

# ELECTRICITY OMBUDSMAN, RAJASTHAN JAIPUR

**Case No. : EOR 431/2018**

In the matter of representation filed before the Electricity Ombudsman,  
Rajasthan, Jaipur by

M/s Indus Towers Ltd.,  
G-Business Park, 3<sup>rd</sup> Floor, D-34,  
Subhash Marg, C- scheme  
Jaipur-302001

Appellant

v/s

Jodhpur Vidyut Vitran Nigam Ltd.,  
New Power House, Basni,  
JODHPUR-342005

Respondent

Represented by

Appellant: Shri Rupesh Verma, Manager - Energy

Respondent: XEN(O&M), JdVVNL, Sangria,  
Shri Amit Chhangani Advocate

Heard on 23.5.18 in presence of

Appellant: Shri M.S.Naruka, Representative

Respondent: XEN(O&M), JdVVNL, Sangria,  
Shri Amit Chhangani Advocate

Coram  
G.R.Choudhary  
Electricity Ombudsman,  
Rajasthan

**Order**

**Date: 24.5.18**

**1. Registration of the case**

The Appellant filed a representation on 13.3.18 before the Electricity Ombudsman, Rajasthan which was registered on same day at Case No. EOR – 431/2018.

## **2. Brief of the case**

The Appellant is having an electricity connection in Non Domestic category (A/c No. 1718-0299) for sanctioned connected load of 18 kW, at Sangria under AEN (O&M), AVVNL Sangaria in Hanumangarh district of the Respondent. The minimal facts leading to this representation are narrated hereunder:

- i. The Appellant is having grievance regarding debit of Rs 162197/- in the energy bill for the month of Nov'17 on account of revision of the bills for the month of Jul'15 & Sep'16 at the instance of audit.
- ii. The Appellant approached the Circle Level Grievances Redressal Forum of the Respondent at Hanumangarh (Forum in short) for redressal of it's grievance. The Forum accorded it's decision on 18.1.18.
- iii. Being not satisfied by the decision of the Forum, the Appellant filed the representation before the Electricity Ombudsman for redressal of it's grievance.

## **3. Representation**

In the representation along with documents submitted, the Appellant stated as under:

- I. The Appellant stated that in the electricity bill of Nov'17 an amount of Rs. 162197/- was added showing as other charges.
- II. It was made to known that the above amount was debited due to revision of bills for the month of Jul'15 & Sep'16 on account of bills issued for less consumption.
- III. In fact in month of Jul'15 the meter was ok and running, the bill was received as per meter reading. There was no remark of meter defectiveness. The Respondent proposed the average consumption bill for the period in which meter was O.K. and running correctly which is against the provisions of TCOS. The meter cannot be declared defective unless and until it is tested in Meter Test Lab.
- IV. Similarly, in month of Sep'16 the meter was ok and running, the bill was received as per meter reading. There was no remark of meter defectiveness in this period also. The Respondent proposed the billing on average consumption for the period in which meter was O.K. and running correctly which is against the provisions of TCOS. The meter cannot be declared defective unless and until it is tested in Meter Test Lab.
- V. The Average charging for both the months is not correct and it is against the provisions of TCOS.
- VI. The Forum in the meeting held on 18.01.2018, decided that the amount debited was correct and did not grant any relief to them by ignoring all facts and rules.
- VII. The relief sought from The Ombudsman:
  - a) To direct the Respondent to quash the charging done.
  - b) To direct the Respondent to refund the excess amount charged with 18% interest.

#### 4. Processing of the case

- 1) The notices were served on dated 13.3.18. A copy of the representation received from the Appellant was forwarded in terms of the Regulation 7(1) of the RERC (Settlement of Disputes by Electricity Ombudsman) Regulations, 2010 (Electricity Ombudsman Regulations in short), to the Respondent and the Forum for sending reply / comments/ factual report, so as to reach to the Electricity Ombudsman by 11.4.18 along with necessary supporting documents and the proof of serving a copy of the same to the Appellant.
- 2) The Appellant was also asked to furnish his comments, if any, on the Respondent's reply, to the Electricity Ombudsman by 20.4.18 along with a proof of serving a copy of the same to the Respondent.
- 3) The Appellant sent a request on 16.4.18 to allow them 15 days to file proper reply, the request was accepted and date of hearing postponed from 2.5.18 to 23.5.18 vide order dated 19.4.18.

#### 5. Replies, comments and arguments

- 1) The Respondent furnished the reply to the representation on 20.4.18 along with a proof of serving a copy of the same to the Appellant.
- 2) No reply/ comment on the Appellant's representation were received from the Forum.
- 3) The case was heard on 23.5.18 in presence of authorised representatives of both the parties, listed above.
- 4) The Respondent's reply, and the arguments furnished during the hearing have been summarised as under:
  - a) The Respondent stated that the Appellant filed his grievance application before the Circle Forum, Hanumangarh against the bill of Nov' 17.
  - b) On the grievance application the S.E., O&M, JdVVNL, Hanumangarh directed A.En(O&M), Sangaria to accept current bill of Nov' 17 alongwith 75% amount of audit charges and Rs. 250/- for Settlement Committee/Forum fee.
  - c) The Respondent stated that on 30.06.2015 the previous reading was noted and meter found defective/stopped but by mistake instead of average bill for Jul'15, the bill for less consumption recorded in the meter reading sheet was issued. The next electricity bill for billing month i.e. Sep'15 was issued on the basis of actual consumption recorded in corresponding month of previous year Sep'14 as per Clause No. 27(1)(i) of the TCOS, 2004, because the meter was lying defective and it was changed by the Respondent. It is virtually clear that the Appellant never ever file any application before the Respondent for testing of meter in Meter Lab, therefore the Appellant cannot take benefit of the same.
  - d) The Respondent stated that on 24.08.2016 the meter was again found defective at the time of recording meter reading and again the bill for the month of Sept'2016 was wrongly issued for less consumption recorded as per meter reading sheet whereas an average bill was to be issued on the basis of previous six months consumption as per Clause No. 27(1)(i) of TCOS, 2004 and therefore again, the meter was changed by the Respondent and it is virtually clear that the Appellant herein never ever filed any application before the Respondent for testing of meter in Meter Lab, therefore the Appellant cannot take benefit of the same.

- e) The Respondent stated that no violation has been done and all actions have been taken as per law. During the course of audit it was revealed that under charging was made by the Sub Division in the billing month of Jul'15 and Sep'16. Accordingly the audit had proposed average charging in those months on the basis consumption in corresponding month of Jul'14 as well as previous six months in accordance with Provisions of TCOS, 2004 since there was substantial fall in consumption due to the reason that meter remained defective, therefore proposed amount of Rs. 1,62,197/- was correct and recoverable as per law.
- f) The Respondent stated that the Appellant herein have filed his grievance before the Circle Level Settlement Committee and by means of order dated 18<sup>th</sup> January, 2018 the Circle Level Settlement Committee dismissed his grievance and if Appellant was aggrieved by the above mentioned order dated 18.01.2018 he may have filed Appeal as per Clause – 50(5)(b) {correctly 50(5)(a)(iii)} of the TCOS, 2004, which is reproduced as under: -
- “(iii) Consumer aggrieved by the decision of Sub-Divisional/ Divisional/Circle Forum will have the option to approach the Corporate Forum before making an appeal to the Ombudsman. For monetary nature of grievances, a fee of Rs.750/- be deposited while appealing the Corporate Forum.”***
- g) Accordingly the Appellant would have to invoke the jurisdiction of Corporate Forum but instead of this he approached before this Forum (correctly Electricity Ombudsman) therefore the representation is liable to be dismissed.
- h) The Respondent stated that this reply to the Representation may be taken on record and the representation filed by the Appellant may be dismissed with cost.
- i) During the hearing both the parties reiterated their respective written arguments as above. The Respondent clarified the meanings of their written reply that the meter reader marked 'D' in meter reading sheet is for meter stop case. The bills were issued on the basis of readings noted in meter reading sheet, which were to be issued as per clause 27 of TCOS: during audit it was noticed that the bills of Jul'15 and Sep'16 has to be revised on the basis of this clause. The Appellant agreed with this argument of the Respondent and asked that in such situation they are entitled to get 5 % rebate as the Respondent did not replace the stopped meter timely as per Regulation 31 (2) of Supply Code.

#### **6. Settlement by Conciliation**

Both the parties were explained about the factual position of the case within the framework of the Act/ Rules and the Regulations made there under and were advised in view of the Regulation 7(2) of the Electricity Ombudsman Regulations, to reach some settlement of the representation but no settlement could be reached. They furnished a written statement in this regards. The Electricity Ombudsman, therefore, analysed the case and accorded the decision as hereunder.

## 7. Analysis of the case

Based on the written statements / documents provided by both the parties, arguments made during the hearing and considering the applicable provisions of the Act, relevant Rules & Regulations, Tariff and TCOS etc, the case has been analysed as under:

### Admissibility of the case

The contention of the Respondent is not correct that if the Appellant was aggrieved by the Forum's order dated 18.01.2018 he should have file the appeal before the Corporate Forum as per Clause – 50(5)(a)(iii)} of the TCOS, 2004 reproduced as under: -

***“(iii) Consumer aggrieved by the decision of Sub-Divisional/ Divisional/Circle Forum will have the option to approach the Corporate Forum before making an appeal to the Ombudsman. For monetary nature of grievances, a fee of Rs.750/- be deposited while appealing the Corporate Forum.”***

This clause itself indicates that the aggrieved Appellant has option either to approach the Corporate Forum or can file his representation/grievance to the Ombudsman.

As per regulation 7(1)(c) of RERC (Guidelines for Redressal of Grievances) Regulations, 2008 if the Appellant's grievance is not redressed by the Forum within the specified time or the consumer is not satisfied with the disposal of his grievance, he will be free to approach the Ombudsman.

As per the Regulation 5(1) of RERC (Settlement of Disputes by Electricity Ombudsman) Regulations 2010, a consumer, aggrieved with the decision of a forum or non-redressal of the grievance, is entitled to file a representation before the Electricity Ombudsman. As such, the representation under reference cannot be dismissed on this ground. Accordingly the Appellant approached before the Ombudsman correctly.

### Audit charges

- 1) The Respondent attached copy of meter reading sheet and a statement of billed energy from May'13 to Mar'18. The reading noted by the meter reader on 2.5.2015 was 32219 KWH and consumption for two months period March & April 2015 was shown as 19858 units. The Meter Reader found meter stopped while taking reading on 30.6.2015 and put remark “D” in the meter reading sheet and noted reading as 39114 of the existing meter with showing consumption of  $39114 - 32219 = 6895$  units and for these units bill was issued and after that while taking reading on 24.8.2015 same remark “D” was put by the meter reader in the meter reading sheet as such meter bearing sr. no. 9435908 has stopped in between 2.5.15 and 30.6.15, which is also clear from the energy consumption recorded by the meter for the period of May & June on 30.6.2015, which is very less in comparison to other months when there was no change in connected load and usage of electricity. The bill for Jul'15 was wrongly issued to the Appellant on the basis of difference of the meter readings, which should have to be issued on the basis of clause 27(1)(i) of TCOS-2004. The MCO was issued on 8.10.15 and the existing meter was replaced by another meter having sr. no. 9373360 on 8.10.15. This meter remained in service till Oct'16.

- 2) After around one year the Meter Reader again found the meter stopped while taking the meter reading on 24.8.16 and noted reading as 81621 along with putting the remark "D" in the meter reading sheet. This remark was also repeated while taking reading on 3.11.16, as such this meter bearing sr. no. 9373360 has stopped in between 26.6.16 and 24.8.16, which is clear from the energy consumption recorded by the meter for billing month of Sep'16 which was very less in comparison to other months when there was no change in connected load and usage of electricity. The bill for Sep'16 was wrongly issued to the Appellant on the basis of difference of the meter readings, which should be issued on the basis of clause 27(1)(i) of TCOS-2004. The MCO was issued on 15.12.16 and the same was replaced by other meter bearing sr. no. 7845941 on 15.12.16.
- 3) The bills issued for billing months Jul'15 and Sep'16 covers the period during which existing meters partially recorded energy consumption and thereafter stopped working. As such correct energy consumption could not be recorded by the existing meters and billing for these billing months of Jul'15 and Sep'16 should have to be done as per clause 27(1)(i) of TCOS, the audit noticed the above shortcoming and revised those bills as per clause 27(1)(i) of TCOS on the basis of consumption of corresponding period of the previous year or the average consumption of the previous six months, whichever is higher.
- 4) The contention of the Appellant is true that without testing the meter cannot be declared defective. In the instant case both the times, the meter cannot be treated as defective but it was not recording the energy and found stopped. In case when the meter considered stopped then there is a procedure in clause 27(1)(i) of TCOS reproduced as under:  
**The consumption of electricity shall be assumed as the same as recorded by correct meter for corresponding period of the previous year or the average consumption of the previous six months, whichever is higher.**
- 5) Hence the contention of the Respondent is correct that under such situation the claim raised by the Respondent is in order and recoverable.

#### Rebate of 5%

- 1) The Appellant requested to allow the rebate of 5% on the bills issued during the meter stop period (Jul'15 to Nov'15 & Sep'16 to Jan'17), on the plea that the stopped meter was replaced after two months.
- 2) The relevant provision is appearing under the Regulation 31(2) of the Supply Code Regulations, dealing with replacement of meter, which reads as under:  
**31. Replacement of meter**  
**(2) In case a stopped/defective metering system is not replaced within a period of two months of its detection, a rebate of 5% on the total bill of the consumer prepared under clause 29, excluding electricity duty shall be allowed from third monthly bill in case of monthly/fortnightly billing and second bill in case of bimonthly billing after such detection till the meter is replaced.**
- 3) In this case first time in the billing month of July 2015 it was detected that existing meter is stopped and it was replaced on 8.10.2015 after a period of more than two months. Similarly second time in the billing month of Sept'2016 it was detected that meter is again stopped, which was replaced on 15.12.2016 that is also after a period of more than two months. In view of above the Appellant was entitled for the 5% rebate on the total bills issued

on average basis as per clause 29 of the supply code regulations in the billing months Sep'15, Nov'15 and Nov'16 , Jan'17, excluding ED, as per above provision.

**8. Award on Representation**

Based on analysis of the case as above, the Electricity Ombudsman hereby passes the award under Regulation 8 of the Electricity Ombudsman Regulations, as under:

1. The Respondent is directed to allow a rebate of 5% as per Regulation 31 of Supply Code Regulations.
2. The amount as above shall be credited in next electricity bill issued by the Respondent, after the receipt of acceptance of this award by the Appellant.
3. No order as to costs.

**9. Compliance of Award**

- i. The Appellant may furnish to the Respondent within a period of **fifteen days** from the date of receipt of this award, a letter of acceptance that the award is accepted in full and final settlement of his claim. A copy of such acceptance be also forwarded to the Electricity Ombudsman.
- ii. The Respondent shall comply with this award as above, on receipt of the acceptance letter from the Appellant otherwise it shall be deemed to be a contravention of the RERC (Settlement of Disputes by Electricity Ombudsman) Regulations, 2010 and in that case the Appellant would be at liberty to take appropriate action against the Respondent including filing a representation before the Rajasthan Electricity regulatory Commission under the Section 142 of the Electricity Act, 2003, for such non-compliance.
- iii. The Respondent shall intimate the compliance of the award to the Electricity Ombudsman, Rajasthan.
- iv. If the Appellant does not intimate the acceptance, the award shall not be required to be implemented by the Respondent.

(G.R.Choudhary)  
Electricity Ombudsman,  
Rajasthan