



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

In the matter of:

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

Vs

M/S Saboo Tor Pvt Ltd, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmour, HP-173030
- Respondents

RA No. 10/2023 in OA No. 19/2022 (Registered on 19/04/2023)
(Orders reserved on 03/06/2023, Orders issued on 08/06/2023)

Counsel for:

The Review Petitioner: Sh. Anil K God Advocate
The Respondents: Sh. Rakesh Bansal Authorized Representative

CORAM

Er. K. L. Gupta
HP Electricity Ombudsman

Order

The review application was filed by the Review Petitioner received and registered on 19/04/2023. The case was listed for 20/05/2023. The Respondents were to file their reply by 10/05/2023 and the Review Petitioner was to file rejoinder by 17/05/2023. The Respondents filed their reply on 06/05/2023. The case was listed for arguments on 27/05/2023. Since the counsel for Review Petitioner again sought time to argue the case, the case was listed for arguments on 03/06/2023.

The arguments were concluded on 03/06/2023 and the orders were reserved. The decision in this case is within specified period of 60 days and there is no delay.



Handwritten signature and date: 08/06/2023



A - The submissions made by the Review Petitioner:

1. The Review Petitioner submits that Respondent herein had filed a Complaint No. 1515/2/22/14 before the Id.CGRF, Shimla-9 under regulation – 16,17 & 18 of HPERC (CGRF & Ombudsman) Regulations 2013 praying therein for the following reliefs:
 - a) “To direct the Respondents to refund the amount of Rs.60,65,408.92, already charged and by the Respondents upto April, 2022 and by additional sum, if any, that may charge in future bills till the disposal of the grievance by the Hon’ble Forum.
 - b) To order payment of simple interest @ 15% per annum as per Regulation 26 (6) of the HPERC (CGRF and Ombudsman) Regulations 2013 or as per Clause -5.7.3. of the supply Code,2009 on the amounts recovered in excess etc. etc.”
2. The Review Petitioner further submits that it was averred by the Complainant – M/S Saboo Tor Pvt.Ltd that he is a Consumer of the HPSEB Ltd. Present Review Petitioners against Consumer ID No.100012002326 categorized under “ Large Industry Power Supply: (or LIPS) availing electricity supply sanctioned at voltage 33kV, Connected Load sanctioned as 9740.76 kW with Contract Demand sanctioned as 10422.48 kVA by the HPSEBL, with regard to their sanctioned Contract Demand, the standard supply voltage has been specified as 66 kV in the HP Electricity Supply Code, 2009 and amendments thereto made by the HPERC.
3. The Review Petitioner further submit that it was alleged by the firm that the present Review Petitioners- HPSEB, Ltd. have wrongly charged “Lower Voltage Supply Surcharge” (LVSS) in excess of the Rules from them and till the month of April, 2022 charges a sum of Rs.60,65,408.92. Further, it was alleged by them, while quoting para-2.1.6 (A) and 2.1.6 (B) of the HP Electricity Supply Code,2009 that the Connected Load released to the firm is 10433.48 kW, which is well within specified limit of 12 MW and that the demand released is 9999 kVA (9.999 MVA) as per SJONo.1194 dated 18/08/2020 which is well within specified limit of 10000 kVA (10 MVA) and prayed for refund of the amount aforesaid with interest.
4. The Review Petitioner submits that they also filed reply to the complaint before the Id. CGRF stating therein that the Respondents here is deliberately misconstruing and misinterpreting the provisions of Supply Code, 2009 and as per the provisions of Supply code they can use Contract Demand up to 10 MVA (i.e. maximum connected load of 12 MW) on 33 kV while in the present case their Contract Demand is 10433.48 kVA and accordingly LVSS is payable at the rates specified in the relevant Tariff Orders against Standard Supply Voltage of 66 kV whereas supply is being availed at 33 kV.



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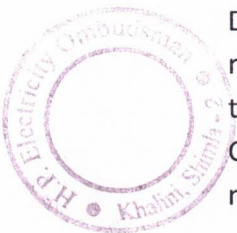


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5. Further, that the complaint aforesaid was decided by the Id. CGRF vide its order dated 26/08/2022 against them and in favor of the present Review Petitioners-HPSEB Ltd., the operative portion whereof reads as under:-

"Having gone through the case and having heard the matter by way of a wrong one nor is such levy discriminatory and thereof, the arguments extended by the parties, this Forum holds that action of the Respondent to levy lower Voltage Supply Surcharge (LVSS) to the complaint, being a statutory additional charge, cannot be an illegal one or Complainant is bound to pay the same. This Forum sees no reason to interfere with the levy and Billing of LVSS as has been done by the Respondent-HPSEBL. This form does not find merit in the complaint and arguments given by the Complainant. The issue is accordingly decided against the Complainant and in favor of the Respondent HPSEB on foregoing terms".

6. The Review Petitioner submit that aggrieved with the order dated 26/08/2022 passed by the Id. CGRF in Complaint No.1515/2/22/14, the Complainant-Firm filed a representation before this Electricity Ombudsman, which came to be registered as Complaint No.19/2022.
7. The Review Petitioner submit that the complainant firm stated that in para-9 of the impugned orders passed by CGRF, the CGRF has wrongly rejected his contention that the released demand was only 9999 kVA. The CGRF has failed to distinguish between the sanctioned Contract Demand and released Contract Demand. Further it is accepted practice to get the sanctioned Contract Demand or even the Connected Load to be released in parts or in a phased manner. However, there are time limits and extents specified in clause -3.9 of the Supply Code-2009, which specifies in terms of minimum percentage of sanctioned Contract Demand that has to be billed after the expiry of the certain time slabs. But it is clear proof in terms of Clause 3.9 of the Supply Code 2009 that even the Supply Code acknowledges that the entire sanctioned Contract Demand can be availed in a phased manner. It was further averred that the Complainant firm initially applied for release of 9999 kVA out of the total sanctioned Contract Demand of 10433.48 kVA and through the getting the balance demand released at a later stage. The Complainant firm further asserted that it is at liberty to either avail the balance Contract Demand within the time frame allowed vide 3.9 of Supply Code. Further, that the Id. CGRF has misinterpreted the question of authority and have wrongly stated that if a higher authority has sanctioned 10,433.48 kVA, there is no question of releasing the Contract Demand vide an SJO. Further, that in each and every case, an SJO is the procedural requirement under the Sales Manual for release of any load., whatsoever. Further, that there is no question of overriding effect of an SJO in the present case when the Supply Code 2009 itself allows the availing of Contract Demand/ load in phases. It does not matter whether such a document is called a Sundry job order or by any other name. The



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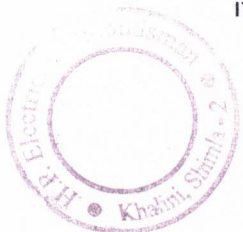


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CGRF has failed to recognize that, it is a public utility and it is not a crime to take support of an internal communication, whether it is SJO or any other document. In any case such documents can be obtained by the Consumer on record by invoking provisions of RTI Act. Further, it was also alleged that the CGRF has declined to take cognizance of the Sundry Job Order (SJO) which is a clear case of bias towards the utility and that the CGRF has not dealt with the case impartially. Further, that had the Respondents (Review Petitioner) not accepted the request for the release of part of the sanctioned Contract Demand, he would have taken an alternative recourse. The SJO is enough proof of acceptance of the request. Further, that it was also contended by the Complainant firm that the Respondents-HPSEB Ltd. initially even issued some electricity bills in which the Contract Demand was shown to be as 9999 kVA which also proves the acceptance on the part of the Respondents (Review Petitioner) for release of partial additional Contract Demand. Besides above, it was also contended by the Complainant firm that the Respondents (Review Petitioner) have not issued any Sundry Job Demand of 434.38 kVA (10,433.38-9999), which is a clear lapse on the part of the Respondents (Review Petitioner) and that they simply started issuing bills on the basis of 10,433.38 kVA w.e.f. March, 2021 which has no procedural support of being released to him. The complainant firm further submitted that the Id. CGRF after denying to take cognizance has further tried to explain the logic and reasoning for the levy of LVSS, which is clear to him and the relevant provisions were attached by him with the complaint etc. etc. On the aforesaid amongst other grounds the Complainant firm prayed for allowing the representation.

8. The Review Petitioner further submit that the representation aforesaid was contested by them by raising preliminary objections as to maintainability of the representation, estoppel to file the representation on account of act and conduct, cause of action, locus-stand etc. etc. On merits, it was stated that the order dated 26/08/2022 passed by the Id. CGRF in Complaint No.1515/2/22/14 is just and proper, reasoned one and consequently warrants no interference. It was also contended that the Complainant firm as well as the Respondents (Review Petitioner) are liable to adhere to the Regulations/ Code framed by the Id. HPERC and as such the provision of the HP Electricity Supply Code, 2009 Clause-2.1.6 specify the standard supply voltage and as per the sanctioned Contract Demand, the Standard Supply Voltage is 66 kV but the complainant firm is availing the supply at 33 kV, as such the Complainant firm is liable to pay the Low Voltage Supply Surcharge as determined by the Id. HPERC in the relevant tariff order. Thus, the respondents-HPSEB Ltd. Prayed for dismissal of the representation/ complaint.
9. Further. that the representation aforesaid came to be decided by this Ombudsman vide its order dated 15/02/2023 by passing the following directions.



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- a) The orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 26/08/2022 in Complaint No. 1515/2/22/14 dated 04/05/2022 is hereby quashed and set aside.
 - b) The energy bills issued by the Respondents w.e.f.15/03/2021 onwards on full sanctioned contract Demand of 10,433.48 KVA are also hereby quashed and set aside.
 - c) The Respondents are directed to over haul the account of the Complainant w.e.f. March,2022 onwards considering his contract demand as 9999KVA in line with provisions of Clause 3.9 of Himachal Pradesh State Supply Code (Fourth amendment) Regulations, 2020. No LVSS shall be applicable till 08/22 or such shorter period. If any, if the extended load has been released above 10000 KVA before that.
 - d) Further the respondents are directed to ensure that LVSS shall also not be applicable in case the Complainant have reduced his contract demand below 10 MVA prior to or after 08/22.
 - e) The Respondents are further directed to refund the excess amount so charged from the Complainant within a period of 30 days from the date of issue of this order or latest by 16/03/2021 positively through adjustment in the nest energy bill in one installment failing which the interest @ 15% shall be applicable in line with provisions of Clause-5.7.3 of Himachal Pradesh Electricity Supply Code-2009.
 - f) The Respondents are further directed to report compliance of above directions within a period of 30 days of issuance of the orders or but not later than 16/03/2023 positively failing which the matter shall be reported to the Hon'ble Commission for violations of the directions under Regulations under Regulations 37 (6) of the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations 2013 for appropriate action by the Commission under the provisions of the Act.
 - g) The complaint filed by M/S Saboo Tor Pvt. Ltd. Trilokpur Road, Kala Amb, Tehsil Nahan Distt. Sirmour, HP-173030 is hereby disposed off.
 - h) No cost to litigation.
10. The Review Petitioner submit that the review Petitioners herein are aggrieved with the impugned order dated 15/02/2023 passed by the Electricity Ombudsman and seeks the review of the impugned order dated 15/02/2023 on the following amongst other grounds



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- a) That the impugned order dated 15/02/2023 has been passed on conjecture and surmises and hence deserves to be reviewed.
- b) That the impugned order is against the provisions of the operative Regulations and hence deserves to be reviewed in the facts and circumstances of the case.
- c) That while passing the order dated 15/02/2023 in Complaint No. 19/2022, it appears that the provisions contained in Note (1) and (2) appended to para-3.9 of the HP Electricity Supply Code 2009 in 4th Amendment Regulations, which provides that the provisions of para-3.9 shall not be applicable in cases where the applicant submits or undertakes to submit the test reports for 80% (or more) for the total sanctioned connected load/ total sanctioned contract demand before the release of connection. In case the Consumer after taking the connection as per the provisions of para 3.9 submits the test reports for 80% (or more) of the total sanctioned connected load/ total sanctioned contract demand, at any stage before the expiry of the permitted periods as per the table in para- 3.9 the provisions of para -3.9 shall cease to be applicable from the date on which such test reports are verified and accepted by the licensee.
- d) Since the provisions of para-3.9 read with notes appended to it has not been interpreted and construed in its right perspective while passing the order dated 15/02/2023, therefore, an error apparent or a mistake has occurred on the face of record. Consequently, the impugned order dated 15/02/2023 deserves to be reviewed in the facts and circumstances of the case.
- e) That as has been specifically mentioned, the provision of Clause-3.9 is applicable only for levy of Demand Charges based on tariff order during the interim period and is not applicable for the purpose of tariff categorization as well as levy of order charges e.g. LVSS etc. which is also provided in the fifth provision to Clause 3.9 which states that "provide further that schedule of tariff application for total sanctioned Contract Demand shall be applicable for the interim period also.
- f) That the amount claimed by the Review Petitioners from the Complainant/ Respondent is perfectly legal, intra-vires, bona-fide one and is in accordance with the provisions of the operative Regulations and consequently the impugned order deserves to be reviewed and the representation preferred by the Complainant deserves to be dismissed in the facts and circumstances of the case. The corrigendum order dated 16/02/2023 has been issued without hearing the parties and consequently the order dated 15/02/2023 read with order dated 16/02/2023 deserves to be Reviewed.



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- g) That the impugned order is bad in law both on facts as well as in law and consequently deserves to be reviewed.
- h) That since there is an error apparent on the face of record, therefore, the impugned order dated 15/02/2023 deserves to be reviewed.
11. The Review Petitioner submit that there is sufficient ground for review of the impugned order dated 15/02/2023 read with corrigendum order dated 16/02/2023 hence the present Review Petition before this Electricity Ombudsman.
12. That there is delay in filing the present Review petition beyond the period of 30 days hence the Review Petitioners have also filed a separate application seeking therein condonation of delay in filing in petition in view of the facts and circumstances stated therein.
13. The Review Petitioner thus in view of submission made herein above and in the facts and circumstances of the case, prayed that this Review Petition may very kindly be allowed and impugned order dated 15/02/2023 read with corrigendum order dated 16/02/2023 passed in Complaint No. 19/2022 may kindly be reviewed and the representation being Complaint No. 19/2022 may very kindly be dismissed and the order dated 26/08/2022 passed by the Id. CGRF in Complaint No.1515/2/22/14 may kindly be restored and justice be done.

B – The submissions made by the Respondents:

1. The Respondents solemnly affirm that they have received the copy of review application filed by the Respondents (Review Petitioner in this case) and in the reply to the same I have to state as under:
2. The Respondents submits that they at the outset repeat, reiterate and confirm all the statements and averments made by him in the reply and deny all the statements and averments made in the said Review Petition unless and until the same are specifically admitted by him. The para-wise comments are given below:

PARA-WISE SUBMISSIONS AGAINST THE REPLY:

Preliminary Objections:

3. The Respondents submits that the application for review filed by the Review Petitioner is time barred as the regulation 37(8) provides for a period of 30 days from the date of order to the parties in a dispute for filing such review applications as has been filed by the Board.



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The application for condonation of delay, which has been allowed by the Hon'ble Ombudsman shows the speed and diligence by which the Board proceeds and which defeats the time lines fixed by the Himachal Pradesh Electricity Regulatory Commission for redressal of grievances of the Consumers. The application for condonation of delay should have been rejected on the grounds of limitation period of 30 days from the date of order which expired on 17/03/2023, while the Review Petitioner filed this review after almost two months after the date of the order. But, since the application of the Review Petitioner for the review has been allowed by the Hon'ble Ombudsman, the Respondents will proceed as per procedure to file a reply in the matter on merits.

4. The Respondents submits that they have already moved a review application before the Hon'ble Ombudsman which has been registered as RA No. 06 of 2023 in OA No. 19/ 2022. That the reply to the review application may also be read with the review application filed RA 6 filed by the Review Petitioner while disposing the present review.
5. The Respondents submits that the orders passed by the Hon'ble Ombudsman is a reasoned order containing proper analysis of the Complaint filed by them, However, even if there is an error in the judgment of this Appellate Forum, it is wrong to state that the impugned orders are based on conjectures and surmises.
6. The Respondents submits that the orders passed by the Hon'ble Ombudsman are just and reasonable. However, the period for which the relief is ordered which is related to the Clause 3.9, is also a matter of contention, which has been raised by them in RA (6) in OA 19/ 2022.
7. The Respondents further submits that the Notes (1) and (2) appended to the Clause 3.9 of the Supply Code, 2009 are relevant to Para 3.9 of the Supply Code, 2009 and were added to the provisions while the 4th amendment to the Supply Code, 2009 was notified on 3rd of July, 2020. Whereas this note shall have practically no affect since they have not sought relief under the Clause 3.9 of the Supply Code, in the representation filed before the Hon'ble Ombudsman. That the non-applicability of the Clause 3.9 of the Supply Code, shall have no effect on the outcome of the Complaint, by and large, as it only deals with the levy of demand charges. Clause 3.9 does not make it mandatory for the Review Petitioner to release the balance un released load by force. It only specifies a certain level of minimum demand charges in cases of partial release of load during the initial period of building up of load by a Consumer. The primary issue and the only issue in the representation filed before the Hon'ble Ombudsman and the Complaint filed before the CGRF is the levy of LVSS and the grievance is not in respect of demand charges. Rest of the reliefs prayed by them are consequential to the overcharging in the bills by way of LVSS, which was not to be applied to them on the basis of the unreleased load.



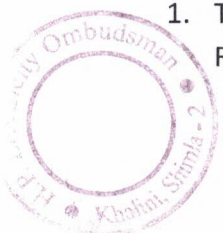
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8. The Respondents submits that they agree with the viewpoint of the Review Petitioner that the clause 3.9 of the Supply Code, 2009 has a limited scope relevant to demand charges only. They in their representation and also during the Complaint filed before CGRF has given an example of clause 3.9 of the Supply Code, 2009, just to state that the partial availing or release of load / Contract Demand is well acknowledged and is prevalent in law and the relevant existing rules and that it was not a mistake of the Review Petitioner to release partial Contract Demand of 9999 kVA instead of 10433 kVA on their request. It was perfectly normal that a lesser than the sanctioned Contract Demand was released by the concerned officer of the Review Petitioner. The question of levy of LVSS merely on the basis of hypothetically released demand of balance 434 kVA of Contract Demand without any release request or without any release order, is the cause of grievance. LVSS which was to be based on actually released load was wrongly applied by the Review Petitioner on the basis of sanctioned Contract Demand, a part of which stood unreleased.
9. Further, that they have valid contentions which are logical and are part of the representation filed before the Hon'ble Ombudsman vide Representation No. 19 of 2022. The said representation is a valid representation under the law and does not deserves dismissal as has been stated by the Review Petitioner. The Low Voltage Supply Surcharge (LVSS) is a function of supply voltage which is further based on the quantum of load of a Consumer, and the same cannot be applied until and unless the Consumer/ Respondents crosses the maximum load allowed on a certain voltage. The actual availed load can vary from the sanctioned load, because sanction is prior to the final installations and variations in actual load are bound to occur.
10. The Respondents thus prayed that the review be allowed only to a limited extent so as not to limit the period of relief already granted vide the final orders dated 15/02/2023, from levy of LVSS to be based on timelines of Clause 3.9. The relief period be rather based on actual load and may it be ordered by the Hon'ble Ombudsman that the LVSS shall not be leviable till the time they surpasses the Contract Demand of 10000 kVA, which is the upper limit of Contract Demand at 33 kV voltage. The Respondents further prays that the representation be allowed in totality thereby ordering the refund of amounts due to them along with interest and costs as per applicable Regulations and other reliefs prayed for.

C – The additional submissions by the Review Petitioner:

1. The Review Petitioner have not made any additional submissions to the reply filed by the Respondents.



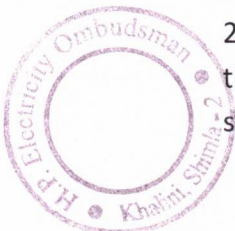
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D – Written arguments by the Respondents:

1. The Respondents submit that these arguments be treated as part and parcel and in continuation of the earlier submissions in the main case as well as the reviews. The arguments on their behalf who is a review petitioner in Case No. 06/ 2023 and is a Respondent in Case NO. 10/ 2023. The Respondents have already submitted reply in RA No. 10/ 2023. They submit their arguments as under:
2. The Respondents submits that they in RA No. 10 of 2023 has sought the dismissal of the representation merely on the grounds that Clause 3.9 of the Electricity Supply Code, 2009 is not applicable in their case. Further, that the non-applicability of the clause 3.9 does not call for dismissal of the representation as the representation is maintainable in its original text as they has sought relief on the account that the only 9999 kVA stood released to them even on this date and while LVSS being charged by the Review Petitioner should have only be charged in case the released Contract Demand exceeded 10000 kVA as per provisions of the Supply Code, 2009 as well as the year-wise tariff orders.
3. The Respondents submits that the mere perusal of Para 3.1 of the representation filed by them before the Hon'ble Ombudsman, where in they have partial release of load is permissible and clause 3.9 has been referred to as evidence in support of their contention.
4. Further, that they have never prayed for any relief in terms of clause 3.9, but has only prayed in para 4 b) of the main representation that
"b) To direct the Respondents to refund the amount of LVSS recovered by the Respondents which are contrary to the provisions of the regulations;

c) To order payment of simple interest....."
5. Tr submits that they have never prayed for relief in terms of demand charges that have been charged, whereas the clause 3.9 of the Supply Code, 2009 only deals with minimum level of demand charges that have to be charged from the Consumers in case of delay in availing the sanctioned load.
6. The Respondents further submits that the released Contract Demand which is 9999 kVA in their case out of the sanctioned Contract Demand of 10433.48 kVA is higher than 80% of the sanctioned Contract Demand. As under the provisions of Note 1) and Note 2), the course of action to be taken for delay in availing load as per clause 3.9 of the Supply Code, 2009 is not applicable in the present case. There is no binding on them to get released the balance load/ Contract Demand, which may lapse as per applicable rules at a later stage.



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7. Further, that the Para 3 of the Section L of the orders passed in Case No. 19 of 2022 in which the Hon'ble Ombudsman has issued directions to overhaul the Consumer account as per provisions of clause 3.9 of the Supply Code, 2009 do requires a review as in the present case more than 80% of the Contract Demand / connected load stands released to them;
8. The Respondents submits that the Para 4 of the section L of the orders passed in Case No. 19 of 2022 also deserves to be reviewed in respect of the cut-off date of 08/2022 up to which the LVSS has been ordered not to be charged;
9. Further, that the Para 3 and 4 deserve to be amended / reviewed as their representation was never to seek relief in demand charges. **The main argument and the only argument in the case being that the LVSS is not chargeable until and unless they avails the Contract Demand beyond the level of 10000 kVA as per provisions of clause 2.1.6.1(A) of the Supply Code, 2009.**
10. The Respondents submits that the limit upto which the LVSS has been ordered not to be charged upto 8/2022 has also been derived from Clause 3.9 of the Supply Code, 2009, whereas unlimited period should be allowed until and unless more than the limit of 10000 kVA is availed by them. The review in terms of the review application 06/2023 is particularly on the period of relief ordered under the direction No. 4 of section L of the orders passed in Case No. 19 of 2022.
11. Further, that the Hon'ble Ombudsman in the Section K of the final orders in Case NO. 19 of 2022 has correctly analyzed in the "**Issue No. 1**" that there is no evidence on record that they had applied for extension beyond 9999 kVA after the issue of SJO dated 18/08/2020 for 9999 kVA. Also, in '**Issue No. 2**' the Hon'ble Ombudsman has concluded that the Review Petitioner has issued wrong bills for 10433 kVA without the release of the Contract Demand beyond 9999 kVA. It is only that the analysis in Issue No. 3 are more or less correct to the fact that the provisions of clause 3.9 in respect of partial release of load had been ignored by the CGRF. There was no fault of anyone in releasing the partial load. It is not necessary that the full sanctioned load has to be released in one go.
12. The Respondents thus prayed that the Hon'ble Ombudsman must rely on the released load/ Contract Demand which is 9999 kVA and which is less than 10000 kVA and grant relief as prayed by them, which is well within the rules and regulations.
13. Further, that the review applications No. 06/ 2023 and 10 of 2023 be disposed in line of the submissions elaborated above, with no further submissions from them in either of the two reviews and that the relief prayed for in the main representation in 19 of 2022 be allowed.



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E – HP Electricity Ombudsman orders in Case 19/2022:

1. The orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 26/08/2022 in Complaint No. 1515/2/22/14, dated 04/05/2022 is hereby quashed and set aside.
2. The energy bills issued by the Respondents w.e. from 15/03/2021 onwards on full sanctioned Contract Demand of 10433.480 kVA are also hereby quashed and set aside.
3. The Respondents are directed to overhaul the account of the Complainant w.e. from March 2021 onwards considering his Contract Demand as 9999 kVA in line with provisions of Clause 3.9 of Himachal Pradesh Electricity Supply Code (Fourth amendment) Regulations, 2020. No LVSS shall be applicable till 08/2022 or such shorter period, if any, if the extended load has been released above 10000 kVA before that.
4. Further, the Respondents are directed to ensure that LVSS shall also not be applicable in case the Complainant have reduced his Contract Demand below 10 MVA prior to or after 08/2022.
5. The Respondents are further directed to refund the excess amount so charged from the Complainant within a period of 30 days from the date of issue of this order or latest by 16/03/2021 positively through adjustment in the next energy bill in one installment failing which the interest @ 15% shall be applicable in line with provisions of Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009.
6. The Respondents are further directed to report Compliance of above directions within a period of 30 days of issuance of the orders or but not later than 16/03/2023 positively failing which the matter shall be reported to the Hon'ble Commission for violations of the 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 Act.
7. The Complaint filed by M/S Saboo Tor Pvt Ltd, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmour, HP-173030 is hereby disposed off.



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F – Analysis of the Review in Case 19/2022:

1. The case file in Complaint No. 19/2022 have also been gone through.
2. The documents on record and submissions made by the parties and arguments made have also been gone through.
3. The submissions made by both the parties have also been reproduced above to have the bird eye view of the case.
4. The Distribution Licensee have filed the review in Case No. 19/2022 decided on 15/02/2023. The contention of the Review Petitioner is that as per Clause 3.9 read with Note-1 & 2 of fifth proviso, the Contract Demand in this case have already crossed more than 80% of the sanctioned Contract Demand, the provisions of Clause 3.9 for the purpose of gradually build up of load is not applicable and hence, the orders passed in Complaint No. 19/2022 on dated 15/02/2023 (Date amended vide amendment dated 16/02/2023) required to be reviewed. The said provisions are:

Note:-(1) *The provisions of this para shall not be applicable in cases where the applicant submits or undertakes to submit the test report(s) for 80% (or more) for the total sanctioned connected load/total sanctioned contract demand before the release of connection.*

(2) *In case the Consumer after taking the connection as per the provision of this para 3.9, submits the test report(s) for 80% (or more) of the total sanctioned connected load /total sanctioned contract demand, at any stage before the expiry of the permitted period(s) as per the table above, the provision of this para shall cease to be applicable from the date on which such test report(s) are verified and accepted by the licensee."*

5. As already concluded in the analysis part of the orders dated 15/02/2023, the case pertains to wrong levy of LVSS considering the Contract Demand touching 10 MVA and not the levy of demand charges. There is no dispute that the Contract Demand released was only 9999 kVA instead of 10433.480 kVA and the Respondents have not crossed the limits specified for 33 kV supply voltage.
6. The Contract Demand limit for 33 kV are 12 MW Connected Load and 10 MVA Contract Demand. The Respondent's load is still running on 33 kV and the released load is within the limits of Clause 2.1.6.1 of Himachal Pradesh Electricity Supply Code 2009 applicable for 33 kV as concluded in the Orders dated 15/02/2023.
7. The case in Complaint No. 19/2022 is distinct and was regarding wrong levy of LVSS for assumed released load of 10433.480 kVA whereas as concluded in Complaint No.



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08/06/2023



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19/2022, the released load was only 9999 kVA and have not crossed the 10000 kVA mark, and hence LVSS was not applicable.

8. Clearly, since the Connected Load and Contract Demand are within limits for 33 kV supply voltage, the LVSS is not applicable as already concluded vide orders dated 15/02/2023 till the period specified in the orders.
9. The evidence now placed by the Review Petitioner that this Appellate Forum have ignored the provisions of Note-1 & 2 of fifth proviso of Clause 3.9 of Himachal Pradesh Electricity Supply Code 2009 is not applicable since the case does not pertain to the demand charges after crossing 80% limit of Contract Demand but the case pertains to LVSS due to limits under 33 kV and the limits of the Respondents are within the limits of Clause 2.1.6.1 of Himachal Pradesh Electricity Supply Code 2009 i.e. 12 MW Connected Load and 10 MVA Contract Demand and hence LVSS is not applicable.
10. The final orders issued on 15/02/2023 in Case No. 19/2022 does not call for review in view of the position explained above.

G – Issues at hand:

1. There is only one issue whether the review sought by the Review Petitioner is admissible or not in view of quoted provisions of Note-1 & 2 of fifth proviso of Clause 3.9 of Himachal Pradesh Electricity Supply Code 2009 or not?

H – Findings on the issues:

Issue No. 1

1. As is evident from the analysis done above, since the Respondents have not crossed the 10 MVA mark for Contract Demand at 33 kV, the LVSS is not applicable to them since they are availing supply at 33 kV.
2. Further, the provisions of Note-1 & 2 of fifth proviso of Clause 3.9 of Himachal Pradesh Electricity Supply Code 2009 are not attracted here since the case pertains to wrong levy of LVSS on released load of 9999 kVA at 33 kV and not the levy of full demand charges on assumed release of 10433.480 kVA Contract Demand.
3. New evidence placed by the Review Petitioner is not relevant and applicable to the case since the case was wrong levy of LVSS and not wrong levy of demand charges.



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4. Due to limited scope of review, since the new evidence placed by the Review Petitioner is not relevant and applicable to this case, the orders passed on 15/02/2023 (Amended for date of Compliance vide amendment dated 16/02/2023) does not call for review.

I – Order

1. The review filed by the Review Petitioner i.e. HPSEB Ltd through Executive Director (Personnel) & others is hereby rejected being devoid of merit.
2. The review filed by HPSEB Ltd through Executive Director (Personnel) & others is hereby disposed off.
3. No cost to litigation



Given under my hand and seal of this office.

Leuph
08/06/2023
Electricity Ombudsman