

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s B.S. Industries
Delhi-Roorkee Road,
Gurukul Narsan, Roorkee,
Distt. Haridwar, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (Rural),
Uttarakhand Power Corporation Ltd.
Civil Lines, Roorkee,
Distt. Haridwar, Uttarakhand

Representation No. 23/2020

Order

Dated: 31.12.2020

Being aggrieved with Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) order dated 03.09.2020 and 06.09.2019 in their complaint no. 54/2020 dated 27.07.2020 and no. 86/2019 dated 06.07.2019 respectively before the said Forum against Uttarakhand Power Corporation Ltd. through its Executive Engineer, Electricity Distribution Division (Rural), Roorkee has preferred this appeal with the request that Forum's aforesaid order be set aside, grievance be redressed and opposite party be restrained from realizing a sum of Rs. 19,00,619.00 shown as due in the bill for the month of August 2020 which has been raised due to incorrect and wrong billing from October 2018 till September 2020 along with LPS and be restrained from disconnecting the supply.

2. At the outset it is clarified that the petitioner has preferred this appeal before Ombudsman being aggrieved with Forum's order dated 03.09.2020 in their complaint no. 54/2020 dated 27.07.2020 He has however mentioned that his grievance arose due to non redressal of his grievances made before the Forum earlier vide complaint no. 86/2019 dated 06.07.2019 in which the Forum passed order dated 06.09.2019 and had disposed off the complaint vide aforesaid order still remains unredressed. As they could not prefer appeal before the Ombudsman against Forum order dated 06.09.2019

in complaint no. 86/2019 within the limitation period as they were not aware about existence of the office of ombudsman as an appellate authority, as nothing about such authority, where appeal could be preferred against Forum order, was mentioned in Forum's order dated 06.09.2019. Further the petitioner has also requested for condonation of delay in filing appeal against the said order dated 06.09.2019 on this ground and have requested that the Hon'ble Ombudsman may kindly adjudicate their appeal against both the orders dated 03.09.2020 and 06.09.2019 passed by the Forum in their complaints no 54/2020 and 86/2019 respectively. As such contents of the instant appeal pertaining to both the complaints no. 86/2019 and 54/2020 and Forum's orders dated 06.09.2019 and 03.09.2020 passed in the above complaint respectively shall be deliberated in this order. (The delay in filing appeal against Forum order dated 06.09.2019 has been condoned in view of the grounds mentioned in the petition.)

3. The petitioner has submitted that they are a consumer of UPCL with connection no. 00090 for 160 KVA contacted load. Earlier their contacted load was 73 KVA and meter no. LnT 07159949 was installed at their premises and their load was enhanced on 27.09.2018. The petitioner has stated that even after getting their load enhanced they have been using the same equipments and having the same production and their consumption pattern has been the same. The bill issued by the respondents after enhancement of load were not disputed at that time.
4. A new meter was installed at their premises at the time of enhancement of load on 27.09.2018 and thereafter monthly bills were almost doubled. Even though the appellant did not make any changes in the factory nor increased the consumption and all the equipments and machinery were just the same as before increasing the load and thus there was no reason for increase in the consumption. In view of increase of bill they requested the respondent for installation of check meter (indent of check meter was issued on 05.12.2018) the check meter was installed on 25.02.2019 and was finalized on 08.04.2019. In the sealing certificate dated 25.02.2019 a remark was made that (*Check meter was installed as per indent. Old meter MRI not done due to communication fails and manual reading not taken due to meter show error. Old meter blinking very fast and continued on no load.*) On sealing certificate dated 08.04.2019 remarks made that (*Old meter was replaced by check meter due to old meter defective. YMPL testing done and found old meter defective CT, PT results are*

within permissible limits 50/5 A CT replaced by 10/5A CT main meter and check meter observation not possible due to old meter defective.)

5. The petitioner has further submitted that after admitting that the meter was defective no efforts were made by the respondent to find out whether the meter was fast or running slow but they raised the assessment bill on the basis of average consumption for the month of October 2018 to December 2018.
6. Being aggrieved by the illegal actions of the respondent a complaint was made before the Forum which was registered as complaint no. 86/2019. It was disposed off by the Forum vide their order dated 06.09.2019 holding that the bill raised on the basis of average consumption for the month October 2018 to December 2018 is incorrect and the bill was therefore set aside and directed the respondent to make assessment for consumption and demand for the period 27.09.2018 to 24.02.2019, on the basis of average consumption and demand recorded in three billing cycles by check meter. Even after being directed by the Forum as aforesaid they did not provide any calculation of the amount of assessment in compliance to Forum's orders. The petitioner has further submitted that they were not aware about the establishment of Hon'ble Ombudsman nor the Forum informed that appeal against their order can be preferred to the Hon'ble Ombudsman. Under the threat of disconnection and persistent pressure by the respondent they had unwillingly paid the amount of assessment subject to the legal remedy against the same. So they could not prefer appeal against this order earlier within time limit as stated above so the delay in seeking the remedy is totally inadvertent and unintentional.
7. The petitioner has stated that they noticed that although the working time of the factory was 9 am to 7 pm but in the bills for the month of November 2019 till June 2020 the major duration of the consumption has been booked in evening peak slots and also the maximum demand as shown in the bill is also not only incorrect but was not possible therefore wrote a letter to the respondent requesting him to correct the same so that payment of the corrected bills can be made. The respondent wrote a letter to the EE Test for necessary action in the matter. A check meter was therefore installed on 18.06.2020. The same was finalized on 07.08.2020. Since no action was thereafter taken by the department a complaint was lodged with the Forum on 24.07.2020 regarding incorrect billing from October 2019 due to booking of higher consumption in evening peak and thereby application of wrong tariff and also the

maximum demand recorded in the bills was incorrect and also penalty for excess load was wrongly imposed.

8. The complaint was registered by the Forum as no. 54/2020 dated 27.07.2020. Order was passed on 03.09.2020 wherein their complaint was rejected, even when the respondent admitted the contents made by them before the Forum. From Forum order it transpired that against the complaint, the respondent filed their written statement making vague allegation totally against rules. A copy of the written statement filed by the respondent as well as any other documents were not provided to them. Hence no opportunity to file rejoinder was provided. It is further stated by the petitioner that the Forum in their observations have recorded that the department has informed that they will correct the slot timing in next bill which means that the department admitted the contention of the applicant as correct. Further, as the department admitted that the maximum demand was incorrect due to mistake in feeding the maximum demand however the Ld. Forum remarked that the wrong feeding of the demand has not impacted the consumption of the applicant, ignoring the fact that the penalty for excess demand has been imposed in the bills for the month of November 2019 to March 2020 and the bills were raised charging the LPS, totally against law, if the bills are not correct there is no liability on the consumer to make payment of the bill or any LPS. It is further stated that from the order of the Forum it is evident that the respondent have informed having corrected the irregularity in the normal and peak hours and also the overload but there is no mention as to what adjustment has been given in the bills. The petitioner has stated that they are aggrieved with Forum order as the same is not legally sustainable and against rules and regulations of UERC and the mandate of Electricity Act, 2003. Further respondent's act is arbitrary and unlawful and without any reason and basis and is just based on conjecture, surmises and presumptions. The petitioners were never provided any opportunity to rebut which is strictly against the law and principle of natural justice. Further no hearing opportunity was provided.
9. Further the Ld. Forum have failed to appreciate the evidence on record and applicability of relevant law as also failed to appreciate that no demand/assessment upon the basis of the incorrect reading can be made unless the correct consumption is established by the respondent. It is also stated that there has been delay in installation of check meter and respondent have failed to show MRI reports and have also failed

to establish the consumption on the basis of correct time slot. The Forum has also failed to appreciate the correct legal and factual position in the present case. Orders passed by the Ld. Forum are totally without application of mind to the fact and provision of the relevant rules and regulations. Forum has not given any finding or reasons for passing their order and have dismissed the complaint without assigning any reason or cause. The order is therefore not liable to stand. Further pointing out so many shortcomings in Forum order as mentioned from Sr. no. 37 to 47 of their petition, the petitioner has challenged the amount of Rs. 20,97,798.00 shown due in the bill for the month of August dated 03.09.2020 which has further mounted to a figure of Rs. 21,21,409.00 after 30.09.2020 after unlawfully charging LPS Rs. 1,87,530.00 and have further stated that they are willing to pay the correct bill but the same had not been provided to them by the respondent. It is also stated that a sum of Rs. 3,50,000.00 has duly been deposited against the said amount vide receipt no. 0762650 in the month of September 2020. They have thus requested that the following reliefs may kindly be granted:

- a) Respondent be directed to provide the details of the adjustment/correction done in the bills of the petitioner consequent to Forum order dated 06.09.2019 and 03.09.2020 passed by the Forum in complaint no. 86/2019 and 54/2020 respectively.
 - b) Respondent be restrained from enforcing in any manner of the realization of the bills and restrain from disconnecting the supply.
 - c) The delay in preferring appeal against Forum order dated 06.09.2019 in complaint no. 86/2019 make kindly be condoned.
 - d) Any other relief as deemed fit and cost of the case and compensation be allowed.
 - e) Full cost of the complaint and compensation for the assessment and monetary loss of the complainant.
10. In complaint no. 86/2019 dated 06.07.2019 the Forum have observed that the load was enhanced to 160 KVA on 27.09.2018 when a new meter was installed which had become defective at the time of its installation. A check meter was installed on 25.02.2019 and finalized on 08.04.2019 and as it was not justified to assess the consumption for the period under reference on the average of defective meter, so the Forum was of the opinion that the revised bill issued on the basis of average of the

consumption of a defective meter for the month of 10/2018, 11/2018 and 12/2018 was erroneous and liable to be set aside. Further they observed that as in the period under reference the load have since been enhanced from 73 KVA to 163 KVA so assessment of the consumption and maximum demand on the basis of the consumption and maximum demand for the period prior to enhancement of the load shall not be logical so the Forum was of the opinion that assessing the consumption and maximum demand for the period under reference i.e. from 27.09.2018 to 24.02.2019 on the basis of average consumption and demand recorded by the check meter in three billing cycles shall be justified. Having observed as aforesaid they have set aside the bill raised on the basis of consumption during the month of 10/18, 11/18 and 12/18 recorded by a defective meter and an order that assessment of the consumption and maximum demand for the period 27.09.2018 to 24.02.2019 be raised on the average of the demand and consumption recorded by the check meter in three billing cycles and with this order they have disposed off the complaint no. 86/2019 vide their order dated 06.09.2019.

11. In complaint no. 54/2020 dated 27.07.2020 the Forum have passed an order dated 03.09.2020 The Forum after hearing both parties and after perusal of the records, observed that the maximum demand was wrongly fed while feeding TOD parameters in the meter. However after taking cognizance of the mistake committed by them the department themselves have corrected the mistake in the next bill. The Forum has also observed that the mistake committed in feeding TOD parameters did not affect the consumption so the defect cannot be considered attributable to the excess consumption. The discrepancies in recording consumption in normal hours and peak hours have also been rectified. Having observed as such the complaint was dismissed by the Forum vide their aforesaid order dated 03.09.2020.
12. The respondent Executive Engineer has submitted his written statement vide letter no. 2836 dated 27.10.2020 with an affidavit under oath. The respondent has submitted as follows:-

Connection was released to the petitioner on 21.07.2005. The load was enhanced from 74 KVA to 167 KVA on 27.09.2018 on consumer's request. Subsequent to enhancement of the load the consumer has been making part payment at his volition resulting into increase in the arrears continuously. The petitioner having not paid the full amount of the bills, have been repeatedly alleging the veracity of the meter so on

his request the meter was replaced after installing a check meter. All the bills under reference have duly been corrected and adjusted in the bills so Forum's orders have duly been complied with. Even after enhancement of the load the consumer has been pressuring repeatedly for issuing his bills as per his old contacted load which is not possible as after enhancement of load his category has changed from LT to HT in which rates are different from those applicable to LT category. The respondent has submitted that although bills of the petitioner are correct but still he has preferred the complaint/petition to avoid payment of the arrears.

13. The respondent has further submitted point wise reply to the petition as follows:-

(1,4,45) Factual details of the case.

Point no. 16, 18 to 20, 24 to 28, 34 to 44 – No submission is required

2. The load was enhanced from 74 KVA to 160 KVA on 27.09.2018 vide sealing certificate no. 2651 dated 27.09.2018 when existing meter no. 07159949 was replaced by a new meter no. 13266115.
3. The load was enhanced on the request of the consumer.
5. Consequent upon enhancement of load the connection switched over from LT category to HT category under which charges of different constituents of the bill are higher than those applicable under LT category. Bills have been issued on the basis of MRI.
6. Bill for the month of 12/2018 was issued on MRI.
7. Check meter no. X0780267 was installed vide sealing certificate no. 37/51 dated 25.02.2019 on consumer's request and the same was finalized vide sealing certificate no. 09/16 dated 08.04.2019 in the remark column of which it was mentioned that (Main meter and check meter observation not possible due to old meter defective) and it was mentioned in the meter testing report that (Meter lead not work, meter internal fault, new meter installed with meter no. X0780267) and in the remark column it was further mentioned that (CT/PT results are within permissible limit)
8. CT of ratio 10/05A was installed on 08.04.2019 according to the load.
9. Bills from 10/2018 to 12/2018 were issued on MRI as the check meter was finalized on 08.04.2019.
10. A Complaint was lodged by the consumer before the Forum on 06.07.2019 but before the complaint was lodged the bills from 04/19 were being issued on

MU based on MRI and adjustment amounting to Rs. 6,24,217.00 was allowed in the bill for the month of 05/2019 on account of correction of the bills from 01/2019 to 03/2019 which were issued on the basis of average.

11. No separate assessment has been raised for bills from 27.09.2018 to 01/2019 were issued on MRI. Bills had since been corrected before issue of Forum's order wherein adjustment of Rs. 6,24,217.00 was allowed in the bill for the month of 05/2019. Further in compliance to Forum's order the bills issued on average basis for the month of 01/2019 to 03/2019 were further revised and adjustment thereof amounting to Rs. 5,39,384.00 was allowed in the bill for the month of 07/2019.
12. An adjustment for Rs. 2,23,901.66 was allowed in the bill for the month of 07/2020 on account of slot difference in units and maximum demand in the bill from 11/2019 to 01/2020.
13. Although the bills had already been corrected still he did not make payment of the dues and said that his meter was defective so a check meter was again installed on 18.06.2020 and finalized on 07.08.2020 when the old meter was found correct.
14. An adjustment of Rs. 2,23,901.66 was allowed in the bill for 07/2020 due to slot difference units and excess maximum demand in the bill from 11/2019 to 01/2020 and another adjustment of Rs. 1,09,776.00 was allowed in the bill for 01/2020 for excess maximum demand.
15. His complaint dated 06.07.2019 was dismissed by the Forum vide order dated 03.09.2020 (A perusal of Forum order dated 03.09.2020 shows that the date of complaint was 27.07.2020 and not 06.07.2019 as mentioned by the respondent under this point.)
17. The bills for excess demand were prepared as per AMR which were subsequently revised and adjustment allowed as Rs 1,09,776.00 in the bill of 01/2020 for excess demand charged in the bill for 11/2019, adjustment of Rs. 1,23,792.00 allowed in the bill for 02/2020 for excess demand in the bill for 12/2019 and adjustment of Rs. 2,23,901.66 was allowed in the bill for 07/2020 on account of slot difference and demand difference charged wrongly in the bill for 01/2020 but the consumer did not make payment of the outstanding dues.

20 and 21. Bills have been issued as per rules

22. Bills were issued as per rules but part payments were made at his own volition with departmental connivance.

27 and 28. As per point 21 above.

29 and 31. Bills were corrected in compliance to Forum's order but still the outstanding dues were not paid.

32. Check meter was finalized on 07.08.2020 when meter was found correct.

33. All MRIs when submitted before the Forum the balance replies are as per point no. 14

46 and 47 Bills were issued based on MRI as per rules but the outstanding were still not paid.

48. A sum of Rs. 17,63,981 is outstanding on the petitioner as on 09.10.2020 as per ledger. A sum of Rs. 3,50,000.00 was paid by the petitioner on 25.09.2020 and further Rs. 2,00,000.00 were paid by him on 09.10.2020 as he has been making part payment just after enhancement of load so arrears are increasing.

49. Bills were corrected even before Forum's orders and were further corrected as per Forum's order but outstanding dues were not paid. It is a false allegation by him that he was harassed but he has been co-operating by accepting part payment.

14. **Additional Submission**

1. The arrears were increasing due to part payments by the petitioner consequent to load enhancement.
2. He had not been making full payments but have been repeatedly alleging his meter as defective and on his request the meters having been replaced after installation of check meters
3. Consequent to load enhancement an adjustment of Rs. 16,21,070.66 has since been allowed in different bills in which Forum orders have duly been complied with.

4. The consumer has repeatedly been requesting to issue bills on LT category while his load has been enhanced and category is changed to HT and it was not possible to accede to his request as rates for two categories LT and HT been different.
5. His bills are correct but he has been filing cases unnecessarily to avoid payments of the arrears.
15. In view of above submission the respondent has requested that the petition is liable to be dismissed and the petitioner be directed to pay outstanding dues. He has substantiated his submissions with documentary evidences as mentioned in the W.S under the different points of his replies.
16. A detailed rejoinder dated 26.11.2020 has been submitted by the petitioner under oath wherein para wise reply to respondent's written statement has been given wherein contents of most of the points of the W.S. have been denied and he has maintained that the facts of the case as mentioned in the petition are correct and he has requested that replies filed by the respondent be rejected, and his representation/petition be allowed with all the reliefs demanded for.
17. Hearing in the case was fixed for 08.12.2020. Both parties were present. The petitioner Shri Vinay Kumar Proprietor was present to argue his case himself while the respondent were represented by their counsel Shri Anurag Sharma and AE(R) Smt. Anita. During the course of hearing the petitioner made oral submission that although some corrections in the disputed bills have been made by the respondents and corrected bills have also been submitted but still all the mistakes committed in the bills have not been rectified and therefore further correction in the bills is required. However, he could not explain as to which mistakes or errors or shortcomings in the bills have not been rectified by the respondent. In order to reply to his allegations/objections the respondents were directed to submit a statement showing details of the original bills and those of the revised bills month wise for the disputed period by 15.12.2020 at the same time the petitioner was also asked to make his points clear as to which mistakes or errors in the bills have yet not been rectified. The petitioner has submitted his clarification vide his letter dated 21.12.2020 wherein he has enclosed a copy of his letter dated 20.12.2020 addressed to respondent Executive Engineer for further corrections. In nutshell his submission is that bill for the month of 03/2019 has yet not been corrected and LPS has been charged on the amounts of original uncorrected bills while it should have been charged on the amounts of the

corrected bills and he is requested that corrections in the bills on account of above be got done.

18. The respondent executive engineer has submitted his clarification as follows:-
1. With reference to Forum's order dated 06.09.2019 he has submitted that on the complaint of the petitioner regarding fast running of the meter installed at the time of enhancement of the load, a check meter was installed but the old main meter having been I.D.F, the Forum ordered revision of the bills based on the average monthly consumption recorded by the new meter in the months of April, May and June 2019 and the bills were accordingly revised, wherein adjustment of Rs. 10,11,208.45 was allowed but prior to that and in compliance to the verbal instructions of the Forum adjustment of Rs. 6,24,217.00 was allowed in the bill for the month of May 2019 and adjustment of Rs. 5,39,384.00 was allowed in the bill for the month of July 2019 as such a total of Rs. 11,63,601.00 had already been allowed, as such adjustment of an excess amount of Rs. 1,52,392.55 having been allowed. This amount was therefore added in the bill for the month of November 2020. Calculation sheets showing the corrections of the bill from October 2018 to February 2020 have also been enclosed with his reply.
 2. With reference to Forum's order dated 03.09.2020 the respondent has submitted that due to some mistakes in feeding TOD parameters excess demand appeared in the month of November 2019, December 2019 and January 2020 due to which excess demand had been charged in the aforesaid bills which was corrected and as a result adjustment of Rs. 4,57,469.66 was allowed through bills for January 2020 Rs. 1,09,769.00, 1,23,792.00 in the bill for February 2020 and 2,23,901.66 in the bill for July 2020. Table no. 2, 3 and 4 showing calculations of the corrections and adjustments have been submitted to substantiate the reply.
19. Arguments from both parties were heard, all documents available on file have been perused carefully, it is borne out that a connection of 74 KW was released to the petitioner on 21.07.2005 with connection no. RD0K000000903 the load was subsequently enhanced to 160 KVA on 27.09.2018 when the old meter no. 07159949 was replaced by a new meter no. 13266115 vide sealing certificate no. 2651 dated 27.09.2018. Due to enhancement of the contacted load from 74 KW to 160 KVA, the consumer came under HT category from LT and accordingly billing under appropriate tariff applicable to HT industries started.

20. Since after enhancement of the load his bills were substantially increased, just double of the previous amount, he requested for installation of check meter the same was installed on 25.02.2019 and finalized on 08.04.2019 as the old existing meter was found defective during check meter study the respondents revised the bills on the basis of average consumption recorded by the defective meter in the month of 10/2018, 11/2018 and 12/2018. Not being satisfied with the corrections of the bills done by the respondents the consumer filed a complaint on 06.07.2019 before the Forum which was registered as complaint no. 86/2019. The Forum held that correction of the bills on the average consumption recorded by the defective meter is wrong and having set aside the same, ordered that the bills from 27.09.2018 to 24.02.2019 be revised on the basis of the energy recorded in three billing cycles by the check meter. The respondents have accordingly revised the bills from October 2018 to Feb. 2019 as ordered by the Forum and worked out that a sum of Rs. 10,11,208.45 is to be adjusted on account of such revision. But they had already allowed an adjustment of Rs. 11,63,601.00 on account of the revision of the bills for the period October 2018 to Feb 2019 in the month of 05/2019 and 07/2019 so an excess adjustment of Rs. 1,52,392.55 had already been allowed which was recoverable from them and the same was added in the bill for the month of November 2020 and as such Forum order dated 06.09.2019 in complaint no. 86/2019 stand complied with.
21. The petitioner filed another complaint before the Forum on 27.07.2020 registered as complaint no. 54/2020 mentioning that they have been given wrong bills from October 2019 wherein excess demand has been charged and energy consumption under normal hours and evening peak hours has been booked wrongly. It was submitted before the Forum that the irregularity/mistakes in the bills from October 2019 have been due to a mistake committed in feeding TOD parameters. It was submitted before the Forum that the bills have since been corrected and relying on respondent's submissions the complaint was dismissed by the Forum vide order dated 03.09.2020. From the submissions made by the respondents it has been confirmed that bills for the month of November 2019, December 2019 and January 2020 have since been corrected and as a result of such corrections adjustment of Rs. 4,57,469.66 was to be allowed which has duly been allowed, in the month of January 2020 for Rs. 1,06,776.00, in February 2020 Rs. 1,23,792.00 and in July 2020 Rs. 2,23,901.66. As

such bills for the month of November 2019, December 2019 and January 2020 stands duly corrected after allowing adjustment of Rs. 4,57,469.66 in the bill for the month of January 2020, February 2020 and July 2020 as aforesaid and as such no further relief is admissible.

22. However, as requested for by the petitioner vide his letter dated 21.12.2020 that bill for the month of 03/2019 has not been corrected and LPS has been charged on the original wrong bills which should have been charged on the amounts of the corrected bill, the respondents are directed to examine if corrections in the bill for the month of 03/2019 and correction in the amount of LPS as requested for by the petitioner is admissible and if so, such corrections be made.
23. The petition is disposed off with these directions and Forum orders dated 06.09.2019 in complaint no. 86/2019 and order dated 03.09.2019 in complaint no 54/2020 are upheld with the aforesaid modification.
24. In view of above a sum of Rs. 17,63,981.00 shown closing balance as on 09.10.2020 as per ledger is payable by the petitioner subject to any further adjustment if any to be worked out by the licensee as directed under para 22 above.

Dated: 31.12.2020

(Subhash Kumar)
Ombudsman