

Delhi Electricity Regulatory Commission
Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi- 110017

F.11 (1475)/DERC/2017-18/5725

Petition No. 12/2017

Under section 142 of the Electricity Act, 2003

In the matter of:

Shri Narender Kumar Anand,
A/3, G.T. Road, Industrial Area,
Dilshad Garden,
Delhi – 110094

.....**Complainant**

VERSUS

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

.....**Respondent**

Coram: Sh. B.P. Singh, Member

Appearance:

1. Petitioner in person;
2. Shri Kshitiz Mahipal, Advocate for the Petitioner;
3. Shri Munish Nagpal, Sr. Manager, BYPL;
4. Shri Manish Srivastava, Advocate for Respondent;
5. Shri Shagun Trisal, Advocate for Respondent;
6. Shri I U Siddiqui, Legal Officer, BYPL.

INTERIM ORDER

(Date of Hearing: 12.10.2017)

(Date of Order: 24.10.2017)

1. The instant petition has been filed by Shri Narender Kumar Anand, under Section 142 of the Electricity Act, 2003 against BSES Yamuna Power Ltd. for violation of the procedure as laid down in Regulations of the Delhi Electricity Supply Code and Performance Standards Regulations, 2007.
2. The brief facts of the case are that on inspection of the premises of the petitioner on 07.01.2016, the meter was removed and was sent to BYPL Lab for testing. The process of booking a case of suspected theft was initiated but subsequently, on the basis of Lab report that the supply was through a fake meter, it was converted into a case of direct theft. Therefore, it is not the case of direct theft simply sitter.

3. The Petitioner has alleged that he was regularly paying all the electricity bills as same is evident from the payment record of the respondent, therefore the allegation of the Respondent that the consumer was drawing supply from a fake meter is false because it is not possible for the Respondent to download meter reading from a fake meter.
4. The matter was heard on 12.10.2017, wherein both the parties were present. The Commission heard both the parties at length.
5. On the basis of pleadings and oral submissions of both parties and considering the material available on the record, the Commission decided that the petition may be admitted as there exists a prima-facie case of violations of following Regulations:-

a) Regulation 52(iv) of DERC Supply Code, 2007.

Regulation 52(iv) provides that:-

As per the above regulation, the Authorised Officer shall prepare a report giving details such as connected load, condition of meter seals, working of meter and mention any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) as per format.

In accordance with the Regulation *ibid*, the Authorised Officer shall prepare a report giving details such as connected load, condition of meter seals, working of meter and mention any irregularity noticed (such as tampered meter, current reversing transformer, artificial means adopted for theft of energy) as per format. However, the Commission observed that apparently the Respondent did not prepare any report when the meter was removed from the site on 07.01.2016.

The Respondent has clarified that the Inspection report was prepared at site, which the user refused to sign as can be seen upon the inspection of the enforcement inspection report. However, the Respondent has not provided proof of receipt for serving of reports through registered post as no copy of postal receipt/Dispatch details is attached along with the reply of the Respondent. Hence, the Respondent has apparently contravened the provisions of DERC Supply Code, 2007.

b) Violations of Regulation 52 (viii) read with Regulation 38 (c) 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.

Regulation 38 (c) provides that:-

The consumer shall be informed of proposed date and time of testing at least two days in advance.

The Commission observed that the meter was tested in his absence. No information was given to the Consumer about testing of meter in Lab. Hence, it appears that the Respondent has contravened the provisions of Regulation 52 (viii) read with Regulation 38 (c) of DERC Supply Code, 2007.

c) Violation of Regulation 52 (ix) of DERC Supply Code, 2007.

Regulation 52 (ix) provides that:-

..... 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 Commission observed that there is no proof on record to establish that the Report was handed over to the Petitioner or pasted at a conspicuous place in the premises or was sent to the consumer under a registered post.

The Respondent has clarified that the electric-meter was removed and replaced with a new meter on 07.01.2016. Inspection report was prepared at site, which the user refused to sign as can be seen upon the inspection of the enforcement inspection report. However, the Respondent has not provided proof of receipt for serving of reports through registered post as no copy of postal receipt/Dispatch details is attached along with the reply of the Respondent. Hence, it appears that the Respondent has apparently contravened the aforesaid provisions of Regulation 52 (ix) of Delhi Electricity Supply Code and Performance Standards Regulations, 2007.

d) Violation of Section 135 (1A) of the Electricity Act, 2003.

Section 135 (1A) provides that

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

.....Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty four hours from the time of such disconnection....

It is observed that the respondent failed to file a case against the consumer in the special court of electricity within stipulated time. Hence, the Respondent has apparently contravened the abovementioned provisions of DERC Supply Code, 2007.

e) Violation of Regulation 54 of DERC Supply Code, 2007.

Regulation 54 provides that:-

In case of default in payment of the assessed amount, the Licensee will, after giving a fifteen days notice, in writing, file a case against the consumer in the designated Special Court as per the provisions of section 135 of the Act. Disconnection of supply, however, can only be done after getting an order from the Special Court.

The Commission observed that the supply of the premise was disconnected on 05.05.2016 without giving 15 days notice and also without taking permission of the special court.

The Respondent has clarified that upon default of the complainant herein to clear the bill raised for DT, which payable by 01.03.2016, the Respondent was served a notice for disconnection to the complainant on 07.03.2016. However, the Respondent has not provided any proof of receipt for serving of the disconnection notice through registered post as no copy of postal receipt/Dispatch details is attached along with the reply of the Respondent. Hence, there appears to be violation of 54 of DERC Supply Code, 2007.

f) Violation of Regulation 56 of DERC Supply Code, 2007

Regulation 56 provides that:-

While making the assessment bill, the Licensee shall give credit to the consumer for the payments already made by the consumer for the period of the assessment bill.....

The Commission observed that no credit was given to the consumer for the payments already made by the consumer for the period of the assessment bill. Hence, it appears that the Respondent has contravened the provisions of DERC Supply Code, 2007.

6. In view of the above-mentioned 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 should not be taken

against it. The Respondent is also directed to explain that how it was possible for the meter reader to download meter reading from a fake meter.

7. The Respondent is directed to file its reply within four 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. Take notice that in case the Licensee above named fails to furnish the reply to this Show Cause Notice within the time mentioned above, it shall be presumed that the Licensee has nothing to say and the Commission shall proceed in the absence of such reply in accordance with law.
8. The next date of hearing shall be intimated to the parties in due course.
9. Ordered accordingly.

Sd/-
(B. P. Singh)
Member