

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

C.G. No. 1865/09/08/MGP

In the matter of:

Sh. Lokesh Sharma
M/s N.C.I. Traders Pvt. Ltd.
T-1/123-127,
Mangolpuri Indl. Area Ph. -I,
New Delhi-83.

.....**Complainant**

VERSUS

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

.....**Respondent**

Coram:

**Sh. Berjinder Singh, Chairman, Sh. Shyam Wadhera, Member &
Sh. Subhash R. Sethi, Member.**

Appearance:

1. Sh. Lokesh Sharma, Complainant.
2. Sh. K. Datta, Advocate for NDPL
3. Sh. R.P. Yadav, Advocate for NDPL
4. Sh. Ajay Kalsie, Company Secy., NDPL
5. Sh. K.L. Bhayana, Adviser, NDPL
6. Sh. O.P. Singh, Manager, NDPL

ORDER

(Date of Hearing: 21.01.2010)

(Date of Order: 18.08.2010)

1. The present complaint has been forwarded by the CGRF, recommending imposition of penalty upon the Respondent under Regulation 42 of Chapter IX of DERC Performance Standard Metering and Billing Regulations 2002 for violation of provisions of Regulation 18 of DERC Performance Standard Metering and Billing Regulations 2002.
2. An electric connection on temporary basis vide K.NO. 42100000478 was installed on 24/5/02 in the name of M/s. N.C.I. Traders Pvt. Ltd. The meter installed against this connection was replaced on 20/12/02 with "reading not visible" remarks (endorsement in the meter book sheet refers). The reading of 14027 stands recorded as on 29/11/02. The new meter installed against the temporary connection finally recorded 36511 units as observed on 26/7/03.

3. The permanent connection bearing K.No. 42105006837 was installed on 1/7/03 in place of temporary connection.
4. The respondent, after replacement of meter against the temporary connection on 20/12/02, started raising electricity bills on provisional / average basis sometimes at as applicable for permanent connections.
5. The complainant contends that on payment of Rs.9,960/- as per bill no. 0308006199 raised in the month of August, 2003, the accounts against the temporary connection stand finalized. However, the bill raise is not a 'Final Bill'.
6. The meter installed against the temporary connection was removed on 4/9/04.
7. The respondent has finalized the accounts against the temporary connection as per the applicable tariff considering the final reading as 36511 and has worked out a net amount of Rs. 1,96,850/- as payable after adjusting the payments made by the consumer against the average bills.
8. The complainant vide written arguments submitted on 5/11/08 before the CGRF raised objection to the final demand raised by the respondent on the following grounds :-
 - (i) That as per the recent orders of Govt. of NCT of Delhi circulated vide order no. F11(14)/2007/Power/1278, the demand for the erstwhile DVB period i.e. upto 30/6/02 cannot be claimed and is required to be waived of.
 - (ii) That the respondent has revised the bills from 24/5/02 onwards and as per Section 12(iv) of DERC Regulations, 2002, provisional bills cannot be raised for more than one billing cycle and in case meter is rendered in assessable for two consecutive billing cycle action as per Regulation 18 shall be followed.

Regulation 18 :

“(ii) The consumer shall extend all facilities to the licensee to read the meter.

(iii) In case, for any reason, meter is not read during any billing cycle the licensee shall send a provisional bill based on average consumption of last three billing cycles when readings were taken. Such provisional billing

shall not continue for more than 2 billing cycles at a stretch. The amount so paid shall be adjusted against the bill raised on the basis of actual meter reading during subsequent billing cycles. Alternatively, if the consumer furnishes the meter reading(s) himself the billing for that billing cycle(s) shall be done based on that / those reading (s) subject to adjustment in next billing cycle.

(iv) If the meter is rendered inaccessible on two consecutive meter reading dates, the licensee shall serve a 7 clear days' notice to the consumer under proper receipt, to keep open the premise for taking meter reading on date and time indicated in the notice. If the consumer does not comply with the notice, the licensee shall after expiry of the notice period cut off supply of the consumer for so long as such refusal or failure continues.

(v) When a domestic consumer gives prior information in writing about inaccessibility of the meter to the licensee due to continued absence from residence, the licensee shall not send any notice / provisional bill or higher bill provided he pays the minimum charges in advance for such period. Whenever the meter is made accessible by the consumer for taking the meter reading, the entire consumption shall be taken as if the consumption was for the period excluding the intimated period of inaccessibility. The facility shall be available to the consumer if he has paid upto date dues.

(vi) If the consumer desires to have special reading taken, the same shall be arranged by the licensee on payment of prescribed fee.

(vii) If the provisional billing continues for more than two billing cycles, a penalty as specified in Chapter IX shall be paid by the licensee.

(iii) It has also been stated by the complainant that the during his visit to the office of respondent he was informed that the electricity bill against the temporary connection were raised on permanent tariff and that additional surcharge of 50% on actual reading is required to be recovered. The complainant has argued that this is not tenable as the demand once raised cannot be revised considering the earlier bills raised on provisional basis.

(iv) So the consumer has sought relief on following grounds :-

- a) As the consumer is a private company and already filed its income tax return therefore the deferred expenses as per income tax act are not permissible and heavy charges to the tune of 33% are to be paid by the company to the income tax department in case of seeking any refund.
- b) That as per provision of section 56 (2) of Indian Electricity Act 2003 that the respondent took over from the erstwhile DVB in the month of July, 2002 and took time to strengthen the billing system which resulted in issue of provisional bills for a period of approx. seven months.

Observation of Forum :-

1. The Forum observes that there is no dispute regarding actual consumption of electricity in terms of units as the respondent has finalized the bill on actual readings recorded by the two meters. The supplementary demand has been raised on account of wrong tariff applied earlier.
2. No arrears pertaining to the erstwhile DVB period were outstanding before the coming into effect of DVB period arrears waiver scheme.
3. The issues regarding section 56(2) stands judicially settled as even the appeal filed by the aggrieved party M/s. Sisodia Marbles and Granite Pvt. Ltd. Against the order of Appellate Tribunal for Electricity have been dismissed by Apex Court vide order dated 17.5.07.
4. The respondent has erred in raising provisional bills for more than two billing cycles and as such it invokes the provisions of Regulation 42 Chapter IX of the DERC Regulations 2002. In all, in instant case total eight provisional bills were being raised.

Regulation 42 Chapter IX of the DERC Regulations 2002.

Penalty in case provisional billing continues for more than two billing cycles under Regulation 17

“In case provisional billing continues for more than two billing cycles, penalty of Rs. 500 per such bill shall be payable by the licensee. The licensee shall submit a quarterly statement to the Commission giving zone wise details of such bills (provisional billing continues for more than two billing cycles) along with penalty accumulated on this account during the quarter.”

Written submission/ Reply filed by NDPL (Respondent) :

1. The instant billing dispute pertains to the period (2002-03) during which the business of distribution got transferred from the erstwhile DVB to the successor Discoms including NDPL pursuant to statutory unbundling of the Board.
2. That in the first few years of inception of Discoms multiple issues were pending for streamlining due to legacy, which were timely raised with the Commission and the Commission had also taken a considerable view on the same.
3. In instant matter meter was reported burnt which was subsequently replaced on 20.12.02. However, meter change particulars could be fed in July 2003 and till then, provisional bills were raised for the connection. It is pertinent to mention that during the stated time period, NDPL was going through a phase of reconstruction of the system and creation of new processes was being undertaken. Probably due to these activities, we inadvertently missed to feed the meter change particulars in time and which resulted in billing the consumer on provisional basis.
9. The Commission after taking cognizance on the recommendation of the CGRF made the hearing today where both the parties are present.
10. Sh. K. Datta, Advocate for the BRPL submitted that the instant billing dispute pertains to the period (2002-03) during the which the business of distribution got transferred from the erstwhile DVB to the successor Discoms including NDPL pursuant to statutory unbundling of the Board. That in the first few years of inception of Discoms multiple issues were pending for streamlining due to legacy, which were timely raised with the Commission and the Commission had also taken a considerable view on the same.
11. In the instant matter meter was reported burnt which was subsequently replaced on 20.12.02. However, meter change particulars could be fed in July 2003 and till then, provisional bills were raised for the connection. It is pertinent to mention that during the stated time period, NDPL was going through a phase of reconstruction of the system and creation of new processes was being undertaken. Probably due to these activities, we inadvertently missed to feed

the meter change particulars in time and which resulted in billing the consumer on provisional basis.

Finding of the Commissions :

12. After hearing both the parties and going through the averments / written submissions / findings of the CGRF, Commission is of the opinion that the Licensee is still responsible for raising of incorrect bills.

13. Here the Licensee is directed to make effort to build a system, wherein such incorrect billing should never occur. However, if it occur then it should be dealt with promptly.

14. As far as the punitive action recommended by the CGRF for violation of provisions of Regulation 18 (iv) of DERC Performance Standards Metering and Billing Regulations 2002 by issuing eight times provisional bills to the Plaintiff under Regulation 42 ibid is concerned. The Commission has also found respondent guilty of above violation. Hence, a nominal penalty of Rs.3,000/- for raising of excess six provisional bills @ 500/- per such provisional bill is imposed upon the respondent.

15. The respondent is directed to comply the above order and deposit the above amount in the Commission within 15 days from the date of issue of above order.

The respondent is further directed to circulate the above order to its officers and employees and to issue such instructions that may be necessary so as to avoid violation of the provisions of the Regulations on the subject.

16. Ordered accordingly.

-sd-
(Subhash R. Sethi)
MEMBER

-sd-
(Shyam Wadhwa)
MEMBER

-sd-
(Berjinder Singh)
CHAIRMAN