

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Agarwal Dal Mill,
Village - Mundiya Kalan,
Bazpur, Distt. Udham Singh Nagar,
Uttarakhand

Vs

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

Representation No. 09/2019

Order

Date: - 13.05.2019

The petitioner, M/s Agarwal Dal Mill represented by Shri Sripal Agarwal S/o Shri Ramswaroop aggrieved with the order dated 31.12.2018 of the Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) has in his revised petition dated 02.03.2019 stated that he was running a dal mill from 1987 with a 30 KW connection (the sanctioned load for his earlier connection is shown as 15 KW in consumer billing history). In the year 2015-16 he closed down his dal mill and installed a rice mill for which he required a load of 75 KW. He therefore submitted an application for increasing load by 45 KW to bring it to 75 KW (copy of the application called for from the respondent shows that the load enhancement application is for 60 KW whereas existing load was 15 KW). He submitted the payment required as per estimate, vide his cheque no. 037171 and 037192 dated 13.10.2015. After a lapse of 15 to 20 days when he checked with EE, he was informed that constructing the line at present is not possible but the 75 KW meter will be installed on the same pole where the present meter is installed and the transformer will be installed by the time his plant is ready to run. At the appropriate time when petitioner again approached the EE he was informed that the EE had been transferred and a new EE Shri Ajit Kumar Yadav had joined in his place. Repeated requests did not result in any action and since he himself fell ill he could not personally pursue the matter but requested the lineman Shri Anil to get his connection disconnected since

he was paying minimum charges and will not be able to continue paying. However, even after 2-3 written requests no action was taken by the department. When he approached Shri Yadav again on 13.12.2015, he was informed that the clerk who had received his application has passed away and no action can be taken with retrospective effect but his connection will be disconnected now. (As per documents submitted by Respondent the date (01.12.2017) on which petitioner met EE, which is also the date on which his connection was temporarily disconnected and security as well as line charges, amounting to Rs. 75,000.00 and Rs. 54,000.00 respectively refunded is 01.12.2017. There is obviously a mistake in the date of petitioner meeting EE as the connection application was given on 13.10.15 and disconnection has not been done within 2 months of the application for sanction of additional load). The EE further explained to him that he will adjust the amount paid by petitioner for the line and as security, but as far as the deposit of Rs. 1,75,000.00 towards transformer is concerned, he will not be able to refund the same since he does not know what head of account it would have been deposited. He also advised petitioner to approach the Consumer Forum, Haldwani. Petitioner is therefore perplexed why the Forum did not allow his request for adjustment of the amount paid towards installation of transformer and his request before the Ombudsman is that the amount of Rs. 1,75,000.00 paid towards installation of transformer as well as amount of security and line charges with interest may be adjusted in his bill and accordingly orders may be passed.

2. Forum, in their order dated 31.12.2018 have observed that it is undisputed that a line of 180 meters had to be drawn for increasing the load in petitioner's premises, and a substation with adequate capacity was to be constructed. Petitioner had deposited Rs. 54,000.00 towards line charges and Rs. 1,75,000.00 towards substation cost as demanded by OP. In addition, security amount of Rs. 45,000.00 has been deposited on 13.10.2015. Forum have concluded that as per opposite party, due to a land dispute substation could not be constructed and neither was the 180 meter line established. As a result petitioner's load was provided through an LT line passing in the vicinity and the load of 75 KW drawn on an existing transformer. For this purpose it is again undisputed that a new meter of higher capacity was installed at the petitioner's premises while opposite party have agreed that since the line had not been constructed

the Rs. 54,000.00 paid for the construction of the line can be refunded to the petitioner. However, they have disputed that Rs. 1,75,000.00 paid towards substation can be refunded because petitioner premises have been energized even without construction of a new substation. Forum have concluded petitioner has been unable to show that he was denied 75 KW load whereas opposite party through their paper no. 10/1 have shown clearly that petitioner was indeed receiving adequate voltage in all 3 phases and have rejected petitioner's argument that this paper no. 10/1 only shows voltage at the sending end but not on his meter. Forum have explained that the said paper gives details of voltage available at meter no. UTP34550 and therefore petitioner's statement is not acceptable. Forum therefore accepted petitioner's request for refund of Rs. 54,000.00 towards line construction charges and Rs. 45,000.00 as security but rejected his request for refund of Rs. 1,75,000.00 paid towards substation charges on the basis that substation is always the property of the department and petitioner was being provided the additional load required by him from the capacity available in existing transformer. Forum observed that even though the petitioner's connection has been permanently disconnected, Forum partly allowed the complaint.

3. Respondent in their written statement dated 15.03.2019, while accepting that the petitioner has deposited amount of Rs. 2,79,000.00 on 13.10.2015 have disputed petitioner's statement that there was no dispute on land for installation of transformer and it is only because of the dispute that petitioner's load had to be given from another transformer. They have further explained that the MRI survey clearly indicates that the petitioner was getting proper voltage in all three phases and his statement that he was not getting proper voltage, because of which his mill could not run, is incorrect. Respondent have further stated that petitioner in his letter dated 01.12.2017 to Executive Engineer, Bazpur has himself stated that due to non availability of space, no estimate for transformer and line charges has been made nor transformer installed and therefore security amount and transformer payment may be refunded. Copy of this letter of petitioner has been enclosed with the written statement. Respondent have explained at length that the 250 KVA transformer from which petitioner has been given 75 KW of load, has been used to supply 162 KVA load (250 – 88) to small consumers and total cost of installing a 250 KVA transformer comes to Rs. 6,00,000.00. In proportionate terms petitioner is liable to pay Rs.

2,10,000.00 since he is using this proportion of the capacity from the transformer. Respondent have also explained that they have refunded the line charges and the security amount as per CGRF orders in the bill dated 04.01.2018, a copy of which is enclosed with the WS.

4. Petitioner in his rejoinder dated 01.04.2019 has reiterated his claim that since no separate line was laid and neither was a separate substation constructed there is no reason for deposit of Rs. 2,79,000.00. He has also again stated that there was no dispute regarding the land and if the 75 KW meter could be installed where his 15 KW meter was already working there was no need for the department to have got him to deposit line charges and substation charges. He has also claimed that load up to 75 KW is for small consumers and he was already a consumer of 15 KW load so it does not seem appropriate that he should be asked to pay for substation charges again. He presumes that he would have been made to pay at the time of his 15 KW connection. He is also aggrieved that not only was no substation constructed and no line drawn, even the cable up to the meter was provided by him.
5. Both parties have been heard and record has been perused. The only two requests of the petitioner after compliance of the order of the Forum are interest on the security and line charges which have been refunded to the petitioner in the bill of 04.01.2018 but for which interest has not been allowed and secondly refund of Rs. 1,75,000.00 paid towards substation charges since no new substation was in fact constructed and he was given additional load from existing transformer. The order of the Forum whereby demand for refund of line charges and security amount has been allowed and demand for refund of transformer charges of Rs. 1,75,000.00 has been turned down, can be evaluated as per provisions of LT Regulations, 2013 Table 3 of sub regulation 5 (10) of UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulations, 2013 inter alia provides the levy of charges as follows:
 1. *For loads above 50 KW up to 75 KW cost of transformer Rs. 1,75,000.00*
 2. *Cost of 11 KV line @ Rs. 3,000.00 per 10 meters or part thereof*Further sub Regulation 5 (11) of the said LT Regulations, 2013 provides as follows:

(11) Applicant shall be liable to pay charges for the overhead line, as applicable in accordance with the above Tables, for that length of the LT/HT Distribution Mains actually extended for giving supply to such Applicant.

6. In view of the aforesaid regulatory provisions, Forum have correctly observed that the line charges must be refunded since the line has not been constructed. Similarly since the connection has been permanently disconnected the security amount should be refunded and the Forum order is correct in allowing for refund of security as well as line charges. As far as refund of Rs. 1,75,000.00 paid towards transformer is concerned petitioner's claim stems from two different arguments. Firstly that petitioner did not receive proper voltage after enhancement of load because of which he could not run his mill and was forced to close it down. Secondly since no new transformer was installed and he remained connected to the same transformer from which his 15 KW load was provided, there is no justification for charging Rs. 1,75,000.00 from him which should be refunded. It is clear from the written statement filed by the respondent that in their assessment the existing transformer had spare capacity of 88 KVA (75 KW). The respondents have further substantiated their statement that spare capacity was available in the existing 250 KVA transformer by load study on the said transformer conducted on 02.05.2019, wherein the total running load on the transformer excluding the load of the petitioner after permanent disconnection, was found 160 KVA. Since there was a dispute on the land they provided the petitioner's enhanced load from existing transformer. The consumer history filed on 03.05.2019, as per direction from the Ombudsman, shows that the enhanced load of 75 KW was released on 07.12.2015 and billing since 12/2015 till 12/2017 (up to the date of permanent disconnection) continued on metered consumption and recorded demand for 75 KW contracted load. The respondent have also submitted that as per MRI survey record, proper voltage was available at consumer's end so petitioner's allegation that he could not utilize his enhanced load due to non availability of proper voltage and non installation of 100 KVA transformer is not maintainable. There is no provision in the Regulation to suggest that for every such amount deposited a separate and dedicated transformer shall be erected in the absence of which money deposited may be refunded to the consumer. As far as installation of a new transformer is concerned, as explained by the respondent in their

written statement installation of a substation costs much more than the fixed amount charged on load basis as per provisions of Regulations quoted above, from individual consumers. It is not incumbent on respondent to provide a new or dedicated transformer for the amount deposited as per regulations. The petitioner's demand for refund of Rs. 1,75,000.00 paid towards the cost of transformer is misconceived and cannot be allowed. Forum order allowing refund of 11 KV line charges and security charges, while disallowing refund of charges towards transformer is correct and is upheld. Petition is dismissed.

7. As far as petitioner's request for interest on security and line charges the same is admissible from date of deposit of line charges and security amount to the date of refund. Respondent are directed to allow interest on security as per provisions of Regulations and on line charges as per Bank rate (defined under sub regulation 2 (2) of UERC (Release of New HT and EHT connections, Enhancement and Reduction of Load) Regulations, 2008) for the above period. Final account of the petitioner after PD may be modified accordingly.

Dated: 13.05.2019

(Vibha Puri Das)
Ombudsman