**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO.20/2019**

**Date of Registration :08.03.2019**

**Date of Hearing :23.05.2019 and 11.07.2019**

**Date of Order :23.07.2019**

**Before:**

 **Er. Virinder Singh, Lokpal (Ombudsman) Electricity**

**In the Matter of :**

 Garg Rice Mills,

 Phul Road,

 Rampura Phul,

 District Bhatinda.

 ...Petitioner

Versus

 Additional Superintending Engineer,

DS Division, PSPCL,

Rampura Phul.

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Vinod Kumar Garg

 Petitioner’s Representative (PR)

 2. Sh. Sadhu Ram Jindal

 Petitioner’s Representative (PR)

Respondent : 1. Er. Ludar Kumar Bansal

 Additional Superintending Engineer,

 DS Division, PSPCL,

 Rampura Phul.

 2. Sh.Manoj Kumar

Revenue Accountant (RA)

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 07.02.2019 of the CGRF, Patiala in Case No. CG-426 of 2018 of the deciding that:

1. *“Excess consumption of (235888- 222774) x kVAh i.e. 13114x MF = 52456 kVAh units recorded by the meter be refunded to the petitioner as per the tariff applicable during seasonal period .*
2. *Further an amount of Rs.38,670 + 30,330 = Rs.69,000/- charged to the petitioner on account of Demand Surcharge in the bills of 02/2017 and 03/2017 be also refunded to the petitioner.*
3. *Surcharge/interest charged to the petitioner for the period 04.10.2016 till date may be refunded.”*

2. **Facts of the Case:**

The relevant facts of the case are that:

1. The Petitioner was having a Large Supply (LS) Category connection with sanctioned load of 267.459 kW and contract demand (CD) of 279 kVA for Rice Sheller and General Mill.
2. The Energy Meter installed at the premises of the Petitioner was found defective and replaced vide Device Replacement Application No.100002608112 dated 27.09.2016, affected on 04.10.2016.The new Energy Meter, bearing S.No. 16293411 of L&T make, having CT Ratio of 5/5 Amp, was installed at the initial reading of kWh=108.2, kVAh=158.9 with overall Multiplication Factor as 4.
3. The Petitioner was not satisfied with the working of the Energy Meter and challenged the same by depositing the requisite fee on 16.08.2018.
4. The working of the Energy Meter was checked by the Addl.S.E,

MMTS, Bathinda vide ECR No.20/750 dated 10.10.2018 and the accuracy of the Energy Meter in Active Mode was found to be within limits. However, the accuracy in Reactive Mode was not checked. MMTS also directed the Respondent to replace the Energy Meter.

1. The Energy Meter was replaced vide Device Application No. 100006382976 dated 18.08.2018, affected on 03.12.2018 and new Energy Meter, bearing S.No. 18489770 of L&T Make having CT Ratio of 5/5 Amp, was installed. The reading of old Energy Meter could not be taken.
2. The Energy Meter was checked in the M.E. Laboratory vide Challan No. 99 dated 20.12.2018 as per which, it was reported that accuracy of the Energy Meter was checked and found to be within permissible limits.
3. M.E. Laboratory also reported that the Energy Meter, bearing Sr. No. 16293411, was related to PSPCL **Technical Specification of** **MQP-95** and there was difference in kWh and kVAh readings.
4. The Petitioner had a grievance that since the Energy Meter under dispute related to Technical Specification No. MQP-95 and there was a large difference in kWh and kVAh reading due to Lag plus Lead Tariff protocol Energy Meter, hence, the amount charged on account of excess consumption recorded by the Energy Meter be refunded as per the order dated 28.02.2018 of Hon’ble PSERC in Petition No.47 of 2017. Accordingly, the Petitioner filed a Petition dated 05.12.2018 in the CGRF, Patiala who, after hearing, passed order dated 07.02.2019.(Page 2, Para1).
5. Not satisfied with the decision of the CGRF, the Petitioner preferred an Appeal in this Court and prayed that the account of the Petitioner for the disputed period be overhauled on the basis of the consumption recorded during corresponding period of the previous year as per provisions contained in Regulation 21.5.2(a) of Supply Code-2014.

**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 along with material brought on record by both the sides.

1. **Submissions of the Petitioner:**

The petitioner submitted the following consideration of this Court:

1. The Petitioner was having Large Supply electric connection with

 sanctioned load of 267.459 kW and CD of 297 kVA for Rice &

General Mill.

1. The Energy Meter of the Petitioner was replaced on 04.10.2016

 with **Sr.No.16293411(L&T)** at initial readings as kWh/kVAh-

108.2/158.9. After the installation of new Energy Meter

(DLMS), the Petitioner received heavy/incorrect bills due

to low Power Factor (PF) recorded by the Energy Meter as under:

|  |  |
| --- | --- |
| **Month** | **Power Factor** |
| 10/2016 to 02/2017 | 0.57 |
| 03/2017 | 0.74 |
| 04/2017 | 0.84 |
| 05/2017 | 0.75 |
| 06/2017 | 0.21 |
| 07/2017 to 10/2017 | 0.77 |
| 11/2017 | 0.78 |
| 12/2017 to 01/2018 | 0.76 |
| 02/2018 | 0.74 |
| 03/2018 | 0.71 |
| 04/2018 | 0.73 |
| 05/2018 | 0.21 |
| 06/2018 to 07/2018 | 0.50 |
| 08/2018 to 09/2018 | 0.42 |

It was worth mentioning that the readings of the kVAh/kWh recorded during the period 10/2016 to 10/2018 were mismatching due to abnormal kVAh consumption recorded.

1. Inspite of repeated requests made to the Respondents for checking of Meter status and replacement of defective Energy Meter, no action was taken by the Respondent. On 16.08.2018, Energy Meter was challenged by depositing Rs. 2400/- as Meter Challenging Fee. But, the Energy Meter was not checked, as per Regulation 21.3.6. of Supply Code-2014 within a week’s time in the ME Lab, Bathinda.
2. The Energy Meter was checked by the ASE/MMTS Bathinda on 10.10.2018, when only kWh consumption was checked but the billing was done on kVAh basis. Hence, the Petitioner made written request dated 18.10.2018 for checking of kVAh consumption as the Petitioner was not satisfied with the said checking. The Respondent failed to get the same checked in the ME Lab within the stipulated period. The MMTS had also directed the Respondent to replace the Energy Meter.
3. PSERC had passed order in Petition No. 47 of 2017 dated 28.02.2018 filed by the PSPCL with regard to the protocol of metering and complaint regarding excess billing due to higher consumption recorded by the ToD meter with lag plus lead protocol compliant, procured by PSPCL vide specification No. MQP-95, deciding that no consumer be charged extra for leading Power Factor recorded with lag plus lead ToD Meter installed at the consumer’s premises. It was also decided that the power factor shall be taken as UNITY and amount of excess billing be refunded to the consumers and Energy Meter be replaced immediately and that this process must be completed within three months time, but in the case of the Petitioner, the Respondent took almost one year to comply with the instructions of the Hon’ble PSERC.
4. The defective/disputed Energy Meter was replaced on 03.12.2018 in violation of the Hon’ble PSERC order dated 28.02.2018, wherein directions were given that all such Energy Meters be replaced within three months time and amount billed excess be also refunded to the consumers. The Chief Engineer, Metering, Patiala, addressed to the Engineer- in- Chief, Commercial, PSPCL Patiala and to all EIC/CEs, DS Zones vide Memo dated 12.03.2018 issued instructions to adjust the account of the consumers accordingly and in case of any violation, the defaulter (s) would face consequences under Section 142 of the Electricity Act-2003.
5. The average Power Factor recorded prior to the replacement of Energy Meter on 04.10.2016 was in the range of 0.95 shown under:

|  |  |
| --- | --- |
| **Month** | **Power Factor** |
| 04/2015 | 0.95 |
| 05/2015 | 0.92 |
| 06/2015 | 0.96 |
| 07/2015 | 0.95 |
| 08/2015 | 1.00 |
| 09/2015 | 0.99 |
| 10/2015 | 1.00 |
| 11/2015 | 0.89 |
| 12/2015 | 0.88 |
| 01/2016 | 0.88 |
| 02/2016 | 0.85 |
| 03/2016 | 0.86 |
| 04/2016 | 0.97 |
| 05/2016 to 07/2016 | 1.00 (Average 0.95) |

1. The report of ME Lab, Bathinda regarding checking of Energy Meter was received vide Memo No. 1471 dated 31.12.2018. No doubt, the result of kWh consumption were within permissible limit, there was huge difference of reading of kWh/kVAh = 702000/942920 with Power Factor 0.74.This was despite the fact that Hon’ble PSERC in Petition No. 47 of 2017, filed by PSPCL with regard to the metering protocol and alleged complaint regarding excess kVAh consumption recorded by the ToD Meter with lag plus lead protocol procured by the Respondent against specification No. MQP-95, passed orders that no consumer be charged extra for leading Power Factor recorded with lag plus lead tariff protocol meter already installed on the consumer premises. In such cases, Power Factor shall be taken as UNITY and amount charged on account of leading Power Factor may be refunded to the consumers.
2. Inspite of PSERC orders for replacement of such Energy Meter, the

Energy Meter, installed at the premises of Petitioner remained installed for 26 months (04.10.2016 to 03.12.2018). This clearly showed inefficiency and deficiency of services on the part of the Respondent. The account of the Petitioner was not overhauled by the Respondent as per order dated 28.02.2018 passed by the Hon’ble PSERC in Petition No. 47/2017, thus, action for violation of the directions of Hon’ble PSERC was required to be taken under section 142 of the Electricity Act-2003 for unfair/unbearable loss to the Petitioner.

1. As per letter from CE, Metering, Patiala addressed to the CE,ARR,Patiala, a

Committee of Sr. XEN, Metering and Billing organisation,ASE, MMTS,ASE ME was constituted to study the calculation of kVAh from data of kVARh (lag) and kVARh (lead) available in the Energy Meter. The Committee concluded that manual calculations of Apparent Energy (kVAh) will not be correct from the data of kVARh lag and kVARh lead available in the Energy Meter. The manufacturer, L&T also informed that correct value of kVAh reading for lag only tariff could not be determined by calculations from lag plus lead energies available in the lag plus lead meter, hence, exact consumption of kVAh could be determined from the data(DDL) recorded in the Energy Meter.

1. During 04.10.2016 to 03.12.2018, kVAh consumption was recorded

by defective Energy Meter as 9429920 kVAh units for 26 months which came to average 36266 kVAh units per month billed to the Petitioner, whereas consumption of previous period i.e. 10/2015 to 09/2016 was recorded as kVAh 303352 for 12 months which came to 25279 kVAh units per month, which clearly showed that the Energy Meter installed during the period 04.10.2016 to 03.12.2018 was defective and showing very high consumption as compared to the corresponding period of the previous period, hence, the account of the Petitioner was required to be overhauled/reviewed in the interest of natural justice as per Regulation 21.5.2 (a) of Supply Code-2014 as the Energy Meter (kVAh) was defective.

1. PSPCL procured ToD lag plus lead Tariff Protocol Energy Meter without the permission of the PSERC with the intention to penalise the innocent consumers without studying the adverse effect of the leading Power Factor of the Consumers. Power Factor in the present case was beyond limits as compared to the previous period (04/2015 to 07/2016).
2. Keeping in view the facts and figures as stated above, it was prayed that

 the account of the Petitioner for the disputed period be overhauled on the basis

 of consumption of corresponding period of previous year as per provisions of

 Regulation 21.5.2. (a) of Supply Code-2014 in the interest of natural justice.

1. **Submissions of the Respondent:**

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

1. The Energy Meter, bearing Sr. No. 14638454 of L&T make was replaced on 04.10.2016 by a new Energy Meter, bearing Sr. No. 16293411 of L&T make with Initial Reading of kWh/kVAh-108.2/158.9. The consumer was charged as per readings of the Energy Meter and was correct. Power Factor was low due to defective shunt capacitor. Power Factor in the bill for the month of 05/2018 was shown low in the bills due to clerical mistake which continued to be made in the bills from 06/2018 to 11/2018 resulting into depiction of low Power Factor.
2. The consumer was provided relief on account of interest/surcharge charged to it, as per decision of the Forum.
3. Actual Power Factor of the Petitioner’s connection could be ascertained from the DDL reading.
4. Energy Meter, bearing Sr.No.16293411 installed after replacement of old one, was not defective.
5. The working of the Energy Meter was checked by the Addl. S.E, MMTS, Bathinda vide ECR No. 20/750 dated 10.10.2018 and the accuracy of the Energy Meter in Active mode was found to be within limits. However, the accuracy in Reactive Mode was not checked. MMTS directed DS Division Rampura Phul to replace the Energy Meter.
6. Before checking of the connection on 10.10.2018 by the MMTS, the process for change of the Energy Meter had been initiated on 18.08.2018 after challenge of the working of previously installed Energy Meter which was replaced vide Device Application No. 100006382976 dated 18.08.2018, affected on 03.12.2018. As per decision of the Forum, necessary refund, after treating leading PF as Unity, was given to the Petitioner and it had not suffered any loss with the implementation of the said decision.
7. It was correct that average Power Factor was 0.95 prior to change of Energy Meter on 04.10.2016.
8. As per report dated 31.12.2018 of ME Laboratory, Bhatinda, final reading was 1,75,608 kWh and 2,35,888 kVAh and energy consumption was 7,02,000 kWh units and 9,42,920 kVAh units which was correct.
9. The Petitioner’s bill was corrected/revised as per decision of the Forum and **refund due on account of 52,456 kVAh units had been given to the Petitioner.**
10. The Energy Meter was replaced on availability of the new meter and appropriate action was taken in time.
11. It was not correct that Energy Meters were purchased to penalise the Petitioner.
12. The Appeal may be dismissed as the decision of the Forum was in order.

 **4. Analysis:**

The issue requiring adjudication is the legitimacy of the overhauling of the account of the Petitioner for the period from 04.10.2016 to 03.12.2018 on the basis of consumption of the corresponding period of previous year as per applicable Regulation.

 *The points emerging in the case are deliberated and analysed as under:-*

1. The dispute arose after the Energy Meter installed at the premises of the Petitioner, bearing Sr. No.14638454 (L&T make), was replaced on 04.10.2016.The new Energy Meter, bearing Sr.No. 16293411 of L&T make, having CT Ratio of 5/5 Amp, was installed at the initial reading of kWh=108.2, kVAh=158.9 with overall Multiplication Factor as 4. The Petitioner was not satisfied with the working of the Energy Meter and challenged the same by depositing the requisite fee on 16.08.2018 where after, the same was checked by the Addl.S.E, MMTS, Bathinda vide ECR No.20/750 dated 10.10.2018 and the accuracy of the Energy Meter in Active Mode was found to be within limits. However, the accuracy in Reactive Mode was not checked. MMTS also directed the DS wing to replace the Energy Meter, which was replaced on 03.12.2018 and the new Energy Meter, bearing Sr.No. 18489770 of L&T Make having CT Ratio of 5/5 Amp, was installed. The MQP-95 Energy Meter was checked in the M.E. Laboratory on dated 20.12.2018 whereby, it was reported that accuracy of the Energy Meter was within permissible limits. M.E. Laboratory also reported that the Energy Meter, bearing S.No. 16293411, was related to PSPCL **Technical Specification of** **MQP-95** and there was large difference in kWh and kVAh readings. The Petitioner had a grievance that since the Energy Meter under dispute related to Technical Specification No. MQP-95 and there was a large difference in kWh and kVAh reading due to Lag plus Lead Tariff protocol Energy Meter, **hence, the amount charged on account of excess consumption recorded by the disputed Energy Meter be refunded as per the order dated 28.02.2018 of Hon’ble PSERC in Petition No.47** **of 2017**.Accordingly, the Petitioner filed a Petition dated 05.12.2018 in the CGRF, Patiala who, after hearing, passed order dated 07.02.2019 giving necessary relief (Page 2, Para 1).
2. During the course of hearing on 23.05.2019, the Representatives of both the Petitioner and the Respondent reiterated their respective submissions in the Appeal/Written Reply.

Petitioner’s Representative (PR) emphasised that during 04.10.2016 to 03.12.2018, kVAh consumption was recorded by defective Energy Meter as 9429920 kVAh units for 26 months which came to average 36266 kVAh units per month billed to the Petitioner, whereas consumption of previous period i.e. 10/2015 to 09/2016 was recorded as 303352 kVAh for 12 months which came to 25279 kVAh units per month. This clearly showed that the Energy Meter installed during the period 04.10.2016 to 03.12.2018 was ‘defective’ and showed very high consumption as compared to that in the corresponding months of the previous period, hence, the account of the Petitioner was required to be overhauled/reviewed in the interest of justice, as per Regulation 21.5.2 (a) of Supply Code-2014 as the Energy Meter was defective beyond limit. PR alleged that PSPCL procured lag plus lead Tariff Protocol Energy Meter without the permission of the PSERC with the intention to penalise the innocent consumers without studying the adverse effect of the leading Power Factor on the Consumers. The Power Factor in the present case was beyond limits as compared to the previous period (04/2015 to 07/2016) which was 0.95(average) as per record, the PR added.

At the end of deliberations, the Respondent was directed orally and also in writing, vide letter no. 574/OEP/A-20 /2019 dated 23.05.2019, to prepare and submit the information, in coordination with the Petitioner, giving details of the consumption in kVAh units, quantity of Paddy milled as certified by the Government of Punjab, amount billed and paid by the Petitioner to PSPCL relating to pre disputed (one year), disputed period and post disputed period to this Court for consideration on the next date of hearing.

1. In compliance to the above direction of this Court, the Additional Superintending Engineer, DS Division, PSPCL, Rampura Phul sent the requisite information vide letter no. 4726 dated 11.06.2019. Accordingly, the matter was deliberated during the hearing held on 11.07.2019.

 *I observe that no definite conclusion can be drawn from perusal of the data brought on the record of this Court.*

1. As per material brought on record of this Court, the DDL of the Energy Meter was carried out on 19.10.2018 and 24.12.2018. As per the DDL report, the following parameters were recorded in respect of Cumulative Energies from the date of installation of the Energy Meter till 03.12.2018 as per DDL carried out on 24.12.2018.

 kVAh forward 235888 x MF

kWh forward 175608x MF

kVARh lag forward 137077x MF

kVARh lead forward 11232 x MF

The load of the Petitioner was generally inductive or capacitive if compensated and very rarely purely resistive. As such, in inductive mode, Energy Meter will record Reactive Energy Lag only with Reactive lead energy being Zero. Similarly, in capacitive mode, Energy Meter will record Reactive Energy lead only with Reactive lag energy being Zero. The same protocol was followed by the Energy Meter and the Meter could only function either in the Reactive Lag mode (kVARh lag forward) or in reactive lead mode (kVARh lead forward) at one time and could not function simultaneously in the reactive lag and reactive lead modes at the same time. Therefore, the consumption recorded in the lag mode was for the period when the Energy Meter was functioning in the lag mode only and similarly, consumption recorded in the lead mode was for the period when the Energy Meter was functioning in the lead mode only. Further, as per the orders of the Hon’ble PSERC, the consumption recorded by the Energy Meter, when it was in operation with leading Power Factor and consumption, was under the head kVARh lead needed to be ignored by taking the Power Factor as unity. In view of the above, the kVARh lead consumption of 11232xMF recorded by the Energy Meter needed to be ignored by considering it as zero and kVAh consumption needs to be calculated by taking into account the kWh and kVARh lag only recorded by the Energy Meter as below:-

(kVAh)2 = (kWh)2 + (kVARh lag)2

 = (175608)2 + (137077)2

 = 30838169664 +18790103929

 = 49628273593

kVAh = 222774x MF

I observe that had the Energy Meter with lag only protocol been installed at the premises of the Petitioner, it would have recorded a consumption of 222774 kVAh x4(MF) units during the entire period of installation from 04.10.2016 to 03.12.2018 i.e. for a period of almost 26 months. The actual consumption as recorded by the Energy Meter with Lag plus Lead Tariff protocol for the said period was 235888kVAh x4(MF) units. As such, an excess consumption of 235888 - 222774 i.e. 13114 x4(MF)= 52456 kVAh units had been recorded by the Energy Meter due to contribution on account of Reactive Lead Energy because of Lag plus Lead protocol Energy Meter and the same needed to be refunded to the Petitioner as already held by the CGRF.

1. PR pleaded that account of the Petitioner for the disputed

 period (04.10.2016 to 03.12.2018) be overhauled in terms of

 provisions contained in Regulation 21.5.2 (a) of the Supply

Code-2014, which read as under:

**“Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters:**

*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.”*

 I observe after going through the above provisions that the same are not applicable/relevant in the present dispute considering the facts and circumstances of the case as discussed in preceding paras. Actually, the Energy Meter (installed on 04.10.2016) was not defective but had a technical feature (lag+lead protocol) which was not approved by the Hon’ble PSERC and hence replaced on 03.12.2018.

**5. Conclusion:**

From the above analysis, it is concluded that the Petitioner failed to prove the legitimacy of the overhauling of its account on the plea of taking the energy consumption for the disputed period (04.10.2016 to 03.12.2018) as the energy consumption of the corresponding period of previous years under Regulation 21.5.2(a) of the Supply Code-2014.

**6. Decision:**

As a sequel of above discussions, the order dated 07.02.2019 of the CGRF, Patiala in Case No. CG-426 of 2018 is upheld.

 **7.** The Appeal is disposed of 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)

July 23, 2019 Lokpal (Ombudsman)

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