

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY  
COMMISSION, SHIMLA-171 002**

Complaint no. 3 of 2002

**In the matter of:**

**Parwanoo Industries Association (PIA)  
Plot No. 12, Sector-5, PARWANOO-173220**

-----Complainant.

Versus

**Himachal Pradesh State Electricity Board (HPSEB),  
Vidyut Bhawan, Shimla-171004.**

-----Respondent

And

**In the matter of:**

Complaint under Clauses 12 & 27 (xvi) falling under Chapter-IV of Himachal Pradesh Electricity Regulatory Commission, (Conduct of Business) Regulations, 2001.

**Present for:**

**Complainant**

: Shri Rakesh Bansal, Hony. Gen.Secy.  
: Shri R.S.Bains, Advocate

**Respondent**

: Shri K.D.Shreedhar, Advocate.

**ORDER**

Sh.Rakesh Bansal, Hony. General Secretary, Parwanoo Industries Association (PIA), Parwanoo filed on March 1, 2002 an application titled "Complaint under Clauses 12 and 27 (xvi) of the Himachal Pradesh Electricity Regulatory Commission's Conduct of Business Regulations, 2001". The complainant has pointed out that Parwanoo Industries Association had earlier filed a complaint with the Commission under Clauses 12 & 27 (xvi) of HPERC's Conduct of Business Regulations, 2001 on December 15, 2001 regarding incorrect application and interpretation of the Tariff Order 2001-02 (announced by the Commission on October 29, 2001) by the respondent (H.P. State Electricity Board) in the case of LS category of consumers. The complaint of PIA was admitted by the Commission and the Commission vide its Order dated December 21, 2001 directed the respondent HPSEB to treat this application as a representation, examine the issues raised by the Complainant and issue necessary directions to its field offices on the various points raised by the applicant to ensure that the Tariff Order dated October 29, 2001 was implemented in letter and spirit. It further directed the respondent that reasoned reply should be furnished to the Complainant within one month of the issue of the Order and in case the Complainant was not satisfied with the reply of the respondent he could approach the Commission with the appropriate petition/application. The period of one month was further extended by 15 days at the request of the respondent, i.e. up to February 5, 2002 by the Commission vide its Interim Order dated January 19, 2002.

2. In response to the Commission's Order, the respondent HPSEB had a meeting with the Complainant on January 29, 2002, to discuss the various issues raised in its complaint dated December 15, 2001 and a reply was furnished by the respondent to the complainant vide its letter no. HPSEB (Comm.)/T-2 (Ind.)/2002-493-495 dated February 4, 2002. The complainant has pointed out that no reasons were furnished by the respondent as ordered by the Commission and since the major issues remained un-resolved and the PIA being not

satisfied with the reply of the respondent, it has again approached the Commission to look into the matter and resolve the dispute. The PIA has prayed as under: -

- i) to direct the respondent to apply the tariff order in true spirit.
- ii) to direct the respondent to accept the contract demands declared/submitted by the consumers.
- iii) to direct the respondent to refund the excess amounts deposited by consumers against incorrect electricity bills.
- iv) hearing, if any, in this matter be fixed at an early date because the disputed amounts are growing every month with fresh electricity bills being raised.
- v) to initiate penal action against the respondent under clause-27(xvi) of Himachal Pradesh Electricity Regulatory Commission, (Conduct of Business) Regulations, 2001 and under Section 45 of ERC Act, 1998 against the respondent as the incorrect application of tariff has resulted in harassment and agony of consumers.

3. The complaint of PIA was forwarded to the respondent with a request to file its reply. The respondent filed the reply vide letter No. HPSEB/CE (Comm.)/SERC/2002-14369-70 dated March 18, 2002 and the rejoinder, to the reply, was filed by the complainant on April 2, 2002.

4. The hearing in the matter was taken up on April 30, 2002 wherein the following issues were framed: -

- i) Should the sanctioned connected load during normal hours and exemption granted for the peak hours be treated as contract demand for off peak hours and peak hours respectively?
- ii) Should the demand charge also be levied in addition to the energy charge in respect of peak load violation?
- iii) Should the demand charge of Rs. 150 per kVA per month be levied in addition to Rs. 125 per kVA per month in respect of peak load exemption charge?
- iv) Does the peak load violation mean "overdrawal in excess of contract demand" during peak hours?
- v) Should the penal rate of Rs. 4.70 per kVAh be charged on the units consumed during peak load hours on the days of violation only and not on the entire consumption during peak load hours in the whole of month?

5. During the hearing, the Commission asked Sh.Rakesh Bansal, appearing for the Complainant, whether his Association had filed any appeal against the Tariff Order dated October 29, 2001 in the Hon'ble High Court of Himachal Pradesh, apart from the one for the condonation of the delay in filing the review petition. The complainant categorically denied his Association having filed any appeal in the Hon'ble High Court. The case was thereafter fixed for May 9, 2002 for arguments.

6. During the hearing on May 9, 2002, it was pointed out by the Commission that it had received a notice from the Hon'ble High Court of H.P. in CMP in FAO No. N-818/2002 in which an appeal under Section 27 of the Electricity Regulatory Commissions Act, 1998 had been filed by the PIA against the Tariff Order dated October 29, 2001 and the Commission had been impleaded as one of the respondents. The statement made by the Complainant in the hearing on April 30, 2002 was, therefore, patently misleading and misrepresentative of the facts. As the Tariff Order was under challenge in the High Court and a grave impropriety would be deemed to be committed by proceeding further with the case pending before the High Court, the Commission, therefore, directed the Complainant to file an affidavit before the end of the day with full explanation for misleading statement made in the hearing on April 30, 2002 and unconditional apology for having done so.

7. The affidavit was filed by the PIA on May 10, 2002 and one day's delay in the filing of the Affidavit was condoned in view of the submission made by the Complainant in Para-4 of the Affidavit. The Complainant while admitting the misleading statement made on April 30, 2002 offered and tendered an unqualified apology for misleading the Commission with the explanation that in fact the petitioner had instructed his counsel to file an application against the Commission's Order dismissing the review petition on January 10, 2002. Instead the Counsel had filed an appeal under Section 27 of the ERC Act, 1998 against the main Tariff Order dated October 29, 2001, which was not at all intended to by the Petitioner/Complainant. Further it was stated that PIA had moved an application in the Hon'ble High Court for withdrawal of the appeal. Further action in the matter was deferred with a direction to the petitioner/complainant to file the copy of the order of the Hon'ble High Court on the application for withdrawal of appeal without prejudice to the Commission's right to contest the appeal/application in the High Court and safeguard its rights accruing as a result of having been impleaded as the first respondent in that matter. In the meantime, the report of the Commission's Standing Counsel should be obtained alongwith the certified copies of the Court Orders. The case was accordingly adjourned to June 22, 2002.

8. The application for withdrawal of appeal was considered by the Hon'ble High Court of Himachal Pradesh on May 15, 2002 and permitted it to be withdrawn.

9. The oral arguments in the case were, therefore, taken up on June 22, 2002. At the outset the Commission pointed out that it had to incur the costs in engaging a counsel for responding to the petition filed by PIA in the Hon'ble High Court and despite engaging the counsel no notice was sent to the Commission for the hearing held on May 15, 2002. The Commission read out the relevant paras from the report dated May 27, 2002 from Commission's Standing Counsel. It was clarified by Complainant, through its Counsel, that they were not aware of this and they too received the decision of Hon'ble High Court from the Counsel engaged by them for the purpose and they could not be held responsible if the notice for the hearing was not received by the HPERC.

10. The Commission stated that the issues on the complaint filed by PIA had already been framed in the hearing held on April 30, 2002 and the oral arguments on these would be taken up now. The Commission, therefore, invited the complainant to address arguments. Sh. Bains, the Ld. Counsel for the PIA, made his submissions to the various issues as under: -

i) Should the sanctioned connected load during normal hours and exemption granted for the peak hours be treated as contract demand for off peak hours and peak hours respectively?

Sh.Bains submitted that the connected load couldn't be treated as contract demand. He referred to the definitions of Connected Load and the Contract Demand as given in the Sales

Manual as well as in the Schedule of tariff. He emphasised that technically the connected load with no stretch of imagination could be treated as the contract demand. He also pointed out that this fact is borne out of the energy bills issued by the Board prior to 1981 when both the Connected load and the Contract Demand were treated differently.

- ii) Should the demand charge also be levied in addition to the energy charge in respect of peak load violation?

The Ld. Counsel for the complainant submitted that the Board at present was charging the Demand Charge both for normal hours (Rs.125/kVA/month) and peak hours (Rs.150/kVA/month) whereas the Demand Charge for the peak hours should not be in addition to the Demand Charge for the normal hours. The Demand Charge for the peak hours already included the Demand charge for the normal hours and, therefore, it should not be charged in addition to the Demand Charge for normal hours. Further if a consumer violated the PLE demand then the PLVC (Energy Charge) only should be levied and he should not in addition be charged the Penalty for overdrawal @ Rs.300/kVA/month. The penalty for overdrawal as contained in the Tariff Order could only be enforced if the consumer exceeded the contract demand. The Tariff Order did not envisage charging of Penalty on the violation of PLE demand and in that case the PLVC (energy charge) could only be levied. The Board was also charging the PLVC for the entire month even if the violation had taken place on one single day. This was against the spirit of the Act as well as the Tariff Order. This method of levying the PLVC encouraged the defaulter to violate the PLE demand. The PLVC, therefore, should be levied only for such days when the violation has taken place so as to discourage drawl of power in excess of PLE demand

- iii) Should the demand charge of Rs.150 per kVA per month be levied in addition to Rs.125 per kVA per month in respect of peak load exemption charge?

The Ld. Counsel for the Complainant submitted that the demand charge of Rs.150/kVA/month should not be levied in addition to Rs.125/kVA/month as the Demand charge of Rs.150/kVA/month also included the element of Rs.125/kVA/month.

- iv) Does the peak load violation mean “overdrawal in excess of contract demand” during peak hours?

Sh. Bains submitted that the peak load violation means the overdrawal in excess of PLE demand and should be charged at PLVC rates only i.e. the penalty for overdrawal should not be levied.

- v) Should the peak rate of Rs. 4.70/ kVAh be charged on the units consumed during peak load hours on the days of violation only and not on the entire consumption during peak load hours in the whole of month?

Sh.Bains submitted that the penal rate of Rs.4.70/kVAh should be levied on the units consumed during peak load hours on the days of violation only and not for the entire consumption during peak load hours in whole of the month.

11 Sh. K. D. Shreedhar, the Ld. Counsel for respondent, submitted that he had nothing to add to what had already been stated in the written reply submitted by HPSEB on all the issues.

12. The Commission, thereafter, ordered the hearing in the matter concluded and reserved the order to be announced on August 3, 2002.

13. The Commission's observations on the various issues raised by the complainant in regard to incorrect application and interpretation of the Tariff Order 2001-02 as per their written complaint and arguments given before the Commission on June 22, 2002 are discussed in the following paragraphs: -

14. **Issue no. 1: - Should the sanctioned connected load during normal hours and exemption granted for the peak hours be treated as contract demand for off peak hours and peak hours respectively?**

**A) Complainant's Contention:-**

The Board has been issuing the energy bills treating the Connected Load as the Contract Demand. The Contract Demand and the Connected Load are two distinctive terms, which have been defined separately in the Tariff Order 2001-02 as also in the Sales Manual of the Board. The definitions of Connected Load and Contract Demand as appearing in the Tariff Order and the Sales Manual are reproduced below: -

**a) Definition as per Tariff Order: -**

**i) Connected Load:** - shall mean the sum of all the rated capacities of all the energy consuming devices/apparatus at the consumer's installation. This shall not include the standby or spare energy consuming apparatus installed through the changeover switch provided that the competent authority has accorded the requisite prior permission.

**ii) Contract Demand:** - shall mean the maximum demand for which the consumer has entered into an agreement with the Board.

**b) Definition as per Sales Manual: -**

**i) Connected Load:** - means the sum of the rated capacities of the energy consuming devices/apparatus in the consumer's premises. This shall be expressed in kW. If the ratings are in kVA the same should be converted in kW by multiplying to kVA with a power factor of 0.85. If some or any of the apparatus is rated by the manufacturers in H.P., the rating shall be converted into kW by multiplying it by 0.746kW. The Connected Load also includes the rated capacity of the standby load at consumer's premises connected with the system.

**ii) Contract Demand:** - means the maximum demand for which the consumer has entered into an agreement with the Board.

The demand charge as per the Tariff Order should be based on the Contract Demand and the maximum recorded demand. Since the Contract Demand was not contracted between the Board and the Consumer, prior to the new tariff, the Board is equating the Contract Demand with the Connected Load for the purpose of calculation of demand charges. If that is the philosophy of the new tariff, the Commission would have specified the formula for demand charges as follows: -

Demand Charge= 80% of connected load or maximum recorded demand, whichever is higher @ Rs. 125/kVA/month. The Commission has introduced the dual tariff based on contract demand in order to encourage efficient use of energy. As the Board is equating the connected load with the contract demand, most of the consumers are being charged for 80% of the connected load whereas their maximum demand range between 20 to 80% of the connected load depending upon the nature of the industry. Real load on the system is the maximum demand drawn by the Consumer. Even the Board was treating the connected load and the

contract demand differently in the energy bills, which were issued prior to 1981. Since the Demand Charge is to be levied based on the Contract Demand, a fresh Contract Demand of the consumers should be accepted by the Board. The consumer in that case would try to flatten the load curve of his demand over the 24 hours cycle as a result of which the variation in the loads on the system would reduce considerably.

**B) Board's reply: -**

The instructions issued by HPSEB to treat the sanctioned Connected Load of the consumers, for which they have entered into an agreement with the Board, to be treated as Contract Demand for the purpose of billing the Demand Charges is strictly in accordance with the Tariff Order passed by the Commission on October 29, 2001. Further, the Board has never restrained any consumer to draw less load which has been sanctioned in his favour. The various provisions of the Sales Manual, which the Complainant had referred to, are guidelines for working out the financial viability in accordance with the rules in vogue for release of electric connection only. The Board has established huge EHV and distribution network and it, therefore, expects minimum return for the capital invested by it to provide connection to the consumers and thus there is no need for the Board to enter into a fresh agreement with the complainant with regard to the Contract Demand.

**C) Commission's View: -**

By Board's own definitions of Connected Load and the Contract Demand in Appendix-II "Abridged Conditions of Supply of Sales Manual Part-1", these are two separate and distinct terms, the later being a function of the former but definitely less than one. The ratings and capacities of the appliances are indicative in nature and a good commercial engineer should be able to use his commercial experience and acumen in assessing fairly accurately, the simultaneous maximum demand of the consumer in accordance with the load, diversity and demand factors commonly experienced with similar type of loads or class of consumers at the time of designing the electricity supply system to cater to such demand. The indicative demand and load factors for various types of loads and industries have been given in Appendix-I "Demand and Load factors" of HPSEB Sales Manual Part-I for the guidance of field officers. To design and establish the system by taking the Connected load as the maximum demand defies the very common sense and logic besides over-designing the system at a far higher cost. It is also in violation of the instruction No.5 of HPSEB's Sales Manual where the probable monthly consumption is required to be worked out as per the following formula.

Monthly consumption = Load in kW x demand factor x load factor x number of hours in a month.

The connected load multiplied by the demand factor shall then give the maximum demand for which the system has to be designed. The contention of the Board that it has established huge EHV and distribution network and expects minimum return for the capital invested by it to provide connections to the consumers so the connected load is to be treated as contract demand for purpose of billing is without any merit and, therefore, is rejected. The Board's further contention that it has never restrained any consumer to draw less than sanctioned load is absolutely naïve. It should know that it is well nigh impossible for anyone to use cent percent sanctioned connected load as maximum demand.

Soon after the Tariff Order came into effect, the Board should have provided an opportunity to all the consumers, with whom the application and agreement form has been signed based upon the connected load, to enter into fresh agreement for the contract demand.

Therefore, where the contract demand has not been contracted between the Board and the consumers, the demand charge should be levied on the maximum recorded demand.

15. **Issue no. 2: - Should the demand charge also be levied in addition to the energy charge in respect of peak load violation?**

**A) Complainant's Contention: -**

The tariff approved by the Commission is a two part tariff i.e. Demand Charge (Rs. 150/kVA/month) to be levied on the maximum recorded demand during any 30 minutes interval during the peak load hours or 80% of the Contract Demand for peak load hours, whichever is higher, and Energy charge of Rs. 2.35/kVAh for consumption during peak load hours. During the meeting with the respondent on January 29, 2002 it was pointed out by the Board that they intended to levy the PLEC demand charges of Rs. 150 per kVA/month in case of peak load violations in addition to energy charge of Rs. 4.70/kVAh. The interpretation of the Board is not in line with the provision of tariff order as it only provides a penal rate of Rs. 4.70/kVAh for unauthorised consumption of energy during peak load hours. In case of PLVC, in addition to energy charge of Rs. 4.70/kVAh, Rs. 125/kVA is already being charged on the total chargeable demand.

**B) Board's reply: -**

The Board is strictly following the tariff order as approved by the Commission and the peak load consumption charges is being billed as under: -

Part-1: Demand Charge (Rs. 150/KVA/month)

Part-2: Energy charge for consumption during peak load hours as under: -

i) When the consumer does not violate the peak load exemption, entire consumption during peak load hours to be charged @ 235 paise/kVAh

Or

ii) When consumer violates peak load consumption, the entire consumption during peak load hours to be charged @ 470 paise/kVAh.

Further, the Commission in its Order of December 6, 2001 has clarified that the peak load violation charges are applicable both to the consumers who do not have the exemption and also to the consumers who have the exemption for peak load and are found using electricity during peak hours beyond the approved exemption.

Thus, the interpretation of Tariff Order by the complainant is wrong.

**C) Commission's View: -**

The tariff for LS category consists of two components i.e. Demand charge & Energy charge. Demand charge has been provided to ensure the recovery of fixed cost and it has been correlated with the level of demand of each consumer. Thus during the peak hours, when a consumer exceeds his load exemption, he is putting more demand on the system and as such is liable to pay for it. The purpose of providing Peak Load Violation Charge in the tariff is that the rate per se should be deterrent enough to discourage the consumer from exceeding his allowable demand to ensure the integrity and safety of the power system, being of paramount importance to ensure that reliable and quality supply is given to various consumers. Thus for the peak load violation, the demand charge is to be levied in addition to the energy charge and the contention of the complainant that, in case of Peak Load Violation, only energy charge @ Rs. 4.70/kVAh should be levied, is not correct and hence rejected. The manner in which PLVC is to be levied has been discussed in Paras 17 & 18 of this Order.

16. **Issue no. 3: - Should the demand charge of Rs.150 per kVA per month be levied in addition to Rs.125 per kVA per month in respect of peak load exemption charge?**

A) **Complainant's Contention: -**

The Tariff Order provides two rates for the demand charge i.e. Rs. 125/kVA/month applicable for the demand during non-peak hours and Rs. 150/kVA/month on authorised demand during peak hours. Thus the total chargeable demand is to be split into two parts and each part has to be charged at the respective rates, as the tariff does not provide the PLE Demand Charge to be charged over and above the normal Demand Charge. If the total chargeable demand of an Industrial unit is 125 kVA with a peak load exemption of 50 kVA, then the exempted 50 kVA should be charged at PLE demand charge of Rs. 150/ kVA/month and the balance 75 kVA (125-50) should be charged at normal rate of Rs. 125/ kVA/month.

B) **Board's reply: -**

The contention of the complainant that the tariff does not say PLEC charge should be charged over and above the demand charge is not valid. Example given by the complainant is also not relevant and not in the spirit of Tariff Order.

C) **Commission's View: -**

Due to shortage in the peak capacity and power system constraints the Industrial, Water Pumping and Agricultural Pumping consumers are normally not permitted by HPSEB to use electricity during the peak load hours. However, these categories of consumers can request for an exemption from the restriction to use electricity during peak load hours. In such cases where exemption is granted, a charge called the Peak Load Exemption Charge (PLEC) is applied. The tariff notification provides that all consumers who have been given exemption during the peak load hours shall be billed for **additional** charge as specified in the relevant schedule of tariff. (Refer lines 4 to 6 in Para 1 at Page 141 of Tariff Order). The Peak Load Exemption Charge (PLEC) has been given in clause 4 of the Schedule LS, which is reproduced below: -

Part 1: - Demand Charge of Rs. 150/kVA/month to be levied on the maximum recorded demand during any 30 minutes interval during the peak load hours or 80% of the Contract Demand, for peak load hours, whichever is higher.

Part 2: - Energy Charge 235 Paise/kVAh

The PLEC consisting of Demand and Energy Charges, therefore, has to be applied in addition to the charges for consumption of electricity in normal and night hours.

The contention of the complainant that the total chargeable demand is to be split into two parts and each part has to be charged at the respective rates as the tariff does not provide the PLE Demand Charge to be charged over and above the normal Demand Charge is thus not based upon the facts and, therefore, rejected. PLE demand has to be charged over and above the normal demand charge.

17. **Issue no. 4: - Does the peak load violation mean "overdrawal in excess of contract demand" during peak hours?**

**A) Complainant's Contention: -**

As per the Tariff Order Rs. 300 per kVA per month is chargeable as penalty on demand in excess of Contract Demand. However, the Board is also charging this penalty on demand in excess of Contract Demand during peak load hours. The penalty for over drawl as contained in the Tariff Order can only be enforced if the consumer exceeds the Contract Demand. The Tariff Order does not envisage charging of penalty on the violation of PLEC demand and in that case PLVC energy charges (Rs. 4.70/kVAh) can only be levied.

**B) Board's reply: -**

The penalty provision as approved under penalty overdrawal is being levied on the consumers who exceed the Contract Demand.

**C) Commission's View: -**

The power supply under schedule 'LS' is not available during the peak load hours i.e. 3 hours in the evening and the duration of these hours during summer and winter is indicated in the tariff notification. The notification also provides that where the consumer wants to avail the exemption during the peak load hours for any special reason, a separate sanction of the Board is necessary, which is issued at the request of the consumer subject to availability of power in that area. The exemption given by the Board for drawal of power during peak load hours is thus the "Contract Demand" for the peak load hours and if any consumer overdraws beyond the exemption limit he is impacting the power system with stress which may severely affect the quality and reliability of power in the area. Any consumer exceeding the limit, therefore, has to pay the penalty for the overdrawal, in addition to the demand charge, as per clause 5 of Schedule "LS" which provides as under: -

"If a consumer exceeds the contract demand a penalty of Rs.300 per kVA per month shall be levied on the part of the demand in excess of the contract demand."

For the above purpose, the Contract demand means "Contract Demand" for normal & night hours supply and "Peak Load Exemption" for the peak hours. Thus if a consumer overdraws in excess of the Peak Load Exemption, which is his contract demand for peak hours, the penalty of Rs. 300 per kVA per month is leviable on the demand in excess of the contract demand, which is in addition to the demand charge. However, if a consumer who has not been allowed any peak load exemption but draws power during peak load hours, over and above the bonafide Factory Lighting and Colony supply, the entire demand recorded during peak load hours should be billed at the penal rate of Rs. 300 per kVA per month. Further, if the number of violations in a month are more than one, then the maximum recorded demand on the days of violation should be the basis for levying the demand charge and the penalty for overdrawal.

The contention of the Complainant that the tariff order does not envisage charging of penalty on the violation of PLE demand is, therefore, not correct and hence rejected.

**18. Issue no. 5: - Should the penal rate of Rs. 4.70 per kVAh be charged on the units consumed during peak load hours on the days of violation only and not on the entire consumption during peak load hours in the whole of month?**

**A) Complainant's Contention: -**

The Tariff Order provides for two energy rates for consumption during peak hours i.e. Rs. 2.35/kVAh for authorized use during peak hours and Rs. 4.70 kVAh (PLVC charge) for unauthorized use. The penal rate of Rs. 4.70/kVAh is applicable only to the units consumed during peak hours on the days of violation and for the balance days when there is no violation,

the consumption during peak hours, must be charged @ Rs. 2.35/kVAh as its usage is authorized. However, the Board is charging the PLVC for the entire month even if the violation had taken place on a single day, which is against the spirit of both the ERC Act and the Tariff Order. This method of levying the PLVC charges not only encourages the defaulter to violate the PLEC demand but also equates the consumers violating for the whole month at par with the consumers violating for a single day. The PLVC charge should, therefore, be levied for only such days when violation has taken place in order to discourage the use of power in excess of PLEC demand.

**B) Board's reply: -**

The penal rate of energy charges @ 4.70/ kVAh is applicable only to the units consumed during peak hours during the month where violation has taken place. The demand charges @ Rs. 150/kVA is leviable in both cases i.e. PLEC & PLVC.

**C) Commission's View: -**

The penal rate of demand/energy charges in the tariff order has been provided so as to discourage the consumers to commit violations in order that they maintain the discipline so that the frequency and voltage in the system are maintained within the specified limits. The method adopted by the Board to levy the penal rate of energy charge would encourage the consumers to commit more violations and does not distinguish between the consumer who has committed violation for a single day and a consumer who has committed violations almost daily in a month. The Tariff Order provides that the penal rate shall be applicable to the consumption during peak load hours only and stipulates that in case a consumer violates the peak hour restrictions five times, the connection would be disconnected. Thus the tariff order is very clear that the peak load violation charges should be levied only for consumption during peak hours on the days of violation, to be identified on basis of violation of demand. The interpretation and contention of the Board for charging peak load violation of energy charge @ 4.70/kVAh on all the units consumed during peak hours "during the month" where the violation has taken place thus is not correct and hence rejected.

19. In view of the discussion in the foregoing paras, the Commission feels that the Board has not applied the correct tariff in some cases while issuing bills to members of PIA. For the proper understanding of the Tariff Order sample bills, as illustrative examples, are enclosed as Annexure 1 to 5 to facilitate the Board to raise correct energy bills to the "LS" consumers.

**ANNEXURE-1****ILLUSTRATIVE EXAMPLE FOR BILLING LARGE INDUSTRIAL POWER SUPPLY CONSUMERS INCLUDING MINI STEEL MILLS (LS) (EXCLUDING WINTER SURCHARGE)****PEAK LOAD EXEMPTION -NO****PEAK LOAD VIOLATION -NO****NORMAL& NIGHT HOURS VIOLATION -NO**

Sr. No.	DESCRIPTION		
1)	<b>CONNECTED LOAD (kVA)</b>		1000
2)	<b>LIGHTING LOAD (kVA)</b>		50
3)	<b>SUPPLY VOLTAGE (kV)</b>		33
4)	<b>CONTRACT DEMAND (kVA)</b>		
	NORMAL & NIGHT HOURS		800
5)	<b>MAXIMUM DEMAND RECORDED (kVA)</b>		
a)	NORMAL & NIGHT HOURS		700
b)	PEAK HOURS (LIGHTING ONLY)		40
6)	<b>VIOLATION</b>		
a)	NORMAL & NIGHT HOURS		0
b)	PEAK HOURS		0
i)	FIRST VIOLATION		0
ii)	SECOND VIOLATION		0
iii)	THIRD VIOLATION		0
7)	<b>CHARGEABLE DEMAND (kVA)</b>		
a)	NORMAL & NIGHT HOURS	5(a) or 80% of 4(a) whichever is higher.	700
b)	PEAK HOURS (LIGHTING ONLY)		0
c)	VIOLATION (NORMAL & NIGHT HOURS)		0
d)	VIOLATION IN PEAK HOURS		0
8)	<b>CONSUMPTION (kVAh)</b>		
a)	NORMAL HOURS		157500
b)	PEAK HOURS (LIGHTING ONLY)		1800
c)	PEAK HOURS (VIOLATION)		0
d)	NIGHT HOURS		63000
e)	<b>TOTAL CONSUMPTION</b>	(a)+(b)+(c)+(d)	<b>222300</b>
9)	<b>DEMAND CHARGES (Rs.)</b>		
a)	NORMAL & NIGHT HOURS	7(a)*125	87500
b)	PEAK HOURS (LIGHTING ONLY)		0
c)	NORMAL & NIGHT HOURS (VIOLATION)		0
d)	PEAK HOURS (VIOLATION)		0
e)	<b>TOTAL DEMAND CHARGES</b>	(a)+(b)+(c)+(d)	<b>87500</b>
10)	<b>ENERGY CHARGES (Rs.)</b>		
a)	NORMAL HOURS	8(a)*1.90	299250
b)	PEAK HOURS (LIGHTING ONLY)	8(b)*2.35	4230
c)	PEAK HOURS (VIOLATION)		0
d)	NIGHT HOURS	8(d)*1.70	107100
e)	<b>GROSS ENERGY CHARGES</b>	(a)+(b)+(c)+(d)	410580
f)	H.V. REBATE	(e)*Rebate @1.5% for 33kV,2% 66kV,2.5%132kV & 3% 220kV	6159
g)	<b>NET ENERGY CHARGES</b>	(e)-(f)	404421
11)	<b>CONSUMER SERVICE CHARGE</b>		100
12)	<b>TOTAL CHARGES (Rs.)</b>	9(e)+10(g)+11	<b>492021</b>

Note: - Lighting load means Factory lighting and Colony Supply as per clause 8 of schedule LS

**ANNEXURE- 2**

**ILLUSTRATIVE EXAMPLE FOR BILLING LARGE INDUSTRIAL POWER SUPPLY CONSUMERS INCLUDING MINI STEEL MILLS (LS) (EXCLUDING WINTER SURCHARGE)**

**PEAK LOAD EXEMPTION**

**PEAK LOAD VIOLATION**

**-NO**

**NORMAL & NIGHT HOURS VIOLATION**

**-NO**

Sr. No.	DESCRIPTION		
1)	<b>CONNECTED LOAD (kVA)</b>		1000
2)	<b>LIGHTING LOAD (kVA)</b>		50
3)	<b>SUPPLY VOLTAGE (kV)</b>		33
4)	<b>CONTRACT DEMAND (kVA)</b>		
a)	NORMAL & NIGHT HOURS		800
b)	PEAK LOAD EXEMPTION (Inclusive of lighting load)		300
5)	<b>MAXIMUM DEMAND RECORDED (kVA)</b>		
a)	NORMAL & NIGHT HOURS		700
b)	PEAK HOURS		270
6)	<b>VIOLATION</b>		
a)	NORMAL & NIGHT HOURS		0
b)	PEAK HOURS		0
i)	FIRST VIOLATION		0
ii)	SECOND VIOLATION		0
iii)	THIRD VIOLATION		0
7)	<b>CHARGEABLE DEMAND (kVA)</b>		
a)	NORMAL & NIGHT HOURS	5(a) or 80% of 4(a) whichever is higher.	700
b)	PEAK HOURS	5(b) or 80% of 4(b) whichever is higher.	270
c)	VIOLATION (NORMAL & NIGHT HOURS)		0
d)	VIOLATION IN PEAK HOURS		0
8)	<b>CONSUMPTION(kVAh)</b>		
a)	NORMAL HOURS		157500
b)	PEAK HOURS (EXEMPTION)		12150
c)	PEAK HOURS (VIOLATION)		0
d)	NIGHT HOURS		63000
e)	<b>TOTAL CONSUMPTION</b>	(a)+(b)+(c)+(d)	<b>232650</b>
9)	<b>DEMAND CHARGES (Rs.)</b>		
a)	NORMAL & NIGHT HOURS	7(a)*125	87500
b)	PEAK HOURS (EXEMPTION)	7(b)*150	40500
c)	NORMAL & NIGHT HOURS (VIOLATION)		0
d)	PEAK HOURS (VIOLATION)		0
e)	<b>TOTAL DEMAND CHARGES</b>	(a)+(b)+(c)+(d)	<b>128000</b>
10)	<b>ENERGY CHARGES (Rs.)</b>		
a)	NORMAL HOURS	8(a)*1.90	299250
b)	PEAK HOURS (EXEMPTION)	8(b)*2.35	28553
c)	PEAK HOURS (VIOLATION)		0
d)	NIGHT HOURS	8(d)*1.70	107100
e)	<b>GROSS ENERGY CHARGES</b>	(a)+(b)+(c)+(d)	434903
f)	<b>H.V. REBATE</b>	(e)*Rebate @1.5% for 33kV,2% 66kV,2.5%132kV & 3% 220 kV	6524
g)	<b>NET ENERGY CHARGES</b>	(e)-(f)	<b>428379</b>
11)	<b>CONSUMER SERVICE CHARGE</b>		100
12)	<b>TOTAL CHARGES (Rs.)</b>	9(e)+10(g)+11	<b>556479</b>

**Note:** - Lighting load means Factory lighting and Colony Supply as per clause 8 of schedule LS

**ILLUSTRATIVE EXAMPLE FOR BILLING LARGE INDUSTRIAL POWER SUPPLY CONSUMERS INCLUDING MINI STEEL MILLS (LS) (EXCLUDING WINTER SURCHARGE)**

PEAK LOAD EXEMPTION -NO  
 PEAK LOAD VIOLATION -YES  
 NORMAL & NIGHT HOURS VIOLATION -NO

Sr. No.	DESCRIPTION		
1)	CONNECTED LOAD (kVA)		1000
2)	LIGHTING LOAD (kVA)		50
3)	SUPPLY VOLTAGE (kV)		33
4)	CONTRACT DEMAND (kVA)		
	NORMAL & NIGHT HOURS		800
5)	MAXIMUM DEMAND RECORDED (kVA)		
a)	NORMAL & NIGHT HOURS		700
b)	PEAK HOURS		300
6)	VIOLATION		
a)	NORMAL & NIGHT HOURS		0
b)	PEAK HOURS		
i)	FIRST VIOLATION		300
ii)	SECOND VIOLATION		150
iii)	THIRD VIOLATION		125
7)	CHARGEABLE DEMAND (kVA)		
a)	NORMAL & NIGHT HOURS	5(a) or 80% of 4(a) whichever is higher.	700
b)	PEAK HOURS (LIGHTING ONLY)		0
c)	VIOLATION (NORMAL & NIGHT HOURS)		0
d)	VIOLATION IN PEAK HOURS	Highest out of 6(b)(i), 6(b)(ii) & 6(b)(iii)	300
8)	CONSUMPTION (kVAh)		
a)	NORMAL HOURS		157500
b)	PEAK HOURS (TOTAL CONSUMPTION)		3525
c)	PEAK HOURS (VIOLATION)		1725
d)	PEAK HOURS (LIGHTING ONLY)	(b)-(c)	1800
e)	NIGHT HOURS		63000
f)	TOTAL CONSUMPTION	(a)+(b)+(e)	224025
9)	DEMAND CHARGES (Rs.)		
a)	NORMAL & NIGHT HOURS	7(a)*125	87500
b)	PEAK HOURS (EXEMPTION)		0
c)	NORMAL & NIGHT HOURS (VIOLATION)		0
d)	PEAK HOURS (VIOLATION)	7(d)*300	90000
e)	TOTAL DEMAND CHARGES	(a)+(b)+(c)+(d)	177500
10)	ENERGY CHARGES (Rs.)		
a)	NORMAL HOURS	8(a)*1.90	299250
b)	PEAK HOURS (Lighting only)	8(d)*2.35	4230
c)	PEAK HOURS (VIOLATION)	8(c)*4.70	8108
d)	NIGHT HOURS	8(e)*1.70	107100
e)	GROSS ENERGY CHARGES	(a)+(b)+(c)+(d)	418688
f)	H.V. REBATE	(e)*Rebate @1.5% for 33kV, 2% for 66kV, 2.5% for 132kV & 3% for 220 kV	6280
g)	NET ENERGY CHARGES	(e)-(f)	412407
11)	CONSUMER SERVICE CHARGE		100
12)	TOTAL CHARGES (Rs.)	9(e)+10(g)+11	590007

**Notes: -**

- For the purpose of above calculations, it is assumed that a consumer violates for 3 days in a month and the demand recorded on these days during peak hours is 300kVA, 150kVA and 125Kva respectively. This demand is inclusive of the lighting load.
- The energy to be billed at PLEC rate of Rs.2.35/kVAh for lighting purpose should be calculated as under: -
  - Total consumption during peak hours in a month = A
  - Energy consumed on days of violation during peak hours = B
  - Energy utilised for lighting purpose = C = (A-B)
- Lighting load means Factory lighting and Colony Supply as per clause 8 of schedule LS.**

**ILLUSTRATIVE EXAMPLE FOR BILLING LARGE INDUSTRIAL POWER SUPPLY CONSUMERS INCLUDING MINI STEEL MILLS (LS) (EXCLUDING WINTER SURCHARGE)**

PEAK LOAD EXEMPTION	-YES
PEAK LOAD VIOLATION	-YES
NORMAL & NIGHT HOURS VIOLATION	-NO

Sr. No.	DESCRIPTION		
1)	CONNECTED LOAD (kVA)		1000
2)	LIGHTING LOAD (kVA)		50
3)	SUPPLY VOLTAGE (kV)		33
4)	CONTRACT DEMAND (kVA)		
a)	NORMAL & NIGHT HOURS		800
b)	PEAK LOAD EXEMPTION		300
5)	MAXIMUM DEMAND RECORDED (kVA)		
a)	NORMAL & NIGHT HOURS		700
b)	PEAK HOURS		600
6)	VIOLATION		
a)	NORMAL & NIGHT HOURS		0
b)	PEAK HOURS		
i)	FIRST VIOLATION		300
ii)	SECOND VIOLATION		150
iii)	THIRD VIOLATION		125
7)	CHARGEABLE DEMAND (kVA)		
a)	NORMAL & NIGHT HOURS	5(a) or 80% of 4(a) whichever is higher.	700
b)	PEAK HOURS	5(b) or 80% of 4(b) whichever is higher.	600
c)	VIOLATION (NORMAL & NIGHT HOURS)		0
d)	VIOLATION IN PEAK HOURS	Highest out of 6(b)(i),6(b)(ii) & 6(b)(iii)	300
8)	CONSUMPTION(kVAh)		
a)	NORMAL HOURS		157500
b)	PEAK HOURS (TOTAL CONSUMPTION)		12525
c)	PEAK HOURS (VIOLATION)		1725
d)	PEAK HOURS (EXEMPTION)	(b)-(c)	10800
e)	NIGHT HOURS		63000
f)	TOTAL CONSUMPTION	(a)+(b)+(e)	233025
9)	DEMAND CHARGES (Rs.)		
a)	NORMAL & NIGHT HOURS	7(a)*125	87500
b)	PEAK HOURS (EXEMPTION)	7(b)*150	90000
c)	NORMAL & NIGHT HOURS (VIOLATION)		0
d)	PEAK HOURS (VIOLATION)	7(d)*300	90000
e)	TOTAL DEMAND CHARGES	(a)+(b)+(c)+(d)	267500
10)	ENERGY CHARGES (Rs.)		
a)	NORMAL HOURS	8(a)*1.90	299250
b)	PEAK HOURS (EXEMPTION)	8(d)*2.35	25380
c)	PEAK HOURS (VIOLATION)	8(c)*4.70	8108
d)	NIGHT HOURS	8(e)*1.70	107100
e)	GROSS ENERGY CHARGES	(a)+(b)+(c)+(d)	439838
f)	H.V. REBATE	(e)*Rebate @1.5% for 33kV,2% 66kV,2.5%132kV & 3% 220kV	6598
g)	NET ENERGY CHARGES	(e)-(f)	433240
11)	CONSUMER SERVICE CHARGE		100
12)	TOTAL CHARGES (Rs.)	9(e)+10(g)+11	700840

**Notes: -**

- For the purpose of above calculations, it is assumed that a consumer violates for 3 days in a month and the demand recorded on these days during peak hours is 600kVA, 450kVA and 425kVA respectively. This demand is inclusive of the lighting load.
- The energy to be billed at PLEC rate of Rs. 2.35/kVAh should be calculated as under: -
  - Total consumption during peak hours in a month = A
  - Energy consumed on days of violation during peak hours = B
  - Energy utilised for authorised usage = C = (A-B)
- Lighting load means Factory lighting and Colony Supply as per clause 8 of schedule LS.**

**ILLUSTRATIVE EXAMPLE FOR BILLING LARGE INDUSTRIAL POWER SUPPLY CONSUMERS INCLUDING MINI STEEL MILLS (LS) (EXCLUDING WINTER SURCHARGE)**

PEAK LOAD EXEMPTION -YES  
 PEAK LOAD VIOLATION -NO  
 NORMAL & NIGHT HOURS VIOLATION -YES

Sr. No.	DESCRIPTION		
1)	<b>CONNECTED LOAD (kVA)</b>		1000
2)	<b>LIGHTING LOAD (kVA)</b>		50
3)	<b>SUPPLY VOLTAGE (kV)</b>		33
4)	<b>CONTRACT DEMAND (kVA)</b>		
a)	NORMAL & NIGHT HOURS		800
b)	PEAK LOAD EXEMPTION		300
5)	<b>MAXIMUM DEMAND RECORDED (kVA)</b>		
a)	NORMAL & NIGHT HOURS		900
b)	PEAK HOURS		270
6)	<b>VIOLATION IN NORMAL &amp; NIGHT HOURS</b>		
i)	FIRST VIOLATION		100
ii)	SECOND VIOLATION		75
iii)	THIRD VIOLATION		50
7)	<b>CHARGEABLE DEMAND (kVA)</b>		
a)	NORMAL & NIGHT HOURS	5(a) or 80% of 4(a) whichever is higher.	900
b)	PEAK HOURS	5(b) or 80% of 4(b) whichever is higher.	270
c)	VIOLATION (NORMAL & NIGHT HOURS)	Highest out of 6(i),6(ii) & 6(iii)	100
d)	VIOLATION IN PEAK HOURS		0
8)	<b>CONSUMPTION (kVAh)</b>		
a)	NORMAL HOURS		190125
b)	PEAK HOURS (EXEMPTION)		12150
c)	PEAK HOURS (VIOLATION)		0
d)	NIGHT HOURS		76050
e)	<b>TOTAL CONSUMPTION</b>	(a)+(b)+(c)+(d)	<b>278325</b>
9)	<b>DEMAND CHARGES (Rs.)</b>		
a)	NORMAL & NIGHT HOURS	7(a)*125	112500
b)	PEAK HOURS (EXEMPTION)	7(b)*150	40500
c)	NORMAL & NIGHT HOURS (VIOLATION)	7(c)*300	30000
d)	PEAK HOURS (VIOLATION)		0
e)	<b>TOTAL DEMAND CHARGES</b>	(a)+(b)+(c)+(d)	<b>183000</b>
10)	<b>ENERGY CHARGES (Rs.)</b>		
a)	NORMAL HOURS	8(a)*1.90	361238
b)	PEAK HOURS (EXEMPTION)	8(b)*2.35	28553
c)	PEAK HOURS (VIOLATION)		0
d)	NIGHT HOURS	8(d)*1.70	129285
e)	GROSS ENERGY CHARGES	(a)+(b)+(c)+(d)	519075
f)	H.V. REBATE	(e)*Rebate @1.5% for 33kV,2% 66kV,2.5%132kV & 3% 220kV	7786
g)	NET ENERGY CHARGES	(e)-(f)	<b>511289</b>
11)	CONSUMER SERVICE CHARGE		100
12)	<b>TOTAL CHARGES (Rs.)</b>	9(e)+10(g)+11	<b>694389</b>

**Notes: -**

- For the purpose of above calculations, it is assumed that a consumer violates for 3 days in a month and the demand recorded on these days during normal and night hours is 900kVA, 875kVA and 850kVA respectively.
- Lighting load means Factory lighting and Colony Supply as per clause 8 of schedule LS.

## Conclusion

The Commission after hearing the parties, their contentions and the rival contentions, on the various issues raised by the complainant in their complaint no. 3 of 2002 on the application of the Tariff Order for 2001-02 orders as under: -

- i) The sanctioned connected load during normal hours shall not be treated as contract demand for the purpose of levying the demand charge. The contract demand should be the only basis for determining the demand charge. However, where the Application and Agreement form has been signed based upon the connected load only and does not indicate the contract demand the Board shall provide an opportunity, within one month of issue of this order, to all the affected consumers to enter into fresh agreements for the purpose of contract demand. The process of execution of fresh agreements for the contract demand should be completed within three months of issue of this order. In such past cases, where the contract demand has not been contracted, the demand charge should be levied based upon the maximum recorded demand during the month.
- ii) The Peak Load Exemption (PLE) granted by the Board to the consumer should be treated as the contract demand for the peak load hours. The PLE demand charge of Rs. 150/kVA/month for the peak load exemption is to be charged in addition to the normal demand charge of Rs. 125 kVA/month.
- iii) For peak load violations, the consumer has to pay the demand charge @ Rs.150/kVA/month as well as the energy charge @ Rs. 4.70 per kVAh to be levied on the consumption of energy recorded during the peak hours on the days of violation, to be identified on basis of demand. Besides it, he has also to pay the penalty @ Rs. 300/KVA/month on the demand in excess of the contract demand (PLE).
- iv) If the number of violations in a month are more than one, then the maximum recorded demand during the days of violation should be the basis of levying the demand charge and the penalty for overdrawal. This is applicable for violations committed during normal & night hours and peak load hours.
- v) Board to issue instruction to all its field officers to apply the Tariff Order in letter and spirit.
- vi) Board to carry out the correction of bills of all "LS" consumers, where incorrectly issued w.e.f. November 1, 2001 and to refund the excess amount deposited, if any, by the consumers.
- vii) Suitable amendments and explanations in HPSEB's Sales Manual should be carried out within one month of the date of this order.

No order on the prayer made by the complainant to initiate penal action against the respondent under clause 27 (xvi) of Himachal Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2001 and Section 45 of ERC Act, 1998.

Certified copy of this order is being supplied to both the parties free of charge as per clause 22 (iv) of HPERC's Conduct of Business Regulations, 2001 in the Commission's court immediately after the announcement of this order.

It is so ordered.

**Shimla**

**Dated: August 3, 2002**

**(S.S. Gupta)**  
**Chairman**