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. 01/2026**

M/s Veer Plastics Pvt. Ltd. Village Goel Jamala, Swarghat Road, Tehsil Nalagarh, District Solan Himachal Pradesh-174101

– Complainant

Vs

1. **The Sr. Executive Engineer, Electrical Division, HPSEBL, Nalagarh-174101.**
2. **The Assistant Engineer (E), Elect. Sub-Divin. No. II, HPSEBL, Nalagarh--174101**

-Respondents

Complaint No.01/2026 (Registered on 08/01/2026)

(Orders reserved on 07/03/2026, Issued on 10/03/2026)

Present for:

The Complainant: - Sh. Rakesh Bansal, Authorized Representative
The Respondents: -Sh. Kamlesh Saklani, Under Secy. Law
- Sh. Rajesh Kashyap, Advocate
-Er. Mukesh Sharma, AE, ESD, Nalagarh-II

QUORUM
Er. Deepak Uppal
HP Electricity Ombudsman

1. Brief Facts of the Case:

a. **M/s Veer Plastics Pvt. Ltd.** bearing Consumer ID 100012000903 is a 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 has filed the said Complaint against the final order dated 02/12/2025 passed by the Additional Consumer Grievances Redressal Forum (CGRF), Solan in Complaint No.1252/10/2025/01 which was received and registered on dt. 08/01/2026.

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c. The complainant contests the recovery of a Late Payment Surcharge (LPS) of Rs 1,41,992/-with the contention that the delay in credit was caused by an online system failure, not consumer default.

2. The case was listed for admission hearing on 29/01/2026. In order to facilitate further pleadings in a comfortable domain, the specific contentions of the complainant are first restated as under.

3. The Complainant Contends:

PRE-CONDITIONS FOR ENTERTAINING THE REPRESENTATION

The Complainant submits that this representation satisfies all admission criteria and pre-conditions stipulated under Regulation 33 of the HPERC Regulations, 2013:

1. Limitation/Timeline: The Ld. ACGRF passed the order on 02.12.2025. As per despatch record (No. 8121-23), the certified copy was communicated only on 08.12.2025 and received on 09.12.2025. This filing is within the 30-day window from the date of receipt as per Regulation 33(1)(f).

2. Deposit of Disputed Amount: Under Regulation 33(1)(g), a complainant is required to deposit 50% of the assessed amount. In this case, 100% of the disputed surcharge amount (Rs. 1,41,992/-) stands already paid and is in the possession of the Licensee, as the system re-acceptance on 22-07-2025 was conditional upon full payment.

3. Exhaustion of Remedy: The Appellant has already approached and received a final order from the Ld. ACGRF, Solan.

GROUNDS FOR REPRESENTATION

The Complainant submits that the Order dated 02.12.2025 passed by the Ld. ACGRF is technically flawed and reflects a failure to adjudicate the specific merits of the case for the following reasons:

I. FAILURE TO ACCOUNT FOR THE ADMITTED SYSTEM FAILURE

1. The Complainant submits that it is an undisputed fact that the Appellant initiated a payment of Rs. 1,11,55,975/- on the due date (18-07-2025), which was successfully debited from their bank account.

2. The Complainant submits that the Respondents explicitly admitted that the payment failure was due to an "online system failure" verified by the HPSEBL IT Cell and the BillDesk payment gateway. This admission is found in the respondent's formal "Reply on Merits" submitted to the Additional Consumer Grievances Redressal Forum (ACGRF) of HPSEBL, Solan in the matter of Complaint No. 1252/10/2025/01. Specifically, in Paragraph 8 of their reply, the respondent states that the payment of Rs. 1,11,55,975/- never credited to their bank account and was returned to the complainant "due to some online system failure".

The respondent further clarifies that this failure was verified internally and externally:

- They state the failure was **"confirmed from the IT Cell of HPSEBL"**.
- They also note it was **"further confirmed from the Bill Desk payment gateway"**.

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While admitting the technical failure occurred, the respondent argued that the delay should not be attributed to "HPSEBL's fault" and maintained that the **levy of the surcharge was legal** because the successful payment was ultimately deposited after the due date.

1. The Ld. Forum erred in concluding the surcharge was justified simply because funds did not"reflect" in the Respondents' account by the deadline. The Forum failed to appreciate that the failure occurred within the official URL provided by the Licensee:

   https://www.hpseb.in/HPSEBIntegratedPay/index.html.

4. When a Licensee mandates an official digital platform, it assumes the risk of technical glitches within that platform. Penalizing a diligent consumer for a verified "glitch" in the Licensee's infrastructure is arbitrary.

II. ERRONEOUS AND NARROW DISTINCTION FROM PRECEDENT

1. The Ld. Forum dismissed the applicability of Complaint No. 1432/202308/24 (*M/s Shree Siddi Vinayak Forging*) by drawing a narrow technical distinction: that in the precedent, funds reached a "different Board account," whereas here they were returned.

2. This approach is flawed. In both cases, the consumer acted timely and the utility was not deprived of funds due to any fault of the consumer. The precedent clearly held that errors resulting from internal technical or accounting purposes are "merely technical" and do not justify a late payment surcharge if the consumer acted well in time.

III. ADMINISTRATIVE LAPSES IN ADJUDICATION

1. By focusing only on whether the funds "landed" in the Respondents' bank account, the Ld. Forum failed its mandate to provide a "speaking and reasoned" order as required under Regulation 26(4).

2. The Forum's decision punishes the Appellant for the Licensee's operational failure, which is contrary to the consumer protection spirit of the Electricity Act, 2003.

PRAYER

It is, therefore, most respectfully prayed that the Hon'ble Ombudsman may be pleased to:

a) Set aside the Order dated 02.12.2025 passed by the ACGRF in Complaint No. 1252/10/2025/01.

b) WAIVE OFF/REFUND the entire late payment surcharge of Rs. 1,41,992/- as the failure was purely system-side.

c) Direct the Respondents to pay simple interest at the rate of 12% per annum for the period the undue amount was withheld, as per Regulation 26(2)(ii) of the HPERC Regulations, 2013.

d) Pass any other order deemed fit and proper to meet the ends of justice.

4. In order to have clarity on the findings of ld. Additional CGRF Solan w.r.t. Complaint No. 1252/10/2025/01 needs to be reiterated in totality for record and reference as under:

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ORDER

Brief Facts of the Case –

1. Complaint has been filed under regulation 16 and 17 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. In terms of Definitions in regulation 3 of this Regulation, the Complainant M/s Veer Plastics Private Limited, Village Goel Jamala Swarghat Road, Tehsil Nalagarh, Distt Solan (H.P.) 17 4101.
2. Complainant is Large Industrial Power Supply Consumer (LIPS –Two Part Tariff) with Consumer Id 100012000903)
3. The complainant seeks refund / waive off surcharge amount which is Rs 141992/-

Complainant: -

A. Briefly the case of the complainant before the Forum is –

1. The complainant challenges the recovery of a Late Payment Surcharge (LPS) of Rs 1,41,992/- arguing that the delay in credit was caused by an online system failure, not consumer default.
2. **Timely payment due:** The required payment against the electricity bill was Rs 1,11,55,975/-. The specified due date of payment was 18/07/2025
3. **System Error and Fund return:** The payment failed to update for the consumer Id 100012000903. The debited payment was reversed and returned (credited back) to the complainant's bank account on 21/07/2025, due to reasons unknown, constituting "no fault of the consumer". The complainant immediately on reversal of payment transferred the amount again on 22/07/2025, which the system accepted only with late payment surcharge.
4. **Imposition of surcharge:** Consequently, the Respondent's system levied and LPS. The complainant paid the total bill amount including this surcharge result in a payment of Rs 1,12,97,967/- on 22/07/2025. The disputed surcharge amount of Rs 1,41,992/-
5. **Formal representation:** The complainant formally requested the Senior Executive Engineer to "refund / wave off our surcharge amount which is Rs 1,41,992/-"via a letter dated 23/07/2025, stating that the overpayment was due to a mistake happened/ online error occurs from the website of the respondents or some other technicality for which the complainant should not be penalized.
6. **Lack of Action & Legal Basis:** The Respondent failed to provide the necessary Redressal. The complainant asserts that the principal amount was paid on the due date (18/07/2025). As established by the Hon'ble consumer Grievances Redressal Forum in complaint No. 1432/202308/24 (order dated 03/11/2023). The forum found that once the principal amount (Rs 190855511/- was paid well in time, even if wrongly credited due to an error "no late payment surcharge is payable by Complainant" The delay was deemed "merely technical and of accounting purpose "
7. **Alternative basis of Relief:** In the alternative, the complainant relies on the Forum's precedent where only a pro-data surcharge was levied for the actual period of delay. In complaint No. 1432/2/018/001) order dated 25/04/2018), involving a similar short delay where payment was made on 21/12/2017 against a due date of 18/12/2017, the Forum order that surcharge 'should be levied on pro-rata basis only for three days instead of already charged for one month". The delay in the present case is similar (approximately3-4 days)
8. **Nature of relief sought from the Forum**
The complainant requests the Additional Consumer Grievances Redressal Forum of HPSEBL at Solan to issue an order directing the respondents to refund the excess surcharge amount calculated beyond the pro-data period, along with simple interest thereon from 22/07/2025 until the date of actual refund / adjustment.

B. The Respondent Contents (Reply)

1. That it is specifically denied that the levy of Surcharge is illegal and that the payment failure cannot be attributed to the licensee. The levy of Surcharge is legal and as per the regulation and

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J. Late Payment Surcharge (LPS): Surcharge of late payment shall be levied at the rate of 1.5% or part thereof, on the outstanding amount excluding electricity duty / taxes for all the consumer categories."

2. That Misleading stating that the delay in credit is due to the online system failure but, the payment of Rs 1,11,55975/- never got credited to the HPSEBL bank account and never reflected in the HPSEBL account and hence it was returned back to the complainant due to some online system failure and not due to HPSEBL's fault as confirmed from the IT Cell of HPSEBL which was further confirmed from the Bill Desk payment gateway.
3. That the payment of Rs 1,12,97,967/- was deposited by the consumer after due date hence, levy of surcharge amounting of Rs 1,41,992/- is justified as per the HPERC tariff order.
4. That a representation was submitted by the complainant. The matter was taken up with the competent authority and same is pending with higher authority.
5. That the complaint No. 1432/2023058/24 order dated 03/11/2023 does not apply in this case. In the complaint No. 1432/202308/24, the consumer has deposited the amount in other consumer account of HPSEBL but, in the instant case the amount was not disbursed in the HPSEBL account till due date, due to which late payment surcharge was levied as per HPERC Tariff order.
6. That it is re-asserted that the late payment surcharge has been levied correctly as per the applicable tariff order.
7. That keeping in view the above facts and circumstances prayed that instant complaint being meritless may be dismissed in the interest of justice and fair play.

The complainants addl. Submission (Rejoinder):-

The complainants submit this rejoinder to the reply filed on HPSEBL save as expressly admitted herein each averment & contentions of the reply is denied.

PRELIMINARY SUBMISSION

1. The Complainant confirms receipt of the Respondents' Reply and denies the; Contentions made therein, specifically the assertion that the levy of the surcharge is legal, and the claim that the payment failure was not the fault of HPSEBL.
2. The Respondents' Reply overlooks the fundamental principle of regulatory equity and the established precedents of this Forum, which hold that a consumer should not be penalized for operational or system failures within the Licensee's payment ecosystem.
3. The Complainant adheres to its original prayer requesting the refund/waiver of the entire surcharge amount of Rs. 1,41,992/-.

PRIMARY SUBMISSION: REFUTATION OF FAULT AND LIABILITY

The Respondents contend that the initial payment of Rs. 1,11,55,975/- on 18-07-2025 was returned due to an **"online system failure"** and was **"not due to HPSEBL's fault"**, and that the subsequent surcharge is justified because the payment was received after the due date. This contention is unsustainable for the following reasons:

A. Licensee's Responsibility for the Payment Channel

1. The Complainant fulfilled its contractual and regulatory duty by initiating the RTGS payment successfully on 18.07.2025, well within the due date, and the amount was successfully debited from the bank account.
2. The alleged **"online system failure"** occurred within the digital infrastructure managed by or on behalf of the Licensee, specifically involving the official URL: https:/ /www.hpscb.In/HPSEB lntegratedPay/index.html.
3. When the Licensee chooses to offer and promote an online payment gateway, it inherently **assumes the risk** associated with the technological or operational failures of that channel, ·whether caused by HPSEBL's IT Cell or the designated BillDesk payment gateway. The burden of ensuring timely and accurate crediting via the authorized digital platform rests entirely upon the ecosystem controlled by the Licensee, and the non-faulting Consumer should not be financially burdened for the failure of this system.

B. Precedent Mandating Waiver of Surcharge on Accounting/Crediting Errors

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1. The Respondents distinguish this case from Complaint No. 1432/202308/24 (*M/s Shree Siddi Vinayak Forging Pvt Ltd*), arguing that here, the funds were never disbursed into the HPSEBL account until the due date. However, the legal principle established in that Order applies directly to operational failures:
   In the aforementioned case, the Forum specifically rejected the Respondent's submission justifying the surcharge.
   The Forum concluded that once the principal amount was **received well in time in the accounts of the Respondent HPSEBL,** the mistake of crediting the wrong Consumer ID was **"merely technical and of accounting purpose"**.
   The Forum definitively held that when there is **"no denial... with regard to any delayed receipt of payment by it"** (i.e. by the utility), **"no late payment surcharge is payable by Complainant"** ab-initio.
2. **Application to the Present Case:** The failure of the official online payment system to correctly process and credit the Complainant's funds (which had been successfully debited from the bank on the due date) constitutes a functional equivalent of a severe technical/ accounting error within the Licensee's system, as confirmed by HPSEBL's own IT Cell and payment gateway. Therefore, the Complainant having acted diligently and timely, **no late payment surcharge was payable ab-initio.**

II. ALTERNATIVE SUBMISSION: MANDATE FOR PRO-RATA CALCULATION

Should this Hon'ble Forum uphold the Respondents' contention that the delayed receipt of funds necessitates some surcharge, the Complainant submits that the levy of the full monthly surcharge of **Rs. 1,41,992/-** is illegal, arbitrary, and excessive, and must, at the very least, be restricted to a **pro-rata calculation** corresponding to the actual days of delay.

A. Legal Interpretation of "Per Month or Part Thereof'

1. The Respondents justify the full monthly surcharge by citing the HPERC Tariff Order for FY 2025-26, which states that the surcharge shall be levied at the rate of 1.5% **"per month or part thereof"**.
2. This exact phrasing has been authoritatively interpreted by the High Court of Karnataka in **M/ s. Shimoga Steels Limited vs. The Karnataka Electricity Board** (1998) (Attachment A). The High Court ruled that the object of levying **interest (or surcharge) is compensation, not penalty.**
3. The court explicitly rejected the interpretation sought by the Board (HPSEBL's current argument), concluding that forcing a consumer to pay interest for a full month when the delay was only for a few days **"would amount to hold the imposition of penalty"**.
4. The High Court held that the regulation authorizes the Board to levy interest at the prescribed rate **"only on the number of actual days of delay in making the payment... and not for the whole month"**. The words **"part thereof" refer to both the amount and part of the days of a month**.

B. Regulatory Precedent within CGRF

This legal interpretation aligning the surcharge with the actual period of delay has been previously implemented by this regulatory body against the Respondent:

1. In **Complaint No. 1432/2/018/001** (*M/s Shree Siddi Vinayak Tor Pvt.Ltd*), where the payment was delayed by only three days (due date 18.12.2017, payment 21.12.2017), the Forum exercised its regulatory discretion based on equity.
2. The Forum **ordered that surcharge should be levied on prorata basis only for three days instead of already charged for one month**.

Conclusion on Surcharge Calculation: Given that the correct payment was made on 22-07-2025, a delay of only a few days past the original payment attempt date (18-07-2025) or the original due date, the full monthly surcharge of Rs. 1,41,992/- is unconscionable. Should any amount be determined payable, it must be calculated strictly on a pro-rata basis for the actual days of delay, in line with established High Court and CGRF directives.

FORUM

1. Both the parties heard at length. We have examined the relevant provisions of the HPERC Tariff order, facts on record alongwith the pleading of the parties. Respondent i.e., Assistant Engineer Electrical Sub-Division-II, HPSEBL Nalagarh was present at the time of final hearing /argument. The considered opinion of the Forum has been gathered after considering the fair facts, evidences, correspondence placed on record and arguments adduced by the both the parties before the Forum.

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2. The fact is not denied that payment was initiated by the Complainant on dated 18/07/2025 and was debited from complainant account on 18/07/2025.
3. The fact is not denied that payment was not credited in Respondents Bank account on 18/07/2025.
4. The fact is not denied that payment was credited back in the Complainant bank account on 21/07/2025.
5. During the final hearings / arguments stage, it was also brought to the notice of the Forum and submitted before this Forum by replying Respondent Board i.e., Assistant Engineer, Electrical Sub-Division-II HPSEBL, Nalagarh. The instance quoted by Complainant in the case 1432/2023058/24 order dated 03/11/2023 does not apply in this case as the consumer has deposited the amount in other consumer account of HPSEBL and late payment surcharge was levied as per HPERC Tariff order.
6. Keeping in view the aforesaid fair facts as gathered, this Forum is of the firm opinion that the Late Payment Surcharge was levied correctly as per HPERC Tariff order due to non-payment within due date.

The Complaint is decided on merits and decided in favour of Respondent HPSEBL Board.

5. Case called, the matter was heard for admissions on 29/01/2026. At the very outset, it was discussed regarding Registration No. of instant Representation which was **erroneously marked as 45/2026 and henceforth, be read as 01/2026.** After listening to both the parties, the matter was admitted as case No. 01/2026 to the extent of initiation of proceedings. The Respondent Board was directed to submit reply on or before 16.02.2026 with a copy of reply to the Complainant and Rejoinder if any, by the Complainant immediately thereafter the submission of the reply by the Respondent Board. Accordingly, the case was listed for final arguments on dated 07.03.2026 at 12:00 P.M or Immediately thereafter subject to submission of above documents.

6. The Respondents submitted reply on dt. 05/03/2026 in compliance to this court's order dt.29/01/2026 which was taken on record and also ensured supply of copies to the Complainant which is also reiterated as under in totality to have overall view of the response of Respondents.

The Respondent Contends (Reply):

PRELIMINARY SUBMISSIONS: -

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1. That the representation filed by the complainant before this Ld. Ombudsman is neither maintainable nor competent, inasmuch as the Ld. Forum below has passed a well-reasoned and speaking order while non-suiting the complainant in Complaint No. 1252/10/2025/01. It is submitted that the Ld. Forum has duly appreciated the material on record and given due consideration to the provisions of the extant Regulations. As such, there is no infirmity or illegality in the impugned order dated 02.12.2025.
2. That the order passed by the Ld. Forum suffers from no infirmity; hence, there is no scope for interference by this Hon'ble Ombudsman. The replying respondents further submit, with utmost respect, that the levy of surcharge is legal and as per the Regulations, as mentioned in the HPERC Tariff Order for the year 2025-26,
"PART-I: General Conditions of Tariff". The relevant contents are reproduced as under:"

J. Late Payment Surcharge (LPS):-

Surcharge for late payment shall be levied at the rate of 1.5% per month or part thereof, on the outstanding amount excluding electricity duty/taxes for all Consumer categories."

The replying respondents further submit before this Hon'ble Forum that, instead of complying with the order dated 02.12.2025 passed by the Ld. ACGRF, the complainant firm approached this Forum vide the present complaint. On account of their acts and conduct, the complainant is not entitled to file and maintain the present representation against the replying respondents. Therefore, the present representation deserves dismissal.

Respectfully Showeth:-

Reply to Pre-conditions: -

1. The contents of this Para are matters of record; hence, no reply is needed on behalf of the respondents.
2. The contents of this Para are matters of record; hence, no reply is needed on behalf of the respondents.
3. The contents of this Para are matters of record; hence, no reply is needed on behalf of the respondents.

Reply on Merits: -

At the outset it is humbly submitted that the Ld. Forum has duly appreciated the material on record and given due consideration to the provisions of the extant Regulations and pleadings of both the parties. As such, there is no infirmity or illegality in the impugned order in Complaint No. 1252/10/2025/01 dated 02.12.2025.

1. **Failure to Account for the Admitted System Failure:** That the contents of this Para in so far are matter of record are admitted; hence, needs no reply. It is pertinent to mention that the payment of Rs. 1,11,55,975/- never got credited to the HPSEBL bank account and never reflected in the HPSEBL account. Hence, it was returned to the complainant due to some online system failure and not due to HPSEBL's fault, as confirmed by the IT Cell of HPSEBL, which was further confirmed from the Bill Desk payment gateway. In support thereof, the system-generated logs for the payment initiated by the consumer on 18.07.2025 bearing Transaction No. YSBI2599146719 clearly state that the payment was not pre-verified by the initiating bank.

2. That the contents of this Para are wrong and incorrect; hence, denied. It is further stated that the replying respondents further submit before this Hon'ble Forum that the complainant is misleading by stating that the delay in credit was due to online system failure of the Respondents. The payment of Rs. 1,11,55,975/- never got credited to the HPSEBL bank account and never reflected in the HPSEBL account. Further, correspondence was made with the IT Cell of HPSEBL regarding this issue. The IT Cell clarified that, as per the Payment Gateway Service Provider, the payment was returned due to a real-time success issue from the customer's bank and not due to HPSEBL's fault. The details of correspondence made with the IT Cell are placed on record as **Annexure-RA-1 (Colly)** for the kind perusal of this Hon'ble forum. Hence,

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the complainant is liable to pay the late payment surcharge, as the payment was not reflected in the HPSEBL account on or before the due date.

3. That the contents of this Para are wrong and incorrect; hence, denied. It is specifically denied that the Ld. Forum erred in concluding that the surcharge was justified simply because the funds did not reflect in the respondent's account by the deadline. There was no issue with the official URL of HPSEBL, as a number of successful payments were made on the same date, i.e., 18.07.2025. The details of payments made by all the consumers through Bill Desk Gateway on 18.07.2025 and on dated 22.07.2025 are placed on record as **Annexure-RA-2 (Colly),** for the kind perusal of this Hon'ble Forum.

4. That the contents of this Para are wrong and incorrect; hence, denied. It is further stated that the replying respondents submit before this Hon'ble Forum that the payment was returned due to a real-time success issue from the customer's bank and not due to HPSEBL's fault. Hence, the levy of surcharge amounting to Rs. 1,41,992/- is justified as per the HPERC Tariff Order.

II. Erroneous and Narrow Distinction from Precedent:

1. That the contents of the Para are wrong and incorrect; hence, denied. It is pertinent to mention that the order in Complaint No. 1432/2023/08/24 dated 03.11.2023 do not apply in present case. In Complaint No. 1432/2023/08/24, the consumer had deposited the amount in another consumer's account of HPSEBL; however, in the instant case, the amount was not disbursed to the HPSEBL account till the due date, due to which late payment surcharge was levied as per the HPERC Tariff Order.
2. That the contents of this Para are wrong and incorrect; hence, denied. Further, the replying respondents submit before this Hon'ble Forum that, in Complaint No. 1432/2023/08/24, the payment was credited to the HPSEBL account, though against some other consumer. However, in the instant case, the amount was not disbursed to the HPSEBL account till the due date, due to which late payment surcharge was levied as per the HPERC Tariff Order.

III. Administrative Lapses in Adjudication:

1. That the contents of this Para are wrong and incorrect; hence, denied. It is specifically denied that the Ld. Forum failed its mandate to provide a speaking and well-reasoned order as required under Regulation 26(4). It is humbly submitted that the Ld. Forum has duly appreciated the material placed on record and given due consideration to the provisions of the extant Regulations. As such, there is no infirmity or illegality in the impugned order dated 02.12.2025.
2. That the contents of this Para are wrong and incorrect; hence, denied. It is vehemently denied that the Forum's decision punishes the appellant for the Licensee's operational failure. It has already been submitted supra that, as per the Payment Gateway Service Provider, the payment was returned due to a real-time success issue from the customer's bank and not due to any act, omission or commission on part of HPSEBL. It is re-asserted that the late payment surcharge has been levied correctly as per the applicable Tariff Order notified by the Hon'ble HPERC.

PRAYER: -

In view of the above facts and circumstances, it is prayed that the instant complaint, being meritless, may be dismissed in the interest of justice and fair play.

7. The Complainant submitted Rejoinder-cum-Written Arguments on dt. 07/03/2026 in the court room which was taken on record. The same also needs to be recapped for reference and record as under:

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The Complainant's Additional Submissions through Rejoinder -cum – Written Arguments

REJOINDER CUM WRITTEN ARGUMENTS ON BEHALF OF THE COMPLAINANT/APPELLANT

MOST RESPECTFULLY SHOWETH:

The Complainant/Appellant above named most respectfully submits the present Rejoinder cum Written Arguments to the Reply filed by the Respondents. The Appellant vehemently denies all averments, contentions, and allegations made in the Reply that are contrary to the present submissions. The Respondents' Reply is fundamentally flawed, contradictory to their own annexed documents, and constitutes a deliberate attempt to shift the burden of their own systemic failures onto the Appellant.

WRITTEN ARGUMENTS

I. THE FACTUAL MATRIX: TIMELY PAYMENT BY THE APPELLANT

1. It is a matter of record that the Appellant's electricity bill for the cycle ending 23.06.2025 carried a due date of **18.07.2025**.
2. As per the Appellant's Bank Statement, the payment of **Rs. 1,11,55,975/-** was successfully initiated and debited from the Appellant's State Bank of India (SBI) account on the due date, i.e., **18.07.2025**, via Reference No. YSBI2599146719CHU0704172.
3. The amount was unilaterally reversed and credited back to the Appellant's account three days later, on **21.07.2025**, under the description "Refund of CHU0704172". The Appellant subsequently re-paid the principal amount along with the disputed Late Payment Surcharge (LPS) of Rs. 1,41,992/- on 22.07.2025 to avoid disconnection.

II. THE TECHNICAL MATRIX: DIGITAL PAYMENT INFRASTRUCTURE & DISCHARGE OF CONSUMER LIABILITY

1. To expose the fallacy of the Respondents' defense, it is imperative to understand the architecture of the digital payment gateway mandated by the Licensee. When a consumer initiates a payment on the HPSEBL portal, the transaction involves three distinct entities:
   - **The Consumer's Bank:** State Bank of India (SBI).
   - **The Payment Aggregator:** BillDesk (A third-party agency engaged as the "Payment Gateway Service Provider" for HPSEBL).
   - **The Merchant/Beneficiary:** HPSEBL.
2. It is respectfully submitted that the intermediary aggregator (BillDesk) is **exclusively hired by HPSEBL** for the purpose of bill collection. The Consumer has no privity of contract, no control, and no connection with this third-party aggregator.
3. Therefore, in the eyes of law and regulatory equity, **the Consumer's responsibility is fully discharged the moment the funds successfully leave the Consumer's bank and reach the Licensee's authorized aggregator (BillDesk)**.
4. In a standard online transaction, the Consumer's Bank debits the funds and routes them to the Aggregator's ecosystem. Simultaneously, a digital "Real-Time Success" signal (an API handshake) is sent to the Aggregator's portal confirming the debit. In the present case, the Appellant fulfilled its entire statutory obligation at this very first step, but the digital

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"handshake" dropped due to network latency at the receiving end, leaving the actual funds floating in the Aggregator's ecosystem.

III. REFUTATION OF "CUSTOMER'S BANK FAULT" (RELIANCE ON SBI CERTIFICATE)

1. The Respondents, in their Reply on Merits, have repeatedly and falsely averred that the payment was returned due to a *"real-time success issue from the customer's bank"* and that it was *"not pre-verified by the initiating bank"*.
2. This contention is conclusively demolished by the official Certificate issued by the State Bank of India (SBI) dated 22.01.2026 **(Annexure C-9)**.
3. The SBI Certificate explicitly records the transaction status as **"Completed Successfully"** at 10:41 AM on 18.07.2025. Crucially, the bank formally certified that the transaction *"has been **refunded from merchant end** as the real time response was not received for the same"*.
4. This irrefutable evidence proves that the funds successfully left the Appellant's bank. The communication failure occurred at the Merchant/Aggregator's portal (BillDesk/HPSEBL), forcing the *merchant's* system to refund the money days later. The Appellant cannot be penalized for a session timeout at the Licensee's receiving gateway.

IV. THE SMOKING GUN: ADMISSION OF "AUTO-CANCELLATION" IN RESPONDENTS' OWN ANNEXURE (RA-1)

1. The Appellant draws the Hon'ble Ombudsman's pointed attention to the internal correspondence attached by the Respondents themselves as **Annexure RA-1 (Colly)**.
2. The HPSEBL IT Cell falsely internalized the error as a "customer bank" issue. However, in the email dated **November 3, 2025, at 11:58 AM**, Mr. Shubham Raj from BillDesk explicitly clarified the actual reason for the reversal to the HPSEBL IT Cell:

*"This transaction was not real-time success and **due to enablement of Auto-cancellation for HPSEB** this transaction was reversed to customer."*

3. This is a fatal admission. It establishes beyond any doubt that HPSEBL has chosen to configure a strict backend **"Auto-Cancellation"** rule with BillDesk. Because the BillDesk gateway missed the real-time signal, this specific backend configuration commanded the aggregator to automatically cancel the transaction and refund the money, *even though the funds were successfully debited from the Appellant's bank.*

V. GLARING CONTRADICTIONS IN RESPONDENTS' DASHBOARD LOGS (ANNEXURE RA-2)

1. The Respondents rely on voluminous transaction logs (**Annexure RA-2**) to claim thousands of other transactions were successful on 18.07.2025, implying their system was flawless.
2. This argument is technically illiterate. In digital payment ecosystems, API timeouts and session drops occur on a *per-transaction* basis. The success of other transactions does not cure the specific timeout that afflicted the Appellant's transaction at 10:41 AM.
3. Furthermore, the Respondents' own dashboard screenshot for the disputed transaction (Ref No: YSBI2599146719) explicitly lists the **"Failure Reason"** as **"Completed successfully"**. It is absurd for the Respondents to blame the initiating bank when their own aggregator dashboard logs the transaction as successfully completed at the gateway level.

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4. Finally, the same dashboard under "Refund Detail" shows a refund was initiated on **19.07.2025 at 14:25:44**. If the transaction had failed at the SBI end on 18.07.2025, there would be no funds in the BillDesk system to refund on 19.07.2025. This proves the funds were floating in the Licensee's aggregator ecosystem for over 24 hours, corroborating the SBI Certificate that it was "refunded from merchant end".

VI. APPLICABILITY OF BINDING REGULATORY PRECEDENT

1. The Respondents attempt to distinguish the present case from the precedent established in **Complaint No. 1432/202308/24** (*M/s Shree Siddi Vinayak Forging Pvt Ltd*), arguing that in the precedent case, funds reached a "different Board account," whereas here they did not reach the Board's account.
2. This distinction is superficial. The Ld. CGRF in the precedent case established a core principle of substantial compliance and equity. The Forum held that when an amount is paid well in time, issues regarding how it is credited internally are **"merely technical and of accounting purpose"**.
3. The Forum categorically held that when there is "no denial on the part of the Respondent with regard to any delayed receipt of payment by it... then Forum holds and concludes that **no late payment surcharge is payable by Complainant**".
4. Here, the SBI Certificate proves the Appellant parted with the funds on the due date. The subsequent floating of funds in the aggregator's ecosystem and the system-triggered "Auto-cancellation for HPSEB" is entirely a technical and operational failure on the Licensee's side.

CONCLUSION

The objective of a Late Payment Surcharge is to address a consumer's willful default in withholding funds. The Appellant did not withhold funds; they were successfully remitted on 18.07.2025. The aggregator is hired by HPSEBL for bill collection, and the Appellant's responsibility is over when the funds reach this authorized intermediary. Penalizing the Appellant for the technical limitations, network timeouts, and auto-cancellation settings of the Licensee's mandated digital infrastructure is a gross violation of regulatory equity.

PRAYER

In light of the submissions made above, the irrefutable documentary evidence from the State Bank of India, and the fatal admissions contained within the Respondents' own annexures, it is most respectfully prayed that this Hon'ble Ombudsman may be pleased to:

a) **Take on record** the present Rejoinder cum Written Arguments and reject the Reply filed by the Respondents as being devoid of factual and technical merit.

b) **Set aside the Order dated 02.12.2025** passed by the Ld. ACGRF, Solan in Complaint No. 1252/10/2025/01.

c) **Waive off and direct the refund** of the entire wrongfully recovered Late Payment Surcharge of **Rs. 1,41,992/-**, as the transaction failure was exclusively attributable to the merchant/aggregator's end.

d) Direct the Respondents to pay **simple interest at the rate of 12% per annum** on the refunded amount for the period the undue amount was withheld, as per Regulation 26(2)(ii) of the HPERC Regulations, 2013. e) Pass any other order(s) deemed fit and proper in the interest of justice and fair play.

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8. Case called, the matter was heard for final arguments on 07/03/2026. 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.

9. <u>The Arguments of both during proceedings</u> :

The final arguments were conducted on 07/03/2026 and both the parties were given due opportunity to argue their contentions to the brim.

a. At the very outset, the Authorised Representative for Complainant read out the contentions as stand reiterated above under para-3 as well as the key points of the Rejoinder and apprised the court the architecture of the digital payment gateway mandated by the Licensee. He further added that the required payment of Rs.1,11,55,975/- against consumer ID 100012000903 was paid on the specified due date of payment on 18/07/2025.

b. He further added to his arguments that the debited payment was reversed and returned (credited back) to the complainant's bank account on 21/07/2025, constituting "no fault of the consumer". He further strengthened his arguments by stating that the SBI Certificate explicitly recorded the transaction status as **"Completed Successfully"** at 10:41 AM on 18.07.2025 and read out that the transaction *"has been **refunded from merchant end** as the real time response was not received for the same"*.

c. He emphasized during arguments that the delay in credit was caused by an online system failure and complainant immediately on reversal of payment, transferred the amount again on 22/07/2025, which the

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system accepted only with late payment surcharge. Accordingly, the Complainant paid the total bill amount of Rs. 1,12,97,967/- on dt. 22/07/2025 including surcharge amount of Rs. 1,41,992/-

d. The Assistant Engineer present as Respondents in the court room at first instance placed his arguments in affirmative manners that the delay in credit was due to the online system failure but, the payment of Rs 1,11,55975/- never got credited to the HPSEBL bank account and never reflected in the HPSEBL account and hence, it was returned back to the complainant due to some online system failure and not due to HPSEBL's fault.

e. The Assistant Engineer present as Respondents submitted some documents in the court room which were taken on record and extended his arguments based on these documents and updated the court with following situations:

i. That on the same day (18.07.2025) all transactions which took place at about 10:40 A.M. from different banks were successfully credited to HPSEBL account except for 4 No. transactions which were originated from SBI bank including instant transaction, exhibited pending status.

ii. That he further took a fresh status from the IT Cell of HPSEBL during arguments about these transactions that took place at about 10:40 A.M. on dt. 18.07.2025 concurrently, exclusively originated form SBI Bank which were earlier showing pending status.

iii. That after acquiring the fresh view on above pendency, he convincingly presented before the court that all pending

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transactions showed clear status except for the pending transaction in the instant case which was reported as rebounded back to the Complainant's accounts on 21.07.2025. He further added that as per record the refund initiated on 19.07.2025.

f. The ld. Counsel for Respondents placed on the record the e-mail received from IT Cell of HPSEBL which was taken on record for analysis. The ld. Counsel concluded his arguments with assertions that since the amount in question could not be credited as per scheduled date in HPSEBL's accounts, attracted late payment surcharge.

g. After long discussions on the above averments by both the parties, the attention was also drawn on the prevalent provisions of Supply Code and after making an in-depth glance on the provisions, both the parties agreed that the present provisions are not sufficient to fight with consequences occurring on account of online failure of system and felt it necessary to invoke certain additional credentials to the existing code to cope up with online hazards.

h. After listening to the arguments made by both the parties, the order was kept reserved for examining the contentions to the depth before issuance of final order.

10. The documents annexed as well as placed on record during final arguments and Arguments advanced by both the parties have gone through in depth.

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

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12. The case file bearing Complaint No. 1252/10/2025/01 and orders passed on dated 02/12/2025 by the ld. Addl. Consumer Grievance Redressal Forum Solan have been requisitioned and gone through in conjunction with above submissions & documents placed on record by both the parties, so as to have a composite view of the case to arrive at judicious platform. The relevant extract of the said order is also reiterated under the "**para-4**" above to arrive at legitimate conclusion.

13. The contentions of the Complainant detailed under **para- '3'**, reply of Respondent Board detailed under **para- '6'**, Rejoinder submitted by the Complainant placed under **para-7**, Arguments conducted at length & placed under **para- '9'**, may be referred to as cited above, however, where required have been reproduced only on specific contentions while doing analysis. To arrive at legitimate consensus, the findings in the instant case shall also carry detailed analysis while examining the issues on merit.

14. While scrutinizing the reply submitted by the Respondents, it has been observed that the Respondents at the very outset submits as under:

> **"that the representation filed by the complainant before this Ld. Ombudsman is neither maintainable nor competent, in as much as the Ld. Forum below has passed a well-reasoned and speaking order while non-suiting the complainant in Complaint No. 1252/10/2025/01."**

15. The Complainant on these specific issues placed their counter averments as under:

> **"---------- The Respondents' Reply is fundamentally flawed, contradictory to their own annexed documents, and constitutes a deliberate attempt to shift the burden of their own systemic failures onto the Appellant-------."**

16. However, in the public interest and apprehensions of either party on their respective contentions which appear to be interpreted in their own tone of suitability, this authority asserts in the interest of justice that in terms of

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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 and further considering this platform as a judicious bench in the public interest to curb litigations, it shall be prudent to give an opportunity of being heard as the contentions might carry reasonable arguments in terms of regulation-37 (8) of the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum at Kasumpti & Ombudsman) Regulation, 2013, in the interest of justice when heard. **Hence, held maintainable** only to the extent of initiation of proceedings, however, the outcome & sustainability of the contentions shall be subject matter of further adjudication. The above findings provide further platform to examine the contentions on merit judiciously, thereafter.

17. After examining the submissions made by the Complainant, Rejoinder submitted thereafter the Reply submitted by the Respondents, it has been observed that the Complainant deposited above stated principal amount of Rs 1,11,55975/- on 18/07/2025 on due date which returned (credited back) to the Complainant's bank account on 21/07/2025 contended to be online system failure and then transferred the amount again on 22/07/2025 alongwith surcharge of Rs.1,41,992/- owing to delayed payment whereas the Respondents on the other hand asserted that the payment of Rs 1,11,55975/- never got credited to the HPSEBL bank account and never reflected in the HPSEBL account and hence, it got returned back to the complainant due to some online system failure.

18. This authority after seeing with microscopic consideration, before further perusal in an unambiguous term, first draws inferences that in the instant case under such unusual circumstances attributing to online system failure, not only the Complainant has been levied **Late Payment Surcharge** but the Respondent has also to bear **fiscal brunt of losing interest** by three days on account of delayed payment.

19. **This authority after understanding the austerity of the contentions, meticulously opines that the instant situation cannot be compared with any that kind of instance as stands supplemented by the Complainant i.e. as the amount in question as per documents placed on record and arguments advanced was never credited in Board's account even erroneously against any ID of HPSEBL as** happened in Complaint No. 1432/202308/24 (*M/s Shree Siddi Vinayak Forging Pvt Ltd*) which could have been otherwise accounted for after due rectification. But, here, the case is different.

20. After referring to the submissions made by the Complainant in conjunction with reply submitted by the Respondents and arguments advanced by both the parties, it has been observed that under such unprecedented conditions, either party is giving benefit of doubt to their respective contentions and trying to put blame on each other on apprehensions of online system failure which is a universal truth in the instant case and tries to convince the court by placing documents on record with the following contentions:

a. **The Complainant Contends:**

i. The SBI Certificate explicitly records the transaction status as **"Completed Successfully"** at 10:41 AM on 18.07.2025. Crucially, the bank formally certified that the transaction *"has been **refunded from merchant end** as the real time response was not received for the same"*.

ii. The HPSEBL IT Cell falsely internalized the error as a "customer bank" issue. However, in the email dated **November 3, 2025, at 11:58 AM**, Mr. Shubham Raj from BillDesk explicitly clarified the actual reason for the reversal to the HPSEBL IT Cell:

iii. Furthermore, the Respondents' own dashboard screenshot for the disputed transaction (Ref No: YSBI2599146719) explicitly lists the **"Failure Reason" as "Completed successfully"**. It is absurd for the Respondents to blame the initiating bank when their own aggregator dashboard logs the transaction as successfully completed at the gateway level.

b. The Respondent Contends:

i. that the payment of Rs. 1,11,55,975/- never got credited to the HPSEBL bank account and never reflected in the HPSEBL account. Hence, it was returned to the complainant due to some online system failure and not due to HPSEBL's fault, as confirmed by the IT Cell of HPSEBL, which was further confirmed from the Bill Desk payment gateway.

ii. that the system-generated logs for the payment initiated by the consumer on 18.07.2025 bearing Transaction No. YSBI2599146719 clearly state that **the payment was not pre-verified by the initiating bank.**

iii. that the IT Cell clarified that, as per the Payment Gateway Service Provider, the payment was returned due to a real-time success issue from the customer's bank and not due to HPSEBL's fault.

iv. that there was no issue with the official URL of HPSEBL, as a number of successful payments were made on the same date, i.e., 18.07.2025. The details of payments made by all the consumers through Bill Desk Gateway on 18.07.2025 and on dated 22.07.2025 are placed on record as **Annexure-RA-2 (Colly),** for the kind perusal of this Hon'ble Forum.

21. In addition to above the Respondents also submitted additional documents displaying the status of transactions in respect of payments initiated from different banks on dt.18.07.2025 in between 10.39 A.M. to 10.41 A.M which have been taken on record. On examination of the said statement, it was observed that all the payments displayed **'Status'** as **'Success'** except 4 No. transactions as **'Pending'** including Complainant's one which were originated from **SBI Bank on dt.18.07.2025 at 10:39:55,10:39:58,10:40: 43 & 10:40:43 respectively**. This authority prefers to scrutiny only those 2No.transactions including Complainant's which remained pending at the same time at 10:40:43 A.M. on dt.18.07.2025 wherein one of them is Complainant:

Merchant	Transaction ID	Amount	Date &Time	Category	Issuer	Pre-Recon	Remarks

Name						Status	
HPSEBL	YSB12599146719	11155975	18.07.25,10:40:43	Net Banking	SBI	PENDING	Complainant
HPSEBL	BSB15BY0QP6XKY	7800	18.07.25,10:40:43	Net Banking	SBI	PENDING	Another Consumer

22. Regarding the status of Complainant's transaction against Transaction ID YSB12599146719, it was amply clear from the submissions made by the Complainant that the Complainant deposited above stated principal amount of Rs 1,11,55975/- on 18/07/2025 at 10:40:43 on due date, the refund was initiated on 19.07.2025 and finally returned (credited back) to the Complainant's bank (SBI) account on 21/07/2025.

23. Akin to above, this authority is interested to know as to what happened to the 2nd pending transaction which took place at the same time on 18.07.25,10:40:43 against ID BSB15BY0QP6XKY. The Assistant Engineer during arguments obtained fresh statement from the IT cell of HPSEBL which was placed on record. Scrutiny of the said statement provided following key information placed in tabular form which is just sufficient to understand the anomaly due to online failure.

Merchant Name	Transaction ID	Amount	Date &Time When initiated	Settlement date& time	Settlement Status	Failure Reason
HPSEBL	BSB15BY0QP6XKY	7800	18.07.25,10:40:43	19.07.25 at 14:26:44	YES	Invalid Bank Response

24. Further examination of another document i.e. e-mails attached with the reply submitted by the Respondent as well as discussed by the ld. Counsel for Respondents during final Arguments, the following message was extracted:

a. e-mail dt.03.11.2025 at 12:56 from AE-IT Cell HPSEBL

"Please find the trailing mail response received from Payment Gateway Service Provider for return of payment due to real time success issue from customer bank."

b. e-mail dt.03.11.2025 at 11:58 from Shubham raj

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"This transaction was not real-time success and due to enablement of Auto- cancellation for HPSEBL, this payment was reversed"

25. This Authority after delving the above information observes as under:

a. That it is a matter of concern that both the transactions from SBI bank took place at the same time and on the same day (18.07.25,10:40:43) using same 'Gate Way' where as in the case of 2nd consumer, the payment showed status of success and reported to be cleared on 19.07.2025,14:26:44 and in the case of Complainant, refund initiated on 19.07.2025 instead of clearance, credited back to the Complainant's account on 21.07.2025.

b. The statement attached by the Complainant shows the amount has been refunded from **merchant end** as the real time response was not received for the same whereas in contrary, the statement attached by the Respondents received from the IT Cell of HPSEBL displays return of payment due to real time success issue from **customer bank**."

26. After resorting to above deep analysis, this authority draws considered opinion that one cannot question the intention of the Complainant as the said amount was deposited by the Complainant on due date on dt.18.07.2025. Further, the above analysis also envisages that anyhow, the payment in both the cases was received after due date with a difference i.e. the payment in case of said consumer (2nd as per above table) was received without surcharge whereas in case of Complainant received with Late Payment Surcharge, owing to online System failure in both the cases.

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27. This authority after sensing the monopoly of online Hazards in partial manners which are definitely beyond the control of individuals and warrants additional provisions to be invoked in addition to the existing one to encounter such foreseeable events or otherwise many concerned may fall into prey of such situation.

28. After visualizing the impact of documents placed on record, this authority observed pulsating sensation while listening to the defensive averments placed by either party before the court and anticipated the precarious situation owing to 'online failure' which may paralyze the balance between the consumer & licensee if cognizance is not given towards insertion of some additional provisions to defend the offensive impact of '**Online Failure**' as with the opinion of this authority, the existing provisions are not sufficient to avert the situation.

29. This authority after referring to the above contentions deduces that the **legitimacy of the arguments in terms of prevalent provisions is a vital question in itself** i.e. whether the existing Supply Code as well as Tariff order contemplates this kind of delay under such **extraordinary** conditions **(online system failure) to levy of Late Payment Surcharge or to acquit** when on one side the Complainant made payment on due date on 18.07.2025 and on the other side Respondent received after the due date on 22.07.2025 .

30. It has been observed that payment through online system has become versatile tool these days as such it becomes necessary to glance those provisions which govern/allow transaction through online mode. The following provisions appear to be embedded with the respective clauses

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of **Supply Code (Fifth Amendment) Regulations notified on 14th January,2022** which allow payment through online mode.

(III) In para 5.3

(i) in sub-para (5.3.1)-

(a) for the sign "." appearing at the end in item (ii), the sign ".' shall be substituted and thereafter the following proviso shall be inserted namely: -

"Provided that the bill shall be delivered to the consumer at least 10 days prior to the due date of payment.";

(b) after this sub-para, the following new sub-para (5.3.1A) shall be inserted, namely: -

"5.3.1A The licensee shall establish online portal as well as sufficient number of collection centers at suitable locations with necessary facilities where consumer can deposit the billed amount with ease. In addition, the licensee shall also provide drop boxes at suitable locations separately for each sub-division where the consumers having bills up to Rupees five thousand, can drop Cheques / Bank Draft towards payment of their bills.";

(c) in sub-para (5.3.2), for the words "The payments of the bills"' the words and sign "The consumer shall have the option to pay the bill through online or offline mode. In case of online mode, the payment may be made through licensee's website or mobile app and for offline mode of payment, the payments of the bills" shall be substituted; and

31. After getting nourished with the provisions in terms of codes 5.3.1 and subsequent sub-clauses which allow the consumers to deposit through online mode, it becomes expedient to delve on the treatment of non-receipt of amount by due date when the payment of the bill is made through **online mode** on due date but the Respondent (licensee) receives it after the due date owing to online system glitch as happened in the instant case where the Complainant deposited principal amount of Rs 1,11,55975/- on 18/07/2025 which returned (credited back) to the complainant's bank account on 21/07/2025 contended to be online system failure and then again transferred the amount on 22/07/2025 along with surcharge of Rs.1,41,992/- owing to delayed payment.

32. In terms of foregoing analysis, this authority first proceeds to dig out in very empathetic manners whether the **'Supply Code'** promotes any

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provision under such stringent conditions which may **allow levy of** and **waving off "Late Payment Surcharge"** when the amount is paid in **due date** and credits in the accounts of Respondent (HPSEBL) **after expiry** of the due date as happened in the instant case. The following relevant extract of codes of Electricity Supply Code needs to be recapitulated in the interest of justice to understand the essence of provisions, which are as under:

5.3.7 *"In case the cheque tendered by a consumer is not honoured by the bank, action may be initiated by the licensee treating it as a case of non-payment without prejudice to other rights of the licensee as per other law as in force."*

5.4 Advance payment of electricity bills: -

"The consumer may affect advance payment of future bills, in the format prescribed by the licensee and that will be adjusted in the bills of the succeeding months. The licensee will, however, continue to issue bills that would indicate the amount adjusted and the balance amount of advance payment".

5.5 Additional charges for delayed payment of electricity bills:

"(a) In case a consumer ***does not pay the bill by the due date****, late payment surcharge shall be payable as per the Tariff Order.*

(b) The unpaid amount of the bills be treated as part of next bill and shown as arrears in a separate Column of the bill as per S. No. 11 of Annexure-B."

33. After referring to the above provisions of Supply code, particularly clause 5.3.7 as reiterated above, this authority gathers considered opinion that in case of **'Cheque'** delay in payment or not honoring by the bank, the prevalent provisions under no circumstances give any liberty to exonerate from any additional charges and attracts provision of clause 5.5(a) as recapped above. In case of payment through cheque, this authority deduces that irrespective of whether the cheque was deposited before due date or by default if could not be honored by the bank, the licensee is bound to consider it as a case of non-payment and by exercising these mandatory provisions shall levy LPS in consonance with code 5.5 of the Supply Code.

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34. Even after elaborate study of relevant provisions, although the instant case of payment '**on due date**' through online mode appears to be akin to the case of payment through '**cheque**' which is also deposited before due date, but not acquitted from the brunt of levy of Late Payment Surcharge in terms of code 5.3.7 A, if delayed or not honored by the bank, **cannot be compared with instant case or** otherwise it shall be construed as adding word to the existing provisions at its own which are silent on this aspect.

35. Now let us delve on the issue as to which provisions govern remedial measures on non-receipt of amount by due date when the payment of the bill is made through **online mode** on due date but the Respondent (licensee) receives it after the due date owing to online system failure as happened in the instant case.

36. Scrutiny of the above provisions as reiterated under **para-30** read with **para-32** reveals that subsequent to the insertion of new sub-para **(5.3.1A)**, no any additional provisions in parallel are added to the **code 5.3.7** which could have allowed different treatment towards '**online transaction**' and '**malfunctioning**' to curb such litigation as has been exclusively mentioned in the case of '**Cheque**' i.e. even if not honoured by the bank still has to be considered as delayed payment and attracts ***late payment surcharge***. However, in the absence of such provisions for online payment one cannot interpret the instant situation similar to the analogy of cheque at its own as added in details under **para-33&34** above.

37. This authority after examining **code 5.3.7** is very much convinced that apparent to the prevalent provisions of Supply Code, no relaxation

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allowed in the case of **Cheque** which is supposed to be deposited before due date and if not honored by the respective banks, mandates licensee to act in terms of **code 5.5** treating it as a case of non-payment, but silent in case of online glitch which is an internet dependent and prone to malfunctioning.

38. This authority after making deep scrutiny on the anomaly being faced by the consumers in one way or the other, while online payments are made, opines in the interest of public that it has become necessity of the hour to add **additional credentials** in the existing provisions of supply code to sustain 'code 5.3.1A' facilitating payment through on **'line mode'** as no provisions appear to defend online monopoly/malfunctioning as happened in the instant case i.e inspite of making payment on due date still facing the brunt of LPS.

39. The above analysis draws conducive attention of this authority that the event of failure of online system has become a very usual feature in this smart age of Internet and at any point of time the online system failure may occur owing to one reason or the other being vulnerable in nature. It is not the first-time such situation occurred but it is apprehended to be occurred many times in future also and **unless some specific defensive/ remedial provisions for treatment of such situation are added to the prevalent provisions of the Supply Code**, one cannot escape from the mandatory brunt of rigorous provisions of **code 5.5** of the Supply Code which explicitly attracts levy of Late Payment Surcharge.

40. After examining the submissions made by the Complainant, Reply submitted by the Respondent and Arguments advanced between the

H.P. Electricity Ombudsman Khalini, Shimla parties, it has been observed that both the parties are well aware of technological absurdity of **'Online System'** which is frequently prone to disruption and owing to its bidirectional impact, it not only affects Consumer with burden of LPS but the Respondent also loses interest for the No. of days the payment gets delayed. This authority draws considered opinion that unless specific defensive/remedial provisions are inserted in **code 5.3.7** of the Supply Code, **one should keep sufficient gap between the due date and the date of actual payment** in case intends to avail online facility so as to avoid such repercussions or otherwise one may fall prey of this very inevitable event of failure of Online System at any time and attract brunt of mandatory provisions of **code 5.5** of the Supply Code **(ref. para-32).**

41. In view of above exhaustive analysis, this authority asserts conclusive findings as under:

a. That Code 5.5 (a) of the Supply Code attracts levy of **'Late Payment Surcharge'** only in case the consumer **'does not pay the bill by the due date'.**

b. That it does not provide any clear understanding on the date of **receipt** of payment.

c. That such an elusive gap in the provisions does not provide any clear understanding for levy of **'Late Payment Surcharge'** when on one hand the consumer initiates the payments **on or before** due date through **online mode** and on the other hand the licensee receives it **after** the 'due date' on account of some online hazards as happened in the instant case.

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d. That code **5.5** which is although mandatory, does not carry any control over the **'Online System Failure'** unless the additional provisions are invoked in **code. 5.3.7** to curb such unwarranted conditions.

e. That the necessity of adding such credentials as well as invoking such provisions is arising due to the introduction of code 5.3.1A, facilitating payment through online mode which requires explicit clarity both in respect of '**Date of payment which must be on or before due date'** and **'Date of receipt of payment'** which may sometime vary due to online system failure as happened in the instant case.

42. **After examining the Supply Code read with the contentions of the Complainant on 'Online System' failure, this Authority draws considered opinion that passing any order in the absence of above provisions shall be adding word to the mouth of existing provisions of the Supply Code which is beyond the jurisdiction of this Authority and shall construe as gross delusion leading to damage the judicious system of settlement by placing before the public the impression of existing provisions in misconception manners unless the same are added by the Hon'ble Commission, the competent authority for the purpose.**

43. **On afore said terms and in due cognizance to the hierarchy of competency, this authority is under constraints to pass any order at this stage. Accordingly, the instant Complaint filed by M/s Veer Plastics Pvt. Ltd., Village Goel Jamala, Swarghat Road, Tehsil**

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Nalagarh, District Solan Himachal Pradesh-174101 is hereby disposed of with liberty to either party to approach competent authority for removal of difficulties to curb such ambiguities in future, arising on account of Online System failure.

44. No cost to litigation.

45. 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.

Given under my hand and seal of this office.

Dated: 10/03/2026
Shimla

10/03/2026
Electricity Ombudsman

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