

ORDER

Brief Facts Of The Case –

1. Complaint has been filed under regulation 16 and 17 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;
2. The Complainant M/s Xcel Telecom Pvt. Ltd. V&PO Charna, Tehsil Nohradhar, District Sirmour (HP) is a consumer of the Respondent HPSEBL from July 2009;
3. The Complainant is aggrieved by the act of the Respondent in raising impugned Demand by way of 'Sundry' charges amounting to Rs 1,33,762/- in the Bill issued by Respondent on 16.03.2021, this demand having been pointed out by the Internal Audit Party for the audit period November-2016 to December-2016 and April-2017 to December-2017.

COMPLAINANT --

Briefly, the Complainant has submitted as follows:-

4. That the Complainant Company had applied for electricity supply connection under the 'Commercial Supply' category in the year 2009 (Annexure C-1 to Annexure C-4);
5. That on an Internal Audit Party observation (Annexure C-5) and without verifying the correct facts in the matter, the Respondent in the energy bill issued on 16.03.2021, has wrongly charged the ibid Demand by wrong application of tariff under the 'Temporary Supply' category during the period November-2016 to December-2016 and April-2017 to December-2017.
6. Annexed with the Internal Audit Observation ibid is the enclosed list depicting therein the months of short assessment due to wrong tariff application i.e October 2016 to August 2019;
7. The Complainant has also annexed energy bills issued on 16.03.2021, 12.08.2021 and 25.10.2021 (Annexure - Nil). In the Bills subsequent to 16.03.2021, the

sundry amount in Bill dated 16.03.2021 has been reflected as 'Arrears' and has been enhanced by application of late payment surcharge;

8. The Complainant has prayed relief for declaring the ibid Demand as wrong, illegal, arbitrary, unjustified and has sought Orders directing Respondents not to recover the impugned Demand including any amount reflected as consequential Arrears.

RESPONDENT

Briefly, the Respondent has Replied -

9. That it is admitted that the Complainant had been given electricity Supply connection after the completion of all codal formalities in the year 2009;
10. That in-fact however, this electricity connection was of Temporary nature released to consumer on 20.07.2009 under the 'Temporary Supply' category and that the less recovery of Demand Charges resulted at that time due to inadvertent wrong application of Tariff under Commercial Supply category instead of Temporary Supply category, this being a bona-fide mistake and which was pointed out by the Internal Audit Party for the Audit period November-2016 to December-2016 and April-2017 to December-2017 i.e when the Audit was carried out and it is not this period for which the Demand has been raised and therefore the Demand as raised by the Respondent HPSEBL is a legal one and the complainant is liable to pay the same.
11. The Respondent has placed on record 'Service Connection Order' (or the SCO) dated 16.07.2009.

FORUM

12. Both the parties heard at length. We have examined the relevant provisions of Supply Code, facts on record alongwith pleadings of the parties. Respondent No 3

i.e Assistant Engineer Electrical Sub-Division, HPSEBL, Charna was present at the time of final hearing/arguments. The considered opinion of the Forum has been gathered after considering the fair facts, evidences, correspondence placed on record and arguments adduced by both the parties before the Forum;

13. The fact is not denied that the Temporary Metered Supply connection was issued in favour of Complainant on 20.07.2009 as per service connection order 16.07.2009 issued by the Respondent placed on record by the replying Respondents;
14. The fact is also not denied that in the Application and Agreement Form, the connection has been sought for 'Commercial' purposes;
15. It is also an admitted fact that Complainant has been provided electricity connection after completion of all codal formalities in the year 2009;
16. During the final hearings /arguments stage, it was also brought to the notice of this Forum and submitted before this Forum by representative of respondent board i.e. Assistant Engineer, Electrical Sub-Division, HPSEBL, Charna, that on the availability of three phase meter, the connection of the Complainant was changed from single phase to three phase meter during March 2010. Since then the billing on Commercial Supply Tariff is being done to the Complainant and necessary remarks in this regard has been mentioned in the Consumer ledger also.
17. The Respondent HPSEBL has failed to place on record any communication that may have ever been made to the Consumer complainant stating therein that the short assessment due to wrong application of Tariff, in actual, pertained to a specified period from the year 2009 to year 2010, also depicting therein the month-wise breakup of short assessment;
18. Keeping in view the aforesaid fair facts as gathered, this Forum is of the firm opinion that the months of short assessment due to wrong application of Tariff as projected in the list enclosed with the observations of the Audit Party pertain to the period from October 2016 to August 2019 and it is clearly seen that it is this Demand that is reflected as 'Sundry' in the energy Bill dated 16.03.2021. During

this period the Complainant was not availing 'Temporary Supply' and the Respondent has failed to place on record anything that may dispute this fact. The averments made by the Respondent HPSEBL in its Reply are construed by this Forum as being without any basis. The averments made by the Respondent HPSEBL in its Reply are in contradiction to the ibid list enclosed with the Audit Observation and therefore Forum declines to accept the averments of the Respondent HPSEBL vis-à-vis this list;

19. In view of forgoing terms, the demand of Rs.1,33,762/- raised as 'Sundry' in the energy bills dated 16.03.2021 and further carried over as 'Arrears' alongwith surcharge in subsequent energy bills, is held to be wrong and is quashed & set aside. The Complainant is not liable to pay this Demand. The Respondent(s) are directed to accordingly correct the ibid energy bills to this effect.

The Complaint is decided on merits and is 'Allowed' on aforesaid terms.

No orders as to costs.

Order reserved is released before the parties present at Shimla on 27.06.2022.

Certified copies of this order be supplied to both the parties.

The original case file be consigned to record room along with Order for safe custody.

Place: - Shimla

Dated: -27.06.2022

Sd/-

(Vikas Gupta)
(Member)

Sd/-

(Tushar Gupta)
(Chairman)

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1532/4/21/029

Complaint No.:- 1532/4/21/029
Date of Admission:- 27.11.2021
Quorum:- Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member

In ref:-

M/s Xcel Telecom Pvt. Ltd.
C/o Smt. Indira Devi, W/o Sh. Bali Ram,
R/o V.P.O. Charna, District Sirmour (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division, HPSEBL, Rajgarh,
District Sirmour (HP).
3. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Charna, Distt. Sirmour (HP).

Respondents

Final hearing:-

27.06.2022

Present for:-

Complainant

1. O.C. Sharma, Advocate

Respondent

1. Sh. Kamlesh Saklani, Law Officer

Date of Decision:-

27.06.2022

Notice

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.
No.CGRF/Complaint No. 1532/4/21/029 **Dated:-**

M/s Xcel Telecom Pvt. Ltd.
C/o Smt. Indira Devi, W/o Sh. Bali Ram,
R/o V.P.O. Charna, District Sirmour (HP).

Complainant

V/s.

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Respondents

Complaint No.1532/4/21/029

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division, HPSEBL, Rajgarh,
District Sirmour (HP).
3. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Charna, Distt. Sirmour (HP).

Respondents

The Certified copy of final order dated 27.06.2022, passed by the Hon'ble Forum in the aforesaid complaint is enclosed herewith for further necessary action at your end please.

DA:-As above.

Secretary,
Consumers Grievances Redressal Forum,
HPSEBL, Kasumpti Shimla-9.