

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Himalayan Skincare Pvt. Ltd.
Khasra No. 122/37, Central Hope Town,
Industrial Area, Selaqui,
Dehradun, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (Rural)
Uttarakhand Power Corporation Ltd.
359/2, Dharampur, Dehradun, Uttarakhand

Representation No. 13/2015

Order

The petitioner, M/s Himalayan Skincare Pvt. Ltd. have filed their appeal against the order of Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) dated 16.06.2015 in case no. 01/2015. The petitioner has sought relief of a) withdrawal of unjust demand of payment of Rs. 13,55,797.71 and b) reimburse production losses of Rs. 4,95,000.00 incurred by them on account of illegal disconnection of power supply. They further requested for stay of recovery of bill during the pendency of the appeal which was granted on 26.06.2015 till further orders. The grievance of the petitioner arose on 12.03.2015 when they received a letter dated 12.03.2015 from Executive Engineer, Electricity Distribution Division (Rural), Uttarakhand Power Corporation Ltd. (hereinafter referred to as respondent) asking for payment of Rs. 13,55,797.71 by 25.05.2015. It was indicated in the said letter that the amount had accumulated because of billing on MF 5 (CT ratio 25/5) since 23.03.2010, while CT of ratio 30/5 (MF 6) was installed in the meter. The petitioner replied to the said letter on 25.03.2015 but received a reply on 30.03.2015 threatening the cutting of power supply. This threat was carried out on 31.03.2015 at around 8:00 am and power supply was restored only on 01.04.2015 at 05:30 pm.

2. The complaint elaborates the sequence of events. With a sanctioned load of 400 KVA the meter, with sealing certificate no. 13 dated 23.03.2010 stating 25/05 as the CT ratio and MF 5, was installed. The load was reduced from 400 to 300 KVA in January 2013 when the UPCL officials issued the meter sealing certificate no. 03 dated 08.01.2013 which also shows CT ratio 25/05. The petitioner has also alleged that while UPCL officers have unrestricted and unsupervised entry in the meter room in the last 5 years they did not insist on the petitioner's representative being present during their visit. In the same pattern, the visit of UPCL officers on 25.02.2015 proceeded unsupervised and unchecked for 2 hours after which they asked representative of petitioner to join them and informed him that 30/05 CT with MF 6 is found installed in the meter. The same information was communicated vide their letter dated 12.03.2015. While UERC regulations provide for annual checking of HT meters including CT ratio and accuracy of CT/PT, the same was not done by UPCL. The petitioner has further alleged that for a power load of 400 KVA and taking into account possibility of power load fluctuations the maximum upper side limit of 20% extra a CT of 25/5 would be adequate. When the power load was reduced to 300 KVA in January 2013 the maximum higher side CT could be 20/5. They are of the opinion that CT of 30/5 was not required so they have stated that it was difficult for them to believe that 30/5 CT was installed and it continued even after reduction of load to 300 KVA but an imputation has been made for the first time on 23.02.2015 that CT ratio of 30/5 was indeed installed.

3. Apart from the respondent UPCL not adhering to UERC Regulations of annual inspections of HT meters, having decided that a higher CT ratio was installed against this meter they further proceeded to harass the petitioner by illegal disconnection of power supply on 31.03.2015. Hon'ble Forum while recognizing that officers of UPCL were negligent at the time of installation of meter in 2010, reduction of load in 2013, and incorrectly recording CTR and MF, they have incorrectly upheld the assessment given by UPCL and directed the petitioner to pay the electricity dues as demanded. The petitioner has also alleged that in the absence of annual inspection and after the lapse of 5 years electricity charges cannot be claimed as per provisions of 56 (2) of the Electricity Act, 2003. Aggrieved by the order of the Forum the petitioner have filed this appeal before the Ombudsman.

4. The respondent UPCL in their written statement have claimed that the petitioner's justification regarding CT of 25/5 and MF 5 instead of CTR 30/5 and MF 6 is incorrect. They have said that during inspection by AE (Meter), Electricity Test Division it was discovered that CT 30/5 of 6 MF is installed in the metering system since inception but the billing was done by applying the wrong MF. While consumer's load was reduced from 400 to 300 KVA on 08.01.2013 the CT already installed remained the same and the billing continued to be done applying the same MF. The petitioner cannot take benefit of consuming more units and paying for less. The respondent has denied applicability of section 56 (2) of the Electricity Act, 2003. They also submitted that there was no defect in the meter and it was recording correctly. The present dispute is about application of wrong MF. It is not a case of installation of wrong CT but a case of wrong recording of MF in the sealing certificate. The point of installing CT of 20/5 or 25/5 instead of 30/5 was not raised before the Forum. On being requested for proof that the CT ratio and MF recorded on sealing certificate of 2010 and 2013 were indeed incorrect and that of 25.02.2015 was correct, respondent submitted their case along with documentary evidence.

5. Vide letter dated 24.09.2015 they submitted the Test Report of the metering equipment of the petitioner by M/s YMPL and UPCL team on 25.02.2015 wherein the detailed results of CT ratio, and their accuracy has been submitted, according to which the correct ratio was 30/5 with MF 6 since the CT and meter installed on 23.03.2010 have never been changed and the same continue till date of inspection 25.02.2015 as also thereafter so the CT ratio has been 30/5 since 23.03.2010 till date with MF 6 instead of CT ratio 25/5 with MF 5 as recorded on sealing certificates dated 23.03.2010 and 08.01.2013. Further, to corroborate their case they have submitted the reading of LT meter installed on consumer's LT panel wherein they have proved on the basis of readings that the correct MF is 6. Regarding petitioner's allegation that the respondent has not carried yearly inspection as required under relevant Regulations the respondent have submitted that yearly inspection could not be carried out due to shortage of staff, however the UPCL has outsourced the entire process of testing of HT consumer's metering system to M/s YMPL through an agreement dated 09.01.2014 and the aforesaid checking of petitioner's metering installation was carried out by M/s YMPL under the said agreement. Regarding action against erring officers for making wrong mention of CT ratio and MF in the sealing

certificate the respondent has reported that departmental investigation has already been initiated and appropriate action against the defaulting officials shall be taken accordingly. They also submitted the details of the seals provided and established their claim that since the seals are the same the CT/PT chamber was never opened after 23.03.2010 till 25.02.2015 for checking. Thus they have argued that the correct CT ratio was 30/5 instead of 25/5 since the date of installation of meter on 23.03.2010 and hence the correct MF is 6 and not 5 and therefore the assessment raised is correct, justified and payable by the petitioner.

6. The Forum heard the parties and referred to the negligence and irresponsibility of officers of respondent indicating satisfactory working of CT on 23.03.2010 and also while reducing the load from 400 to 300 KVA on 08.01.2013. No testing of PT/CT and meter was done to ensure accuracy of the system and hence the Forum has directed strict action against officers/officials responsible of release of new connection and load reduction. Forum therefore did not find merit in the finding of the UPCL team which visited the site on 23.03.2010 as well as 08.01.2013 but placed reliance on the finding of 25.02.2015 where the multiplication factor of 6 was considered valid and the CT ratio and multiplication factor mentioned on the earlier 2 occasions were found incorrect. Forum did not find merit in the petitioner's case and directed the complainant to pay energy charges to the Licensee on the basis of actual energy consumed without any surcharge. They were directed to pay the electricity dues within 15 days of the Forum order after the adjustment of amount already paid by them otherwise surcharge shall be payable as per Rules.
7. The petitioner moved a petition as an appeal before the Ombudsman on 20.06.2015 and requested stay on recovery of bill in addition to the other reliefs as mentioned above. An interim stay till further orders was granted on 26.06.2015. Arguments were commenced on 04.09.2015 and after reply to certain queries raised during arguments, they were concluded on 28.09.2015. Respondents were asked for copies of yearly inspection report mandated under the Supply Code, the basis on which sealing certificate dated 25.02.2015 was taken as correct, action against officials and officers who reported CT ratio as 25/5 in the sealing certificate and to indicate the basis for recording CT ratio as 25/5 in the sealing certificate dated 08.01.2013. In the reply given vide letter dated 24.09.2015 as well as in the arguments respondent claimed that

annual inspections could not be held due to paucity of staff. Enquiry has been setup under the Superintending Engineer against the concerned officers/officials and that the CT chamber was not opened on 08.01.2013 on the assumption that the CT ratio of 25/5 is appropriate even for the reduced load of 300 KVA. Respondent have claimed that the department was constrained to outsource the testing of metering system because of inadequate in house capacity, after evaluating the technical competence of the firm M/s YMPL, who conducted tests across all equipments with duly calibrated systems and the technical soundness of the evaluation cannot be doubted. As such, the department placed reliance on the inspection report of 25.02.2015 as against the departmental sealing certificate of 23.03.2010 and 08.01.2013. They also placed reliance on the LT meter installed by the petitioner in his premises. The reading shown on the LT meter (which is an internal arrangement of the petitioner and not installed by the Licensee) seems to corroborate the reading arrived with a multiplication factor of 6 rather than 5.

8. The sealing certificate of 08.01.2013 merely reiterated the position of 23.03.2010 since the CT/PT chamber was not opened and the seal has been found to be intact even on 25.02.2015. Hence on the basis of the LT meter of the petitioner and inspection report of M/s YMPL, the unbroken seal of 2010 respondent have argued that the CT ratio of 30/5 from the date of connection is correct and justified.
9. The petitioner hinged his arguments on the fact that no inspections were carried out in the 5 year period between 2010 and 2015 and even when the load reduction was sought this so called mistake in the CT ratio was not pointed out. Inspection of 25.02.2015 has suddenly left the consumer with a hefty bill while the department is liable for negligence and delay. He has also claimed that the inspection team forcibly entered his premises took away papers after getting the signatures of his low level representative without giving any information to the petitioner. He has also commented at length on the disconnection being effected on 31.03.2015 while in an earlier letter from the department time up to 25.05.2015 had been granted. The petitioner has also taken strong objection to reliance being placed on the LT meter which has been installed by him for his own purpose and any reading from the said meter without authorization by the petitioner should not be taken as evidence against him. He has also repeatedly argued that provisions of section 56 (2) of the Electricity Act, 2003 disallows recovery beyond period of 2 years in the past.

10. Having heard both parties and perused the documents on file, some conclusions can be drawn. The LT meter as an evidence for higher consumption has been objected by petitioner and as the said meter is beyond the jurisdiction of respondent its reading has not been independently corroborated, no reliance is being placed on this meter reading for establishing that CT of 30/5 ratio was installed. The detailed documentary evidence given by the respondent vide their letter of 24.09.2015 in respect of inspection dated 25.02.2015 reveals that a) accuracy of CT/PT and meter were found within permissible limit. Make, serial no., accuracy, class, burden and CT ratio has specifically been mentioned in the test report wherein CT ratio has been mentioned as 30/5. The details of PT i.e. serial no., make, accuracy, class, burden and ratio has also specifically been mentioned. M/s YMPL has also submitted their certificate of calibration. As such the test results dated 25.02.2015 are reliable and on the basis of these results it is established that the CT of 30/5 ratio with MF 6 were found installed at the time of checking. As mentioned above the CTs/ PTs and meter installed on 23.03.2010 as also the seals were never changed/replaced thereafter till checking on 25.02.2015, the same CTs/PTs and meter were existing so MF was in fact 6 instead of 5 as has been taken for billing purposes since date of connection resulting in to short billing since then. Such being the case the respondent is entitled to recover the cost of energy left to be billed from 23.03.2010 to 25.02.2015 on account of application of wrong MF i.e. 5 instead of 6 over the entire aforesaid period and has rightly raised the demand of Rs. 13,55,797.71 vide their letter dated 12.03.2015. It is therefore concluded that the assessment raised by the respondent is justified.
11. The petitioner has not specifically challenged that CT of ratio 30/5 were not installed at his connection but he has been pleading his case by submitting it as a case of installation of wrong CT on the plea that for 400 KVA load the CT of ratio 25/5 and for reduced load of 300 KVA CT of 20/5 ratio would have been installed. His plea is not technically acceptable as installation of higher ratio CT would not affect recording of energy by the meter except that the CTs shall not be fully loaded even at full contracted load, but will be under loaded. Further as the CT/PT and meters are designed to operate accurately, within permissible limits of accuracy, as per Rule 57 of Indian Electricity Rules, 1956, at all loads, installation of higher ratio CT does not affect meter functioning.

12. The petitioner has also raised the points of applicability of section 56 (2) of Electricity Act, 2003 and Sub-Regulation 3.1.6 of UERC Supply Code Regulations, 2007. It is clarified that
- i. As in this case the assessment (in fact it is a supplementary bill) has been raised only for the metered units left to be billed due to application of wrong MF i.e. 5 instead of 6, provisions of 56 (2) are not applicable as it is established that less billing due to application of wrong MF was being done since installation of meter till it was detected after checking on 25.02.2015.
 - ii. As regards applicability of Sub-Regulation 3.1.3 (6) of Supply Code Regulation, 2007, it is clarified that this sub-regulation is applicable in case of slow running of meter in accordance with Rule 57 (1) of Indian Electricity Rules, 1956, whereas this is the case of less billing due to application of wrong MF since date of installation of meter, while the meter was recording correctly, so this Sub-Regulation is not attracted in this case.
13. It is also revealed that the seal of the meters were intact from the date of initial installation in 2010. As such while the meter had not been tampered, the CT ratio from the commencement of connection is 30/5. The negligence and carelessness shown by the officers and staff of respondent in indicating different readings at the time of installation without reference to what the meter itself had printed on it, suggests gross dereliction of duty for which respondent had already been directed by the Forum and they have setup an enquiry. The petitioner has nowhere claimed that he had not consumed the energy for which the bill of Rs. 13,55,971.71 has been raised. He has contested the basis on which such a demand has been raised.
14. Further it is mentioned that the Hon'ble High Court, Bombay in Writ Petition 7015 of 2008 vide judgment dated 20.08.2009 and Hon'ble High Court Delhi in WP (C) 8647/2007 vide judgment dated 19.04.2011, have held that in case the consumer is under billed on account of clerical mistake such as application of wrong MF, Section 56 (2) of Electricity Act, 2003 shall not apply and there shall be no limitation of time for raising supplementary bill for the energy left to be billed. These case laws substantiate respondent's action for raising bill for the entire period from 23.03.2010

to 25.02.2015 for difference of the energy left to be billed on account of application of wrong MF 5 instead of 6.

15. As such petitioner's request for withdrawal of demand of Rs. 13,55,797.71 is not justified. His demand for reimbursement of production losses of Rs. 4,95,000.00 is not allowed as it is not covered under appropriate Regulations. The demand raised by the respondent is held legitimate and the petitioner is required to pay the amount of this bill less the amount already paid against this bill. The interim stay order is vacated. Forum order is upheld.

Dated: 20.10.2015

(Vibha Puri Das)
Ombudsman