



In the matter of:

Complaint No. 07/2025

**M/s Micro Turners Village Naryal Parwanoo HP-173220
-Complainant**

Vs

- 1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004.**
- 2. Sr. Executive Engineer, Electrical Division, HPSEBL, Parwanoo Distt Solan. HP-173220.**
- 3. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Parwanoo Distt Solan. HP-173220.**

- Respondents

Complaint No 07/2025 (Registered on 17/03/2025)

(Orders reserved on 26/04/2025, Issued on 02/05/2025)

Counsel for:

The Complainant: -Sh.Rakesh Bansal, Authorized Representative
The Respondents: -Sh. Kamlesh Saklani, Under Sectt. Law
-Sh. Rajesh Kashyap, Advocate
-Er. Vineet Bharadwaj, A. E, ESD Parwanoo.

QUORUM


**Er. Deepak Uppal
HP Electricity Ombudsman**



Deepak Uppal



1. M/s Micro Turners Village Naryal Parwanoo have filed an Application under Regulation 28(1)(b), of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 received and registered on 17/03/2025, against the final Order dated 12/03/2025 passed by the Consumer Grievance Redressal Forum at Kasumpti in Review Application No. RC-1421/202503/03.
2. The said matter was earlier registered on dt. 26/12/2024 as Complaint No. 12/2024 in the court of this authority under Regulation 28(1)(b) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the final Order dated 27/11/2024 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No1421/202405/13.
3. The aforementioned Complaint No.12/2024 was decided on 03/02/2025 after adjudicating all the legitimate contentions / issues of the Complainant, except for the **“rebate on night-hours consumption in addition to night hour concession”**.
4. This authority after referring to the Tariff orders passed by the Hon'ble Commission prior to and after 31.05.2021, observed that all Tariff Orders passed on and after 31.05.2021, categorically mentions as **“In case of night hours, night-time concession shall only apply”** whereas the Tariff Orders passed prior to 31.05.2021, were silent on this aspect and this authority was constrained to pronounce mirror clear judgement on this issue. However, the



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Complainant was inclined to his submissions that he is eligible for rebate on additional consumption during the night hours in both the years i.e 2018-19 and 2019-20.

5. It was transparent from para (41) of the Id. CGRF order dt.27.11.2024 in the said complaint that this issue as Complaint No1421/202405/13 could not be adjudicated in the Forum due to so called want of jurisdiction in terms of Tariff Orders, the relevant extract of para (41) is restated for reference and record as under:

“para (41) The Tariff Orders before this date were silent on this aspect. For the Forum to make or even say or suggest such rebate to be applicable on night hour consumption before the said date of 31.05.2021 shall on the part of the Forum clearly amount to assumptions, presumptions and putting words into Orders passed by the Ld HPERC which Forum feels as being patently wrong and also beyond the jurisdiction of this Forum. Thus, the Forum rejects the contention of the Complainant that the said rebate is applicable for night hour consumption as well.”

6. The authorized representative for Complainant during final arguments in Complaint No. 12/2024 on dt. 22.01.2025 submitted a letter dt. 31.07.2020, issued by Sectt. HPERC regarding clarification on rebate to the Industries in tariff Orders for FY-19, FY-20 and FY21 sought by the Chief Engineer Commercial which was taken on record in the interest of justice. The relevant extract is also reproduced for the sake of record and reference as under:

(Ref. 2nd para of letter)

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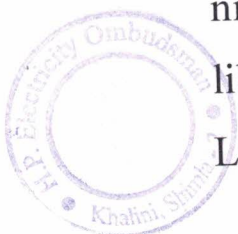


“The Commission considers this as an inadvertent error and for which the respective Consumers cannot be held responsible i.e. they can't be asked to pay through arrears”

(Ref. last para of letter)

*“In this regard, I have been directed to inform that the clarification given for referred letter at Sr no.1 stands withdrawn and the respective eligible consumers be **continue to avail the benefits of night time concession as well as reduced energy charges after considering for rebate for the night energy consumption as per prevailing practice till issuance of the next tariff order i.e. for FY 22.**”*

7. However, after listening to the Id. Counsel for Respondents during final arguments in Complainant No.12/2024 who put forth his opinion that since this point could not be adjudicated in the Forum in the absence of such directives while the proceedings were operative before the Id. CGRF in Complaint No1421/202405/13, needs to be remanded back for re-adjudication on this specific issue and also in due cognizance to the prayer of the authorized representative for Complainant to allow review only on this point before Id. CGRF in line with above clarificatory letter dt.31.07.2020, the matter was remanded back to CGRF for re-adjudication and reconsideration, only on the issue of rebate on night hour consumption in addition to night hour concession ,with a liberty to the Complainant to file a Review Application before the Id. CGRF, in consonance with the letter of clarification

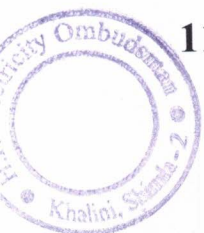


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dt.31.07.2020 issued by the Hon'ble Commission to avert further litigations. Accordingly, the Complaint No.12/2024 was disposed of and final order was issued on dt.03.02.2025.

8. In compliance to the above directives of this court, the Complainant filed review application in the Forum for review on only this specific issue of rebate on night hour consumption in addition to night hour concession in line with the letter of clarification dt.31.07.2020 which was registered as Review Application No.RC-1421/202503/03 before the Forum.
9. The instant representation has been filed by the Complainant against the Order dated 12/03/2025 passed by the Id. CGRF in Review Application No. RC-1421/202503/03 and has been registered as Complaint No. 07/25 on dt. 17/03/2025 before this authority.
10. Case called, the matter was heard on 18.03.2025 and after listening to both the parties, the matter was admitted to the extent of initiation of proceedings. Sh. Manik Seith, the Id. Counsel for Complainant addressed some deliberations on Regulation 26(2)(a)(b) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and apprised austerly of application which were appreciable.
11. Accordingly, the case was listed for final arguments on dated 07/04/2025. However, the final arguments could not be conducted as the Respondent Board could not submit the reply on or before



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29/03/2025 as directed vide this court's order dt.18/03/2025. The concerned Assistant Engineer present in the court room prayed for some more time for submission of reply, prayer granted and further directed to submit reply by 23/04/25 and rejoinder if any by the Complainant. The case was further listed for final arguments on dated 26/04/2025

12. Case called, the matter was heard. The Respondent Board submitted reply on 21/04/2025 in compliance to this court order dt.07/04/2025 and subsequent submissions of rejoinder-cum-written arguments by the authorized representative for Complainant in the court room on dt. 26/04/2025 which was taken on record. The counsel for Respondents and concerned Assistant Engineer appeared in the Court room along with the record and with the mutual Conesus of both the parties, the final arguments were conducted.

13. Both Id. Counsel for Respondent Board and the Authorized Representative for the Complainant were given due opportunity to advance their arguments to the brim as below:

- a. The authorized representative for Complainant emphasized:
 - i. that the complainant approached the Ld. Forum and filed a review application in view of the new piece of evidence in the form of the clarification letter dated 31.07.2020 issued by the Himachal Pradesh Electricity Regulatory Commission which was addressed to the Chief Engineer (Comm) of the



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respondents stating that the rebate on night consumption be also allowed till the issuance of the next tariff order. The said review application was registered as 1421/202503/03.

- ii. that the Id. Forum held that letter dated 31.07.2020 cannot supersede or override any statutory Judicial Tariff Orders passed by the Ld HPERC.
- iii. that the Id. Forum further asserted that instant Review Application has been filed after the mandated 30 days and is clearly barred by limitation and accordingly dismissed and disposed.
- iv. that the clarification issued by the Hon'ble Commission through Sectt. HPERC cannot be ignored as he has been directed to convey such clarification.

b. The authorized Representative for Complainant also prayed for the following relief:

- i. To quash and set aside the orders dated 13.03.2025 passed in Complaint No. 1421/202503/03 for the reasons stated in the representation;
- ii. To issue directions to the respondents to grant balance amount of additional rebates on additional night consumption as explained in this representation;



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- iii. To direct the respondents to overhaul past bills while providing for rebate on the basis of eligibility period of each rebate;
 - iv. To direct the respondents to pay interest on the amount charged in excess and the amount that is refundable to the complainant, at simple interest @ 15% p.a. on daily basis, from the date of payment on the past amounts refunded with delay and the amount due for refund as per Sub-regulation 5.7.3 of the Supply Code, 2009 or the HPERC (CGRF and Ombudsman) Regulations, 2013 as may be considered appropriate in the present case;
- c. Both Id. Counsel and the Assistant Engineer appeared as Respondents participated in discussion with healthy spirit and in reply to the contentions addressed by the Authorized Representative for Complainant, put forth their arguments as under:
- i. that the Id Forum has not dealt the clarification issued by the Hon'ble Commission dated 31-07-2020 and has disposed of the review application under Regulation 26 (7) of the 2013 Regulations.
 - ii. that a clarification was sought by the HPSEBL from the Hon'ble Commission vide letter dated 3-7-2020 on the applicability of the rebate to industrial units in context of energy consumption during normal



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hours/peak hours and night hours so as to avoid ambiguities.

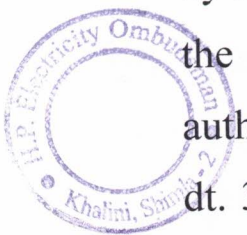
- iii. that the Hon'ble commission vide letter dated 4-7-2020 has issued clarification to the HPSEBL, wherein it was clarified that the rebates given in the tariff orders dated 6-6-2019 and 4.5.2018 are only applicable to the energy consumption during normal hours only.
- iv. that furthermore another clarification was sought vide letter dated 24-07-2020 from the Hon'ble Commission and the Id. Counsel for Complainant read out the silent features of the clarification sought and stands attached with the reply submitted by the respondents.
- v. that thereafter, the Hon'ble Commission vide letter dated 31-07-2020 has clarified that respective eligible consumers be continued to avail the benefits of night time energy consumption as per the prevailing practice till issuance of the next tariff order i.e. for FY 22.
- vi. that the HPSEBL thereafter issued instructions on 24-08-2020 to the field offices to ensure necessary compliance. Copies of the all letters and clarifications are placed on record as Annexure R-1



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14. The deliberations made by the Assistant Engineer representing Respondent Board and participation in discussions were appreciable. Both Id. Counsel for Respondent Board and the Authorized Representative for the Complainant also exchanged their arguments to the full of their satisfaction. After hearing both the parties at length, the arguments were concluded and order reserved.
15. After referring to the above arguments, this authority appreciates the deliberations made by the Id. Counsel for Respondents during final arguments in well hierarchical manners (**letters dt. 03.07.2020, 24.07.2020, 24.08.2020**) towards the steps taken by the Respondent Board on clarification sought in the interest of consumer and thereafter imparting instructions through letter dt. 24.08.2020 for implementation of the mandate of the Hon'ble Commission in letter and spirit as sought through clarificatory letter dt. 31.07.2020 under the hand of Sectt. HPERC.
16. After referring to the submissions made by the Complainant, the reply submitted by the Respondents, Rejoinder submitted by the Complainant, documents placed on record, detailed arguments conducted on 26.04.2025 and the contentions read with letter dt. 31.07.2020 issued by the Sectt. HPERC on the clarifications sought by the Chief Engineer Commercial HPSEBL regarding the rebate to the Industries in tariff Orders for FY-19, FY-20 & FY21, this authority feels it vital to examine the essence of clarificatory letter dt. 31.07.2020 being pivotal in the instant case and at the very out



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set draws attention on the findings of the Id. CGRF under the para (7,8,12) of its order dt. 12.03.2025 that the Id. CGRF concluded in three folds and dismissed the review application by passing order dt. 12.03.2025. The relevant paras are recapitulated as under:

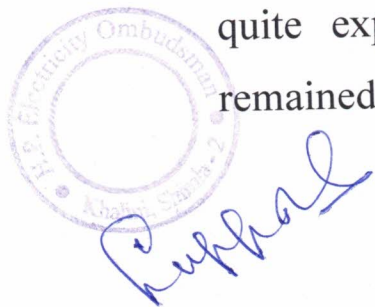
- a. (para-7) Forum observes on examining the said letter dated 31.07.2020 that it is a communication between the HPERC and the Chief Engineer (Commercial), HPSEBL, which inter-alia is in terms of **delay by the Respondent in seeking of clarification**, hardships faced by the consumers during covid-19 etc. This letter further gives directions to the Respondent to give details of amounts for truing up for FY21, the with-drawl of some previous clarification by the HPERC and for consideration of rebate for night time consumption till the issuance of next Tariff Order for FY22;
- b. (para-8) In context of the said letter dated 31.07.2020, Forum holds that a letter cannot supersede or override any statutory Judicial Tariff Orders passed by the Ld HPERC. Forum also holds that a statutory Judicial Order of clarificatory nature either by the Ld HPERC or Order by the Hon'ble Courts alone have the powers to do so. Accordingly, Forum further holds and concludes that when Order has been passed by the Forum on 27.11.2024 which is based on Judicial Tariff Orders passed by the Ld HPERC, then this letter between the HPERC and the HPSEBL cannot not have any supersession or overriding effect on Order passed by the Forum in complaint No 1421/202405/13;
- c. (para-12) In view of foregoing, Forum does not find any wrong in its Order dated 27.11.2024 which may necessitate its Review on discovery of new matter of evidence by the Review Applicant herein /Complainant in original complaint. Forum concludes that the instant Review Application is not in accordance with the Regulations notified by the HPERC while at the same time it has been filed after the mandated 30 days and is clearly barred by limitation. On aforesaid terms the instant Review Application is dismissed and accordingly disposed.

17. It is observed that the Id. CGRF has concluded the review application holding that a letter cannot supersede or override any statutory Judicial Tariff Orders passed by the Ld HPERC and further held that a statutory Judicial Order of clarificatory nature



either by the Ld HPERC or Order by the Hon'ble Courts alone have the powers to do so.

- 18.** On further scrutiny of the clarificatory letter dt.31.07.2020 reveals that the said clarification was not issued by any authority of Hon'ble HPERC except by the Secretary HPERC who is appointed under Section-97 of the Electricity Act 2003 to serve as a primary communication channel between the Commission and external entities such as licensees, other regularity bodies, government departments and public.
- 19.** It is perceived from the reply submitted by the Respondents and subsequent letters dt. **03.07.2020, 24.07.2020, 24.08.2020** placed on record towards correspondence extended by the Respondent Board while seeking clarification from the Hon'ble Commission that the clarification was sought by the Chief Engineer (comm.) (Respondent Board) not by the Complainant. Under the powers vested with the Secretary of the Commission in his capacity as a primary communication channel and as per the specific contents of the said letter reproduced below, transparently indicates that he was directed by the Hon'ble Commission to convey clarification as sought, as such the clarification conveyed by the authority as per the act deems to be statutory one and cannot be overlooked. Apparent to the contents of clarificatory letter dt.31.07.2020, it is quite explicit to say that the directives of this communiqué remained operative till issuance of next tariff order for FY22 and



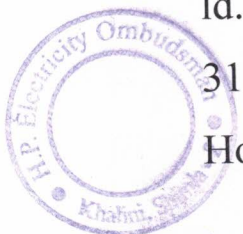


not withdrawn on any point of time prior to the issuance of tariff order for FY22 as mandated in the clarification, as per record.

“In this regard, I have been directed to inform that the clarification given for referred letter at Sr no.1 stands withdrawn and the respective eligible consumers be continue to avail the benefits of night time concession as well as reduced energy charges after considering for rebate for the night energy consumption as per prevailing practice till issuance of the next tariff order i.e. for FY 22.”

20. This authority further gains support from the para-8 of Ld. CGRF order dt. 12.03.2025 that in the instant case the clarification on the Judicial Order of Hon'ble Commission had been conveyed by the Commission through Secretary who stands designated by the Commission to act as communication channel for correspondence of statutory nature. This authority also gets convinced from the elaborated discussions made by the ld. Counsel for Complainant, during the admission hearing on dt. 18.03.2025, on the functioning of Secretary in an organization who is vested with powers to convey all statutory nature of communications as directed, to all departments concerned.

21. In view of forgoing discussions, it is asserted that the order dt.12.03.2025 in Review Application No. RC-1421/202503/03 of ld. CGRF is upheld in principle, but for clarificatory letter dt. 31.07.2020 issued through the hands of authoritative platform of Hon'ble HPERC on the clarification sought by the Respondent



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Board not by the Complainant , remained valid till issuance of next Tariff order FY 22 and further directions imparted by the Respondent Board vide letter dt.24.08.2020 to all field officers for implementation, paves the way for pronouncement of judicious judgement and cannot be ignored on the imaginary grounds and within the ambit of legitimate consensus , the following order is hereby passed :

- 1. The Respondent Board is directed to overhaul the accounts of the Complainant within 15 days excluding holidays from the date of issue of this order by allowing rebate on night-hours consumption in addition to night hour concession including interest, in consonance with the clause 5.7.3 of Supply Code (2nd Amendment) dt. 31st July, 2018 to the extent applicable read with Regulation 26(2)(ii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) (Second Amendment) notified on 20th January,2022 for the amount of rebate till it remained as an excess amount with Respondent Board, in line with the clarificatory letter dt. 31.07.2020 issued by the Sectt. Hon'ble HPERC on the clarification sought by the Respondent Board, after authenticating the period of rebate from the record.**



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2. The Respondent Board is directed to overhaul the past bills also while providing for rebate on the basis of eligibility period of each rebate falling within the ambit of clarificatory letter dt.31.07.2020.
3. Non-compliance to above directives may attract Regulation 37(6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Electricity Act, 2003 and brunt on individuals.
4. Under the powers drawn from the provisions of Regulation 37 (3)(d) (e) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the Respondent Board is directed to impart instructions to all concerned to keep awareness for immediate implementation of legitimate orders before the expiry of time limitations to avoid litigations and violations/brunt on individual thereof.
5. The Respondent Board is at liberty to make adjustment in the ensuing bills of the amount so overhauled in terms of methodology devised as per



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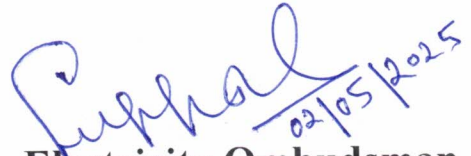
clause 5.7.3 of the Himachal Pradesh Electricity Supply Code 2009.

- 6. No cost to litigation.**
- 7. In terms of above findings, the Complaint filed by M/s Micro Turners Village Naryal Parwanoo HP-173220 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: 02/05/2025

Shimla


Electricity Ombudsman