

"Save Energy for the Benefit of Self and Nation"
HIMACHAL PRADESH STATE ELECTRICITY BOARD LIMITED
(A H.P. GOVERNMENT UNDERTAKING)

No: HPSEB/CE (Comm.)/Electy.Act-2003 (Notifications)/2011-12 - ↓ Dated: 19/3/2012.
To 20861-21170

1. The Chief Engineer (OP),
South/North/Central Zone, HPSEB Ltd.,
Shimla / Dharamshala / Mandi.
- 2 All the S.E.'s (OP) in HPSEB Ltd.,.....
- 3 All the ASE's/Sr. XEN's (Electrical Division) HPSEB Ltd.,.....
- 4 All the AE/AEE's (Electrical Sub-Division) HPSEB Ltd.,.....

Subject: - Brief & simplified Guidelines for dealing with cases of Unauthorised Use & Theft of Electricity under section -126 & 135 of the Electricity (Amendment) Act, 2007.

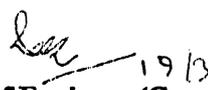
Sir,

Your kind attention is invited to this office letter of even file No: 12842-56 dated 25-10-2011 vide which detailed procedure for dealing with cases under section-126 & 135 of Electricity (Amendment) Act, 2007 were circulated. It has been observed that the effective implementation of guidelines so circulated is not taking place in view of the exhaustive details given therein. Therefore, the specific points in the guidelines have been made in a brief and simplified manner for easy reference. The management of the HPSEBL has desired the effective implementation of the same. It is emphasized that these points are not a substitute to the guidelines issued earlier on the subject but are further clarifications for implementation. In case of any doubt please refer to the guidelines issued earlier and also HP Electricity Supply Code, 2009 & the Electricity (Amendment) Act, 2007. This document is also uploaded on the HPSEBL website: www.hpseb.com under the link.

DA: As above.

(6 pages).

Yours faithfully,


19/3
Chief Engineer (Commercial.),
HPSEB Ltd., Vidyut Bhawan,
Shimla - 171004.

Guidelines

SUBJECT:- GUIDELINES FOR DEALING WITH THE CASES OF UNAUTHORIZED USE & THEFT OF ELECTRICITY UNDER SECTION 126 & 135 OF THE ELECTRICITY (AMENDMENT) ACT, 2007.

This is further to the guidelines issued vide T/O letter of even file No: 12842 – 56 dated: 25-10-2011 wherein the detailed procedure for dealing with unauthorized use and theft of electricity under section -126 & 135 respectively of Electricity Act, 2003(amended up to date) were circulated. Since the guidelines are exhaustive & as such it has been felt necessary to highlight the main points which need to be followed meticulously. It is for this reason that the guidelines are being re-produced in a simplified & brief manner as under:-

A. UNAUTHORIZED USE OF ELECTRICITY, SECTION - 126: -

1. Unauthorized use of Electricity covers:-

- a.) Connected/used load is in excess of the sanctioned/authorised load. (The matter was discussed in the state Advisory Committee meeting dated 28.2.2012. It has been desired not to consider the unauthorized extensions in general, except for in those cases where the consumer is intentionally violating the connected load. The connected load definition should be considered as per HP Electricity Supply Code, 2009 provisions i.e. addition of all loads as connected. Also it was proposed to ignore + 20% violation in these cases after proper examination of each case from various angles such as habitual offender, intentional violation w.r.t. the categorization of consumer on standard supply voltage, intention to defeat the tariff provisions etc.)
- b.) Use of electricity by means not authorized by the supplier/licensee, such as use of two- phase welding sets.
- c.) Use of electricity for the purpose / area other than the authorized / sanctioned by the licensee / supplier i.e. change of category etc.
- d.) Tampered meter which covers tilting of meter, broken / loosening meter glass, insertion of a hole in the meter body and tampering of service wire insulation etc.
- e.) Restoration of electric supply to disconnected/defaulting consumers etc.
- f.) Usage of electric supply from defective /dead stop meter (in case the reasons of incorrectness are attributed to the consumer).

2. Surprise checking of consumer installations by an authorized officer, should cover the following aspects:-

- a.) Preparation of site inspection note covering details of metering equipment, nature of unauthorized use etc. in the presence of the consumer/occupier of the premises. If possible, the video/digital camera recording be resorted to.
- b.) The site inspection note indicating the facts of use should be got signed from the consumer/occupier, witnesses, officer & officials of HPSEBL conducting/ accompanying the inspection team. A copy of the site inspection note be handed over to the consumer/ occupant at site itself in addition to forwarding copies to other offices of HPSEBL for necessary action as per the provisions of Electricity Act, 2003 i.e. for assessing the quantum of loss.
- c.) The assessment should be calculated for the entire period with in which unauthorized usage of electricity remained or in case the period is not ascertainable, it should be limited to a period of twelve (12) months immediately preceding the date of detection of the unauthorized usage.
- d.) The assessing officer shall provisionally assess the charges payable by such consumer at a rate equal to Twice the tariff applicable for the relevant category without allowing the benefit of Subsidy after deducting the charges already paid and shall issue Provisional Assessment Order to the consumer with in 48 hours of the inspection. The charges will continue to be levied till the rectification (regularization or disconnection) of the unauthorized usage.
- e.) In case of defective/ dead stop meters, the assessment is to be made by applying LDHF formula (as per ANNEXURE-A of the H. P. Electricity Supply Code, 2009) considering normal Demand Factor, (in case the reasons of incorrectness are attributed to the consumer).
- f.) The order of provisional assessment shall be served upon the consumer concerned, who shall be entitled to file any objection before the Assessing Officer with in a period of seven (7) days. The consumer may file objection if any with in the period of 7 days.
- g.) The authorized officer shall, with in four days of the date of receipt of objections of consumer arrange hearing, if requested for by him. He shall give due consideration to the facts put forth by the consumer.
In case the consumer fails to appear on the appointed date and time, the authorized officer may proceed further exparty.
- h.) The authorized officer within three days of the personal hearing shall pass a final order of assessment with direction to deposit the

assessed amount within seven days of receipt of the final order of assessment. The final assessment order shall be reasoned and speaking one justifying as to whether a case of unauthorized use is prima-facie established or not. The said order shall contain the brief of inspection report, submission made by the occupant or person in his written reply and oral submission during personal hearing and reasons for acceptance or rejection of the same.

- i) The consumer may prefer an appeal before the concerned Divisional Commissioner (Appellate Authority) against the final assessment order with in thirty (30) days after depositing the 50% of the assessed amount as per section -127 of the Electricity Act, 2003.
- j) The Assessing Officer should file caveat before the Appellate Authority in order to prevent any stay order and accumulation of revenue arrear in that account. Also proper defence is required to be put forth before the Appellate Authority.
- k) In case the Appellate Authority does not uphold the contention of unauthorized usage, the amount so deposited by the consumer needs to be refunded along with interest @16% per annum with half yearly compounding. The refund to be made by way of adjustment in bills of succeeding months.
- l) If the Appellate Authority is satisfied about unauthorized usage, the remaining amount should be got deposited from the consumer with in thirty days of the decision of the Appellate Authority.

NOTE:- *The electric supply through meter to adjacent rooms, kitchen, store toilets, Cow shed & street lights with in the premises etc. belonging to the same consumer in rural area, be considered as single unit. Any connectivity to such places shall not be considered as unauthorised extensions so long as it is within the sanctioned load (+20% limit of load sanctioned) as per the test report. The consumer be advised to submit revised test report and enhanced Security.*

B. THEFT OF ELECTRICITY, SECTION - 135: -

1. Provision: Whoever dishonestly,

- a) Taps, makes or causes to be made any connection with overhead, Underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be or
- b) Tamper a meter installs or uses a tampered meter, which covers broken/ loosening meter glass, insertion of a hole in the meter body and tampering of service wire insulation, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- c) Damages destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to

- d) interfere with the proper or accurate metering of electricity; or
- d) Uses electricity through a tampered meter;
- e) Uses electricity for the purpose other than for which the usage of electricity was authorized.

Please note: The word dishonest intension is most important before booking a case under section -135 in above circumstances.

2. Procedure to be followed upon detection of theft of electricity by an Assessing Officer: -

- a.) The authorized officer will record evidence substantiating theft of electricity in the premises and will photograph/ video graph the means/ mode of theft of electricity. The means applied for stealing of electricity if any, should be kept intact duly sealed in the presence of the consumer. *As a matter of proof & supporting evidence, the seized item/document be taken in possession. Thereafter, it may be put inside the cotton cloth bag and shall be duly stitched and sealed with sealing wax and should invariably be stamped. The bag so prepared be got signed from the consumer/occupant and officials of HPSEBL.*
- b.) Preparation of site inspection note covering details of meter/ metering equipment, nature of pilferage/theft of electricity etc. in the presence of consumer or his/her representative/occupier of the premises. The said site note should be signed by the consumer/ occupier, witnesses if any, officers & officials of the HPSEBL conducting/ accompanying the inspection team. A copy of the site inspection note be handed over to the consumer/occupant at site itself in addition to forwarding copies to other offices of HPSEBL for necessary action as per provisions of Electricity Act, 2003. The seized material shall be handed over to police station by the assessing/inspecting authority for further submission in the court by taking proper receipt of the same.
- c) In case of refusal to sign the site inspection report or receive the inspection report, a copy of the same will be pasted at a conspicuous place in / out side the premises and another copy sent to the occupant or person under registered post. The inspection report will indicate the time period, which shall not exceed seven days, within which the occupant or person may raise objections against the said report before the authorized officer.
- d) Upon detection of theft and prima- facie establishment of the same, the supply to the premises be disconnected forthwith by an authorized officer for the purpose and a complaint in writing in the

Police station having jurisdiction within 24 hours of disconnection shall also be lodged.

- e) The assessment shall be calculated for the entire period of pilferage or in case the period is not ascertainable, it should be limited to a period of twelve (12) months immediately preceding the date of detection of theft. However, if the consumer submits some documentary evidence for curtailing period of pilferage and assessing officer is satisfied, the same be taken in to possession and be considered for reduction in period of theft/pilferage.
- f) The assessing officer shall provisionally assess the consumption of electricity units towards pilferage of energy by using LDHF formula given in "ANNEXURE- A" of HP Electricity Code, 2009 considering Demand Factor as 100% for all categories. Upon the units so worked out the charges be levied at a rate equal to Twice the tariff applicable for the relevant category with out allowing the benefit of Subsidy.
- g) The order of provisional assessment shall be served upon the consumer concerned, who shall be entitled to file any objection before the Assessing Officer within a period of seven (7) days. The consumer may file objection if any within the period of 7 days.
- h) The authorized officer shall, within four days of the date of receipt of objections of occupant or person, arrange hearing, if requested for by the occupant / person. In case, the occupant/person fails to appear on the appointed date and time, the authorized officer may proceed ex-parte and shall serve an assessment order upon the occupant or person in a manner specified above.
- i) The authorized officer shall give due consideration to the facts submitted by the occupant or person and pass, within three days of the personal hearing under preceding clause (i), a reasoned and speaking order as to whether a case of theft is prima-facie made out or not. The said order shall contain the brief of inspection report, submission made by the occupant or person in his written reply and oral submission during personal hearing and reasons for acceptance or rejection of the same.
- j) In case the consumer deposits the assessed Electricity charges, the supply to the premises shall be restored.
- k) The legal proceedings initiated/ likely to be initiated after the intimation as given to the Police can be settled by way of compounding of offence.

The compounding of offence can be made on the request of the consumer to the Superintending Engineer concerned after depositing the compounding charges including assessed amount on account of theft by the consumer as stipulated in section 152 of Electricity Act,

2003. After acceptance of the sum of money for compounding, an offence shall be deemed to amount to an acquittal and intimation thereof has to be sent to the Police station or to the Court if the challan has been placed by the assessing officer/ Police in the Court as set up for the purpose. Compounding shall be allowed only once for any person or consumer.

- l) If any person /consumer found stealing energy does not make the payment of the amount so assessed by the assessing officer including compounding charges, the Police will submit the challan before the Hon'ble Special Court designated to deal with the cases of theft of energy as per Electricity Act, 2003.
- m) While submitting documents to the court or police, it must be ensured to submit the certified copies of the original documents.
- n) It is the primary responsibility of the Assessing/ Inspecting authority to make all out efforts to ensure that the matter in the Court is continuously followed to convict the accused. It is possible only when he attends the Court himself well prepared with the case before deposition.
- o) The subsequent action in such matters would be based upon the directions of the Hon'ble court exercising jurisdiction over the issue.

The need to reproduce the above guidelines is the out come of the non- compliance of the extant provisions of the Electricity Act, 2003 (amended up to date) by the field units. This is causing concern to the HPSEBL authorities as most of the cases under litigation are lost on one or the other lapse on the part of the officials dealing with such matters. The lapses are in the nature of non –presence of the officials before the appellate authorities during pleading the cases or non submission of proper record etc. In view of the foregoing the concerned assessing officers are advised to meticulously follow the guidelines so issued in the best interest of the HPSEBL.

The guidelines referred to above are not a substitute to the guidelines already issued on the subject. In case of any doubt you may refer to the guidelines issued earlier and also the HP Electricity Supply Code, 2009 & the Electricity (Amendment) Act, 2007.
