

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s U.S.Metal Product
Unit no. 2, Plot no. 79,
Sector 5, SIDCUL,
Distt. Haridwar, Uttarakhand.

Vs

The Executive Engineer,
Electricity Distribution Division (Rural),
Uttarakhand Power Corporation Ltd.
Haridwar, Uttarakhand

Representation No. 07/2013

Order

The petitioner, M/s US Metal Product approached the Ombudsman with a complaint dated 03.05.2013 against the order of the Consumer Grievance Redressal Forum, Garhwal Zone (hereinafter referred to as Forum) dated 28.03.2013 which the petitioner alleges was received by him on 13.04.2013 and hence the representation is within the time limit. The Forum had ruled against the petitioner in his complaint against Uttarakhand Power Corporation Ltd. (hereinafter referred to as respondent) for demanding Rs. 17,51,221.00 in the bill for the month of October 2011 without giving any explanation regarding the same.

2. The petitioner states that he is a consumer of the respondent with a contracted load of 250 KVA. Meter no. 07153373 is installed at his premises. The petitioner states he was regularly paying bills raised by the respondent. The petitioner claims that on 01.11.2010 the respondent installed meter no. 10410085 at his premises. Subsequently, the respondent installed a check meter on the premises of the petitioner on 19.09.2011 which was finalized on 11.10.2011. Thereafter the respondent without any explanation raised a bill for Rs. 17,51,221.00. The respondent did not give any calculation with the bill. On asking for an explanation, petitioner was informed that as per the check meter, the old meter installed in the premises was found to be running

slow to the tune of 39.38 % from the date of installation and hence the demand for arrears was made. When he got no satisfaction from the respondent the petitioner filed a complaint before the Forum dated 19.11.2011. The respondent filed a statement before the Forum that in the meter cubical installed at the premises of the petitioner which had two phases R and B, the phases had got reversed while installing the meter because of which the meter was running slow and recording 39.38% less energy from the date of installation of the meter i.e. 01.11.2010. The assessment of arrears was made for the period 01.11.2010 (date of installation of meter) to 11.10.2011 (date of finalization of check meter). The petitioner claims that the respondent paid no attention to his protest and threatened disconnection if the money was not deposited.

3. The petitioner approached the Forum vide his application dated 19.11.2011. The petitioner states that the respondent claimed that the R and B phases had got reversed in the meter cubicle installed at the premises of the petitioner due to which the meter was running slow and recording 39.38% less energy from the date of installation and hence assessment for energy consumed had been calculated and sent to the petitioner. The petitioner claims that the Forum did not give him any chance to file his reply or give his version and after one hearing in February 2012 sent a copy of their order which was received late by him. He has also alleged that the Forum had taken a letter dated 23.02.2012 from the respondent after the conclusion of hearing and based its majority judgment on this letter. Further the petitioner mentions that he has been forced to deposit an amount of Rs. 9,00,000.00 with the respondent.
4. Aggrieved by the order of the Forum, the petitioner approached the Ombudsman vide his petition dated 03.05.2013 with the request that the order of the Forum dated 28.03.2013 be set aside and the respondent be restrained from realizing the sum of Rs. 17,51,221.00 from the petitioner. The amount so far deposited be adjusted in future bills. The bill dated 07.11.2011 be cancelled. In case it is decided that the petitioner is liable to pay certain amount then that amount should be recovered from the persons responsible for installing incorrect meter at the petitioner's premises.
5. The main objections listed by the petitioner against the order of the Forum questioned how a defective cubicle was installed when meter and apparatus are tested so many times. Even assuming this to be so, how did this defect not get detected while testing

the meter after installation or when the MRI was taken as the MRI is taken every month. If the defect could not be detected at the time of the testing of the meter after installation or taking its MRI then how come the defect could come out in the MRI taken one year later. The Forum could not call for information after the hearing was over and also not allow on record the information provided by the respondent vide his letter dated 23.02.2013.

6. The Forum in the majority order have accepted the respondent's claim on the basis of the documents put up that the check meter installed in September 2011 had shown that the PT connections in the metering cubicle installed at the premises of the petitioner had been reversed due to which R and B phase in the meter also got reversed resulting in less recording by the meter. The Forum examined the average monthly consumption of the old meter from November 2010 to September 2011 and that of new meter from November 2011 to September 2012, this showed that while the average consumption on the old meter was 60272 units, the average consumption recorded by the new meter was 124599 units. The Forum was convinced that the meter had started recording correctly after it was set right on 11.10.2011. This proved that the meter was not defective but was not recording correctly due to the reversal of connections. Having accepted this, the majority decision was that the petitioner was liable to pay the amount demanded by the respondent as the assessed amount which was not recorded by the meter. They therefore ordered that the petitioner pay the full amount after adjusting the amount already paid. The minority judgment by the Judicial Member held that it was a case of slow running of the meter and hence assessment had to be made as per 3.1.3 (6) of the Uttarakhand Electricity Regulatory Commission (The Supply Code) Regulations, 2007 i.e. for a period of six months preceding the date of finalization of the check meter.
7. The respondent have held that due to reversing of R and B phases the meter was recording less consumption. The meter per se was not defective and was not running slow. The meter was recording less consumption due to reversal of R and B phases. The respondent has maintained that the reversal of R and B phases in the cubicle could not be detected till after finalization of the check meter when the cubicle was opened and the mistake was detected. The respondent has claimed that this was due to

human error. The assessment was made for the less recording by the meter and not for slow running of the meter. As the mistake had happened from the time of installation of the meter i.e. 01.11.2010, assessment was made from that day to 11.10.2011 when the check meter was finalized and connections were set right.

8. Brief facts of the case. The petitioner had originally taken a connection of 88 KVA load which he got enhanced to 250 KVA. At the time of enhancement, a new meter was installed at his premises on 01.11.2010. Subsequently examination of the MRI data indicated that there was wrong phase association resulting in less recording of energy. The respondent then installed a check meter on 19.09.2011 on a separate metering cubicle as MRI report had indicated the wrong phase association in the installed meter. The check meter report was finalized on 11.10.2011. The sealing certificate carried the following remarks *“CP/PT chamber of old main meter opened and corrected the PT secondary connection R and B vice versa and check meter removed and main meter remained continued and MRI taken after setting right the connection.”*
9. This showed that the R and B phase had got reversed due to which there was less recording of energy consumed. The assessment of the average monthly consumption on the uncorrected meter from November 2010 to September 2011 showed a total monthly consumption of 60272 whereas the average monthly consumption for the similar period (November 2011 to September 2012) after setting right the phases, was 124599. This difference in consumption showed that the meter had been recording less consumption from the time of installation to the time of correction.
10. I have gone through all the documents and heard the arguments. One of the argument raised by the petitioner was that clause 3.1.3 (6) of the UERC (The Supply Code) Regulations, 2007 should be applied and assessment be done only for six months preceding the date of correction, cannot be accepted as clause 3.1.3 (6) deals with slow running of meter due to any defect in the meter or its equipments i.e. CT and PT. Here there was no defect either in the meter or in the CT or PT the problem had arisen due to wrong connection of the phases which is a human mistake. In view of this, it would not be possible to apply this clause in the present case.

11. Case law in the matter is very clear. In AIR 2011 Punjab and Haryana, page 175, Satish Kapoor vs Punjab Electricity Board and others the High Court has stated “*if the electricity has been consumed by the appellant he is bound to pay for the same. It is true that there is no fault on the part of the appellant but the appellant has proceeded on a wrong belief that he is being penalized for the same, as a matter of fact he has been asked to pay for the electricity which had been consumed but could not be recorded by the meter because of wrong phase association of the meter.*”
12. I find that the assessment has been correctly raised against the petitioner. The majority order of the Forum is upheld. The petitioner should pay the arrears after adjustment of the amount already paid.

Dated: 31.01.2014

(Renuka Muttoo)
Ombudsman