



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
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(Email)

Appeal No. : 58/2023
Registered on: 16.06.2023
Date of order: 21.08.2023

In the matter of: -

Appeal against the order dated 06.04.2023 passed by forum for redressal of consumer grievances, UHBVN, Kurukshetra in case no UH/CGRF-03/2023.

M/s Reliance JIO Infoomm. Limited, Plot No.C-135, Phase VIII,
Industrial Area, S. A. S. Nagar, Mohali, Punjab-160072

Appellant

Versus

UHBVNL

Respondents

Before:

Sh. Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Shri Sumeet Jain, Advocate
Shri Tarun Khurana from Reliance Jio
Shri Anil Kumar from Reliance Jio

Present on behalf of Respondents:

Shri M.G. Jindal, XEN, 'Op.' Panchkula
Shri Neelanshu Dubey, SDO 'Op' Sub Urban Panchkula

ORDER

A. M/s Reliance JIO Infoomm. Limited, Plot No.C-135, Phase VIII, Industrial Area, S. A. S. Nagar, Mohali, Punjab-160072 has filed an Appeal through counsel Shri Sumeet Jain, Appeal against the order dated 06.04.2023 passed by forum for redressal of consumer grievances, UHBVN, Kurukshetra in case no UH/CGRF-03/2023. The appellant request for following relief as under: -

1. That the appellant is aggrieved against order dated 06.04.2023 passed by Consumer Grievances Redressal Forum, UHBVNL, Kurukshetra whereby Complaint bearing No. UH/CGRF -03/2023 filed by the appellants has been dismissed by holding that "*since the accuracy of the meter checked on the test bench was found within limits and meter data was also*

downloaded. As such, the working of the meter has been observed as O.K. Hence the amount charged to the complainant becomes rightly payable by him to the Nigam. The reply of SDO/Respondent has been found in order. Therefore, the case is disposed of without cost to either of the parties.”

2. That Reliance Jio Infocomm Limited is engaged in the business of establishment, maintenance and provision of Telecom infrastructure which inter alia include mobile communication towers and other allied equipment pursuant to licenses issued to it under Indian Telegraph Act, 1885.
3. That the brief facts of the matter in relation to Sector 14 Site A/C No. A27-0708962261 and Sector 6 Site A/C A27-2499880000, are as below:

17.11.2016	Electricity connection for Sector 14 tower was applied by the appellant company.
13.12.2016	Sector 14 site –Requisite connection fee and deposit was made by appellant company.
01.04.2017	Sector 14 site –Electricity Connection was released and meter was installed. Details are as under: Three Phase Load 6kw Meter Number: HRT 77651 Consumer Account number: A27-0708962261 Monthly consumption: 4kw
March 20	Covid 19 broke out -Lockdown
June 2020 to August 2020	Sector 14- Meter recorded reading @ 145 kva
21.09.2020	Sector 14 site – Invoice of Rs 9035/- was raised
23.12.2020	Sector 14 site – Invoice of Rs 22,43,902.00 was raised
17.02.2021	Sector 14 site - Complaint was filed before SDO Panchkula regarding defect in meter
05.04.2021	Sector 14 site – Supply of Electricity Connection permanently disconnected by department
19.10.2021	Sector 14 site - Meter Checking Application was filed by the appellant
12.11.2021	Sector 14 site - Meter packed by department
16.11.2021	Sector 14 site - Checking report- Observations in report reads as under: <ul style="list-style-type: none"> • Polycarbonate seals found intact. • Accuracy of meter checked on test bench and found within limits (Copy attached) • Meter data downloaded. (Copy attached) • No internal examination of meter done as requested by SDO(OP).
17.11.2021	Respondent -Department ordered transfer of arrears of Sector 14 site to Sector 6 site Electricity Connection bearing no A27-2499880000 in violation of Section 56 of electricity Act where no such method is provided.
16.12.2021	Sector 6 site -Arrears of Sector 14 Site transferred to connection at H. No-538 Sector-6 Panchkula connection number A27-2499880000

26.04.2022	Sector 6 Site- Appellant under protest paid a sum of Rs. 5,00,000/-
20.10.2022	RTI Application was filed by the appellant.
11.11.2022	Incomplete information supplied under RTI
	Appeal filed against incomplete information provided under RTI to the appellant
10.12.2022	Sector 6 Site- Electricity connection disconnected
20.12.2022	Complaint filed by the appellant before Consumer Grievance Redressal Forum, Kurukshetra along with Documents.
28.12.2022	Reply was filed by the department to consumer complaint was filed by the appellant.
Dec 2023	Application for interim relief of restoration of supply of electricity to connection bearing A/C A27-2499880000, A/C No. A27- 0708962261 and restraining respondent from disconnecting supply of electricity of other telecom towers of Appellant.
11.01.2023	Ld. CGRF allowed application for restoration subject to payment of 40% of outstanding including Rs. 5 lacs already deposited. The same was deposited by the appellant and electricity connection was restored.
30.01.2023	Application was filed by the appellant under Regulation 2.31 of Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020 (Amended) for inspection of meter bearing HRT77651 of A/C No. A27- 0708962261 and obtain independent report from third party at the expense of appellant.
12.02.2023	Reply was filed by the department that request for testing has to be made by consumer within 10 days from date of testing of meter in M&T lab.
06.04.2023	Ld. CGRF passed impugned order
31.05.2023	The appellant has deposited under protest balance disputed amount of Rs 22,56,215/- in addition to amount already deposited earlier.

4. That on 06.04.2023, the complaint filed by the appellant was disposed of. The Ld. Forum observed that on 29.03.2023, the Forum had gone through the record and after through deliberation on the issue, it was decided by the Forum that since the accuracy of the meter already stands checked on the Test Bench of M&P Lab. and the same has been found within limits and, moreover, meter data has also been downloaded. So, the Forum directed SDO/Respondent to charge the amount as per standing instructions of the Nigam in view of M&P Lab. Checking report and meter data downloaded. The decision of the Ld. Forum is as under:

After examining the reply of the Respondent SDO, the record available on the file and hearing both the parties, the Forum has observed that since the said meter is not available as the same stands deposited in the Store vide Challan No. 48/383 Dated 07.01.2022 Thus the meter cannot be got

checked in Lab. at this stage. Previously, in context to request made by the complainant on dated 19.10.2021, the meter packed by SDO/Respondent was got checked from M&T Lab. Dhulkote, Ambala on 16.11.2021 in the presence of the complainant's representative/official Sh. Mandeep Singh and as per M&T Lab. report issued, the meter was found as O.K. Hence the SDO/Respondent served a notice to the complainant vide Memo. No. 462/SU/CA Dated 17.11.2021 making it clear to him to come under Surcharge waiver scheme against account no. 0708962261 otherwise the amount outstanding their against will be transferred to another account No. 2499880000 in the name of M/s. Reliance Info, address - 538, Sector-6, Panchkula without further notice. Since the accuracy of the meter checked on the test bench was found within limits and meter data was also downloaded. As such, the working of the meter has been observed as O.K. Hence the amount charged to the complainant becomes rightly payable by him to the Nigam. The reply of SDO/Respondent has been found in order. Therefore, the case is disposed of without cost to either of the parties.”

5. That the order dated 06.04.2023 passed by the Ld. CGRF is against the law and actual facts of the case and same deserves to be set aside on following ground:

a. Because the Ld Forum has failed to decide the actual issue involved the matter i.e.

i. Whether meter bearing HRT77651 A/C No. A27- 0708962261 installed at Sector 14 site has worked correctly during period in question i.e. from May 2020 to September 2020?

ii. Whether it is technically possible for 6 kw capacity meter to pass electricity of 144 KW to connection and record consumption of 144 KW on wires for 6 Kw load?

Without deciding the above question and seeking evidence from the department, the Ld. Forum has wrongly disposed of the complaint filed by the appellant. The appellant is not an expert in the matter. The Ld. Forum should have involved expert from the department for the issue involved for correct decision in the matter. It is not the case of department that the meter has been tempered with.

b. Because it is settled principle of natural justice that no one can be penalized for no fault of his own. The same is evident from the fact

that at Sector 14 Site sanctioned load is 6 KW and for said load required capacity meter is installed. It is technically and practically not possible for 6 KW load connection to take load of 144 KW. The meter, wires, Service Cable and the feeding Distribution Transformer etc. installed cannot take load of 144 KW. It is clear that the meter remained defective during the said period and recorded inflated consumption. Moreover, there are other towers of Appellants in Panchkula itself and amount of one telecom tower (in a given billing circle) generally ranges upon Rs 15000/- only and in present case same has gone to 25 lacs. The said meter was defective and demand of Rs 25 lacs is not maintainable and liable to be set aside.

- c. Because even if, the meter is found okay, it is technically and factually not possible for 6 KW load connection to take load of 144 KW approx. The meter, wires, Service Cable and the feeding Distribution Transformer etc. installed cannot take load of 144 KW. It is clear that the meter remained defective during the said period and recorded inflated consumption. The principle of natural justice warrants department to go to the root of the matter.
- d. Because the Ld. Forum wrongly rejected the application for testing from third party lab on technical ground that the same was not filed within permitted days. The meter is still in possession of the department so Ld. Forum should have asked ordered the checking of meter from third party.
- e. Because from observations of report, it is evident no internal checking of meter was done and the report is silent on the aspect whether it is technically possible for 6 kw capacity meter to pass electricity of 144 KW to connection and record consumption of 144 KW.
- f. Because the respondents have transferred the arrears of Sector 14 site to Sector 6 site in violation of Electricity Act 2003 and Electricity Supply Code. There is no such provision in said Act and Regulations for transfer of arrears from one account to another account of consumer and follow the procedure of disconnection on non-payment in respect of subsequent account in which arrears are transferred. The internal instructions, if any, are void and not

enforceable being in conflict of Parent Act and Regulations. Every electricity connection is obtained individually by applying separately. Separate account number is allotted to each connection. Each connection is governed by its own agreement and thus, the dues under one agreement cannot be transferred to another agreement. Thus, the disconnection of supply to Sector 6 site is patently in violation of Electricity Act 2003 and Electricity Supply Code.

6. That the appellant has not filed/initiated any proceedings before any court of law/Tribunal/Consumer Forum for its grievance as mentioned above except before CGRF, UHBVN, Kurukshetra and present appeal.

It is therefore prayed that:

- a) appeal may kindly be accepted and advice from experts may kindly be sought and meter be checked from third party lab
 - b) impugned order dated 06.04.2023 passed by the CGRF UHBVN Kurukshetra may kindly be set aside;
 - c) Invoices for account number A/C A27-2499880000, A/C No. A27-0708962261 may kindly be corrected and excess amount charged which has now been submitted under protest may kindly be refunded in the interest of justice.
 - d) Any other relief which Hon'ble Appellate Authority deems fit may also be granted in favor of the appellants.
- B.** The appeal was registered on 16.06.2023 as an appeal No. 58/2023 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 06.07.2023.
- C.** The respondent XEN vide email dated 06.07.2023 has submitted reply which is as under: -

In this connection, SDO OP S/U S/Divn UHBVN, Panchkula vide his office memo no. Ch-1628/S/U/CA dated 06.07.2023 has submitted the reply regarding appeal filed by M/S Reliance Jio Infocom limited against account no. 2499880000 which is reproduced as under: -

The department had given an electricity connection bearing account no. 0708962261 in the name of Reliance Jio Infocom Ltd in sec-14 Panchkula bearing sanction load 15 KW.

1. The bill of the above connection was raised on RNT (Reading not taken) for the period 09/19 to 09/20 and same was revised in 12/20 for 388 days from, 13/9/19 to 05/10/20 as per the reading in the meter (Copy of bill attached as Annexure-1). The bill was raised of 292220 KWH units of amount Rs. 2180673. The average amount of the said period got adjusted by the system.
2. The above meter got disconnected on defaulting amount and consumer requested to get it checked in the M& T Lab. The meter got checked in the lab on dated 16/11/2021 and meter working found ok. The meter got tested in the presence of representative of the firm.
3. It is further submitted that as per sale circular 02/2020 the consumer has right to challenge the report of lab from 1 month of checking in the lab and get it tested in any of the lab selected on their level but in the above case no such representation had been received within 1 month. Moreover, the said meter had been already returned to store in routine.
4. The above amount on account of non-recovery got transferred to another account of the firm on the same name as per the Nigam guidelines in the month of 2/2022 in the account no. 2499880000 the consumer was served a notice vide memo no. 462/SU/CA dated 17/11/2021 for transfer of defaulting amount Rs. 2503376/- (Including surcharge)

As per the above the details, the billed amount of the A/C NO-0708962261 is as per the actual consumption of the meter and same got verified from the M& T lab as well and hence consumer is liable to pay the amount and all the necessary action in the above matter had been taken as per the Nigam instructions.

- D.** Hearing was held on 06.07.2023 as scheduled. At the outset, Counsel for the appellant submitted that the main issue is that in the month of 12/2020, exorbitant bill of Rs 22 L has been tendered by the respondent. Further, the load has been recorded in the readings of the meter as 144 KW against sanctioned load of 6 KW. The load of 144 KW cannot run through a meter installed for 6 KW only. Therefore, the meter had gone defective but M&T Lab has shown meter accuracy within permissible limit and remarked that no internal examination is done as requested by the SDO. The counsel requested to seek expert report in the matter.

The respondent SDO argued that sanctioned load of the consumer was 15 KW and the bill was raised on RNT for period of 09/2019 to 09/20 and the same

was revised in 12/2020 for 388 days (from 13.09/2019 to 05/10/2020) for 292220 Units of amount Rs. 2180673/- after taking actual reading. Later on, on the request of the consumer the meter was sent to M&T Lab for checking of accuracy. The meter was checked on 16/11/2021 in the Lab in the presence of representative of the Firm and the meter accuracy was found within permissible limit.

After hearing both parties, it is decided to obtain expert report from SE/M&P UHBVN on the basis of data or meter available as per M&T Lab checking report. The respondent XEN will submit report of SE/M&P within 7 days. The matter to come up again on 01.08.2023.

E. Hearing was held on 01.08.2023, as scheduled. At the outset, respondent SDO submitted that office of the SE/M&P and M&T Lab at Dhulkot was flooded due to heavy rain, due to which report could not be supplied by the SE. The respondent SDO was directed to collect report and submit immediately. The matter was adjourned for 21.08.2023.

F. XEN, 'Op.' Panchkula vide office memo no. 66/CGRF/Kurukshetra dated 14.08.2023 submitted the report of SE/M&P Circle, UHBVN Dhulkot, which is as under: -

As per above reference for the subject cited matter, it is pertinent to mention here that the meter bearing Sr No HRT77651, Make Secure, 3 x 40 – 200A, year of Manufacture 2016 was packed by the Sub-Urban Sub division Panchkula on dated 12.11.2021 vide LL1-21/9663 for checking the accuracy and downloading the data. The same was got checked by the respective sub division vide challan number SU-28 form M&T Lab UHBVN Dhulkote on dated 16.11.2021.

As per lab meter checking report, the meter working was found within limit. Also, the data was downloaded as requested by the sub division through BCS software. After going through the downloaded data, it is observed that meter worked under magnetic influence resulting into triggering of MD.

G. Hearing was held on 21.08.2023, as scheduled. Both the parties were present through video conferencing. At the outset, respondent XEN submitted that the report of SE M&P was obtained and the same stands submitted. As per the report the meter worked under magnetic influence resulting into triggering of MD. Further, he submitted that as and when the magnet is applied on the meter, it starts to record at maximum load due to magnetic influence.

Per contra the counsel for the appellant submitted that there are thousands of towers in Haryana and why company will use magnet. The observation has no concrete evidence. The connection installed for 15 KW cannot take load of 144 KW. Moreover, it was the COVID time and the charging of Rs. 25 Lakh is totally wrong. Shri Anil Kumar from the Reliance Jio also submitted that technically, it is not possible to feed a load of 144 kW by the existing meter / cable.

- H.** Technical specifications of energy meter (Specification No. CSC- 48-R-1/DH/UH/P&D/2010-2011) hosted by UHBVN at its web site is referred and it interalia says under the heading of “Anti Tamper Features” that the Meter shall immune to the external magnetic field upto 0.5 Tesla with permanent magnet of 75x75x35 mm and in case external magnetic field exceeding 0.5 Tesla (permanent magnet), the meter shall log the event of attempt of tampering by the external magnetic field, occurrences & restoration with date & time. The meter shall start record energy at maximum current IMAX under such influence of abnormal magnetic field irrespective of actual load. The meter shall record as per actual load once the external abnormal magnetic field is removed.
- I.** In view of the above facts and discussions, it is observed that as per as per expert report of the SE M&P the meter of the appellant worked under the influence of magnet resulting into triggering of Maximum Demand (MD) and the meter recorded high consumption as per inherent feature of the meter. However, the meter accuracy checked in M&T Lab was found within permissible limit. Since the recording of high energy by the meter of the appellant as per inherent feature of meter used as deterrent, there is no point of interfering with the CGRF decision dated 06.04.2023 and the same is upheld. The instant appeal is disposed off accordingly.

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

Given under my hand on 21st August, 2023.

Dated: - 21st August, 2023

Sd/-
(Virendra Singh)
Electricity Ombudsman, Haryana

CC-

Memo. No. HERC/EO/Appeal No.58/2023/ 2218-24

Dated: 23.08.2023

1. M/s Reliance JIO Infoomm. Limited, Plot No.C-135, Phase VIII, Industrial Area, S. A. S. Nagar, Mohali (Email sumeetjainadv@gmail.com).
2. The Managing Director, Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) Vidyut Sadan, IP No.: 3&4, Sector-14, Panchkula (Email md@uhbvn.org.in).
3. Legal Remembrancer, Haryana Power Utilities, Shakti Bhawan, Sector- 6, Panchkula – 134109 (Email lr@hvpn.org.in).
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