

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Smt. Daya Pandey
W/o Late Shri D. C. Pandey
Malla Gorakhpur, Haldwani,
Distt. Nainital, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (Urban),
Uttarakhand Power Corporation Ltd.,
Tikoniya, Haldwani,
Distt. Nainital, Uttarakhand

Representation No. 11/2020

Order

Dated: 29.06.2020

Being aggrieved with Consumer Grievance Redressal Forum, Kumaon zone (hereinafter referred to as Forum) order dated 26.02.2020 in her complaint no. 172/2019 against Uttarakhand Power Corporation Ltd. (UPCL) through its Executive Engineer, Electricity Distribution Division (Urban), Haldwani (respondent), Smt. Daya Pandey W/o Late Shri D. C. Pandey (petitioner) R/o Malla Gorakhpur, Haldwani has preferred this appeal for corrections of her bills.

2. The petitioner Smt. Daya Pandey a consumer of Uttarakhand Power Corporation Ltd. for connection no. 381N311069863 under domestic category has submitted in her appeal that she had filed a complaint before Forum which was registered as complaint no. 172/2019. As she did not get complete justice from the said Forum, hence she has preferred this appeal. She has averred that she has a connection of electricity at her residence since 1995 and bills were being regularly paid. The old meter was replaced on 26.02.2013 vide sealing certificate 28.02.2013 which she has submitted as annexure 1. She has further submitted that she is a senior citizen and most of the time does not reside in the house and some tenants reside in the house. The department had submitted RDF bills regularly from 2013 to 2019 which were timely paid. During these 6 years the concerned officials were regularly requested to issue metered bills, but they continued to issue RDF bills.

3. Suddenly at present in the year 2019 based on reading taken by CDS company a bill for 80 months amounting to Rs. 1,43,062.00 was given out of which after deductions of the payments made earlier she has to pay Rs. 95,000.00 approximately. It was a matter of mental and financial harassment for an old lady. She has submitted that on her request a check meter was installed and the department told that her per day consumption was 7.4 units. She has further asserted that a complaint was lodged before the Forum and in their order the Forum held it as the gross carelessness on the part of the department and partly allowed her complaint and further directed to approach Hon'ble Ombudsman for further relief. She has further stated that even during the pendency of the case regular payments have been made. She is an old senior citizen and is in ill health and the department has imposed a heavy liability on her in an illegal way which she is not able to pay so she has requested that the Hon'ble Ombudsman may kindly decide the case keeping in view the following points.

- i) The Forum did not dwell and discussed as to why RDF bills were continuously issued for 7 years from 2013 to 2019 and why a heavy amount bill on CDF basis was given, how far it was justified?
- ii) Being a consumer she has the right to ask the department as to how a consumption of 31761 units is possible in just 2 months (August-September 2018) while as per check meter study the per day consumption has been worked out as 7.41 units. This suggests clearly that the bill has been given on wrong meter reading, which is not logical.
- iii) The check meter has shown consumption of 178 units per month while the department has raised the bill on the basis of last consumption @ 467 units per month. The department has clarified that the check meter only shows the speed of the meter but not the consumption, she said that she is not satisfied with department's explanation.
- iv) The Forum did not consider as to how a senior citizen lady shall pay a bill of Rs. 96,000.00 which is a matter of mental and financial harassment to her.
- v) The department's explanation that there is no provision for giving notice of CDF bills is not justified.

- vi) The erring staff responsible for such modus operandi are liable to be punished.
- vii) Compensation as per UERC rules be also given.
- viii) Office of Executive Engineer is trying to escape from their responsibilities and mistakes committed by them. The Forum recuse themselves from punishing such a staff being out of their jurisdiction. Hence, the Hon'ble Ombudsman is requested to issue necessary orders for action against such staff.
- ix) The Forums be given sufficient powers so that the complaints of the consumers be decided effectively.
- x) She has requested that toll free number be provided for making complaints to the Hon'ble Ombudsman.
- xi) Till disposal of this appeal the current bills be issued on actual consumption.

4. The Forum in their order dated 26.02.2020 have observed that it is admittedly the main grievance of the complainant that RDF bills were continuously issued for more than 6 years and thereafter receiving inflated metered unit bills. They have categorically mentioned that it is the gross negligence and carelessness on the part of the opposite party that metered units bills were not issued for a long period. They have further observed that bill dated 23.03.2013 was issued for metered units at reading 9942 and therefore metered units is recorded in the bills after 10/2019. The opposite party has proposed to revise the bills on average basis on appropriate tariff which appears to be logical but in their proposal for revision of their bills reading 48202 as shown recorded on 07.12.2019 is wrong, so the bills be revised after incorporating the actual recorded reading in the month of February 2020 and such a revision in the bill shall be justified. Having observed as above Forum has directed that the bills up to February 2020 be revised as proposed by opposite party and have accordingly allowed the complaint partially.

5. The respondent Executive Engineer has submitted his written statement vide his letter no. 1097 dated 19.05.2020 as follows

- i) The petitioner filed a complaint before the Forum on 10.12.2019. In reply to the complaint before the Forum revision of the bill from March 2013 (reading

9942) to February 2020 (reading 48191) on average basis and on appropriate tariff was submitted. The Forum vide their order dated 26.02.2020 has directed to revise the bill accordingly.

- ii) The bills sent to the consumer are as per actual readings. As per check meter study the veracity of the meter is established.
- iii) The consumption shown by the check meter pertains to the period during which the check meter remained installed and this does not give the total consumption of the petitioner.
- iv) The bills sent to the petitioner are according to her actual consumption.
- v) CDF is duly recorded on the bills issued on CDF and there is no provision for issuing notice for such a bill.
- vi) In view of her complaint a check meter was installed and the old bills were revised on the basis of actual meter reading uniformly divided and on appropriate tariff.

He has substantiated his averments on the basis of documents such as calculation of revision of bills, copy of sealing certificates dated 28.02.2013, 08.11.2019, 02.12.2019 and billing history from 03/2011 to 10/2019.

- 6. In her rejoinder dated 03.06.2020 the petitioner has asserted that she was not satisfied with the incomplete and unclear written statement by the respondent Executive Engineer. She has challenged the readings shown by the department on different dates such as 23.03.2013, 24.05.2013, 06.08.2018, 03.10.2019. Rest of the points are merely reiteration of what she had already asserted in her appeal
- 7. Hearing in the case was fixed for 17.06.2020, while Shri Mohan Ram, Asst. Engineer (Revenue) appeared for arguments and in addition to his oral arguments he also submitted consumer billing history from 03/2011 to 06/2020, calculation of bill revision from 03/2013 to 02/2020 and further till May 2020. The petitioner submitted a written request for exempting her from personal appearance for arguments in view of lockdown and herself being a 75 years old senior citizen lady and have requested that her case be decided on the basis of documents already submitted by her.

8. The documents available on file have been perused carefully. The relevant regulations and Tariff provisions applicable in the instant case were also referred. Arguments from the respondent were heard and documents submitted by him at the time of arguments were also perused and taken on record. The petitioner was allowed exemption from personal hearing as requested by her.
9. After perusal of the records and hearing arguments it is borne out that: -
- i) A 2 KW connection no. K381N311069863 under domestic category was released to the petitioner on 22.07.1995 by installing meter no. EM9918. Billing history from March 2011 (30.03.2011) till 06/2020 (12.06.2020) has been submitted by the respondent on 17.06.2020 at the time of hearing. According to which metered consumption bill up to the reading 9942 were issued till the month of 03/2013 (23.03.2013) where after bills for the month of 05/2013 and 07/2013 were issued as NR at the same reading 9942. From 10/2013 RDF bills were issued till 08/2018 when previous and present readings have been shown as 9942 and 41703 respectively. Where after RDF bills were issued till 08/2019 when previous and present readings have been shown the same as 42653 which was the previous and present reading in all the RDF bills from 10/2018 till 08/2019 bills. MU bills have thereafter been issued from 10/2019 to 06/2020 from the reading 42653 to 48957. Thus RDF bills have continuously been issued from 10/2013 to 08/2019 i.e. for 73 months and earlier to that bills for 05/2013 and 07/2013 were issued for NR i.e. for 4 months so in whole NR and RDF bills have been issued for 77 months in a single stretch in gross violation of UERC relevant regulations as also in violation of relevant tariff provisions which are reproduced hereunder:

Sub regulation 3.1.2 (3) of UERC (The Electricity Supply Code) Regulations, 2007

“3.1.2 (3) Where meters could not be read because of non-availability of any consumer, licensee may raise a provisional bill based on the last one year’s average consumption of the consumer clearly showing the date when the meter reader went to the consumer’s premises to take the meter reading and reason for not being able to do so. All such bills shall be suitably adjusted as and when such meters are read. Such provisional billing shall not continue for

more than 2 billing cycles at a stretch and thereafter no provisional bills shall be raised.”

3.1.4 (3) & (4)

“(3) Where the licensee observes that current reading is lower than the previous reading (RDF), which is possibly due to current reading being less than actual, or old meter having been replaced with new meter. Licensee shall investigate the matter within 15 days and meters found defective shall be replaced in 2 months else correction shall be made in the data base to set his record straight.

(4) All new case of defective meters namely ADF, RDF or IDF, if any, shall necessarily be rectified within a maximum period of 3 months.”

“3.2 Billing during the period defective/stuck/stopped/burnt meter remained at site

(1) The consumer shall be billed on the basis of the average consumption of the past three billing cycles immediately preceding the date of the meter being found or being reported defective. These Charges shall be leviable for a maximum period of three months only during which time the licensee is expected to have replaced the defective meter.”

Tariff provision 4 (under General Conditions of Supply) Billing in Defective meter (ADF/IDF), Meter not Read/Not Accessible (NA/NR) and Defective Reading (RDF) Cases.

“In NA/NR cases, the energy consumption shall be assessed and bill as per average consumption of last one year average consumption (as per regulations 3.1.3(3) of the Electricity Supply Code) which shall be subject to adjustment when actual reading is taken. Such provisional billing shall not continue for more than two billing cycles at a stretch. Thereafter, the licensee shall not be entitled to raise any bill on provisional basis. In case of defective meter (ADF/IDF) and defective reading (RDF) cases, the consumers shall be billed on the basis of the average consumption of the past three billing cycles immediately preceding the date of the meter being found or being reported defective (as per Regulations 3.2(1) of the Electricity Supply Code). These charges shall be leviable for a maximum period of three months or two billing

cycles in case of bi-monthly billing, only during which time the licensee is required to replace the defective meter. Thereafter, the licensee shall not be entitled to raise any bill without correct meters.

The checking and replacement of defective meter cases namely IDF and ADF and defective meter reading cases namely RDF shall be done by the licensee in accordance with the provisions of the Electricity Supply Code as applicable.”

- ii) Issue of NR/RDF bills continuously for 77 months in the instant case, is a blatant violation of the above regulations and tariff provisions. In the instant case such bills could have not been issued for more than 2 billing cycles during which period the Licensee should have been able to replace the defective meter else correction should have been made in the database to set his record straight. The respondent have mentioned in the written statement dated 27.01.2020 before the Forum at point no. 1 that उपभोक्ता के परिसर का मापक संयोजन लगने के पश्चात कभी नहीं बदला गया। The same stand has been maintained by the respondent's representative, Asst. Engineer Revenue during hearing on 17.06.2020 orally as well as by a written submission on respondent's letter no. 1365 dated 15.06.2020 which has been submitted during hearing. Further no change of meter has been mentioned in the billing history also. Although a sealing certificate dated 28.02.2013 has been adduced by the petitioner as well as by the respondent to show that her meter was replaced on 28.02.2013 but records and submission of the respondent confirms otherwise. Hence in the instant case the meter which was installed initially at the time of release of connection on 22.07.1995 has been continuously existing at the aforesaid connection and its veracity has also duly been established through a check meter study conducted through sealing certificates dated 08.11.2019 and 02.12.2019 when the meter was found recording correctly with reference to the check meter. Such being the case the replacement of meter where RDF bills were being issued was not required in the instant case, in terms of sub regulation 3.1.4 (3) of Supply Code but alternatively the respondent should have corrected the data base to set the records right within 2 months and metered unit bills should have been issued after 2 billing cycles but this has not been done by the respondents and in

gross violation of the regulations and tariff provisions they continued to issue RDF bills for 77 months.

- iii) The respondent had proposed before Forum to issue revised bills for the period during which RDF bills were issued on the basis of average consumption recorded by the meter during this period on appropriate tariff. The Forum being convinced with respondent's proposal have directed to issue corrected bills on average basis on appropriate tariff from 03/2013 to the month of February 2020 and they had accordingly submitted calculations for revision of the bills.
- iv) Again they have tried to rectify their mistake through a proposal for issue a revised bill from 23.03.2013 to 09.02.2020. According to their calculations the dues ending April 2020 shall be Rs. 53,540.00 and further dues ending 06/2020 shall be Rs. 50,529.00 after allowing adjustment of Rs. 1,09,757.00 by way of revision of the bills for the entire period on the basis of average consumption recorded by the meter from 23.03.2013 to 09.02.2020, thus rectifying their mistake of issuing RDF bills for a prolong period, but this also is no excuse for their mistake which they have made and thus this proposal cannot be approved for issuing such a revised bill to the petitioner, as she cannot be billed on NR/RDF basis for more than two billing cycles.
- v) In view of the facts of the case the respondents are directed to issue only 2 bills on the average basis from the petitioner without LPS and after adjustment of the payments made by her during this period within 30 days of the order, but as for not billing the petitioner for more than two billing cycles the Discom. (UPCL) cannot be made to suffer any financial loss, as they have continuously supplied electricity to the petitioner, so it would be appropriate to recover the cost of such bills from the erring staff. As such the amount of RDF bills beyond 2 billing cycles be quantified on the average basis as per their proposed calculations on appropriate tariff and be recovered from the erring staff in proportion to their respective responsibility for issuing correct bills on actual readings on each billing cycle. Such staff may therefore be identified and necessary administrative action against them, in addition to recovery of revenue, be taken against them as per department's prevailing rules within a

period of 120 days from the date of this order. Compliance of both parts of this order be made within their respective stipulated period and be reported to the undersigned within a week after expiry of the stipulated period of 30 days and 120 days respectively for both parts of the order. Billing being on metered units from 10/2019 till 06/2020 need not be revised. Forum order is set aside. Petition is allowed.

- vi) It is also directed that strict instructions be issued to all the field units under UPCL, by the Managing Director to ensure that NA,NR/IDF, ADF, RDF bills, wherever required, be issued strictly in accordance with relevant UERC regulations and tariff provisions, within 30 days from the date of this order and a copy of such instructions be also sent to me for my perusal.

Dated: 29.06.2020

(Subhash Kumar)
Ombudsman