

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Devki Nandan Pathak
S/o Late Shri Durgadutt Pathak
Shantinagar, Bindukhata,
P.O. Lalkuan, Distt. Nainital, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (Rural)
Uttarakhand Power Corporation Ltd.
Hiranagar, Haldwani, Distt. Nainital, Uttarakhand

Representation No. 14/2015

Order

The petitioner, Shri Devki Nandan Pathak has in his petition dated 26.06.2015 before the Ombudsman informed that he had filed a complaint before the Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) on 11.02.2015, heard in case no. 43/2015 in which he had complained about the functioning of the Uttarakhand Power Corporation Ltd. (hereinafter referred to as respondent) office Lalkuan. Due to their method of functioning, his electricity bill had not been corrected and he was unable to pay the legitimate dues of the department. Forum commenced hearing on this complaint but when the complaint reached the decisive state and hearing had been fixed for 08.04.2015 the department framed him in an illegal FIR for electricity theft. Oral information about this was given to the Forum and copy of the report filed on 22.05.2015. Consequently the Forum dismissed the petition on the ground that since the matter pertains to section 135 of the Electricity Act, 2003 Forum has no jurisdiction. The petitioner has further detailed the sequence of events and claimed that due to a range of inaccuracies and defaults in registering the FIR, it is clear that this was only to cover the careless working of the department since there is no reason why the petitioner, while he is asking for justice and correction of bill before the Forum, should engage in theft of electricity for some other consumer. He has requested for the following two reliefs:

- a) Correction of the bill.

- b) Guidance on how to get free from the travails of the false case pending in the Court.
2. In his complaint before the Forum petitioner had claimed that his electricity connection under BB32 was taken on 15.02.2006 and he continued to pay his bills which came to an average 6 to 7 units per month. From 31.12.2007 to 29.02.2008 the petitioner got a bill showing consumption of 223 units which was excessive. He complained to the Electricity office Lalkuan but no action was taken. On 09.12.2008 the meter reader found the reading to be 140 units and in the bill for 30.08.2008 to 31.10.2008 he made a mention of this and recommended correction of the bill. While the bill was not corrected his meter was declared IDF and a bill of 40 units for every billing cycle of 2 months, was issued to petitioner. On 12.04.2013 the meter was changed. On the day of changing of the meter its reading was 463. Petitioner has further claimed that after the meter was changed on 12.04.2013, bills for an average consumption of 6-7 units have been received. On 28.01.2015 the meter reading has been shown as 106 by the meter reader. The electricity office Lalkuan had issued a bill of Rs. 8,500.00. Based on the meter reading and recommendations of the meter reader he requested that the bill may be corrected. Respondent contested the pleas of the petitioner and claimed that petitioner's allegation that the SDO gave a wrong report to the Ld. Forum for action under section 135 was done in order to escape from the answerability and responsibility of the respondent, is not correct. Respondent have also claimed that the SDO's report dated 07.04.2015 which is enclosed as a part of WS had given a detailed picture of the readings of the old meter. The meter was declared IDF after 11.12.2008. As the IDF billing continued for further four months even after replacement of meter on 12.04.2013, so these bills were raised and an adjustment of Rs. 196.00 and LPS Rs. 4.95 was allowed in the subsequent bills. Further, the respondent have said, that an adjustment of Rs. 85.75 for 35 units, being the difference between the readings in the sealing certificates and the final reading in the meter, was also given in subsequent bills to the consumer. Thus total adjustment of Rs. 286.70 (196.00+85.75+4.95) was given, but even after such adjustment, an outstanding of Rs. 8,701.00 is due from the petitioner. Further, the SDO has alleged that on 07.04.2015 JE, Lalkuan went to the site to conduct an inspection of the connected load and present reading and while he found the present reading to be 125 (but as per billing history final reading in his bill dated 12.03.2015 is 112 and

subsequent bill are for N.A.) and the connected load to be 260 watts, he also found cut in the service cable before the meter which meant that the consumer was guilty of power theft. Accordingly JE cut off the connection and took the cable in his custody. The respondent claimed that the grievance of the petitioner has already been redressed and the present complaint has been filed only to avoid payment of bill.

3. In his rebuttal petitioner has claimed that there were no adjustments made in the bills of previous meter and that meter was not declared IDF. Petitioner has further said that he is committed to pay the bill for 463 units on the previous meter against which he had already paid dues for 132 units and the current meter which was disconnected on 07.04.2015 and showed a reading of 125 units i.e. $463 - 132 = 331 + 125 = 456$ units. The bill correction petitioner has claimed, was done after the new meter was installed on 12.04.2013 and up to 09/13 not for the previous meter which according to respondent was IDF. Petitioner has also further enquired that if the meter was IDF on 11.12.2008 then why did the department take 5 years to change the same while the maximum time for this is 30 days. Petitioner has also argued that the incomplete consumer history has been submitted from March 2011 whereas the history should have been from 15.02.2006 to 31.07.2015. Apart from raising many other doubts regarding the conduct of the department, petitioner has raised the issue of why when the electricity theft was noticed by the JE, he did not get signatures of either the consumer Shri Devki Nandan Pathak or the employee who was accompanying the JE. If the theft was done by Shri Govind Ballabh then the FIR should have been against Govind Ballabh rather than against the petitioner. In which case, petitioner could have been made a witness.
4. The Forum in their order did not go into the merits of the case but based on the checking report of 07.04.2015 and a cut in the cable before the meter of Shri Govind Ballabh Pathak and the filing of the case of theft u/s 135, decided that theft matters lie outside the jurisdiction of the Forum and hence petition was dismissed.
5. Arguments were heard from both parties and the documents available on the file have been examined. While the respondent has claimed that meter was IDF from 2008 (11.12.2008), they have not been able to give the basis of declaring the meter IDF since the consumer had not given any complaint. Consumer history has been received for the entire period from September 2006 to November 2015. This history indicates

that bills have been raised on the basis of IDF for a period of 56 months out of a total period of 118.5 months. A further period of 10 months have been shown as NA and 8.5 months as NR. The total period for which bill on the basis of metered units has been raised is only 44 months. The consumption shown over this 44 months period comes to $463+112=575$ units giving an average consumption of 13 units per month. The respondent have used the average of 20 units per month (40 units per billing cycle) for computing the charges to be levied during IDF. This is based on the average of units consumed in the 3 bills immediately prior to meter becoming defective.

6. Sub Regulation 3.1.4 (2) and 3.2 (1) of UERC (The Electricity Supply Code) Regulation, 2007 provides for methodology of testing and replacement of defective meter (where the Licensee observes that the meter is not recording) and billing during the period the meter remained defective, respectively, which reads as follows:

3.1.4 (2) *“Where the Licensee observes that meter is not recording any consumption for the last one billing cycle or appears defective (ADF), he shall notify the consumer. Thereafter, the Licensee shall check the meter within 30 days and if the meter is found stuck/stopped, the meter shall be replaced within 7 days.”*

3.2 (1) *“The consumer shall be billed on the basis of the average consumption of the past three billing cycles immediately preceding the date of the meter being found or being reported defective. These Charges shall be leviable for a maximum period of three months only during which time the licensee is expected to have replaced the defective meter.”*

7. It is quite clear that respondent have been negligent in replacing a defective meter and have grossly violated the aforesaid relevant Regulations in testing/replacing the defective meter and billing as IDF meter for such a prolonged period of 56 months. The basis of raising the IDF bills @ 40 units/billing cycle based on the average of last three bills is also not acceptable as there has been no consistency in recording the meter readings, as is reflected by the billing history. IDF bills should therefore be revised on average consumption of metered units which comes to 13 units per month. The respondents are directed to revise IDF bills of 52 months (up to the date of replacement of meter , as IDF bills for 4 months after replacement of meter have already been revised as aforesaid) @ 13 units per month (26 units per billing cycle). Further, the competent authorities of the respondent may also take appropriate action

against concerned staff for violation of Regulations for replacement of IDF meter as aforesaid.

8. The Forum in their order dated 16.06.2015, while recusing themselves to comment anything in the matter being out of their jurisdiction, as a case of theft of electricity u/s 135 of Electricity Act, 2003, have dismissed the complaint but have given no decision on complainant's grievance regarding correction of bills, which, as a matter of fact, was within their jurisdiction. The Forum order is set aside.
9. As for the issue of theft, the matter lies outside the jurisdiction of Ombudsman.

Dated: 12.01.2016

(Vibha Puri Das)
Ombudsman