

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Sai Enterprises,
Plot No. 23-B, Sector – 2,
IIE, Pant Nagar,
Distt. Udham Singh Nagar, Uttarakhand

Vs

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

Representation No. 03/2015

Order

The petitioner aggrieved by the order dated 16.01.2015 of the Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) approached the Ombudsman with a petition dated 30.01.2015 against the order of the Forum over the assessment raised by the Uttarakhand Power Corporation Ltd. (hereinafter referred to as respondent).

2. The petitioner informs that it has been a consumer of the respondent since 25.05.2006. The same was sanctioned on 25.05.2006. After the sanctioning of the load of 235 KVA, the petitioner continued to deposit payments towards the bill without any delay. In 2010 it was found that the meter display was not working and hence an application was moved for change of meter. The meter was changed on 08.11.2010 at the time of load enhancement.
3. To add extra capacity and machines to its infrastructure the petitioner applied for additional power load of 295 KVA on 01.02.2010 and the same was sanctioned on 29.03.2010 i.e. the load was increased from 235 to 530 KVA. Though the petitioner got the load increased, they claimed that they had not been able to utilize the full load. In 2012 the power supply at SIDCUL, Pant Nagar where their factory is situated became extremely bad and the petitioner started facing a power cut of around 3-4

hours daily during peak hours/non peak hours resulting in heavy losses. The petitioner then decided to apply for continuous power supply in January 2013. The petitioner claims that they incurred the total cost for the same with a liability of 15% continuous supply surcharge which was added in their monthly bill. An estimate for construction of 11 KV feeder line was prepared on 02.02.2013 and permission for continuous supply was given on 29.04.2014. The petitioner maintains that though it has obtained the facility for continuous supply and is paying 15% monthly surcharge yet they are not getting continuous power supply and still face power cuts on regular basis.

4. The petitioner reiterated that all bills were being paid well in time and the central inspection team (disputed by respondent) of the respondent conducted inspection every year yet petitioner was given a bill on 15.09.2014 for August 2014 in which a sum of Rs. 63,68,592.00 has been added as arrears without assigning any reason for the same. On receiving the bill the petitioner approached the respondent vide representation dated 16.09.2014. In their application the petitioner submitted that the charge has been wrongly added and the same may be rectified. They add that at no time was any notice or information given by the respondent that the meter of the petitioner was running slow. Petitioner has also claimed that the inspection team which conducted yearly inspection also did not communicate any shortcomings in the meter. But he could not substantiate his claim through documentary evidence and respondents contested the claim. This claim is therefore not relied upon. The petitioner further stated that all bills were being paid by them well in time from 2006 till August 2014. He claims that even when the meter was changed and the load was increased an enquiry was done and no shortcoming was pointed out. None of the officials of the respondent pointed out any fault in the meter.
5. The petitioner also mentions that the bill with the arrear charges is dated 02.09.2014 with due date shown as 03.09.2014 but was served on the petitioner only on 15.09.2014 and the order about the fault was issued on 18.09.2014. No report was served on the petitioner nor any show cause notice served. The petitioner claims that when his representation was submitted the respondent immediately sent a letter dated 18.09.2014 alleging that the meter no. 13265523 was running slow to the tune of 30.47% and hence Rs. 63,68,592.00 had been added in the bill of August 2014. Along with this a letter of the Executive Engineer, Electricity Test Division, Rudrapur, Udham Singh Nagar dated 17.06.2014 was enclosed which makes a mention of MRI

reports and Phasor diagrams. No copies of the papers were supplied and were only given when the Forum directed the respondent to produce the documents. The petitioner claims that at no time were they informed that their meter was running slow since November 2010. The petitioner questions why the respondent kept silent for 4 years and only informed about the meter running slow after 4 years.

6. The petitioner has drawn attention to regulation 3.1.3 (6) of Uttarakhand Electricity Regulatory Commission (The Electricity Supply Code) Regulations 2007 and claimed that the respondent had not followed the regulations while imposing the penalty and hence the same is not justified.
7. The petitioner claims that the respondent suddenly changed its stand on 03.01.2015 before the Forum when it argued that it was not a case of slow meter but wrong connection was the basis of slow meter. The petitioner also argued that the facts and circumstances of the case show that the respondent was aware of the alleged fault since November 2010 but did not inform the petitioner for 4 years. In fact the petitioner accused the respondent that they did not inform the petitioner of their fault so that the petitioner could be subjected to a heavy penalty. The petitioner claims that keeping this matter secret for 4 years and then slapping the petitioner with such heavy arrear charges is illegal and arbitrary and violates the fundamental rights of the petitioner.
8. The Forum in their order after hearing arguments of both sides held that a wrong connection to the meter took place during enhancement of the load on 08.11.2010 which was set right during checking on 26.04.2014. The Forum was convinced that the meter started recording correctly after it was set right on 26.04.2014. This proved that the meter was not defective but was not recording correctly due to wrong connection. Examination of MRI data and phasor diagram also indicated wrong phase association resulting in less recording of energy by the meter. The Forum held that the assessment raised by the respondent was correct and dismissed the complaint of the petitioner. On the orders of the Forum the petitioner deposited 25% of the assessment as security deposit with the respondent. In view of the above the petitioner has requested that the order of the Forum be set aside. The arrear charges of Rs. 63,68,592.00 mentioned in the bill of January 2015 and letter dated 18.09.2014 be set aside and the petitioner be allowed to deposit his bills regularly every month.

9. The respondent in their statement have claimed that when the mistake was detected it was immediately informed to the petitioner. The respondent states that the meter was working correctly but was not recording the actual consumption due to phase reversal. Further the respondent claims that the petitioner has neither disputed the assessment nor the fact that the meter recorded less consumption due to phase reversal and hence the petitioner was paying for much less consumption than actual. The respondent states that only the difference in amount actually used and amount already paid has been claimed by the respondent without any penalty. The respondent further states that the testing of the meter was done on 26.04.2014 in the presence of a representative of the petitioner. The respondent maintains that MRI reports are given to the consumer with every monthly bill. The petitioner never requested for these documents, if required he could have requested for them.
10. The respondent states that initially a load of 235 KVA was released in 2006 a copy of the sealing certificate dated 06.10.2006 has been enclosed. This certificate has been signed by the petitioner. In 2010 the petitioner requested for enhancement of load. The same was sanctioned and the load was increased from 235 to 530 KVA. For releasing the additional load necessary equipment was installed on the premises of the petitioner by replacing the existing CT of 20/5 by the CT of 30/5 and as the meter was defective it was also replaced by a 3 phase 4 wire meter. The sealing certificate dated 08.11.2010 mentioned all these details. This certificate clearly stated CT ratio checked found satisfactory and polarity OK.
11. In 2013 the petitioner applied for continuous supply. For this purpose an independent feeder was required to be constructed and supply was given from the 11 KV independent feeder. Meter no. 13265523 was installed on the 11 KV feeder emanating from 33/11 KV substation sector 3, SIDCUL, to act as a check meter. Sealing certificate of 02.08.2013 mentions “polarity and ratio of CT and PT found OK”. Hence this is the second meter which as per the respondent themselves is to act as a check meter where polarity and ratio of CT and PT have been certified as OK.
12. The respondent claims that while assessing line losses in the division they came to know that losses on the independent feeder giving supply to the petitioner were very high and hence either there was electricity theft or the meter was not recording the energy consumption correctly. For this purpose the Executive Engineer (Test)

inspected the premises and installation of the petitioner on 26.04.2014. As per the test it was found that CTs and PTs were within permissible limits but polarity of R and B phase was wrong.

13. During arguments the main point of contention was the correctness of the meter recording, whether the meter is slow or the polarity of the CT were wrong resulting in less recording of energy by the meter than energy actually consumed. The arguments and evidence relied upon by the respondent to prove authenticity of the bill of Rs. 63.68 lac raised on the petitioner are as follows:

- i. Sealing certificate at the time of enhancement of load to 530 KVA and replacement of existing CT of ratio 50/5 by CT of ratio 30/5 dated 08.11.2010 has reported "CT ratio (30/5) checked found satisfactory and polarity ok, old meter was defective and replaced by new 3 phase 4 wire meter now consequent load 530 KVA and OMF 6 supply resumed".
- ii. The sealing certificate of 02.08.2013 when new 11 KV line was released also reports "polarity and ratio of CT and PT found ok meter base and CT/PT chamber sealed and supply was given." The CT ratio has been reported as 30/5A and multiplying factor as 6. This sealing was done on meter installed on new 11 KV independent feeder.
- iii. While assessing line losses in the division they came to know that losses on the independent feeder giving supply to the petitioner were very high and hence either there was electricity theft or the meter was not recording the energy consumption correctly. For this purpose the Executive Engineer (Test) along with M/s YMPL inspected the premises and installation of the petitioner on 26.04.2014 and found that polarity of R & B phase was wrong while the accuracy test result of meter and CT and PT installed on 08.11.2010 were within permissible limit.

14. Based on this finding the Executive Engineer, Electricity Test Division reported to the Distribution Division that the MRI reports and phasor diagrams in the reports of 03.06.2014, 01.07.2013, 03.08.2012 and 30.11.2010 also pointed to the fact that connection and phase association in the consumer meter were wrong which were set right on 26.04.2014. Further, while as per test result, accuracy of meter CT and PT were found within permissible limit, the connection in the meter of consumer were

found wrong and were set right. The report also calculated that the reading at substation end and consumer end revealed an average less recording at consumer end to the tune of 30.47%. The Division was requested to raise assessment as per prevailing rules in view of high independent feeder losses and the above mentioned facts w.e.f. from 08.11.2010, the date of installation of the meter.

15. The petitioner argued why the sealing certificate of 08.11.2010 which had shown the meter CT/PT ratio and polarity to be functioning correctly, should be disregarded in favour of later report of 26.04.2014. In this matter as has been explained the line losses on dedicated feeder for petitioner being so high indicate a mismatch between electricity supplied at sending end and measured at receiving end. Some bills which are available on file clearly point out substantial increase in energy consumption after 04/2014 which corroborates that the reporting in sealing certificate of 08.11.2010 regarding CT polarity ok was wrong and that reported in the study and sealing certificate dated 26.04.2014 mentioning CT polarity wrong, was correct.
16. The petitioner contested the claim of wrong phase association and argued that respondent had intimated slow meter to the tune of 30.47% as the basis for assessment, however they did not follow provisions of Regulation 3.1.3 (6) of Supply Code Regulation 2007. This argument is misplaced because while respondent did indeed indicate slow meter however the facts that the meter was accurate the CT and PT were correct and only the phase association was wrong has been established through the test reports as above.
17. The petitioner submitted following case laws during hearing on 12.06.2015 and requested that these case laws should be considered while deciding his case: -
 - i. Hon'ble High Court, Kerala order dated 15.06.2012 in WP(C) No. 5614 of 2007 (R). of Sibi K. Thomas Vs. Kerala State Electricity board.
 - ii. Hon'ble High Court of Rajasthan order dated 30.01.2006 in F.A. 47 of 2000 of Rajasthan State Electricity Board, Jaipur vs V.P.P. Industries, Bikaner.
 - iii. Hon'ble High Court of Madras order dated 27.02.2013 in WP No. 3640 of 2008 and M.P. Nos. 1&2 of 2008 of M/s Central Hostels Pvt. Ltd., Vs. Tamilnadu The Chairman, Electricity Anna Salai & others.

18. On examination it was found that these case laws are not applicable in this case. However, the facts and circumstances of the case law being mentioned here under para 19 are similar to this case and as such this is applicable in this case.
19. 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.*”
20. The Forum order is upheld. As per assessment raised, the amount due from the petitioner beyond the 25% deposited, may be deposited within 15 days of this order. Stay order dated 12.06.2015 on disconnection is hereby vacated.
21. It is noticed that MRI report and phasor diagram dated 30.11.2010 (i.e. after only 22 days of installation of meter on 08.11.2010 at the time of enhancement of load) revealed wrong polarity of R&B phase. Had this MRI been examined thoroughly at the time of issue of bill for the m/o November 2010, this irregularity could have been detected and set right at that time and such a long period of wrong billing and now raising assessment bill for about 4 years could have been avoided. Licensee may ensure comprehensive examination of MRI before issuing monthly bill for HT meters.
22. UPCL management may take appropriate action against the officers/officials, responsible for reporting wrong facts in sealing certificate dated 08.11.2010 and for failing to take corrective action for setting right the CT connections in the meter as indicated in the phasor diagram and MRI dated 30.11.2010.

Dated: 20.10.2015

(Vibha Puri Das)
Ombudsman