

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

No. F. 11(803)/DERC/2012-13/3437/4725

Petition No. 11/2010

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

In the matter of:

Hari Om Parkash
S/o Sh B D Gupta
G-931, DSIDC Narela Industrial Area
New Delhi

...Petitioner

Versus

M/s Tata Power Delhi Distribution Ltd.
Through its : MD
Grid Sub-Station Building
Hudson Lines, Kingsway Camp,
Delhi-110009

...Respondent

Coram:

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

Appearance:

1. Sh B P Agarwal, Counsel for the petitioner
2. Sh. Manish Srivastava, Counsel for the Respondent
3. Sh. O P Singh, Sr. Manager, TPDDL.
4. Sh. Shalender Singh, Sr. Manager, TPDDL.

INTERIM ORDER

(Date of Hearing: 22.11.2012)

(Date of Order: 03.12.2012)

1. The Complainant has filed the instant complaint for imposing penalty on the Respondent as per Section 142 and 146 of the Electricity Act, 2003 (hereinafter referred as the Act) for violation of Regulation 52 & 53 of DERC Supply Code, 2007.
2. In brief, the facts of the case are as under:
 - (i) That on 12.11.2010 meter of the petitioner got burnt for which a complaint was registered with the respondent bearing No.1011737658. on the basis

of the complaint, an inspection was carried out on 13.11.2010 and after verifying the facts the existing meter (burnt meter) was disconnected and a new meter was installed and old meter was retained at site.

- (ii) That the burnt meter was neither seized nor sent to NABL Laboratory for testing.
- (iii) That after the expiry of 15 months, an inspection was carried out on the retained meter (burnt meter) on 14.03.2012.
- (iv) That on the basis of inspection dated 14.03.2012 a show cause notice was issued by the respondent on the same day i.e 14.03.2012 wherein it was alleged that the connected load of the complainant was found to be 77.373 KW but while making the allegation it was not considered that the aforesaid load was found connected to the new meter and not connected to the meter (burnt) which was disconnected on 13.11.2010 .
- (v) It was argued by the Petitioner that the respondent could not take the aforesaid load on 13.11.2010, the date of burning of the meter.
- (vi) On the basis of inspection dated 14.03.2012, the Petitioner alleged that the respondent is threatening the petitioner that he will book a DAE case against him.
- (vii) Besides facts as mentioned above, the Complainant has alleged in the Complaint that the Respondent has violated the Regulation 52 (viii); 52 (ix); 52 (xi) 52 (xii) and 53 (ii) of DERC, Supply Code, 2007.

3. The Respondent in its reply dated 15.05.2012 has denied allegations made against him.
4. The Commission heard both parties at length.
5. During the course of hearing, the Counsel for the Complainant has raised various issues as mentioned in his Petition alongwith other violations under Regulation 52 and 53 of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
6. Petition is admitted.
7. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission is of the opinion that the Respondent is prima-facie responsible for the following violations:-

Violations of Regulations 52 & 53 of DERC Supply Code, 2007

52. Procedure for booking a case for Theft of Electricity

viii. 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 alongwith photographs/ videographs shall constitute evidence thereof. The list of NABL accredited laboratories shall be notified by the Commission. The Authorised Officer shall record reasons to suspect theft in the premises in his report.

As per the above Regulation, the Authorised Officer/Respondent was required to remove the old meter under a seizure memo and seal it in the presence of the consumer / his representative and could have sent to the NABL Laboratory for testing. Prima-facie it appears that neither the AO/Respondent seized the burnt meter nor sent the same to NABL Laboratory thus, the respondent appears to have violated Regulation 52 (viii) of DERC Supply Code, 2007

xi. 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.

As per above Regulation, the Respondent should have issued show cause notice within 30 days from the date of inspection. In the instant case the meter was 1st inspected on 3.11.2010. However, no action was taken under Regulation 52 (viii) & (xi) of DERC Supply Code, 2007. In the instant case, prima-facie it appears that the Respondent has issued show cause notice after expiry of 15 months i.e on 14.03.2012 after making 2nd inspection of premises. Thus, the respondent has violated Regulation 52 (xi) of DERC Supply Code, 2007

xii. 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.

As per above Regulation, to establish theft of electricity, the respondent could have downloaded the data from the meter. In the instant case, prima-facie it appears that the Respondent has not downloaded any data for analyzing the theft of energy. Thus, the respondent appeared to have violated Regulation 52 (xii) of DERC Supply Code, 2007.

53. Personal hearing in case of suspected Theft

ii. 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 consumer in his written reply and oral submissions during personal hearing and reasons for acceptance or rejection of the same.

As per the above Regulations, the respondent should have passed the Speaking Order within three days from the date of personal hearing. In the instant case, prima-facie, it appears that the petitioner was called for personal hearing on 22.03.2012 and Speaking Order was dispatched on 14.08.2012 which itself show that the speaking order has not been passed within the stipulated time i.e within three days from the date of hearing. Thus, the respondent appears to have violated Regulation 53 (ii) of DERC Supply Code, 2007.

8. On the basis of above-mentioned prima facie findings, the Respondent is directed to show-cause as to why penal action under Section 142 of the Electricity Act, 2003, for violating the above-mentioned Regulations and provisions of law should not be taken against it. The Respondent is directed to file its reply within two weeks with service of a copy to the Complainant. The Complainant has also been given liberty to file rejoinder, if any, within a week of above filing.
9. The next date of hearing shall be intimated to the parties in due course.
10. Ordered accordingly.

Sd/-

(J. P. Singh)
Member

Sd/-

(Shyam Wadhera)
Member

Sd/-

(P. D. Sudhakar)
Chairperson