

Office of Electricity Ombudsman

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)

B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057

(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2007/166

Appeal against Order dated 29.03.2007 passed by CGRF – NDPL on CG.No. 1018/12/06/KPM (K.No. 321016003801).

In the matter of:

M/s. Shiv Roller Flour Mills - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Arun, the appellant's Advocate
Shri Inderpal Kaushik, Manager of the appellant

Respondent Shri Shishir Singh, Manager KCG,
Shri N. C. Gurani, Manager, Meter Managing Group
Shri Gautam Jai Prakash, Executive Legal,
Shri Sameer Ranjan Prasad, Assistant Officer KCG.

Date of Hearing: 27.07.2007

Date of Order : 02.08.2007

ORDER NO. OMBUDSMAN/2007/166

Appellant has filed this appeal against CGRF-NDPL order dated 29.03.2007 in case no. CG/1018/12/06/KPM, as he was not satisfied with the CGRF order.

The complaint before CGRF is in respect of following 3 issues:

(i) **Load Violation Charges:**

Load violation charges amounting to Rs.306616.82 levied in the months of August and September 1993. It was admitted by both, that the issue of load violation charge is pending in the Civil Courts, therefore, this issue was not taken up by CGRF.

(ii) Fuel Adjustment Charges (FAC):

It is mentioned in the CGRF order that during hearing, the complainant raised objection to the demand raised on account of fuel surcharge on the ground that this demand is time barred in accordance with section 52 of the Indian Electricity Act 2003. In its judgment, CGRF held that FAC amount is payable by the complainant.

(iii) Assessment bill for the period 21.03.2003 to 07.06.2003:

The meter at appellant's premises was replaced on 21.03.2003. This meter started recording low power factor. The consumer made a complaint for its checking, and deposited Rs.2,000/- for this. During this period provisional bills were raised on past average basis for 211284 units per month. During checking, B phase circuit of the meter was found open due to which low power factor and low consumption was being recorded by the meter.

Respondent raised the assessment demand for the period 21.03.2003 to 07.06.2003 by considering meter to be slow by 50% based on **Theoretical analysis data given in the Manual on HT Consumers Metering published by Central Board of Irrigation and Power.** The units recorded for the period 21.03.2003 to 07.06.2003 were 307566 with B phase missing. Considering 50% slowness of the meter, the actual consumption was taken as 615132 units. (307566 x 2). Another 96222 units were consumed between 07.06.2003 to 23.06.2003 thus 711354 units were chargeable for the period 21.03.2003 to 23.06.2003. Earlier appellant was billed on provisional basis for the period 21.03.2003 to 23.06.2003 for 668490 units. Accordingly, supplementary bill for 42864 units (711354 - 668490) for Rs.1,53,024.48 was issued. CGRF held this supplementary bill as fully payable.

Not satisfied with the CGRF order, the appellant filed this appeal.

After scrutiny of the contents of the appeal, the CGRF order and submissions of both the parties in response to queries raised, the case was fixed for hearing on 27.07.2007.

On 27.07.2007, Shri Arun, the appellant's advocate attended alongwith Shri Inderpal Kaushik Manager of the appellant.

Shri Shishir Singh, Manager KCG, Shri N. C. Gurani, Manager, Meter Managing Group, Shri Gautam Jai Prakash, Executive Legal and Shri Sameer Ranjan Prasad, Assistant Officer, KCG attended on behalf of the respondent.

(i) Load Violation Charges:

The issue of load violation charges stated to be pending in the Civil Court is not taken up.

(ii) Fuel Adjustment Charges (FAC)

Appellant has stated in the appeal that DVB raised its bills towards Fuel Adjustment Charges from time to time which were all paid by the appellant and no such amount was due or outstanding or payable by the appellant. As per old records traced out by the appellant, the bills raised by DVB on this account in the years 1998-99 were paid, therefore, no payment was stated to be done by the appellant towards FAC to the respondent.

In reply to the above, the NDPL officials stated that the bills raised on account of FAC charges in the year 1998-99 are separate from the bills raised prior to this period. These bills have been continuously shown to be unpaid / partially paid due to interim orders of the Law courts. The respondent referred to the Supreme Court order dated 27.05.1987 in this case according to which disconnection was stayed provided 50% of the demand was paid within four weeks of the date of order. The issue of FAC in the bunch matters was finally decided by Hon'ble Delhi High Court vide its order dated 25.07.1997 wherein the concerned parties were directed to pay the balance 50% of the amount in six equals installments or in lump sum on or before 31.08.1997. Therefore, it is wrongly alleged by the appellant that this demand has been raised for the first time and is time barred under section 56 (2) of the Electricity Act, 2003. It is stated that for the earlier period 50% payment was made by the appellant and the balance payment is yet to be paid. No evidence is submitted by the appellant that he has paid the balance 50%. This amount is therefore payable.

(iii) Assessment Bill

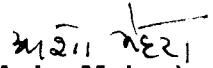
Because of B phase missing NDPL has considered the meter as having recorded 50% less consumption on the basis of theoretical analysis given in the Manual according to which **the meter may record 50% less consumption if power factor is 1 and 28.4% less if power factor is 0.8 and 0% less if power factor is 0.5**. Earlier in a joint meeting with respondent, the appellant had offered to settle the issue if meter is considered to be 40% slow.

NDPL raised the assessment bill for Rs.1,53,024/- by considering the meter to be 50% slow as consumer's power factor was stated to be **nearly 1**. This assessment appears to be incorrect as a **minor difference in the actual power factor and assumed power factor can lead to excess assessment of actual units**. In fact, NDPL should have tested the meter while checking on 07.06.2003 for its exact accuracy before replacing it. The records submitted by NDPL indicate that **consumer power factor was varying between 0.94 to 0.97 and was never 1 (unity)**.

To meet the ends of justice, it is quite reasonable if meter is considered as 45% slow based on power factor varying between 0.94 to 0.97. The appellant and the respondent were both agreeable to this in the absence of actual checking of accuracy of the meter before replacement. Respondent officials were directed to submit the revised assessment demand on 30.07.2007 by taking the meter to be 45% slow.

Revised demand submitted by respondent officials shows that an amount of Rs.46,613.81 is refundable to the appellant against his payment of Rs.1,53,024.48. This refundable amount may be adjusted in the next bill. The meter testing fee deposited by appellant is also to be refunded as the meter was found defective.

The order of CGRF is set aside.


(Asha Mehra)
Ombudsman