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

In the matter of: **Complaint No. 22/2025**

M/s Milestone Gears Pvt. Ltd. Unit- IV, Opp. Himachal Fibre Ltd., Industrial Area, Barotiwala Distt. Solan, Himachal Pradesh- 174103

– Complainant

Vs

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

- Respondent

Complainant No. 22/25 (Registered on 08/07/2025)

(Orders reserved on 16/09/2025, Issued on 29/09/2025)

Counsel for:

The Complainant: **- Sh. Rakesh Bansal, Authorized Representative**
-Sh.Manik Sethi, Advocate
-Sh.Tawarsu , Advocate

The Respondents: **-Sh. Kamlesh Saklani, Under Sectt. Law**
- Sh. Rajesh Kashyap
-Er. Vidur, AEE, ESD Engineer Barotiwala

QUORUM

Er. Deepak Uppal
HP Electricity Ombudsman

H.P. Electricity Ombudsman Kasumpti, Shimla-2

Uppal

1. **Brief Facts of the Case:**
   a. M/s Milestone Gears Pvt. Ltd. Unit-IV bearing Consumer ID 100012001969 is a LIPS consumer of HPSEBL under the Electricity Act, 2003 i.e. Section 2 sub-Section 15 as well as under Section 3 (d) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013 and the Respondents are distribution licensee under Section 2 sub-section 17 of the Electricity Act, 2003.
   b. The Complainant have filed the instant Application under Regulation 28(1)(b), of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 received on 07/07/2025 and registered on 08/07/2025, against the final Order dated 21/01/2025 passed by the Consumer Grievance Redressal Forum at Kasumpti in Original Complaint No. 1453/202409/29 and the order dt. 27.06.2025 passed by Consumer Grievance Redressal Forum at Kasumpti in Review Application No. RC 1453/202506/12.
2. The case was listed for admission hearing on 24/07/2025. In order to facilitate further analysis in a comfortable domain, first the specific contentions of the complainant are restated as under.
3. **The Complainant Contends:**
   a. That the respondents/non-applicants have failed to adhere to the provisions of tariff orders notified from time to time by the Himachal Pradesh Electricity Regulatory Commission

H.P. Electricity Ombudsman Khalini, Shimla-2

under the Electricity Act, 2003 and have stopped allowing any further legitimate rebate on energy charges for the period notified in the tariff orders.

b. That the complainant approached the Consumer Grievances Redressal Forum of HPSEBL, for redressal of his grievance, who, in the end of the proceeding dismissed the complaint without any relief to the complainant. Thereafter, in view the complainant filed a review, which was neither heard, listed, nor allowed or rejected. The only efficacious remedy under the law available to the complainant was to approach the Hon'ble Ombudsman.

c. That the Ld. Forum disposed the grievance vide its final orders with no comments on the erroneous calculations. The Ld. Forum also disallowed the interest on refund and other reliefs sought by the complainant.

d. That the Hon'ble Ombudsman in Case Numbers 10/2024 and 12/2024 ordered the matter to be remanded back only on the limited issue of the rebate on night consumption in view of the clarification issued by HPERC vide its letter dated 31.07.2020.

e. That as the issue of rebate on night consumption was same as in Case No. 10/2024 and 12/2024, which were remanded back, the complainant decided to file a review application in the present grievance before the Forum to review its order in view of the clarification. The filing of review was

H.P. Electricity Ombudsman Khalini, Shimla-2

delayed by the office staff of the authorized representative even though it was already lying printed in the office. The complainant also with his review application filed an application for condonation of delay. The review was finally filed on 13.03.2025.

f. That the review was not listed by the Forum, nor was it allowed or rejected even though the same was received by the Forum. The complainant also wrote an email to the Forum requesting the Forum to list the matter, to which no response was received. The complainant thus after exhausting the period of 45 under 28(1)(a) approached the Hon'ble Ombudsman for similar relief as has already been adjudicated in other similar cases.

g. That the Hon'ble Ombudsman listed the matter as Case No. 18 of 2025, which was disposed with a direction to the CGRF for adjudicating the review application of the complainant.

h. The Ld. Forum dismissed the review petition vide orders dated 27.06.2025. The complainant preferred to file the instant representation.

i. That in the tariff order for the financial year 2018-19 (**Annexure C1**), it was notified that a rebate in energy charges will be allowed to existing industrial consumers for additional power consumption beyond the level of FY 2017-18.

H.P. Electricity Ombudsman Khalini, Shimla-2

j. That in the tariff order dt. 04.05.2018 for the financial year 2018-19 (**Annexure C1**), it was notified that a rebate in energy charges will be allowed to existing industrial consumers for additional power consumption beyond the level of FY 2017-18.

Note a) to Para 3 b) of the Schedule of Tariff applicable to large industries is reproduced below:

"a. *For existing industrial consumers, a rebate of 10% on energy charges shall be applicable for additional power consumption beyond the level of FY 2017-18.*"

k. That the said rebate was due at the end of the financial year after comparing the annual consumption of FY 2018-19 with the consumption of FY 2017-18. The consumption of the complainant during 2018-19 exceeded the consumption of 2017-18 by 14,93,920 kVAh on which the rebate has been worked out to Rs. 6,84,307.20. The detailed calculation is attached at **Annexure C2** of the complaint. But the respondents ignored the specific provision of the schedule of tariff and remained silent on the issue.

l. That the complainant approached CGRF in terms of the grievance registered as Original Complaint no. 1453/202409/29.

m. That the respondents during the course of the proceedings refunded a sum of Rs. 5,38,517/- out of the claim of the complainant, while this amount was excluding the rebate on

H.P. Electricity Ombudsman Khalini, Shimla-2

night consumption. There were also other errors in the calculation of the refund amount.

n. That the balance of rebate is pending on additional consumption during the night hours and due to other calculation error of the respondent. The Ld. Forum has partially allowed this part of the grievance, but denied the rebate on additional consumption during night hours without any justification.

o. That the complainant filed a rejoinder before the Ld. Forum, in which, while laying stress on the balance of his grievance, the complainant had also attached orders of the Hon'ble Ombudsman in Case No. 05 of 2024 in support of his claim for interest on delay in allowance of rebate.

p. That the Ld. Forum disposed the grievance vide its final orders with no comments on the erroneous calculations. The Ld. Forum also disallowed the interest on refund and other reliefs sought by the complainant.

q. That the other relief, the complainant is seeking is in terms of interest on delay in refunding the rebate, which is a consequential relief, to be granted, if and only if, the principal relief qua inquiry of the shortcoming is upheld by the Hon'ble Ombudsman.

r. That the Ld. Forum while passing the impugned orders dated 21.01.2025 has failed to function in the manner that has been notified under the HPERC (CGRF and

H.P. Electricity Ombudsman Khalini, Shimla-2

Ombudsman) Regulations, 2013. The Ld. Forum was duty bound to follow the procedure laid down in the said regulations as it is constituted under the said regulations.

s. That the orders passed by the Ld. Forum are bad in law wherein in Para 13 of the order the Ld. Forum has quoted the tariff order of the FY 2021-22, wherein the rebate on night consumption is specifically not allowed. The complainant's case is prior to this tariff period and this tariff cannot be applied to the complainant. The Ld. Forum further in paras 18 and 19 denied the claim of the complainant on this particular issue even though the matter stands clarified by the HPERC and notified by the Chief Engineer (Comm) vide a circular dated 24.08.2020 sent to all circle offices.

t. That the orders passed by the Ld. Forum are bad in law as the Forum has in Paras 23-27 denied the claim of interest on delayed disbursement of rebate by wrong interpretations which are not sustainable under the law. The complainant is entitled for interest as per clause 5.7.3 of the Supply Code, 2009 as per rates applicable from time to time.

u. Prayer

In view of above the complaint prayed as below:

a) To quash and set aside the orders dated 21.01.2025 passed in Complaint No. 1453/202409/29 and order dated 27.06.2025 in

H.P. Electricity Ombudsman Khalini, Shimla-2

Review Application No. RC-1453/202506/12 for the reasons stated in the representation;

b) To issue directions to the respondents to grant rebate on additional consumption for the year 2018-19 on total additional consumption including all time slots;

c) To direct the respondents to overhaul past bills while providing for rebate on the basis of eligibility period of each rebate;

d) 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;

e) To direct the respondents to compensate the complainant towards cost of the complaint amounting to Rs. 1,00,000/-.

f) To Call for the record of the case.

g) Any other or further orders which this Hon'ble Forum may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the complainant company and against the respondents/distribution licensees.

H.P. Electricity Ombudsman Khalini, Shimla-2

4. Case called, the matter was heard for admissions on 24/07/2025. After listening to both the parties, the matter was admitted to the extent of initiation of proceedings. The Respondent Board was directed to submit reply on or before 18/08/2025 with a copy of reply to the Complainant and Rejoinder if any, to be submitted by the Complainant immediately after the submission of the reply by the Respondent Board.

5. Accordingly, the case was listed for final arguments on dated 29/08/2025 subject to submission of above documents. However, due to inclement weather conditions and unpredictable weather forecast, the hearings which were scheduled to be held on 29/08/2025 were adjourned to 04/09/2025.The order of adjournment was also placed at site as well as conveyed telephonically for the convenience of all concerned.

6. In order to have clarity on the findings of ld. CGRF, the relevant part of said orders dt.21/01/2025 in Original Complainant No.1453/202409/29 and dt. 27/06/2025 in Review Application RC No. 1453/202506/12 needs to be reiterated for record and reference as under.

A. **<u>CGRF Order in Original Complainant No.1453/202409/29 dt. 21/01/2025</u>:**

<u>ORDER</u>

12) 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, various Tariff Order passed by the Ld HPERC and record as facts along with pleadings of the parties. This Forum has heard the parties at length. The

H.P. Electricity Ombudsman Khalini, Shimla-2

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;

(13) Before the Forum delves into the issues of rebate raised by the instant Complainant who is a Large Industrial Power Supply consumers (LIPS), it is imperative to reproduce for sake of clarity the provisions of rebates contained under Schedule - Large Industrial Power Supply (LIPS) in various Tariff Orders passed by the Ld HPERC, some of which have been relied upon by the Complainant –

(a) Tariff Order passed on 04.05.2018 by the Ld HPERC for FY 2018-19 (applicable w.e.f 01.04.2018 to 30.06.2019)-

Quote

……

……

3. Two-part Tariff

……

……

b) Energy charge (Charges-2)

……

……

Note:

a. For existing industrial consumers, a rebate of 10% on energy charges shall be applicable for additional power consumption beyond the level of FY 2017-18

b. For new industries coming into production after 01.04.2018 the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years

……

……

c) Demand Charge (Charges-3)

……

……

4. Peak load charges (PLC)

………

………

Un-Quote

(b) Tariff Order passed on 29.06.2019 by the Ld HPERC for FY 2019-20 (applicable w.e.f 01.07.2019 to 31.05.2020) –

Quote

……

……

3. Two-part Tariff …… ……

b) Energy charge (Charges-2) …… ……

Note:

a. For existing industrial consumers, a rebate of 15% on energy charges shall be applicable for additional power consumption beyond the level of FY 2018-19

b. For new industries which have come into production between 1.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years

c. For new industries coming into production after 01.07.2019 the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years

……

……

c) Demand Charge (Charges-3)

……

……

4. Peak load charges (PLC)

……

……

Un-Quote

(b) **Tariff Order passed on 06.06.2020 by the Ld HPERC for FY 2020-21 (applicable w.e.f 01.06.2020 to 31.05.2021) –**

Quote

……
……

3. Two-part Tariff

……
……

b) Energy charge (Charges-2)

……
……

*Note:

a. *For new industries coming into production after 01.06.2020, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.*

b. *For existing industries which have undergone expansion in the FY 2018-19 onwards and/or shall be undergoing expansion in this financial year i.e. FY2020-21, energy charges shall be 10% lower than the approved energy charges corresponding to the respective category for a period of three years for quantum of energy consumption corresponding to proportionate increase in contract demand. Provided that such expansion if undertaken during 1.07.2019 to 31.05.2020, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in contract demand.*

……
……

5. **Peak load charges (PLC)**

……
……

Un-Quote

(c) **Tariff Order passed on 31.05.2021 by the Ld HPERC for FY 2021-22 (applicable w.e.f 01.06.2021 to 31.03.2022)-**

Quote

……

……

13. Rebate for New and Expansion Industries:

a. For new industries which have come into production between 01.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of three years.

b. For new industries which have come into production between 01.07.2019 to 31.05.2020, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.

c. For new industries which have come into production between 01.06.2020 to 31.05.2021, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.

d. For new industries coming into production on or after 01.06.2021, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.

e. For existing industries which have undergone expansion during 01.04.2018 to 30.06.2019 and/or during 01.06.2020 to 31.05.2021, energy charges shall be 10% lower than the approved energy charges corresponding to the respective category for a period of three years for quantum of energy consumption corresponding to proportionate increase in contract demand. Provided that such expansion if undertaken during 1.07.2019 to 31.05.2020 and/or shall be undergoing expansion on or after 01.06 2021, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in contract demand. f. It is clarified that the above-mentioned rebate on energy charges shall

H.P. Electricity Ombudsman, Khalini, Shimla-2 *be applicable during normal and peak hours. In case of night hours, night time concession shall only apply.*

g. In case of units registered under HP Industrial Policy 2019, but not falling under the respective category of small, medium, large industrial power supply as notified by the Commission, the rebate on energy charges (as per relevant tariff category) shall be applicable for new units as well as for existing units which have undergone expansion similar to the applicability of rebate on Industrial power supply.

……

……

Un-Quote

(e) Tariff Order passed on 29.03.2022 by the Ld HPERC for FY 2022-23 (applicable w.e.f 01.04.2022 to 31.03.2023) –

Quote

……

……

13. Rebate for New and Expansion Industries:

a. For new industries which have come into production between 01.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.

b. For new industries which have come into production between 01.07.2019 to 31.05.2020, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.

c. For new industries which have come into production between 01.06.2020 to 31.05.2021, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.

d. For new industries which have come into production on or after 01.06.2021, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.

e. For new industries coming into production on or after 01.04.2022 upto 31.12.2022, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years. Provided in case the GoHP Industrial Policy is continued beyond 31.12.2022, the above incentive shall continue upto 31st March, 2023.

f. For existing industries which have undergone expansion during 01.04.2018 to 30.06.2019 and/or during 01.06.2020 to 31.05.2021, energy charges shall be 10% lower than the approved energy charges corresponding to the respective category for a period of three years for quantum of energy consumption corresponding to proportionate increase in contract demand.

g. Provided that such expansion if undertaken during 1.07.2019 to 31.05.2020 and/or during 01.06.2021 to 31.03.2022 and/or shall be undergoing expansion on or after 01.04.2022 upto 31.12.2022, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in contract demand. Provided in case the GoHP Industrial Policy is continued beyond 31.12.2022, the above incentive shall continue upto 31st March, 2023.

h. It is clarified that the above-mentioned rebate on energy charges shall be applicable during normal and peak hours. In case of night hours, night time concession shall only apply.

……

……

Un-Quote

(f) Tariff Order passed on 31.03.2023 by the Ld HPERC for FY 2023-24 (applicable w.e.f 01.04.2023 to 31.03.2024) –

Quote

……

……

13. Rebate for New and Expansion Industries:

a. For new industries, which have come into production between 01.07.2019 to 31.05.2020, the Energy Charges shall be 15% lower than the approved Energy Charges for the respective Category for a period of 3 years.

b. For new industries, which have come into production between 01.06.2020 to 31.05.2021, the Energy Charges shall be 10% lower than the approved Energy Charges for the respective Category for a period of 3 years.

H.P. Electricity Ombudsman Khalini, Shimla-2

c. For new industries, which have come into production from 01.06.2021 onwards, the Energy Charges shall be 15% lower than the approved Energy Charges for the respective Category for a period of 3 years.

d. For existing industries, which have undergone expansion during 01.06.2020 to 31.05.2021, Energy Charges shall be 10% lower than the approved Energy Charges corresponding to the respective Category for a period of three years for quantum of energy consumption corresponding to proportionate increase in Contract Demand.

Provided that such expansion, if undertaken during 1.07.2019 to 31.05.2020 and/or during 01.06.2021 to 31.03.2023 and/or shall be undergoing expansion on or after 01.04.2023, the Energy Charges shall be 15% lower than the approved Energy Charges for the respective Category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in Contract Demand.

e. Example: In case of Contracted Demand is increased by an industry from 2 MVA to 3 MVA, the monthly units consumption for the purpose of lower Energy Charges shall be considered in proportion of the Original Contracted Demand and increased Contracted Demand. i.e., in case of the monthly consumption is 6 LUs, the lower Energy Charges shall be applicable on 2 LUs while 4 LUs shall be billed at the regular Energy Charge.

f. The above-mentioned rebate on Energy Charges shall be applicable during normal and peak hours. In case of night hours, night-time concession shall only apply.

……

……

Un-Quote

(14) Now coming to the Complainant's entitlement for rebate on additional or excess consumption existing in year FY 2018-19 vis-àvis that in the previous year, with regard to Tariff Order passed by the Ld HPERC for FY 2018-19—

(15) In the matter the Respondent has stated that it has already allowed the rebate in the electricity bill of October 2014. However, Complainant has contended that the rebate on additional consumption given by the Respondent is short in terms of non-consideration of this rebate by the Respondent on the consumption during the peak and the night hours. Forum is of the considered opinion that the fact of consumption of the Complainant being in the knowledge of the Respondent, it is for the Respondent to evaluate and determine the quantum of said rebate on additional consumption in a year vis-à-vis that in the previous year. This is to be based upon Tariff Orders passed by the Ld HPERC for FY 2018-19;

(16) Forum from perusal of the provisions of Tariff Orders reproduced in paras supra, finds that only those Tariff Orders passed by the Ld HPERC on and after 31.05.2021 specifically provided for such rebate to not be considered on the night hour consumption. The Tariff Orders before this date were silent on this aspect. For night hours, provisions are covered under Sr No 19 and here also the said rebate has not been made available for night hour consumption.;

(17) Forum also finds from perusal of the Tariff Order for FY2018-19 and FY 2019-20, reproduced in paras supra that the rebate provision in the Tariff Orders contained in 'Note' under Sr No 3(b), pertains to energy charges for normal hours, while separate provisions exists for peak hours under Sr No 4 and this does not include any provisions for rebates. Thus in terms of the complaint, the only conclusion that can be drawn by the Forum is that the said rebate is only available for consumption during normal hours and not during other hours. Forum cannot find anything in the said Tariff Orders which may permit or even suggest that the said rebate on the additional or excess consumption be available also for consumption during peak hours. From perusal of Tariff Orders it can be seen that such rebate became applicable for peak

H.P. Electricity Ombudsman Khalini, Shimla-2

hour consumption only with effect from 01.06.2021 that is from the Tariff Order for FY 2021-22.

(18) Thus based on the foregoing explanation and findings by the Forum in paras supra, the Forum does not find anything wrong in the action of Respondent to not grant the said rebate on peak hour and night time consumption;

(19) The Complainants case is for rebate on additional consumption based on Tariff Order for FY 2018-19, thus the Forum in view of the foregoing discussion and explanation holds that the Complainant is clearly not eligible for any peak hour or night hour consumption. Forum observes that the issue raised by the Complainant for the grant of rebate on additional or excess consumption made by it during peak hours and night hours in the year 2018-19, is based on faulty premises and is accordingly rejected and disposed on foregoing terms.

(20) On the issue of refund of Electricity Duty (ED) raised by the instant Complainant, Forum is inclined to specifically look into the facet of the Electricity Duty –

(21) Forum, from bare perusal the HP Electricity (Duty) Act, 2009 finds that Electricity Duty (ED) is a levy by the Government. This is collected by the Respondent on behalf of the Government on actual consumption of electricity made by consumer or supply of electricity by the licensee in accordance with the HP Electricity (Duty) Act, 2009. No-where in the Tariff Orders passed by the Ld HPERC has the rebate on expansion or excess consumption, been considered to have the net effect of reduction in actual consumption or on reduction of ED. Other-wise also, such a proposition would be absurd for the simple reason that actual consumption remains actual and not nominal and also because the Electricity Duty is the specific domain of the Government as well as property of the government and not the Respondent's or the HPERC's. This Electricity Duty while being applicable on electricity consumption or supply is simply to be calculated on energy charges. Further, the Complainant has no-where shown that it has not consumed the electricity which has been billed to it. Thus any monetary rebate cannot have any effect what-so-ever on reduction of Electricity Duty nor can these entitle the Complainant for its refund;

(22) In view of foregoing, Forum holds that while the Electricity Duty is the specific domain of the Government however, the Complainant is still not at all eligible for any refund of Electricity Duty by the Respondent that may have arisen from rebates being claimed by it or rebates that may have been passed on to the Complainant by the Respondent or allowed by the HPERC. The arguments and contentions raised by the Complainant for refund of Electricity Duty is thus also rejected and accordingly disposed.

(23) On the issue of payment of Interest raised by the Complainant, Forum does not find any reference to payment of Interest on rebates in the Tariff Orders passed by the HP Electricity Regulatory Commission. The Forum now proceeds to look into the specific facet of payment of Interest arising from the non-payment of rebates, in accordance with regulations notified by the HPERC –

(24) Forum observes that after a claim having been raised by the consumer, at the outset the quantum and question of eligibility and entitlement of Rebate by the Complainant

H.P. Electricity Ombudsman Khalini, Shimla-2

has to be assessed and established by the Respondent distribution licensee based on Tariff Orders passed by the Ld HPERC and Codes / Regulations notified by the HPERC. Once the same has been assessed, established, determined and paid by the distribution licensee, shall the question of payment of any Interest arise on the principle amount so determined. At the same time, such shall have to permitted by the HPERC through its Regulations or Tariff Orders;

(25) On bare examination of sub-regulation 26(2)(ii) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 which is in terms of Interest to be paid on undue charges that have been paid by the Complainant consumer, no-where has the Complainant shown to the Forum that the bills paid by it contained undue charges and neither is any bill disputed by the Complainant which may be carrying undue charges. Non-inclusion of rebate in a bill by the Respondent does not make the bill to become un-due. It has to be shown by the Complainant that the charges included in the bill were not due and which were paid by the Complainant, such as to invoke this provision of regulations, and this aspect is conspicuously missing in the filing by the Complainant;

(26) Also on bare examination of code 5.7.3 of the HP Electricity Supply Code, 2009, Forum finds this to be with regard to Interest on excess payment made by the Complainant due to erroneous billing and this is also not the case of the Complainant. Merely the non-inclusion of rebate by the Respondent in a bill does not make the bill to become erroneous. This rebate is separate and it may be a case that such rebate is paid separately by the Respondent or is required to be calculated on a yearly basis;

(27) In view of foregoing, Forum holds that the payment of Interest to the instant Complainant by the Respondent on Rebates allowed in Tariff Orders, is not provided in the said Code / Regulations notified by the HPERC. The Complainant is accordingly not eligible for any Interest arising from payment of the rebate. Thus, the contention raised by the Complainant with regard to refund of Interest on rebate is also rejected by the Forum and is accordingly disposed. On aforesaid terms, the complaint is Dismissed and disposed accordingly; Parties are left to bear their own costs. Order is announced before the parties present today on 21.01.2025 at Shimla in open Forum. Registry of Forum is directed to supply certified copies of this Order to the parties and the complaint along with this Order be consigned to record room for safe custody.

B. CGRF Order in Review Application NoRC-1453/202506/12

ORDER

(1) Review Application has been filed on 17.03.2025 by M/s Milestone Gears Pvt Ltd in complaint No. 1453/202409/29 which was decided by the Forum vide its Order dated 21.01.2025. Review Applicant is a consumer of the HPSEBL who is the Respondent herein;

H.P. Electricity Ombudsman • Khalini, Shimla

(2) The Review Application is listed today for the first time for admission hearing. Forum has examined the Review Application and parties have heard;

(3) Review Applicant submits before the Forum that the Review is being preferred by it as it has come across an important piece of evidence which was not in its knowledge and could not be produced by it at the time of Order dated 21.01.2025 passed by the Ld Forum. This evidence is a clarification letter dated 31.07.2020 by the HP Electricity Regulatory Commission (or the HPERC) and is a communication to the Chief Engineer (Commercial) of the Respondent;

(4) Forum observes that the Review Applicant has not filed the Order dated 21.01.2025 passed by the Forum on which the Review is being sought. Accordingly, on directions by the Forum, the Registry of the Forum has placed the complete complaint file before it;

(5) Forum also observes that the original Complainant/ Applicant herein had filed Representation No 18/2025 before the Ld Ombudsman for Electricity, wherein Ld Ombudsman vide Order dated 16.06.2025, in concluding paras, is pleased to Order as follows:-; "

....

.....

Accordingly, in due cognizance to the 'Hierarchy of Adjudication system', the Complaint filed by M/s Milestone Gears Pvt. Ltd. Unit-IV Opp. Himachal Fiber Ltd., Industrial Area, Barotiwala Distt. Solan, Himachal Pradesh174103 is hereby disposed of with direactions to ld. CGRF to first adjudicate the Review Application as contended by the Complainant

.....

....."

(6) Forum observes that based on said evidence which is a letter dated 31.07.2020 written by the HPERC to the Chief Engineer (Commercial), Review Applicant has averred that the clarification given by the HPERC in this letter is contrary to observations of the Forum in its Order dated 21.01.2025 and has prayed for amendment of the Order;

(7) Further, from perusal of said Order passed by the Forum on 21.01.2025, Forum finds that the issue of rebate on night hour consumption and peak hour consumption has specifically been dealt and speaking Orders passed on the basis of Tariff Orders passed by the HP Electricity Regulatory Commission. However, the ibid letter dated 31.07.2020 has not been dealt in the said Order as then it was not the case of the Complainant;

(8) Forum on examining the said letter dated 31.07.2020 finds 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;

(9) 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 holds that a statutory Judicial Order of clarificatory nature either by the Ld

H.P. Electricity Ombudsman Khalini, Shimla-2

(14) With regard to the conditions specified in ibid Regulations notified by the HPERC for Review of its Orders by the Forum, Forum concludes that for the reasons given in paras supra, the instant Review Application fails the tests prescribed in the Regulations. On aforesaid terms the instant Review Application is dismissed and accordingly disposed. Parties are left to bear their own costs. Order is announced before the parties present today on 27.06.2025 at Shimla in open Forum. Certified copies of this Order be supplied to the parties. The complaint along with this Order be consigned to record room for safe custody.

7. Case called, the matter was heard on 04.09.2025. The matter was earlier scheduled for final arguments on 29/08/2025 but for unprecedented rainfall and unpredictable weather forecast, adjourned and fixed for final arguments on 04.09.2025 and again could not be conducted owing to further adjournment sought by the Authorized Representative for the Complainant through application dt.04.09.2025 under the hand of ld. Counsel Sh. Manik Seithi sent through an Advocate Sh. Tawarsu who was deputed to attend the matters as per said communiqué on behalf of the Complainant.

8. The Respondent Board had not submitted the reply as yet and was directed to submit reply on or before 12/09/2025 with a copy of reply to the Complainant and Rejoinder if any, to be submitted by the Complainant immediately thereafter the submission of the reply by the Respondent Board. Accordingly, the case was listed for final arguments on dated 16/09/2025.

9. Case called, the matter was heard for final arguments on 16.09.2025. The concerned Assistant Engineer appeared as Respondents, instead of submission of reply, confirmed in the court room that in terms of earlier findings in similar matters and

H.P. Electricity Ombudsman Khalini, Shimla-2

HPERC or Order by the Hon'ble Courts alone have the powers to do so and not a letter. Accordingly, Forum further holds and concludes that when Order has been passed by the Forum on 21.01.2025 which is based on Judicial Tariff Orders passed by the Ld HPERC, then this letter between the HPERC and the HPSEBL cannot also have any superseding or overriding effect on Order passed by the Forum in complaint No 1453/202409/29;

(10) Forum also observes that when the Review Application is in terms of discovery of new evidence namely the said letter dated 31.07.2020, it is expedient to refer to Regulations on the scope of Review. From perusal of provisions of sub-regulation 26(7) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, Forum finds the following provisions govern the instant matter–

Quote

.....

.....

26. Issuance of Order (1)

.....

.....

1 [(7) The Forum, either on its motion or on an application moved within 30 days of the order by any of the parties to the original proceedings, may, after affording an opportunity of being heard, review its order on-]

(i) the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time the order was made;

....

....

Un-Quote

(11) When the ibid provisions of Regulations on Review are read vis-àvis Review Application filed, Forum finds that the Review Applicant here-in has nowhere explained the specified 'due diligence' that may have been exercised by it at the time the Order dated 21.01.2025 was passed by the Forum. Clearly the Review Application is not in accordance with the Regulations notified by the HPERC; (12) Forum further finds that the Order in original complaint was passed by the Forum on 21.01.2025 and the instant Review Application has been filed on 17.03.2025 i.e after a gap of 54 days. Thus the Review Application is delayed by 54 days against the mandated provision in ibid Regulations of 30 days. In its Application for condonation of Delay, Forum does not find any valid, satisfactory or cogent reasons to enable it to allow this Application for condonation of Delay, which is rejected. Clearly, on the anvil of Regulations, the Review Application is barred by limitation;

(13) In view of foregoing, Forum does not find any wrong in its Order passed on 21.01.2025 in complaint No. 1453/202409/29 which may necessitate its Review on discovery of said new evidence by the Review Applicant herein / Complainant in original complaint, which in the considered opinion of the Forum cannot in any way be held to be new;

H.P. Electricity Ombudsman Khalini, Shimla-2

settled law, they had dispersed the total payment of Rs.6,84,307/- including payment for night time consumption in addition to night time concession with a break up of Rs. 5,38,517 refunded during the proceedings before the ld. CGRF and credited in the energy bill of October,24 and Rs. 1,45,790/- recently credited through sundry towards Night hr. consumption and also submitted a copy of bill in the court room on 16/09/2025 during arguments to substantiate which was also taken on record. He further asserted that except for interest portion nothing stands due. Thereafter, further during arguments, the Complainant Representative also confirmed the same in the court room except for the interest part and showed satisfaction to that extent.

10. The deliberations made by the Assistant Engineer representing Respondent Board and participation in discussions were appreciable. The assertions made by the Assistant Engineer as Respondents for above refund & further confirmations acknowledged by the Authorized Representative of the Complainant, this authority was convinced and conceded that after appending refund by the Respondents, warrants no further intervention of this authority, except for the part payment pending towards interest. subsequently, the arguments were concluded and order reserved.

11. The case file bearing Original Complaint No. 1453/202409/29 & Review Application RC No. 1453/202506/12 and subsequent orders dt. 21/01/2025 & dt. 27/06/2025 respectively passed by the

H.P. Electricity Ombudsman Khalini, Shimla-2

Consumer Grievance Redressal Forum Kasumpti, Shimla-171009 have been requisitioned and gone through and the relevant extracts of both the orders have been reiterated under the "**para-6 (A&B)**" above for reference and record.

12. The documents annexed and placed on record, arguments advanced by both the parties have also been gone through in depth.

13. The appropriate Acts, Supply Codes, Tarif Orders have been referred to for clarity.

14. The contentions of the Complainant detailed under **para- '3'**, and Arguments placed under **para- '8,9'**, gathers considered opinion for further analysis and findings on the remaining issue of interest.

15. This authority after scrutiny of requisite contentions and steps taken by the Respondents, appreciates Respondent's concern to settle in terms prevalent provisions & settled law as per earlier orders and is convinced on the very fact that the Respondents in the instant case has recognised the Additional Consumption including Peak hrs.& Night hrs. consumption as a legitimate claim , achieved by the Complainant in the said period in the past and settled towards rebate by exercising the provisions as contained in the relevant Tariff Order.

16. In view of above analysis, it is observed that the only issue left is payments towards interest which needs to be delved in details to

H.P. Electricity Ombudsman Khalini, Shimla-2

assess actual entitlement of the Complainant to avail interest in the instant matter in case of rebate.

17. After examining the documents placed on record, arguments advanced, this authority in line with the findings in the earlier orders as well in Review Applications No. 25/2025,26/2025,27/2025, observes that the matter related to interest in case of rebate is usually misconceived by the either party as modalities analogous to the interest which arises on account of erroneous billing where it attracts computation from the date the amount becomes due. However, it is asserted that the interest as contended, if eligible, shall attract the following provisions, the very specific parts are reproduced as under:

a. The relevant extract of clause 5.7.3 of supply code 2009 is reproduced for analyzing applicability of the complainant for availing interest in the instant case subject to above which provides as under:

> **5.7.3** *"if on examination of a complainant, the licensee finds a bill to be erroneous, a revised bill will be issued to the consumer indicating a revised due date of payment, which will not be earlier than ten days from the date of delivery of the revised bill to the consumer. If the amount paid by the consumer under para 5.7.1 is in excess of the revised bill, such excess amount will be refunded through adjustment first against any outstanding amount due to the licensee and then against the amount becoming due to licensee immediately thereafter. The licensee will pay to such consumer interest on the excess amount---------from the date of payment till such time the excess amount is adjusted. "*

b. Regulation 26a(ii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman)

H.P. Electricity Ombudsman Khalini, Shimla-2

*"----to return to the complainant **the undue charges** paid by the complainant along with interest at the rate------"*

18. It is observed from the above specific part of clause 5.7.3 of supply code read with Regulation 26a(ii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) that subject to eligibility of rebate , the amount to be refunded shall be construed as an excess/undue amount paid by the Complainant or excess amount remained with the Respondent Board and warrants refund (of excess amount) with interest , however, interest reckon from '**which date**' in case of rebate, still appears to be an illusion / misconception , requires further analysis i.e. date of reckoning of interest on rebate, although the same stands adjudicated in details in the above said cases , yet this authority feels to explore in the interest of consumer to avoid litigation in future.

19. The above provisions under clause 5.7.3 of Supply code and Regulation 26a(ii) entitles the concerned to avail interest on the excess amount remained with the Respondent irrespective of type of amount whether of erroneous bill or rebate, but the application of these provisions for computation of interest with legitimate reckoning date is very vital in itself as it varies from case to case depending upon whether is it a case of erroneous billing owing to levy of wrong Tariff for which both the parties remain well aware of right from the beginning or a case of refund of rebate as in the instant case.

H.P. Electricity Ombudsman Khalini, Shimla

20. It is further observed that the instant case of interest on rebate is different from the case of erroneous billing where a revised bill is supposed to be issued retrospectively after due corrections, whereas **this is not the case here.** It is a case of interest on rebate refunded. Before further perusal, this authority would like to fetch more clarity on the applicability of date of interest.

21. This authority draws inferences that in case the amount remains erroneous right from the beginning owing to levy of wrong Tariff which appears continuously in the ensuing bills with due awareness of both the parties and in the end if the settlement lies in the favour of Complainant, warrants intervention of clause 5.7.1 also along with clause 5.7.3 of the Supply Code and the Complainant becomes entitled for interest from the date the 'payment due' till it is released.

22. Whereas, the case is different when we talk about interest on rebate as it has been observed that the achievements stand carried out **(achieved) by the Complainant/Consumer** in the past in routine very much prior to the notification of respective Tariff orders and under such circumstances nobody can apprehend about the future mandate of Hon'ble Commission's ensuing Tariff Orders on such previleges. Thus, the actual due date announced for availing rebate in future Tariff Orders becomes obsolete with interest on rebate point of view when both the date of notification of Tariff order and retrospective date

H.P. Electricity Ombudsman • Khalini, Shimla-2 of rebate on achievements fall in different domains thus shows vibrant averments.

23. Hence, in view of above analysis, it is affirmed that **unless initiated by the concerned party nobody can assess such achievements of individuals in the past** and hence, cannot held anyone responsible, specially the Respondent/Licensee in the instant case.

24. In view of above analysis on vibrant averments where the date and year of claim could be different from the date/year of achievements in terms of provisions of Tariff orders, how can one call for entitlement of interest from the day, the payment gets due, analogous to the case of erroneous billing which usually happens due to application of wrong Tariff.

25. In view of above findings, this authority further draws considered opinion that under such circumstances when unless the Complainant/Consumer who is well aware of his achievements, does not come forward to inform, it reasonably appears to be impossible for Respondents to know about the 'Additional Consumption / Expansion' carried out by the individual in the past prior to the notification of the respective Tariff orders.

26. After delving this intricate issue in depth, this authority falls into conclusion that in the instant case where the rebate is refunded for the past period within the sphere of prevalent Tariff Orders, the reckoning date of interest till an excess amount remains with

H.P. Electricity Ombudsman Khalini, Shimla-2

Respondent in the case of rebate issue, takes a lead only when the Complainant informs for his achievements and requests for refund of rebate as per provisions and **may avail interest if the amount of rebate after the Complainant informs remains as an excess amount with the Respondent until the date it is released.**

27. Similarly, in due cognizance to foregoing analysis and speculation towards the date of achievements in the past, when we talk about interest on excess amount remained with Respondents in case of rebate, it clearly attracts that when the Complainant applied for that rebate and till it was released from the date the Complainant applied, shall be considered as an excess amount remained with the Respondent and shall attract provisions for computation of interest from the date the Complainant applied and remained as an excess amount with the Respondent before it was released/adjusted.

28. In view of above analysis, this authority further asserts that both Complainant and Respondents remain unaware (**innocent**) about the applicability of such rebate on such achievements which they had carried out in the past prior to the notification of the respective Tariff orders and which was allowed as an incentive for the past period thereafter the notification of Tariff orders.

29. In the interest of natural law of justice, this authority draws considered opinion that unless somebody initiates for such rebate, nobody can assess whether such rebate is due or not.

H.P. Electricity Ombudsman Khalini Shimla-2

30. In view of such assertions this authority with initiation point of view feels it pertinent to mention here that **the Complainant's Representative is one among all present when the stake holders meeting is convened by the Hon'ble Commission for finalizing the tariff order before its publication in Rajpatra and the Representative is supposed to be the first-hand informer to all industrialists for availing such privileges to avert such delay and litigations.** It is further added that especially in the case of rebate unless the concerned party initiates such request nobody can come to know about this kind of pendency.

31. This authority after resorting to the above exhaustive analysis, observes and draws considered opinion that specifically in the case of rebate, **this is not an intentional act of Respondent towards delay but it purely attributes to the sluggish action of the concerned party in terms of above findings who has to claim such rebate as they are the only judge of their achievements carried out in the past and could apprise well to avail such privileges and no one else.**

32. In sequel to above conclusive findings, this authority draws considered opinion that in case of rebate, reckoning date for computation of interest lies from the date the Complainant applies after the notification of the prevalent Tariff orders till it remains as an excess amount with the Respondents thereafter before the same is released **or in the absence of any such**

H.P. Electricity Ombudsman Khalini, Shimla-2

application, the date on which the Complainant files Complaint before the Forum may also be considered as reckoning date.

33. In view of above discussions , this authority while scrutinizing relief sought by the Complainant further observes that in respect of interest @15% towards refund claimed, the complainant has overlooked the prospective effect of amended Regulation 26(ii) notified on 20th January,2022 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) (Second Amendment) in respect of the period of relief sought in the instant case, and relied upon clause 5.7.3 of Supply Code (2nd Amendment) dt. 31st July, 2018 only in isolation, which is also reproduced as under:

> "**4 Amendment of para 5.7.3**-*In para 5.7.3 of the said code, for the words "interest on the excess amount at twice the SBI's Short Term PLR prevalent on the first of April of the relevant year" the words "simple interest on the excess amount @15% per annum, or* ***where the rate is fixed by the Commission at the rate so fixed, on daily basis" shall be substituted.***"

34. Whereas the complainant has not given cognizance to the rate of interest i.e. 12% for the period falling within the scope of amended Regulation 26a(ii) notified on 20th January,2022 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) (Second Amendment) which is read as under:

> "**12. Amendment of Regulation 26.-**
>
> *(1) In Sub-clause (ii) of clause(a) of Sub- regulation (2), for the words and* ***figure "15percent"****, the words and* ***figure "12 percent"*** *shall be substituted;"*

H.P. Electricity Ombudsman Khalini, Shimla-2

35. From the above analysis, it is asserted that subject to admissibility of the contentions, for the claim of interest on refund sought, needs computation of interest in terms of clause 5.7.3 of Supply Code (2nd Amendment) dt. 31st July, 2018 @15% for the period applicable read in conjunction with Regulation 26(ii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) (Second Amendment) notified on 20th January,2022 @12% for the period falling within the scope of amended Regulation 26a(ii) in terms of above provisions giving due cognizance to the prospective effect of such amendments.

36. In view of foregoing findings and analysis, the order is issued as under:

a. **The paras in the Order dated 21/01/2025 passed in Original Complaint No. 1453/202409/29 and the order dt. 27.06.2025 passed by Consumer Grievance Redressal Forum at Kasumpti in Review Application No. RC 1453/202506/12 which are not in conformity to the findings of this order are quashed.**

b. **The Respondent Board is directed to pay interest on the above contended rebate in terms of above exhaustive findings reckoning from the date the Complainant applied i.e. 26/08/2024 in the instant case after the notification of the prevalent Tariff orders till it remained as an excess amount with the Respondents thereafter before the same was released.**

c. **The Respondent Board is directed to overhaul the accounts of the Complainant within 30 days excluding holidays from the date of issuance of this order to avert intervention of Regulation 37 (6) of**

H.P. Electricity Ombudsman Khalini, Shimla-2

Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for initiation of appropriate action by the Commission under the provisions of the Electricity Act, 2003 and brunt on individuals.

d. that the amount of interest be computed in terms of clause 5.7.3 of Supply Code (2nd Amendment) dt. 31st July, 2018@15% for the period till applicable under this code and thereafter in consonance with the Regulation 26a(ii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) (Second Amendment) notified on 20th January,2022 @12% for the period of rebate falling within the scope of amended Regulation 26a(ii) giving due cognizance to the prospective effect of such amendments. Both Supply Code and Regulation 26a(ii) for above provisions be read in conjunction, not in isolation.

e. After resorting to exhaustive analysis/findings, this authority under the powers drawn in terms of Regulation 37(3)(d)(e) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, in the public interest advises as under:

   i. That both Complainant and Respondents are advised to avert deviation from natural law of justice and frame averments only which are universal in nature and not individual specific, as any wrong pursuance shall ultimately add fiscal brunt on consumers and defeats the very purpose of Consumer Protection mandate.

H.P. Electricity Ombudsman Khalini, Shimla-2

ii. That also, after the advent of any new privilege pronounced by the Hon'ble Commission in future, the concerned Representatives of Industrialists should immediately bring to the notice of individual concerned so as to avoid further confrontation as happened in the past due to un-awareness of the concerned, resulted in delay or depriving of one's rights from such benefits.

f. The Respondent Board in due cognizance to adherence to above time limit is also at liberty to adjust in the ensuing bills in terms of prevalent provisions and amendments thereof.

g. No cost to litigation.

h. In terms of above findings, the Complaint filed by M/s Milestone Gears Pvt. Ltd. Unit- IV, Opp. Himachal Fibre Ltd., Industrial Area, Barotiwala Distt. Solan, Himachal Pradesh- 174103 is hereby disposed of.

i. The case file is consigned to record room and order is also placed at site as well as conveyed telephonically for the convenience of reference.

H.P. Electricity Ombudsman • Khalini, Shimla-2

Given under my hand and seal of this office.

Dated: 29/09/2025

Shimla

29/09/2025

Electricity Ombudsman