



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

In the matter of:

RA No. 06/2023 in OA No. 19/2022

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

Vs

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

1. Complaint No. 06/2023 (Registered on 16/03/2023)
2. (Orders reserved on 28/09/2023, Issued on 03/10/2023)

Counsel for:

The Complainant: Sh. Rakesh Bansal, Authorized Representative

The Respondents: Sh. Rajesh Kashyap Advocate
Er. Virender Kumar, Assistant Engineer
Sh. Manish Kumar, JOA(IT)

CORAM

Er. Deepak Uppal
HP Electricity Ombudsman



Deepak Uppal



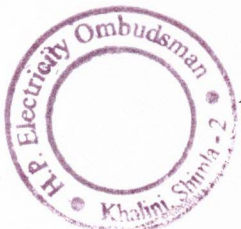
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Order

1. The case was registered on 16.3.2023. The Respondents were directed to file their reply duly supported by attested affidavit on or before 29/03/2023 positively and the Complainant to file rejoinder by 31/03/2023. The case was listed for admission hearing on 01/04/2023. The respondent board failed to file reply by 29.03.2023 and prayed for some more time for submission. Prayer granted. The respondents were directed to file reply duly supported by attested affidavit on or before 21.04.2023 positively and Complainant to file rejoinder by 27.04.2023. The case was listed for hearing on 28.04.2023, however it was re-scheduled for 06/05/2023. The Respondents were directed on 01/04/2023 to file their reply duly supported by attested affidavit on or before 21/04/2023 positively and the Complainant to file rejoinder now by 28/04/2023.
2. Since the Respondent Board had also filed a review in the case which had already been listed for 20/05/2023, the current review case was deferred till disposal of the same thereof. The case was therefore, listed for hearing on 27/05/2023 and thereafter on 03.06.2023.
3. Since the review petition filed by Respondent Board was under adjudication. Separate Interim Order was to be issued for fixing the hearing date of instant case. The review petition filed by the Respondent Board was disposed off vide order dated 08/06/2023. The Complainant was directed to update review contentions during the course of hearing on 04.07.2023. The respondent Board was directed to submit reply by 20.07.2023 and subsequently, complainant to submit rejoinder on or before 26.07.2023. The case was listed for hearing on 27/07/2023.
4. On the prayer made by the respondent Board to allow some more time for submission of reply which was supposed to be submitted by 20/07/2023. Prayer granted and the case was listed for hearing on 22/08/2023 .
5. Due to inability of Sh. Rakesh Bansal, the authorized Representative for pleading the cases on behalf of complainant, to attend the court due to inclement weather conditions as informed through e-mail 21/08/2023, the Arguments as scheduled on dated 22/08/2023 in the said matter could not be conducted. The case was further listed for Arguments on 29/08/2023.
6. Due to inability of Sh. Kamlesh Saklani Law Officer, the Ld. Counsel for Respondent Board to attend the court due to ill health as informed by Sh. Rajesh Kashyap Advocate, the standing counsel for Respondent Board, the Arguments as scheduled on dated 29/08/2023 in the said matter could not be conducted. However, this court after considering request of standing counsel as genuine one, further listed for final arguments on dated 28/09/2023.
7. Both the parties advanced their arguments. During the course of arguments, concerned officers also appeared and exchange their views on the instant issue. The Complainant/ Review Petitioner submitted written arguments which were also taken on record. The arguments were heard and concluded and **Orders reserved**. Hence, delay.

A- Brief Facts of the Case:



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M/S Saboo Tor Pvt Ltd, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmour, HP-173030 have filed a review application under provisions of Regulation 37 (8) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by that Ombudsman on 15/02/2023 in Complaint No. 19/2022.

B- The Complainant's Submission:

1. The Complainant submits that the Representation is for review under Regulation 37(8) of the HPERC Consumer Grievances Redressal (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013.

PROLOGUE:

2. The complainant submits that this review representation is being filed in accordance with the Regulation 37(8) of the HPERC (CGRF & Ombudsman) Regulations, 2013 as the applicant/ complainant feels that there is an mistake and error on the face of record and that there are sufficient reasons to review a specific part of the order dated 15.02.2023 in Case No. 19 of 2022. The specific details of the reasons for review are detailed further in this representation. The Regulation 37(8) provides for review of the orders of the Ombudsman either on his own motion or by any parties to the original proceedings. The relevant provisions are reproduced below:

"8) ¹("The Ombudsman, either on its own 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-")¹ Substituted _

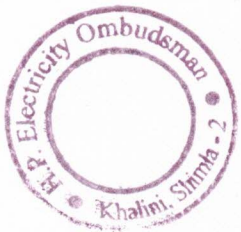
(i) the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge, or could not be produced by him at the time the order was made;

(ii) on account of some mistake or error apparent from the fac

(iii) for any other sufficient reasons.

¹("(9) The Ombudsman shall, within 30 days from the date of receipt of an application under sub-regulation (8) of this regulation, accept or reject such application.")¹ Inserted"

3. That the complainant is filing the application for review within a period of allowed period of 30 days, while only seeking partial modification of the Para 3 of Section L of the order on the basis of reasons explained further in this representation. It is specifically made clear, that the review of any other part of the order is not being sought vide this representation and the review is being filed only to a limited extent.



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CONTENTION OF THE COMPLAINANT

4. The complainant submits that in the Para 13 of the section I (Analysis of the Complaint) the Clause 3.9 of the Electricity Supply Code, 2009 has been reproduced which consists of a table allowing for minimum charges during the initial periods of new loads. In the said table
 - at Sr. No. 1 a period of 60 days has been provided which is allowed even upto the end of the billing month over a period of 60 days;
 - at Sr. No. 2 minimum demand charges have been specified for the period of next 12 months following the period in Sr. No. 1;
 - at Sr. No. 3 minimum demand charges have been specified for the period of next 6 months following the period in Sr. No. 2;
 - at Sr. No. 4 minimum demand charges have been specified for the period of next 6 months restricting the minimum demand charges to be levied on 67.5% of the sanctioned contract demand
 - at Sr. 5 the demand charges to be levied as per normal billing
5. The complainant submits that the sum total of the concessional period works out to 26 plus months (2+12+6+6) for Sr. No. 1 to 4 in the chart including the notice period 60 days and the balance period of the month in which 60 days expire. Although in the present case, no such notice of readiness was given by the complainant, even if the date of sanction letter which is 07.08.2020 is considered as a notice of readiness the period of 60 days would expire on 07.10.2020. As the period of the monthly billing is being followed from 24th of each month to 24th of next month, the notice period as per 3.9 will expire on 24.10.2020. It is from 24.10.2020 that period of 12 months mentioned at Sr. No. 2 of the table in clause 3.9 will start, which would mean that a period of two years will expire on 24.10. 2022.
6. The complainant submits that the notice of readiness has respondents have not been issued even upto this date. That 05.02.2021 from which the respondent reflected the contract demand increase to 10433.48 kVA from 9999 kVA can also be treated as the date of expiry of the notice of readiness, taking it as an intention of the respondents. Considering this date as the date of expiry of notice period, the period of two years would end on 05.02.2023.
7. The complainant submits that in Para 15 of section I it was been wrongly concluded that the period of two years of concessional period would expire on 8/2022, whereas the crucial part of notice of readiness has been overlooked by the Hon'ble Ombudsman which even till date has not been served by the respondents. Even going by the logic explained in the Para 2.2 and Para 2.3 above, the concessional period as per Clause 3.9 of the Supply Code, 2009, the said period cannot be held to be expired on 8/2022. As per assumed notice based on date of sanction, the said period would expire on 24.10.2022, whereas as per submission in para 2.3, the date of expiry of concession period would be



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05.02.2023. While the third option is still open since the notice of readiness is not served even upto this date.

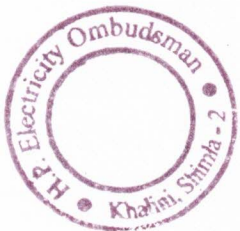
Prayer:

8. The complainant therefore, respectfully prayed that the representation may kindly be allowed and the orders dated 15.02.2023 in Case No. 19/2022 be considered for review to the limited extent as prayed below:
- To modify the Para 3 of Section L of the order limiting the relief from LVSS upto 8/2022 in view of the submissions made above and allow further period as may be considered appropriate under the facts and circumstances of the case;
 - To allow the implementation of the orders dated 15.02.2023 granting relief for period upto 8/2022 till any further extension of period is ordered by the Hon'ble Ombudsman as a result of this review representation;
 - Any other or further orders which this Hon'ble Ombudsman may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the complainant company.

C- The Respondent's Submission:

Preliminary submission:

- The Respondent submits that the respondents herein crave leave to file the reply to review application filed by the applicant/complainant not specific to the para wise but on the general basis and save as admitted expressly, the contents of the review petition are wrong and incorrect hence denied.
- The Respondent submits that the replying respondents feeling aggrieved and dissatisfied from the order dated 15-02-2023 passed in case 19/2023 titled as M/S Saboo Tor versus HPSEBL and others, had filed a review petition under Regulation 37 (8) of the HPERC (CGRF and Ombudsman) Regulations, 2013 (herein after referred to Regulations, 2013) on the discovery of new and important matter of evidence which, after the exercise of due diligence, could not be produced at the time the order was made along with other material, but the review filed by the respondents/HPSEBL was dismissed by the Id Ombudsman vide order dated 08-06-2023.
- The Respondent submits with the utmost respect that the order as passed by the Id Ombudsman suffers from the material illegality wherein the provision of the HP Electricity Supply Code, 2009 was totally ignored. The contention of the respondents/HPSEBL was not appreciated by the Id Ombudsman while disposing of the case No. 09/2023 (under review by the complainant) as such the respondents/HPSEBL with utmost respect submit that the original order being wrong and against the regulations/tariff order issued by the Hon'ble HPERC, the instant review filed by the complainant/applicant is totally misconceived and such liable to be dismissed.
- The Respondent submits that from the bare perusal of the contents of the review application filed by the complainant, the clause 3.9 has been



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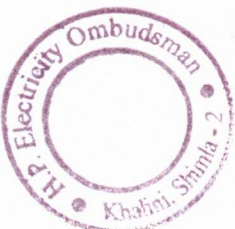
emphasized regarding the demand charges and certain other things incorporated in the table 3.9. However, it is specific case of the HPSEBL that since "Note 1" has been appended to the clause 3.9 and as per the mandate of the "Note 1", it is crystal clear provided that the provisions of this para shall not be applicable in case where the applicant submits or undertakes to submit the test report (s) for 80% (or more) for the total sanctioned connected load/total sanctioned contract demand before the release of the connection. Very surprisingly, Id Ombudsman on the one hand is of the opinion that the said 'Note' is not applicable since it relates to the demand charges and on the other hand, very much relied upon by the Id Ombudsman while deciding the complaint. It is the specific case of the respondent/HPSEB that since by virtue of the mandate of the regulation 3.9 (Note-1 and Note 2) the clause 3.9 is totally inapplicable, hence, the order of the Id Ombudsman is totally in contravention to the mandate of the clear provision of the supply code, as such the question of the allowing the review petition of the complainant does not arises at all.

5. The Respondent submits that since the applicability of the para 3.9 is totally excluded by virtue of the Note 1 and Note 2, appended to the clause 3.9 of the Electricity Supply Code, 2009, the averments of the complainant qua the notice for readiness is totally misplaced and misconceived.
6. The Respondent submits that therefore, keeping in view the facts and circumstances narrated herein above the review application filed by the complainant is liable to be dismissed.

D-The Complainant's Additional Submission through Rejoinder:

Written arguments in the matter:

1. The complainant submits that these arguments be treated as part and parcel and in continuation of the earlier submissions in the main case as well as the reviews. The arguments on behalf of the complainant who is a review petitioner in Case No. 06/ 2023 and is a respondent in Case NO. 10/ 2023. The complainant has already submitted reply in RA No. 10/ 2023. The complainant submits his arguments as under:
 - a. The complainant submits that the respondents/ review petitioners in RA No. 10 of 2023 has sought the dismissal of the representation merely on the grounds that Clause 3.9 of the Electricity Supply Code, 2009 is not applicable in the case of the complainant. It is hereby expressed that the non-applicability of the clause 3.9 does not call for dismissal of the representation as the representation is maintainable in its original text as the complainant has sought relief on the account that the only 9999 kVA stood released to the complainant even on this date and while LVSS being charged by the respondents should have only be charged in case the released contract demand exceeded 10000 kVA as per provisions of the Supply Code, 2009 as well as the year-wise tariff orders.



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- b. The complainant submits that the mere perusal of Para 3.1 of the representation filed by the complainant before the Hon'ble Ombudsman, where in the complainant has partial release of load is permissible and clause 3.9 has been referred to as evidence in support of his contention. The complainant has never prayed for any relief in terms of clause 3.9, but has only prayed in para 4 b) of the main representation that
- c. **"To direct the respondents to refund the amount of LVSS recovered by the respondents which are contrary to the provisions of the regulations;**
- d. **To order payment of simple interest....."**
2. The complainant submits that the complainant has never prayed for relief in terms of demand charges that have been charged, whereas the clause 3.9 of the Supply Code, 2009 only deals with minimum level of demand charges that have to be charged from the consumers in case of delay in availing the sanctioned load.
3. The complainant submits that the released contract demand which is 9999 kVA in the case of the complainant out of the sanctioned contract demand of 10433.48 kVA is higher than 80% of the sanctioned contract demand. As under the provisions of Note 1) and Note 2), the course of action to be taken for delay in availing load as per clause 3.9 of the Supply Code, 2009 is not applicable in the present case. There is no binding on the complainant to get released the balance load/ contract demand, which may lapse as per applicable rules at a later stage.
4. The complainant submits that the Para 3 of the Section L of the orders passed in Case NO. 19 of 2022 in which the Hon'ble Ombudsman has issued directions to overhaul the consumer account as per provisions of clause 3.9 of the Supply Code, 2009 do requires a review as in the present case more than 80% of the contract demand/ connected load stands released to the complainant;
5. The complainant submits that the Para 4 of the section L of the orders passed in Case No. 19 of 2022 also deserves to be reviewed in respect of the cut-off date of 08/2022 upto which the LVSS has been ordered not to be charged;
6. The complainant submits that the Para 3 and 4 deserve to be amended / reviewed as the complainant's representation was never to seek relief in demand charges. The main argument and the only argument in the case being that the LVSS is not chargeable until and unless the complainant avails the contract demand beyond the level of 10000 kVA as per provisions of clause 2.1.6.1(A) of the Supply Code, 2009.
7. The complainant submits that the limit upto which the LVSS has been ordered not to be charged upto 8/2022 has also been derived from Clause 3.9 of the



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Supply Code, 2009, whereas unlimited period should be allowed until and unless more than the limit of 10000 kVA is availed by the complainant. The review in terms of the review application 06/2023 is particularly on the period of relief ordered under the direction no. 4 of section L of the orders passed in Case No. 19 of 2022.

8. The complainant submits that the Hon'ble Ombudsman in the Section K of the final orders in Case NO. 19 of 2022 has correctly analyzed in the "Issue No. 1" that there is no evidence on record that the complainant had applied for extension beyond 9999 kVA after the issue of SJO dated 18.08.2020 for 9999 kVA. Also, in 'Issue No. 2' the Hon'ble Ombudsman has concluded that the respondents have issued wrong bills for 10433 kVA without the release of the contract demand beyond 9999 kVA. It is only that the analysis in Issue No. 3 are more or less correct to the fact that the provisions of clause 3.9 in respect of partial release of load had been ignored by the CGRF. There was no fault of anyone in releasing the partial load. It is not necessary that the full sanctioned load has to be released in one go.
9. The complainant submits that it is prayed that the Hon'ble Ombudsman must rely on the released load/ contract demand of the complainant which is 9999 kVA and which is less than 10000 kVA and grant relief as prayed by the complainant, which is well within the rules and regulations.
10. The complainant submits that it is prayed that the review applications No. 06/2023 and 10 of 2023 be disposed in line of the submissions elaborated above, with no further submissions from the complainant in either of the two reviews and that the relief prayed for in the main representation in 19 of 2022 be allowed.

E- The Complainant's Written Arguments:

The complainant during the course of final arguments on dt. 28.09.2023 submitted written arguments which were same as already stands submitted above and also in Review Petition 10/2023. Thus, for the sake reference, the aforementioned arguments may be referred.

F- The Respondent's Written Arguments:

The Counsel for respondent and concerned Officer appearing in the hearing preferred verbal arguments and did not submit written arguments.





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E-HP Electricity Ombudsman order in case No. 19/2022:

- a. The orders passed by the Consumer Grievance Redressal Forum at Kasumpti on 26/08/2022 in Complaint No. 1515/2/22/14, dated 04/05/2022 is hereby quashed and set aside.
- b. The energy bills issued by the Respondents w.e. from 15/03/2021 onwards on full sanctioned Contract Demand of 10433.480 kVA are also hereby quashed and set aside.
- c. The Respondents are directed to overhaul the account of the Complainant w.e. from March 2021 onwards considering his Contract Demand as 9999 kVA in line with provisions of Clause 3.9 of Himachal Pradesh Electricity Supply Code (Fourth amendment) Regulations, 2020. No LVSS shall be applicable till 08/2022 or such shorter period, if any, if the extended load has been released above 10000 kVA before that.
- d. Further, the Respondents are directed to ensure that LVSS shall also not be applicable in case the Complainant have reduced his Contract Demand below 10 MVA prior to or after 08/2022.
- e. The Respondents are further directed to refund the excess amount so charged from the Complainant within a period of 30 days from the date of issue of this order or latest by 16/03/2021 positively through adjustment in the next energy bill in one installment failing which the interest @ 15% shall be applicable in line with provisions of Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009.
- f. The Respondents are further directed to report Compliance of above directions within a period of 30 days of issuance of the orders or but not later than 16/03/2023 positively failing which the matter shall be reported to the Hon'ble Commission for violations of the directions under Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Act.
- g. The Complaint filed by M/S Saboo Tor Pvt Ltd, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmour, HP-173030 is hereby disposed off.
- h. No cost to litigation.



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F-Analysis of the Complaint:

1. The case file in Complaint No. 19/2022 have also been gone through.
2. The documents on record and submissions made by the parties and arguments made have also been gone through.
3. The averments made in Review Petition 10/2023 filed by Review Petitioner (Respondent Board) in the matter of 19/2022 have also gone through.
4. The submissions made by both the parties in Review Petition 06/2023 filed by the Review Petitioner M/S Saboo Tor Pvt Ltd (Complainant) have also been reproduced above to have the overall view of the case.
5. M/S Saboo Tor Pvt Ltd, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmour, HP-173030 have filed a review application under provisions of Regulation 37 (8) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed by this Appellate Forum on 15/02/2023 in Complaint No. 19/2022.
6. The complainant submits that the sum total of the concessional period works out to 26 plus months (2+12+6+6) for Sr. No. 1 to 4 in the chart including the notice period 60 days and the balance period of the month in which 60 days expire. Although in the present case, no such notice of readiness was given by the complainant, even if the date of sanction letter which is 07.08.2020 is considered as a notice of readiness the period of 60 days would expire on 07.10.2020. As the period of the monthly billing is being followed from 24th of each month to 24th of next month, the notice period as per 3.9 will expire on 24.10.2020. It is from 24.10.2020 that period of 12 months mentioned at Sr. No. 2 of the table in clause 3.9 will start, which would mean that a period of two years will expire on 24.10. 2022.
7. However, the analysis after going through the averments made in the case No.19/2022 and submissions there in the instant case, reveals that no letter of readiness was issued by the Respondent Board and the complainant in his submissions is relying upon the assumptions on the letter of readiness. This Appellate is of the clear view that the question of expiry of 60 days comes into picture only if the letter of readiness is issued. Where the letter of readiness is not issued, the relevant extract of latter part of the clause 3.9 of the supply code



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2020(4th amendment) dt. 3rd July 2020, becomes effective in the instant case. Hence, the contention does not hold good for review.

8. The complainant submits that the notice of readiness has not been issued by the respondents even up to this date. That the letter dt. 05.02.2021 from which the respondent reflected the contract demand increase to 10433.48 kVA from 9999 kVA can also be treated as the date of expiry of the notice of readiness, taking it as an intention of the respondents. Considering this date as the date of expiry of notice period, the period of two years would end on 05.02.2023.
9. The analysis reveals that the complainant is divergent in his views as on one side the Complainant asserts that letter dt. 05.02.2021 can be considered as date of expiry of letter of readiness whereas on the other hand the complainant adheres to, in his submissions that the notice of readiness by the respondents have not been issued even up to this date.
10. The complainant submits that in Para 15 of section I it had been wrongly concluded that the period of two years of concessional period would expire on 8/2022, whereas the crucial part of notice of readiness has been overlooked by the Hon'ble Ombudsman which even till date has not been served by the respondents. Even going by the logic explained in the Para 2.2 and Para 2.3 above, the concessional period as per Clause 3.9 of the Supply Code, 2009, the said period cannot be held to be expired on 8/2022. As per assumed notice based on date of sanction, the said period would expire on 24.10.2022, whereas as per submission in para 2.3, the date of expiry of concession period would be 05.02.2023. While the third option is still open since the notice of readiness is not served even up to this date.
11. This Appellate after analysis held that the complainant has misconstrued clause 3.9, the latter part of which clearly envisages that ***"the billing for the periods falling under serial no.3 and 4 in the above table shall also be done in the same manner as specified for serial number 2 till the expiry of 24 months from the date of release of connection thereafter provisions of serial number 5 shall be applicable."***
12. The analysis in terms of above provisions clearly reveal that in the instant case date of release of connection shall be considered i.e. 07.08.2020, not the date of billing cycle as contented by the complainant.
13. After making simultaneous analysis of both submissions and written arguments made by the Complainant, this Appellate Forum is surprised to observe that



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both submissions and arguments are contrary to each other as in submissions under para 1 to 8 including prayer above, the complainant emphasizes on the applicability of clause 3.9 and different analogies on concessional period whereas in written arguments under para 3 above draws attention of this Appellate that the clause 3.9 is not applicable as he has availed more than 80% of the sanctioned contract demand. This Appellate Forum deduces that the contentions of the complainant as put forth during arguments already stand adjudicated as respondent in review petition 10/2023 and during the proceedings in complaint No. 19/2022 and are of reiterating nature, does not call for review.

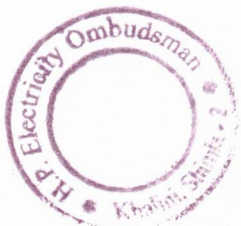
14. The Respondent submits that from the bare perusal of the contents of the review application filed by the complainant, the clause 3.9 has been emphasized regarding the demand charges and certain other things incorporated in the table 3.9. However, it is specific case of the HPSEBL that since "Note 1" has been appended to the clause 3.9 and as per the mandate of the "Note 1", it is crystal clear provided that the provisions of this para shall not be applicable in case where the applicant submits or undertakes to submit the test report (s) for 80% (or more) for the total sanctioned connected load/total sanctioned contract demand before the release of the connection.
15. This Ombudsman after going through the averments made in the above reply submitted by the respondent in the review petition 06/2023 and the contents of the Review Petition 10/2023 which stands disposed of by that Ombudsman vide order dt.08.06.2023, infers that the contention of the Respondent Board stands adjudicated during the process of proceedings of review petition 10/23 and in view of the limited scope of the review in consonance with Regulation 37 (8) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, viability of the review does not exist.
16. It was also conceived that the averments made even in different forms are replica of earlier contentions which already stand adjudicated either in review petition 10/2023 or in main petition 19/2023 as such in view of limited scope of review, this Appellate infers that the contentions of both Complainant/Review petitioner and the Respondent being reiterating in nature are devoid of merit and hence, warrants no review.

G.-Issues in Hand:

Issue-1:

Whether the contention of Complainant on the following issue is tenable for review where no letter of readiness has been placed on record:

"The complainant submits that the sum total of the concessional period works out to 26 plus months (2+12+6+6) for Sr. No. 1 to 4 in the chart including the notice period 60 days and the balance period of the month in which 60 days expire. Although in the present case, no such notice of readiness was given by the respondent, even if the date of sanction letter which is 07.08.2020 is



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considered as a notice of readiness the period of 60 days would expire on 07.10.2020. As the period of the monthly billing is being followed from 24th of each month to 24th of next month, the notice period as per 3.9 will expire on 24.10.2020. It is from 24.10.2020 that period of 12 months mentioned at Sr. No. 2 of the table in clause 3.9 will start, which would mean that a period of two years will expire on 24.10. 2022.”

Issue-2:

Whether the contention of Complainant on the following issue of considering letter dt. 05.02.2021 from which the respondent reflected the contract demand increase to 10433.48 kVA from 9999 kVA can also be treated as the date of expiry of the notice of readiness, is viable:

“The complainant submits that the notice of readiness by the respondents have not been issued even upto this date. That 05.02.2021 from which the respondent reflected the contract demand increase to 10433.48 kVA from 9999 kVA can also be treated as the date of expiry of the notice of readiness, taking it as an intention of the respondents. Considering this date as the date of expiry of notice period, the period of two years would end on 05.02.2023.”

Issue-3:

Whether in Para 15 of section I it had been wrongly concluded that the period of two years of concessional period would expire on 8/2022, whereas the crucial part of notice of readiness has been overlooked by the Hon'ble Ombudsman which even till date has not been served by the respondents. Even going by the logic explained in the Para 2.2 and Para 2.3 above, the concessional period as per Clause 3.9 of the Supply Code, 2009, the said period cannot be held to be expired on 8/2022 and as per assumed notice based on date of sanction, the said period would expire on 24.10.2022, whereas as per submission in para 2.3, the date of expiry of concession period would be 05.02.2023. While the third option is still open since the notice of readiness is not served even up to this date.

Issue-4:

Whether the Review as contended by the Complainant in the Review Petition 06/2023 calls for Review?

H-Findings on the Issues:

Issue-1:

After going through the averments made in the case No.19/2022 and submissions there in the instant case, this Appellate Forum conceives that the instant issue already stands adjudicated in the proceeding before issuance of order dt. 15.02.2023 in case No. 19/2022 by that Ombudsman and it is mere reiterating the same contentions again. The complainant in his submissions has mentioned categorically that no letter of readiness was issued by the Respondent Board and this Appellate Forum asserts that mere assumptions on the letter of readiness has no sanctity in the process of proceedings and also



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this Appellate Forum is of the considered view that by considering mere apprehensions on the date of readiness shall not provide any concrete solution in the process of judgement. It is pertinent to mention here that the question of expiry of 60 days comes into picture only if the letter of readiness is issued. Where the letter of readiness is not issued as contended and apprehended, the application of the relevant extract of latter part of the clause 3.9 of HP supply code (Fourth Amendment) 2020 dt. 3rd July 2020, becomes effective in the instant case. This Appellate Forum concludes that the above contention under issue No.1 does not warrant Review.

Issue-2:

The contention of the complainant is contrary in itself as on one side the Complainant asserts that whether letter dt. 05.02.2021 can be considered as date of expiry of letter of readiness whereas on the other hand the complainant mentions in his submissions that the notice of readiness by the respondents have not been issued even up to this date. This Appellate Forum clearly builds up the consensus that the averments made by the complainant is based upon surmises and hence, devoid of merit for review.

Issue-3: This Appellate Forum is convinced that the complainant has misconceived the essence of clause 3.9, of HP supply code (Fourth Amendment) 2020 dt. 3rd July 2020, the latter part of which clearly expresses:

“the billing for the periods falling under serial no.3 and 4 in the above table shall also be done in the same manner as specified for serial number 2 till the expiry of 24 months from the date of release of connection thereafter provisions of serial number 5 shall be applicable.”

The above provisions clearly envisages that in the instant case date of release of connection shall be considered i.e. 07.08.2020, not the date of billing cycle as contended by the complainant. Hence, does not hold good for review.

Issue-4:

In view of the limited scope of review in terms of regulation-37 (8) of the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum at Kasumpti & Ombudsman) Regulation, 2013, after going through the submissions/arguments of the Complainant in the review petition which are contrary in spirit of contentions as detailed out in analysis above read with earlier record submitted in the case No. 19 /2023 during the process of adjudication and as respondent in review petition 10/2023 and finally order dt.15.02.2023 in complaint No. 19/2023, this Appellate Forum concludes that all contentions stand addressed and nothing new except



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apprehensions, have been brought on record, hence, the review as contented is not tenable under the said powers.

I-Order:

1. The orders passed/ pronounced by that Ombudsman on dated 15.02.2023 in complaint No. 19/2023 is upheld.
2. The Respondents are directed to report compliance of the above directions within a period of 30 days from the date of issue of this order excluding holidays positively or otherwise it may attract Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
3. The RA No. 06/2023 in OA No. 19/2022 filed by M/S Saboo Tor Pvt Ltd, Trilokpur Road, Kala Amb, Tehsil Nahan, District Sirmour, HP-173030 is here by disposed off.
4. No cost to litigation.



Given under my hand and seal of this office.

[Signature]
03/10/2023
Electricity Ombudsman