

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO 220-221, SECTOR-34 A CHANDIGARH**

Petition No.72 of 2016

Date of Order: 15.05.2017

Present: Shri D.S. Bains, Chairman
Shri S.S. Sarna, Member

In the matter of: Petition under regulation 44 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014 (hereinafter to be called Supply Code, 2014) read with Regulation 10 of the PSERC (Conduct of Business) Regulations, 2005 and other relevant regulations framed by this Hon'ble Commission and sections of the Electricity Act, 2003 seeking interpretation/ clarification of the regulation 9.5 of the Supply Code, 2014 and further under section 142 & 146 of the Electricity Act, 2003 for taking appropriate legal action against the respondent and its officials for releasing another electricity connection from the feeder/line of the petitioners, in violation of clause 47 of the Conditions of Supply and clause 9.5 of the Supply Code, 2014, for which the petitioners had paid entire cost and further for issuing direction to remove the other connection released on the independent feeders of the petitioners as the petitioners have paid the entire cost of the feeder, in the interest of justice.

AND

- In the matter of: 1. M/s Ind-swift Laboratories Ltd., registered office:SCO No.850, Shiwalik Enclave, NAC, Manimajra, Chandigarh.
2. M/s Ind-Swift Limited, Head Office, SCO No.850, Shivalik Enclave, NAC, Manimajra, Chandigarh.

.....Petitioners

Versus

- In the matter of: 1. Punjab State Power Corporation Limited, The Mall Patiala -147001
2. The Chief Engineer/Distribution (South Zone), PSPCL, Patiala

.....Respondents

Order:

1.0 The present petition has been filed seeking clarification/interpretation of regulation 9.5 of the Supply Code, 2014 & also for taking action against respondents under section 142 & 146 of the Electricity Act, 2003 for violating Supply Code by releasing electricity connection to other general consumers from the feeders, claimed to be an independent feeder by the petitioners. The gist of the submissions is as under:

1.1 The petitioners are duly incorporated Companies and manufactures of medicines/pharmaceutical drugs. For running its plant, the petitioner No.1 took an electricity connection bearing A/C No.Z21-DB02-00096 under Derabassi Sub Division, Lalru Division and the connection

was released from 11 kV Sona Paper Feeder on 20.11.2007. The petitioner No.2 took an electricity connection bearing A/C No.Z21-DB02-00181 for running its plant under Derabassi Sub Division, Lalru Division in September, 2006. Both the petitioners are sister concerns having independent feeders under Derabassi Sub Division (Lalru Division) and have common issue to be decided by the Commission. As such both the petitioners filed the common petition before the Commission.

- 1.2 The industry of the petitioners is an essential industry as per PR Circular No.12 of 1998, which is still applicable.
- 1.3 The petitioner No.1 was having contract demand of 2348 kVA and had applied for extension of contract demand by 650 kVA in the year 2010. The petitioner also applied for independent line with 11 kV XLPE cable as he was facing various interruptions in power supply from Sona Paper Feeder. PSPCL sanctioned the extension in contract demand and asked the petitioner No.1 to deposit ₹44,30,735/- i.e. cost of cable/independent feeder by issuing demand notice, which was deposited on 24.02.2011. The petitioner got independent 11 kV line from 220 kV Sub Station Derabassi.
- 1.4 The independent line of the petitioner No.1 was cleared for energisation by CEI Punjab vide Memo No.18353 dated 26.12.2011 and the electricity connection was shifted from Sona Paper feeder to newly erected independent feeder. Though the petitioner No.1 had applied for extension of

contract demand and same was sanctioned but it was not actually released by PSPCL. As on today, the petitioner No.1 is having same contract demand of 2348 kVA fed through independent feeder erected at the cost of the petitioner No.1.

- 1.5 Petitioner No.2 is having connected load of 1599.600 kW with CD of 1500 kVA. At the time of release of the electricity connection to the petitioner No.2, the petitioner deposited ₹19,24,120/- as cost of 11 kV independent feeder and VCB at the time of release of connection and the connection was released from 220 kV Sub Station Derabassi. Thereafter, more connections of general category were released from this feeder without the consent of the petitioner No.2. After some time, the whole feeder was shifted from 220 kV Sub Station Derabassi to 220 kV Sub Station Lalru. Due to release of general category connections on this feeder, interruptions in the supply of the electricity increased. Thereafter, PSPCL shifted the connection from 220 kV Sub Station Lalru to 66 kV Sub Station Mubarikpur. PSPCL was requested vide letters dated 29.04.2015 & 16.07.2015 to remove other connections released from this feeder.
- 1.6 On 13.06.2015, the petitioner No.1 noticed that its 11 kV independent feeder is being tapped by the employees of the PSPCL for giving electricity connection to some other consumer.

- 1.7 On 15.06.2015, the petitioner No.1 requested Addl.SE, Lalru that its line, being independent feeder, should not be tapped according to CC 36/11. The letters were also mailed to CE/PP&R and Dy.C.E. /Distribution, Mohali. A letter dated 18.06.2015 was also sent to Chief Engineer, South Zone, PSPCL.
- 1.8 At the time the petitioners applied for independent feeders the Condition No.47 of the Conditions of Supply was **applicable which is reproduced below for reference:**

“47. PROVISION OF 11 KV INDEPENDENT FEEDER FOR CONSUMERS

“Consumers running Essential Services and/or continuous process industries or other Industrial consumers with a Contract Demand exceeding 500 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, Oil Circuit Breaker (OCB)/Vacuum Circuit Breaker (VCB) and establishment charges.

When a consumer obtaining supply from an existing common feeder is allowed an independent feeder, the cost incurred in converting the existing feeder into an independent feeder including the cost of shifting the supply system of other consumers connected to the existing feeder will be payable by that consumer. A consumer requiring supply from an independent feeder who has initially paid only prorata cost of switchgear as per Reg. 9 of the Supply Code will be further liable to pay remaining cost of OCB/VCB after adjusting the prorata cost already paid.

The independent feeder provided at the cost of a consumer will not be tapped/extended to provide supply to any other consumer. However, if such tapping has to be resorted to on account of technical constraints, then it will be effected only with prior concurrence of the consumer who had borne the cost."

The clause 47 was amended vide Commission's Order dated 07.09.2011 in petition No.28 of 2011. The amended clause 47 is as under:

- 47.1 *Consumers running Essential Services and/or continuous process industries irrespective of their load/contract demand, ²[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.*
- 47.2 *When a consumer obtaining supply from an existing common feeder is allowed an independent feeder, the cost incurred in converting the existing feeder into an independent feeder including the cost of shifting the supply system of other consumers connected to the existing feeder will be payable by that consumer. A consumer requiring supply from an independent feeder who has initially paid only prorata cost of switchgear as per Reg. 9 of the Supply Code will be further liable to pay remaining cost of Circuit Breaker after adjusting the prorata cost already paid.*
- 47.3 *The independent feeder provided at the cost of a consumer will not be tapped / extended to provide supply to any other dis-similar consumer. However, if such*

tapping has to be resorted to on account of technical constraints, then it will be effected in such a way that an independent feeder of essential service consumer is tapped/ extended for another essential service consumer only. Similarly an independent feeder of a continuous process industrial consumer shall be tapped / extended for another continuous process industrial consumer only. An independent feeder of a general industrial consumer shall be tapped/extended for a general industrial consumer only.

- 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.*

Note- *It shall be ensured that the original consumer is intimated regarding congestion in and around the substation and the proposal of tapping his independent feeder. The cost of common portion payable by 2nd and or subsequent consumer shall also be intimated to the concerned consumer. It shall also be ensured that where double circuit supports are provided for erecting a single circuit independent feeder the concerned consumer is charged the cost of single circuit supports only*

The relevant regulation 9.5 of the Supply Code, 2014 is as under:

“9.5 Independent 11 kV Feeder”

- 9.5.1 *Consumers catered supply at 11kV and running essential services or continuous process industries irrespective of their load/contract demand or AP High Technology consumers with load more than 100 kW or other Industrial consumers with a contract demand exceeding 2500 kVA (in case of release of connection/additional load at lower than the prescribed voltage due to constraint as per regulation 4.2.1) may apply for an independent 11 kV feeder to avail the benefit of uninterrupted supply of electricity provided they agree to pay the cost of the independent feeder including breaker at the feeding substation and establishment charges at the rate of 16% of the cost of material and labour.*
- 9.5.2 *When a consumer getting supply from an existing common feeder is allowed an independent feeder, the cost incurred in converting the existing feeder into an independent feeder including the cost of shifting the supply system of other consumers connected to the existing feeder shall be payable by that consumer. A consumer requiring supply from an independent feeder who has initially paid only proportionate cost of mains/common line including breaker/bay as per regulation 9.1.1 of the Supply Code shall be further liable to pay remaining cost of breaker after adjusting the cost already paid.*
- 9.5.3 *The independent feeder provided at the cost of a consumer shall not be tapped /extended to provide supply to any other dis-similar consumer. However, if such tapping has to be resorted on account of technical constraints, then it shall be effected in such a way that an independent feeder of essential service consumer is*

tapped/ extended for another essential service consumer only. Similarly an independent feeder of a continuous process industrial consumer shall be tapped / extended for another continuous process industrial consumer only. An independent feeder of a general industrial consumer shall be tapped / extended for a general industrial consumer only.

- 9.5.4 *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) for common portion of line/feeder including Circuit Breaker at the feeding substation in addition to entire cost of independent portion/section of service line.*
- 9.5.5 *The proportionate cost of common portion of feeder/line recovered from 2nd and/or subsequent consumer along with 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 who has borne the entire cost initially requests for enhancement in his contract demand at a later stage.*
- 9.5.6 *Distribution Licensee shall intimate the original consumer regarding congestion in and around the substation and the proposal of tapping his independent feeder. The cost of common portion payable by 2nd and or subsequent consumer shall also be intimated to the concerned consumer.*
- 9.5.7 *Where multi- circuit supports are provided for erecting a single circuit independent feeder, the concerned consumer shall be charged the cost of single circuit supports only.*

- 1.9 From the bare perusal of the clause 47 of the Conditions of Supply & regulation 9.5 of the Supply Code, 2014, it is very much clear that at the time when the petitioners applied for independent feeder, such feeders could not be tapped. Even in the amendments it has been mentioned that the independent feeder can be tapped only if there are technical constraints and for that the consumer having independent feeder has to be informed. The Supply Code, 2014 specifically says that Distribution Licensee shall intimate the original consumer regarding congestion in and around the Sub Station and the proposal of tapping his independent feeder. But surprisingly the officials of the respondent without informing the petitioners about any congestion in and around the Sub Station or technical constraints tapped the independent feeders of the petitioners and same is totally wrong and illegal and in violation of the above said provisions.
- 1.10 The Industry of the petitioners is essential Industry as per PR Circular 12/98. Power Regulatory measures of general Industry were imposed on the factory of petitioner No.1 and accordingly the petitioner No.1 requested CE/PP&R for clarification. It was clarified by CE/PP&R vide his Memo No.9595 dated 02.09.2013 that power regulatory measures of general Industry are not applicable to it as it is an essential Industry.
- 1.11 The petitioner 1 is having co-generation power plant & permission of synchronization has been granted to it vide CE/Commercial Memo No.989 dated 20.11.2014. The petitioner No.1 is planning to wheel power to its neighbouring plants when it will get the permission. For this purpose the petitioner has purchased & got tested

ABT meters from ME lab Patiala. So it would not be technically possible to wheel electricity from a tapped independent feeder.

- 1.12 The connections to the neighbour was released in hurry without giving any proper hearing to the petitioners and tapping of our independent feeder without intimation to us is an injustice.
- 1.13 As petitioners have paid the entire cost of the feeders and breakers feedings the 11kV lines and as such the respondents have no right to release the electricity connection to any other person from the independent feeders of petitioners. Petitioners in this regard met respondents numerous times but nothing has been done by respondent so far. The petitioners are Open Access Consumers being having load more than 1MW but due to release of another electricity connections on the same feeder, the petitioners are not able to utilize the facility. The respondents have violated the provisions of Conditions of Supply and Supply Code 2014 and as such action has to be taken against the respondents under section 142 of the Electricity Act, 2003.
- 1.14 The licensee has failed to comply with the regulations framed by this Commission and has thus violated the conditions of the License issued to it. The issue regarding jurisdiction of the State Commission has been settled by Hon'ble Appellate Tribunal for Electricity in Appeal No.149

of 2010, wherein it has been held that only billing disputes have to be decided by the Consumer Forum but the State Commission alone has the jurisdiction to deal with the other situations where the non compliance of the condition of license or Rules and Regulations by licensees are reported.

1.15 The petitioner made the following prayer:

- i) Necessary interpretation/ clarification of the regulation 9.5 of the Supply Code-2014 may kindly be issued, as per the facts of the present case.
- ii) Necessary action may be taken against the respondents and its officials under section 142 & 146 of the Electricity Act, 2003 for releasing other electricity connections from the feeders/ line for which the petitioners had paid entire cost, in violations of clause 47 of the Conditions of Supply and clause 9.5 of the Supply Code-2014.
- iii) Necessary directions may kindly be issued to the respondents to remove other electricity connections released from the feeders/ electricity line on which the electricity connection of Petitioners have been released, as the petitioners have already paid the entire cost of the feeders.

2.0 The petition was taken up for hearing on 13.10.2016. After hearing the Counsel for the petitioner, the petition was admitted. During hearing two copies of the petition were handed over to

representative of PSPCL and was directed to file reply with a copy to the petitioner by 24.10.2016 (through e-mail as well as hard copy). The petitioner was also directed to file rejoinder, if any, to the reply filed by PSPCL by 25.10.2016. The Commission further directed PSPCL that the Dy.Chief Engineer, PSPCL Distribution Circle, Mohali shall also attend in person on the next date of hearing. The next date of hearing was fixed on 27.10.2016.

3.0 PSPCL vide CE/ARR & TR vide Memo No.6292-93 dated 24.10.2016 filed its reply & submitted as under:

- 3.1 The connection of petitioner No. 1 bearing Account number Z21DB0200096 was released from 11KV Sona Paper Category 2 feeder. The connection to Petitioner No 2 bearing (A/C No.Z21DB0200181)was released from 11KV Swift Category 2 feeder. Both the petitioners are sister concerns and are covered under essential Industry but their electrical connections are not from independent feeder.
- 3.2 The Petitioner 1, had applied for load extension from 2348 kVA to 2998 kVA(extension of 650 kVA). Since the load of consumer was more than 2500 kVA, a new feeder was proposed as per feasibility clearance and accordingly the cost of feeder was deposited by the consumer. Since the consumer was not able to produce copy of Pollution NOC, hence the load of the consumer was not increased as per consumer request. However, his supply was given from newly erected 11 kV Ind Swift Lab feeder from 220 kV Saidpura. Since the 11kV Ind Swift lab feeder feeding

petitioner no 1 is a Category 2 general feeder, hence as per PSPCL instructions general industrial load was released from this feeder.

- 3.3 The connection of the Petitioner No.2 was released from the 11KV Ind Swift Lab Cat 2 feeder from 220kV Saidpura with the load of 1599.600 kW with CD 1500kVA. Due to widening of Ambala-Chandigarh National Highway during the year 2013, the 11KV poles near the road crossing at village Devinagar were broken and later on, the same were not allowed to be erected by the National Highway Authority. Thus the load of the Petitioner no 2 was shifted from 220 kV Lalru to 11KV Derabassi link line feeder as an interim measure. Since the length of line was long and voltage drop was not within permissible limits, the load of consumer was shifted on 11KV Jawaharpur Category 2 feeder emanating from 66KV Mubarikpur.
- 3.4 The clause 47 of the Conditions of Supply came into operation w.e.f 15.09.2011 whereas the connection of the petitioner no. 2 was released in year 2006. Also the connection was proposed from a new feeder due to technical constraints as existing infrastructure was not able to take up new load of 1000 kVA which was later on extended by the consumer to 1500 kVA in 2014.

The connection of Petitioner No1 was released in the year 1997 on 11KV Sona Paper feeder for load of 665.93 kW which was increased to 2348 kVA. Subsequently the

consumer applied for load extension of 650 kVA, and since the load of consumer was more than 2500 kVA, it was proposed through a new feeder as per feasibility. Accordingly the cost of feeder was deposited by the consumer, but since the consumer was not able to produce copy of pollution NOC at the time of release of extended load, hence the load of the consumer was not increased as per consumer request but his supply was given from newly erected feeder from 220KV Saidpura namely 11KV Ind Swift Lab feeder.

- 3.5 The connections to both the petitioners were released from Category 2 industrial feeders before the Supply Code, 2014 came into effect. The consumer never requested for independent feeders for either of the connections and never got them sanctioned from the competent authority.
- 3.6 Petitioner No 1 has got the co-generation plant and permission of synchronization has been provided by CE Commercial vide Memo No 989 dated 20.11.2014. However, his planning to wheel power to its neighbouring plant is an afterthought and also till date there is no nearby plant of the consumer to which it can feed power. The approximate distance from petitioner 1 plant (located as Bhagwanpur village on Barwala road) to Petitioner No 2 plant (located at Jawaharpur village on Chandigarh Ambala highway) is more than 10 Km and power through 11kV is not feasible owing to technical constraints such as voltage drop and right of way.

- 3.7 The connection to the neighbour M/s Quard Life Sciences village Bhagwanpur has been released from 11kV Ind Swift lab Cat 2 industrial feeder as per prevalent PSPCL rules and guidelines.
- 3.8 The petitioner has paid cost of 11kV feeder as the Service Connection charges recoverable at that time were as under:

"Where total load including existing load exceeds 500 kW/500 kVA, the consumer will pay per kW/kVA charges for the additional load /demand or the actual expenditure for release of load/demand, whichever is higher".

Accordingly, the consumer had to pay the requisite cost of new feeder as existing 11KV infrastructure of PSPCL was unable to cater to the new/extended load of the consumer.

- 4.0 During hearing on 27.10.2016, the Learned Counsel for the petitioners sought time to file rejoinder to the reply filed by PSPCL. Acceding to the prayer, the petitioner was directed to file rejoinder by 03.11.2016, with a copy to the respondent (through e-mail as well as hard copy). Further, PSPCL was also directed to file reply to the rejoinder (if need be) through email as well as hard copy. The next date of hearing was fixed on 24.11.2016.
- 5.0 During hearing on 24.11.2016, the Learned Counsel for the petitioners stated that he could not file the rejoinder to the reply of PSPCL on account of his illness and prayed to allow him to file the same on that date. Acceding to the prayer, the petitioner was allowed to file the rejoinder with a copy to the respondent (through

e-mail as well as hard copy). The respondent was directed to file reply to the rejoinder (if need be)by 02.12.2016 (through email as well as hard copy) and the next date of hearing was fixed on 15.12.2016.

6.0 The petitioners filed rejoinder to the reply of PSPCL on 24.11.2016 & stated as under:

6.1 Both the petitioners are manufacturer of medicines/pharmaceutical drugs and are covered under essential industry as per Circular No. 12/1998. The connection of petitioner No.1 was released from 11 kV Sona Paper Feeder. At the time of release of connection, the petitioner was never informed that the connection is being released from Category 2 feeder. The electricity connection to petitioner No.2 was released from Ind Swift feeder. The respondent has not annexed any record viz A&A form, feasibility clearance, estimate, demand notice with the reply. PSPCL has concealed these documents from the Commission for the reasons best known to them. The petitioners denied that the electricity connections are not from independent feeders.

6.2 The connection to the petitioner No.1 was released from Sona Feeder and later shifted to independent 11KV Ind Swift Lab Feeder. The petitioner No.1 has deposited the total cost of the new feeder namely 11KV Ind Swift Lab Feeder and it was also erected only for the purpose of giving load to the petitioner No.1. The PSPCL is required to produce on record

the documents such as A&A forms, feasibility clearance, estimates, demand notices issued and receipts of amount deposited in the case of both the petitioners, which are necessary for the just decision of the present case. .

- 6.3 The respondents have not denied the fact that the petitioner No.2 is essential industry and deposited ₹19,24,120/- as total cost of 11KV independent feeder and VCB at the time of release of connection. The connection was released from 220KV Sub-Station Derabassi. The respondents have also not denied that more connections of general category were released from this feeder without the consent of the petitioner no.2. All these admissions would show that the petitioner no.2 was released the connection from the independent feeder for which the whole cost was recovered from the petitioner No.2 and now the respondents cannot at their own say that the connection was released from the Category 2 feeder. The connection was shifted again and again but as the petitioner No.2 has paid the whole cost of the feeder and is an essential industry so it was entitled to get load released from independent feeder. PSPCL was aware that the industry of the petitioners, falls under essential category, but still PSPCL continues to impose Peak Load restrictions and weekly off day. It was only after issue of clarification vide letter dated 11.06.2013 that exemption was granted to petitioner No.1. Once a consumer has paid the whole cost of the feeder etc. then there remains nothing more to be paid and the petitioner is entitled to get an independent feeder. The PSPCL has

mentioned that general industrial load was released from this feeder as per PSPCL instructions. But surprisingly the PSPCL has failed to mention any such instruction of PSPCL. It is the rules and regulations framed by this Commission which are binding and the PSPCL has to act as per these rules and regulations.

- 6.4 The amendment to condition No.47 of the Conditions of Supply came into existence w.e.f. 15.09.2011. The clause No.47 of Conditions of Supply came into force much earlier. At the time when other connections were released to the general consumers the Conditions of Supply was in existence and it was applicable on the petitioners. Only because their connections were initially released earlier that does not mean that rules and regulations framed thereafter would not be applicable. The respondents have now taken the plea that there were technical constraints but this is totally wrong and hence denied. If this was the position, the respondents could inform the petitioners earlier when the petitioners were writing the letters and meeting the respondents personally.
- 6.5 When the petitioner No.1 applied for extension of load and deposited the whole cost of the feeder as demanded by the PSPCL, at that time the Conditions of Supply were applicable. The dispute is regarding releasing the other connections from the feeder feeding the connection of the petitioner and not regarding extension of load. So, whether

the petitioner could produce Pollution NOC or not has nothing to do with the present dispute.

- 6.6 The respondents have not placed on record any rule or regulations which show that any request has to be made to any competent authority. In case any rules or regulation framed by this Commission requires that a consumer has to separately apply for independent feeder then the officials of the PCPCL should have informed the consumers. The petitioners wrote letters to the respondents protesting against releasing connections to other general consumers through independent feeder. The silence on the part of the respondents would prove that the petitioners were being fed through independent feeder and they have paid the whole cost of the feeder including administrative expenses. This fact could be proved through the estimates prepared by the PSPCL but the PSPCL have not placed on record those documents for the reasons best known to them.
- 6.7 The wheeling of the electricity is done through the distribution system of the licensee and there is no bar of any distance. For injecting the electricity into the system of the Distribution Licensee for supplying the same to the other sister concern, there is no requirement of an independent feeder.
- 6.8 The respondents never replied to the letters/ representations of the petitioners and released the connections to the neighbour in hurry without giving any proper hearing to the petitioners and tapping of independent feeder of the

petitioners without intimation is an injustice. The respondents have not denied the fact that they issued the connections to other consumers without intimating the petitioners. It is totally denied that the connection of M/s Quard Life Sciences is as per prevalent PSPCL rules and guidelines. The petitioner has paid the whole cost of the feeder and it is further submitted that no proportionate cost has been got deposited by the respondents for the reasons best known to them.

7.0 PSPCL filed reply to the rejoinder of the petitioner vide CE/ARR&TR Memo No.6585 dated 05.12.2016 (received on 06.12.2016) and submitted as under:

- 7.1 The connection of the Petitioner No 1 bearing Account Number Z21DB0200096 was released from 11KV Sona Paper Category 2 feeder as per record. The petitioner never requested for independent feeder during release of new connections/extension of Load/Contract Demand. The consumer is an essential industry but is not being catered from an independent feeder but through a Category 2 feeder.
- 7.2 The connection was released to petitioner No. 2 bearing A/c No.Z21DB02 00181 from 11KV Ind Swift indl. Cat-2 feeder. The petitioner is an essential industry but is not being catered from an independent feeder but through a Category 2 feeder. The petitioner never requested for independent feeder during release of new connection/extension of load/contract demand.

- 7.3 The petitioner no. 1, had applied for load extension from 2348 KVA to 2998 KVA (extension of 650 KVA). Since the load of consumer was more than 2500KVA, it was proposed through a new feeder as per feasibility and accordingly the cost of feeder was deposited by the consumer. After erection of new feeder his supply was shifted to newly erected feeder from 220KV Saidpura namely 11KV Ind Swift Lab Category-2 feeder. New feeder was erected as per feasibility report to maintain voltage regulation and loading of the existing feeder within limits. Though the cost of feeder was deposited by the petitioners to get new connection/ extension as per feasibility reports but it doesn't mean that independent feeder was granted to him. Since the 11KV Ind Swift Lab feeder feeding petitioner no.1 is a Cat-2 general feeder, hence as per PSPCL instructions general industrial load was released from this feeder.
- 7.4 The connection of the petitioner No.2 was released from the 11KV Ind Swift indl. Cat-2 feeder from 220 KV Saidpura. During widening of Ambala- Chandigarh Highway, the load of consumer was shifted to 11KV Jawaharpur indl. Cat-2 feeder emanating from 66KV Mubarikpur. The connection to petitioner No.2 was proposed from a new feeder as per feasibility report as existing infrastructure was not able to take up new load of 1000KVA which was later extended by consumer to 1500 KVA in the year 2014. The petitioner never requested for independent feeder.

- 7.5 The approximate distance from petitioner no.1 plant (located as Bhagwanpur village on Barwala road) to petitioner no.2 plant(located at Jawaharpur village on Chandigarh-Ambala highway) is more than 10 km and power through 11KV is not feasible owing to technical constraints as voltage drop and also right of way.
- 8.0 The matter came up for hearing on 15.12.2016. PSPCL prayed for grant of some time to submit supplementary affidavit with a copy to the petitioner by 30.12.2016 (through email as well as hard copy). Petitioner was directed to submit documentary proof by 30.12.2016 showing that the petitioner applied for an independent feeder and the same was sanctioned by the PSPCL. The next date of hearing was fixed on 02.02.2017.
- 9.0 PSPCL, in response to petitioners' demand, submitted details of estimates, calculations, A&A forms, relevant instructions of PSPCL & regulations of the Commission vide CE/ARR&TR memo No.6769 dated 03.01.2017 (received on 09.01.2017) and further submitted as under:
 - 9.1 The petitioner applied for extension of 650 KVA CD i.e. extension from 2348 KVA to 2998 kVA with same load of 5420.706 kW in the year 2010. This additional demand of 650 KVA was proposed through a new feeder as per feasibility report.
 - 9.2 Accordingly, to release addl. demand of 650 KVA, the estimate no.03400/2010-11 for ₹44,30,735/- (actual cost) to erect new feeder was framed as per Reg. 9.1.2(b) of the

Supply Code 2007. The petitioner no. 1 deposited ₹44,30,735/- on 24.02.2011.

- 9.3 The petitioner no. 1 submitted an undertaking stating that he is depositing Service Connection Charges of ₹44,30,735/- and the erection work for release of connection may be taken in hand. The test report and NOC of Pollution Board will be submitted subsequently. The work was started in 3/2011 in anticipation to submission of test report/NOC etc. and was completed on 26.12.2011. The petitioner requested to energize the newly erected feeder. Since the existing 11KV Sona Paper feeder was over-regulated so to give relief to the consumers, newly erected feeder was energized and load of the consumer was shifted to this feeder. As the petitioner failed to submit NOC etc hence extension of CD couldn't be released.
- 9.4 The connection to the petitioner No-2 having Account No. LS-181 was released in the year 9/2006 with sanctioned load of 1599.6 kW and CD of 1000KVA. As per feasibility report the connection was released by erecting a new feeder named 11KV Ind Swift indl. Cat-2 feeder from 220KV Saidpura. The petitioner deposited ₹19,24,120/- as Service Connection Charges on 19.01.2016 i.e. ₹18,28,237/- as cost of line estimate and ₹95883/- as proportionate cost of VCB (against estimate no.53481/2005-06 for ₹21,68,459/-) as per clause 51.2.1.2 read with clause 17.6.1 & 17.6.2 of Electricity Supply Regulations 2005. The petitioner applied for

extension of 500 KVA CD and deposited ₹5,90,000/- as ACD and ₹4,50,000 as SCC.

The connections to both the petitioners were released/extended from Cat-2 industrial feeders and petitioners never requested for independent feeders for either of the connections and never got them sanctioned from the competent authority.

10.0 During hearing on 02.02.2017, the Learned Counsel appearing for the petitioners filed additional submissions. The petitioner was directed to supply a copy of the additional submissions to PSPCL. PSPCL was directed to file reply, if any, to the same with a copy to the petitioner by 23.02.2017 (through email as well as hard copy) and the next date of hearing was fixed on 07.03.2017.

11.0 The gist of additional submissions dated 31.01.2017 filed by the learned Counsel for the petitioner during hearing on 02.02.2017 is as under:

11.1 The petitioner no.1 in year 2009 applied for extension of 650 KVA CD and sought independent feeder. The PSPCL prepared the estimate for ₹44,30,735/- and the petitioner No.1 deposited the same. The PSPCL has taken a stand before this Commission that the petitioner No.1 never applied for independent feeder and it was decided to give load from a cat-2 feeder. PSPCL has filed sur-rejoinder before this Commission and alongwith that also filed certain documents including Feasibility Clearance dated 11.12.2009 regarding extension of above said load. The perusal of the feasibility

clearance would show that it was decided to erect new line at the cost of the petitioner No.1 there is no mention that the feeder/ line would be category-2 feeder. From the very beginning the intention of the PSPCL and the petitioner No.1 was to get independent feeder.

- 11.2 PSPCL has filed its submissions and certain documents before this Hon'ble Court vide letter dated 03.01.2017. With these documents the PSPCL has also annexed a letter sent by the petitioner No.1 and received by the PSPCL on 27.04.2012. In this letter the petitioner No.1 has clearly mentioned in that letter that the separate line and feeder has been installed. As such, the request has been made to PSPCL to shift the load on this separate line and feeder. The perusal of the above latter would clearly show that the petitioner has deposited the above said amount for independent feeder and the petitioner wanted to get an independent feeder. Through instead of independent feeder the word 'Separate Feeder' has been mentioned by the petitioner No.1 in the letter.
- 11.3 The petitioner No.1 wrote many letters at the time the feeder was tapped by the respondent/ PSPCL and specifically mentioned in those letters that the petitioner No.1 was given independent feeder and the PSPCL never denied the same.
- 11.4 In case there was any other formality to be complied with while getting the independent feeder then it was the responsibility of the respondent/ PSPCL to inform the

petitioner No.1 about the same. Now the PSPCL is taking a ground that permission from competent authority was required to be taken. But the PSPCL never replied to the letters of the petitioner No.1 and never informed about any such formality.

- 11.5 The petitioner deposited the amount as required for independent feeder as per Conditions of Supply no.47. PSPCL is trying to mislead this Court by saying that the same amount is required to be charged as per provisions of the Supply Code. It is submitted here respectfully that the petitioner was already having electricity connection getting electricity from 'Sona Feeder'. For additional load the regulation 9.1.2(i) (b) of Supply Code-2007 is applicable. For independent feeder clause 47 of the Conditions of Supply was applicable. In case of new connection the regulation 9.1.1(i)lb) of Supply Code-2007 is applicable.
- 11.6 In case the intention of the PSPCL and Petitioner No.1 was not to have an independent feeder then the PSPCL could recover as per regulation 9.1.2(i)(b) only and that comes to ₹900x650=5,85,000/- but the petitioner has deposited ₹44,30,735/. It is further submitted that even this load has not been released to the petitioner so far.
- 11.7 The perusal of the above clause would show that per KVA charges or actual expenditure has been mentioned. The term "actual expenditure" is different than the term used in clause 47 of COS for expenses and same is "the cost of the

independent feeder, oil Circuit Breaker (OCB) / Vacuum Circuit Breaker (VCB) and establishment charges". The charges for independent feeder are more than charges mentioned in Supply Code as actual expenditure. As per clause 47 of COS, in addition to feeder charges the cost of OCB/VCB and establishment charges has to be charged from a consumer seeking independent feeder. The estimate produced on record by the PSPCL would show that 16% administrative charges and the cost of OCB/VCB was charged from the petitioner No.1. This clearly proves that the charges were taken for independent feeder and not for category-2 feeder.

- 11.8 In the year 2014, the Supply Code was amended and COS was repealed. Now there is regulation 9.5 which deals with independent feeder and regulation 9.1.1(a)(ii) deals with charges for new connection. Bare perusal of regulations 9.1.1(a)(ii) and regulation 9.5.1 would show that the charges for independent feeder and new connection are totally different. In case of independent feeder the administrative cost at the rate of 16% has also to be paid. If the charges for new connection and independent feeder are same then there was no need to mention them separately in the above said regulations. The Supply Code-2007 and COS were separate documents. The Supply Code-2007 was framed earlier and there was no need to mention different charges in COS.
- 11.9 The petitioner annexed two estimates i.e. one in the case of the independent feeder (Rajnish Spinners Pvt. Ltd.,

Derabassi) and one category-2 feeder (Capital Bikers, Ludhiana). The bare perusal of the same would show that in case of independent feeder, PSPCL has charged 16% administrative expenses in estimate but in case of category-2 connection, PSPCL has not charged any expenses on account of Administrative Charges.

11.10 Similarly, the petitioner No.2 has deposited the cost of the independent feeder along with 16% establishment charges as per clause 47 of Cos and was allowed independent feeder. The petitioner has deposited the entire cost of the feeder but still the petitioner is not getting uninterrupted quality of supply from PSPCL. The petitioner No.2 has sent various letters in this regard to the PSPCL.

11.11 It is very much clear that the petitioners have applied for separate/ independent feeder and charged accordingly by PSPCL. The connection was released from independent feeder and later on tapped the same wrongly and illegally.

12.0 PSPCL vide CE/ARR & TR Memo No.5072 dated 16.02.2017 (received on 20.02.2017) submitted following reply to the additional submissions of petitioner:

12.1 The Commission on 15.12.2016 had directed the petitioner to submit documentary proof by 30.12.2016 showing that the petitioner applied for independent feeder and the same was sanctioned by PSPCL. But, the petitioner failed to comply with the directions of the Commission and couldn't submit any documentary proof of applying for independent feeder.

- 12.2 The petitioner applied for additional demand of 650 KVA i.e. 2348 KVA/ 5420.706 KW to 2998 KVA/5420.706KW. The existing 11KV Sona Paper Feeder was over-regulated therefore it was not technically feasible to give additional demand of 650 KVA from existing 11KV feeder. Thus this additional demand of 650 KVA was proposed through a new separate feeder as per feasibility report. The petitioner deposited ₹44,30,735/- (actual cost) in accordance with Reg. 9.1.2.(i)(b) of Supply Code 2007.
- 12.3 PSPCL denied that intention of the utility and the petitioner was to get independent feeder. The petitioner never made any request to PSPCL for granting of independent feeder to his connection, due to the reason PSPCL never considered any proposal of granting independent feeder to the petitioner. The petitioner has failed to submit any documentary proof showing that the petitioner ever applied for independent feeder and the same was sanctioned by PSPCL.
- 12.4 The actual cost of this proposed new feeder was demanded in accordance with regulation 9.1.2(i)(b) of Supply Code 2007. The petitioner requested to energize the newly erected feeder as per feasibility report. The existing 11KV Sona Paper Feeder was over-regulated, therefore to give relief to the consumer, the new feeder was energized and load of the petitioner was shifted to this feeder. The petitioner failed to submit NOC of Pollution Board hence additional demand couldn't be released. Merely depositing actual cost of new feeder to get additional demand doesn't mean that

independent feeder was granted to him. The petitioner never requested PSPCL for grant of independent feeder. Had he applied for independent feeder, the matter should have been referred to competent authority in compliance to prevalent PSPCL instructions. Before sanctioning independent feeder by any competent authority, some guidelines are taken care of i.e. the PSPCL's own demand/requirement of feeders from the sub stations is taken care of for a reasonable period of at least next 4 to 5 years and efforts are also generally made to contain un-necessarily laying of independent feeders. Moreover, where there is a heavy load concentration, sub stations are got planned rather than taking out 11KV independent feeders. The petitioner never made any request to PSPCL for grant of independent feeder and has failed to submit any documentary proof showing that he applied for independent feeder and the same was sanctioned by PSPCL.

- 12.5 Since the new erected 11KV Ind Swift Lab feeder feeding petitioner No.1 is a Cat-2 general industrial feeder, hence as per PSPCL instructions, general industrial load of other applicants has been released from this feeder. The consumer had to pay the requisite cost of new feeder as per feasibility report as existing 11KV infrastructure was unable to cater to the new/extended load of the consumer. Though the cost of feeder was deposited by the petitioner as per feasibility report but it doesn't mean that independent feeder was granted to him. The petitioner never requested for grant

of independent feeder during release of new connection/extension of load/contract demand.

12.6 The additional demand of 650 kVA was proposed through a new feeder as per Feasibility Report and to erect new proposed feeder the Estimate No.03400/2010-11 for ₹44,30,735/- was sanctioned and the petitioner was asked to deposit ₹44,30,735/- i.e. actual cost of works being higher than per kW/kVA charges in accordance with regulation 9.1.2 (i)(b) of Supply Code, 2007. Actual cost of works includes 16% establishment charges as described in Electricity Supply Instruction Manual ESIM 39.3(ii) which is reproduced below for reference:

" 39 3 Establishment Charges:

Establishment Charges @16% of the cost of estimate i.e. cost of material and labour etc., are recoverable from the consumer when the works are carried out by PSPCL at the cost of consumer and thereafter remain the property of the PSPCL for being operated/maintained by PSPCL. The cost of estimate will also include Storage charges, Transportation charges & contingencies as per rates applicable from time to time. Establishment charges are leviable on the works such as:-

- i) *Laying of independent feeders-for giving supply to new/existing consumers.*
- ii) *Where the consumers are required to pay actual cost of works as per Regulation-9 of the Supply Code.*

- iii) The works where the consumer spot for connection from Urban /industrial feeder instead of nearest UPS feeder.*
- iv) Where the cost of link-line is to be borne by the consumer The above works are quite different from departmental works or works required for shifting of lines etc. Est. Charges will be leviable on the total estimated amount, which will include cost of material labour charges, storage charges, transportation charges & contingencies etc”*

So, the actual cost of works to release additional demand was in accordance with regulation 9.1.2(i) b of Supply code 2007, which was required to be deposited by the petitioner. The petitioner couldn't Submit NOC of Pollution Board and hence additional demand was not released. Merely depositing actual cost of new feeder to get additional demand doesn't mean that independent feeder was granted to him. The petitioner never made any request to PSPCL for grant of independent feeder. The petitioner has failed to submit any documentary proof showing that the petitioner ever applied for independent feeder.

12.7The estimate of Capital Bikes Ludhiana belongs to load extension from 19.912 kW to 90 kW i.e. SP to MS. In this case actual cost of works is not recoverable from the applicant in accordance with Supply Code, 2007 regulation 9.1.2 (i) (a) being the load of the applicant less than 500kW/500 kVA, therefore establishment charges @ 16% has not been charged in the estimate. Whereas in case of petitioner's estimate, actual cost of works in accordance with

Supply Code, 2007 regulation 9.1.2(i) (b) i/e establishment charges @ 16% is recoverable being the load of the petitioner more than 500 kW/500 kVA.

- 12.8 The connection to petitioner No.2 having account No.LS-181 was released in the year Sept. 2006 with sanctioned load/contract demand of 1599.6 kW/1000 kVA. As per feasibility report, the connection was released by erecting a new feeder named 11 kV Ind-Swift general industrial category-2 feeder from 220 kV Saidpura. The petitioner deposited ₹19,24,120/- as Service Connection Charges on 19.01.2006 as per the Electricity Supply Regulations applicable at that time i.e. ₹18,28,237/- as cost of line estimate and ₹95,883/- as proportionate cost of VCB (against estimate No.53481/2005-06 for ₹21,68,459/-) in accordance with Electricity Supply Regulations 51.2.1.2, 17.6.1 & 17.6.2. Though, the petitioner is an essential industry but is not being catered from an independent feeder but through a category-2 industrial feeder therefore the power cut, if any, is liable to be imposed as per instructions issued from the office of CE/PP&R.
- 12.9 The connections to both the petitioners were released/extended from category-2 industrial feeders. The petitioners never requested for grant of independent feeders for either of the connections and never got them sanctioned from the competent authority. The petitioners have failed to submit any documentary proof showing that they ever

applied for independent feeder and the same was sanctioned by PSPCL.

- 13.0 During hearing on 07.03.2017 the representative of the petitioner stated that their Counsel is engaged in some other case before the Hon'ble Punjab & Haryana High Court and requested for an adjournment. Prayer was allowed and the next date of hearing was fixed on 18.04.2017.
- 14.0 After hearing the arguments advanced by both the parties on 18.04.2017, the Order was reserved.

15.0 Commission's findings and Order:

The petitioners are manufacturers of medicines/pharmaceutical drugs covered under essential industries category and filed the present petition with common issue regarding tapping of the 11 kV lines, claimed to be independent feeders, catering to their loads to provide supply to other general consumers in violation to the provisions of 'Conditions of Supply' and Supply Code Regulations. The claim of the petitioners is that since they are being fed from independent feeders, for which they have deposited the full cost of the line including breaker and establishment charges, so these feeders cannot be tapped to provide supply to dis-similar consumers and without intimation to the petitioners. The petitioners mainly relied upon the fact that since PSPCL has recovered the full cost of the 11 kV feeders including 16% establishment charges, so these lines are independent feeders. As provided in clause No.47 Conditions of Supply and regulation 9.5 of the Supply Code, 2007. an independent feeder can be tapped only in case of technical

constraints and to similarly placed consumers under intimation to the petitioners.

On the other hand, PSPCL contested the claim of the petitioners and denied that they are being fed from independent feeders. PSPCL submitted that both the petitioners are being fed from category-2 i.e predominantly industrial feeders. The cost of the lines was got deposited from the petitioners to release their load/extension in load by erecting new 11 kV lines since the existing system could not cater to the load/extension in load. As these are category-2 feeders, so other general category consumers can be fed from these feeders.

The Commission heard the arguments and submissions made by both the parties during the proceedings. The first issue to be resolved is whether the petitioners are being fed from independent feeders or category-2 feeders. To settle this issue, the Commission has to first examine the reasons/grounds for erection of new 11 kV feeders by PSPCL to feed the load of the petitioners.

According to PSPCL, the connection of the petitioner no.1 was released in the year 1997 for a load of 665.93 kW. The contract demand (CD) was raised to 2348 kVA with load of 5420.706 kW by the petitioner no. 1 and the same was released from 11 kV Sona feeder (mixed feeder) under Lalru Division on 20.11.2007. The petitioner applied for further extension in contract demand of 650 kVA in 2010 thus raising the total CD to 2948 kVA with same connected load of 5420.706 kW. All these facts have been admitted by the petitioner. According to PSPCL, since the demand

was more than 2500 kVA so as per the feasibility conditions, the load was proposed to be fed from new 11 kV feeder. PSPCL demanded ₹44,30,735/- as cost of the line in accordance with the provisions of the Supply Code,2007. The petitioner deposited the amount on 24.02.2011. The petitioner made a request and submitted an undertaking to PSPCL that the work of erection of the line may be taken in hand and that he will submit the test report and the NOC from the Punjab Pollution Control Board later on. Accordingly, the work for erection of 11 kV line was taken in hand by PSPCL and completed it on 26.12.2011. However, the petitioner failed to submit the documents and the extension in contract demand was not released. The connection to petitioner No.2 with sanctioned load of 1599.6 kW and having a contract demand of 1000 kVA, was released by PSEB (now PSPCL) in September, 2006. These facts have not been denied by the petitioner.

The petitioners claimed that they have applied for independent feeders and deposited the full cost of the line, so the feeders feeding the load of the petitioners are independent feeders. During hearing, the Commission observed that there is nothing on record to substantiate the claim of the petitioners that they have applied for independent feeders. While affording an opportunity to the petitioners, the Commission vide Order dated 20.12.2016 directed the petitioners to submit documentary proof showing that the petitioners had applied for independent feeder and that the same was sanctioned by PSPCL. However, the petitioners failed to submit any such documentary proof.

On the other hand, PSPCL submitted copies of the various documents such as feasibility letters, sanctioned estimates and demand notices in support of their argument that the feeders were erected to cater to the load/extension in load of the petitioners and cost was recovered as per the provisions of Supply Code Regulations. We have examined the estimate sanctioned by Sr.Xen/DS Division, Lalru vide Memo No.597 dated 10.02.2011 for petitioner no. 1 and observed that the “Name of Work” has been mentioned as ‘estimate regarding extension in contract demand of M/s Ind-Swift Laboratories Limited, Village Bhagwanpur against A&A form 25955/LS/CD extension dated 19.01.2011’. The sanctioned amount has been mentioned as ₹44,30,735/- . Further in the history of the same estimate, it has been mentioned that the load of the consumer is fed from 11 kV Sona feeder and since the voltage drop of this feeder is more than 6.7% so a new feeder has been proposed. Thus it is amply clear that new 11 kV feeder was proposed to release extension in contract demand of the petitioner no. 1 since the voltage regulations of the existing feeder was high. Chief Engineer/Operation (South), PSPCL, Patiala granted approval to the extension in contract demand vide Memo No.19/20 dated 03.01.2011 addressed to Dy.Chief Engineer/Operation, PSPCL, Mohali and mentioned that although the contract demand of the consumer after extension will be more than 2500 kVA, which is to be fed on 33/66 kV but the extension in CD is sanctioned at 11 kV subject to payment of surcharge and other charges by the consumer as per clause 5.2 of Conditions of Supply and clause 4.2.1 of Electricity Supply Regulations (ESR). Accordingly, the

petitioner also submitted its consent through an affidavit dated 03.12.2010, stating that the said load may be released on existing 11 kV voltage line and that the petitioner will make arrangement for conversion from 11 kV to 33/66 kV supply voltage. Till the connection is released on 11 kV supply voltage, the petitioner further undertook to pay voltage surcharges @ 10% or as per Condition of tariff.

From the above, it is evident that the 11 kV line was proposed by PSPCL not to provide the facility of an independent feeder to the petitioner no.1 but to release the extension in load/demand.

In case of petitioner no. 2, it has been mentioned at Sr.No.2 of the feasibility letter issued by the office of Dy. Chief Engineer/Distribution, Mohali addressed to the petitioner no.2 with copy to Addl.SE/DS Lalru bearing endst. No. 15009/12 dated 24.10.2005, that the connection will be released from T-4 power transformer installed at 220 kV Substation Saidpur (Derabassi) by erecting a new 11 kV feeder with a length of approximately 7.870 KM with a conductor size of 48mm². The feasibility clearance was granted under clause 5.2.2 of the Sales regulations dealing with the cases of release of connection with load exceeding 1 MW and not under clause 43 dealing with 11 kV Independent feeders. From the scrutiny of the sanctioned estimate, it has been observed that the ‘name of work’ has been stated as “Estimate to provide connection to M/s Ind Swift Ltd., Village Jawaharpur”. Also in the “history of the estimate”, it has been mentioned that ‘the estimate is prepared to recover expenditure from M/s Ind. Swift Ltd. Village Jawaharpur against A&A form no. 19845/LS dated 21.11.2005 for

release of load of 1600 kW and contract demand of 1000 kVA,. It was proposed in the estimate that the connection can be released by erecting a new feeder as per the feasibility clearance issued by the Dy. Chief Engineer/Operation Circle, Mohali. Further, in a letter issued vide Memo No.10370 dated 26.09.2005 by Additional SE/Operation Division, Lalru addressed to Dy.Chief Engineer/Operation Circle, Mohali, it has been mentioned that

“the prospective consumer is located at tail end of the feeders. One from 66 kV Lalru Sub Station i.e. 11 kV Jawaharpur link with approximate length of 8 KM. Other feeder is 11 kV Jawaharpur industrial feeder from 66 kV Mubarkpur Station and has conductor size of 65 mm². It is not possible to achieve desired regulation for releasing subject load’. It has been further mentioned in the latter that *“this feeder has been proposed as category-2 feeder. It will not be a independent feeder for this prospective consumer. Other industrial consumers/prospective consumers will be put on this feeder as per system requirement. There is no other alternative to release this connection”.*

Accordingly, the feasibility was granted by the competent authority. Thus there is no ambiguity that the feeder was erected to release the load/demand of the petitioner no. 2 and not as an independent feeder.

We may refer to clause 47 of the ‘Conditions of Supply’ governing the provisions of ‘Independent Feeder’. The relevant portion of the clause 47 reads as under:

47. "Consumers running Essential Services and/or continuous process industries or other Industrial consumers with a Contract Demand exceeding 500 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, Oil Circuit Breaker (OCB)/Vacuum Circuit Breaker (VCB) and establishment charges. [emphasis provided]
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From the above, it is very much clear that the consumer fulfilling the conditions as laid down in clause 47 of CoS, has to apply for availing the benefit of independent feeder. No case can be processed by the distribution licensee without written request of the consumer. From the documents made available by the parties, it is evident that in this case neither any request was made by the petitioners nor the case was ever processed for providing independent feeder by utility. Thus it wrong that petitioner requested the distribution licensee for providing independent feeder to him.

The petitioners relied heavily on the fact that full cost of the 11 kV feeders along with 16% establishment charges were recovered by PSPCL, which is applicable for providing 11 kV independent feeder. So let us examine whether the amounts deposited by the petitioners were for erecting independent feeders or to release the extension in load/demand. PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 came into force vide notification No. PSERC/Secy./Regu.31 dated 29.06.2007. The recovery of expenditure to release load/demand is governed by regulation 9 of Supply Code, 2007. Regulation 9.1.2 (b) is

applicable for consumer requesting the licensee for additional load/demand and where the total load/demand including existing load/demand exceeds 500 kW/500 kVA. The relevant regulation reads as under:

9.1.2 For additional load

- (i) *Domestic, Non-Residential, Industrial and Bulk Supply categories:*
 - (a) *The consumer applicant requesting the Licensee for additional load/demand will pay per KW/KVA charges as approved by the Commission. Such charges will be payable by a consumer where the total load including existing load is up to 500 KW/500 KVA and.....*
 - (b) *Where total load including existing load exceeds 500 KW/500 KVA, 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 load/demand, whichever is higher.*
 - (c) *In case of a consumer with supply voltage of 33000 volts and above.....*

“Provided that where a HT/EHT consumer having a sanctioned load/contract demand exceeding 500 KW/500 KVA who has paid the actual cost of HT or EHT service line or feeder, requests for additional load and such load can be fed from the same line without any augmentation, then the HT consumer would be liable to pay only the proportionate cost of HT main and feeding substation. An 33000 volts or EHT consumer would be liable to pay only the proportionate cost of back up/common line (33000 volts or above) upto the feeding sub- station including bay”

Since, the distribution licensee had to erect a new 11 kV line to release the extension in demand to petitioner no. 1 so actual expenditure was recoverable from the consumer as per regulation 9.1.2(b) of the Supply Code, 2007. The actual cost consists of cost of material, labour charges, contingency, transportation, T&P charges and establishment charges. All these costs and charges are taken in to account while approving the cost data under regulation 10 of the Supply Code, 2007 by the Commission. The Electricity Supply Instructions Manual (ESIM) instructions of PSPCL are also in line with the cost data approved by the Commission. Thus there is no substance in the argument of the petitioners that 16% establishment charges are payable only in case of independent feeder. One estimate annexed by the petitioners with their reply relates to release of connection to a Medium Supply (MS) industrial consumer in which case only charges on kW/kVA basis are recoverable as per regulation 9.1.2(i)(a) and not the actual cost. Thus reference to such estimate does not serve any purpose.

Regulations 19.2 and 19.4 of the Supply Code, 2007, as reproduced below, provide for recovery of security (works) from the consumer and execution of the work thereafter.

19.2 The Licensee will be entitled to require deposit of Security (works) against expenditure for providing electric line or electrical plant, as the case may be, which will be estimated by the Licensee as per Regulation 9 of these Regulations and communicated to the applicant through a Demand Notice.

19.4 After deposit of Security (works) by the applicant as per Regulation 19.2, the Licensee will take up the work and initiate other necessary steps for effecting supply of electricity within the time limits as specified in Regulation 6 of these Regulations.

Thus work can be taken in hand by the distribution licensee after the consumer deposit the Security (works) amount subject to submission of test report and other documents as per the conditions of the demand notice later on. The petitioner no. 1 submitted an undertaking on an affidavit to PSPCL in this regard which is reproduced below:

"I, Suboth Gupta son of Shri B.B.Gupta, member Executive Board of M/s Ind Swift Labs Ltd. having the registered office at SCO 850 Shivalik Enclave, Mani Majra, Chandigarh do hereby undertake to abide by the following terms and conditions :

- 1. That I am depositing the **service connection charges** of ₹44,30,735/- (Rupees forty four lacs, thirty thousand, seven hundred thirty five only) As per terms and conditions of the demand notice issued to Ind Swift Labs Ltd. Bhagwanpur, memo No.373 dated 11.02.2011 **for availing industrial connection** of present load 5420.706 kW and present maximum demand + extended maximum demand=2348 kVA+650 kVA = total 2998 kVA.*
- 2. That the erection work for releasing my connection may be taken in hand and I will submit the test report subsequently on the demand of board.*

3. That in case do not submit the test report or avail the electricity connection the board will be at the liberty to recover the cost of erection/dismantlement of the service line from the service connection charges already deposited by us if the erection dismantlement charges are more and cannot be recovered from the service connection charges. The amount of security/ACD may be adjusted towards recovery of these charges as I am getting the connection as per the above conditions. I accept this undertaking as legal and a valid binding on us". [emphasis supplied]

From the above it is amply clear that it was in the knowledge of the petitioner no. 1 that he was depositing Service connection charges of ₹44,30,735/- for availing extension in load/demand and also if he fails to submit the test Report, the licensee shall be at liberty to recover cost of erection/dismantlement from the petitioner. So there is no doubt that the petitioner no. 1 had deposited service connection charges of ₹44,30,735/- for availing extension in contract demand and not as cost of independent feeder.

Whereas case of petitioner no. 2 is concerned, the actual cost for erecting a new 11 kV feeder to release the connection of the petitioner no. 2 was recovered as per clause 51.2.1.2 and other relevant clauses of the Electricity Supply Regulations (ESR). Before PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 was notified vide notification dated 29.06.2007, Electricity Sales Regulations were applicable.

From the above, it is beyond any doubt that the 11 kV feeders catering to the load of both the petitioners are not

independent feeders but are mixed industrial category 2 feeders which can be used by the distribution licensee to provide supply to other consumers. Thus the respondents have not violated any Regulations/Orders of the Commission and as such no action under section 142 and 146 of the Electricity Act, 2003, is warranted.

The petition is dismissed accordingly.

Sd/-

**(S. S. Sarna)
Member**

Sd/-

**(D.S.Bains)
Chairman**

**Dated: 15.05.2017
Chandigarh**