

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

F.11 (1165)/DERC/2014-15

Petition No. 57/2014

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

And

In the matter of:

Panchvati Cooperative Group Housing Society Ltd.,
Ashwani Kumar (Hony. Secretary),
D-101, Panchvati Vikas Puri,
New Delhi – 110018

.....**Complainant**

VERSUS

BSES Rajdhani Power Ltd.
Through its: **CEO**
BSES Bhawan
Nehru Place
New Delhi-110019

.....**Respondent**

Coram:

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

Appearance:

1. Shri Ashwani Kr, Hony. Secy, Petitioner.
2. Shri J.S Azad, President of the Petitioner
3. Shri. Dheeraj Koul, Respondent

ORDER

(Date of Hearing: 30.07.2015)

(Date of Order: 06.10.2015)

1. The instant petition has been filed by Panchvati Co. Group Housing Society Ltd. through its Hony. Secretary Mr. Ashwani under Section 142 of the Electricity Act, 2003 against BSES Rajdhani Power Ltd. for alleged violation of Regulation 9 (6) of the DERC (Guidelines for Establishment of Forum for Redressal of Grievance of the Consumers and Ombudsman) Regulations, 2003, wherein the Respondent (Licensee) was to comply with the Order passed by the Forum within 21 days of the receipt of the Order. However, even after the lapse of more than a year, the Respondent has failed to comply with the Order to the extent that it has not yet refunded the excess amount charged by it for common facilities, along with interest.

2. The Petition was admitted and vide Interim Order dated 20.03.2015, the Commission directed the Respondent to show cause on the prima facie findings of violation of Regulation 9 (6) read with Regulation 11 of DERC (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumer and Ombudsman) Regulations, 2003. The Respondent had filed its reply to the above Show Cause Notice on 20.04.2015.
3. The matter was listed for hearing in the Commission on 30.07.2015, 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.
4. During the hearing the counsel for the Respondent submitted that the Commission has time and again held that CGRF is not authorized to interpret tariff Order and providing any further clarifications in such issues is within the jurisdiction of the Commission only. They have followed the instructions of the Commission through Order dated 11.09.2014, whereby it was held that it is beyond the jurisdiction of the CGRF to interpret provisions of tariff Order and the same is exclusively vests in this Commission. Vide letter dated 28.11.2013, it was stated that CGRF has not been authorized to issue Orders on the said matter, the subject decision by CGRF-BRPL cannot be agreed to. The counsel for the Respondent further submitted that the complete reading of the tariff schedule would reveal that rebate is not available to Low Tension (LT) connection.
5. The representative for the Petitioner submitted that the condition for highest slab tariff is applicable for single point delivery at 11 kV and not for separate LT connections. If the supply is 11kV, it would be charged at the highest slab tariff for the domestic category and at the same time a rebate may also be admissible, whereas in the case of LT connection, the slab-wise billing would be taken place and no rebate would be admissible. He further submitted that the order of the CGRF is correct and has to be complied with by the Respondent.

6. It is made clear that the observation of the Commission as regard to interpretation of Tariff Orders by CGRF still holds good that CGRF cannot interpret Tariff Order of the Commission and any clarification in this regard may be issued by the Commission only. The letter dated 28.11.2013 of the Commission was with reference to the rebate for LT connection for common area in CGHS and the order of CGRF to that effect is set aside as being beyond jurisdiction.
7. The Tariff Schedule for the Domestic Category in Tariff order 2011-12 is as under:

	Category	Fixed Charges	Energy Charges
1	Domestic		
1.1	Domestic		
a	Upto 2 kW connected load		
	0-200 units	30 Rs/month	300 Paisa/kWh
	201-400 units	30 Rs/month	480 Paisa/kWh
	Above 400 units	30 Rs/month	570 Paisa/kWh
b	Between 2-5 kW connected load		
	0-200 units	75 Rs/month	300 Paisa/kWh
	201-400 units	75 Rs/month	480 Paisa/kWh
	Above 400 units	75 Rs/month	570 Paisa/kWh
c	Above 5 kW connected load		
	0-200 units	15 Rs /kW/month	300 Paisa/kWh
	201-400 units	15 Rs /kW/month	480 Paisa/kWh
	Above 400 units	15 Rs /kW/month	570 Paisa/kWh
1.2	Single delivery point on 11 kV for CGHS		
	First 44.4%	15 Rs /kW/month	300 Paisa/kWh
	Next 44.4%	15 Rs /kW/month	480 Paisa/kWh
	Next 11.2%	15 Rs /kW/month	570 Paisa/kWh
	In case of cooperative group housing societies having independent connection for common facilities through separate meter, energy charges shall be billed at highest slab tariff for domestic category. Rebate of 15% is admissible on energy charges		

8. From the above it is clear that no rebate is admissible for LT connections, which have to be billed on slab basis. However, if the supply to a CGHS is at 11 KV through single delivery point, it has to be billed at the highest slab tariff for the domestic category and a rebate may also be admissible.
9. It is to be noted that the CGRF has not interpreted the Tariff Order rather it was a case where the provisions of the Tariff Order were applied erroneously. As already made clear that in the case of CGHS, if the supply is at 11KV, the tariff will be at the highest slab of the Domestic category and the CGHS would also be entitled to a rebate. However, in case of LT connections, billing should be done on the basis of slabs for LT and no rebate would be applicable. Therefore the Order of CGRF was not beyond its jurisdiction since it says that the billing should be either on the slab basis for LT Connection for common area in CGHS, otherwise a rebate may be given. As already clarified, rebate is not admissible for LT connections but it may not be billed at the highest slab of the Domestic category, rather it should be billed slab wise.
10. In view of the above, the Commission finds the Respondent, culpable for failure to comply with the order of CGRF, which is binding on the parties. The Respondent has violated provisions of Regulation 9 (6) of the DERC (Guidelines for Establishment of Forum for Redressal of Grievance of the Consumers and Ombudsman) Regulations, 2003 and is liable for a penalty u/s 142. However, keeping in view the correspondences made by the Respondent with the Commission and the fact that the order of the CGRF was not understood properly by the Respondent, the penalty on the Discom is suspended and will be waived if the Order of CGRF is complied within one month. On failure to comply with the order of CGRF within one month, the Commission will decide the quantum of penalty. No orders for compensation.
11. Ordered accordingly and the petition stands disposed of.

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson