

L-96

Court Case
Urgent



AJMER VIDYUT VITRAN NIGAM LIMITED

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No. AVVNL/MD/Dy.CE (Comml.)/XEN (LC)/ALO-I/E. - /D. 752 Date: 10/08/10

The Superintending Engineer (O&M),
The Additional S.P. (Vig.),
The Dy. S.P. (Vig.),
The Executive Engineer (O&M/Vig./Meters/CV),
The Assistant Engineer (O&M/Meter/Vig.),
The Anti Power theft Police station,
AVVNL,.....

Sub: - Proper action to be taken in the cases of theft of electricity.

While going through the court cases, it has been observed that cases are being lost due to failure in taking proper action by the checking officer in the cases of theft of electricity.

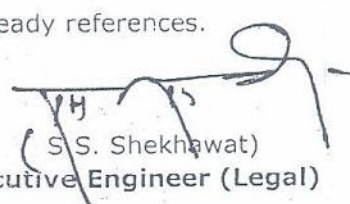
Since, it was observed that phenomenon of tempering with the energy meter with ulterior motive to slow/stop registration of energy was quite prevalent, directions were issued vide **comml.-391** to deal such cases on checking at site. The basic object of the **comml.391** is that if meter is found slow, beyond permissible limit, further investigation is required, to ascertain whether slowness is due to some technical fault in the meter or meter has been made slow by the consumer with the motive of theft of electricity and if theft of electricity is found action may be taken U/s 135 or 135 and 138 of the Act.

But, in the cases of Nagaur and Rajsamand circles though, it has been mentioned in VCR that meter/meter seal/meter box seal was tempered or rivet was cut and meter was refixed but instead of taking action for compounding/civil liability or filing FIR/lodging complaint, simple notice were issued for just slowness of the meter.

It appears that the field officers do not go through the orders/circulars thoroughly and take action at their own. It is therefore necessary for all checking officers to go through all orders/circulars issued in respect of theft of energy and take proper action, as contained there-in.

However, the briefs of **comml-391** are being enclosed for ready references.

Encl:-As above


(S.S. Shekhawat)
Executive Engineer (Legal)



कॉमर्शियल 391 के अन्तर्गत कार्यवाही (सारांश):-

1. यदि निगम अधिकारी अथवा बाह्य एजेसी द्वारा मीटर धीमा होना पाया जाय तो मीटर तब तक नहीं बदला जाय जब तक कि मीटर की जाँच सतर्कता अधिकारी नहीं कर ले।
2. विजिलेंस चेंकिंग के दौरान यदि मीटर/मीटर सील/मीटर बॉक्स सील सही स्थिति में हो एवं मीटर धीमा पाया जाय तो मीटर को कपडे में लपेटकर सील करें, JIR तैयार कर उस पर उपभोक्ता/प्रतिनिधि के हस्ताक्षर लें एवं मीटर लेब में टेस्ट करायें। यदि, मीटर के साथ छेड़छाड़ न पाई जाये तो परीक्षण रिपोर्ट के अनुसार राशी निर्धारित करें। परन्तु यदि छेड़छाड़ (tempering) पाई जाये तो 4(A) अथवा 4(B) के अनुसार कार्यवाही की जाय।
3. यदि मीटर धीमा होना नहीं पाया जाय परन्तु मीटर के साथ छेड़छाड़ (tempering) की आशंका हो तो मीटर को परीक्षण हेतु मीटर प्रयोगशाला में भेजा जाय। परन्तु मीटर उतारते समय संयुक्त जाँच रिपोर्ट JIR बनाई जाय। मीटर को कपडे में लपेट कर सील किया जाय JIR पर उपभोक्ता/प्रतिनिधि के हस्ताक्षर लिये जायें। प्रयोगशाला में जाँच उपभोक्ता/प्रतिनिधि के सम्मुख की जाय। यदि मीटर के साथ छेड़छाड़ साबित पाई जाये तो VCR भरी जाय एवं पैरा 4(A) अथवा 4(B) के अनुसार कार्यवाही की जाय।
4. यदि मीटर/मीटर सील/मीटर बॉक्स सील क्षतिग्रस्त (tempered) पाई जाय तो JIR तैयार कर उपभोक्ता को दी जाय। मीटर को जब्त कर फर्द जब्ती बनाएँ, फोटो लें, साईट रिपोर्ट तैयार करें। मीटर को कपडे में लपेट कर सील करें एवं मीटर लेब भेजकर, उपभोक्ता व उपस्थिति में जाँच करवाएं एवं जाँच रिपोर्ट पर उपभोक्ता के हस्ताक्षर कराएँ।
 - (A) यदि मीटर/मीटर सील/मीटर बॉक्स सील क्षतिग्रस्त पाई जाय परन्तु बाह्य साधन (external device)/शंट नहीं पाया जाय/मीटर के अन्दर छेड़छाड़ का प्रकार (Mode of tempering) नहीं पाया जाय एवं यदि उपभोक्ता प्रशमन (compounding) कराना चाहे तो यह सुनिश्चित करें कि प्रशमन प्रथम बार किया जा रहा है, प्रशमन राशी स्वीकार कर प्रकरण समाप्त करें।
 - (B) यदि मीटर/मीटर सील/मीटर बॉक्स की सील क्षतिग्रस्त पाई जाय एवं साथ ही बाह्य साधन (external device)/शंट आदि पाई जाय अथवा मीटर के अन्दर किसी भी प्रकार की छेड़छाड़ पाई जाय अथवा मीटर का खोलना पाया जाय अथवा CT/PT/wires काटकर या अन्यथा, मीटर के अन्दर सर्किट में बदलाव पाया जाय तो विस्तृत VCR तैयार की जाय जिस पर उपभोक्ता/प्रतिनिधि के हस्ताक्षर लें। ऐसे प्रकरण में प्रशमन राशी (compounding) स्वीकार नहीं की जाय। ऐसे प्रकरणों में सिविल लायबिलिटी स्वीकार की जाय। यदि सिविल लायबिलिटी जमा नहीं कराई जाती है तो तुरन्त विधे सम्बंध विच्छेदित कर दिया जाय एवं 24 घन्टे में FIR दर्ज कराई जाय।
5. ध्यान रहे कि प्रशमन राशी केवल एक बार ही ली जाती है। यदि उपभोक्ता दूसरी विद्युत चोरी करता पाया जाय तो दूसरी बार प्रशमन राशी स्वीकार नहीं की जा सकती ऐसी स्थिति में तुरन्त FIR दर्ज कराएँ अथवा विधे न्यायालय में प्रकरण दर्ज करें।

Point to be taken care in the case of theft of electricity.

(1) Contradictory statements:- The witnesses on behalf of Nigam appear in the Special courts without going through the case file, due to which either contradictory statements are given or statements are given on probability, which leads to un-favorable judgment. It is therefore necessary to first go through the case file minutely and contact our panel advocate before hearing.

(2) Improper VCRs:- Complete and proper VCRs are not filled in, which go against the Nigam. Therefore complete V.C.R should be filled envisaging manner in which theft was being committed, name of person/consumer present and relation ship with the accused, details of consumer's Account No., category, load etc and details of premises, ownership, demarcations etc. Signature of independent witnesses should be obtained. It should be mentioned conclusively whether the offence committed was of unauthorised use of electricity U/s 126 or theft of electricity U/s 135 or sec 135 & 138 of the act.
(Action should be taken as per VCR monitoring and prosecution booklet)

(3) Signature of accused/his representative: - Signature of the accused or his representative present at the time of checking should be obtained on VCR. However, in case of denial, it should be mentioned as to who was present alongwith relationship. The copy of VCR should be given by obtaining receipt.

(4) Photographs, seizure Maal-Khana: -The cogent evidences should be collected and seized with proper sealing and seizure memo should be prepared. Photographs should be taken in such a manner that it could be clearly established that theft was being committed in the premises of accused in the way shown in it. All seized evidences should be kept in Maal-Khana of each O&M sub-division.

(5) Filing of FIR/Complaint:- In the cases of Non-Consumers, thorough investigation is required to determine identity of accused, ownership of premises, details of seized material etc. therefore FIR should be filed so that APTPS may investigate. However, in the cases of consumers, if nothing is to be investigated, than complaint may be filed directly in the special courts. However, complete and detailed complaint should be prepared and all documents, VIZ, seizure memo, copy of notice, photos, VCR, sitemap, list of witnesses etc. should be filed in special court alongwith complaint.

(6) The amount of civil liability: - The amount of civil liability should be calculated as per comml 300 and must be in-corporated in the complaint.

(7) Appointment of OIC and panel advocate.(PP):- The case must be sent to concerned Superintending Engineer of (O&M) circle to appoint OIC (Complainant) and panel advocate (as PP).

(8) Determination of offence:- Before taking action, it should be determined whether the offence falls U/s 126 of the Act. i.e unauthorized use of electricity or U/s 135,138 or both of theft of electricity. In the case of unauthorized use of electricity, assessment should be carried out and notices should be issued for provisional and than Final assessment and opportunity of hearing must be provided. However, in the case of theft of electricity, action should be taken for compounding civil liability or Dis-Connect as per provisions laid down in commercial 391.

(I) Meter/seal of meter/box found tampered and external device or shunt etc. are found inside the meter or meter is found opened with or without external device/shunt etc. or changes in circuitry inside the meter by cutting CT/PT wires etc.:- **"No compounding. Only civil liability be recovered"**. On Non-payment of civil liability, immediate DC and complaint in Special court or FIR as the case may be.

(II) Tempering with meter/seals of meter/box but no external device, shunt or changes in circuitry of meter, Compounding be allowed, if consumer comes forward, in the case of first time. In case compounding already allowed once or consumer does not opt for first compounding, complaint be filed in special court/FIR be lodged as the case may be and D.C. be made.

(III) Dis-connected supply be restored on depositing 50% of the amount of civil liability subject to final determination by the special court.

(9) Issuance of Notice:- It has been observed that notice of compounding/fine are being issued in the cases of unauthorized use of electricity. It has been observed that printed notice are given in which there are many options. No attention is given before issuing notice to delete/cross, irrelevant clauses and to check, whether relevant details are given. Even, in some cases meter was 12% fast during checking and no tempering was found but notice of compounding was given. In same cases, Notices are given in which the Electricity Act 1910 and comml. 16 are mentioned. It should be ensured while issuing notice that they are filled properly and issued for compounding in the cases of theft of electricity as per comml. 330. Notice of provisional/final assessment should be issued as per comml.300.