

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

**Petition No.5 of 2015  
Date of Order: 25.06.2015**

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

In the matter of: Petition under Section 142 and other relevant provisions of the Electricity Act, 2003 read with regulation 9 of PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 and clause 44 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014 and other relevant provisions of the regulations framed by this Commission, praying for taking necessary action against the respondents for raising impugned demand of ₹9,59,748/- vide letter memo No.6277 dated 22.12.2014 and ₹3,71,892/- vide letter memo No.6278 dated 22.12.2014, from the petitioner, on account of Service Connection Charges, being in violation of provisions of regulation 9 of PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 and provisions of the Electricity Act, 2003 and further for setting aside the above said impugning demand.

AND

In the matter of: Goyal Petrofils Yarns (Pvt.) Ltd., Village Meharban, Rahon Road, Ludhiana through its authorized Signatory Shri K.D. Parti (having Electricity Connection bearing A/c Nos E-42/S.N.-01/00067 and E-42/S.N.01/00053.

-----Petitioner

Versus

1. Punjab State Power Corporation Limited through its Chairman-cum-Managing Director, The Mall, Patiala.

2. The Assistant Executive Engineer, Commercial, Distribution, Sunder Nagar Division (Special), Ludhiana.

-----Respondent

**ORDER:**

The present petition has been filed by Goyal Petrofils Yarns (Pvt.) Ltd., Ludhiana which is having two Spinning Mill Units fed from separate electricity connections bearing Account No.E-42/S.N-01/0053 (hereinafter called LS-53) and E-42/S.N-01/00067 (hereinafter called LS-67) situated in different premises one KM apart. This petition has been filed under section 142 of the Electricity Act 2003 (hereinafter called Act) and various provisions of PSERC (Electricity Supply Code & Related Matters) Regulations, 2007 (hereinafter called Supply Code 2007) praying for taking action against the respondents for raising demand of ₹9,59,748 vide Memo No. 6277 dated 22.12.2014 and ₹3,71,892 vide Memo No. 6278 dated 22.12.2014 against the petitioner on account of Service Connection Charges in violation of provisions of the Supply Code 2007 & provisions of the Act. The petitioner made the following submissions:

- 1.1 The electricity connection bearing Account No.LS-53 was having a sanctioned load of 1088.518 kW with contract demand of 975 kVA. An application for increase in load of 1361.482 kW and contract demand of 1025 kVA, thus, making a total load of 2450 kW with contract demand of 2000 kVA was made on 01.08.2013 along with a request to change the feeder from category II to Independent feeder. On the same date, a request for increase in load & contract demand of 1801.380 kW/1480 kVA to the existing load/contract demand of 198.620 kW/220 kVA with respect to

electricity connection bearing account number LS-67 making its total load/contract demand as 2000 kW/ 1700 kVA, was made.

- 1.2 The feasibility clearance in case of Account No.LS-67 was granted vide PSPCL's Memo No.7741 dated 10.9.2013 wherein it was mentioned that load would be released on 11 KV New Goyal Petrofils feeder. PSPCL also granted feasibility clearance to Account No.LS-53 vide Memo No.7744 dated 10.9.2013 wherein it was mentioned that load would be released on 11 kV from the proposed 11 kV New Goyal Petrofils feeder having size of 150 mm<sup>2</sup> , 3/C AB cable emanating from 220 kV S/S Gaunsgarh.
- 1.3 The demand notices bearing numbers 2367 and 2368 both dated 01.10.2013 were issued for account number LS-53 and LS-67 respectively and the petitioner was asked to deposit the Service Connection Charges(SCC)/line charges of ₹22,55,000 for LS-53 and ₹32,56,000 for LS-67, and the same were deposited on 27.12.2013 as demanded by PSPCL.
- 1.4 The petitioner applied for one common independent feeder for both the connections, so that cost of feeders could be shared by both the units. Deputy Chief Engineer/City East Circle, PSPCL, Ludhiana vide Memo No.7220 dated 27.8.2013 addressed to Chief Engineer/Planning also mentioned that expenses of the line would be shared by both the connections proportionately. The respondents increased the load of both the connections from the common independent feeder meant for both the units.

- 1.5 Thereafter, PSPCL has now issued two notices vide Memo No.6277 dated 22.12.2014 and 6278 dated 22.12.2014 wherein the petitioner has been asked to pay proportionate cost of the independent feeder along with per kVA Service Connection Charges for release in extension in load of LS-67 since load has been released from an independent feeder meant for LS-53. It has been mentioned that total cost of independent feeder up to Account No.LS-67 is ₹20,88,865 and the proportionate cost for 1700 kVA comes out to be ₹9,59,748/-. The petitioner was asked to pay ₹9,59,748/- as the balance amount in addition to Service Connection Charges of ₹32,56,000/- calculated on per kVA basis and which the petitioner had already deposited. For release of load to LS-53, the notice vide Memo No.6278 dated 22.12.2014 mentioned that since the actual cost of the independent feeder is ₹26,26,892 whereas Service Connections Charges of ₹22,55,000 has been deposited by the petitioner, so the balance cost of the feeder i.e. ₹3,71,892/- is required to be deposited by the petitioner. Although these notices mentioned some audit report No.1575 dated 01.8.2014 but the copy of the same was never supplied to the petitioner.
- 1.6 PSPCL claimed these amount on the basis of clause 14.2 of ESIM, clause 9.1.2(i)(b) of Supply Code 2007 and clause 47.4 of Conditions of Supply. The demand of ₹9,59,748/- raised vide Memo No.6277 dated 22.12.2014 in case of LS-67 and ₹3,71,892/- raised vide Memo No.6278 dated 22.12.2014 with respect to LS-53 are wrong, illegal and in

violation to the provisions of Electricity Act, 2003 and the Supply Code.

- 1.7 In exercise of its power under section 181 of the Electricity Act, 2003, the Commission notified the Supply Code 2007 and regulation 9.1.2 (i) (b) gives powers to the distribution licensee to recover Service Connection Charges from the consumer for grant of additional load where total load including existing load exceeds 500 kW/500 kVA. In such case, the consumer will pay per kW/kVA charges for the additional load/demand as approved by the Commission or the actual expenditure for release of such load/demand, whichever is higher. The total cost of the independent feeder was only ₹26,26,892/- whereas the petitioner has deposited Service Connection Charges of ₹22,55,000/- for LS-53 and ₹32,56,000/- for LS-67, i.e a total of ₹55,11,000/- which are more than the estimated cost of the independent feeder.
- 1.8 PSPCL while relying upon condition No.47.4 of the Conditions of Supply has claimed that the independent feeder was created for connection to Account No.LS-53, which was later on tapped to release extension in load to connection having A/C No.LS-67. The petitioner has applied for extension in load and shifting of load on a common feeder. It was the common attention of the petitioner and PSPCL that expenses of independent feeder would be shared by the petitioner for both the connections. In its letter, Dy. Chief Engineer/City East Circle, Ludhiana vide Memo No.7220 dated 27.8.2013, addressed to Chief Engineer/Planning has very clearly mentioned that the cost

of the independent feeder would be shared by the petitioner for both the connections proportionately.

- 1.9 The feasibility clearance for both these connection was given on the same date i.e. 10.8.2013, the demand notices were also issued by PSPCL on the same date i.e. on 01.10.2013 and the petitioner also deposited service connection charges on the same day vide cheques dated 27.12.2013. So, the petitioner has applied for one common independent feeder for both these connections as these are on the same road though at a distance of about one kilometer.
- 1.10 As per section 46 of the Act, distribution licensee can recover charges from a person only for the expenses reasonably incurred in providing any electric line or electric plant as may be authorized by the State Commission. Since Conditions of Supply are not a regulation, so expenses can be recovered only in accordance with PSERC (Electricity Supply Code and Related Matters) Regulations, 2007. The Hon'ble Punjab and Haryana High Court in CWP No.10644 of 2010 has clearly laid that *"in order to have an enforceable action against any consumer the authority must be derived from the provisions of the Act or regulations framed under section 181 of the said Act as per procedure prescribed"*, so no demand or recovery can be made on the basis of Conditions of Supply.
- 1.11 As per PSPCL's Memo No.6277 dated 22.12.2014, the total cost of the feeder up to the connection point of LS-67 is only ₹20,88,865/- whereas the petitioner had already deposited ₹32,56,000 as Service Connection Charges for this connection, so the demand of ₹9,59,748 is even more

than the cost of the independent feeder to the premises of LS-67. As per clause 9.1.2 (i) (b) of the Supply Code, the petitioner was liable to pay the actual expenses i.e. ₹20,88,865/- or per kVA Service Connection Charges i.e. ₹32,56,000/- , whichever is more. So even if the connection to LS-53 is released from an independent feeder instead of sharing the cost with the independent feeder erected for LS-53 then the total cost of the feeder would have been much less than per kVA Service Connection Charges of ₹32,56,000, which the petitioner had already paid. So, the PSPCL's claim of charging on the basis of per kVA charges plus proportionate cost of the independent feeder is totally against the provisions of the Supply Code and also Electricity Act, 2003.

- 1.12 Although Conditions of Supply are not binding on the petitioner but even as per clause 47.7 of the Conditions of Supply, in the event of tapping of an independent feeder, the second consumer is liable to pay proportionate cost of the common portion of line/feeder including circuit breaker plus full cost of the service line. In case it is read along with regulation 9.1.2 (i) (b) of the Supply Code then it would be clear that total cost i.e. proportionate cost of the common portion and cost of the service line has to be compared with kVA charges and whichever amount is higher shall be payable by the consumer. Since in this case the per kVA charges were more than the total cost of tapping the independent feeder to LS-67 connection, so the petitioner is liable to pay only the per kVA charges, which had already been paid.

- 1.13 Since the petitioner has taken a common independent feeder for both the connections, as such, cost of the independent feeder has to be shared between these two connections. For A/C No.LS-53, the cost of the feeder could be from the point where the connection of LS-67 was installed to the point where the connection to LS-53 was released. As kVA charges are more than the estimated cost (share of LS-53), so the petitioner could be charged Service Connection Charges only on per kVA basis, which the petitioner had already deposited. So, the demand of ₹3,71,892 raised by PSPCL vide Memo No.6278 dated 22.12.2014, is illegal and against the provisions of Supply Code and Electricity Act, 2003. Although the total cost of the feeder is ₹26,26,892/- but PSPCL is demanding ₹68,42,640/- from the petitioner for this feeder.
- 1.14 PSPCL has not mentioned the actual cost incurred for erection of this independent feeder and has only mentioned the estimated cost. The PSPCL should disclose the actual cost spent by them on creating the independent feeder.
- 1.15 In view of the above, the petitioner prayed that the demand of ₹9,59,748/- raised by PSPCL vide Memo No.6277 dated 22.12.2014 and ₹3,71,892/- raised vide Memo No.6278 dated 22.12.2014 may kindly be set aside being in violation of provisions of regulation 9 of Supply Code and Electricity Act, 2003.
- 2.0** The petition was admitted and PSPCL was directed vide Commission's Order dated 24.02.2015 to file reply by 24.03.2015 with an advance copy to the petitioner. The petition was fixed for further hearing on 31.03.2015.

- 3.0** PSPCL vide Chief Engineer/ARR & TR Memo No.5325 /TR-5/680 dated 25.03.2015 filed its reply and submitted as under:
- 3.1 Since the case pertains to payment of charges as per Supply Code so the remedy is available under section 42(5) of the Act through Consumer Grievances Redressal Forum and Ombudsman set up to take up the individual grievances of the consumer.
- 3.2 Both the units of the petitioners bearing Account No.LS-53 and LS-67 are running in two separate premises having a distance of one KM and earlier both these connections were getting supply from 11 kV Seera feeder, Rahon Road, which was a category-2 feeder.
- 3.3 The petitioner applied for one common independent feeder for release of extension in load/Contract Demand of both the connections and Deputy Chief Engineer/City East Circle, Ludhiana wrote a letter bearing Memo No.7220 dated 27.8.2013 to Chief Engineer/Planning wherein it was mentioned that the expenses for the line would be shared by both the connections proportionately. The feasibility clearance for A/C No.LS-53 was conveyed vide Memo No.7744 dated 10.09.2013 wherein it was mentioned that load would be released at 11 kV supply voltage from proposed new 11 kV Goyal Petrofils feeder with 3/C AB cable having a size of 150mm<sup>2</sup> emanating from 220 kV Sub Station Gaunsgarh. The feasibility clearance for extension in load/contract demand to A/C No. LS-67 was conveyed vide Memo. No. 7741 dated 10.09.2013 wherein it was mentioned that load will be released from 11 kV Goyal

Petrofils feeder already proposed for LS-53. Accordingly, demand notices bearing Memo No.2367 dated 01.10.2013 for A/C No.LS-53 and Memo No.2368 dated 01.10.2013 for A/C No.LS-67 were issued. The petitioner deposited Service Connection Charges/Line charges of ₹22,55,000 for LS-53 and ₹32,56,000 for LS-67 as demanded through demand notices.

3.4 In case of release of extension in load of LS-67, as per ESIM instruction No.14.2, Supply Code instructions 9.1.2 (i) (b) and Conditions of Supply instructions No.47.4, , the amount of Service Connection Charges or actual cost of estimate, whichever is higher, plus proportionate cost of the common portion of 11 kV independent feeder, is recoverable from the consumer. The amount of Service Connection Charges or the estimate cost, whichever is higher, is recoverable in those cases where the consumer does not want to get the benefit of 11 kV independent feeder. But since the consumer wanted to avail the benefit of 11 kV independent feeder, so additional proportionate cost of ₹9,59,748 is recoverable along with Service Connection Charges of ₹32,56,000. Accordingly, notice No.6277 dated 22.12.2014 has been issued to the petitioner against A/C No.LS-67 for depositing ₹9,59,748.

3.5 Similarly, petitioner was served notice vide Memo No.6278 dated 22.12.2014 for recovery of ₹3,71,892 for A/C No.LS-53 as this consumer applied for supply from 11 kV independent feeder and in such cases, the Service Connection Charges or estimated cost of the 11 kV feeder, whichever is higher, is recoverable. The estimated cost of the independent feeder is

₹26,26,892 and since the petitioner has deposited ₹22,55,000 on per kVA basis as Service Connection Charges, so the balance amount of ₹3,71,892 is recoverable from A/C No.LS-53.

- 3.6 A.O.(F) vide Memo No.1575 dated 01.08.2014 pointed out that as per ESIM instructions 14.2, individual estimates for both these connections are required to be framed and not a common estimate. Thus petitioner is liable to pay full cost of the 11 kV independent feeder meant for LS-53. The regulation 9.1.2(i)(b) of the Supply Code is not applicable in this case. The petitioner requested for 11 kV independent feeder for both the connections so the cost of feeder or Service Connection Charges, whichever is higher, is recoverable from LS-53. For LS-67, Service Connection Charges or cost of estimate, whichever higher, plus proportionate cost is recoverable from the consumer as per instruction quoted above.
- 3.7 Chief Engineer/Planning, Patiala vide Memo No.6414 dated 5.9.2013 has mentioned that the cost of work shall be charged to the consumer/applicant as per standing instructions of PSPCL in case of extension in load of Account No. LS-53. The condition no. 47.1 of Conditions of Supply is not applicable in this case because this condition is applicable to the consumers having load of 2500 kW/kVA & above.
- 3.8 The petitioner having A/C No.LS-67 has given consent for sharing of 11 kV Goyal Petrolfils feeder with A/C No.LS-53 and as per instruction No.47.5 of Conditions of Supply, the amount of Service Connection Charges of ₹32,56,000 and

the proportionate cost of common portion of the independent feeder i.e ₹9,59,748 is recoverable from LS-67. The SCC or estimated cost, whichever is higher, is recoverable only if the consumer does not want to get the benefit of 11 kV independent feeder. As per instructions 47.5 of Conditions of Supply, the proportionate cost of common portion of feeder recoverable from the 2<sup>nd</sup> consumer along with interest at SBI's Base Rate on this proportionate cost shall be adjustable against expenditure incurred for augmentation of feeder which might be necessitated in case the 1<sup>st</sup> consumer comes up for enhancement in his load. So, the proportionate cost which will be recovered from A/C No.LS-67 will be adjusted against A/C No.LS-53 as per these instructions.

- 3.9 The version of the petitioner that clause 47.4 of Conditions of Supply is to be read along with clause 9.1.2 (i) (b) of the Supply Code is totally wrong because these two instructions deal with different aspects. The instruction No.47.4 deals with independent feeder whereas instruction No.9.1.2 (i) (b) deals with Service Connection Charges. If the petitioner wants to get the benefit of independent feeder for any one of the two connections then he has to pay for the Service Connection Charges or actual cost of independent feeder, whichever is higher, for the 1<sup>st</sup> connection and for the 2<sup>nd</sup> connection he has to pay Service Connection Charges or actual cost of estimate, whichever is higher, plus proportionate cost of common portion of independent feeder.
- 4.0 During hearing on 31.03.2015, the petitioner submitted that it intends to file rejoinder to the reply and sought time to do so. The Commission vide Order dated 01.04.2015 directed the

petitioner to file rejoinder to the reply of PSPCL by 22.04.2015 with a copy to PSPCL. The petition was listed for further hearing on 28.04.2015. During hearing on 29.04.2015, the petitioner again prayed for some more time to file rejoinder. The Commission vide Order dated 30.04.2015 directed the petitioner to file rejoinder by 12.05.2015 with a copy to PSPCL and PSPCL was also directed to file detail of actual expenditure incurred for release of two connections bearing A/C Nos. LS-53 and LS-67 through 11 kV independent feeder by 12.05.2015 with a copy to the petitioner. The petition was fixed for further hearing on 19.05.2015.

- 5.0 Sr. Xen/Op. Sunder Nagar Divn. (Spl.), Ludhiana filed expenditure statement of A/C Nos. LS-67 and LS-53 on 18.05.2015. During hearing on 19.5.2015, it was found that PSPCL has again filed copies of the estimates instead of submitting actual expenditure as per IWR. The Commission vide Order dated 20.05.2015 directed Sr. Xen/Op. Sunder Nagar Divn.(Spl.), Ludhiana to ensure supply of actual expenditure along with copy of IWR with a copy to the petitioner. The petitioner was directed to file rejoinder to reply of PSPCL by 26.05.2015 with a copy to PSPCL. The petition was fixed for further hearing on 03.06.2015.
- 6.0 Sr. Xen/Op. Sunder Nagar Divn.(Spl.), Ludhiana filed actual expenditure statement on 28.05.2015. During hearing on 03.06.2015, the petitioner submitted rejoinder to the reply of PSPCL. However, Sr. Xen/Op. Sunder Nagar Divn.(Spl.), Ludhiana submitted another copy of the expenditure statement showing different figures. Both were taken on

record. The Commission vide Order dated 04.06.2015 directed both the parties to file written submissions/response/note of arguments etc. by 12.06.2015 and matter was listed for final arguments on 15.6.2015.

7.0 The petitioner filed rejoinder to the reply of PSPCL during hearing on 03.06.2015 reiterating most of the issues raised in its petition and as have been brought out in para 1 of this Order. However some of the submission are reproduced below:

7.1 The present petition has been filed under section 142 of the Electricity Act read with relevant provisions of the Supply Code and other relevant provisions of the regulations for taking necessary action against the respondent for raising demand in utter violation of the provisions of regulation 9 of the Supply Code and provisions of the Electricity Act, 2003. The present matter also requires interpretation of various provisions of regulations framed by the Commission and as such the Commission has power to decide the present petition.

7.2 PSPCL has raised the demand for A/C No.LS-67 in violation of section 46 of the Electricity Act 2003 and provisions of Supply Code 2007. As per clause No.9.1.2 (i) (b) of the Supply Code, a consumer is required to pay per kVA Service Connection Charges or actual expenses, whichever is more. But in the present case, PSPCL is charging per kVA charges plus proportionate cost of independent feeder, which is not only against the provisions of the Supply Code but also against section 46 of the Electricity Act, 2003 which provide for recovery of expenses

reasonably incurred by the distribution licensee in providing any electric line or electric plant for giving supply under section 43 of Electricity Act, 2003. So, even the provisions of regulation 9.1.2 (i) (b) of the Supply Code is wrong since only actual expenses could be recovered from the petitioner and not any other charges over and above this amount. The actual cost incurred would be the estimated cost on ₹43,965 plus proportionate cost of independent feeder i.e. ₹9,59,748 and the sum of these two amounts could be compared with Service Connection Charges on per kVA basis and since the actual cost i.e. ₹43,965 plus ₹9,59,748 i.e. ₹10,03,713 is less than the per kVA charges of ₹32,56,000, so, only per kVA charges is recoverable, which the petitioner had already deposited. No further demand could be raised by PSPCL. But in the present case, PSPCL is asking for ₹32,56,000 plus ₹9,59,748, which is totally illegal and violation of provisions of section 46 of the Electricity Act, 2003 and 9.1.2 (i) (b) of the Supply Code, 2007.

- 7.3 PSPCL has admitted that the total estimated cost of independent feeder was ₹26,26,892 and has also admitted that the petitioner had applied for one common independent feeder for both the connections. Dy. CE/LDH vide Memo No. 7220 dated 27.08.2013 addressed to CE/Planning also recommended that cost of the line would be shared by both the connections proportionately. So, PSPCL could charge only actual cost incurred on the line as per section 46 of the Electricity Act, 2003. The regulation 9.1.2 (i) (b) of the Supply Code is violative of the section 46 of Electricity Act, 2003 as it gives powers to the distribution licensee to

recover charges over and above the actual expenses incurred by the licensee. Although the estimated cost of the independent feeder was only ₹26,26,892 but PSPCL demanded ₹22,55,000 for LS-53 and ₹32,56,000 for LS-67, which is more than the cost incurred by PSPCL. Now in case of LS-53, PSPCL has raised a further demand of ₹3,71,892 as the difference between the estimated cost and per kVA cost deposited although independent feeder was sought for both the connections and thus the demand is totally wrong and illegal. The total cost incurred on this independent feeder has to be adjusted against both the connections as this feeder was sought for both the connections.

7.4 PSPCL is trying to make out a case that independent feeder was created for connection No. LS-53 and later on connection to LS-67 was released from independent feeder by tapping it whereas the fact is that the petitioner has applied for extension of load and shifting of load on a common independent feeder on the same date and it was the common intention of the petitioner and also of PSPCL that the expenses incurred on the independent feeder would be shared by the petitioner for both the connections. This fact is very much clear from Memo No.7220 dated 27.8.2013 sent by Dy. Chief Engineer/City East Circle, Ludhiana to Chief Engineer/Planning.

7.5 The status of Conditions of Supply has already been laid down in the Order dated 26.09.2013 passed by Hon'ble Punjab & Haryana High Court in CWP No.10644 of 2010, wherein it has been mentioned that:

*“In order to have an enforceable action against any consumer the authority must be derived from the provisions of the Act or the regulations framed under section 181 of the said Act as per procedure prescribed...”*

Thus PSPCL could not recover any amount on the basis of Conditions of Supply.

- 7.6 Had a separate independent feeder been asked for connection to A/C No.LS-67 then the estimated cost of this feeder would have been ₹20,88,865, which is less than per kVA charges of ₹32,56,000 deposited by the petitioner but since the petitioner has opted for sharing of a common independent feeder for both the connections, PSPCL is asking for ₹42,15,748 for A/C No.LS-67, which is totally illegal and against the provisions of Supply Code and Electricity Act, 2003.
- 7.7 As per Supply Code, a consumer is required to pay SCC or actual expenses, whichever is higher but PSPCL has not given the details of actual expenses incurred and is demanding ₹68,42,640 from the petitioner for a feeder for which the estimated cost is only ₹26,26,892 and the actual cost would be much less. It was thus prayed that the demand of ₹9,59,748 raised vide Memo No.6277 dated 22.12.2014 and ₹3,71,892 raised vide Memo No.6278 dated 22.12.2014 be set aside, being in violation of provisions of regulation 9 of PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 and provisions of Electricity Act, 2003.
- 7.8 After hearing the parties on 15.06.2015, the Commission closed the hearing of the case with permission to the

petitioner to file written submissions. In the written submissions, the petitioner reiterated the arguments as discussed above.

## **8.0 Findings and Decision of the Commission**

8.1 The main issue in the petition is the interpretation of regulation 9 of the Supply Code read with section 46 of the Act and applicability of clause 47 of the Conditions of Supply. The contention of the petitioner is that since he has requested for erection of common 11 kV independent feeder for release in extension of load/contract demand of two connections so the cost of the independent feeder should be shared amongst these two connections on proportionate basis. According to the petitioner, the cost of feeder for A/C No.LS-57 could be from the point where the connection to A/C No.LS-67 has been tapped and since per kVA charges are more than the estimated cost of this portion of the feeder so only Service Connection Charges can be recovered by PSPCL. In case of A/C No. LS-67, the petitioner has pleaded that as per regulation 9.1.2(i)(b) of Supply Code read with clause 47 of the Conditions of Supply, actual cost including proportionate cost of common portion of the independent feeder or Service Connection Charges, whichever is higher, should be charged. At the same time the petitioner claimed that as per Hon'ble Punjab & Haryana High Court Order, no amount can be charged as per Conditions of Supply. The petitioner has also argued that regulation 9.1.2(i)(b) of the Supply Code is violative of section 46 of the Act. Thus the petitioner has tried to argue and interpret various instructions/regulations/sections according to his

convenience and often contracting itself in the process. Same approach has been adopted by PSPCL while defending its action of claiming additional amount for release of extension in load/contract demand of A/C Nos. LS-53 & LS-67 through a common 11 kV independent feeder. In case of recovery of charges for extension in load of LS-53, the argument of PSPCL is that as per regulation 9.1.2(i)(b) of the Supply Code, actual cost of independent feeder or Service Connection Charges on per kVA basis, whichever higher, is payable. In case of A/C No. LS-67, PSPCL's argument is that since consumer has been fed by tapping the independent feeder so actual cost of the estimate or Service Connection Charges on per kVA basis, whichever higher, plus proportionate cost of the common portion of independent feeder is recoverable and regulation 9.1.2(i)(b) of the Supply Code is not applicable in this case. PSPCL also contested the version of the petitioner that since feeder is common so cost should be shared amongst these two connections.

- 8.2 The first issue which needs to be settled is regarding recovery of cost of 11 kV independent feeder which has been used to release load of two consumers. Although the connections bearing A/C Nos. LS-53 and LS-67 belongs to the petitioner i.e Goyal Petrofils Yarn (Pvt.) Ltd. but both are distinct entities and two different consumers of PSPCL with independent premises situated at a distance of one KM. As both these electricity connections and premises are separate so in accordance with the provisions of Supply Code both these connections used by the petitioner shall be treated as two separate consumers for all intents and purposes. Both

these connections were getting electricity through a category-2 feeder. Both the consumers applied for extension in load/contract demand and also requested to release the load from an independent 11 kV feeder. Although, the petitioner applied for extension in load/contract demand on the same date and feasibility clearances, demand notices etc. were also issued to both the consumers on the same day but these facts do not bestow any right on the consumers to calculate the liability in the manner which has not been provided in the regulations. Also, the petitioner has not quoted any regulation/rule which permit sharing of cost of such 11 kV independent feeder amongst consumers the way the petitioner has argued. So the claim of the petitioner that since it has requested for erection of common 11 kV independent feeder for its two connections so that cost can be shared proportionately, is not sustainable as recovery of expenditure for release of load is governed by regulation 9 of the Supply Code.

- 8.3 PSPCL while granting feasibility clearance for extension in load to A/C No.LS-53 vide Memo No.7744 dated 10.9.2013 has mentioned that the load will be released at 11 kV supply voltage from the proposed 11 kV New Goyal Petrofils feeder having size of 150mm<sup>2</sup>, 3/C AB cable emanating from 220 kV sub-station Gaunsgarh. Thus the length of the independent feeder for LS-53 has been defined as the total length from 220 kV S/S Gaunsgarh to the premises of LS-53. The petitioner accepted the conditions imposed by PSPCL in the feasibility clearance letter and complied with the demand notice, without raising any objection on this proposition so

claim now that the feeder length should be considered from the point where the connection to LS-67 has been tapped to the premises of LS-53 is not sustainable at this stage. Similarly, while conveying feasibility clearance for extension in load/contract demand to LS-67 vide Memo No.7741 dated 10.3.2013, PSPCL has mentioned that load will be released at 11 kV supply voltage from the 11 KV New Goyal Petrofils feeder already proposed in Goyal Petrofils Yarn (Pvt.)Ltd., Ludhiana A/C No.E-42-SN01/00053 (with size of 150 mm<sup>2</sup> 3/C AB cable) emanating from 220 kV sub-station Gaunsgarh. Thus it is clear that extension in load/contract demand to LS-67 was proposed to be released by tapping the independent feeder proposed for LS-53. Here again the petitioner accepted the conditions imposed by PSPCL in the feasibility clearance letter and did not raise any objection at the time of compliance of demand notice. Thus, for releasing the extension in load/contract demand and shifting the load to 11 kV independent feeder as requested by the petitioner, the feeder was erected for A/C No.LS-53 and extension in load to A/C No.LS-67 was released from this proposed 11 kV independent feeder erected for LS-53 by tapping the independent feeder. Accordingly, calculations for recovering any expenditure i.e Service Connection Charges or actual cost, whichever higher, shall have to be made on the basis of this settled position.

- 8.3 Regarding recovery of expenditure from these two consumers for release of extension in load and shifting of load for both the connections on 11kV independent feeder erected at the request of the consumer, we have to refer to

regulation 9.1.2 (i) (b) of PSERC (Electricity Supply Code and Related Matters) Regulations, 2007. It has been provided in regulation 9.1.2 (i) (b) of the Supply Code 2007 that

*“where total load including existing load exceeds 500 kW/500kVA, the consumer will pay kW/kVA charges for the additional load/demand as approved by the Commission or actual expenditure for release of load/demand, whichever is higher”.*

The bone of contention in this case is the correct interpretation of the words “actual expenditure”. In the Supply Code 2007, the method of calculating “actual expenditure” in case of independent 11 kV feeder has not been explicitly defined so we have to examine clause 47 of the Conditions of Supply which lay down the methodology for calculating the expenditure recoverable for 1<sup>st</sup> and subsequent consumers who avail the facility of independent feeder. The relevant clauses are reproduced below:

*“47.1 Consumers running Essential Services and/or continuous process industries irrespective of their load/contract demand, AP High Technology consumers with load more than 100 KW or other Industrial consumers with a Contract Demand exceeding 2500 KVA may apply for an independent 11 KV feeder to avail of the benefit of uninterrupted supply of electricity provided they agree to pay the cost of the independent feeder, Circuit Breaker (CB) and establishment charges.*

*47.4 In the event of tapping/extending an independent feeder, the consumer getting the benefit of independent feeder by tapping/ extending shall be liable to pay*

*proportionate cost (duly updated by applying Wholesale Price Index for all commodities) of common portion of line/feeder including Circuit Breaker at the sending end in addition to entire cost of independent portion/section.*

*47.5 The proportionate cost of common portion of feeder/line recoverable from 2nd and/or subsequent consumer alongwith interest at SBI's base rate (compounded annually) on this proportionate cost shall be adjustable against the expenditure incurred for augmentation of feeder which might be necessitated in the event of the consumer(s) who has borne the entire cost initially coming up for enhancement in his Contract Demand".*

The methodology for calculating actual expenditure for release of load from independent feeder as mentioned above has to be used to calculate the liability of each consumer in terms of the provision of regulation 9.1.2(i)(b) of the Supply Code 2007. The objection of the petitioner that any demand or recovery cannot be made on the basis of Conditions of Supply as per Hon'ble Punjab and Haryana High Court Orders in CWP No.10644 of 2010, is not sustainable. It has been made clear in aforesaid Order that the authority must be derived from the provisions of the Act or the regulations framed under section 181 of the said Act. The clause 47 of Conditions of Supply only provide the components of the line which are included in the actual expenditure chargeable from the 1<sup>st</sup> consumer and from any subsequent consumer who may be affected by tapping of the 11 kV independent feeder

but the calculations of the liability has to be in accordance of regulation 9 of the Supply Code. Similar provision for EHT consumers has been explicitly provided in regulation 9.1.2(i)(c) of the Supply Code. Moreover, the method of calculating expenditure provided in the Conditions of Supply is in line with the Supply Code 2007 and the Act. Section 46 of the Act provides that a distribution licensee can recover any expenses reasonably incurred in providing any electric line or plant used for the purpose of giving that supply in pursuance of section 43 as authorized by the State Commission. Accordingly, the Commission notified the Supply Code and regulation 9 of the Supply Code provides for recovery of expenses from the applicant/consumer.

The argument of PSPCL that in case of extension in load/contract demand to A/C No. LS-67, regulation 9.1.2(i)(b) of the Supply Code is not applicable is also not sustainable. The issue of recovery of expenditure has to be decided as per regulation 9.1.2(i)(b) of the Supply Code read with clause 47 of the Conditions of Supply, as has also been argued by the petitioner.

- 8.4 As per the feasibility clearance letter dated 13.9.2013, the 11 kV Goyal Petrofils independent feeder has been erected for LS-53 and the “actual expenditure” in this case is the total cost of 11 kV feeder from 220 kV sub-station Gaunsgarh to the premises of the Consumer. Thus, the consumer shall have to pay the actual cost of the feeder which include cost of line, breaker and establishment cost or the per kVA charges as approved by the Commission, whichever is higher. The petitioner has raised the issue that the PSPCL is demanding

₹3,71,892 by considering the estimated cost of feeder as ₹26,26,892 which is not the actual cost and demanded that actual expenses be provided by PSPCL. Regulation 19.7 of the Supply Code 2007 provides that “ *After execution of work of the electric line or electrical plant as the case may be, the Licensee will be entitled to demand from the applicant the total amount actually incurred by the Licensee (recoverable amount) for this purpose and adjust Security (works) against such recoverable amount.-----*”

Further regulation 19.8 of Supply Code 2007 provides that “*In case the recoverable amount from the applicant works out to be more than Security (works), then a Demand Notice will be served on the applicant specifying such amount and requiring him to deposit the same.-----*”

Accordingly, PSPCL was directed to submit the actual expenditure incurred for erection of the 11 kV feeder and also submit copy of the IWR, which was complied with by the PSPCL and a copy of the same was also handed over to the petitioner. During hearing on 3.6.2015, PSPCL through its Sr. Xen/Op. Sunder Nagar Divn. (Spl.), Ludhiana submitted the actual expenditure for LS-53 connection as under:

i)	Actual cost as per IWR	₹26,19,973
ii)	Storage, contingency and transportation charges @ 5%.	₹1,30,999
iii)	Total (i+ii)	<b>₹27,50,972</b>
iv)	16% departmental charges.	₹4,40,156
v)	Total actual cost. (iii+iv)	<b>₹31,91,128</b>

The petitioner raised no objection on the actual expenditure statement submitted as above by the concerned officer of PSPCL. However, from the scrutiny of the IWR, it is observed that only actual cost of ₹26,19,973 plus 16% departmental charges i.e ₹4,19,196 i.e. the total actual expenditure of ₹30,39,169 has been booked by PSPCL against the work of erecting 11 KV Goyal Petrofils feeder. Now as per regulations 9.1.2(i)(b) of the Supply Code, the consumer is liable to pay this actual expenditure or the per kVA charges for the additional load, whichever is higher. Since the actual cost of ₹30,39,169 is more than the per kVA charges of ₹22,55,000 deposited by the consumer for LS-53 connection **so balance of ₹ 7,84,169 is payable by the consumer.** It is a matter of concern that neither the field officer nor even the audit party raised the demand on the consumer as per the expenditure booked after completion of work in accordance with regulation 19 the Supply Code 2007 and continued to calculate the liability on the basis of estimated cost rather than actual expenditure resulting in loss to the licensee.

- 8.5 In case any independent feeder is tapped to release any load to another consumer then the “actual expenditure” with reference to regulation 9.1.2(i)(b) of the Supply Code 2007 for the second consumer getting the benefit of independent feeder by tapping/extending, is the proportionate cost, (duly up dated by applying WPI) of the common portion of the line/feeder including circuit breaker at the sending end plus entire cost of the service line. In case of A/C No. LS-67, the “actual expenditure” is the cost of service line from the tap point of 11 kV Petrofils feeder to the premises of the

consumer plus proportionate cost of the common portion of the feeder from 220 kV S/S Gaunsgarh to the tap point of the feeder to LS-67. PSPCL has intimated the actual expenditure for releasing load to A/C No.67 as ₹9,60,610 which includes ₹861 as cost of individual service line plus ₹9,59,749 as proportionate cost of the common portion of the 11 kV line. Although the method of calculating the proportionate cost of the common portion by PSPCL is not in line with the instructions of the Commission but since it will not affect the liability of the consumer, so re-calculations of proportionate cost of the common portion are not being made in the case of LS-67 connection. The actual cost of ₹9,60,610 is less than the Service Connection Charges (SCC) of ₹32,56,000 paid by the consumer on per kVA basis, **so, nothing more is recoverable from the consumer bearing A/C No.LS-67.** The claim of PSPCL that since consumer has availed the benefit of independent feeder so he is liable to pay actual cost of the estimate or Service Connection Charges on per kVA basis, whichever higher, plus proportionate cost of the common portion of independent feeder and regulation 9.1.2(i)(b) of the Supply Code is not applicable in this case is devoid of any merit. PSPCL has failed to produce any regulation which empowers the licensee to recover actual cost or SCC, whichever higher plus proportionate cost of the common portion of the feeder. The actual cost in such cases consists of actual cost of service line plus proportionate cost of the common portion and this actual cost is then compared with SCC and whichever is higher is recoverable from the consumer. To load the

consumer again with the proportionate cost of the common portion is not only illogical but also against the provisions of the Supply Code 2007.

**Thus in case of connection having A/C No. LS-53, ₹7,84,169 in addition to the Service Connection Charges of ₹22,55,000 already paid by the consumer is payable as the balance amount for extension in load/ contract demand of 1361.482kW/1025 kVA in existing load/CD of 1088.518kW/975kVA thus making the total load/ CD of 2450 kW/2000 kVA from 11 kV New Goyal Petrofils independent feeder. The notice issued by PSPCL vide Memo. No. 6278 dated 22.12.2014 for recovery of ₹3,71,892/- from A/C No. LS-53 is set aside and PSPCL is directed to issue a fresh notice for recovery of ₹7,84,169/- from the consumer as per the procedure specified in Supply Code.**

**In case of connection having A/C No. LS-67, the consumer has already paid ₹32,56,000 on per kVA basis which is more than actual expenditure so nothing more is recoverable from the consumer for extension in load/ contract demand of 1801.380 kW/1480 kVA in existing load/CD of 198.620 kW/ 220 kVA thus making the total load/ CD of 2000 kW/1700 kVA by tapping the 11 kV Goyal Petrofils independent feeder. Accordingly, the notice issued by PSPCL vide Memo. No. 6277 dated 22.12.2014 for recovery of ₹9,59,748/- is set aside.**

A number of cases have come to the notice of the Commission where after completion of work, the account of the consumer is not overhauled by PSPCL as per regulation

19 of the Supply Code 2007 causing either a loss to the utility in some cases due to non-recovery of actual expenditure or harassment & loss to the consumer due to denial of refund of excess amount of Security (works) got deposited from the consumer.

**The Commission thus directs PSPCL that in respect of cases where cost of the line/works is to be borne by the consumer, it shall be ensured that after completion of work, the account of the consumer is overhauled as per regulation 19 of Supply Code 2007 and regulation 9.3 of Supply Code 2014, as the case may be. A certificate regarding compliance of these regulations in respect of already released connections to such consumers shall be submitted by PSPCL to the Commission by 30.09.2015. Any laxity in compliance to these directions shall invite action under section 142 of the Act in addition to the penal provisions provided in the Supply Code.**

The petition is disposed of accordingly.

Sd/-

(Gurinder Jit Singh)

Member

Chandigarh

Dated: 25.06.2015

Sd/-

(Romila Dubey)

Chairperson