**IN THE COURT OF OMBUDSMAN, ELECTRICITY, PUNJAB,**

**66 KV GRID SUBSTATION, PLOT NO: A-2, INDL AREA, PHASE-I, S.A.S. NAGAR ( MOHALI )**

**APPEAL No: 29 / 2017** D**ate of Order: 31/08/ 2017**

**SH. JARNAIL SINGH,**

**S/O Sh. HARI SINGH**

**# 2532/1A, STREET NO. 14,**

**DASHMESH NAGAR,**

**GILL ROAD,**

**LUDHIANA.**  ………….. PETITIONER

Account No. MS-3002960499

*Through:*

*Sh. Jarnail Singh, Petitioner*

Sh. Sunil Srivastav, Advocate,(Counsel)

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED. ………………………. RESPONDENTS

*Through:*

Er. Charanjit Singh, Asstt.Executive Engineer

Office of

Addl. Superintending Engineer

Operation Janta Nagar (Special) Division,

P.S.P.C.L, Ludhdiana.

Petition No: 29/2017 dated 15.06.2017 was filed against order dated 17.05.2017 of the Forum for Redressal of Grievances of Consumers Grievances (Forum), PSPCL, Patiala in case no: CG – 54 of 2017 deciding that the bill dated 19.11.2016 issued to the Petitioner for the period from 03.10.2016 to 03.11.2016 be issued for 9789 KVAh units i.e. the maximum monthly consumption recorded by the Meter from the year 2014 to the date of dispute instead of 36645 KVAh units. It was also decided that the bill issued to the Petitioner dated 21.01.2017 covering the period from 03.11.2016 to 07.01.2017 ( 66 days) for 18805 KVAh units is for the actual energy consumed by the Petitioner and is recoverable.

2. Arguments, discussions and evidences on record were held on 31.08.2017.

3. Sh. Sunil Srivastav, Advocate, (Counsel) alongwith Sh. Jarnail Singh, Petitioner attended the court proceedings. Er. Charanjit Singh, Asstt.Executive Engineer, authorized by the Addl. Superintending Engineer / Operation, Janta Nagar (Special) Division, PSPCL, Ludhiana, alongwith Sh. Anup Jain, Asstt.Accounts Officer (Revenue) appeared on behalf of the respondent, Punjab State Power Corporation Limited (PSPCL).

4. Sh. Sunil Srivastav, the Petitioner’s counsel stated that the Petitioner was having an MS category Electricity Connection bearing Account No. MS-3002960499 with sanctioned load of 95.430 KW and Contract Demand (CD) of 100 KVA, operating under Sub-Division (T) Unit-2 under Operation, Janta Nagar (Special) Division, PSPCL, Ludhiana. The Petitioner is using the electricity from the aforesaid Electric Connection for running his business for the last about 20 years. He stated that the bills raised by PSPCL were being paid regularly and he has never defaulted in making the payment of the bills. On 15.09.2016, the Petitioner noticed that the display of the meter was not functioning properly and the Reading of the Meter was not readable. The Petitioner made request on 15.09.2016 for checking of meter and after this, on 20.09.2016, the officials of the Respondent checked the Meter and found that there was some internal defect in the Meter and seals were found, intact. However, the officials prepared the report and handed over a copy of the same to the Petitioner which is read as under:-

1) fJj e{B?e;B tXhe fBrokB fJziL iBsk Bro tZb'A gZsoBzL 1955 fwsh 16$9$16 Bkb whNo dh fv;gb/ pzd j'D ekoB o?co ehsk .

2`) w"e/ T[go whNo dh fv;gb/ ;kc BjhA ;h Gkt fe fv;gb/ d/ nZyo g{o/ fdykJh BjhA fdzd/ ;B ns/ ftZu-ftZu s'A eZN/ j'J/ ;B .

3) w"e/ s' b/"v uZb fojk ;h ns/ efbg nkB whNo Bkb nko, tkJh, ph c/; T[go eqwtko eozN 26, 34, 40 n?wghno B'N ehsk . whNo dh gb; pzd gkJh rJh .

4) whNo B{z tb'N/i ;gbkJh pzd eoe/ p?Noh w'v s/ gVsK B'N ehsnK .

5) whNo nzdo{Bh s"o s' yokp j' frnk j? . w"e/ s/ whNo dh n?e{o/;h u?e BjhA j' ;edh ns/ vhvhn?b th BjhA j' ;fenk .

5) whNo B{z pdbh eoe/ g?e ;hb eoe/ ;hbK dh ;pXsk, vhvhn?b ns/ j"o iKu bJh n?wH JhH b?p G/fink ikt/ .

Thereafter, the officials left the premises of the Petitioner and assured them to replace the Meter. But the officials of the PSPCL did not replace the Meter. After this, no official of the Department with effect from 20.09.2016 to 01.12.2016 visited the premises of the Petitioner to replace the meter. However, the petitioner visited the office of the Respondent many times and requested for replacement of Meter but his request was not acceded to.

The counsel next submitted that on 19.11.2016, the Petitioner received bill No. 50004265291 dated 19.11.2016 for an amount of Rs. 2,42,040/- from the department and in this bill, very exorbitant amount was claimed. Thus, on 30.11.2016, the Petitioner wrote a letter to the PSPCL and requested to replace the meter and to revise the Bill. Thereafter on 01.12.2016, the officials of the department came to the premises and removed the aforesaid meter and installed a new meter and it was told to them that their Meter would be got checked from the M.E. Lab on 21.12.2016. As such on 21.12.2016, the Petitioner visited the M.E. Lab where the officials of the Department obtained their signatures on blank forms and blank papers and later on , the Respondents filled those blank forms and papers as per their own desire and again issued a Bill dated 21.01.2017 for Rs. 2,92,260/-. But the Respondents did not issue the report of DDL to the Petitioner despite making request by him. Having no other alternative, the Petitioner sent a letter dated 08.02.2017 to the Department through post but to no effect. Thereafter, the Petitioner moved an application before the Asstt.Executive Engineer, Commercial, PSPCL, Janta Nagar, Division, Ludhiana and obtained the tamper report and DDL report. The Tamper report for the period with effect from 07.10.2016 to 01.12.2016 was supplied but the same was incomplete. Similarly, DDL report for the period of 70 days has also not been supplied to the Petitioner. Rather the same was supplied only for the period with effect from 12.10.2016 to 01.12.2016 and the DDL report for the period w.e.f. 03.10.2016 to 11.10.2016 has not been supplied. However, the total consumption as reported in the aforesaid bills for the period 03.10.2016 to 01.12.2016 was 48161 units whereas as per the DDL report, issued for the period w.e.f. 12.10.2016 to 30.11.2016, the consumption was reported as 10032 units. So, after deduction of these units from the units reported in the bills, the remaining units come to 38129 units for the period 03.10.2016 to 11.10.2016 which is very short period . Thus, it is impossible and that is why, the DDL for this period has not been issued by the Department intentionally and deliberately. These complete reports have been withheld by the Department intentionally and deliberately so that the Petitioner may not come to know about the truth.

He contested that the aforesaid bills are totally illegal, null and void. It is important to mention here that the Petitioner is running the business at the aforesaid premises since last 20 years and during this long period, the average consumption of electric units always remained under 10000 and during this long period, the minimum amount of bill was Rs. 37,000/- and maximum amount of bill was Rs. 67,000/-. Whereas, the consumption has been shown as 36645 units in bill dated 19.11.2016 and as 18805 units in bill dated 21.01.2017, which clearly shows that the bills are totally illegal. Hence, the claim of the Department made in the bills is totally illegal, unlawful, unjustified and unenforceable. Thus, the impugned order dated 17.05.2017 is based on conjectures, surmises, assumptions and presumptions. The impugned order has been passed on the basis of maximum average consumption for the last three years and has not passed on the basis of actual average basis. As per the calculation of the Petitioner, for the last three years, there is average consumption of 237.36 units per day. It has wrongly been held that the software was accurate, whereas display as well as the software were not working properly. In the end, he prayed that the impugned bills may kindly be quashed and he may be allowed to deposit the actual amount . The respondents may kindly be directed not to disconnect the Electricity Connection till the pendency of the appeal and appeal may kindly be allowed.

5.. Er. Charanjit Singh, Asstt.Executive Engineer, authorized by the Addl. Superintending Engineer, representing the respondents submitted that the Petitioner is holding of Electric Connection bearing Account No. 3002960499 with sanctioned load of 95.430 KW and Contract Demand of 100 KVA. The Petitioner moved an application on 15.09.2016 on the basis of which the connection was checked on 20.09.2016 by the Enforcement. The checking was made by the Addl. S.E./Enforcement-III vide Enforcement Checking Register (ECR) No. 34/3350 on the basis of letter No. 1955 dated 16.09.2016 written by the Addl. S.E., Janta Nagar, Division (Special), PSPCL, Ludhiana. It was reported that the “ display of the Meter is not clear as the figures were not clearly visible. It was further reported that the load was running at site and the current of 26, 34, 40 Amp. were noted on ‘R’, ‘ Y’, ‘B’ Phase respectively with clip-on-meter and readings were noted on battery mode after disconnecting the voltage supply. It was also reported that Meter is internally defective and the accuracy could not be checked nor DDL could be taken and it was further reported that for checking the correctness of the seals, DDL and further investigation, the meter be brought in the M.E. Lab. It was further submitted that the reading recorded on the said checking was 0861599 KWH and 0916373 KVAH and Maximum Demand Indicator (MD) was recorded as 65.267 KVA. The Meter was changed vide MCO No. 100002574650 dated 20.09.2016, affected on 01.12.2016 and reading recorded on MCO was 949672.9 KWH and 969600 KVAH and MD was 65.267 KVA. The Meter was checked in the M.E. Lab vide challan No. 623 dated 21.12.2016 and reported that accuracy of the Meter was within limits, the reading recorded on the M.E. Lab report was 949672.9 KWH and 0969601 KVAH. The bill dated 19.11.2016 for the period 03.10.2016 to 03.11.2016 for consumption of 36645 KVAh units amounting to Rs. 2,42,040/- was sent and the bill dated 21.01.2017 covering for the period 03.11.2016 to 07.01.2017 for consumption of 18805 KVAh units for Rs. 2,92,260/- was also sent . The amount was challenged by the Petitioner before the CGRF (Forum) mainly on the grounds that the bill were exorbitant and the signatures of the Petitioner were obtained on blank Forms and blank papers at the time of checking in the M.E. Lab and he was not supplied with the report of the DDL. The CGRF (Forum) after giving full opportunity of being heard to both the parties decided the case and passed the order that bill dated 19.11.2016 for the period 03.10.2016 to 03.11.2016 be issued for 9789 KVAh units i.e. maximum monthly consumption recorded by the meter from the year 2014 to the date of dispute instead of 36645 KVAh units and further the bill issued to the Petitioner dated 21.01.2017 covering the period 03.11.2016 to 07.01.2017 for 18805 KVAh units is for the actual energy consumption and is recoverable. The order passed by the Forum is just legal and valid .

The representative of the Respondent contested that there is no infirmity in the orders passed by the Forum and as such this appeal is not maintainable. The checking dated 20.09.2016 was made in the presence of the consumer and is admitted also. The Meter was tested admittedly in the presence of the consumer who has admitted his signatures but has falsely stated that the same were obtained on blank forms and blank papers. There is no protest note on the challan by the consumer.

He further stated that upon the application of the consumer, the copy of the tamper report and DDL report were also supplied. The consumption data for the year 2014, 2015 and 2016 was also provided and the Forum, after studying the consumption data, passed the well reasoned and detailed speaking order in this case. He argued that in this case, the display of the meter was defective but software of the meter was working properly and was recording the reading and as such, the bills were correctly issued to the Petitioner. In the end, he prayed to dismiss the appeal of the Petitioner.

6. The facts of the case remain that the Petitioner having MS category connection of 95.430KW and contract Demand of 100KVA, submitted an application to the Respondent on 15.09.2016 stating that display of the meter was not functioning properly and reading of the meter was not readable. The Addl. S.E./ Sr. XEN of the Division concerned, vide letter dated 16.09.2016, requested Addl. S.E./Enforcement-III, PSPCL, Ludhiana for checking of the connection which was done on 20.09.2016. As per checking report, it was reported that display of the meter was not clear and the Meter had become defective internally and accuracy of the meter could not be checked at site and DDL could not be taken. However, readings of the Meter were taken on Battery Mode after switching off the Meter from Main Supply. The Enforcement further desired that for checking the correctness of the seals, DDL and further investigation, the Meter be brought to ME Lab. At the time of the said checking by the Enforcement , reading recorded was 0861599KWh and 0916373KVAH and Maximum Demand (MD) was 65.267KVA. In the meantime, the Petitioner received bill dated 19.11.2016 for exorbitant amount of Rs. 2,42,040/- and wrote letter dated 30.11.2016 to replace the disputed meter and revise the bill. The said meter was then replaced on 01.12.2016 and the Petitioner was directed to be present in ME Lab on 21.12.2016 for checking. The Petitioner visited ME Lab on 21.12.2016 but copy of DDL report was statedly not issued to him. He moved an application before Asstt. Executive Engineer, Commercial, PSPCL, Ludhiana and obtained copies of Tamper Report and DDL Report which were incomplete. Subsequently, he received bill dated 21.01.2017 for Rs. 2,92,260/-. Considering both the above bills exorbitant during a span of 20 years of running his business at the same premises, the Petitioner made an appeal in Forum but he is not satisfied with the relief given by the Forum decision of the Forum, and has moved this Court.

The Petitioner’s Counsel argued that the Petitioner informed the Respondent on 15.09.2016 that display of the meter was not functioning properly and reading of the meter was not readable. But the meter was not replaced immediately even after confirmation of these defects at the time of checking on 20.09.2016. The same was replaced only on 01.12.2016 and that too after oral requests and his application dated 30.11.2016. He further contended that at the time of checking of removed meter on 21.12.2016 in ME Lab, officials of the Respondent obtained his signatures on the blank papers and thereafter filled the same as per their desire. Though he requested for giving a copy of DDL report but the same was not given. Thereafter, he applied for the purpose to the Asstt. Executive engineer, Commercial, PSPCL, Ludhiana and was given copies of Tamper Report and DDL Report, both of which were incomplete and withheld by the department intentionally so that the Petitioner may not come to know about truth. He stated that during the last 20 years of running of this business at the same premises, average consumption of electricity consumption always remained under 10000 units and during this period, the minimum amount of the bill was Rs. 37,000/- while the maximum amount was Rs. 67,000/- whereas consumption in the bill dated 19.11.2016 amounting to Rs. Rs. 2,42,040/- was 36645 KVAh units while in the bill dated 21.01.2017 was issued for an amount of Rs. 2,92,260/- for 18805KVAh units. This shows that bills are illegal and unforceable. He prayed to allow the appeal by quashing the impugned bills and allowing him to deposit the actual amount.

The Respondents, in their defence, argued that checking dated 20.09.2016 of the connection was done by the Enforcement on a reference dated 16.09.2016 made by Addl. SE, Janta Nagar Division (Special), PSPCL, Ludhiana. As per checking report, the meter was internally defective and neither accuracy could be checked nor DDL could be taken at site. He stated that defective meter was replaced vide MCO dated 20.09.2016, effected on 01.12.2016. The defective meter was checked in ME Lab on 21.12.2016 when the accuracy of the meter was within limits and reading recorded in ME Lab Report was 949672.9KWH and 969601KVAH. He further contended that decision of the Forum is just and valid against which the bill dated 19.11.2016 for the period 03.10.2016 to 03.11.2016 was issued for 9789KVAh units ( i.e. maximum monthly consumption recorded by the meter from the year 2014 to the date of dispute) instead of 36645KVAh units and further that the bill already issued for the period 03.11.2016 to 08.01.2017 for 18805KVAh units is for actual energy consumption and is recoverable. He prayed to dismiss the Appeal.

I have gone through the written submissions made in the Petition, written reply of the Respondents, oral arguments of the petitioner and the representative of Respondents – PSPCL as well as material brought on record. The issue involved in the present dispute is the legitimacy of bills issued as per actual energy consumed in respect of Meter found O.K. / accurate in ME Lab but found internally defective at site.

I noted the contention of the Petitioner that the connection was checked by the Enforcement on 20.09.2016 , pursuant to his application dated 15.09.2016 and as per checking report, meter was internally defective and reading on the display of the meter was not readable. The Petitioner also contended that though he was given assurance on the date of said checking that the meter would be replaced, the same was not replaced immediately and it was only after repeated oral requests and application dated 30.11.2016 that the defective meter was removed and new meter was installed on 01.12.2016. I also find that the Petitioner has raised the issue that at the time of checking of removed meter in ME Lab on 21.12.2016, his signatures were obtained on blank papers which were later filled in by officials of the Respondent as per their desire. But, on being asked to place on record any reference pointing out this aspect, he could not do so. The Petitioner also contended that DDL report was not issued to him and it was only after his application dated 08.02.2017 to the concerned Divisional office and again to Asstt. Executive Engineer/Commercial, PSPCL, Ludhiana that he was given copies of Tamper Report and DDL Report. However, Tamper Report for the period from 07.10.2016 to 01.12.2016 was supplied which same was incomplete. Similarly, DDL Report for the period only from 12.10.2016 to 01.12.2016 was given while the same for the period 03.10.2016 to 11.10.2016 was not supplied.

The Petitioner next contended that total consumption reported in the bill for the period from 03.10.2016 to 01.12.2016 was 48161 units whereas DDL Report issued for the period from 12.10.2016 to 30.11.2016, the consumption was reported as 10032 units. He further stated that after deduction of this consumption from the units reported in the bills, the remaining units comes out to 38129 units for the period 01.10.2016 to 11.10.2016 i.e. in a very short period which is impossible. It was argued that due to this reason, the DDL for the said period has not been issued and complete reports have been withheld deliberately by the department so that the Petitioner may not come to know about the truth. He contested that the bills raised are illegal, null and void. In this regard, the representative of the Respondent contested that DDL Reports were placed on web site of PSPCL on the very day of testing of meter in ME Lab. I also noted that since the DDL of removed Meter was taken in ME Lab after three months of the checking by Enforcement, the data got washed out because the meter stores the data for 70 days as per the specification of Meters.

I would also like to reproduce below the consumption data of the Petitioner’s connection before and after the replacement of disputed

Meter as per data placed on record by the Respondent:-

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Sr. No.** | **Date of Reading** | **Event** | **Meter Reading** | |
| **KVAH** | **KWH** |
| 1. | 20.09.2016 | Reading by Enforcement of old meter by Battery Mode | 916373 | 861599 |
| 2. | 03.10.2016 | Monthly Reading ( Of old Meter) for billing | 921439 | 866548 |
| 3. | 03.11.2016 | Monthly Reading (Of old meter ) for billing | 958084 | 949672 |
| 4. | 01.12.2016 | At the time of removal of disputed Meter | 969600 | 949672.9 |
| 5. | 21.12.2016 | At the time of checking in ME Lab | 969601 | 949672.9 |
| 6. | 07.01.2017 | Monthly Reading:    Old Meter    New Meter: | 969600  7416 | 949672  7199 |

A perusal of the above details would reveal that the reading recorded in the ECR dated 20.09.2016 appears to be correct as the same matches with the reading pattern recorded in the consumption data as the Petitioner had consumed 2496KVAh units during the period from 07.09.2016 to 20.09.2016. However, billing to the Petitioner during the period 03.10.2016 to 03.11.2016 was done for 36645KVAh units which seems to be on higher side keeping in view average of monthly KVAh units consumed by the Petitioner during the years 2011 to 2017 (upto 10.08.2017), the details for which were called from the Respondent and deliberated during hearing as under:-

|  |  |
| --- | --- |
| ***Year*** | ***Average of Monthly Consumption (in KVAh units)*** |
| ***2011*** | ***7150*** |
| ***2012*** | ***6953*** |
| ***2013*** | ***7414*** |
| ***2014*** | ***7488*** |
| ***2015*** | ***7092*** |
| ***2016*** | ***7535*** |
| ***2017 upto 10.08.2017*** | ***5701*** |

I also studied the DDL dated 21.12.2016 of the disputed meter and noted that the cumulative reading recorded on the DDL was 969626KVAH and 913517.40KWH. The above study of the DDL details reveal that cumulative readings of DDL dated 21.12.2016 have significant variation trend as compared to readings taken by the Enforcement during checking dated 20.09.2016 of the disputed meter. With a view to explore the possibility of referring to ME Lab for recheck of disputed meter, the representative of the Respondent intimated during hearing that the said Meter had been returned to ME Lab and is not now available with “OP” Division. I also observed that Addl. S.E./ Enforcement-3, PSPCL, Ludhiana stated in his checking report dated 20.09.2016 that “ whNo nzdo{Bh s"o s/ yokp j' frnk j?"."

I am of the view that the above finding of the Enforcement checking report is at variance with ME Lab Report dated 21.12.2016, as per which, the accuracy of the Meter was found within limits. With a view to arrive at a proper conclusion, all the relevant factors as Consumption Trends before and after the replacement of disputed meter, undue delay in its replacement and checking in ME Lab, Enforcement checking and ME Lab Report and also natural justice , have to be kept in view. So, the Petitioner’s plea for natural justice on the reasoning that tiny pins of tractors are being manufactured in his unit and consumption trend of previous years being less than monthly average of 10000 units (also evidenced by Average Monthly Consumption from 2011 to 2017- upto 10.08.2017) is not without merit and deserves consideration in terms of provisions contained in Regulation 21.5.3 of Supply Code-2014 which reads as follows:-

*“Any evidence provided by the consumer about conditions of working and / or occupancy of the concerned premises during the said period(s) which might have a bearing on consumption of electricity consumption shall, however, be taken into consideration by the distribution licensee”.*

As a sequel of above discussions, it is concluded that the Meter was internally defective as observed in the Enforcement in checking report dated 20.09.2016. The Forum erred in deciding the case without considering the applicable regulations. I have, therefore, no hesitation to set aside the decision dated 17.05.2017 in case No. CG-54 of 2017. It is, therefore, held that the accounts of the Petitioner should be overhauled for the period from 20.09.2016 (date of checking by Enforcement) to 01.12.2016 (date of replacement of Meter) as per provisions contained in Regulation 21.5.2 (a) of Supply Code- 2014 i.e. on the basis of energy consumption of corresponding period of previous year while the billing for the period from 02.12.2016 to 07.01.2017 be done on the basis of actual energy consumption recorded by the new Meter. Accordingly, the Respondents are directed to recalculate the demand and recover/refund the amount excess / short, after adjustment, if any, from / to the Petitioner with interest under the provisions of ESIM-114.

7. The Appeal is disposed of accordingly.

8. Chief Engineer/ “OP” Central Zone, PSPCL, Ludhiana may initiate disciplinary action against the delinquent officers / officials in accordance with their service rules for delay in replacement and checking of disputed Meter and also for not supplying the documents asked for by the Petitioner as detailed in Para-6 above.

9. In case, the Petitioner or the Respondents ( Licensee) is not satisfied with the above decision, he is at liberty to seek appropriate remedy against this order from the appropriate Body in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations – 2016.

(MOHINDER SINGH)

Ombudsman

Place; SAS Nagar (Mohali) Electricity, Punjab,

Dated : 31.08.2017 SAS Nagar (Mohali)