

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 12 of 2006

In the matter of
Petition filed by the Maharashtra State Electricity Distribution Company Limited seeking
to maintain the due date of payment of bills as fifteen days for all consumers of MSEDCL.

Dr. Pramod Deo, Chairman
Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

ORDER

Dated: 11th October, 2006

The Maharashtra State Electricity Distribution Company Limited filed a Petition on 19th June, 2006 essentially praying that the time allowed to consumers to pay their bills as per the due date on the bill should be fifteen days. The Petitioners have contended that the Regulations made by the Commission under Section 50 of the Electricity Act, 2003 (“EA, 2003”) deals with this aspect. In their Petition, the Petitioners have referred to the said Regulations, viz., the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005 (“Electricity Supply Code”) and have submitted that Regulation 15.5.1, which deals with payment of bills, stipulates that the due date for the payment of bill shall not be less than twenty one days from the bill date in case of residential and agriculture consumers and not less than fifteen days in the case of other consumers. It has been contended that the time allowed for payment of bills to residential and agriculture consumers and other consumers being different, the said Regulation 15.5.1 discriminates amongst consumer categories, which is contrary to the Electricity Regulatory Commissions Act, 1998 and the EA, 2003. These statutes, particularly Section 62(3) of EA, 2003 prohibits the extension of undue preference to any consumer of electricity. It has also been contended that the effect of Section 56 (1) of the EA, 2003 would be that consumers should pay their bills within fifteen days from the bill date. Therefore, keeping in view the aforesaid statutory provisions under Section 62 (3) and Section 56 (1) of EA, 2003 Regulation 15.5.1 of the Electricity Supply Code ought to be amended by the Commission to maintain fifteen days as the due date for the payment of bills from the bill date, in case of all consumers and there should be no distinction in the due date for payment of bills in case of residential and agriculture consumers and other consumers. The Petitioners have submitted that the Commission is empowered under Regulation 23 to amend the Electricity Supply Code and may remove difficulties that may arise in giving effect to the said Regulations being empowered to do so under Regulation 24 thereof.



2. The Petitioners have also pointed out that there are certain difficulties on their part in giving effect to the provisions of Regulation 15.5.1 of the Electricity Supply Code. The Petitioners have explained their difficulties as under:

- (i) Out of the total LT consumer base of 13653235, 89.7% of the consumers belong to residential and agricultural category and in terms of revenue estimates for 2005-06 of Rs. 6923.947 crores from LT consumers, 61% of the revenue is coming from domestic and agriculture consumers, i.e., Rs. 4206.508 crores. Since the major component of the total revenue is from the domestic and agriculture consumers, even a difference of one day will have a major financial burden on the Petitioners where the liquidity position is so critical. Also, the payment by the Petitioners for the short term power purchase from traders is required to be made within seven days of the bill raised by them, and therefore it becomes difficult for the Petitioners to raise the funds to that extent for such huge payments. Since, the domestic and commercial consumers are billed once in every month the difference in the due date, i.e., twenty one days for domestic and fifteen days for commercial creates problems.
- (ii) Since readings of residential and commercial consumers are taken at a same time on the same RR (Route Reading) sheet, the Billing Data is available for all consumers of that feeder at a same time. Also, the reading and billing process takes 15-20 days for the Petitioners and then bills are issued to consumers. The due date for payment being fifteen days to twenty one days, the whole billing cycle takes a period of one month, where the working capital of the Petitioners is blocked for that period.

3. Since the Petitioners essentially prayed for effecting an amendment or modification to the Electricity Supply Code, which is applicable to the other distribution licensees too, a notice was issued on 11th July, 2006 inviting the other distribution licensees, viz., the Tata Power Company Limited (“TPC”), Reliance Energy Limited (“REL”), Brihan Mumbai Electric Supply and Transport Undertaking (“BEST”) and Mula Pravara Electric Co-operative Society Limited (“MPECS”) and to hear consumer representatives (authorized on a standing basis under Section 94(3) of the EA, 2003), in the admissibility hearing fixed in the matter for 5th September, 2006.

4. At the hearing so fixed, Shri. Abhijit J. Deshpande on behalf of the Petitioners reiterated the contentions raised in the Petition. Shri Kapil Sharma, on behalf of REL, submitted that there were no submissions being made on behalf of REL on the issues raised by the Petitioners. Shri A.G. Patil, on behalf of BEST, supported the contentions of the Petitioners.

5. The Commission has heard the Petitioners and other parties in the aforesaid hearing and has considered the material placed on record. The Commission is of the view as under:

- (i) There seems to be no legal basis which can be considered for admitting the Petition. The contention of the Petitioners with respect to Section 62 (3) of EA, 2003 is misconceived and has been read out of context. The restriction on the Commission (as contemplated in Section 62 (3)) to not differentiate amongst consumers is to be exercised while determining tariffs. However, the petition does not deal with Section 62 (3) in the context of tariff determination. The issue raised in the petition pertains to the time allowed to pay bills (due date for payment of bills). Therefore, the restriction contemplated under



Section 62 (3) of EA, 2003 does not apply in this case (relating to due date for payment of bills which have been specified in the Electricity Supply Code). Similarly, the contention with respect to Section 56 (1) is also mis-conceived. The fifteen days prior written notice period contemplated in Section 56 (1) is to effect disconnection on account of non-payment of bills. The said fifteen days as referred to in Section 56 (1) cannot be read in a manner so as to mean that the EA, 2003 contemplates that all bills should be paid within fifteen days, both being different matters. It is well settled that a particular term or word takes colour from the expressions used in earlier part or the clauses of the particular phrase as used in a given provision. Therefore, the said period of fifteen days as referred in Section 56 (1) is to effect disconnection and not to pay bills within the said period. There being no other legal argument in the Petition (i.e., no other legal provision being relied upon), the Petition is liable to be dismissed being not maintainable.

- (ii) With regard to the difficulties cited by the Petitioners in giving effect to Regulation 15.5.1 of the Electricity Supply Code, while the Commission notes that no substantial contentions have been raised by the other distribution licensees regarding difficulties faced by them in giving effect to the said Regulation, the admission made by Shri. Deshpande has been taken on record that residential and agricultural consumers receive their electricity bills within five to six days from the bill date as there is some amount of delay in sending the bills. This, in effect, in any case, leaves these consumers with around fifteen days to pay the bill amount.

6. In light of the above, the Commission is of the view that there is no requirement to amend Regulation 15.5.1 of the Electricity Supply Code or issue any directions under Regulation 24 thereof as sought by the Petitioners as the contentions of the Petitioners cannot be sustained.

The Commission dismisses the Petition being not maintainable.

Sd/-
(S.B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(Dr Pramod Deo)
Chairman



Secretary, MERC