

ORDER

BRIEF FACTS OF THE CASE –

- (1) Complaint has been filed under regulation 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. The Complainant M/s Saboo Tor Pvt Ltd is a consumer of the Respondent HPSEBL bearing consumer ID 100012002326 categorized under 'Large Industry Power Supply' (or LIPS) availing Electricity Supply sanctioned at voltage 33 kV, connected load sanctioned as 9740.76 kW with Contract Demand sanctioned as 10433.48 kVA by the HPSEBL. With regard to the sanctioned Contract Demand of the consumer Complainant, the Standard Supply Voltage has been specified as 66 kV in the Himachal Pradesh Electricity Supply Code, 2009 (or the Supply Code, 2009 or the Code) and amendments thereto framed by the HP Electricity Regulatory Commission;
- (2) The Complainant being an existing consumer of the Respondent with already existing Connected Load of 6240.7761 kW and other load of 500 kW, was sanctioned additional load of 3500 kW as applied for by the Complainant which in terms of total Contract Demand was sanctioned as 10433.48 kVA vide Respondent HPSEBL's Load Sanction letter dated 07.08.2020. The Complainant has enclosed Power Availability Certificate (PAC) dated 30.07.2020 (Annexure C1), and a Load Sanction Letter dated 07.08.2020 (Annexure C2) both issued by the Superintending Engineer HPSEBL Nahan and copies of Electricity Bills (Annexure C4) issued by the Sub Division office of the Respondent HPSEBL. The Complainant has also enclosed a Request Letter by Complainant dated 14.08.2020 (Annexure C3) addressed to the Assistant Engineer Kala Amb of the Respondent HPSEBL. Surprisingly, the Complainant has also enclosed an incomplete Sundry Job Order (or SJO) dated 18.08.2020 (Annexure C7) which is an internal Order of the Respondent HPSEBL issued from the Assistant Engineer to the Junior Engineer with the underlying purpose to carry out the Job for connecting or augmenting the necessary components of the supply system to the consumer premises such as service line, meter / metering equipment etc;
- (3) The Complainant has alleged that the Respondent HPSEBL have wrongly charged 'Lower Voltage Supply Surcharge' (or the LVSS) in excess of the rules from the Complainant and have till the month of April 2022 charged Rs 60,65,408.92. The Complainant, while quoting relevant paras 2.1.6(A) and 2.1.6(B) of the HP Electricity Supply Code, 2009 (or the Supply Code, 2009) notified by the Ld HP Electricity Regulatory Commission (or the HPERC), has

stated that connected load released is 10433.48 kW which is well within the specified limit of 12 MW specified in the Code and also that the Demand released is 9999 kVA (9.999 MVA) as per SJO No 1194 dated 18.08.2020 which is well within specified limit of 10000 KVA (10 MVA);

- (4) The Complainant, while not impugning any Order of the Respondent HPSEBL, has sought relief only in terms of refund of the ibid amount of Rs 60,65,408.92 and any additional sum that may be charged in future bills till disposal of the complaint;
- (5) On the other hand, the Respondent HPSEBL has replied that the Complainant is deliberately misconstruing and misinterpreting the provisions of Supply Code, 2009 and as per this Supply Code the Complainant can use Contract Demand upto 10 MVA (i.e Maximum Connected Load of 12 MW) on 33 kV while in the present case the Complainants Contract Demand is 10433.48 kVA and accordingly LVSS is payable at rates specified in relevant Tariff Orders against Standard Supply Voltage of 66kV whereas Supply is being availed at 33 kV;
- (6) The Respondent has inter-alia enclosed copy of Application and Agreement Form (Annexure A) and copy of Test Report and complete copy of SJO dated 18.08.2020 (Annexure C);

Forum

- (7) This 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 HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and the HP Electricity Supply Code, 2009 (or the Supply Code, 2009) including amendments thereto and record as facts alongwith 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;
- (8) At the outset, after examining the record, this Forum observes that the Complainant has mis-stated that the connected load released is 10433.48 kW. Actually, in the instant matter, as seen from the Load Sanction Letter dated 07.08.2020 (Annexure C2) and Application and Agreement Form (Annexure A), this Forum observes that it is the Contract Demand which is 10433.48 kVA (10.43348 MVA) and not the connected load as stated by the

Complainant. Here distinction exists between the Connected Load (in KW or MW) and Contract Demand (in kVA or MVA) and this distinction is relevant so as to ascertain the applicable 'Standard Supply Voltage' per the HP Electricity Supply Code, 2009 notified by the Ld HP Electricity Regulatory Commission;

- (9) This Forum on examining the record, at the outset, rejects the contention of the Complainant that Demand released is 9999 kVA based on SJO No 1194 dated 18.08.2020 (Annexure C7). Once load has been sanctioned by a higher authority and after the consumer has applied for the same in the Application and Agreement Form, the only conclusion that can be drawn is that the Contract Demand actually sanctioned is 10433.48 kVA (or 10.43348 MVA). Once Contract Demand is sanctioned by an office of higher authority being the Superintending Engineer, no question of release of Contract Demand by way of SJO by the office of Assistant Engineer being a subordinate office arises. It is reiterated that Sundry Job Order (or SJO) is an internal Order by the Assistant Engineer to the Junior Engineer with limited purpose of carrying out the Job for connecting or augmenting the necessary components of the supply system to the consumer premises such as service line, meter/metering equipment etc and this Order issued by a subordinate office with whatsoever wording, is not intended to be construed to have an overriding effect on the Load sanctioned by a higher office. To use such an incomplete internal Order to make out a case with an adverse construct is wrong and misleading which may result in wrong outcomes. However, the complete SJO placed on record by the Respondent HPSEBL (Annexure C) clearly depicts the action by the Junior Engineer with regard to installation of New CT-PT Unit despite this SJO being wrongly worded by the Assistant Engineer. Accordingly, this Forum declines to take cognizance of the Sundry Job Order (or SJO) for the purpose of determination of this Complaint;
- (10) This Forum, before proceeding with the determination of the instant complaint, considers it necessary and expedient to show certain provisions of the Supply Code, 2009 framed by the HPERC on the anvil of which the complaint is to be determined. The Himachal Pradesh Electricity Supply Code, 2009 was issued on 26th May, 2009. Later various Amendments were carried out. Amendments pertinent in the instant matter with regard to Low Voltage Supply Surcharge (LVSS) were made vide Himachal Pradesh Electricity Supply Code, 2009

(First Amendment) Regulations, 2014 dated 11th June, 2014. For the sake of convenience relevant extracts are reproduced here-in-under:-

(A) Himachal Pradesh Electricity Supply Code, 2009 dated 26th May, 2009 (Un amended) provides as follows:-

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- 2.1.6.1 *Depending upon the connected load (kW) of a consumer, the supply to the consumer shall be given at the following standard voltage (volts / kV) and phase as may exist on the relevant distribution system:-*

Sr.No.	Connected Load	Standard Supply Voltage (AC)
1	$\leq 50 \text{ kW}$	Single phase 230 Volts or three phase 400 Volts or 2.2 kV
2	51 kW up to 2000 kW	Three phase 6.6 kV, 11kV, 15kV or 22kV
3	2001 kW up to 10000 kW	Three phase 33kV or 66kV
4	$> 10000 \text{ kW}$	$\geq 132 \text{ kV}$ (three phase)

- 2.1.6.2 *In case, an existing consumer who is already availing on the date of the commencement of this Code a supply voltage different from the standard supply voltages as mentioned in para 2.1.6.1, the consumer shall have the option to convert to the relevant standard supply voltage; provided the conversion is from a lower voltage to a higher one. Provided further that if the consumer continues to avail supply at the existing lower voltages, he shall be and shall continue to be liable to pay lower voltage supply surcharge (LVSS) in accordance with the relevant Tariff Order.*

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3.1 Duty of licensee to supply electricity on request and procedure thereof.:-

- 3.1.1 *The officer, designated by the licensee, shall, on receipt of an Application and Agreement form from the applicant, give supply of electricity to the premises in accordance with and within the time specified in the Himachal Pradesh Electricity Regulatory Commission (Licensees Duty for Supply of Electricity on Request) Regulations, 2004. The Application and Agreement Form will be available at the designated offices of the licensee on payment of fee as fixed by the Commission in the Schedule of General and Service Charges in the Tariff Order. A specimen of the Application and Agreement form will also be available on the website of the licensee and can be downloaded, if required, and in such a case, the fee will be paid by the applicant at the time of its filing.*

- 3.1.2 *The licensee will also specify and standardize other supporting documents (including special agreement for street lighting and like purposes) and their format(s), to be submitted by the applicant. Details of these documents will*

also be available in the designated offices of the licensee as well as on its website. The Application and Agreement form along with the enlisted documents will be submitted in the designated office of the licensee.

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3.9 Delay to take supply or avail contract demand.-

In case of HT/EHT supply, where the licensee has completed the work required for supply of electricity to an applicant, but the applicant is not ready or delays to receive supply of electricity or does not avail the full contract demand, the licensee shall, after a notice of sixty days, charge on prorata basis, fixed/demand charges on the sanctioned contract demand as per the relevant Tariff Order.

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**(B) Himachal Pradesh Electricity Supply Code, 2009 (First Amendment) Regulations, 2014 dated 11th June, 2014 provides as follows:-
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Amendment in para 2.1.6.- In para 2.6.1 of the said Code,-

(a) in the heading, for the words “Standard Supply Voltage”, the words “Standard Supply Voltage/Supply Voltage” shall be substituted; and

(b) for the existing sub-para 2.1.6.1, the following sub-para 2.16.1(A), 2.1.6.1(B) and 2.1.6.1(C) shall be substituted; namely:-

“2.1.6.1(A) The standard supply voltage shall mean the standard voltage at which electricity shall be given to the consumer through a common or dedicated or joint dedicated feeder without payment of any lower voltage supply surcharge(LVSS). Depending upon the connected load(kW or MW), contract demand (kVA or MVA), nature of load and existence of a voltage (volts/kV) and phase in the relevant distribution system, the standard supply voltage for a consumer shall be as provided in clauses (a) and (b) of this sub-para and sub-para 2.1.6.1(C)-

(a) The maximum limits of connected load (kW or MW) and contract demand (kVA or MVA) for the supply of power at a voltage, shall be as under-

Sr. No.	Standard Supply Voltage	Maximum Connected Load	Maximum Contract Demand
1.	Single phase 230 volts or three phase 415 volts or 2.2 kV; (for supplies not involving special category loads)	50 kW	50 kVA

2.	Three phase 11 kV or 22 kV; (for supplies not involving special category loads)	3 MW	2.2 MVA
3.	Three phase 33 kV	12 MW	10 MVA
4.	Three phase 66 kV	14 MW	12 MVA
5.	Three phase 132 kV or 220 kV	No limits	

Provided that where special category loads are involved, the standard supply voltage shall be 11 kV or 22 kV, as may exist on the relevant distribution system, if –

- (i) the total connected load does not exceed 1 MW, irrespective of special category loads; or*
- (ii) the total quantum of connected load in respect of special category loads does not exceed 750 kW within the overall limit of total connected load upto 3 MW and total contract demand upto 2.2 MVA:*

Provided further that, if neither of the limits given in the first proviso, in relation to supplies involving special category loads, are adhered to, the standard supply voltage shall be 33 kV or the appropriate higher voltage in accordance with the limits specified in this clause:

Provided further that where a consumer having connected load of not more than 50 kW is already getting supply at LT voltage immediately before commencement of the Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014, he shall continue to be covered under a LT standard voltage (i.e. single phase 230 volts or three phase 415 volts) irrespective of contract demand already sanctioned in his favour, so long as he does not further extend his connected load or contract demand beyond the specified limits of 50 kW or 50 kVA respectively:

Provided further that where a consumer is getting supply at a voltage higher than the standard supply voltage as per the said specified limits, he shall continue to get supply at such higher voltage without any rebate for higher voltage supply.

- (b) Where the connected load or contract demand exceeds the relevant ceiling limit specified in clause (a), the appropriate higher voltage at which both such limits can be adhered to, shall be considered as standard supply voltage and there shall be no minimum limits for supply of power at a particular voltage.*

2.1.6.1(B) Where the consumer seeks supply of power at a voltage lower than the standard supply voltage as per sub-para 2.1.6.1(A), the licensee shall supply power at such lower voltage subject to the maximum limits of connected load and contract demand as specified in this sub-para; payment of lower voltage supply surcharge (LVSS) by the consumer at the rates given in the relevant tariff order

applicable 4 from time to time; and other conditions, as may be relevant, specified in this sub-para or in sub-para 2.1.6.1(C) or elsewhere in this Code :-

Sr. No.	Supply Voltage	Description	Maximum Connected Load	Maximum Contract Demand
1.	11 kV (for supplies not involving special category loads)	(a) If 22 kV or 33 kV voltage level exists in the relevant distribution system.	5 MW	4 MVA
		(b) If 22 kV or 33 kV voltage level does not exist in the relevant distribution system.	6 MW	5 MVA
2.	22 kV (for supplies not involving special category loads)	(a) If 33 kV voltage level exists in the relevant distribution system.	6 MW	5 MVA
		(b) If 33 kV voltage level does not exist in the relevant distribution system.	7 MW	5.5 MVA
3.	33 kV	(a) If 66 kV voltage level exists in the relevant distribution system.	15 MW	12 MVA
		(b) If 66 kV voltage level does not exist in the relevant distribution system.	18 MW	14 MVA
4.	66 kV	(a) Through a common or dedicated or joint dedicated feeder	18 MW	14 MVA
		(b) Through a dedicated or joint dedicated feeder	30 MW	24 MVA

Provided that all such supplies, excepting the same at Sr. No.4(a), shall be given through dedicated or joint dedicated feeders only and that in case of Sr. No. 4(a) the supply shall be given through a common or dedicated or joint dedicated feeder:

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(11) This Forum, before dwelling on moot issue of whether Complainant is or is not liable to be levied Low Voltage Supply Surcharge (LVSS), also considers it necessary and expedient to dwell upon and briefly explain the modus-operandi behind the levy of LVSS. Comprehensive explanation of modus-operandi on application of tariffs including various charges and surcharges is vast and is beyond the scope of this Order. Briefly explained the modus-operandi for levy of LVSS is - -

- (a) Inter-alia, when a consumer applies for a certain load (in kW or KVA) by way of contracting a demand (in KVA or MVA) with the public utility being the HPSEBL, the public utility provides the load at a certain voltage which is to be based on 'Standard Supply Voltage' (kV) as specified by the Ld HP Electricity Regulatory Commission in the HP Electricity Supply Code, 2009. Generally speaking, higher the load classification, higher is the 'Standard Supply Voltage' classification. However, the consumer may avail a voltage higher or lower than the 'Standard Supply Voltage';
- (b) Further, where the Ld HPERC, in its Tariff Orders, specifies the Tariffs / Charges / Surcharges of a particular consumer category or class of consumers to be based upon the Contract Demand (in kVA or MVA), then for the purpose of applications, it is only the Contract Demand which holds relevance wherever and whenever both terms i.e 'Connected load' as well as the 'Contract Demand' appear or are used simultaneously as exists in the Supply Code, 2009. Accordingly, the role of Connected Load (in kW or MW) gets limited to being merely nominal for the reason that the Tariff Orders in respect of the consumer category as that also of the instant Complainant, specify the Tariffs / Charges / Surcharges based upon the Contract Demand (in kVA or MVA);
- (c) The consumer, in accordance with the Regulations and Codes specified by the Commission, may gradually build his Contract Demand during the initial period of connectivity or at later stages opt to vary his sanctioned Contract Demand either on temporary or permanent basis. Where gradual build-up of load is envisaged or permanent reduction in contract demand is envisaged then such is to be supported by a load sheet namely the 'Test Report' to be accompanied with an Application and Agreement Form so as to prevent any future assumptions or presumptions or

information asymmetry between the consumer and the public utility. These charges and surcharges inter-alia include LVSS. However, this is not the case of the instant consumer Complainant;

- (d) Once Demand has been contracted and connection released at the applied or availed supply voltage, then billing is done by the public utility based on the Tariffs determined by the Ld HPERC which may be single part or two part. These Tariffs also specify other charges and surcharges which have to be levied either based on connected load (in kW or MW) (generally for single part tariffs) or Contracted Demand in kVA (for two part tariffs), the availed supply voltage, metering voltage etc etc;
 - (e) Therefore, for the purpose of levy of Lower Voltage Supply Surcharge (LVSS) by the Respondent HPSEBL in the instant Complaint, the consumer Complainant's sanctioned Contract Demand of 10433.48 kVA (10.43348 MVA) has itself determined his 'Standard Supply Voltage' (in kV) as 66 kV. Further, to the extent his actually availed supply voltage which is 33 kV deviates downwards from the 'Standard Supply Voltage' further determines whether he is liable to pay the additional charge namely LVSS or not.
- (12) This Forum hereinafter proceeds to determine the complaint on the moot issue of whether Complainant is or is not liable to be levied Lower Voltage Supply Surcharge (LVSS) by the Respondent HPSEBL in accordance with the HP Electricity Supply Code, 2009 Notified by the HP Electricity Regulatory Commission;
- (13) The instant matter is not of gradual build-up of load nor is it that of reduction of Contract Demand ('Temporary' or 'Permanent'). The instant matter is one that of extension of load whereby extension implies summing of all loads existing and extended. In the instant matter for all purposes, the Contract Demand (in KVA) and not the Connected Load (in KW) becomes the basis for determination and application of 'Standard Supply Voltage' AND for application of Ld HPERC determined tariffs for the purpose of billing. In para 2.1.6 of the Himachal Pradesh Electricity Supply Code, 2009 (First Amendment) Regulations, 2014 dated 11th June, 2014, the Table under para 2.1.6.1(B) merely specifies the limits of Connected Load / Contract Demand against various voltage levels at which the Supply can be released by the Respondent HPSEBL, if supply voltage sought is lower than the Standard

Supply Voltage. In para 2.1.6 of the ibid (First Amendment) Regulations, 2014, at Sr No. 4 of the Table under sub-para (a) of para 2.1.6.1(A) provides for Standard Supply Voltage of 66 kV for Maximum Contract Demand of 12MVA. ie for Contract Demand between 10 MVA to 12 MVA, the Standard Supply Voltage shall be 66 kV. In the instant matter the Complainant is availing Contract Demand of 10433.48 kVA (or 10.43348 MVA) which is in excess of 10 MVA and therefore per the Supply Code, 2009 the Standard Supply Voltage for the Complainant becomes 66 kV. However, because the Complainant is availing supply voltage at 33 kV which is lower than the Standard Supply Voltage specified in the Supply Code being 66kV but which is permissible to be allowed for release per Table under para 2.1.6.1(B) of the Supply Code, therefore the Complainant is liable to be charged LVSS by the Respondent HPSEBL per leading para 2.1.6.1(B) of this Supply Code. Further, the rates at which such LVSS is to be charged is specified in the Tariff Orders passed by the Ld HPERC and the Complainant is liable to pay the same. The Table of the LVSS rates as specified in the relevant Tariff Order passed by the Ld HPERC is reproduced below –

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H. Lower Voltage Supply Surcharge (LVSS):

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<i>Standard Supply Voltage</i>	<i>Actually Aailed Supply Voltage</i>	<i>LVSS</i>
<i>11kV or 15kV or 22 kV</i>	<i>1Ø 0.23 kV or 3Ø 0.415kV OR 2.2 kV</i>	<i>5 %</i>
<i>33 kV</i>	<i>11 kV or 22 kV</i>	<i>3 %</i>
<i>66 kV</i>	<i>33 kV</i>	<i>2 %</i>
<i>≥ 132 kV</i>	<i>66 kV</i>	<i>2 %</i>

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- (14) Further, it is also observed that the Complainant has also failed to show to this Forum any discriminatory application of the Tariffs / Charges by the Respondent HPSEBL, especially with regard to Lower Voltage Supply Surcharge (LVSS) in respect of the Complainant;
- (15) Having gone through the case and having heard the matter by way of arguments extended by the parties, this Forum holds that action of the Respondent to levy Lower Voltage Supply Surcharge (LVSS) to the Complainant, being a statutory additional charge, cannot be an illegal one or a wrong one nor is such levy discriminatory and therefore the Complainant is bound to pay the same. This Forum sees no reason to interfere with the levy and Billing of LVSS as has been done by the Respondent HPSEBL. This Forum does not find merit in the complaint and arguments given by the Complainant. The issue is accordingly decided against the Complainant and in favour of the Respondent HPSEBL on foregoing terms.

In aforesaid terms, the instant complaint is decided on merits against the Complainant and in favour of the Respondents HPSEBL and is accordingly disposed of as dismissed.

Parties are left to bear their own costs.

Order reserved is released before the parties present today on 26.08.2022 at Shimla in open Forum.

Certified copies of this Order be supplied to the parties.

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

Dated:-26.08.2022

Place:- Shimla

Sd/-
Vikas Gupta
(Member)

Sd/-
Tushar Gupta
(Chairperson)

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.

No. CGRF/Complaint No. 1515/2/22/14

Dated:-

Complaint No.: - 1515/2/22/14
Date of Admission: - 04.05.2022
Quorum: - Er. Tushar Gupta, Chairman.
Er. Vikas Gupta, Member I,

M/s Saboo Tor Pvt. Ltd.
Trilokpur Raod, Kala Amb,
Tehsil Nahan, District Sirmour (HP).

Complainant

V/s.

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

Respondents

Final hearing:-

29.07.2022

Present for:-

Complainant

1 None.

Respondent

1. Sh. Anil Kumar God, Advocate
2. Sh. Kamlesh Saklani, Law officer

Date of Decision: -

26.08.2022

Notice

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.
No.CGRF/Complaint No. 1515/2/22/14 **Dated:-**

M/s Saboo Tor Pvt. Ltd.
Trilokpur Raod, Kala Amb,
Tehsil Nahan, District Sirmour (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1515/2/22/14

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

Respondents

The Certified copy of final order dated 26.08.2022 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-171009.