



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

In the matter of:

M/S H M Steel Ltd, Village Kheri, Trilokpur Road, Kala amb, Tehsil Nahan, District Sirmour, HP-173030
- Complainant

Vs

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
 2. The Sr Executive Engineer, Electrical Division, HPSEB Ltd, Nahan, District Sirmour, HP-173001
 3. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Kala Amb, District Sirmour, HP-173030
- Respondents

Complaint No. 17/2022 (Registered on 12/08/2022)

(Orders reserved on 02/12/2022, Passed on 31/12/2022)

Counsel for:

The Complainant: Sh. O.C. Sharma Advocate, Sh. Hoshiar Kaushal Advocate

The Respondents: Sh. Anil Kumar God Advocate, Sh. Kamlesh Saklani Law Officer

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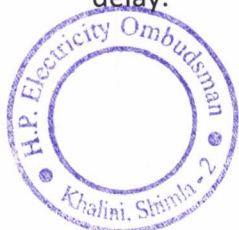
Er. K.L.Gupta

HP Electricity Ombudsman

Order

The case was received and registered on 12/08/2022. The Case was listed for admission hearing on 17/09/2022, the Respondents were to file their reply by 03/09/2022 and the Complainant was to file his rejoinder by 09/09/2022. The Respondents failed to submit their reply by 03/09/2022 and were to file their reply by revised date 24/09/2022 and the Complainant was to file his rejoinder by 01/10/2022. The case was listed for 15/10/2022.

The Respondents filed their reply during next date of hearing and the Complainant was to file his rejoinder now by 22/10/2022. The case was listed for 29/10/2022. The Complainant filed his rejoinder during hearing on 29/10/2022 and both parties sought some time for arguments. The case was listed for 25/11/2022. Since the Counsel for the Complainant was not present due to hearing at Hon'ble Hp High Court, he sought additional time for arguments. The case was listed for 02/12/2022. Arguments were heard and the orders were reserved. Hence the delay.



Er. K.L.Gupta
31/12/2022



A - Brief facts of the Case:

1. M/S H M Steel Ltd, Village Kheri, Trilokpur Road, Kala amb, Tehsil Nahan, District Sirmour, HP-173030 have filed an appeal through Mr Jain (hereinafter referred to as 'The Complainant') under the provisions of Regulation 28 (1) (b) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 29/07/2022 in Complaint No. 1515/4/21/028, dated 15/11/2021. The Complainant have prayed to quash and set aside the orders passed by the Forum below besides the relief as sought at the Forum below.

B – The Complainant's submissions:

1. The Complainant submits that he is a limited Company duly incorporated under the Companies Act and is having its works at Village Kheri, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmour, H.P. The Complainant further submits that his Company is a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and can by the said name sue or be sued. Shri Surender Jain is its Director and is a competent person to file, sign and verify the present Complaint, rejoinders, replications, applications and other pleadings on behalf of the Company. He is competent person to depose on oath as to the facts of the present representation.
2. That the Complainant/representationist Company has been provided electricity connection with a contract demand of 14800 KW and connected load of 19500 KW. The Complainant/representationist is larger industry power supply consumer and has been categorized as EHT having consumer I.D. No. 100012002352.
3. That the respondent No. 1 is licensee and the respondent No. 2 and 3 are its officers having their offices at Nahan and Kala Amb, respectively for regulating the electricity supply, taking monthly meter reading through MRI and for raising the monthly demand charges and energy charges for the consumption of electricity and further to issue monthly energy bill strictly in accordance with the Tariff Order issued by the Ld. H.P.E.R.C.
4. The Complainant submits that the Respondents have issued notice dated 14/10/2021 for additional demand of Rs. 1,62,33,204/- for the period 01/12/2018 to 01/06/2021 on account of less energy charges due to register swapping. Further, that in the Notice dated 14/10/2021 it has been stated that his record has been scrutinized by the I.T. Cell Shimla during its visit in Electrical Sub-Division w.e.f. 02/12/2018 to 26/05/2021 and found that the energy bills text file or XML file of meter billing data was not uploaded properly for correct billing purpose resulting in less recovery of Rs. 1,62,33,204/- for the period 01/12/2018 to 01/06/2021. The Respondents have required the Complainant Company



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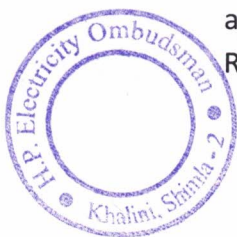
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to deposit the said amount within 30 days and in case of default, the Respondents have threatened to debit the same through Sundry in the next monthly energy bills. The Complainant further submits that he filed a Complaint under Regulation 17 of H.P.E.R.C. (C.G.R.F. and Ombudsman) Regulation 2013 before the Ld. Forum below laying challenge to the aforesaid demand notice dated 14/10/2021.

5. The Complainant submits that the Respondents filed reply to the Complaint and the Respondents filed the MRI data for the relevant period alongwith the reply. Further, that alongwith MRI data the Respondents submitted before the Ld. Forum calculation sheet of total recovery of register swapping for Rs. 1,51,98,513.33 paise for the period January 2019 to June 2021 and the copies of monthly energy bills.
6. The Complainant submits that the monthly energy bills w.e.f. January 2019 to July 2021 were scrutinized by him and it transpired that in net current SOP of said bills, the Respondents have made addition of sum amount apart from energy consumption charges and demand charges without clarifying therein the particulars of the same. The month wise detail of excess amount charged in the bills for the period January 2019 to July 2019 is amounting to Rs. 76,22,567/-. Further, that he has filed a Complaint before the Ld. Forum below for issuance necessary direction to the Respondents for refund of Rs. 76,22,567/- and the same is pending adjudication.
7. The Complainant submits that the Ld. Forum below has passed the impugned order dated 29/07/2022 with the following observations and conclusions:

"(17) In view of foregoing, this Forum directs the Complainant to pay/ deposit within 15 days of this Order, the amount of Rs. 1,62,33,204/- in full as raised by the Respondents in impugned demand notice dated 14/10/2021, for the period beyond the 30 days' notice period contained in this demand notice dated 14/10/2021 and date of filing the instant Complaint on 15/12/2021 which constitutes one (1) month, surcharge at the applicable rates shall also be applicable by the Complainant alongwith the Ibid payable demand of Rs. 1,62,33,204/-. For non-payment of these monies, the Respondents HPSEBL, shall be at liberty to invoke the provision of law on disconnection of electricity under Section 56 (1) of the Ibid Electricity Act 2003 and the Regulations framed thereunder alongwith additional late payment surcharge as may become applicable."

8. The Complainant further submits that the Respondents have now issued monthly energy bill dated 08/08/2022 and have demanded therein an amount of Rs. 1,08,22,136/- under the head sundry charges. Further, that he deposited an amount of Rs. 54,11,068/- through cheque on 25/11/2021 bearing No. 009900 dated 25/11/2021 towards 1/3rd of disputed amount of Rs. 1,62,33,204/-. The Respondents have demanded the aforesaid amount of Rs.1,08,22,136/- under the head sundry charges in the monthly bill dated 08/08/2022 by



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31/12/2022*



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levying surcharge thereon on the remaining amount after subtracting the amount of Rs. 54,11,068/- and the Respondents are bent upon to recover and realize the same and in case the said amount is not deposited by him with the Respondents in that eventuality the Respondents are bent upon to disconnect his electricity supply by taking recourse to coercive method. Further, that he has filed separate Complaint before the Ld. C.G.R.F. for directing the refund of excess of Rs. 76,22,567/- as has been charged in excess in the bills for the period January 2019 to July 2019 and the same is pending adjudication.

9. The Complainant submits that feeling aggrieved and dissatisfied with the impugned order dated 29/07/2022 passed by the Ld. Forum in Complaint No. 1515/4/21/028, he assails the same before this Hon'ble Authority on the following amongst other grounds:
- a) That the impugned order is perverse, unjust and unsustainable in the eyes of law more particularly in the factual and legal position of the matter that the Respondents submitted before the Ld. Forum a calculation for total recovery of amount due to register Swapping for Rs. 1,51,98,513.33 paise alongwith the MRI data. The Respondents herein corrected themselves by submitting the aforesaid calculation and thereby admitted the earlier wrong recovery of Rs. 1,62,33,204/- in terms of Demand notice dated 14/10/2021. The Ld. Forum below has gravely erred in not appreciating the aforesaid calculation submitted by the Respondents while passing the impugned Order dated 29/07/2022 while directing the present Complainant to deposit within 15 days of the impugned order an amount of Rs. 1,62,33,204/- alongwith surcharge exceeding 30 days period from the date of filing of the Complaint. The order for levy of surcharge by the Respondents on the amount over and above 1/3rd deposit by the Respondents is absolutely wrong and illegal and the same deserves to be set-aside and quashed by this Ld. Authority.
 - b) That the Order dated 29/07/2022 deserves to be quashed and set-aside by this Ld. Authority more particularly in the facts situation that the Respondents have wrongly generated and raised the monthly energy bills w.e.f. January 2019 to July 2019 by adding therein some amount apart from the monthly consumption charges and demand charges and net current SOP have been wrongly shown therein without clarifying the requisite particulars relating to the same and as such, the Ld. Forum below has gravely erred in not appreciating this material aspect of the matter while passing the impugned order dated 29/07/2022.
 - c) That the impugned demand raised through monthly energy bill dated 08/08/2022 for Rs. 1,08,22,136/- under the head Sundry charges is liable to be stayed by the Ld. Authority during the pendency of the present Complaint/ representation as the same is absolutely wrong and unsustainable.



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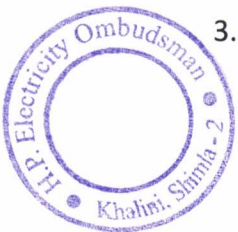
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10. The Complainant submits that there is no representation by him in respect of the same grievances, pending in any proceedings before any Court or Tribunal or Arbitrator or any other authority.
11. Further, that no representation was earlier made in respect of the present grievance before this Hon'ble Authority.
12. The Complainant thus prayed that the order passed by the Ld. C.G.R.F. Shimla dated 29/07/2022 in Complaint No. 1515/4/21/028 titled as M/s H.M. Steel versus HPSEBL and others may kindly be quashed and set-aside in view of the submissions made in the grounds of representation, in the interest of justice and the reliefs as were claimed in the above Complaint may be granted in his favour and against the Respondents. Further, any other relief which this Ld. Authority deems fit and proper may kindly be granted in his favour in the interest of justice.

C – The Respondents' submissions:

Preliminary submissions:

1. The Respondents submit that the representation as filed by the Complainant before this Id Ombudsman under Regulation 28 (1) (b) of the HPERC (CGRF & OMBUDSMAN) regulations, 2013 is neither maintainable nor competent in as much that the Id Forum has passed a very reasoned and speaking order dated 29/07/2022 and interference of any kind is not warranted therein as such the representation as preferred is liable to be as such same is liable to be dismissed.
2. The Respondents submit that the main ground for the challenge of the Complainant before the Id Forum was on the ground of the bar of limitation under sub-section (2) of the Section 56 of the Electricity Act, 2003 on raising the impugned demand. The contents of the Complaint may kindly be perused from the record of the Id Forum for the sake of brevity. Further, they vehemently stated in the reply as well as during the course of the arguments, that section 56 (2) does not attracts in the present case in view of the law as laid down by the Hon'ble Supreme Court in catena of judgments, and this submission was very well accepted by the Id Forum while disposing of the Complaint vide order dated 29/07/2022 in detail and has passed very reasoned and speaking order by holding the Complainant liable to make the payment of the electricity dues as demanded vide impugned demand notice as such no interference is called for against the order passed by the Id Forum by this Hon'ble Ombudsman.
3. The Respondents submit that the present Complaint is gross- misuse of the process of law inasmuch that the Complainant has also preferred another Complaint registered as



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31/12/2022



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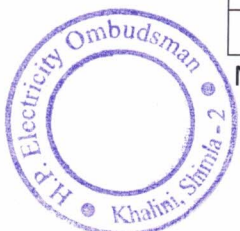
1515/3/22/026 before the Id Forum which is pending adjudication before the Id Forum. Further, that the Complainant by filing the multiple Complaints before the Forum as well as before this Authority has cleverly evading the payment of the statutory dues in the garb of the interim orders, which resulted in the big financial loss to the respondent/utility.

Reply on merits:

4. The Respondents submit that the Complainant has filed frivolous and baseless Complaint before the Id Forum which has been rightly dismissed by the Id Forum vide impugned order dated 29/07/2022. Further, relevant to submit here that the Complaint which has been filed by the Complainant before Id Forum and pending adjudication is mere abuse of process of law.
5. The Respondents submit that the Id Forum has passed the impugned order on the proper appreciation of material on record and having due regard to the position of law therein. The basic foundation of the Complainant qua the applicability of section 56 (2) has been minutely considered and accordingly rejected by the Id Forum. Further, that the issue relating to the applicability of section 56 (2) of the Electricity Act, 2003 is no more res integra as the Hon'ble Supreme Court in Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam Limited and Anr versus Rahamutalla Khan @ Rahamjulla Civil Appeal No 1672 of 2020 has held that the period of limitation starts from the date of issuance of the bill. Further, that similar view has been taken by the Hon'ble Supreme Court in M/S Prem Cottex versus Utter Haryana Bijli Vitran Nigam Ltd Civil Appeal No. 7235 of 2009 decided on 5/10/2021.
6. The Respondents submit that due to bonafide mistake at the time of migration of data in the month of December, 2018 from HCL to TCS, the ToDs of Normal and Off-Peak hours were interchanged in ISU(SAP) billing application, as a result of which the consumptions of Normal and Off-Peak hours were interchanged.

Wrong Sequence of TODs as per Bills	Correct Sequence of TODs as per actual
N	O
O	N
O	N
P	P
P	P
P	P
N	O

N- Normal, O- Off Peak, P-Peak.



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 31/12/2022



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7. The Respondents submit that the energy bills served to the consumers are as per the consumption in 7 ToDs. The duration of time period for 7 TODs is as below please.

Sr. No.	TODs	Duration
1.	Off Peak (O)	12 A.M. to 6 A.M.
2.	Normal(N)	6 A.M. to 9 A.M.
3.	Normal(N)	9 A. M. to 18:30 P.M.
4.	Peak(P)	18:30 P.M. to 19:00 PM
5.	Peak(P)	19:00 P.M. to 21:30 P.M.
6.	Peak(P)	21:30 P.M. to 22:00 P.M.
7.	Off Peak (O)	22:00 P.M. to 24:00 Hrs.

8. The Respondents submit that the energy bills in respect of M/S H.M. Steel were issued as per actual MRI data in 7 ToDs, but due to interchanging of ToDs of Normal (N) and Off Peak (O) the consumption of Normal hours and Off-Peak hours were interchanged. The night time concession was given to M/S H.M. Steel as per the consumption during Normal (N) hours where as it should have been as per consumption during Off Peak hours w.e.f. 01/01/2019 to 30/06/2021. This bonafide mistake was detected by the when the record of the Complainant Company was scrutinized by the I.T Cell Shimla during its visit in Electrical Sub- Division in the month of April, 2021 and found excess night time concession charges has been given from the period 01/01/2019 to 30/06/2021. The MRI Data, energy bills and calculation sheet of disputed period will crystal clear the version of the applicant therefore these documents are necessary to brought on record for proper adjudication of the matter.
9. The Respondents submit that the Id Forum has passed a very speaking and reasoned order which calls for no such interference by this Id Ombudsman under Regulation 28 (1) (b) of the HPERC (CGRF and Ombudsman) Regulations, 2013.
10. The Respondents submit that the Complainant has preferred another Complaint before the Id Forum which stands registered as 1515/3/22/026 title M/S HM Steel Ltd versus HPSEBL, which is pending adjudication. Hence, this representation is not maintainable.
11. The Respondents thus prayed that the representation filed by the Complainant may kindly be dismissed.



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D – The Complainant additional submissions through rejoinder:

REPLY TO THE PRELIMINARY SUBMISSIONS

1. The Complainant submits that the present representation is well maintainable before this Hon'ble Authority as the Order passed by the Ld. Forum below is palpably wrong and unsustainable. The Ld. Forum below has not appreciated the pleadings of the parties and evidence brought on the record in their right perspective.
2. The Complainant submits that the Order passed by the Ld. Forum below lacks proper reasoning while upholding the entire demand of Notice dated 14/10/2021 for Rs. 1,62,33,204/- as payable.
3. The Complainant submits that there is no misuse of process of law in filing the present representation as the demand notice dated 14/10/2021 for Rs. 1,62,33,204/- is based on wrong calculations and bills raised for the period January 2019 to July 2019 reflect miscalculations of SoP.

ON MERITS:

4. The Complainant submits that the Order dated 29/07/2022 of Ld. Forum is perverse, wrong and unsustainable. However, the contents of corresponding para of the Complaint are reasserted and reaffirmed here.
5. The Complainant submits that the pronouncements made by the Hon'ble Supreme Court of India as referred to in the para under reply are admitted being correct. However, the Order passed by the Ld. Forum below is contrary to the material placed on the record.
6. The Complainant submits that the Order dated 29/07/2022 for upholding the entire demand of Notice dated 14/10/2021 for Rs. 1,62,33,204/- is perverse and unsustainable, more particularly, in the fact situation that Respondents submitted their revised calculation for Rs. 1,51,98,513.33 paise alongwith the reply but the Ld. Forum ignored the same while passing the impugned order. Further, that the Ld. Forum further failed to appreciate that the levy of Rs. 1,08,22,136/- raised as sundry in bill dated 08/08/2022 is wrong, arbitrary, unjustified and not payable by him. Apart from this, the Ld. Forum has not appreciated the wrong calculations made in the bills raised w.e.f. January 2019 to July 2019 relating to the SOP. Further, that the contents of corresponding para of the Complaint/ representation are reasserted and reaffirmed here.



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7. The Complainant submits that the contents of the reply as represented are wrong, misconceived and hence vehemently denied and those of contents of paras of the representation are reasserted and reaffirmed here.
8. The Complainant thus prayed that the reliefs as has been prayed in the complaint/ representation may kindly be granted in his favour, in the interest of justice.

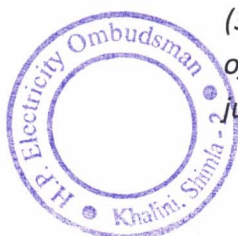
E – CGRF Order:

1. This Forum has examined the relevant provisions of the Electricity Act, 2003, the Regulations in the matter issued by the Ld HP Electricity Regulatory Commission (or the HPERC) and amendments thereto, record as facts alongwith pleadings of the parties. This Forum has heard the parties at length. The considered opinion of the Forum has been gathered after considering the fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;
2. The Complainant consumer has raised challenge to the impugned Demand Notice dated 14.10.2021 on the grounds that Respondent HPSEBL cannot raise this Demand being a fault of the Respondent and that it is against Section 56(2) of the Electricity Act, 2003;
3. At the outset this Forum observes that no-where in the complaint, has the Complainant challenged the correctness of the Demand as being in contravention of the Tariff Orders issued by the Ld HP Electricity Regulatory Commission (or the HPERC) which essentially requires showing to the Forum the month-wise-item-wise consumption parameters, applicable tariff as per relevant Tariff Orders issued by the Ld HPERC and amounts due vis-à-vis that charged by the Respondent;
4. The moot issues as emerged for determination before this Forum are

(1) whether the demand raised is time barred in terms of section 56(2) of the Electricity Act, 2003?

(2) whether the Complainant consumer, is or is not liable to make payments against the raised impugned Demand Notice by the Respondent for a mistake or bona-fide error of improper uploading of metering-billing data of Meter Reading Instrument (MRI) made by the Respondent at the time of migration of data from one software/ application to another, which has resulted in less recovery from or less billing to the consumer complainant?

(3) whether the less billing / recovery discovered and pointed out later in time by the IT Cell of the Respondent HPSEBL and where-after a Demand Notice was issued, is proper and justified or not?;

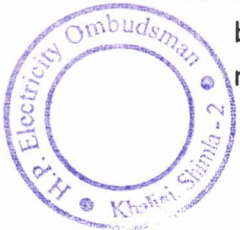


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5. The Forum delves upon the issue No (1) after considering material placed on record and case laws on the issue in contention. It is evident from the settled law that while the consumer uses electricity being a good as has been held by a constitution bench of the Hon'ble Apex Court in a case titled State of Andhra Pradesh Vs National Thermal Power Corporation Ltd, the distribution licensee charges for this electricity / good at the specified tariffs/ charges of electricity, as are determined by the Ld HPERC under the Electricity Act, 2003 and Regulations framed there under. These tariffs / charges are applied to the consumption or good and thereafter a Bill or Demand is raised to the consumer. This Forum is also of the considered opinion that the HPSEBL being a distribution licensee cannot charge any tariff in excess of that specified by the Ld HPERC. At the same time, it is also relevant to mention that the distribution licensee HPSEBL is bound to recover the cost / price of electricity consumed by a consumer strictly as per tariffs / charges that are specified by the Ld HPERC vide its Tariff Orders and consumer is bound to pay these tariffs / charges accordingly. Any lapse, mistake or bona-fide error by the distribution licensee with regard to under recovery of actual tariff / cost / price of electricity, if not recovered from the respective consumer, who has availed the good, may result either in permanent loss to the distribution licensee, being a public utility or with the burdening of this utility's loss upon other consumers, both of which are bad and against mandated provisions of Tariff Regulations on the matter;
6. In the instant matter, this Forum while dealing with the limitation, observes that in Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020, which has further relied upon other Apex Court cases while interpreting section 56(2) of the Electricity Act, 2003, it has been held that section 56(2) does not put any limitation for raising the past dues or arrears, if not discovered earlier due to any mistake. Liability to pay arises on consumption of electricity and obligation to pay when bill is raised. Electricity charges would become first due only when bill is issued by the licensee to the consumer quantifying therein the charges to be paid. Accordingly, the Hon'ble Court has held in clear terms that limitation starts from the date the Bill/ Demand is raised which is when the sum becomes first due and it is from this date that the period of limitation of 2 years as provided in section 56(2) of the Electricity Act shall start. Again Court has made it abundantly clear that it is from this date that the sum has to be continuously shown as recoverable as arrears during the limitation period. As a consequence, in addition to the date electricity is consumed, the liability to pay electricity charges is also created when meter reading is recorded or when meter is found defective or theft of electricity is detected and obligation to pay when Bill or Demand is raised;
7. Having gone through the case and having heard the matter by way of arguments extended by the parties, on the anvil of interpretation on section 56(2) of the Electricity Act, 2003 rendered vide ibid Hon'ble Apex Court Judgment dated 18.02.2020, this Forum holds that



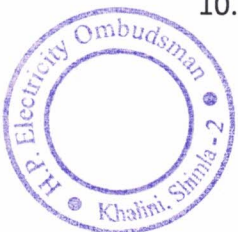
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there was mistake or bona-fide error in improper uploading of metering-billing data at the time of migration of data from one software/ application to another and this resulted in past arrears / dues. This fact not having been disputed by the Complainant, the Forum is of the opinion that the action by the Respondent HPSEBL is a legal one and is not hit by limitation of 2 years as provided in section 56(2) of the Electricity Act, 2003 as the Demand was raised on 14.10.2021 which is well within the limitation period of 2 years. Accordingly, the impugned Demand Notice dated 14.10.2021 issued by the Respondents is a legal one based on the interpretation / reasons as set out by the Hon'ble Apex Court in respect of section 56(2) of the Electricity Act, 2003. The issue No (1) is accordingly decided against the Complainant and in favour of the Respondent HPSEBL;

8. The issues (2) and (3) are examined and considered in the light of arguments adduced / pleadings of parties, facts on record and Regulations in the matter. There is no denying the fact that due to bona-fide error / mistake, the present discrepancy in the billing of consumer / complainant has crept in due to register swapping at the time of data migration from the HCL software to TCS software in the month of December 2018. This has resulted in less recovery for the period January, 2019 to June 2021. The fact remains that Complainant has not laid any challenge to the correctness of the impugned demand on the basis of it being in contravention of the Tariff Orders issued by the Ld HPERC from time to time. The relevant Tariff Orders require reflecting month-wise and itemwise consumption parameters as per applicable Orders and amount due vis-à-vis that charged by the Distribution licensee / Respondent herein. Since Respondent has also placed on record the copy of computerized data (Annexure R-1) along with the details of the calculations of short recovery in respect of the complaint, we find no plausible reasons to reject these and therefore to allow the complaint. Accordingly, the issues (2) and (3) are also decided in favour of Respondent;
9. In view of foregoing, this Forum directs the Complainant to pay / deposit within 15 days of this Order, the amount of Rs 1,62,33,204/- in full as raised by the Respondent in impugned Demand Notice dated 14.10.2021. For the period beyond the 30 days Notice Period contained in this Demand Notice dated 14.10.2021 and the date of filing the instant complaint on 15.12.2021 which constitutes one (1) month, surcharge at the applicable rates shall also be payable by the Complainant along with the ibid payable Demand of Rs 1,62,33,204/-. For non-payment of these monies, the Respondent HPSEBL shall be at liberty to invoke the provisions of law on disconnection of electricity under Section 56(1) of the ibid Electricity Act, 2003 and the Regulations framed there-under along with additional late payment surcharge as may become applicable.
10. In the aforesaid terms, the instant complaint is disposed of on merits, in favour of the Respondents HPSEBL and against the Complainant. The Complaint is accordingly dismissed.

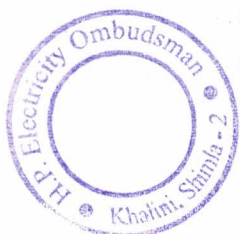


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F – Analysis of the Complaint:

1. The case file at the Consumer Grievance Redressal Forum at Kasumpti orders on which were passed on 29/07/2022 in Complaint No. 1515/4/21/028, dated 15/11/2021 have also been requisitioned and gone through.
2. The documents on record and arguments made by both the parties have also been gone through.
3. The Complainant have filed the case under the provisions of Regulation 28 (1) (b) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. They have prayed to quash and set aside the orders passed by the Forum below on 29/07/2022.
4. The Complainant has an electricity connection under Large Industrial Power Supply (LIPS) category having Connected Load of 19500 kW and Contract Demand of 14800 kVA.
5. The Respondents raised a demand of Rs 1,62,33,204/- on 14/10/2021 for a period 01/12/2018 till 01/06/2021 on account of less energy charges claimed due to register swapping. The register swapping was first noticed by a team from their central IT team during its visit to sub-division and noted that during the data migration from the old billing module of M/S HCL to new billing module of ISU billing by M/S TCS, some register swapping has taken place and the Consumer is being billed on wrong registers during normal, peak and night hours. The register swapping went un-noticed during this period and the Consumer have been billed less in overall for its energy use against the said connection.
6. The Complainant deposited 1/3rd amount for Rs 54,11,068/- on 25/11/2021 through cheque and the revised demand was now for Rs 1,08,22,136/- raised on dated 08/08/2022 against the original demand of Rs 1,62,33,204/-. After filing of a Complaint at the Consumer Grievance Redressal Forum at Kasumpti, the Respondents revised their demand for Rs 1,51,98,513.33 between January 2019 till June 2021 supported by MRI data.
7. The Respondents charged Rs 76,22,567/- for the period January 2019 till July 2021 but the details were not shared by them with the Complainant and a separate case is pending adjudication at Consumer Grievance Redressal Forum at Kasumpti for refund of same.
8. In the current case, the Forum below ordered on 29/07/2022 to pay Rs 1,62,33,204/- in full as raised by the Respondents vide notice dated 14/10/2021 ignoring the revised calculations for Rs 1,51,98,513.33 as submitted by the Respondents at the time of filing of reply. The Respondents accordingly raised the balance amount of Rs 1,08,22,136/- on



Kasumpti
31/12/2022



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08/08/2022 after adjusting the 1/3rd amount of Rs 54,11,068/- already paid by the Complainant.

9. Now let us examine the register swapping case. As is gathered from the data submitted by the Respondents for some of the Consumers the registers were not correctly migrated during data migration from HCL Billing module to ISU billing of SAP in December 2018 for total seven registers of the meter, the recording of uploaded data was being done in ending value of registers as 'N' 'O' 'O' 'P' 'P' 'P' 'N' instead of 'O' 'N' 'N' 'P' 'P' 'P' 'O' for correct billing. 'N'- Normal, 'O' Off-Peak and 'P' stands for Peak.
10. Due to this register swapping between Normal and Off-Peak hours, the energy consumed in actual were being recording in other registers and the tariff was being applied wrongly. On detection of wrong data entry in respect of meters in few cases in March/ April 2021, the IT team prepared report and accordingly, the Respondent No. 3 issued the demand notice for short recovery of the tariff for the period December 2018 till July 2021. The mistake was first detected in March/ April 2021 and came in the report of the IT team somewhere in May/ June 2021 after reconciliation and authentication at their end at Data Center at Shimla.
11. The Respondents issued demand note on 14/10/2021 to the Complainant after verification of same from their data and the Complainant was one of the Consumers in whose case the register swapping was detected. The case is under litigation since then at Consumer Grievance Redressal Forum at Kasumpti and then now at this Appellate Forum and hence limitation does not apply in this case. The Respondents have also submitted the detailed calculations, copies of the energy bills and MRI data in support of their claim at the Forum below during reply itself.
12. This type of mistake is covered under Bonafide mistake and the Respondent Board is entitled to recover the amount short assessed due to same. There are various judgements on the recovery of short assessed amount in case of bonafide mistake and there is no need to go in to details for same. In nutshell, the Distribution Licensee can recovery such amount due to bonafide mistake and the same shall become due the day the mistake is noticed for the first time.
13. Now let us examine the orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 29/07/2022. The Forum below ordered that the demand raised by the Respondents on dated 14/10/2021 for Rs 1,62,33,204/- is legal one due to bonafide mistake which occurred during migration of data in December 2018.
14. However, the Forum below just ignored the revised calculations done by the Respondent No. 2 for Rs 1,51,98,513.33 and didn't touched this issue which is quite surprising since the



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31/12/2022



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Respondent Board had revised the calculations based on the exact data which was also appended in their reply alongwith MRI data. The Forum below can't decide the issues based on their whims and fancies and just ignore the facts placed before them.

G – Issues at hand:

1. **Issue No. 1:** Whether the Forum below have rightfully justified the demand raised by the Respondent Board for bonafide mistake of register swapping?
2. **Issue No. 2:** Whether the orders passed by the Forum below on dated 14/07/2022 in Complaint No. 1515/4/21/028, dated 15/11/2021 is in line with the provisions of the Relevant Regulations and documents/ facts on record.

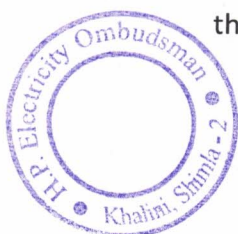
H – Findings on the Issues:

Issue No. 1

1. As is evident from the analysis done above and the facts and documents on record, the Forum below have rightfully justified the technicalities of the demand raised by the Respondents in claiming the short recovery for the period January 2019 till July 2021.
2. The Respondents are entitled to claim the short recovery on account of bonafide mistake which occurred in December 2018 during migration of data from HCL Billing system to ISU billing system.
3. The mistake occurred due to swapping of Normal and Off-Peak registers of the meter during migration of the data in December 2018 which led to wrong application of tariff and accordingly short assessment of the energy charges.

Issue No.2:

1. As is evident from the analysis done above and facts and documents on record, the Forum below has not considered the revised calculations submitted by the Respondents in their reply supported with data and MRI record for the reasons best known to them.
2. The Forum below have not touched the issue of the revised calculations available on record amounting to Rs 1,51,98,513.33 and have directed that the demand raised by the Respondents vide notice dated 14/10/2021 for Rs 1,62,33,204/- is legal one and directed the Complainant to pay the same.



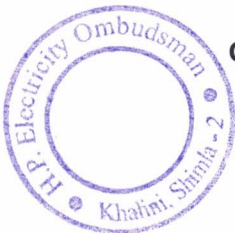
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I – Order:

1. The orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 29/07/2022 in Complaint No. 1515/4/21/028, dated 15/11/2021 is hereby quashed and set aside since the same are not based on the facts and documents on record.
2. The demand raised by the Respondents on dated 14/10/2021 for Rs 1,62,33,204/- and subsequent demand dated 08/08/2022 for Rs 1,08,22,136/- are hereby quashed and set aside.
3. The Respondents are entitled to recover revised amount of Rs 1,51,98,513.33 only from the Complainant being short assessment of recovery due to register swapping which occurred in December 2018 during migration of data from HCL Billing system to ISU Billing system under bonafide mistake for the period of recovery between January 2019 till July 2021.
4. The Respondents are directed to recover the short-assessed amount within a period of 30 days from the date of issue of this order. However, in case the Complainant seeks the amount to be paid in installments, the same may be allowed in line with the current instructions of the Distribution Licensee. Further, the interest, if applicable, shall be in line with the current provisions of the Tariff issued by the Hon'ble Commission.
5. The Respondent Board is further directed to report compliance of the directions as stated above within a period of 30 days from the date of issue of this order or latest by 31/01/2023 positively failing which the matter shall be reported to the Hon'ble Commission for violation of directions under Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
6. The Complaint filed by M/S H M Steel Ltd, Village Kheri, Trilokpur Road, Kala amb, Tehsil Nahan, District Sirmour, HP-173030 is hereby disposed off.
7. No cost to litigation.



Given under my hand and seal of this office.

Leup to
31/12/2022
Electricity Ombudsman