

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

F.11 (1107)/DERC/2014-15 /4334

Petition No. 18/2014

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

In the matter of:

1. Pawan Sharma
S/o Shri Vijay Pal Sharma
17/5, Near Bharat Gas
Agency, Milan Garden,
Mandolin Industrial Area,
New Delhi
2. Pankaj Kumar
S/o Shri Anil Purnia
17/5, Near Bharat Gas
Agency, Milan Garden,
Mandolin Industrial Area,
New Delhi

.....**Complainant**

VERSUS

BSES Yamuna Power Ltd.
Through its: **CEO**
Shakti Kiran Building,
Karkardooma
New Delhi – 110092

.....**Respondent**

Coram:

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

Appearance:

1. Petitioners in person.
2. Shri Suraj Aggarwal, A.R of Petitioner
3. Shri I U Siddiqui, Legal Officer, BYPL.
4. Shri Manish Srivastava, Advocate for Respondent.
5. Shri Dinesh Kumar, DGM, BYPL.

ORDER

(Date of Hearing: 16.07.2015)

(Date of Order: 03.08.2015)

1. The instant petition has been filed by Shri Pawan Sharma (Petitioner No. 1) and Shri Pankaj Kumar (Petitioner No. 2) under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure laid

down of the Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

2. The matter was admitted and vide Interim Order dated 06.02.2015, the Commission directed the Respondent to show cause for violation of Regulations 52 (viii), 52 (ix), 52 (x) & 52 (xi), 52 (xii), 53(ii) and 53(iv) of Delhi Electricity Supply Code & Performance Standards Regulations, 2007. The Respondent replied to the Show Cause Notice on 25.05.2015.
3. The matter was heard on 16.07.2015 and both the parties submitted their respective versions. Based on the arguments put forth by the parties the Commission's findings are as follows:

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

Regulation 52 (viii) provides that:-

In case of suspected theft, the Authorised Officer shall Remove the old meter under a seizure memo and seal it in the presence of the consumer/ his representative. The Licensee shall continue the supply to the consumer with a new meter. The old meter shall be tested in a NABL accredited laboratory and the laboratory shall give a test report, in writing, which along with photographs/ videographs shall constitute evidence thereof.

The Respondent whilst relying on the inspection report dated 15.05.2013 stated that user was present at site and he was served with the copy of inspection report and other documents but he had refused to sign. Whereas, the representative for the Petitioner refuted the submission made by the respondent and stated that none from the Petitioner side was present at the time of inspection.

On perusal of documents available on records, the Commission could not ascertain whether the old meter was removed in the absence or presence of the consumer or his representative. Hence, it is held that it could not be conclusively proved that the Respondent had violated the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

b) Violation of Reg. 52 (ix) of DERC Supply Code, 2007

Regulation 52 (ix) provides that:-

As per above regulation, the Authorized Officer/ Respondent shall sign the search report including other members of the inspection and must be handed over to the consumer or his/her representative at site immediately under proper receipt. However, In case of refusal by the consumer or his/her representative to either accept or give a receipt, a copy of inspection report must be pasted at a conspicuous place in/outside the premises and photographed. Simultaneously, the report shall be sent to the consumer under Registered Post.

The Respondent submitted that entire set of documents including the Show Cause notice dated 27.05.2013 were sent to the consumer. In this connection, though the reports prepared at site were served on the user but he refused to accept the same. In support of his argument the Respondent provided a copy of speed post receipt dated 03.06.2013. However, the representative for the Petitioner denied of receiving any copy of the report.

Available records reveal that the inspection report was not pasted in/outside the premises and it was sent through speed post only after 15 days, whereas it has to be sent through Registered Post simultaneously. Therefore, it is apparent that the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

c) Violation of Reg. 52 (x) and 52 (xi) 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.

Regulation 52 (xi) provides that:-

.....In case 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 submitted that the Show Cause notice was issued on 27.05.2013, which is within 30 days of inspection. The Respondent also provided a copy of speed post receipt dated 03.06.2013. The representative

for the Petitioner denied of receiving any copy of the report from the Respondent.

In this regard, it has been observed that the Show cause notice was issued within the stipulated period of 30 days from the date of inspection i.e. on 15.05.2013. Therefore, it is apparent that the Respondent has not contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

d) Violation of Regulation 52 (xii) of DERC Supply Code, 2007

Regulation 52 (xii) provides that:-

Theft of electricity may be established by analysis of metering data downloaded 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 Regulation 52 (xii) is not applicable to the present case. The present case is not a case of application of external methods such as remote control/high voltage injection etc. but the allegations are related to tampering the meter physically. The NABL lab report mentions that data was retrieved and after analyzing physically came to a conclusion that the meter showing long power off in History data as well as meter terminal screw was found damaged which corroborates the findings of inspection report

The Commission held that Regulation 52 (xii) is not applicable to the present case. Hence, no violation of the provisions of Regulation 52 (xii) of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007 is established.

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

Regulation 53 (ii) provides that:-

.....the Licensee shall pass, within three days, a speaking order as to whether the case of theft is established or not.

The Respondent has submitted that the consumer asked for MRD data and Lab report which were duly provided to him. He asked for a period of 7 days

to reply. The user attended personal hearing on 26.02.2014 and asked for an extension till 03.03.2014 and hence, last personal hearing had taken place on 03.03.2014 and thereafter speaking Order was passed on 07.03.2014 and not on 12.03.2014.

The Respondent has admitted that the personal hearing was held on 03.03.2014 and the Speaking Order was issued on 07.03.2014. However, records reveal that the date of issue on the speaking order is 12.03.2014 i.e. after 8 days of personal hearing. There is delay of more than 3 days between personal hearing and passing of speaking order. Hence, the Respondent has contravened the provisions of Regulation 53(ii) Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007.

f) Violation of Regulation 53(iv) of DERC Supply Code, 2007

Regulation 53(iv) provides that:-

Where it is established that there is a case of theft of energy, the Licensee shall assess the energy consumption for past twelve (12) months as per the assessment formula given in ANNEXE-XIII and prepare final assessment bill on two times the rates as per applicable tariff and serve on the consumer under proper receipt.

The Respondent has submitted that the sanctioned load was 56KW, Non domestic and the connected load was found to be 2.27KW, industrial at the time of inspection. As the Sanctioned load was found to be higher and therefore in the LDHF formula, 56KW was taken as load for calculation.

The Representative for the petitioner submitted that his sanctioned load was 11 KW for ten and a half months of the assessment period and thereafter it was enhanced by the Discom on their own without any application from him. Therefore, in LDHF formula the load for the ten and a half months should be considered as 11 KW and for the remaining period as 56 KW.

The Commission observed that in LDHF formula the load should be the sanctioned load during the corresponding period of assessment and not the load on the date of inspection. Therefore, it is found that appropriate load has not been used for assessment of energy. In view of this, the Respondent

may rectify the assessed energy on their own, otherwise the Petitioner may approach concerned CGRF for rectification of bill for assessed energy alongwith the copy of this Order.

Though the Respondent has contravened the provisions of Delhi Electricity Regulatory Supply Code and Performance Standards Regulations, 2007, it appears that it was due to lack of clarity in the Regulation. A clarification in this regard may be issued by the Engineering Division of the Commission within two weeks.

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

Sd/-
(B. P. Singh)
Member

Sd/-
(J. P. Singh)
Member

Sd/-
(P. D. Sudhakar)
Chairperson