

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

**Petition No. 60 of 2012  
Date of Order: 30.01.2013**

In the matter of : Petition under Regulation 5.5, 5.6 & 6 of Electricity Supply Code (or amendment thereof) & Related Matters Regulations & Conditions of Supply, read with Section 142 of the Electricity Act 2003 **AND** Against decision dated 17.8.2012 of Feasibility Clearance Committee of the Punjab State Power Corporation Limited, recorded at S.No.2 in respect of Armaan Steels, A-07, Industrial Focal Point, Mandi Gobindgarh forfeiting EM of Rs.9.45 Lacs **AND** Application for new large supply induction furnace connection, load 6300 Kilowatt/6300KVA on 66 KV supply for Armaan Steels, Plot No.A07, Industrial Focal Point, Mandi Gobindgarh with reference to memo No.13942 dated 7.9.2012 issued by Dy.Chief Engineer, Punjab State Power Corporation Limited, Khanna.

**AND**

In the matter of Armaan Steels (A unit of M/s Goyal Exports) (Proposed unit at: A-07, Industrial Focal Point, Mandi Gobindgarh) Project office: Space "E", 3<sup>rd</sup> Floor Surya Kiran Building, The Mall, Ludhiana-141001

**Versus**

Punjab State Power Corporation Limited, Patiala through its Chairman cum Managing Director.

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

**ORDER**

The petition has been filed by Armaan Steels (A unit of Goyal Exports) Mandi Gobindgarh under Regulation 5.5, 5.6 & 6 of Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters)

Regulations, 2007 against the decision dated 17.8.2012 of Feasibility Clearance Committee (FCC) of the Punjab State Power Corporation Limited (PSPCL) forfeiting Earnest Money amounting to Rs.9.45 Lac in the application for new large supply induction furnace connection of load 6300 kW/6300kVA on 66 kV supply for Armaan Steels at Plot No.A-07, Industrial Focal Point, Mandi Gobindgarh. The petitioner has submitted that it applied for power load of 2500 kVA for Induction Furnace of 6 ton capacity vide requisition dated dated 05.08.2010 and deposited Rs.3.75 Lac as earnest money vide receipt No.342 Book No.D-93817 dated 13.08.2010. Its feasibility was cleared on 07.12.2011 after a gap of one year and four months period with a condition of installing underground cable of 66 kV costing about Rs.1 crore. The petitioner has further submitted that due to lapse of sixteen months and also due to change / updation of technology, it was decided by the petitioner for further augmentation and as such an adjoining plot measuring 5000 square yards was also allotted to the petitioner by Punjab Small Industries Export Corporation in December, 2011. As such before expiry of period allowed to submit A& A form, a fresh requisition / application for power load of 5000 kVA was submitted and an additional earnest money amounting to Rs.3.75 Lac was deposited vide receipt No.394 Book No.D-91740 dated 31.01.2012 as demanded vide letter no.1637/ISC/780 dated 31.01.2012 issued by Dy.C.E., PSPCL, Khanna. Its feasibility was granted on 10.4.2012 by the Feasibility Clearance Committee (FCC). The petitioner has further submitted that it was again decided by the management of the firm to add Rolling Mill Unit along with Induction Furnace of 15 ton enhanced capacity with latest technology for higher production, requiring more power load. The revised requisition for 6300 kVA load was submitted and additional earnest money amounting to Rs.1.95 Lac was deposited vide receipt No.368 of Book No.91724 dated 06.06.2012 making total deposit of earnest money to Rs.9.45 Lac required for 6300 kVA connection as demanded by Dy.C.E.,PSPCL, Khanna vide letter No.8957 dated 05.06.2012 well before expiry of limitation period for submission of A and A forms.

The case was placed before the FCC on 17.08.2012 and it was decided by FCC to forfeit the earnest money amounting to Rs.9.45 Lac. The

concluding para of the decision of FCC has been translated from its original Punjabi version to English by the petitioner as under:

“Because the applicant has not complied with instructions to deposit A and A forms within the prescribed period limit against Feasibility Clearance issued, hence, EMD deposited by him is forfeited and may revise his requisition by asking to deposit fresh EMD. Committee also decided that such applicants, who do not comply with “Feasibility Clearance Issued” to register A and A forms within time limit and they instead of filing revised requisition for enhancement / change in power load, their EMD be forfeited and new requisition be registered to send fresh case”.

The petitioner has submitted that FCC has admitted in the proceedings dated 17.08.2012 that the instructions are silent on “whether to adjust / refund / forfeit the earlier deposited EMD before registering A & A forms.” So the petitioner is being penalized when the instructions are silent. Feasibility Clearance was cleared when the load was enhanced from 2500 kVA to 5000 kVA without raising any objection at that time. If the FCC can grant feasibility clearance on earlier two occasions, it is not justified to forfeit entire earnest money in the 3<sup>rd</sup> application for 6300 kVA load and advising the petitioner to apply afresh by depositing fresh earnest money. The Utility has not suffered any loss on account of additional demand from 5000 kVA to 6300 kVA. The recommendation for 6300 kVA load from Dy.Chief Engineer, Khanna to Chief Engineer (Commercial) was as to fore in respect of 5000 kVA load. The petitioner has further submitted that the enhancement in power load does not mean that the petitioner is non serious to avail power load. The project of the petitioner may exceed financial outlay of Rs.20 Crore and the petitioner has to ensure viability of the project from time to time.

The petitioner has prayed that feasibility clearance for 6300 kVA load may be granted and decision of FCC to forfeit Earnest Money of Rs.9.45 Lac be set aside, to maintain seniority as per rules and to release the connection. The feasibility be cleared on old rates applicable on the date of decision i.e. 17.08.2012 of FCC. The petitioner has prayed to condone delay, if any, in filing the petition as decision of the FCC made no mention of filing any appeal.

The petition was admitted vide Order dated 21.11.2012 and PSPCL was directed to file reply by 11.12.2012. PSPCL requested for extension in time to file reply vide C.E./ARR & TR memo no.6153 dated 11.12.2012 and then submitted reply vide memo no.6172/74 dated 17.12.2012. The fact that Feasibility Committee cleared the feasibility for a LS connection for 2250 kW / 2500 kVA vide C.E./Commercial memo no.26356/60 dated 07.12.2011 with a condition to lay 66 kV underground cable 550 M from 220 KV G-1 Gobindgarh at the cost of applicant and the fact that the Feasibility Committee cleared the feasibility for enhanced load of 5000 kW vide C.E./Commercial memo no.285/86 dated 10.04.2012, have been admitted by PSPCL in its reply. The Dy.C.E./DS Khanna extended the time for submission of A & A form upto 08.06.2012 vide memo no.7303 dated 09.05.2012. The petitioner again revised its requisition on 04.06.2012 with applied load of 6300 kVA. Dy.C.E./DS Circle, Khanna, instructed Assistant Executive Engineer/Commercial, Gobindgarh to accept requisition vide memo no.8955 dated 05.06.2012 and additional required Earnest Money was deposited on 06.06.2012. The FCC considered the case in its meeting held on 17.08.2012 and decided to forfeit the earnest money and to ask the applicant to submit fresh requisition and fresh EMD because the applicant had not submitted the A & A forms within stipulated period. The respondent (PSPCL) has prayed to keep in view the following points while deciding the issue:

- (a) The consumer was legally authorized to submit A & A form upto 04.02.2012 and 08.06.2012 for First and Second requisitions respectively. There was no ground for not accepting his requisition for extension in load on 28.01.2012 and 06.06.2012. Moreover, he was not debarred for registration of A&A form as per the feasibility already granted to him.
- (b) The feasibility Committee after considering the following decided that since the consumer failed to submit A&A Form within the stipulated period of 60 days, as such, his EMD is required to be forfeited:-
  - (i) The feasibility for 2250 kW / 2500 kVA was given on 07.12.2011 and the consumer got the validity extended

for registration of A&A form upto 04.02.2012. However, on 28.01.2012, the consumer revised the requirement to 5000 kW / 5000 kVA CD at 66 kV supply voltage.

- (ii) The feasibility for 5000 kW / 5000 kVA, load was given on 66 kV on 10.04.2012 and consumer was required to submit A&A form upto 09.05.2012. On his request, the validity was extended to 08.06.2012. However, on 06.06.2012 (before expiry of last date for submission of A&A form), consumer again submitted requisition form for another extension making total load 6300 kW / 6300 kVA.
- (iii) The consumer was not serious for availing the load and revised his requisition 3 to 4 days prior to expiry of last date for submission of A&A form in order to gain time. The consumer failed to submit A&A Form within the prescribed period of 60 days. EMD is required to be forfeited as per the instructions prescribed in ESIM clause no. 4.7.

- (c) The Commission while deciding the petition no.26 of 2012 of M/s Neel Kanth Concast Steels Pvt. Ltd., Mandi Gobindgarh had observed in para no.7 of Order dated 06.08.2012 as under:

“The Commission also observes that extension of 21 days beyond 60 days in compliance period allowed to Golden Industries, Mandi Gobindgarh in accordance with an authorization dated 21.12.2005 of WTM’s of erstwhile PSEB, is in violation of Supply Code, which is in force since 2007”.

The petitioner argued the case at length on 15.01.2013. PSPCL reiterated submissions made in its reply dated 17.12.2012. After hearing the parties further hearing was closed and Order was reserved vide Order dated 16.01.2013.

## **Findings & Decision**

The Commission observes that the applicant gave requisition dated 5.8.2010 (Annexure-B of Petition) for contract demand of 2500 kVA and total load of 2250 kW. This was forwarded to AEE/Commercial, PSPCL, Mandi Gobindgarh by Dy. CE/DS Circle, Khanna with a copy to the applicant sent vide No. 7148 dated 6.8.2010. Its feasibility was cleared by FCC vide letter no. 26356 dated 7.12.2011. The applicant was allowed to register A&A form upto 4.2.2012 against this requisition.

The applicant submitted a fresh requisition on 31.1.2012 in the office of Dy. CE/DS Circle, Khanna for contract demand of 5000 kVA with a request to adjust the earlier earnest money of Rs. 3,75,000 deposited vide receipt no. D93817/342 dated 13.8.2010. The applicant was allowed to register the fresh requisition, after adjustment of earnest money already deposited and taking cognizance of the fact that the applicant has not deposited A&A form against feasibility already cleared for 2500 kVA demand, vide Dy. CE/DS Circle, Khanna letter no. 1637 dated 31.1.2012. The feasibility clearance was conveyed for this load by CE/Commercial vide memo no. 285 dated 10.4.2012. The applicant was allowed to register A&A form within 60 days after feasibility clearance against this requisition.

The applicant again submitted revised requisition on 5.6.2012 in the office of Dy. CE/DS Circle, Khanna for contract demand of 6300 kVA (instead of 5000 kVA for which feasibility was already granted) with a request to adjust the earnest money of Rs. 7.5 lac deposited earlier vide receipt nos. D93817/342 dated 13.8.2010 and D91740/394 dated 31.1.2012 towards the revised requisition of 6300 kVA. This request of the applicant was acceded to vide Dy. CE/DS Circle, Khanna letter no. 8955 dated 5.6.2012 (Annexure-20 of PSPCL reply). The case for grant of feasibility clearance for 6300 kVA demand to the applicant was discussed in the FCC meeting held on 17.8.2012. It has been mentioned in the minutes of this meeting that instructions are silent regarding adjustment/refund/ forfeiture of earnest money deposited earlier in such cases. Earnest money deposited in this case has been forfeited vide memo no. 13942 dated 7.9.2012 (Annexure-A of

Petition) and applicant has been asked to submit new requisition along with fresh EMD.

There is no fault of the applicant in this case because he was allowed to submit revised / fresh requisition forms twice by adjusting his earlier deposited amount of earnest money. It was also in the knowledge of the PSPCL that applicant had not deposited A & A forms for release of 2500 kVA and 5000 kVA contract demands. It is not, therefore, justified to disallow consideration of requisition dated 5.6.2012 for contract demand of 6300 kVA under similar circumstances. The applicant was not given any opportunity of being heard before passing orders for forfeiture of EMD amounting to Rs.9.45 lac.

In view of above, the Commission decides to set aside memo no. 13942 dated 7.9.2012 of Dy. CE/DS Circle, Khanna regarding forfeiture of EMD. Further, the requisition of applicant for release of 6300 kVA contract demand shall be considered by PSPCL from the date of its registration on 6.6.2012. However, the charges for release of connection shall be recoverable as per the prevailing rates at the time of issue of demand notice after completing requisite formalities.

The petition is allowed in terms of above directions.

Sd/-

**(Gurinderjit Singh)**  
**Member**

Sd/-

**(Virinder Singh)**  
**Member**

Sd/-

**(Romila Dubey)**  
**Chairperson**

**Chandigarh**  
**Dated: 30.01.2013**