

OFFICE OF THE ELECTRICITY OMBUDSMAN

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057

(Phone-cum-Fax No.: 011-26141205)

Appeal No. 1/2019

(Against the CGRF-TPDDL's order dated 20.12.2018 in C.G. No. 163/2018)

IN THE MATTER OF

Shri Mandeep Rana

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Mandeep Rana

Respondent: Shri Vikas Jain, General Manager, Shri Prashant Saxena,
Sr. Manager, Shri Vikas Jain, Commercial Officer and
Shri Deepak Pathak, Advocate on behalf of BYPL

Dates of Hearing: 15.03.2019

Date of Order: 22.03.2019

ORDER

1. The appeal No. 1/2019 has been filed by Shri Mandeep Rana on behalf of the registered consumer late Shri Surinder Singh Rana against the order of the CGRF-BRPL dated 20.12.2018 passed in CG No. 163/2018. The issue concerned in the Appellant's grievance is regarding the procedure as prescribed in the regulations not being followed by the Discom while revising the load of his agriculture connection installed at Khasra No. 19/1/Village Shalapur, Bijwasan, New Delhi - 110061.

2. In the instant appeal, the Appellant has stated that his family jointly owns an agricultural land of 14 Acres in the village Shalapur, New Delhi where this connection bearing CA No. 100089186 is installed. The undivided family's agricultural land is jointly owned by him, his two brothers and his uncle and after the death of his father, in the year 2002, in whose name this connection was originally sanctioned, they approached the concerned authorities number of times for bifurcating the agricultural connection in their individual names but the authorities refused to accept their applications. Since there was no option available with them so they continued to use the said connection for the irrigation of whole of the 14 Acres of their undivided agriculture land from one connection



only. They have been paying the electricity bills on a regular basis but in the month of August, 2018, they received the bill for the month of July, 2018 at a higher rate of RS.8/- per unit whereas earlier to that till June 2018, they were being charged as per agricultural tariff. They approached the Discom for rectification of the bill as per normal agricultural tariff instead of Rs.8/- per unit, which is the tariff for non- domestic connections, since they are using the connection for agricultural purposes only, but the Discom did not agree to their request and told them to pay the bill according to non-agricultural tariff since their load has crossed the desired limit specified for agricultural category.

Since his request was not acceded to by the Discom so he approached CGRF where in his appeal was not granted and hence this appeal has been filed on the grounds that no notice for load enhancement was served on him as per regulations, which was stated to have been served by E-mail but was never received by him. The version of the Respondent that the notice was sent on his E-mail address along with bill for the month of July, 2018 is not correct as the same was not received on his E-mail and the Discom could not produce any proof of having sent the same but for a copy of the letter submitted during the hearing in CGRF, which did not bear any E-mail address.

3. The Appellant in its rebuttal also produced few paper bills which have been received by him in the recent past in spite of the said connection being of E-Bill category. The bills being paid by him in general are either downloaded from the website of the Discom or have been obtained personally from their office, which clearly shows that their E-billing system is not working appropriately required for the purpose and is a sufficient proof that no notice was served on him for change of category by E-mail and the contention of the Respondent is not acceptable.

The Appellant further argued that he does not dispute the load enhancement and change of the category of the tariff and has also taken separate connections to reduce the load as per the directions of the CGRF, but is aggrieved on the issue that since the Respondent has not followed the due procedure, they should be penalized for breach of Standards of Performance. He finally pleaded that the Forum has passed the order without taking the above facts into account that the Discom has not followed the due process for issue of a separate notice for revision of the sanctioned load to the consumer as prescribed in the Section 17 of the DERC's Supply Code Performance & Standards Regulations, 2017 and Section 78 of the Regulations which stipulates the procedure for serving the notice. In addition to above, it is also clearly stated that



the responsibility of showing the proof of having served the notice lies with the licensee/Discom only and he again reiterated that the Respondent needs to be penalized for the deficiency in services.

In view of the above, the Appellant has prayed as under:

"That as the procedure laid down by the DERC has not been followed by the BSES Rajdhani Power Ltd. in enhancing my sanctioned load and whereas the same DERC guidelines are being followed to enhance my unit rate, I pray before the Court that I may be charged at the original tariff of an agricultural connection and not at the revised tariff of a non-domestic consumer and the enhancement may please be waived."

4. The Respondent in his reply has submitted that the said connection was sanctioned with a connected load of 4 Kw in the name of Late Shri Surender Singh Rana, father of Shri Mandeep Rana for tube-wells to irrigate his undivided family's agricultural land. They increased the sanctioned load of the connection under reference from 4 Kw to 21 Kw on the basis of four consecutive highest MDI readings in the financial year 2017-18 as per the Clause 17(4) of DERC's Supply Code Performance & Standards Regulations, 2017 and accordingly the bill for July, 2018 was raised in the month of August, 2018.

As per Respondent, they have intimated the Appellant of the same vide letter dated 01.05.2018 giving full details of the MDI readings of the previous financial year on the basis of which the proposed change of category has been carried out. They have further clarified that the agricultural tariff category is available to connections of sanctioned load up to 20 Kw only and connections of more than 20 Kw load used in agriculture activities had to be included in non-domestic category as per the Delhi Electricity Regulatory Commission tariff schedule 2018-19. The Respondent further argued that the consumer is in the category of E-billing and the requisite notice No. BRPL/2017-18/MDI/LE 3 Phase/CA No.100089186 dated 01.05.2018 was sent to the Appellant along with the bill on the registered E-mail address of the consumer. The E-bill category consumers are not given paper bills by post and accordingly the notice was also sent to him through E-mail as an attachment along with the bill of July, 2018.

However, in view of the Appellant's repeated pleadings that he did not receive any notice, the Respondent was asked to submit the proof of having sent the notice through E-mail. The representative of the Discom stated that there is no provision of retaining the copies of the sent mails in their system and the notices are generated automatically by the system along with the bills and



E-mailed to the consumers. To counter the argument of the Appellant regarding non receipt of E-Bills in general the Discom pleaded that the Appellant has never raised this issue at any point of time that he is not receiving the E-Bills, otherwise the required corrective action would have been taken up by them.

5. Finally, on their part the Respondent was not able to produce any proof of dispatch of the notice to the Appellant either by mail or by post and admitted that the software up-gradation is required on this issue. The Respondent in order to counter the Appellant's demand of the notice argued that the demand load was increased as per Regulation 17(4) of DERC Regulations which provides that the load shall be enhanced/reduced suo moto based on the MDI recorded for four consecutive months in the previous financial year. The Respondent hence prays, that in view of the conjoint reading of the stated provisions, it is amply clear that the enhancement of the load and thereby re-classification of the category of the connection from agriculture to non-domestic is in accordance with the Supply Code & Tariff Order which the Discom is bound to follow under law and adherence & execution of the same is in accordance with law and cannot be called illegal and has rightly been upheld by the CGRF. Hence, the present appeal is not maintainable and devoid of any merit and substance and has been filed in ignorance of the provisions of law and as such liable to be dismissed. Further, in view of the above stated objections, submissions and documents annexed, the Appellant has no case on merit or and the same deserves dismissal with exemplary cost for abusing the process of law and wasting the precious judicial time of the court.

6. After going through the material on record and hearing the arguments of both the parties the basic issue emerges is that the Respondent have increased the sanctioned load of the Appellant under reference from 4 Kw to 21 Kw based on the four consecutive highest MDI readings in financial year 2017-18 as per Clause 17(4) of DERC's (Supply Code Performance & Standards) Regulations, 2017. Initially the Appellant appealed and argued against this upward revision of the load by the Respondent presumably as he was ignorant of any such regulations but later on agreed to accept the same and decided not to dispute the load enhancement and change of category of the tariff. But he was aggrieved of the issue that the load was enhanced without any communication to him either by E-mail or through any of the other methods as prescribed in the Section 78 of the DERC's Regulations. However, now the core issue in the present appeal reduces to one of a demand by the Appellant to penalize the Respondent or compensate him by charging him for the said period on the rates of normal




agricultural tariff, for the deficiency in services by the Discom for not serving him with the required notice for enhancement of sanctioned load and not following the procedure laid down under the regulations.

From the above, it is concluded that the enhancement of the load from 4 Kw to 21 Kw based on the four consecutive highest MDI readings in the previous financial year and raising of bills accordingly by the Respondent is in order and the same has been carried out as per the extant DERC regulations. The plea of Appellant that he may be charged at the original tariff of an agricultural connection instead of revised non-domestic tariff cannot be acceded to merely on account of the fact that he has not been served by the required notice. In any case, the Appellant is liable to pay for the power which has obviously been consumed during the period by him beyond his sanctioned load as per the regulations whether or not he has been served with the required notice. Therefore, the order of the CGRF upholding the increase in sanctioned load and subsequent change of category carried out by the Respondent is in order.

It would not be out of place here to note that the Respondent was not able to produce any proof of having sent the notice for enhancement of the load as required under Section 17 & 78 of the Regulations. The plea that their system does not keep any record of the sent automated messages does not sound justified and is not a sufficient defence unto itself for papering over a patent deficiency in their E-Billing system. However, no case for a compensation or otherwise is made out of it as it is not possible to audit and monetize the gravity and quantum of harassment/mental agony on the basis of which the relief has been sought or even to attempt to establish benchmarks in this regards. Neither it is possible to go in for the details of how much compensation is justified or not or the mechanics of determining its reasonableness as any such exercise would necessarily be arbitrary in nature with its attendant implications. However, there are evident deficiencies in the customer interface procedure and mechanisms of the Discom, which need to be attended to with the importance they warrant.

The appeal stands disposed off accordingly.


(S.C.Vashishta)
Electricity Ombudsman
22.03.2019