

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt Suman Giri
Principal
BKJM Public School,
Tugalpur, P.O. Khanpur,
Haridwar, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Lakshar, Distt. Haridwar, Uttarakhand

Representation No. 25/2019

Order

Dated: 30.08.2019

Smt Suman Giri Principal, BKJM Public School being aggrieved by the order dated 13.03.2019 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) in her complaint no. 13/2019 before the said Forum against the Uttarakhand Power Corporation Ltd. (UPCL) through Executive Engineer, Electricity Distribution Division, Lakshar (hereinafter referred to as respondent) has filed this representation (petition) under the directions of the said Forum vide their order dated 25.04.2019 in her review complaint no. 41/2019 before the said Forum.

2. Smt Suman Giri has filed undated representation which was received in the office of Ombudsman on 22.05.2019. Certain shortcomings were observed in her representation so she was asked to remove the same, which were removed by her vide her undated letter which was received on 03.06.2019 and the petition was accordingly admitted on 03.06.2019.
3. The petitioner, Smt. Suman Giri has stated that bills were being regularly paid for the period 26.08.2015 to 29.09.2015 for NA for Rs. 1,808.00 was duly paid. Her grievance arose on receipt of a bill for the period 26.08.2015 to 23.10.2015 for 7620 units for Rs. 40,842.00 which included Rs. 1,808.00 already paid by her against the earlier bill. She has alleged that there is no justification for a bill of 7620 units which

consumption is excessive as compared to her past average consumption. In her view this is a case of jumping in the meter. She has also mentioned that she has been receiving NA/NR bills since beginning. It is further stated that her connection was disconnected in the month of January 2018 without any intimation and meter was also removed. If her connection have already been disconnected and meter removed then why the bills were still being received including the arrears till previous month in each bill.

4. She has maintained that she repeatedly approached the departmental officers for redressal of her grievance and correction of bills but no action was taken by the department so she had filed a complaint to the Forum but the Forum had also not redressed here grievance and passed order dismissing her complaint without considering the facts of the case. Since the Forum had passed without considering the facts and her grievance remained unredressed she has filed this petition with the request that i) her bills from 29.09.2015 till 31.01.2018 when her connection was disconnected, ordered to be revised on the basis of average monthly consumption as obtained before jumping of the meter or alternatively. A check meter be got installed and bills from 29.09.2015 to 31.01.2018 be got revised on the basis of average consumption recorded by the check meter. ii) Rs. 5,000.00 deposited vide receipt no. 45F057786 dated 16.01.2017 be adjusted. iii) no bill be issued after the date of disconnection.
5. The Forum in their order dated 13.03.2019 have observed that connection no. LK60921121152 existed in the name of Smt. Suman Giri, Principal BKJM Public School for 5KW connection under commercial category. Arrear amounting to Rs. 1,32,502.00 were outstanding against the said connection. The respondent had since revised the bills and reduced the arrears to Rs. 1,02,046.00. The Forum being of the view that with the revision of the bills as aforesaid, the grievance of the complainant stood redressed hence they have ordered that the complaint was partly allowed and since the department had already resolved the problem the complaint was disposed off. The petitioner had subsequently filed a review complaint (41/2019) before the Forum which was disposed off by the Forum vide their order dated 25.04.2019 mentioning that as no legal or factual evidence has been adduced in the review complaint so it is not liable to be considered. However, the Forum directed that the

complainant if she so desires may file an appeal before the Ombudsman against their order dated 13.03.2019 passed in her complaint no. 13/2019.

6. The respondent, Executive Engineer has submitted his written statement vide his letter no. 1850 dated 20.06.2019 wherein he has submitted that a connection no. LK60921121152 for 5 KW under commercial category was existing in the name of Smt. Suman Giri, Principal, BKJM Public School, Tuglakpur, Khanpur, Distt. Haridwar on which (M/s Genus make) meter no 15445732 was installed. The old meter no. 311492 on being burnt was replaced by AE (Meter) by meter no. 15445732 vide sealing certificate no. 994/31 dated 21.03.2017. On having obtained excessive readings in the meter on 23.10.2015 and 27.02.2016 the consumer had filed a complaint before the Forum. The Forum held 4 hearings on different dates and in compliance to Forum's order the bills were revised from Rs. 1,32,502.00 to Rs. 1,02,046.00 on the basis of average of the old meter till 31.03.2017 and from 01.04.2017 to 02/2019 on the basis of average of the new meter.
7. The respondents have submitted a copy of the billing history from 08/2013 to 04/2019 which shows arrears of Rs. 1,09,621.00 ending 04/2019. Arrears ending January 2019 are shown as 1,32,582.00 in the billing history and adjustment of Rs. 30,536.00 is also reflected in the said billing history. Copy of sealing certificate dated 21.03.2017 referred in written statement has also been submitted.
8. Her undated rejoinder received through email on 24.07.2019 contains nothing new facts of the case but it is merely a reiteration of her petition.
9. Hearing in the case was fixed on 05.08.2019 when respondent Executive Engineer Shri Manoj Gusain appeared but the petitioner did not turn up. The respondent argued his case and also submitted a letter no. 2307 dated 02.08.2019 informing that the connection was disconnected in the month of January 2018 temporarily and the connection was permanently disconnected in the month of July 2019 after permanent disconnection the PD OM dated 27.07.2019 (copy of which has been enclosed with the aforesaid letter) was issued wherein after waiver of fictitious dues amounting to Rs. 47,479.00, accrued after the date of temporary disconnection, a sum of Rs. 85,103.00 against total dues Rs. 1,32,582.00 (Rs. 85,103.00 + Rs. 47,479.00) were worked out as payable by the petitioner.

10. Another date of hearing was fixed for 19.08.2019 when both parties appeared and submitted their arguments. The respondent argued their case as already pleaded on 05.08.2019 and maintained that as per PD OM already submitted the net chargeable amount after waiver of fictitious dues was Rs. 85,103.00 which the petitioner is liable to pay. The petitioner however argued her case on the basis of her petition.
11. After perusal of the records and hearing arguments from both parties it is borne out that
- i) A 5 KW connection no. LK60921121152 under commercial category was released in the name of the petitioner on 12.01.2013 when meter no. 311492 was installed. The said meter having been burnt was replaced by meter no. 15445732 on 21.03.2017. As per billing history from 08/2013 to 04/2019, bill for 08/2013 was issued on metered units for Rs. 1,471.00 and there were no arrears outstanding at that time. This is also reflected in the consumer's ledger.
 - ii) As per billing history dues up to the month of 09/2015 were Rs. 1,808.00 which is admitted by the petitioner in her petition and duly paid by her.
 - iii) Dues up to 02/2019 were 1,32,582.00 as submitted by the respondent and which figure also reflects in the billing history. Subsequently the bills were revised on the basis of average consumption by the 2 meters to Rs. 1,02,046.00 ending 02/2019 and the same ending 04/2019 became 1,09,621.00.
 - iv) As per billing history billing continued till 04/2019. Although the connection was temporarily disconnected in the month of January 2018 and was never restored thereafter and ultimately permanently disconnected in the month of 07/2019.
 - v) The billing history submitted by the respondent from 08/2013 to 04/2019 reveals that out of 53 bills issued during the said period only 14 bills were issued on metered consumption and other 39 bills were issued on NA/NR and IDF basis. The relevant UERC regulations regarding billing on NA/NR/IDF basis and tariff provisions are reproduced below

“3.1.2 (3) Where meters could not be read because of non-availability of any consumer, licensee may raise a provisional bill based on the last one year's average consumption of the consumer clearly showing the date when the meter reader went to the consumer's premises to take the meter reading and reason for not being able to do

so. All such bills shall be suitably adjusted as and when such meters are read. Such provisional billing shall not continue for more than 2 billing cycles at a stretch and thereafter no provisional bills shall be raised.”

“3.2 Billing during the period defective/stuck/stopped/burnt meter remained at site

(1) The consumer shall be billed on the basis of the average consumption of the past three billing cycles immediately preceding the date of the meter being found or being reported defective. These Charges shall be leviable for a maximum period of three months only during which time the licensee is expected to have replaced the defective meter.”

12. Tariff provision 4 (under General Conditions of Supply) Billing in Defective meter (ADF/IDF), Meter not Read/Not Accessible (NA/NR) and Defective Reading (RDF) Cases.

In NA/NR cases, the energy consumption shall be assessed and bill as per average consumption of last one year average consumption (as per regulations 3.1.3(3) of the Electricity Supply Code) which shall be subject to adjustment when actual reading is taken. Such provisional billing shall not continue for more than two billing cycles at a stretch. Thereafter, the licensee shall not be entitled to raise any bill on provisional basis. In case of defective meter (ADF/IDF) and defective reading (RDF) cases, the consumers shall be billed on the basis of the average consumption of the past three billing cycles immediately preceding the date of the meter being found or being reported defective (as per Regulations 3.2(1) of the Electricity Supply Code). These charges shall be leviable for a maximum period of three months only during which time the licensee is required to replace the defective meter. Thereafter, the licensee shall not be entitled to raise any bill without correct meters.

13. A perusal of the billing history reveals that the respondent continued to bill the consumer on NA/NR and IDF basis for a prolonged period in gross violation of the aforesaid regulatory provisions (the same provisions do exist in the tariff also) As regards NA/NR the above regulations provide that such provisional bills cannot be issued more than 2 billing cycles at a stretch but the billing history shows that NA/NR bills were issued a number of times for more than two billing cycles and IDF bills were also issued for more than 3 months in continuation, while the above regulations restrain the licensee to issue NA/NR/IDF bills beyond the prescribed period.

14. The respondent are not entitled to issue NA/NR bills for more than 2 billing cycles at a stretch and IDF bills for more than 3 months under the above regulations and thus in fact the respondent should not have issued the NA/NR and IDF bills beyond the prescribed limits. However, they have billed the consumer beyond the prescribed limit as mentioned above and in totality 39 bills out of 53 bills were issued on NA/NR and IDF basis.
15. The respondent have however tried to rectify the irregularity committed by them by revising the billed amount from Rs. 1,32,582.00 to Rs. 1,02,046.00 on the basis of average consumption recorded by the 2 meters and further the net chargeable amount after PD finalization has been worked out as Rs. 85,103.00 vide their PD OM dated 27.07.2019. They have further committed a mistake in the said OM wherein the total outstanding dues including the fictitious arrears have been worked out as Rs. 1,32,582.00 (85,103.00 + 47,479.00) while they have already revised the bills and the total outstanding dues have been claimed to be Rs. 1,02,103.00 instead of Rs. 1,32,582.00 Thus the chargeable amount of Rs. 85,103.00 (Rs. 65,306.00 principal amount + Rs. 19,797.00 DPS as shown in respondent's letter no. 2307 dated 02.08.2019) as claimed in PD OM dated 27.07.2019 cannot be held as the correct amount.
16. In view of the factual position of the case and the irregularities committed by the respondent in issuing the bills in violation to the above mentioned UERC regulations and tariff provisions, it is hereby ordered as follows:
- i) 53 nos. bills issued for a period of 08/2013 to 04/2019 out of which only 14 bills were issued on metered consumption and 39 bills issued on NA/NR/IDF in violation to the relevant regulation/tariff provisions may be withdrawn.
 - ii) Bills from 08/2013 to 04/2019 be worked out on the basis of average consumption recorded by the 2 meters remained installed during different periods on appropriate tariff but without levy of LPS/DPS because such a revised bill will be the firm bill in cancellation to the bills already issued by the respondent.
 - iii) Out of the amount of the fresh consolidated bill as per sr. no. ii) above dues pertaining to the period 01/2018, the date of temporary disconnection till

04/2019 up to which the billing continued as per billing history be waived off being the fictitious dues.

- iv) Since the licensee is not entitled to issue NA/NR/IDF bills beyond prescribed number of billing cycles as per above regulations, dues pertaining to such periods cannot be realized from the consumer but at the same time Discom should not be made to lose their revenue on account of the cost of energy supplied by them. In such a situation it would be justified if the cost of such bills which were issued on NA/NR/IDF basis in violation to above regulation be recovered from the officers/officials responsible for committing such irregularity. It is therefore ordered that amount of such bills be quantified from the amount of proposed revised bill to be issued under this order and be recovered from the salary of the erring officers/officials. A bill out of the total amount after deduction of the fictitious arrears and amount to be recovered from staff be raised to the petitioner for payment by her. After correction of the bills as aforesaid and waiver of fictitious arrears and DPS, the net outstanding dues shall be about Rs. 50,000.00, out of which the approximate amount thus payable by the petitioner shall be about Rs. 30,000.00 against the amount of Rs. 85,013.00 claimed by the respondent vide their PD OM dated 27.07.2019 and a sum of Rs. 20,000.00 (approximately) shall be recovered from the erring staff. However exact amount payable by the petitioner and recoverable from the erring staff may be worked out by the respondents themselves keeping in view of this order.

17. Revised bill to the petitioner be issued within 15 days and recovery of the amount of the NA/NR/IDF bills issued in violation of the regulation from the erring staff be reported within 60 days of the date of this order.

Dated: 30.08.2019

(Subhash Kumar)
Ombudsman