

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION,  
SHIMLA**

**Petition No. 43/2014**

In the Matter of:

Applicability of tariff as per Tariff Order issued by H.P. Electricity Regulatory Commission for the FY 2007-08 – Correct implementation of factory lighting load and colony supply thereof.

AND

In the Matter of:

Himachal Pradesh State Electricity Board Limited,  
Vidyut Bhawan, Shimla -4

...Petitioner

CORAM

Subhash C Negi  
CHAIRMAN

Date of Decision: (28.07. 2014)

**ORDER**

**A1: BACKGROUND AND GIST OF PETITION FILED BY HPSEBL**

- 1.1 The present petition has been filed by HPSEBL seeking appropriate directions/ orders from the Commission regarding levy of both the Demand and Energy charges on lighting load in the Tariff Orders applicable after 1.4.2007 till 31.3.2013.
- 1.2 In the tariff orders of FY08, FY09, FY10, FY11, FY12 and FY13, the consumers of categories such as Small and Medium Industrial Power Supply (SMS), Large Industrial Power Supply (LS), Water Pumping Supply (WPS) etc. availing peak load exemption were charged the Peak Load Exemption Charges (PLEC) in the form of both the demand charges (Rs./ kVA/month) and energy charges (Rs./ kVAh). However in the tariff order for FY07, PLEC charges consisted of only the energy charges (Rs./KVAh) and there was no provision for charging demand charges for the consumption during peak load hours.
- 1.3 The field units of HPSEBL charged the industrial consumers for the energy consumed for lighting loads during peak load hours only for energy charges during the tariff periods of FY8 to FY12 and this fact was noticed during 2012. Consequently Chief Engineer (Commercial) issued clarification vide letter no. HPSEBL/CE-(Comm.)/Tariff Clarification/2012-7682-7930 dated 17th July 2012 wherein field units were advised to levy both the demand charges as well as energy charges on the consumption during peak hours for the lighting load. However in the said clarification the starting date of charging demand charges on lighting load consumption was mentioned as 01.04.2006 instead of 01.04.2007, which was corrected by Chief Engineer (Commercial) vide letter no. 8680-8984 dated 3rd August, 2012 of even file. In pursuant to the clarification issued by Chief Engineer (Commercial), the accounts of industrial units were overhauled for the past period.

- 1.4 Some Industrial units approached the Forum for Redressal of Grievances of Consumers (FRGC). The clarification issued by Chief Engineer (Comm.) was set aside by the Forum vide its order dated 22.08.2012. The FRGC further observed that *“the respondent Board may charge peak load demand charges from the consumers after obtaining the specific orders from the HPERC.”*
- 1.5 The clarification from HPERC was sought on this matter by Parwanoo Industries Association. The matter was clarified by HPERC vide letter no. HPERC/F(3)(3)(2)/TFA Section/2012-13/3724-27 dated 13.12.2012. The extracts of the clarification issued are as follows:

*“In this context it is clarified that the order issued by HPERC on August 3, 2002 in Complaint No. 3 of 2002 was regarding correct implementation and interpretation of tariff order for 2001-02 announced on 29<sup>th</sup> October 2001. The scope of the order was restricted to Tariff Order for FY02.*

*However in subsequent tariff orders, the peak load charges comprised both the components of energy as well as demand charges. The PLEC rate to be charged during peak hour, therefore, includes both the energy charges as well as demand charges. In view of this the reply submitted by HPSEB Ltd. to the above mentioned letter and the clarification issued vide its letter no. HPSEB/CE(Comm)/Tariff Clarifications/2012-7625-7930 dated 17.07.2012 are in line with the provisions of the tariff orders issued by HPERC.”*

- 1.6 HPSEBL filed review petition before FRGC and placed before it the clarification issued by HPERC vide above referred letter. However the review petition was rejected by the FRGC with the remarks:

*“We do not agree with clarification of the Chief Engineer (Commercial) in his letter dated 17.07.2012, wherein load for bonafide factory lighting considered as deemed peak load exemption and chargeable at PLEC rate for demand charges also.*

*In addition, the note regarding “factory lighting and colony supply” given in all the tariff orders clearly mention that the consumption for factory lighting and colony supply during peak load hours be charged at PLEC rates. This forum derives the meaning of consumption as units consumed and not the demand.*

*The review petitioner also referred to the letter of Chief Engineer (Commercial) & letter dated 13.12.2012 of HPERC. In our view both these letters are simple opinions of Chief Engineer Commercial and Executive Director (TFA) of the HPERC. This letter of Executive Director (TFA) of HPERC cannot be taken as supersession to the tariff orders issued from time to time. As such it is not binding upon this forum. Hence, both these letters are of no relevance to us.*

*As a result of our foregoing discussion, we find no infirmity with our previous order dated 22.08.2012 and as such this petition is hereby dismissed.”*

- 1.7 Accordingly HPSEB Ltd. has filed the present petition seeking necessary direction/ orders of HPERC in the matter.

## **A2: OBSERVATIONS AND ORDERS OF THE COMMISSION**

- 2.1 To facilitate the consumers using only lighting load in the peak hours, the provision of deemed peak load exemption for lighting load was kept in various tariff orders.
- (a) In the tariff order dated 29th October, 2001, the charging for the consumption during peak load hours was to be done in accordance with following provision:

*“Such consumption shall be charged for the energy consumed at the following rates, irrespective of whether the consumer has opted for peak time consumption or not:*

- i) During normal times : normal rate*
- ii) During peak times : the PLEC rate*
- iii) During night time : the night time rate*

*Consumers who have not opted for operation during peak times, and are only using electricity for the purposes mentioned in this section will not be charged the PLEC rates for demand charges.”*

The provision of charging only energy charges from the consumers using power during peak load hours was specifically available in this tariff order. However in subsequent tariff orders this clause was not available.

- (b) In the tariff order for the year FY07, the provision for levying demand charges during peak load hours was not there and the PLEC charges consisted of only the energy charges. However in all the tariff orders issued by the Commission from FY08 to FY13, the provision for levying both demand charges and energy charges on the consumption during peak load hours as PLEC charges was there. The charging for lighting load in all these tariff orders (FY07 to FY13) was to be done according to the following provision of these tariff orders:

*“Such consumption shall be charged for the energy consumed at the following rates, irrespective of whether the consumer has opted for peak time consumption or not:*

- a) During normal times : normal rate*
- b) During peak times : the PLEC rate*
- c) During night time : the night time rate”*

- 2.2 During the period under consideration (FY08 to FY13), the consumers who had not opted for peak load exemption were facilitated with deemed peak load exemption for lighting load. The consumers were free to use power within the limits of sanctioned lighting load during peak load hours. In the tariff orders issued by the Commission for FY08 to FY13, the intent of Commission was that the consumers should be charged at PLEC rates during peak load hours irrespective of the fact whether they have opted for peak load exemption or not. The PLEC charges during this period consisted of both the demand charges and energy charges for consumption during peak load hours. The Commission in its Tariff Order for FY08 in clause M of ‘PART-1 General of Annexure 2’ has specified

*“..... All consumers who have been given exemption to run their units (for full load or part thereof) during the peak load hours shall be charged a ‘Peak Load Exemption Charge’, as separate additional charge in kVA per month and energy charges (in Rs./kVAh/month and Rs./kWh/month as per two part and single part tariff applicable respectively) for the energy consumption during peak load hours in a month, at a rate specified in the relevant category of this schedule of tariff.”*

- 2.3 The tariff orders are clear that the PLEC charges for the energy consumed during peak load hours means the charges for both the demand and energy components. Therefore the charging for the energy consumption for deemed peak load exemption for lighting load during peak load hours at “the PLEC rates” is to be construed as charging for both demand as well as energy.
- 2.4 Whereas in case of consumers who have availed Peak Load Exemptions, the demand charges had to be levied on the exempted demand, however in cases where the consumers are using power only for lighting load, in the absence of any peak load exemption, the demand charges during peak load hours were to be levied on the actual maximum demand recorded during peak load hours.

- 2.5 Therefore the consumers for whom no peak load exemption was sanctioned and who were availing deemed peak load exemption for lighting load had to be charged both demand and energy charges on the consumption for lighting loads after 01.04.2007. Accordingly the clarification issued by Chief Engineer Commercial vide letter HPSEBL/CE-(Comm.)/Tariff Clarification/2012-7682-7930 dated 17th July 2012 as amended vide letter no. 8680-8984 dated 3rd August, 2012 of even file, is correct and is in accordance with the tariff orders issued for FY08 to FY13.
- 2.6 However HPSEB Ltd. is directed that recovery of any dues from consumers on this account should not be done in violation of clause (2) of section 56 of the Electricity Act, 2003.
- 2.7 The Petition is accordingly disposed of.

Shimla:  
Dated: 28<sup>th</sup> July, 2014

Sd/-  
(Subhash Chander Negi)  
Chairman