



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

In the matter of:

**M/S Him Chem Private Limited, Village Khera, Baddi-Nalagarh Road, Nalagarh, District Solan,
HP-174101** **- Complainant**

Vs

- 1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004**
- 2. The Assistant Executive Engineer (E), Electrical Sub-Division-II, HPSEBL, Nalagarh, District Solan, HP-174101**
- 3. The Sr Executive Engineer, Electrical Division, HPSEB Ltd, Nalagarh, District Solan, HP-174101**
- 4. The Sr Executive Engineer, Electrical System Division, HPSEB Ltd, Nalagarh, District Solan, HP-174101** **- Respondents**

Complaint No. 09/2023 (Registered on 17/04/2023)
(Orders reserved on 16/10/2023 , Orders issued on 30/10/2023)

Counsel for:

The Complainant: Sh. Rakesh Bansal, Authorized representative
The Respondents: Sh. Rajesh Kashyap, Advocate.

CORAM
Er. Deepak Uppal
HP Electricity Ombudsman

Order

1. The case was received and registered on 17/04/2023 and was first listed for hearing on dt. 06/05/2023. The Respondents were to file their reply by 29/04/2023 and the Complainant was to file rejoinder by 04/05/2023. As per record, the Complainant had filed the case under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 after the Consumer Grievance Redressal Forum at Kasumpti failed to pass orders in Case No. 1432/1/23/07 within a period of 45 days. Further, the Respondent Board also failed to file their reply at the Forum below despite opportunities given to them to do the same vide IOs dated 15/02/2023, 03/03/2023, 15/03/2023 and 29/03/2023. As per record the case was found to be maintainable and accordingly Interim Order was issued on dated 17/04/2023 by that Ombudsman declaring the same.
2. As per record, the case file at Consumer Grievance Redressal Forum at Kasumpti was first requisitioned on 17/04/2023 followed by email dated 20/04/2023 and by another communication dated 21/04/2023. The Forum below held the hearing on 26/04/2023 and dismissed the case as withdrawn and there after they sent the case file. As per record the hearing held on 26/04/2023, after the case was filed at this Appellate Forum on 17/04/2023 under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.
3. The Respondents failed to file their reply by 06/05/2023 and stated they will file their reply on maintainability first. Since, as per record the maintainability issue stands decided by that Ombudsman vide Interim Order dated 17/04/2023 itself, the prayer of the Respondents was rejected and they were directed to file the reply on merits of the case by 15/05/2023. The case was listed for hearing on 20/05/2023.



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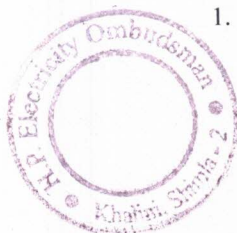


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4. The Respondents again failed to file their reply by 15/05/2023 and even by hearing date 27/05/2023 and prayed for one week's time to file their reply on merits of the case which was granted and the Respondents were to file their reply by 29/05/2023 on merits of the case and the Complainant was to file his rejoinder by 01/06/2023.
5. The Respondents prayed for extension in time to file their reply. As directed by the Hon'ble Commission on 01/06/2023 for granting at least 10 days to Respondent Board to file their reply, the extension in time to file the reply on merits of the case was granted subject to the condition that this shall be last and final opportunity to file their reply on merits of the case by 13/06/2023 positively failing which the case shall be decided on merits of the case based on the documents available on record. The Complainant to file his rejoinder by 20/06/2023.
6. The petition No. 37/2023 was decided by Hon'ble Himachal Pradesh Electricity Regulatory Commission vide order dated 22/06/2023 with the following decisive contents of the order:
*"Replies of Respondent No. 1 and 2 has come on record.
 Sh. Kamlesh Sakhlani Authorised Representative of the petitioner states that the Petitioner does not want to persue the Petition and would raise all issues before the Ltd. Ombudsman in Petition titled as Him Chem Private Ltd. Vs ED(Personnel), HPSEBL and intends to withdraw the same. The prayer considered and allowed. The petition is allowed to be withdraw and consequently disposed off as such.
 The file after needful be consigned to records."*
7. Application dt.03.07.2023 of the Complainant for resumption of proceedings was also placed on record and the proceedings initiated thereafter. Apparent to the record as well as earlier proceedings held in this court read with Hon'ble HPERC Order in the interim Proceedings on 01/06/2023 to allow 10 days' time to the respondent Board for filling the reply which expired on 13/06/2023 showed that enough opportunities had been given to the respondent Board for filing the reply, the case was listed for arguments thereof on 27/07/2023.
8. In spite of having last opportunity expired on 13/06/2023 for submission of reply by the Respondent Board as mentioned here in this court order dated 05/07/2023, the Respondent Board submitted reply on dated 27/07/2023 during the course of hearing with a pretext that delay occurred due to inclement weather conditions and unprecedented disaster resulting in delay of submission of record by field units and prayed before this court for acceptance of reply as a special case. Prayer granted and this court instead of having arguments as scheduled, directed the complainant to file a rejoinder within two weeks. The Case was further listed for hearing on 22/08/2023.
9. However, 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 hearing as scheduled on dated 22/08/2023 in the said matter could not be proceeded. Rejoinder from complaint was still awaited, further directed to submit rejoinder within one week. The Case was listed for hearing on 29/08/2023.
10. The complainant submitted the rejoinder during the course of hearing. The matter further fixed for arguments on dated 28/09/2023.
11. Both the parties advanced their arguments partly and the case was listed for final arguments on dt. 16.10.2023.
12. Both the parties advanced their arguments. The Complainant submitted written arguments also which were taken on record. However, the counsel for Respondent relied upon the earlier reply submitted by the Respondent and did not submit written arguments, instead preferred verbal arguments. The arguments were heard and concluded. Orders reserved. Hence, delay.

A – Brief facts of the case:

1. M/S Him Chem Private Limited, Village Khera, Baddi-Nalagarh Road, Nalagarh, District Solan, HP-174101 have filed a case through Sh. Dharminder Verma (hereinafter referred to as 'The Complainant') have filed an application under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. The Complainant have filed the case for decision on merits since as per record the Consumer Grievance



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Redressal Forum at Kasumpti failed to pass an order in the case within a period of 45 days as per provisions of said regulations.

2. The Complainant have also filed an application under the provisions of Regulation 36 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. He has prayed for granting order for restraining the Respondents from recovering and realizing the balance amount out of Rs 72,75,250/- in respect of demand notice dated 10/04/2017 fearing disconnection of electricity connection by the Respondents by taking coercive method for recovery of same.
3. Prayer granted and in terms of the powers conferred under the provisions of Regulation 36 read with Regulation 33 (2) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the recovery and realization of balance amount of Rs 72,75,250/- against demand notice dated 10/04/2017 was hereby stayed by that Ombudsman during the pendency of the present Complaint with this Appellate Forum and the Respondents were further directed not to take any coercive action to recover the same such as disconnection of electricity connection of the Complainant's premises.

B – The Complainant' submissions:

PROLOGUE/BACKGROUND

1. The Complainant submits that he is a limited Company duly incorporated under the Companies Act and has a factory located under Manpura sub-division for manufacture of forged steel products.
2. The Complainant submits that Complaint No. 1432/1/23/07 was filed on 02/02/2022 before the Consumer Grievances Redressal Forum of HPSEPL challenging the demand towards Infrastructure Development Charges levied by the Respondents. The Respondents vide demand notice dated 10/04/2017 for Infrastructure Development Charges calculated the total leviable amount of IDC to Rs. 72,75,250/- as mentioned in Sub-Total (A) of the demand notice on various grounds submitted in the Complaint out of which an amount of Rs. 58,62,183/- already stands recovered.
3. The Complainant submits that the Forum listed the matter on four past hearings held on 15/02/2023, 03/03/2023, 15/03/2023 and 29/03/2023 on which four opportunities have been given to the Respondents to file the reply in the matter. The next date for filing of reply has been further listed on 25/04/2023.
4. The Complainant submits that a period of more than 45 days have passed since the Complaint was received by the Forum. But during this period the CGRF has failed to pass orders within the time line of 45 days notified in Regulation 26 (5) of the HPERC (CGRF and Ombudsman) Regulations, 2013 due to non-filing of reply by the Respondents. The time limit for filing of response in the grievances is restricted to 15 days is further restricted to 15 days as specified in the Annexure -1 to the Regulations.
5. The Complainant submits that he, being aggrieved by delay in disposal of the grievance by the CGRF, is now approaching the Hon'ble Ombudsman under Regulation 28 (1) (a) vide the present representation and prays for early disposal of the grievance.

FACTS OF THE CASE

Sr. No.	Date/ Period	Event
1.	22.01.2004	Power Availability Certificate (PAC) dated 22.01.2004(Annexure-C-1) was issued to the Complainant for 2500 kW at 11 kV Supply Voltage and Rs. 5,00,000/- was demanded and deposited by the Complainant towards Infrastructure Development Charges (IDC) @ Rs. 200/ kW vide R. No.

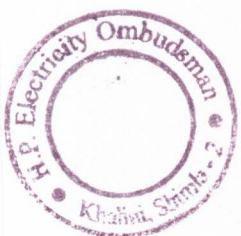


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		0919018 dated 26.10.2003. Load was sanctioned vide sanction letter dated 20/05/2004(Annexure-C-2) for 2500 kW with 2250 kVA of contract demand. The power was released against this application on 06.07.2004 at 11 kV supply voltage.															
2.	23.06.2007	PAC dated 23.06.2007(Annexure-C-3) for additional 500 kW at 33 KV Supply Voltage, was issued to the Complainant and a sum of Rs. 1,00,000/- (@Rs. 200 per kW was demanded and deposited vide R. No. 0027714 dated 12.02.2007 towards Infrastructure Development Charges while processing the application. Thereafter the additional load of 500 kW with 350 kVA of additional contract was sanctioned vide sanction letter dated 20.09.2007(Annexure-C-4). The said load was released to the Complainant on 01.10.2007 at 11 kV Supply Voltage as an interim arrangement. Later on, the supply was to be shifted to 33 kV Supply Voltage, while the Complainant was directed to construct an independent 33 kV line for switching over to 33 kV Supply Voltage.															
3.	17.07.2009	Additional IDC Rs. 9,32,399/- paid against letter dated 17.07.2009 vide R. No. 0220654 dated 01.08.2009 before the release of additional load of 750 kW with 600 kVA of contract demand.															
4.	18.07.2009	PAC dated 18.07.2009(Annexure-C-5) for additional 750 kW was issued to the Complainant and a sum of Rs. 7,50,000/- (@ Rs. 1000 per kW was demanded and deposited vide R. No. 0207942 dated 12.02.2007 dated 16.07.2009 and R. No. 0135972 dated 18.06.2009, towards Infrastructure Development Charges while processing the application. Thereafter the additional load of 750 kW with 600 kVA of additional contract was sanctioned vide sanction letter dated 28.10.2009(Annexure-C-6). The said load was released to the Complainant on at 11 kV Supply Voltage initially and switched to 33 kV in the month of August 2012, after the completion of the 33 kV dedicated line.															
5.	22.05.2012	Rs. 1,08,48,000/- demanded towards IDC and 12 instalments of the same were approved by CE (Comm.) vide letter dated 22.05.2012(Annexure-C-7), while it also stated that the additional demand of 600 kVA be released after observing codal formalities. Electricity bills(Annexure-C-8) thereafter issued stating supply voltage as 33 kV.															
6.	09.07.2012	Additional demand released at 33 kV															
7.	01.06.2012 to 20.09.2012	Complainant paid four instalments as per detail below;; <table border="1"> <thead> <tr> <th>Date</th><th>Rct. No./ Ch. No</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>01.06.2012</td><td>987429</td><td>9,04,000/-</td></tr> <tr> <td>16.07.2012</td><td>2076093</td><td>8,97,502/-</td></tr> <tr> <td>16.08.2012</td><td>2076422</td><td>8,91,927/-</td></tr> <tr> <td>20.09.2012</td><td>300122 (Ch. No.)</td><td>8,86,353/-</td></tr> </tbody> </table>	Date	Rct. No./ Ch. No	Amount	01.06.2012	987429	9,04,000/-	16.07.2012	2076093	8,97,502/-	16.08.2012	2076422	8,91,927/-	20.09.2012	300122 (Ch. No.)	8,86,353/-
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20.09.2012	300122 (Ch. No.)	8,86,353/-															
8.	11.11.2013	CWP No. 7537 of 2012 D disposed by the Hon'ble High Court of Himachal Pradesh(Annexure-C-9) granting liberty to withdraw the petition and to take recourse appropriate alternate remedy, in accordance with law.															
9.	25.03.2015	Revised Demand Notice (Annexure-C-10)for additional Rs. 46,35,821/- was issued for arrears of IDC, in which the payments dated 01.08.2009 for Rs. 9,32,399/- and the payment dated 20.09.2012 remitted vide Ch. No. 300122 for Rs. 8,86,353/- were not included while calculating the balance liability. The total liability on account of IDC was worked out to be Rs. 72,75,250/-. The Complainant paid the following amounts towards IDC. <table border="1"> <thead> <tr> <th>Date</th><th>Rct. No./ Ch. No</th><th>Amount</th></tr> </thead> <tbody> </tbody> </table>	Date	Rct. No./ Ch. No	Amount												
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		26.10.2003	0919018	5,00,000/-
		12.02.2007	0027714	1,00,000/-
		16.07.2009	0207642	6,00,000/-
		18.06.2009	0135972	1,50,000/-
		01.08.2009	0220654	9,32,399/-
		01.06.2012	0987429	9,04,000/-
		16.07.2012	2076093	8,97,502/-
		16.08.2012	2076422	8,91,927/-
		20.09.2012	300122 (Ch. No.)	8,86,353/-
		Total		58,62,183/-
10.	18.12.2015	Appeal number 195 of 2014 before the Appellate Tribunal for Electricity disposed(Annexure-C-11) the appeal amongst other appeals on similar matter, ordering the quashing and setting aside the clarificatory orders dated 02.05.2011 passed by the HPERC and also the consequential demand notices and bills.		
11.	05.10.2016	The HPERC issued another clarificatory order in Suo Moto petition No. 25 of 2016(Annexure-C-12) clarifying the adjustment of advance cost share and dues related to the infrastructure development charges.		
12.	10.04.2017	Another demand notice(Annexure-C-13) issued for IDC similar to the earlier notice dated 25.03.2015(Annexure-C-10).		
13.	21.06.2017	Complainant preferred CWP No. 1428 of 2017 before the High Court of Himachal Pradesh.		
14.	03.01.2022	CWP No. 1428 of 2017 disposed by the High Court(Annexure-C-14) granting liberty to avail appropriate alternative remedy in accordance with law.		
15.	02.02.2023	The Complainant approached the Consumer Grievances Redressal Forum of HPSEBL vide the instant Complaint for its consideration.		
16.	15.02.2023	Matter was listed and heard by CGRF		
17.	03.03.2023	Matter was listed and heard by CGRF		
18.	15.03.2023	Matter was listed and heard by CGRF		
19.	29.03.2023	Matter was listed and heard by CGRF		
20.	15.04.2023	Complaint prepares and files representation before Hon'ble Ombudsman under regulation 28(1)(a).		

CONTENTION OF THE APPELLANT/ COMPLAINANT

6. **The Complainant's additional load of 500 kW with 350 kVA processed in 2007, was covered under HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005:** The Complainant submits that he was issued PAC for additional load of 500 kW with 350 kVA (**Annexure-C-3**) of Contract Demand on 23/06/2007 and the sanction letter was issued on 20/09/2007(**Annexure-C-4**). The HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005 was notified in the year 2005, which continued to remain in force up to 2012. The load was also released on 01/10/2007. Therefore, the Infrastructure Development Charges were to be levied within the scope of HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005. The Condition No. 26 of the sanction letter also stipulates that the IDC shall be levied as per regulation 419/ 2005.
7. **The Complainant's additional load of 750 kW with 600 kVA processed in 2009, was also in the scope of HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005:** The Complainant Submits that he was issued PAC for additional load of 750 kW with 600 kVA(**Annexure-C-5**) of Contract Demand on 28/07/2009 and the sanction letter was issued on 28/10/2009(**Annexure-C-6**). The HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005 was notified in the year 2005, which



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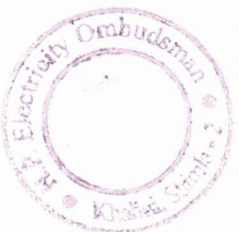


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continued to remain in force up to 2012. Therefore, the Infrastructure Development Charges were to be levied within the scope of HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005. The Condition No. 25 of the sanction letter also stipulates that the IDC shall be levied as per regulation 419/ 2005.

8. The Infrastructure Development Charges (IDC) were leviable as applicable to 33 kV Supply Voltage under the HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005 but not for 11 kV:

- a) The Complainant submits that the Respondents in their demand notices have charged IDC as applicable to 11 kV Voltage @ Rs. 2,875/ kVA as is evident from the demand notices dated 25/03/2015 (**Annexure-C-10**) and 10/04/2017 (**Annexure-C-13**) for augmentation of 66/11 transformers at Nalagarh 66/33/11 kV sub-station.
- b) Further, that during the load extension in 2007, it was specifically stated in PAC(**Annexure-C-3**) and the sanction letter (**Annexure-C-4**) that the release of this load at 11 kV was merely an interim arrangement and that the supply shall finally be shifted to 33 kV Supply Voltage via 33 kV line to be constructed by him. Therefore, the IDC levy for 11 kV is entirely unjustified. However, the Respondents were justified in charging the rates as applicable to the 33-kV supply voltage only.
- c) Further, that during the load extension approved in 2009, again it was specifically laid down that the additional load will be released at 33 kV only, while no mention of 11 kV exists in the PAC(**Annexure-C-5**) or the sanction letter(**Annexure-C-6**). During this period he was actively engaged in the construction of the 33 kV dedicated line, which got delayed due to several impediments like acquisition of land, disputes and other execution problems. He switched over to 33 kV finally on 09/07/2012.
- d) Further, that the rates for IDC at 33 kV were earlier fixed at Rs. 3,562.50 per kVA as per circular dated 07/12/2012(**Annexure-C-15**), which also included cost of infrastructure that was upstream to the feeding sub-station i.e. Nalagarh 66/33/11 kV substation. In the case of Timco Steel Company versus HPSEBL, the Ld. Ombudsman in Case No. 13 of 2022, in his orders dated 19/12/2022 has specifically restricted the recovery of IDC up to the feeding sub-station only but not for the upstream line/ substation. The observation of the Ld. Ombudsman was amongst other arguments was also based on the clarification issued by the HPERC in Case No. 315/05(**Annexure-C-16**) to the queries raised by the Respondents on the methodology to work out the recoverable rates from the Consumers. The Respondents thereafter issued letter dated 26/12/2022(**Annexure-C-18**) reporting compliance of the said orders, which the rates of IDC were revised by the Respondents to Rs. 2,335/kVA. As is evident from the letter regarding the rates of Rs. 2,335/ kVA, out of Rs. 9.34 Crores expenditure Rs. 7.18 Crores has been included for 66 kV DC line from Baddi to Nalagarh Sub-station and which is a transmission line. Excluding this, expenditure of only Rs. 1.42 Crores remain on which a per kVA rate works out to only Rs. 355 per kVA. Considering the rate of Rs. 355 per kVA, while ignoring other parts of the Ombudsman's orders only Rs. 3,37,250/- is payable by him on the two extensions of demand totaling to 950 kVA (350 kVA + 600 kVA).
- e) The Complainant submits that his case is pertaining to the same sub-station and the same supply voltage of 33 kV sub-station. The Respondent Board has decided to comply with orders passed in Case No. 13 of 2022 and has not yet assailed the same, which then automatically applies to him also.
- f) Further, that out of the Rs. 58,62,183/- paid by him, he is only liable to pay the following:
 - i) Rs. 5,00,000/- on the Contract Demand of 2250 kVA which was released before the notification of the Regulations 419/ 2005;



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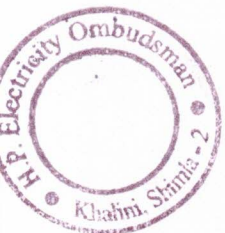
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- ii) Rs. 3,37,250/- on account of IDC for two expansions totaling to 950 kVA at 33 kV Supply Voltage @ Rs. 355 per kVA or such rate that is arrived at after further overhauling of the expenditure in due course;
- iii) Rs. 50,24,933 is clearly refundable to him out of the total IDC of Rs. 58,62,183/- recovered by Respondents from him.
9. **The normative rate of IDC is not applicable to the Complainant as his loads were never sanctioned during the operation of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012:**
- The Complainant submits that both the applications for additional load were approved and sanctioned during the operation period of HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005 which was in operation till May 2012.
 - Further, that he was constructing the 33kV line as per sanctions accorded to him in 2007 and 2009, and which got delayed due to various reasons cited in the foregoing paras, and finally came into operation on 09/07/2012 after which the entire load of 3200 kVA was shifted to 33 kV.
 - Further, that the Respondents cannot be allowed to doubly charge the IDC from him once for 11 kV and thereafter again for 33 kV at normative rates, which is illogical, irrational and contrary to justice. The Respondents have charged in the two demand notices issued by him, in which Rs. 62,69,000/- has only be charged at normative rates once again on the same quantum of load.
 - Further, that Section 46 only allows the licensee to recover the expense on the distribution system that has been reasonably incurred. The demand notices issued by the Respondents lack reasoning and are unfair to him.
 - Further, that the HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005, nowhere allows the Respondents to charge IDC again on account of change in supply voltage.
 - Further, that the third proviso of the Regulation 21 of the HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2012, clearly state that the demand notices issued prior to the commencement of the 2012 regulations, shall continue to be governed by the earlier regulations of 2005. The full text of the said proviso is reproduced below:

"Provided further that the demand notices issued prior to commencement of these Regulations and/or the demands still to be raised against the loads/demands released prior to commencement of these Regulations, shall continue to be governed by the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 and other relevant Regulations and Codes of the Commission, but not including these Regulations, unless the Commission issues any specific order in this regard."

10. **The Respondents have acted in contravention of the Regulation 6 of the HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005: The Complainant submits that The text of the regulation 6 is reproduced below:**

"6. Recovery of cost.- (1) Subject to the provisions of sub-regulation (2), the **balance cost** of electrical plant and or electric line after deducting the amount payable by the applicant under sub-regulation (1) of regulation 3, **regulation 4** and regulation 5 **shall be either invested by the licensee or paid for by the applicant and where licensee's investment approval does not permit this cost, the licensee shall recover the total balance cost from the applicant:**



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Provided that the balance cost shall be refunded to the applicant as and when new connections are installed or given from the electrical plant and/or electrical line on pro-rata basis with the interest rate of 8% compounded annually.

Provided further that notwithstanding anything contained in any other law for the time being in force, balance cost due shall be recoverable from subsequent applicant(s) and the bills of the Consumer who had paid the balance cost shall be invariably flagged continuously until paid fully.

(2) The licensee shall render to the applicant/Consumer the account of expenditure showing the excess or deficit in relation to initial estimated amount within three months after release of connection giving details of itemwise estimation and actual expenditure along with the item wise figures of variance to the extent possible and, if applicant requires any additional information, the distribution licensee shall furnish the same within ten days of receipt of such requisition;

Provided that where the actual expenditure;

(a) is less than the initial estimated cost by more than 3% the licensee shall refund the excess amount, within 30 days from the date of submission of the account, or

(b) exceeds the initial estimated cost by more than 3%, the applicant shall pay the difference between the initial estimated cost and the actual expenditure to the extent of 3% only and any amount in excess of 3% shall be borne by the licensee.

(3) Notwithstanding anything to the contrary contained in these regulations the expenditure on the electrical plant and/or electric lines incurred from any grant or subvention from the Central or State Government or any other agency shall not be recoverable.

(4) Where, after the payment of the estimated cost and,-

(a) before the completion of work, if the applicant declines to take the supply, the amount paid by him shall be refunded within thirty days, after deducting there from, the actual reasonable expenditure incurred; or

(b) before starting the work of laying of electric line, erection of electrical plant and creating any other facilities for extending supply to the applicant seeking new connection, if applicant declines to take the supply, total amount of estimate shall be refunded by the licensee to the applicant within thirty days."

11. The Complainant submits that Regulation 6 in the nut shell allows for expenditure on infrastructure development to carried out in two ways:

i) either through the investment plan (CAPEX) or alternatively,

ii) or through recovery from the applicants

12. The Complainant submits that the capital investments for general growth of the business of the Respondents is generally allowed through capital expenditure, which forms the part of Capital Expenditure Plan or Investment Plan, and the same is approved by the Himachal Pradesh Electricity Regulatory Commission. The assets created under the investment plan form the part of Fixed Assets Register (FAR) of the utility once they are capitalized and the utility recovers the capital expenditure gradually by claiming depreciation which is spread over a period of time. This depreciation is included in the Annual Revenue Requirement (ARR) approved by the Commission on yearly basis. In case, loans are raised to fund the scheme, the interest on these loans as well as operation and maintenance cost also is included in the ARR



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and passed through to the Consumers through tariff. Based on the ARR, the tariff is calculated and approved by the Commission. The tariff and the per unit cost approved by the Commission includes the component of depreciation, interest, operation and maintenance costs. The **balance cost** of such infrastructure is carried forward from year to year in continuity till the book value of the asset is reduced to NIL or negligible. Thus, the licensee stands compensated for the investment through tariff route for the investment carried out through the route of investment plan. Ultimately, the cost incurred on infrastructure involving generation, transmission and distribution gets passed on to the Consumers through tariff. It is because of this that the words 'balance cost' and 'investment plan' have been used in the Regulation 6 above. While the Regulations, 3, 4, and 5 only illustrates the specific circumstances and they define what is to be recovered in different scenarios.

13. The Complainant submits that the question of recovery of infrastructure cost from a Consumer arises only in specific circumstances and only if any infrastructure is to be created for his needs and when the licensee has no plans for such investment, maybe because the application for load might be for an isolated area, where the system is not existing. On the applicant's specific demand and such cost is allowed by the regulations 3, 4, 5, and 6, meaning thereby that the recovery is allowed for the dedicated infrastructure only. *Had the regulation intended to recover as IDC the entire cost, whether existing or what was to be created, there would have been no need to sub-classify regulations 3(1), 4(1) and 5(1).*
14. The Complainant submits that the Respondents have grossly mis-interpreted the provisions of these regulations and have simply tried to recover the actual cost on infrastructure schemes from the Consumers, which already stand covered as a part of the investment plans and irrespective of the fact whether the infrastructure was existing at the time of application or not. The Respondents are not entitled to recover the cost of the infrastructure both through the tariff route as well as from the individual Consumers on the actual cost basis.
15. The Complainant submits that therefore, the demand notice for IDC deserves to be quashed as the same is amounting to recovery of infrastructure cost twice and is resulting in undue enrichment of the utility at the cost of the Consumers, which is not permitted by the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005.
16. **The demand notice issued by the Respondents is not in conformity with the orders of the Commission in Petition No. 315/05, which is relevant in the present case.** The Complainant submits that a clarification petition was filed by the Respondent Board before the Hon'ble Commission in the form of petition No. 315/05. Specific regulation wise queries were put up to the Commission with respect to extent and up to what level the IDC can be recovered. The Hon'ble Commission vide its orders dated 31/10/2005, clarified the issues to a large extent. But the rate of Rs. 3,562.50 and even Rs. 2,335 per kVA has not been calculated keeping in mind the clarification issued in the said order. The clarification was never challenged and stands accepted and has obtained finality even before the issuance of the circular HPSEB/ CE (Comm.)/Misc-IDC/2012- 16509-574 dated 07/12/2012.
17. The Complainant submits that his case falls under the regulation 4 (1) (a) as already explained in foregoing paras. On perusal of Sr. NO. 6 of the table in the orders in 315/05 it is written that the interpretation of the licensee is correct. The interpretation of the licensee is described as *"To be dealt with as per interpretation of 3(1)(a) above."*

3(1)(a) is dealt at Sr. No.1 of the order where the licensee's own interpretation is

"In case capacity is available at the existing transformer and only laying of service line is required, only the cost of service line as well as terminal equipment is to be charged from the Consumers excluding the cost of metering arrangements."

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18. The response of the Commission to this interpretation is stated as

"The interpretation of the licensee is correct except that the cost of meter including CT, PT and not the metering arrangement shall be excluded."

19. The Complainant submits that on one hand the Respondents have submitted their interpretation to the Commission, which is in line with his contention, whereas on the other hand the Respondent has erred and issued the impugned demand notice which is opposite of the interpretation given to the Commission and which is quoted in the said order. **The mere perusal of this order clearly establishes that the Respondents were only entitled to recover the cost of service line, which they have already recovered separately.** Further, that when he approached the Respondents for the power supply in the year 2007 and 2009, there was already sufficient **spare capacity** available in the existing two transformers, which were commissioned in the years 2006 and 2007. Therefore, the demand of IDC for load extensions is not justified. The Hon'ble Ombudsman has passed orders in several earlier cases where in the directions have been issued to comply with the provisions of 315/05.

20. **The Respondents have charged the expenditure of transmission lines in the per kVA IDC rates and that too multiple times in different schemes, which are totally not allowed to be recovered from the Consumers.**

- a) The Complainant submits that his supply was given from the 66/33 kV transformer at Nalagarh Substation, which receives supplies from various 66 kV lines connected to the transmission system to the grid. 66 kV bus is used to transfer power in both directions from one point to the other. Nalagarh Sub-station gets is connected to various 66 kV lines, which form input supply to the Sub-stations, some of which known to the Complainant are as below:
- 1) 66 kV line for 66/33 baddi to Akkanwali portion Ckt-1 and then Akkanwali to Nalagarh Ckt-1;
 - 2) 66 kV line from Baddi to Nalagarh Ckt -2
 - 3) 66 kV line from Uperla Nangal to Nalagarh
- b) Further, that the 66 kV lines from Baddi to Nalagarh can be used in two ways, either to Supply to Baddi from Nalagarh or to Supply Nalagarh from Baddi. These are general purpose lines which cannot be specifically earmarked to his supply. The cost of these upstream lines is not payable by him in any case.
- c) Further, that it may be noted that everywhere in the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, the word "*distribution licensee*" is mentioned. Even in the 3, 4, 5 and 6 the words, "*distribution licensee*" has been used again and again. This clearly establishes that the said regulation is applicable to the distribution business of the licensee. In the state of HP the Respondents have licenses for generation, transmission and distribution and the all these functions together. This does not entitle them to recover the cost of transmission assets from the Consumers in general.
- d) Further, that the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 had been notified by the HPERC under section 46 of the Electricity Act, 2003, which only allows the distribution licensee to recover the expenditure, meaning thereby that the **distribution infrastructure** required to be created for providing the supply to a Consumer. The account of expenditure provided by the respondent only contains the transmission infrastructure, but not on account of distribution infrastructure.



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- e) Further, that the rate of Rs. 3,562.50 per kVA for 33 kV or Rs. 2,875 per kVA for 11 kV includes the component which are not the parts of distribution system and hence not recoverable from him. The impugned demand notices therefore deserves to be quashed.
- f) Further, the Respondents have not complied with provisions of regulation 6 (2), which mandates that the account of expenditure giving item-wise details has to be provided to the Applicant/ Consumer within three months after the release of connection. The Respondents have failed to give the account of expenditure to him and have straight away issued the demand notice which only mentions the name and cost of the scheme and is devoid of the item-wise detail as is required. The Respondents have also failed to provide the detail of account within the period of three months, whereas the impugned demand notice has been issued after a lapse of 7-8 years.
- g) Further, that it has been laid down in Para (b) of the Provision to the regulation 6 (2) that an upward variation of only up to 3% is allowed on the estimated cost and the balance has to be borne by the licensee. On perusal of Sr. No 32 of the Circular HPSEB/ CE (Comm.)/Misc-IDC/2012- 16509-574 dated 07/12/2012, it is observed that the against the estimated cost of the scheme which was Rs. 9.01 Crores, the Respondents have incurred Rs. 14.25 Crores, which has exceeded by much more than 3% that is allowed. Therefore, the rate should have been calculated considering the cost as Rs. 9.01 Crores + 3%. Merely on this count the cost works out to Rs. 2,320 per kVA. However, further deduction on account of cost of upstream lines as stated above have to taken into account and the rate will fall further.
- h) Further, that Regulation 6 (3) also provides to exclude such expenditure from the recovery, which has been met by grant or subvention from the Central/ State Government or any other agency. This provision has been ignored while notifying the rates in the dated 07/12/2012 issued by the Respondents.
- i) Further, that Regulation 13 of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 reads as follows:
- "13. Standard cost data.- (1) The distribution licensee shall, after previous publication, submit on an annual basis submit to the Commission by 15th March of each year a cost data (including departmental charges) book for approval and publish the approved cost data book by 15th April of the next financial year, which shall be the basis of making the initial estimate for erection of electric line and/or any other works and/or electrical plant in order to provide supply to the applicant:"*
- j) Further, that the Respondents have failed to mention as to which cost data has been taken while preparing the estimate. Also, the regulation 4 (1) (a) states that the recovery has to be made as per approved and published standard cost data. In the absence of the standard cost data the Regulation 13 was to be applied.
21. The Complainant submits that the demand notice raised by the Respondents is time barred and is hit by limitation under as below:
- i) the demand notice, if any, should have been raised within a period of three months from the release of connection as per Regulation 6(3) of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005;
- ii) the impugned demand notice is hit by the limitation period of three years provided under the Limitations Act, 1963. Hence the demand notice deserves to be quashed.
- iii) the impugned demand notice is hit by the Limitation period of two years under section 56(2) of the Electricity Act, 2003.



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22. The Complainant submits that he is eligible for refund along with interest as per Clause 5.7.3 of the Supply Code, 2009 and the regulation 26 (6) of the HPERC (CGRF and Ombudsman) Regulations, 2013 on the excess amount recovered by the Respondents.

23. **Prayer:** The Complainant thus prays to :

- a. To quash the demand notice dated 10/04/2017 for an amount of 72,75,250/- issued by the Respondents in view of the contentions submitted above;
- b. To direct the Respondents to refund the amount of Rs. 53,62,183/- recovered by the Respondents which are contrary to the provisions of the regulations after making adjustments as explained in the foregoing paras of this Complaint;
- c. To order payment of simple interest @ 15% per annum as per Regulation 26(6) of the HPERC (CGRF and Ombudsman) Regulations, 2013 or as per Clause 5.7.3 of the Supply Code, 2009 on the amounts determined to have recovered in excess by the Respondents;
- d. Cost of the Complaint amounting to ₹ 2,00,000/-;
- e. Call for the record of the case;
- f. 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 and against the Respondents/distribution licensees.

C – The Respondents' submissions:

Reply on behalf of the respondents to the complaint filed by the complainant.

PRELIMINARY SUBMISSIONS :-

1. The Respondent submits that the complaint filed by the complainant before the Ld. Ombudsman is neither competent nor maintainable in its present forum and the same is liable to be dismissed.
2. The Respondent submits that the complaint filed by the complainant is hit by the law of limitation as provided under Regulation 19 (c) of the HPERC (CGRF and Ombudsman) Regulations 2013 in as much as, it has clearly provided in the Regulations that the grievance, if any, has to be preferred within two years from the date of cause of action. It is submitted that as per the prayer clause of the complaint, the demand notice dated 10.4.2017 has been sought to be quashed and set aside. The complainant is estopped to challenge this demand notice dated 10.4.2017 on the pure and simple reasons, that as per limitation provided in Regulation supra, the complaint ought to have been filed within two years from the date of issuance of demand notice. As such on this sole ground, the complaint is liable to be rejected out rightly by this Ld. Ombudsman.
3. The Respondent submits that the complainant did not approach this Ld. Ombudsman with clean hands and has suppressed the material facts and as such the complaint required to be dismissed.
4. The Respondent submits that the complainant is estopped on account of his own act, conduct, deed and acquiescence to file the present complaint and as such the complaint is required to be dismissed.

REPLY ON MERITS:-

1. The Respondent submits that the contents para-1 of the complaint are a matter of record need no reply.

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2. The Respondent submits that the contents of para-2 are a matter of record need no reply.
3. The Respondent submits that the contents of para-3 of the complaint are a matter of record and need no reply.
4. That the contents of para-4 of the complaint so far as they pertain to the record are not denied, rest of the averments which are contrary to the record are denied. It is submitted that the instant complaint filed by the complainant before this Ld. Ombudsman is totally misconceived, in as much as, the same has been filed by invoking the provisions of Regulations 28(1) (a) of the HPERC (CGRF and Ombudsman) Regulations, 2013. It is submitted that under Regulations 28 (1) (a), it is not only 45 days after filing of the complaint before the Ld. Forum so as to given entitlement for the complainant to approach this Ld. Forum. However, if the Regulation 28 is perused in its entirety, then, it will leave no manner of doubt that after 45 days, 30 more days are also provided. It is submitted that the respondents by way of clarificatory petition registered as Filing No. 98 of 2023 titled as HPSEB Limited Vs. H.P. Electricity Ombudsman & others had approached the Hon'ble Himachal Pradesh Electricity Regulatory Commission (HPERC) for seeking clarification upon Regulation 26(5) and Regulation 28 (i) (a) of the HPERC (CGRF and Ombudsman) Regulations 2013. The matter was listed before the Hon'ble Commission on 26.5.2023 with a direction to the Ld. Ombudsman to file its reply. Further the matter was listed before the Hon'ble Commission on 22.6.2023, wherein the Hon'ble Commission assured that required amendments are being carried out in the regulations, hence, the petition for seeking clarification was withdrawn by the respondents. However, the amendment is under deliberation before the Hon'ble Commission.
5. After going through the contents of clarificatory petition registered as Filing No. 98 of 2023 titled as HPSEB Limited Vs. H.P. Electricity Ombudsman & others before the Hon'ble Himachal Pradesh Electricity Regulatory Commission (HPERC) for seeking clarification upon Regulation 26(5) and Regulation 28 (i) (a) of the HPERC (CGRF and Ombudsman) Regulations 2013. wherein the Hon'ble Commission assured that required amendments are being carried out in the regulations, hence, the petition for seeking clarification was withdrawn by the respondents. However, the amendment is under deliberation before the Hon'ble Commission.

Reply to the facts of the case.

6. The Respondent submits that the contents of this para of the complaint so far as they pertain to the record of the case are not denied, rest of the averments which are contrary to the facts of the case are denied in *toto*.
7. The Respondent submits that the contents of para-6 of the reply are totally wrong, incorrect and hence denied. It is specifically denied that the HPERC (Recovery of Expenditure for supply of Electricity Regulations) 2005 are applicable for the complainant for additional load of 500 kW with 350 kVA contract demand. It is submitted that the very legal aspect of the matter is the release of the load. It is further submitted that the complainant had initially applied for the Power Availability Certificate (PAC) which was issued to him on 22.01.2004 for connected load of 2500



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kW at 11 kV supply voltage. Further as submitted above, the complainant again applied for the additional load of 500 kW with 350 kVA of contract demand in the year 2007. The said additional load was sanctioned on 33 kV supply voltage and release on 11 kV supply voltage as an interim arrangements till December, 2007 with a condition that the firm/industry shall have to shift their entire load of 33 kV supply voltage after December, 2007(Annexure C-1). Further, the complainant in the year 2009, has applied for the additional load of 750 kW to 600 kVA contract demand by making total connected load of 3750 kW with 3200 kVA contract demand. It is expressly stated in the load sanction order that the said load shall be released only after the consumer shifted the existing load on 33 kV supply from 11 kV supply(Annexure C-2). The load was shifted by the complainant on 33 kV supply voltage in the month of August, 2012. As such the contention of the complainant that the Regulations 2005 governs the field is totally wrong and incorrect as the shifting of load was done in the year 2012 on the standard supply voltage of 33 kV and at that relevant period of time, HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012 was in vogue. It is pertinent to submit here that under section 46 of the Electricity Act, 2003, the respondent has been duly authorized by the Hon'ble Commission under the Recovery of expenditure regulations to recover the expenditure incurred in providing any electrical line or electrical plant used for the purpose of giving that supply from the person requiring a supply of electricity in pursuance to section 43. As such the complainant was under statutory obligation for payment of the infrastructural development charges in terms of the 2005 regulations, when the supply was availed during that time on the 11 kV supply voltage as an interim arrangement, as per the load sanction order and further, as per the statutory conditions, for the shifting of the entire load on the standard supply voltage i.e. 33 kV, during the currency of 2012 Regulations, the complainant is also required to pay the cost of the expenditure in terms of the 2012 Regulation as occupying the field. The demand as impugned by the complainant herein, is perfectly legal and valid thus liable to be upheld by this Ombudsman.

8. The Respondent submits that the contents of this sub para-7 of the complaint, so far as they pertains to the matter of record are not denied rest of the averments which are contrary to the facts of the case are denied being totally wrong and incorrect. It is specifically denied that the Infrastructural Development Charges are attached with the issuance of the PAC. However, it is submitted that it is the release of the load which relates to the applicability of the regulations for Recovery of Expenditure and the PAC is only the commitment/promise of the respondent distribution licensee to toward the applicant who applied for the release of electricity connection specifying therein that the supply shall be made available on the particular system of supply which may be augmented or built or otherwise. It is submitted that it is release of the load which is paramount for the determination of the infrastructural charges. Hence the contention of the complainant that charges are related to the PAC are totally misplaced and misconceived.
9. The Respondent submits that the contents of para-8 are also matter of record need no reply.
10. The Respondent submits that the contents of para-8 (a) being matters of record needs no reply on the behalf of respondents.

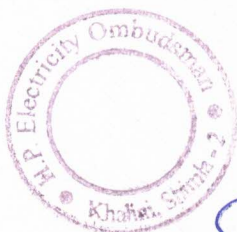


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11. The Respondent submits that the contents of para-8 (b) of the complaint, so far as it pertains to the matter of record are not denied. Rest of the averments which are contrary to the facts of the case are denied being totally wrong and incorrect. It is further relevant to submit here that the complainant is liable to pay the Infra Structural Development charges for 11 kV supply voltage as well as for 33 kV supply voltage since the Infrastructural Development Charges for 11 kV supply voltage was also created and used by the complainant and after shifting of 33 kV supply voltage.
12. The Respondent submits that the contents of para-8(c) of the complaint, so far as they pertain to the matter of record are not denied and rest of the averments which are contrary to the facts of the case are denied being totally wrong and incorrect.
13. The Respondent submits that the contents of sub para-8 (d) so far as it pertains to the matter of record are not denied and rest of the averments which are contrary to the facts of the case are denied being totally wrong and incorrect.
14. The Respondent submits that the contents of paras-9(a) to (f) of the complaint, so far as they pertain to the matter of record are not denied and rest of the averments which are contrary to the facts of the case are denied being totally wrong and incorrect. It is specifically denied that the application of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations 2012 are not applicable. However, it is submitted that the shifting of the entire load was done in the year 2012 when the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations 2012 was in currency. As such, the regulations 2012 are applied and the complainant is liable to pay the normative Infra-structural development charges for the entire load. It is submitted that rational forth recovery of the Infra-structural development charges is very well derived from the Regulations 2012 in as much as that the assessment for catering the need of the complainant was built up or created by the respondents. As such as per Regulations 2012 normative IDC are required to be paid.
15. The Respondent submits that the contents of para-10 of the complaint in so far as they pertain to the alleged contravention of Regulation No. 6 of the (Recovery of Expenditure for Supply of Electricity Regulations) 2012 are wrong and denied. It is submitted that the issue of the capital expenditure which form a part of capital expenditure plan or investment plan cannot be tested before this Hon'ble Ombudsman for the reasons that at that very relevant time during the process of the approval of the ARR, the Hon'ble Commission has given due consideration to all these aspects, hence at this very point of time the contention of the complainant that the expenditure on account of these assets should form a part of CAPEX or otherwise is totally wrong, misconceived as such liable to be rejected. The complainant by making such contentions before this Ld. Ombudsman cannot allowed to revert back the position way back in the year 2006. Moreover, it is settled position of law that the settled things cannot be allowed to be made unsettle. The Ld Ombudsman, with the due respect, is not authorized or competent to interpret the tariff order or the instrument issued by the Hon'ble HPERC. The aspect of the ARR and CAPEX are beyond the jurisdiction of the Ld Ombudsman as such the contention of the complainant is liable to be rejected. It is relevant to submit here that respondents have at the very relevant time of the tariff filing, have made full discloser of the amounts of the consumer contribution received from the



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respective consumers for the capital works and the respondents audited accounts fully disclosed the consumer contribution received from the consumers and its treatment in books of account and the benefit has passed on to the consumer through tariff. If the balance amount as claimed by the complainant is refunded then there must be recasting of the means of finance of respondents with carrying cost. The issue has already been dealt by the Hon'ble APTEL in Appeal No 109 of 2014 titled as Tata Power Delhi Distribution Limited versus Delhi Electricity Regulatory Commission and others, the relevant part of the judgement is reproduced as under:

“16. After going through the rival contentions of the parties, we find that the learned commission has been considering the consumers contribution as means of financing the capital cost. It has been submitted that the appellants/DISCOMs that the unutilized portion of the consumers contribution was also used as means of financing of the capital works and accordingly the regulated rate base from FY 2002-03 onwards was reduced. The consumer got the benefits of the lower tariff. If the unutilized consumer contribution has been utilized as means of financing in the tariff orders from FY 2002-03 onwards and corresponding relief has been given to the consumer in terms of retail supply tariff, then there is force in the contention of the appellants. In that situation the appellants should then get the consequential relief. If the said contention of the appellant is true and correct, then the unspent consumer contribution with interest to be refunded by the appellants. The said amount may be considered as expenditure in the future annual revenue requirement (ARR) of the appellants. Then the appellant should be given liberty to furnish the accounts showing that the excess amount of consumers contribution has been duly considered in the ARR from 2002-03 onwards in reducing the retail supply tariffs. This appears just and proper also in the interest of justice that the impugned order passed by the learned commission should be set aside with the aforesaid direction because if utilization of unspent consumer contribution as a means of finance has reduced the retail tariff and thereby benefited the consumers then the liberty should be given to the appellants to furnish the respective accounts showing that the excess amount of consumers contribution has been duly considered in the ARR from FY 2002-03 onwards in reducing the retail supply tariff. Accordingly, the issue No C & D is disposed of.”

As such it is crystal clear that on the issue of the ARR and CAPEX, the jurisdiction lies only with the Hon'ble HPERC, not with this Id Ombudsman.

16. The Respondent submits that the contents of Para-16 are also totally wrong, incorrect and hence denied.
17. The Respondent submits that the contents of the para-20 are false, incorrect, wrong and hence denied. It is pertinent to mention here that the complainant is just considering the cost of Nalagarh substation augmentation scheme whereas in order to augment the above transformer various other EHV lines are also needed to be augmented/created being an interconnected system.



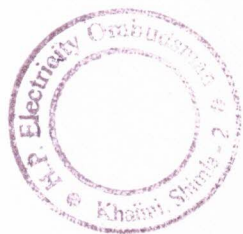
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18. The Respondent submits that the contents of para-20 (a) being matters of record. However, in reply as already submitted in above para that the complainant is just considering the cost of Nalagarh substation augmentation scheme whereas in order to augment the above transformer various other EHV lines are also needed to be augmented/created being an interconnected system. So it cannot be justified by coining the term such as upstream for feeding EHV substation's lines whereas upstream refer to substation & its source EHV lines before the actual feeding substation i.e. in the instant case.
19. The Respondent submits that the contents of the para-20 (b) & (c) are false, incorrect, wrong and hence denied.
20. The Respondent submits that the contents of the para-d are admitted partially being a matter of record. However, in reply it is the humble and respectful submission of the replying respondents that rates have been revised taking into consideration the provision of the regulation 6(2) and restricted the variation upto 3% of the estimated cost.
21. The Respondent submits that the contents of the para-20 (e) are false, incorrect, wrong and hence denied. The rates have been revised considering all the aspects of the regulation.
22. The Respondent submits that the contents of the para-20 (f) are false, incorrect, wrong and hence denied. The rate of IDC has been finalized as per mechanism approved and after taking into account the expenditure from various cost data of schemes and no approval of any kind is required by HPSEBL. The work for augmentation of 2x10 MVA, 66/33KV to 2x20MVA, 66/33 kV transformers was carried out at 66/33/11KV Sub-Station, Nalagarh to meet up the load requirement at 33 kV level in industrial area and the cost is to be recovered from the prospective consumers. The rates in the short term plan scheme was calculated on the basis of the rates of equipment/material as per prevailing (May 2005) market rates/supply orders rates placed in HPSEB of similar nature.
23. The Respondent submits that the contents of Para-21 are also totally wrong, incorrect and hence denied. It is specifically denied that the demand notice raised by the distribution licensee/respondents is time barred and hit by the limitation. It is submitted that the Infrastructural Development Charges pertaining to 2005 Regulations were under adjudication/deliberations before the various Courts/ HPERC and APTEL or quasi-judicial authorities for many years. It is relevant to mention here that way back in the year 2011-2012, the Ld. Commission on the administrative side was pleased to approve the advance cost share as submitted by the HPSEB Limited/respondent, but the order of the Ld. HPERC was challenged by the number of industrial association before the Hon'ble APTEL and thus thereafter, the appeals were decided by the Hon'ble APTEL in the year 2016. The Hon'ble APTEL was pleased to remand back the matter to the Hon'ble HPERC for its fresh consideration and decision in terms of the order of the Hon'ble APTEL. The matter was listed before the Hon'ble HPERC in the year 2016. As such in pursuance to the directions contained in suo-motu Petition No. 25 of 2016, in the matter of; mechanism for the Adjustment of Advance Cost Share towards Infrastructural Development Charges(IDC) paid under paragraph 8(b) and 8(e) of the Himachal Pradesh Electricity Supply Code, 2009 and respondents served fresh demand notice to the consumers who were liable to pay the



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Infrastructural Development Charges in terms of the 2005 Regulations. It is relevant to submit here that the Hon'ble Commission while disposing of the Suo Motu Petition ibid, has categorically held as under:

“iii. On the issue of demand notices, issued by the distribution licensee for the recoveries of the Infrastructure development charges on the strength of the commission's clarificatory order dated 02-05-2011, it is pointed out that the Hon'ble APTEL in their order dated 18.12.2015 have set aside the said order, alongwith finding recorded therein that all the consequential action or the subsequent orders or the consequential demand notices or bills raised by the respondent Board on the strength of aforementioned impugned clarificatory order, dated 02-05-2011, have also been quashed or set aside this adequately settled the points raised by some of the stakeholders. **However, this shall in no way debar the distribution licensee to make recoveries in accordance with the provisions of Recovery of Expenditure Regulations, 2005 or the Recovery of Expenditure Regulations, 2012 as may be relevant.**”

24. As such the pleas of the complainant that the demand notice are hit by law of limitation is totally wrong, unsustainable and liable to be rejected out rightly. However, it is submitted that it is the case of the complainant which requires to be rejected on the basis of the limitation in as much as that the demand notice pertains to the year 2017 and it is in the year 2023, for the complainant prefers by the complaint before the Ld. Forum. As such, keeping in view the applicability of Regulations 19.1 (c) of the HPERC (CGRF Ombudsman) Regulations 2013 as the grievance was ought to be filed or submitted before the Ld. Forum within two years from the cause of action, the instant complaint is liable to be rejected.
25. The Respondent submits that the contents of Para-22 are also totally wrong, incorrect and hence denied. Rest of the contents made in this para contrary to the submissions made hereinabove are denied being totally wrong, false, baseless and incorrect.
26. The Respondent submits that that it is therefore, keeping in view the facts and circumstances narrated herein above, prayed that the complaint as preferred by the complainant is meritless and deserves dismissal as such be dismissed.

D – The Complainant's Submission through Rejoinder:

1. The complainant submits that at the outset I repeat, reiterate and confirm all the statements and averments made by the complainant company in the complaint. I deny all the statements and averments made in the said reply unless and until the same are specifically admitted by the complainant company. The objections raised by the respondents are lacking merit.
2. The complainant submits that keeping in view the complaint filed by the complainant and the reply filed thereafter by the respondents, no matter of the complaint stands resolved. The respondents have missed or have denied the main issues raised by the complainant, which still need redressal by this Hon'ble Forum. The pointwise rejoinder to the reply and objections raised by the respondents is as below:

Rejoinder to Preliminary Submission:

3. **Para 1:** The complainant submits that it is denied that the present representation is not maintainable, while the same is well within the provision of applicable rules and regulations. The complainant has

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rightly approached the Hon'ble Ombudsman, which is the only remedy available under the law available to the complainant.

4. **Para 2:** I The complainant submits that it is denied that the present representation is hit by limitations under Regulation 19(c) of the HPERC (CGRF and Ombudsman) Regulations, 2013. The respondents are misquoting the said regulation in this representation as the said limitation is not applicable on the Hon'ble Ombudsman and is only applicable to the CGRF as is very clear in the regulation. The matter was admitted by CGRF and therefore the provisions of Regulation 19(c) concluded at that instant itself.
5. The complainant submits that the respondents are also forgetting that revised demand notices were to be issued after the clarification issued by HPERC in Suo Moto Petition 25 of 2016 on 05.10.2016, the respondents were required to issue revised demand notice in view of the clarification. No such notice is on record of the complainant nor has it been issued by the respondents. The onus of overhauling the account on account of IDC is purely mandated on the part of the respondents as per Regulation 6 of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 and also a similar provision exists in the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012. Since, the respondents were sitting tight on overhauling after the clarification issued by HPERC, the complainant had to approach the CGRF and the Hon'ble Ombudsman for a proper overhauling of his account.
6. The complainant submits that when the Hon'ble High Court disposed the matter with liberty in 2013, the IDC was under litigation before APTEL and hence even the issuance of demand notices were stopped due to pending litigation the result of which came in the form of directions from the APTEL and consequent clarification in the form of orders in suo moto HPERC petition 25 of 2016.
7. The complainant submits that also, the maintainability of the representation has been much argued in the past already and it has been decided that the representation is maintainable by Hon'ble Ombudsman. The raising of the question of maintainability again and again is an effort to create confusion in the mind of the adjudicating authority as was also done before the Himachal Pradesh Electricity Regulatory Commission in Petition No. 37 of 2023, while the respondents had to withdraw the said petition.
8. **Para 7:** The complainant submits that the respondents have cited no proof of his allegation of suppression of the material facts by the complainant. The contents of this para are purely for the sake of argument.
9. **Para 8:** That the present complaint is maintainable under the law.

Rejoinder to Reply on Merits:

Para- 4 : That the present representation is well within the scope of the Regulation 28(1)(a) in its present form and the same has been held maintainable by the Hon'ble Ombudsman in his orders dated 06.05.2023 in the instant representation. Any further discussion on the issue is merely a waste of time of this Court. The amendment if any in the regulation 28(1)(a) will be applicable prospectively.

10. **Para- 7:** That the respondents in the contents of this para:
 - a) Have agreed that the PAC for the load of 2500 kW was issued on 22.01.2004, when the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 was not even conceived. At that point of time 11 kV dedicated feeder was constructed at the cost of the complainant, the process of which continued upto the release of load in 2007.
 - b) Have agreed that the PAC for additional load of 500 KW with 350 kVA of contract demand was applied in 2007, while they are self-contradictory that the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 shall apply. The said regulation was in operation from 2005 upto the year 2012. There is no question of this additional load falling in the purview of any



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future regulation. The interim arrangements that are being discussed were with adequate approval from the competent authorities and it cannot be understood in any manner that the future regulation of 2012, which was not even thought of at that point of time shall apply in the said conditions.

- c) Have agreed that the supply voltage was changed to 33 kV in August 2012, and the PAC for which was issued much earlier than the notification of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012. When the respondents are claiming actual cost on the basis of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, there is no question of recovering normative cost of IDC. It is strange that the respondents are adopting an approach under which they are trying to maximize the recovery irrespective of the guiding principles of the regulations. The conditions governing the works that were already in progress when the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2012, cannot be overridden by a future law retrospectively. In fact, the complainant's 11 kV dedicated feeder was taken over by the respondents, which was constructed at the complainant's cost which is now benefitting other consumers from whom the respondents have recovered IDC, but the same has not been paid to the complainant so far as per recovery mechanism in the regulations.

11. **Para -8:** That the comments on the issue has been dealt in the rejoinder to previous para and it is purely the terms and conditions laid down in the PAC that binds the two parties unless and until the same are mutually altered and agreed upon.
12. **Para- 9:** That the complainant cannot be charged for the IDC on both the voltages unless and until the specific expenditure is incurred by the respondents in giving supply to the complainant. The expenditure on infrastructure was done at the complainant's cost, at first for 11 kV and then for 33 kV. It is unfair and irrational that the IDC for both the voltages be recovered from the complainant. The supply of the complainant remained to continue from the same 66/33/11 kV Nalagarh substation and the 11 kV capacity relinquished by the complainant was sold to other prospective consumers while IDC in some form or the other was recovered from such consumers who were later fed through the previously dedicated feeder at 11 kV which was supplying to the complainant.
13. **Para -11:** The complainant never denied his liability towards the Infrastructure Development Charges, provided the same is calculated in line with the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 in letter and spirit. The demand has been raised flouting various provisions of the said regulations. There is a strong possibility that the Nalagarh augmentation scheme was part of the CAPEX. The respondents are not coming out with the true details of CAPEX and consequently the depreciation etc. being allowed in the ARR. The contents of the para of reply are thus denied.
14. **Para 13:** That the complainant has not denied that the rates of IDC which were earlier Rs. 3562.50 at 33 kVA were reduced to Rs. 2335/kVA consequent to the orders in a similar case no. 13 of 2022, while it was also held that still his orders were not complied fully. The actual rates as per the regulations and as per orders in similar cases in 33 KV infrastructure in Nalagarh are much lower than Rs. 3562.50 per kVA.



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15. **Para -14:** That the complainant's stand on the contents of the reply on this para have already been dealt in the foregoing paras. Hence for the sake of brevity, the same are not being repeated.
16. **Para -15:** That the issue discussed in this para is not new and has been discussed in several similar complaints by the Hon'ble Ombudsman. The respondents are unnecessarily raising the issue of jurisdiction, whereas the complainant is only praying for overhauling the account of IDC as per the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, which is well in the jurisdiction of the Hon'ble Ombudsman. The complainant cannot go to the Commission to get his account overhauled as per the regulations as the Hon'ble Commission cannot adjudicate individual disputes which fall into the jurisdiction of CGRF and Ombudsman. The respondents have miserably failed in implementing the provisions of the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, which is leading to a great deal of question as of now. The judgement quoted by the respondents is not relevant in the present case. The respondents have never put up before the Hon'ble Commission any amount that is pending on account of CAPEX, whereas the Commission has been liberal in the past in allowing CAPEX expenditures.
17. **Para -16:** That the issue in this para of the representation requires no elaboration as it has already been held in the many similar cases in the earlier orders that the Clarificatory Orders in HPERC Petition 315/05 has not been implemented. It has been specifically ordered by the Hon'ble Ombudsman in the cases of M/s Siddi Vinayak Forgings Private Ltd., Timco Steel Co, Zenith International, Krishna Plastics, S G International and A G Peripherals that the accounts be overhauled keeping in mind the clarifications in 315/05.
18. **Para -17 and sub paras:** That the respondents' argument merely stating that the EHV lines have to be created cannot be extended indefinitely even as to cover the cost of generating stations. The logic given by the respondents is hopeless. Under the Electricity Act, 2003, the consumer is only liable for cost of distribution infrastructure and not for the transmission infrastructure. If we go in depth, the cost of such transmission infrastructure and the generating infrastructure automatically becomes a pass through by way of ARR. Directly or indirectly the consumer is bearing the cost of all three components i.e. generation, transmission and distribution. The only difference is that the first two are taken care of through the tariff and ARR and the section 46 of the Electricity Act, 2003 only provides for the recovery of distribution infrastructure directly from the specific consumer.
19. **The words "distribution licensee" used in the regulations need to be specially looked into.** The contents of these paras of the reply are denied in totality.
20. **Para -13:** It is surprising that when it comes to Limitation period on the delay in serving the notice for IDC on the part of the respondents, the respondents have all the excuses. On the contrary, the respondents are raising a counter argument on this representation being hit by the limitation. If fact, any such rates notified by the respondents are not applicable in the case of the complainant, whose IDC liability should have been worked out on the basis of the cost data published by REC and PFC as per the regulation. The delay in publishing the cost data for several year is the root cause of the disputes, for which the respondents are solely responsible. The reply to this para of the representation is totally misconceived and is denied.



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21. **Para-25:** That the contents of this para of reply are denied. This para of the representations is purely in line with the relevant regulations and the complainant is praying for interest as per the applicable regulations.
22. In view of submissions made herein above it is most respectfully prayed that the representation filed by the complainant be allowed after appreciating the provisions judiciously.

E-Complainant' Submission Through Written Arguments:

1. The complainant submits before the Hon'ble Ombudsman that the earlier submissions made in the complaint, may be considered part and parcel of these arguments. It is also submitted that these written arguments be considered final arguments/ submissions on behalf of the complainant. The written arguments in support of the contentions of the complainant are as below:

Preliminary Arguments:

2. The complainant submits that it is submitted that the complainant has suffered delay in disposal at the hands of the Ombudsman due to multiple opportunities being given to the respondents and thereafter due to intervention and grant of another opportunity for filing the reply by the Hon'ble Commission. The respondents still abstained from filing a reply in the matter, whereby the Hon'ble Ombudsman listed the matter straight for arguments. The respondents instead of coming up for arguments later submitted their reply instead of arguing the case on 27.07.2023. The complainant thereafter filed a rejoinder dated 28.08.2023.

Arguments on merits:

3. The complainant submits that he has attached a bill at Annexure C8 of the complaint at page 46 of the representation, which clearly depicts that the supply voltage is 33000 Volts, meaning thereby that load was released before the said bill. Also, the footnote in the bill shows that additional contract demand of 600 kVA was released on 09.07.2012, while the PAC for the same was issued on 18.07.2009. Since, the construction of line was in progress between 2009 and 2012. The levy of normative IDC under HPERC (Recovery of Expenditure for Supply of Electricity), 2012 @ Rs. 2000 per kVA are not justified merely on the basis that the additional load was released in the month of July, 2012, just after the notification of these regulations on 18.05.2012. The complainant's load which was sanctioned and was just awaiting to be released immediately after the completion of the 33 kv feeding line, was undisputedly covered by the earlier rules and regulations under the terms and conditions of which the PAC was issued and the sanction was accorded. The PAC issued in 2009 placed at C-5 (Page 40) clearly states that the 419/ 2005 shall be applicable in the Sr. No 2 and Sr. No. 6 of the Sanction Letter.
4. The complainant submits that the respondents in the impugned demand notice have charged IDC twice on the 2600 kVA quantum of load at normative rates. While the complainant had only applied for additional 600 kVA increase from the existing 2600 kVA in 2009, the respondents have calculated IDC on entire 3200 kVA, including the already released 2600 kVA. Out of the 2600 kVA existing contract demand of the complainant in 2009, when the addition of 600 kVA proposed, the earlier demand of 2250 kVA, was for a



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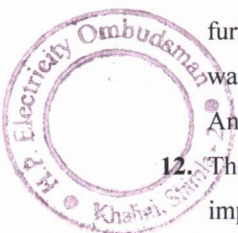


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period prior to the notification of HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 and 350 kVA which was released in 2007. The respondents were only entitled to recover legitimate IDC on the additional 350 KVA and the further additional 600 kVA under 419/ 2005.

5. The complainant submits that the respondents first additional contract demand of 350 kVA was subject to the condition that the complainant will be required to shift to 33 kV Voltage. Also, the next addition of 600 kVA was subject to the condition to be released at 33 kV Voltage. Therefore, there is no reason to charge IDC of 11 KV Supply Voltage.
6. The complainant submits that the respondents have failed in correctly calculating the infrastructure development charges claimable under the HPERC (Recovery of Expenditure for Supply of Electricity) Regulations 2005. While issuing the impugned demand notice the respondents have contravened the provisions of Regulation 4 and Regulation 6 of the said HPERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2005.
7. The complainant submits that the respondents have not clarified whether the said scheme at Nalagarh sub-station was funded through CAPEX or grants or not.
8. The complainant submits that the respondents have not followed in letter and spirit the clarification issued by HPERC in 315/05 in response to the clarification sought by the respondents themselves. It is pertinent to mention over here that since the said clarification, was never objected to by the respondents, made it applicable in totality and the impugned demand notice is not issued in accordance with the said clarification in 315/05.
9. The complainant submits that the respondents have wrongly calculated the rate of Rs. 3562.50 per kVA for the Nalagarh 66/33 kv sub-station. The original cost of the scheme as has been tabled at Sr. No. 32 of the Circular dated 07.12.2012. (Annexure C15-Page 77) has been stated as Rs. 9.01 Crores, whereas the rate of Rs. 3562.50/kVA has been calculated at Rs. 14.25 Crores which almost 58 % higher than the estimated cost. It is also alleged by the complainant that the scheme cost of Rs. 9.01 Crores also included civil works of such nature, which were not in the scope of recovery from the consumers as per said regulations.
10. The complainant submits that the scheme cost of 9.01 crores also includes the cost of double circuit 66 kV line from Baddi to Nalagarh, the cost of which has already been included in the scheme for Nalagarh sub-station. It is also seen that in Sr. No. 34 of the circular dated 07.12.2012 Rs. 4.78 Cr. has also been included in the scheme for Davni Sub-station. The respondents have indulged in wrong practices and have charged the cost of same asset i.e. 66 KV Baddi to Nalagarh double circuit line in more than one scheme in order to recover the cost many times the cost of the line.
11. The complainant submits that in compliance of the orders dated 19.12.2022 passed by the Ombudsman in Case No. 13 of 2022 titled as Timco Steel Co. Versus HPSEBL, the respondent themselves admitted errors and had recalculated and approved the rate of Rs. 2335 / kVA vide their compliance letter dated 17.01.2023 as against the earlier rate of Rs. 3562.50/ kVA. That even after arriving at Rs. 2335/kVA, further errors were brought into the notice of the Hon'ble Ombudsman, after which the orders in the case was referred as non-complied. The compliance report submitted by the respondents is attached herewith as Annexure C20.
12. The complainant submits that the respondent is also guilty of including the cost of transmission lines, in the impugned notice, whereas the section 43 of the Electricity Act, only provides for recovery of distribution



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expenditure from the consumers. It is also clearly defined at 2(72) of the Electricity Act, 2003 that the lines connecting two sub-stations are transmission lines.

13. The complainant submits that even if it is held that the line cost is to be recovered from the consumers, even then the total capacity of the line should have been considered while calculating per kVA cost and not the capacity of the transformers only. The respondents are guilty of not proportioning the common infrastructure between different schemes in the area who are benefitting from such common infrastructure. It is very clear from the information furnished under RTI placed at Annexure C21 attached with these submissions that the minimum capacity of the 66 KV double circuit line in question is Akkanwali as on today is

Akkanwali	80 MVA
Nalagarh	80 mVA
Davni	20 mVA
Total	180 MVA

In the information it is further shared that the total cost of the said line is Rs. 158512921/-, which results in a rate of Rs. 880.62 per kVA when divided by 180 MVA.

14. The complainant submits that it is also clear from the RTI information, that the said sub-station at Akkanwali is today accommodating 2 x 20 mVA 66/33 kV transformers and 2 x 20 mVA 66/11 kV transformers. The additional 40 MVA has been installed after the commissioning of the initial scheme of 40 mVA. The cost of the common infrastructure thus needs to be proportioned among 80 mVA and not 40 mVA.
15. The complainant submits that there is another 66 kV Alchem feeder mentioned in the RTI, the capacity of which has not been accounted for while distributing the infrastructure cost.
16. The complainant submits that the respondents have also erred in issuing notice based on their own actual cost figures whereas as per Regulations. The Standard Cost Data was to be considered for such calculations.
17. The complainant submits that the respondents have issued the impugned demand notice after the lapse of several years and is time barred as the same should have been issued within 3 months of the completion as per Regulation 6(3) of the IDC regulations. The impugned notice is also hit by the limitation period of 3 years under the Limitations Act, 1963.
18. The complainant submits that in view of above, it is prayed that the complaint be allowed in totality thereby ordering the refund of amounts due to the complainant along with interest as per 5.7.3 of the Supply Code, 2009 and costs as per applicable Regulations and other reliefs prayed for.

F – CGRF Order:

1. The Consumer Grievance Redressal Forum at Kasumpti held a hearing on 26/04/2023 and dismissed the case as withdrawn. Since as per record, the hearing as well as the orders passed by the Forum below was after the Complainant filed the case at this Appellate Forum on 17/04/2023 under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. The orders passed by the Forum below on 26/04/2023 is reproduced below for the sake of clarity.

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2. Complainant M/s Him Chem Private Ltd. Village Khera, P.O Baddi, Nalagarh Road, Nalagarh bearing consumer ID100012000865 has filed the instant complaint before this Forum. Matter was listed today for filing of Reply by Respondent HPSEBL;
3. Sh. Mohit Pathak appearing vice Authorized Representative informs that the Complainant has approached the Ld. Ombudsman for the adjudication of its grievances;
4. Counsel for Respondent informs that in the matter Reply is still to be filed and that the Complainant has still approached the Ld. Ombudsman simultaneously, when the matter is pending adjudication before this, Forum. Thus, under the circumstances, the matter is not maintainable before the Forum;
5. Otherwise also this Forum is convinced that once it has come into the knowledge of the Forum that the Complainant has approached two Authorities simultaneously, then in terms of regulation 19 (a) of the HPERC (CGRF and Ombudsman Regulations), 2013, this Forum cannot proceed further in the matter. Thus, the only option before this Forum is to reject the complaint. However, Sh. Mohit Pathak appearing vice Authorized Representative Sh. Rakesh Bansal, after seeking instructions from the authorized Representative/ Complainant, prays that it shall withdraw the complaint;
6. Prayer granted. On aforesaid terms, the complaint is disposed as withdrawn. Order is announced before the parties present today on 26.04.2023, at Shimla in open Forum.

G – Analysis of the Complaint:

1. The case file at Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 1432/1/23/07, dated 03/01/2023 final orders on which were passed by the Forum below on 26/04/2023 after registration of the case at this Appellate Forum on 17/04/2023 have also been requisitioned and gone through.
2. The documents on record including submissions and reply filed by Respondent Board, the arguments made thereafter, relevant in the case have also been gone through.
3. The documents on record, written arguments submitted by the complainant, Arguments made by both the parties and judgements of the Hon'ble courts, relevant amendments issued by the Hon'ble Commission, prevalent Acts and Codes and relevant supply conditions for the sake of clarity in the instant matter have also been gone through.
4. This is the case of Infrastructure Development Charges (IDC). PAC was issued to Complainant on 22/01/2004 for 2500 kW Connected Load at 11 kV and Rs 5,00,000/- was deposited @ Rs 200/- per kW on 26/10/2003. Load was sanctioned on 20/05/2004 with 2250 kVA Contract Demand and released on 06/07/2004 at 11 kV Supply Voltage.
5. Another PAC was issued for additional load of 500 kW at 33 kV supply voltage on 23/06/2007 and Rs 1,00,000/- @ Rs 200/- per kW were also deposited towards Infrastructure development charges on 12/02/2007. Load was sanctioned with 350 kVA additional Contract Demand on 20/09/2007 and released on 01/10/2007 at 11 kV supply voltage as an interim arrangement. The Complainant was directed to construct independent 33 kV line and load was finally to be shifted on 33 kV supply voltage.
6. Additional IDC were deposited for RS 9,32,399/- on 01/08/2009 against demand dated 17/07/2009 for additional Connected Load of 750 kW and Contract Demand of 600 kVA. PAC was issued on 18/07/2009 and a sum of Rs 7,50,000/- @ Rs 1,000/- per kVA was deposited on 18/06/2009. The load was sanctioned on 28/10/2009.
7. Additional IDC for Rs 1,08,48,000/- were approved by Chief Engineer (Commercial) on 22/05/2012 and additional demand of 600 kVA was released at 33 KV on 09.07.2012. Four installments were paid by the Complainant for a total of Rs 35,79,782/-.



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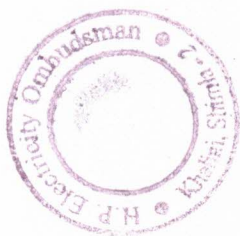


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8. The Complainant also filed a CWP 7537/2012 before Hon'ble High Court of Himachal Pradesh which was dismissed as withdrawn on 11/11/2013 granting liberty to withdraw the petition and to take recourse for appropriate alternate remedy.
9. Revised demand notice was issued for total IDC as Rs 72,75,250/- against which the Complainant had deposited Rs 58,62,183/-. Another demand was raised by Respondent Board on 10/04/2017 for Rs 46,35,821/- considering the amount deposited as Rs 26,39,425/-. The Complainant again preferred CWP 1428/2017 which was also disposed of on 03/01/2022 granting liberty to avail appropriate alternative remedy in accordance with law.
10. As per record, the Consumer Grievance Redressal Forum at Kasumpti was approached on 15/02/2023. Listing was done for 03/03/2023, 15/03/2023, 29/03/2023 and lastly for 26/04/2023. Since the Consumer Grievance Redressal Forum at Kasumpti failed to decide the matter within a period of 45 days as per provisions of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the Complainant preferred representation at this Appellate Forum under the provisions of Regulation 28 (1) (a) of said Regulations.
11. The Respondent submits that the instant complaint filed by the complainant before this Ld. Ombudsman is totally misconceived, in as much as, the same has been filed by invoking the provisions of Regulations 28(1) (a) of the HPERC (CGRF and Ombudsman) Regulations, 2013. The Respondent further submits that under Regulations 28 (1) (a), it is not only 45 days after filing of the complaint before the Ld. Forum, entitles complainant to approach this Ld. Forum, whereas, if Regulation 28 is perused in its entirety, then, it will leave no manner of doubt that after 45 days, 30 more days are also provided.
12. Record reveals that the respondents by way of clarificatory petition registered as Filing No. 98 of 2023 titled as HPSEB Limited Vs. H.P. Electricity Ombudsman & others had approached the Hon'ble Himachal Pradesh Regulatory Commission (HPERC) for seeking clarification upon Regulation 26(5) and Regulation 28 (i) (a) of the HPERC (CGRF and Ombudsman) Regulations 2013. The matter was listed before the Hon'ble Commission on 26.5.2023 with a direction to that Ombudsman to file its reply. Further the matter was listed before the Hon'ble Commission on 22.6.2023, wherein the Hon'ble Commission assured that required amendments are being carried out in the regulations, hence, the petition for seeking clarification was withdrawn by the respondents. However, the amendment is under deliberation before the Hon'ble Commission.
13. The Complainant Submits that it is denied that the present representation is not maintainable, while the same is well within the provision of applicable rules and regulations. The complainant further contends that he has rightly approached the Hon'ble Ombudsman, which is the only remedy available under the law available to the complainant.
14. On scrutiny of the earlier analysis made by that Ombudsman in similar situations, it was affirmed that in case No. 25/2022 vide Order dt. 25.03.2023, the issue of maintainability was dealt which for the sake of brevity and reference is reproduced as under:

"The Respondents had filed their short reply on maintainability issue during last hearing. The Complainant filed his rejoinder on 15/03/2023 and filed written arguments during hearing. The Respondents argued their case on maintainability of the application filed by the Complainant. They specifically mentioned and argued on the provisions of Regulation 26 (5) along with first proviso. They stated that the first proviso entitles the Forum below to decide the case even after a period of 45 days recording the reasons for delay.

Further, they argued that the provisions under 26 (5) first proviso is absolute, and the Complainant even didn't attend the last hearing on 20/12/2022 wherein the Respondents had sought two weeks' time to file their reply and the next date was fixed for 09/01/2023. They further stated that without waiting for the process to be complete at the Forum below the Complainant filed the current application just after two days under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. They further stated that provisions of Regulation 28 (1) (a) has to be read with provisions of Regulation 26 (5) first proviso.



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The Complainant had argued mainly on the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 stating that since the Forum below didn't decide the case within a period of 45 days as per provisions of the Regulation and even the Respondents didn't file their reply after restoration of their application on 04/11/2022 when the case was listed for 30/11/2022 and 20/12/2022, they had no option except to approach this Appellate Forum to decide the matter on merits of the case. The Complainant further argued that the Respondents were trying to deliberately delay the matter due to past litigations by seeking time again and again to file their reply. And now again at this Appellate Forum they are delaying the same by challenging the grievance on account of maintainability.

The case was registered at this Appellate Forum on 23/12/2022 and the next date for hearing was 21/01/2023 and the Respondents failed to file their reply. The case was again listed for 25/02/2023 but the Respondents filed their short reply on maintainability of the application filed by the Complainant during hearing. It took Respondents two months to file short reply on maintainability issue. The Respondents casual approach to file the reply can be seen at the Forum below as well as at this Appellate Forum and this attitude and carelessness on part of the Respondents is not appreciated which can be seen as delaying the process of adjudication.

Now let us examine the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 reproduced below:

Representation against the Forum's order. - (1) A complainant may prefer a representation before the Ombudsman appointed/ designated by the Commission under the following circumstances: -

(a) if the complainant is aggrieved by the non-redressal of the grievance by the Forum within the period specified,

The time period specified for disposal of the application at the Forum below is 45 days as per provisions under Annexure-I (Sr No. 6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. In this instant case the Forum below failed to decide the case within the time limit of 45 days specified and even the Respondents failed to file their reply at Forum below despite giving two opportunities till 30/11/2022 and 20/12/2022.

The statement of the Respondents that the Forum below can decide the case even after 45 days recording reasons of delay is not denied but this does not debar the Complainant to file an appeal to decide the case on merits at this Appellate Forum under the provisions of Regulations 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and this fact can't be ignored either after the Forum below fail to decide the case within a period of 45 days.

Clearly, the application filed by the Complainant under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 is maintainable since these provisions are absolute and entitles the Complainant to file the case under the provisions of above stated Regulations.

Accordingly, as announced in the court today, the current application filed by the Complainant under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 is maintainable and decided accordingly.

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*The Respondents are directed to file their detailed reply on merits of the case on or before 10/04/2023 positively **duly supported by attested affidavit** and the Complainant may file his rejoinder by 12/04/2023. The case is listed for hearing on 13/04/2023 at 12:00 PM or immediately thereafter."*

15. The above analysis reveals that under the intricate circumstances that prevailed in the instant case and in view of the similar situation dealt by that Ombudsman in the case 25/2022, this Appellate Forum deduces that it is the legitimate right of the Complainant that was exercised by them after exhausting the days of adjudication before the CGRF as per provisions.
16. The Respondent raised another issue on limitations and submitted that the complaint filed by the complainant is hit by the law of limitation as provided under Regulation 19 (c) of the HPERC (CGRF and Ombudsman) Regulations 2013 in as much as, it has clearly provided in the Regulations that the grievance, if any, has to be preferred within two years from the date of cause of action.
17. The Complainant submitted that it is denied that the present representation is hit by limitations under Regulation 19(c) of the HPERC (CGRF and Ombudsman) Regulations, 2013. The respondents are misquoting the said regulation in this representation as the said limitation is not applicable on the Hon'ble Ombudsman and is only applicable to the CGRF as is very clear in the regulation. The matter was admitted by CGRF and therefore the provisions of Regulation 19(c) concluded at that instant itself.
18. After going through the averments of both Respondent and Complainant on the above issue of limitations under Regulation 19(c) of the HPERC (CGRF and Ombudsman) Regulations, this Appellate Forum is convinced with the reply of the Complainant and asserts that once the matter admitted by the CGRF and proceedings initiated, the contention of the respondent is not viable in the instant case.
19. The Complainant has also contended that the demand raised by the Respondents is time barred since they didn't raise the matter of any such pending till 2012 and issued demand notice in 2017 for the first time and as per Section 56 (2) of Electricity Act, 2003, the demand is time barred since the dues were more than two years old and were not shown as arrears continuously after that.
20. The Respondent submits that it is specifically denied that the demand notice raised by the distribution licensee/respondents is time barred and hit by the limitation. It is submitted that the Infrastructural Development Charges pertaining to 2005 Regulations were under adjudication/deliberations before the various Courts/ HPERC and APTEL or quasi-judicial authorities for many years. It is relevant to mention here that way back in the year 2011-2012, the Ld. Commission on the administrative side was pleased to approve the advance cost share as submitted by the HPSEB Limited/respondent, but the order of the Ld. HPERC was challenged by the number of industrial associations before the Hon'ble APTEL and thus thereafter, the appeals were decided by the Hon'ble APTEL in the year 2016. Hon'ble APTEL was pleased to remand back the matter to Hon'ble HPERC for its fresh consideration and decision in terms of the order of the Hon'ble APTEL. The matter was listed before the Hon'ble HPERC in the year 2016. As such in pursuance to the directions contained in suo-motu Petition No. 25 of 2016, in the matter of; mechanism for the Adjustment of Advance Cost Share towards Infrastructural Development Charges (IDC) paid under paragraph 8(b) and 8(e) of the Himachal Pradesh Electricity Supply Code, 2009 and respondents served fresh demand notice to the consumers who were liable to pay the Infrastructural Development Charges in terms of the 2005 Regulations. It is relevant to submit here that the Hon'ble Commission while disposing of the Suo Motu Petition ibid, has categorically held as under:

- a. "On the issue of demand notices, issued by the distribution licensee for the recoveries of the Infrastructure development charges on the strength of the commission's clarificatory order dated 02-05-2011, it is pointed out that the Hon'ble APTEL in their order dated 18.12.2015 have set aside the said order, along with finding recorded therein that all the consequential action or the subsequent orders or the consequential demand notices or bills raised by the respondent Board on the strength of aforementioned impugned clarificatory order, dated 02-05-2011, have also been quashed or set aside this adequately settled the points raised by some of the stakeholders. **However, this shall in no way debar the distribution licensee to make recoveries in**

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accordance with the provisions of Recovery of Expenditure Regulations, 2005 or the Recovery of Expenditure Regulations, 2012 as may be relevant.”

21. On deep analysis, this Appellate Forum after going through the submissions, reply of the Respondent Board, the orders of the litigations of similar nature asserts that the contention of the Complainant that the demand for IDC is time barred since the Respondents have not raised any matter pending and issued demand on 10/04/2017 is absurd in the instant case.
22. This Appellate Forum on further analysis is convinced with the reply of Respondent Board that the demand notices, issued by the distribution licensee for the recoveries of the Infrastructure development charges on the strength of the commission's clarificatory order dated 02-05-2011, the Hon'ble APTEL in their order dated 18.12.2015 have set aside the said order, along with findings recorded therein that all the consequential action or the subsequent orders or the consequential demand notices or bills raised by the respondent Board on the strength of aforementioned impugned clarificatory order, dated 02-05-2011, have also been quashed or set aside, this adequately settled the points raised by some of the stakeholders. However, this shall in no way debar the distribution licensee from making recoveries in accordance with the provisions of Recovery of Expenditure Regulations, 2005 or the Recovery of Expenditure Regulations, 2012 as may be relevant.
23. This Appellate Forum is further convinced with the reply submitted by the Respondent Board that in pursuance to the directions contained in soulmate Petition No. 25 of 2016, in the matter of; mechanism for the Adjustment of Advance Cost Share towards Infrastructural Development Charges (IDC) paid under paragraph 8(b) and 8(e) of the Himachal Pradesh Electricity Supply Code, 2009 , the respondents served fresh demand notice to the consumers who were liable to pay the Infrastructural Development Charges in terms of the 2005 Regulations.
24. This Appellate Forum after going through above analysis infers and builds up consensus that after the rates were notified by the Chief Engineer (Commercial), most of the Consumers approached various courts and after orders in Suo moto case 25/2016 by the Commission, Respondent Board issued the demand notice on 10/04/2017 and further the case is under litigation since and hence the demand is not hit by limitation.
25. Now let us examine the contention of the Complainant in this case. His load of 500 kW and onwards were covered under the provisions of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 till the Regulation Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2012 became functional w.e.f April,2012 onwards. Initial load of 2500 kW and 2250 kVA Contract Demand was sanctioned prior to release of the said Regulations in 2004 and is not covered under the said Regulations. Similarly, the additional loads released/ sanctioned subsequently by the Respondents were under the provisions of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005.
26. On giving deep thought to above contentions during analysis and reply submitted by the Respondent which is not being reproduced for the sake of brevity and already stands copied in under Item-C (Respondent's submission), this Appellate Forum is of the considered opinion on the applicability of the respective Regulations in view of the following provisions:
 - a. Relevant extract of 21 Regulation of 419/2012 provides as under:
“Provided further that in case the demand notices issued prior to commencement of these Regulations and/or the demands still to be raised against the loads /demand released prior to commencement of these Regulations, shall continue to be governed by the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 and other relevant Regulations and Codes of the Commission, but not including these Regulations, unless the Commission issues any specific order in this regard.”
27. The validity of Regulation 419/2005 was w.e.f 4.04.2005 to 22.05.2012 and the validity of Regulation 419/2012 commences on 23.05.2012 from the date of notification.



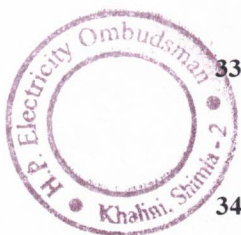
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28. After going through the Regulation 21 and its above relevant extract of Regulation 419/2012 in depth, this Appellate Forum is convinced that there is misconception on the part of Complainant in extracting the relevant meaning of the said Regulations in conformity with the instant case and has overlooked the very important mandate of the above regulation i.e ***demand released prior to commencement of these Regulations*** relevant to the present case. This court understands that reliance and focus of the Complainant in interpretation of above Regulation in terms of “*Notices issued prior to commencement of these Regulations*” rather than focusing on “***demand released prior to commencement of these Regulations***” which is a step ahead to the quote “*Notices issued prior to commencement of these Regulations*” is itself contrary to the spirit of above specific Regulation 21, relevant in this case and hence misconception in applicability of the proper Regulations thereof.
29. This Appellate Forum agrees with Complainant that Initial load of 2500 kW and 2250 kVA Contract Demand was sanctioned prior to release of the said Regulations in 2004 and is not covered under the said Regulations.
30. This Appellate Forum agrees with the contention of Respondent Board to certain extent in this regard and infers that in the instant case, the additional load of 750 KW, 600 KVA contract demand was released on 33KV system on dt.09.07.2012, after the notification dt.23.05.2012 of Regulation 419/2012 and in addition the existing load of 3000KW,2600KVA contract demand which was earlier on 11KV supply system was also shifted along with the additional load and if the situation is read with the relevant extract of Regulation 21 of 419/2012, clearly provides that the settlement in case of the loads released after the notification of Regulation 419/2012 shall fall within the ambit of the Regulation 419/2012 and all loads released prior to the notification dt. 23.05.2012 of Regulation 419/2012 shall be governed by the Regulation 419/2005 and subsequent to above analysis on the applicability of the respective Regulations, this Appellate Forum clearly fetches that after the notification of Regulation 419/2012 on dt.23.05.2012, IDC adjustments of all loads released on or after 23.5.2012 shall be made as per this regulation till repealed and requisite **normative charges** as applicable shall be levied.
31. The Complainant also puts further contention that although initially his load was released at 11 kV Supply Voltage as an interim arrangement, his eligibility was at 33 kV which was subsequently switched to in 09/07/2012 and he should have been charged IDC at 33 kV only. The rate demanded at 11 kV were Rs 2,875/- per kVA whereas the rates for 33 kV are Rs 3,562.50 per kVA.
32. This Appellate Forum after doing detailed analysis at para-30 above, adds to the contentions that in the instant case PAC was issued to Complainant on 22/01/2004 for 2500 kW Connected Load at 11 kV with 2250 kVA Contract Demand and released on 06/07/2004 at 11 kV Supply system. Another PAC was issued for additional load of 500 kW at 33 kV supply voltage on 23/06/2007 and the Load was sanctioned with 350 kVA additional Contract Demand on 20/09/2007 and released on 01/10/2007 at 11 kV supply voltage as an interim arrangement. The Complainant was directed to construct independent 33 kV line and load was finally to be shifted on 33 kV supply voltage. PAC for additional Connected Load of 750 kW and Contract Demand of 600 kVA was issued on 18/07/2009, was sanctioned on 28/10/2009 and was directly released on 33KV system on 09.07.2012 and in addition, the existing load of 3000KW,2600KVA contract demand which was earlier on 11KV supply system was also shifted along with the additional load. After referring to the reply submitted by the respondent, this Appellate Forum arrived at the consensus that till date the above-mentioned load full or partly was fed from 11KV system whether interim arrangement or otherwise, attracts IDC recovery/adjustment at 11KV system and thereafter at 33KV. Also, this Appellate Forum has not come across any provisions of the prevalent Regulation which may provide that IDC on supply system under interim arrangement is not applicable. This Appellate Forum after going through the averments of Complainant concedes that in the absence of such provisions, this court shall deviate from the principle of universal mandate and jeopardize the justice on this vibrant issue.
33. The Complainant have further cited orders in Case No. 13/2022 titled M/S Timco Steel Vs HPSEB Ltd, orders on which were issued on 19/12/2022 and have taken finality. They have further stated that the Electricity Ombudsman have ordered to restrict the rates as per Regulations with 3% escalation to scheme cost and excluding double entry based on orders in 315/05 by HPERC.
34. His further contention is that this connection to the Complainant is from the same sub-station and same parameters apply to this case also. The Respondents have revised the rates from Rs 3,562.50 per kVA to Rs



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- 2,335/- per kVA and needs to be reworked further to delete double consideration of upstream lines/ sub-station cost. He has further contended that after excluding the expenditure of 66 kV DC line from Baddi to Nalagarh sub-station, his rates of IDC will be much lower at Rs 355/- per kVA and his liability will gets reduced to 3,37,250/- only.
35. His further contention is that he is liable to pay Rs 5,00,000/- on initial 2250 kVA before 2005 Regulations, Rs 3,37,250 for two expansions and his refund works out to Rs 50,24,183/- against the deposit made by him for Rs 58,62,183/- so far.
36. While going through the submissions it was also contended by the Complainant that the rates calculated by the Chief Engineer (Commercial) vide circular dated 07/12/2012 have been worked out at Rs 3,562.50 per kVA for 66/33/11 kV 2x20 MVA for additional transformer at Nalagarh. The expenditure was taken as Rs 14.25 Cr whereas the original scheme cost has been mentioned as Rs 9.01 Cr. There is a variation of Rs 5.24 Cr which is around 58.16 % of the original cost. The provision in the Regulation 6 (2) of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 restricts the escalation maximum by 3% only whereas the IDC claimed is for escalation of 58.16 %. The capacity for which the IDC have been worked out is 40,000 kVA and the rates could have been as lower as Rs 2,320/- per kVA and further reduction would have been there if the upstream lines are restricted as per clarification provided by the Commission in case No.315/05. His further contention is that the rates notified by circular dated 07/12/2012 were never approved/ concurred by the Hon'ble Commission.
37. The Complainant has also contended that the Respondents have included the cost of multiple lines for working out the rates. However, as per clarification provided by the Commission in Case No. 315/05, Sr. No. 5, in case of HT and EHT Consumers, the recovery of cost shall be for upgradation of feeding sub-station and the line only and not the upgradation of upstream sub-station/ line. Hence the Components taken by the Respondent Board to work out the scheme cost and expenditure requires revisit in view of the clarification.
38. After going through the submissions ,rejoinder ,written arguments read with the reply submitted by the Respondent Board on the above issue of 3% escalation as well as case No. 315/05, this Appellate Forum establishes the views that in case what is contented by the complainant is true, it shall be construed as violations to all above findings of the Hon'ble Forums and warrants serious attention of the Respondent Board to convince and clarify the Complainant on all the above intricate issues in consonance with the reply submitted in response to the submissions/arguments of the Complainant. Hence, the Respondent Board is also required to clarify/ supply the following to the complainant:
- To clarify that the same cost has not been included in many adjoining sub-stations while justifying the rates to be worked out for IDC per kVA.
 - The Respondent Board have not provided the statement of expenditure to the Complainant as per record in this case. The Respondent Board is required to provide statement of expenditure to the Complainant in line with the provisions of Regulation 6 of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 and is also required to justify the rates in support of their reply, keeping in view the 3% escalation allowed.
 - The analysis on the contention of Complainant on the reference to this court order dt. 19.12.2022 in the matter of M/S Timco Steel Co. Vs HPSEBL case No. 13/2022 and positive compliance of the Respondent as per compliance letter dt.26.12.20022, attached as Annexure C-18 by the Complainant with the instant submissions, this Appellate Forum appreciates the Respondent's concern and intention in legitimate settlements on issuance of revised rates of IDC at 33 KV from 3562.50 per KVA to Rs. 2335 per KVA after offsetting the impacts of upstream assets and confining to feeding sub-stn. only in line with the Hon'ble Commission clarification in case No.315/05 and accepts such steps towards legitimate settlement to avoid litigation in future.



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39. This Appellate Forum asserts without any doubt that in case the same ambiguity is affecting the statue of the instant Complaint, the same may be settled in amicably with the same spirit as that stands settled in earlier similar nature of matters.
40. The Complainant has also raised ARR and Capex issue and claims that as per provisions of Regulation 6 (1) of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 since the Respondent Board have claimed depreciation and capex in ARR and have made investment approved by the Commission, IDC is not applicable to him. Further, as per provisions under Regulation 4 (1), no IDC is payable by him since only service line was required to be extended to him.
41. The Respondent Board submitted Complainant's contention is that the additional capacity at the sub-station was commissioned long back in 2007 and the Respondent Board have already capitalized the same and taken in FARs claiming depreciation in ARR also. Further, that the Distribution Licensee stands compensated for the investment through tariff.
42. Respondent Board further submits that the issue of the capital expenditure which form a part of capital expenditure plan or investment plan cannot be tested before this Hon'ble Ombudsman for the reasons that at that very relevant time during the process of the approval of the ARR, the Hon'ble Commission has given due consideration to all these aspects, hence at this very point of time the contention of the complainant that the expenditure on account of these assets should form a part of CAPEX or otherwise is totally wrong, misconceived as such liable to be rejected. The complainant by making such contentions before this Ld. Ombudsman cannot allowed to revert back the position way back in the year 2006.
43. Respondent Board further submits that, it is settled position of law that the settled things cannot be allowed to be made unsettle. The Id Ombudsman, with the due respect, is not authorized or competent to interpret the tariff order or the instrument issued by the Hon'ble HPERC. The aspect of the ARR and CAPEX are beyond the jurisdiction of the Id Ombudsman as such the contention of the complainant is liable to be rejected.
44. Respondent Board also submits that respondents have at the very relevant time of the tariff filing, have made full discloser of the amounts of the consumer contribution received from the respective consumers for the capital works and the respondents audited accounts fully disclosed the consumer contribution received from the consumers and its treatment in books of account and the benefit has passed on to the consumer through tariff. If the balance amount as claimed by the complainant is refunded then there must by recasting of the means of finance of respondents with carrying cost. The issue has already been dealt by the Hon'ble APTEL in Appeal No 109 of 2014 titled as Tata Power Delhi Distribution Limited versus Delhi Electricity Regulatory Commission and others, the relevant part of the judgement is reproduced as under:

"16. After going through the rival contentions of the parties, we find that the learned commission has been considering the consumers contribution as means of financing the capital cost. It has been submitted that the appellants/DISCOMs that the unutilized portion of the consumers contribution was also used as means of financing of the capital works and accordingly the regulated rate base form FY 2002-03 onwards was reduced. The consumer got the benefits of the lower tariff. If the unutilized consumer contribution has been utilized as means of financing in the tariff orders from FY 2002-03 onwards and corresponding relief has been given to the consumer in terms of retail supply tariff, then there is force in the contention of the appellants. In that situation the appellants should then get the consequential relief. If the said contention of the appellant is true and correct, then the unspent consumer contribution with interest to be refunded by the appellants. The said amount may be considered as expenditure in the future annual revenue requirement (ARR) of the appellants.



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Then the appellant should be given liberty to furnish the accounts showing that the excess amount of consumers contribution has been duly considered in the ARR from 2002-03 onwards in reducing the retail supply tariffs. This appears just and proper also in the interest of justice that the impugned order passed by the learned commission should be set aside with the aforesaid direction because if utilization of unspent consumer contribution as a means of finance has reduced the retail tariff and thereby benefited the consumers then the liberty should be given to the appellants to furnish the respective accounts showing that the excess amount of consumers contribution has been duly considered in the ARR from FY 2002-03 onwards in reducing the retail supply tariff. Accordingly the issue No C & D and disposed of."

As such it is crystal clear that the on the issue of the ARR and CAPEX, the jurisdiction lies only with the Hon'ble HPERC, not with this Id Ombudsman.

45. This Appellate Forum agrees that the Commission only approves the Capex funding and make provisions for the Interest part of the funding in the ARR. When the scheme is closed, the asset so created through funding is taken in Fixed Asset Register (FAR) and capitalized which is then eligible for depreciation on year to year basis as per approved principal of the Commission in the ARR.
46. This Appellate Forum asserts that the funding is mostly up to 90% only and rest is met through either equity or through Consumer Contributions. In some cases, the funding is for 80% depending upon the lending institutions. Since the Respondent Board is not in profit, the equity contribution, which is otherwise eligible for Return on Equity (RoE) in ARR, the funding through equity contribution can be ruled out. Secondly, the 10% funding is mostly done through either grants or Consumer Contributions. Assets created through either equity or Grant or Consumer Contributions are not considered by the Commission for depreciation or RoE, whichever is the case. The depreciation is provided for by the Commission accordingly on the capitalized cost minus equity/ Grant/ Consumer Contributions. The Consumer Contributions which is IDC in this case, the Commission treats the same for depreciation after subtracting the same. That means the IDC collected from the Consumers is subtracted from the capitalized cost and benefits is passed on to the Consumer to that extent.
47. This Appellate Forum after detailed scrutiny of the provisions of Regulations 4 (1) and 6 (1) of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, concedes that besides the service line cost, the Respondent Board has been authorized to recover the balance cost of the Infrastructure developed by the Respondent Board for providing electricity connections to the Consumers.
48. This Appellate Forum is of the considered opinion that in this instant case, the Respondent Board might have recovered the cost of providing service line to the Consumer in line with provisions of Regulation 4 (1) of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005. Now the Respondent Board has demanded IDC from the Consumer in line with the provisions of Regulation 6 (1) of the said Regulations.



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49. His further contention is that as per provisions of Regulation 6 (2) of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005, the Respondent Board was to provide account of expenditure within a period of three months after release of connection and the Respondent Board have not provided the same till date.
50. This Appellate Forum understands that the above contention of the Complainant in consonance with the above provision is justified and the Respondent Board should not overlook the genuine reasons in the public interest and provide the same as contented by the Complainant in the instant case.
51. Further, that the original scheme cost was Rs 9.01 Cr and the Respondents have incurred Rs 14.25 Cr based on which the rates have been worked out. Further, that only 3% escalation is allowed as per provisions of the Regulation 6 (2) of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 wherein the rates could be as lower as Rs 2,320/- per kVA and further reduction will be there if the upstream lines are restricted as per clarification provided by the Commission.
52. His further contention is that the Respondent Board have not followed the standard cost data which is required to be published and also to be submitted to the Commission on 15th of March each year. However, Respondent Board in them rely has tried to justify the rates so published and charged. However, this Appellate Forum infers that the Respondent Board must satisfy the consumer by showing some documentary proof to substantiate their stand by calling consumer in the office where such record is available, before issuance of fresh demand as per ensuing order of this Court so as to meet the contentions of the Complainant in a smooth landing mode. It has further been brought to the notice of this Appellate Forum that the Respondent Board had started publishing the cost data somewhere in 2013-14 onwards only and prior to that, as per the Commission's orders, the cost data published by either REC or PFC considered to be applicable to work out the cost estimates in case they have not published their own rates.
53. On the contention of Complainant on the spare capacity available of the transformers, this Appellate Forum is of the view, that the Respondent Board must give cognizance to the Hon'ble Commission's clarification in case No.315/2005 and act accordingly. The Commission has provided clarification in Case No. 315/2005 on Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005. The Commission has clarified that the cost already incurred by the Distribution Licensee before commencement of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 shall not be recovered in respect of spare capacity existing in the transformer. Only the cost for meeting balance additional load shall be estimated and recovered.
54. For judicious settlement of the issues, this Appellate Forum directs the Respondent Board to be clear of the fact before issuance of fresh demand note that the same cost has not been included in many adjoining sub-stations while justifying the rates to be worked out for IDC per kVA.
55. Relief Sought by the Complainant:
- To quash the demand notice dated 10/04/2017 for an amount of 72,75,250/- issued by the Respondents in view of the contentions submitted above;
 - To direct the Respondents to refund the amount of Rs. 53,62,183/- recovered by the Respondents which are contrary to the provisions of the regulations after making adjustments as explained in the foregoing paras of this Complaint;
 - To order payment of simple interest @ 15% per annum as per Regulation 26(6) of the HPERC (CGRF and Ombudsman) Regulations, 2013 or as per Clause 5.7.3 of the Supply Code, 2009 on the amounts determined to have recovered in excess by the Respondents;
 - Cost of the Complaint amounting to ₹ 2,00,000/-;



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H – Issues in Hand:

Issue No. 1:

Whether the instant Complaint filed by the complainant is maintainable in terms of the the following contentions and provisions?

- i. Complainant filed an appeal to decide the case on merits at this Appellate Forum under the provisions of Regulations 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.
- ii. The present representation is hit by limitations under Regulation 19(c) of the HPERC (CGRF and Ombudsman) Regulations, 2013.

Issue No. 2:

Whether the demand raised by the Respondent Board is time barred since they didn't raise the matter of any such pending till 2012 and issued demand notice in 2017 for the first time and as per Section 56 (2) of Electricity Act, 2003, the demand is time barred since the dues were more than two years old and were not shown as arrears continuously after that?

Issue No. 3:

On applicability of the Regulations, whether the Complaint is covered under the provisions of Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 for the purpose of IDC for additional load of 750 kW, 600 KVA contract demand also and liable to pay Normative rates as per Regulation 2012 or not?

Issue No. 4:

Whether the rates of IDC demanded by the Respondent Board is justifiable in line with the various provisions of the Relevant Regulations?

Issue No. 5:

Whether in the instant case, the IDC Adjustment/Recovery be confined only to the additional load of 750KW, 600 KVA contract demand or on total load including of 3000 KW, 2600KVA contract demand which was also shifted from 11KV system to 33 KV supply system along with when the additional demand was released on 33KV system?

I – Findings on the Issues

Issue No. 1:

1. This Appellate Forum after analyzing the instant matter in details asserts that the statement of the Respondents that the Forum can decide the case even after 45 days recording reasons of delay is not denied but this does not debar the Complainant to file an appeal to decide the case on merits at this Appellate Forum under the provisions of Regulations 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and this fact can't be ignored either after the Forum below fail to decide the case within a period of 45 days.
2. The above findings keep this Appellate Forum of the considerate view that, the application filed by the Complainant under the provisions of Regulation 28 (1) (a) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 is maintainable since these provisions are absolute and entitles the Complainant to file the case under the provisions of above stated Regulations.
3. Also, the similar issue dealt by that Ombudsman in complaint No. 25/2022 substantiates and addresses the said contentions on maintainability.
4. This Appellate Forum is convinced with the averments made by the Complainant that the present representation is not hit by limitations under Regulation 19(c) of the HPERC (CGRF and Ombudsman) Regulations, 2013 as the said limitation is not applicable on the Ombudsman and is only applicable to the



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CGRF as is very clear in the regulation. Since the matter was admitted by CGRF, concludes the contentions. This Appellate Forum ends findings on 2nd part of Issue No.1 that once the matter admitted by the CGRF and proceedings initiated, the matter is not hit by limitations under Regulation 19(c) of the HPERC (CGRF and Ombudsman) Regulations, 2013.
 This closes the findings on the issue-1

Issue No. 2:

1. This Appellate Forum after going through the submissions, reply of the Respondent Board, the orders of the litigations of similar nature asserts that the contention of the Complainant that the demand for IDC is time barred since the Respondents have not raised any matter pending and issued demand on 10/04/2017, is absurd in the instant case.
2. This Appellate Forum is convinced with the reply of Respondent Board that on the issue of demand notices, issued by the distribution licensee for the recoveries of the Infrastructure development charges on the strength of the commission's clarificatory order dated 02-05-2011, it is pointed out that the Hon'ble APTEL in their order dated 18.12.2015 have set aside the said order, along with findings recorded therein that all the consequential action or the subsequent orders or the consequential demand notices or bills raised by the respondent Board on the strength of aforementioned impugned clarificatory order, dated 02-05-2011, have also been quashed or set aside, this adequately settled the points raised by some of the stakeholders. However, this shall in no way debar the distribution licensee to make recoveries in accordance with the provisions of Recovery of Expenditure Regulations, 2005 or the Recovery of Expenditure Regulations, 2012 as may be relevant. As such the pleas of the complainant that the demand notice are hit by law of limitation is totally wrong, unsustainable and liable to be rejected outrightly
3. This Appellate Forum is of the clear view and appends findings on issue No.2 that after the rates were notified by the Chief Engineer (Commercial), most of the Consumers approached various courts and after orders in suo moto case 25/2016 by the Commission, Respondent Board issued the demand notice on 10/04/2017 and further the case is under litigation since and hence the demand is not hit by limitation.
 This closes the findings on the issue-2

Issue No. 3:

1. After resorting to findings on the Issues-1 to 2 and going through the submissions, written arguments placed on record by the Complainant and reply submitted by the Respondent, this Appellate Forum is of the considered opinion on the findings for applicability of the respective Regulations as under:
 - a. Relevant extract of Regulation 21 of 419/2012 provides as under:
"Provided further that in case the demand notices issued prior to commencement of these Regulations and/or the demands still to be raised against the loads /demand released prior to commencement of these Regulations, shall continue to be governed by the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 and other relevant Regulations and Codes of the Commission, but not including these Regulations, unless the Commission issues any specific order in this regard."
 - b. The validity of Regulation 419/2005 was w.e.f 4.04.2005 to 22.05.2012 and the validity of Regulation 419/2012 commences on 23.05.2012 from the date of notification.
 - c. After going through the Regulation 21 and its above relevant extract of Regulation 419/2012 in depth, this Appellate Forum is convinced that there is misconception on the part of Complainant in extracting the relevant meaning of the said Regulations in conformity with the instant case and has overlooked the very important mandate of the above regulation i.e ***demand released prior to commencement of these Regulations*** relevant to the present case. This court understands that reliance and focus of the Complainant in interpretation of above Regulation in terms of "*Notices issued prior to commencement of these Regulations*" rather than focusing on "***demand released prior to commencement of these Regulations***" which is a step ahead to the quote "*Notices issued prior to commencement of these Regulations*" is itself contrary to the spirit of above specific



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Regulation 21, relevant in this case and hence misconception in applicability of the proper Regulations thereof.

- d. This Appellate Forum without any doubt infers that in the instant case, the additional load of 750 KW, 600 KVA contract demand was released on 33KV system on dt.09.07.2012, after the notification dt.23.05.2012 of Regulation 419/2012 and in addition the existing load of 3000KW which was earlier on 11KV supply system was also shifted along with the additional load and if the situation is read with the relevant extract of Regulation 21 of 419/2012, clearly provides that the settlement in case of the loads released after the notification of Regulation 419/2012 shall fall within the ambit of the Regulation 419/2012 and all loads released prior to the notification dt. 23.05.2012 of Regulation 419/2012 shall be governed by the Regulation 419/2005.
 - e. This Appellate Forum further asserts that after the notification of Regulation 419/2012 on dt.23.05.2012, IDC adjustments of all loads released on or after 23.5.2012 shall be made as per this regulation till repealed and requisite **normative charges** as applicable shall be levied.
- This closes the findings on the issue-3

Issue No. 4:

1. This Appellate Forum construes from the above analysis and facts & evidence on record that the IDC rates demanded per kVA require justification in respect of the treatment given or to be given for Consumer Contributions/ Grants and further to be limited to 3% escalation of original scheme cost in line with the provisions under Regulation 6 of the Himachal Pradesh Electricity Regulatory Commission (Recovery of Expenditure for Supply of Electricity) Regulations, 2005 or whichever applicable.
 2. This Appellate Forum further concedes that it must be mandatory requirement that the scheme cost be either on the standard cost data published by the Respondent Board in line with provisions of Regulations 13 of the said Regulations or published by the REC/ PFC in line with the directives of Hon'ble Commission so as to avert this part of litigation in future.
 3. This Appellate Forum understands that the Respondent Board had started publishing the cost data somewhere in 2013-14 onwards only and prior to that, as per the Commission's orders, the cost data published by either REC or PFC considered to be applicable to work out the cost estimates in case they have not published their own rates.
 4. This Appellate Forum after going through the record is not convinced whether, the rates worked out confines only to the feeding Sub-Stn. in line with the clarification provided by the Commission in Case No. 315/05 at Sr. No. 5 which categorically envisages that the Respondent Board can't charge for upgradation of upstream sub-station and lines. This needs justification by the Respondent Board or otherwise this very approach may deprive justice in legitimate manners.
 5. The analysis on the compliance of this court order dt. 19.12.2022 in the matter of M/S Timco Steel Co. Vs HPSEBL case No. 13/2022 by the Respondent Board paves the way of understanding that there is something vital in the computation methodology of Respondent Board in regards with IDC which is contrary to the clarification issued by Hon'ble HPERC in case No.315/05 and aggrieves the concerned consumers. By going through the compliance letter dt.26.12.20022 of the Respondent Board in the said case, attached by the Complainant with the instant submissions as Annexure C-18, this Appellate Forum appreciates the Respondent's concern and intention in legitimate settlements on issuance of revised rates of IDC at 33 KV from 3562.50 per KVA to Rs. 2335 per KVA after off setting the impacts of upstream assets and confining to feeding sub-stn. only in line with the clarification in case No.315/05.
 6. This Appellate Forum asserts without any doubt that in case the same ambiguity is affecting the statue of the instant Complaint, the same may be settled in harmonious manners with the same spirit as that stands settled in earlier similar nature of matters.
- This closes the findings on the issue-4.

Issue No. 5:

1. After referring to the contentions of both Complainant and Respondent Board through their respective submissions, reply, rejoinder, written arguments and relevant regulations, thereafter divulging on the issue of whether the Recovery of expenditure is to be confined only to the additional load released on



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dt.09.07.2012 after the notification of Regulation 419/2012 on dt. 23.05.2012 or total load inclusive of existing load on the new voltage. This Appellate Forum held that under these circumstances in the instant case when the supply voltage gets changed, the Regulation 7(b) (ii) of 419/2012 takes a lead to resolve the issue, the relevant extract is reproduced as under:

*"7(b) (ii) if the supply voltage gets changed, but provisions of sub-regulation (3) of regulation 5 are not attracted, then the recoverable amount shall be worked out and recovered in accordance with sub regulations (2) and (9) of regulation 5 for **the total revised connected load or contract demand**, as the case may be, sanctioned at the new voltage; and*

*7(b) (iii) if the supply of additional connected load or contract demand, as the case may be, requires execution of works referred to in sub regulation (3) of regulation 5, the recovery shall be made for **the total revised load or contract demand**, as the case may be, in accordance with the provisions of sub-regulation (3) and (9) of regulation 5."*

2. In the instant case as per documents placed on record, the PAC for an additional 750 kW was issued to the Complainant on dated 18.07.2009 and a sum of Rs. 7,50,000/- (@ Rs. 1000 per kW was demanded and deposited vide R. No. 0207942 dated 12.02.2007 dated 16.07.2009 and R. No. 0135972 dated 18.06.2009, towards Infrastructure Development Charges while processing the application. Thereafter the additional load of 750 kW with 600 kVA of additional contract demand was sanctioned vide sanction letter dated 28.10.2009 with a condition as reproduced below:

"1. The supply voltage shall be 33kv supply voltage from 66/33kv S/station Nalagarh. However, the addl. Load of 750 KW shall only be released after the consumer shifts the existing load of 3000 KW presently at 11KV to 33KV supply voltage."

3. The above findings infer that the Complainant has misconceived the essence of above provisions as they are seeing above provisions in isolation and not in conjunction with the respective Regulations.
4. This Appellate Forum clearly conceives that above provisions of Regulation 419/2012 without any doubt stipulates that the Recovery /adjustment of the expenditure shall be made on **total Connected Load or Contract demand and not on additional Connected Load or Contract demand only**, as, when the additional load was released, simultaneously the existing load was also shifted from 11KV supply system to 33KV supply system in compliance to the condition of sanction letter dt.28.10.2009 as reproduced above.

This closes the findings on Issue-5

J-Order

- 1 The order dt.26.04.2023 passed by the Consumer Grievance Redressal Forum in Complaint No.1432/1/23/07 dated 03/01/2023, pronounced as withdrawn, is set aside as the said order was issued after the case was registered as per record in this Appellate Forum on dt. 17.04.2023.
- 2 The demand notice issued on dated 10/04/2017 for RS 72,75,250/- and subsequent reminders/ notices for IDC, if any, are sustained in principle and in monetary terms the Respondent Board is directed to issue revised demand notices in line with above findings and in due cognizance to the following directives:

- a. The Respondent Board is directed to justify the rates of IDC to be recovered from the Complainant strictly in line with the provisions of Relevant Regulations under 419/2005 or 419/2012 whichever is applicable with due consideration to the treatment to be given to Consumer Contributions/ Grants, after verification that the same infrastructure is not charged to other schemes also in line with clarifications provided by the Commission in Case No. 315/05 and further limiting the expenditure to 3% of the original scheme cost.



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- b. Update the then status of availability of spare capacity in respect of power transformers in question in the year 2007 and 2009 which were commissioned in the years 2006 and 2007, when the Complainant approached Respondent Board for power Supply and satisfy the Complainant in terms of relevant Regulation.
 - c. The scheme cost must be either on the standard cost data published by the Respondent Board in line with provisions of Regulations 13 of the said Regulations or published by the REC/ PFC as directed by the Commission and before issuance of fresh demand, must satisfy the Complainant/consumer as a natural law of justice and curb litigation thereof.
 - d. The Respondent Board is directed to further justify the rates of IDC worked out in view of clarifications provided by the Commission in Case No. 315/05 at Sr No. 5 that they have charged for upgradation of feeding sub-station and the line only and not the upgradation of upstream sub-station/ line. The compliance by the Respondent Board to this court order dt. 19.12.2022 in the matter of M/S Timco Steel Co. Vs HPSEBL in case No. 13/2022 must be referred, to give effect to this directive.
 - e. The Respondent Board is further directed to provide complete account of expenditure along with justified rates as directed above, to the Complainant within a period of 15 days excluding holidays from the date of issue of this order strictly in line with the provisions of Relevant Regulations under 419/2005 or 419/2012 whichever is applicable in particular situation of the instant case.
 - f. The Respondent Board is directed to give due compliance on the above points to the satisfaction of the Complainant in due cognizance of section 46 of the Act 2003 as contented by the Complainant and raise fresh demand thereof after justification of the rates, as the Respondent Board is entitled to recover the justifiable IDC from the Complainant strictly in consonance with the provisions of Relevant Regulations 419/2005 or 419/2012 whichever is applicable in line with the above findings.
5. Only after attending to above directives, the Respondent Board is directed to raise the fresh demand in respect all loads released prior to the notification dt. 23.05.2012 of Regulation 419/2012 strictly as per relevant regulations of Regulation 419/2005(4.04.2005 to 22.05.2012) and all loads released after the notification of Regulation 419/2012 as per relevant regulations of Regulation 419/2012.
6. In terms of findings under issue-3 on Regulation 21 read with findings under issue-5 on regulation 7(b)(ii)&7(b) (ii) of the Regulation 419/2012, the Respondent Board is entitled to recover IDC on the total revised load or contract demand, as the case may be, in accordance with the provisions of sub-regulation (3) and (9) of regulation 5 of Regulation 419/2012 as such directed to raise the demand in conjunctions inclusive of normative rates as applicable , on the additional load of 750KW,600KVA contract demand, released on 09.07.2012 after the notification dt.23.05.2012 of Regulation 419/2012 along with 3000 kw,2600KVA existing load shifted on 33kv supply voltage which was earlier on 11KV system .
7. The Respondent Board is also entitled to raise IDC for 11KVsystem till it was in usage as an interim arrangement or otherwise in the instant case and thereafter on 33KV system.
8. In case, there is refund due to the Complainant after working out the justifiable rates, the Respondent Board is directed to refund the same along with applicable interest as per provisions of relevant regulations, to be adjusted in the future energy bills.
9. In case after working out the justifiable rates, the amount becomes due to be payable by the Complainant, the same be paid within a period of 30 days excluding holidays from the date



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of issue of fresh demand raised by the Respondent Board along with surcharge as applicable and the Respondent board is further directed not to take any coercive action before the expiry of above period after raising the fresh demand.

10. In case of refund, the Respondent Board is further directed to report compliance of the directions as stated above within a period of 30 days from the date of issue of this order failing which the matter shall be reported to the Hon'ble Commission for violation of 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 Electricity Act, 2003.
11. All stays imposed by this Appellate Forum under Regulation 36 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 are hereby vacated.
12. The Complaint filed by M/S Him Chem Private Limited, Village Khera, Baddi-Nalagarh Road, Nalagarh, District Solan, HP-174101 is hereby disposed off.
13. No cost to litigation.

Note:

In the above order;

419/2005 be read as HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2005
419/2012 be read as HPERC (Recovery of expenditure for Supply of Electricity) Regulations, 2012



Given under my hand and seal of this office.

[Signature]
30/10/2023
Electricity Ombudsman