

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

F.11 (1181)/DERC/2014-15

Petition No. 02/2015

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

And

In the matter of:

Ms. Manshi,
W/o Shri Manjeet Singh,
1006, Khasra. No. 70/1/1,
Village Mangol Pur Kalan,
Delhi – 110085

.....**Complainant**

VERSUS

Tata Power Delhi Distribution Ltd.
Through its: **M.D**
Grid Sub – Station Building,
Hudson Lines, Kingsway Camp
New Delhi – 110009

.....**Respondent**

Coram:

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

Appearance:

1. Shri Manjeet Singh, on behalf of the Petitioner.
2. Sh. Manish Srivastava, Advocate, TPDDL
3. Sh. O P Singh, AGM, TPDDL
4. Sh. Neeraj Singh, AM, TPDDL

ORDER

(Date of Hearing: 18.06.2015)

(Date of Order: 25.06.2015)

1. The instant petition has been filed by Ms. Manshi w/o Shri Manjeet Singh under Section 142 of the Electricity Act, 2003 against Tata Power Delhi Distribution Ltd. for violation of the procedure laid down in the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.
2. The Petition was admitted and vide Interim Order dated 27.03.2015, the Commission directed the Respondent to show cause on the prima facie findings of violation of Regulations 52(x), 52(xii), 53(ii) and 38(C) of Delhi

Electricity Supply Code & Performance Standards Regulations, 2007. The Respondent had filed its reply to the above Show Cause Notice on 28.04.2015.

3. The matter was listed for hearing in the Commission on 18.06.2015, which was attended by the Counsel/representative of the petitioner and on behalf of the Respondent respectively. The Commission heard both the parties at length. During the hearing the Petitioner submitted copies of internal notings of the official record of Respondent Discom pertaining to the present DAE case.
4. On the basis of submissions made by the parties, Commission's findings on violation of following provisions of Delhi Electricity Supply Code & Performance Standards Regulations, 2007 are as under:

a) Violation of Reg. 52 (x) of DERC Supply Code, 2007

Regulation 52 (x) provides that:-

.....the Licensee shall, within seven days of inspection, serve on the consumer a seven days show cause notice giving reasons, as to why a case of theft should not be booked against such consumer giving full details for arriving at such decision and points on which reply to be submitted.

The Respondent submitted that the show cause notice along with the meter testing report was dispatched to the petitioner on 17.09.2014, which was duly received by the Petitioner on 23.09.2014. On a specific query, the Respondent submitted that show cause notice could not be issued within the specified period of 7 days from the date of inspection, i.e. 21.08.2014 since the meter testing report was not available to substantiate the allegations in the show cause notice.

The Commission observed that the meter was tested by the Discom in its own lab after two weeks of inspection and even after receipt of lab report it took five days to issue show cause notice. Regulation 52(x) provides that incase 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 failed to adhere the provisions of the Regulation 52(x) and thereby tantamounts to contravention of the said Regulation.

Hence, the Respondent has contravened the provisions of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

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

Regulation 52 (xii) provides that:-

....theft will not be limited to physical interference with the meter found in physical inspection. It will also include theft committed by resorting to external methods such as remote control/ high voltage injection etc. which interfere with the accurate registration of energy consumed. 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 Respondent submitted that as per inspection report, no physical tampering was found with the meter at site, but the display was showing "tamper" message, on the basis of which, among others parameters, the meter was seized and sent for testing. The Respondent further submitted that theft was established by way of meter download, showing the high voltage events. Consumption pattern of the Petitioner was found 41.29%, which is well beyond the permissible limit of 75% as laid down in Regulation 52(ix) of the SOP, 2007. The Respondent further submitted that as at the time of testing of the meter, no third party NABL accredited lab was authorized, the meter data down load was done in its own lab.

In this regard, the Commission has observed that the Enforcement department had issued the Show Cause notice on the basis of lab Report, consumption pattern and meter data downloaded. In the absence of any authorized lab the data was downloaded by its own lab. Hence, it cannot be conclusively held that the Respondent has contravened the aforesaid provisions of DERC Supply Code, 2007.

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

Regulation 53 (ii) 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 response to the said charge, the Respondent submitted that the first and the second personal hearing were held on 28.10.2014 and 04.12.2014 respectively. The first hearing was not conclusive, hence second hearing was held. Immediately on the next day of second personal hearing, i.e. on 05.12.2014, the speaking order was issued. Therefore, the Respondent contended that, there was no violation of Regulation 53(ii) of DERC Supply Code, 2007.

In this regard, it has been observed that the first personal hearing was held on 28.10.2014. However, no substantial or cogent evidence was brought before the Commission to substantiate that either the petitioner had asked for any other date of personal hearing or the first hearing was not conclusive. Available records reveal that no new facts were brought in the second hearing, hence the second hearing was not required and considered to fill up the gap to fulfill the requirement. Therefore, counting from the date of the first hearing, it is established that the speaking order was issued on 05.12.2014 i.e. after 37 days from the date of first personal hearing. Hence, the Respondent has contravened the extant provisions of DERC Supply Code, 2007, as aforesaid.

d) Violation of Regulation 38 (C) of DERC Supply Code, 2007

Regulation 38 (C) provides that:

The Licensee shall, within fifteen days of receiving the complaint, carry out testing of the meter as per the procedure prescribed herein, and shall furnish duly authenticated test results to the consumer. The consumer shall be informed of proposed date and time of testing at least two days in advance.

The Respondent submitted that the Petitioner deposited fee for inspection of meter on 09.10.2013. Accordingly, records reveal that the Respondent had to undertake inspection by 25.10.2013. Inspection of consumer premises was carried on 19.10.2013. The report thereon and the meter testing report was accordingly signed by the representative of consumer.

On the basis of meter testing Report as submitted by the Respondent, the Commission observed that the meter was tested within the prescribed

period. Hence, there is no Violation of Regulation 38 (C) of DERC Supply Code, 2007.

5. For the reasons recorded above, the Commission holds that the Respondent has violated provisions of Regulations 52 (x) and 53(ii) of the Delhi Electricity Supply Code & Performance Standards Regulations, 2007 and accordingly the Commission imposes penalty of Rs. 20,000/- (Rs. 10,000/- for each violation) to be paid within 30 days of the order.
6. The petition is disposed of and ordered accordingly.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson