

**ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR-751 012**

**Present : Shri D.C. Sahoo, Chairman
Shri H.S. Sahu, Member
Shri B.C. Jena, Member**

Case No.64 of 2001

M/s NALCO, Bhubaneswar	Petitioner
- Vrs. -		
M/s CESCO, Bhubaneswar	Respondent

For Petitioner	:	Mr. Indrajeet Mohanty, Advocate
For Respondent	:	B.K. Nayak, Advocate

Date of argument	:	18.02.2002
Date of Order	:	01.03.2002

ORDER

1. This proceeding arose out of an application filed by M/s.NALCO u/s 37(1) of the Reform Act, 1995 read with. Regulation 110(3) of OERC Distribution (Condition of Supply) Code, 1998.
2. The brief fact of the case is that, in course of routine checking, the meter of the petitioner was checked on 04.06.94 by the respondent and found O.K. Again on 19.01.1995, the meter of the petitioner was checked in the presence of the petitioner by the MRT squad and it was found that the metering unit was defective due to y-phase PT disconnected at HT side internally and the same thing continued till 01.05.1999 when a new metering unit was installed. The Executive Engineer, BCDD, Bhubaneswar raised the bill for the period from 6/94 to 11/98 on the basis of minimum charge as per the prevailing tariff. As the billing on the basis of minimum charge was abolished from 12/98 onwards, the billing for the period from 12/98 to 5/99 was made on the basis of the consumption pattern for the period 6/99 & 7/99 after the defective metering unit was replaced by a new tested unit and consumption pattern was available

based on meter reading. The petitioner has paid all the bills till 11/98 and challenged the energy bill for the period 12/98 to 4/99 in the present petition.

3. It has been argued by the Advocate for the petitioner that Regulation 60 of the OERC Distribution (Condition of Supply) Code, 1998 prescribes the manner in which billing shall be done for the defective meter. As per the said regulation, the billing shall be done on the basis of average meter reading for the three consecutive billing periods preceding the billing period in which the defect was noticed. Since the defect was noticed on 19.01.1995, during meter testing only, as per regulation 60 of the OERC Distribution (Conditions of Supply) Code, 1998, the billing for the period from 12/98 to May, 1999 should have been done on the basis of average meter reading for the consecutive three billing periods preceding the date of notice of the defect in the meter i.e. 19.01.95. However, in the instant case, the respondent has raised the bill for the period from 12/98 to 5/99 based on the average meter reading for the period 6/99 to 7/99, after the defective meter was replaced by a new tested meter. This is arbitrary and is against the provision of Regulation. Therefore, the petitioner should be directed to revise the bill as per Regulation 60 of the OERC Distribution (Conditions of Supply) Code, 1998.
4. The Advocate for the respondent has submitted that, billing for the period 12/98 to 5/99 has not been done on the basis of average of previous three months billing prior to the date when the defect was noticed i.e., 19.01.1995, for the reason that the meter was defective and not reflecting the actual consumption. As such, taking the succeeding two months average consumption when new meter was installed, for the month of 6/99 & 7/99 the bill for the period 12/98 to 5/99 has been prepared is logical.
5. We have heard the arguments for the advocates for both the parties. Admittedly the petitioner has not challenged the bill for the period 6/94 to

11/98 as the billing has been made on the basis of minimum charge and has paid the same. The dispute relates to the period 12/98 to 5/99. For assessing the consumption during the period when the meter remained defective, Regulation 60 of OER Distribution (Conditions of Supply) Code 1998 is the appropriate Regulation. According to the said regulation:

“For the period the meters other than that of domestic, commercial, small industries, irrigation, pumping and agricultural consumers remained defective, or was lost, the billing shall be done on the basis of average meter reading for the consecutive three billing periods preceding the billing period in which the defect or loss was noticed”.

6. Perusal of the consumption pattern of NALCO Township A/c reveals that monthly average consumption for 3 months prior to 6/94 was about 63,480 units, which abruptly came down to 46,175 units in 6/94, 35,475 units in 7/94 and 36,125 units in 8/94 etc. The trend continued upto 5/99. When the meter was replaced in 6/99, the consumption was recorded as 88,680 units in 6/99 and 89910 units in 7/99. The reason of sudden fall in energy consumption from 6/94 could not be explained by the petitioner. When the meter was checked on 19.1.95, it was found that, y-phase PT had been disconnected internally. Again, when the meter was replaced in 5/99, the consumption went up sharply. Thus, the irresistible conclusion from this is that the meter has developed defect between the period from 4.6.94 to 19.1.95.

7. Clause 60 of the Regulation, 1998 prescribes a method of assessing the consumption of a meter during the period when it has remained defective. It provides for averaging of the consumption over three billing periods, when the meter was operational, prior to the date when the meter became defective. This is a close estimate for assessing the consumption during the period when the meter remained defective, as there is no other measures of assessing the consumption. Thus, taking reference of meter

reading of three billing periods when the meter might not be recording the actual consumption would defeat the very purpose implied in the said regulation.

8. Accepting the contention of the Advocate for petitioner would mean that consumption would be averaged over a period when the meter has remained defective. This is not the spirit behind the above Regulation. The objective of Reg. 60 is to assess the consumption of the consumer for the period when the meter remained defective and this is best served by averaging the consumption of the meter when it was operational and to apply the same to the period when the meter has remained defective. Besides, the defect in the meter was noticed as early as June, 1994 when there was a sharp fall in the consumption of the petitioner. This was later confirmed in January, 1995 (at the time of testing), when it was found that Y-Phase PT terminal has been disconnected at HT side internally. Therefore, it would be appropriate to average the consumption for three billing period prior to June, 1994 and accordingly bill the consumer for the period 12/98 to 5/99.

9. In view of the above, we direct the respondent to average the consumption of the petitioner, for three consecutive billing cycles prior to 6/94 and apply the same for the period 12/98 to 5/99. We have already expressed our concern about CESCO's callousness in attending to the defective metering unit. It is unfortunate that CESCO could not replace the defective metering unit within a period of 5 years in the premises of a potential G.P. consumer with a monthly consumption of more than 60,000 KWH. We also direct the respondent to indicate action taken against the delinquent officers in failing to replace the defective meter within a reasonable time, even when the defect in the meter was confirmed as early as January, 1995.

(B.C. Jena)
MEMBER

(H.S. Sahu)
MEMBER

(D.C. Sahoo)
CHAIRMAN