

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

No. F.11 (1080)/DERC/2013-14/4236

Petition No. 07/2014

In the matter of: Complaint filed under section 142 of Electricity Act, 2003

And

In the matter of:

Smt. Kamlesh
W/o Late Sh. Inder Singh
R/o 408/5 Gali No. 29,
Nai Basti, Anand Parwat,
New Delhi – 110005

.....**Complainant**

VERSUS

BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
New Delhi – 110032

.....**Respondent**

Coram:

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

Appearance:

1. Petitioner in person.
2. Shri S. B. Pandey, Counsel for the Petitioner.
3. Shri I U Siddiqui, Legal Officer, BYPL.
4. Shri Munish Nagpal, Sr. Manager, BYPL.
5. Shri Manish Srivastava, Advocate for Respondent.
6. Shri K. Datta, Advocate for Respondent

ORDER

(Date of Order: 24.06.2015)

1. The instant petition has been filed by Smt. Kamlesh under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid down of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. In her petition, the Petitioner has alleged that the specific procedure as laid down in the Regulations has not been followed by the Respondent while booking a DAE case against her. She has further alleged the violation of

Regulation 40, where the burnt meter was replaced after one month instead of 3 days upon receiving the complaint by the complainant.

3. The matter was admitted and vide Interim Order dated 07.01.2015, the Commission directed the Respondent to show cause on the prima facie findings of violation of Regulations 40, 52(vi), 52(viii), 52 (ix), 52(xi), 52(xii) and 52(viii) read with 38(C) of Delhi Electricity Supply Code & Performance Standards Regulations, 2007. The Respondent filed its reply to the above Show Cause Notice on 17.03.2015.
4. The matter was listed for hearing in the Commission on 12.06.2015, which was attended by the Counsel/representatives of the petitioner and of the Respondent. The Commission heard both the parties at length.
5. On the basis of submissions made by the parties, Commission's findings on violation of provisions of Delhi Electricity Supply Code & Performance Standards Regulations, 2007 are as under:

a) Violation of Regulation 40 (a) of DERC Supply Code, 2007

Regulation 40 (a) provides that:-

In case the meter is found burnt upon inspection by the Licensee on consumer's complaint or otherwise, the Licensee shall restore connection in six hours upon receiving the complaint by bypassing the burnt meter after ensuring that necessary corrective action at site is taken to avoid future damage. New meter shall be provided by the Licensee/consumer, as the case may be, within three days.

The Respondent submitted that the connection was never disconnected by the Respondent and the consumer was getting the electricity without any interruption, hence question of restoration of electricity does not arise. In fact the meter was replaced on 16.05.2013 and the complainant has not submitted any proof to substantiate his claim of meter being burnt one month before meter replacement i.e. 16.05.2013.

Whereas, the Petitioner submitted that she had informed about the burnt meter to Discom over telephone but she could not substantiate her statement by giving exact date of telephone call or complaint number. At the same time, the Respondent was also not in position to give the exact date of complaint on the basis of which, the meter was replaced. However,

keeping in view the fact that the petitioner was getting the power supply and her electric connection was not disconnected, no penalty is imposed on the Respondent.

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

Regulation 52 (vi) provides that:-

No case for theft shall be booked only on account of seals on the meter missing or tampered or breakage of glass window, unless corroborated by consumption pattern of consumer and such other evidence as may be available.

The Respondent submitted that as per Lab report dated 31.05.2013 Meter hologram seals found tampered, meter ultrasonic welding found opened, meter input phase & neutral terminal were found burnt. Further re-soldering spots at CT4 & CT5 for tampering EL LED leg was found cut. Connected load was found Nil against the sanctioned load of 5KW.

The Commission observed that though the Respondent has assessed the average Consumption, it has not assessed the Consumption pattern of consumer whether it was uniform or erratic and other evidences such as renovation work was going on and the connected load was nil. It establishes that the theft was booked on account of seals on the meter tampered and open ultrasonic welding etc. without assessing other evidences as required in the Regulations.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

c) Violation of Regulation 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 Respondent submitted that the Inspection report was prepared at site. On 16.05.2013 the single phase meter was removed and sent the same

to the meter testing lab. Inspection was carried out on 31.07.2013 based on the lab report. The meter was seized thereafter on the date of inspection vide Seizure memo dated 31.07.2013 which was duly signed by consumer.

The Commission observed that the meter was seized after its testing. Whereas the purpose of seizure of a meter is to ensure fairness of meter testing without any further damage/tampering of the meter. Seizure of a meter after its testing defeats the very purpose of seizure and was a futile and cover up effort. In Such a scenario, the seizure memo has no legal validity.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

d) Violation of Reg. 52 (ix) of DERC Supply Code, 2007

Regulation 52 (ix) provides that:-

The report shall be signed by the Authorized Officer and each member of the inspection team and the same must be handed over to the consumer or his/her representative at site immediately under proper receipt. In case of refusal by the consumer or his/her representative to either accept or give a receipt, 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 Respondent has submitted that all inspection reports including load report, show cause notice and seizure memo were duly signed by the consumer. As per the Respondent submissions the inspection was carried out after testing of the meter, whereas it should be first inspection of the installation and thereafter testing of meter.

On the basis of above, the Commission observed that making of such a Report at site even after testing of meter may not serve the purpose, moreover, it was not sent through a Registered Post.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

e) Violation of Regulation 52 (xi) of DERC Supply Code, 2007

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

The Respondent has submitted that Inspection was conducted on 31.07.2013 and not prior. The show cause notice was prepared on the same day of the inspection at the site himself and was duly handed over to the consumer who signed and acknowledged the same. The same is further evidenced from the fact that the consumer himself attended the personal hearing and submitted his written reply on 14.08.2013. i.e. well within the period of 30 days.

In this regard, it has been observed that there is no provision for inspection of premises after testing of the meter. In the case of 'burnt meter', the provision is for examination of the meter subsequent to inspection of the consumer's installation. Moreover, the Show cause notice was issued on 31.07.2013, after two months even from the date of meter testing i.e. 31.05.2013.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

f) Violation of Regulation 52 (viii) read with 38 (C) of DERC Supply Code, 2007.

Regulation 52 (viii) provides that:-

....the old meter shall be tested in a NABL accredited laboratory lab for testing and the laboratory shall give a test report, in writing,

Regulation 38 (C) provides that:-

....the consumer shall be informed of proposed date and time of testing at least two days in advance.

The Respondent has submitted that Regulation 38 (C) is not even applicable in the present case. There is no requirement under Regulation 52 that an intimation letter for testing of meter shall be handed over to the consumer. In any event, an intimation letter dated 16.05.2013 for witnessing the Lab testing was served upon the consumer, which is evident from the fact

that it clearly contains the signature attested by the consumer representative present at the site.

The Commission observed that the contention of the Respondent that Regulation 38(C) is not applicable in the instant case is not acceptable. The meter test report has been adduced as an evidence, therefore legal propriety requires that the meter be tested in the presence of the consumer/representative as per the provisions of Regulation 38(C). Further no copy of the report was sent to the consumer.

The aforesaid act of omission on part of the Respondent comes in purview of violation of said regulation.

6. For the reasons recorded above, the Commission finds the Respondent has violated provisions of Regulations 52(vi), 52(viii), 52 (ix), 52(xi), and 52(viii) read with 38(C) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007. For violation of Regulations 52(vi), 52(viii), 52 (ix), 52(xi), and 52(viii) read with 38(C), the Commission imposes penalty of Rs. 50,000/- (Rs. 10,000/- for each violation) to be paid within 30 days of the order.
7. The petition is disposed of and ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson