



In the matter of:

Complaint No. 02/2025

M/s Regency Carbids Pvt. Ltd. 19, Gondpur, Industrial Area, Paonta Sahib,
Distt. Sirmour-173025 (HP).

-Complainant

Vs

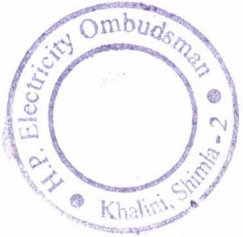
1. The Executive Director (Pers.), HPSEBL, Vidyut Bhawan, Shimla-171004.
2. The Assistant Engineer, Electrical Sub-Division, Paonta Sahib, District Sirmour-173025 (H.P.)

-Respondents

Complaint No. 02/2025 (Registered on 06/01/2025)
(Orders reserved on 18.03.2025, Issued on 21/03/2025)

Counsel for:

The Complainant: -Miss Narvada Kashyap, Advocate
The Respondents: -Sh. Kamlesh Saklani, Under Sectt. Law
-Sh. Rajesh Kashyap, Advocate
- Er. Ankur, Assistant Engineer, ESD-Ponta



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Er. Deepak Uppal
HP Electricity Ombudsman



Order

1. The case was registered and received on 06/01/2025, filed under Regulation 28(1)(b), of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the final Order dated 18/12/2024 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 1521/202409/28.
2. The complainant had filed an Application under Section 151 of CPC,1908 regarding restraining the Respondent from disconnecting the electricity supply to the premises of the Complainant during the pendency of the complaint.
3. The Complainant had submitted the proof of having deposited towards 50% of the disputed amount with the Respondents in the form of receipt dt. 08.01.2025 in compliance to order dt. 06/01/2025 of this authority. As per record the Complainant had supplied the copies of representation to all respective respondents. The matter was listed for admission hearing on 22/01/2025.
4. Case called; the matter was heard for admissions on 22/01/2025. After giving due opportunity and listening to both the parties , the matter was admitted to the extent of only initiation of proceedings and in terms of powers conferred under the provisions of Regulation 36 read with Regulation 33 (2) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the prayers granted and the Respondents were directed not to take any coercive action such as disconnection of electricity connection of the Complainant's premises during pendency of the Complaint .
5. Again, the matter was heard on 25.02.2025. The Respondent Board submitted reply on 11/02/2025 in compliance to this court order dt. 22/01/2025 and also supplied copies of the reply to Complainant and all concerned. The counsel for Complainant sought some more time for final arguments. The prayer



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granted. After having partial discussion on the issues, the matter was adjourned to 18/03/2025 for final arguments.

6. Case called, the matter was heard on 18/03/2025. The Complainant did not submit the Rejoinder and preferred oral arguments. The counsel for Respondents and concerned Assistant Engineer appeared along with the record and submitted certain relevant documents in the court room which were taken on record.
7. The deliberations made both by the Ld. Counsel for respondents and Assistant Engineer were appreciable. Both Ld. Counsel for Respondent Board and Ld. counsel for Complainant advanced their arguments to the brim. After hearing both the parties at length, the arguments were concluded and order reserved.

A-Brief Facts of the Case:

1. M/s Regency Carbids Pvt. Ltd. 19, Gondpur, Industrial Area, Paonta Sahib, Distt. Sirmour bearing Consumer ID 100012001457 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL with supply voltage at 11Kv.
2. The Respondent raised Demand Notice dated 03.07.2024 for an arrear amount of Rs 38,78,861/- on account of Lower Voltage Supply Charge (LVSS) for the period from 19.11.2018 to 09.02.2024, which had previously not been charged in the bills of respective months.
3. This demand was raised in accordance with the provisions of Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11.06.2014 and at the behest of Audit Observation. Later, on non-payment by the Complainant, this amount was raised by the Respondent as sundry amounting to Rs 38,09,294.51 in the electricity bill dated 06.09.2024.



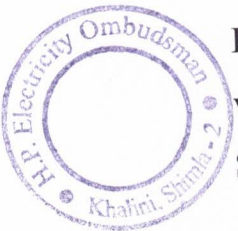
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4. The detailed facts of the case stand placed under the heading “**The Complainant’s Submission**”, hence for the sake of brevity, the same are not reiterated again.

B-The Complainant’s Submission:

1. The Complainant submits that the complainant is a Private Limited company duly registered with the Registrar of companies having its industrial Unit at 19, Gondpur, Industrial Area, Paonta Sahib, Distt Sirmour H.P. 173025 at Himachal Pradesh. Sh. Rahul Arora duly authorised signatory of the company, who is well conversant with the fact and circumstances of the case has been authorised by the company to sign, file the complaint before this Hon’ble Court and is the competent file the complaint before this Hon’ble Court and is competent to file and maintain the present complaint.
2. The Complainant submits that it is Large Industries Power Supply (LIPS) category consumer of the Respondent bearing Account No. 100012001457 and that the Respondent raised Demand Notice dated 03.07.2024 for arrear of amount 38,78,861 on account of lower Voltage Supply surcharge (LVSS) pertaining to the period from 19.11.2018 to 09.02.2024, which had previously not been levied in the bills of respective months.
3. The Complainant submits that the demand as raised by the respondents is not in accordance with the provisions of Himachal Pradesh Electricity Supply code. It is submitted that the illegal demand raised by the respondent board, complainant preferred **Complaint No 1521/202409/28** for redressal of the grievance before the Hon'ble Addl. CGRF (OP), HPSEB, Kusumti, Shimla-9. That vide order dated 18.12.2024, complaint was dismissed by the Hon'ble Addl. CGRF (OP), HPSEB, Kusumti, Shimla-9. The copy of complaint, Copy of Recovery Notice, copy of



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objection/ reference No. OBC-1242080, copy of impugned Bill, copy of order copy of the receipt is enclosed as **Annexure C-1, C-2, C-3, C-4, C-5** respectively.

4. The Complainant submits that the brief facts of the case are that the complainants have taken electricity connection from the respondent Board having consumer ID 100012001457. The Respondents have been issued bills from time to time and all the payments have been made timely without any delay and all the payments due up have been cleared as and when demanded.
5. The Complainant submits that an issue arises after issuing the Notice NO.PES/NOTICE/2024-25-448-49 Dated-03-07-24 REGARDING NON-LEVY OF LOWER VOLTAGE SUPPLY SURCHARGE FOR THE PERIOD 19.11.2018 TO 09.02.2024 pertaining to the consumer Id no. 100012001457 for recovery of Rs 38,78,861/- as sundry charges. It is important to mention here that the said amount as reflected in the bill pertaining to the period of 19.11.2018 TO 09.02.2024 as mention in the said Notice. It is submitted that till date no notice has been served upon the complainant neither this amount of sundry charges was never shown in any of the previous monthly bills as arrear of charges to be recovered from the company and the complainant could not be saddled with any liability for the period for which the final bills were already raised and realized making the transaction concluded in any manner regarding the LVSS charges and this is the First time when these LVSS charges has been raised by the respondents. It is submitted that no prior notice has been issued by the Respondent for the LVSS charges as mentioned in the energy bills. That the copy of the Notice dated 03.07.2024 has been placed on record as **Annexure C-2** for the kind perusal of this Hon'ble court.



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That the complainant immediately after receiving of the said notice filed Objection/Reference No OBC-1242080 before the Respondents. The complainant brought this fact and circumstances before the officials of HPSEBL that this amount of LVSS charges is not payable as same is illegal and time barred which has been issued after lapse of more than Six years and in violation of Section 56 of Electricity Act, 2013. It is submitted that no LVSS arrears are pending, as all the payments have been made timely without any delay and all the payments due up have been cleared as and when demanded. Copy of the Objection/Reference No OBC-1242080 placed on record as **annexure C-3** for the kind perusal of this Hon'ble court.

6. The Complainant submits that the entire load is being supplied at 11 KV for a very long time and the Respondents started charging LVSS @ 3% in contraventions of the Act and regulations and sales manual. It is further submitted that since his standard supply voltage is now at 11 KV and he is being charged for HT based tariff on actual supply voltage instead of tariff applicable for standard supply voltage of KV which falls in HT Category. The HPSEBL has allowed to use the load at 11 kV but LVSS is being charged arbitrarily and unreasonably. The LVSS shall be charged at 50% of the rates determined as per the above provisions if any one or all of the following conditions are met: i. if supply is given through a dedicated feeder or a joint dedicated feeder and metering for billing purpose is done at the licensee's Sub-station which has not been done in the present case when the dedicated line is of the complainant.

It is further submitted that before the **Hon'ble HP High Court**, as per the knowledge of the complainant **M/s Vardhaman Ispat Udyog** have questioned the constitutional validity of Para 2.1.6.1 (A) and Para 2.6.1.1 (B) and prayed that the same may be declared ultravires and also delete the



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column restricting the Connected Load in kW which has no relevance. Further, M/s Vardhaman Ispat Udyoghas prayed that HPSEBL may be directed to fix the load limits at 33 kV voltage level after technically evaluating the capacity of the line and release 15050 kVA on 33 kV existing line supplying to him. The complaint submits that the matter which is pending before the Hon'ble HP High Court is somewhat similar to the present case.

7. The Complainant submits that the LVSS has been raised for the first time without any prior notice, without any pending LVSS arrears, is time barred being in violation of Section 56 of the Electricity Act, 2003 and is not in accordance with the Tariff Orders passed by the Id. HPERC as well as the provisions of supply Code notified by the HPERC and documents supplied with the Notice are illegal and baseless. It is further submitted that it is the negligence of the Respondent to not notice this defect earlier and the demand as raised by the respondents is arbitrary and unreasonable.
8. The Complainant submits that the demand so created is baseless and is not inconsonance with the tariff order as well as provisions of the Supply Code duly as notified by the HPERC. The documents supplied with the Notice are totally illegal and baseless and therefore the alleged monetary demand raised by the Respondent is absolutely wrong, illegal, arbitrary and not payable by the Complainant. The Complainant further submits that the Respondents have been issuing regular energy bills and it is sheer negligence on part of Respondent who did not notice this defect while issuing bills from October 2014 and therefore the Complainant is not bound to pay the wrong, illegal and arbitrary demand (Annexure-C-1) as the Respondents have committed wrong and illegality intentionally and deliberately.



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9. The Complainant submits that the action of the HPSEB Ltd Board is issuing the bill including sundry charges shown in the bill dated 06.09.2024 amounting Rs 3809294/- as sundry charges is wrong, illegal and arbitrarily time barred and against the procedure laid down in the law is liable to be set aside. It is submitted that the non- professional attitude is causing mental stress, harassment, pressure and financial hardship to the complainant. The copy of the Energy bill dated 06.09.2024 placed on record as **Annexure C-4** for the kind perusal of this Hon'ble court.
10. The Complainant submits that the amount of Rs. 3809294.51/- is not payable by the Complainant and the action of the respondents demanding the said amount is liable to be set aside. The complainant even otherwise not liable to pay such a heavy amount thus for no fault of the complainant the respondents cannot disconnect the electricity supply to the premises of the complainant.
11. The Complainant submits that the Hon'ble CGRF (OP), HPSEB, Kusumpti, Shimla-9 passed an order in a very harsh manner in **Complaint No 1521/202409/28** dated 18.12.2024 is unjust, arbitrary and against the procedures established by the law. The copy of order is annexed as **Annexure-C-5** for kind perusal of this Hon'ble Court.
12. The Complainant sought following relief:
- that the bill as issued and demand raised by the respondent Board is illegal arbitrary and may kindly be declared wrong, illegal and the demand may kindly be set-aside.
 - that the respondents may kindly be directed not to disconnect the electricity supply to the premises of the complainant.
 - that the order passed by the Hon'ble CGRF (OP), HPSEB, Kusumpti, Shimla-9 in **Complaint No 1521/202409/28** dated 18.12.2024 is unjust, arbitrary and against the procedures established by the law may kindly be



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set aside the same. The copy of impugned order is annexed as **Annexure-C-6** for kind perusal of this Hon'ble Court.

Any other appropriate orders or directions may kindly be passed in favour of the complainant and against the respondents.

12. Declaration:

- (a) I/ We, the Complainant's herein declare that: (i) The information furnished herein above is true and correct; and (ii) I/ We have not concealed or misrepresented any fact stated hereinabove and the documents submitted herewith.
- (b) The subject matter of the present representation has never been brought before the Office of the Hon'ble Ombudsman by me/ one of us or by or by any of the parties concerned with the subject matter to the best of my/our knowledge.
- (c) The subject matter of my/our representation has not been settled through the Office of the Hon'ble Ombudsman in any previous proceedings.
- (d) The subject matter of the present representation has not been decided by any competent Authority/court/arbitrator and is not pending before any such authority/ court/arbitrator.

APPLICATION UNDER SECTION 151 OF CPC, 1908

Respectfully Sheweth:

1. The Complainant submits that the Applicants/ Complainant have filed the above-mentioned complaint against the Non- Applicants/ Respondents. The complaint filed by the applicants is pending adjudication before this Hon'ble Court and the contents of the same may kindly be perused for the disposal of the present application as the same have not been reproduced for the sake of brevity. There is every likelihood that the complaint filed by the present applicants will succeed in all probabilities and the illegal demand raised by the non- applicants' respondents is likely to be set aside.



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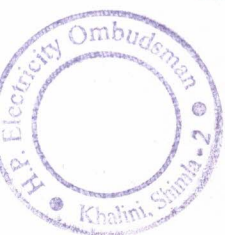


2. The Complainant submits that the prima facie case, balance of convenience and irreparable loss are in favour of the present applicants. The non-applicants have issued the bill including sundry charges without any justification and logic and the said bill being issued illegally and wrongly is liable to be set aside.
3. The Complainant submits that the applicant(s) is/ are being threatened by the respondents/ non-applicants that if the balance amount is not deposited; the respondent board will disconnect the electricity connection of the complainants.
4. The Complainant submits that no prejudice will be caused to any party in case during the pendency of the present complaint the respondents/ non-applicants are restrained from claiming the balance amount of Rs. 38,78,861/- (out of which the complainant has paid Rs 12,35,466/- to the non-Applicants/ Respondents from the Applicant/ complainant.
5. The Complainant prayed that this application may kindly be allowed, during the pendency of the present complaint the non-applicants, respondents may kindly be restrained from claiming the remaining balance amount from the applicants/complainants. Further the non- applicants/ respondents may also kindly be restrained from disconnecting the electricity connection of applicants/ complainants during the pendency of the present complaint.

C- The Respondent's Submission:

Preliminary Submission: -

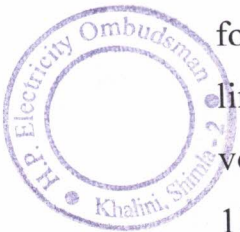
1. The Respondent submits that the representation as preferred by the complainant is not maintainable in the eyes of the Law, hence liable to be dismissed. As the present representation is based on conjectures and surmises.



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2. The Respondent submits that the relief sought by the complainant is not tenable in law, as the Ld. Forum below has correctly passed the order dated 18.12.2024 after thoroughly examining the case records. Ld. Forum's decision is based on a thorough review arguments presented by both the parties, on the pleadings of the parties and the ld. Forum has categorically appreciated the applicable provisions of the H.P Electricity Supply Code, 2009 in the impugned order thus there is no such infirmity or illegality in the order passed by the ld. Forum thus the representation is liable to be dismissed.
3. The Respondent submits that HPSEBL is a deemed Distribution Licensee under Electricity Act, 2003 for supply of electricity supply to consumers in Himachal Pradesh. The requisite charges for supply of electricity to the consumers is being charged from the consumers based on Regulations notified by Himachal Pradesh Electricity Regulatory Commission pursuant to the powers conferred on it under the various Section of Electricity Act, 2003
4. The Respondent submits that the demand notice on account of the Low Voltage supply Surcharge (LVSS) pointed out by the RAO Audit Party for the short assessment period of 19.11.2018 to 09.02.2024 are legitimate due's of the /HPSEBL utility. It is further submitted that the demand is statutory one as it has been assessed under clause 2.1.6.1(A) & 2.1.6.1(B) of Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 for availing the voltage lower than the standard supply voltage. The special category load i.e. Furnace load of 1700 kw sanctioned for the M/s Regency Carbide, exceeds the maximum special category load limit i.e. 750kw defined at 11kv level. Therefore, the standard supply voltage should be 33kv and since the power connection has been availed at 11kv, the LVSS charges are payable by such consumer & failure to pay the



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same will attract the statutory provision of disconnection of electricity supply. Further, it is submitted that distribution licensee has every right to recover the past electricity dues from its consumer and law has already been settled by the Hon'ble Apex Court in case **Assistant Engineer (D1) Ajmer Vidyut Nigam Limited versus Rahamutullah@ Rahamujullah (2020) 4 SCC 650**, followed in **M/S Prem Cottex versus Utter Haryana VijiVitaran Nigam Limited and Ors. Civil Appeal no 7235 of 2009** decided on October 5, 2021. The Hon'ble Court in Prem Cortex held as under: -

“25. In other words, the negligence of the part of licensee which led to short billing in the first instances and rectification of the same after mistake is detected, is not covered by sub-section (1) of section 56. Consequently, any claim so made by a licensee after the detection of their mistake, may not fall within the mischief, namely, “no sum due from any consumer under this section”, appearing in sub-section (2). The matter can be examined from another angle as well. Sub-section (1) of section 56 as discussed above, deals with disconnection of electricity supply if any person “neglects to pay any charge for electricity”. The question of neglect to pay would arise only after demand is raised by the licensee. If the demand is not raised, there is not occasion for a consumer to neglect to pay any charge for electricity. Sub-section (2) of section 56 has a non-obstante clause with respect to what is contained in any other law, regarding the right to recover including right to disconnect. Therefore, if



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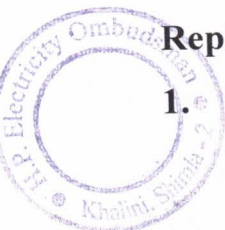
the licensee has not raised any bill, there can be no negligence on the part of the consumer to pay the bill and consequently the period of limitation prescribed under sub-section (2) will not start running. So long as limitation has not started running, the bar of recovery and disconnection will not come into effect. Hence, the decision in Rahamtullah Khan and section 56 (2) will not go to the rescue of the appellant.”

Therefore, in view of submissions made in Para Supra it is humbly submitted that plea raised by the complainant is not tenable in view of the settled position of law declared by the Hon'ble Supreme Court of India. Accordingly, the complainant is liable to dismissed in limine the demand.

5. The Respondent submits that the demand raised against M/s Regency Carbide Private Limited is statutory, and failure to pay will lead to disconnection of electricity supply. The demand is not illegal or contrary to the law. The supplementary demand was issued after detecting of a bona fide error, based on actual consumption. The distribution licensee has the right to recover past dues, as upheld by the Hon'ble Supreme Court in *Assistant Engineer (D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah* (2020) 4 SCC 650 and *M/S Prem Cottex vs. Haryana Vijli Vitaran Nigam Ltd.* (2021). The Court ruled that mistakes in billing, once detected, can be corrected, and the consumer is obligated to pay the dues. Section 56 does not protect a consumer from such legitimate claims. Therefore, the representation is without merit, as per the settled legal position.

Reply on Merits: -

1. The Respondent submits that the content of Para No.1 is matter of record, hence anything contrary to the record is specifically denied. It is further submitted that as submission made in Para supra the Ld. Forum below has



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correctly passed the order dated 18.12.2024 after thoroughly examining the case records, pleading of the parties and applicable provisions of The Electricity Supply Code 2009. Therefore, the order of Ld. Forum below warrants no interference of this Hon'ble Court.

2. The Respondent submits that the content of Para No.2 is matter of record, hence anything contrary to the record is specifically denied.
3. The Respondent submits that the content of Para no. 3 of the complaint is wrong, incorrect, and hence denied. It is further added that, as submitted in Para supra, that the contentions of the complainant are based on conjecture and surmises. That, the demand raised by the respondent Board is statutory and legitimate, dues of utility. Consequently, the complaint of the complainant is devoid of merit. Therefore, the contention of the complainant is not sustainable.
4. The Respondent submits that the content of Para No.4 is admitted being matter of record hence needs no reply.
5. The Respondent submits that the content of Para No. 5 is admitted to the extent, it is matter of record and rest content of the Para are wrong, incorrect and denied. It is submitted with the utmost respect that the Consumer named M/s Regency Carbides Pvt. Ltd having its address at 94-Industrial area Gondpur, Paonta Sahib was sanctioned with HPSEBL Account No. GP-152 under Large Supply Industry with sanctioned connected load & contract demand of 1785 KW (including 1700 KW of furnace load) & 2100 KVA respectively at 11KV supply voltage vide office order no. HPSEB/CE(Comm)/PC-LD-21/91-171-76 dated 04.04.1991 from the office of Chief Engineer (Commercial), HPSEB, Vidyut Bhawan Shimla-4 and connection was released in year 1991. That, it is further submitted that the Consumer has requested to reduce his sanctioned contract demand from 2100 KVA to 1983 KVA without changing the



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sanctioned connected load i.e. 1785 KW vide his application No. RCPL-2010-11/48 dated 19.05.2010 thus, the revised application & agreement form was submitted/signed by the consumer vide application no. 266 dated 16.06.2010 and the processing fees of Rs. 2925/- (i.e. 2100-1983=117 KVA) at Rs. 25/- per KVA was deposited vide receipt no. 0074667 dated 15.11.2010. The reduced contract demand for 1416 KVA without change in connected load i.e. 1785 KW (including 1700 KW furnace load) was sanctioned vide office order no. CEO/M&C-42(NHN)/10-11-29148-52 dated 29.03.2011 and accordingly the same was released vide SJO no. 22 dated 07.09.2011. It is pertinent to mention here that, the provisions for standard supply voltage for special category loads was introduced in first proviso of sub clause (a) of clause 2.1.6.1.1(A) vide notification no. HPARC/438 dated 11.06.2014, in Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 and the relevant portion of the said clause is re-iterated as follows-

“2.1.6 1[Standard Supply Voltage/Supply Voltage]-

[2.1.6.1(A) The standard supply voltage shall mean the standard voltage at which electricity shall be given to the consumer through a common or dedicated or joint dedicated feeder without payment of any lower voltage supply surcharge (LVSS). Depending upon the connected load (kW or MW), contract demand (kVA or MVA), nature of load and existence of a voltage (volts/kV) and phase in the relevant distribution system, the standard supply voltage for a consumer shall be as provided in clauses (a) and (b) of this sub-para and sub-para

2.1.6.1(C)-



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(a) *The maximum limits of connected load (kW or MW) and contract demand (kVA or MVA) for the supply of power at a voltage, shall be as under-*

<i>Sr. No.</i>	<i>Standard Supply Voltage</i>	<i>Maximum Connected Load</i>	<i>Maximum Contract Demand</i>
1.	Single phase 230 volts or three phase 415 volts or 2.2 kV; <i>(for supplies not involving special category loads)</i>	50 kW	50 kVA
2.	Three phase 11 kV or 22 kV; <i>(for supplies not involving of special category loads)</i>	3 MW	2.2 MVA
3.	Three phase 33 kV	12 MW	10 MVA
4.	Three phase 66 kV	14 MW	12 MVA
5.	Three phase 132 kV or 220 kV	No limits	

Provided that where special category loads are involved, the standard supply voltage shall be 11 kV or 22 kV, as may exist on the relevant distribution system, if-

(i) the total connected load does not exceed 1 MW, irrespective of special category loads; or



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(ii) the total quantum of connected load in respect of special category loads does not exceed 750 kW within the overall limit of total connected load upto 3 MW and total contract demand upto 2.2 MVA:

Provided further that, if neither of the limits given in the first proviso, in relation to supplies involving special category loads, are adhered to, the standard supply voltage shall be 33 kV or the appropriate higher voltage in accordance with the limits specified in this clause:

.....

(b) Where the connected load or contract demand exceeds the relevant ceiling limit specified in clause (a), the appropriate higher voltage at which both such limits can be adhered to, shall be considered as standard supply voltage and there shall be no minimum limits for supply of power at a particular voltage.

2.1.6.1(B) Where the consumer seeks supply of power at a voltage lower than the standard supply voltage as per sub-para 2.1.6.1(A), the licensee shall supply power at such lower voltage subject to the maximum limits of connected load and contract demand as specified in this sub-para; payment of lower voltage supply surcharge (LVSS) by the consumer at the rates given in the relevant tariff order applicable from time to time; and other conditions, as may be relevant, specified in this sub-para or in sub-para 2.1.6.1(C) or elsewhere in this Code :-”

In this particular case, the special category load is found/verified to be 1700 KW before and after the revision of the contract demand from 2100 KVA to 1983 KVA, which exceeds the ceiling limit specified



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under sub-clause (ii) of clause 2.1.6.1(A)(a) of HPERC Supply code,2009. Therefore, the LVSS amount is chargeable as per the aforesaid clause 2.1.6.1(B) of HPERC supply code, 2009. It is further submitted that during the internal audit the short assessment of Rs. 38,789,861/- on account of LVSS for the period 19.11.2018 to 06.02.2024 is pointed out by the RAO audit party for the financial year 04/2021 to 03/2023 and consequently the notice along with calculation sheet was issued to the consumer vide notice No. PES/NOTICE/2024-25/1148-49 dated 03.07.2024 and was charged to the consumer vide sundry item no 694/157P/81R in the energy bill issued on 06.09.2024 for the month of August 2024. Therefore the impugned demand notice is perfectly legal and valid as such the complaint filed by the complainant deserves dismissal. It is humbly submitted that the complainant as per law is liable to pay the monetary demand as reflected in the impugned demand notice and the complaint being devoid of any merit may kindly be dismissed.

6. The Respondent submits that the content of this Para are wrong, incorrect and hence denied, it humbly submitted that submissions made in Para Supra may kind be read as part and parcel for brevity of this Para.
7. The Respondent submits that the content of Para No.7 is matter of record, hence anything contrary to the record is specifically denied. It is humbly submitted before this Ld. Forum that the demand raised through various bills from consumer M/s Regency carbide Pvt. Ltd., have been issue strictly in accordance with the provisions Electricity Supply Code, 2009, Tariff Orders of HPSEBL as well as other prevailing Rules/Regulations. The issue in respect of past due is no longer res-itegra and Hon'ble Supreme Court in its various decisions categorically held that **"The period of limitation**



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under Section 56(2) is relatable to the sum due under Section 56. The sum due under Section 56 relates to the sum due on account of the negligence of a person to pay for electricity. Section 56(2) provides that such sum due would not be recoverable after the period of two years from when such sum became first due. The means of recovery provided under Section 56 relate to the remedy of disconnection of electric supply. The right to recover still subsists.

Hence, it could not be held that the recovery of outstanding electricity arrears either by instituting a civil suit against the erstwhile consumer or from a subsequent transferee in exercise of statutory power under the relevant conditions of supply is barred on the ground of limitation under Section 56(2) of the 2003 Act. Accordingly, while the bar of limitation under Section 56(2) restricts the remedy of disconnection under Section 56, the licensee is entitled to recover electricity arrears through civil remedies or in exercise of its statutory power under the conditions of supply.”

8. The Respondent submits that the content of Para No. 8 of the complaint is wrong, incorrect and hence denied. It is submitted that the electricity dues are statutory in nature and consumer cannot evade from making payment of same.
9. The Respondent submits that the content of Para No. 9 is wrong, incorrect and hence denied. The action of the respondent board is in conformity with the statues, orders and in accordance with due procedure of Law.
10. The Respondent submits that the content of Para no. 10 is wrong, incorrect and hence denied. It humbly submitted that submissions made in Para supra may kind be read as part and parcel for brevity of this Para.



11. The Respondent submits that the content of Para No. 11 is wrong, incorrect and hence denied. It is specifically denied that the Id. forum has passed wrong order without appreciation of the provisions of the HP Electricity Supply Code, 2009, is in contravention of procedure established by law. However, as discussed in preceding Para's, the order is strictly in conformity with the tariff provisions and the supply Code, 2009 as such there is no scope for the any kind of the interference of this Hon'ble Court in this matter.
12. The Respondent submits that the content of Para No.12 is formal in nature hence needs no reply.
13. The Respondent submits that the content of Para No.13 is formal in nature hence needs no reply.
14. The Respondent submits that the content of Para No. 14 is wrong, incorrect and hence denied. It is further submitted that, in addition to the submissions made in Para supra, the order passed by the Learned Consumer Grievance Redressal Forum on 18.12.2024, is in accordance with well-established legal principles. Therefore, the representation filed by the complainant is without merit and should be dismissed. In view of the above submissions, it is respectfully stated the demands raised by the respondent are lawful, and the consumer is obligated to make payment of the same. Further, since the demands are statutory in nature, failure by the consumer to settle the dues will result in the enforcement of the statutory provision for disconnection of the electricity supply. The electricity charges in question are statutory dues, and the consumer cannot avoid the obligation to pay them.

It is therefore, most respectfully prayed that the complaint filed by the petitioner being devoid of merits may kindly be dismissed in the interest of law and justice.

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D- The Complainant's written Arguments:

The Complainant did not submit any Rejoinder/Written arguments, instead preferred oral arguments.

E- The Respondent's written Arguments:

The Respondent did not submit any written arguments instead preferred oral arguments.

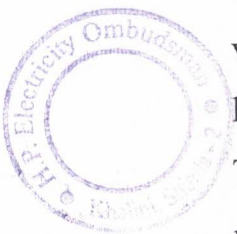
F- The Final Arguments of both during proceedings :

The final arguments were conducted on 18/03/2024 and both the parties were given opportunity to argue their contentions to the edge.

1. The Counsel for Complainant contented:

- a. that the demand of Rs. 38,789,861/- raised by the Respondents on the behest of Audit for the period 19/11/2018 to 09/02/2024 towards LVSS charges is not payable as the same is illegal and time barred which has been issued after lapse of more than Six years and in violation of Section 56 of Electricity Act, 2013.
- b. The Counsel for Complainant further stressed that the HPSEBL has allowed to use the load at 11 kV but LVSS is being charged arbitrarily and unreasonably.
- c. The feeder is dedicated one and the LVSS should be charged at 50% of the rates as per provisions.

- 2. The Id. Counsel for Respondents first argued on the pretext of time barred issue and satisfied the contentions by supporting his arguments, mentioning various orders of Hon'ble Supreme Court, asserted that the period of limitation under Section 56(2) is relatable to the sum due under Section 56. The sum due under Section 56 relates to the sum due on account of the negligence of a person to pay for electricity. Section 56(2) provides that**



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such sum due would not be recoverable after the period of two years from when such sum became first due.

3. It was further emphasized by the Id. Counsel that, while the bar of limitation under Section 56(2) restricts the remedy of disconnection under Section 56, the licensee is entitled to recover electricity arrears through civil remedies or in exercise of its statutory power under the conditions of supply.
4. Id. Counsel thereafter argued on the issue of levy of LVSS and after detailed deliberations in terms of clause 2.1.6.1(A) & 2.1.6.1(B) of the supply code(1stAmendment), added to the arguments that the special category load in the instant case is 1700 KW as per record which is against the limit of 750 KW as per provisions of the said clause and hence, non-adherence to the prevalent provisions of the supply code, warrants standard supply voltage 33 KV and calls for levy of LVSS which had been levied legitimately. The Assistant Engineer appeared in the court room confirmed from the record, the status of special category load which was 1700KW against the limit of 750 KW to contend standard supply voltage as 11KV. The Id. Counsel for Complainant agreed with the arguments extended by the Respondents.
5. Id. Counsel for Respondents further argued on the contention of Complainant on 50% levy of LVSS being contending it as dedicated feeder. The Assistant Engineer present in the court room very appreciably authenticated from the record that the feeder in question is neither dedicated, nor a joint dedicated feeder, instead it is a common feeder supplying many consumers and also in support of his arguments, placed on record certain documents which were taken on record for reference. The Id. counsel for Complainant agreed with the arguments advanced by the Respondents.



6. Thereafter, listening to both the parties at length, the arguments were concluded and order reserved.

G- Order dt. 18/12/2024 of Consumer Grievance Redressal Forum in Complaint No. 1521/202409/28:

ORDER

- (17) This Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the Ld HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 (or the CGRF Regulations), HP Electricity Supply Code, 2009 and amendments thereto, relevant Tariff Order(s) passed by the Ld HPERC and record as facts along with 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;
- (18) Before the Forum delves into the instant complaint, it is imperative to reproduce the provisions of the HP Electricity Supply Code, 2009 notified by the HPERC –
- (19) Un-amended provisions of the HP Electricity Supply Code, 2009 notified by the HPERC on 26.05.2009-

Quote

2.1.6 *Standard Supply Voltage. –*

2.1.6.1 *Depending upon the connected load (kW) of a consumer, the supply to the consumer shall be given at the following standard voltage (volts / kV) and phase as may exist on the relevant distribution system: -*

Sr.No.	Connected Load	Standard Supply Voltage (AC)
1.	$1 \leq 50 \text{ kW}$	Single phase 230 Volts or three phase 400 Volts or 2.2 kV
2.	51 kW up to 2000 kW	Three phase 6.6 kV, 11kV, 15kV or 22kV
3.	2001 kW up to 10000	Three phase 33kV or 66kV



	<i>kW</i>	
4.	<i>>10000 kW</i>	<i>>=132 kV (three phase)</i>

2.1.6.2 *In case, an existing consumer who is already availing on the date of the commencement of this Code a supply voltage different from the standard supply voltages as mentioned in para 2.1.6.1, the consumer shall have the option to convert to the relevant standard supply voltage; provided the conversion is from a lower voltage to a higher one. Provided further that if the consumer continues to avail supply at the existing lower voltages, he shall be and shall continue to be liable to pay lower voltage supply surcharge (LVSS) in accordance with the relevant Tariff Order.*

2.1.6.3 *In case, it is not possible for the licensee to provide the supply to an existing consumer, as per option exercised by him under para 2.1.6.2, at the relevant specified standard voltage due to physical or practical constraints, the licensee shall, intimate to the consumer, in writing, about his inability to do so, mentioning the reasons in brief while giving the tentative date from which it shall be possible for the licensee to provide the same and during that period the consumer shall be and shall continue to be liable to pay LVSS charges as per the relevant Tariff Order.*

Un-Quote

4. (20) Ibid code 2.1.6.1 was substituted by code 2.1.6.1(A), 2.1.6.1(B) and 2.1.6.1(C) and provisos added thereto was done vide Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11.06.2014. Vide this amendment, certain provisions for special category load were introduced and load limits of standard supply voltage were substituted. The Respondent has relied on the same. These amended provisions are reproduced here –

Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11.06.2014-

Quote

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3. Amendment in para 2.1.6. - In para 2.6.1 of the said Code, -



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SHARMA SADAN, BEHIND KEONTAL COMPLEX, SHIMLA-171002
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(a) in the heading, for the words "Standard Supply Voltage", the words "Standard Supply Voltage/Supply Voltage" shall be substituted; and

(b) for the existing sub-para 2.1.6.1, the following sub-paras 2.16.1(A), 2.1.6.1(B) and 2.1.6.1(C) shall be substituted; namely: -

"2.1.6.1(A) The standard supply voltage shall mean the standard voltage at which electricity shall be given to the consumer through a common or dedicated or joint dedicated feeder without payment of any lower voltage supply surcharge (LVSS). Depending upon the connected load (kW or MW), contract demand (kVA or MVA), nature of load and existence of a voltage (volts/kV) and phase in the relevant distribution system, the standard supply voltage for a consumer shall be as provided in clauses (a) and (b) of this sub-para and sub-para 2.1.6.1(C)-

(a) The maximum limits of connected load (kW or MW) and contract demand (kVA or MVA) for the supply of power at a voltage, shall be as under-

Sr. No.	Standard Supply Voltage	Maximum Connected Load	Maximum Contract Demand
1.	Single phase 230 volts or three phase 415 volts or 2.2 kV; (for supplies not involving special category loads)	50 kW	50 kVA
2.	Three phase 11 kV or 22 kV; (for supplies not involving special category loads)	3 MW	2.2 MVA
3.	Three phase 33 kV	12 MW	10 MVA
4.	Three phase 66 kV	14 MW	12 MVA
5.	Three phase 132 kV or 220 kV		No limits

Provided that where special category loads are involved, the standard supply voltage shall be 11 kV or 22 kV, as may exist on the relevant distribution system, if -

(i) the total connected load does not exceed 1 MW, irrespective of special category loads;
or

(ii) the total quantum of connected load in respect of special category loads does not exceed 750 kW within the overall limit of total connected load upto 3 MW and total contract demand upto 2.2 MVA:



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Provided further that, if neither of the limits given in the first proviso, in relation to supplies involving special category loads, are adhered to, the standard supply voltage shall be 33 kV or the appropriate higher voltage in accordance with the limits specified in this clause:

Provided further that where a consumer having connected load of not more than 50 kW is already getting supply at LT voltage immediately before commencement of the Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014, he shall continue to be covered under a LT standard voltage (i.e. single phase 230 volts or three phase 415 volts) irrespective of contract demand already sanctioned in his favour, so long as he does not further extend his connected load or contract demand beyond the specified limits of 50 kW or 50 kVA respectively:

Provided further that where a consumer is getting supply at a voltage higher than the standard supply voltage as per the said specified limits, he shall continue to get supply at such higher voltage without any rebate for higher voltage supply.

(b) Where the connected load or contract demand exceeds the relevant ceiling limit specified in clause (a), the appropriate higher voltage at which both such limits can be adhered to, shall be considered as standard supply voltage and there shall be no minimum limits for supply of power at a particular voltage.

2.1.6.1(B) Where the consumer seeks supply of power at a voltage lower than the standard supply voltage as per sub-para 2.1.6.1(A), the licensee shall supply power at such lower voltage subject to the maximum limits of connected load and contract demand as specified in this sub-para; payment of lower voltage supply surcharge (LVSS) by the consumer at the rates given in the relevant tariff order applicable from time to time; and other conditions, as may be relevant, specified in this sub-para or in sub-para 2.1.6.1(C) or elsewhere in this Code :-

Sr. No.	Supply Voltage	Description	Maximum Connected Load	Maximum Contract Demand
1.	11 kV (for supplies not involving special category loads)	(a) If 22 kV or 33 kV voltage level exists in the relevant distribution system.	5 MW	4 MVA
		(b) If 22 kV or 33 kV voltage level does not exist in the relevant distribution system.	6 MW	5 MVA
2.	22 kV (for supplies not involving special category)	(a) If 33 kV voltage level	6 MW	5 MVA



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	loads)	exists in the relevant distribution system.		
		(b) If 33 kV voltage level does not exist in the relevant distribution system.	7 MW	5.5 MVA
3.	33 kV	(a) If 66 kV voltage level exists in the relevant distribution system.	15 MW	12 MVA
		(b) If 66 kV voltage level does not exist in the relevant distribution system.	18 MW	14 MVA
4.	66 kV	(a) Through a common or dedicated or joint dedicated feeder	18 MW	14 MVA
		(b) Through a dedicated or joint dedicated feeder	30 MW	24 MVA

Provided that all such supplies, excepting the same at Sr. No.4(a), shall be given through dedicated or joint dedicated feeders only and that in case of Sr. No. 4(a) the supply shall be given through a common or dedicated or joint dedicated feeder:

Provided further that in case of supply involving special category loads, the same shall be given at 11 kV or 22 kV subject to further conditions that the total connected load in respect of the special category loads does not exceed 1.5 MW within the total connected load upto 3 MW and contract demand upto 2.2 MVA and that the supply is to be given through a dedicated feeder or a joint dedicated feeder emanating from EHV sub-station:

Provided further that if the conditions given in second proviso, in relation to the supplies involving special category loads, are not adhered to, the supply shall be given at 33 kV or at appropriate higher voltage depending on the total connected load and contract demand:

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Provided further that the provisions of this sub-para, shall be further subject to the following condition: -

- (i). that the voltage regulation limits shall have to be adhered to while deciding the supply arrangements;*
- (ii). that in case of special category loads and other such loads which can cause disturbances in the power distribution system, the consumer shall provide suitable protection equipments as per the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 and other prudent practices to adequately insulate the distribution system from the disturbance caused by such loads;*
- (iii). that the consumer already getting supply at higher voltage as compared to the standard supply voltage or the limits given in this sub-para, shall not be entitled to any higher voltage supply rebate; and*
- (iv). that in cases of joint dedicated feeder, the limits of maximum connected load and maximum contract demand as per this sub-para shall be applicable for the summation of the connected loads and contract demands of both the consumers.*

Explanation. - For the purposes of this sub-para, -

- (a) "dedicated feeder" means the electric supply line emanating from the sub-station of the licensee through which electricity is, or is intended to be, supplied to a single consumer; and*
- (b) "joint dedicated feeder" means the electric supply line emanating from the sub-station of the licensee through which electricity is, or is intended to be, supplied to two consumers.*

2.1.6.1(C)

- (i) Where the contract demand has not been applied for or sanctioned, the limit corresponding to 90% of the connected load (in kW) converted into kVA by adopting power factor of 0.9 shall be deemed as the contract demand.*
- (ii) The supply shall be made at the minimum voltage level at which all the relevant limits and conditions are adhered to. However, if the consumer opts for supply of power at a voltage higher than the standard supply voltage, the licensee shall allow the same excepting the cases in which there may be some constraint.*
- (iii) Where the connected load or contract demand is to be enhanced, the standard supply voltage under sub-para 2.1.6.1 (A) and the supply voltage under sub-para*

2.1.6.1 (B) shall be redetermined as per the provisions under the said paras based on enhanced connected load and enhanced contract demand.

Explanation. - For the purposes of sub-paras 2.1.6.1(A) and 2.1.6.1(B), "special category loads" means furnace loads and mass induction heating loads and shall also include any other load as the Commission may, after taking into consideration electrical characteristics and its impact on the distribution system, by order, declare it to be a special category load."



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5. (21) Forum observes that the period for which the cause of action has arisen to the Complainant is from 19.11.2018 to 09.02.2024 and this corresponds to the Tariff Orders for FY19 to FY24 passed by the Ld HPERC. From perusal of the Tariff Orders, Forum finds that the provision of LVSS in Tariff Order for FY 19 passed on 04.05.2018 are slightly different from those in Tariff Order for FY 24 dated 31.03.2024 while those in FY 24 are the same as that in Tariff Order (MYT) for FY20 passed on 29.06.2019. The extract of Tariff Order passed by the Ld HPERC on 04.05.2018 for FY19 and Tariff Order dated 29.06.2019 for FY20 are reproduced for the sake of convenience as follows –

(a) Tariff Order passed by the Ld HPERC in 04.05.2018

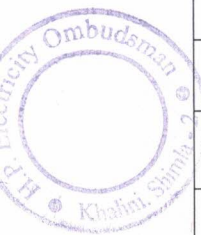
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H. Lower Voltage Supply Surcharge (LVSS): Consumers availing electricity supply at a voltage lower than the 'Standard Supply Voltage' as mentioned in part-II shall, in addition to other charges, be also charged a 'Lower Voltage Supply Surcharge' (LVSS) at the rates given in the following Table on only the amount of energy charges billed, for each level of step down (as given in following table) from the 'Standard Supply Voltage' to the level of Actually Availed Supply Voltage.

<i>Standard Supply</i>	<i>Actually, Availed Supply Voltage</i>	<i>LVSS</i>
<i>11kV or 15kV or 22 kV</i>	<i>1Ø 0.23 kV or 3Ø 0.415kV OR 2.2kV</i>	<i>5%</i>
<i>33 kV</i>	<i>11 kV or 22 kV</i>	<i>3%</i>
<i>66 kV</i>	<i>33 kV</i>	<i>2%</i>
<i>≥ 132 kV</i>	<i>66 kV</i>	<i>2%</i>



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EXPLANATION:

1) The revised provisions of standard supply voltage under the HPERC Electricity Supply Code have been notified and new connections shall be released on that basis.

2) Here the expression "for each level of step down" as an example shall mean that in a particular case if the Standard Supply Voltage is 33kV and the Actually Aailed Supply Voltage is less than 11 kV, then the number of step downs shall be two (2) and the rate of LVSS applicable shall be 8% (5%+3%). Similarly, if the Standard Supply voltage is 132 kV or 220 kV and actual aailed supply voltage is 33 kV LVSS shall be applicable @4%.

3) The LVSS shall be charged at 50% of the rates determined as per the above provisions if any one or all of the following conditions are met:-

- i. if supply is given through a dedicated feeder or a joint dedicated feeder and metering for billing purpose is done at the licensee's sub-station; and/or
- ii. If the LVSS becomes payable inspite of the contract demand being within the relevant permissible limit applicable for the standard supply voltage viz 50 kVA for LT supply, 2200 kVA for 11 kV or 22 kV supplies, 10000 kVA for 33 kV and 12000 kVA for 66 kV supplies.

4) The low voltage surcharge shall also be applicable in cases where the consumer, after having taken the connection, is found to have violated the maximum demand or the connected load beyond the maximum limits applicable for the relevant Standard Supply Voltage corresponding to the voltage at which supply has been aailed.

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(b) MYT Order passed by the Ld HPERC on 29.06.2019

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H: Lower Voltage Supply Surcharge (LVSS): Consumers availing electricity supply at a voltage lower than the 'Standard Supply Voltage' as mentioned in part-II shall, in addition to other charges, be also charged a 'Lower Voltage Supply Surcharge' (LVSS) at the rates given in the following Table on only the amount of energy charges billed, for each level of step down (as given in following



table) from the 'Standard Supply Voltage' to the level of Actually Aailed Supply Voltage.

Standard Supply	Actually, Aailed Supply Voltage	LVSS
11kV or 15kV or 22 kV	1Ø 0.23 kV or 3Ø 0.415kV OR 2.2kV	5%
33 kV	11 kV or 22 kV	3%
66 kV	33 kV	2%
≥ 132 kV	66 kV	2%

EXPLANATION:

- 1) The revised provisions of standard supply voltage under the HPERC Electricity Supply Code have been notified and new connections shall be released on that basis.
- 2) Here the expression "for each level of step down" as an example shall mean that in a particular case if the Standard Supply Voltage is 33kV and the Actually Aailed Supply Voltage is less than 11 kV, then the number of step downs shall be two (2) and the rate of LVSS applicable shall be 8% (5%+3%). Similarly, if the Standard Supply voltage is 132 kV or 220 kV and actual aailed supply voltage is 33 kV LVSS shall be applicable @4%.
- 3) The LVSS shall be charged at 50% of the rates determined as per the above provisions if any one or all of the following conditions are met:-
 - i. if supply is given through a dedicated feeder or a joint dedicated feeder and metering for billing purpose is done at the licensee's sub-station; and/or
 - ii. If the LVSS becomes payable inspite of the contract demand being within the relevant permissible limit applicable for the standard supply voltage viz 50 kVA for LT supply, 2200 kVA for 11 kV or 22 kV supplies, 10000 kVA for 33 kV and 12000 kVA for 66 kV supplies.

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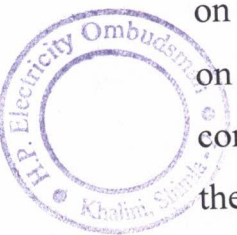
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6. (22) Forum from the foregoing reproduced provisions on LVSS contained in Order dated 29.06.2019 for FY20 finds that these have been continued by the Ld HPERC in the Tariff Order for FY 24 dated 31.03.2023 as well and which was placed on record by the Complainant at the time of filing the Rejoinder;

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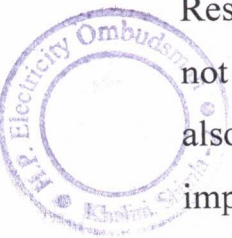
7. (23) Forum again observes that the dispute or Complainant's cause of action pertains to the period from 19.11.2018 to 09.02.2024;
8. (24) As observed from record, during the ibid period of dispute, the Complainant's sanctioned connected load was 1785 kW, sanctioned contract demand was 1983 kVA, Special category load of furnace was 1700 kW and availed supply voltage was 11 kV. These are not in dispute. From bare perusal of the provisions of Standard Supply Voltage contained in 1st and 2nd provisos to ibid reproduced code 2.1.6.1(A), Forum finds that the specified Standard Supply Voltage limit for special category loads exceeding 750 kW is 33 kV and not 11 or 22 kV, while the Complainant's special category load is 1700 kW and it is availing supply at 11 kV. Thus the Complainant automatically becomes liable to pay the LVSS, being a statutory levy for the said period of dispute for the reason that its special category load is 1700 kW which is in excess of the specified permissible limits for Standard Supply Voltage of 750 kW while the Complainant is availing supply at 11 kV voltage which is lower than the specified permissible Standard Supply Voltage limit of 33 kV;
9. (25) On the contention of the Complainant that LVSS is to be charged by the Respondent at 50% of the rates as determined in the provisions, if supply is given through a dedicated or joint dedicated feeder and metering or billing is being done at the licensee's substation, Forum from record does not find anything which may depict that the Complainant was availing supply on dedicated or joint dedicated feeder. In accordance with the ibid amended provisions of Supply Code reproduced in paras supra, a dedicated feeder is one on which supply is given to a single consumer and a joint dedicated feeder is one on which supply is given to two consumers. Thus the Forum rejects the said contention of the Complainant and holds that the Complainant is not entitled to the said 50% rates;



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10. (26) On the averments by the Complainant that the demand raised by the Respondent is time barred being in violation of Section 56 of the Electricity Act, 2003 and that case law cited by the Respondent is not applicable, the Forum again rejects the arguments of the Complainant in this regard. Forum is inclined to agree with the contention of Respondent that present demand is not hit by limitation. Forum holds that the Hon'ble Apex Court has already settled the law in this regard vide Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020 titled Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah alias Rahamujulla (2020) 4SCC 650 and in M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No7235 of 2009 decided on October 5, 2021. In the context of instant matter, this Forum 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;
11. (27) 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. Thus the action of the Respondent to raise the impugned demand dated 03.07.2024 (Annexure C-1) is not hit by the limitation under section 56 of the Electricity Act, 2003. Forum also does not find any mala-fide action on the part of the Respondent to raise the impugned demand which the Forum holds as bona-fide and accordingly rejects



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the averments and arguments made by the Complainant with regard to limitation;

12. (28) In view of the foregoing discussion, the Forum does not agree with the submissions and arguments made by the Complainant which the Forum finds as untenable on the anvil of the statute covering the instant matter and accordingly rejects these. Forum does not find anything wrong in the demand of arrears of LVSS raised by the Respondent which the Forum holds to be a statutory one which the Respondent is liable to recover and the Complainant is liable to pay;
13. (29) Forum concludes that the action of Respondent to raise upon the Complainant impugned monetary demand dated 03.07.2024 (Annexure C-1) of Rs 38,78,861/- further raised as sundry in the electricity bill dated 06.09.2024 (Annexure C-3) on account of Lower Voltage Supply Surcharge (LVSS) is a statutory one and accordingly upholds the impugned monetary demand which the Complainant is liable to pay in full;
14. (30) The Complainant is accordingly directed to pay in full the monetary demand dated 03.07.2024 (Annexure C-1) which has further been raised as sundry in the electricity bill dated 06.09.2024 (Annexure C-3) within a period of 10 days from this Order. On non-payment of the same, Respondent shall be at liberty to act as per extant law/ Regulations;

H-Analysis of the Complaint:

1. The case file bearing Complaint No. 1521/202409/28 and orders passed on dated 18/12/2024 by the Consumer Grievance Redressal Forum Kasumpti, Shimla-171009 have been requisitioned and gone through.
2. In the interest of justice, the relevant extract of said order of CGRF has been reproduced to arrive at legitimate conclusion.





3. The submissions made by the Complainant, reply submitted by the Respondents have been incorporated in entirety in this order to have composite view of the entire case.
4. The appropriate Acts, Supply Codes, Tariff Orders have been referred to for clarity. The relevant extracts of Tariff Orders have not been recapped for the sake of brevity as the same stand placed in hierarchy in CGRF order dt. 18.12.2024 under the heading “G” above.
5. M/s Regency Carbids Pvt. Ltd. bearing Consumer ID 100012001457 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL with supply voltage at 11Kv contends that the Respondent in terms of provisions of Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11.06.2014 had raised Demand Notice dated 03.07.2024 for an arrear amount of Rs 38,78,861/- on account of Lower Voltage Supply Charge (LVSS) for the period from 19.11.2018 to 09.02.2024 on the behest of Audit, which had previously not been charged in the bills of respective months.
6. The Complainant sought the following relief:
 - a. that the bill as issued and demand raised by the respondent Board is illegal arbitrary may kindly be declared wrong, illegal and the demand may kindly be set-aside.
 - b. that the respondents may kindly be directed not to disconnect the electricity supply to the premises of the complainant.
 - c. that the order passed by the Hon’ble CGRF (OP), HPSEB, Kusumpti, Shimla-9 in Complaint No 1521/202409/28 dated 18.12.2024 is unjust, arbitrary and against the procedures established by the law may kindly be set aside the same.



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7. The Respondent submits as below:

- a. that the relief sought by the complainant is not tenable in law, as the Ld. Forum below has correctly passed the order dated 18.12.2024 after thoroughly examining the case records.
- b. that the Ld. Forum's decision is based on a thorough review arguments presented by both the parties, on the pleadings of the parties.
- c. that the Id. Forum has categorically appreciated the applicable provisions of the H.P Electricity Supply Code, 2009 in the impugned order thus there is no such infirmity or illegality in the order passed by the Id. Forum thus the representation is liable to be dismissed.

8. The Complainant contends under para-6 of submissions that as per the knowledge of the complainant, before the Hon'ble HP High Court, M/s Vardhaman Ispat Udyog have questioned the constitutional validity of Para 2.1.6.1 (A) and Para2.6.1.1 (B). The complaint further submits that the matter which is pending before the Hon'ble HP High Court is somewhat similar to the present case.

9. After going through the averments of the Complainant under para-8 above, it is observed that the matter on Constitutional validity of clause 2.1.6.1 (A) and Para 2.6.1.1 (B) of the supply code is still lying pending before the Hon'ble High Court as categorically mentioned by the Complainant and as such no any amendment that stands issued by the Hon'ble Commission in line with above on the Constitutional validity, placed on record. This authority draws inferences that the prevalent supply code in terms of above clauses is operative and is to be complied till any amendments are issued.

10. The contentions of the Complainant detailed under the heading-B, response of the Respondent Board detailed under the heading-C and final arguments conducted at length by both & placed under the heading-F, gathers considered



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opinion to originate the following issues and for the sake of brevity, the detailed analysis has been done along with findings of the issues.

I-Issues in Hand:

Issue No-1:

Whether the instant representation is maintainable?

Issue No-2:

Whether the alleged demand raised is beyond the period of limitation?

Issue No-3:

Whether the alleged demand raised through demand Notice dated 03.07.2024 is illegal and arbitrary?

Issue No-4:

Whether the feeder is dedicated feeder?

J-Findings on the Issues:

Issue No-1:

1. While going through the reply submitted by the Respondents and arguments conducted, it has been observed that in a very vague manners it has been mentioned that the representation as preferred by the complainant is not maintainable in the eyes of the Law, as the present representation is based on conjectures and surmises.
2. However, no such averments were cited even during arguments by the Respondents which could have substantiated their contentions based on surmises and drawn attention of this authority towards maintainability.

3. In view of above and exercising the provisions in terms of regulation 33(2,3) read with 36(2) of Himachal Pradesh Electricity Regulatory Commission





(Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 where the Ombudsman is guided by the principle of natural law of justice, this authority feels judicious to give opportunity in terms of Regulation 33(3), the relevant extract of which is read as “ *Provided further that no representation shall be rejected in respect of sub-clauses (a),(b),(c) unless the Complainant has been given an opportunity of being heard*”, warrants contentions to be heard which might be based on surmises as contended by the Respondents in the reply and might carry reasonable arguments in the interest of justice. So, in due cognizance to above provisions and subject to the outcome of the proceedings, the complaint is held maintainable only for initiation of proceedings /adjudications of grievances in the public interest.

This closes the findings on issue-1

Issue No-2:

1. The Complainant contends under para-7 of the submissions that the LVSS has been raised for the first time without any prior notice, without any pending LVSS arrears, is time barred being in violation of Section 56 of the Electricity Act, 2003.
2. The Respondents however in their reply on merits at para-7, very convincingly presents the crux of relevant act, whereas the Complainant is found excoriated on contrary averments. The same is not recapped for the sake of brevity and may be referred to under the heading “**B**” of this order.
3. After referring to the submissions and reply along with documents placed on record in details as well as arguments advanced, read with specific provisions, it is observed that there is a misconception on the part of Complainant on interpretation of prevalent provisions of clause 5.6.2 of the supply code on the issue of limitations , the relevant part of which reads as, “*no sum due from any consumer, shall be recoverable after the period of two years from the date when such sum become first due unless such sum has been shown continuously as recoverable as arrear of charges for*



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electricity supplied and the license shall not cut off the supply of the electricity.”

4. The **first due** is the day when the issue was pointed out irrespective of how old the issue might be.
5. Let us elaborate more on the terms “due” and “first due”. The word “due” “has been used under Section 56(1) as well as under section 56(2) of the Act 2003. The term “due” refers to the amount for which the demand is raised by way of a bill. The term “first due” would therefore imply when the demand is raised for the first time. The bill raised by the licensee company (Respondent Board) would be the starting point for the exercise of power under sub-section (1) of Section 56 and the starting point of limitation would be from the date when the bill is raised by the licensee company (Respondent Board).
6. The facts are further supported by Hon’ble Supreme Court of India Civil Appellate Jurisdiction in “**Civil Appeal No. 1672 of 2020**” wherein the licensee company raised an additional demand on 18.03.2014 for the period July,2009 to September,2011. The period of limitation would commence from the date of discovery of the mistake i.e. 18.03.2014. The licensee company may take recourse to any remedy available in law for recovery of the additional demand, but is barred from taking recourse to disconnection of supply of electricity under sub- section (2) of Section 56 of the Act.
7. After analyzing the averments in depth, this authority is also convinced with the diligent findings made by the Ld. CGRF in due cognizance to all judgements of Hon’ble Apex Court under para-(26) & (27) of its order dt.18.12.2024 (*may be referred under heading “G”*) and inclines to the



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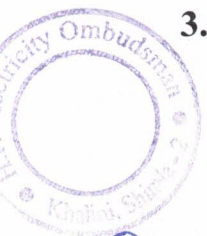
fact that the said demand raised by the Respondent Board is just and legal and makes Complainant responsive for making payments as raised.

8. Akin to above judgement and the averments made, this Authority is convinced that the interpretation in the instant case is also of similar nature as held by Hon'ble Supreme Court in the above stated Civil Appeal under para-6 wherein the Respondent Board had raised demand Notice on dated 03.07.2024 for an arrear amount of Rs 38,78,861/- on account of Lower Voltage Supply Charge (LVSS) for the period 19.11.2018 to 09.02.2024, which had previously not been charged in the bills of respective months.
9. The period of limitation in line with above judgement of Hon'ble Supreme Court under para-6 above, would commence from the date, the demand was raised i.e. 03.07.2024, hence not time barred. The Respondent Board may take recourse to any remedy available in law for recovery of the additional demand, but is barred from taking recourse to disconnection of supply of electricity under sub- section (2) of Section 56 of the Act.

This closes the findings on issue No-2

Issue No-3:

1. After closing the findings on Issue-1&2, this authority felt at ease to delve contentions under Issue-3 and asserts that in view of intricacy involved, warrants deep attention.
2. While scrutinizing, it was observed that the Complainant contended that the demand raised on the behest of Audit by the Respondents is unjust and arbitrary.
3. However, on further examining the facts it was deduced that the Complainant had misconstrued the austerity of application of clause 2.1.6.1(A) & 2.1.6.1(B) of the supply code(1stAmendment) notified



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on 11.06.2021 with reference to the special category load which is 1700 KW as per record against the limit of 750 KW as per provisions of the said clause, apprehended to be suitable for standard supply voltage of 11KV or 22 KV in terms of provisions. In due cognizance to fatal misconception, this authority opines to reiterate the very precise relevant extracts of said supply code 1st amendment which are as under:

2.1.6.1(A)

“Provided that where special category loads are involved, the standard supply voltage shall be 11 kV or 22 kV, as may exist on the relevant distribution system, if—

(i) the total connected load does not exceed 1 MW, irrespective of special category loads; or

(ii) the total quantum of connected load in respect of special category loads does not exceed 750 kW within the overall limit of total connected load upto 3 MW and total contract demand upto 2.2 MVA:”

Provided further that if neither of the limits given in the first proviso, in relation to the supplies involving special category loads, are adhered to, the standard supply voltage shall be at 33 kV or the appropriate higher voltage in accordance with the limits specified in this clause:”

4. In the instant case, the special category load of Complainant as per record is 1700 KW which exceeds the limit of 750KW in terms of above provisions and does not qualify the above mandate of the supply code, applicable in the present case.
5. This authority appreciates and agrees with the microscopic analysis made by Ld. CGRF after digging out all the provisions of supply code and relevant Tariff orders in hierarchy and landing to the legitimate conclusion, the relevant part of gist under para-24 of the order dt. 18.12.2024 of Ld. CGRF is recapped to ascertain nonconformity of the Complainant from the veracity:

“(24) From bare perusal of the provisions of Standard Supply Voltage contained in 1st and 2nd provisos to ibid reproduced code 2.1.6.1(A), Forum finds that the specified Standard Supply Voltage limit for special category loads exceeding 750 kW is 33 kV and not 11 or 22 kV, while the Complainant’s special category load is 1700 kW and it is availing supply at 11 kV. Thus, the Complainant automatically becomes liable to pay the LVSS,



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being a statutory levy for the said period of dispute for the reason that its special category load is 1700 kW which is in excess of the specified permissible limits for Standard Supply Voltage of 750 kW while the Complainant is availing supply at 11 kV voltage which is lower than the specified permissible Standard Supply Voltage limit of 33 kV;"

6. After referring to the documents placed on record, detailed arguments conducted on the contentions, referring to the relevant tariff orders, Acts, Supply codes and above findings, this authority draws considered opinion and agrees with the Respondent Board that the demand raised on the behest of internal audit, towards short assessment of Rs. 38,789,861/- on account of LVSS for the period 19.11.2018 to 06.02.2024 for the financial year 04/2021 to 03/2023 is just and legitimate and the Complainant is held liable to pay the amount as demanded above. Hence, the contention of the complainant does not sustain.
7. Both Respondent and Complainant must ascertain the correctness of "computation" and "start date" of raising demand first time in consonance with above directives, after going through the record personally.

This closes the findings on issue -3

Issue No-4:

1. The Complainant contends under para-6 of its submission that the feeder in question is dedicated one and the LVSS should be levied at 50% of the rates as per provisions. However, the Assistant Engineer appeared in the court room during final arguments on dt.18.03.2025, placed on record, the relevant documents which corroborated that the said feeder is neither dedicated nor joint dedicated one, rather it is a common feeder feeding more than two consumers. After advancing detailed arguments, the counsel for Complainant agreed with the averments made by the Respondents. After listening to both the parties, this authority conceded that the contention of the complainant on this account was based on surmises and hence not



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tenable in the instant case and does not qualify for levy of LVSS at 50% of the rates as per provisions as contended.

2. This authority also agrees with the in-depth analysis and outcome of Ld. CGRF under para-25 of its order dt.18.12.2024 which is reproduced as under:

“(25) On the contention of the Complainant that LVSS is to be charged by the Respondent at 50% of the rates as determined in the provisions, if supply is given through a dedicated or joint dedicated feeder and metering or billing is being done at the licensee’s substation, Forum from record does not find anything which may depict that the Complainant was availing supply on dedicated or joint dedicated feeder. In accordance with the ibid amended provisions of Supply Code reproduced in paras supra, a dedicated feeder is one on which supply is given to a single consumer and a joint dedicated feeder is one on which supply is given to two consumers. Thus the Forum rejects the said contention of the Complainant and holds that the Complainant is not entitled to the said 50% rates;”

This closes the findings on issue -4

K-Order:

1. The order passed on dated 18/12/2024 by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 1521/202409/28 is upheld.
2. The Demand note dt.03.07.2024 for Rs. 38,78,861 /- raised by the Respondent Board is sustained subject to authentication of correctness as mandated under para-7 of Issue-3.
3. The complainant is directed to pay the requisite amount within 30 days excluding holidays from the date of issue of this order as per the provisions.
4. The Respondent board is further directed not to take any coercive action before the expiry of above period. However, the coercive action if required must be confined to findings under issue-2 of this order.
5. All stays imposed by this Authority under Regulation 36 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 are hereby vacated.
6. No cost to litigation.



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7. In terms of above findings, the Complaint filed by M/s Regency Carbids Pvt. Ltd. 19, Gondpur, Industrial Area, Paonta Sahib, Distt. Sirmour-173025 (HP) is hereby disposed of.
8. The order is also placed at site and conveyed telephonically for the convenience of reference.

Given under my hand and seal of this office.

Dated: 21/03/2025

Shimla

Ruphal
21/03/2025

Electricity Ombudsman