

## Before the Delhi Electricity Regulatory Commission

No. F.11(49)/DERC/2003-04/

Dated :22.1.2004

**Petition No. 26/2003**

**CORAM:**  
**Sh. V.K. Sood – Chairman**

In the matter of : Order on Annual Revenue Requirement for July 2002 to March 2003 (9 months) and financial year 2003-04 and determination of retail supply tariffs for BSES Rajdhani Power Ltd., BSES Yamuna Power Ltd. and North Delhi Power Ltd.

And

In the matter of : Delhi Development Authority **Petitioner**

***Versus***

BSES Rajdhani Power Ltd.  
BSES Yamuna Power Ltd.  
North Delhi Power Ltd.

**Respondents**

Present:

Mr. N.K. Gupta, Suptd. Engineer for the Petitioner  
Mr. R.C. Gupta, Executive Engineer for the Petitioner  
Mr. B.C. Pandey, Advocate for BSES  
Mr. R.C. Mehta, DGM (RCM), BSES  
Mr. R.C. Kher, G.M. (Comm.), NDPL  
Mr. S. Wadhwa, CFO, NDPL

### **O R D E R**

(Date of Hearing – 8.1.2004)

The instant petition has been filed by the petitioner with the following prayers:

- a. To direct the Respondents to establish distribution system in the area developed by the Petitioner; and

- b. To decide the time in which Respondents are liable to lay electric lines in the area developed by the Petitioner; and
- c. To direct the Respondents to realize developed charges from the consumers in the area developed by the Petitioner.

2. Shri N.K. Gupta appearing for the petitioner contended on behalf of the Petitioner that they are a self-financed autonomous body and that they had an agreement with erstwhile DVB, herein after called DVB, whereunder the DVB had undertaken for laying electricity connections on the land developed by the petitioner. The petitioner were depositing in advance the 50% of the electrification charges as per demand note submitted by DVB. It was further elaborated that as per the agreement reached between the petitioner and DVB in 1993, wherein no additional amount was payable by DDA over and above 50% share notwithstanding that the actual cost of electrification could exceed the estimated cost. He further clarified that DDA recovered the amount paid to DVB as electrification charges from the prospective buyers of plots/flats. The Petitioner also contended that advance payments towards development charges to private companies would amount to grant/finance their development schemes and DDA, as Government Company cannot grant/finance private companies.

3. It is also contended that after the enactment of the Electricity Act, 2003 the Respondents are not entitled to demand any share towards the development cost from the Petitioner as the said cost of development is to be shared between the utility and the consumer only. The petitioner is a land developing agency and not a consumer. Therefore, the Respondent Companies should electrify the area first as per the electrification scheme and collect the electrification charges from the consumer directly as and when he applies for the connection. Petitioner also contested that the Respondents have not executed the schemes for electrification for which development charges had been

paid by the petitioner to the erstwhile DVB. The petitioner has also submitted that for the new schemes the Respondent companies are raising bills for Development Charges in contravention of the Schedule of Miscellaneous Charges, approved by the Hon'ble Commission.

4. The Respondents submit that they have raised the bills according to the existing practices of sharing the Development Costs, as it was done at the time of the erstwhile DVB. Further, the Tariff order issued by the Hon'ble Commission on 26.06.2003 has also approved the same practice whereby the development charges are to be shared in the ratio of 50:50 between the utility and the consumer/land development agencies. It is submitted by the respondents that the distribution licensee is entitled to recover charges from "a person" as defined in section 2(49) of the Electricity Act 2003 which includes *any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person*, and the petitioner is very much covered in said definition of 'person'. Further, the Respondent contests the averment of the petitioner that it is not a consumer. The respondents have highlighted the provisions of section 46 of the Electricity Act 2003 in support of their arguments which is as under: -

*"The State Commission may, by regulations, authorise a distribution licensee to charge from **a person** requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electricity line or electrical plant use for the purpose of giving that supply."*

The Respondents claim that their interpretation is based on the sound principles of law.

5. The Respondents admit that there are schemes where the Petitioner had made payments to the erstwhile DVB but the schemes are not executed so far. It was submitted that the part of the records

relating to the amounts paid by the petitioner to the DVB/DESU is not available with them. However, they are trying their level best to reconcile the records.

6. The rival contentions of the parties have been considered. It is well known fact that contribution by consumers in form of development charges and its sharing in the ratio of 50:50 between utility and the development agencies/consumer was in existence at the time of privatisation of DVB and the successor entities are on the same footings as far as their rights and liabilities for demanding development charges are concerned. If full development charges are borne by the licensee i.e. Respondents in this case, these would reflect in the Annual Revenue Requirement (ARR) of the licensee which would mean that the old consumers who had already paid their 50% share would also be loaded for electrification of new areas. On the other hand if consumer in new area is asked to pay full development charges, he would be loaded with 50% share of the licensee for old electrified areas. Thus, the existing practice of sharing of electrification charges in the ratio of 50:50 is continued.

7. Under the shared facility agreement, the Respondent companies are under obligation to execute the schemes for which the petitioner has already made payments to erstwhile DVB. The work on such schemes, if not executed so far, are to be executed within given 'work schedule'.

8. Agreeing with the interpretation of the definition of 'person' put forward by the respondents, it is directed that, all the three Respondents shall reconcile their records with the TRANSCO within a period of one month in respect of **the electrification schemes** where payments were made to erstwhile DVB by the DDA. Thereafter, the

petitioner shall furnish necessary details within three weeks in respect of unresolved schemes to the Respondents and finally if there remains any discrepancies in the records, the Respondents and the Petitioner, shall resolve the same, if necessary, in consultation with Transco, within a period of two weeks, thereafter.

9. The Respondents have submitted that the old schemes for electrification of land developed by the Petitioner were based on conventional Low Tension (LT) distribution mains. The respondents now would like to take up these works under High Voltage Distribution System (HVDS) where LT mains are eliminated. With the elimination of LT mains the probability of direct theft of energy from LT mains is obviated.

10. In respect of scheme where the Respondents contemplate to adopt LT less HVDS and where payments have already been made, such schemes shall be executed subject to no liability on account of enhanced cost, if any, shall be passed on to the Petitioner.

11. As far as the contention of the Petitioner regarding raising of higher charges for development cost on the new schemes are concerned, the Petitioner shall submit all such schemes to the Commission. The Commission shall examine such cases through technical discussion with the Petitioner and Respondent before taking final view in the matter.

12. Ordered accordingly.

Sd/-  
(V.K. SOOD)  
Chairman