

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION AT
PANCHKULA**

Case No. HERC/P. No. 58 of 2024

Date of Hearing : 25/03/2025

Date of Order : 25/03/2025

IN THE MATTER OF:

Complaint under section 142, read with section 146 & section 149 of the Electricity Act, 2003 & Regulation 2.32 of HERC (Corporate CGRF UBHVN & Ombudsman) Regulations, 2020 for imposing penalty u/s 142 and institution of complaint u/s 146 of the Electricity Act, 2003 on account of non compliance of the order/ direction passed by Ld. Corporate Forum CGRF UBHVN for redressal of consumer grievances (CGRF) UHBVN Panchkula as well as continuing failure to comply with the direction(s) of order number 33/2024 dated 30-08-2024 by respondent(s) and for direction(s) to ensure strict compliance of the direction issued by the Corporate CGRF UHBVN Panchkula vide order dated 30-08-2024.

Petitioner

Mittal Agro Oil Industries, Meham, Rohtak (Haryana) through its partner Mr. Sunil Mittal

VERSUS

Respondents:

1. SDO 'OP' Sub Division Meham
2. XEN 'OP' Division Sub Urban No-1 Rohtak

Present

On behalf of the Petitioner

Sh. Akshay Gupta, Advocate

On behalf of the Respondent

1. Sh. Raheel Kohli, Advocate
2. Sh. Sanjeet, SDO, DHBVN

QUORUM

Shri Nand Lal Sharma, Chairman

Shri Mukesh Garg, Member

ORDER

1. Petition:

- 1.1 That Sh. Sunil Mittal (Complainant petitioner) S/o Sh. Vijay Kumar Mittal, R/o Meham, is the Partner of Mittal Agro Oil Industries and having an HT industrial electricity connection bearing account number 4713011000 under the jurisdiction of SDO Op Sub Division Meham, Complainant petitioner is the resident of Meham, Distt-Rohtak (Haryana). Complainant petitioner filed a complaint before Corporate CGRF, UHBVN PANCHKULA on dated 15-01-2024 which was instituted on 24-01-2024.

Grievances of the complainant/petitioner raised before CGRF:

- i. Interest on ACD as per Nigam instruction, adjusting the same in first billing cycle of Financial Year from DOC and issuance of TDS certificate for the amount deducted as TDS.
- ii. Refund of excess fix charges unduly charged.
- iii. Refund of FSA charged in bill issue in the month of Aug-2021
- iv. Refund of MDI penalty and excess units billed in the bill issued in Nov, Dec-2023 and Jan-2024.
- v. Adjustment of TOU/TOD rebate which is pending since 2017.

Complainant petitioner prayed before CGRF:

- i. Declare the action of the respondent for charging FSA on bill issued on or after 30.7.2021 and not adjusting interest on ACD in first billing cycle as illegal, arbitrary and unjustified and be quashed and:
 - ii. Direct the respondent to refund the FSA charged on bill issued in Aug-2021 with 18% P/A interest.
 - iii. Direct the respondent to refund the interest on ACD with penal interest as instruction of Nigam.
 - iv. Direct respondent to refund the fix charges excess charged with 18% P/A interest.
 - v. Direct respondent to refund the MDI penalty unduly charged in the bill.
 - vi. Direct the respondent to overhaul the account of complainant petitioner from Oct-2023 to Jan-2024 by taking the standard power factor.
 - vii. Pass any other or further order which this Hon'ble Corporate CGRF UBHVN deems fit and in the facts and circumstances of the case in favor of complainant in the interest of Justice.
- 1.2 That Corporate CGRF UHBVN Panchkula vide order dated 30-08-2024 disposed and the order passed by the CGRF is held as under:
“After examining the reply of the Respondent SDO, the record available on the file and hearing both the parties, the Corporate CGRF UBHVN has patiently gone through each and every aspect regarding interest on ACD, TOD/TOU Rebate, as well as KVAH and KWH reading difference and other key points mentioned in the

complaint of the complainant and attending to all points in depth, the Corporate CGRF UBHVN decides as under:

- i. Regarding Interest on ACD: That since the complainant has submitted some copies of the bills of the past period i.e. 2009 onwards which reflect that interest on ACD for 2009- 2010 to 2012-2013 periods has not been paid. However, as reported by SDO/Respondent vide Memo. No. 1104 Dated 27.08.2024, Rs. 50704/- for the Financial Year 2013-2014 has been adjusted vide SC&AR No. 1149/278 Case Registered vide Case ID No. 6918930157. The SDO/Respondent in his reference No. Spl.1 Dated 17.08.2024 has mentioned that in different months of the year interest on ACD stands given from 2014 to 2024. However, the same could not be confirmed by SDO/Respondent being record not-traceable in his office, so Corporate CGRF UBHVN directs SDO/Respondent to make the payment of the same also for the period 2009 to 2012, as per standing norms of the Nigam.
- ii. In the reference of point no. 2 of the complaint, the Corporate CGRF UBHVN has been intimated that Rs. 10,768/- stands adjusted against difference of fixed charge and the Corporate CGRF UBHVN found the same in order.
- iii. Regarding point no. 3 of the complaint, it is submitted that as per Sales Circular No. 28/2021 and as per record available in the office of SDO/Respondent, the FSA was not charged after the consumption 10.08.2021 and the same has been found in order by the Corporate CGRF UBHVN.
- iv. Regarding refund of MDI penalty and excess units billed in the bill issued In Nov. 2023, Dec. 2023 and Jan. 2024, the Corporate CGRF UBHVN directs as under:
KVAH and KWH Reading difference During proceedings held on 17.08.2024, the complainant requested for considering unity power factor wherever it was leading. As per point No. 8 of the Technical Specification of Energy Meters (LDMS compliant) for HT/LT consumers/Feeder/DT Meters issued vide No. CSC-45/Rev. III/DH/UH/P&D/2015- 2016 approved dated 22.03.2016, it is very much clear that the power factor should be restricted to 1 which means KWH-KVAH.

Point No. 8	Power Factor	0.0 Lag-Unity-0.0 Lead Note: The meter shall record at UPF in case of leading power factor
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The complainant has given in his statement that there was huge difference of KVAH and KWH reading for the period 01.10.2023 to 01.01.2024 and the same is tabulated as under:

Consumption during month	Billed during the month	Consumption in KWH	Consumption in KVAH	Power Factor
Oct. 2023	Nov. 2023	118830.2	153400.0	0.77

Nov. 2023	Dec. 2023	123160	225274.9	0.55
Dec. 2023	Jan. 2024	129354.9	191920.2	0.66

as the power factor of the consumer was recorded as leading power factor and as there was no locking power factor facility available in the meter due to which there was huge difference of KVAH and KWH reading during 01.10.2023 to 01.01.2024 for which the Corporate CGRF UBHVN directs SDO/Respondent to go through the Technical specification of energy meters (DLMS complaint) for HT/LT consumers/Feeder/DT Meters issued vide No. CSC- 45/Rev-III/DH/UH/P&D/2015-2016 approved Dated 22.03.2016, it is very much clear that the power factor should be restricted to 1 which means KWH KVAH. So the plea of the complainant is admitted as per Clause 6 (General Technical Requirements) of Technical specification for 3 phases 4 wire LT CT & HT CT/PT operated Static, AMR compatible TRI- Vector Energy Meters (DLMS compliant) for HT/LT consumers/Feeder/DT Meters issued vide No. CSC-45/Rev.III/DH/UH/P&D/2015-2016 approved Dated 22.03.2016 inter alia provides that the meter shall record at UPF in case of leading PF, so the Corporate CGRF UBHVN directs SDO/Respondent to overhaul the account of the consumer for the period 01.10.2023 to 01.01.2024.

As per pleading made by the complainant, during the month of Dec. 2023, the MDI shown in the bill is 736.2, KWH consumed reading is 123160 and KVAH consumed reading is 225274.9, PF comes to be 0.54 which is due to erratic behavior of meter. Although, in his reply SDO/Respondent has intimated that the penalty was charged for the same period as per Nigam's instructions but there was huge difference in KWH and KVAH reading and due to leading Power Factor, the behavior of the meter seems erratic, thus the Corporate CGRF UBHVN directs SDO/Respondent that MDI penalty charged to the complainant for the month of 12/2023 be refunded.

- v. Rebate of TOD/TOU: As reported by SDO/Respondent vide his Memo. No. 1104 Dated 27.08.2024, TOU/TOD of Rs. 66,296/- rebate had already been given to the consumer vide SC&AR No. 758/260 for the Financial Year 2017-2018 and Rs. 2,92,910/- Rebate given to the complainant vide SC&AR No. 1149/278, Rs. 3,94,451/- rebate given vide SC&AR No. 1149/278 vide case ID No. 6918930157 Dated 14.08.2024 for the Financial Year 2018-2019. The Corporate CGRF UBHVN directs SDO/Respondent to give the TOD/TOU refund to the consumer for the financial year 2017-2018 and 2018-2019 as per Sales Circular No. U- 28/2017, Sales Circular No. U-24/2018 and Sales Circular No. 28/2019, as applicable for the respective period and for the period 2019-2022 as per applicable Sales Circular of the Nigam. Therefore, the case is disposed of without cost to either of the parties”

1.3 That order dated 30-08-2024 passed by Corporate CGRF was to be complied within 21 days i.e by 21-09-2024 but it's been around 2 month since passing of order dated 30-08-2024 by Ld. Corporate CGRF UHBVN Panchkula and the same has not been complied with by the respondent SDO.

i. Interest on ACD: Despite the SDO/Respondent's acknowledgment in Memo No. 1104 dated 27.08.2024, which confirmed the adjustment of Rs. 50,704/- for the Financial Year 2013-2014. But the same has not been adjusted in the account of complainant petitioner.

As per the direction of CGRF the interest payments for the periods 2009-2010 to 2012-2013 have still not been made.

The Corporate CGRF UBHVN clearly directed the SDO/Respondent to process these payments, yet no payment has been made.

ii. Fixed Charge: Non-compliance with the Corporate CGRF UBHVN order concerning the adjustment of Rs. 10,768/- against the difference in fixed charges.

The Corporate CGRF UBHVN has been informed by the respondent SDO that this amount stands adjusted; however, it has yet to be reflected in the account.

iii. MDI Penalty, KWH AND KVAH Reading Difference:

A. MDI penalty amounting to Rs. 425754 penalty in the month of Dec-2023 is not refunded so far.

The Corporate CGRF UBHVN has directed the SDO/Respondent to overhaul the account due to the significant discrepancies between KVAH and KWH readings, attributed to the leading power factor and the erratic behavior of the meter. Specifically, the order instructed the refund of the MDI penalty charged for 12/2023, based on the understanding that the power factor should be restricted to unity, as clearly outlined in the Technical Specification of Energy Meters (DLMS compliant).

Despite these clear directions, no action has been taken to initiate the refund of the MDI penalty charged in the month of Dec-2023 as per the directions of Corporate CGRF UBHVN.

B. Difference of KWH / KVAH: - since the difference of KWH and KVAH for the period 1.10.2023 to 1.01.2024 is huge and that is attributed due to the leading PF during the same period. Forum directed the SDO/ Respondent to go through the technical specification of energy meters (DLMS compliant) for HT/ LT consumer / Feeder/ DT meters issued vide CSC 45/ Rev-III/ DH/UH/ P&D/ 2015-2016 approved dated 22.03.2016, it is very much clear that the power factor should be restricted to 1 which means KWH = KVAH. So, the plea of the complainant is admitted as per clause 6 (General Technical Requirements) of technical specification for 3 phase 4 wire of LT CT and HT CT/Pt operated static, AMR compatible Tri-Vector Energy Meters (DLMS Compliant) for HT/ LT consumers/ Feeder/ DT Meters issued

vide No CSC-45. Rev.III/ Dh/UH/ P&D/ 2015-2016 approved dated 22.03.20216 inter alia provides that meter shall record UPF in case of leading PF, so the forum directs SDO/ Respondent to overhaul the account of consumer for period 1.10.2023 to 1.01.2024.

As per the directions given by the Corporate CGRF UHBVN Panchkula, the account of complainant petitioner should be overhauled by taking the PF=1, during this period total KWH is 371345.1 KWH and KVAH 570595.1, as per the direction given by the CGRF the respondent should overhaul the account by taking PF 1 and refund of excess reading.

But respondent fails to comply with the direction given in order passed by CGRF.

- iv. Rebate on TOD/TOU: The non-compliance with the order issued by the Corporate CGRF UBHVN regarding the refund of TOD/TOU for the financial years 2017-2018 and 2018-2019.

As per reply submitted by the SDO/Respondent vide his Memo No. 1104 dated 27.08.2024, a rebate of Rs. 66,296/- was already provided and adjusted for the financial year 2017-2018. And balance rebate Rs. 2,92,910 for FY 2017-2018 and Rs, 3,94,451 for the financial year 2018-2019 shall be adjusted through sundry number 1149/278 in next billing cycle.

The respondent SDO himself admitted that Rs. 2,92,910 and 3,94,451 is refundable against the TOU-TOD rebate for the year 2017-2018 and 2018-2019 but the same has not been adjusted in spite of his own admission before CGRF.

Further the Corporate CGRF UBHVN has clearly directed the SDO/Respondent to issue refunds for these periods in accordance with Sales Circular No. U-28/2017, U-24/2018, and U-28/2019, along with applicable circulars for the period 2019-2022.

Despite this direction, the necessary refunds have not been processed, which is contrary to the Corporate CGRF UBHVN order. This delay is unacceptable and has caused considerable inconvenience to the complainant petitioner.

- 1.4 That the respondent should comply with the order passed by Corporate CGRF UHBVN within 21 days i.e by 21-09-2024 but respondent failed to comply with the order and direction(s) given by the Corporate CGRF UHBVN Panchkula.
- 1.5 That Order dated 30-08-2024 was to be complied with in 21 days but it's been around 2 months since passing of order by Corporate CGRF UHBVN Panchkula and the same has not been complied with by the respondent SDO as below due refund is not adjusted:
- i. Interest on ACD for the period 2009-2012 and Rs. 50704 for the year 2013-2014 is not adjusted/ refunded in the bill of complainant petitioner so far.
 - ii. Fix charges – Rs. 10768 is not adjusted/ refunded in the bill of complainant petitioner so far.

- iii. MDI Penalty and KWH/ KVAH difference: MDI penalty Rs. 425754 is not refunded moreover the account for the period 1.10.2023 to 1.1.2024 is not overhauled by taking the PF=1 and excess amount is not refunded so far.
 - iv. TOU TOD rebate- Rs. 687361 for the period 2017-2019 and rebate for the balance period i.e 2019-2022 is not refunded/adjusted so far.
- 1.6 That the respondent has failed to comply with the order passed by Ld. Corporate CGRF UHBVN Panchkula and forced complainant petitioner to file the complaint Before Hon'ble HERC under Section 142 Read with Section 146 & Section 149 of Electricity Act-2003 for non-compliance of order passed by Ld. Corporate CGRF UHBVN Panchkula dated 30.08.2024.
- 1.7 Electricity Act, 2003- Section 142 "Punishment for Non-Compliance of directions by Appropriate Commission): in case any complaint is filed before the Appropriate Commission by any person or if that Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made, thereunder; or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed One Lakh Rupees for each contravention and in case if a continuing failure with an additional penalty which may extend to Six Thousand rupees for every day during which the failure continues after contravention of the first direction.
- 1.8 Section 146: "Punishment for Non-Compliance of orders or directions- Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, with both in respect of each offence and in the case of continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:
(Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.)
- 1.9 Section 149(1) Where an offence under this act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:

(2) Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(3) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

1.10 Regulation 2.32 of HERC (Corporate CGRF UBHVN and Ombudsman) Regulations, 2020 (Regulation 2.32):

“The decisions of the Corporate CGRF UBHVN will be recorded and duly supported by reasons. The Order of the Corporate CGRF UBHVN will be communicated to the complainant and the licensee in writing within 7 days of the passing of the Order. The licensee shall comply with the order of the Corporate CGRF UBHVN within 21 days from the date of receipt of the order. In appropriate cases, considering the nature of the case, the Corporate CGRF UBHVN, upon the request of the licensee, may extend the period for compliance of its order up to a maximum of three months. The aggrieved consumer may approach the Ombudsman who will provide the consumer as well as the licensee an opportunity of being heard and decide the appeal.

In case of non-compliance of the order of the appropriate Corporate CGRF UBHVN, the aggrieved consumer may approach the Commission who will provide the consumer as well as the Licensee an opportunity of being heard. The Commission may initiate proceedings under section 142 of the Act for violation of the Regulations framed by the Commission.”

1.11 That as per HERC (Standard of Performance of Distribution Licensee and determination of compensation) Regulation, 2020 Schedule – II Sub Clause 20 provides that in case of compliance of CGRF is not made within the time framed defined in such order or the regulations specified by the commission in this regard, the compensation of Rs.100/- per day or part thereof is payable.

Prayer:-

It is, therefore, most humbly prayed that considering the submissions brought out above, this Hon’ble Commission may kindly be pleased to:

- i. Institution of complaint under Section 142 RW Section 146 of Electricity Act, 2003 for failure to comply with the order / direction

- passed by the Ld. CGRF on dated 30-08-2024 as well as continuing failure to comply with the directions against the respondent(s).
- ii. Direct the respondent(s) to comply with the direction(s) given Corporate CGRF UHBVN vide order dated 30.08.2024 and adjust the due refund with interest from the date this was payable till realization.
 - iii. To impose penalty of Rs. 1 Lakh on respondent(s) under Section 142 of Electricity Act 2003 for failure to comply with the order / direction passed by Ld. CGRF on 30.08.2024 as well as continuing failure to comply with the directions and adjust/ refund the dues to the complainant.
 - iv. To direct the respondent(s) to pay compensation @ Rs.100/ Day for non-compliance of order passed by CGRF within 21 days.
 - v. To award the penalty imposed on respondent(s) in favor of the complainant- petitioner.
 - vi. Direct respondent(s) to pay Rs. 1,00,000/- (Rs. One Lac only) as court fee and litigation expenses.
 - vii. To allow any other relief as deemed fit by the hon'ble Commission.
2. The case was heard on 11/12/2024. Sh. Akshay Gupta counsel for the petitioner submitted that the orders dated 30/08/2024 of the CGRF have not been complied. The SDO, Meham present in the court submitted that the orders are pending for compliance for want of advice of LR, HPUs. To the query of the Commission on the Chronology of the events for execution of the orders, the SDO, DHBVN submitted that the orders of CGRF were received on 18/09/2024 through E-Mail, the advice of LR was sought on 24/09/2024. On call dated 14/10/2024 from LR HPUs, the matter was discussed in his office on 24/10/2024. On 07/11/2024 the LR sought comments of the Commercial Deptt. and the matter is still pending in his office. After hearing both the parties, the Commission directs the respondent to file a compliance report before next date of hearing. In case of Non-compliance, the reasons for the same should be submitted. The concerned officers from Commercial Back Office and Operation Division to be present in the court on next date of hearing.
- 3. Compliance report dated 08/01/2025:**
- 3.1 The present compliance report is being filed on behalf of Uttar Haryana Bijli Vitran Limited ("UHBVN") to apprise this Hon'ble Commission regarding the compliance of the order dated 30.08.2024 passed by CGRF.
 - 3.2 It is submitted that amount to the tune of INR 28,49,633 (Rupees Twenty-Eight Lakhs Forty-Nine Thousand Six Hundred Thirty-Three) has been adjusted in the Petitioner's account.
4. The case was heard on 08/01/2025. Sh. Akshay Gupta counsel for the petitioner submitted that the orders dated 30/08/2024 of the CGRF have been complied except for the penal interest at the rate of 18% for the period for which payment of interest accrued on ACD is delayed and interest on

the ToD/ToU rebate at rate of 9% for the period for which rebate is delayed. The SDO, Meham present in the court submitted that the orders of the CGRF have been complied but the interest part claimed by the petitioner was not part of the CGRF order. To the query of the Commission whether the penal interest/interest demanded by the petitioner is payable as per sales circulars, the SDO, Meham replied in affirmative and sought two weeks' time to pay the penal interest part also. After hearing both the parties, the Commission directs the respondent to pay the penal interest as discussed above and file a compliance report within two weeks i.e. upto 22.01.2024, otherwise penalty will be imposed on the respondent as per regulations.

5. Compliance Report dated 21/01/2025:

- 5.1 The present compliance report is being filed on behalf of Uttar Haryana Bijli Vitran Limited ("UHBVN") to apprise this Hon'ble Commission regarding the compliance of direction issued during the hearing held on 08.01.2025 qua payment of penal interest.
 - 5.2 It is respectfully submitted that amount to the tune of INR 90,797/- (Rupees Ninty Thousand Seven Hundred Ninty Seven only) toward penal interest has been adjusted in the Petitioner's account.
6. The case was heard on 18/02/2025. Sh. Raheel Kohli Counsel for the respondent submitted that the compliance to the order dated 13/01/2025 has been made. Sh. Akshay Gupta counsel for the petitioner requested to adjourn the matter and to allow him time to file a reply to the compliance report submitted by the respondent. Acceding to request of the petitioner the Commission adjourns the matter and directs the petitioner to file its reply before next date of hearing.

Commission's order:

7. The case was heard on 25/03/2025 in the court room of the Commission. At the outset, Sh. Raheel Kohli Counsel for the respondent submitted that the order of the CGRF has been complied and submitted revised compliance report copy of which was provided to petitioner also.

Sh. Akshay Gupta counsel for the petitioner expressed his satisfaction with the said compliance report. However, he prayed the Commission that the petition may be disposed of with direction to the respondent for payment of court fee 50,000/- deposited by the petitioner.

The counsel for the respondent requested the Commission not to allow recovery from the respondent as a special case.

In view of the above discussions, The Commission observes that since the order of CGRF has been complied with now, nothing remains to be adjudicated in the present petition. However, the dispute was primarily pertaining to non-compliance of the CGRF orders in timely manner. The

negligence on the part of officials/officers of Respondent Nigam cannot be ignored, due to which the consumer had to suffer and had to knock the doors of CGRF for relief in the first instance and then had to approach the Commission for implementation of CGRF orders. Nigam has been burdened with interest and litigation charges in addition to wastage of valuable time of the officers/officials.

The Commission, therefore, directs the respondent DHBVN to pay to the petitioner ₹50,000/- (Court Fee deposited by the petitioner) within 30 days from the date of this order.

The petition is disposed of in above terms.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 25/03/2025.

Date: 25/03/2025

Place: Panchkula

(Mukesh Garg)
Member

(Nand Lal Sharma)
Chairman