

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Parmatama Ferro Alloys Pvt. Ltd.
Ramraj Road, Village Vikrampur,
Bazpur, Distt. Udham Singh Nagar, Uttarakhand

Vs

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

Representation No. 27/2017

Order

The petitioner, M/s Paramatma Ferro Alloys (P) Ltd. aggrieved by the order dated 14.07.2017 of the Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) in complaint no. 44/2017 has filed this petition. Petitioner has claimed that while he is a manufacturer of calcium carbide and power consumption depends on many factors, but average power consumption is mostly uniform and to support this claim, he has filed details of consumption for the period 01.04.2016 to 31.10.2016. He has also claimed that he is a regular depositor of all bills and has never defaulted in payments. However, the bill he received for December 2016 was highly excessive and included certain units for the months of June, July, August and also for October and November 2016. Petitioner made an oral complaint with the respondent and demanded justification for such arrears being charged. No explanation was given but respondent assured that the same would be rectified. Meanwhile, for the month of December 2016 (January-February 2017), the department prepared offline bills which were paid by the petitioner from time to time. A total of 1182329 units were added for the months of June, July, August, October and November. Petitioner has also disputed the respondent assertion that the bill has been raised on the basis of difference between meter installed on the pole and the bill meter. The fact that there is no difference in the month of September 2016, he has used to support his claim that till September 2016 there was no difference between both meters. Three other industries are also connected to the same 33 KV feeder which supplies

electricity to the petitioner. Petitioner has alleged that attributing to one consumer the line losses of the entire line is totally arbitrary and cannot be sustained. The same points were raised before the Forum, however, the Forum did not pay heed to this and dismissed the complaint. Further, petitioner has claimed that, line losses cannot be the basis for recovering arrears from one consumer while 3 other consumers also draw their power from the same feeder. On the basis of the above reasoning petitioner requested that the respondent be restrained from realizing any amount based on the assessment of above referred 1182329 units raised in the bill of December 2016 and in pursuance of the order dated 14.07.2017 passed by the Forum and from disconnecting the supply of electricity. Having heard both parties on the stay application, an interim stay was granted against coercive proceedings and recovery against assessed units since petitioner had already deposited a sum of Rs. 22,00,000.00.

2. Forum, while quoting from the written statement of the respondent, have said that consumer's meter reading is taken at many levels. Respondent have further claimed that because of the naala passing by the meter room and consequent moisture in the meter, the meter has been repeatedly getting burnt. Respondent Electricity Distribution Division claimed before the Forum that the Electricity Test Division, Kashipur directed them to record their consumption based on estimated units. Presently an MRI has revealed nonpayment of 1182329 units and MRI has been sent to Electricity Distribution Division, Bazpur.
3. Forum have mentioned that petitioner stated in his rejoinder that the pole mounted unit continued to work till 29.06.2017 and it was removed on 30.06.2017 and meter bypassed. Forum have not given any rebuttal to this statement of the petitioner by respondent. Petitioner has asked a pointed question that since his pole mounted meter reading has been taken as correct then why was he not given bills as per reading of the pole mounted meter all through. Another point raised by him has also been quoted by the Forum that the department is keen to establish the veracity of the feeder meter reading and place the blame for all excess consumption only on his factory. How far is this justified?
4. Forum have, in their order dated 14.07.2017, detailed the arguments advanced by both parties and concluded that bill for disputed period (June, July and August 2016) has

been raised not on the basis of estimate as claimed by the petitioner, but on the basis of MRI reading on the pole mounted meter outside the petitioner's premises as claimed by the respondent. For the month of October and November since neither the cubicle meter nor the pole mounted meter were working, as such for billing of the petitioner, reading appearing in the sending end meter of concerned feeder has been taken as the basis. Forum have recorded petitioner's averment that despite respondent's contention that his pole mounted meter and cubicle meter were not functioning in October and November, his pole mounted meter continued to work well till 29.06.2017 and it is only on 30.06.2017 that after remedying the fault in his cubicle meter, that pole mounted meter was bypassed and now pole mounted meter cannot be used for any reading. However no counter to this statement has been recorded and Forum have relied on the respondent statement that in October and November both his meter were not functioning and for this reason his billing has been done as per the sending end meter reading of the feeder. Since meters of all the other three consumers were working during this period, billing of the petitioner has been done after subtracting the metered consumption of the other three consumers from the total consumption of the feeder and reducing the maximum line losses. Forum have therefore come to the conclusion that since both meters of the petitioner were not working in this time period, (it may be borne in mind that the cubicle meter was working for all of June and one or the other meter was working throughout all of July however, no cubicle meter was working from 1st to 18th August 2016 and subsequently in the month of October and November. Pole mounted meter was not working in October and November), and since the meters of the other three consumers on this feeder were working throughout this period, their consumption has been subtracted from the total consumption at the substation end meter as also the maximum line loss, the balance consumption is given as bill to the petitioner which is appropriate. Accordingly Forum have held the bill for 1182329 units given to the petitioner as justified and therefore dismissed the complaint. Forum in their order relied on the written statement to say that the additional bill for the month of June, July and August have been given because petitioner's meter was being rendered defective repeatedly. Forum have also asserted that the bill is given as per the MRI reading of the pole mounted meter and this bill cannot be called as estimated bill.

5. Respondent have filed 2 written statements in this case. While in the first written statement dated 26.08.2017 (page 71), no para wise replies have been given, but only point mentioned is that due to a naala passing below the room where meter is located, meter has often been rendered defective. Therefore a bill of 1182329 units (assessed) has been issued on the basis of report of Executive Engineer, Test and taking readings of pole mounted meter and independent feeder losses report, as consumer's meter was repeatedly getting burnt. In their second written statement dated 25.09.2017 (page 80-87), respondent have made the following admissions for the two relevant periods of the disputed bill namely June, July and August 2016 and October, November 2016:
 - i) Units consumed from 01.04.2016 to 31.10.2016 are as given in Annexure II of petitioner's petition.
 - ii) The bill for December 2016 was submitted on the basis of MRI for 1182322 units not charged earlier. A statement has also been given to the petitioner for the months of October and November for the purpose of charging for proportionate line losses. (The online bill for December 2016 dated 07.01.2017 available on file at page 44, however, has incorporated 1917116 assessed units and not 118232 as mentioned by respondent.)
6. Respondent have further denied the allegation of the petitioner that he has been charged for line losses of the feeder when 3 other industries were also connected to the same feeder and have used the arguments advanced by the Forum to support their claim that the line losses of the other 3 consumers have been deducted while assessing the petitioner's consumption units for October and November 2016. (Line losses attributable to other 3 consumers have not been deducted as per the statement provided by respondent. (page 73)) Respondent have further clarified that the moisture in the metering room due to the Naala running alongside has caused the meter to get burnt repeatedly and is for this reason that the bill was not sent as per the reading. Respondent have asserted that the Test Division asked the respondent vide its letter no. 1063 dated 30.01.2017 to prepare the assessment bill of December 2016 for 1182329 units and therefore the impugned bill sent is correct.
7. Both parties have been heard and record available on file carefully examined. Forum file has been summoned and also been perused. As far as the additional bill for the months of June, July and August is concerned, Forum have, on the basis of written

statement of respondent, assumed that the cubicle meter repeatedly became defective, therefore additional billing has been done on the basis of MRI reading of pole mounted meter. They have therefore concluded that this was not estimated bill but billing as per MRI reading of pole mounted meter. From the original bill and the additional bill referred above the following points are clear:

- i) This statement of the Forum that “the bill is given as per the MRI reading of the pole mounted meter and this bill cannot be called as estimated bill” needs to be disaggregated for each of 3 months for which additional bill have been generated. As per bills actually issued and available on page 60,59and 58.
 - a) The bill for the month of June 2016 is entirely for metered units and the meter has not been rendered defective for any period, up to 18.07.2016 as per statement of EE Test dated 30.01.2017. In the month of June 2016 meter was working and a bill dated 02.07.2016 of metered units for 1171900 units had been charged.
 - b) In the month of July, the meter was changed on 18.07.2016 and carbon was removed on 04.07.2016. A bill for 518450 metered units for 18 days was charged. The total bill of 727050 units for the month of July issued on 03.08.2016 included units recorded in the old and replaced meter.
 - c) In the month of August 2016, the meter was changed on 19.08.2016. Bill issued on 03.09.2016 charged metered units (460300) from 19.08.2016 to 31.08.2016 and charged assessed units (644007) for the period 01.08.2016 to 18.08.2016, total amounting to 1104307 units. Bill of assessed units has been issued for 18 days of August and for the rest of the period for metered units as per current meter or old meter, readings of which have been recorded in the said bill.

The Forum finding therefore, that since the cubicle meter was repeatedly non functional is correct only to the extent of 18 days of August. For the balance period, metered unit readings of cubicle meter are available and have been used for billing purposes.

- ii) As far as the bills for the month of October and November are concerned, neither meter namely the cubicle meter or the pole mounted meter of petitioner was

working and Forum have concurred in the respondent action of using readings on the sending end meter with suitable modifications. Regulation 3.2 (1) lays down mechanism for billing in the event of meter being defective. In para 15 & 16 of the written statement, respondent have emphasized that the bill charged to the petitioner is not for line losses but for actual consumption of energy by the petitioner and the demand is for actual consumption of units recorded in the meter. As per the bill issued on 03.11.2016 and 03.12.2016 for the months of October and November respectively, 732567 units have been charged while the current reading in both the bills has been shown as 0. At the same time in both the bills 'actual total units' have been shown as 732567. It is clear therefore that the bills issued for the month of October and November were for assessed units and not on the basis of actual consumption recorded by the meter, as claimed by the respondent in their written statement. The same claim has been entered in the bills while the billing has been done on assessed units.

- iii) Forum, in their order have concurred with the respondent's method of arriving at the consumption by the petitioner for the months of October and November when both his meters were not working in addition to the bills issued on 03.11.2016 and 03.12.2016 for 732567 units each. Respondent have proceeded to subtract the maximum line losses from the reading at the substation end meter, since the meters of the other consumers on this feeder were working throughout this period, The balance consumption being given as bill to the petitioner has been claimed to be justified and appropriate. It is seen from the record that in the revised written statement dated 25.09.2017 respondent have claimed in para 8

“In reply to para 8 of the representation it is submitted that the bill of December 2016 was submitted on the basis of MRI, for 1182322 units which were not charged earlier. A statement was also given to the petitioner along with the bill on the basis of the MRI of the pole mounted meter and for the months of October and November 2016 on the basis of proportionate line loss.”

EE Test has recorded on 25.11.2016 *“because of main metering disturbed from 06/2016 of above consumer due to frequent breakdowns and meter damages in breakdown of meter cubicle, assessment of the consumer is according to pole mounted meter and independent feeder loss report of steel feeder (as attached*

sheet)”. The attached sheet indicates that the line losses in the month of October and November 2016 have been recorded at 0% (sheet page 35) after billing additional units 490753 in October 2016 and 965920 in the month of November 2016 to the petitioner.

8. On this recommendation of Executive Engineer, Test, the respondent billed for additional 1917116 units (131150 units for June 2016, 250400 units for July 2016, 96893 units for August 2016, 490753 units for October 2016 and 965920 units for November 2016) in the bill for the month of December 2016 issued on 07.01.2017 (page 44). Subsequently vide his letter dated 30.01.2017 (page 72) the Executive Engineer, Test has recommended for revision of the bill for the month of December 2016 on the grounds “*because of main metering disturbed from 06/2016 of above consumer due to frequent breakdowns and meter damages in breakdown of meter cubicle, assessment of the consumer is according to pole mounted meter and independent feeder loss report of steel feeder (as attached sheet). Bill of 12/2016 is to be revised as follows: i) assessment in bill of 12/2016 is 1182329 units ii) final reading in the bill for 12/2016 should be as per MRI report of new meter (MRI report and feeder loss report enclosed)*”. (113150 units for June 2016, 250400 units for July 2016, 96893 units for August 2016, 489433 units for October 2016 and 232453 units for November 2016), as per sheet (page 73). In the light of the admission by the respondent in their written statement quoted above and in the statements of the EE Test extracted above it is clear that line losses for the months of October and November in the revised bill for the month of December issued on March 2017 have been recorded as 0.03% whereas line losses for the earlier months i.e. April 2016 to September 2016 vary between .01% to 16.99% Sheet Page 73 enclosed with letter no. 1063 dated 30.01.2017).
9. Bills issued in respect of IDF meters have to be consistent with the provisions of sub regulations 3.2. (1) of UERC(The Electricity Supply Code) Regulations, 2007. It is expected that in the billing for 18 days of August i.e. from 1st to 18th August 2016 and for the bills of October and November issued on 03.11.2016 and 03.12.2016, provisions of the above regulation would have been followed. If so, it is not clear how such a bill can be revised. Further, the pole mounted meter does not qualify as a check meter as per the definition of check meter given in the sub regulation 2(1) (i) of CEA (Installation and Operations of Meters) Regulations, 2006 which reads as follows:

“(i) ‘Check Meter’ means a meter, which shall be connected to the same core of the Current Transformer (CT) and Voltage Transformer (VT) to which main meter is connected and shall be used for accounting and billing of electricity in case of failure of main meter;”

At best the pole mounted meter may be considered a stand by meter which is defined as follows:

“(v) ‘Standby Meter’ means a meter connected to CT and VT, other than those used for main meter and check meter and shall be used for accounting and billing of electricity in case of failure of both main meter and check meter;”

In the present matter as has been explained above the main meter (cubicle meter) is functional throughout this period except between 1 to 18 August 2016.

10. The aforesaid CEA Regulations are applicable in the State of Uttarakhand as per Regulation 3 (4) of UERC (Release of HT Connection Enhancement and Reduction of Loads) Regulations, 2008 and sub regulation 3.1 of UERC (The Electricity Supply Code) Regulations, 2007
11. Provisions of tariff for the year 2016-17 under RTS-7 (LT & HT Industry) Para 2 (iii) provides as follows:

“(iii) Supply to Steel Units shall be made available at a voltage of 33 KV or above through a dedicated individual feeder only with check meter at sub-station end. Difference of more than 3% between readings of check meter and consumer meter(s), shall be immediately investigated by licensee and corrective action shall be taken.”

Respondent have claimed in para 10 of the revised written statement dated 25.09.2017 as well as EE (Test) letter dated 25.11.2016 and 30.01.2017, that 33 KV feeder, feeding to the petitioner and three other steel industries is a steel feeder. So above provisions of the tariff are applicable in the instant case. It has not been established at any point by the respondent that difference of more than 3% between readings of check meter (at substation end) and consumer meter(s) has been investigated and corrective action taken prior to or even succeeding the assessment bill, drawn up for the petitioner in December 2016 or even in March 2017. Such an assessment therefore cannot be sustained.

12. Petitioner’s grievance, redressal of which he has sought from the Forum and now from the Ombudsman, pertains to the assessment of 1182329 units said to have been raised in the bill of December 2016 but actually raised subsequent to the note of Executive Engineer, Test dated 30.01.2017 in the bill of March 2017. The distribution of these units across the months is

Month	Units
June 2016	113150
July 2016	250400
August 2016	96893
Sub Total	460443
October 2016	489433
November 2016	232453
Sub Total	721886
Grand Total	1182329

13. As explained in para 9 above, bills for the month of June and July were raised on the basis of metered units and for the month of August partly on metered units and partly on assessed units on the ground that the old meter had burnt. The revision of bill for these three months has been done on the grounds explained in the letter of Executive Engineer, Test dated 30.01.2017 as quoted below:

“In the reference of above subject it is inform to you that, because the main metering disturbed from 06/2016 of above consumer due to frequent breakdowns and meter damages in breakdown of meter cubical, assessment of the consumer is revised according to Pole mounted meter and independent feeder loss report of Steel feeder (As attached).”

14. The bill raised earlier and assessment already done as part of the current billing exercise for the months of June July and August has not been disturbed by the above observations of Executive Engineer, Test. Additional assessment of 460443 units has been added to the units already billed earlier. This is possible only if the main meter readings are suspect and a check meter has been installed. As seen in para 9 above no check meter has been installed. Nothing on record suggests that the meter while it was working was recording incorrectly or recording slow and no such complaint has been made either by the consumer or by the respondent. Petitioner has argued that as and when the meter was burnt or became defective, the same was replaced. In the period June and July this is borne out by the bills, details of which have been explained in

para 9 above. Therefore, adequate grounds have not been adduced to show why a revised assessment has become necessary against the bills raised and paid for the months of June and July. For the month of August assessment has already been made for the period (01.08.2016 to 18.08.2016 that meter remained nonfunctional).

15. As far as billing for October November is concerned, while respondent have not taken cognizance of petitioner's averment that pole mounted meter was working throughout and they have maintained that both meters were not functional, bills have been raised, in November and December for 732567 units each (page 57 and 56), presumably, as per IDF meter following sub regulation 3.2 (1) of UERC (The Electricity Supply Code) Regulations, 2007.
16. In view of the above exposition, Forum order upholding the assessment of 1182329 units in the bill of March 2017 is considered inconsistent with relevant regulations as explained above, and hence set aside. Petition is allowed. Rs. 22,00,000.00 already deposited against the disputed bill be refunded by way of adjustment in the next bill(s), to be issued first after issue of this order. Stay stands vacated. No order to costs.

Dated: 23.03.2018

(Vibha Puri Das)
Ombudsman