

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Enn Tee International Ltd.  
Plot no. 9, Sector 3  
IIE, SIDCUL, Roshanabad,  
Haridwar, Uttarakhand.

Vs

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

Representation No. 41/2019

### Order

**Dated:** 30.09.2019

The petitioner, M/s Enn Tee International Ltd. Plot no. 9, Sector 3 IIE, SIDCUL, Roshanabad, Haridwar, a consumer of UPCL with connection no. HROK000007185 aggrieved with the order dated 15.07.2019 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) in their complaint no. 64/2019 before the said Forum has filed this appeal through its authorized representative Shri Subhash Gupta who has duly been authorized by the company vide its resolution dated 25.05.2019 for filing this appeal against UPCL through its Executive Engineer, Electricity Distribution Division, SIDCUL, Haridwar (hereinafter referred to as respondent).

2. The petitioner has submitted as follows in his appeal:
  - a) This appeal is being preferred against the Forum order dated 15.07.2019 in their complaint no. 64/2019 before the said Forum against UPCL.
  - b) The appeal is preferred under the signatures of company's authorized representative.
  - c) A complaint no. 64/2019 was filed before the Forum against an arbitrary, illegal, unjustified and unwarranted demand raised by the respondent on account of arrears of electricity consumption charges of Rs. 93,26,139.00 (the correct amount as per electricity bill is 93,23,139.00), besides regular consumption charges which had been

regularly deposited by the petitioner without any default on account of “miscellaneous charges/continuous supply charges for non usage of the said enhanced load of 1000 KVA to 1600 KVA. Therein they sought relief of quashing and setting aside the same.

d) The Forum passed the following order on 27.05.2019 *“Arrears charges for the last 9 months be not recovered at present and in the meantime a committee be formed to check the load factor /CT ratio which is alleged to have been increased without informing the complainant.*

*Put up on 04.06.2019 for rest hearing.”*

e) The complaint before Forum was filed against electricity bill and disconnection notice dated 05.05.2019 issued by the respondent whereby UPCL apart from regular consumption charges, has also demanded a sum of Rs. 93,23,139.00 (Rupees Ninety Three Lakhs Twenty Three Thousand One Hundred Thirty Nine Only) on account of Miscellaneous charges/continuous supply charges “without disclosing the nature, period and bifurcation thereof asking the petitioner to pay the same by 08.05.2019 failing which disconnection will be resorted to.”

f) The officials of UPCL in utter violation of the basic principles of natural justice, equity and consensus in an unfair and illegal manner disconnected supply on 08.08.2019 at 11.45 am causing immense trauma and financial loss to the petitioner. However the supply was restored at 18:35 pm on 08.08.2019 itself after numerous verbal requests. The petitioner has further mentioned that stipulated period of 30 days from the date of Forum order 15.07.2019 had not left at the time of disconnection of supply on 08.08.2019 so the time allowed by Forum was not given to them. Regular monthly bills were however being paid. The Forum had not passed any direction with regard to depositing the alleged amount and the same order is still in existence, hence disconnection of supply on 08.08.2019 was discriminatory, biased, illegal, unjustified and requires immediate indulgence.

g) The petitioner has requested for stay against impugned bill dated 05.05.2019.

3. The petitioner is a micro and medium enterprises unit and have planned for expansion of its plant and have moved an application to the bank for loan and also applied to UPCL on 15.11.2017 for enhancement of contracted load from 1000 kVA to 1600 kVA. The UPCL raised a demand for Rs. 14,699.00 which was duly paid on 12.02.2018. Where after UPCL was required to complete various formalities and to

change its instrument to give effect to enhancement of load. Subsequently there was no communication between the petitioner and UPCL. Due to non sanction of loan by the bank necessary plants and machinery required for expansion could not be purchased. Suddenly the UPCL added a sum of Rs. 93,23,139.00 in the bill dated 05.05.2019. On enquiry from UPCL it came to notice that the said amount was on account of enhanced load of 1600 kVA which was never provided to the petitioner. A protest was lodged with the respondent on 08.05.2019 on this arbitrary demand. When the respondent was asked to inform that how and when the load was enhanced. The respondent on 10.05.2019 gave a copy of sealing certificate dated 02.06.2018 reportedly prepared by Test Division, Haridwar, so it is evident that UPCL never informed the petitioner about the alleged exercise for enhancement of load. Being aggrieved with the impugned bill petitioner approached the Forum who dismissed the complaint on 15.07.2019. Stay application dated 22.06.2019 was submitted before the Forum against any coercive action. An application for reduction of load by 610 kVA was submitted to respondent on 20.05.2019 on which no action was taken so the present appeal had been filed on the grounds that Forum failed to appreciate that the bill cum notice dated 05.05.2019 was illegal, obscure, erroneous, arbitrary, unwarranted, perverse, irregular and unjust manner in clear violation of settled proposition of law. The Forum did not appreciate that bifurcation of the demand has not been given. The Forum did not appreciate that the change of meter or its any part was never intimated to the petitioner and a copy of the sealing certificate dated 02.06.2018 which was provided only on 10.05.2019 clearly shows that it was never communicated to the petitioner. Further, mentioning a large number of shortcomings and infirmities in Forum's order dated 15.07.2019 have prayed that records and Forum file in complaint no. 64/2019 be summoned, set aside order 15.07.2019 passed by the Forum in complaint no. 64/2019, quash and set aside the impugned bill cum notice dated 05.05.2019, direct the respondent to reduce enhanced load of 610 kVA from 1600 kVA as requested by them vide their application dated 20.05.2019 and subsequent reminders, issue necessary direction to UPCL not to disconnect supply and not to take any other coercive action till final decision of the present appeal and pass any other direction as deemed fit.

4. The Forum after perusal of the submission of both parties in their complaint and reply respectively as also after hearing arguments from both parties and referring the

relevant sub regulation 5 (5), 5 (11) and 9 (3) of UERC HT Regulations, 2008 and also Hon'ble Allahabad High Court's judgment in Misc Writ no. 4237 of 2008 have observed that the additional load had duly been released in favour of the petitioner after completion of all the formalities as per agreement by the respondent, so ruling of Hon'ble High Court submitted by the petitioner does not support the petitioner's arguments, but it is against them. On the other hand it supports the arguments of opposite party (UPCL). Having observed this the Forum dismissed the complaint.

5. Respondent, Executive Engineer, has submitted his undated written statement which was received on 30.08.2019 during hearing on petitioner's stay application. He has submitted that the Forum had passed order after appreciating evidence on record and judiciously in petitioner's complaint no. 64/2019. He has admitted that the forum vide order dated 27.05.2019 directed for constitution of the committee to check load factor/CT ratio. He has denied that disconnection of supply of the petitioner on 08.08.2019 was illegal and against natural justice. It is admitted that supply was restored on the same day. It is stated that the allegation that Forum has not passed any direction to deposit the amount so its order dated 27.05.2019 has not lapsed is wrong. In fact that order was only up to submission of report by the committee as the complaint was dismissed the said order died its natural death and no specific order was required for this purpose. It is denied that disconnection on 08.08.2019 was done without notice to the petitioner. As the bill dated 05.05.2019 was a bill cum notice so the disconnection was not arbitrary/illegal and action of respondent was justified.
6. In replying to factual matrix of the case the respondent has stated that mention of term loan application to the bank for purchasing plant and machinery is irrelevant to the case. It was the choice of the petitioner to make expansion program of its unit and get the load enhanced from 1000 kVA to 1600 kVA. The petitioner submitted application dated 15.11.2017 for enhancement of load and he deposited Rs. 14,699.00 on 12.02.2018, which shows that the petitioner was eager to get his load enhanced. Regarding petitioner's allegation that no subsequent communication was received from UPCL it is stated by the respondent that such communication was not required. The UPCL had to take necessary action for enhancement of load. It was for the petitioner to request the respondent not to proceed to enhancement of load if he was unable to use the enhanced load as he could not install plants and machinery due to

non availability of loan. The petitioner executed agreement for enhancement of load on 26.02.2018, he was aware that shutdown was taken on 02.06.2019 and the respondent Executive Engineer asked the chowkidar to open the metering room, so it could not be without petitioner's knowledge and permission that chowkidar opened the metering room. Respondent's officers stayed in the metering room for quite some time to change the CT of 60/5 ratio by 100/5 ratio, required for enhanced load. Sealing certificate was accordingly prepared on 02.06.2018 since after waiting for sufficient time nobody came to sign the sealing certificate on behalf of the petitioner so the sealing certificate could not be got signed by petitioner's representative. After changing the CT the meter was resealed and due to human error the said sealing certificate was not advised by the metering division to the system. Hence, from 02.06.2018 to 31.03.2018 (the correct date is 31.03.2019 as per records) the bills were continued to be issued for 1000 kVA load at 12 MF. After coming to notice that the load of the petitioner had already been enhanced and the bills were being sent according to un-enhanced load, so bills from 02.06.2018 to 31.03.2019 were raised according to enhanced load/CT ratio 100/5 and for increased demand charges. Payments already made by the petitioner were adjusted and no surcharge has been charged in the bills. It is wholly irrelevant that the petitioner continued to pay the regular bills. Bill dated 05.05.2019 was raised on account of reasons stated. Enhancement of load to 600 KVA is therefore admitted and it was the petitioner's choice whether to use or not the enhanced load and the respondent has no concern in this matter. Respondent have fulfilled their obligation to enhance the load and enhancement of load was in petitioner's knowledge. Receipt of petitioner's letter dated 09.05.2019 was admitted but its contents were held wrong. Contents of the said letter except that sealing certificate dated 02.06.2018 was not given to the petitioner are denied. Regarding petitioner's request for reduction of load in between the process of enhancement, the respondent have stated that such request could have not been entertained without proper application and payment of outstanding dues.

7. In his reply to grounds of appeal the respondent have denied all the allegations leveled by the petitioner on Forum such as the Forum has failed to appreciate the facts of the case and their order suffers from shortcomings, infirmities, irregularities and are against law/regulations. He has submitted that Forum have passed order after considering the facts and relevant regulations/rules and therefore it is justified and

petitioner's allegations are not maintainable. He has also stated that it is a wrong allegation that the Forum had failed to appreciate that the load survey report, checking report of YMPL and the store account of the JE and meter sealing proof have nothing to do in absence of any information of enhancement of load. Based on his submissions the respondent has held that the petitioner is not entitled to any relief and the representation is liable to be dismissed with costs.

8. In their rejoinder dated 07.09.2019 the petitioner have controverted with the replies made by the respondent in his written statement, have reiterated the points and grounds raised in their petition and have submitted that as they could not use any additional load because no plant and machinery as per their proposed extension programme could be arranged/purchased for non availability of loan from the Bank and their load cannot be treated as have enhanced from 1000 kVA to 1600 kVA merely on the basis of change of CT of 60/5 ratio to 100/5 ratio vide sealing certificate dated 02.06.2018 to which they are not a witness as is evident from the sealing certificate which do not carry signature of their representative and a copy thereof was given to them by the respondent office on 10.05.2019 when they visited the said office after receipt of bill dated 05.05.2019 in which a sum of Rs. 93,26,139.00 was added as a misc. charge to which they protested to the respondent vide their letter dated 08.05.2019 and hence the petitioner have said that their load was never enhanced and therefore the aforesaid demand is unjustified.
9. In consideration to petitioner's stay application, the interim stay was granted on 13.08.2019 till disposal of stay application. Hearing for disposal of stay application was held on 30.08.2019 and where both parties appeared. The stay granted on 13.08.2019 was extended till the next date of hearing i.e., 16.09.2019. Hearing was fixed on 16.09.2019 both parties appeared. The petitioner submitted application for adjournment of the hearing and the same was granted. Next date was fixed for 23.09.2019. Both parties appeared on prefixed hearing date 23.09.2019 and submitted their arguments. Hearing was concluded, 30.09.2019 was fixed for orders.
10. All documents available on file have been perused carefully. Forum's case file of complaint no. 64/2019 was also summoned and gone through. Arguments from both parties were heard. It is borne out that the petitioner had applied for enhancement of their contracted load from 1000 kVA to 1600 kVA on 15.11.2017. Enhancement of

load was sanctioned by the respondent and as per their demand the petitioner deposited Rs. 14,699.00 on 12.02.2018 towards necessary charges for enhancement of load and executed a formal agreement for 1600 kVA contracted load on 26.02.2018. While no communication between the parties appears to have been made subsequently, the respondent without giving any prior notice to the petitioner have changed the existing CT of 60/5 A ratio by 100/5 A ratio CT vide sealing certificate dated 02.06.2018, to give effect to the enhancement of load and on the basis of this sealing certificate they claim that the load stands to have been enhanced w.e.f. 02.06.2018. Even after change of CT as aforesaid, billing of the petitioner continued to be on the basis of 1000 kVA contracted load till March 2019. In the bill of April 2019 issued on 05.05.2019 the respondent added a sum of Rs. 93,23,139.00 as misc. charges.

11. On the other hand the petitioner have contested their case on the plea that although they had applied for enhancement of load on 15.11.2017 and also deposited necessary charges Rs. 14699.00 on 12.02.2018 and also executed agreement for the enhanced 1600 kVA load but as their plan for expansion could not succeed due to non availability of loan from the Bank and they could not install necessary plant and machinery required for expansion so they could not use the proposed enhanced load. They have further submitted that their demand and energy consumption before and after 02.06.2018 (the date of sealing certificate) have been of the same order which substantiate their plea that they could not utilize the enhanced load and hence have requested that the demand of UPCL raised through bill dated 05.05.2019 amounting to Rs. 93,23,139.00 towards the difference of demand and energy from 06/2018 to 03/2019 is arbitrary and unjustified and have requested that the same be ordered to be withdrawn.
12. The respondent, UPCL's claim that the enhancement of load has become effective is based on sealing certificate dated 02.06.2018 which was not witnessed and signed by the petitioner's representative, about which there is no dispute. As regards installation and replacement of a meter and filling of sealing certificate the provision exists in sub regulation 3.1.1 (5) of UERC (The Electricity Supply Code) Regulations, 2007 which is reproduced below:

*“(5) Initial installation and replacement of the meter shall be done by the Licensee in the presence of the consumer or his authorised representative after giving one week’s notice. At the time of Initial installation and replacement the Licensee shall record the particulars of meter in the Sealing certificate which shall be jointly signed by the Licensee and the consumer. A copy of the sheet shall be issued to the consumer under proper receipt.”*

13. The above sub regulation clearly provides that initial installation and replacement of meter shall necessarily be done by the licensee in the presence of consumer or his authorized representative after giving one week’s notice and such sealing certificate shall jointly be signed by licensee and consumer and a copy thereof shall be issued to the consumer under proper receipt. It is established in the present case that the respondent have not complied with the above provisions as neither a notice was given to the petitioner nor the CTs (a part of the meter, were replaced, as defined in the relevant regulations which shall be reproduced hereafter in this order) were replaced in the presence of the petitioner or his authorized representative nor the sealing certificate was jointly signed and neither a copy thereof was given to the petitioner as is evident from the sealing certificate 06.02.2018 itself which do not carry signature of the petitioner or its authorized representative and a copy thereof was given to him by the office of the Executive Engineer admittedly on 10.05.2019 so none of the provisions of the aforesaid regulation have been complied with by the respondent and thus their claim that the load stands enhanced from 1000 kVA to 1600 kVA w.e.f. 02.06.2018 by virtue of the sealing certificate dated 02.06.2018 do not succeed and fails. As such the load cannot be treated to have been enhanced. As such the demand of Rs. 93,23,139.00 made through bill dated 05.05.2019 cannot be upheld. However they are entitled to recover the cost of energy w.e.f. 02.06.2018 on appropriate tariff that escaped billing due to application of wrong MF from 06/2018 to 03/2019 being 12 instead of 20 due to replacement of existing CTs of ratio 60/5 to 100/5 ratio irrespective of enhancement of load but, the difference of demand charges on account of enhancement of load cannot be charged as the enhancement of load w.e.f. 02.06.2018 is disapproved for the reasons explained above. The licensee /respondent are therefore directed to withdraw the demand of Rs. 93,23,139.00 raised through bill dated 05.05.2019 and issue a fresh bill for energy charges only for the period 06/2018 to 03/2019 on appropriate tariff for difference of the MF from 12 to 20 without levy

of LPS. The proported enhancement of load and agreement executed on 26.02.2018 for such load is declared as null and void and thus contracted load shall continue to be 1000 kVA even w.e.f. 02.06.2018 and onwards too as hither to. The petition is allowed. Forum order is set aside. Stay stands vacated.

14. Further the respondents are directed to refund the sum of Rs. 14,699.00, deposited by them on 12.02.2018 in connection with load enhancement along with interest in accordance with sub regulation 2 (2) of UERC (Release of HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008 which is reproduced below:

*“(2) “Bank Rate” means the Rate as notified by Reserve Bank of India u/s 49 of the RBI Act, 1934.”*

15. During hearing the counsel for respondent have raised an objection that vide sealing certificate dated 02.06.2018 the meter was not replaced but only CTs were changed so sub regulation 3.1.1 (5) of Supply Code Regulations, 2007 is not applicable in this case. To reply his objection the meter has been duly defined in the following regulations.

- a) 2(1)(p) of CEA (Installation and Operation of Meter) Regulations, 2006

*‘Meter’ means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable, other equipment such as Current Transformer (CT), Voltage Transformer (VT) or Capacitor Voltage Transformer (CVT) necessary for such purpose;”*

- b) 1.2(1) ff) of UERC (The Electricity Supply Code) Regulations, 2007

*“ ff) “Meter” means a device suitable for recording consumption of electrical energy supplied or any other parameter during any specified period and shall include, wherever applicable, other associated equipment such as CT, PT etc. necessary for such recording.*

*It shall also include any seal or sealing arrangement provided by the Licensee for preventing unauthorised use of electricity;”*

From above regulations it is clear that CT is a part of the meter and replacement of CT as done in the instant case vide sealing certificate dated 02.06.2018, amounts to replacement of the meter. As such the objection of respondent's counsel is not sustainable and is therefore overruled.

Dated: 30.09.2019

(Subhash Kumar)  
Ombudsman