

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Puneet Pant
S/o Shri Harish Chandra Pant
Pipalsana, Post Office RTP, Hempur
Ramnagar, Distt. Nainital

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Ramnagar, Uttarakhand.

Representation No. 10/2017

Order

The petitioner, Shri Puneet Pant aggrieved by the order dated 20.03.2017 of Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) in his complaint no. 18/2016, has filed this representation before the Ombudsman. The case in brief is that petitioner had earlier approached the Ombudsman vide representation no. 16/2016 against the order dated 16.06.2016 of the Forum in complaint no. 18/2016 which was decided through an order on 10.10.2016 whereby the case was remanded to the Forum with the directions to examine the status of compliance of provisions of sub regulation 5 (1) to 5 (11) of the UERC (Release of New HT and EHT Connections Enhancement and Reduction of Load) Regulations, 2008.

2. The Forum in compliance with the directions of the Ombudsman issued notice to both parties for submission of their report/documents and heard them. Having conducted a detailed analysis of the compliance or lack of the same of provisions of sub regulation 5 (1) to 5 (11) Forum have concluded that neither party has complied with the regulations in full. Forum have also mentioned that both parties are in agreement that after completion of all formalities and execution of agreement on 31.10.2014 the meter was installed on 05.12.2014 but the connection was energized on 04.08.2015. The Forum have further stated that after installation of meter on 05.12.2014 the petitioner had never written any letter to the opposite party till 01.08.2015 for energization of his connection. The Forum have therefore held that while opposite

party have not complied with sub regulation 5 (11) in respect of intimation of energization, it appears that after installation of meter on 05.12.2014 the complainant is himself responsible for non release of connection and have held that as per sub regulation 8 of HT Regulation, 2008 fixed/ demand charges or other charges from 05.12.2014 to 04.08.2015 by the opposite party appears to be appropriate and in view of these findings, the Forum have retained their earlier order of dismissing the complaint.

3. Petitioner has again approached the Ombudsman against the above order. The petitioner considers the Forum order to be against law, facts and merits of the case and have alleged that while respondent was bound to give electricity connection within one month of the receipt of application as per section 43 (1) of the Electricity Act, 2003 and for failure of this responsibility they are liable to pay a penalty of Rs. 1000 for each day of default as per section 43 (3) of the said Act, the Forum did not consider these provisions while passing their order. Petitioner has also stated that it is agreed by both parties that the electricity meter was installed in the factory on 05.12.2014 and electricity supply was started on 04.08.2015. Petitioner can therefore not be held liable for any amount towards electricity charges before supply of electricity commenced. This point has been accepted by the Forum but they have still dismissed his complaint. The petitioner has further stated that the MRI clearly establishes that there was no consumption of electricity prior to 04.08.2015 so the respondent are not entitled to charge any amount from petitioner from 05.12.2014 to 04.08.2015. Petitioner has also claimed that respondent cannot charge for electricity for this period since they have not complied with sub regulation 5 (1) to 5 (13) of Uttaranchal gazette notification 2008 while giving the connection. Further, the Forum have not considered the fact that no line order was given to the petitioner and no information in writing was given by respondent for completion of energization of connection. The respondent have therefore not complied with sub regulation 5 (11) and because of the delay in their granting connection within specified period they are liable as per sub regulation 5 (13) to pay @ Rs. 1000 for each day of default. On these grounds petitioner claims that the order of the Forum is erroneous, is based on incorrect facts and violates principle of natural justice and the order is based on surmises and conjectures. They have also called the order of the Court below as non

est in the eyes of law. Petitioner has therefore requested that this appeal may be allowed and the order dated 20.03.2017 of the Forum be set aside.

4. Respondent in their written statement have contested the various grounds of appeal and have stated that UERC Regulations have been framed in exercise of powers under section 181 read with section 43 and 57 of the Electricity Act and provisions of section 43 cannot be read in isolation. They have also contested that it is admitted case of the parties that electricity supply was started on 04.08.2015 and have expressed surprise that if indeed this was the case, petitioner could have remained silent and not complained about lack of energization of connection for 8 long months. Respondent have further referred to another aspect highlighted by the petitioner in the replication dated 06.04.2016 filed before the Forum. In this representation the petitioner has given a different reason for not taking supply on 05.12.2014. Petitioner has alleged that the department showed its inability to energize the connection as cable and other material was not available at the time of installation of meter. Respondent have also highlighted another statement made by the petitioner in replication with respect to this letter dated 11.06.2015, that since the connection had not been given for 6 months moisture has come into the machine and hence requested to postpone action of energization the connection for some time and he shall himself intimate the date for energization as soon as technical problems at his end are resolved.
5. Respondent have further given date wise details of action taken by the petitioner and the respondent in application and sanction of connection as well as its energization.
 - i. 26.02.2013 the petitioner applied for 115 KVA connection.
 - ii. 27.02.2013 the petitioner deposited Rs. 5,000.00 for processing/registration fee.
 - iii. 28.02.2013 the respondent was asked to SDO to give technical report vide letter no. 703 dated 28.02.2013.
 - iv. 18.05.2013 the SDO submitted his technical report.
 - v. 20.05.2013 the respondent sent letter no. 1590/vvkha(ra) dated 20.05.2013 for sanction of the connection to the Superintending Engineer, Electricity Distribution Circle.
 - vi. 31.07.2013 the S.E. gave the sanction.

- vii. 27.08.2013 the sanction of the receipt by the respondent so letter was sent to SDO, Ram Nagar dated 27.08.2013 for preparation of estimate.
- viii. 21.10.2013 after receiving the estimate the letter dated 21.10.2013 was issued to the petitioner for depositing Rs. 190.00 for PC to submit competitive report.
- ix. 22.10.2013 the petitioner submitted the receipt of deposit of Rs. 1,90,000.00.
- x. 25.04.2014 the respondent asked the petitioner vide letter no. 1238 to complete the work.
- xi. 21.07.2014 the petitioner gave the report about completion of the work in his premises and the sanction letter of Electrical Inspection.
- xii. 21.07.2014 the respondent asked the SDO for inspecting the works done by the petitioner.
- xiii. 06.10.2014 the SDO submitted its inspection report as the prescribed format.
- xiv. 07.10.2014 the respondent vide letter no. 2802 was asked the petitioner to deposit Rs. 1,15,000.00 towards security and TC to execute the agreement.
- xv. 28.10.2014 the petitioner deposited Rs. 1,15,000.00 and submitted the receipt.
- xvi. 31.10.2014 the petitioner executed the agreement thereafter the respondent sent indent for installing/energizing the meter to A.E. meter Haldwani.
- xvii. 05.12.2014 the A.E. meter installed the meter for giving supply to the petitioner.

6. It is obvious from this statement that while petitioner applied for 115 KVA connection on 26.02.2013 the load was sanctioned on 31.07.2013 and the construction of line by the respondent as per MB was completed on 30.04.2014. The petitioner gave the report about completion of the work in his premises and the sanction letter of Electrical Inspection on 21.07.2014. The meter indent was placed by the respondent on 31.10.2014 and the meter was installed on 05.12.2014. The petitioner did not seek extension of time beyond 30.05.2013 for energization of his connection and at no point did he request early installation of meter much less energization. In fact on 11.06.2015 he has requested that his electricity connection may be stopped for some time since there is a technical fault. When his problem is resolved he will himself inform the department and obtain the connection.

7. In order to decide this case Forum had been requested to give status of compliance of sub regulation 5 (1) to 5 (11) in order to ascertain differentiated liability. Based on the Forum findings and the material available on record the issue to be decided is whether the bill of Rs. 8,19,051.00 is payable by the petitioner in view of compliance status of regulations as mentioned above and whether any compensation is payable to the petitioner for delay in giving electricity connection to him, as requested by petitioner.
8. Based on the directions given in the order dated 10.10.2016, the analysis by the Forum and the record available on file the sub regulation wise status of compliance is as below:

Sub regulation 5 (1) to (3): Respondent UPCL issued demand note of Rs. 1,90,000.00 on 21.10.2013, petitioner submitted receipt of deposit of Rs. 1,90,000.00, on 22.10.2013. Respondent were required to begin execution of works immediately thereafter, while they were required to complete the works of construction of line within 60 days in the instant case, as only 11 KV line was required to be constructed. While no evidence regarding issue of line order is available on file, the respondent completed their works as per MB on 30.04.2014, placed meter indent on 31.10.2014 and meter was installed on 05.12.2014. Thus the respondent installed meter with a delay of 5 months as against regulation provisions. Sub regulation 5 (3) is not applicable in the instant case. Forum have in their order equated delay on the part of the petitioner with the delay on the part of respondent. However, sub regulation 5 (1) to 5 (3) require action only by the respondent and delay on the part of the petitioner is not relevant.

Sub regulation 5 (4): As stated by the Forum no documentary evidence regarding inspection of Licensee's work by Electrical Inspector is available on record.

Sub regulation 5 (5): petitioner submitted report about completion of work in his premises and the sanction letter of electrical inspection on 21.07.2014. Forum conclusion regarding petitioner's liability for not having sought extension of the date of completion beyond 30.05.2013 is as per provisions of sub regulation 5 (5). This reveals clearly that petitioner was himself unable to meet with the deadlines he had envisaged in his letter dated 14.05.2013 where he had requested electric connection before 30.05.2013 as his work related to construction of transformer will be

completed by 30.05.2013 and therefore he cannot be deemed entitled to receive compensation for delay in releasing connection by UPCL as per provisions of section 43 (1) to 43 (3) of the Electricity Act, 2003.

Sub regulation 5 (6) to 5 (9): As stated by the Forum under sub regulation 5 (6) to 5 (9) the respondent submitted inspection report on format 1.2 on 06.10.2014 while as per the regulation this report should have been submitted by 06.08.2014.

Sub regulation 5 (10): As stated by the Forum petitioner deposited the security amount on 28.10.2014 which is a delay of 7 days in reference of the provisions of the regulation.

Sub regulation 5 (11): Forum have confirmed that there is no documentary evidence to show that respondent informed petitioner about the date of energization. Petitioner deposited the estimated amount on 22.10.2013 and as per regulation his connection should have been energized within 22 days thereafter i.e. by 14.11.2013 in the instant case. However, respondent's line work was completed on 30.04.2014 and petitioner's work was completed on 21.07.2014. Consequently neither party was in a position to comply with sub regulation 5 (11) by 14.11.2013. But respondent has further erred as no evidence is available on record about written intimation given by the respondent to the petitioner regarding energization as required under sub regulation 5 (11) but placed meter indent on 31.10.2014 and installed the meter on 05.12.2014.. While examining the agreement in the course of arguments, respondent's representative (AE(R)) admitted that no written intimation was ever sent to the petitioner in respect of date of energization.

Respondent during arguments referred the letter given by the petitioner on 11.06.2015, requesting delay in energization for some time since there was a technical defect, as proof that petitioner was not ready for energizing his meter. The respondent cannot in the absence of any proof of written intimation, claim that delay on the part of the petitioner and particularly his letter dated 11.06.2015 is responsible for the delay. Further, the report of the SDO of 06.10.2014 has clarified that the electrical installations are in order and therefore it cannot be held that the petitioner was unprepared or unable to receive energization on 05.12.2014. As the Forum also have pointed out, the date of installation of meter is established at 05.12.2014. Forum have observed that opposite party UPCL neither gave any intimation in writing nor was any

mention made regarding the same in the sealing certificate filed on 05.12.2014 and no document indicating written communication by respondent has been placed on record. It is evident from the readings available in the bill for the period from 01.08.2015 to 31.08.2015 where readings on 01.08.2015 are the same as in the sealing certificate dated 05.12.2014 and readings on 31.08.2015 show consumption of 390 units, that meter started recording consumption either w.e.f. 01.08.2015 or sometime thereafter. The MRI shows consumption w.e.f. 04.08.2015 hence it is deduced that the connection was energized only on 04.08.2015.

9. Since no written intimation about the date of energization of connection as required under sub regulation 5 (11) was given to the petitioner by the respondent and para 4 of the agreement quoted below provides that:

“4. Commencement of Supply

The consumer shall be deemed to have commence taking supply of electrical energy from the distribution licensee under the conditions of this agreement from the date of energisation of connection or intimation is sent to him in writing by the distribution licensee that the supply of electrical energy to the full extent of the Contracted Load is available under this agreement, which ever is earlier.”

10. In the instant case the date of energization of the connection has to be the date of release of supply and since no written intimation about date of energization was given, it would be appropriate to take the date of energization of the connection which is 04.08.2015 as per MRI, as the date of commencement of supply. While petitioner who had stated in his letter dated 11.06.2015 that he will intimate when he is ready to receive supply did not give any intimation neither did the respondent give any written communication even for 04.08.2015, but both parties have admitted before the Forum that the meter was energized on 04.08.2015. Accordingly respondent's entitlement to impose bills as per sub regulation 8 of UERC (Release of New HT and EHT Connections Enhancement and Reduction of Load) Regulations 2008 can commence only from 04.08.2015. The billing for fixed charges/demand charges or any other charges as per applicable rate schedule levied prior to 04.08.2015 will be subject to the above finding.

11. Accordingly, the demand of Rs. 8,16,579.00 made through notice u/s 3 is unwarranted and respondents are entitled to recover charges as per provisions of relevant tariff from 04.08.2015 till the date of permanent disconnection (30.10.2015) only. Respondents are directed to issue a revised bill as above and in the event of nonpayment by the petitioner they are free to take such measures as available to them under law for recovery of their legitimate dues against the revised bill. Section 3 notice issued may be withdrawn.
12. Forum findings are upheld with above modifications. The Forum order, being at variance with their findings, is set aside. The petition is allowed. No order regarding costs.

Dated: 18.07.2017

(Vibha Puri Das)
Ombudsman