

## **DELHI ELECTRICITY REGULATORY COMMISSION**

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

F.11 (525)/2009-10/DERC/C.F.No. 2235/6083

### **Petition No 16/2009**

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

AND

**In the matter of:**

Dr. Mrs. Nirmala Dwarkadas  
B-6-61, Safdarjung Enclave,  
New Delhi – 110 029.

...Complainant

*VERSUS*

BSES Rajdhani Power Ltd.,  
Through its: CEO,  
BSES Bhawan, Nehru Place,  
New Delhi – 110 019.

...Respondent

### **Coram:**

**Sh. P.D. Sudhakar, Chairperson, Sh. Shyam Wadhera, Member &  
Sh .J.P. Singh, Member.**

### **Appearance:**

1. Sh. Avinash Kumar, GM, BRPL;
2. Sh. Vinay Singh, GM, BRPL;
3. Sh. K. Datta, Counsel for BRPL;
4. Sh. Manish Srivastava, Counsel for BRPL;
5. Dr. A.M. Dwarkadas Motiwala, Complainant.

### **ORDER**

(Date of Hearing: 10.01.2012)

(Date of Order: 27.01.2012)

- 1 Dr. Mrs. Nirmala Dwarkadas, B-6-61, Safdarjung Enclave, New Delhi – 110 029, filed a complaint against BRPL.
- 2 The complainant stated that three meters have been installed against under mentioned connections at his premises:
  - i) CRN No.2550061335 (15KW) (Ground Floor),

- ii) CRN No.2550061330 (15KW) (First Floor)
- iii) CRN No.2550061336 (1KW) (Second Floor/Terrace).

- 3 It has also been submitted that despite the orders of DERC the billing cycle, which was for 30 days (as per own statement/bills), has been changed to 60 days without any intimation.
- 4 Further, the bill raised for July, 2009 is more than 50% higher than the bill raised for the same month of the last year i.e. July, 2008.
- 5 The complainant submitted that to cover up its misdeeds / errors the Respondent is trying to falsify / cover up its own bill of July, 2009 where it is clearly shown that the bill is raised for 34 days i.e. 24.07.2009 to 27.08.2009 whereas the licensee in its letters dated 14.09.2009, 03.10.2009 and 8.10.2009 claimed that the bill was raised for 60 days.
- 6 The complainant sought the following:
- a) Stay hike in electricity charges;
  - b) Stay disconnection;
  - c) To impose a penalty on respondent under Section 142 of the Electricity Act, 2003 and to pass an order staying the operation of illegal bill for the month of September, 2009 along with the errors for the disputed month and not to disconnect the electricity till final orders are passed.
- 7 The complainant in his submission dated 28.10.2009, further submitted that the billing cycle pertaining to meter nos. 2550061335 and 2550061330 was changed without any intimation as required as per DERC directions. His third meter CRN no. 2550061336 was changed on 13.08.2009 & against the same meter many provisional bills were raised during 2007 to 2008 which is

a clear cut violation of Delhi Electricity Supply Code & Performance Standards Regulations, 2007.

- 8 Sh. Sunil Shori, Addl. VP, BRPL, who appeared on behalf of the Respondent, submitted that as the present complaint has been filed against provisional billing/billing dispute, therefore, it is not maintainable before this Commission as this Commission has no jurisdiction to decide a billing dispute between the Licensee and the consumer. It is submitted that the relevant Consumer Grievance Redressal Forum for the licensee established under provisions of Electricity Act, 2003 & is the appropriate forum for redressal of his grievances. The Respondent cited some cases decided by the Hon'ble ATE and the Hon'ble APEX Court, wherein, it has been decided that the Commission has no jurisdiction to hear an individual consumer's grievance relating to billing dispute as the same is mandatorily required to be adjudicated by the Forum constituted under Section 42(5) of the Electricity Act, 2003.
- 9 The Respondent further submitted that without prejudice to rights and contentions raised by the Respondent relating to jurisdiction of this Commission, it is submitted that there is no violation on the part of Respondent under Section 142 of the Electricity Act, 2003 or the Indian Electricity Rules, 1956 or Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
- 10 The Respondent submitted that the Complainant is having three connections bearing CRN no. 2550061330, 2550061335 and 255001336. It is submitted that vide letter dated 16.09.2009 the Complainant lodged a complaint relating to CRN no. 2550061335 and 2550061330 alleging that the bills raised in respect of the above said connections are incorrect and excessive against which the Respondent informed the Complainant that the bills raised are correct and there is no infirmity in the bills.

- 11 It is further submitted that on 13.08.2009, the meter in respect of CRN no. 2550061336 was replaced by a new electronic meter bearing no. 24213914 at 1 (one) reading.
- 12 The Respondent submitted that on 22.12.2009 the Respondent inspected the premises of the Complainant and checked all three meters which were found O.K. and a test report was prepared at the site, but the Complainant refused to sign the same. During checking, it was noticed that the internal wiring of the premises has earth leakage and the Complainant was informed about the same & was asked to get it rectified. Further, the official present at the site wanted to serve a notice to this effect, however, the complainant refused to accept the same.
- 13 It is further submitted that on 30.12.2009, a test meter was installed to verify the accuracy of the meter in terms of DERC Guidelines dated 30.10.2009.
- 14 It is further submitted that since the Complainant refused to accept the test report as well as the notice for earth leakage, the notice pertaining to earth leakage dated 15.01.2010 was sent to the Complainant through Speed Post. Further, as per Regulation 37 of Delhi Electricity Supply Code & Performance Standards Regulations, 2007, the Respondent is also informing the consumers through a special message on the face of the bills, in case of any earth leakage, which the Complainant has however, deliberately failed to rectify. It is submitted that the Complainant is trying to take advantage of his own wrong.
- 15 On 09.02.2010, the officials of the Respondent visited the premises of the Complaint to install check meters against CRN No. 2550061335 and 2550061330, but the Complainant refused to get the check meters installed.

- 16 It is further submitted that on 15.02.2010, the officials of Respondent again visited the premises of the complainant where again they noticed earth leakage which the complainant was once again advised to rectify. On 16.02.2010, the Respondent succeeded in installation of check meters in respect of other two connections. It is further submitted that the present complaint is full of contradictions and baseless statements. Infact, the Complainant has stopped even paying the regular consumption charges for electricity. The Complainant by means of the present Petition is seeking to escape payment of electricity dues which are legal, valid and in consonance with law.
- 17 It is further submitted by the Respondent that it is specifically denied that the bills of the Complainant were excessive or 2500 times more as alleged. It is submitted that the Complainant with ulterior motive has stopped paying even the regular consumption charges for the electricity consumed by the Complainant. It is pertinent to mention that as on date Rs. 4,961/-, Rs. 37,990/- and Rs. 36,737/- is due and payable by the Complainant in respect of CRN No. 2550061330, CRN No. 2550061335 and CRN No. 2550061336 respectively.
- 18 It is further submitted by the Respondent that the DISCOM is entitled to disconnect the supply of the Complainant if the Complainant fails to clear the dues of electricity consumed by the Complainant.
- 19 The matter was then again listed for hearing on 06.09.2011 and an order was passed on dated 08.09.2011 wherein, both the parties were directed to file their written submissions on the above complaint. In pursuance of this, the complainant filed a written submission stating therein, the issues and violations made by the Respondent owing to the omission and commission of certain Acts, some of which have been enumerated as under:-

- (i) Repeated change in billing cycles/not provisional billing to conceal excessive billing (despite Regulation 12 of performance Standards 2002 and 2007)
- (ii) Non compliance of order dated 30.10.2009 of DERC regarding software glitch and use to intimidate / illegal monthly readings shown /bills raised with false manipulated readings on non existing meters / threaten to disconnect and illegally disconnected electricity supply as a part of criminal intimidation to obstruct justice.
  - (a) During the same period from June to August 2009, 60% to 2500 times higher readings than previous years in all three meters installed at residence.
  - (b) Billing cycle changed to cover-up the 100 percent rise of consumption in comparison to the consumption noted during the same period in previous year.
- (iii) Non compliance of order dated 30.10.2009 by repeated removal/deceitful installation of meters.
- (iv) Raising of monthly bills on nonexistent meters. Giving of threats for disconnection of supply, disconnection of supply, receipt of 17 bills & 18 notices against each nonexistent meter ( all the 3 connections)
- (v) Disconnection of electricity illegally on 22.03.2011 by using such manipulated accounts.
- (vi) Extortion of excess amounts since 22.03.11 under the threat of disconnection of supply.
- (vii) In case of CRN 2550061335, 2550061336 bills continued till 29.06.11 despite no meters.
- (viii) Removing of faulty meter surreptitiously at 8.50 p.m. at night of 25.03.11, just to erase the evidence, after filing complaints before the Commission and continuing raising charges against a meter which was not in existence.

- (ix) Not replacing the meters despite repeated requests inspite of showing meters to be defective even endangering lives. Under Regulation 20 DERC performance standards Metering and Billing regulation 2002, meter to be changed within 30 days.
- (x) The billing cycle was again changed in August 2011 that too of a meter, which was itself shown as defective in two consecutive billing cycles and against which the complainant filed complaint in writing.
- (xi) Meter testing not done or if done not as per performance standards. Reference made of public notice/directions issued by DERC in 2005.
- (xii) Raising bill against energy charges relating to period prior to 2 years old.
- (xiii) Safety threats to life – through burning meters repeated changes of meters since check meters were to be installed as also to others.
- (xiv) Not changing name despite repeated requests.
- (xv) Electronic meters have been inherently found with faulty design.
- (xvi) Repeated manipulations of accounts /in bills and continuing till date as a part of continued criminal intimidation etc.

20 The above submissions were taken on record and subsequently the matter was heard on 04.10.2011 wherein, the Commission heard the arguments of both parties on all issues raised there under and after hearing them the Commission directed the Respondent to file a statement on record in a tabular form giving comparative month wise details of all three electricity connections showing:

- (i) Dates of installation/removal of main and check meters, including multiple replacements where applicable.
- (ii) Meter reading /unit consumed in both main and check meters for each billing cycle since December 2009.
- (iii) Amount billed and paid in each billing cycle.

- 21 The Respondent was also directed to install a new check meter along with the existing meter to check the accuracy of the existing meter as per protocol/procedure laid down under the existing regulations. Till further orders, the Respondent was directed to continue to raise bills on the reading of the existing meter and the current charges shall be paid by the complainant within the stipulated time.
- 22 Subsequent to this, Commission heard the matter on 15.11.2011 & 10.01.2012 and after hearing both parties at length and after taking into account the record available finds as follows in respect of the issues given below:
- (i) Maintainability of the dispute relating to
    - (a) Billing i.e provisional billing, excessive billing & billing cycle;
    - (b) Defective meters (main meter/check meter), non installation of check meters/disconnection/removing of the main meters/check meter etc.;
    - (c) Non redressal of the complaint in time;
    - (d) Meter testing &;
    - (e) Safety measures to be adhered to by Respondent under Rule 47 of Electricity Rule, 1956.
  - (ii) Re-connection of two disconnected meter i.e. CRN No.2550061335 (15KW) (Ground Floor) & CRN No.2550061336 (1KW) (Second Floor/Terrace).
  - (iii) Action against Respondent for apparent violations.
- 23 On the issues mentioned in para (i) above, these relates to billing dispute, performance relating to installation of meter/check meter/meter test report, non redressal of complaint in time by the Respondent and not taking safety measures etc. These are subject matters which can only be decided after detailed testimony is taken of witnesses and record scrutinized. These issues can only be decided through an exhaustive trial and cannot be decided in a summary manner. Moreover, to address



such grievances of the consumers, the law has provided for establishment of CGRF under section 42(5) & Ombudsman under section 42(6). The above issue has been decided by the Hon'ble Tribunal in matter of M/s Polyplex Corporation Limited Vs. Uttaranchal Power Corporation Ltd. & Ors. In Appeal No. 220 of 2006, wherein, Hon'ble ATE has held that no petition/appeal/application lies before the Regulatory Commission or ATE in respect of billing matters. Hence, the Commission is referring this complaint to the concerned CGRF for adjudication of the above issues on merit after conduct of a proper trial. The CGRF may ensure that its findings in this case are finalized within six months.

- 24 On the second issue, the Commission is of the opinion that it would be expedient in the interest of justice and fairness of the case that the electricity to the premises of the plaintiff in respect of his two disconnected connections is restored for which the consumer shall seek reconnection of his remaining disconnected connections after making 50% payment of pending dues against the said connections and the Respondent shall re-connect the same connections through new meters within 24 hours from the receipt of the payment. However, the deposit of the above 50% amount shall be subject to the final outcome of the pending litigation before the CGRF, where the disputed amount of billing will be finally settled.
- 25 On the third issue relating to imposition of penalty on the Respondent for apparent violations/Regulations, the Commission has observed that a final finding on violation of Rules & Regulation is possible only after the CGRF decides the billing dispute issues. Hence, the adjudication of the complaint under Section 142 is deferred sine die till the Commission receives final findings of the CGRF on the billing disputes referred above.

26      Ordered accordingly.

Sd/-  
(J. P. Singh)  
MEMBER

Sd/-  
(Shyam Wadhera)  
MEMBER

Sd/-  
(P. D. Sudhakar)  
CHAIRPERSON