

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Janex  
Plot no. 09, Sector 8/A,  
SIDCUL, IIE, Haridwar,  
Uttarakhand

Vs

Executive Engineer,  
Electricity Distribution Division  
Uttarakhand Power Corporation Ltd.  
SIDCUL, Haridwar, Uttarakhand

Representation No. 50/2019

### Order

Date: - 21.11.2019

The petitioner M/s Janex, plot no. 09, Sector 8/A SIDCUL Haridwar being aggrieved with the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) order dated 19.09.2019 in their compliant no. 97/2019 before the said Forum against Uttarakhand Power Corporation Ltd. through its Executive Engineer, Electricity Distribution Division, SIDCUL, Haridwar (hereinafter referred to as respondent) has preferred this petition/representation through their authorized representative Ms. Pragya Sharma (authorization letter dated 24.09.2019 is available on file).

2. The petitioner has submitted that they have applied for reduction of load to the respondent on 29.05.2019 but in spite of repeated reminders and follow up with concerned authorities the load was not reduced and bills were continued to be issued on their existing contracted load in spite of application for reduction of load and having not received any response from the respondent for about three months.

They approached the Forum on 20.08.2019. Meanwhile when the case was pending before the Forum the load was reduced by authorities on 02.09.2019. The Forum decided their case on 19.09.2019 wherein the respondents were directed to refund the

cost of CT/PT Rs. 3,355.00 and awarded a compensation of Rs. 3,400.00 for delay in load reduction.

The company MSME sector unit, suffered a loss due to delay in reduction of load by UPCL authorities. Figures of production/sale vis-à-vis amount of electricity bill from April to August have been given just to indicate their position as obtaining and with that the petitioner have requested that the authorities concerned be directed to reduce the load w.e.f. 7 days after the date of application and the bills be accordingly revised.

They have pointed out that the Forum have only directed to refund CT/PT charges Rs. 3,355.00 and compensation of Rs. 3,400.00 for delay but have not ordered for revision of the bills on reduced load. They have requested that the Hon'ble Ombudsman may kindly be pleased to order reduction of load w.e.f. after 7 days from the date of their application and bills revision be ordered accordingly.

3. The Forum have observed that the petitioner have applied for reduction of load on 29.05.2019 and no application for any reduction of load was made earlier in the financial year 2019-20. Referring to relevant UERC (Release of new HT/EHT Enhancement and Reduction of Load) Regulations, 2008 with amendment 2014 have mentioned that the respondents have committed mistake in charging cost of CT/PT and after getting processing fee Rs. 5,000.00 deposited on 19.07.2019 reduced the load on 02.09.2019. As no CT/PT was replaced and only sealing certificate was filled in so refund of cost of CT/PT shall be justified. They have also mentioned that the load should have been reduced within 30 days from the date of application but they did not do so and as such compensation for delay is admissible and have accordingly directed the respondent to refund the cost of CT/PT Rs. 3,355.00 and give compensation Rs. 3,400.00 for delay in reduction of load, as admissible under relevant HT regulation 2008 and SOP Regulation 2007.
4. The respondent Executive Engineer has submitted his written statement vide letter no. 2268 dated 21.10.2019 wherein he has submitted that
  - i) M/s Janex connection no. 18568 had filed a complaint before the Forum requesting that their load be reduced expeditiously and old bills be corrected and excess charged be refunded.

- ii) The Forum after hearing the case have observed that the load was reduced on 02.09.2019 after delay of 68 days and have ordered compensation of Rs. 3,400.00 and refund of CT cost Rs. 3,355.00 in accordance with SOP regulation and HT regulation.
  - iii) That adjustment of the aforesaid amounts totaling Rs. 6,755.00 has duly been allowed in the bill for the month of 09/2019.
  - iv) As per UERC Regulation action on the application for new connection and enhancement and reduction of load has to be compulsorily taken after online registration but since online registration could not be done in the instant case the load was reduced from 250 KVA to 100 KVA on 02.09.2019 through offline registration. Compensation for the delay in reduction of load has duly been given to the petitioner as per Forum order and no rectification in the bills issued on existing contracted load is possible before the date of reduction of load as per rules.
5. The petitioner has submitted a detailed rejoinder explaining his case duly substantiated with relevant regulations and as such it will be in the interest of justice to reproduce its contents in this order.
6. At the outset the petitioner has categorically and specifically denied contents of the written statement filed by the respondent being devoid of merits, baseless and having no cogent explanation. The petitioner has given details of the sequence in chronological order right from the date of application 29.05.2019 submitted to the respondent for reduction of load till the date of filing this petition to the Ombudsman dated 30.09.2019. This shows that they applied for reduction of load on 29.05.2019 from 250 KVA to 100 KVA when processing fee Rs. 5,000.00 was also deposited with demand draft no. 962750 dated 29.05.2019 receipt of which was issued by the respondent only on 29.07.2019. The respondent asked for cost of CT/PT on 19.08.2019, the complaint was filed to Forum on 20.08.2019 and the same was deposited on 27.08.2019. The load was reduced on 02.09.2019 when a sealing certificate was filled in and no change in the metering cubicle was made. The Forum decided their case on 19.09.2019 and the supply was disconnected on 21.09.2019 (the petitioner during hearing submitted that their supply is still lying disconnected which

was admitted to be so by the respondent). In para wise reply to the written statement the petitioner has submitted as follows:

- i) That contents of para 1 of written statement are denied, it is submitted that as per HT regulations, 2008 the load should have been reduced within 30 days which was not done. The bills were not corrected as requested. It was admitted in the Forum order that the application for reduction of load on the prescribed form along with processing fee was submitted on 29.05.2019 and as such that application was complete in all respects.
  - ii) The petitioner have submitted that the respondent have violated provisions of section 43 of the Electricity Act, 2003 and sub regulation 9 (4) of HT Regulations, 2008 by not reducing the load within prescribed period of 30 days as in their case no alteration of line/substation was required and as such their load should have been reduced w.e.f. 29.06.2019.
  - iii) That the Forum have not taken into consideration sub regulation 9 (3) of HT Regulations, 2008 which provides for payment of the penalty @ Rs. 500.00 per day for delay beyond the prescribed period and as such a penalty of Rs. 34,000.00 for delay of 68 days should have been awarded to them.
7. They have also submitted the following additional points that if as per respondents there was some problem in the software due to which action for online reduction was not possible it was their duty to take timely action offline which they did take after a delay and that too after the complaint was filed before the Forum. The respondents were very well aware of the delay on their part and just to justify their inefficiency and delay they asked the appellant to deposit cost of CT/PT which were not replaced as is evident from the sealing certificate. As such the respondent with the ulterior motive and malafied intentions for charging high demand/fixed charges intentionally had made the delay. The petitioner has also submitted that the additional contracted demand over which the reduction was sought for on 29.05.2019 was never used by them, further, it is also submitted that the UPCL officials in utter violation of the basic principles of natural justice, equity and conscious in an unfair and illegal manner disconnected the supply to their factory on 21.09.2019 thereby caused immense

trauma and financial loss to the appellant since their unit could not run without supply. Making such submissions the petitioner have made the following prayers

- a) Call for records of the complaint case no. 97/2019 decided on 19.09.2019 by Ld. CGRF, UPCL, Haridwar Uttarakhand in the matter titled as M/s Janex vs Executive Engineer, SIDCUL, Haridwar for perusal and just and proper adjudication of the dispute and differences in hand.
  - b) Set aside the order dated 19.09.2019 passed in complaint case no. 97/2019 by Ld. CGRF, UPCL, Haridwar Uttarakhand in the matter titled as M/s Janex vs Executive Engineer, SIDCUL, Haridwar except the directions to refund the arbitrary charges of Rs. 3,355.00 against CT/PT charges.
  - c) Quash and set aside the impugned bills cum disconnection notice raised by the UPCL/respondent for the month of July and further, being the same illegal, arbitrary, perverse, malafide and unjust.
  - d) Order respondent to raise bills in accordance with UERC regulations and provisions without charging any LPS and further direct the respondent to raise the applicable fixed charges on 100 KVA contracted demand from 29.06.2019 onwards.
  - e) Order the respondent to reconnect the connection at the earliest.
  - f) Order respondent to pay compensation/penalty @ Rs. 500.00 for 68 days as per submitted clause in para 2 above.
  - g) Pass any other order or direction, which this Hon'ble Forum may deem fit and proper, on the facts and circumstances of the case and in the interest of justice.
7. Hearing in the case was held on 13.11.2019 as scheduled. Both parties appeared. The petitioner was represented by their authorized signatory Ms Pragya Sharma and Shri Sehgal Executive Engineer, the respondent appeared himself. Both of them argued their case as per their submissions made in petition and rejoinder and written statement respectively. The arguments were concluded with mutual consent and order was reserved.
8. Documents available on file have been carefully perused, arguments from both parties have been heard. Relevant regulations as applicable in the case have also been gone through. Forum's case file was also summoned as desired by the petitioner and has also been perused.

9. It is admitted by both the parties and the Forum that the application on prescribed form along with processing fee was deposited by the petitioner with the respondent. The respondent have admitted that due to some problem in the software action for load reduction online could not be taken by them and the same was taken offline causing delay. The load was however reduced on 02.09.2019 when a sealing certificate was filled in as per which no replacement/change of existing CT and PT was done. A perusal of the sealing certificate shows that CT of ratio 15/5 with MF 3 were existing with the metering equipment which were suitable for 250 KVA contracted load and the same were not replaced on 02.09.2019 when the load was reduced to 100 KVA. HT regulation 2008, sub regulation 9 (1) to (4) & (6) are applicable in the instant case which are reproduced hereunder :

***“9. Procedure for Enhancement / Reduction in Contracted Load***

*(1) Consumers can either enhance or reduce their contracted load anytime once in a financial year.*

*(2) For this, the consumer shall have to apply to the distribution licensee in the form given at **Annexure 2**, which shall be made available free of cost at distribution licensee’s sub-divisional/divisional or any other office. This form can also be downloaded from the distribution licensee’s website or even photocopied.*

*(3) The procedure and conditions for grant of new connection as specified in Regulations 3 to 8 shall be followed for enhancement/reduction of contracted load except that application shall be made in Annexure 2 in place of Annexure 1 and the penalty payable by the distribution licensee for delay in effecting enhancement/reduction of contracted load shall be payable @ Rs. 500 for each day of default in place of Rs. 1000/day.*

*(4) Subject to the procedures and completion of formalities as per Regulation 4 and 5 of these Regulations, the distribution licensee shall complete the works as per timelines specified in these Regulations. However, if enhancement/reduction of load does not require any alteration of line/substation works the contracted load shall be enhanced/reduced within 30 days.*

*(6) If the reduction in load, sought by the consumer involves replacement of existing equipment, then the consumer shall pay the works charges for the terminal equipment as per Table 1 above and the difference between security deposit required for the reduced load and that already deposited shall be adjusted in the bills within the next three billing cycles.”*

10. It is borne out that since in the instant case no alteration of line/substation/metering equipment was required the reduction of load should have been effected within 30 days from the date of submission of complete application form with processing fee, which was done by the petitioner on 29.05.2019 and as such the load should have been reduced latest by 29.06.2019 and since no change in CT/PT was done as is evident from the sealing certificate and it was already in the notice of the respondent that no change in CT/PT shall be required, their demand for Rs. 3,355.00 towards the cost of CT/PT was unjustified. The respondent's plea that timely action for reduction of load could not be taken due to some alleged problem in their software is not sustainable as it was none of the business of the petitioner if there was some problem in respondent's software and it was their own problem for which the petitioner neither could be held responsible nor could be made to suffer any loss.
11. A perusal of the bills for the period 31.05.2019 to 30.06.2019, 30.06.2019-31.07.2019 and 31.07.2019-31.08.2019 show that the bills have been issued for a contracted load of 250 KVA with billable demand 200 KVA as the maximum recorded demand during these 3 billing cycles have been as 97.53 KVA, 84.21 KVA and 3.18 KVA respectively which shows that the petitioner did not create demand more than 100 KVA in all these three bills while the bill for 31.05.2019 to 30.06.2019 for a contracted load of 250 KVA with billable demand 200 KVA is justified and held correct the 2 bills for the period from 30.06.2019 to 31.07.2019 and 31.07.2019 to 31.08.2019 raised for contracted load of 250 KVA and a billable demand of 200 KVA are not justified as in view of above discussions the contracted load should have been taken as reduced 100 KVA w.e.f. 29.06.2019 and the bills should have been issued for contracted load of 100 KVA after 29.06.2019 and as such in these 2 bills the billable demand should have been 80% of reduced contracted load of 100 KVA as per tariff provisions i.e. 80 KVA or the actual recorded maximum demand for each billing cycle whichever is higher. The bill for 30.06.2019 to 31.07.2019 shows maximum

recorded demand as 84.21 KVA which shall be the billable demand for this bill and the bill for 31.07.2019 to 31.08.2019 which shows maximum recorded demand as 3.18 KVA only the billable demand for this bill shall be 80 KVA.

12. In view of above regulatory provisions and facts of the case it is ordered that the contracted load shall stand reduced to 100 KVA w.e.f. 29.06.2019 and all bills issued after that date shall be corrected accordingly. The respondent are therefore directed to take necessary action for correction of the bills as per these orders. Further, as by virtue of this order the contracted load stands reduced to 100 KVA w.e.f. 29.06.2019 i.e. within 30 days of the application, instead of w.e.f. 02.09.2019, the compensation amounting to Rs. 3,400.00 granted by the Forum for 68 days delay shall not be payable to the petitioner and the same may therefore be recovered from them through bills.
13. As regards petitioner's request for compensation @ Rs. 500.00 per day for delay it is clarified that the same is payable by Discom to the UERC and not to the petitioner however, since as per above order the load has been ordered to be reduced within 30 days of the application no such compensation shall be paid to UERC also in the instant case. The petition is allowed. Forum order is set aside. As the supply of the petitioner is lying disconnected w.e.f. 21.09.2019 on nonpayment of dues, the bills be corrected as per this order within 7 days from the date of this order and shall be paid by the petitioner within the prescribed due date and within the grace period, without levy of LPS where after the supply may be restored. In case however the petitioner fails to pay the revised corrected bills within the prescribed due date/grace period as per provisions of tariff and relevant regulations the LPS shall be payable accordingly.

Dated: 21.11.2019

Subhash Kumar  
(Ombudsman)