

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s India Glycols Ltd.
Bazpur Road, Kashipur, Distt. Udham Singh Nagar, Uttarakhand

Vs

1. The Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Kashipur, Distt. Udham Singh Nagar, Uttarakhand.
2. The Managing Director, Uttarakhand Power Corporation Ltd., Urja Bhawan, Kanwali Road, Dehradun.
3. Consumer Grievance Redressal Forum, Kumaon Region, Haldwani, Nainital, Uttarakhand

Representation No. 05/2009

Order

This representation has been filed by M/s India Glycols Ltd., Bazpur Road, Kashipur, Distt. Udham Singh Nagar, Uttarakhand (Petitioner) against the order of Consumer Grievance Redressal Forum, Kumaon zone (Forum) dated 25.04.2009. Brief facts of the case are that in January 2007 when the Uttarakhand Electricity Regulatory Commission (Commission) for the first time imposed certain restrictions on supply to consumers, the petitioner opted for continuous supply on 10.01.2007 resulting in increase in its tariff by 20% as stipulated in the Tariff Order. This option was reiterated in writing by the petitioner again on 27.03.2007. Bills were accordingly raised for higher tariff and the petitioner continued to pay the same. For the period April 2007 to November 2007 bills were raised without 20% enhancement and bill for this left out amount was subsequently raised which is being disputed by the petitioner. The petitioner has not denied that it opted for continuous supply for which 20% higher tariff was payable but has claimed that this enhanced tariff is not applicable during the period April 2007 to November 2007. The representation has been contested by respondent no. 1 who has claimed that the petitioner having opted in writing for continuous supply his tariff stands enhanced by 20% as per the rate schedule RTS-7; further that the tariff order does not envisage that the higher tariff should be charged only during the period of power cuts. On the contrary higher tariff has to be paid by the consumer for his entire consumption.

2. I have gone through the record carefully and have heard the parties. I find that each of the issues that the petitioner is agitating in this representation has been considered and

dealt with at length by the Forum in the order dated 25.04.2009. Since the Forum's conclusions are not to the petitioner's liking, the same points have again been raised in this petition but without giving any specific reasons for disputing the Forum's findings on these issues. The facts of the case are not disputed. The petitioner's claim is that the enhanced tariff is not payable by it during the disputed period that is April 2007 to November 2007. This claim is based on petitioner's own interpretation of the relevant provisions of the Tariff Orders, which has not been accepted by the Forum. The petitioner's claim presupposes that:

- a) the rate given in RTS-7 (6) (i) given in the Tariff Order for the year 2006-07 ceased to apply from 01.04.2007 and rates and conditions given in the tariff order dated 18.03.2008 became applicable
 - b) no fresh restrictions on supply having been placed till December 2007, petitioner's letter dated 27.03.2007 reiterating the option exercised on 10.01.2007 should become effective only in December 2007.
3. Petitioner's above claim needs to be tested against the relevant provisions of the tariff orders, which are reproduced below:

Tariff Order dated 12.07.2006:

Para 6.2

".....These rates shall be effective from 01.04.2006 and shall continue to be applicable till further orders."

RTS-7

"6. Restriction in usage

In case, imposition of restriction towards the usage of electricity by the industry during certain hours in the day is effected by the Commissions at any point of time, then the following rates and charges shall start to be applicable.

- i) *For consumers opting for supply during restricted hours (Continuous) – 20% increase in the Energy charge as given in Rate of charge. The new applicable energy charge shall be Rs. 2.95 /kWh for the LT industry (upto 100BHP), Rs. 2.30/kVAh for the HT industry (above 100BHP) and Rs. 2.85/kVAh for steel units. Demand charge and other charges remain same as per rate of charge given above".*

Tariff Order dated 18.03.2008:

RTS-7(6)(v)

"Industries who have already opted for continuous power will continue to pay 20% higher tariff as mentioned above. Industries who opt for continuous power after implementation of this order shall be levied above mentioned 20% higher tariff from 1st April 2008 or from the date of connection whichever is later. Consumers shall be allowed to change the option only once in the year subject to the condition that 20%

higher charge shall be applicable for entire financial year irrespective of actual period of continuous supply”.

4. It will be seen from the above provisions that there is nothing in the tariff order dated 18.03.2008 which supports petitioner’s contention that the 20% higher tariff had ceased to be applicable during the period of dispute. On the contrary the Tariff order dated 12.07.2006 says in so many words that the rates given there will continue to be applicable till further orders which came only on 18.03.2008 and the very first line of the given above states that

“Industries who have already opted for continuous power will continue to pay 20% higher tariff as mentioned above”

5. This categorical stipulation leaves no room for inferring that higher tariff for continuous supply was payable only from a date subsequent to December 2007. It is not disputed that the petitioner opted for continuous supply on 10.01.2007 and reiterated the same option on 27.03.2007. The petitioner has exercised the option prior to issue of this tariff order and hence question of the petitioner being charged higher tariff only from a later date does not arise. His case is therefore clearly covered by the above unambiguous provision of the tariff order.
6. The Consumer Grievance Redressal Forum and the institution of the Ombudsman have been created by the Electricity Act 2003 to redress genuine grievances of consumers. These institutions should not be allowed to be misused by resourceful consumer only to drag UPCL into unnecessary litigation or simply to delay matters. Such deliberate misuse of these institutions needs to be discouraged and indeed checked. It is difficult to accept that the petitioner, who is a corporate body and had exercised the option for continuous supply in writing more than once, had genuinely misunderstood the above portion of the Commission’s order which is in simple and easily understandable language. In spite of that the petitioner has been claiming to be aggrieved over levy of 20% higher tariff and agitating the same first before the Forum and thereafter before the undersigned. The petitioner has clearly been misusing this Grievance Redressal mechanism and indulging in uncalled for litigation and delaying matters. This needs to be discouraged, and the petitioner is therefore directed to pay to UPCL Rs. 20,000.00 (Rupees Twenty Thousand only) by way of costs.

Dated: 02.09.2009

Divakar Dev
Ombudsman