

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Aditya Bhargav
Proprietor
M/s Bhargava Ice Factory
13, Kanwli Road,
Dehradun, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division (South),
Uttarakhand Power Corporation Ltd.,
18, EC Road, Dehradun, Uttarakhand

Representation No. 16/2020

Order

Dated: 16.10.2020

Shri Aditya Bhargava, Proprietor of M/s Bhargava Ice Factory, 13, Kanwali Road, Dehradun a LT industrial consumer of Uttarakhand Power Corporation Ltd. (hereinafter referred to as UPCL) For 74 KW load with connection no. 000319 has preferred this appeal dated 11.09.2020 being aggrieved with Consumer Grievance Redressal Forum, Garhwal zone (hereinafter referred to as Forum) order dated 07.08.2020 in his complaint no. 132/2019 before the said Forum against UPCL through its Executive Engineer, Electricity Distribution Division (South) Dehradun (hereinafter referred to as respondent).

2. The petitioner has submitted that the Forum has not considered his recorded consumption during last 3 years and he has argued that his meter cannot be slow by more than 15% or 20%. Details of last 3 years bill have also been submitted with the petition. He has requested that the check meter was finalized in his absence by taking signature of some of his illiterate worker. A bill of Rs. 13,00,000.00 was given to him and on asking for MRI of the meter the same was not given to him but a revised bill of Rs. 4,00,000.00 was submitted. He has approached the Forum and he has requested that the case may kindly be got scrutinized and corrected bill based on last 3 years consumption be given. Subsequently he has submitted an undated supplementary petition wherein he has submitted that a check meter was installed by the department

in his factory on 22.08.2019. The check meter was removed on 16.10.2019 in his absence. Signature of one of his illiterate worker was taken on the sealing certificate and a copy thereof was given to him in which his meter was shown 79.6% slow. He was out to Pune from 11.10.2019 to 11.11.2019. On 27.11.2019 he received a letter from the department with which bill for Rs. 13,08,797.00 was enclosed on account of slow running of his meter by 79.6%. After receiving the said letter he wrote a letter dated 06.12.2019 to the department asking for MRI of the check meter. Another letter was written to the department on 11.12.2019 wherein the new meter was found fast in comparison to the old meter where after he received a letter on 21.10.2020 (date appears to be wrong as this order is being written on 16.10.2020) from the department according to which his meter was said slow by 54.21% and a revised assessment bill amounting to Rs. 3,99,351.00 was given. Although MRI report was not given but this revised bill has been sent. Referring to his old age of 71 years and a patient of diabetes and heart he has averred that a complaint was lodged before the Forum on 19.02.2020 The Forum dismissed the complaint vide order dated 07.08.2020, which was received by him on 11.08.2020 and thus the petition was filed before Ombudsman on 10.08.2020 (the date of receipt of letter mentioned as 11.08.2020 appears to be wrong as he has preferred appeal on 10.08.2020). He has further stated that the departmental staff disconnected the connection on 10.08.2020 but on his submission that he had filed appeal before Ombudsman they have given him 15 days time and current bill has duly been paid. He has requested for granting him stay against the disputed bill before 24.09.2020. He has also mentioned that factory almost remained closed due to lockdown and sale of ice had been nominal. He has also submitted a separate application for granting stay (in consideration of his request interim stay was granted on 16.09.2020, hearing for disposal of his stay application was held on 22.09.2020 when both parties appeared and submitted their arguments. Interim stay was extended till next date of hearing of the case).

3. The Forum after perusal of the records and documents submitted before them by both parties and after hearing arguments from them have observed that voltage on 2 phases of the complainant's existing meter was found zero (0) based on the preliminary checking a check meter was installed on 22.08.2019 and was finalized on 16.10.2019. Difference of consumption recorded by the 2 meters was found in the manual sealing certificate dated 16.10.2019 the KWh reading in the check meter was mentioned as

1818 based on which the existing meter was found 79.6% slow. Due to inadvertent mistake in manually writing the reading at site as 1818 instead of 816 the main meter was declared slow by 79.6%. On receiving a representation from the consumer on 16.12.2019 by the opposite party MRI of both the meters was done in which mistake in mentioning the check meter reading manually was detected and after making necessary correction as per MRI report the main meter was declared slow by 54.21%. It was also observed in MRI study that existing meter was not displaying the time and date correctly. Having observed so the Forum held that the assessment raised for the period 17.04.2019 to 16.10.2019 for slow running of meter by 54.21% was justified in accordance with sub regulation 3.1.3 (6) of UERC (The Electricity Supply Code) Regulations, 2007. Further the Forum have stated that MRI of the main meter was also perused which supports the contention of opposite party. However they have mentioned that the licensee's staff have committed mistake in noting down manually the reading 1818 which is a serious carelessness on their part. Although the mistake was rectified based on MRI study for this they have warned the concerned staff. Mentioning that the assessment made by the opposite party is completely logical and justified. They have dismissed the complaint.

4. The respondent Executive Engineer has submitted written statement vide his letter no. 5169 dated 21.09.2020 wherein he has submitted that:
 - i) On the basis of sealing certificate no. 02/184 dated 16.10.2019 received from Test Division an assessment bill amounting to Rs. 13,08,797.00 due to consumer's meter found slow by 79.60% was sent to the consumer M/s Bhargava Ice Rice Mill, Dehradun vide letter no. 2650 dated 27.11.2019.
 - ii) An application dated 06.12.2019 was received from the consumer.
 - iii) On receipt of the aforesaid letter the Test Division vide their letter no. 366 dated 12.12.2019 have sent a revised sealing certificate and MRI report of the check meter and informed that earlier the meter was reported slow by 79.60% due to wrong calculations and informed that the meter was running slow only by 54.21%.
 - iv) On receipt of above report from Test Division a revised assessment bill for Rs. 3,99,351.00 was sent to the consumer vide letter no. 3202 dated 21.01.2020.

- v) Not being agreed to the revised bill the consumer filed a complaint before the Forum. The Forum having held the bill issued by respondent's office as correct and dismissed the complaint.
 - vi) He has substantiated his averments with copies of sealing certificates calculations of the assessment bill sent vide letter dated 27.11.2019 and vide letter dated 21.01.2020 as well as MRI reports.
5. The petitioner has submitted a rejoinder in which no legal or technical point has been submitted but it is merely a repetition/reiteration of what he has already submitted in his petition.
6. Hearing in the case was held on 06.10.2020 both parties appeared and arguments were heard. The respondents were asked to submit the MRI tamper report and Load Survey Reports and to clarify the status/tampers as shown in the MRI tamper reports. The respondent Executive Engineer has submitted his clarification vide letter no. 5350 dated 12.10.2020 duly supported with MRI tamper reports and Load survey reports He has submitted that time slot in the meter no. 329740 installed at the petitioner's connection no. SD0K000000319 has a time drift by 8 months i.e. in the MRI taken on 16.10.2019 the meter is showing date as 15.02.2019. Based on tamper data report of the meter voltage on R and B phases were found missing for total 463 days during the period 11.07.2018 to 16.10.2019. He has enclosed MRI tamper report and load survey reports to substantiate his submission. Further to substantiate his submission he has submitted the phasor diagrams vide his letter no. 5373 dated 14.10.2020 of the following dates showing voltage in B & /or R phases missing or less as given below:

Date	Voltage as per phasor diagram
31.08.2018	V _B missing
01.10.2018	V _B missing
12.01.2019	V _R missing, V _B less
15.02.2019	V _R & V _B missing

7. All the documents available on file, evidences submitted by parties have been perused and arguments from both the parties were heard. It is borne out that while the

petitioner's presentation of the case is tenuous as he has not been able to contest his case on the basis of documentary evidences and with the force of regulations but has simply submitted that his meter cannot be slow by more than 15% to 20% and assessment be made on the basis of average consumption recorded during last three years. On the other hand, the respondents have pleaded their case on the basis of documentary evidences such as sealing certificate for installation and finalization of check meters to prove the check meter results, on the basis of MRI reports, Test lab checking report of the existing meter showing the meter as OK, MRI tamper report and load survey reports for the entire period from 11.07.2018 to 16.10.2019 (including the period, from 22.08.2019 to 16.10.2019, during which check meter study was conducted), which shows missing voltage input to the meter on B and R phases intermittently, which is attributable to less recording of energy by the meter, the percentage of which was determined as 54.21% in check meter study.

8. In order to arrive at a final conclusion, it is necessary to see that whether the instant case is that of a slow running of the meter by its internal fault or less recording by the meter attributable to the external interference with the voltage input to the meter which in this case is availability of low voltage (potential) at R and B phases of the meter intermittently in different magnitudes at a number of times during the period 11.07.2018 to 16.10.2019 (up to 16.10.2019 till when the meter existed , where after the check meter was made the main meter) as claimed by the respondent based on the MRI tamper reports of the existing meter submitted by them with their submissions.
9. There is no doubt that the existing meter was running slow or recording lesser energy @ 54.21% as per check meter results but whether this slow running or less recording is due to an internal fault of the meter or due to non availability of full potential in 2 phases (R&B) of the meter as shown in the tamper report.
10. The extent of energy that escaped billing will definitely have to be worked out @ 54.21% as per check meter report but the period of such escaped energy will depend whether it is decided as a case of slow running of meter due to its internal fault where sub regulation 3.1.3 (6) of supply code regulation, 2007 limiting the period to six months only is applicable or the entire period of 1 year 3 months during which the tamper persisted intermittently.

11. In order to decide the issue that whether the less recording in the meter is attributable to an internal fault of the meter or it is due to low potential input to the meter tamper report was examined and such examination of the tamper report shows that the phenomenon of low potential to the meter at R&B phases did also occur from 22.08.2019 to 16.10.2019 (a period of check meter) a number of times which confirms that the less recording of energy in the meter was certainly due to the low voltage input availability to the meter as shown in the MRI tamper report during the period 11.07.2018 to 16.10.2019. Had the tamper would have not occurred during the period of installation of check meter, it would have been clear that the less recording of energy in the meter is due to its own internal fault but as this had not been the case here, it is established that the less recording of energy in the meter is attributable to low voltage input to the meter and further as per lab check report the existing meter was found OK, as such it is established to be a case of less recording of energy in the meter due to non availability of complete voltage input to meter and thus the less recording has been for the entire period of 1 year 3 months referred to above. Such being the facts of the case limitation of 6 months as per sub regulation 3.1.3 (6) of UERC (The Electricity Supply Code) Regulations., 2007 shall not apply in the instant case and the respondent are therefore entitled to recover the cost of energy actually consumed by the petitioner but escaped billing due to less recording of energy in the meter @ 54.21% for the entire period of 1 year 3 months during which the low voltage tamper persisted intermittently and therefore the bill amounting to Rs. 3,99,351.00 was not their complete legitimate demand being for 6 months only, while the meter recorded less from 11.07.2018 to 16.10.2019 (one year three months) @ 54.21%. The respondents have misconstrued it to be a case of slow running of meter and have wrongly raised a bill for 6 months only. Further Forum's contention and order is based on incorrect appreciation of the fact as it is not a case of slow running of meter but a case of less recording by the meter due to non availability of complete voltage input to the meter during the period under reference. So sub regulation 3.1.3 (6) is not applicable.
12. In view of above facts the Forum order is set aside and the petition is dismissed. The respondent are directed to withdraw the assessment bill for Rs. 3,99,351.00 raised by them and are directed to issue a revised bill for the entire period from 11.07.2018 to 16.10.2019 for less recording of energy @ 54.21% due to non availability of voltage

(potential) input on B and R phases, at appropriate tariffs. Stay granted on 16.09.2020 stands vacated.

13. In the past petitions in a number of cases with the similar phenomenon of non availability of full potential input on 1 or 2 phases of the meter have been preferred and all such cases have been decided by the Ombudsman on the same ratio-deciding i.e. check meter results linked with MRI tamper reports and as such all these orders of the Ombudsman including the instant case have consistency apart from being logical and justified. Orders passed by Ombudsman in some of the similar cases are mentioned below.

- i) Order dated 14.11.2014 in case no. 09/2014 of M/s Oil and Natural Gas Corporation Ltd. (A Govt. of India Company), ONGC Colony, Tel Bhawan, Dehradun vs Managing Director, Uttarakhand Power Corporation Ltd. Urja Bhawan, Kanwali Road, Dehradun and others.
- ii) Order dated 22.06.2016 in case no. 08/2016 of M/s Devbhoomi Board Mill, Village Manakpur, Adampur (Pawnti), Distt. Haridwar vs Executive Engineer, Electricity Distribution Division (Rural), Uttarakhand Power Corporation Ltd., Civil Lines, Roorkee, Distt. Haridwar.
- iii) Order dated 14.12.2016 in case no. 23/2016 of M/s Shiv Enterprises through Shri Ankush Kumar S/o Shri Rajkumar, Khasra no. 569, Village Belda, Roorkee, Distt. Haridwar vs Executive Engineer, Electricity Distribution Division (Urban), Uttarakhand Power Corporation Ltd., Civil Lines, Roorkee, Distt. Haridwar.
- iv) Order dated 31.07.2019 in case no. 26/2019 of Shri Gopal Kumar Khaitan S/o Shri Jai Krishna Khaitan, F-96 Industrial Area, Bahadrabad vs Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Jwalapur, Haridwar.
- v) Order dated 31.01.2014 in case no. 07/2013 of M/s US Metal Product, SIDCUL, Haridwar vs Executive Engineer, Electricity Distribution Division (Rural), Uttarakhand Power Corporation Ltd., Haridwar.
- vi) Order dated 28.09.2018 in case no. 29/2018 of M/s Henna Export Corporation, Haridwar vs Executive Engineer, Electricity Distribution Division (Rural), Haridwar.

14. As evident from the above orders passed by Ombudsman in similar cases, it appears that UPCL's field officers do not differentiate between the cases of slow running of meter due to its own fault and where limitation of 6 months applies in terms of sub regulation 3.1.3 (6) of UERC (The Electricity Supply Code) Regulations, 2007 and the cases of less recording of energy by a correct meter due to non availability of full voltage (potential) input on one or more phases of the meter due to some external interference such as carbonization at the contacts of potential input or breaking of wire or lead to the potential input to the meter.
15. The UPCL management is directed to issue suitable instructions to the field officers, so that such irregularities/mistakes are not committed in future. I would like that a copy of such instructions to be issued to field officers, may also kindly be sent to me for my perusal.

Dated: 16.10.2020

(Subhash Kumar)
Ombudsman