

Office of Electricity Ombudsman

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

B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057

(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2008/264

Appeal against Order dated 11.01.2008 passed by CGRF–BYPL in complaint no. 383/12/07 (K.No.1210 1211 1131).

In the matter of:

Shri Devinder Kumar Agrawal - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent

Present:-

Appellant Shri Devinder Kumar Agarwal, Appellant attended alongwith Shri Harish Jain, Advocate

Respondent Shri Devender Kumar Sharma, AFO,
Shri Rajeev Ranjan, Assistant Manager (Legal) and
Shri P. K. Bhardwaj, Assistant V.P.Business, Krishna
Nagar, attended on behalf of BYPL

Dates of Hearing : 09.06.2008, 26.06.2008

Date of Order : 30.06.2008

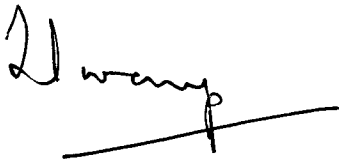
ORDER NO. OMBUDSMAN/2008/264

1. The Appellant Sh. Devinder Kumar Agarwal has filed this appeal against the orders of the CGRF-BYPL dated 11.01.2008 in complaint no. 383/12/07, stating that the decision of the CGRF is neither legal nor justified.



2. The background of the case as per records submitted by both the parties is as under:-

- i) The Respondent installed an electric connection for commercial use in the year 1980 at the Appellant's premises B-4, Convenient Shopping Centre, Super Bazar Market, Vivek Vihar, Delhi-110090. Thereafter no electricity bill was issued for about 27 years.
- ii) The Appellant made several representations in the office of the Respondent for issuance of electricity bills. The Appellant has enclosed copies of such representations dated 26.12.1984, 02.12.1991, February 2000. The AFO Jhilmil informed the Appellant vide letter no. AFO/JLM/3/1946 dated 17.01.1985, that the matter is receiving their attention and after getting a K. No. from the AE Zone, bills will be issued.
- iii) After more than 27 years, the first electricity bill was issued for 7616 units, for the month of October 2007, amounting to Rs.42,170/- and was payable by 21.11.2007.
- iv) On 17.11.2007, the Appellant filed a representation with the Respondent informing that the bill issued by the Respondent indicates a consumption of 7616 units during the period 31.07.2002 to 31.10.2007, with an initial reading of '1' as on 31.07.2002. This bill is neither correct nor legal and the company cannot charge any amount for consumption earlier than two years, as per the Electricity Act 2003.



- v) Thereafter, the Appellant filed a complaint before the CGRF on 17.12.2007 stating that the bill for the past two years from October 2005 onwards till date, be raised in view of section 56 (2) of the Electricity Act 2003. The Respondent stated before the CGRF that the Appellant had made complaints earlier with the DVB but had not approached the Respondent BYPL, since it came into existence and took over the work of the DVB. The Respondent further stated that on an oral request of the Appellant, the bill was revised as per readings from 26.03.1980 to 31.10.2007, by giving slab benefits for 7615 units for an amount of Rs.32780/-.
- vi) The Respondent stated before the CGRF that the Appellant had been using electricity since 26.03.1980 and is liable to pay the dues of electricity consumed by him, in view of the Hon'ble Supreme Court's orders in the case of M/s Sisodia Marbles and Granites Pvt. Ltd. Vs. Ajmer Vidyut Vitran Nigam Ltd., vide judgement dated 17.05.2007.
- vii) The CGRF took a view that the Respondent had failed to issue the first electricity bill within two billing cycles of energization of the connection as per DERC Regulations, and had issued the first bill only in October 2007, after the expiry of more than 27 years from the date of energization. The CGRF agreed with the Respondent's contention that Section 56 (2) of the Electricity Act 2003 is not applicable in this case. The Forum concluded that the Appellant is liable to pay for the electricity consumed by him and the licensee was directed to accept the



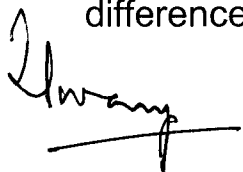
payment of the revised bill in three bi-monthly installments, and to also pay a compensation of Rs.250/- to the Appellant as per the DERC policy of Guaranteed Standards of Performance and Compensation, to the consumer in case of default as per Clause 2 Billing.

Not satisfied with the above orders the Appellant has filed this Appeal.

3. After scrutiny of the records and after obtaining the required clarifications from the Respondent, the case was fixed for hearing on 09.06.2008.

On 09.06.2008, the Appellant was present through Sh. Harish Jain, Advocate. The Respondent was present through Sh. D. K. Sharma (AFO) and Sh. Rajiv Ranjan, Assistant Manager (Legal)

Both the parties were heard. The Appellant stated that till October 2007 from the date of energization in 1980, no bill was received during this period of 27 years. The old meter was replaced with a new electronic meter in February 2008. It was observed that the reading recorded in the Meter Change Report was different from the reading in the bill raised in October 2007. The Respondent was directed to produce the original Meter Change Report and to explain the difference in readings and as to why no bill was raised at least after

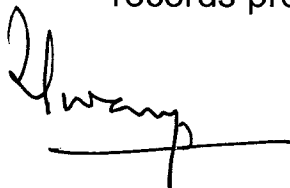


2002. The basis of the bill in October 2007 was also to be explained. The case was fixed for further hearing on 26.06.2008.

4. On 26.06.2008, the Appellant was present in person along with Sh. Harish Jain Advocate. The Respondent was present through Sh. D. K. Sharma, AFO, Sh. Rajiv Ranjan, AM (Legal) and Sh. P.K. Bhardwaj, Assistant V.P. Business, Krishna Nagar,

Both parties were heard at length. The Respondent produced the meter change report dated 12.02.2008 wherein the reading of the old meter is recorded at 7616. The same reading was found on 31.10.2007. This indicates that the meter was lying stopped. The Appellant admitted that electricity was consumed by him during the last 27 years but no bill was raised by the Respondent despite several requests. No reliable consumption record for the last 27 years is available with the Respondent. The old meter stopped at reading 7616 but the date of the meter stopping is not known to the Respondent. The Appellant pleaded that section 56 (2) of Electricity Act 2003 be applied or Appellant be charged from July 2002 onwards only, by excluding the DVB period, and recovery of revised payable amount be made in installments. The Appellant also requested for compensation on account of harassment, and cost of litigation, for which Respondent is responsible.

5. Based on the submissions made by both the parties and the records produced, it is observed that:-



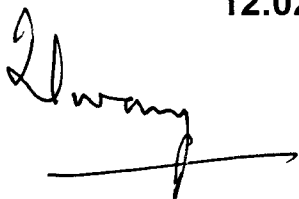
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a) After installation of the electricity meter on 26.03.1980, the Respondent has miserably failed to keep the record of electricity consumption, and has not issued electricity bills for more than 27 years. Despite several representations sent by the Appellant, and even after an assurance by the AFO, District Jhilmil vide his letter dated 17.01.1985, no action was taken for issuance of electricity bills. The first electricity bill in October 2007, was raised by the Respondent for the period 31.07.2002 to 31.10.2007 by taking the reading '1' as on 31.07.2002 and 7616 on 31.10.2007.

b) The old stopped meter was replaced with a new electronic meter only on 12.02.2008 and this new meter has recorded a consumption of 108 units upto 20.06.2008.

6. It is seen that the Appellant had no doubt consumed electricity for approximately 27 years. The Respondent has however raised a bill on the basis of the reading of a stopped meter w.e.f. 31.07.2002 to 31.12.2007 only. It is therefore decided that:

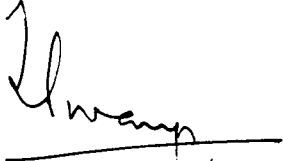
- i) **The Appellant is liable to pay the charges for the electricity consumed by him w.e.f. 31.07.2002 onwards only, since a bill has been raised from the date.**
- ii) **The provisional assessment demand for the period 31.07.2002 to 12.02.2008 be raised by the Respondent, based on the average consumption recorded from 12.02.2008 to 20.06.2008.**



- (6)
- iii) The Appellant is to pay the provisional revised demand, in 3 equal bi-monthly installments.
 - iv) The final demand be raised on the basis of one year's consumption of the new meter i.e. 12.02.2008 to 12.02.2009.
 - v) For the harassment caused to the consumer and the cost of litigation incurred by him, a compensation of Rs.2500/- be paid to the Appellant. This amount be adjusted in the revised bill.
 - vi) The compliance report be sent within 3 weeks.

The CGRF order is modified to the extent above.

30.06.2008.


(SUMAN SWARUP)
OMBUDSMAN