

**JOINT ELECTRICITY REGULATORY COMMISSION FOR  
THE STATE OF GOA AND UNION TERRITORIES  
GURGAON**

Coram\*  
Shri S.K.Chaturvedi, Member  
Petition No. 116/2013  
**Date of Order 20.11.2013**

**In the matter of**

Petition under Section 86 of the Electricity Act, 2003 for relaxation in Regulation 6.10 (3) of Joint Electricity Regulatory Commission for Goa and UTs (Electricity Supply Code) Regulations, 2010, quash public notice dated 10.10.2013 issued by Electricity Department UT Chandigarh for deposit of advance consumption, direction to ED- UT Chandigarh to pay interest at the rate of 18% per annum on security deposit and direct the respondent ED- UT Chandigarh to frame a policy regarding installation of prepaid meters.

**And in the matter of**

Chandigarh Industrial Area Tenant Association.

..... Petitioner

**And in the matter of**

Electricity Department UT Chandigarh

..... Respondent

**Present for Petitioner**

1. Shri Sanjeev Sagar, President, Chandigarh Industrial Area Tenant Association.
2. Shri B.S. Saini, Gen. Secretary, Chandigarh Industrial Area Tenant Association.
3. Shri Vijay Pal, Advocate, Chandigarh Industrial Area Tenant Association.

**Present for Respondent**

1. Shri Pawan Sharma, AEE (Commercial), ED- Chandigarh.
2. Shri Sunil Sharma, Executive Engineer, ED- Chandigarh.

**Order**

The petitioner- Chandigarh Industrial Area Tenant Association has filed the present petition under Section 86 of the Electricity Act, 2003 for relaxation in Regulation 6.10 (3) of Joint Electricity Regulatory Commission for Goa and UTs (Electricity Supply Code) Regulations, 2010, quash public notice dated 10.10.2013 issued by Electricity Department UT Chandigarh for deposit of advance consumption, direction to ED- UT Chandigarh to pay interest at the rate of 18% per annum on security deposit and direct the respondent ED- UT Chandigarh to frame a policy regarding installation of prepaid meters. The petition runs as under:-

**Quote**

1. That the petitioner's Association is an Association of Small Scale Industries in the Union Territory Chandigarh. The members of the above association are consumers of Chandigarh Electricity Department, Chandigarh drawing power at lower tension categorized as L.T. Consumers as per the Electricity Act.
2. That the respondent Electricity Department of Chandigarh was formed in the year 1966 and the Electricity Department is the only licensee in U.T. Chandigarh for transmission and distribution of Electricity.

3. That as per the applicable tariff for L.T. Consumer the members of the petitioner's association are required to pay the monthly charges (Consumption Charges, fixed charge, Electricity Duty, Meter Rental and other charges) to the ED- Chandigarh based on the consumption of power as per applicable JERC orders and JERC Regulation for the UT Chandigarh as amended from time to time.
4. That the members of the petitioner's Association had already paid security on per kilowatt basis to the respondent department.
5. That in public notice dated 10.10.2013 which was published in the Newspaper whereby it has informed to comply with the Regulation 6.10 (3) of JERC (Electricity Supply Code) Regulations, 2010 notified by the Electricity Regulatory Commission, "*The amount of the security deposit obtained from the consumer will be reviewed by the licensee, annually on the basis of consumption during the previous 12 months for LT consumers, and half-yearly on the basis of consumption during the previous six months for HT/EHT consumers. The consumer shall be required to pay an additional security deposit / shall be refunded based on his average consumption during the period concerned and the tariff applicable etc. if it exceeds / is lower than the amount of the security deposit held by the licensee, by 20%.*" A copy of the public notice dated 10.10.2013 is attached as Annexure P/1.
6. That aggrieved from the aforesaid notice petitioner has submitted representation to the advisor to the Administrator, Chandigarh Administration and to Shri Pawan Kumar Bansal, Member of Parliament, UT Chandigarh. A copy of the representation dated 14.10.2013 and 19.10.2013 are attached as Annexure P/2 & P/3 respectively.
7. That the advance consumption deposit which has been asked from the members of the petitioner's association is not proper because the Chandigarh Electricity Department has already charged ACD. Charges alongwith two sureties which indemnify the Electricity Department from any kind of financial loss and one witness in the application in agreement form at the time of grant of Electricity Connection.
8. That the default rate of Electricity consumer is negligible in Chandigarh. Further no draft notification for inviting objections of the association/members has been issued by the Chandigarh Electricity Department before raising the demand of ACD charges.
9. That the members of the petitioner's association had already deposited the security with the respondent department long back in 1960s and 1970s but respondent department has paid the interest of said security only for the year 2011-12 and for the year 2012-13 whereas the interest should have been paid from the date of deposit of security. The interest on security can be credited to the account of consumers.
10. That on 15.03.2013 a news was published in the newspaper regarding one of the grievance of the petitioner i.e. the UT Electricity Department failed to pay interest to consumer. A copy of said news cutting is attached as Annexure P/4.
11. That the basic purpose for ACD is to secure the amount of Electricity Bill but in the case of the petitioner those who are consumers of respondent department since 1960s and 1970s and they had already paid the security amount, therefore, now additional security they cannot asked. It is further submitted that before demanding such type of security respondent department has to calculate each member/consumer case by taking into consideration the interest as on today the amount which has already been deposited with the respondent since long time.
12. That one of the members of the petitioner's association has requested the concerned S.D.O. to supply the electricity through prepaid meter, but that request was rejected vide letter

dated 6.11.2013 mentioning that there is no policy for installation of prepaid meters. Copy of the letter dated 4.11.2013 and 6.11.2013 are attached herewith as Annexures P/5 and P/6 respectively and copy of latest Bill is also attached as Annexure P/7.

13. That the intention of the department to collect the money on lessor interest rate from the consumer so that they avoid heavy interest on the amount taken by the respondent department from the Financial Institutions.

It is, therefore, most respectfully prayed that the members of the petitioner's association may kindly be relaxed from the provisions of Regulation 6.10 (3) of JERC (Electricity Supply Code) Regulations, 2010 with a further prayer to quash the public notice dated 10.10.2013 Annexure P/1 and to direct the respondent department to pay the interest on the security amount deposited by the members of the petitioner's association with a further interest of 18% per annum. It is also prayed that the respondent department may kindly be directed to frame a policy regarding installation of prepaid meters and to quash the letter dated 6.11.2013 Annexure P/6.

It is, further prayed that during the pendency of present petition respondent department may kindly be restrained from taking advance consumption deposit from the petitioner's association in the interest of justice.

**Unquote**

The Commission examined the petition and found in line with JERC (Conduct of Business) Regulations, 2009. Therefore, the Commission sent notices to the parties for pre- admission hearing on 13.11.2013.

The Commission on 13.11.2013 heard the representatives of the parties. The Commission has gone through the petition carefully and thoroughly with accompanied documents and relevant provisions of Electricity Act, 2003 and Regulations framed thereunder. The Commission also heard representatives of the parties at length. The Commission admitted the petition on 13.11.2013.

Before proceeding further it is worthwhile to reproduce provisions of Regulation 6.10 of JERC (Electricity Supply Code) Regulations, 2010 which reads as under:-

***“6.10 Security Deposit***

*“1. The licensee may take a security deposit from the consumers for consumption equivalent to the estimated consumption for a specific period as indicated in the table below or as otherwise provided in Terms and Conditions of Supply in force.*

<i>S. No.</i>	<i>Nature of Consumer</i>	<i>No. of months</i>	<i>Remarks</i>
<i>1.</i>	<i>Agricultural</i>	<i>Three</i>	<i>Annual average to be estimated / considered</i>
<i>2.</i>	<i>Seasonal</i>	<i>Two</i>	<i>Consumption during the season of operation to be estimated considered</i>
<i>3.</i>	<i>Other consumers</i>	<i>Two</i>	<i>Annual average to be estimated / considered</i>

*(2) Consumer shall have the option to make advance payment and in such an event security amount shall be proportionately fixed. The procedure for determination of security deposit, for different categories of consumers, shall be determined by the licensee and approved by the Commission. The deposit shall be accepted in the form of cash, Cheque or draft in case of LT*

consumers and in the form of draft or banker's Cheque in case of HT/EHT consumers. The Licensee shall maintain separate head of account of such security deposits. On termination of the agreement, the security deposit will be refunded to the consumer after adjustment of the amount, if any, remaining payable by him.

(3) The amount of the security deposit obtained from the consumer will be reviewed by the licensee, annually on the basis of consumption during the previous 12 months for LT consumers, and half-yearly on the basis of consumption during the previous six months for HT/EHT consumers. The consumer shall be required to pay an additional security deposit / shall be refunded based on his average consumption during the period concerned and the tariff applicable etc. if it exceeds / is lower than the amount of the security deposit held by the licensee, by 20%.

(4) In the case of consumers who were sanctioned additional load, the additional security deposit shall be calculated for the additional load treating it as a new service.

(5) On the consumer's request, the licensee may allow the consumer to pay additional security deposit in maximum three installments.

(7) The licensee shall serve a notice of at least one month to deposit the additional security deposit. If the consumer fails to pay the additional security deposit as per the notice, the licensee is entitled to refuse or discontinue the supply of electricity so long as such failure continue. The consumer will be liable to pay delayed payment surcharge on reducing balance in case of installment system if he delays payment of security deposit.

(8) The distribution licensee shall pay interest, at the bank rate notified by the Reserve Bank of India from time to time on such security deposits taken from the consumer. In this regard it shall be the responsibility of the licensee to keep a watch on the bank rate from time to time. The interest amount of previous financial year shall be adjusted in the energy bill issued in May/ June of each financial year depending on billing cycle.

(9) The security deposit along with interest thereon, if any, shall be returned to the consumer, upon termination of the agreement and after adjustment of all dues, within 60 days of completion of formalities by the consumer. In case of delay beyond 60 days period, additional interest at the rate mentioned in regulation 6.10(7) above shall be payable to the consumer as approved by the Commission.

(10) The distribution licensee shall not take security deposit if the person requiring the supply is prepared to take the supply through a pre-paid meter".

#### **Unquote**

From reading of the provisions of Regulation 6.10 of JERC (Electricity Supply Code) Regulations, 2010 it is clear that the licensee – respondent ED- Chandigarh as per Regulation 6.10 (1) of (Electricity Supply Code) Regulations, 2010 is authorized to take security from the consumers for consumption equivalent to the estimated consumption for a specific period as shown in the table given in preceding para.

The respondent – ED Chandigarh as per Regulation 6.10 (3) of JERC (Electricity Supply Code) Regulations, 2010 can review the amount of the security deposit obtained from the consumer annually on the basis of consumption during the previous 12 months for LT consumers, and half-yearly on the basis of consumption during the previous six months for HT/EHT consumers. The consumer shall be required to pay an additional security deposit / shall be refunded based on his average consumption during the period concerned and the tariff applicable etc. if it exceeds / is lower than the amount of the security deposit held by the licensee by 20%.

The licensee- respondent ED- Chandigarh as per Regulation 6.10 (8) of JERC (Electricity Supply Code) Regulations, 2010 is liable to pay interest, at the bank rate notified by the Reserve Bank of India from time to time on security deposits taken from the consumer. In this regard it shall be the responsibility of the licensee to keep a watch on the bank rate from time to time. The interest amount of previous financial year shall be adjusted in the energy bill issued in May / June of each financial year depending on billing cycle.

From the copies of bills cum notices and public notice published in news papers it is clear that the respondent – ED Chandigarh reviewed the security deposit as per Regulation 6.10 (3) of JERC (Electricity Supply Code) Regulations, 2010 and sent due notice to the consumers including the members of the petitioner Association for deposit of the enhanced security deposit. Therefore, the notice dated 10.10.2013 is as per JERC (Electricity Supply Code) Regulations, 2010.

The members of the petitioner association are claiming interest from the respondent – licensee at the rate of 18% per annum on the security deposit. Whereas according to Regulation 6.10 (8) of JERC (Electricity Supply Code) Regulations, 2010 the distribution licensee is liable to pay interest at the bank rate. Admittedly the respondent ED- Chandigarh is paying interest to the consumers including members of the petitioner association on security deposit at the bank rate in accordance with Regulation 6.10 (8) of JERC (Electricity Supply Code) Regulations, 2010. Hence, the members of petitioner association and other consumers are not entitled for interest at the rate of 18% per annum on the security deposit.

The members of the petitioner association are facing great hardship and difficulty in payment of the enhanced security deposit and prayed that the respondent ED- Chandigarh may be directed to frame a policy regarding installation of pre-paid meters. From copy of the letter dated 4.11.2013 of Shri B.S. Saini, Gen. Secretary, M.S.M. Engineering works Chandigarh and Memo no. 4756 dated 6.11.2013 of Sub Divisional Officer, Elec. 'OP' Sub Divn. No. 5, I/A, Ph-I, UT Chandigarh it is clear that some consumers applied for prepaid electricity connections with the respondent ED- Chandigarh and Sub Divisional Officer, Elec. 'OP' Sub Divn. No. 5, I/A, Ph-I, UT Chandigarh vide his above letter informed them that there is no policy of prepaid electricity connections.

From reading of the provisions of Regulation 6.10 of JERC (Electricity Supply Code) Regulations, 2010, it is clear that if a person requires to take supply through a pre-paid meter the distribution licensee shall not take security deposit from that person. The Commission observed that the word 'shall not' has been used in the Regulation 6.10 (10) of JERC (Electricity Supply Code) Regulations, 2010 and hence it is obligatory for the licensee to supply power through installation of pre-paid meter

to a person if he opts for per-paid connection. The Commission, therefore, directs the respondent ED- Chandigarh to procure pre-paid meters within six months from today. Meanwhile, if any consumer/ member of the petitioner association applies for installation of pre-paid meter within one month from date of this order and also provides pre-paid meter the respondent shall not take security deposit/ ACD charges from such consumer. Whereas if, any consumer/ member of petitioner association fails to apply for installation of pre- paid meter and also fails to provide pre-paid meters within one month from today the respondent ED- Chandigarh shall be at liberty to proceed as per Regulation 6.10 of JERC (Electricity Supply Code) Regulations, 2010.

With the above observations, findings and directions the petition stands disposed off.

Sd/-

20.11.2013

(S.K.Chaturvedi)

Member

**Chairperson (Vacant)**

- \* Post of the Chairperson is vacant. As per proviso of Regulation 9 (II) of JERC (Conduct of Business) Regulations, 2009 for review of its own orders "Coram is all Members". Whereas according to provisions of Section 93 of the Electricity Act, 2003 no act or proceedings of the appropriate Commission shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the Constitution of the appropriate Commission. So the Member only constitute a valid quorum.

Certified Copy

Sd/-

(Rajeev Amit)

Secretary