of the date and manner of service of notices and processes.
- (vi) Where any Petition is required to be published, it shall be published in the newspapers in such form to be specified, for such duration and within such time as the Commission may direct.
- (vii) -----
- (viii) No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient, and no proceeding shall be invalidated by reason of any defect or irregularity unless the Commission, on an objection taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so"

8. In the instant case the Respondent have produced the dispatch receipt of DTDC to establish that the demand note was sent to the Petitioner through courier to be served upon him. However, there is no document to show that the demand note was actually served upon the Petitioner as no acknowledgement or any other document to establish this aspect has been produced by the Respondent. It is on record that the Petitioner had deposited an amount of Rs.10,000/- way back on 28<sup>th</sup> May, 2004 for load enhancement which issue remains pending till date due to one reason or the other. The stand of the Petitioner has been that he never received the demand note from the Respondent and therefore, could not deposit any further amount. On the other hand, the Respondent have recently produced the dispatch receipt which they could not do earlier when the opportunity was given to them. The conduct of the Petitioner has also not been above board as he could not give any satisfactory explanation as

to why he maintained silence for all these years after depositing an amount of Rs.10,000/- in May, 2004, even when the Respondent have not responded to his request after depositing this amount. He seems to have become active over this issue only when the assessment bill on LIP tariff was raised against him.

9. After considering all aspects of the matter, the Commission directs that the amount of Rs.10,000/- deposited by the Petitioner on 28.04.2004 shall be refunded to him along with 9% interest being the rate which is normally provided by banks for term deposits of this duration, from the date of deposit till it is refunded by the Respondent. In case, the Petitioner intends to get the load enhanced, the same shall be done by the Respondent on priority after levying charges at the present rate. On the second issue for levying LIP penalty by the Respondent, it has been brought to our notice that Maximum Demand Indicator (MDI) reading can only be recorded if such maximum demand had continuously persisted for more than half an hour. That being so, the plea of the Petitioner that the CMRI data revealed that the over load persisted only momentarily and not for half an hour, is not tenable and cannot be accepted. However, the matter being very old and the Petitioner having already undergone a lot of harassment over the last 3-4 years and has also not been provided with enhanced load, the Commission feels that charging the Petitioner on LIP rates at this point of time would not be appropriate. Let the Respondent raise a revised bill without charging LIP tariff. The Respondent is further advised to ensure that such matters are resolved in a time-bound manner and not allowed to be dragged for years leading to avoidable harassment to consumers and bringing bad name to the company.
10. The Respondent is directed to resolve the matter in the light of above directions/observations and submit compliance report to the Commission within four weeks from date of receipt of this Order.
11. Ordered accordingly.

Sd/-  
(K. Venugopal)  
MEMBER

Sd/-  
(Berjinder Singh)  
CHAIRMAN