**COURT OF THE LOK PAL (OMBUDSMAN), ELECTRICITY, PUNJAB,**

 **PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

 **S.A.S. NAGAR (MOHALI).**

 **APPEAL NO. 46/2018**

**Date of Registration : 25.07.2018**

**Date of Hearing : 12.11.2018**

**Date of Order : 22.11.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman), Electricity**

**In the Matter of :**

 Sanik Textile Mills Pvt. Ltd.,

 Village Kupkalan,

Malerkotla Road,

District Sangrur.

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division ,

PSPCL, Malerkotla

 ...Respondent

**Present For:**

Petitioner : 1. Sh.R.S.Dhiman,

 Petitioner’s Representative (PR).

Respondent : 1. Er.Gafoor Mohammed,

 Addl.Superintending Engineer.

 2. Er.Ranjit Singh

 Addl.Assistant Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 27.06.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-153 of 2018 deciding that :

*“ 1) Energy bill generated for the month of 01/2018 including the period of direct supply computed on the basis of energy consumption of corresponding period of previous year as per Regulation 21.5.2(a) of Supply Code-2014 is justified and recoverable from the Petitioner.*

 *2) Proportionate ToD Rebate for the period of direct*

*supply from 07.01.2018 to 17.01.2018 be allowed to the Petitioner on the basis of average consumption be worked out above as per 1st decision.”*

**2*.* Facts of the Case*:***

 The relevant facts of the case are that:-

1. The Petitioner was having a Large Supply Category connection

with sanctioned load of 2345.310 kW and contract demand (CD) as 1396 kVA. and the metering was done by providing HT Energy Meter. The Petitioner also opted for Time of Day (ToD) Tariff.

1. The 11 kV/110 V, CT/PT unit got burnt/damaged on 06.01.2018

resulting in sudden disruption of Power Supply of the Petitioner. The connection was checked on 06.01.2018 by MMTS which declared that CT/PT unit was damaged and issued directions for its replacement and return to M.E. Laboratory.

1. Due to non-availability of the CT/PT Unit, direct supply was given

to the Petitioner on 07.01.2018 with the approval of the Competent Authority.

1. A new CT/PT Unit was arranged and provided on 17.01.2018 vide

SJO No. 140/10586 dated 09.01.2018 and supply was restored through the Energy Meter. Evidently, direct supply was given for the period from 07.01.2018 to 17.01.2018.

1. The CT/PT unit was got checked on 22.02.2018 from the M.E.

Laboratory which declared that CT/PT unit as damaged.

**(vi)** During the period of direct supply, the Respondent-PSPCL had recorded the readings of the Energy Meter provided at Sending End **because the Petitioner was getting supply through Independent Feeder**. For the month of 01/2018, the Centralized Billing Cell (CBC) generated the energy bill as per the following details:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| S.No | Period | MF |  Reading in kVAhNew Old  | ConsumptionIn kVAh |
| 1. | 01.01.2018 to06.01.2018 | 40 | 1149 | 185 | 38,560 |
| 2. | 07.01.2018 to17.01.2018 | Average basis consumption of 10 days of last year | 396320x 10/31 =1,27,845 |
| 3. | 17.01.2018 to30.01.2018 | 30 | 5851 | 1149 | 1,41,060 |

1. Aggrieved with the said bill, the Petitioner filed a Petition in

the Forum, who, after hearing passed the order dated 27.06.2018. (Reference Page-2, Para-1).

1. Aggrieved with the decision of the Forum, the Petitioner preferred

an Appeal in this Court and requested that the undue charges raised against the Petitioner on the basis of wrong application of Supply Code Regulation may be set aside in the interest of justice

**3. Submissions made by the Petitioner and the Respondent**:

 Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representative of the Petitioner and the Respondents alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner**:

 The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner was running a Textile Mill and having an electricity

connection, bearing Account No.LS-06, with sanctioned load of 2345.310 kW and contract demand (CD) of 1396 kVA. All the electricity bills were paid regularly by the Petitioner. Power Supply to the Petitioner’s connection was at 11 kV from 66 kV Sub station, Kupkalan through an Independent Feeder.

1. The CT/PT unit of the Petitioner’s connection got damaged on

06.01.2018 resulting in sudden disruption of Power Supply to the Petitioner. Since CT/PT of suitable capacity was no readily available with the Respondent, direct supply was given on 07.01.2018 with the due approval of the Competent Authority. Readings of the Energy Meter installed at the Sending End of Petitioner’s Independent Feeder were also simultaneously recorded and seals were affixed by the SDO, Kupkalan on this Energy Meter.

1. After arranging a suitable CT/PT unit, direct supply was

discontinued on17.01.2018 and proper metered supply was started. At the same time, readings of the Energy Meter installed at the sending end of the Petitioner’s Independent Feeder were also recorded. Thus, the Respondent had complete record of the exact quantity of electrical energy supplied to the Petitioner during the period of direct supply from 07.01.2018 to 17.01.2018. After this, instead of raising bill for the actual consumption based on readings of the Petitioner’s sending end Energy Meter referred to above, the Respondent issued a bill for a sum of Rs.21,56,630/- for 3,07,465 kVAh units, in which consumption for the period from 07.01.2018 to 17.01.2018 was taken on average basis for consumption of corresponding period of previous year. This being highly unjust, the Petitioner made a representation to the Sr.Xen, Centralized Billing Cell (CBC), Patiala in this regard, but the same was ignored.

1. On the repeated requests of the Petitioner, SDO, Kupkalan, vide its

memo no.176 dated 09.02.2018, wrote a letter to Addl.SE, CBC, Patiala explaining therein full details of the case and recommended correction of the Petitioner’s bill on the basis of actual consumption.

1. The Petitioner, after having lost all the hope of justice, filed a

Petition in the Forum, who, vide order dated 27.06.2018, upheld the undue charges raised by the Respondent.

1. The decision of the Forum was totally wrong and unjustified. It had

been decided to charge the Petitioner for the disputed period on the basis of consumption of the corresponding period of the previous year in accordance with Regulation 21.5.2(a) of the Supply Code-2014. Strictly speaking, this Regulation was not applicable in the Petitioner’s case and was, in fact, relevant to the cases of defective Energy Meters. In the present case, there was no defect in the Energy Meter as only the CT/PT unit was damaged. Apart from this, the Forum ignored the fact that the Regulation ibid applied harshly in the case of the Petitioner. The matter needed to have been decided in a just and fair manner in terms of provisions of Regulation 2.42 and 2.44 of the PSERC (Forum and Ombudsman) Regulations-2016.

1. The Petitioner was getting Power Supply through an Independent

Feeder and a duly tested and calibrated meter was installed at the Sending End of the feeder. Readings of this Energy Meter were recorded by the Respondent at the start and end of direct supply. Consumption recorded by the Sending end Meter during the disputed period clearly showed that it was much less than the Petitioner’s consumption of the corresponding period of the previous year. Still, insistence on charging the Petitioner on the basis of previous year’s consumption was nothing short of penalizing the consumer for no fault of it. Rather, the Petitioner needed to be compensated for not restoring its supply immediately after damage of its CT/PT unit.

1. While deciding to apply Regulation 21.5.2 (a) of the Supply

Code- 2014, the Forum completely lost sight of the provisions contained in Regulation 21.5.3 of the Supply Code which provided that working conditions of the consumer shall be considered by the licensee while working out its consumption in cases of defective Energy Meters.

1. All Rules and Regulations were aimed at providing justice and

fairness to the consumers. Dispensation of justice was more important than blind folded application of the Rules and Regulations. Seen in this light, the decision of the Forum in the present case was totally unfair.

1. The undue charges raised against the Petitioner on the basis of

wrong application of Supply Code Regulation may be set aside in the interest of justice.

**( b ) Submissions of the Respondent:**

 The Respondent, in its defence, submitted the following for consideration of this Court:

**(i)** The Petitioner was having a Large Supply Category connection

with sanctioned load of 2345.310 kW and contract demand (CD) of 1396 kVA, bearing Account No.L38-KK01-00006. It was a regular connection of General Category and was fed from Independent 11KV Sainik Textile Feeder from 66 KV Sub-station, Kupkalan.

1. The CT/PT unit of the Petitioner got damaged/burnt on 06.01.2018

and could not be replaced immediately for want of availability of CT/PT Unit of suitable capacity. As such, direct supply was given to the Petitioner with due permission of the Competent Authority.

1. After arranging new CT/PT unit, supply was restored through the

Energy Meter on 17.01.2018.

1. The Centralized Billing Cell (CBC) generated the energy bill on

actual basis for the period from 01.01.2018 to 06.01.2018 and 18.01.2018 to 31.01.2018 as per metered supply reading and charged the Petitioner, on average basis of previous year’s consumption for the period from 07.01.2018 to 17.01.2018 (direct supply period).

1. The CT/PT unit was also a part of metering equipment and the

Energy Meter could not record reading when CT/PT burnt out. It was, thus, a case of defective/burnt Energy Meter and was covered under Regulation 21.5.2(a) of the Supply Code-2014.

1. Reading had been recorded from Grid Energy Meter at the time of

giving direct supply and also at the time of installation of new CT/PT unit on 17.01.2018, but accuracy of the Grid Meter was not checked or verified by any Authority competent to do so and thus, could not be relied upon for calculating the consumption of the Petitioner.

1. Regulation 21.5.2 (a) of the Supply Code-2014 was applied on the

basis of facts and circumstances of the case and application of Regulation 21.5.3 of the Supply Code-2014 was not considered relevant in this case.

1. In view of the above, the Appeal may be dismissed.

**4. ANALYSIS:**

The issue requiring adjudication is the legitimacy of the amount charged to the Petitioner for the billing month of January 2018 including the period of direct supply i.e. 07.01.2018 to 17.01.2018 (when the CT/PT unit remained damaged) and allowing proportionate Time of Day (ToD) rebate accordingly based on the consumption of the corresponding period of previous year as per applicable regulations.

 *The points emerged are deliberated and analysed as under*:

1. The dispute arose with the issuance of the energy bill for 01/2018 (01.01.2018 to 30.01.2018) by taking the consumption for the period of direct supply from 07.01.2018 to 17.01.2018 (due to damage of CT/PT unit remained) based on consumption of the corresponding period of previous year as per provisions contained in Regulation 21.5.2 (a) of the Supply Code 2014, which reads as under:

**“21.5.2 : Defective (other than inaccurate)/ Dead**

 **Stop/Burnt/ Stolen Meters which states as under**:

*The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of* ***burnt****/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*

1. *On the basis of energy consumption of corresponding*

 *period of previous year.*

1. *In case the consumption of corresponding period of the*

*previous year as referred in para (a) above is not available, the average monthly consumption of previous six(6) months during which the meter was functional, shall be adopted for overhauling of accounts.*

1. *If neither the consumption of corresponding period of*

*previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period of meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*

1. *Where the consumption for the previous months/period*

*as referred in para (a) to Para (c) is not available, the consumer shall, be tentatively billed on the basis of consumption assessed as per LDHF formula and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*

1. *The energy consumption determined as per para (a) to*

*(d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts.”*

**(ii)** After examining the submissions made in the present Appeal and reply of the Respondent, a reference was made to the Addl. S.E, DS, Division, PSPCL, Malerkotla, vide memo no.1651/A-46/2018 dated 06.11.2018, to supply the following information by 09.11.2018 positively:

1. The reading of the Energy Meter and ConsumptionDatainstalled at Sending End (at PSPCL Grid Sub Station) and Receiving End (at Consumer’s Premises), one year before the date of damage of 11 kV/110 Volts CT/PT unit on 07.01.2018.
2. The upto date reading and consumption data of Sending End (at PSPCL Grid Sub Station) and Receiving End (at Consumer’s Premises) after replacement of CT/PT unit on 17.01.2018.

In response, the requisite information was sent by the Addl.SE, DS Division, PSPCL, Malerkotla vide e-mail dated 09.11.2018.

(iii) Petitioner’s Representative contended that the decision of the Forum was totally wrong and unjustified. It had been decided to charge the Petitioner for the disputed period on the basis of consumption of the corresponding period of the previous year in accordance with Regulation 21.5.2(a) of the Supply Code-2014. Strictly speaking, this Regulation was not applicable in the Petitioner’s case and was, in fact, relevant to the cases of defective Energy Meters. In the present case, there was no defect in the Energy Meter as only the CT/PT unit was damaged. Apart from this, the Forum ignored the fact that the Regulation ibid applied harshly in the case of the Petitioner. The matter needed to have been decided in a just and fair manner in terms of provisions of Regulation 2.42 and 2.44 of the PSERC (Forum and Ombudsman) Regulations-2016.The Petitioner was getting Power Supply through an **Independent Feeder** and a duly tested and calibrated Energy Meter was installed at the Sending End of the feeder. Readings of this Energy Meter were recorded by the Respondent at the start and end of direct supply. Consumption recorded by the Sending End Meter during the disputed period clearly showed that it was much less than the Petitioner’s consumption of the corresponding period of the previous year. Still, insistence on charging the Petitioner on the basis of previous year’s consumption was nothing short of penalizing the consumer for no fault of it. Rather, the Petitioner needed to be compensated for not restoring its supply immediately after damage of its CT/PT unit. While deciding to apply Regulation 21.5.2 (a) of the Supply Code- 2014, the Forum completely lost sight of the provisions contained in Regulation 21.5.3 of the Supply Code which provided that working conditions of the consumer shall be considered by the Licensee while working out its consumption in cases of defective Energy Meters.

 The Respondent, in its defence, submitted that the CT/PT unit was also a part of the metering equipment and the Energy Meter could not record reading when CT/PT was burnt. It was, thus, a case of defective/burnt Energy Meter and was covered under Regulation 21.5.2(a) of the Supply Code-2014. Reading had been recorded from Grid Energy Meter at the time of giving direct supply and also at the time of installation of new CT/PT unit on 17.01.2018, but accuracy of the Grid Energy Meter was not checked or verified by any Authority competent to do so and thus, could not be relied upon for calculating the consumption of the Petitioner’s connection. Regulation 21.5.2 (a) of the Supply Code-2014 was applied on the basis of facts and circumstances of the case while application of Regulation 21.5.3 of the Supply Code-2014 as contended by the Petitioner’s Representative (PR),
was not considered relevant in this case.

 During the course of hearing, the Respondent informed the Court that the Sending End Energy Meter was not calibrated and even not tested in the M.E.Laboratory.

 I observe that the Petitioner’s connection is being fed from the **Independent Feeder**. The Petitioner was charged for 1,27, 845 kVAh units during the period from 07.01.2018 to 17.01.2018 (disputed period) approximately for 10 days, on the basis of energy consumption of the corresponding period of the previous year.

I have perused the Attendance Record of the Petitioner’s Factory made available by the Petitioner and observed that there was considerable decrease in the manpower deployed during the disputed period, thus, there appears justification in the contention of the Petitioner’s Representative to treat the said Attendance Record as an evidence in support of relief claimed under Regulation 21.5.3 of the Supply Code-2014, which reads as under:

“ *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 computation of electricity consumption shall, however, be taken into consideration by the Distribution Licensee* ”.

Therefore, in the present case of the Petitioner being fed from an Independent Feeder, there is need to consider the readings of Sending End Meter of the Respondent as the de-facto Petitioner’s Meter suitably modifying its readings by a factor which can be calculated from past/present history of ratio of readings of the Receiving End Meter of the Petitioner and Sending End Meter of the Respondent. It is highly deplorable that Respondent has admitted that it has never calibrated its Sending End Meter. It must be the practice across the State which only shows that how a Technical Organisation (Respondent) works non-technically. The Respondent must ensure that all Sending End Meters on its Feeders including those which are installed on Independent Feeders are calibrated/tested as per IS:13010&13779. Necessary order for this must be laid and strictly adhered to. From the perusal of the consumption data placed in the record, it is observed that the consumption after the replacement of CT/PT unit (February 2018, March 2018 & April 2018) has been reduced as compared to the consumption recorded before damage of CT/PT unit. It also proves the contention of the Petitioner that the labour has been reduced which has bearing effect on the electricity consumption.

 I find that the Respondent-PSPCL have taken the reading of the Energy Meter during the disputed period ( i.e. from 07.01.2018 to 17.01.2018) at Sending End vide SJO No.140/10586 dated 09.01.2018, as under:

|  |  |  |
| --- | --- | --- |
| S.No |  Date | Reading in kVAh of the Sending End Meter |
| 1 | 07.01.2018 | 68,517 |
| 2. | 17.01.2018 | 68,701 |

 The Multiplying Factor (MF) at Sending End is 500 as intimated by the AEE, PSPCL, Kupkalan Sub Division vide memo no.176 dated 19.2.2018 addressed to Addl.SE, CBC, Patiala and confirmed by the Addl.SE, DS Division, Malerkotla vide e-mail dated 21.11.2018.

 As per above details, total consumption during the disputed period is 184x 500= 92,000 units. I also observe from the data supplied by the Respondent that reading of Energy Meter installed at Sending End was less than Receiving End from February 2018 to October 2018. However, average ratio of consumption between Receiving End and Sending End was 1.04. I am of the view that as the Sending End Energy Meter was not calibrated/tested on annual basis, hence, the above consumption taken by the Respondent at Sending End during the disputed period shall be enhanced/increased by the factor 1.04. As a result, the total consumption during the disputed period ( i.e. from 07.01.2018 to 17.01.2018) works out to be 184x 500x 1.04= 95,500 units.

 From the above analysis, it is concluded that the billing of the Petitioner’s connection for the month of 01/2018 is required to be done as under:

|  |  |  |
| --- | --- | --- |
| S.No | Period | Consumption in kVAh  |
| 1 | 01.01.2018 to 06.01.2018 | 38,560 (actual) |
| 2. | 07.01.2018 to 17.01.2018 | 191x500=95,500 (as described above) |
| 3. | 17.01.2018 to 30.01.2018 | 1,41,060 ( actual) |
|  | Total | 2,75,120 |

**5. Decision:**

 **As a sequel of above discussions, the order dated 27.06.2018 of the Forum in Case No.CG-153 of 2018 is set aside. It is held that the account of the Petitioner for the billing month of 01/2018 shall be overhauled in terms of conclusion arrived at in para-4 above. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, without interest/surcharge.**

**6.** Chief Engineer/Commercial, PSPCL, shall issue instructions to all the Engineers-in-Chief/Chief Engineers-DS Zones, Chief Engineer/Enforcement and Chief Engineer/Metering to ensure periodical testing of the Energy Meters installed on the C&R (Control & Relay) Panels at various Grid Sub-stations as per IS:13010 & 13779. It shall also be ensured that before installation/commissioning of new Panel, the Energy Meters installed on it is tested as per IS:13010 & 13779 and sealed in respective M.E. Laboratory. These instructions shall be incorporated in ESIM.

**7**. The Appeal is disposed off accordingly.

**8**. In case, the Petitioner or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

 (VIRINDER SINGH)

November 22, 2018 LokPal (Ombudsman)

S.A.S. Nagar (Mohali) Electricity, Punjab.