

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Umashakti Steels (P) Ltd.  
Village Vikrampur, P. O. Bajpur  
Distt. Udham Singh Nagar, Uttarakhand

Vs

The Executive Engineer,  
Electricity Distribution Division (Urban),  
Uttarakhand Power Corporation Ltd.,  
Bajpur, Distt. Udham Singh Nagar, Uttarakhand

Representation No. 03/2010

### Order

M/s Umashakti Steels (P) Ltd. located at village Vikrampur, Distt. Udham Singh Nagar filed a representation in the office of the Ombudsman on 30.03.2010, against the order of the Consumer Grievance Redressal Forum, Kumaon Zone dated 21.11.2009. As per the facts mentioned in the representation, though the order of the Forum is dated 21.11.2009, the order was received by them only on 30.11.2009.

2. Since the representation was filed beyond the stipulated period of 30 days, request for condoning the delay was made by them. Notice was issued to the respondent, who objected to the request. Both parties were heard on the request for condoning the delay on 17.08.2010. After hearing the arguments of both the parties and going through the papers the Ombudsman acceded to the request of the petitioner, vide his order dated 31.08.2010, for condoning the delay on the grounds that there was no reason to believe that the applicant had delayed the matter deliberately or to draw any advantage. In this matter the provisions of Uttarakhand Electricity Regulatory Commission (Appointment and Functioning of Ombudsman), Regulations, 2004 Chapter V (1) were quoted wherein it is stated that:

*“Provided further that the Ombudsman may entertain an appeal after the expiry of the said period of 30 days if the Ombudsman is satisfied that there was sufficient cause for not filing it within this period.”*

3. Brief facts of the case are that the petitioner has a factory at village Vikrampur and is engaged in the business of manufacturing ingots. For this purpose he has a power connection of 3 MW on site. The power supply is made to the factory from substation Fouzi Colony, Keshowala, Bajpur through Tribhuwan Ispat Feeder. The petitioner's factory started functioning in the year 2005-06. As per the petitioner, he has been using power as per the instructions received from the Control Room of the Power Corporation issued through SDO (Transmission). On 11.01.2008 as per intimation received from the substation there was no rostering. As evidence the petitioner has attached a certified copy of the log book dated 11.01.2008, of the substation from where the power is being supplied on which a noting has been made that rostering of the feeders including Ispat feeder shall not be done and all 33 KV substations were informed. He has also attached a copy of his letter dated 05.11.2009 on which the SDO (Transmission), Bajpur has noted that on 11.01.2008 the Ispat feeder was kept free of the scheduled rostering as per the entry in the log sheet.

That despite the fact that there was no rostering on 11.01.2008, the respondent (UPCL) issued a bill dated 11.12.2008 of penalty (Rs. 92,661.00) for use of power during the peak hours on 11.01.2008. Under threat of disconnection of power, the petitioner deposited the amount in February 2009. The petitioner made a complaint before the CGRF, Kumaon zone on 17.06.2009. The Forum rejected the plea and decided against the petitioner.

4. In their reply the respondent stated that the petitioner is a consumer of UPCL and not of PTCUL. UPCL gets electricity from PTCUL and supplies to various consumers with an agreement having certain terms and conditions. Hence PTCUL has no authority to directly entertain the consumer of UPCL and therefore the petitioner's claim that he was using the power as per the information received from the Control Room of the Power Corporation issued through SDO (Transmission) should not be accepted in the absence of any proof of the petitioner having an agreement with PTCUL. The certified copy of the log sheet of 132 KV substation keshowala, Bajpur has no relevance regarding fine imposed by UPCL as the record is of PTCUL and not UPCL. Similarly letter issued by SDO, PTCUL, Bajpur on 05.11.2009 has no relevance. In this reference respondent has also mentioned that if the 33 KV Tribhuwan Ispat Feeder was free from all rostering on 11.01.2008 and the same had

been conveyed to all concerned then why did the other consumers M/s Tribhuwan Ispat, M/s Bhagwati Alloys and M/s Sunshine Industries on this feeder not use electricity nor were imposed the peak hour penalty.

The rostering schedule (28.12.2007 – 15.01.2008) was published by UPCL after taking approval from UERC. The message register of 132 KV S/s PTCUL keshowala has no entry regarding rostering/no rostering on 11.01.2008. The SDO PTCUL has no authority to postpone the approved scheduled rostering on his own.

5. In response the petitioner filed a copy of the UERC order dated 26.12.2007 wherein UERC have given approval for rostering with certain terms and conditions. In their order the UERC has mentioned that

*“The Commission in exercise of its power under section 23 of Electricity Act, 2003, has approved load shedding in the state as per the load shedding program submitted by UPCL with minor modifications (attached as annexure to the order) with the following terms;*

- j) Scheduled load shedding in the area which remained without power during the day of restriction due to breakdown in EHV system, shall be reduced suitably.*
- k) UPCL may synchronize their maintenance shut downs within the period of cut as far as possible”*

6. Further the petitioner claimed that the Message Register and Control Room log book submitted by the UPCL showed that some maintenance work was done by UPCL and PTCUL in 132 substation on 10.01.2008 from where their feeder is emanating.
7. The Forum has rejected the petitioner’s grievance on the ground that the record produced by the respondent viz Message Register and Control Room log book showed that electricity use was restricted on 11.01.2008. They have also relied on the letter of the Executive Engineer, Bajpur dated 14.10.2009 that neither his office nor the Control Room permitted no rostering/using electricity during peak hours on 11.01.2008. The UERC approved load shedding program of UPCL (28.12.2007-15.01.2008) restricting use of electricity during peak hours for industries of 132, 133 KV and 11 KV in SIDCUL, Haridwar and Pantnagar (Udham Singh Nagar). Despite

this the petitioner used electricity during 05:30 pm and 09:30 pm on 11.01.2008. None of the other industries in the feeder used electricity or were penalised. The Forum has also stated that the log sheet produced by the petitioner was for 132 KV substation Kashipur, while the petitioner industry falls under Bajpur substation. The Forum however seem to have missed out the fact that the log sheet also showed the consumption for Fouzi Colony Keshowala, Bajpur where the Ispat feeder is emanating from.

8. A clarification was sought from MD, UPCL by the office of the Ombudsman vide letter dated 16.06.2011, whether there was rostering on the concerned Ispat Feeder emanating from 132/33 KV Bajpur substation. In his reply, Director (Operation), UPCL has clarified that vide a letter issued by DGM (System Operation) SLDC, Rishikesh it was informed that no rostering was imposed on 11.01.2008 on the concerned Ispat feeder emanating from 132 KV Bajpur substation.
9. I have carefully gone through the record and the arguments presented by both the parties. The moot question here is whether the intimation received from substation Fouzi Colony Bajpur through SDO (Transmission) was sufficient for the petitioner to use electricity on 11.01.2008 during peak hours. The contention of the UPCL is that the SDO (Transmission) is an officer of the PTCUL and not of the UPCL which is the Licensee with whom the petitioner has an agreement for providing electricity. Respondent has therefore stated that the official of the PTCUL has no authority to grant exemption and also that the records of the substation are not relevant as they are of PTCUL and not UPCL. Therefore the petitioner in using electricity has acted on his own without proper permission. UPCL has also drawn attention to the orders of UERC for regulating electricity during peak hours for the period 28.12.2007-15.01.2008.
10. Electricity generation, transmission and distribution were looked after by one entity before implementation of Energy Reforms Act, 1999. Subsequent to this, generation is being looked after by UJVNL, transmission by PTCUL and distribution by UPCL. The matter raised by UPCL regarding jurisdiction of PTCUL/UPCL needs to be examined. Transmission and primary substations come under the operations of PTCUL and 33 KV lines emanating from primary substations, 33/11 KV substations,

11 KV lines, LT lines, LT substations and supply of electricity to the consumers comes under the jurisdiction of UPCL i.e. to say that UPCL gets supply from PTCUL's substations and feeds to their consumers through their network. The responsibility of maintaining the grid as per Grid Code is of PTCUL and the SLDC is the appropriate authority to control the grid under all the circumstances arising at different points of time which includes resorting to the unscheduled/scheduled rosterings/load sheddings as per requirement to stabilize the grid. In the present instance the contention of the petitioner is that as per the intimation received by him from SDO (Transmission), substation, Fouzi Colony, Keshowala, Bajpur there was to be no rostering on 11.01.2008 during evening peak hours. This has been contested by the respondent on the ground that SDO (Transmission) had no authority to issue such instructions. However as explained above SLDC does have the authority to regulate the supply, to maintain the grid under the situation arising at that moment. The DGM (SO), SLDC, Rishikesh in his letter dated 07.07.2011 to DGM, attached to Director (Operations) has stated "*It is to bring to your kind notice that no rostering was imposed on the concerned Ispat feeder emanating from 132 KV Bajpur substation on 11.01.2008*". Attached with this letter he has enclosed a copy of the system log book for the concerned period wherein it is recorded that on 11.01.2008 the rostering scheduled from 1600 hrs shall not be done. This shows that a message had been sent to the concerned 132 KV substations and to SDO (Transmission) and it is on this basis that the petitioner was informed that there was no rostering on that date. This clarifies that SDO (Transmission) has merely forwarded the instructions received from SLDC.

11. While the UERC has issued an order for regulation of load shedding program, they have added certain terms as mentioned in Para 6 above. Hence there can be exceptions to the regulated load shedding.
12. Respondents have placed a lot of emphasis on the fact that the petitioner is a consumer of UPCL and not PTCUL and therefore the exemption given by SDO (Transmission) an officer of PTCUL or control room log book of 132 KV substation Kashipur, including Fouzi Colony, Keshowala, Bajpur (claimed to be record of PTCUL) is not relevant. For the consumer, the relevant office for obtaining information regarding rostering is the concerned 132 KV substation from where he is getting his supply.

13. Examination of the papers also shows that while the alleged violation of peak hour restrictions was done on 11.01.2008, the bill for the penalty was only raised 11 months later on 11.12.2008. This was done in spite of an order issued by Director (Operation) on 12.02.2008 to all Executive Engineers, Electricity Distribution Divisions of UPCL, stating

*“I enclose herewith the details of scheduled and actual rostering of industries done w.e.f. 01.01.2008 to 11.02.2008 as per power availability for doing the needful at your end. The penalty will not be imposed on the industries that have used the power as per actual rostering times.”*

The chart enclosed with the letter by DGM (Systems Control), Rishikesh shows that there was no rostering on 11.01.2008 even though it was scheduled between 1600 - 2230 hrs. Certain questions arise about the action taken by the concerned authorities of UPCL in raising the penalty bill 11 months after the alleged violation and in spite of the orders of the Director (Operations) on 12.02.2008 specifically stating that no penalty was to be imposed on industries that had used the power during peak hours from 01.01.2008 to 11.02.2008.

14. Keeping all the above factors in mind it is clear that the penalty has been incorrectly imposed. The penalty is therefore set aside as is the order of the CGRF, Kumaon zone dated 21.11.2009. Hence penalty already deposited by the petitioner may either be refunded or adjusted in the first next bill issued after this order.

Dated: 29.09.2011

Renuka Muttoo  
Ombudsman