

BEFORE THE HIMACHAL PRADESH ELECTRICITY OMBUDSMAN, SHIMLA
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CASE No. 27 of 2016

In the matter of:

M/S MICRO TURNERS (CRD), Plot No35-D, Sector-2, Parwanoo-173220, Distt. Solan (HP)
Through Shri Anil Sehgal , its authorised signatory.

..... **Applicant / Representationist**

Versus

1. The Executive Director(Personnel), HP State Electricity Board Ltd., Vidyut Bhawan, Shimla – 171004(HP)
2. The Chief Engineer (Commercial), HP State Electricity Board Ltd., Vidyut Bhawan, Shimla- 171004(HP)
3. The Sr. Executive Engineer, Electrical Division, HP State Electricity Board Ltd., Parwanoo- 173220(HP)
4. The Asstt. Executive Engineer, Elect. Sub Division, HP State Electricity Board Ltd., Parwanoo- 173220(HP)

..... **Respondents**

Presence: -

- (i) Shri Rakesh Bansal, Auhorised Representative for the Applicant/Representationist.
- (ii) Shri Bhagwan Chand, Advocate for Respondents.

ORDER

(Last Heard on 27.07.2017 and Order reserved))

M/S MICRO TURNERS (CRD), Plot No35-D, Sector-2, Paarwanoo-173220, District Solan (HP) (hereinafter referred to as "**the Applicant / Representationist**") is availing Electricity Supply on Large Supply (HT1) K.No.1122111577 with Connected Load of 200 kW and Contact Demand of 150 kVA, against Account No. LS-195, from the Himachal Pradesh State Electricity Board Limited (hereinafter referred to as "**the Respondent Board**") through Electrical Sub Division, Parwanoo, District Solan (HP).

The Applicant/Representationist feeling aggrieved and dissatisfied with the findings in of the following impugned Order dated 14.09.2016 passed in Complaint No. 1421/2/16/017 by the Forum for Redressal of Grievances of Consumers Order (hereinafter referred as the **Forum**) has filed the present Representation for the redressal of his grievances:-

To direct the respondents to charge MIPS tariff in place of LIPS (HT1) tariff w.e.f. 01.08.2014 instead of connected load in view of Tariff announced by the HPERC.

Contention of the Applicant/Complainant

1. The Applicant/Representationist said that HPERC introduced the system of categorisation of the consumers on the basis of their Contract Demand w.e.f. 01.08.2014. Before this date, the industrial consumers were categorised on the basis of connected load. The complainant's connected load is 200 kW with initial contract demand of 150 kVA in the year 2010. After a few months the complainants after executing a fresh agreement with the respondents by way of fresh Application and Agreement form alongwith Affidavits required by the respondents got reduced the Contract Demand to 80 kVA from 150 kVA. The respondents continued to charge LS tariff from the applicant as the categorisation was based on the connected load which remained same even after the fresh agreement. When the tariff was announced by the HPERC and was to take effect from 01.08.2014, the MIP category was defined as consumers having contract demand between 51 and 100 kVA. Resultantly the category of the complainant was to be changed to MIPs. But the respondents continued to charge LS tariff from the complainant, which resulted in higher rate of demand charges being recovered from the complainant. The demand charges in LS(HT1) category were Rs.200/kVA whereas in MIPs category were Rs.100/-kVA upto 31.3.2016. After announcement of tariff effective from 01.04.2016, the demand charges were fixed at Rs.25/-kVA for LS(HT1) category and Rs.120/- kVA for MIPs category. The respondents issued wrong bills, the impact of which has resulted in over payment of Rs.3,00,927.00 up till the billing for Sept.2016.
2. The impugned Order dated 14.09.2016 passed by the CGR, whereby the CGRF has observed that the demand of 150 kVA be considered for deciding the category of the applicant is not fair and is illogical, as fresh agreement was executed for revision of Contract Demand to 80 kVA with the respondents.

4. The CGRF has in another complaint No.1421/3/15/062 has held that the reduced contract demand of 56 kVA be considered for applicability of tariff category. Similar relief has been denied to the Applicant, which is against the principle of natural justice.
5. Therefore, in view of above, prayed that the impugned Order dated 14.09.2016 passed by the CGRF in their representation may be set aside and quashed.

Findings of the Forum:

We observed that the complainant has mentioned in his complaint that he applied for permanent reduction of his Contract demand from 150 kVA to 80 kVA w.e.f.10/2011. We do not agree to this plea of the Complainant as in 10/2011 there was no concept of permanent or temporary change in Contract Demand. At that point of time the consumers were allowed to revise their Contract demand twice in a year. We also observed that after the introduction of tariff applicable w.e.f. 01.08.2014, the complainant was at liberty to change his contract demand on permanent or temporary basis. Nowhere in the records or during argument, it was found that the complainant applied for reduction of Contract Demand on permanent basis or to consider his existing Contract Demand of 80 kVA as permanent one. It is only in 05/2015, 6/2015, that the complainant staked his claim that he falls in the category on MIPS instead of LS category as his contract demand was 80 kVA. We find that it is not proper and justified to consider 80 kVA contract demand as permanent contract demand. In our opinion the originally sanctioned contract demand of 150 kVA is to be considered as permanent contract demand. We also find that the complainant has not applied for permanent contract demand even after the clarification issued by the respondent on 14.10.2015. We are, thus of the opinion that the category of the complainant be treated as LS and not MIPS and direct as under:

- The plea of the complainant to treat his connection in MIPS category w.e.f.01.08.2014 is rejected.
- The complainant is at liberty to apply to the respondents for considering his contract demand of 80 kVA as permanent contract demand alongwith filing an undertaking as required by the respondents.
- The case is decided in favour of the respondents.

In response to the representation of the Applicant/ Representationist, the Respondents Board submits that –

1. Para 1 and Para 2 of the representation/application are false and denied.

2. Contents of Para 3 of the representation are admitted to the extent that the complaints filed by various complaints are dismissed by the Forum below and Ld. Forum decided that the original Contract demand of 150 kVA be considered as permanent Contract Demand and tariff be levied on the basis of 150 kVA.

3. That in reply of para 4 above of the representation, the representationist preferred the present revision before this Hon'ble Court on the following grounds:-

- a) Contents of para a) of the representation are false, incorrect and as such are denied. The original sanctioned contract demand is the demand for which the consumer has applied for initially and was approved by the HPSEBL at the time of load sanction/release of connection within which the consumers has allowed twice to reduce or increase the CD. In case CD as on 01.08.2014 stands temporarily reduced and is being billed as on 01.08.2014, the same cannot be terms as permanent sanctioned contract demand w.e.f.01.08.2014 for the purpose of further reduction or increase of contract demand twice in a year.
- b) Contents of para b) are false, incorrect and wrong and as such denied. In case a consumer wants his contract demand permanently reduced even to less than 50% an undertaking to the effect has to be furnished by the consumer and permanent reduction will be allowed. But in the present case the appellant has not even given any undertaking in order to reduce the contract demand permanently then the contract demand was temporarily reduced by the appellant and therefore, the replying respondents had rightly not changed the category of the consumer. Copy of letter dated 10.08.2015 and letter dated 18.08.2015 are appended herewith as Annexure R-1 and R-2.
- c) Contents of para c) of the representation are false, incorrect and wrong in view of the reason explained hereinabove.
- d) That the contents of para d) of the representation false, incorrect, wrong and as such denied. The category of the appellant was not changed by the appellant and as such the appellant has to be charged demand charges @ 200 per kVA as the appellant had not permanently reduced the contract demand. The Forum has given detailed findings regarding this point and there is no illegality in the order passed by the Forum below.
- e) That the contents of para e) of the representation are false, incorrect, wrong and as such are denied.

From the above averments/ submissions made and the documents produced by both the parties, the issues that comes out for determination is whether the reduced Contract Demand of 80 kVA from 150 kVA be considered as permanent Contract Demand for applicability of tariff category of MIPS after the announcement of tariff HPERC effective from 01.08.2014 and the amount Rs.3,00,927/- wrongly billed and overcharged w.e.f.01.08.2014 to 09/2016 by the respondents Board is refundable or not.

As per letter No.HPSEBL/CE(Comm)/SERC-6/2015-6183-84 dated 10.08.2015 and letter No.HC-II/CS-Circular/2015-16-7209-15 dated 18.8.2015 addressed to General Secretary, Parwanoo Industries Association, Parwanoo, by the CE(Comm), HPSEBL, Shimla-4 and the Superintending Engineer (Op) Circle, HPSEBL, Solan (HP) respectively, regarding application of tariff based on Contract Demand introduced w.e.f.01.08.2014, informed that "Original Sanction Contract Demand is the demand for which the Consumer has applied for initially and was approved by the HPSEBL at the time of load sanction/release of connection, within which the consumer has been allowed twice to reduce or increase the Contract demand during the year and if the consumer wants to reduce his contract demand even to less than 50%, an undertaking to that effect has to be furnished by the consumer and consequent upon that the permanent reduction will be allowed after completing all codal formalities".

In the instant case the connected load of 2 00 kW with initial Contract Demand of 150 kVA was sanctioned in favour of the complainant in the year 2010 and the complainant reduced the Contract Demand from 150 kVA to 80 kVA in the year 2011 by adopting the same procedure, as done at the time of original sanction of load, i.e. by executing "Application and Agreement" vide Application No.184 LS dated 09.09.2011 wherein the revision of Contract Demand from 150 kVA to 80 kVA was allowed by the HPSEBL.

The plea of the respondents that the Contract Demand was reduced "temporarily" cannot be sustained in view of record which clearly states that the demand has been "revised" which may mean permanently revised/reduced as per afresh A&A of the consumer. Further no correspondence was made with the consumer to establish whether the reduction was temporary or permanent.

"The CGRF have in another Complaint No.1421/3/15/062 has held that the reduced Contract Demand of 56 kVA be considered for applicability of tariff category". Similarly the complainant M/s Micro Turners (CD), Parwanoo, deserves to be considered for MIPS category from LIPS category.

In view of the above, it is held that the Contract demand of the Complainant stands revised/reduced to 80 kVA from 150 kVA and category of consumer will be determined accordingly as per latest instructions contained in the Order announced by the HPERC and effective from 01.08.2014.

Therefore, in view of the above, the impugned Order dated 14.09.2016 passed by the CGRF in their representation is set aside and quashed. The respondents Board is directed to refund the amount Rs.

Rs.3,00,927.00 over charged for the period 01.08.2014 to 09/2016 by way of adjusting the amount in future bills.

Dated:19.08.2017

ELECTRICITY OMBUDSMAN