



8

33

**HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, KHALINI, SHIMLA-171002**

Case No. 45 of 2018

In the matter of:

M/s Ind Sphinx Precision, Unit B-1, Taksal road, Kasauli Marg, (HP)-173220 through its authorised representative Sh. Rakesh Bansal,

Applicant/Representationist

Versus

1. The Executive Director (Personnel), HPSEB Ltd., Vidyut Bhawan, Shimla-171004
2. The Asstt. Executive Engineer, ESD, HPSEBL, Parwanoo

Respondents/Applicants

And

In the matter of:

Representation under Regulation 6 (2) of HPERC (Recovery of Expenditure for supply of Electricity) Regulation, 2005 against the Order dated 06.12.2017 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1421/4/16/045 titled as M/s Ind Sphinx Precision, Unit B-1, Taksal road, Kasauli Marg, (HP)-173220 through its authorised representative Sh. Rakesh Bansal.

27.03.2018

Present for:

Applicant : Sh. Rakesh Bansal, Advocate
Sh. Rahul Mahajan, Advocate

Respondents : Sh. Bhagwan Chand, Counsel

ORDER

(Last Heard on 27.03.2018)

Heard. Taking into consideration, the arguments exchanged by representatives of both the parties during the course of hearing and the Application/Petition and Additional submission in support of Review petition/application filed by the Applicant/Respondent Board in context of the Order dated 06.12.2017 passed by Consumer Grievances Redressal Forum of HPSEBL, Shimla-9 (H.P.) in Complaint No. 1421/4/16/045 titled as M/s Ind-Sphinx Precision, Unit B-1, Taksal road, Kasauli Marg, (HP)-173220 through its authorised representative Sh. Rakesh Bansal.

Complainant's Contention:

1. The complainant was sanctioned a power connection of 460 kW with contract demand of 180 kVA in the year 2007 at 11 kV supply voltage. Besides the security, a sum of Rs. 92,000/- was charged DTR Cost.
2. The Respondents also recovered line cost share of Rs. 1,62,000/- on 180 kVA as Augmentation charges. The complainant also deposited the amount of estimate separately.
3. The complainant submitted the application for increase of contract demand of 325 kVA. In response to the application the respondents issued a demand notice for additional ACD of Rs. 145000/- on additional 145 kVA (325-180) and IDC for Rs. 4,62,500/- and the additional contract demand was released.
4. The respondents further recovered a sum of Rs. 2,66,770/- towards line cost share.
5. The complainant observed that some of the amounts charged and recovered from the complainant are illegal and beyond the provisions of the applicable regulations.
6. The recovery of DTR charges from the complainant are totally unjustified in the scenario when the consumer was given supply through the consumer's own transformer at 11 kV.
7. The recovery of augmentation charges of Rs. 1,62,000/- was also in violation of applicable regulations. The IDC of Rs. 462500/- recovered by the respondents are also wrongly calculated. These charges have been recovered @ Rs. 2500/- on 185 kVA, whereas the contract demand was only to the extent of 145 kVA.

Respondents Contention:

The Respondents have submitted that they recovered the IDC from the complainant/appellant as per the order of HPERC. This amount was recovered by the replying respondent as per the provisions of law prescribed by HPERC, however Appellate Tribunal in their order dated 18/12/2015 have set aside the said order alongwith findings recorded therein that all the consequential actions or the subsequent orders of the consequential demand notices or bills raised by the respondents board on the strength of clarificatory order dated 02/05/2011 of HPERC have also been quashed and set aside. It is important to mention here that this shall in no way debar the distribution licensee to make

(10) (85)

recovers in accordance with the provisions of the Recovery of Expenditure Regulations 2005 or the Recovery of the Expenditure Regulation 2012 as may be relevant.

The Respondent also submitted that the complainant is not entitled for any interest from the replying respondents as it is evident from the order dated 05/10/2016 passed by HPERC. It has been made clear that the amount received or to be received as per para 3.2.2 of the supply Court 2009 for grant of Power of Availability Certificate (PAC) in respect of the contract demand applied by consumer/applicant be adjusted in accordance with the mechanism purposed in para-9 read with item-IV under para 16 of the order of HPERC on dated 05/10/2016. Moreover, the Ld. Forum below has also specifically made clear that the complainant is not entitled for the payment of interest as mechanism for adjustment has come recently i.e. on dated 05/10/2016. Under these circumstances it is clear that the replying respondents have not committed any illegality regarding the charges to IDC from the appellant and therefore the appellant is not entitled for any interest on the refund of IDC.

Forum's Observations

The Complainant has filed the complaint for the refund of Rs. 92,000/- charged as DTR cost and deposited vide receipt No. 1779857 dated 8.3.2007, line cose share Rs. 1,62,000/- charged for augmentation of line for feeding 180 kVA contract demand and deposited vide receipt No. 179479 dated 15.9.2007. IDC recovered in excess to the normative rate for additional contract demand of 145 kVA @ Rs. 2500 Per kVA instead of Rs. 2000/- kVA and Rs. 266770/- recovered as line cost share.

The Respondents has replied that these charges are not refundable as these has been charged legally and stood utilized.

After going through the documents submitted by the complainant, reply submitted by the respondents and argument made in the forum it is observed that :-

The replying respondents have simply stated that all the amount as got deposited has been utilized and has been collected legally. No documents like sanctioned estimate, order of the competent authority has been attached with the reply. Also has not justified why IDC of 185 kVA has been collected instead of 145 kVA (load increase). On the basis of record and arguments the forums order that :-

1. The account of the complainant be overhauled on the basis of mechanism for adjustment of advance cost share towards Infrastructure Development charges (IDC) as per final order issued by HPERC for suo moto case No. 25 of 2016 of dated 05.10.2016 and further endorsed by Chief Engineer

(Commercial), HPSEBL order No.HPSEBL/CE(Comm.)/APTEL/Vol-1/2016-10021-10135 dated 1.11.2016.

2. The complainant may be given the detail of account and expenditure made for augmentation of transformer/Construction of line within a month.
3. The excess of IDC and line cost share got deposited for 185 kVA instead of 145 kVA(load increase) may be refunded, with existing simple interest.
4. The Complainant is not entitled for the payment of Interest as the mechanism for adjustment of IDC has come recently i.e. on 5.10.2016.

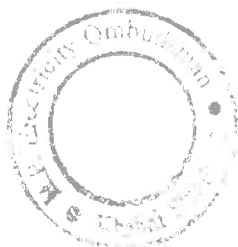
The case is partly decided in favour of the complainant and partly in the favour of the Respondents.

Electricity Ombudsman findings and Order:

In view of the above facts, contentions of the parties and examining the documents like replies/rejoinders and written arguments, it is observed that the complainant has sought relief from Ombudsman in the order passed by the CGRF dated 06/12/2017 in complaint No. 1421/4/16/045 titled as M/s Ind Sphinx Precision, Unit B-1, Taksal road, Kasauli Marg, (HP)-173220 V/s HPSEBL in respect of para-4 of the above order as the complainant is satisfied with the decision of the Forum with regard to Para-1,2 and 3 of the order of the Forum. Thus, complainant seeks relief in terms of interest on the amount i.e. refundable to them which was recovered in excess as per para 5.7.3 of supply code for the period from the date of release of connection up to the date of refund of amount ordered by para 1 & 2 and 3 of the Forum's Order which was due to the complainant within three months of the release of connection as per Regulation 6(2) of the IDC Regulation 2005. Accordingly, this office is only considering the plea of complainant for relief sought in term of interest on the amount that is refundable to them which has been denied by CGRF in para 4 of its order. After going through all the submissions, it is ordered that while making compliance by respondent of para 1,2 & 3 of Forum's Order, the payment of interest on the amount refundable to complainant, if any, is allowed for the period money of the complaint was held by HPSEBL from the date of order of Forum till the date the amount is refunded/adjusted.

The compliance be reported by both parties within a month of issue of this order.

Dated:31.03.2018



[Signature]
Electricity Ombudsman