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COMMERCIAL CIRCULAR No. 133

Sub :- Theft of Electricity – Assessment of Civil Liability & Compounding of Offence – Guidelines thereof

Ref :- Commercial Circular Nos. 1, 2, 17, 46, 49, 99, 129 and 132.

The detailed guidelines in respect of inspection of electrical installation & assessment of theft of electricity, period & tariff to be considered for determination of the Civil Liability, has been already issued vide Commercial Circulars under reference.

However, some instances have come to notice where altogether different procedures have been followed for assessment of compensation / Civil Liability payable by the consumers detected involved in alleged theft of electricity. Similarly, it is once again clarified that the parameters to be considered for determination of assessment for unauthorized use of electricity & theft of electricity are different. In the circumstances, it is felt necessary, for better clarification, and for a uniformity to prescribe once again the procedure / parameters to be followed for determination of assessment:

Guidelines to be followed in respect of inspection of electrical installations of consumers & methods of assessment are as given below-

1. ASSESSMENT FOR UNAUTHORIZED USE OF ELECTRICITY:

Whenever an Assessing Officer, authorized under Section 126 of the Electricity Act,2003, comes to the conclusion that

- a) Unauthorized use of electricity has taken place, assessment shall be made for the entire period during which such unauthorized use of electricity has taken place,
- b) and if however the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.
- c) The assessment under this section shall be made at a rate equals to twice the tariff applicable for the relevant category of services specified in a & b

The methods of assessment of electricity charges payable in case of unauthorized use of electricity to be followed are once again reproduced in the **Annexure – A** attached with this Circular.

2. DETERMINATION OF CIVIL LIABILITY IN CASE OF THEFT OF ELECTRICITY:

- 2.1 Civil Liability to be claimed from a consumer involved in an alleged theft of electricity shall be determined for the entire period for which the theft of electricity can be clearly established; provided the period of assessment shall not be more than two years prior to the detection of the theft of electricity;
- 2.2 In case, the period of theft of electricity cannot be clearly established, the period of assessment shall be restricted to six months only prior to the date of detection of theft of electricity;
- 2.3 The assessment shall be made at a rate equal to one-and-a-half times the tariff applicable to the relevant category of consumer.

The Government of India, in exercise of powers conferred upon it by Section 183 of the Electricity Act, 2003 has passed an Order "The Electricity (Removal of Difficulties) Order, 2005. and has prescribed that the "Electricity Supply Code" to be specified by the State Electricity Regulatory Commission shall also include the following:

- a) Method of assessment of electricity charges payable in case of theft of electricity pending adjudication by the appropriate court;
- b) Disconnection of supply of electricity and removing the meter, electric line. Electric plant and other apparatus in case of theft or unauthorized use of electricity; and
- c) Measures to prevent diversion of electricity, theft or unauthorized use of electricity or tampering, distress or damage to electrical plant, electric lines or meter.

It is expected that the Hon'ble Commission will prescribe the detailed guidelines on all the above mentioned issues. However, in the meantime and in pursuance of the provisions of the Regulation 19.1 of the "MERC (Electricity Supply Code & Other Conditions of Supply) Regulations, 2005", all the field officers are hereby once again informed that, until suitable guidelines in respect of method of assessment of electricity charges payable in case of theft of electricity are prescribed by the Hon'ble Commission, the prevailing provisions, except the tariff to be applied & period of assessment, shall be followed as hitherto. For convenience & ready reference of the field officers, the provisions in respect of method of assessment of electricity charges payable in case of theft of electricity to be followed are once again reproduced in the **Annexure – A** attached with this Circular. Also refer the commercial circular No. 99 dated 24th August 2009 & commercial circular No. 132 dated 13th January 2011 in this respect.

3. LODGING OF F. I. R. :

Procedure to be followed as per commercial circular No. 132, dated 13/01/2011.

4. PROVISIONS OF COMPOUNDING :

The Electricity Act, 2003 also have a provision of Compounding of Offence of the theft of electricity, provided the person detected involved in the theft of electricity agrees & pays the Compounding Charges at prescribed rate. The detailed guidelines in respect of Compounding of Offence are prescribed herein below and all the concerned filed officers shall ensure that the same are followed.

- a) If so desired, the consumer or the person (accused) detected indulging in the "Theft of Electricity" can request for compounding of offences before the criminal complaint is lodged in the appropriate Court or even thereafter and the Officer of the Board so authorized by the State Government in this regard may consider the same, provided the consumer / person deposits a sum of money for compounding of offence at the rate prescribed here below:

Sr. No.	Nature of Service	Rate at which the sum of money for compounding to be collected per Kilowatt (kW) / Horse Power (HP) or part thereof for Low Tension (LT) supply and per Kilo Volt Ampere (kVA) of Contracted Demand for High Tension (HT) supply
1.	Industrial	Twenty Thousand Rupees,
2.	Commercial	Ten Thousand Rupees,
3.	Agricultural	Two Thousand Rupees,
4.	Other	Four Thousand Rupees.

- b) As prescribed by the State Government by Notification No. I. E. A. 1004 / C. R. 1533 / NRG – 4 dated 06/04/2004, the State Government has authorized following Officers of the Board to accept the sum of money for compounding of offences;

Sr. No.	Category of Consumer	Officer authorized to accept the sum of money for compounding of offences
1	Low Tension Consumers	Assistant Engineer / Dy. Executive Engineer / Dy. Executive Engineer of Flying Squad / Executive Engineer of concerned O & M Division
2.	High Tension Consumers	Superintending Engineer / Chief Engineer of the concerned O & M Zone

- c) It shall neither be obligatory nor binding on the Authorized Officer to permit compounding of offences in every case and such compounding of offense shall be permitted only after the consumer / person has unconditionally paid the assessed "Civil Liability";
- d) Even after the consumer / person has unconditionally paid the assessed "Civil Liability", if the Authorized Officer has any objection for permitting the compounding of offences, he shall in writing submit his objections to the higher authority (in case of O & M personnel – Officer not below the rank of Executive Engineer & in case of Flying Squad units – Deputy Director) and shall obtain orders from such authority as to whether the compounding of offence should be permitted or the criminal complaint should be further prosecuted;

- e) If the consumer shows willingness to compound the offence, notice specifying assessment amount shall be issued immediately along with copies of Panchanama etc. After the payment of assessment amount, compounding charges bill has to be issued immediately. If the consumer pays the amount immediately, F. I. R. shall not be filed, but F. I. R. shall not be delayed if the consumer does not pay the amount of compounding and assessment for theft immediately. Refer the commercial circular No 132 dated 13/01/2011.
- f) The Authorized Officer shall maintain a separate register and shall make necessary entries in such register of all the cases where the consumer / person has **requested in writing** for compounding of offences by depositing the sum of money as per prescribed rate;
- g) The sum of money payable by the consumer / person shall be accepted only in the form of "Demand Draft" or "Pay Order" and in no circumstances, such consumer / person shall be permitted to pay the compounding charges by "cheque";
- h) The facility of compounding of offences shall be permitted only once and therefore in all such cases, where the consumer has been permitted compounding of offences, necessary **entry** shall be taken on the "**Consumer Personal Ledger**" of such consumer so as to avoid such permission being given to a consumer on more than one occasion;
- i) In respect of persons other than the consumers of the MSEDCL, a separate register for compounding of offences shall be maintained, so that the said register can be verified to ascertain whether such person has previously been permitted the facility of compounding of offences;

This circular supersedes Commercial Circulars. No 2, 17, 49.


15/02
Chief Engineer (Commercial)

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GUIDELINES TO BE FOLLOWED IN RESPECT OF METHOD OF ASSESSMENT OF ELECTRICITY CHARGES PAYABLE IN CASE OF THEFT OF ELECTRICITY

1) Inspection of electrical installation:-

- 1.1 Inspection of any electrical installation shall be carried out by authorized persons notified by GoM under Electricity Act 2003 section 135(2) and this person may,
 - a) enter, inspect, break open & search any place or premises in which he has reason to believe that electricity (has been or is being) used unauthorizedly;
 - b) search, seize and remove all such devices, instruments, wires & any other facilitator or article which (has been or is being), used for unauthorized use of electricity;
 - c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to any proceedings in respect of the offence under sub-section(1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts there from in his presence.
- 1.2 The Inspection team shall be well equipped with all portable testing equipments like energy calibration meter (accucheck meter) duly calibrated from authorized agency, tong tester, preferably having features of measurement of load, voltage, current & power factor, MRI , etc. & other required Tools & Protective Devices.
- 1.3 During the inspection of the installation, the size of the service cable, capacity of the meter, condition of meter, Potential Transformers & Current Transformers should be recorded clearly and same should be considered in mind while doing the assessment of consumption of electricity.
- 1.4 Slowness of a meter may be considered for assessment purpose. However, Assessment shall not be carried out purely & only on the basis of accuracy error of the meter, especially when the meter is abnormally slow or fast (more than 70% slow/fast).
- 1.5 The inspection shall be carried out carefully & judiciously & no further immediate re-inspection shall be carried out , for revision of assessed bill.

2) Method Of Assessment.

2.1 High Tension Consumers-

- 2.1.1 **DEMAND CHARGES:** For the purpose of assessment of maximum demand for the month, Contract Demand or 60% of the actual Connected Load found at the time of inspection, whichever is higher, shall be taken as Maximum Demand and billed accordingly;

2.1.2 **ENERGY CHARGES:** The quantum OF energy consumption of the **Industries** shall be determined as follows:

- a) Single Shift Working: Assessed MD in kW X 7 Hours X 25 Days X L.F.
- b) Two Shift Working: Assessed MD in kW X 14 Hours X 25 Days X L.F.
- c) Three Shift Working: Assessed MD in kW X 21 Hours X 25 Days X L.F.

While calculating the energy charges for other consumer categories working in general shifts, commercial establishments, etc., the working hours & working days should be considered as per actual ,e.g. For Continuous Industries, Bedded Hospitals the working Hours shall be considered as 24 hours & working days shall be considered as 30 days.

2.1.3 **LOAD FACTOR :-** For Assessment of energy consumption during the period of theft of electricity, appropriate "Load Factor" as given here below shall be considered:

TYPE OF INDUSTRY	LOAD FACTOR %
Power Intensive Industries, like Steel Plants, Ferro Alloys Industries, Cold Storages,	80
Textile / Dyeing Industries, IT /ITES Industries	60
All other Industries, including Hotel Industries	40

(Note:- For seasonal industries like Ice Factories commercial circular no. 129 dated 15/4/91 shall be refereed.)

These load factors to be considered unless a higher load factor can clearly be proven

2.2 LOW TENSION CONSUMERS:

2.2.1 **FIXED CHARGES / DEMAND CHARGES:** In case of consumers who are not billed under LT MD Tariff, for the purpose of the assessment of "Fixed Charges" for the month, actual connected load at the time of inspection shall be taken as Sanctioned Load and billed accordingly. However, when the consumer detected in theft of electricity, is billed under LT MD Tariff, for the purpose of assessment of maximum demand for the month, Contract Demand or 60% of the actual Connected Load found at the time of inspection, whichever is higher, shall be taken as Maximum Demand and billed accordingly;

2.2.2 **ENERGY CHARGES:** The quantum of energy consumption shall be determined as follows:

Assessed Consumption = Connected Load found at the time of inspection in kW (or Assessed MD in kW if consumer is billed under LT MD Tariff) X Diversity Factor X Load Factor X Working Hours per Day X Number of Days in a Month;

2.2.3 The Diversity Factor, Load Factor, Working Hours per Day, Number of Days in a Month, etc. for the different categories of the consumers shall be as given below:

CATEGORY	Sub-category	L. F. X D. F. %	WORKING HOURS PER DAY	NUMBER OF DAYS PER MONTH
Domestic	Lights & Fans	25	24	30
	Heating & cooling equipments	50	As per actual working hours	30
Non – Domestic	Shops	50	10	25
	Malls	50	10	30
	Office establishments	50	8	25
	Other category like hospitals, school etc.	50	As per actual working hours	As per actual
General Motive Power (LTP – G) and Others		60	7 per Working Shift or 10 for general shift	25

3) GENERAL GUIDELINES:

In respect of both, Low Tension as well as High Tension consumers, following guidelines shall be given judicious consideration while determining the assessment vis-à-vis Energy Consumption, after verifying the documents & recording the reasons thereof.

- 3.1 Load Shedding;
- 3.2 Closure of Industry on account of Strike, Lock Out, etc;
- 3.3 Break Down of Equipment, viz. Transformer, Cables, etc;
- 3.4 Last through check – up by the concerned Testing Engineers, at the time of replacement of Meter / CTs./ PTs. ;
- 3.5 Inspection of Meter & Metering Equipment by the Flying Squad/O & M Staff;
- 3.6 Date of connection, date of Reduction/increase in Contract Demand and / or Reduction/increase in Connected Load;
- 3.7 Purpose of connection & category of the prevailing tariff accordingly;
- 3.8 In case of Express or Group express feeder, the consumption of the S/stn or Check meter, subject to calibration of the meter.


Chief Engineer (Commercial)