

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BENGALURU**

Dated : 2nd June, 2016

Present:

- | | |
|----------------------------------|----------|
| 1) Shri M.K. Shankaralinge Gowda | Chairman |
| 2) Shri H.D. Arun Kumar | Member |
| 3) Shri D.B. Manival Raju | Member |

OP No.34 / 2015

BETWEEN:

Bangalore Electricity Supply Company Limited,
K.R. Circle,
Bengaluru – 560 001.

..

PETITIONER

[Represented by ALMT Legal, Advocates]

AND:

NIL

..

RESPONDENT

ORDERS

- 1) The Petitioner has filed the present Petition seeking leave of this Commission to collect Security Deposit and Meter Rental Charges for Pre-paid Meters fixed by the Petitioner for temporary power supply installations under LT-7 category consumers, as per its proposal given below :

LT installations for a period upto 7 days.	No Meter Security Deposit or Meter Rental Charges.
LT-7 installations for a period in excess of 8 days upto 56 days.	Meter Rental Charges at Rs.75/- per week.
LT-7 installations for a period in excess of 57 days.	Meter Security Deposit equivalent to the cost of the Meter.

- 2) The facts which have led the Petitioner to file the present Petition may be stated as follows :
- (a) The Tariff Order dated 30.4.2012 and the subsequent Tariff Orders of this Commission have directed the Distribution Licensees to arrange the temporary power supply through a Pre-paid Energy Meter and observing the provisions of Clause 12 of the Conditions of Supply of Electricity of the Distribution Licensees in the State of Karnataka (CoS). Pursuant to the above Tariff Orders, the Petitioner has installed 3,525 Pre-paid Energy Meters using Smartcard Technology for temporary installations (LT-9 Tariff) in its Indiranagar Division, out of which 2,700 Meters are Single Phase Meters and 825 Meters are Three Phase Meters. The Petitioner has to install another 750 Three Phase Meters, for which a Purchase Order has been issued. These Three Phase Meters are being fixed to temporary power supply installations at the cost of the Petitioner.

- (b) The Pre-paid Meters that are currently in the market are digital Meters. The cost of the digital meters are considerably high as compared to the Electro-Magnetic Static Meters, as shown below :

	Cost of Static Meter	Cost of Prepaid Meter
Single Phase	Rs.905.14	Rs.10,733.00
Three Phase	Rs.2,449.39	Rs.13,532.00
Three Phase CT operated	Rs.2,999.00	N.A.

- (c) The duration of the LT-7 category temporary power supply installations varies from one day to several months. The Meters fixed in such installations are exposed to greater wear and tear, considering the fact that they would be used for short durations for different installations. The Petitioner has to incur the cost for purchase of these Pre-paid Meters, therefore, it is essential to allow the Petitioner to collect the Security Deposit and monthly Rental Charges in respect of Pre-paid Meters provided by it.
- (d) The average life of a Meter may be taken as three years (144 weeks), considering the wear and tear, downtime and handling issues in transit. Therefore, the Meter Rental Charges in respect of the Single Phase Meters is estimated at Rs,75/- per week and for the Three Phase Meters at Rs.100/- per week.

- (e) Section 45 of the Electricity Act, 2003 (Act) authorizes the Distribution Licensee to fix the Rental Charges for any electric Meter provided by it and Section 47 of the Act authorizes to demand Security Deposit for the electric Meter provided by it for supplying electricity.
- 3) We have heard the learned counsel for the Petitioner and perused the records of the case.
- 4) We find that there is no specific Regulation framed or Order passed by this Commission authorizing the Distribution Licensee to collect Rental or other Charges in respect of any electric Meter provided by the Distribution Licensee. The learned counsel for the Petitioner has also not pointed out any such Regulation or Order in this regard. However, Meter Security Deposit is payable by the Consumer as prescribed under the Schedule of Rates fixed by the Distribution Licensee from time to time, as provided in Clause 30.04 of the CoS. We are of the view that Clause 30.04 of the CoS is applicable even to temporary power supply installations. Therefore, there is no difficulty in holding that the Petitioner is entitled to claim Meter Security Deposit even in the case of temporary power supply.

- 5) We have to consider, whether the Petitioner can be allowed to collect the Rental Charges for the Pre-paid Meters provided by it for temporary power supply.
- 6) Considering the relevant provisions in the Act, we are of the considered view that the Petitioner is to be allowed to collect the Rental Charges for the electric Meter provided by it for temporary power supply, for the following reasons :
- (a) Sub-Section (1) of Section 55 of the Act reads thus :

“55. Use, etc., of meters.-(1) No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter:

Provided FURTHER that the State Commission may, by notification, extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.”

The first Proviso to Sub-Section (1) of Section 55 of the Act authorizes the Distribution Licensee to require the Consumer to furnish security for the price of that meter and enter into an agreement for the hire thereof,

unless the Consumer elects to purchase a Meter. Therefore, whenever an electric Meter is provided by the Distribution Licensee, the Consumer has to furnish security for the price of that Meter and he is also liable to pay the Rental Charges, unless he elects to purchase the electric Meter on his own.

- (b) Clause (b) of Sub-Section (3) of Section 45 of the Act stipulates that the charges for electricity supplied by the Distribution Licensee may include a rent or other charges in respect of any electric Meter or electrical plant provided by the Distribution Licensee. Sub-Section (5) of Section 45 of the Act provides that the charges fixed by the Distribution Licensee shall be in accordance with the provisions of the Act and the Regulations made in this behalf by the concerned State Commission. Sub-Section (1) of Section 45 of the Act empowers the Distribution Licensee to collect the charges for supply of electricity. The above provisions in the Act provide that a rent or other charges in respect of any electric Meter provided by the Distribution Licensee, can be collected by it as per the Regulations made in this behalf by the State Commission.
- (d) As already noted above, we have found that there is no specific Regulation framed or Order assed by this Commission for collecting Rental Charges for the Meter provided by the Distribution Licensee.

- (e) The Hon'ble Supreme Court, in the case of *Jantia Hill Truck Owners Association –Vs- Shailang Area Coal Dealers and Truck Owners Association and others* reported in **(2009) 8 SCC 492** has held thus :

“Even in a case where the statute provides for certain things to be done, subject to rules, any action taken without framing the rules would not render that action invalid. If a statute is workable even without framing of the rules, the same has to be given effect to. The law itself, except in certain situations, does not envisage vacuum.”

The above principle laid down by the Hon'ble Supreme Court makes it clear that, even in the absence of Regulations, the Distribution can be allowed to collect the Rental Charges for providing electric Meter, if it is workable. Any of the Regulations or the provisions in the Act does not prohibit to collect the Meter Rental Charges for the electric Meters supplied by the Distribution Licensee. As noted above in the first proviso to Sub-Section (1) of Section 55 of the Act, the Consumer is under an obligation to furnish the Meter Security for the price of a Meter and also to pay the hire towards the Meter supplied by the Distribution Licensee, unless he elects to purchase the Meter.

- (f) The Rental Charges per week proposed by the Petitioner appears to be reasonable, considering the prices of the Single Phase and Three Phase electric Meters.

- 7) In the case of temporary supply of power, the Consumer may not usually opt for purchase of the Pre-paid Electric Meter, as the power supply taken would be only for a short duration. Therefore, invariably, the Distribution Licensee has to provide the Pre-paid Electric Meter. The Petitioner has not proposed for collecting the Security Deposit or Meter Rental Charges for LT-7 installations for a period of 7 (seven) days and has proposed only Meter Rental Charges at Rs.75/- per week for LT-7 installations for a period in excess of eight days upto 56 (fifty six) days and has proposed only Meter Security Deposit equivalent to the cost of the Meter for LT-7 installations for a period in excess of 57 (fifty seven) days, without claiming the Meter Rental Charges. We are of the view that the Petitioner's proposal not to claim the Meter Rental Charges for LT-7 installations for a period in excess of 57 (fifty seven) days, is not based on sound reasons.
- 8) The purpose of obtaining the Security Deposit is for easy recovery from the Consumers of the cost of the metering equipment, in case it is lost or damaged in the Consumers' premises. But, in the case of temporary power supply for short durations, it may not be convenient for the Petitioner to receive the Security Deposit and to repay it with interest by undergoing lengthy accounting process. Therefore, the proposal of the Petitioner not to claim Security Deposit for LT-7 installations for a period upto 56 (fifty six) days appears to be reasonable. The Meter Rental

Charge represents the depreciation in the value of the electric Meter. The Petitioner has not proposed any Rental Charge for LT-7 installations for a period in excess of 57 (fifty seven) days. The Meter Security Deposit is to be returned with interest. Therefore, receiving the Meter Security Deposit does not in any way reimburse the Meter Rental Charges. When the temporary power supply is for longer periods, one can expect that the Meter Rental Charge has to be collected towards the wear and tear of the electric Meter. Therefore, in the case of installations for a period in excess of 57 (fifty seven) days, the Petitioner is required to collect the Meter Rental Charges. It appears, the omission to claim Meter Rental Charges in this instance is due to inadvertence while making the proposal. Therefore, we hold that the Petitioner has to collect the Meter Rental Charges, apart from collecting the Security Deposit, in the case of installations for a period in excess of 57 (fifty seven) days.

- 9) For the foregoing reasons, we pass the following :

ORDER

The Petitioner is permitted to collect the Security Deposit and the Meter Rental Charges for Pre-paid Meters fixed by the Petitioner to its Consumers for temporary power supply under LT-7 category as under :

LT installations for a period upto 7 days.	No Meter Security Deposit or Meter Rental Charges.
LT-7 installations for a period in excess of 8 days upto 56 days.	Meter Rental Charges at Rs.75/- (Seventy Five) per week.
LT-7 installations for a period in excess of 57 days.	Meter Security Deposit equivalent to the cost of the Meter and Meter Rental Charges at Rs.75/- (Seventy Five) per week.

Sd/-

(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-

(H.D. ARUN KUMAR)
MEMBER

Sd/-

(D.B. MANIVAL RAJU)
MEMBER