

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Shri Tribhuwan Ispat Private Limited,
Industrial Estate Vikrampur, Ramraj Road, Bazpur,
Distt Udham Singh Nagar, Uttarakhand

Vs

1. Managing Director, Uttarakhand Power Corporation Ltd., Urja Bhawan, Kanwali Road, Dehradun, Uttarakhand
2. The Executive Engineer, Uttarakhand Power Corporation Ltd., Electricity Distribution Division, Bazpur.
3. Consumer Grievance Redressal Forum Kumaon Zone, Haldwani.

Representation No. 01/2009

Order

This representation has been filed on behalf of M/s Shree Tribhuwan Ispat Private Limited, Industrial Estate Vikrampur, Ramraj Road, Bazpur (Distt. Udham Singh Nagar), Uttarakhand, which is a company registered under The Company's Act 1956 and has its Steel Mill at Bazpur (Petitioner). Managing Director Uttarakhand Power Corporation Limited, Executive Engineer, Uttarakhand Power Corporation Ltd. Bazpur and Consumer Grievance Redressal Forum have been listed as the respondents. The representation was admitted on 30.01.2009 and notices issued to the listed opposite parties. Of these, Executive Engineer, Bazpur only has contested the petition and filed his reply 08.04.2009 and the rejoinder to the same was filed by the Petitioner on 11.05.2009. Both the parties exempted their arguments on 03.06.2009.

2. Brief facts of the case are that the petitioner got of 3000 KVA load sanctioned for a steel mill on 11.05.2004. As per terms and conditions of the sanction the applicant deposited a sum of Rs. 23.40 lac by way of system loading charges on 25.01.2005. Thereafter the agreement was signed and the connection was released on 16.05.2005. The petitioner later learnt that the system loading charges had already been abolished and he had therefore wrongly been charged this amount. Accordingly he approached the Consumer Grievances Redressal Forum, Kumaon Zone Haldwani (Forum) who passed an order on 14.11.2006 directing UPCL to refund the amount collected from

the petitioner by way of system loading charge, which was done by way of adjustment on 25.10.2007 after lot of follow up. However no interest on this amount, wrongly charged from the petitioner, was paid by UPCL.

3. Another grievance that the petitioner has is that while calculating peak and off peak hour tariffs, per unit rate has been rounded off instead of rounding of the total billed amount permissible under the Tariff Order of The Electricity Regulatory Commission (Commission). This has resulted in an excess realisation of Ra 77,067.00 from the petitioner only due to this accounting error.
4. The Petitioner accordingly approached the Forum who passed an order on 04.10.2008 upholding UPCL's action. Aggrieved by this the petitioner has filed the present representation.
5. In the reply filed by respondent no. 2 it has been claimed that interest on this amount has not been paid to the petitioner as no such direction was given by the Forum in the order dated 14.11.2006. The said order directed only refund of the amount which has been done. As per as rounding of the per unit rate is concerned the respondent has claimed that the rounding off has done by him is correct and there is no question of refund of this amount of Rs 77067.00 to the petitioner.
6. During the course of hearing on 03.06.2009 UPCL's counsel offered that the per unit rate of Rs 2.2325 which has been incorrectly rounded off to Rs. 2.24 can be revised and rounded off to Rs. 2.23. The petitioner accepted this offer and agreed not to press this issue of rounding off of per unit charges further. Accordingly, the two parties having come to an agreement, it is not necessary to adjudicate upon the issue of rounding off of the per unit rates. This leaves only the issue of interest payment on the amount wrongly charged by way of system loading charges and refunded under orders of the Forum.
7. As stated earlier UPCL's contention in this regard is that interest on this amount has not been paid as no such direction was given by the Forum. Therefore the only issue to be decided in this context is whether in absence of such directions by the Forum UPCL is obliged to pay interest on this amount or not. It is a well recognised financial fact that all money carries cost and it is for this reason that when payments to UPCL are delayed by consumers the cost of such delay to UPCL is made good by way of late payment charges/surcharge/interest on the outstanding amount. Morally speaking the same principle should also apply when payments are to be made to consumers by UPCL. Let us now see what the legal position on this issue is. Section 62 (6) of the Electricity Act 2003 deals with this issue and its extract is reproduced below:

(6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.

The above provision is unambiguous and clearly requires the licensee that in the present is UPCL, to pay interest on the amount wrongly collected from the petitioner. In view of this clearly spelt out legal position there is no need for Forum or any other authority to pass further orders for discharge of this responsibility. Accordingly UPCL's plea that interest is not required to be paid by it because the Forum did not say so, is in clear violation of the above provision of the Act and therefore cannot be accepted. UPCL is accordingly directed to calculate and pay interest on this amount from 25.01.2005 to the date of actual payment on the rates specified by the Commission without any further delay. Since UPCL has taken a totally incorrect and indeed illegal stand in not making such payment earlier, it is only fair that in addition to the interest to be paid as directed above, UPCL shall also pay the petitioner a sum of Rs. 5,000.00 only towards the cost of this avoidable litigation.

Dated: 08.07.2009

Divakar Dev
Ombudsman