



In the matter of:

Complaint No. 11/2025

M/s Pinetree Packaging, Khasra No. 685-690,692,696/1, Village Katha,
Tehsil Baddi, Distt: Solan-173205.

-Complainant

Vs

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

- Respondent

Complaint No11/2025 (Registered on 03/04/2025)

(Orders reserved on 16/06/2025, Issued on 03/07/2025)

Counsel for:

The Complainant: -Sh.Rakesh Bansal, Authorized Representative

The Respondents: -Sh. Kamlesh Saklani, Under Sectt. Law

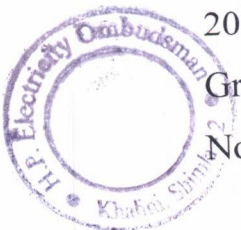
-Er. Vidur Gupta, A E, ESD Barotiwala.

CORAM

Er. Deepak Uppal

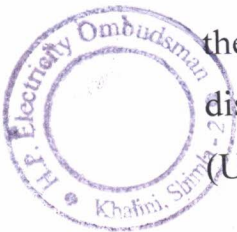
HP Electricity Ombudsman

1. The case was registered and received on 03/04/25, 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 12/03/2025 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No1454/202405/08.





2. The case was listed and heard for admission on 07/04/202. After listening to the counsels for both the parties, the matter was admitted to the extent of initiation of proceedings. The Respondent Board was directed to submit reply on or before 23/04/2025. The case was listed for final arguments on 26/04/2025 subject to submission of above documents.
3. Case called, the matter was heard on 26/04/2025. The Respondent Board could not submit reply in compliance to this court's order dt.07/04/2025 and sought some more time. Prayer granted and further, the Respondent was directed to submit reply by 13/05/2025 with a copy of reply to the Complainant and Rejoinder if any, to be submitted by the Complainant immediately thereafter the submission of the reply by the Respondent Board. Accordingly, the case was again listed for final arguments on dated 23/05/2025 subject to submission of above documents.
4. The Respondent Board submitted reply on dt. 20/05/2025 in compliance to this court's order dt.26/04/25 and subsequently, the Complainant submitted Rejoinder on 23/05/25 in the court room which was taken on record. The concerned Assistant Engineer could not appear in the court room owing to some unavoidable pre-occupation and the ld. counsel for Respondents sought some more time for final arguments. Prayer granted. Accordingly, the case was listed for final arguments on dated 16/06/2025.
5. Case called and the final arguments were conducted on 16/06/2025. The concerned Assistant Engineer could not attend due to unavoidable circumstances, however, on his behalf Assistant Engineer, ESD Barotiwala attended the court along with relevant record. The deliberations made by the Assistant Engineer representing Respondent Board and participation in discussions were appreciable. Both ld. Counsel for Respondent Board (Under Sectt. Law) and the Authorized Representative for the



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Complainant advanced their arguments to the depth. After hearing both the parties at length, the arguments were concluded and order reserved.

1. A-Brief Facts of the Case:

1. M/s Pinetree Packaging, bearing Consumer ID 100012002470 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL.
2. It is observed from the contents of submissions that the Complainant is aggrieved of Id. CGRF order dt. 12.03.25 in the said complaint on not allowing rebate on Night hrs. and Peak hours in respect of additional power consumption as well as on approved energy charges provided to existing industries on expansion/ undergoing expansion in terms of relevant Tariff Orders passed by the Hon'ble Commission in FY 20-21, however, the Respondents have refunded the amount of Rs. Rs. 2,41,110/- and Rs. 3,05,853/- on additional consumption for FY 2018-19 and FY 2019-20 as well as Rs. 2,46,769.12/- towards the expansion rebate for the expansion dt.20.03.2020.

B-The Complainant's Specific Submissions:

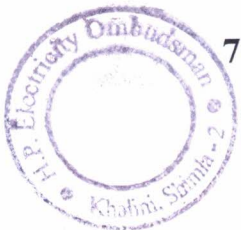
1. The Complainant submits that the complainant/applicant company is a consumer under the Electricity Act, 2003 i.e. Section 2 sub-Section 15 and the respondents are distribution licensee under Section 2 sub-section 17 of the Electricity Act, 2003. The complainant company is also a consumer under Section 3 (d) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013.
2. The Complainant submits that the respondents/non-applicants have failed to adhere to the provisions of tariff orders notified from time to time by the Himachal Pradesh Electricity Regulatory Commission under the Electricity Act, 2003 and have stopped allowing any further the legitimate rebate on energy charges for the period notified in the tariff orders.



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3. The Complainant submits that he approached the Ld. Forum with a grievance regarding non-adjustment of rebates applicable on additional consumption over the consumption of the previous year which were applicable during the tariff period 2018-19 and 2019-20 and on increase in contract demand allowed in the tariff orders for FY20-21.
4. The Complainant submits that their consumption increased from 6,39,294.50 kVAh in FY 17-18 to 11,60,532.06 kVAh during FY 18-19, which was an increase of 5,21,237.56 kVAh. The complainant was eligible for 10% rebate on energy charges for the additional consumption in terms of Tariff Order for FY18-19. The said rebate worked out to Rs. 2,41,110,80/- (**Annexure C2**). The same was refunded by the respondents during the proceedings before the Forum.
5. The Complainant submits that their consumption also increased from 11,60,532.06 kVAh in FY 18-19 to 15,89,417.82 kVAh during FY 19-20, which was an increase of 4,28,885.76 kVAh. The complainant was eligible for 15% rebate on energy charges for the additional consumption in terms of Tariff Order for FY19-20, which worked out to Rs. 3,05,853.98 (**Annexure C4**). The respondents refunded the said amount during the proceedings before the Forum.
6. The Complainant submits that they have calculated the entitlement of rebate for the increase in contract demand from 425 kVA to 520 kVA and from 520 kVA to 570 kVA, each for a period of 3 years, which works out to a total of Rs. 3,12,839.07 (**Annexure C6**). The respondents as per their calculation refunded a sum of Rs. 2,46,769.12 during the proceedings before the Forum.
7. The Complainant submits that the Ld. Forum under para-19 erred in ignoring the clarification dated 31.07.2020 issued by the Himachal Pradesh Electricity Regulatory Commission, who is the statutory



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authority under the Act to decide on tariff and its intricacies, however the CGRF denied the eligibility of the rebate on additional night consumption for the financial years 2018-19 and 2019-20 which was actually agreed and refunded by the respondents while the expansion was carried out by the complainant before the notification of the tariff for the 21-22.

8. The Complainant submits that the orders passed by the Ld. Forum are bad in law as the Ld. Forum has also concluded that the expansion cannot pertain to expansion other than that of electrical nature, which is required to be established. The expansion in such cases is clearly an expansion in contract demand as per tariff orders and nothing else can be inserted at this stage into the meaning of the word expansion.
9. The Complainant submits that the Ld. Forum has failed to establish as to what would mean electrical expansion and has concluded that the contract demand is only a contractual term and has no other meaning or relevance to expansion. The contract demand in fact has far more implications than merely being a contractual term. The entire two-part tariff is based on the contract demand, while all the charges etc. too are based on contract demand.
10. The Complainant submits that the orders passed by the Ld. Forum are bad in law as the Ld. Forum had erred in concluding that the rebate/ lower rate of energy charges are only applicable during normal hours excluding the peak and night hours. Had that been the intention of the Commission, it would have curtailed the rebate on peak hours also in the tariffs for FY 21-22 onwards. This is a gross misinterpretation and understanding on the part of the Forum, which is purely based on whims and fancies of the Forum;
11. The Complainant submits that the orders passed by the Ld. Forum are bad in law as the Ld. Forum has not followed the principle of equity,



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while rebate has already been given to several other consumers who have increased the connected load or contract demand or both and which has been approved by the competent authority. The Ld. Forum has therefore, discriminated against the complainant as against the other consumers which defies the principle of equity.

12. The complainant also in addition has prayed for refund of the amount on account of consequential reduction in the electricity duty, based on the billing pattern already adopted by the respondents and Commercial section which also stands displayed in the Note 6 of the Electricity Bill attached at Annexure C-5 attached with this representation. The Foot Note 6 to the bill reads as :

"6. ED, LVSS, LVMS Charges calculate on net energy charge = (Energy Charge after considering NTC and Rebate)."

13. The Complainant submits that the orders passed by the Ld. CGRF are bad in law and deserve to be quashed and set aside as the Ld. Forum has incorrectly interpreted the meaning of clause 5.7.3 of the Supply Code, 2009. Clause 5.7.3 of the Supply Code, is a provision which is applicable in case of refund of excess billed amount by the licensee. The Ld. Forum also ignored the provision of Regulation 26(2) which two mandates the refund along with interest and prayed for his eligibility to claim interest in terms of said provision.

14. Prayer

In view of above the complaint prays as below:

- a) To quash and set aside the orders dated 12.03.2025 passed in Complaint No. 1454/202405/08 for the reasons stated in the representation;
- b) To issue directions to the respondents to grant rebate on expansion until the expiry of three years from the date of each increase of contract demand the detail of which is given in Para 2 of this representation;



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- c) To direct the respondents to overhaul past bills while providing for rebate on the basis of eligibility period of each rebate while also adjusting the corresponding impact in electricity duty;
- d) To direct the respondents to pay interest on the amount charged in excess and the amount that is refundable to the complainant, at simple interest @ 15% p.a. on daily basis, from the date of payment on the past amounts refunded with delay and the amount due for refund as per Sub-regulation 5.7.3 of the Supply Code, 2009 or the HPERC (CGRF and Ombudsman) Regulations, 2013 as may be considered appropriate in the present case;
- e) To direct the respondents to compensate the complainant towards cost of the complaint amounting to Rs. 1,00,000/-.
- f) To Call for the record of the case.
- g) Any other or further orders which this Hon'ble Forum may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the complainant company and against the respondents/distribution licensees.

C- The Respondent's Specific Submission:

The Respondents in reply to the contentions of the Complainant submits as under:

- a) that the present complain is not maintainable in the eyes of law.
- b) that the complainant has suppressed the material facts before this Id. Forum as such the complaint as preferred is liable to be dismissed.
- c) that the contents of this para are admitted to the extent that the complainant is eligible for the rebate in terms of the mandate of the tariff order issued by the Hon'ble Commission for the respective financial years.



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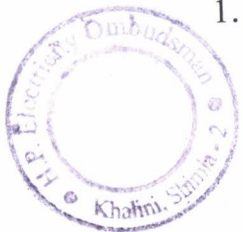


- d) that rebate for FY 2018-19 & FY 2019-20 as per the provision of tariff order for consumption beyond previous year consumption has been calculated amounting to Rs.2,41,110/-(FY 2018-19) & Rs.3,05,853/-(FY2019-20) and the same has been credited to the complainant/consumer in monthly energy bill of January 2025.
- e) that rebate on expansion has been calculated for the period 07/2020 to 06/2023 for amounting to Rs.2,46,769.12/- and same has been credited to the consumer in monthly energy bill of January 2025.
- f) that the Id. Electricity Ombudsman has already settled the issue regarding Electricity duty in case no. 05/2024.
- g) that 5.7.3 of HP Electricity Supply code 2009 deal with erroneous of billing and this rebate is separate, as and when consumer submits the representation for eligibility for rebate same is checked and granted to the complainant.
- h) that the Id Forum vide impugned order dated 12-03-2025 has rightly dismissed the complaint filed by the complainant by appreciating all relevant material, regulations governing the field and the tariff order issued by the Hon'ble HPERC, as such there is no such interference warranted by this Hon'ble Ombudsman.
- i) It is therefore, keeping in view the facts and circumstances narrated herein above, it is most respectfully prayed that the representation/complaint of the complainant is liable to be dismissed.

D- The Complainant's Submission through Rejoinder -cum- Written

Arguments:-

1. The Complainant submits that the contents of the reply to the representation filed by the respondents so far as they pertain to the matter of record are not denied and rest of the averments which are contrary to the record are wrong and incorrect are denied.



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2. The Complainant submits that the respondents have admitted in Para 2 of the reply on merits that the complainant is eligible for rebate and has further submitted that the rebate on additional consumption for FY 2018-19 and FY 2019-20 as per provisions of the respective tariff orders have been calculated and refunded to the extent of Rs. 2,41,110/- and Rs. 3,05,853/- respectively. The complainant admits that the said amounts have been credited to the complainant's energy bill. The respondents have further stated that the expansion rebate for the period 07/2020 to 06/2023 amounting to Rs. 2,46,769.12 has also been credited in the monthly bills. The complainant accepts and confirms that the said refunds/ adjustment has been carried out by the respondents already.
3. The Complainant submits that it is denied that the orders passed by the Ld. CGRF are *perfectly legal*, as the Forum has given adverse observations on these refunds, particularly on the rebate refunded for the peak and night consumption on the additional consumptions during FY 2018-19 and FY 2019-20. Even the Ld. Forum's adverse observations for the refund being processed during the pendency of the complaint are contrary to the HPERC (CGRF and Ombudsman) Regulations, 2013, which specifically states that the first attempt of the grievance redressal bodies has to be towards reconciliation. Also, in the entire order Ld. Forum has nowhere approved the refunds to be rightful and has left the issue open for which also the complainant had to approach the Hon'ble Ombudsman to crystallize the final outcome of the grievance redressal.
4. The Complainant submits that the Ld. Forum has failed to verify the record of the respondents to the extent so as to examine if there was any physical electrical expansion or not. The statements of the complainant were not relied on but the verbal statements of the respondents were fully relied upon, without any verification of the records. The verification of records



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would have proven beyond doubt that there has been physical electrical expansion beyond any doubt and that it was also verified by the officers of the respondents.

5. The Complainant submits that on the issue of electricity duty, the Ld. Forum has departed from the methodology already approved and being followed by the respondents for more than a decade since the time the electricity duty was notified to be charged in the *ad valorem* (percentage terms). The complainant in fact had not asked for a relief that was not being given in the energy bills to other consumers.
6. The Complainant submits that the views and the orders of the Ld. Forum on the issue of interest on excess amount recovered from the complainant are contrary from the settled law and the provisions of the clause 5.7.3 of the Supply Code, 2009.
7. In view of above, it is prayed that to this Hon'ble Ombudsman that due to reasons mentioned in the complaint and this rejoinder, relief as sought in the complaint be granted to the complainant in the interest of justice. It is further prayed that it be ordered that the refunds already given to the complainant during the course of these grievance are legitimate.

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 :

1. The final arguments were conducted on 16/06/2025 and both the parties were given due opportunity to argue their contentions to the edge.
2. At the very outset, the authorised Representative for Complainant read out the additional consumption achieved during FY2018-19 & FY-2019-20 as well as undergone expansion on 20.03.2020 falling within the preview of tariff order FY 2020-21 notified on 06.06.2020 and asserted that the Respondents have refunded the requisite amount towards additional consumption i.e. Rs. 2,41,110/- & Rs. 3,05,853.98/- in terms of Tariff Order for FY18-19&FY19-20 respectively as well as Rs. 2,46,769.12 /-towards expansion rebate for the period 07/2020 to 06/2020 in terms of Tariff Order FY-2020-21.
3. The officers present as Respondents in the court room first confirmed that as per record the additional consumption as claimed is as per record and the expansion undergone in the instant case as contended stands verified by the competent authority. He further added that accordingly, the requisite rebate as informed by the authorized Representative of the Complainant stands released and confirmed in the court room.
4. This authority after listening to the facts and confirmation as per record regarding physical verification of increase in contract demand as well as confirmation on additional consumption achieved beyond the level of previous year and thereafter release of rebate in terms of provisions, felt satisfied and did not feel further interference, as apparent to the record, the steps taken by the Respondent Board appeared to be diligent in the public interest for judicious settlement.
5. The authorised Representative for Complainant further put forth the following contentions for arguments:



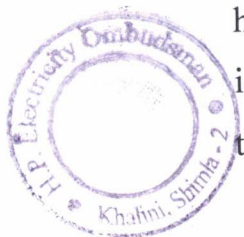
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(ii) that the orders passed by the Ld. Forum in its order has asserted that the rebate is only applicable during normal hours excluding the peak and night hours. Had that been the intention of the Commission, it would have curtailed the rebate on peak hours also in the tariffs for FY 21-22 onwards.

(iii) that the Ld. Forum further erred in ignoring the clarification dated 31.07.2020 issued by the Himachal Pradesh Electricity Regulatory Commission, who is the statutory authority under the Act.

6. It was observed from the reply submitted by the Respondents that they were silent on this clarificatory letter dt.31.07.2020 in their instant reply, but showed appreciable response during final arguments when the focus of discussion was confined to the hierarchy of letters attached with the representation (**letters dt. 03.07.2020, 24.07.2020, 24.08.2020**), which also reminded during arguments, the steps taken by the Respondent Board on clarification sought through letter dt.31.07.2020 in the interest of consumer and thereafter imparting instructions through letter dt. 24.08.2020 for implementation of the mandate of the Hon'ble Commission in letter and spirit for allowing rebate on night hr. consumption in addition to night hr. concession which was also deliberated earlier during final arguments in case No.07/25 & 08/25 in the court room by the Id. Counsel for Respondents.
7. The Id. Counsel for Respondents and Assistant Engineer, after referring to the tariff order dt.31.05.2021 for FY22, showed convinced averments on the intention and inclination of Hon'ble Commission on allowing rebate on peak hrs which was also one of the contentions of the Complainant and the intention of the Commission on applicability of rebate during peak hrs. for the period as contended in the instant case.



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8. During arguments, the Id. Counsel for Respondents showed reservation on the contention of Complainant to allow interest on the amount to be refunded as well as rebate on Electricity Duty.
9. The arguments advanced by both the parties were appreciable and the act of Respondents to function within the ambit of prevalent provisions, was also appreciable in the interest of justice. After listening to both the parties at length, the arguments were concluded and order reserved.

H- Order dt. 12/03/2025 of Consumer Grievance Redressal Forum :

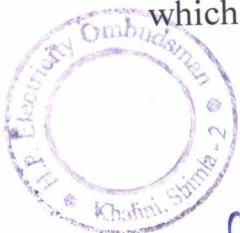
ORDER

(15) Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the Ld HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 (or the CGRF Regulations), HP Electricity Supply Code, 2009 and amendments thereto, CEA Regulations, various Tariff Order passed by the Ld HPERC and record as facts along with pleadings of the parties. This Forum has heard the parties at length. The considered opinion of the Forum has been gathered after considering the fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;

(16) Before the Forum delves into the issues of rebates as raised in the instant complaint, at the outset it is imperative to reproduce for sake of convenience the provisions of rebates on additional consumption over the previous year and on expansion rebates contained under Schedule - Large Industrial Power Supply (LIPS) in various Tariff Orders passed by the Ld HPERC, some of which have been relied upon by the Complainant –

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

Quote





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3. Two-part Tariff

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b) Energy charge (Charges-2)

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***Note:**

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

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

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c) Demand Charge (Charges-3)

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4. Peak load charges (PLC)

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

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3. Two-part Tariff

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b) Energy charge (Charges-2)

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***Note:**

- a. For existing industrial consumers, a rebate of 15% on energy charges shall be applicable for additional power consumption beyond the level of FY 2018-19
- b. For new industries which have come into production between 1.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years
- c. For new industries coming into production after 01.07.2019 the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years

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c) Demand Charge (Charges-3)

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4. Peak load charges (PLC)

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

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3. Two-part Tariff

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b) Energy charge (Charges-2)

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***Note:**

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

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

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4. Peak load charges (PLC)

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

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13. Rebate for New and Expansion Industries:

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

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

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

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

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



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be 15% lower than the approved energy charges for the respective category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in contract demand.

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

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

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

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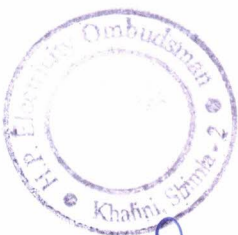
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13. Rebate for New and Expansion Industries:

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

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





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

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

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

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

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

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

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

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13. Rebate for New and Expansion Industries:

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

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

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

d. For existing industries, which have undergone expansion during 01.06.2020 to 31.05.2021, Energy Charges shall be 10% lower than the approved Energy Charges corresponding to the respective Category for a period of three years for quantum of energy consumption corresponding to proportionate increase in Contract Demand. Provided that such expansion, if undertaken during 1.07.2019 to 31.05.2020 and/or during 01.06.2021 to 31.03.2023 and/or shall be undergoing expansion on or after 01.04.2023, the Energy Charges shall be 15% lower than the approved Energy Charges for the respective Category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in Contract Demand.



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

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

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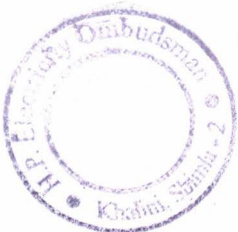
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(17) Also at the outset, Forum observes that the Complainant has relied upon and placed on record an internal communication (letter) dated 31.07.2020 (**Annexure C-7**) by the HPERC addressed to the Chief Engineer Commercial. Before the Forum proceeds to determine the instant complaint, Forum feels it is expedient to examine and discuss the said internal communication (letter) –

(18) Forum observes that this communication amongst other things is inter-alia in terms of delay by the Respondent in seeking of clarification, hardships faced by the consumers during covid-19 etc. This letter further gives directions to the Respondent to give details of amounts for truing up for FY21, the with-drawl of some previous clarification by the HPERC and for consideration of rebate for night time consumption till the issuance of next Tariff Order for FY22;

(19) However, Forum holds that any internal communication (letter) between HPERC and the Respondent being an administrative action,



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cannot supersede or over-ride or supplement any statutory Judicial Tariff Orders passed by the Ld HPERC. Forum holds that a statutory Judicial Order of clarificatory nature either by the Ld HPERC or Order by the Hon'ble Courts alone have the powers to do so. Forum holds that the said letter is an internal communication between the HPERC and the Respondent and not a Judicial Order by the Ld HPERC and accordingly rejects the said internal communication for the purpose of determination of the instant complaint;

(20) Further also at the outset, before the Forum proceeds to determine issue, question and entitlement of rebates as raised in the complaint, Forum feels it expedient to delve into the understanding on the aspect of rebates for expansion as provided in the Tariff Orders passed by the Ld HPERC-

(21) In the considered opinion of the Forum, public money cannot be doled out or squandered at mere whims and fancies of individuals and have to be considered and dealt meticulously with caution by those on whom the responsibility to do so is bestowed. Same is the point in case for expansion rebates that have been specified by the Ld HPERC in the Tariff Orders passed by it;

(22) From examination of the provisions of expansion rebates for Industries contained in Tariff Orders reproduced in para supra, the Forum finds that the ibid Tariff Orders do not define the word or expression 'expansion'. It is a known fact that the word 'expansion' implies physical increase of factors such as size, number, importance etc. What constitutes expansion in industry, like whether industries merging/splitting or industries undergoing increase/decrease in production or industries increasing/decreasing capital/manpower with





or without increase in capacity or the point of start/end of infusion of capital or some yardstick by the Respondent's technical parameters/standards, has not been spelt out in the Tariff Orders so as to enable the Respondent to assess the fact, quantum and effective time of expansion for the purpose of meting out the said expansion rebates. It is obvious that any addition of buildings, structures, manpower, capital infusion in company, investments in other companies etc cannot become the basis to give rebates on electricity which is specifically governed by the Electricity Act;

(23) Further, any rebates in context of the Industries department may pertain to conditions as may be specified by it. However in the opinion of the Forum, here the expansion rebates as laid out in the Tariff Orders passed by the Ld HPERC for the electricity distribution company being the Respondent herein, certainly cannot pertain to expansion other than that of electrical nature;

(24) Thus, before the said expansion rebates against electrical expansion are allowed by the Forum or the Respondent to the Complainant, at the outset it becomes imperative to conclusively confirm its actual time of occurrence and quantum which is to be further considered and confirmed against the original load or any overall expansion undertaken by the consumer in the past. It cannot be a case of expansion for the purpose of the instant rebates, where a consumer may have at any earlier point in time reduced its load vis-à-vis its original load and then during the concurrency of Tariff Orders where rebates are provided had increased its load. Thus, in accordance with the provisions of Tariff Orders on rebates, it is only after the electrical expansion has been established, can the said rebate be



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determined or calculated at the specified rates for the energy consumption corresponding to proportionate increase in Contract Demand (in kVA);

(25) Further, in view of the provision of Tariff Orders on expansion rebates, Forum further holds that increase in Contract Demand does not imply expansion, which is evident from the definition of Contract Demand given in the Supply Code notified on 26.05.2009 by the HPERC. The definition is reproduced as follows: –

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1.2.15 "contract demand" expressed in kVA units means the maximum demand contracted by the consumer in the agreement with the licensee and in absence of such contract, the contract demand shall be determined in accordance with the Tariff Order;

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(26) From the ibid definition of Contract Demand (in kVA) it becomes clear that Contract Demand is merely a demand contracted or agreed between the consumer and the licensee and cannot in any way be construed to mean expansion. In accordance with the Tariff Orders passed by the Ld HPERC and in the practical application of the Contract Demand (kVA), the actual Maximum Demand (in kVA) recorded on a meter, is evaluated vis-à-vis this Contract Demand (kVA) and in absence of any contracted demand then such is assumed in accordance with the provisions of Tariff Orders. Thus, the Contract Demand is simply a contractual term or expression;



Further



(27) From the ibid definition of Contract Demand (in kVA) given in the Supply Code when read in conjunction with the provision of rebate on expansion given in the ibid Tariff Orders, it becomes clear to the Forum that Contract Demand can be applied only to determine or calculate the proportionate increase in energy consumption and this is only after the condition of expansion, which here can only imply electrical expansion, has been conclusively established;

(28) Further, the contracted demand between Complainant and Respondent can be permanent or temporary and can from time to time be decreased and then increased, and then again decreased and then again increased etc, thus such contracted demand, being a contractual term, cannot be construed to mean physical expansion.

(29) Seen from another angle, physical expansion cannot mean to have taken place when the Contract Demand is increased or that such physical expansion to have been removed when the Contract Demand is decreased. It may also be a condition that there is revision of Contract Demand accompanied with increase in consumption in a particular month vis-à-vis that in a previous month however without expansion.

(30) In view of foregoing discussion, the Forum concludes that while expansion of industry is a physical outcome, the Contract Demand (kVA) is a contractual obligation. Thus the Contract Demand (kVA) or its increase or decrease does not imply expansion or contraction of Industry and it is only to be applied after establishing and confirming expansions. Here the limited purpose of Contract Demand is only that of calculating the proportionate increase in energy consumption with respect to it and thereafter to determine the applicable rebate. Thus, before this Contract Demand is applied, the physical electrical





expansion of Industry will have to be proved and established by the Complainant and duly verified and established in clear unambiguous terms by the Respondent HPSEBL;

(31) From foregoing discussion Forum holds that it is for the Complainants to ab-initio prove their case of physical electrical expansion for the purpose of availing rebates as specified in the Tariff Orders passed by the Ld HPERC. Physical systems existing at the start of the industry and changes (increase / decrease) thereafter, along with the precise time from which such expansion has to be considered by Respondent for the purpose of allowing the expansion rebates, has to be shown and verified;

(32) Simply put, a complaint has to be duly supported with respective comprehensive details of electrical expansion. These details may arise from extant provisions of Regulations notified by the HPERC and by the CEA from time to time and such details must have been duly verified by the Respondent and a third party namely Chief Electrical Inspector. Mere averments or documents depicting increase in contract demand or reflection of the connected load in an electricity bill will not or do not prove expansion especially in absence of original conditions which have to be confirmed by the Respondent to entitle the Complainant for the statutory rebates;

(33) In view of the discussion as foregoing, the Forum now proceeds to determine the instant complaint –

(34) Forum observes that the Respondent, has simply without citing any reason or justification, submitted in its Reply that it has made the payment of rebate on additional consumption in the electricity bill for January 2025 i.e after the complaint was filed. This is also



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acknowledged by the Complainant with further statement that calculation of rebate is as per its claim;

(35) However, from complaint, Forum observes that Complainant's case for rebate on additional consumption is in terms of Tariff Order for FY 2018-19 and FY 2019-20 and the Complainant has also claimed this rebate against peak hour consumption and against night time consumption where night time concessional Tariff is already provided in the Tariff Orders passed by the Ld HPERC;

(36) Forum from perusal of the Tariff Order for FY2018-19, FY 2019-20 and FY2020-21 reproduced in paras supra, finds that the rebate provision in the Tariff Orders is contained in 'Note' under Sr No 3(b), which pertains to energy charges for normal hours only, while separate provisions exists for peak hours under Sr No 4 and this does not include any provisions for rebates. Thus, the only conclusion that can be drawn by the Forum is that the said rebate is only available for consumption during normal hours and not during other hours. Forum cannot find anything in the said Tariff Orders which may permit or even suggest that the said rebate on the additional or excess consumption also be made available for consumption during night hours or on peak hours. From perusal of Tariff Orders it can also be seen that such rebate became applicable for peak hour consumption only with effect from 01.06.2021 that is from the Tariff Order for FY 2021-22;

(37) With regard to the rebate on night time consumption where night time concession / concessional tariff is already provided in the ibid Tariff Orders, Forum from perusal of the provisions of the Tariff Orders on rebates passed by the Ld HPERC, finds that only those Tariff Orders passed by the Ld HPERC on and after 01.06.2021 provided for such



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rebate to not be considered on the night hour consumption. The Tariff Orders before this date were silent on this aspect. For the Forum to make or even say or suggest for such rebate to be applicable on night hour consumption before the said date of 01.06.2021, shall on the part of the Forum clearly amount to assumptions, presumptions and putting words into Tariff Orders passed by the Ld HPERC which Forum feels as being patently wrong and also beyond the jurisdiction of this Forum. Thus the only conclusion that the Forum can draw for the purpose of the instant complaint is that the said rebates on additional consumption are not applicable against night time consumption for which night time concession / concessional Tariff is already provided in Tariff Orders passed by the Ld HPERC;

(38) In view of foregoing discussions with regard to rebates on peak hours and night time consumption, the claim (**Annexure C2/Annexure C4**) of the Complainant, for the rebate against the peak hour consumption and night time consumption where night time concessional Tariff is already provided by the Ld HPERC in its Tariff Orders, is accordingly rejected. The Respondent is directed to bear this aspect in mind in context of the disbursal of said rebate made on additional consumption and is further directed to take corrective action of recovery, if necessary i.e if the said refund/ disbursal of rebate against additional consumption is not in accordance with the ibid findings of the Forum. Thus, nothing further exists for determination by the Forum on the rebate on additional consumption. The issue and contention of rebate admissible on additional consumption, as raised by the Complainant, is accordingly disposed;

(39) Now coming to the issue and contention raised by the Complainant with regard to its entitlement for expansion rebates. Forum observes





that the Complainant in its main submissions has pleaded that it is entitled to expansion rebate based upon expansion in terms of increase in contract demand which it has later in its Rejoinder modified to its entitlement for expansion rebate based upon increase in Contract Demand. Forum also observes that the Respondent, has simply without citing any reason or justification, submitted in its Reply that it has refunded expansion rebate in electricity bill for the month of January 2025 i.e after the complaint was filed;

(40) It is expected of the Respondent that the refund of expansion rebate may have been given by it only after ascertaining the Complainant's eligibility for the same and in accordance with discussions as foregoing in paras supra with respect to expansion rebates. Forum is constrained to observe that if an action to make the payment of rebate could have been taken during the pendency of complaint, then such action could also have been taken by the Respondent ab-initio so as to prevent this litigation;

(41) In view of aforesaid, the issue raised by the Complainant with regard to expansion rebates is accordingly disposed.

(42) Thus the only issues of refund of Electricity Duty and Interest raised by the Complainant, remain for further determination by the Forum, which are dealt hereinafter--

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

(44) Forum, from bare perusal the HP Electricity (Duty) Act, 2009 finds that Electricity Duty (ED) is a levy by the Government. This is





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

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

(46) On the issue raised by the Complainant for payment of Interest in accordance with code 5.7.3 of the HP Electricity Supply Code, 2009, Forum does not find any reference to payment of Interest on rebates in



the Tariff Orders passed by the HP Electricity Regulatory Commission. The Forum now proceeds to look into the specific facet of payment of Interest arising from the non-payment of said rebates, in accordance with regulations notified by the HPERC –

(47) Forum observes that on a claim raised for rebates raised by the consumer, at the outset the quantum and question of its eligibility and entitlement has to be assessed and established by the Respondent distribution licensee based on Tariff Orders passed by the Ld HPERC and Codes / Regulations notified by the HPERC. Once the same has been assessed, established, determined and paid by the distribution licensee, shall the question of payment of any Interest arise on the principle amount so determined. At the same time, such shall have to be permitted by the HPERC through its Regulations or Tariff Orders;

(48) On bare examination of code 5.7.3 of the HP Electricity Supply Code, 2009, Forum finds this to be with regard to Interest on excess payment made by the Complainant due to erroneous billing. Forum holds that mere non-inclusion of the said rebate by the Respondent in a bill does not make the bill to become erroneous;

(49) Forum from examination of Tariff Orders passed by the Ld HPERC and Code / Regulations notified by the HPERC, further observes that no provision has been made therein with regard to payment of Interest on delayed payment of the said rebate. This rebate is separate which is to be paid or not by the Respondent after ascertaining whether the industry is a new one;

(50) In view of foregoing, the Forum holds that the payment of Interest to the Complainant by the Respondent on delayed payment of Rebates by the Respondent has not been provided in Tariff Orders passed by the



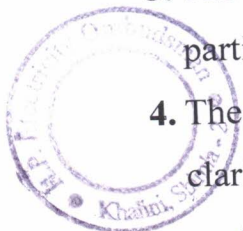


Ld HPERC and neither is it specified in Code / Regulations notified by the HPERC. In view of foregoing discussion, Forum holds and concludes that the Complainant is accordingly not entitled for any Interest in accordance with ibid code 5.7.3 of Supply Code, 2009 arising from delayed payment of the said rebate applicable for new industries. Thus, the contention raised by the Complainant with regard to refund of Interest on rebate is also rejected by the Forum and is accordingly disposed;

(51) In view of foregoing, Forum does not find any contravention by the Respondent of Tariff Orders passed by the Ld HPERC. The allegation of contravention made by the Complainant is accordingly rejected. The said question of contravention also otherwise falls under the scope of section 142 of the Electricity Act, 2003 and is beyond the jurisdiction of this Forum.

I-Analysis of the Complaint:

1. The case file bearing Complaint No. 1454/202405/08 and orders passed on dated 12/03/2025 by the Consumer Grievance Redressal Forum Kasumpti, Shimla-171009 have been requisitioned and gone through and the relevant extract from para (15) to para (51) of the said order reiterated under the heading “H” above to arrive at legitimate conclusion.
2. The only relevant and specific extracts of submissions made by the Complainant, reply submitted by the Respondents & Rejoinders-cum-Written Arguments submitted by the Complainant have been incorporated for the sake of brevity so as to have composite view of the entire case.
3. The documents annexed and placed on record, arguments offered by both the parties have also been gone through in depth.
4. The appropriate Acts, Supply Codes, Tariff Orders have been referred to for clarity. The relevant extracts of Tariff Orders have not been recapped for the



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sake of brevity as the same stand placed in hierarchy under **para- 16 & 25** of CGRF said order dt. 12.03.2025 under the heading **"H"** above.

5. M/s Pinetree Packaging, bearing Consumer ID 100012002470 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL.

6. The Complainant contends that the Id. CGRF in the said order dt. 12.03.25 has not allowed the rebate on Night hours and Peak hours on additional power consumption as well as on approved energy charges provided to existing industries on expansion/ undergoing expansion in terms of relevant Tariff Orders passed by the Hon'ble Commission in FY 20-21. The Complainant through Rejoinder-cum-Written Arguments, has also **confirmed under para-3 that the Respondents have refunded the requisite amount as contended including rebate for Night hrs. & Peak hrs. consumption.** The specific contentions may be referred under the heading **"B-Complainant's Specific Submissions"**.

7. The relief sought by the Complainant has not been reiterated for the sake of brevity and same may be referred under the heading **"B"**, the Complainant's submission.

8. The Respondents on the other hand have confined reply to the extent of CGRF order dt. 23.03.2025 and during arguments they informed that they had allowed the requisite rebate in terms of provisions including Night hrs. & peak hrs. The Complainant agreed and confirmed during arguments which were appreciable. The detailed arguments can be seen under the heading **"G"** and for the sake of brevity, the same are not recapped.

9. The contentions of the Complainant detailed under heading 'B', response of Respondent Board detailed under heading 'C' & Rejoinder-cum-Written Arguments under heading 'D' and arguments conducted at length & placed under heading 'G', gathers considered opinion to originate the following



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issues and for the sake of brevity, the detailed analysis also have been done along with findings of the issues **while delving contentions on merit.**

J-Issues in Hand:

Issue No-1:

Whether the instant Representation is non-maintainable?

Issue No-2:

Whether the Complainant is eligible for rebate in case of additional consumption beyond the level of previous year in terms of prevalent provisions, in the instant case?

Issue No-3:

Whether the Complainant is eligible for expansion rebate in the present circumstances in the instant case?

Issue No-4:

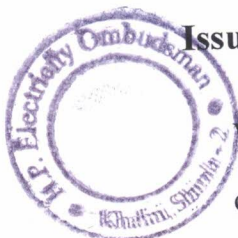
Whether rebate during night-hours consumption in addition to night hour concession is applicable both in case of additional consumption beyond the level of previous year as well as existing industry undergone expansion in terms of prevalent provisions/ clarifications, as contended in the instant case?

Issue No-5:

Whether rebate during peak-hours on additional consumption as well as existing industry undergone expansion, is applicable in terms of prevalent provisions/clarifications in the instant case?

Issue No-6:

Whether the Complainant is entitled to avail the payment of interest as contended?



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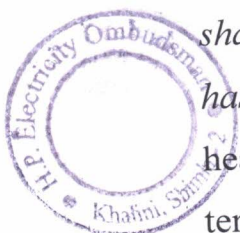
Issue No-7:

Whether the Complainant is entitled to avail refund of electricity duty charged on a refundable overcharged amount in the instant case?

K-Findings on the Issues:

Issue No-1:

1. While going through the reply submitted by the Respondents, it has been observed that in a very vague manners it has been mentioned that the representation is not maintainable in the eyes of law and there exists no cause of action in the favour of complainant and against the Respondents.
2. This authority asserts in the interest of justice that unless the Representation filed, falls beyond the jurisdiction of this authority which could be pronounced at the very outset as non-maintainable or unless adjudicated, this authority feels judicious to honor the 'Hierarchy of Adjudication System' and proceeds.
3. 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.
4. 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 where the Ombudsman is guided by the principle of natural law of justice, this authority feels judicious to give opportunity in terms of Regulation 33(3), the relevant extract of which is read as "*Provided further that no representation shall be rejected in respect of sub-clauses (a),(b),(c) unless the Complainant has been given an opportunity of being heard*", warrants contentions to be heard which cannot be judged unless an opportunity of being heard is given in terms of said provisions and might carry reasonable arguments in the interest



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of justice. So, in due cognizance to the above provisions and subject to the outcome of the proceedings, the Complaint is held maintainable only for initiation of proceedings /adjudications of grievances in the public interest.

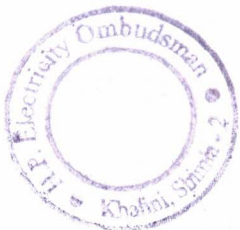
5. After resorting to above findings under Issue-1 on maintainability and held maintainable, it shall be prudent to delve **the contentions on merit** through the following issues for legitimate analysis of the contentions.

This closes the findings on issue-1

Issue No-2:

1. The Complainant contends:

- a. that their consumption increased from 6,39,294.50 kVAh in FY 17-18 to 11,60,532.06 kVAh during FY 18-19, which was an increase of 5,21,237.56 kVAh. The complainant was eligible for 10% rebate on energy charges for the additional consumption in terms of Tarif Order for FY18-19. The said rebate worked out to Rs. 2,41,110/- (**Annexure C2**). The same was refunded by the respondents during the proceedings before the Forum.
- b. that their consumption also increased from 11,60,532.06 kVAh in FY 18-19 to 15,89,417.82 kVAh during FY 19-20, which was an increase of 4,28,885.76 kVAh. The complainant was eligible for 15% rebate on energy charges for the additional consumption in terms of Tarif Order for FY19-20, which worked out to Rs. 3,05,853.98 (**Annexure C4**). The respondents refunded the said amount during the proceedings before the Forum.
- c. that the Ld. Forum in Para-36 had erred in concluding that the rebate/ lower rate of energy charges are only applicable during **normal hours and not on the peak and night hours**. Had that been



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the intention of the Commission, it would have curtailed the rebate on peak hours also in the tariffs for FY 21-22 onwards.

2. After referring to the submissions made by the Complainant, reply submitted by the Respondents, Rejoinder-cum-Written arguments submitted by the Complainant, Arguments exchanged by both the parties, relevant Tariff orders passed by the Hon'ble Commission, it has been observed that the Respondents have allowed above rebate with due diligence in consonance with the prevalent tariff orders and in confirmatory to the clarificatory mandates issued by the Hon'ble Commission through letter dt. 31.07.2020.
3. In the instant case the officers appeared in the court room representing Respondents during arguments, after referring to the record, confirmed both additional consumption as contended under para-1 above as well as rebate as eligible refunded in terms of provisions.
4. After listening to the arguments and referring to the documents placed on record, this authority draws considered opinion that the Respondents with due diligence and apparent to the face of record recognized the said claim towards Additional Consumption as legitimate. Hence, this authority feeling nourished on this act of Respondents to function within the ambit of prevalent provisions would not like to further interfere and considers the contention of the Complainant sustained.

This closes the findings on Issue-2

Issue No-3:

1. The Complainant contends:

- a. that they have calculated the entitlement of rebate for the increase in contract demand from 425 kVA to 520 kVA and from 520 kVA to 570 kVA, each for a period of 3 years, which works out to a total of Rs. 3,12,839.07 (Annexure C6). The respondents as



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per their calculation refunded a sum of Rs. 2,46,769.12 during the proceedings before the Forum.

- b. that the Ld. Forum had erred in concluding that the rebate/ lower rate of energy charges are only applicable during normal hours excluding the peak and night hours. Had that been the intention of the Commission, it would have curtailed the rebate on peak hours also in the tariffs for FY 21-22 onwards.

2. After referring to the documents placed on record, the specific contentions of the Complainant under para-3.3 read with para- 3.7,3.9,3.10 of submissions placed under the heading "B", detailed arguments conducted on the contentions and placed under the heading "G", the prevalent tariff orders issued by the Hon'ble Commission during respective financial years, this authority at the very outset on the misconception of Complainant on Expansion, feels it appropriate to deliberate that the Hon'ble Commission also emphasizes the word **"Production"** in case of **New Industries** and **"Expansion"** in case of **Existing industries**. If such quotes of respective Tariff orders are analyzed with microscopic eyes, it clearly gives meaning that as the word **"Production"** in case of new industries points to **new machinery installed attributing to** consumption so is the word **"Expansion"** in case of existing industries attributes to installation of some more equipment corroborating **consumption and** consumption in electrical terms plays an effective role to substantiate **investment** while a new industry starts production or an existing industry undergoes expansion, which is relevant. It is also pertinent to mention here that the word **"Production"** in case of new industries, principally fetches the same meaning as is fetched by the word **"Expansion"** in case of existing industries. As the word **"Production"** qualifies consumption so is the word **"Expansion"** attributes consumption.



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3. It has been observed that the Hon'ble Commission in principle is also concerned with the substantial energy consumption with view point to validate investment for expansion by the individual if read with para 6.28.4 "Petitioner's Response" & para 6.28.5 "Commission's Observation" in the Tariff Order dt. 15.03.2024 for FY- 25.
4. It is observed from above that for judicious landing of contentions to the "Universal" platform, the term "Expansion" being the pivot on which the spindle of Contract Demand is revolving, must be delved in clear terms so as to pave the way for prudent judgement.
5. While analyzing the word expansion, this authority also deduces that the term expansion is being taken differently by different entities. Some may take it in terms of 'Physical Expansion' whereas some may take it in terms of 'Electrical Expansion' with substantial increase in consumption pattern attributing to expansion. The fact cannot be denied that in respect of utilities such as distribution licensee, the term expansion gives its precise meaning only if considered in terms of electrical expansion not in terms of mere physical expansion or otherwise the very purpose of existence of such utilities is defeated which are vested to give benefits/rebates to their beneficiaries/consumers in electrical terms in consonance with the provisions of relevant Tariff Orders.
6. In view of the above analysis, this authority also agrees with the diligent efficacy of instant order dt. 12.03.25 of Ld. CGRF in the instant case, the relevant extract of paras is reproduced as under:

"Para-(32) Simply put, a complaint has to be duly supported with respective comprehensive details of electrical expansion. These details may arise from extant provisions of Regulations notified by the HPERC and by the CEA from time to time and such details must have been duly verified by the Respondent and a third party namely Chief Electrical Inspector. Mere averments or documents depicting increase in contract demand or reflection of the connected load in an electricity bill will not or do not prove expansion especially in absence of original conditions

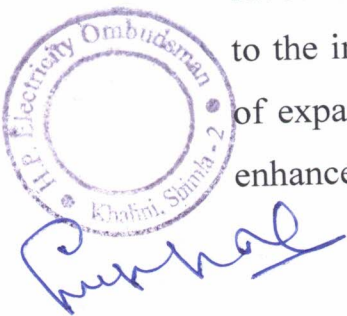


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which have to be confirmed by the Respondent to entitle the Complainant for the statutory rebates;

7. After thorough scrutiny of the above subject, this authority draws considered opinion that whether new industry likely to start production or existing industry likely to undergo expansion, must be authenticated by the competent authority in each stage of enhancement when the question of "Expansion Rebate" arises so as to justify the investment made by the Consumers when they intend to avail such rebate.
8. It was conceded after going through the Complainant's submission that the Complainant is also well concerned with the term verification by the competent authority when the question of availing rebate on expansion arises and honors verification by the competent authority as a mandate & precedence for settlement in such cases where an existing industry or otherwise undergo expansion.
9. Before asserting conclusive findings on the issue, this authority after visualizing the crux of averments presented by both the parties during arguments, feels pertinent to mention that in electrical analogy, an increase in contract demand increases the capacity to draw more power but doesn't automatically increase consumption which will only arise if one operates more or larger loads. But the request for an increase in contract demand when the industry undergoes expansion must be certified/verified by the competent authority to the rank of Chief Electrical Inspector and other officers authorized for the purpose when contended for expansion rebate, in the **very beginning before start of each stage of enhancement**, to authenticate the legitimate purpose of **investment** for the type of loads/additions of the machinery attributing to the increase in consumption which are likely to come up as a result of expansion for which the contract demand had been requested to be enhanced so as to construe this expansion as judicious in electrical





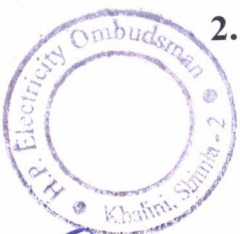
terms to facilitate beneficiary to avail requisite rebate in consonance with prevalent tariff orders.

10. The Assistant Engineer present as Respondents in the court room during final arguments confirmed that in the instant case as contended by the Complainant, the expansion so undergone as mentioned above under para-1, stands verified by the competent authority. After listening to the facts as per record regarding physical verification and expansion as contended in the instant case stood recognized by the Respondent Board, this authority concedes without any doubt that the rebate so allowed by the Respondent Board with the best of their wisdom is genuine act and this authority takes halt from further interference.
11. In view of foregoing findings, this authority concludes that in the instant case since the expansions as contended by the Complainant stands verified by the Respondents as agreed during arguments and requisite amount towards rebate stands refunded, the contention of the Complainant is held tenable in the instant case.

This closes the findings on Issue-3.

Issue No-4:

1. After resorting to the findings under Issue-2 & Issue-3 on applicability of rebate in the instant case both in case of Additional Consumption as well as Expansion Industries and requisite refund confirmed by the Respondents thereof, this authority feels it appropriate to examine the eligibility of the Complainant in respect of these rebates during **Night hrs. consumption** in addition to Night hr. concession.
2. The Complainant contends:
 - a. that the orders passed by the Ld. Forum are bad in law as the Ld. Forum in Para 36 to 38 had erred in concluding that the rebate/



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lower rate of energy charges are **only applicable during normal hours excluding the peak and night hours**. Had that been the intention of the Commission, it would have curtailed the rebate on peak hours also in the tariffs for FY 21-22 onwards.

- b. that the Ld. Forum further erred in ignoring the **clarification dated 31.07.2020** issued by the Himachal Pradesh Electricity Regulatory Commission, who is the statutory authority under the Act to decide on tariff and its intricacies.
3. On examining the essence of prevalent Tariff orders passed by the Hon'ble Commission prior and after 31.05.2021, it has been observed that all Tariff Orders passed on and after 31.05.2021, categorically mentions as ***"In case of night hours, night-time concession shall only apply."*** However, reference to the Tariff Orders prior to 31.05.2021, do not provide any clear understanding on the said contentions of the Complainant and this authority feels it necessary to delve the issue to the depth on merit to arrive at legitimate conclusion.
4. All relevant Tariff orders stand placed in hierarchy at para (16&25) of CGRF order dt.12.03.2025 and provides translucent view of provisions. Hence, for the sake of brevity, the tariff orders have not been repeated and may be referred to under the heading **"H"** in para (16&25) of the said order dt. 12.03.2025 of the Forum.
5. However, the authorized representative for Complainant during arguments, reiterated clarificatory letter dt. 31.07.2020, issued by the Sectt. HPERC regarding clarification on rebate to the Industries in tariff Orders for FY-19, FY-20 and FY21 sought by the Chief Engineer Commercial and appeared quite promising in the instant case in the interest of justice. The relevant extract of letter dt.31.07.2020 is also reproduced for the sake of record and reference as under:



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(Ref. 2nd para of letter)

"The Commission considers this as an inadvertent error and for which the respective Consumers cannot be held responsible i.e. they can't be asked to pay through arrears"

(Ref. last para of letter)

"In this regard, I have been directed to inform that the clarification given for referred letter at Sr no.1 stands withdrawn and the respective eligible consumers be continue to avail the benefits of night time concession as well as reduced energy charges after considering for rebate for the night energy consumption as per prevailing practice till issuance of the next tariff order i.e. for FY 22."

6. During the final arguments, the focus was also confined to the hierarchy of letters attached with the representation (**letters dt. 03.07.2020, 24.07.2020, 24.08.2020**), which reminded the steps taken by the Respondent Board on clarification sought through letter dt. 31.07.2020 in the interest of consumer and thereafter imparting instructions through letter dt. 24.08.2020 for implementation of the mandate of the Hon'ble Commission in letter and spirit.
7. After further referring to the submissions made by the Complainant, the reply submitted by the Respondents, Rejoinder submitted by the Complainant, documents placed on record, detailed arguments conducted on 16.06.2025 and the contentions read with above stated clarificatory letter dt. 31.07.2020 issued by the Sectt. HPERC, this authority feels it vivacious to first examine the essence of clarificatory letter dt. 31.07.2020 being pivotal to the relief sought in the instant case.



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8. In the interest of justice, the relevant extract of para (37) of CGRF instant order dt. 12.03.2025 is recapped to have glance on the judgement of the Id. CGRF on this account which is as under:

“(37) With regard to the rebate on night time consumption where night time concession / concessional tariff is already provided in the ibid Tariff Orders, Forum from perusal of the provisions of the Tariff Orders on rebates passed by the Ld HPERC, finds that only those Tariff Orders passed by the Ld HPERC on and after 01.06.2021 provided for such rebate to not be considered on the night hour consumption. The Tariff Orders before this date were silent on this aspect.

9. The above extract is an indicative that the Id. CGRF has relied on the Tariff orders issued by the Hon'ble HPERC which is principally correct but at the same time one cannot overlook the clarificatory letter dt.31.07.2020 issued by the Secretary HPERC in compliance to the directions of the Commission on the clarification sought by the Respondent Board and further directions imparted by the Chief Engineer (Comm.) vide letter dt.24.08.2020 for implementation.
10. This authority in the interest of justice, would like to delve the opinion of Id. CGRF first, before further analysis in the matter as the Forum had also rendered the analogous opinion in the earlier order dt. 12.03.2025 in Review Application No. RC-1421/202503/03 under para (7,8,12) while the issue in Complainant No. 12/2024 was remanded back.
11. Before proceeding further, this authority feels it apposite to recall the relevant para (17,18,19) of the instant order dt. 12.03.2025 on the opinion of Id. CGRF on the clarificatory letter dt.31.07.2020. The relevant paras (17,18,19) are recapitulated as under:

- b. *(para-17) Also at the outset, Forum observes that the Complainant has relied upon and placed on record an internal communication (letter) dated 31.07.2020 (Annexure C-7) by the HPERC addressed to the Chief Engineer Commercial. Before the Forum proceeds to determine the instant complaint,*



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Forum feels it is expedient to examine and discuss the said internal communication (letter) –

- c. (para-18) Forum observes that this communication amongst other things is inter-alia in terms of delay by the Respondent in seeking of clarification, hardships faced by the consumers during covid-19 etc. This letter further gives directions to the Respondent to give details of amounts for truing up for FY21, the with-drawl of some previous clarification by the HPERC and for consideration of rebate for night time consumption till the issuance of next Tariff Order for FY22;*
- d. (para-19) However, Forum holds that any internal communication (letter) between HPERC and the Respondent being an administrative action, cannot supersede or over-ride or supplement any statutory Judicial Tariff Orders passed by the Ld HPERC. Forum holds that a statutory Judicial Order of clarificatory nature either by the Ld HPERC or Order by the Hon'ble Courts alone have the powers to do so. Forum holds that the said letter is an internal communication between the HPERC and the Respondent and not a Judicial Order by the Ld HPERC and accordingly rejects the said internal communication for the purpose of determination of the instant complaint;*

12. While focusing on crux, it is observed that the Id. CGRF has concluded the review application holding that a letter cannot supersede or override any statutory Judicial Tariff Orders passed by the Ld HPERC and further held that a statutory Judicial Order of clarificatory nature either by the Ld HPERC or Order by the Hon'ble Courts alone have the powers to do so.

13. On further scrutiny of the clarificatory letter dt.31.07.2020 reveals that the said clarification was not issued by any authority of Hon'ble HPERC other than the Secretary HPERC who is appointed under Section-97 of the Electricity Act 2003 to serve as a primary communication channel between the Commission and external entities such as licensees, other regularity bodies, government departments and public. Had the said communication been issued by any other authority other than Sectt. HPERC, the said clarification could have been considered invalid in line with the findings appended by the Id. CGRF under para (19) of its order referred above. But this is not the case here.

14. Whereas the Hon'ble Commission has conveyed very specific directions on the clarification sought which reads as ***“the respective***



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*eligible consumers be continue to avail the benefits of night time concession as well as reduced energy charges after considering for rebate for the night energy consumption as per prevailing practice till issuance of the next tariff order i.e. for FY 22."*and while the Tariff Order for FY-22 was notified on 31.05.2021(effective from 01.06.2021 to 31.03.2022), categorically provides that **"In case of night hours, night-time concession shall only apply."** which is quite revealing that the earlier directives of Hon'ble Commission issued through clarificatory letter dt.31.07.2020 under the hand & Seal of Sectt. HPERC were statutory in nature and remained operative till issuance of tariff order for FY22.Hence, with view point of this authority, cannot be ignored.

15. This authority acknowledges from record and arguments that the Respondent Board after seeking clarificatory letter dt.31.07.2020, imparted necessary instructions to the concerned field officers through letter dt.24.08.2020 for its implementation. This action of the Respondent Board construes acceptance of above clarification as statutory in nature and further deduces that only after understanding the austerity of the letter dt.31.07.2020, the Respondents considered it worth for implementation.
16. It is observed from the reply submitted by the Respondents that they are silent on this clarificatory letter dt.31.07.2020 in their instant reply but showed appreciable response during final arguments. Since, the contention of relief sought is replica of earlier relief allowed in case No. 07/2025 & 08/2025 on Night time consumption under the behest of clarificatory letter dt.31.07.2020 after resorting to detailed arguments on the **letters dt. 03.07.2020, 24.07.2020, 24.08.2020** placed on record by the Respondents along with reply in case of respective

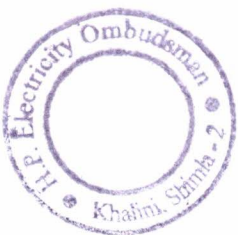


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representations 07/25 & 08/25 and acceptance among both the parties, cannot be ignored and allowed in the instant case also with considered opinion that the clarification as per record was sought by the Respondent Board, not by the Complainant and further directions for implementations were also given by the Respondent Board through letter dt.24.08.2020, construes clarification as statutory and considered worth implementation by the Respondents.

17. This authority further gains support from the above para-19 of Ld. CGRF instant order dt. 12.03.2025 reiterated under afore-cited para 10(f) of this order and observes that in the instant case the clarification on the Judicial Order of Hon'ble Commission had only been conveyed by the Commission through Secretary who stands designated by the Commission to act as communication channel for correspondence of statutory nature and no one else.
18. Scrutiny of the Tariff Orders dt. 04/05/2018 for FY18-19, dt.29/06/2019 for FY 19-20, dt. 06/06/2020 FY20-21 reveals that the rebate in case of Additional Consumption confines only up-till Tariff order dt.29/06/2019 for FY19-20 and thereafter this part of the tariff order was replaced with the term "Expansion Industries", hence, covers the scope of additional consumption issue for "beyond" the level of FY17-18 & FY18-19 respectively and as such the period of above contentions falls within the ambit of clarificatory letter dt.31.07.2020 and rebate in case of 'Expansion Industries' took a pace after the advent of tariff order dt.06.06.2020, remained continued which entitles both 'Additional Consumption' and 'Expansion Industries' to avail rebate on Night hr. consumption in addition to night time concession till expiry of clarificatory letter dt.31.07.2020 and issuance of tariff order for FY22 thereof.



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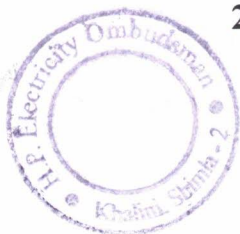


19. In view of forgoing discussions, this authority concludes that the clarificatory letter dt. 31.07.2020 issued through the hands of authoritative platform of Hon'ble HPERC which remained valid till issuance of next Tariff order FY 22 & as per record not withdrawn on any point of time prior to the issuance of tariff order for FY22 as mandated in the clarification and further directions imparted by the Respondent Board vide letter dt.24.08.2020 to all field officers for implementation, makes Complainant eligible for availing rebate in terms of prevalent Tariff Orders on **Night time consumption** in addition to Night hour concession for the period as contended in both the cases i.e '**Additional Consumption**' as well as '**Expansion Industries**'. In terms of conclusive findings, the action of the Respondent for allowing Night hr. consumption rebate in addition to Night time concession is legitimate and the Contentions of the Complainant are sustained in the instant case.

This closes the findings on issue-4.

Issue No.-5:

1. The Complainant contends that the Ld. Forum in its instant order dt. 12.03.2025 under para- 36 to 38 had erred in concluding that the rebate/ lower rate of energy charges is only applicable during normal hours excluding the peak and night hours. The Complainant further added that had that been the intention of the Commission, it would have curtailed the rebate on peak hours also in the tariffs for FY 21-22 onwards.
2. Before landing to conclusion on the contention of complainant to avail rebate on "Peak" hrs. while achieving Additional consumption beyond the previous year as well as undergone Expansion, let us first refer to the prevalent tariff orders, wherein it has been observed that the Tariff orders



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prior to 31.05.2021 are silent on the issue of rebate both in the case of Night hr. consumption over the night hr. concession as well as rebate during peak hours. The rebate on Night hrs. for the said period as contended has been sustained in terms of exhaustive findings under **Issue-4** in due cognizance to the clarification sought through letter dt. 31.07.2020 issued under the hand of Sectt. HPERC, on the directions/approval of the Commission for the said purpose.

3. However, the applicability for rebate during '**Peak**' hrs. further requires detailed analysis.
4. Before proceeding further, this authority feels it legitimate to examine the essence of Tariff order dt. 31.05.2021 first. The relevant extract is reiterated as under:

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

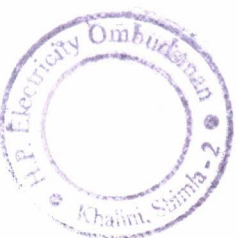
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13. Rebate for New and Expansion Industries:

- a. For new industries which have come into production between 01.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of three years.
- b. For new industries which have come into production between 01.07.2019 to 31.05.2020, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.
- c. For new industries which have come into production between 01.06.2020 to 31.05.2021, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.
- d. For new industries coming into production on or after 01.06.2021, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.



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

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

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

.....

.....

5. Scrutiny of the said order reveals that the said order as per clause 13('a' to 'e') is applicable in case of **Rebate for New and Expansion Industries** and which as per clause 13(f) is applicable during **Normal & Peak hrs.** and in case of **Night hours, Night time concession shall only apply.**
6. After digging the relevant tariff orders in depth, it has been observed that the privilege to avail rebate in case of 'Additional' consumption was available only till tariff order dt.29.06.2019 for FY2019-20 and thereafter with the advent of tariff order dt. 06.06.2020 for FY 2020-21, 'Additional Consumption' issue was replaced with 'Expansion Industries'. But regarding rebate in 'Peak' hrs. it remained elusion till the notification of tariff order dt.31.05.2021 for FY 2021-22 and addressed the rebate for 'Peak' hrs. in case of 'New Industries' and



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‘Expansion Industries’ under para 13(f) which for the sake of clarity is reiterated as under:

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

7. The contention of the Complainant i.e ‘*had that been the intention of the Commission, it would have curtailed the rebate on peak hours also in the tariffs for FY 21-22 onwards*’, appears to be appealing one, as we look into the austerity of the positive intention of Commission in tariff order dt.31.05.2021 to allow rebate on Peak hours, indicates that Hon’ble Commission considering it as legitimate, is also inclined to give such rebate during ‘Peak hrs.’
8. It has been observed that Respondent remained silent on this issue in the reply submitted. However, during final arguments on 16.06.2025, after examining the clause 13(e) read in conjunction with 13(f) of the said Tariff order dt.31.05.2021 for FY-22 in the court room added convinced averments.
9. After examining the relevant part of said Tariff order dt.31.05.2021, this authority draws considered opinion that Hon’ble Commission persuaded to give such rebate during ‘Peak hrs.’ even for the industries fulfilling the criteria w.e.f 01.04.18 to 30.06.2019.
10. In view of forgoing analysis, it is observed that silence of the tariff orders on this aspect of eligibility of rebate during Peak hrs. prior to 31.05.2021 construed, the industries might be or might not be privileged to avail such rebate. But after the advent of Tariff order dt. 31.05.2021, it has transparently cleared the intention & inclination of Hon’ble Commission towards such privileges and hence, makes





Complainant eligible to avail such rebates during peak hrs.in the instant case also as contended.

11. In view of above exhaustive findings, the action of Respondent to refund rebate during **peak hrs.** is just and prudent. Hence, the contention of the Complainant to allow rebate during Peak hrs. both in case of 'Additional Consumption' as well as 'Expansion Industries' is held tenable in the instant case.

This closes the findings on issue No-5

Issue No.-6

1. While going through the contentions it has been observed that the Complainant under para-2.3 read with para-3.20 in his submissions contends his eligibility to avail interest on the excess amount refunded/ likely to be refunded to him.
2. This authority is of the considered opinion that unless the status of above contentions such as "Rebate on Night hour Concession, Peak Hour and status of undergone Expansion" in the instant case is recognized by the Respondent Board, the Complainant does not become entitle to such rebate/refund as well as its consequential benefits i.e interest etc.
3. In the instant case it has been observed that the Respondent Board has refunded the requisite amount due towards rebate including Nigh hrs.& Peak hrs. on account of 'Additional Consumption' as well as 'Expansion Industries' as mentioned herein the reply and subsequently confirmed by the Complainant in Rejoinder under para-3. Even during arguments also, the Respondents confirmed the prerequisites (physical verification) as legitimate confirmation in the court room to allow such rebate in terms of provisions. This authority appreciates respondents to act within the ambit of provisions to avert litigations and also recognitions of expansions as legitimate in the instant case.



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4. After examining the documents placed on record and arguments conducted, this authority asserts that the interest as contended, if eligible, shall attract the following provisions, the very specific parts are reproduced as under:

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

*"-----if the amount paid by the consumer is in excess of the revised bill, such **excess amount will be refunded through adjustment first against any outstanding amount due to the licensee and then against the amount becoming due to the licensee immediately thereafter. The licensee will pay to such consumer interest on the excess amount-----"***

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

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

5. In the instant case, this authority draws considered opinion from the above specific part of clause 5.7.3 of supply code that subject to eligibility of rebate, the amount to be refunded shall be construed as an excess/undue amount paid by the Complainant or excess amount remained with the Respondent Board and warrants refund (of excess amount) with interest, **reckoning from the date the Complainant applied after the notification of the prevalent Tariff orders governing the respective cases of rebate till it remained as an excess**



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amount with the Respondents thereafter before the same was released.

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

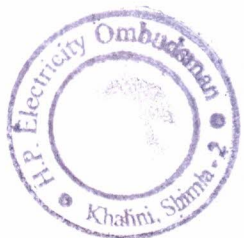
“4 Amendment of para 5.7.3- *In para 5.7.3 of the said code, for the words “interest on the excess amount at twice the SBI’s Short Term PLR prevalent on the first of April of the relevant year” the words “simple interest on the excess amount @15% per annum, or where the rate is fixed by the Commission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

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

“12. Amendment of Regulation 26.-

(1) In Sub-clause (ii) of clause(a) of Sub- regulation (2), for the words and figure “15percent”, the words and figure “12 percent” shall be substituted;”

8. From the above analysis, it is conceived that subject to admissibility of the contentions, for the claim of interest on refund sought, needs computation



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

9. In view of above analysis/findings, the contention of the Complainant is sustained and this authority diverges from the findings of Id. CGRF under para (46 to 50) of its instant said order dt. 12.03.2025 with an opinion that the bills in question deem to be disputed only when one informs licensee either through some written communication or files a representation before the competent court of law.
10. The disputed amount in question already apprehended as an excess/undue amount that stands paid to licensee, subject to the findings of the pleadings. In case the judgement falls in the favour of the Complainant, the disputed amount is considered as an excess amount or undue amount paid, remained with the Respondent and subsequently, warrants refund (of excess amount) with interest.
11. **The bills so raised, automatically construe as an erroneous and falls within the valid domain for refund in terms of excess amount retained with legitimate understanding in terms of clause 5.7.1 that all the bills in lieu of which the excess amount retained/refunded resulted erroneous after the pleadings & findings.** So, in exercise of the provisions of clause 5.7.1 read with 5.7.3 warrants refund of excess amount along with interest as per provisions and natural law of justice. In view of these in-depth analysis, this authority also construes that the Respondent



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Board is just carrying misconception on this issue as contended in para-3.20 of its reply in spite of having exhaustive findings.

12.In terms of above findings, let us first confirm the viable status of entitlement of Complainant to avail interest in the instant Complaint, which is as under:

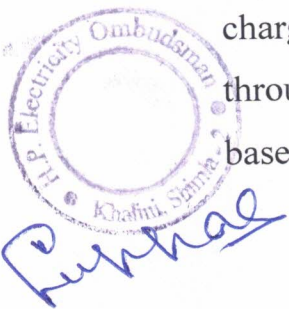
- a. In terms of findings under **Issue-4 (rebate on Night hr. concession)**, under the ambit of clarificatory letter, the Complainant is eligible for rebate both on Additional Consumption as well as Expansion issue during Night-hours in addition to night hour concession, hence entitled for interest in terms of above findings under **(para-5&10)** in both the cases, as and when the excess amount on this account is refunded.
- b. In terms of findings under **Issue-5 (Peak Load)**, the Complainant is also eligible for rebate on 'Additional Consumption' as well as 'Expansion' during Peak Hours in the instant case, hence entitled for interest in terms of above findings under **(para-5&10)**.

13.In view of foregoing analysis/ conclusive findings under **para-12** above, the contentions of the Complainant for availing interest are sustained as eligible.

This closes the findings on issue -6.

Issue No-7:

1. The Complainant contends under para-2.3 read with para-3.19 of submissions appended that he is entitled to avail refund of electricity duty charged on refunded overcharged amount of rebate and further added through submissions that the applicability of the electricity duty is purely based on energy charges net of night concession and the rebates, which is





also a pattern adopted by the Commercial Section of the Respondents as is displayed in Note 6 of the Electricity Bill attached at Annexure C-5 with this Representation. The Foot Note 6 to the bill reads as:

“6. ED, LVSS, LVMS Charges calculate on net energy charge = (Energy Charge after considering NTC and Rebate).”

2. After going through the findings of Id.CGRF in instant order dt 12.03.25 under para-(42) to (45), referring to the relevant tariff orders, Himachal Pradesh Electricity Duty Act 2009 and Electricity Duty Rules 2010, this authority in due cognizance to the austerity of the issue, feels it necessary to reproduce relevant extracts of both Electricity Duty Act 2009 and Electricity Duty Rules 2010 for depiction of effective consensus and justice:

A. THE HIMACHAL PRADESH ELECTRICITY (DUTY) ACT, 2009

“2. (c) “consumption” in relation to electricity means electrical consumption per Kilowatt/KVA recorded as KWh or KVAh. by a licensee or consumer;

3. Levy of electricity duty on consumption or supply of energy. — (1) There shall be levied and paid to the State Government on the energy, generated from any source, consumed by the Board, any licensee, electricity trader or generating company or supplied by the Board, such licensee, trader or company to the consumer, a duty to be called the electricity duty, in the following manner, namely: -

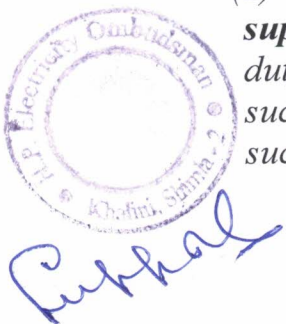
(v) industrial consumers, —

(a) small industrial consumers - @ 9%,

(b) medium and large industrial consumers - @ 13%,

(3) For the purpose of computing the electricity duty, the consumption shown by the meter, starting after the first meter reading date, after the issuance of the notification under subsection (1) of section 3 shall be considered.

(2) It shall be the duty of the Board or the licensee consuming or supplying electricity for consumption to pay or collect the electricity duty from all the consumers in its area of consumption or supply in such form and pay the same to the State Government quarterly or in such manner, as may be prescribed.





4. Collection and payment of electricity duty. —

(1) *The State Government shall have the first charge on the electricity duty and neither the Board nor any licensee shall, without the previous sanction of the State Government, utilize this duty to reimburse itself for any amount, which the State Government may owe to the Board or the licensee/ or any other agency.*

(2) *It shall be the duty of the Board or the licensee consuming or supplying electricity for consumption to pay or collect the electricity duty from all the consumers in its area of consumption or supply in such form and pay the same to the State Government quarterly or in such manner, as may be prescribed.*

8. Recovery of duty. —

(1) *Any electricity duty due under this Act, or penalty imposed under section 7, which remains unpaid, whether by a consumer to the Board or to the distributing licensee, or by the Board or the distributing licensee to the State Government, shall be recoverable as an arrears of land revenue or by deduction from the amounts payable by the State Government to the Board or the distributing licensee or such consumer.*

11. Power to exempt from payment of electricity duty. —

(1) *The State Government may, in public interest, by notification in the Official Gazette, exempt any licensee, consumer or person from the payment of the whole or part of the electricity duty for such period and subject to such conditions as may be specified in such notification.*

B. THE HIMACHAL PRADESH ELECTRICITY (DUTY) RULES, 2010

Chapter-III

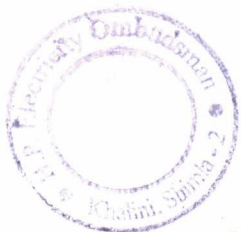
10. Refund of excess duty. -

If duty has been paid in excess of what is payable under the Act by the consumer or occupier of Diesel Generating Plant, the Chief Electrical Inspector shall authorize the refund of the excess duty so paid to the consumers concerned.

Chapter-V

14. Settlement of disputes and appeal thereof. -

(1) *In the case of a dispute between the Board or the licensee and the consumer regarding the liability of the consumer for the payment of the duty or exemption there from, the Chief Electrical Inspector shall decide the matter. An appeal against the order of the Chief Electrical Inspector shall lie within 3 months from the date of service of said order to the*



Ruppal



Principal Secretary, Multipurpose Projects and Power to the State Government.

3. Let us examine the contentions of Complainant in line with above relevant extracts of provisions in microscopic manners. This authority conceives that the complainant has misconception on implementation of above provisions and overlooked the spirit of above mandates and is trying to fetch meaning of the relevant Act & Rules of his own benefit only by referring to the provisions in isolation, not in conjunction. In view of this lapse of understanding on the part of Complainant, this authority deduces the following crux from the above directives:

- a. It is mirror clear from above provisions of Electricity Duty Act 2009 under section 3 on **“Levy of electricity duty on consumption or supply of energy”** that the Electricity Duty is levied on consumption of energy and for the purpose of computation of the electricity duty, the consumption **shown by the meter, starting after the first meter reading date is taken.** This is clearly an indicative that for levy of Electricity Duty, the Govt. is concerned with actual consumption of energy irrespective of rebate on energy given by any agency except Govt. It also provides transparent meaning that the energy taken for computation of Electricity Duty is the reading taken starting after the first reading date as per above provisions which is independent of all kinds of rebates announced by any agency, except Govt. Hence, the contention of the Complainant in the absence of any such directives / orders / notification issued by the Government in terms of section **“11. Power to exempt from payment of electricity duty”**, is not tenable in the instant case and construes as remained unpaid towards Govt. & in terms of Section 8(1) of Electricity Duty Act 2009 under



Pushal



“**Recovery of duty**” warrants recovery at concerned ends if earlier allowed without notification of Govt.

- b. That in terms of above provisions of Electricity Duty Act 2009 read with relevant extracts of **clause 10 “Refund of excess duty” of Electricity (Duty) Rules 2010**, it is amply clear without doubt that if duty has been paid in excess of what is payable under the Act by the consumer, **the Chief Electrical Inspector shall authorize the refund of the excess duty so paid to the consumers concerned.** Thus, the said contention does not establish its viability in the instant case.
- c. In this context this authority also agrees with the findings of Ld. CGRF under para- (44) of instant order dt. 12.03.2025 which for the sake of reference, the very relevant part is reiterated as under:
“No-where in the Tariff Orders passed by the Ld. HPERC has the rebate on expansion or excess consumption, been considered to have the net effect of reduction in actual consumption or on reduction of ED”
- d. This authority feels alarming after referring to the contentions of the Complainant under para-2.3 & 3.19 of the representation read with above mentioned relevant provisions of Electricity Duty Act 2009 and Electricity Duty Rules 2010 and is convinced without any doubt that it is only the domain of Government to allow rebate/refund on Electricity Duty and in case, earlier such rebate stands granted contrary to the above provisions without any order/notification issued by the Government in accordance with Section 11(1) of Electricity Duty Rules 2010 **“Power to exempt from payment of electricity duty ”** warrants recovery in terms of Section 8(1) of



Final

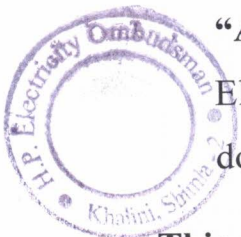


Electricity Duty Act 2009 under “**Recovery of duty** as reproduced above.

4. After delving above statutory provisions of both Electricity Duty Act 2009 & Electricity (Duty) Rules 2010, being prerogative of the Government, affirms that the **instant issue** appears to be dispute between the Complainant & Licensee and qualifies the mandate of clause 14 of Himachal Pradesh Electricity Duty Rules 2010 for raising the dispute, the specific part of the said clause is recapped as “*(1) In the case of a dispute between **the Board or the licensee and the consumer** regarding the liability of the consumer for the payment of the duty or exemption there from, the Chief Electrical Inspector shall decide the matter.*”
5. This authority feels it pertinent to mention here that in all of its respective Tariff orders, the Hon’ble Commission has categorically mentioned in “**General Conditions of Tariff and Schedule of Tariff**” under para-B which is replicated for the sake of reference as under:

“B. The rates mentioned in this Schedule of Tariff are exclusive of electricity duty, taxes and other charges already levied or as may be levied by the Government of Himachal Pradesh from time to time.
6. In view of forgoing findings, this authority draws considered opinion that settlement on this account does not fall in the jurisdiction of this authority and the Complainant can avail alternate remedy of competent court of law in terms of **clause-14. “Settlement of disputes and appeal thereof.”** of Himachal Pradesh Electricity Duty Rules 2010 which provides for both “**Adjudicatory Authority**” and “**Appellate Authority**” for settlement of Electricity Duty related disputes. Hence, the contention on this account does not hold good.

This closes the findings on issue -7



Punhal



L-Order:

1. The order passed by the Consumer Grievance Redressal Forum (CGRF) at Kasumpti Shimla on dated 12.03.2025 in Complaint No. 1454/202405/08 is upheld partially and the paras in contrary to the findings under Issues-2,3,4,5,6 are quashed.
2. The Respondent Board is directed to overhaul the accounts of the Complainant within 15 days excluding holidays from the date of issuance of this order, with due adherence to the following directives:
 - a. that the Expansion rebate if any remaining in respect of the stages including Peak and Night hrs. be settled in terms of governing Tariff order FY 2020-21 notified on 06.06.2020 in due cognizance to findings under Issue-3 read with findings under Issue-4&5, after accounting for the amount earlier refunded.
 - b. that the Additional Consumption rebate if any remaining be settled in terms of governing Tariff order FY2018-19 notified on 04.05.2018 & FY 2019-20 notified on 29.06.2019 including consumption during Peak & Night hrs. in consonance with the findings under Issue-2 read with findings under Issue-4&5 after accounting for the amount earlier refunded.
3. The Respondent Board is further directed to:
 - a. Pay interest as admissible in terms of findings under Issue-6 for the above amount of rebate, reckoning from the date the Complainant applied after the notification of the prevalent Tariff orders as above, governing the respective cases of rebate till it remained as an excess amount with the Respondents thereafter before the release of rebate.



Ruphal



- b. that the amount of interest be computed in terms of clause 5.7.3 of Supply Code (2nd Amendment) dt. 31st July, 2018 for the period till applicable under this code and thereafter in consonance with the Regulation 26a(ii) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Ombudsman) (Second Amendment) notified on 20th January, 2022 for the period of interest falling within the scope of amended Regulation 26a(ii) giving due cognizance to the prospective effect of such amendments. Both Supply Code and Regulation 26a(ii) for above provisions be read in conjunction, not in isolation.
4. Under the powers drawn in terms of Regulation 37(3)(d)(e) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, both Complainant and Respondent Board are directed to keep awareness of the subsequent Amendments/clarifications to be issued by the Government and Hon'ble Commission respectively and not let such type of amount piled up in future to avert litigations and violations thereof.
5. The Respondent Board is directed to adhere to above time limit for settlement as per provisions to 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 under the provisions of the Electricity Act, 2003 and brunt on individuals.
6. The Respondent Board in due cognizance to adherence to above time limit is also at liberty to adjust in the ensuing bills in terms of prevalent provisions and amendments thereof.



Suphal

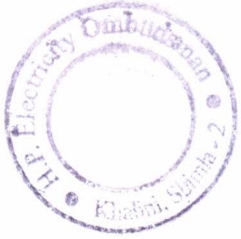


7. No cost to litigation.
8. In terms of above findings, the Complaint filed by M/s Aqua Vitoe Laboratories, Plot No. 4, Village Kunjhal, Near Jhar Majri, Tehsil Baddi – 173205 is hereby disposed of.
9. The case file is consigned to record room and order is also placed at site as well as conveyed telephonically for the convenience of reference.

Given under my hand and seal of this office.

Dated: 03/07/2025

Shimla



[Signature]
03/07/2025
Electricity Ombudsman