CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09.
No. CGRF/Complaint No.1444/3/20/019

Complaint No.: - 1444/3/20/019
Date of Admission: - 21.07.2020
Quorum: - Dr. M.G Sharma, Chairman
Sh. K.S Dhaulta, Member.
Er. Vikas Gupta Member.

M/s Ambuja Cements Ltd.
(Unit Suli&Rauri) Darlaghat,
P.O. Darlaghat, Tehsil Arki,
District Solan (HP).
Pin-171102 **Complainant**

V/s.

HPSEBL & Others. **Respondents**

1. The Executive Director (Pers.),
HPSEBL,Vidyut Bhawan,
Shimla-171004.

2. The Superintending Engineer,
Operation Circle, HPSEB Ltd.,
Saproon, Tehsil & Distt., Solan (H.P)

3. The Assistant Engineer,
Electrical Sub-Division HPSEBL,
Barotiwala Distt. Solan (HP). **Respondents**

Final hearing:- **24.07.2021**

<u>Present for:-</u>

Complainant 1. Sh. Sunil Mohan Goel, Advocate.

Respondent 1. Sh. Anil Kumar God, Advocate

Date of Decision: - **31.07.2021**

ORDER

1. The Complainant is a consumer of HPSEBL. Initially the Complainant has taken electricity connection from HPSEBL of connected Load 47180 KW with Contract Demand 40000 KVA at 132 KV Sub-Station Darlaghat (Chamakripul). The connection was sanctioned by the C.E (OP) South HPSEBL, Shimla vide his office order No. HPSEBL/CEO/M&C-42 (Darla)/ Unit Suli/2009-7384-88 dated 22.08.2009. Complainant is aggrieved of by the demand notice of HPSEBL issued vide this office letter No. DES/G-6/2019-20/868-69 dated 07.02.20 Annexure C-8 to the Complaint wherein a demand amounting to Rs. 1.03 Crore has been raised on account of amendment in tariff. This demand was pertaining to GACL industrial connections as given under:-

    2. ACL-I Rs. 91,80,000/-
    3. ACL-II Rs.11,47,500/-

2. The HPSEBL has subsequently raised demand notices as on dated 10.02.20 and 25.02.20 respectively which has been contested by the Complainant. This is precisely the main controversy raised in this complaint before the CGRF for redressal/ disposal on the plea that in view of amendments made by HPERC in H.P Electricity Supply Code (Second Ammendment) Regulations,2018 on 30.07.2018 in Para 3.10 were to come into force prospectively as per clause (2) of the said amendment.

   The brief facts of the case are as under:-

3. The Complainant had applied for the sanction of date for revised contract demand from 40000KVA to 39000 KVA at 132KV supply voltage. Accordingly,sanction for revised contract demand from 40000KVA to 39000KVA at 132KV supply voltage was accorded in favour of M/s Ambuja Cements Ltd. (Unit-Sulli), Darlaghat, Tesil Arki, District Solan (H.P.) without change in

the sanctioned connected load of 47180KW (A/C No.ACL-1) as per the Complainant request vide office order dated 05.08.2013.

4. The Complainant thereafter applied for reduction of the contract demand from 39000 KVA to 37000 KVA at 132 KV supply voltage which was accorded in favour of the Complainant unit at sulli without change in the sanctioned connected load and the effected date of revision of contract demand was w.e.f 09.11.2015. Thereafter the Complainant again applied for reduction of contract demand from 37000 KVA to 35000 KVA which was allowed by the Respondents w.e.f 01.07.2016. The Complainant again requested the respondents for reduction of contract demand from 35000 KVA to 32000 KVA at 132 KV connection.
5. Thereafter vide office order dated 01.12.2016 sanction was accorded in favour of the Complainant whereby the contract demand was reduced from 35000 KVA to 32000 KVA w.e.f. 01.12.2016. At this stage, it would be pertinent to mention over here for completion of facts that whenever the contract demand was reduced the charges as demanded by the respondent HPSEBL, were deposited by the Complainant.
6. Similarly a request was made by the Complainant for reduction of contract demand from 25000 KVA to 24000 KVA at 220 KV for its Rouri Unit connection at Ambuja Cement Ltd. vide their request, dated 27.05.2016. The request of complainant was accepted and was sanctioned was accorded in the favour of Complainant vide order dated 01.07.2016 by the Respondent.
7. The sum and the substance of the aforesaid notice was that the Hon'ble Commission has notified Himachal Pradesh Electricity Supply code (Second–Amendment) Regulations, 2018 on 31.07.2018, which were published in the Rajpatra of Himachal Pradesh on 07.08.2018 and are applicable w.e.f. 1.04.2019. As per the revised para 3.10, it was stated that the consumer shall not be eligible for temporary revision of the contract demand to a value other than the full

sanctioned contract demand for a total period of more than six months in one financial year. In view of the fact that less recovery of demand charges in the energy bills have been affected w.e.f. 01.10.2019, as such the Complainant are to pay short recovery of demand charges. The copy of the amended regulation was also as circulated to all the Chief Engineers of HPSEBL by Chief Engineer (Commercial).

8. The complainant filed detailed reply dated 26.02.2020 to the notice dated 25.02.2020 issued by the respondents. The Complainant in its reply mentioned that however, the demand notices have been served by the respondent without considering the reply and without taking into consideration of the fact that the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulation, 2018 would not be applicable in the facts and circumstances of the Complainant case and the demand charges were wrongly deducted by the respondents.

9. The complainant submits that since contract demand stood reduced before the applicability of the Regulations, 2018 and demand being raised by the Respondents was not applicable in the case of the complainant. However, the Respondents still deducted further amount and in total a sum of Rs. 1,83,60,000/- was deducted from the running bills of the complainant. The demand charges amounting to Rs. 1,83,60,000/- raised by the Respondent HPSEBL, as tariff for the financial year 2019-2020 on account of the fact that contract demand had been temporarily reduced by the company is wrong, illegal and bad. Therefore, the demand raised by HPSEBL of Rs, 1,83,60,000/- is liable to be set-aside.

10. The complainant sought main relief to quash the demand charges (Annexure C-7) and corrigendum dated 10.02.2020 (Annexure C-8) and further letter dated 25.02.2020 (Annexure C-9) issued by the Respondents. The directions are sought to refund a sum of Rs. 1,83,60,000/- illegally deducted from running bills of the complainant and not to deduct any amount from the

running bills of the complainant company on account of contract demand being reduced on the basis of Amended Regulation (2018) ibid, which are not applicable in the case of the complainant. Complainant has sought directions to pay interest @ 12% p.a. from the date an amount of Rs. 1,83,60,000/- was deducted from running bills of the complainant, illegally.

11. The Respondent Board contesting the claim of the complainant filed its reply and additional submissions along with documents in support of its contention. The Respondents raised an objection with regard to filing of the complaint under wrong provisions i.e. Regulations 8 of HPERC (Guidelines for establishment of Forum for Redressal of Grievances of Consumers) Regulations, 2003, which have been repealed by HPERC (Consumer Grievances Redressal Forum and ombudsman) Regulations, 2013. The complaints, if any, were required to be filed under Regulations 16,17, and 18 of the aforesaid Regulations, hence on this score alone the complaint deserves to be dismissed. The complainant has during the course of final arguments made rebuttal of the objections raised by the Respondents regarding maintainability on account of wrong mentioning of the Provisions of Regulation ibid. We do not find any plausible reasons to reject the complaint on mere defect of mentioning wrong Regulations, which is curable & can be rectified on knowledge / notice as per prevalent Regulations. Accordingly we allow the complaint under relevant provisions of CGRF Regulation in force to be heard on merits and facts in the interest of justice and fair play.

12. Respondent submitted that the Complainant is liable to pay the demand charges because the Hon'ble Commission has notified the second amendment in the HP Electricity Supply Code on 31.07.2018 published in Rajpatra wherein as per Para 3.10 amendment, the consumer shall not be eligible for temporary revision of the contract demand to a value other than full sanctioned contract demand for a total period of more than six months in one financial year. In present case

the less recovery of demand charges in the energy bills from 01.10.2019 has been made as per above regulation, as maximum time limit of availing temporary contract demand was over by 30.09.2019 for FY 2019-20.

13. Respondent again submitted that Complainant bearing account No. ACL, initially applied for connection on connected load 47180 KW with contract demand 40000KVA at 132 KV Sub–Station Darlaghat (Chamakripul) on the request of the Complainant sanctioned vide Chief Engineer (OP) South , HPSEBL , Shimla office order No. HPSEB/CEO/M&C-42(Darla/Unit Suli)/2009-7384-88 dated 22-08-2009. The revision of contract demand from 40000 KVA to 39000 KVA without change in existing connected load had been sanctioned vide Chief Engineer (OP) South, HPSEBL Shimla office order No. HPSEB/CEO/M&C-42(Darla/Unit Suli)/2013-14-10925-29 dated 05-08-2013. It is submitted that on the request of complainant extension of load from 47180 KW to 53106 KW with 39000 KVA contract demand has been sanctioned vide Chief Engineer (OP) South HPSEB Shimla office order No. HPSEB/CEO/M&C-42(Darla/Unit Suli)/2015-16-2361-65 dated 21.05.2015. It is submitted that in the year 2015 Complainant applied for reduction /revision of his contract demand temporarily from 39000 KVA to 37000 KVA and in the year 2016 the Complainant further reduced / revised his contract demand temporarily to 35000 KVA. It is further mentioned that on 01.12.2016 the Complainant again reduced his contract demand temporarily to 32000 KVA.

14. Respondent further submitted that as per schedule of tariff and schedule of general & services charges applicable w.e.f. 01.04.2016, the consumer to whom two part tariff is applicable shall be entitled to revise their contract demand within the total sanctioned contract demand without surrendering their lien of the total sanctioned contract demand subject to following conditions:-

(a) The consumer shall not reduce their contract demand to lesser than 50% of the total sanctioned contract demand to lesser than 50% of the total sanctioned demand subject to a further condition that the contract demand shall not be reduced below the lowest limit of contract demand as per the tariff category applicable to him . Provide that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned demand for a period or more than six months in one financial year. Provided further that in cases involving part period of a year i.e. if a consumer takes the connection or the consumer gets his permanent sanctioned contract demand revised, during the middle of a year the adjustments shall be made on pro-rata basis.

(b) The consumer shall not be entitled to revise the contract demand more than twice a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months.

(c) The consumer shall give a notice of at least one month to the HPSEBL, before revising the contract demand under this mechanism. Even though the consumer shall not be required to obtain any sanction from the HPSEBL for the change of contract demand under this mechanism, he so, as to avoid the disputes shall ensure that the notice for such revision are duly served.

(d) In case where the contract demand is reduced under this mechanism such reduced contract demand shall be applicable for billing purpose.

(e) In case where the consumer gets his contract demand reduced permanently, the limits under clause (a) shall be considered with respect to such reduced contract demand but such reduction shall not be considered to have been made under this mechanism and the time gap of the 3 months as per clause (b) shall be reckoned form the date from which the demand was last revised under this mechanism.

15. Respondent argued that in respect of the 2nd case, the Complainant applied for connected load of 30000 KW load with 24000 KVA contract demand at 220 KV supply voltage which was sanctioned vide Chief Engineer (OP) south Shimla office order No. HPSEB/CEO/M&C-42(Darla/Unit Suli)/2010-6788-89 dated 14.07.2010. During 2011 the extension of contract demand from 24000 KVA to 25000 KVA without change in existing load was sanctioned vide Chief Engineer (OP) south HPSEBL Shimla office order no. 16965-71 dated 06.09.2011.Further consumer reduced the contract demand temporarily from 25000 KVA to 24000 KVA w.e.f. 01.07.2016.

16. Respondent vigorously submitted that less recovery of demand charges in the energy bills were made from 01.10.2019 due to non- restoration of temporary CD to original sanction demand after six months period was over on 30.09.2019 for FY 2019-20 as per HP Supply Code provision. This demand was raised as per the amended provision of the supply code, 2009 (i.e. 2nd Amendment, 2018 notified on 31.07.2018) which was applicable w.e.f. 01.04.2019 in the present case. In pursuance sanctioned contract demand in the present case is 39000 KVA but still from October 2019 to January 2020 were erroneously issued for 32000KVA temporary C.D after 01.10.2019. The total amount of less demand charges were worked out to Rs. 1,07,10,000/- 6300KVA (90% of 7000KVA) x 425 x 4 months from October 2019 to January, 2020. Similarly less recovery of demand charges of second connection M/s Ambuja Cement Ltd., A/C No. ACL-II was also found less charged by amount of Rs.15,30,000/- (900x425x4) w.e.f October 2019 to January, 2020.

Final order

17. We have heard both the parties at length . We have gone through the record made available by parties, relevant provisions of Supply Code, and documents placed by parties in support of their contents. The complaint is disposed of as per observations/findings recorded here in below:-
18. It's an admitted fact that on the recommendation of Superintending Engineer (OP) Solan, Chief Engineer (OP) South HPSEBL, Shimla-4 vide his memo No. CEO /MSC-42 (Darla) Unit – Suli)/2013-14 -10925-29 dated 05.08.2013, has reduced the contract Demand permanently from 40000 KVA to 39000 KVA without change in sanctioned connected load 47180 KW (ACL-1) on the Complainant request.
19. It is also undisputed that the CE (OP) South HPSEBL, Shimla-4 office order No HPSEB/ CEO/ M&C-42(Darla /Unit Suli/ 2015-16-2361-65 dated 21.05.2015 had sanctioned extension load from 47180 KW to 53106 KW with 39000 KVA contract Demand, on the request of consumer.
20. The fact is also established from record that A.E HPSEBL has accorded reduction of contract demand from 39000KVA to 370000 KVA at 132 KV supply voltage in favour of M/s GACL (Unit Suli) Darlaghat. This temporary reduction has been granted as per provisions of HP Electricity Supply Code 2009 amended from time to time.
21. The fact is also undisputed that the Complainant has further reduced contract demand from 37000 KVA to 35000 KVA in 2016 temporally under above said provisions.
22. It is also admitted fact that the Complainant had further reduced contract demand temporally to 32000 KVA on 01.12.2016 from the HPSEBL on 132 KV for the 1st Unit.
23. The fact is also admitted that HPSEBL, has accorded reduction in contract demand from 25000KVA to 24000 KVA in favour of GACL against connection ACL-II on his request on 01.07.2016.

24. HPERC vide its notification dated 11th June, 2014 the HP Electricity Supply Code was first time amended. There was insertion of Para 3.10 which read as under:-

"3.10 Temporary revision of contract Demand:-

The consumer to whom two part tariff is applicable shall be entitled to revise their contract demand within the total sanctioned contract demand without surrendering their lien of the total sanctioned contract demand subject to the following condition:-

(a) That the consumer shall not reduce the contract demand to lesser than 50 % of the sanctioned contract demand subject to a further condition that the contract demand shall not be reduced below the lowest limit of contract demand as per the tariff category (or any sub- category thereof) applicable to him.

(b) That the consumer shall not be entitled to revise the contract demand more than twice a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months.

(c) That the consumer shall give a notice of at least one month to the licensee before revising the contract demand under this mechanism. Even though the consumer shall not be required to obtain any sanction from the licensee for change in contract demand under this mechanism he, so as to avoid the disputes shall ensure that the notice (s) for such revision are duly served by him upon the licensee through register post or through courtier service or is delivered by hand against signed receipt therefore:

(d) That in cases where the contract demand is reduced under this mechanism, such reduced contract demand shall be applicable for billing purposes.

25. Further HPERC had notified The Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 on 31st July, 2018, published in Rajpatra of Himachal Pradesh on 07th August 2018 applicable w.e.f. 01.04.2019. The amended para 3.10 of the ibid code, reproduced here for clarity sake:-

…***"provided that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year"…***

26. We have examined the impugned demand notices (C-7 to C-10) ibid in view of amended Supply Code Regulations, 2018. As per this amendment, the calculation of demand charges w.e.f. Oct. 2019 i.e. w.e.f. 01.10.2019 to Jan 2020 i.e. 4 months have been worked out against each connection which is as under :-

1.	ACL-I	-	Rs. 1,07,10,000/-
2.	ACL-II	-	Rs. 15,30,000/-
	Total	-	Rs.1,22,40,000/-

These calculations are placed on record as Annex R-III of HPSEBL reply, Respondent Board further enhanced it to up to March, 2020, as under i.e. w.e.f. 01.10.2019 to March, 2020 (6 months).

1.	ACL –I	-	Rs. 1,60,65,000/-	(Annex R-V)
2.	ACL-II	-	Rs. 22,95,000/-	(Annex R-VI)
	Total	-	Rs. 1,83,60,000/-	

27. The R-III, R-V, R- VI calculations of the Respondent Board in respect of demand charges issued to complainant are found to be in accordance with tariff enforced during the FY 2019-20. This demand has rightly been charged from the Complainant and is prospective in nature as is

apparent from record/impugned notices. It is found to be in tune with the 2nd amendment made in the H.P. Electricity Supply Code, 2009 notified by the HPERC in the year 2018 mentioned as above. We find no wrong in demand so calculated by Respondent Board and charged from Complainant Company through impugned notices which are in tune with Electricity tariff in force during 2019-20 notified by HPERC vide its amendment, 2018 referred as above. Thus, we do not find any substance in the submissions of complainant that Respondent Board has charged Company wrongly by making retrospective effect to the amendments made in the year, 2018 which are otherwise prospective in nature as per clause 2 of the ibid amendments of 2018.

28. It is also relevant to reiterate here that Electricity tariff in force during 2019-20 notified by HPERC clearly allow sufficient time i.e. 6 months effective from the date of Regulation, 2018, (w.e.f. 01.04.2019) and the same has been granted to the Complainant. The record also demonstrate that demand charges vide notices C-7 to C-10 have been levied w.e.f. 01.10.2019 onwards i.e after the expiry of stipulated 6 months. Thus in the facts & circumstances placed before us, we are of this considered view that Respondent Board has rightly issued prospectively the demand notices C-7 to C-10 in compliance of the amended provisions of Supply Code,2009. Therefore, we find no infirmity in the action of Respondent HPSEBL, which may amount to violations in adhering to the provisions of Supply Code Regulation on the matter amended from time to time.

29. We have also observed from record that the temporary reduction in contract demand in both the units have been made by the Complainant during FY 2015-16, due to less demand of product in the market. It has also been observed by the Forum that the rights of complainant have been reserved under Regulation,2014 to utilize contract demand temporally reduced to 32000KVA for ACL-I, with contract demand up to 39000KVA or any value in between. Similarly the said

Regulations of 2014 and 2018 apply to temporary reduction to 24000KVA with contract demand up to 25000KVA for ACL-II or any value in between, since maximum limit of 39000KVA and 25000KVA is permanent sanctioned contract demand, against connections ACL-I & ACL-II respectively, if so desired by the Complainant.

30. In view of discussions & observations made here-in-above, we find the claim of the complainant to refund the amount of Rs. 1,83,60,000/- charged vide impugned Annexure C-7 to C-10, devoid of any merit and substance and which is also not relevant to second amendment to HP Electricity Supply Code , made in the year, 2018. Therefore the present complaint is dismissed accordingly.

In the aforesaid terms the instant complaint stand disposed of. The parties are left to bear their own costs.

Order reserved on dated 24.07.2021 is released on dated 31.07.2021 at Shimla in open court. The applications for interim directions, if any, shall also stand disposed of in aforesaid terms.

The File be consigned to record room after due completion. A copy of the order be kept in safe custody of folder of orders. The certified copy of these orders be supplied to both the parties.

Dated:-31.07.2021

Place: - Shimla

Sd/-	**Sd/-**	**Sd/-**
(K.S.Dhaulta)	**(Vikas Gupta)**	**(M.G Sharma)**
(Member)	**(Member)**	**Chairman**

Notice

Registered

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 1444/3/20/019 **Dated:-**

M/s Ambuja Cements Ltd.
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P.O. Darlaghat, Tehsil Arki,
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Pin-171102 **Complainant**

V/s.

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Saproon, Tehsil & Distt., Solan (H.P)

3. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Darlaghat, Distt. Solan (HP). **Respondents**

The Certified copy of final order dated 31.07.2021 passed by the Hon'ble Forum in the aforesaid complaint is enclosed find herewith for further necessary action at your end please. The compliance be reported/ intimated within one month after the receipt of order in the office.

DA:-As above.

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