

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

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**Present :       Shri D.K.Roy, Chairman  
                  Shri H.S. Sahu, Member**

**Case No.17 of 2001**

**In the matter of :**   Entry to consumer premises, for consumer census and other incidental activities u/s 20 of I.E. Act read with Clause 51 of OERC Distribution (Conditions of Supply) Code, 1998.

For CESCO   : 1)   Mr. Priyabrata pattanaik, Chairman  
                  2)   Mr. L. Pangari, Advocate

Date of argument :   **30.03.2001**

Date of Order       :   **11.04.2001**

**ORDER**

1.     It came to the notice of the Commission that in pursuance of an advertisement published by M/s CESCO, a Distribution Licensee, inspecting teams of the said Distribution Company were making extensive visit of various localities in Bhubaneswar in course of which they were entering into the residential premises of the consumers for inspection, enumeration and load verification etc. with the objective of providing better consumer service. The said advertisement published on or about 10<sup>th</sup> February, 2001 in local dailies notified that a “Consumer Census Plan” had been initiated in course of which authorised inspection teams would be visiting the premises of the consumers for the following purposes:-

- a) Locate and identify consumers with reference to transformer and pole.
- b) Inspect and verify correctness of functioning of the meter used by the consumers.
- c) Information on load.

- d) To give opportunity to the unauthorized users of electricity to be accepted as regular consumers.
  - e) Collect information regarding complaints and problems of the consumers.
2. Since it was reported that harassment was caused to consumers and that M/s CESCO as a licensee was overstepping the authority granted to it under Regulation 51 of OERC Distribution (Conditions of Supply) Code, 1998 (hereinafter referred to as Supply Code) and had ignored the mandatory provisions of Sec. 20 of the Indian Electricity Act, 1910, and since it was also considered necessary in the interest of the bonafide consumers to regulate the activities of the licensee to be in conformity with the laws of the land, the Commission passed an order on 16.02.2001 directing the licensee M/s CESCO to withdraw the impugned advertisement and to stop the "Consumer Census" operation forthwith giving a public notice regarding cancellation of the advertisement and to submit to the Commission a draft procedure for steps to be taken under Regulation 51 of the Supply Code for approval.
3. The CESCO preferred an appeal u/s 39 of the Electricity Reform Act, 1995 in the Hon'ble High Court of Orissa challenging the aforesaid order, vide Misc Appeal No.154 of 2001. The Hon'ble High Court in their order dt.16.03.2001 set aside the OERC order dt.16.02.2001 treating it as an order under sub-section (3) of Sec.28 of the Orissa Electricity Reform Act, 1995 which made it mandatory to issue a notice before passing any interim order and the OERC had not issued any prior notice. The Hon'ble High Court observed further that the Commission may proceed with the matter afresh in accordance with law.
4. Since the Commission is of the view that the licensee CESCO should follow a laid-down procedure for entering into residential premises of the consumers, it is decided to proceed with the matter afresh. Accordingly, in compliance with the observations of the Hon'ble High Court, a notice was issued by the Commission on 21.03.2001, directing CESCO to show cause why an Interim Order u/s 28(4) read with explanation to Sec.31 of OER Act would not be passed directing CESCO to do the following.

- a) The consumer census operation be stopped forthwith.
  - b) A draft procedure complying with Sec.20 of the Indian Electricity Act, 1910, and all other provisions of law enabling him for conducting the so-called census be sent to the Commission for approval.
5. In pursuance of the said notice, CESCO, the licensee has stated that it has stopped consumer census after receiving the earlier order dated 16.02.2001.
6. As regards the proposed order for filing a draft procedure complying with Sec.20, of the Indian Electricity Act, 1910, CESCO has stated that, it has already submitted a detailed procedure keeping in view Sec.20 of the Indian Electricity Act on 23.02.2001. However, it has furnished another draft procedure, to be followed, keeping in view the provisions of Sec.20 of the Indian Electricity Act, 1910 and Para 51 and 52 of the OERC Distribution (Conditions of Supply) Code, 1998 for approval of the Commission.
7. The licensee has also indicated that, as per clause 15(ix) of the OER Act, 1995, the license granted by the Commission should provide that licensee should have the powers to take appropriate action for revenue realisation, prosecution of theft, meter tampering, diversion of electricity and all such matters affecting distribution and supply of electricity to the consumer.
8. Further as per Orissa Distribution and Retail Supply License, 1999, the licensee shall forecast demand for power within its area of supply, for the next five financial years, including the year-wise break up. As per Orissa Distribution (Planning and Operation) Code 1998, "the licensee shall create a database of load for each consumer category and for each distribution connected to its distribution system, and update it on annual basis".
9. We have carefully examined the submission of M/s CESCO. We find that the rationale given for the so called load census does not justify entry into premises of consumers particularly domestic consumers. There is no denying of the claim that

the licensee has to be empowered and enabled for revenue realisation, detection of theft of electricity and meter tampering etc. But these empowerments have to be compatible with the provisions of law. The information regarding consumers and their loads even if required can be otherwise had in most cases without entering into premises. There may be cases in which an inspection with entry into residence will be required on grounds of electrical safety, detection of illegal abstraction of electricity and similar reasons. Such cases will be few and far between. These will be in specific cases on the basis of information in possession. But there is no justification for a sweeping drive for census/ survey and inspection giving unbridled access to licensee company to consumers premises as would affect privacy of individuals.

10. Further, perusal of draft procedure furnished by the licensee shows that, a uniform procedure has been suggested for entering into the premises of the consumer for inspecting the apparatus, belonging to the licensee as well as for checking apparatus for the use of energy belonging to the consumer. However, separate procedures have to be prescribed under Sec. 20(1) and under Section 20(2) of Electricity Act, 1910, for entry into the premises of the consumer depending upon the purpose and the ownership of the apparatus to be inspected, tested, repaired, altered or removed. Whereas Sec. 20(1) refers to the procedure to be followed when the apparatus belongs to the licensee, Sec. 20(2) refers to the procedure to be followed in respect of apparatus belonging to the consumer. Therefore different set of procedures should be adopted for entry into the premises of the consumer depending on the ownership of the apparatus and purpose of inspection. It is not for nothing that the law has prescribed different procedure for inspection of licensee's apparatus and consumer's apparatus. The difference has to be taken into account.
11. In view of the reasons stated above, the procedure furnished by the licensee is not approved. It has been submitted by M/s CESCO in its representation that if the draft procedure filed by it is found not to be in accordance with the provisions of law, the Commission may prepare a procedure to be followed by the Licensees/Distribution Companies, keeping in view better consumer service,

interest of the licensees and different stipulations in the Reform Act as well as the Conditions of License and Distribution Code. The Commission, however, does not propose to indulge in such an exercise at this stage since it requires opinions and hearing from all the licensees apart from invitation of objections and suggestions from different concerned quarters. Accordingly, a draft procedure for its specific purpose in conformity with Rules need be furnished by the Licensee for approval.

12. The Commission therefore passes an Interim Order, under Sub Section (4) of Section 28 read with explanation to Sec.31 of the OER Act, directing the licensee to do the following.
  - a) The Consumer Census operation shall not be started unless the procedure to be followed therefor has been finally approved by the Commission.
  - b) A revised draft procedure for load census/load survey operation in consonance with Section 20 of the Indian Electricity Act, 1910 and other provisions of law is sent to the Commission for approval.

A copy of the Interim Order be served upon CESCO immediately.

**Sd/-(H.S. SAHU)**  
**MEMBER**

**Sd/-(D.K. ROY)**  
**CHAIRMAN**