



**HIMACHAL PRADESH ELECTRICITY OMBUDSMAN**  
**SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002**  
Phone: 0177-2624525, email: [ombudsmanelectricity.2014@gmail.com](mailto:ombudsmanelectricity.2014@gmail.com)

In the matter of:

M/S MT Autocraft, Near Doon School, Haripur Road, Barotiwala, District Solan, HP-174103

- Complainant

Vs

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
2. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Barotiwala, District Solan, HP-174103
3. Sr Executive Engineer, Electrical Division, HPSEB Ltd, Baddi, District Solan, HP-173205

- Respondents

Complaint No. 35/2020 (Registered on 07/09/2020)  
(Decided on 19/11/2020)

CORAM

Er. K.L.Gupta  
HP Electricity Ombudsman

Counsel for:

The Complainant: Sh. Rakesh Bansal  
The Respondents: Sh. Anil Kumar God, Advocate

**Order**

Case was received on 05/09/2020 and registered on 07/09/2020. The case was first sent for reconciliation under Regulation 34 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 on 07/09/2020. Since no communication was received by the last date i.e. 28/09/2020, the case was listed for admission hearing on 07/11/2020. Respondents were directed to file their reply by 29/10/2020 and rejoinder by 05/11/2020. Case was heard on 07/11/2020 and Respondents filed their reply during the proceedings. The Respondents were directed to file some additional documents within 5 days and the Complainant were to file their rejoinder by 17/11/2020. The Respondents submitted additional documents on 11/11/2020 and the Complainant filed their rejoinder on 16/11/2020. Hence the delay.



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**A – Brief facts of the case:**

1. M/S MT Autocraft, Near Doon School, Haripur Road, Barotiwala, District Solan, HP-174103 have filed an application through Sh. Anil Sehgal (hereinafter called as 'The Complainant') under Regulation 28 (b) and 33 (e) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by Consumer Grievances Redressal Forum on 18/08/2020 in Complaint No. 1453/3/19/045, dated 21/09/2019. The Complainant have prayed to quash the orders of the Forum and direct Respondents to comply with provisions of Clause 3.9 in letter and spirit by refunding the amount of Rs 4,35,050/- excess charged and to pay interest as per Clause 5.7.3 of Himachal Pradesh Electricity Supply Code, 2009.

**B – The Complainant's submissions:**

1. The Complainant submits that this representation is being filed in accordance with the HPERC (CGRF & Ombudsman) Regulations, 2013 as the Applicant/ Complainant is aggrieved by the orders dated 18/08/2020 passed by the Ld. Forum in the Complaint No. 1453/4/19/045 titled as MT Autocraft v. HPSEBL and others, whereby the Forum has not allowed Complaint and have wrongly interpreted and misunderstood the provisions of clause 3.9 of the Supply Code, 2009.
2. The Complainant submits that he is an industrial Consumer falling in HT1 category of Large Supply industrial Consumers. He was issued a Power Availability Certificate (PAC) for 450 kW/ 350 kVA of load on 10/09/2018 for their new industrial unit at Village Barotiwala in Baddi Tehsil.
3. The Complainant submits that he subsequently applied vide application number 1122215352 dated 17/09/2018 for sanction of same load for which PAC was issued. Initially a test report was submitted for a load of 190.40 kW and the connection was released in the month of October 2018.
4. He further submits that another test report was submitted for 449.08 kW of Load on 15/03/2019. The Respondents from the very beginning started issuing monthly bills on the basis of the sanctioned Contract Demand i.e. 350 kVA.
5. The Complainant submits that while he paid the bills issued by the Respondents, he also wrote to the Respondents that he should be charged on the basis of actual maximum recorded demand during the first twelve months of the release of connection as per Clause 3.9 of the Supply Code, 2009. Clause 3.9 provides for charging of demand charges during the initial period when the load is building up.



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6. The Complainant submits that despite the correspondence and the regular follow-up of the Complaint, the Respondent continued to raise bills on the basis of the sanctioned Contract Demand, thereby contravening the provisions of the Supply Code, 2009.
7. The Complainant submits that the Forum has failed to recognize the true spirit of Clause 3.9 of the Supply Code, 2009, which provides for minimum chargeable limits towards demand charges, while the Consumer builds up the load to the sanctioned level. The objective of the clause is to strike a balance between the utility as well as the Consumer, while recognizing the genuine time period that may be taken by the Consumer for availing the full load. The clause 3.9 provides for minimum demand charges that has to be charged, if the Consumer
  - a) does not avail the load within reasonable time;
  - b) partially avails load in phased manner;
8. The Complainant submits that the Forum has observed that since the Complainant had paid the bills without any resistance/ objections is incorrect as the Complainant had written to the Respondents vide his letter dated 25/03/2019 pointing out the error and even enclosing the calculations of excess charged while quoting the relevant para 3.9 of the Supply Code, 2009. He further contested that the mistake was on the part of the Respondents issuing the wrong bills, while the Complainant suffered on account of wrong bills in the process. Excess recovery beyond the rules and regulations cannot prevail over the law. The Respondents, in the interest of natural justice, cannot be allowed to recover from the Consumers amounts over and above that have been specified in the rules. While the utility is allowed to recover the under billed amount, the Consumer is also allowed to ask for refunds of overbilled amount, within a reasonable period of time. The HPERC (CGRF and Ombudsman) Regulations, 2013 also allows a period of two years to approach the Forum, from the established cause of action. HE has approached the Forum well within the time allowed by the Regulations.
9. He further submits that the orders passed by the CGRF are in conflict with the earlier orders passed by the Forum in similar cases. In Complaint number 1454/2/19/009 in the Complaint titled as Emmbros Autocomp Ltd. versus HPSEBL, the Forum on 28/08/2019 that the Respondents have erred in interpretation of Clause 3.9 of the Supply Code, 2009 and ordered that the bills of the Complainant in that Complaint, be overhauled and the matter was decided in the favour of the Complainant. The orders passed by the Forum, were never challenged by the Respondents in any court of law so far and have attained finality. The present Complaint is also similar in nature except for the value of loads. The differential treatment by the Forum while interpreting rules and regulations in identical cases is not justified.



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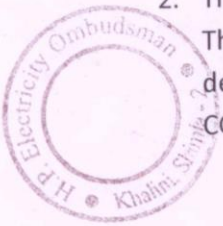


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10. The Complainant submits that the Complainant in the first stage only furnished a test report for 190.40 kW of load against which a Contract Demand of 350 kVA has been shown as released and billed by the Respondents. It is absurd to imagine the release of 350 kVA against a load of 190.40 kW.
11. The Complainant submits that although the tariff provides for levy of demand charges on 90% or actual maximum recorded demand in kVA, the provisions of para 3.9 are applicable in special situations when the full load is not availed by the Consumer in one go, or when the Consumer exceptionally delays the release the load beyond reasonable time limits.
12. **Prayer:** The Complainant prayed that the representation may kindly be allowed and the findings of the Consumer Grievances Redressal Forum in the order dated 18/08/2020 passed in the Complaint number 1453/4/19/045 in the Complaint titled as MT Autocraft Vs. HPSEBL and others, whereby the Ld. Forum has denied the relief sought in the Complaint, is bad in law and deserve to be set aside or modified suitably in the interest of justice or any further orders which this Hon'ble Electricity Ombudsman may deem fit and proper in the facts and circumstances of the case may kindly be passed in favour of the Complainant company and against the Respondents/ Distribution Licensee.
13. The Complainant prayed a) to quash the orders suitably in the interest of justice the orders dated 18.08.2020 issued by the Consumer Grievance Redressal Forum of HPSEBL in Complaint number 1453/4/19/045; b) to direct the Respondents to comply with the provisions of Clause 3.9 in letter and spirit and refund an amount of Rs. 4,35,050/- excess charged from the Complainant; c) to direct the Respondents to pay interest as per Clause 5.7.3 of the Supply Code, 2009 for the period the excess amount was withheld by them up to the date of actual refund; d) cost of Complaint to an extent of Rs. 50,000/-; e) call for the record of the case and any other or further orders which this Hon'ble Ombudsman may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the Complainant company and against the Respondents/distribution licensees.

**C – The Respondents' submissions:**

1. The Respondents submits that the Complaint is not maintainable as the petitioner has not exhausted all the remedies available to it under the law.
2. They submitted that Complaint is based on mere apprehensions, surmises and conjectures. The petitioner has made misleading statement, therefore, on this score alone the petition deserves dismissal. It is submitted that the impugned order 18/08/2020 passed by the Ld. CGRF is as per the rules & regulations.



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1. The Respondents submits that the Complainant has suppressed material facts from this Hon'ble court. Hence, he is guilty of superssio veri falsus uno. The impugned order served by the Id. CGRF does not suffer from any infirmity or illegality hence, the present petition deserves dismissal.
2. The Respondents submitted that firm applied for the load of 450 kW with 350 kVA Contract Demand and same has been sanctioned. In continuation with this firm submit approval from electrical inspector of 450 kW and firm submit test report for 190.04 kW which was verified on dated 17/10/2018 and again submitted test report of 450 kW which was verified on dated 20/022019 i.e within period of six month.
3. The Respondents submitted that the PAC has been issued by them to the Complainant after completion of all the codal formalities. They further submitted that the PAC has been issued by the replying Respondents to the Complainant on 10/09/2018 for connected load of 450 kW with 350 kVA Contract Demand for its premise, and there was no delay in providing the electricity power supply to the Consumer. They submitted that it is the duty of the Complainant to apply for the reduction of the Contract Demand if Complainant does no required the Contract Demand of 350 kVA in accordance with the provisions of the HP Electricity Supply Code 2009 and Sales Manual as such the Complaint of the Complainant is not maintainable and same is liable to be dismissed.
4. The Respondents submits that the Complaint is not maintainable in the present form as the Complainant has sought relief under wrong provisions of the Supply Code 2009, as clause 3.9 of the supply code deals with delay to take supply or avail Contract Demand, but in the present case the supply has been provided to the Complainant after completion of all the codal formalities and there is no any delay even firm also avail its full load in the month of March 2019.
5. The Respondents denied that there is no any correspondence occur regarding Contract Demand between Complainant & Respondent & bill raised to the Complainant as per tariff.
6. The Respondents submitted that Forum rightly recognize the spirit of clause No. 3.9 that Complainant has availed supply without any delay and as such billing has been done on the basis of applicable tariff order.
7. The Respondents submits that they have raised the bill to the Complainant as per tariff order so there is no any mistake was on the part of Respondent while issuing the bill and Respondent Board is a law obeying organization & Respondent rightly raise the bill as per tariff so no point of refund of any amount arisen.



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8. The Respondents denied to the extent that forum rightly pass the orders in that instant case and the Respondent Board approach Hon'ble High court against the order passed by the forum in r/o Complaint No. 1454/2/19/007 i.e Emmbros Auto comp. Vs HPSEBL and ors.
9. The Respondents submitted that firm applied for the load of 450 kW with 350 kVA Contract Demand and same has been sanctioned. In continuation with this firm submit approval from electrical inspector of 450 kW and firm submit test report for 190.04 kW which verified on dated 17/10/2018 and again submit test report of 450 kW which was verified on dated 20/02/2019 i.e within period of six month. Complainant never applied to reduce Contract Demand from sanctioned Contract Demand. So as per the tariff bill to the Complainant firm has raised.
10. The Respondents further submitted that Clause 3.9 of the HP Electricity Code 2009 is applicable only in case the Consumer delays in taking supply or does not avail the full Contract Demand and in such cases the charges as mentioned in the clause is levied after notice of period of two months. The Complainant was issued a normal bill as per service connection order issued to it and objection of the Consumer to be charged as per clause 3.9 is an afterthought which is not the spirit behind the clause 3.9 of the Supply Code 2009. The Complainant is being charged as per clause (L) of the Tariff order which says that the Consumer under two part tariff, whose energy consumption is billed/charged in Rs./ kVAh, shall in addition to the kVAh charges, be also charged at the rates as per part-III, demand charged in Rs./ kVA/ month, calculated on the maximum demand in kVA recorded on the energy meter during any consecutive 30 minutes block period of the month or 90% of the Contract Demand in kVA, whichever is higher but up to a ceiling of Contract Demand as currently applicable. The demand in excess of Contract Demand will be charges on the basis of Contract Demand Violation Charges (CDVC). They further submitted that where the Contract Demand has not been applied for or has been sanctioned by the HPSEBL, the limit corresponding to 90% of the Connected Load in kW converted into kVA by adopting the power factor of 0.9 shall be deemed to the Contract Demand. In instant case the sanctioned Contract Demand is 350 kVA, accordingly as per tariff the demand charges raised from the Complainant. The clause 3.9 is not applicable in the case of the Complainant and the replying Respondents have neither issued any notice nor recovered charges for delay in accordance with this clause. The Complainant has availed supply without any delay in accordance with clause 3.9 of the Supply Code 2009. The Complainant has never approached the replying Respondents for reduction of permanent Contract Demand. Even Complainant has never approached for reduction of Contract Demand on temporary basis. As such billing has been done on the basis of applicable tariff order and in accordance with the Clause (L) of the Schedule and Schedule of General & Service Charges.



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**D – The Complainant's additional submissions through rejoinder:**

1. The Complainant repeated, reiterated and confirmed all the statements and averments made by him in the complaint and denied all the statements and averments made in the said reply unless and until the same are specifically admitted by him Complainant.
2. The Complainant submits that the Respondent's objection that the Complainant has not exhausted other remedies available under law. The representation has been rightly submitted to the Ld. Ombudsman, which is the next course of action as per Regulation 28 (1) (b) of the HPERC (CGRF and Ombudsman) Regulations, 2013.
3. The Complainant submits that the Respondents contentions that the electrical inspector for load 450 kW proves nothing against the Complainant. The inspection of the Chief Electrical Inspector is safety inspection under section 55 of the Electricity Act, and has to be carried out for the total load to be installed in the premises of the Complainant, irrespective of the fact whether the load has been released or not.
4. The Complainant submits that the Respondents have stated that there was no delay in providing the supply to the Complainant, which is a matter of record. The Complainant has no issue with regard to delay in providing the power connection. The Complainant is only seeking the benefit of relaxation given by the HPERC for building up the load in a phased manner. The Complainant actually availed the entire load within the time limits specified in Para 3.9 of the Supply Code, 2009. The option of reducing the Contract Demand on permanent and temporary basis is a separate option and has nothing to do with the present dispute. The case of the Complainant is perfect case in accordance with Clause 3.9 of the Supply Code, 2009, where in the load was sought to be released in a partial manner.
5. The Complainant further submits that the Respondent is wrongly inferring from the title of Clause 3.9 which is "Delay to take Supply or avail Contract Demand" as the clause deals and provides for minimum limits in cases of delayed release of load or non-availment of the total sanctioned load. There is delay in availing the full load in the present case as initially only 190.40 kW was released and later full 450 KW was released after few months.
6. The Complainant denied the contention of the Respondents about invoking provisions of Himachal Pradesh Electricity Supply Code, 2009 as the Complainant is rightly invoking the provisions of clause 3.9 of the Supply Code, 2009.

The Complainant denied the contention that no communication has been sent as the letter submitted to the Respondents has been put on record before the Hon'ble Ombudsman.



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8. The Complainant denied the contention of the Respondents as the true sense of the Clause is rightly revealed on interpretation of the language of the clause. The Respondents have miserably failed in explaining that in which cases the minimum limits defined in the clause are applicable. The Respondent is wrongly taking shelter of the tariff order. The released demand is to be considered for billing purpose under the exemption given under clause 3.9.
9. The Complainant denied the contention of the Respondent board since they have till date not filed any case in the High Court to challenge the orders of the CGRF in Complaint No. 1454/2/19/007. The Respondent is required to submit on record if such petition is filed in the High Court.
10. The Complainant denied the contention of the Respondents as reduction of Contract Demand has nothing to do with the present dispute.
11. The Complainant denied the contention of the Respondents since they have not been able to explain the applicability of the table in Clause 3.9 of the Supply Code, 2009
12. The Complainant further prayed that the complaint be allowed in totality thereby ordering the refund of amounts due to the Complainant along with interest and costs as per applicable Regulations.

**E – The Respondents’ additional submissions:**

1. As directed vide Interim Order dated 07/11/2020, the Respondents submitted the energy bills, test reports and A&A forms through email dated 11/11/2020.

**F – CGRF Order:**

1. We have heard both the Parties and have gone through the case file carefully. It has been admitted by both the parties that the Complainant was issued a power availability certificate (PAC) for 450KW/ 350 KVA of load on 10.09.2018 for their new industrial unit at village Barotiwala. The PAC has been issued to the Complainant after completion of all the codal formalities for connected load of 450KW with 350KVA contract demand. It is also a fact that the Complainant did not apply for the reduction of the contract demand, in case it was not required, as per provisions of the supply code 2009 and sales manual. The clause 3.9 of the Supply Code, 2009 clearly provide that in case the consumer delays in taking supply or does not avail the full contract demand then in such cases, the charges as mentioned in the clause shall be levied by the licensee after issuance of notice of two months period. In the present case, as is evident from the complaint and reply of the Respondent that the Complainant was issued a normal bill, as per service connection order on the basis of sanctioned contract demand. The Complainant without any resistance/objections has also paid these bills. This conduct of the Complainant goes on the demonstrate that Complainant has availed the



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supply without any delay and has never approached the Respondents for reduction of permanent contract demand. The fact is also not controverted by the Complainant that he has never approached the Respondents for reduction of contract demand even on temporarily basis. We find force in the arguments of the Respondent Board that in facts and circumstances, the Complainant has availed supply without any delay and as such billing has been done on the basis of applicable tariff order. The Complainant failed to show that there was any delay in providing the electricity power supply by the Respondents to his premises, as per connected load of 450KW with 350 KVA contract demand. The provisions of Supply Code, 2009 under clause 3.9 clearly deals with delay to take supply or avail contract demand but in the present case as stated above, the supply has been provided to the Complainant without any delay and after completion of all codal formalities required to issue PAC on 10.09.2018 for connected load of 450KW with 350 contract demand. Therefore, the contention of the Complainant that he is not liable to be pay the demand charges during the period when the load was being built up as per 3.9 of the supply code 2009, is not tuneable in view of the express provisions of clause 3.9 of supply code 2009 and facts of the case stated above.

2. In view of the observations made herein above, the present complaint is found to be not maintainable and being devoid of any substance and merits and disallowed accordingly.
3. In the aforesaid terms, the complaint is decided against the Complainant and disposed off accordingly.

**G – Analysis of the Complaint:**

1. The case file at Consumer Grievances Redressal Forum has also been requisitioned and gone through.
2. The Complainant was issued Power Availability Certificate (PAC) on 10/09/2018 (as per his submissions since the same is not available in record of the case) for 450 kW of Connected Load and 350 kVA of Contract Demand.
3. The Complainant applied for sanction of same load vide A&A Form dated 17/09/2018. However, the Complainant first submitted test report in respect of Connected Load of 190.40 kW vide Wiring Contractor's Test Report dated 15/10/2018 which was verified by the officer/ official of the Respondents on 17/10/2018 (as certified on the test report). Service Connection Order dated 17/10/2018 was issued for Connected Load of 190.40 kW with 350 kVA Contract Demand. The connection was subsequently released on same day at 11 kV from 132/ 66/ 11 kV sub-station Jharmajri Barotiwala under LS category.



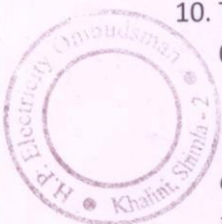




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4. The Complainant subsequently applied for a Connected Load of 449.08 kW against sanction Connected Load of 450 kW vide Test Report dated 15/03/2019 which was verified on same day (As per certificate recorded). The second Service Connection Order was issued on 20/03/2019 for 449.08 kW Connected Load and 350 kVA Contract Demand without change in metering equipment with remarks that "Full Connected Load built-up by Consumer i.e. 449.08 kW".
5. The first energy bill issued to the Complainant was on 13/11/2018 showing Connected Load of 190.40 kW and the recorded demand was 22.80 kVA but the Consumer was charged for 90% of the total sanctioned Contract Demand of 350 kVA i.e. at 315 kVA as per provisions under Clause 'L' of Part-I: General Conditions of Tariff applicable w.e. from 01/04/2018.
6. Similarly, second energy bill was issued on 06/12/2018 for chargeable Contract Demand as 315 kVA against Connected Load of 190.40 KW although the recorded demand was 168 kVA. Third energy bill was issued on 20/01/2019 for Connected Load of 190.40 kW and 350 kVA of Contract Demand with recorded demand of 120 kVA.
7. Further, energy bill was issued on 10/02/2019 with Connected Load of 190.40 kW and Contract Demand as 350 kVA with recorded demand of 150 kVA. Another energy bill was issued on 15/03/2019 for 190.40 kW of Connected Load and 350 kVA of Contract Demand with recorded demand as 138 kVA.
8. Another energy bill was issued on 12/04/2019 with 190.40 kW of Connected Load and 350 kVA of Contract Demand with recorded demand as 120 kVA. Another energy bill was issued on 12/05/2019 with Connected Load of 190.40 kW and 350 kVA Contract Demand with recorded demand as 150 kVA. Even the energy bill issued on 16/06/2019 was with Connected Load of 190.40 kW and 350 kVA of Contract Demand with recorded demand as 162 kVA.
9. Although the Complainant had applied for full Connected Load of 449.08 kW on 15/03/2019 and released on 20/03/2019 without change in metering equipment, the Connected Load was not corrected in the subsequent energy bills. The same was corrected to 449.08 kW Connected Load with 350 kVA Contract Demand with recorded demand of 174 kVA in the energy bill issued on 12/07/2019.
10. The provisions under Clause 'L' of Part-I, General Conditions of Tariff applicable w.e. from 01/04/2018 states:

*"Demand Charge (DC): Consumers under two (2) part tariff, whose energy consumption during non-peak load hours of the month is billed/ charged in Rs/kVAh, shall in addition to the kVAh charges, be also charged at the rates as per Part-III, the 'Demand Charges' (in*



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Rs/kVA/month), calculated on the actual Maximum Demand (in kVA) recorded on the energy meter during any consecutive 30 minute block period of the month or **at 90 % of the Contract Demand (in kVA)**, whichever is higher but up to a ceiling of contract demand as currently applicable. The demand in excess of Contract Demand will be charged under clause "M" relating to Contract Demand Violation Charges (CDVC)."

11. The provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 with second amendment made on 31/07/2018 applicable in present case states:

***Delay to take supply or avail contract demand. –***

In case of supplies involving two part tariff, where the licensee has completed the work required for supply of electricity to an applicant, but the applicant is not ready or delays to receive supply of electricity or **does not avail the full contract demand**, the licensee shall, after a notice of sixty days, charge the demand charges on the sanctioned contract demand at the rates given in the relevant tariff order subject to following limits -

Sr. No.	Description	Minimum limit
(i)	For initial twelve months from the expiry of notice period or date of release of connection, whichever is earlier;	Maximum demand actually availed, if any.
(ii)	For next six months;	Maximum demand actually availed, if any, or 30% of the total sanctioned contract demand, whichever is higher.
(iii)	After expiry of the period provided in item (ii) above;	Maximum demand actually availed, if any, or 50% of the total sanctioned contract demand, whichever is higher.

Provided that the minimum limits, as given in items (ii) and (iii), shall not be further decreased on the account of tariff provisions relating to charging of demand charges for lesser quantum of demand due to non utilization or temporary reduction of contract demand."

Provided further that where the delay in taking connection is considered to be beyond the reasonable control of the applicant, the authority designated by the distribution licensee, which shall not be lower than the rank of the concerned load sanctioning authority for the respective categories of loads, may, on the request from the applicant, relax, with suitable conditions, the time limits, specified in Column (2) in the table against Serial Nos. (i) and (ii) to the extent it may consider appropriate.

12. The Complainant initially applied for 190.40 kW of Connected Load which was verified on 17/10/2018 against sanctioned Connected Load of 450 kW showing his intention that he is

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still building up the load. He further applied for full load of 449.08 kW on 15/03/2019 released on 20/03/2019.

13. Since the Complainant was still building up his load in October 2018, the provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 were applicable in the instant case. The provisions under Clause 'L' of Part-I, General Conditions of Tariff were not applicable for him initially till building up of his full load. He subsequently applied for full load on 15/03/2019 which was released on 20/03/2019 and after that the provisions under Clause 'L' of Part-I, General Conditions of Tariff were applicable to him.
14. The Respondents charged 90% of the sanctioned Contract Demand at 315 kVA even during the period of his building up of his load which was at 190.40 kW. The Contract Demand charged was 315 kVA against Connected Load of 190.40 kW which seems to be unimaginable/ unreasonable. He should have been charged at the maximum recorded demand actually availed even shown in the energy bills during initial buildup of his Connected Load instead of 90% of 350 kVA i.e. 315 kVA in line with provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 for an initial period of 12 months or till he builds up his full load.
15. Since the Complainant built up his Connected Load at full capacity of 449.08 kW against sanctioned Connected Load of 450 kW on 15/03/2019 released on 20/03/2019, he should have been charged as per provisions under Clause 'L' of Part-I, General Conditions of Tariff w.e. from 20/03/2019 onwards. Since the full load was built up by him in March 2019, the provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 were not applicable afterwards.
16. The contention of the Complainant that he should be charged at actual recorded demand till first 12 months as per provisions of the Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 is not true since he had built up his full load on 15/03/2019 released on 20/03/2019 and thereafter the said provisions are not applicable.
17. The contention of the Respondents that there is no delay in providing the electricity connection to the firm in the month of March 2019 is also not true since the Complainant has only applied initially for 190.40 kW of Connected Load at the time of released of his connection in October 2018 which are well within the provisions of Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009.
18. The further contention of the Respondents that Clause 3.9 is applicable only in case Consumer delays in taking supply or does not avail the full Contract Demand and in such cases the charges as mentioned in Clause is levied after notice period of two months is not true since the Complainant had not availed full Contract Demand as in October 2018 and he



*Leapt*  
*19/11/2020*





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was entitled for maximum recorded actually availed demand for a period of 12 month or till he actually availed the full load.

19. The Respondents contention that he could have reduced his Contract Demand as per provisions of tariff does not also hold good since the Complainant had not built up his full load in October 2018 and the Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 which was specifically introduced for such situations only for the benefit of the Consumers and is applicable in the instant case till the Complainant availed full load. After 20/03/2019 when the Complainant had built up full load, he had option to reduce his Contract Demand as per provisions under Clause 'S' Temporary Revision of Contract Demand under Part-I, General Conditions of Tariff applicable w.e. from 01/04/2018.
20. The Respondents have errored in interpreting the provisions of Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 and have wrongly charged 90% of the sanctioned Contract Demand in energy bills since November 2018 till 19<sup>th</sup> March 2019 instead of charging on actually recorded and availed Contract Demand as per provisions of Clause 3.9 of the Himachal Pradesh Electricity Supply Code, 2009.
21. From the scrutiny of the energy bills furnished by the Respondents, it appears that the Complainant had reduced his Contract Demand sometime in August/ September 2019 to 175 kVA and he is being charged based on same afterwards on actually maximum recorded demand or 90% of 175 kVA, which is higher.
22. The Complainant has contended that the Consumer Grievances Redressal Forum in similar case passed an order on dated 28/08/2019 in Complaint number 1454/2/19/009 dated 10/04/2019 titled as Emmbros Autocomp Ltd. versus HPSEBL ordered that the Respondents have erred in interpretation of Clause 3.9 of the Supply Code, 2009 by charging 90% of the Contract Demand. The Forum have further ordered the Respondents Board to overhaul the bills to the Complainants as per Himachal Pradesh Electricity Supply Code, 2009 and amount payable to the Complainant may be adjusted in future energy bills. The Respondents have informed that they have approached the Hon'ble HP High Court against the orders passed by the Forum. But they have not submitted about the outcome or status of the said case.
23. The Forum in the present case have taken a different stand as compared to the stand taken in earlier order dated 28/08/2019 which was in line with the relevant provisions under Clause 3.9 of the Himachal Pradesh Electricity Supply Code, 2009. The stand taken by the Forum in present case is not in line with the said provisions.
24. The Consumer Grievances Redressal Forum in order dated 18/08/2020 have wrongly interpreted provisions of Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 and have instead relied upon the provisions under Clause 'L' and 'S' of Part-I, General Conditions

*Kept*  
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of Tariff applicable w.e. from 01/04/2018 which were not applicable in the instant case till the Complainant had built up the full load.

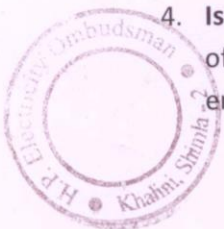
25. The Complainant contention that the Respondents may be directed to pay simple interest on excess amount charged from him does hold good and he is entitled for such relief since without correctly interpreting the provisions of Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009, the Respondents have charged 90% of the sanctioned Contract Demand as per provisions of Tariff instead of actually recorded demand till he had availed full load.

26. The provisions under Clause 5.7.3 of Himachal Pradesh Electricity Supply Code, 2009 states:

*If on examination of a complaint, the licensee finds a bill to be erroneous; a revised bill will be issued to the consumer indicating a revised due date of payment, which will not be earlier than ten days from the date of delivery of the revised bill to the consumer. If the amount paid by the consumer under para 5.7.1 is in excess of the revised bill, such excess amount will be refunded through adjustment first against any outstanding amount due to the licensee and then against the amount becoming due to the licensee immediately thereafter. The licensee will pay to such consumer simple interest on the excess amount @ 15 percent per annum, or where the rate is fixed by the Commission at the rate so fixed, on daily basis from the date of payment till such time the excess amount is adjusted.*

**H – Issues in Question:**

1. **Issue No. 1:** Whether the Respondents have rightly charged 90% of the sanctioned Contract Demand in energy bills of the Complainant w.e. from November 2018 onwards from the Consumer under provisions of Clause 'L' of Part-I, General Conditions of Tariff applicable w.e. from 01/04/2018?
2. **Issue No. 2:** Whether the Complainant's contention that he should be charged at actually recorded and availed demand for a period of 12 months in line with provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009?
3. **Issue No. 3:** Whether the orders passed on dated 18/08/2020 in Complaint No. 1453/3/19/045, dated 21/09/2019 was in line with the prevailing and applicable provisions?
4. **Issue No. 4:** Whether the Complainant is entitled to simple interest in line with Clause 5.7.3 of Himachal Pradesh Electricity Supply Code, 2009 on the amount charged in excess through energy bills?



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*19/11/2020*





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**I – Findings on Issues:**

**Issue No. 1:**

1. As is evident from the analysis done above, the Respondents have wrongly charged 90% of the sanctioned Contract Demand i.e. at 315 kVA (90% of 350 kVA) in the energy bills of the Complainant w.e. from November 2018 onwards till 19/03/2019 since he actually provided test report of 190.40 kW at the time of release of his connection in October 2018 and didn't not availed full load of 450 kW, which was also verified by the Officer/ Official of the Respondents on 17/10/2018.
2. The provisions under Clause 'L' of Part-I, General Conditions of Tariff were not applicable during his initial buildup of his load.
3. The provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 were applicable to him during initial buildup of his load since October 2018 onwards till he had availed the full load which was released on 20/03/2019.

**Issue No. 2:**

1. As is evident from the analysis done above, the Complainant's contention that he is entitled for actually recorded demand for a period of 12 month in line with provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 is not true since he had buildup the full load at 449.08 kW which was released on 20/03/2019 and after that the said provisions were no longer applicable.
2. After 20/03/2019, the provisions under Clause 'L' of Part-I, General Conditions of Tariff applicable w.e. from 01/04/2018 onwards were fully applicable to the Complainant since he had built up his full load which was released on 20/03/2019.

**Issue No. 3:**

1. As is evident from the analysis done above, the orders passed on dated 18/08/2020 in Complaint No. 1453/3/19/045, dated 21/09/2019 by Consumer Grievances Redressal Forum are not in line with the prevailing and applicable provisions under Clause 3.9 of Himachal Pradesh Electricity Supply Code, 2009 and instead they had relied upon the provisions under Clause 'L' and 'S' of Part-I, General Conditions of Tariff applicable w.e. from 01/04/2018 onwards which was not applicable to the Complainant w.e. from October 2018 till 19/03/2019.

**Issue No.4:**

1. As is evident from the analysis done above, the Complainant is entitled to a simple interest on the amount charged in excess from him in energy bills w.e. from November 2018



*Accepted*  
*19/11/2020*





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onwards in line with provisions under Clause 5.7.3 of Himachal Pradesh Electricity Supply Code, 2009.

**J – Order:**

1. The orders passed on dated 18/08/2020 by Consumer Grievances Redressal Forum in Complaint No. 1453/3/19/045, dated 21/09/2019 are quashed and set aside.
2. The Respondents are directed to revise the energy bills of the Complainant issued in November 2018 onwards till 19/03/2019 by charging actually recorded and availed Contract Demand.
3. The Respondents are directed to revise energy bills w.e. from 20/03/2019 onwards by charging either actually recorded Contract Demand or 90% of the sanctioned Contract Demand, whichever is higher, in line with provisions under Clause 'L' of Part-I – General Conditions of Tariff applicable w.e. from 01/04/2018.
4. The Respondents are directed to overhaul the account of the Complainant and intimate the Consumer within a period of 30 days from the date of issue of this order.
5. The Respondents are directed to refund the excess amount charged in the energy bills from the Complainant w.e. from November 2018 onwards through adjustment in future energy bills of the Complainant.
6. The Respondents are directed to pay simple interest on the excess amount so charged from the Complainant in line with Clause 5.7.3 of the Himachal Pradesh Electricity Supply Code, 2009 @ 15% per annum till the date of actual adjustment is made and through adjustment in future energy bills of the Complainant.
7. The Respondents are further directed to report direction wise compliance within a period of 30 days but not later than 21/12/2020.
8. The Complaint filed by M/S MT Autocraft, Near Doon School, Haripur Road, Barotiwala, District Solan, HP-174103 is hereby disposed off.
9. No cost to litigation.

Given under my hand and seal of this office.



*Leapt*  
19/11/2020  
Electricity Ombudsman