

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION  
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**Petition No. 2 of 2013  
Date of Order: 01.04.2013**

In the matter of :           Petition under section 142 of Electricity Act, 2003 read with clause 5 & 6 of the PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 and other relevant sections of Electricity Act, 2003 and regulations framed by this Commission, for taking necessary action against respondent No.1 and its officials for not giving feasibility clearance and issuing demand notice within the prescribed period of time as per provisions of Supply Code, 2007 and further for directing the respondent to refund 10% of the earnest money deducted by the respondent from the earnest money deposited by the petitioner.

AND

In the matter of           KAY ELL DEE METALIKS (P) LTD. through its authorized signatory Shri Subhash Dhingra S/o Shri Kanhya Lal Dhingra, Mullanpur Road, V.P.O. Ambey Majra, Mandi Gobindgarh, District Fatehgarh Sahib.

Versus

Punjab State Power Corporation Limited (PSPCL),  
through its Chairman cum Managing Director, The Mall,  
Patiala

Present:                   Smt.Romila Dubey, Chairperson  
                              Shri Virinder Singh, Member  
                              Shri Gurinder Jit Singh, Member

**ORDER**

KAY ELL DEE METALIKS (P) Limited has filed this petition under section 142 of Electricity Act, 2003 read with Regulation 5 and 6 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007 (Supply Code) for taking necessary action against Chairman-cum-Managing Director, Punjab State Power Corporation Limited (PSPCL) for not giving feasibility clearance and issuing demand notice within prescribed period of time as per provisions of the Supply Code, 2007 and for directing the respondents to refund 10% of the earnest money. The petitioner has submitted that it applied for electricity connection for a load of 9050 kW /

10000 kVA Contract Demand (CD) on 15.04.2009 for setting up an industrial unit comprising Furnace and Rolling Mill at Mandi Gobindgarh. Petitioner deposited Rs.6,75,000/- and Rs.8,25,000/- as earnest money. The load was required to be released at 66 kV Supply Voltage. As per provisions of Supply Code, respondent was required to grant feasibility clearance within 30 days of receipt of application as per clause 5.6 and for extension in time beyond 30 days, the permission of this Commission was necessary. As per Reg. 6.1 and 6.2 of the Supply Code, a demand notice was to be issued within 10 days after receiving A & A Form. In this case feasibility clearance was considered in the meeting dated 30.12.2010 and the petitioner was informed that same has been granted vide letter dated 07.02.2011 issued by Additional Superintending Engineer, TLSC Division, Mohali. The petitioner was asked to submit a sketch of the premises showing the location of 66 kV Grid Sub-Station and position of the bays to be erected by the petitioner. The sketch was submitted as desired. The letter was then issued vide endst.No.1172 dated 09.03.2011 giving the feasibility clearance to the petitioner. A & A Form was submitted on 04.04.2011 by the petitioner and a sum of Rs.1,30,87,840/- was deposited on 04.04.2011 as Service Connection Charges. The petitioner received a letter dated 06.06.2011 wherein the petitioner was asked to deposit survey fee. Again AEE/Commercial sent a letter dated 10.06.2011 asking the petitioner to deposit Rs.1 Lac as survey fee. As the petitioner was required to deposit Rs.21,000/- per Km as survey fee and length of the line was less than one Km, therefore the petitioner sent a cheque for Rs.21,000/- to Addl.SE, TLSC Division, Mohali. AEE/Commercial then sent a letter dated 05.07.2011 asking the petitioner now to deposit Rs.21,000/- as survey fee. AEE/Commercial was informed vide letter dated 14.07.2011 that the petitioner has already sent a cheque amounting to Rs.21,000/- to the competent authority on 14.06.2011. The petitioner was informed by Addl.SE/TLSC Mohali that cheque has not been received by him, whereupon the petitioner again sent an-other cheque for Rs.21,000/- on 05.08.2011. The petitioner again received a letter dated 23.08.2011 wherein the petitioner was asked to deposit Rs.22,000/- per Km as survey fee. The petitioner informed SE, PSTCL, Khanna vide letter dated 15.09.2011 that cheque dated 05.08.2011 for Rs.21,000/- as survey fee stood encashed on 11.08.2011. Demand Notice was issued to the petitioner vide No.3018 dated 12.08.2011. The petitioner applied for extension in time for

compliance of demand notice vide letter dated 08.02.2012. The case of the petitioner was recommended by Dy.CE/DS Khanna to C.E./DS, Central, Ludhiana on the ground that connection was to be released to the petitioner from 220 kV Sub-Station G-4, Mandi Gobindgarh, which was yet to be commissioned. The compliance period of demand notice was extended upto 11.05.2012 by the Chief Engineer/DS, Central vide letter dated 27.02.2012, which was further extended upto 11.08.2012 on the request of the petitioner. The petitioner has submitted that after receiving Rs.1,30,87,840/- as SCC on 04.04.2011 alongwith A & A Form, the respondent had delayed erection of 220 kV Sub-Station from where the connection was to be released. The delay of 1½ years caused by the respondent has resulted in increase of cost of the project of the petitioner and having no option the petitioner had decided to drop the project. Accordingly the petitioner wrote a letter dated 08.08.2012 to the Sr.Executive Engineer, PSPCL, Mandi Gobindgarh and requested him to refund Rs.1,45,87,840/- deposited by the petitioner with the respondent. The respondent refunded Rs.1,31,29,056/- to the petitioner out of the total amount of Rs.1,45,87,840/- vide cheque dated 20.09.2012. The petitioner wrote to Sr.Executive Engineer vide letter dated 16.10.2012 to refund the remaining amount. The AEE/Commercial informed vide letter dated 08.11.2012 that as per Regulation 18.1 of the Supply Code, 2007, after deducting 10% of the security amount, the remaining amount has been refunded. The petitioner has submitted that as per Regulation 18.1 of the Supply Code if the applicant withdraws his application then 10% has to be deducted but if a demand notice is not issued within three months and application is withdrawn, then full amount is to be refunded. It is an admitted position that till the petitioner applied for refund of the earnest money, the respondent had not erected 66 kV line and 220 kV Sub-Station. The petitioner has submitted that it is settled principle of law that nobody can get benefit of his own wrong. As such action of the petitioner to deduct 10% of the earnest money is totally wrong and illegal.

The petitioner has prayed that necessary action against the respondent and its official for not giving feasibility clearance and issuing demand notice within prescribed period of time as per Supply Code be taken under Section 142 of the Electricity Act, 2003 and directions be issued to the respondent to refund 10% of the earnest money deducted by the respondent alongwith interest at the rate of 12%.

2. The petition was admitted and respondent was directed to file reply by 05.02.2013 vide Order dated 16.01.2013 of the Commission.

3. PSPCL filed reply vide C.E./ARR & TR memo No.5196 dated 08.02.2013. PSPCL has submitted that the petitioner did not comply with the demand notice No.3018 dated 12.08.2011 issued to him and kept on making requests for extending its validity period and never made its compliance. Lastly the petitioner on his own submitted an application dated 08.08.2012 for refund of the ACD deposited by him. The petitioner had initially applied for a connection having load of 4055 kW and Contract Demand (CD) of 4500 kVA and deposited Rs.6,75,000/- as earnest money on 15.04.2009. He revised his requisition and extended load to 9050 kW and CD 10000 kVA and deposited earnest money amounting to Rs.8,25,000/- on 19.05.2009. The petitioner was directly intimated about feasibility clearance by the Chief Engineer/Commercial vide memo No.1940 dated 04.02.2011. The petitioner also delayed in submission of sketch showing 66 kV Sub-Station in his premises. The petitioner had further delayed submission of A & A Form and himself got it extended. The petitioner deposited Rs.1,30,87,840/- as ACD (not SCC) on 04.04.2011 and submitted A & A Form. He was then asked to deposit survey fee, which he deposited on 08.08.2011 and demand notice was issued on 12.08.2011. The petitioner himself used delaying tactics and finally got the security refund. PSPCL has correctly deducted 10% amount as per Regulation 18.1 of Supply Code. The petition be dismissed. PSPCL filed a sketch of site of the project of the petitioner vide C.E./ARR & TR letter dated 15.03.2013, showing that there was no construction at site till date and site was lying vacant.

3. The petitioner filed rejoinder during hearing on 12.03.2013 and submitted that issues of sketch showing location of 66 kV Sub-Station within premises of the petitioner and delay in deposit of survey fee have been raised by the respondent only to conceal the negligence on the part of respondent. The petitioner has denied any delay on his part. The Regulation 6.1 of the Supply Code does not specify any amount to be deposited after depositing earnest money and before issuance of demand notice. The petitioner has reiterated

almost all the points in the rejoinder which had been raised by him in the petition. The petitioner has submitted that as per Regulation 18.1 of Supply Code and clause 4.8 of ESI, the petitioner is entitled to get refund for full amount of earnest money. The prayer has been reiterated by the petitioner in the rejoinder.

4. The hearing of the petition was closed vide Order dated 20.03.2013. Order was kept reserved as the petitioner prayed for time to file written submissions by 22.03.2013. The petitioner has filed the written submissions on 25.03.2013. The petitioner has repeated his submissions already made by him in the petition and the rejoinder. In addition it has been submitted that the case of the petitioner is covered by the Order dated 06.08.2012 of this Commission passed in Petition No.26 of 2012. It has been further submitted that the petitioner has taken the environmental clearance from the Government of India, Ministry of Environment and Forests vide letter dated 22.06.2011. The prayer is reiterated by the petitioner in his written submissions.

5. The Commission has gone through the sequence of the events from the submissions of the parties. The Commission observes that the petitioner had not raised any objection about delay in issuing the feasibility clearance at the time of depositing ACD and A & A Form and also at the time of issuance of demand notice. He had applied twice for extension in the period of compliance of demand notice which was granted by the respondent before withdrawal of his application on his own volition and not on refusal by the respondent to further grant extension in time of demand notice or release of the connection. Thus he has waived off his right to raise this issue at this belated stage. The Commission further observes that after applying for electricity connection about four years ago, no action has been taken by the petitioner at site towards setting up the project, which is evident from the fact that site is lying vacant till date. There is nil activity towards construction of 66 kV Sub-Station to receive electricity. It appears that the petitioner had acquiesced the delay till he made up his mind, for reasons of his own to withdraw the application. Further the Commission can not ignore the fact that the respondent had been and is willing to release the electricity load to the petitioner, who of his own has withdrawn the application. In these circumstances, the action of the respondent to deduct 10% of the amount

out of total deposit can not be considered as illegal and arbitrary, being as per the Regulation No.18.1 of the Supply Code.

The petition is accordingly dismissed.

Sd/-  
**(Gurinder Jit Singh)**  
**Member**

Sd/-  
**(Virinder Singh)**  
**Member**

Sd/-  
**(Romila Dubey)**  
**Chairperson**

**Chandigarh**  
**Dated: 01.04.2013**