



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA
Haryana Electricity Regulatory Commission
Bays No. 33 - 36, Sector - 4, Panchkula-134109
Telephone No. 0172-2572299; Website: - herc.nic.in
E-mail: eo.herc@nic.in

(Regd. Post) **Appeal No** : **27 of 2021,**
28 of 2021
& 29 of 2021
Date of Order : **05.10.2021**

In the matter of: -

Appeal No 27 of 2021

Appeal against the order dated 28.05.2021 passed by CGRF, UHBVN, Kurukshetra in case No. UH/CGRF-78/2021.

Sh. Rakesh kumar, M/s S.R. Overseas, Village Chopri, Lalyani Road, Taraori, Distt - Karnal.

Appellant

And

Appeal No 28 of 2021

Appeal against the order dated 28.05.2021 passed by CGRF, UHBVN, Kurukshetra in case No. UH/CGRF-79/2021.

Sh. Mahesh Kumar, M/s Shri Ram Overseas, Village Chopri, Lalyani Road, Taraori, Distt -Karnal.

Appellant

And

Appeal No 29 of 2021

Appeal against the order dated 28.05.2021 passed by CGRF, UHBVN, Kurukshetra in case No. UH/CGRF-80/2021.

Sh. Sanjay Kumar, M/s Shri Ram Rice Unit, Village Chopri, Lalyani Road, Taraori, Distt -Karnal

Appellant

Versus

UHBVNL

Respondents

Before:

Sh. Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Adv. Akshay Gupta

Present on behalf of Respondents:

Sh. Sandeep Sikri, The SDO/Op., Sub Division, Taraori, Karnal

ORDER

1. Appeal No. 27 of 2021:

1.1 Sh. Rakesh Kumar, M/s S. R. Overseas, Village Chopri, Lalyani Road, Taraori, Distt -Karnal has filed an appeal, registered on 18.08.2021, against the order dated 28.05.2021 passed by CGRF, UHBVN, Kurukshetra in case No. UH/CGRF-79/2021. The appellant submitted as under: -

- I. *The appeal is being preferred in view of Regulation 2.49 (B) and 3.16 of Haryana Electricity Regulatory Commission Notification No HERC/48/2020 dated 24/ Jan/2020.*
- II. *The Consumers filed this appeal against the order passed by CGRF UHBVN KKR.*
- III. *Due to Covid-19 the appellant petitioner couldn't file this appeal within the stipulated period for which delay may be condoned.*
- IV. *The consumers submitted their consent for opting TOU/TOD Tarif benefit as per Sales Circular no D/24-2018 with the SDO (op) Sub Division Taraori in the year 2018 and requested for allowing the tariff benefit as per Nigam's instruction.*
- V. *The consumers submitted his consent for opting TOU/TOD Tarif benefit as per Sales Circular no D/28-2019 with the SDO (op) Sub Division Taraori in the year 2019 and requested for allowing the tariff benefit as per Nigam's instruction.*
- VI. *The consumers requested the SDO (op) Sub Division for allowing the TOU/TOD tariff benefit, which is pending from the last 3 years, but the grievance of appellant petitioner was not redressed.*
- VII. *The consumers filled an application with Hon'ble CGRF (UHBVN) on dated 22- 04-2021.*
- VIII. *The TOU/TOD benefit for the year 2018 to 2019 to be given for the period: 1-10-2018 to 31-3-2019 but the concerned SDO given the benefit from 14-12-2018 to 31-3-2019, which is wrong and unlawful.*
 - i) *As per the concerned SDO, the sales circular was issued on 7-12-2018 (Friday) and consumer submitted his consent on 14-12-2019(Friday) that's why the benefit can be given from 14-12-2019 only. Although the circular was issued on dated 7-Dec-2018 yet it has retrospectively effective from 1-10-2018.*

- ii) *As per the provision of circular the respondents were bound to give vide publicity so that eligible consumer may aware, but the respondent never made any effort to convey the contents of circular even to the High Revenue generated consumer.*
- IX. *TOU benefit for the period 2019 to 2020 was not given to appellant petitioner.*
- X. *As per the Sales circular No – 28/2019, the Arrear should be given with 9% / Annum interest from the date of end of TOU period of respective year.*
- XI. *The forum passed the order on 28-5-2021 without redressing the grievance of appellant petitioner.*

Relief Sought from Hon'ble Ombudsman: -

- I. *It is requested that the respondents may be directed to allow the benefit from 1-10-2018 this will be compliance of the Spirit of the orders passed by Hon'ble HERC.*
- II. *It is submitted that the respondents may be directed to give the benefit for 2019 to 2020.*
- III. *It is humbly prayed that the respondents may be directed to pay the interest as per the Provision of Nigam.*

It is humbly requested to direct the respondents to release the due benefits to the petitioner along with the interest.

- 1.2 The appeal was registered on 18.08.2021 as an appeal No. 27/2021 and accordingly, notice of motion to the appellant as well as the respondents was issued on 23.08.2021 for hearing the matter on 08.09.2021.
- 1.3 The SDO/Op., Sub Division, Taraori, Karnal vide his email on 07.09.2021 has submitted as under: -
- 1-3 *That the contents of point No. 1 to 3 of the appeal does not relates to answering respondent and as such same needs no reply.*
- 4 *That the benefit of tariff already given by this office of an amount Rs.384359/- vide Sundry No. 29/127/125 dated 20.05.2021.*
- 5 *That as per Sales Circular U-28/2019 dated 11.09.2019 to get the benefit of TOU/TOD concessional tariff scheme, it was mandatory to install smart meter by the consumer instead of normal trivector meter. So, no benefit was granted to the consumer for period 2019 -20.*
- 6 *It is wrong that grievance of applicant was not redressed by this office. The benefit of TOU/TOD tariff already given by this office to the appellant.*
- 7 *The Hon'ble CGRF decided application of appellant in favour of respondent.*

- 8 *The benefit of TOU/TOD tariff already given from 14.12.2018 to 31.12.2019 which is as per direction received from Chief Engineer Commercial UHBVN, Panchkula vide his office Memo. No. Ch.35/TR-72(90)/HERC/ARR/2018/CE/C-1 dated 18.05.2021.*
- 9 *The reply is same as point No. 5.*
- 10 *This office follows the direction/instruction of Sales Circular No. U-28/2019.*
- 11 *It is wrong that Forum has passed the order without redressing the grievance of the applicant.*

1.4 Hearing was scheduled on 08.09.2021, but could not be held due to some network problem in system of respondent SDO. The matter was adjourned to 16.09.2021.

2. Appeal No: 28/2021

2.1 Sh. Mahesh Kumar, C/o, M/s S. R. Overseas, Village Chopri, Lalyani Road, Taraori, Distt -Karnal has filed an Appeal, registered on 01.09.2021, against the order dated 28.05.2021 passed by CGRF, UHBVN, Kurukshetra in case No. UH/CGRF-78/2021. The Appellant submitted as under: -

- I. *The appeal is being preferred in view of Regulation 2.49 (B) and 3.16 of Haryana Electricity Regulatory Commission Notification No HERC/48/2020 dated 24/ Jan/2020.*
- II. *The Consumers filled this appeal against the order passed by CGRF UHBVN KKR.*
- III. *Due to Covid-19 the appellant petitioner couldn't file this appeal within the stipulated period for which delay may be condoned.*
- IV. *The consumers submitted their consent for opting TOU/TOD Tarif benefit as per Sales Circular no D/24-2018 with the SDO (op) Sub Division Taraori in the year 2018 and requested for allowing the tariff benefit as per Nigam's instruction.*
- V. *The consumers submitted his consent for opting TOU/TOD Tarif benefit as per Sales Circular no D/28-2019 with the SDO (op) Sub Division Taraori in the year 2019 and requested for allowing the tariff benefit as per Nigam's instruction.*
- VI. *The consumers requested the SDO (op) Sub Division for allowing the TOU/TOD tariff benefit, which is pending from the last 3 years, but the grievance of appellant petitioner was not redressed.*
- VII. *The consumers filled an application with Hon'ble CGRF (UHBVN) on dated 22-04-2021.*

- VIII. *The TOU/TOD benefit for the year 2018 to 2019 to be given for the period: 1-10-2018 to 31-3-2019 but the concerned SDO given the benefit from 14-12-2018 to 31-3-2019, which is wrong and unlawful.*
- i. *As per the concerned SDO, the sales circular was issued on 7-12-2018 (Friday) and consumer submitted his consent on 14-12-2019(Friday) that's why the benefit can be given from 14-12-2019 only. Although the circular was issued on dated 7-Dec-2018 yet it has retrospectively effective from 1-10-2018.*
- ii. *As per the provision of circular the respondents were bound to give vide publicity so that eligible consumer may aware, but the respondent never made any effort to convey the contents of circular even to the High Revenue generated consumer.*
- IX. *TOU benefit for the period 2019 to 2020 was not given to appellant petitioner.*
- X. *As per the Sales circular No – 28/2019, the Arrear should be given with 9%/Annum interest from the date of end of TOU period of respective year.*
- XI. *The forum passed the order on 28-5-2021 without redressing the grievance of appellant petitioner.*

Relief Sought from Hon'ble Ombudsman: -

- i. It is requested that the respondents may be directed to allow the benefit from 1-10-2018 this will be compliance of the Spirit of the orders passed by Hon'ble HERC.
- ii. It is submitted that the respondents may be directed to give the benefit for 2019 to 2020.
- iii. It is humbly prayed that the respondents may be directed to pay the interest as per the Provision of Nigam.
- iv. It is humbly requested to direct the respondents to release the due benefits to the petitioner along with the interest.
- 2.1 The appeal was registered on 01.09.2021 as an appeal No. 28/2021 and accordingly, notice of motion to the appellant as well as the respondents was issued on 01.09.2021 for hearing the matter on 16.09.2021.
- 2.2 The SDO/Op., Sub Division, Taraori, Karnal vide his email on 14.09.2021 has submitted as under: -
- 1-3 That the contents of point No. 1 to 3 of the appeal does not relates to answering respondent and as such same needs no reply.
- 4 That the benefit of tariff already given by this office of an amount Rs.80154- vide Sundry No. 28/127/125 dated 20.05.2021.

- 5 That as per Sales Circular U-28/2019 dated 11.09.2019 to get the benefit of TOU/TOD concessional tariff scheme, it was mandatory to install smart meter by the consumer instead of normal trivector meter. So, no benefit was granted to the consumer for period 2019 -20.
- 6 It is wrong that grievance of applicant was not redressed by this office. The benefit of TOU/TOD tariff already given by this office to the appellant.
- 7 The Hon'ble CGRF decided application of appellant in favour of respondent.
- 8 The benefit of TOU/TOD tariff already given from 14.12.2018 to 31.12.2019 which is as per direction received from Chief Engineer Commercial UHBVN, Panchkula vide his office Memo. No. Ch.35/TR-72(90)/HERC/ARR/2018/CE/C-1 dated 18.05.2021.
- 9 The reply is same as point No. 5.
- 10 This office follows the direction/instruction of Sales Circular No. U-28/2019.
- 11 It is wrong that Forum has passed the order without redressing the grievance of the applicant.

3. Appeal No. 29/2021

- 3.1 Sh. Sanjay Kumar, C/o M/s Shri Ram Rice unit, Village Chopri, Taraori, Distt -Karnal has filed an appeal, registered on 13.09.2021, against the order dated 28.05.2021 passed by CGRF, UHBVN, Kurukshetra in case No. UH/CGRF-80/2021. The appellant submitted as under: -
- I. *The appeal is being preferred in view of Regulation 2.49 (B) and 3.16 of Haryana Electricity Regulatory Commission Notification No HERC/48/2020 dated 24/ Jan/2020.*
 - II. *The Consumers filled this appeal against the order passed by CGRF UHBVN KKR.*
 - III. *Due to Covid-19 the appellant petitioner couldn't file this appeal within the stipulated period for which delay may be condoned.*
 - IV. *The consumers submitted their consent for opting TOU/TOD Tariff benefit as per Sales Circular no D/24-2018 with the SDO (op) Sub Division Taraori in the year 2018 and requested for allowing the tariff benefit as per Nigam's instruction.*
 - V. *The consumers submitted his consent for opting TOU/TOD Tariff benefit as per Sales Circular no D/28-2019 with the SDO (op) Sub Division Taraori in the year 2019 and requested for allowing the tariff benefit as per Nigam's instruction.*

- VI. *The consumers requested the SDO (op) Sub Division for allowing the TOU/TOD tariff benefit, which is pending from the last 3 years, but the grievance of appellant petitioner was not redressed.*
- VII. *The consumers filled an application with Hon'ble CGRF (UHBVN) on dated 22-04-2021.*
- VIII. *The TOU/TOD benefit for the year 2018 to 2019 to be given for the period: 1-10-2018 to 31-3-2019 but the concerned SDO given the benefit from 14-12-2018 to 31-3-2019, which is wrong and unlawful.*
- IX. *As per the concerned SDO, the sales circular was issued on 7-12-2018 (Friday) and consumer submitted his consent on 14-12-2019(Friday) that's why the benefit can be given from 14-12-2019 only. Although the circular was issued on dated 7-Dec-2018 yet it has retrospectively effective from 1-10-2018.*
- X. *As per the provision of circular the respondents were bound to give vide publicity so that eligible consumer may aware, but the respondent never made any effort to convey the contents of circular even to the High Revenue generated consumer.*
- XI. *TOU benefit for the period 2019 to 2020 was not given to appellant petitioner.*
- XII. *As per the Sales circular No – 28/2019, the Arrear should be given with 9%/Annum interest from the date of end of TOU period of respective year.*
- XIII. *The forum passed the order on 28-5-2021 without redressing the grievance of appellant petitioner.*

Relief Sought from Hon'ble Ombudsman: -

- i. *It is requested that the respondents may be directed to allow the benefit from 1-10-2018 this will be compliance of the Spirit of the orders passed by Hon'ble HERC.*
- ii. *It is submitted that the respondents may be directed to give the benefit for 2019 to 2020.*
- iii. *It is humbly prayed that the respondents may be directed to pay the interest as per the Provision of Nigam.*

It is humbly requested to direct the respondents to release the due benefits to the petitioner along with the interest.

- 3.1 The appeal was registered on 13.09.2021 as an appeal No. 29/2021 and accordingly, notice of motion to the appellant as well as to the respondents was issued on 13.09.2021 for hearing the matter on 16.09.2021.

3.2 The SDO/Op., Sub Division, Taraori, Karnal vide his email on 14.09.2021 has submitted as under: -

- 1-3 *That the contents of point No. 1 to 3 of the appeal does not relates to answering respondent and as such same needs no reply.*
- 4 *That the benefit of tariff already given by this office of an amount Rs.188068/- (calculation sheet attached) vide Sundry No. 27/127/125 dated 20.05.2021.*
- 5 *That as per Sales Circular U-28/2019 dated 11.09.2019 to get the benefit of TOU/TOD concessional tariff scheme, it was mandatory to install smart meter by the consumer instead of normal trivector meter. So, no benefit was granted to the consumer for period 2019 -20.*
- 6 *It is wrong that grievance of applicant was not redressed by this office. The benefit of TOU/TOD tariff already given by this office to the appellant.*
- 7 *The Hon'ble CGRF decided application of appellant in favour of respondent.*
- 8 *The benefit of TOU/TOD tariff already given from 14.12.2018 to 31.12.2019 which is as per direction received from Chief Engineer Commercial UHBVN, Panchkula vide his office Memo. No. Ch.35/TR-72(90)/HERC/ARR/2018/CE/C-1 dated 18.05.2021 (copy attached).*
- 9 *The reply is same as point No. 5.*
- 10 *This office follows the direction/instruction of Sales Circular No. U-28/2019.*
- 11 *It is wrong that Forum has passed the order without redressing the grievance of the applicant.*

4. Hearing was held on 16.09.2021, as scheduled, At the outset, the counsel for appellants of appeal no-27, 28 and 29 of 2021, submitted that all three appeals are similar in nature and requested to club and hear together. He pleaded that there is no mention in the reply of the respondent about the interest to be given as per para no. 9 of sales circular no. U-28/2019. Considering the appellant request, all three appeals are clubbed and the respondent SDO was directed to submit the reply to appeals through concerned Executive Engineer within a week time. The matter was adjourned to 05.10.2021.

5. The Executive Engineer Sub Urban Div No. 1 Karnal vide memo No. C4-46/CGRF dated 30-9-2021 has submitted as under: -

- That consumer neither asked for interest at that time before the then SDO of this S/Divn nor before the Hon'ble CGRF Forum in his request. Moreover, Audit of the said period has already been carried out and all accounts has been settled down.

- That benefit of TOU/TOD tariff already given from 14.12.18 to 31.12.19 which is as per direction received from Chief Engineer Commercial, UHBVN Panchkula vide his office Memo No. Ch.35/TR-72(90)/HERC/ARR/2018/CE/C-I dated 18.5.2021 and as per SC No. U-24/2018 there was not mention to provide the interest for period 18/19.
- That under this S/Divn. Some other consumers also applied for TOU/TOD facility benefit of tariff given to them without interest as they never asked for the same.
- That as per point No. 9 of SC No. U-24/2018 interest to be given @ 9% P.A. for the period Oct. 2018 to March 2019. However, no TOU/TOD tariff benefit given to the above appellants for 2019-20 being smart meter not provided by the applicant.
- The benefits have been given to the appellant herewith.

6. The appellant vides his email on 04.10.2021 has submitted rejoinder as under: -

“I acknowledged the receipt of above communication which is sent by the respondent to me via Email on 4-10-2021 and submit my pointwise reply as under.

- The reply of respondent is false and fabricated. During the CGRF proceeding it was well discussed that respondent will apply the sales circular U- 28/2019 in TOTO and as will allow the interest as per the para number 9 of sales circular. Accordingly, we have submitted the application to the SDO on 1-6-2021 which was already received by the then SDO.
- HERC on dated 15-Nov-2018 in TRUE- UP FOR THE FY 2016-17, ANNUAL (MID-YEAR) PERFORMANCE REVIEW FOR THE FY 2017-18, AGGREGATE REVENUE REQUIREMENT OF UHBVNL AND DHBVNL AND DISTRIBUTION & RETAIL SUPPLY TARIFF FOR THE FY 2018-19.

In this tariff for the financial year 2018-2019 also fixed by Hon'ble HERC.

On Page number – 298 related to TOU/TOD for 2018-2019 read as “Further, the Time of Use Tariff/Time of Day (TOD) scheme introduced by the Commission in its ARR Order dated 11.07.2017, shall continue till further Orders, except that the rebate for off-peak hours shall be @ 10%. The revised TOD tariff is tabulated as under: -

Period	Charge	Time
Off-Peak Demand (October to March)	10 % rebate on the normal energy charges as approved by the Commission. *	From 10:00 P.M to 05.30 A.M
Peak Demand (October to March)	19% premium over the energy charges determined by the Commission	From 06.30 P.M to 10.00 P.M
Normal Demand (October to March)	Normal Tariff	From 05.30 A.M to 06.30 P.M
Demand Charges	As determined by the Commission - shall be the same for all categories of consumers including ToU. PLEC shall continue to be applicable for Open Access Power.	

As determined by the Commission - shall be the same for all categories of consumers including ToU. PLEC shall continue to be applicable for Open Access Power.

It's clearly mentioned in the APR dated 15-11-2018 "that the Time of Use Tariff/Time of Day (TOD) scheme introduced by the Commission in its ARR Order dated 11.07.2017, shall continue till further Orders, except that the rebate for off-peak hours shall be @ 10%."

- Matter of records.
- The sales circular respondent referred here is wrong, I understand this is a typo error (it should be U28/2019 instead of U24/2018). The version of respondent is based on misinterpretation of relevant para of circular No U28/2019, the correct sales circular no is U 28-2019 which reads as "There should not be any arrear of such rebate, the responsibility of concerned officer/official shall be fixed, and the consumer shall be given the rebate along with the interest @ 9% per annum"

The arrear will carry right from the date it become due till the month in which it is credited to the account of consumer.

Respected Sir,

I would like to draw the attention of Hon'ble Ombudsman on below points: -

- i. HERC issued the instruction on 15-12-2018 but the SE/Commercial issued the sales circular on 7-12-2018 in-spice of knowing the fact that this is a special kind of time bound rebate.

- ii. As mentioned in the APR the Time of Use Tariff/Time of Day (TOD) scheme introduced by the Commission in its ARR Order dated 11.07.2017, shall continue till further Orders, except that the rebate for off-peak hours shall be @ 10%.
- iii. As mentioned in the para 2.ii of Sales Circular No -U 28/2017 “Since the TOU tariff has been introduced by the Hon’ble Commission on optional basis, the consumer/ applicant who once exercise his option to be charged under TOU tariff, shall continue to be charged under TOU tariff for a period not less than Six months from the date the Discoms on an application submitted by an eligible consumer/applicant allows the same”.
- iv. TOU/TOD Sales circular No- U28/2017 issued on dated 9-8-2017. As per the para-5- “The eligible consumer opting for TOU tariff shall submit their application for exercising their option the concerned SDO (op) who shall allow the same and inform the concerned consumer within 3 days of the date of application “. If any consumer submits his consent on 9-8-2017, will be eligible to get the benefit of TOU/TOD tariff from 9-8-2017?

The aim of Hon’ble HERC to introduce this TOU/TOD tariff to encourage the consumers so that the surplus power can be utilized. This is a two-way scheme as this is purely based on the consumption.

I request Hon’ble Ombudsman to review the appeal in the light of true facts and use the principal of interpretation, allow the statutory benefit of the applicant.”

7. Finally, the hearing was held on 05.10.2021, as scheduled in the presence of the parties through video conferencing. Both the parties argued at length reiterating their written submissions.
8. After going through record placed on file and hearing both parties, it is observed that Sales Circular No. U-28/2018 dated 07.12.2018 inter alia states that for current financial year (FY 2018-19) the option of ToU tariff shall be available with immediate effect until 31.03.2019 and the ToU tariff is on option basis, the consumer/applicant who once exercises his option to be charged under ToU tariff shall continue to be charged under ToU tariff from the date the Discoms on an application submitted by eligible consumer/applicant allows the same, until the end of the ToU period i.e. March of the relevant year. Accordingly, rebate on the tariff has been given to all three petitioners from 14.12.2018 to 31.03.2019. Further, petitioners argued for providing interest on the rebate granted as clause 9 of Sales Circular No. U-28/2019 dated 11.09.2019 which was for FY 2019-20. Moreover, no such issue was raised before

CGRF. Therefore, the contentions of the appellants for allowing rebate with effect from 1st October, 2018 and interest on rebate cannot be accepted.

Further, since for FY 2019-20, it was mandatory to install Smart meter/Smart grid which was not installed by the appellants to avail the ToU/ToD tariff as per Sales Circular No. U-28/2019 dated 11.09.2019, so the benefit cannot be allowed.

9. The instant appeals are disposed of in above terms.

Both the parties to bear their own costs. File may be consigned to record.

Given under my hand on this day of 5th October, 2021.

(Virendra Singh)

Dated: 5th October,2021

Electricity Ombudsman, Haryana

Memo. No. HERC/EO/Appeal No.27/28/29/2021/

Dated: -

1. Sh. Rakesh kumar, M/s S.R. Overseas, Village Chopri, Lalyani Road, Taraori, Distt -Karnal.
2. Sh. Mahesh Kumar, M/s Shri Ram Overeseas, Village Chopri, Lalyani Road, Taraori, Distt -Karnal.
3. Sh. Sanjay Kumar, C/o M/s Shri Ram Rice unit, Village Chopri, Taraori, Distt - Karnal. (electricityconsultant1@gmail.com)
4. The Managing Director, UHBVN, Vidyut Sadan, C-16, Sector – 6, Panchkula – 134109. (Email- cmd@uhbvn.org.in)
5. The L R, HPU, Shakti Bhawan, Sector – 6, Panchkula.
6. The Chief Engineer “Op’, UHBVN, SCO 89, Sector – 5, Panchkula -134109
7. The Superintending Engineer ‘Op’ Circle, UHBVNL, Shakti Bhawan Sector 12, Karnal. (seopuhbvnkarnal@gmail.com)
8. The Executive Engineer, Sub-Urban Division, No.1, UHBVNL, Kothi No. 3/4,98-99 Jarnally colony, Karnal.
9. The SDO/Op., Sub Division, UHBVNL, 33KV S/Stn. Taraori, Karnal.