

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Gujarat Ambuja Exports Ltd.,
C-50, ELECO-SIDCUL, Industrial Park,
Sitarganj, Distt. Udham Singh Nagar,
Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division-II,
Uttarakhand Power Corporation Ltd., Sitarganj
Distt. Udham Singh Nagar, Uttarakhand

Representation No. 06/2011

Order

The petitioner, M/s Gujarat Ambuja Exports Ltd., approached the office of Ombudsman on 24.10.2011 against the order of Consumer Grievance Redressal Forum, Kumaon zone (Forum) dated 29.09.2011, directing the respondent (Executive Engineer, Electricity Distribution Division – II, Sitarganj, Distt Udham Singh Nagar) to draw up the bill for the use of power in the premises, C-60, ELDECO-SIDCUL, Industrial Park, Sitarganj, Distt. Udham Singh Nagar, of the petitioner, from 06.05.2011 to 23.05.2011 and in case the amount already deposited by the petitioner was in excess of the amount due, the same may be adjusted in the subsequent bills.

2. Brief facts of the case are that the petitioner has two plots C-50 and C-60 at ELDECO-SIDCUL, Industrial Park, Sitarganj, Distt. Udham Singh Nagar. The two plots are separated from each other by a public road. The petitioner had taken an electricity connection for 3000 KVA for plot no. C-50 and signed an agreement with the respondent for the same. On 23.05.2011 when a team of the respondent's officials went to the premises, they found that a connection had been taken from the petitioner's premises (C-50) to another plot (C-60), where construction was under way, by drawing a cable of 200 meters. A copy of the inspection report, signed by the Executive Engineer, was handed over to the consumer. Subsequent to this, the respondent lodged an FIR in the local Police Station u/s 135 of the Electricity Act, 2003. A provisional assessment bill for assessment of energy in cases of unauthorized use of energy for Rs. 3,28,43,638.00 was served on the petitioner vide respondent's letter dated 25.05.2011. The petitioner represented against the same and a revised bill for Rs. 26,59,216.00 was issued to the petitioner vide letter dated 28.06.2011. The respondent issued another letter dated 05.07.2011 claiming that the earlier bill was in the wrong format. This letter asked him to deposit the money at an early date. The petitioner approached the Forum on 12.07.2011. Aggrieved by the order of the Forum he has now approached the office of Ombudsman.

3. In his petition, the petitioner has stated that he has two plots C-50 & C-60 at ELDECO-SIDCUL, Industrial Park, Sitarganj, Distt. Udham Singh Nagar. Plot no. C-60 is situated at the back of C-50. He has contended that both the plots are an integral part of the factory of the petitioner. To construct additional buildings at plot no. C-60 petitioner entered into a contract with M/s Mittal Constructions Units on 20.04.2011. As per the contract the project would be started after 15 days but not later than one month of the contract. Petitioner intimated this fact to the Dy. Director, Factories on 30.04.2011. While in his petition he has not mentioned this fact, in the letter written by the petitioner to the Dy. Director (Factories) it has been stated that the petitioner has purchased a new piece of land very close to the existing unit and that the new plot no. C-60 is situated at the back of the existing plot no. C-50 and separated by a service road.
4. M/s Mittal started construction on plot no. C-60 on 02.05.2011 without any use of electricity. Petitioner claims he gave the construction company electricity on 11.05.2011 from the meter installed on his premises at C-50. Petitioner claims he gave the connection of up to 10.206 KW on 11.05.2011. Power was provided for use of mixtures, tullu pumps, bulbs and halogen lamps. It was from the existing meter and was being duly metered.
5. A team of officials of the respondent inspected the installation on 07.05.2011 and took the reading on the same date. As per the petitioner, during their inspection, the respondent's team found use of above mentioned equipment on the premises of plot no. C-60 and had also found that the supply was from the petitioner's own electricity connection and was being duly metered.
6. A show cause notice was served to the petitioner on 25.05.2011 with the title "Unauthorized use of power". A provisional assessment of Rs. 3,28,43,638.00 based on net units billed in the last 12 months (1,60,70,873 KWH) was raised as unauthorized usage of power. Petitioner replied on 31.05.2011 that they had not made any unauthorized use of electrical energy. They had an electricity connection and electricity was being duly metered. The petitioner's premises consisted of two plots and they had given electricity to the construction company on 11.05.2011 in plot C-60. As per Tariff Order of Uttarakhand Electricity Regulatory Commission (UERC) for 2011-12 there was a provision for temporary supply for "illumination and other purposes". The petitioner stated that their meter was being regularly checked and last checking was made on 07.05.2011, and no mention of any unauthorized usage had been brought up by the respondent till then. Therefore it was not understood how the corporation had taken a period of 12 months for the provisional assessment bill served vide letter of the respondent dated 25.05.2011. They also alleged that the load shown in the assessment (19.832 KW) was on the higher side as the power supply taken from 11.05.2011 to 23.05.2011 (for work in plot no. C-60) and for the equipment being used there was only 10.206 KW.

7. On receipt of this reply, the respondent revised the demand downwards, to Rs. 26,59,216.00 vide their letter dated 28.06.2011. The petitioner again challenged the assessment on the grounds
 - a) Sum of Rs. 15,62,194.00 had been claimed as 25% extra of electricity consumption and fixed charges –
 - i) No provision under provision of UERC Tariff Order for 2011-12 to charge 25% extra on fixed charges in applicable cases of temporary connection. 25% extra is only on electricity consumed and not on fixed charges.
 - ii) Connected load for construction on 11.05.2011 was 10.206 KW. Sanctioned load of 3000 KVA was not diverted for construction purposes and hence even if it can be proved that there was unauthorized use of electricity, then UPCL can merely assess on the load alleged to have been used in an unauthorised manner and not on sanctioned load.
 - iii) 25% have been assessed on electricity consumed for the last one month bill basis whereas there is a specific date and period for the use of electricity for construction purposes (11.05.2011 to 23.05.2011)
 - b) UERC Tariff Order for the year 2011-12 says a permanent connection sanctioned for premises being used for construction, repair or renovation of building shall not be considered as unauthorized use of electricity as long as the intended purpose is within the sanctioned category of the connection.
8. Without considering and disposing the said objections, the respondent in a letter dated 05.07.2011 ordered the petitioner to make the payment immediately. The petitioner then filed an application before the Forum. Before the case could be decided the electricity connection of the complainant was disconnected on 23.08.2011 and the petitioner was forced to deposit the amount under protest.
9. Forum in their order have upheld the charges made by the respondent , however they ordered that respondent should have calculated the period of use of the supply from 06.05.2011 to 23.05.2011. These dates were decided by the Forum after examining the documents provided by the petitioner regarding his agreement with the construction company for work in plot C-60. They also directed that the respondent should resubmit the bill and if the assessment amount was less than the amount which had been deposited then the excess should be adjusted in future bills.
10. Petitioner has protested against the order of the Forum on the grounds that:
 - i) The use of the load to the premises of the petitioner when the two plots adjoin each other, through the existing meter, cannot be termed unauthorized.
 - ii) Forum had not decided the controversy between the parties whether the load was 10.206 KW or 19.832 KW.
 - iii) No decision given regarding the objection to 25% extra being charged on fixed charges.

11. The petitioner while requesting that the order of the Forum be set aside has sought the following relief:
 - i) Order of the UPCL making a demand of Rs. 26,59,216.00 dated 28.06.2011 be set aside.
 - ii) that in case of permanent connection the provision of 25% extra on electricity consumption is not applicable.
 - iii) Even in case of unauthorized use of electricity in temporary connections, 25% extra cannot be claimed on demand charges.
 - iv) It may be declared that the period of use of power supply at plot no. C-60 was only from 11.05.2011 to 23.05.2011 and the connected load was 10.206 KW.
12. Respondent in his reply before the Forum had stated that the two plots are separated from each other by a public road and situated at a distance of 200 meters from each other.
13. They have mentioned that besides the show cause notice an FIR was also lodged on the date of inspection i.e. 23.5.11 u/s 135 and provisional assessment u/s 135 read with section 126 was issued to the petitioner.
14. The respondent maintains that the agreement between the two parties was for providing electricity to the consumer (petitioner) for plot no. C-50. As per agreement the petitioner had been authorized use of 3000 KVA connection only for plot no. C-50, ELDECO-SIDCUL, Industrial Park, Sitarganj and not for plot no. C-60.
15. On 07.05.2011, the officers of the respondent had gone to the premises of the petitioner for meter reading and there was no reason for inspection which would bring to notice any unauthorized use of electricity by extension of cable from the authorized area (plot C-50) to plot C-60.
16. On 23.05.2011, when the respondent's officials visited the premises of the petitioner again, they found the petitioner using the power sanctioned for plot no C-50 in plot no. C-60 by extending a cable to the second plot. As per Regulation, where period of theft/unauthorised use of electricity is not clear the assessment was to be made according to UERC norms on 12 months basis. The UERC (Electricity Supply Code) Regulations, 2007 as amended up to 2009, para 5.2.3 sub para (4), provides

“Where it is established that there is a case of UUE, the Licensee shall assess the energy consumption as per the assessment formula given in Annexure X for the entire period during which such unauthorized use of electricity has taken place and if, however, the period during which such unauthorized use of electricity has taken place cannot be ascertained, such period shall be limited to a period of 12 months immediately preceding the date of inspection and prepare final assessment bill on 2.0 times the rates as per applicable tariff and serve on the consumer under proper receipt...”

Hence the first bill was raised for Rs. 3,28,43,638.00. After receiving the petitioner's objection and examining the documents submitted by the petitioner a revised bill was issued for a fixed load of 2557 KW even though only a fixed load of 19.832 KW was found connected. The net units were taken on the basis of units billed during last one month. Thus the demand was brought down to Rs. 26,59,216.00 for unauthorised use of electricity by extension of cable from supply type i.e. RTS-7 (rate schedule for LT and HT industries) on plot no. C-50 (authorized as per agreement entered into between petitioner and respondent) to supply type RTS-10 (rate schedule for temporary supply) on plot no. C-60 for which there was no agreement.

17. The respondents have stated that due to mistake in the office the order dated 28.06.2011 was issued in a wrong format and it was corrected vide letter dated 05.07.2011. Due to the different uses in the two plots i.e. authorized under RTS-7 for plot no. C-50 and use for activity under RTS 10 in plot no. C-60, twice the difference of tariff was charged for unauthorised use of electricity. Respondents have stated that the charges were made under UERC Tariff Order 2011-12 – RTS-10: Temporary Supply, para no. (B) 2 which provides *“the rate of charge will be corresponding rate of charge in appropriate schedule + 25%”*. Respondents have made no mention in their statement before the Forum as to why they have charged double the tariff rate.
18. The respondents maintained before the Forum that the load to be considered would not be the load being used but as per UERC Regulation, the connected/contracted load whichever is higher and therefore 3000 KVA was considered. As no evidence was available that the load was used only for the period claimed by the petitioner, a period of one month was considered.
19. These two statements of the respondent are incorrect as the UERC Supply Code Regulations 5.2.2 (4), second proviso states *“Provided that where it is established that there is a case of unauthorized usage of electricity by way of usage of electricity for the purpose other than for which the usage of electricity was authorized, the Licensee shall for the purpose of preparing the assessment bill take into consideration the actual amount of consumption recorded by the correct meter for the entire period during which such unauthorized use of electricity has taken place...”*. Regarding the second statement that no evidence was available regarding the period and hence a period of one month was considered, this is also incorrect as UERC Supply Code Regulations 5.2.2 (4) provide that where the exact period cannot be worked out, the assessment would be for 12 months (refer para 16). Moreover the respondent himself has given earlier in his statement that after examining the documents submitted by the petitioner they have reduced the period of billing to one month.
20. In their statement before the Forum, the respondent maintained that it was a case of unauthorised use of electricity and did not object to the Forum taking up the case. However, they have now questioned the jurisdiction of CGRF in the case. They have also maintained that the concerned authority i.e. UPCL (respondent) is fully and solely empowered to make assessment according to its own judgement according to facts of

each case and the same cannot be challenged before the Forum and neither does the Forum have any power to interfere with the same. During closing arguments respondent maintained that the assessment bill was based on the tariff difference between RTS 7 for which the connection had been given and RTS 10 which they felt was applicable for the work being carried out in the new plot (C-60). He also maintained that the assessment had been done for the period of one month only.

21. The petitioner contended that the charges made by the respondent i.e. 25% on the total load of 3000 KVA was not correct, the respondent should have charged only on the amount of power used i.e. 10.206 KW. The petitioner has also contended that the period for which the charge should be made should be from 11.05.2011 to 23.05.2011 and not for the whole month. He has maintained that the Forum's order fixing the period as 06.05.2011 to 23.05.2011 is not correct. The petitioner's counsel also gave a copy of a letter of the Executive Engineer, Electricity Distribution Division (North) in the case of M/s Aketa Hotel wherein the respondents had treated the case of construction within the premises of the consumer as unauthorised use and raised an assessment bill. The letter mentions that the UERC vide their order dated 21.12.2009 had maintained that in such cases the act of the consumer would not be treated as unauthorised use. The UERC order cannot be treated as a precedent in this case as in the case quoted, the connection has been taken for construction in the same premises whereas in this case the work is in another premise.
22. The respondent for the first time raised the question of jurisdiction of the Forum in this matter in their statement claiming that the Forum had no jurisdiction to consider matters pertaining to section 135/126 of the Electricity Act, 2003.
23. Arguments in the case were concluded on 28.05.2012. The following issues need to be dealt with:
 - i) Whether this is a case u/s 126 Unauthorised Use of Electricity or u/s 135 Theft of Electricity.
 - ii) Whether the provisions for temporary connection would apply in this case.
 - iii) The period and load to be assessed in case it is a case of unauthorised use of power.
24. Before we discuss the above issues the issue whether the matter can be dealt with by the Forum and Ombudsman needs to be settled. The counsel for the respondent claimed as the case was u/s 135, theft taken with section 126 neither the Forum nor Ombudsman had any jurisdiction over it.

The Electricity Act, 2003 section 126 (6) (b) provides:

“Unauthorized use of electricity means the usage of electricity-

- (i) by any artificial means; or*
- (ii) by a means not authorized by the concerned person or authority or Licensee; or*

- (iii) *through a tampered meter; or*
- (iv) *for the purpose other than for which the usage of electricity was authorized; or*
- (v) *for the premises or areas other than those for which the supply of electricity was authorized”.*

Section 135, Theft of Electricity provides:

“(1) whoever dishonestly, -

- (a) taps, makes or causes to be made any connection with overhead, underground or underwater lines... service facilities of the Licensee, as the case may be; or*
- (b) tampers a meter, installs or uses a tampered meter...results in a manner whereby electricity is stolen or wasted; or*
- (c) damages or destroys an electric meter... to interfere with the proper or accurate metering of electricity; or*
- (d) uses electricity through tampered meter; or*
- (e) uses electricity for a purpose other than for which the usage of electricity was authorized...”*

Premises have been described in the Electricity Act, 2003, 2 (51) as *“Premises includes any land, building or structure”*. UERC Supply Code Regulations, 2007 amended up to 2009 describes premises in 1.2 (ii) *“Premises for the purpose of these Regulations means land or building or part or combination thereof in respect of which a separate meter or metering arrangement have been made by Licensee for supply of electricity”*.

25. UERC (Appointment and Functioning of Ombudsman) Regulations, 2004 provides in section 2 (1) (f) *“Matters falling within the purview of any of the following provisions of the Act will not form a complaint under these Regulations;*
- (i) Unauthorized use of electricity as provided section 126 of the Act.*
 - (ii) Offences and penalties as provided under section 135 to 139 of the Act.”*

Regulation 5 (1) of the same Regulation however provides:

“Any complainant who is aggrieved by the order of the Forum or non-redressal of his Grievance within the specified time by the Forum, may himself or through his authorized representative make a representation to the Ombudsman within thirty days from the date of receipt of the decision of the Forum or within thirty days from the date of the expiry of the period within which the Forum was required to take decision, whichever is earlier.”

26. The office of CGRF & Ombudsman have been created for the purpose of redressing the grievances of the consumer. The Electricity Act, 2003 section 2 (15) defines consumer as *“Any person who is supplied with electricity for his own use by a Licensee or the*

Govt...”. Section 42 (5) provide the setting up of a Forum for redressal of grievances of consumers and section 42 (6) for the setting up of an authority to be known as Ombudsman for the redressal of the consumer’s grievances against the order of the Forum. Thus it is provided that in case a consumer is aggrieved by non redressal of his grievances he may make a representation for the redressal of his grievance to the Ombudsman. Section 42 (7) provides that the Ombudsman shall settle the grievance of the consumer.

27. In the present case, the petitioner approached the Forum and the Forum after hearing the case gave an order. As mentioned above, the respondent never objected to the same in the Forum. As the petitioner had preferred an appeal within the stipulated period, before the Ombudsman, the case was admitted.
28. Regulation 4 (1) (a) of the Ombudsman Regulations 2004 outlining the powers and functions of the Ombudsman states *“The Ombudsman shall have the following powers and duties: -*
 - (f) *To receive*
 - i) *The representation against any order of the Forum*
 - ii) *Non Redressal of Grievance by the Forum*
 - iii) *And consider such representation and pass appropriate awards in accordance with the Act and Rules or Regulation made there under.”*
29. Various case laws also establish that the Forum and the office of the Ombudsman have been constituted to provide relief to the consumer in case of any grievances against the supplier.
30. The Division Bench of the Delhi High Court, in Ram Kishan vs NDPL, 130(2006)DLT549(DB)=LPA746/2004 gave a decision on 30.11.2005, wherein it held, *“that if a consumer of electricity has any grievance against his bill he has an alternative remedy to approach the Forum constituted under section 42 (5), and if he has a grievance against the order of the Forum he has a second alternative remedy under section 42 (6) to approach the Ombudsman. Both these authorities have powers to pass interim orders/final decisions.”*
31. In the present case amongst other reliefs, the petitioner has appealed against the bill sent to him by the respondent and asked that it be set aside. Therefore the case falls within the preview of the Forum/Ombudsman as per the ruling in the above case.
32. In Maharastra ERC vs Reliance Energy Ltd., the Hon’ble Supreme Court has held that by virtue of sub section 5 of section 42 of the Electricity Act, 2003, all the individual grievances of consumers have to be raised before the CGRF only. They have also made reference to the decision given by the Division bench of the Delhi High Court in the cases of Suresh Jindal vs BSES Rajdhani Power Ltd. and Others, reported in 132 (2006)DLT339(DB) and Dheeraj Singh vs BSES Yamuna Power Ltd. wherein it has been held that the Forum and Ombudsman have power to grant interim orders.

Agreeing with this, the Supreme Court stated “thus a complete machinery had been provided in sections 42 (5) and 42 (6) for Redressal of grievances of individual consumers. Hence wherever a Forum/Ombudsman have been created the consumers can only resort to these bodies for Redressal of their grievances.

33. The Uttarakhand High Court in the case M/s BTC Industries Pvt. Ltd. vs UPCL (Writ petition 1859 of 2007(M/S)) decided on 29.08.2008 that after the creation of the CGRF and Ombudsman, statutory remedy is available for the consumer of electric energy u/s 42 (5) – not proper for High Court to enter into merits of the matter and decide the same in exercise of its writ jurisdiction.
34. Further the Ombudsman has jurisdiction to look into the matter whether the procedure prescribed u/s 126 has been followed or not. If the procedure followed is not u/s 126, the Ombudsman has full jurisdiction to deal with the matter, mere mention of the section has no value.
35. The actions of the respondent show that they themselves were not very clear how to treat this case. In the checking report dated 23.05.2011 the type of irregularity has been shown as unauthorised use, thus making it a case u/s 126. However, on the same date the respondents lodged an FIR u/s 135 i.e. theft of electricity. The assessment bill raised by the respondent mentions unauthorised use of electricity but also applies the provision of temporary connection by adding 25% extra charges. The complete procedure for booking a case under section 126 against the petitioner as per the Electricity Act, 2003 and Supply Code Regulations have not been followed.
36. In an earlier case representation no. 03/2009 Mr. Samit Agarwal vs CGRF Kumaon region, the Ombudsman had found that the order under challenge in that case did not comply with the procedure and the legal ingredients stated in section 135 of the Electricity Act, 2003 and hence the order was beyond the scope of section 135 and falls under any other order appealable before the Ombudsman. He set aside the order of the Forum stated to be passed u/s 135 (2) read with section 126 and cancelled the assessment order stated to be passed u/s 126 holding that it is beyond the exception, where by the jurisdiction is barred, hence the Ombudsman has jurisdiction. In that case also the distribution licensee had claimed that the Ombudsman had no jurisdiction because the order in that case was u/s 126 and 135 (2) of the Act.
37. In the present case the respondent themselves were not clear under which section the case was to be dealt and in their statement have claimed that an FIR was lodged on the date of inspection and provisional assessment carried out u/s 135 read with 126. Thus at the time of admission the case was being projected u/s 135 i.e. theft and it was only after proceedings started and facts/documents were examined that it was revealed that it was a case of unauthorised use of electricity u/s 126.
38. The Act provides that cases u/s 126 would not be dealt by the Forum or Ombudsman. However as mentioned in the earlier case the procedure laid down to be followed in such cases was not taken and hence treating it as an action appealable before the

Ombudsman the case has been dealt with. Moreover as mentioned above in para 27 the case has been dealt by the Forum and hence the Ombudsman has the authority to provide redressal sought by the petitioner against the order of the Forum.

39. The second issue is whether this is a case of theft u/s 135 or unauthorised use u/s126 or a case of temporary connection.

In the present case, the consumer (petitioner) has drawn a cable to another premise C-60, ELDECO-SIDCUL Industrial Park, Sitarganj from the power connection installed in his premises C-50, ELDECO-SIDCUL Industrial Park, Sitarganj. As mentioned above, the petitioner had entered into an agreement with the respondent for providing 3000 KVA connection for his plot C-50 ELDECO-SIDCUL Industrial Park, Sitarganj. It is not clear whether C-60 was already owned by him or he purchased it later. In his letter to the Dy. Director, Factories dated 30.04.2011, the petitioner has mentioned purchase of a new plot (C-60) very close to his existing unit, separated from the unit by a service road. The definition for premises under the Supply Code also mentions that “*Premises for the purpose of these Regulations means land or building or part or combination thereof in respect of which a separate meter or metering arrangement have been made by Licensee for supply of electricity*”. It is clear that no arrangement for metering for plot C-60 had been made. The agreement was only for metering in plot C-50. Thus it is clear that the two plots are different premises. The contract with the respondent is only for plot no. C-50. Hence use of the power in plot no. C-60 without the approval of the respondent comes under the category of unauthorized use of electricity as defined in section 126 (6) (b) of the Electricity Act, 2003. As the case is of unauthorised use of electricity, the assessment has to be made u/s 126 i.e. twice the tariff to be charged.

40. The assessment bill has been raised u/s 126 i.e. twice the charge of tariff. However respondent has also added penalty for temporary connection and 25% extra has been added. This assessment is not correct as u/s 126, the petitioner should have been charged only twice the tariff. It is not clear how the respondent is treating this as unauthorised use as well as a temporary connection and charging for both. It can be either one or the other. In the inspection report submitted by the respondent it has been shown as unauthorised use and also in the assessment bill raised by them on 25.05.2011 and revised bill of 28.06.2011, it has been shown as unauthorised use of electricity.
41. The last issue relates to the period for which the petitioner is to be charged and the load for which he has to be charged.

The UERC (Electricity Supply Code) Regulations, 2007 as amended up to 2009 section 5.2.3 (4), provides the method of assessing energy consumption. It states that the licensee shall “*prepare final assessment bill on 2.0 times the rates as per applicable tariff and serve on the consumer under proper receipt.*” The second amendment further clarifies “*provided that, where it is established that there is a case of unauthorised usage of electricity by way of usage of electricity for the purpose other than for which*

the usage of electricity was authorised, the licensee shall for the purpose of preparing the assessment bill take into consideration the actual amount of consumption recorded by the correct meter for the entire period during which such unauthorised use of electricity has taken place.”

42. Thus it is clear that as the load is through the meter the energy consumed shall be taken into consideration for drawing up the assessment bill. In the present case the respondent has noted in the inspection report dated 23.05.2011 that a load of 19.832 KW was found connected for unauthorised use. In the assessment bill issued by the department, the load found connected has also been mentioned as 19.832 KW as against sanctioned load of 2557 KW. The petitioner however has maintained he only gave a connection up to 10.206 KW. As the petitioner has not given any details of the appliances connected but just in general mentioned the types of appliances, the total load mentioned by the respondent during inspection is being taken as factually correct as they have given ratings of the connected appliances in their inspection report.
43. On the matter of which rate schedule would be applied, as the metered connection is for RTS-7 and the unauthorized connection has been taken from the same meter which was recording the energy used, it is felt that the charge for the energy used in an unauthorized manner should be under RTS-7 along with the penalty prescribed section 5.2.3 (4) of the UERC Supply Code Regulations 2007 amended up to 2009, which provides for penalty on 2.0 times the rates as per applicable tariff.
44. The respondent have taken the entire sanctioned load and consumption during the billing month while drawing up the assessment for unauthorised use as is clear from their bill of 28.06.2011. However the load to be taken into consideration for working out the units unauthorisedly used, out of the total units recorded in the meter during the billing month, would be 19.832 KW and not the total contracted load.
45. The UERC Supply Code Regulations 2007 clearly states that where the usage of electricity is for purpose other than that for which it was authorized, the Licensee shall for the purpose of preparing the assessment bill take into consideration the actual amount of consumption recorded by the correct meter for the entire period during which such unauthorized use of electricity has taken place. Both in the original assessment of energy in case of UUE bill sent vide the letter of the executive engineer, dated 25.05.2011 and subsequent revised bill of 28.06.2011, the respondent themselves have stated that the load found connected is 19.832 KW. Even in the checking report dated 23.05.2011 they have mentioned the load connected as 19.832 KW.
46. The Forum has ordered that the period of unauthorised use should be calculated from 06.05.2011 to 23.05.2011. They have decided on this on the basis of documents provided including a letter of the construction company dated 04.05.2011 addressed to the petitioner to provide electrical power supply at the earliest. It has also been mentioned in the agreement signed between the construction company and the petitioner that construction would start after 15 days of signing of the agreement and

not later than one month. The agreement was signed on 20.04.2011. The petitioner has maintained that he gave the connection on 11.05.2011. The petitioner has not been able to provide any proof regarding the starting date. The Forum has decided on the starting date as 06.05.2011 on the basis of documents submitted. The end date has been taken as 23.05.2011, the date of inspection when the unauthorised use came to notice and was cut off and hence there is no question about this date. After examining the same, I agree with the dates given by the Forum.

47. The order of the Forum is upheld with the following modification. The respondent should draw up a fresh assessment for the period 06.05.2011 to 23.05.2011, under section 126 of the Electricity Act, 2003 at twice the tariff rate, RTS-7 for which the metered connection has been given to the petitioner. 25% extra for temporary connection cannot be applied in this case as no such connection was given by the respondent. The load to be taken into consideration would be 19.832 KW for reasons mentioned above. The respondent should submit a revised bill as per above orders and excess paid by the petitioner should be adjusted in the next bill.

Dated: 15.06.2012

Renuka Muttoo
Ombudsman