

**Before**  
**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**  
**Petition No. 35 of 2021**

**In the matter of:**

Petition under Section 142 of the Electricity Act, 2003 against UPCL authorities for non-implementation and non-compliance of the Order dated 24.11.2020 passed by the Electricity Ombudsman, Uttarakhand.

**In the Matter of:**

- (1) Sh. Vivek Aggarwal S/o Mahendra Kumar R/o 09, Astley Hall, Rajpur Road,  
Dehradun

**...Petitioner**

**And**

**In the Matter of:**

- (1) Managing Director, UPCL, Dehradun  
(2) Executive Engineer, Electricity Distribution Division (Central), 18- EC Road,  
UPCL, Dehradun

**...Respondents**

**Coram**

**Shri D.P. Gairola                      Member (Law) - Chairman (I/c)**

**Shri M.K.Jain                         Member (Technical)**

**Date of Hearing: November 30, 2021**

**Date of Order: December 09, 2021**

**ORDER**

The Order relates to the Petition filed by Shri Vivek Agarwal (hereinafter referred to as "the Petitioner") under Section 142 of the Electricity Act, 2003 (hereinafter referred to as "the Act") against Uttarakhand Power Corporation Ltd. (hereinafter referred to as "the Distribution Licensee" or "UPCL") for non-implementation of the order dated 24.11.2020 of the Electricity Ombudsman.

## 1. Background

- 1.1 Shri Vivek Aggarwal is a consumer of UPCL having an electricity connection of 8 kW at his premises at 9, Astley Hall, Rajpur Road, Dehradun. On dated 03.12.2018, Sh. Vivek Aggarwal received a letter from UPCL regarding electricity load enhancement from his existing connection of 8 kW to 27 kW for his premises. In response to the said letter of UPCL, the Petitioner vide letter dated 15.12.2018, filed a complaint at UPCL claiming that meter cannot run more than 8 kW i.e. the sanction load and hence, requested UPCL to get the meter checked.
- 1.2 Subsequent to this, UPCL on dated 11.11.2019, installed a Check Meter at the premises of Petitioner vide sealing certificate no. 036/484. The Check Meter was later finalised on 07.12.2019 vide sealing certificate no. 20/213. On examining the Check Meter by UPCL it was found that the existing meter was running fast @551%.
- 1.3 As a consequence to this, Petitioner lodged a complaint against the Respondent before the Electricity Consumer Grievance Redressal Forum (CGRF), Dehradun vide letter dated 15.01.2020, wherein, Petitioner claimed that the whole amount wrongfully realized by the Respondent on account of defective meter be refunded. Accordingly, the CGRF, Dehradun vide order dated 15.09.2020, directed the Respondent:

*“ विपक्षी को आदेशित किया जाता है कि परिवादी के परिसर पर चैक मीटर स्थापित होने की तिथि 11/11/2019 से पूर्व 6 माह के बिल उत्तराखण्ड विद्युत नियामक आयोग के The Electricity Supply Code Regulations, 2007 के Chapter: 3 Metering and Billing के प्रावधान 3.1.3(5) अनुसार संशोधित करें, जिस पर किसी भी प्रकार का अधिभार देय नहीं होगा। उभय पक्ष एक दूसरे से किसी प्रकार का वाद व्यय/प्रतिकार प्राप्त नहीं करेंगे। इस निर्णय से संतुष्ट नहीं होन पर परिवादी आदेश प्राप्ति के 30 दिन के भीतर विद्युत ओम्बड्समैन, 80 बसंत विहार, देहरादून में अपील कर सकता है। पत्रावली दाखिल दफ्तर हो।”*

1.4 The Petitioner on not being satisfied by the order dated 15.09.2020 of the CGRF filed an appeal before the Electricity Ombudsman on dated 28.09.2020. The Ombudsman after duly examining the matter issued the aforesaid order in favour of the Petitioner and accordingly directed the Respondent to ensure compliance within 15 days of the issuance of the said order. The relevant para of the said order of the Ombudsman is reproduced hereunder:

*“13. The respondents are accordingly directed to revise the bills from 11.07.2018 to 07.12.2019 and refund the excess amount charged from the petitioner on the inflated bills issued during this period.*

*14. Apart from above as the respondent have violated the provisions of UERC (Standard of Performance) Regulations, 2007 in testing the meter within the specified period of 15 days from the date of complaint, compensation @ Rs. 25.00 for each day of default is also admissible to the petitioner. In the instant case complaint was made on 12.12.2018, the check meter was installed on 11.11.2019, as such the respondents took 11 months in getting the meter tested after the complaint against the permissible period of 15 days so compensation @ Rs. 25.00 per day beyond 15 days of the complaint i.e. for ten and half months in the instant case is also admissible as per 9 (4) of Schedule III of SOP Regulations, 2007. The respondents are also directed to work out the amount of compensation as aforesaid and pay the same also to the petitioner by way of adjustment.*

*15. Compliance of this order be ensured within 15 days from the date of this order. Petition is allowed in accordance with above referred regulations. Forum order is set aside.”*

1.5 Thereafter, on not being informed of any compliance in the matter, the Petitioner filed the instant Petition on dated 12.08.2021 before the Commission under section 142 and 146 of the Electricity Act, 2003.

1.6 Accordingly, the Commission decided to admit the Petition on 27.08.2021 and vide letter dated 31.08.2021 issued notices to Respondents seeking their comments in the matter. In compliance with the same, Respondent No.1 &

Respondent No. 2 submitted their comments vide letter dated 28.09.2021 and 08.09.2021 respectively.

1.7 Thereafter, the Commission decided to conduct a hearing in the matter on 30.11.2021 and accordingly issued notices for hearing to both parties vide letters dated 17.11.2021.

1.8 On the aforesaid date of hearing, both parties were present and the counsels of the parties vehemently argued on each side reiterating the submissions made by them earlier.

## **2. Submission by Petitioner**

2.1 The Petitioner vide the instant Petition has requested the Commission:

*“A) That the respondent be directed to comply with order dated 24.11.20220 passed by the Hon’ble Electricity Ombudsman and to revise the bills from 11.07.20218 to 07.12.2019 and to refund the excess amount charged @ 551% from the Petitioner and also direct to pay Rs. 25 per day as compensation for 10 and half months.*

*B) That the office incharge (Executive Engineer/ Respondent) should be personally held liable for non-compliance of the order dated 24.11.2020 passed by the Hon’ble Electricity Ombudsman despite repetitive reminders by the Petitioner.*

*C) That compensation of Rs. 2 Lakh against the mental agony/ Penalty caused to the Petitioner due to non-compliance of the order dated 24.11.2020 be granted in favour of the petitioner.*

*D) That any other relief which the Hon’ble Court may deem fit be awarded to Petitioner.*

*E) That the full cost of the suit be awarded to the Petitioner.”*

2.2 Further, the Petitioner has also submitted that he was not aware of any bill revision done by UPCL post the aforesaid order until the Petitioner filed the instant Petition and it was only through the reply submitted by UPCL, the Petitioner got informed of the bill revision. However, the Petitioner vide

submission dated 25.10.2021 has submitted that the revision of the bill by UPCL is incorrect and is not as per the directions of the Ombudsman.

### **3. Submission by Respondent No. 1**

3.1 Respondent No. 1 vide letter dated 28.09.2021 has submitted that the concerned Executive Engineer was required to provide para wise reply to the Petition and has submitted the same before the Commission and that from the said reply it appears that correction of the bill has already been done. Further, Respondent No. 1 has also submitted that MD, UPCL has been wrongly impleaded in the matter as the matter pertains to division and therefore, there seems to be no further requirement to make submission on behalf of MD, UPCL.

### **4. Submission by Respondent No. 2**

4.1 Respondent No. 2 has submitted that the present Petition is not in accordance with Form 1 of Regulation 10 of the UERC (Conduct of Business) Regulations, 2014 and is liable to be rejected.

4.2 The Respondent has submitted that he is already in compliance with the aforesaid order of Electricity Ombudsman and same was already informed to the Petitioner vide letter dated 20.03.2021. Also, online updating/correction of the entire bill period as directed by Ombudsman was already done in May, 2021.

4.3 Besides above, the Respondents submitted that the Petitioner is trying to mislead the Commission with wrong facts; hence the same is more of the sort of an appeal in disguise rather than a petition.

### **5. Commission Observations, View & Decision**

5.1 Before proceeding with examining the submissions and arguments of the parties, the Commission finds it imperative to clarify at the very outset that the Commission shall abstain itself from fiddling into the findings of the Ombudsman, recorded in its order dated 24.11.2020, and shall exercise its jurisdiction only concerning compliance of the said order. In this regard, sub-

Regulation 6 of Regulation 5 of the UERC (Appointment & Functioning of Ombudsman) Regulations, 2004, provides that:

*“(5) Non-compliance of Ombudsman’s Orders shall be in violation of these Regulations and shall be liable for appropriate action by the Commission under section 142 and 146 read with section 149 of the Electricity Act, 2003. ”*

5.2 Coming on to the order of the Ombudsman, the said had directed the Petitioner to revise the Electricity Bills of the Petitioner from 11.07.2018 to 07.12.2019 and refund the excess amount charged from the Petitioner on the inflated bills issued during this period. Vide the instant Petition, the Petitioner submitted before the Commission that no compliance in the matter has been made by UPCL, whereas, vide the reply dated 28.09.2021 and 08.09.2021 of Respondent No. 1 & Respondent No. 2 respectively submitted that they had complied with the order of the Ombudsman and had informed the Petitioner regarding the same. To this, the Petitioner during the hearing averred that it was only after filing this instant petition, he became aware and was informed that the bill revision has been done by UPCL. However, the Petitioner has argued that the said revision of bills by UPCL are not as per the Ombudsman Order/ UERC Regulations and therefore, the compliance is incomplete.

5.3 In this regard, it is imperative to examine the order of the Ombudsman whereby UPCL was directed to revise bills of the Petitioner. Relevant para of the said order is reproduced hereunder:

*“C. Sub regulation 3.1.3 (5)*

*(5) When the meter is found to be fast beyond limits specified in Rule 57 (1) of the Indian Electricity Rules, 1956, the Licensee/consumer, as the case may be, shall replace/rectify the defective meter within 15 days of testing. **The Licensee shall adjust/refund the excess amount collected on account of the said defect, based on percentage error, for a maximum period of 6 months or less depending on period of installation of meter prior to the date of consumer’s complaint and up to the date on which defective meter is replaced/rectified”.***

*The above regulation provides that where a meter is found running fast beyond limits specified in rule 57 (1) the licensee shall adjust/refund the excess amount collected on account of the said defective meter based on percentage error for a maximum period of 6 months or less, depending on the period of installation of meter prior to the date of consumer's complaint and up to the date on which defective meter is replaced or rectified. In the instant case as the check meter was installed after 11 months from the date of complaint in violation of above referred regulation 3.1.3 (3) which provides for checking of the meter within 30 days from the date of complaint, so they took 10 months more than admissible under the regulations for checking the meter and as such **it would be appropriate that if date of installation of check meter is assumed as 10.01.2019 (30 days after the complaint of petitioner) and hence refund of the excess amount charged for the last 6 months prior to 10.01.2019 i.e. from 10.01.2019 to 11.07.2018 shall be allowed and further as the check meter was finalized on 07.12.2019 and billing on the malfunctioning meter running faster @ 551% remained continue till 07.12.2019 so refund of excess amount charged through the bills from 11.07.2018 to 07.12.2019 shall be allowed in accordance with the aforesaid regulation due to the violation committed by the respondent.***

13. The respondents are accordingly directed to revise the bills from 11.07.2018 to 07.12.2019 and refund the excess amount charged from the petitioner on the inflated bills issued during this period."

**[Emphasis added]**

From the above, it is clear that Ombudsman had directed UPCL to revise bills as per Regulation 3.1.3 (5) of UERC (The Supply Code) Regulations, 2007. Accordingly, UPCL, revised the electricity bills of the Petitioner which has been disputed by the Petitioner as incorrect revision by the Respondent. On examining the consumer history and related documents submitted by the parties, it has been observed that UPCL has revised the electricity bills of the Petitioner on the basis of the average consumption of the past 03 billing cycles i.e. January 2018, March, 2018 and May 2018 immediately preceding

11.07.2018 i.e. the date 6 months prior to the assumed date of installation of check meter by the Ombudsman supra.

Such revision by UPCL is as per Regulation 3.2 (1) of the Supply Code Regulations which pertains to defective/stuck/stopped/burnt meter, which was not the case here since the meter was running and recording the reading. The said Regulations reads as:

*“3.2(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.”*

Based on the above it can be seen that, the revision of the electricity bills of the Petitioner are not as per the relevant/applicable Regulation 3.1.3 (5) of the Supply Code Regulations, thereby rendering wrong compliance at UPCL's end. In such circumstances, compliance cannot be considered complete or ensured. One cannot hesitate in saying that wrong compliance is construed as no compliance.

- 5.4 It has also been observed by the Commission that UPCL was required to ensure compliance within 15 days of issuance of the Ombudsman Order dated 24.11.2020 i.e. by 09.12.2020. However, UPCL averred that compliance was ensured on 20.03.2021 i.e. with a delay of approximately more than 3 months. That too, the alleged compliance is a wrong compliance.
- 5.5 From the above, the Commission is of the view that that UPCL has been lackadaisical in its approach in ensuring compliance of the Orders of the Forums and also raises serious question on the seriousness of correct application of the Regulations of the Commission. Further, reflecting a practice of wrongly interpreting the Regulations by UPCL in a manner which suits its interest is condemnable.
- 5.6 In light of this, the Commission directs Respondent No. 1:
- (i) To constitute a two Member Committee comprising of Superintending Engineer (Commercial) and Superintending Engineer (R-APDRP) to



revise the bills of the Petitioner for the period 11.07.2018 to 07.12.2019 in accordance with the Ombudsman Order within 15 days of issuance of this Order.

- (ii) To refund excess amount charged from the Petitioner in the bills issued during the aforesaid period and the compensation in accordance with para. 14 of the Ombudsman Order read with Regulation 9 (4), Schedule III of the UERC (Standard of Performance) Regulations 2007 thereof, within 30 days of issuance of this Order.
- (iii) To ensure that the Orders of the Forums are complied in time and practices such as referred in para above are averted in future.

Ordered accordingly.

**(M. K. Jain) Member  
(Technical)**

**(D.P. Gairola)  
Member (Law) - Chairman (I/c)**