Office of the 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/2012/464

Appeal against the Order dated 05.12.2011 passed by CGRF–TPDDL in CG .No. 3721/09/11/SMB.

In the matter of:

Shri Bikash Sarawagi - Appellant

Versus

M/s Tata Power Delhi Distribution Ltd. - Respondent

Present:-

Appellant: **Shri B.P. Agarwal, Advocate, was attended on behalf of the Appellant.**

Respondent: **Shri K.L. Bhayana (Advisor), Shri Ajay Kalsie (Company Secretary) and Shri Vivek (Sr. Manager- Legal), attended on behalf of the TPDDL.**

Date of Hearing: 13.06.2012

Date of Order : 27.07.2012

ORDER NO. OMBUDSMAN/2012/464

This appeal is against the order of the Consumer Grievance Redressal Forum (CGRF) dated 05.12.2011 of Shri Bikash Sarawagi, in which M/s Tata Power Delhi Distribution Ltd. (hereinafter TPDDL, the DISCOM) had allegedly raised a bill of Rs.4,18,388/- for a period from 30.07.2007 to 18.07.2008 for 73384 units in his electricity connection bearing K. No.45300156850 having a sanctioned load of 8 kW for non-domestic light installed at H.No.282, Gali No.4, Village Shalamar, Delhi.

In their averments, the DISCOM has contended that they have raised the bill on the basis of consumption of 73384 units from 30.07.2007 (reading 13743) upto 18.07.2008 (reading 87127), which were not billed earlier on actual basis due to the premises being locked, except for an average basis bill issued with "Premises Locked" remarks in March, 2008. The Appellant's contention is that this is an abnormal consumption of approx. 6115 units per month for a small office and is not in consonance with his average consumption of 789 units per month from 30.05.2006 to 29.07.2007.

The meter was checked on the Appellant's request and was found to be defective with a remark "Meter needs replacement. Abnormal blinking and reverse jump." (sic), as per Report dated 26.03.2009 and was replaced on 21.04.2009.

The CGRF-TPDDL in its order dated 05.12.2011 decided that the bill for the actual energy consumed during the period 30.07.2007 to 18.07.2008 was prepared and as such is payable. The Late Payment Surcharge (LPSC) was waived off. The revised correct bill was to be prepared and delivered to the complainant.

A hearing was held on 13.06.2012. Both the parties were heard and the records perused. It was noticed that the contention of the DISCOM is that the complainant had never approached the TPDDL to report any defective meter. Nor had the consumer approached it for not receiving the bills in time alleging a defective meter. If he had complained this could have been rectified in time. On the other hand, the complainant argued that he had duly complained to the DISCOM from time to time and it was only due to this that part payment bills dated 16.10.2008, 22.04.2007 & 31.01.2007 etc. were accepted. But the DISCOM had not taken prompt action to fix the defective meter.

During the hearing the DISCOM failed to explain why the consumer was not billed for such a long period on actual basis in violation of clause 41 of DERC Supply Code and Performance Standards Regulations, 2007 and was not issued a notice under clause 37(IV) of the Regulations for premises being locked. Further, the

Discom did not explain why cognizance of the meter testing report should not be taken. There is no explanation from the Discom on these points.

Going by the totality of the case, the averments made and the facts placed on record and, taking cognizance of the meter test report dated 26.03.2009 when the meter was found to be defective with the remark "Meter needs replacement. Abnormal blinking and reverse jump." (sic), it is difficult to accept that the average consumption was approx. 6115 units per month for a load of 8 kW for the period from 30.07.2007 to 18.07.2008. Hence, usage of 73384 units for such a shop is implausible. Further, taking into consideration the fact that the average consumption had earlier been about 789 units per month during 30.05.2006 to 29.07.2007, it is felt that the jumping of meter cannot be ruled out. Nor can this be verified/checked at this juncture on the basis of the facts placed on record, viz. the abnormal consumption vs. the average consumption record for the preceding period and the background of the meter testing report dated 26.03.2009.

As per clause 43 (i) of DERC Supply Code & Performance Standards Regulations, 2007, **"The consumer shall be billed for the period the defective/stuck/stopped/burnt meter remained on site, subject to a maximum of six months, based on the estimated energy consumption by taking the consumption pattern of the consumer for the twelve months prior to the period during which the meter remained defective. The amount already paid by the consumer for the period meter remained non functional or defective, shall be adjusted in this bill. The assessment bill shall be raised within two billing cycles from the date of changing the meter".** Accordingly, the party could have been charged on the basis of the average consumption recorded by the meter reading of the preceding twelve months' prior to the period during which the meter remained defective for a maximum of six months only.

But in this case, the Appellant also did not approach the licensee in writing to supply regular bills for the whole period as was required, as per clause 44 (iv) of DERC Supply Code & Performance Standards Regulations, 2007, which stipulates, **"In case on non-receipt of bill by the consumer, the Consumer shall approach the Licensee,**

who shall furnish duplicate bill immediately with due date for payment extended as above and no late payment surcharge shall be leviable if the complaint is correct". This is a lapse on the part of the Appellant. However, he did verbally inform them & he did receive provisional bills which he paid in 2007 & 2008. Having complied with the above requirement, though verbally, and having received provisional bills, which he paid, it would be unfair to penalise him fully as the CGRF has done. If the consumption after replacement of meter on 21.04.2009 till 29.04.210 is seen this is 15567 units for about 13 months which gives an average of 1174 units/month. The earlier average being claimed by the Appellant was 789 units/month. It would be in the interests of justice to take an average of both these which can be rounded off to 1000 units/month.

The Appellant is therefore correct and should pay for the whole period of dispute whatever he has consumed but on the basis of the average indicated above of 1000 units/month. The payment already made for this period is to be adjusted.

The appeal is disposed off accordingly. The Compliance Report of this order may be submitted within 21 days.

(PRADEEP SINGH)
OMBUDSMAN
27th **July, 2012**