



ASSAM ELECTRICITY REGULATORY COMMISSION

ORDER SHEET

FILE NO. AERC.695/2018

PETITION NO: 12/2018

CORAM: HON'BLE SHRI S.C. DAS, CHAIRPERSON
HON'BLE SHRI D CHAKRAVARTY, MEMBER

In the matter of

Petition No. 12 of 2018 filed by APDCL for Review of Clause 7.4.1 of the AERC (Electricity Supply Code), Regulation, 2017

In the matter of

Assam Power Distribution Company Ltd. (APDCL)

----Petitioner

Present:

Petitioner:

Mr. Dipak Kr Sarmah, DGM, APDCL
Mr. Bibhu Medhi, AGM, APDCL

ORDER

Dated 18.09.2018

1. APDCL filed a Misc Petition for Review of the Regulation 7.4.1 of the AERC (Electricity Supply Code), Regulation, 2017. The salient submissions made are:
 - a. As per the AERC (Electricity Supply Code), Regulation, 2017, Assessing Officer need to be always present in the inspection conducted on behalf of APDCL for cases related to Un-authorized use of electricity.
 - b. As per the Govt. of Assam notification, under Section 126 (6) (a) of the Electricity Act'2003, Assessing Officer is not below the rank of Executive Engineer/Assistant General Manager (AGM).
However, it is not possible for AGM or CEO, Circle to go for inspection in all the cases of un-authorized use of Electricity, as they are otherwise busy with other works and inspections take lot of time.
 - c. APDCL also mentioned that, the Electricity Act'2003 doesn't stipulate that, the Assessing Officer should always be present in the inspection conducted on behalf of APDCL.
 - d. Therefore, APDCL prayed for modification of Regulation 7.4.1 of the of the AERC (Electricity Supply Code), Regulation, 2017 to do away with the mandatory presence of Assessing Officer during inspection.
2. Before deciding the matter the following Legal positions need to be considered:
 - a. The Section 126 of the Act'2003, which provides for the Assessment of Unauthorised use of electricity, is reproduced below:
*"Section 126: (Assessment): --- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the **assessing officer** comes to the conclusion that such person is indulging in unauthorized use of*

*electricity, he shall provisionally assess to the best of his judgement the electricity charges payable by such person or by any other person benefited by such use.....**Emphasis added***"

- b. The Regulation 7.4.1 of the Supply Code, 2017, specifies details related to procedure for booking a case for Unauthorised use of Electricity under Section 126 of the Act'2003, relevant portion if reproduced below:

"7.4.1 Procedure for booking a case for Unauthorised Use of Electricity

a) An Assessing Officer, suo - motu or on receipt of reliable information regarding unauthorised use of electricity shall promptly conduct inspection of such premises....."

- c. In the Supply Code, 2017, Assessing Officer is defined as below:

"11. "Assessing Officer" means an officer designated as Assessing Officer by the Government of Assam under provisions of section 126 of the Act;"

Further, the Authorised Officer is defined as:

"12. "Authorised Officer" means an officer designated as Authorised Officer by the Commission or the Government of Assam, as the case may be, under provisions of section 135 (1A) and 135(2) of the Act respectively;"

- d. The Regulations notified under the Electricity Act'2003, cannot be in contradiction with the provisions in the Electricity Act'2003. The reading of the Section 126 (1) makes it amply clear that Assessing Officer is required to remain present during the inspection.

3. In view of the above, the Commission orders that,

- a. The Assessing Officer must be present during all the inspections, because he is the one who will prepare the Assessment Bill.
- b. The Regulation 7.4.1 is in consonance with the provision in Section 126 (1) of the Electricity Act'2003 and therefore, the prayer for review of the regulation is rejected.

With the above orders, the Petition No 12/2018 is hereby disposed off.

Sd/-

(D Chakravarty)
Member, AERC

Sd/-

(S.C.Das)
Chairperson, AERC