**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: 32 / 2017**  **Date of Order: 13/09/2017**

**M/S INDUS TOWERS LIMITED,**

**276, INDUSTRIAL AREA-A,**

**SBI BUILDING,**

**NEAR CHEEMA CHOWK,**

**LUDHIANA.** ………….. PETITIONER

Account No. 3002860767

*Through:*

Sh. Parvesh Chadha,, Authorized Representative

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED.

………………………. RESPONDENTS

*Through:*

Er. M.P. Singh,

Addl. Superintending Engineer

Operation, Model Town (Special) Division,

P.S.P.C.L, LUDHIANA.

Petition No: 32/2017 dated 03.07.2017 was filed against order dated 03.07.2017 of the Consumer Grievances Redressal Forum (CGRF), PSPCL, Patiala in case no. CG – 53 of 2017 deciding that the amount of Rs. 8,09,535/- charged to the Petitioner vide notice bearing memo No. 2261 dated 14.02.2017 is for the actual consumption recorded by the Meter and is chargeable. Forum also directed the respondent to take necessary action for regularization of excess load found in the premises of the Petitioner as per instructions of the PSPCL.

2. Arguments, discussions and evidences on record were held on 13.09.2017.

3. Sh. Parvesh Chadha, Authorized Representative attended the court proceedings on behalf of the petitioner. Er. M.P. Singh, Addl. Superintending Engineer / Operation, Model Town (Special) Division, PSPCL, Ludhiana alongwith Shri Vinod Aggarwal, Revenue Accountant appeared on behalf of the respondent, Punjab State Power Corporation Limited (PSPCL).

4. At the outset of the proceedings, the authorized representative of the Petitioner made a request for condonation of delay in filing the appeal by submitting that the decision of CGRF (Forum) was received personally on 22.05.2017 and appeal was to be filed before this Court upto 21.06.2017 but due to some financial problem, balance 20% amount was deposited on 29.06.2017 and accordingly under these circumstances, the delay in filing the present appeal occurred which was beyond the control of the Petitioner and may kindly be condoned in the interest of natural justice.

Er. M.P. Singh, ASE, commenting on the issue of delay in filing the case submitted that the present appeal is not maintainable on merits. The CGRF (Forum) decided this dispute case on 15.05.2017. As per Electricity Supply Instructions Manual (ESIM) No. 113.2, representation/appeal against the decision of the Forum shall be made to the Court of Ombudsman within one month from the date of receipt of order. The copy of the order of the Forum was sent to him 16.05.2017 and received by him on 22.05.2017 and as such, he was to file appeal upto 21.06.2017. Though the consumer was aware of the decision of the Forum but he filed the appeal on 03.07.2017 only after a period of 41 days. Thus, the present application for condonation delay in filing the appeal deserves to be dismissed. The explanation given by the Petitioner is not supported by any cogent evidence and thus, deserves to be rejected.

I find that Regulation 3.18 (ii) of the PSERC (Forum & Ombudsman) Regulations -2016 provides a period of 30 days for filing an Appeal against the order of the Forum. In the present case, the decision was sent to the Petitioner through Registered post on 16.05.2017 which has been received by him by 22.05.2017. Therefore, the Appeal was required to be filed by 21.06.2017 but the same has not been filed within the stipulated period. Though, no justifiable reasons for this delay have been given by the Petitioner but rejecting the appeal only on this ground will not meet the ends of the ultimate justice and deprive off the Petitioner the opportunity, required to be afforded to him to argue his case on merits. In view of the natural justice and affording him an opportunity to be heard, the delay of 11 days is condoned and the petitioner is allowed to present his case.

5. Sh. Parvesh Chadha, the Petitioner’s authorized representative stated that the Petitioner is having NRS category Electricity Connection under the name of M/S Indus Towers Limited and doing the business of Mobile Network, bearing Account no. 3002860767 installed at Phullanwal, Ludhiana with sanctioned load of 25.400 KW. He stated that the Petitioner received a Memo No. 2261 dated 14.02.2017, on 16.02.2017 from AEE/Commercial, Model Town (Special) Sub-Division, Ludhiana alongwith supplementary bill for depositing Rs. 8,09,535/- + surcharge Rs. 10278/- = Rs. 8,19,813/- payable upto 27.02.2017. As per notice No. 2261, it is the difference of 95359 units consumed as Final Reading 185693 KWH taken on 13.07.2016 and 90334 units on 08.08.2016 plus 6150 units average for 28 days (13.07.2016 to 09.08.2016) based on consumption recorded in the same month of corresponding year i.e. 07/2015. Thus, total consumption of 101509 units. He further submitted that it is very clear that Respondents is charging wrong amount. Average @ 6150 units are charged for 28 days and for that period, final units for 27 days 95359 units were also charged and as such levying two penalties for the one/same period.

He contested that as per MCO No. 100002378775 dated 09.08.2016, the removed meter serial No. 067447 make MS “Totally Burnt”, Final Reading (FR) not visible. Then, how FR-185693 KWH has been taken. However, as per M.E. Challan No. 2026, Reading NV, no DDL reference is appended, whether it was downloaded or not. In the last bill issued on 16.01.2017, the bill was issued for 545 days for 160320 units (76099 new + 84221 old meter) for Rs. 3, 49,840/- which was paid, considering as correct, as the previous billing was issued on ‘F’ ‘O’ ‘C’ codes and to get clear bill, an complaint was made on GRMS service of PSPCL site on 07.01.2017 which is yet not closed by PSPCL. He further mentioned that due to that revenge, full action, this bill was issued. He questioned as to why the FR-185693 KWH was made for 545 days of 160320 units payable on 30.01.2017. This notice is also relating to old and new meter and same period for which the bill was issued on 30.01.2017. As such, there is clear deficiency on the part of PSPCL for first not entering the MCO in Computer for issuing correct bills and secondly for not feeding the FR in Janaury, 2017, if it was available in their record and only this is harassment to the consumer who pin points the working.

The Authorized Representative further contested that the reading 185693 KWH as stated of 13.07.2016 does not appear in any record prescribed by the PSPCL. As per SAP billing system, the reading is to be punched in SPOT Billing Machine (SBM) at site and at the end of the day, it is uploaded in the system in the Computer to generate the bill. Further as per SAP chronology, no such reading has been feeded / entered in the Computer, if so, computer had generated the bill upto that reading. He pointed out that when MCO was issued on 09.08.2016, it was closed at the reading 90334 given in the column of old meter. FR of new meter was 87185 but the bill was issued on 18.01.2017 from Initial Reading (IR) -2 KWH to 76101 KWH which clears that bill revised on 18.01.2017 was not correct. The meter under dispute has been returned to the M.E. Lab, Ludhiana as ‘Burnt’, duly surveyed off list vide challan dated 30.08.2016. This means that nothing was in dispute upto the return of Meter. It was not kept under observation when dues to the tune of Rs. 8, 09,535/- is pending and no DDL was taken.

Further he submitted that the bill under dispute was wrongly issued on bogus reading and needs to be withdrawn. Thus, the excess amount recovered from the Petitioner be refunded with interest and their bills are to be prepared from IR-0 to 90443+average of 28 days as 6170+IR-87185 to 96941 for the total period from 13.07.2016 to 09.03.2016.

The authorized representative of the Petitioner submitted that the respondent PSPCL has not furnished any documentary proof of sending MCO advice to Computer in time after the change of meter. The statement of respondent is false as no advice was sent. In case, it was rejected as replied by the Respondent then, why it was not again submitted, even meter became burnt and new meter was installed. Moreover, the Respondent has also furnished wrong reply/statement before the CGRF that CC No. 25/2014 dated 19.05.2014 has not been implemented yet by the PSPCL. The PSERC has not issued stay in this regard. The Spot Billing Machines of Make and Serial No. SANDs Sr. No. 1010 and I-1157, I-1191, I -1182 are running in the Respondent office for recording of readings of load 20 KW and above in both Commercial Units I & II under the Model Town Division, Ludhiana. As such, the Addl. SE has misled the CGRF by furnishing wrong statement to save the skin of deficiency in service.

He further added that PSPCL vide their CC No. 19/2015 dated 26.05.2015 has clarified regarding SAP System as under:-

“**162.CONTROL AND RESPONSIBILITIES OF VARIOUS BILLING/REVEDNUE ACTIVITIES FOR BILLING MORE THAN 20 KW.**

*The control of the billing data and preparation of bills based on meter readings as per Spot Meter Readings/AMR and advices/on line job orders to be sent by respective operation Sub-Divisions shall remain in control of the respective Zonal Centralized Billing Cells. The Operation Sub-Division shall have no power to alter the billing data in any way. The Operation Sub-Division shall process the billing advices/job orders as per detailed instructions of ESIM and send these online to the respective CBCs for data entry alngwith Meter Readings and supporting documents whenever required. The Zonal Centralized Billing (CB) cells shall prepare the Bills for the cycle based on the meter readings and billing advices/data. The billing advices/job orders for consumers above 20 KW being high revenue and less in numbers shall be entered by Revenue Accountant of the concerned Sub-Division and then shall be checked and verified by AE/AEE of concerned Sub-Division. The advices/job orders then shall be sent to the respective Zonal CBC by AE/AEE of concerned Sub-Division online for billing purpose. The UDC in the Zonal CBC shall enter these advices alongwith meter readings for generation of the bills. AEE of the Zonal, CBC shall check the bills alongwith advices for printing. The bills shall be printed in the Zonal CBCs and sent to the Respective Operation Sub-Divisions for distribution to ensure that billing errors are minimum and billing efficiency is uniform and of highest order. Bill printing should be done at the respective Zonal CBCs which shall be easier to handle. The bill printing for the Sub-Division shall be very difficult to sustain in the long run”.*

He next submitted that there are no instructions to record the readings manually. They are doing against the Electricity Act-2003 as well as their own circular. The Respondent has not produced any office order/commercial circular vide which it is clear that readings of load 20 KW and above are taken manually. No such proof was given for issue of manual Reading record to the officials to maintain. The reading above 20 KW are to be recorded by Addl. Asstt. Engineer (AAE) and not by Foreman. However, the photocopies of manual reading submitted are also bogus and reframed which are self explanatory if both copies are compared together. The ECR No. 14/952 dated 21.04.2017 was also not correct. The load detected is not correctly assessed as one, out of three ACs was not in working condition. The reading as shown on 13.07.2016 as 185693 KWH units was not available in the record and manipulated for getting revenge of the complaint lodged in GRAMS on 07.01.2017. The CGRF decided the case against them only on the ground that per month 14719 units consumption by comparing consumption recorded in 2014 but ignored the consumption of the year 2016 and 2017. In the end, he requested that the period under dispute from 13.07.2016 to 09.08.2016 be charged either on the basis of average worked out on the last year consumption for the same period or the consumption of present meter as there is deficiency on the part of the PSPCL and violation of regulation No. 21.3.6 (b) and (e) of Supply Code-2014 and instruction No. 57.3 of ESIM and bill issued without checking of accuracy of meter. In case the meter under dispute, if replaced in time and was sent to the M.E. Lab in time, the DDL could have solved the dispute. The meter surveyed off was required to be kept pending but the main evidence in this issue removed. Therefore, the consumption shown in the supplementary bill/notice of FR-185693 less 90443, which is totally bogus needs to be withdrawn as there is no authenticated record presented by the PSPCL and manipulated to get revenge of GRAMS complaint. He prayed to allow the appeal.

6. Er. M.P. Singh, Addl. Superintending Engineer, representing the respondents, submitted that the reading mentioned in the Petition as 185693 KWH is actual reading as per healthy meter consumption upto 13.07.2016 and from 13.07.2016 to 09.08.2016 ( MCO date), the consumption has been calculated on the basis of Last year consumption of corresponding month i.e. 6150 units. Therefore, the total bill was raised of 95359+ 6150 units= 101509 KWh units. As per Meter Reader, blank reading taken by Meter Reader on 13.07.2016 was 185693 KWH, as the final reading was taken on the basis of meter reading record.

The Respondents admitted that on the basis of GRAMS complaint, as stated by the Petitioner, the account was overhauled for the period 13.07.2016 to 09.08.2016. He stated that as the bill has been revised, the complaint no. 170103003 stands already closed. Due to ‘F’ Code from 07/2015 to 08/2016, only average was taken on the basis of average taken by the SAP billing system, where as per Meter Reader record, actual consumption appearing over it and has been placed on record indicating month by month actual reading taken by Meter Reader and pattern of consumption for the period is also matching with the corresponding consumption as well as future consumption He further pleaded that due to introduction of new ERP (SAP) system, the old MCO were not migrated in newly system and the teething problem prevailed for some months. He stated that final reading of 185693 KWH dated 13.07.2016, is available as per Meter Reading record and it could not be entered in MCO due to newly introduced SAP billing system. Hence, amount charged is correct and recoverable as per decision of the CGRF. In the end, he requested that the appeal of the consumer be dismissed as the decision of the Forum is correct and justified.

7. The relevant facts of the case are that the Petitioner is doing business of Mobile Network and having NRS category connection bearing Account Number 3002860767 with sanctioned load of 25.400 KW. He received a notice bearing Memo. No. 2261 dated 14.02.2017 alongwith a supplementary bill from AEE /Commercial, Model Town Special Division, PSPCL, Ludhiana directing him to deposit a sum of Rs. 8,09,535/- plus surcharge of Rs. 10,278/- totaling Rs. 8,19,813/- by 27.02.2017. The billed amount was the difference of 95359 units consumption as final reading as 185693 KWH taken on 13.07.2016 minus 90334 KWH plus 6150 units as average for 28 days (13.07.2016 to 09.08.2016 based on the consumption recorded in the same month of previous year i.e. 07/2015). Thus, total consumption will be 101509 KWh units. The meter installed got burnt and was replaced vide MCO dated 09.08.2016. It was got checked from ME Lab on 23.08.2016 which reported that the removed Meter (Sr. No. 067447) of Make “Mahashakti” was “Totally Burnt” and final reading was not visible and DDL could not be downloaded as the meter got burnt. The Meter was returned to ME Lab as Surveyed off. As previous bills were issued on ‘F’, ‘O’ & ‘C’ Codes, to get clear bills, the Petitioner made a complaint on GRAMS Service on 07.01.2017. Thereafter, the Petitioner received bill dated 18.01.2017 for Rs. 3, 49,840/- for 545 days for 160320 KWh units which was paid by the Petitioner considering it to be revised and correct. But, after receiving supplementary bill vide notice dated 14.02.2017 for Rs. 8,69,535/-, he approached CGRF which decided on 15.05.2017 that amount charged to the Petitioner is for actual energy recorded by the meter and is recoverable. Not satisfied with the decision ibid, the Petitioner has filed an Appeal in this Court.

The authorized representative of the Petitioner argued that the disputed bill for Rs. 8,09,535/- issued vide Memo dated 14.02.2017 was not factual and genuine and was a result of revengeful attitude of the Respondent in view of the Petitioner having made a GRAMS Complaint on the portal of PSPCL on 07.01.2017 pin-pointing the deficiencies on the part of Respondent’s Office viz; issuance of bills without proper consumption after replacement of meter on 20.07.2015 and not sending MCO advice to the computer immediately after replacement of meter as required. He further argued that if reading was recorded manually and thereafter sent to Computer, then, why the reading recorded as 185693 KWH on 13.07.2016 by the official concerned was not sent to computer. He added that it was an afterthought as the in computer chronology, this final reading – 185693 KWH is not appearing. The authorized representative also contended that the meter was returned to ME Lab as surveyed off vide challan dated 30.08.2016 without obtaining DDL. He questioned the legitimacy of surveying off when dues were pending against the Petitioner. He argued that there was no reading as 185693 KWH units on 13.07.2016 and the same is bogus. Besides, amount charged vide bill dated 14.02.2017 for Rs. 8,09,535/- is charged double for the same period i.e. for actual consumption as well as for average (13.07.2016 to 09.08.2016). He also raised his eye-brows on not taking into account meter reading dated 13.07.2016 of 185693 KWH if correct bill was prepared on 18.01.2017 as stated by the Respondent. He also argued that the CGRF decided the case against them only on the ground that per month 14719 units consumption by comparing consumption recorded in 2014 but ignored the consumption of 2016 and 2017. He prayed that the period under dispute dated 13.07.2016 to 09.08.2016 be charged either on the basis of average worked out on the last year’s consumption for the same period or maximum of present meter as there is a deficiency on the part of the Respondent who has acted in violation of Regulation 21.3.6 (b) & (e) and ESIM 57.3 and issued the bill without checking the accuracy of the meter. He also prayed for payment of Rs. 30,000/- on account of fees paid for defending the case in the Forum and this Court and prayed to allow the appeal.

Er. M.P. Singh Addl. Superintending Engineer, representing the respondents, submitted that the reading mentioned in the Petition as KWH s actual reading as per healthy meter consumption upto 13.07.2016 and from 13.07.2016 to 09.08.2016 (MCO date), the consumption has been calculated on the basis of Last year corresponding month consumption i.e. 6150 units. Therefore, the total bill was raised of 95359 + 6150 units = 101509 units. As per Meter Reader, blank reading taken by Meter Reader on 13.07.2016 was 185693 KWH, as the final reading was taken on the basis of meter reading record. He admitted that on the basis of GRAMS complaint, as stated by the Petitioner, the account was overhauled for the period 13.07.2016 to 09.08.2016. He stated that as the bill had been revised, the complaint No. 170103003 was closed. Due to ‘F’ Code from 07/2015 5 to 08/2016, only average was taken on the basis of average taken by the SAP System, whereas as per Meter Reader record, actual consumption appearing over it and has been placed on record indicating month by month actual reading taken by the Meter Reader and pattern of consumption for the period is also matching with the corresponding consumption as well as future consumption. He further pleaded that due to introduction of new ERP (SAP) billing System, the old MCO were not migrated in new system and the teething problem prevailed for some months. He stated that final reading of 185693 KWH of dated 13.07.2016 is available as per Meter Reading record and it could not be entered in MCO due to newly introduced SAP System. Hence, amount charged is correct and recoverable as per decision of the CGRF which is correct and justified. He requested that the appeal be dismissed.

Written submissions made in the Petition, written reply of the Respondents, oral arguments made by he authorized representative of the Petitioner as well as representative of the Respondent as well as materials brought on record have been gone through. I find that the issue requiring adjudication is the legitimacy of the amount charged to the Petitioner for the actual energy consumed and recorded.

I noted the contention of the authorized representative of the Petitioner that the disputed bill issued is not genuine and also not factual but issued with a revengeful attitude as the Petitioner pin-pointed the deficiency of the office vide GRAMS complaint No. 170103003 dated 07.01.2017. The Meter was replaced on dated 20.07.2015 and since then bills were issued without proper consumption and the MCO advice was not sent to computer. These are the deficiencies on the part of the office. The Petitioner also argued that if the readings recorded manually and after recording was sent to computer, then, readings recorded on dated 13.07.2016 as 185693 KWh, then why it was not sent to computer. According to him, this is all after-thought and as per computer chronology, this final reading 185693 KWH is not appeared which shows that the said reading is bogus and bill issued on 14.02.2017 is inflated. He also contended that the Meter was returned to ME Lab as surveyed off vide challan No. 30 dated 30.08.2016 without obtaining DDL and if there were pending dues, why the meter was surveyed-off. I observed that the Respondents contested the above contentions and stated that the bill issued to the consumer is correct and genuine and on the basis of actual reading recorded by the Meter Reader. MCO advice was sent to the Computer Centre immediately after replacement of meter. But due to some error of SAP billing System, the advice could not be accepted. The Respondent further contended that the readings of the connection having load more than 20KW are recorded manually and then sent to the Computer Centre. The reading of the said connection is being recorded by the authorized Foreman of the PSPCL. Meter was surveyed off because DDL of burnt meter could not be obtained. Reading recorded on 13.07.2016 i.e. 185693 KWH is correct and recorded by the authorized Meter Reader/foreman on the reading record as per copy of reading placed on record. The authorized representative of the Petitioner next contended that the reading recorded manually are not matching with the Computer record. I also noted that the Respondent defended the case by stating that bill issued on the average basis / ‘F’ Code is not the actual reading recorded by the meter. But SAP system records average reading as the meter readings. That is why on the date of MCO as per SAP system, final reading was 90334 KWH whereas actual meter reading recorded by the Meter Reader was 185693 KWH.

It was argued on behalf of the Petitioner that when correct bill was issued on 18.01.2017, why the reading dated 13.07.2016 as 185693 KWH was not taken into account. In response, the Respondent stated that as a matter of fact, the bill dated 18.01.2017 was issued in the normal course and was not a revised bill pursuant to GRAMS complaint which in fact, takes more than a week to reach the Divisional / Sub Divisional Office. The revised bill was actually the supplementary bill sent vide notice dated 14.02.2017. The Respondent further stated that the bill was issued by the Ledger Keeper as per reading recorded by SAP System on average basis whereas the notice was issued later on the basis of actual reading recorded at the site by the Meter Reader / Foreman. The representative of the Respondent pleaded during the course of arguments that the Petitioner misunderstood that two penalties were charged for the same period. The fact remains that as per notice under dispute issued vide No. 2261 dated 14.02.2017, he was charged for difference of 95359 KWh units consumed plus 6150 units average or 28 days (13.07.2016 to 09.08.2016) based on consumption of corresponding period of previous year i.e. 07/2015. Thus total consumption of 101509 units charged are correct and recoverable. Hence, I am of the view that the billing of the Petitioner was previously billed less due to non migration of MCO advice to the newly introduced SAP Billing System as a result of which the bills were issued on “F” Code / average basis. I also find after perusing the evidence placed on record that the Petitioner has rightly been billed vide bill issued on 14.02.2017 for Rs. 8.09,535/- for the actual energy consumed and recorded.

As a sequel of above discussions, I have, therefore, no hesitation to uphold the decision dated 15.05.2017 of CGRF in case No. 53 of 2017. It is also held that the Petitioner would pay the balance recoverable billed amount (after adjusting 40% already paid) in ten equated monthly installments ( instead of lump) alongwith current bill with a view to mitigate the hardship covered due to not having been able to pay dues in normal course. It is, further held that no interest should be charged on reducing balance of disputed amount, if the Petitioner pay the installment in time, otherwise interest as per prevailing Bank rate of RBI should be taken. No costs for legal expenses, as prayed, would be paid.

7. The Petition is disposed of accordingly.

8. 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 – 2015.

(MOHINDER SINGH)

Place; SAS Nagar (Mohali) Ombudsman

Dated : 13.09.2017 Electricity, Punjab,

SAS Nagar,Mohali.