



In the matter of:

Complaint No. 08/2024

M/S Aggarwal Steel Industries Pvt. Ltd., Patch No.1 & II, Phase II. Industrial
Area, Gwalthai, Distt. Bilaspur, HP-174201

-Complainant

Vs

1. The Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004.
2. The Sr. Executive Engineer, Electrical Division, HPSEBL, Bilaspur HP-174001.
3. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Kot/Ganuwal District Bilaspur HP-174002
4. The Superintending Engineer (IT), HPSEBL, Vidyut Bhawan, Shimla-171004.

- Respondents

Complaint No. 08/2024 (Registered on 16/10/2024)

(Orders reserved on 18/11/2024, Issued on 22/11/2024)

Counsel for:

The Complainant: Sh. Rakesh Bansal, The Authorized Representative

The Respondents: 1.Sh. Rajesh Kashyap, Advocate

2. Er. Brij Lal, Assistant Engineer

3.Sh. Rohit Kumar, Sr. Asstt,

4. Sh. Anshul Thakur, JOA



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Er. Deepak Uppal

HP Electricity Ombudsman



Order

1. The case was registered and received on 16/10/2024, filed under Regulation 28(1)(b), of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the final Order dated 24/09/2024 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 2216/202308/22.
2. The case was heard for admission on dated 22/10/2024. After listening counsels for both the parties, the Respondent Board was directed to submit reply on or before 12/11/2024 with a copy of reply to the Complainant and rejoinder if any be submitted by the Complainant immediately thereafter the submission of the reply by the Respondent Board.
3. The case was heard on 18/11/2024. The Respondent Board submitted reply on 14.11.2024 in compliance to this court order dt. 22/10/2024 and subsequently, the Complainant submitted rejoinder-cum-written arguments on dt.18/11/2024 in the court room which was taken on record. The counsel for Respondents and concerned Assistant Engineer accompanied by relevant staff appeared in the Court room along with the record and with the mutual consensus of both the parties, the final arguments were conducted on 18/11/2024.
4. The deliberations made by the Assistant Engineer and staff representing Respondent Board and participation in discussions were appreciable. Both Ld. Counsel for Respondent Board and authorized representative for the Complainant advanced their arguments to the brim and after hearing both the parties at length, the arguments were concluded and order reserved.

A-Brief Facts of the Case:

1. M/S Aggarwal Steel Industries Pvt. Ltd., Patch No.1 & II, Phase II. Industrial Area, Gwalthai, Distt. Bilaspur, HP-174201 bearing Consumer ID

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100012006300 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL.

2. The Complainant contends that it has wrongly been charged late payment surcharge (LPS) and Demand Charges (Rs/kVA/month) and that it is entitled to refund for the payments made by it against these and for Interest on wrong billing;
3. The Respondent on the other hand contends that the charges have been billed correctly in accordance with the provisions of Regulations and Codes framed by the HP Electricity Regulatory Commission (or the HPERC) and Tariff Orders passed by the Ld HPERC; The detailed facts of the case stand placed under the heading "**The Complainant's Submission**", hence for the sake of brevity, the same are not reiterated again.

B-The Complainant's Submission:

1. Facts of the Case:

Date	Event	Annexure
12.08.2022	The respondent No. 2 issued a regular bill for Rs. 3,38,43,522.00 consumption in the month of July, 2022 with the date range 01.07.2022 to 26.07.2022. In the said bill the demand charges of Rs. 65,11,000 @ Rs. 425 per kVA on 15320 kVA were levied for full month of July even though the bill period was of 25 days. The due date of bill was 22.08.2022. The late payment surcharge of Rs. 4,80,193.07 was	C1



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	shown as leviable if the payment against the bill was made after the due date. i.e. 22.08.2022.	
17.08.2022	Before the due date another bill was issued on 17.08.2022, in which the balance of the previous bill was also brought forward as arrears i.e. Rs. 3,38,43,522.00 (Total arrears of Rs. 61041271.68-old disputed arrears of Rs. 27197750/- are shown in the bill). In this bill, the overall amount of Rs. 57971055/- was reflected as by a fresh due date and was shown as payable by 27.08.2022. Thus, the bill was revised overriding the earlier bill. The demand charges of Rs. 47,75,045/- were levied in the bill for only 17 days of August month upto 17.08.2022. This bill was issued out of routine, because a temporary disconnection was affected on the directions of the pollution control board.	C2
24.08.2022	The respondents issued a third bill during the same month of August, 22 immediately at the time of restoration of supply i.e. RCO. Supply remained temporarily	C3



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	disconnected for a period of 7 days from 17.08.2022 to 24.08.2022. This bill was only pertaining to the TDCO period during which the 10% of the sanctioned contract demand of 16000 kVA, which is 1600 kVA was considered for levy of demand charges. The respondents charged demand charges on Rs. 1600 kVA @ 425/ kVA for Rs. 680000/-. The respondents did not adjust these demand charges on pro-rata basis for 7 days, but charged as if the supply remained temporarily disconnected for the entire month of August, 22. The respondents in this bill also brought forward the arrears of Rs. 5,84,50,377.23 (85648127.23-27197750.00 disp.), even though the amount payable by due date in the earlier bill was only Rs. 5,79,71055/-	
24.08.2022 and 26.08.2022	The respondent effected the full payment against the bill dated 17.08.22 on 24.08.22 and 26.08.22 in two parts before the due date of bill dated 24.08.22 which was 27.08.22. A total sum of Rs. 57,97,1055/- was	C9



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	paid, which in effect cleared the two bills dated 12.08.22 and 17.08.22 in totality, without any late payment surcharge.	
01.09.2022	The respondent no. 2 issued another bill on 01.09.2022 with a due date of 12.09.2022, where in an amount of Rs. 61,20,000/- was charged as demand charges on 90% of the sanctioned contract demand 14400 kVA @ Rs. 425 per kVA, thereby again charging the demand charges again for the full month of August 2022.	C4
16.09.2022	The complainant wrote a letter dated 16.09.2022 in which the complainant attached the detail of miscalculations carried out by the respondents in the bill and demanded overhauling of the account on account of demand charges and late payment surcharge, alleging that both were overcharged.	C5
10.10.2022	In response to the communication, the respondent no. 2 refunded a sum of Rs. 59,95,863 as a sundry in the bill.	C6
14.11.2022	In the bill dated 14.11.2022, the respondents levied sundry charges of	C7



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	Rs. 5,38,414/-, once again overhauling the account of the complainant. As a result of the twice overhauling the account the complainant got only Rs. 5457449/- (Rs. 59,95,863 – Rs. 5,38,414) as overall refund as against his demand of Rs. 73,13,315/-.	
06.01.2023	The complainant once again carried out fresh calculations and wrote another letter to the respondent no. 2, this time again explaining that no late payment surcharge was leviable from him, while also the demand charges for the month of August, 2022 were still miscalculated. The complainant did not receive any reply to his communication dated 06.01.2023, resulting in the grievance being filed before the Ld. Forum.	C8
05.09.2023	In the interim order dated 05.09.2023, the Ld. Forum impleaded the Superintending Engineer (IT) as an additional party in the matter and the pleadings continued thereafter.	C10
24.09.2024	The Forum disposed the grievance vide orders dated 24.09.24 granting	C11



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	very little relief in terms of the overall amount involved in the grievance.	
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2. Details of the Grievance:

- 2.1 The Complainant submits that the primary grievance is that the demand charges and the late payment surcharge has been wrongly levied in the bills issued in the month of August and September, 2022. The respondents violated the rules and regulations by issuing multiple bills in a month, creating a confusion, which the billing system of the respondents could not handle and resulted in over charging of demand charges for the month of August, 2022. The respondents further levied the late payment surcharge even though the due date of the payable amount/ bill was revised by them on their own.
- 2.2 The Complainant submits that they had tried to explain the matter in detail to the Ld. Forum, but it appears that the Ld. Forum did not understand the plea/ grievance of the complainant and the facts related to the matter correctly. The Ld. Forum also passed the orders without going through the applicable provisions of the tariff order or the Supply Code, before passing orders, thus adding further to the grievance of the complainant.
- 2.3 The Complainant submits that the Ld. Forum also defied the time period of 45 days allowed to it for settling and disposing the grievances and have taken a very long time extending to more than a year to dispose the said grievance.

3. Grounds/ Contentions of the Complainant:

The Complainant submits that feeling aggrieved and dissatisfied by the impugned orders passed by the Consumer Grievances Redressal Forum, the

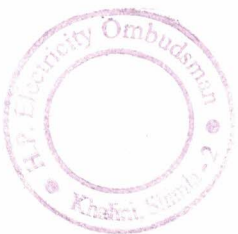


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petitioner is left with no other option/ remedy but to file the present representation on the following grounds:

- 3.1** that the Ld. Forum while passing the impugned orders dated 24.09.2024 has failed to appreciate the fact that the respondents issued multiple bills in a month, which is contrary to the applicable rules and regulations. As per clause 5.1.1 of the Supply Code, 2009, the billing frequency for the complainant is fixed at monthly intervals and only one bill was to be issued in any month. The respondents grossly erred in issuing three bills in the month of August, 2022 against the rules and regulations. Neither the Supply Code, not the Sales Manual allows issuance of more than one bill during a month. The issuance of multiple bills has created a mess in terms of calculations, which has become difficult to sort out and because of which the complainant has been put the inconvenience of this litigation. The billing system/ software of the respondents could not handle such a situation and which resulted in wrong levy of demand charges and the late payment surcharge. The Ld. Forum instead of reprimanding the respondents for their conduct has passed orders in their favour without any adverse remarks in the entire order. The impugned orders passed by the Ld. Forum projects as if the complainant has tried to take undue advantage by filing the instant grievance.
- 3.2** that the Ld. Forum also failed to acknowledge and appreciate the fact that it was the mistake of the respondents who issued a subsequent bill on 17.08.2022 after issuance of a regular bill on 12.08.2022. The amount payable against bill dated 12.08.2022 was carried forward to the consumption bill issued on 17.08.2022 which clearly mentioned a fresh due date for the entire payable amount of the two bills together amounting to Rs. 5,79,71,055/-. The fresh due date was given as 27.08.2022, which mislead the complainant and the complainant cleared the payment before the fresh new date. There was



Signature



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never any intention of delaying the payment this time and even the past record of the complainant is clean and the payments of bills have never been delayed by the complainant. Because the bill dated 12.08.2022, was superseded by bill dated 17.08.2022, the complainant revised the payment schedule according to fresh due date. The entire amount of the bill dated 17.08.2022, the due date of which was 27.08.2022, was paid in two parts on 24.08.2022 and 26.08.2022, thus clearing the entire past dues. By this time the complainant was not even knowing that another bill was also issued on 24.08.2022. In such a situation the complainant cannot be made responsible for the late payment surcharge as the previous bill dated 12.08.2022 automatically stood withdrawn/ cancelled and had become infructuous when its amount was included in the revised bill. The detail of the two bills and its payment is illustrated in tabular form below:

Date	Bill Amount	Amount B/F	Total	Due Date	Date of Payment	Amount Paid
12.08.22	33843522	0	33843522	22.08.22 Revised to 27.08.22	24.08.22	33843522
17.08.22	24127533	33843522	57971055	27.08.22	26.08.22	24127600

Therefore, the levy of late payment on the amount of 33,84,3522/- is not justified and is refundable to the complainant.

Also, in the bill dated 17.08.2024 the demand charges were charged by the respondents on pro-rata basis for 22 days considering a days month on the recorded demand of 15321 kVA @ Rs. 425 kVA as below:



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Demand charges = $15321 \times 425 \times 22/30 = 47,75,045/-$

Since the demand charges for the month of July stood charged in the bill dated 12.08.2024, only the period of only 17 days falling in August, 22 was to be considered over a month of 31 days for the levy of demand charges for the specific period from 01.08.22 to 17.08.22, for which the calculation is as under

Demand charges = $15321 \times 425 \times 17/31 = 35,70,781/-$

Thus, the complainant is aggrieved by overcharging by way of demand charges of Rs. 12,04,264 in this bill dated 17.08.22.

3.3 that in third bill dated 24.08.22 (**Annexure C3**) contained a sum of Rs. 58350377.23 as brought forward arrears excluding the disputed arrears of Rs. 2,71,97,750 on account of pendency of another case before the Hon'ble High Court, even though the previous two bills stood paid fully as explained in the preceding para. This bill was also issued for the period of 7 days for the period 17.08.22 to 24.08.22.

In this bill, which was issued for period of 7 days, the demand charges were chargeable @ 10% as per fourth proviso of 7.1.2 of the Supply Code, 2009. But instead, demand charges for one month have been charged instead of 7 days. The demand charges for 7 days work out as below:

Demand Charges = Rs. $425 \times 16000 \times 10\% \times 7 / 31 = \text{Rs. } 1,53,548.39$

Amount charges = Rs. 6,80,000.00

Excess charged = Rs. 5,26,451.61

The Ld. Forum failed to realize, that when the complainant could charge on pro-rata basis in the bill dated 17.08.22, why could it not have charged demand charges for pro-rata basis in the bill dated 24.08.22. This is purely an error on the part of the software, for which the respondent no. 4 is responsible. The charging of demand charges on pro-



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rata basis is allowed in the tariff order, and shall be explained further in this representation.

- 3.4** that the fourth bill dated 01.09.22 was also faulty as the same was also raised with demand charges of Rs. 61,20,000 for one full month while the bill period was only for 7 days from 24.08.22 to 01.09.22. On pro-rata basis the demand charges should have been calculated as under
- $$14400 \text{ kVA} \times 425 \times 7 / 31 = 13,81,935/-$$

A sum of Rs. 47,38,065/- was thus overcharged.

- 3.5** that the complainant is eligible for the refund of demand charges calculated in the above paras, which is summarized below:

Bill date	From date	To date	Days	Month Days	Demand charges leviable	Demand Charges levied
17.08.22	01.08.22	17.08.22	17	31	3570781	4775045
24.08.22	18.08.22	24.08.22	7	31	153548	680000
01.09.22	25.08.22	31.08.22	7	31	1381935	6120000
Total			31		5106264	11575045

Excess demand charges recovered= Rs. 6468781

Out of this the complainant has only refunded an aggregate sum of Rs. 54,55,045 on account of demand charges, which leaves a sum of Rs. 10,13,736/- which is still not refunded. The detailed calculations are given in **Annexure C14**.

- 3.6** that the respondent themselves have admitted having recovered a sum of Rs. 8,31,991.36 as Late payment surcharge, the detail of which is attached in Annexure R 3 of the reply before the Forum and which is as below:

1. Rs. 4,79,322.63 on the bill dated 12.08.22
2. Rs. 3,42,468.73 on the bill dated 17.08.22



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3. Rs. 10,200 on bill dated for demand charges for TDCO period.

Out of these, the Sr. No. 1 is not payable due to reasons explained in Para 3.2 above due to revision of due date. The due date of Sr. No. 2 was 27.08.22, whereas the payment was done on 26.08.22 and hence no reason for levy of late payment surcharge. Sr. No. 3 is only workable on 153548 i.e. Rs. 2303, whereas Rs. 10,200 have been charged.

Therefore, to sum up, only Rs. 2303 was to be recovered as late payment surcharge. Thus, an amount of Rs. 8,29,689.23 has been excess recovered from the complainant.

3.7 that the Ld. Forum while dealing in Issue No. 1 in Para 35 of the order has blindly believed the respondents' Annexure R-2 and the dates stated therein. The respondent usually books the payment in the system 2-3 days later. The complainant in his support is attaching the bank statement for the relevant period wherein it is evident that the payments of Rs. 3,38,43,522 and Rs. 2,41,27,600 were made on 24.08.22 and 26.08.22 respectively. The same can be verified from the bank statement of the respondents to establish the truth. The Ld. Forum further stated in Para 34 of the order that the Complainants argument is that multiple bills in a month entitle him to due date of the later bill, which is stated in a different manner than what was argued by the complainant as has been stated in detail in Para 3.2 of this representation. When the payable amount is given a fresh new date in the revised bill, the due date stood changed. Had the respondents excluded the amount of previous bill on the Payable Charges, the previous bill would have stood independent of the later bill. Also, in Para 35 the Ld. Forum has alleged that a wrong amount of Rs. 5,91,29,697 has been stated by the complainant. It is on record that the Bill dated 24.08.22 shows the amount payable before the due date as 5,91,29,697/-. Nothing wrong was stated by the complainant.



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The Ld. Forum has wrongly found that the bill dated 24.08.22 is of Rs. 1,07,50,549/- whereas this amount matches with a later bill dated 01.09.22. The Ld. Forum has made wrong observations and its order therefore, deserves to be quashed.

- 3.8** that the Ld. Forum in Para 36 of the impugned orders has wrongly stated that the payment dated 12.09.22 of Rs. 1,07,50,549/- was done against the bill dated 24.08.22. In fact this payment was for the bill dated 01.09.22 the due date of which was 12.09.22. Hence the payment was well within the due date.
- 3.9** that the Ld. Forum in Para 37 of the order further erred in understanding that the grievance of the complainant was with regard to levy of 1.5% multiple times as multiple bills were issued in a month. This was never the grievance of the complainant and the complainant has not prayed for any such interpretation as has been stated in the orders.
- 3.10** that in Para 40, 41 and 42 of the orders while dealing with the issue of demand charges, has opined its view in line with the view of the respondents that the demand charges are leviable Rs. / kVA/ month and not Rs. / kVA/ day, without going into the legal provisions of the tariff order. The general conditions of the tariff order allow the levy of demand charges on pro-rata basis. The Explanation 1 to the Para L of the reads as below:

“i) During the actual number of days of billing in any period, the above mentioned parameters i.e. actual recorded Maximum Demand and Contract Demand as the case may be and the prescribed respective rates of charges in the relevant schedule of tariff alone shall form the basis for calculation of Demand Charges and the licensee, based on the number of days of billing in excess or short of a month (of 28 or 29 or 30 or 31 days), shall



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not apply any other factor other than mentioned in this para, that may alter or vary either of these parameters in any way."

The Ld. Forum also failed to recognize that in the bill dated 17.08.2022 also the respondents had used pro-rata basis to determine the demand charges, although the incorrect number of days were taken by the software for the calculation. The billing of demand charges is an established practice which is in accordance with the provisions of the tariff order. The provisions of the tariff order are clear and require no interpretation as such.

The Ld. Forum further erred while deciding on this issue, that even if it is assumed the pro-rata demand charges are not allowed, in that case too demand charges for three months cannot be levied over a period of one month. The Ld. Forum instead of issuing directions to the erring respondents for not following the rules and regulations have incorrectly passed an order which stinks of pure bias towards the respondents, without proper analysis and without putting to the proper arguments during the session for oral arguments.

3.11 that in Paras 44 to 48, the Ld. Forum has in principle rightly decided that the interest on excess payments is applicable on the refundable amount but has erred that such interest will be applicable only on the refund amount of Rs. 54,55,045, while the other reliefs sought by the complainant were rejected. The Ld. Forum further ordered that interest is payable as per 26(2)(a)(ii) of the HPERC (CGRF and Ombudsman) Regulations, 2013, whereas the complainant is entitled for interest @ 15% as per 5.7.3 of the Supply Code, 2009. The rates of interest being different in the two provisions, the benefit of doubt thus lies in favour of the complainant.



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3 Prayer

In view of above the Complainant submits the following prayers:

- a) To quash and set aside the orders dated 24.09.2024 passed in Complaint No. 2216/202308/22 for the reasons stated in the representation;
- b) To issue directions to the respondents to refund the excess demand charges to the tune of Rs. 10,13,736 as detailed in Para 3.5 above;
- c) To direct the respondents to refund the excess amount of late payment surcharge amounting to Rs. 8,29,689.23 recovered from the complainant for the reasons stated in the representation;
- d) To direct the respondents to pay interest on the amount charged in excess and the amount that is refundable to the complainant, at simple interest @ 15% p.a. on daily basis, from the date of payment on the past amounts refunded with delay and the amount due for refund still due as per Sub-regulation 5.7.3 of the Supply Code, 2009 or the HPERC (CGRF and Ombudsman) Regulations, 2013 as may be considered appropriate in the present case;
- e) To direct the respondents to compensate the complainant towards cost of the complaint amounting to Rs. 2,00,000/-.
- f) To Call for the record of the case.
- g) Any other or further orders which this Hon'ble Forum may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the complainant company and against the respondents/distribution licensees.

C- The Respondent's Submission:

REPLY TO THE COMPLAINT ON BEHALF OF RESPONDENTS

PRILIMINARY SUBMISSION:

1. (1) The Respondent submits that the representation as preferred by Complainant is not maintainable in the eyes of Law, hence liable to be



dismissed. As present representation is based on assumptions, which are far off from reality.

2. (2) The Respondent submits that the reliefs sought by the complainant are not tenable in law, as the Ld. Forum below has correctly passed orders dated 24.09.24 after thoroughly examining the case records. Ld. Forum's decision is based on a thorough review arguments presented and the ld forum has categorically appreciated the provisions of the Tariff order, as applicable and the provisions of the HP Electricity Supply Code, 2009 in the impugned order thus there are no such infirmity or illegality in the order passed by the ld Forum, thus the representation is liable to be dismissed.
3. (3) The Respondent submits that the complainant has mislead the ld Forum regarding the payment of the electricity dues and has failed to place the requisite information sought by the ld Forum regarding the substantiation of the case of the complainant qua the timely payment of the bill (claimed by the complainant i.e. 24-08-2022). However, in the oppugned order, (kindly refer to Para No. 26, 27 and 28), the ld Forum has clearly stated that payment of the bills was made beyond the due date. It is submitted that there is official record, which leaves no manner of doubt that due date was over thus the levy of the LPS is in conformity with the General Conditions of the Tariff issued by the Hon'ble HPERC.
4. (4) The Respondent submits that the demand charges are to be recovered in Rs/kVA/month which is evident from the General Conditions of the Tariff issued by the Hon'ble HPERC, thus the contentions of the complainant in the present representation is un-sustainable and without any sub stances thus same is liable to be dismissed.

ON MERITS: -

5. (1) The Respondent submits that the content of this ParaNo.1 is matter of record, hence anything contrary to records is specifically denied. It is



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specifically denied that the complainant has affected the full payment of the energy bill on 24.08.2022, however, as per the record of the respondent, the energy bill was paid after the due date i.e. 29-08-2022.

6. (2) The Respondent submits that the contents of Para No.2 are wrong, incorrect and hence denied. It is denied that the demand charges and Late Payment Surcharge (LPS) has been wrongly for the month of August and September 2022. It is submitted that demand raised through various bills from consumer M/s Aggarwal Steel Industries Private Limited, have been issue strictly in accordance with the provisions Electricity Supply Code, 2009, Tariff Orders of HPSEBL as well as other prevailing Rules/Regulations. It is submitted that the electricity dues are statutory in nature and consumer cannot evade from making payment of same. It is specifically denied that the Id forum has passed wrong order without appreciation of the provisions of the Schedule of Tariff and HP Electricity Supply Code, 2009. However, as discussed in preceding paras, the order is strictly in conformity with the tariff provisions and the supply Code, 2009 as such there are no scope for the any kind of the interference of this Id Ombudsman. It is further submitted that the allegation of the Complainant that the Id Forum has decided the matter beyond the prescribed time period of 45 day is also misconceived one. It is submitted that the time taken by the Id forum for the disposal of the grievance was due to some unavoidable circumstances, which was beyond the control of the Id Forum.

7. (3) The Respondent submits that the contents of this Para and sub Para are wrong, incorrect and hence denied. It is most humbly submitted before this Ld. Forum that until or unless the Para or sub Para of the complaint are not specifically admitted they may be deemed to have been denied.

Sub Para (3.1): - The Respondent submits that the contents of this Sub Para are admitted to the extent that multiple bills were issue in the month



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of August 2022. However, rest of the contents of this Sub Para are wrong and incorrect, hence denied. It is submitted that all the bills were issued strictly in accordance with the provisions of Supply Code 2009 and other prevailing Regulations/Regulations. The detail of bills issued in the month of August 2022 is given below:

Sr. No.	Date of Issuance	Amount	Due Date
1	12.08.2022	3,38,43,522	22.08.2022
2	17.08.2022	5,79,71,055	27.08.2022
3	24.08.2022	5,91,29,697	31.08.2022

It is submitted that Respondents issued bill dated 12.08.2022 amounting to Rs. 3,38,43,522 and thereafter the second bill had to be issued on dated 17.08.2022, when Temporary Disconnection of the complainant was affected upon the orders of Pollution Control Board. The third bill of the month was issued on 24.08.2022 at the time of re-connection of electricity. It is submitted standard practice is to issue one bill per month however in the present case the second and third bills were issued due to an exceptional situation which had arisen due to the orders of Pollution Control Board.

Sub Para (3.2):- The Respondent submits that the content of this Sub Para are wrong and incorrect, hence denied. Complainant has wrongly averred that it was a mistake of respondents to issue second bill on 17.8.2022. It is submitted that extraordinary circumstances in this case justified the issuance of additional bills, as necessitated by the Pollution Control Board's orders. It is further submitted that LPS has been rightly imposed upon the consumer as he failed to make the payment of bill within stipulated time. As evident from the detail of bills tabulated in sub para 3.1 the first bill was issued on 12.8.2022 and he was required to make the



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payment on or before 22.08.2022. However, consumer made the payment on 24.08.2022. Simultaneously the 2nd bill was issued on 17.08.2022 and he was required to make payment Rs.5,91,29,697 on or before 27.08.2022. However, consumers submitted the proof of RTGS payment of Rs. 2,41,27,600 on dated 29.08.2022 i.e. after the due date, hence LPS was correctly levied. Furthermore, the demand charges have also been correctly levied in view of the provisions of Schedule of Tariff and Schedule of General Charges.

Sub Para (3.3): - The Respondent submits that the content of this Sub Para are wrong, incorrect and hence denied. It is submitted that in view of provisions of Supply Code 2009 and Tariff Orders of HP SERC, demand charges cannot be levied on pro-rata basis. As there is no provision for levy of such charges on pro-rata basis, hence the averments of complainant are baseless, arbitrary and against Tariff Orders/Supply Code 2009.

Sub Para (3.4): - The Respondent submits that the content of this Sub Para is matter of record, hence anything contrary to records is specifically denied. Respondents humbly submits that in the absence of any legal provision or statutory basis for levying demand charges on a pro-rata basis, the Complainant's assertions are not sustainable in law and are hereby refuted.

Sub Para (3.5): - The Respondent submits that the contents of Sub Para are admitted to the extent that an amount of Rs. 54,55,045 has been refunded to the complainant. Rest of the contents of this sub para are wrong and incorrect, hence denied.

Sub Para (3.6): - The Respondent submits that the content of Sub Para are admitted to the extent of record, hence anything contrary to records is



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specifically denied. As the complainant failed to pay bills within specified time, hence LPS was imposed as per the prevailing/regulations.

Sub Para (3.7): - The Respondent submits that the contents this Sub Para are matter of record, hence anything contrary to records is specifically denied.

Sub Para (3.8): - The Respondent submits that the contents this Sub Para are matter of record, hence anything contrary to records is specifically denied.

Sub Para (3.9): - The Respondent submits that the Content of this Sub Para are wrong and incorrect, hence denied. It is submitted that there is no error or infirmity in the orders passes by Consumer Grievance Redressal Forum.

Sub Para (3.10): - The Respondent submits that the content of this Sub Para are matter of record, hence anything contrary to records is specifically denied.

Sub Para (3.11): - The Respondent submits that the contents of this Sub Para are wrong and incorrect, hence denied. It is submitted that detailed reply of this sub para has already come in preceding paras, hence same may be read as reproduced here for the sake of brevity.

8. Reply to Prayer clause: The Respondent submits that in view of submissions made hereinabove it is submitted that the Consumer Grievance Redressal Forum has appreciated the contention of the complaint in right perspective and has correctly passed the orders dated 24.09.2024 in accordance with established principles of law. It is submitted that demands as raised by the respondents are perfectly legal and consumer is liable to make payments. It is submitted that since the demands are statutory in



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nature and have been raised against the consumer, failure to pay the same will attract the statutory provision of disconnection of electricity supply. It is submitted that the electricity dues are statutory in nature and consumer cannot evade from making payment of same.

9. The Respondent prays most respectfully that the complaint filed by the petitioner being devoid of merits may kindly be dismissed in the interest of law and justice.

D-The Complainant's Additional Submission through Rejoinder and Written

Arguments:.

Preliminary submissions:

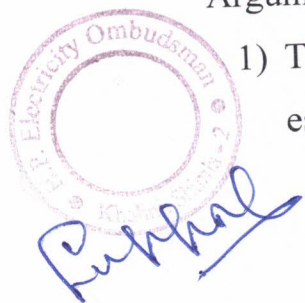
- 1) The Complainant submits that in the replies filed by the complaint/representation is not maintainable under the law, which is denied by the complainant.
- 2) The Complainant submits that it is denied that the Orders passed by the Ld. Forum are correct and within the ambit of rules and regulations.
- 3) The Complainant submits that is denied that the complainant has misled the Forum in any manner, whereas in this case the respondents have been misleading the Forum and are also making an attempt to mislead the Hon'ble Ombudsman.
- 4) The Complainant submits that it is denied that the General Conditions of Tariff do not provide for the pro-rata charging of the demand charges as has been also explained in the para 3.10 of the complaint.

On Merits:

The Complainant submits that the submissions and arguments made by the petitioner in the reply are also denied in totality.

Arguments:

- 1) The Complainant submits that the Hon'ble Ombudsman's authority is established by the Electricity Act, 2003 and consequently by the HPERC





(CGRF and Ombudsman) Regulations, 2013, which has been without any doubt been created to protect the interest of the consumers. That is why the regulations do not permit the respondents to approach the authority of the Electricity Ombudsman, but only the consumer is allowed to represent before the Hon'ble Ombudsman. Therefore, the benefit of doubt, if any, shall always lie in the favour of the consumers. The protection of the consumer interest is of utmost important and is the ultimate objective of this institution.

- 2) The Complainant submits that the respondents' plea that the circumstances for issuance of multiple bills in a month were exceptional does not hold good. There were no such circumstances which pressed for issuance of split bill at the time of TDCO. The complainant has an impeccable record of payments against all the bills issued to the complainant during the past years. It is only in the case of Permanent disconnection, where the supply code allows the immediate issuance of a final bill. It is undoubtedly the mistake of the respondent in issuing the multiple bills leading to this litigation and which has caused so much of inconvenience to the complainant and thus cost must be imposed on the respondents for the inconvenience caused to the complainant.
- 3) The Complainant submits that the respondents' contention that the date of intimation of the payment is the basis for the levy of late payment surcharge is also incorrect as there is no such provision under the rules and regulations. The late payment surcharge is leviable if the payment is actually late. **The respondents have failed to produce the bank record as an evidence** before the Hon'ble Ombudsman, whereas the complainant has attached the bank record to prove his contention. The payment transfer by RTGS always reach the same day when it is initiated as per RBI rules. Alternatively, if not possible to transfer due to any reason, the amount is returned to the transferor the same day. The date of intimation has no significance or effect on the levy of late payment surcharge. It is prayed before the Ld. Forum that this issue of late

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payment surcharge should not be decided until and unless the respondents produce before this court the bank statement reflecting the receipt of the payments made by the complainant.

- 4) The Complainant submits that the respondents have repeatedly revised the due date of the bill, even before the expiry of the due date of the previous bill, which has led the complainant to believe that the due date has been revised. This is also verifiable fact, that the previous bill amount was also included as a carried forward arrear and the revised due date was shown for the total amount and not for the additional amount. For instance, the bill dated 12.08.2022 for Rs. 3,38,43,522/- has initial due date of 22.08.2022, but since another bill dated 17.08.2022 was issued for Rs. 5,79,71,055, which also included the amount of the amount of previous bill dated 12.08.2022 and a revised due date was stated in the bill as 27.08.2022. The complainant paid the said amount by 27.08.2022 and therefore, there should not have been any reason for the levy of late payment surcharge. The statement of the respondent that this payment was received on 29.08.2022 is incorrect. Please refer to Annexure C9 of the representation.
- 5) The Complainant submits that the respondents cannot be allowed to charge demand charges for a period which exceeds the total billing period. The respondents have grossly erred in not allowing pro-rata demand charges during the regular period and the TDCO period. The complainant is eligible for refund of Rs. 10,13,786/- on account of the demand charges as detailed in para 3.5 of the representation.

E- The Complainant's written Arguments:

The Complainant submitted Rejoinder-cum-Written arguments, hence the same is considered as part and parcel of the written arguments for record purpose.



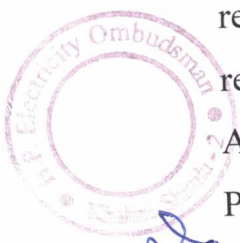
F- The Respondent's written Arguments:

The Respondent did not submit any written arguments instead preferred oral arguments.

G- The Arguments of both during proceedings :

The final arguments were conducted on 18/11/2024 and both the parties were given opportunity to argue their contentions to the edge.

1. The authorised representative for complainant-initiated arguments on the issue of LPS (Late Payment Surcharge) which according to him were overlooked by the Respondents and due date was considered as per previous bills issued whereas the Respondents issued multiple bills in the month of August, 2022 before expiry of "due date" of previous bill and hence, levied LPS as per the expiry of "due date" of previous bills not as per the expiry "due date" of present bills.
2. He further stressed that the new multiple bills issued not only carried the amount of previous bill dt. 12.08.2022 as arrears but also clubbed the amount of the said bill with the amount of current bill dt. 17.08.2022 and new due date for combined amount was given as 27.08.2022
3. He further emphasised that this way of carrying forward the amount of previous bills and clubbing it with the amount of new bills which were issued before the expiry of due date of previous bill with new due date as a whole is clearly indicative that for the disbursement of amount of previous bills, the due date be considered as per new bill issued. He added that this illusion misled the complainant and resulted in LPS which is unwarranted.
4. On listening the arguments on the issue of LPS, the officers appearing as respondents cross verified the contentions of the complainant through record and argued that the multiple bills were issued in the month of August 2022 due to extra ordinary circumstances owing to the order of Pollution Board for issuance of Temporary Disconnection whereas in



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normal routine only one bill is issued per month and added to the arguments that these bills are system generated bills and also produced bills dt.12.08.2022,17.08.2022 & 24.8.2022 to facilitate court to view the due dates of respective bills issued in the same month under special circumstances.

5. The authorised representative for complainant further argued that the date of payment of bill dt. 12.08.2022 for Rs. 3,38,43,522/- has initial due date of 22.08.2022, but since another bill dated 17.08.2022 was issued for Rs. 5,79,71,055, which also included the amount of previous bill dated 12.08.2022 and a revised due date was stated in the bill as 27.08.2022. The complainant paid the said amount on 26.08.2024 through RTGS mode before expiry of due dt. 27.08.2022 as such the statement of the respondent that this payment was received on 29.08.2022 is incorrect. During arguments he also placed on record the receipt issued by the bank as document to supplement the contention which was also annexed as Annexure-C9 with the representation.
6. On production of bank receipt before the respondents, it was agreed by the concerned officers as they were earlier relying on date of intimation 29.08.2022 as date of receipt of amount whereas reference to the bank document produced, it was ascertained and agreed by the respondents that the said payment stood transferred through RTGS mode on 26.08.2022 in respondent's accounts. and henceforth, the date of said payment agreed to be considered as 26.08.2022 in place of 29.08.2022
7. The authorised representative argued on the issue of levy of demand charges and contested that it should be levied on pro-rata basis in the instant case where multiple bills stand issued in the same month of August,22 and further strengthened his arguments by giving instance in the instant case wherein the demand charges in the bill dated 17.08.2022 had





been computed on pro-rata basis by the respondents. He further substantiated that the general conditions of the tariff order FY22-23 dt.31/03/2023 allow the levy of demand charges on pro-rata basis under 1 to the Para L and read as under:

“i) During the actual number of days of billing in any period, the above mentioned parameters i.e. actual recorded Maximum Demand and Contract Demand as the case may be and the prescribed respective rates of charges in the relevant schedule of tariff alone shall form the basis for calculation of Demand Charges and the licensee, based on the number of days of billing in excess or short of a month (of 28 or 29 or 30 or 31 days), shall not apply any other factor other than mentioned in this para, that may alter or vary either of these parameters in any way.”

8. The officers of the respondents were of considered view that the demand charges are levied as Rs/KVA/Month but after the same provisions were placed before the officers representing respondents during arguments and after minutely going through the contents of above para, they agreed that the essence of the above provisions is in conformity to the instant situation and also supports the computation on pro-rata basis executed in bill dt. 17.08.2022 and both the parties arrived at consensus to make settlement on pro-rata in the instant case.
9. During arguments an important issue came up that the Respondents had erroneously refunded the amount of Rs. 54,55,045/- towards demand charges with a break up of Rs. 47,75,045/- against bill dt. 17.08.2022 & Rs.6,80,000/- against bill dt.24.08.2022 which was agreed by the respondents also and after deliberations by both the parties, the authorised representative for Complainant agreed in the court room amicably to refund the amount back to respondents.



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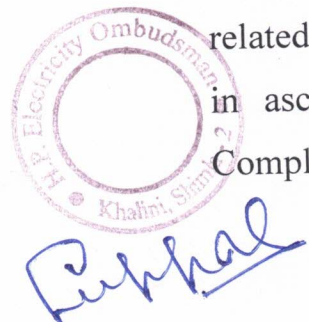
10. Thereafter, listening to both the parties at length, the arguments were concluded and order reserved.

H- Order dt. 24/09/2024 of Consumer Grievance Redressal Forum in Complaint No. 2216/202308/22:

The relevant extract of order is reproduced for reference and record:

ORDER

1. (25) Forum has examined the relevant provisions of the Electricity Act, 2003, relevant Regulations framed by the HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and the HP Electricity Supply Code, 2009, including amendments thereto, and the Tariff Orders passed by the Ld HP Electricity Regulatory Commission (HPERC), record and facts along-with pleadings of the parties. We have heard the parties. The considered opinion of the Forum has been gathered after examining and analyzing fair facts, evidences and correspondence placed on record and arguments adduced by parties-
2. (26) At the outset, the Forum from record finds that the Complainant has not placed on record the payment receipts which it ought to have done to enable the Forum to ascertain the payment details. The Forum has found one date of 26.08.2022 stated as a payment date by the Complainant, later revealed from the Reply submitted by Respondent to be 29.08.2022 and as will be seen from the later part of this Order, this has serious bearing on the outcome of the case especially in context of a bill wherein due date is 27.08.2022;
3. (27) Forum from record also finds that the Complainant has not placed on record the Pollution Control Board Order nor has it placed on record documents related to its Temporary Disconnection and Reconnection to enable the Forum in ascertaining the details including the period of disconnection of the Complainant;





4. (28) The onus lies on the Complainant to prove its case beyond doubt. It is imperative that when a case is being made out by the Complainant, the Complainant place on record all documents on which the Complainant has relied and on which the complaint may Complaint No 2216/202308/22 be built. The Forum however proceeds to determine the complaint relying on the documents placed on record –
5. (29) In the complaint the Complainant has raised multiple cause of action. The Forum now proceeds to frame the following three issues for determination, on the anvil of which the complaint is made out: -
6. (30) Issue No 1: Was the Complainant late while making payments vis-à-vis the respective bill due dates and is it liable to pay the late payment Surcharge (LPS) against the unpaid bills?,
7. (31) Issue No 2: When there are multiple billings in a month, then as per the Tariff Orders passed by the Ld HPERC are the Demand Charges (Rs/kVA) to be levied for the whole of the month (Rs/kVA/month) or are these to be levied on pro-rata basis only for the days of billing (Rs/kVA/day)?,
8. (32) Issue No 3: Is the Respondent liable to pay Interest for excess payment that may have been made by the Complainant towards undue charges levied by the Respondent or due to erroneous billing done by the Respondent?
9. (33) Each of the Issues framed ibid are determined hereinafter-
- 10.(34) Issue No 1: From the submissions made by the complainant and replies submitted by the Respondent, Forum finds that the Complainant had indeed made late payments after the due dates. The payments were made by the Complainant on 24.08.2022, 29.08.2022 and 12.09.2022 against due dates of 22.08.2022, 27.08.2022 and 31.08.2022 respectively carried in respective bills dated 12.08.2022, 17.08.2022 and 24.08.2022. If it is the argument of the Complainant that since there were multiple bills in a single month of August 2022, thus it is entitled to due date of a later bill in respect of payments made



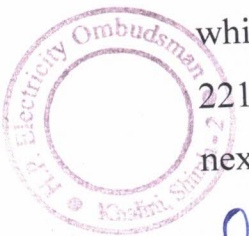
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against a previous bill, then the Complainant is Complaint No 2216/202308/22 grossly mistaken. Argumentative submissions without rational and legal basis are invalid. Forum is of the considered opinion that when the amount paid by the Complainant directly corresponds to the bill amount in a bill under dispute, then that is sufficient proof of payment against that bill and not any other bill and therefore the Complainant cannot take an afterthought. If it is the Complainant's intention that bill payment has been made against the due date of a subsequent bill merely because there were multiple billings in a month, then the Complainant is vexatious and seriously mistaken. Nowhere is it the case of the Complainant nor is it forthcoming from the complaint that the Complainant was either making a part payment against a current bill which otherwise requires permission to do so or that the Complainant was making advance payments against a future bill, under which circumstances the payment amount would be different from the bill amount and this is not the case here;

11.(35) The date of payment of 26.08.2022 depicted by the Complainant has been shown by the Respondent to actually be 29.08.2022. The Forum is unable to understand that is it the Complainant's intention to mislead the Forum by presentation of wrong facts and irrational arguments. Similarly, Complainant has depicted the bill dated 24.08.2022 to be of Rs 5,91,29,697/- whereas from record Forum finds this bill to be of Rs 1,07,50,549/-;

12.(36) Forum from record clearly finds that the payments made by the Complainant, using the RTGS mode, indeed corresponds to the bill amount. The payment of Rs 3,38,43,522/- on 24.08.2022 clearly corresponds to bill dated 12.08.2022. Once this was paid on 24.08.2022, balance of next bill dated 17.08.2022 amounts to Rs 2,41,27,533/- (= Rs 5,79,71,055 – Rs 3,38,43,522) which corresponds to the payment of Rs 2,41,27,533 done by the Complaint No 2216/202308/22 Complainant on 29.08.2022. Once this was also paid, against next bill for Rs 1,07,50,549/- dated 24.08.2022, payment was done on



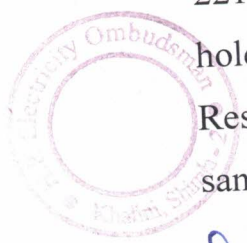
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12.09.2022 for Rs 1,07,50,549/-. Thus, it becomes clear that the Complainant by its irrational arguments is attempting to prove that it had made payments well in time against due dates contained in subsequent bills and this argument Forum finds as non-tenable. Such arguments are not acceptable to the Forum that the Complainant had made payments not against a current or previous bill but had made payments against a subsequent bill especially when there is an equivalent payment made by the Complainant against the disputed current or previous bill. Such baseless arguments have thus to be rejected by the Forum. As pointed out in earlier part of the Order, it becomes obvious that the wrong payment date of 26.08.2022 cited by the Complainant against payment date of 29.08.2022 informed by the Respondent certainly has a serious bearing on the final outcome of the complaint. These payments were made later than the due date of that bill by the Complainant and accordingly the condition of late payment after due date is binding and thus the Complainant is liable to pay late payment surcharge (LPS);

13.(37) The Forum also does not find Complainant's arguments given in its Rejoinder that with multiple bills it is being penalized when it is being levied LPS @ 1.5% per month or part thereof. The Forum finds this argument to also be untenable. If it is the Complainant's case for interpretation of the provisions of Tariff Orders passed by the Ld HPERC, then the Forum lacks jurisdiction and the Complainant is at liberty, if it so desires, to approach the Hon'ble HPERC;

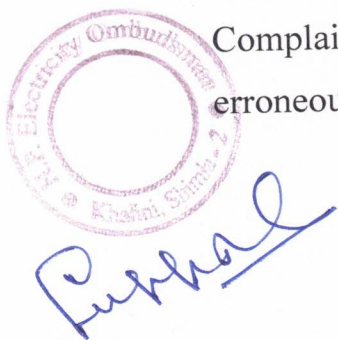
14.(38) The Forum thus clearly rejects the arguments extended and contentions raised by the Complainant on refund of late payment Complaint No 2216/202308/22 surcharge (LPS) amounting to Rs 8,31,991/=. The Forum holds without doubt that the payments made by the Complainant are infact late. Respondent has rightly charged LPS and the Complainant is liable to pay the same for late payments made by it and thus no amount is refundable;



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- 15.(39) On aforesaid terms Issue No 1 ibid, is decided against the Complainant and in favor of the Respondent. (
- 16.40) Issue No 2: Issue is raised by the Complainant of Demand Charges (Rs / kVAh) having been raised by the Respondent for the whole of the month which ought to have been levied on pro-rata basis only for the days of billing and for the refund of the same amounting to Rs 8,16,316/-;
- 17.(41) On this Issue, the Forum is in agreement with the Respondent that the Ld HPERC in the Tariff Orders passed by it, has specified the rate of Demand Charges to be in Rs/kVAh/month and not in Rs/kVAh/day. Thus, the Forum does not find any wrong in the Respondents action to levy the demand charges in Rs/kVAh/month and thus the Forum rejects the contentions of the Complainant. The Forum upholds the Demand charges amounting to Rs 8,16,316/- levied by the Respondent on Rs/kVAh/month basis;
- 18.(42) If it is the interpretation being propagated by the Complainant that the Demand Charges have to be in terms of Rs/kVAh/day but for the Forum to state the same tantamount to giving interpretation to the Tariff Orders passed by the Ld HPERC. Forum is aware that it is not within its jurisdiction to interpret Tariff Orders passed by the Ld HPERC. The Forum therefore holds that the Complainant, if it so desires, is at liberty to approach the Hon'ble HPERC for interpretation on the issue raised by the Complainant; Complaint No 2216/202308/22
- 19.(43) Issue No 2 is accordingly decided on aforesaid terms against the Complainant and in favor of the Respondent.
- 20.(44) Issue No 3: Coming to the third issue of whether the Respondent is liable to pay Interest for excess payment that may have been made by the Complainant towards undue charges levied by the Respondent or due to erroneous billing done by the Respondent –





- 21.(45) It has been admitted by both the Complainant and the Respondent that refund of excess Demand charges amounting to Rs 54,55,045/- raised by the Respondent for the period of Temporary Disconnection (TDCO) at the instance of Pollution Control Board, has been made. Here, in accordance with the Regulations / Code, the Demand charges for the period of Temporary disconnection were to be charged @ 10% which was wrongly done at 100% by the Respondent. On realizing its mistake, the Respondent refunded the said amount;
- 22.(46) Thus, once there is refund of said amount of Rs 54,55,045/- which was carried by the Respondent for some time, by default the liability of Interest arises which is to be paid by the Respondent for the duration such amount was carried by the Respondent;
- 23.(47) Forum holds that the Complainant in accordance with the regulation 26(2)(a)(ii) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, is entitled to payment of Interest by the Respondent for wrongly billed ibid amount of Rs 54,55,045/- and for the period the same was carried by the Respondent that is from the date of payment by the Complainant of such amount (which is Rs 47,75,045/- paid by Complainant on 29.08.2022 and Rs 6,80,000/- paid by Complainant on 12.09.2022) and up to the date of issue of bill on 10.10.2022 or the date of sundry entry whichever Complaint No 2216/202308/22 is earlier. The Respondent is directed to adjust this Interest in the next bill to be raised to the Complainant;
- 24.(48) On aforesaid terms, Issue No 3 is decided in favor of the Complainant. On aforesaid terms the complaint is disposed of,

I-Analysis of the Complaint:

1. The case file bearing Complaint No. 2216/202308/22 and orders passed on dated 24/09/2024 by the Consumer Grievance Redressal Forum Kasumpti, Shimla-171009 have been requisitioned and gone through.





2. In the interest of justice, the relevant extract of said order of CGRF has been reproduced to arrive at legitimate conclusion.
3. The submissions made by both the parties, rejoinder submitted by the Complainant have also been incorporated in entirety in this order to have composite view of the entire case.
4. The documents annexed and placed on record, arguments made by both the parties have also been gone through.
5. The relevant Acts, Supply Codes, Tarif Orders have been referred to for the sake of clarity.
6. M/S Aggarwal Steel Industries Pvt. Ltd., Patch No.1 & II, Phase II. Industrial Area, Gwalhai, Distt. Bilaspur, HP-174201 bearing Consumer ID 100012006300 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL.
7. The contentions of both Complainant and Respondents have not been repeated again and for the sake of reference, can be seen under para "B & C" of this order respectively.
8. The contentions of the Complainant detailed under para-B, response of Respondent Board detailed under para-C & Rejoinder under para-D and arguments conducted at length & placed at para-G, gathers considered opinion to originate the following issues and for the sake of brevity, the detailed analysis has been done along with findings of the issues.

J-Issues in Hand:

Issue No-1:

Whether the instant representation is maintainable?

Issue No-2:

Whether the Complainant is liable to pay LPS on the payments made in respect of bills dt. 12.08.2022 & bill dt. 17.08.2022 in the instant case respectively?

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Issue No-3:

Whether the contention of the Complainant for levying of demand charges on pro-rata basis in respect of bills dt. 24.08.2022 & 01.09.2022 is legitimate when the bills in question stand issued for the period of same month of August, 2022?

Issue No-4:

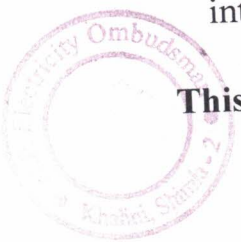
Whether the refund of Rs.5455045/- issued by the Respondents towards demand charges is legitimate proposition in the instant case?

K-Findings on the Issues:

Issue No-1:

While going through the reply submitted by the Respondents, it has been observed that in a very vague manner it has been mentioned that the representation as preferred by Complainant is not maintainable in the eyes of Law, as present representation is based on assumptions and far off from reality. However, no such averments were cited even during arguments by the Respondents which could have substantiated their contentions and drawn attention of this authority towards maintainability. Also, during pleadings conducted with CGRF, no such question arose on maintainability. In view of above and exercising the provisions in terms of regulation 33(2,3) read with 36(2) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the complaint is held maintainable for adjudications of grievances in the public interest to curb such litigation in future.

This closes the findings on issue-1



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Issue No-2:

1. After referring to the documents placed on record, detailed arguments conducted on the contentions, referring to the relevant tariff orders, Acts, Supply codes, this authority deduces that as per general analogy and key rule, the original due date of the first bill remains valid unless explicitly changed by the licensee. If the payment is not made by this due date, the amount becomes overdue and attracts whatso called "**Late Payment Surcharge**"
2. In the instant case, the bill dt. 12.08.2022 had the due date 22.08.2022 and in the meantime another bill dt. 17.08.2022 was issued prior to the expiry of due date of earlier bill dt. 12.08.2022 and the new bill was assigned a due date of 27.08.2022 for the total amount (New charges + amount of the previous bill).
3. Adding the unpaid amount to the new bill as arrears does not extend or override the original due date for the first bill i.e the original due date of the first bill (22.08.2022) still applies for calculating LPS.
4. However, the new due date (27.08.2022) gives deadline to pay combined amount as it applies to the total amount, but if the amount is not paid by the said due date 27.08.2022, then it attracts LPS w.e.f 22.08.2022 as the first bill's due date does not extend retroactively.
5. In terms of above, this authority conceives that as per record, in the instant case in respect of bill dt. 12.08.2022, the amount was paid on dt. 24.08.2022 prior to the expiry of due date 27.08.2022 as a deadline to pay combined amount, does not call for levy of LPS, hence the contentions of the complainant are tenable in the case of bill dt.12.08.2022. However, hadn't the complainant paid the said bill by 27.08.2022, he could have



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been liable to pay LPS w.e.f 22.08.2022, the original due date of the said bill.

6. Now let us examine the case of levy of LPS on bill dt. 17.08.2022, which is having due date 27.08.2022 as per documents placed on record. After referring to the record and hearing arguments at length, this authority extracts that the payment was made by the complainant on dt.26.08.2022 which was so-called as 29.08.2022 in the eyes of respondents. During arguments, the authorized representative for complainant produced bank (Bank of Baroda) receipt (**also attached as Annexure-Complainant with the representation**) in the court room as a document to substantiate contentions, satisfying the court as well as the officers appeared as respondents that the bill dt.17.08.2022 was paid through RTGS mode on dt.26.08.2022 which was agreed by the respondents in healthy spirit and henceforth, the date of payment for bill dt.17.08.2022 is considered as 26.08.2022 in place of 29.08.2024 against the due date 27.08.2022. Thus, does not warrant levy of LPS even in this case and the contentions of the complainant are sustained.
7. It has been observed from the case file/order dt. 24.09.2024(para-26) of CGRF that no such bank receipt was produced by the Complainant before CGRF to supplement date of payment of bill dt. 17.08.2022 as 26.08.2022 which was ultimately considered as 29.08.2024 in the said order and prima-facie to the then record produced, it is asserted that the Ld. Forum was guided by the limited material placed on record as apparent from para-26 of above order dt.24.09.2024 and hence, appended the findings accordingly or otherwise the matter could have been sorted out there itself.



This closes the findings on issue -2

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Issue No-3:

1. The authorized representative for complainant contended both through written submissions as well as arguments advanced in the court room on 18/11/2023 that the demand charges be levied on pro-rata in case of bills dt. 24.08.2022 and 01.09.2022 in the similar manners as has been levied on pro-rata basis in case of bill dt.17.08.2022. The officers appearing as respondents were of the view, since demand charges are Rs/KVA/Month, they are levied for full month basis.
2. It is observed that in general practice the utilities operate on fixed monthly billing cycle and their systems are designed to calculate charges for full periods rather than partial ones. Utilities incur fixed costs to maintain infrastructure regardless of how many days the supply is used. Charging for full month helps them recover these costs. Thus, in usual practice the demand charges are levied on Rs. /KVA/Month as mandated by Hon'ble Commission.
3. However, during arguments the authorized representative for Complainant put forth his submissions and contended that the general conditions of the tariff order dt.31.03.2023(FY22-23) allow the levy of demand charges on pro-rata basis under 1 to the Para L and read as under:
"i) During the actual number of days of billing in any period, the above mentioned parameters i.e. actual recorded Maximum Demand and Contract Demand as the case may be and the prescribed respective rates of charges in the relevant schedule of tariff alone shall form the basis for calculation of Demand Charges and the licensee, based on the number of days of billing in excess or short of a month (of 28 or 29 or 30 or 31 days), shall not apply any other factor other than mentioned in this para, that may alter or vary either of these parameters in any way."



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4. The officers appearing as respondents were earlier of the considered view that the demand charges are levied as Rs/KVA/Month but after the same provisions were placed before the officers of respondents during arguments by the Complainant's representative and after minutely going through the contents of above para, they agreed that the essence of the above provisions is in conformity to the instant situation and also supports the computation on pro-rata basis executed in bill dt. 17.08.2022 for the period 26.07.2022 to 17.08.2022 and both the parties arrived at consensus to make settlement on pro-rata in the instant case.
5. After going through the submissions, rejoinder-cum-written arguments & further the arguments advanced by the complainant's representative in terms of above provisions of para-L under "General Conditions of Supply" in Tariff order dt.31.03.2023(FY22-23) and accord of respondents to make settlement on pro-rata, this authority is convinced and by upholding the contention of the Complainant infers that akin to bill dt.17.08.2022, the demand charges of bills dt. 24.08.2022 for 7 days (17.08.2022 to 24.08.2022) & 01.09.2022 for 7 days (24.08.2022 to 1.09.2022) warrant settlement on pro-rata basis as apparent to the record it was observed that the Respondent Board had already applied methodology for computation on pro-rata basis on bill dt.17.08.2022 in line with above provisions of Tariff Order, hence cannot adopt two standards for calculations of demand charges in similar type of situation in case of bills dt. 24.08.2022 & 01.09.2022.
6. In terms above deliberations, this authority draws different opinion on this issue from Consumer Grievance Redressal Forum at Kasumpti.
7. In view of above comprehensive findings, this authority deduces that even with this method of computation on pro-rata basis in line with above provisions under "para L" of Tariff order, in the instant case, the total





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demand charges had been levied for the full month of August, 2022 as per general practice as such the demand charges in respect of bills dt. 24.08.2022 and 01.09.2022 be settled on pro-rata basis and differential excess amount be refunded/adjusted with interest inconsonance with prevalent provisions of Supply Code/ Regulation.

This closes the findings on issue -3

Issue No-4:

1. After referring to the reply submitted by the Respondents, this authority was vivacious to conceive that the Respondent Board has erroneously refunded the following amount which was partially judicious only and warrants recovery.

Bill dt.	Demand Charges Refunded	% of demand Charges	Period	Remarks
17.08.2022	47,75,045/-	100%	26.07.2022 to 17.08.2022	The amount pertains 'Prior to TDCO' period hence 100% DC levied. To be recovered from the complainant.
24.08.2022	680000	10%	17.08.2022 to 24.08.2022	The amount pertains to 'within period of TDCO' hence 10% DC levied. To be recovered from the complainant after accounting for DC of 7 days on pro-rata basis,
Total Refunded	5455045			To be recovered from Complainant as per above mandate.

2. The relevant para of Respondent's reply is also reiterated for the sake of clarity.



“Sub Para (3.5): - The Respondent submits that the contents of Sub Para are admitted to the extent that an amount of Rs. 54,55,045 has been refunded to the complainant. Rest of the contents of this sub para are wrong and incorrect, hence denied.”

3. After concentrating on methodology of computation of Demand Charges prior to TDCO and within the period of TDCO & looking in depth the bills in question and amicable accord of parties in the court room during final arguments on dt.18/11/2024 for recovery of said amount refunded erroneously by the Respondents, this authority draws different opinion on this issue from Consumer Grievance Redressal Forum at Kasumpti.
4. In view of above intricacy involved while resorting to findings under **Issue-1** to **Issue-4**, this authority in the interest of justice shall issue certain directions in the order under heading “**L- Order**” for legitimate settlement of contentions in monetary terms to avoid such type of litigations in future.

This closes the findings on issue -4

L-Order:

1. The order passed by the Consumer Grievance Redressal Forum (CGRF) at Kasumpti Shimla on dated 24.09.2024 in Complaint No. 2216/202308/22 is upheld partially.
2. The issues 2 to 4 adjudicated under the heading “**K-Findings on the Issues**” are sustained in principle with the following directives for legitimate settlement in monetary terms:
 - a. To constitute a committee on Division level with one representative from Complainant side must, for prudent settlement of ambiguity without prejudice.



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- b. The committee shall settle issue related to LPS in respect of bills dt.12.08.2024 and 17.08.2024 after ascertaining the due dates of respective bills in terms of findings under Issue-2 above.
- c. The Committee shall settle the issue of Demand Charges computation on pro-rata basis in respect of bills dt. 24.08.2022 & 01.09.2022 in line with methodology adopted in case of bill dt.17.08.2022 by the respondents and in terms of findings under issue-3 above.
- d. The Committee shall recover excess amount from Complainant refunded erroneously by the Respondent Board in respect of demand charges of respective bills dt. 17.08.2022 & 24.08.2022 in terms of findings under issue-4, exercising prevalent provisions for recovery.
- e. After diligent examination of record, in case of differential refund if found appropriate with authentic reasons, the committee shall also assess the amount of interest to be paid in terms of prevalent provisions of clause 5.7.3 of Supply Code (2nd Amendment) dt. 31st July, 2018 read with Regulation 26 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) (Second Amendment) notified in 20th January, 2022
- f. The Committee to finalize the ambiguity within 15 days excluding holidays from the date of issue of this order to the satisfaction of the Complainant so as to avoid further onus of additional charges and avert intervention of Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission



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under the provisions of the Electricity Act, 2003 and brunt on individuals in case of non-compliance.

g. In addition to above, the Committee shall also scrutinize whether any of the contentions remain unattended, be set right in line with the findings above.

3. The Respondent Board is at liberty to make adjustment in the ensuing bills of amount so assessed by the Committee towards refund to the Complainant or to be recovered from the Complainant in consonance with the findings under Issue-2 to Issue-4 above.
4. The parties are at liberty to avail remedies as permissible under law.
5. No cost to litigation.
6. In terms of above findings, the Complaint filed by M/S Aggarwal Steel Industries Pvt. Ltd., Patch No.1 & II, Phase II. Industrial Area, Gwalthai, Distt. Bilaspur, HP-174201 is hereby disposed of.
7. The order is also placed at site and conveyed telephonically for the convenience of reference.

Given under my hand and seal of this office.

Dated: 22/11/2024

Shimla

Electricity Ombudsman