

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

Petition No.81 of 2016

Date of Order: 19.05.2017

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 34.2 of the Supply Code, 2014 and for setting aside the demand raised by the PSPCL on account of MMC vide Supplementary Bill dated 24.08.2016 and for issuance of necessary directions to the PSPCL to refund the above said amount deposited by the petitioner under protest on 05.06.2016 on account of MMC, with interest, in the interest of justice.

AND

In the matter of: M/s Bhawani Industries Private Limited, (formerly known as Bhawani Industries Limited), Office & Works, Village Ajnali, G.T. Road, Mandi Gobindgarh, District Fatehgarh Sahib.

.....Petitioner

Versus

- In the matter of: 1. Punjab State Power Corporation Limited, The Mall Patiala -147001
2. The Assistant Executive Engineer (Commercial), Punjab State Power Corporation Limited, Mandi Gobindgarh, District Fatehgarh Sahib.

.....Respondents

Order:

1.0 The present petition has been filed by Bhawani Industries Private Limited, (formerly known as Bhawani Industries Limited), under regulation 44 of the Supply Code, 2014 and regulation 10 of the PSERC (Conduct of Business) Regulations, 2005 seeking interpretation/ clarification of the Regulation 34.2 of the Supply code, 2014 and for setting aside the demand raised by PSPCL on account of Monthly Minimum Charges (MMC) vide Supplementary Bill dated 24.08.2016. The petitioner also prayed for issuance of necessary directions to PSPCL to refund the amount, with interest, deposited by the petitioner under protest on 05.06.2016 on account of MMC. The gist of the submissions is as under:

1.1 The petitioner is a Large Supply (LS) Induction Furnace consumer bearing A/C No.6128 with a sanctioned load of 19173.9260 kW and having a Contract Demand of 21304 kVA. The MMC of the petitioner has been worked out by PSPCL is ₹92,34,932/- and the security amount covers about 4 months of MMC billing.

1.2 As per Regulation 30.3(b) of Supply Code, 2014, the billing cycle of the petitioner is on monthly basis. PSPCL issued month consumption bill dated 18.04.2016 amounting to

₹95,92,340/- for the electricity consumed for the period from 10th March, 2016 to 6th April, 2016 and this bill was payable by 28.04.2016. The petitioner due to some financial problem could not deposit the bill on due date.

1.3 PSPCL took monthly meter reading on 11.05.2016 for the next bill period i.e. from 6th April, 2016 to 11th May, 2016. After 2 days of taking the monthly meter reading i.e. on 13.05.2016, PSPCL disconnected the electricity connection of the petitioner due to non-payment of electricity bill for the month of March-April, 2016 issued on 18.04.2016 and payable by 28.04.2016.

1.4 PSPCL issued next monthly bill for the consumption during the period 6th April, 2016 to 11th May, 2016 on 18.05.2016 payable by 30.05.2016. In this bill, the amount of the previous unpaid bill dated 18.04.2016 along with the late payment surcharge @ 5% was also added. The total bill amount was ₹1,96,01,210/- payable by 30.05.2016. The petitioner arranged the funds and approached PSPCL office for deposit of bill on 01.06.2016 and restoration of connection. The petitioner was directed by the respondent No.2 to deposit the bill amount with late payment surcharge for delay as under:

Description	Amount (₹)	Remarks
Bill dated 18.04.2016 for 10 th March to 6 th April, 2016	95,92,340/-	Payable on 28.04.2016 but not paid.
Late payment surcharge for the above bill @ 5%.	4,79,617/-	As per bill, this is ₹3,76,763/-
Total Arrear Bill	1,00,71,957/-	
Bill dated 18.05.2016 for 6 th April, 2016 to 11 th May, 2016	95,29,252/-	Based on MMC due to partial/non operations

		(financial problems)
Total Bill	1,96,01,209/- (Rounded to 1,96,01,210/-)	Payable on 30.05.2016 paid on 01.06.2016
Late payment surcharge for the above bill @2%	1,82,968/-	For delay within 1 week of due date.
Total Amount deposited on 01.06.2016	1,97,84,178/-	

1.5 The petitioner requested PSPCL to restore the connection. After accepting the bill amount, Respondent No.2 asked the petitioner on 01.06.2016 to deposit the MMC also for the period of disconnection. While the MMC amount was calculated by the Respondent No.2, banking hours were over and therefore assuming that MMC amount will be deposited by 02.06.2016, MMC was calculated for the period 13.05.2016 to 03.06.2016 (including 24 hours period for reconnection) and the MMC amount was worked out as ₹68,00,000/-. This MMC amount was deposited in the office of Respondent No.2 on 2nd June, 2016. The electricity connection of the petitioner was restored on 3rd June, 2016.

1.6 The bill issued for the month of May, 2016 was for the consumption up to 11th May, 2016 and so the next bill cycle was from 11th May onwards. After the electricity connection was restored on 3rd June, 2016, the petitioner started consuming electricity and PSPCL took meter reading on 16.06.2016. The next monthly bill for consumption during 11.05.2016 to 16.06.2016 was issued on 18.06.2016. As the consumption during 11.05.2016 to 16.06.2016 (including disconnection period of 13.05.2016 to 03.06.2016) was more than MMC, so the respondents refunded the amount of

₹68,00,000/- charged earlier on account of MMC deposited by the petitioner on 02.06.2016 for reconnection. This bill was deposited on due date i.e. 28.06.2016. Thereafter, petitioner is regularly paying the monthly bills being issued by PSPCL.

1.7 The petitioner received a supplementary bill dated 24.08.2016 (after about 2 months and 20 days of reconnection) from the Respondent No.2 asking the petitioner to deposit ₹71,56,562/- by 05.09.2016, failing which late payment surcharge @5% amounting to ₹33,57,828/- shall be levied. The petitioner approached the respondent No.2 to enquire about the demand and it was informed that this amount is on account of Monthly Minimum Charges for the period the electricity connection remained disconnected as audit party has raised an objection that as per Regulation 34.2 of the Supply Code, 2014, the petitioner is liable to pay the MMC for the period the connection remained disconnected and so the supplementary bill has been raised. To avoid the late payment surcharge and disconnection of supply, the petitioner deposited the above said amount of ₹71,56,562/- as demanded by the PSPCL on 05.09.2016.

1.8 Perusal of the Supplementary Bill raised by the PSPCL on the advice of the audit party reveals that it has made its own calculations for working out the MMC as under:

a) It has taken the period between meter reading date of 11.05.2016 to date of disconnection of 13.05.2016 as

a separate period for billing during which actual consumption as per meter was 12000 kVAh and audit party charged MMC for 2 days along with ED and IDF on actual consumption.

- b) Thereafter, the period of disconnection from 13.05.2016 to 03.06.2016 has been treated as a separate period of billing and charged on MMC basis since there is no consumption during the period of disconnection.
- c) The period from reconnection date of 03.06.2016 to meter reading date of 16.06.2016 has been treated as separate period of billing and actual consumption being more than MMC, it has been charged as per actual consumption which is as per bill dated 18.06.2016.
- d) Accordingly, the demand through supplementary bill has been raised for MMC from date of last reading (11.05.2016) to date of reconnection (03.06.2016).

1.9 The petitioner alleged that the demand raised by the PSPCL on account of MMC was totally wrong and illegal and due to wrong interpretation of Regulation 34 of the Supply Code, 2014. Accordingly, the petitioner immediately sent a letter dated 05.09.2016 to the PSPCL stating therein that it has deposited the amount of impugned demand on account of MMC reserving its right to approach this Commission for interpretation of the Regulation 34 of the Supply Code, 2014. The regulation 29 deals with billing of the electricity and regulation 34 of the Supply Code, 2014 deals with the restoration of the electricity connection.

- 1.10 PSPCL restored the electricity connection on 03.06.2016 and the meter reading was taken by the PSPCL official on 16.06.2016 and bill was issued for the period from 11.05.2016 to 16.06.2016. The connection was restored in the same billing period and so the bill was raised by the PSPCL for the period up to 16.06.2016. The billing cycle of the petitioner was not changed. According to the petitioner, the MMC charges are for the whole month and are not on daily basis. So for the period from 11.05.2016 to 16.06.2016, PSPCL was required to compare the total consumption with the MMC and in case the consumption is more than MMC, then the MMC is not recoverable from the petitioner. Keeping this in view, the PSPCL rightly refunded the MMC paid for the disconnection period at the time of reconnection in the next bill.
- 1.11 The audit wing of PSPCL by wrongly interpreting the Regulation 34.2 of the Supply Code, 2014, has demanded MMC for the 21 days period of disconnection and for the 2 days period before disconnection i.e. for the period 11.05.2016 to 03.06.2016. There is no doubt that in case of restoration, a consumer is liable to pay MMC for the period the connection remained disconnected. But it is nowhere said that in case the connection has been restored within the billing month and in remaining days of the billing period, the power consumption is more than the MMC for the whole billing period, then still the consumer is liable to pay MMC for the days the connection remained disconnected in the same month.

- 1.12 The purpose of MMC is that a distribution licensee has to be paid minimum charges for the system provided by it to serve the consumer which remains idle when the consumer is not using any electricity. Every consumer has to assure usage of defined minimum electricity in a billing month proportional to the load/demand registered so that PSPCL earns revenue to recover cost of investments and running charges on the system. So in case a consumer does not use any electricity in a month due to any reason i.e. may be due to disconnection or any other reason whatsoever, then in such a case it is liable to pay MMC to the distribution licensee. But in case the consumer has utilized the electricity for part of the month and for remaining days it could not utilize the electricity for any reasons, i.e. may be due to disconnection, then the consumption has to be compared with the MMC for the whole month/billing period and if the consumption is more than MMC then the consumer cannot be asked to pay any amount on account of MMC.
- 1.13 The regulation 34.2 of the Supply Code, 2014 for charging MMC for the disconnection period can be rightly implemented when disconnection period is more than one month and up to 6 months since then the disconnection period spreads to more than one billing period and MMC being applicable on per kVA per month basis can be made applicable. However when the disconnection is for less than a month and consumption during the whole month including the disconnection period is more than MMC level, then it is punishment to the consumer.

1.14 By raising the impugned demand on account of MMC for the part of the billing period during which the connection was disconnected plus 2 days before the disconnection, when the consumption was less than the proportionate consumption, PSPCL has not only violated the provisions of the Supply Code, 2014 but also the principle of natural justice and equity and also got itself unjust enrichment. As such a dispute has arisen for interpretation of the Regulation 34.2 of the Supply Code, 2014.

1.15 The petitioner prayed that :

- (i) necessary interpretation/clarification of the regulation 34.2 of the Supply Code, 2014 may kindly be issued, as per the facts of the present case, as mentioned above in the petition, in the interest of justice.
- (ii) after giving necessary clarifications/interpretation, the demand raised by the PSPCL on account of MMC vide supplementary bill dated 24.08.2016 and deposited by the petitioner under protest on 05.09.2016, may kindly be set aside and the PSPCL may be directed to refund the above said amount deposited by the petitioner, with interest, in the interest of justice.

2.0 After hearing the learned Counsel for the petitioner, the petition was admitted. The petitioner was directed to serve a copy to the respondent. PSPCL was directed to file the reply with a copy to the petitioner (through email and hard copy) by 19.01.2017 and the petitioner may file the rejoinder, if any, with a copy to the respondent (through email and hard copy) by 27.01.2017. Both

the parties were directed to adhere to the timelines stipulated therein and the next date for arguments was fixed on 16.02.2017.

3.0 PSPCL vide CE/ARR & TR Memo No.6884 dated 20.01.2017 filed its reply to the petition & submitted as under:

3.1 The bill for ₹95,92,340/- was issued to the petitioner for the month of 04/2016 on 18.04.2016 with last date for payment as 28.04.2016. The petitioner failed to deposit the bill within due date i.e 28.04.2016.

3.2 The bill to the petitioner for the period 06.04.2016 to 11.05.2016 was issued for ₹1,96,01,210/- including arrear amount of the previous bill ₹99,69,103/-. As the petitioner did not deposit the bill payable on 28.04.2016, his connection was disconnected as per regulation 32.1 of the Supply Code, 2014 on 13.05.2016.

3.3 As the petitioner did not deposit the bill payable by 28.04.2016, the next bill for the period of 06.04.2016 to 11.05.2016 amounting to ₹1,96,01,210/- including arrears of the previous bill of ₹99,69,103/-, was issued. This bill was payable by 30.05.2016. However, the petitioner deposited ₹1,97,90,000/- on 01.06.2016 with 2% surcharge. The petitioner requested for restoration of connection as per regulation No.34.2 (c) of Supply Code, 2014 and agreed to deposit MMC for the period 13.05.2016 to 03.06.2016. The petitioner deposited ₹68,00,000/- as MMC for the disconnected period as per regulation 34.2 (c) of the Supply Code, 2014 and his connection was restored on 03.06.2016. It is wrong that the respondent refunded the amount of

₹68,00,000/- deposited by the petitioner as MMC for the disconnection period. It was a mistake by the concerned official. The receipt of ₹68,00,000/- was required to be issued in the form of BA16 (manual) but it was wrongly issued in SAP which lead to credit to his A/C by ₹68,00,000/-. The bill for ₹1,13,03,870/- from 11.05.2016 to 16.06.2016 was issued on 18.06.2016 which was for a consumption of 2520000 kVAh units. It was not on MMC basis.

3.4 The petitioner deposited MMC amount ₹68,00,000/- at the time of reconnection on dated 02.06.2016. The receipt of this amount was wrongly issued in SAP system by the Cashier, which was credited to his account. Special Audit Party audited the accounts and revised the bill as under:

S.No.		SoP (₹)
1.	MMC due from 11.05.2016 to 13.05.2016 (2 days) (9234832/30*2)	6,15,655
2	(-) Bill due for 11.05.2016 to 13.05.2016 for 12000 kVAh units which was included in the bill issued by CBC from 11.05.2016 to 16.06.2016 and was deposited by the petitioner.	73,080
3	Net amount due from petitioner for the period 11.05.2016 to 13.05.2016 (1-2)	5,42,575
4	MMC for disconnected period from 13.05.2016 to 03.06.2016	64,64,452
5	Interest on unpaid amount having due date 28.04.2016 ₹99,69,103x1.5%%x One Month.	1,49,536
	TOTAL	71,56,563

The amount of ₹71,56,563/- was debited to the petitioner and a supplementary bill was raised to the petitioner as per

Regulation 30.1.2 of Supply Code, 2014. The petitioner deposited this amount within stipulated period.

- 3.5 The calculation made by the Audit and supplementary bill raised by PSPCL are as per instructions contained in Supply Code, 2014 Regulation 34.2 (c). The prior bill to the petitioner was issued on 18.05.2016 from 06.04.2016 to 11.05.2016 for 35 days for ₹1,96,01,210/-. This amount with late payment surcharge @2% (upto 7 days) comes out to be ₹1,97,84,178/- and with 5% surcharge (after 7 days and upto 15 days), the amount comes to be ₹2,00,58,630/-. The amount was not deposited within grace period. His connection was disconnected on 13.05.2016 due to non-payment of bills. Audit calculated the amount recoverable as indicated in para 3.4 above.

The connection of the petitioner was disconnected on 13.05.2016. As per Regulation 34.2 (c) of Supply Code, 2014, his supply could only be resumed if he pays the MMC charges for the period of disconnection and additional charges for the delayed payment.

- 3.6 At the time of reconnection, the MMC for the disconnected period was required to be recovered from the petitioner. He deposited ₹68,00,000/- which was credited to his account and he was benefited in the next bill with the excess amount of ₹5,822/- (Amount deposited on 01.01.2016 ₹1,97,90,000/- bill against payable amount of ₹1,97,84,178/-)
- 3.7 The connection of the petitioner was disconnected on 13.05.2016 due to non-payment of bills and at the time of

restoration of supply, the amount of MMC for the disconnected period is recoverable from the petitioner.

- 3.8 The supply of the petitioner was restored on 03.06.2016. MMC for the period of disconnection is recoverable. Regulation 34.2 (c) of Supply Code, 2014 clearly describe that MMC per kVA basis is recoverable for the disconnected period. There is no mention of time period and billing cycle.
- 4.0 During hearing on 09.05.2017, the petitioner filed rejoinder to the reply filed by PSPCL. Both the parties requested for short date and accordingly, the Commission vide order dated 09.05.2017 fixed the matter for argument on 11.05.2017. The petitioner in its rejoinder to the reply filed by PSPCL submitted as under:
- 4.1 The petitioner deposited the bill amount with surcharge on 01.06.2016 and also requested for restoration of connection. The Respondent No.2 asked the petitioner on 01.06.2016 to also deposit the MMC for the period of disconnection. While the MMC amount was calculated by the Respondent No.2, banking hours were over and therefore assuming that MMC amount will be deposited by 02.06.2016. MMC was calculated for the period 13.05.2016 to 03.06.2016 (including 24 hours period for reconnection) and worked out the MMC amount as ₹68,00,000/-. This MMC amount was deposited in the office of Respondent No.2 on 02.06.2016. The electricity connection of the petitioner was restored on 03.06.2016.
- 4.2 The next monthly bill for consumption during 11.05.2016 to 16.06.2016 was issued on 18.06.2016. As the consumption

during 11.05.2016 to 16.06.2016 (including disconnection period of 13.05.2016 to 03.06.2016) was more than MMC, so the respondents refunded the amount of ₹68,00,000/- earlier charged on account of MMC deposited by the petitioner on 02.06.2016 for reconnection. It is totally denied that the refund was due to any mistake of the official of the PSPCL.

4.3 PSPCL wrongly raised the demand of ₹71,56,563/- on account of MMC and the petitioner just to avoid the late payment surcharge and disconnection of supply, deposited the above said ₹71,56,562/- as demanded by the PSPCL on 05.09.2016. It is totally denied that there was any wrong entry made by the cashier in SAP system. The audit party wrongly raised the impugned demand.

4.4 PSPCL restored the electricity connection on 03.06.2016 and the meter reading was taken by the PSPCL official on 16.06.2016 and the bill was issued from 11.05.2016 to 16.06.2016. The connection was restored in the same billing period and so the bill was raised by the PSPCL for the period up to 16.06.2016. The billing cycle of the petitioner was not changed. So as per the interpretation of the petitioner, the MMC charges are for the whole month and are not on daily basis. So for the period from 11.05.2016 to 16.06.2016, PSPCL was required to compare the total consumption with the MMC and in case it is more than MMC, then the MMC is not recoverable from the petitioner. Keeping this in view, the PSPCL rightly refunded the MMC paid for the disconnection period at the time of reconnection in the next bill.

4.5 The audit wing of PSPCL by wrongly interpreting the Regulation 34.2 of the Supply Code, 2014, has demanded MMC for the 21 days of the period of disconnection and for the 2 days period before disconnection i.e. for the period 11.05.2016 to 03.06.2016. There is no doubt that in case of restoration, a consumer is liable to pay MMC for the period the connection was remained dis-connected. But it is nowhere said that in case the connection has been restored within the billing month and in remaining days of the billing period, the power consumption is more than the MMC for the whole billing period, then still the consumer is liable to pay MMC for the days the connection remained disconnected in the same month. There is no provision of paying Monthly Minimum Charges (MMC) on day to day basis. The minimum monthly charges is a term used for average monthly consumption. As per clause 2(v) of Electricity Supply Instructions Manual issued by PSPCL, 'Month' shall mean a calendar month or billing month as the case may be.

5.0 PSPCL vide CE/ARR&TR memo. No. 5878 dated 11.05.2017 filed reply to the rejoinder of the petitioner and submitted as under:

5.1 PSPCL denied that the amount of ₹68,00,000/- deposited by the petitioner as MMC for the disconnection period was refunded. The connection was disconnected on 13.05.2016 whereas last billing was prepared up to 11.05.2016. So the bill amount of supply period from 11.05.2016 to 13.05.2016 was pending as per reg. 30.3 of the Supply Code, 2014. The supply remained disconnected from 13.05.2016 to 03.06.2016 and was reconnected on 03.06.2016. The next

reading was taken on 16.06.2016, so the electricity bill was to be prepared from 03.06.2016 up to 16.06.2016 as per reg. 30.3 of the Supply Code, 2014. But the bill got prepared from 11.05.2016 to 16.06.2016 (including disconnection period) wrongly and the amount that was got deposited for the disconnected period as per regulation 34.2 of Supply Code, got adjusted in the electricity bill as advance payment.

- 5.2 As per regulation 30.3 of Supply Code,2014, electricity bills are issued for the period of electricity supplied and not for disconnected period. Further, where supply is commenced in the middle of billing cycle, then as per regulation 30.4 of the Supply Code, MMC shall be levied on pro-rata basis for the number of days for which supply is given, which in this case was for 13 days only. So electricity bills should have been prepared from 03.06.2016 to 16.06.2016 only which was actual period for which supply was given.
- 5.3 In the event of restoration of disconnected supply, a consumer is liable to pay the following charges as per regulation 34.2 of the Supply Code, 2014:
- a) Pay the defaulting/total outstanding amount, amounting to ₹1,97,84,177/- which the petitioner paid on 01.06.2016 as per regulation 34.2(a) of Supply Code.
 - b) Pay the RCO fees as per schedule of general charges which he paid on 02.06.2016 as per regulation 34.2 (b) of Supply Code.

- c) Pay the MMC for the period of disconnection i.e. 13.05.2016 to 03.06.2016 amounting to ₹64,64,452/- as per regulation 34.2 (c) of Supply Code.
- d) Pay the pending energy bills amounting to ₹6,15,655/- as per regulation 34.2 (a) of Supply Code.
- e) Pay the additional charges for the delayed payment amounting to ₹1,49,536/- as per regulation 34.2 (c) of Supply Code.

The petitioner was asked to deposit the amount, as above, which was deposited and the connection was restored. The billing system should have automatically made the entry of this amount in the non energy payment section but due to the recent introduction of SAP system, this amount was taken as advance energy payment and was wrongly adjusted in the next energy bill. So the amount raised by the audit is correct as per the Supply Code, 2014.

- 5.4 As per regulation 34.2 (c), the supply can only be resumed if the consumer deposits total outstanding amount and MMC for the disconnection period and additional charges for the delayed payment.
- 5.5 The Audit Party has rightly charged the amount. There is no confusion of interpretation in regulation 34.2 of Supply Code, 2014. It is clearly mentioned that the connection can only be restored after outstanding amount and MMC/other fixed charges for the period of disconnection have been paid. Also electricity bills are issued for the

period when supply is given, as per reg. 30.3 of Supply Code and not for disconnected, period.

6.0 During hearing on 11.05.2017, the arguments of both the parties were heard and the order was reserved.

7.0 Commission's Findings and Order:

The crux of the issue is that PSPCL issued a bill on 18.04.2016 to the petitioner for the period of 11.03.2016 to 06.04.2016 amounting to ₹95,92,340/-, which was payable by 28.04.2016 but the petitioner failed to deposit the bill. Next bill for ₹1,96,01,210/- including arrear amount of previous bill was issued on 18.05.2016 for the period of 06.04.2016 to 11.05.2016 with due date of 30.05.2016. However due to non payment of bill payable by 28.04.2016, the connection was disconnected on 13.05.2016. When the petitioner approached PSPCL for re-connection, he was asked to deposit ₹1,97,84,178/- as outstanding amount including surcharge plus ₹68,00,000 as MMC for the period of disconnection from 13.05.2016 to 03.06.2016. The petitioner deposited the amount on 02.06.2016 and the connection was restored on 03.06.2016. However, in the next bill issued on 18.06.2016 for the period of 11.05.2016 to 16.06.2016, a refund of ₹68,05,822 was made, which according to the petitioner is refund of MMC recovered from him for the period of disconnection because the bill amount on the basis of actual consumption during the bill period was more than MMC. Thereafter, PSPCL on the basis of Audit report, issued a supplementary bill for recovery of ₹71,56,562/- which includes MMC charges for the period of disconnection plus

late payment charges @1.5% on unpaid bill for the period 10.03.2016 to 06.04.2016.

The petitioner has challenged this supplementary bill and sought interpretation of regulation 34.2 of the Supply Code, 2014. The contention of the petitioner is that since the period of disconnection i.e 13.05.2016 to 03.06.2016 falls in the same billing period of 11.05.2016 to 16.06.2016 so MMC is payable only if consumption charges for the billing month are less than MMC, which is to be calculated on monthly basis. However, the petitioner agreed that as per reg. 34.3, MMC is payable for the period of disconnection.

PSPCL also quoted reg. 34.2 of the Supply Code, 2014 to highlight that at the time of reconnection, the consumer is required to pay all outstanding amount including surcharge plus MMC for the period of disconnection. PSPCL further referred to reg. 30.3 of the Supply Code, 2014 to highlight that bill is raised only for electricity supplied to the consumer and since no electricity is supplied to the consumer during the period of disconnection so bill is not prepared for this period. On restoration of supply, bill on the basis of consumption is prepared which is further subject to MMC for the period.

Let us examine the relevant regulations of the Supply Code, 2014. The regulation 29 empowers the distribution licensee to recover charges for supply of electricity and also MMC during period of disconnection through a bill rendered as per regulation 30.3 of the Supply Code, 2014. The relevant portions of regulations 29 & 30 are reproduced below:

29. RECOVERY OF ELECTRICITY CHARGES FROM CONSUMERS

29.1 A distribution licensee may recover from a consumer **any charges in respect of the supply of electricity as per General Conditions of Tariff and Schedules of Tariff.** In addition, a consumer shall be liable to pay rent and/or other charges in respect of any electric meter or electrical plant provided by the distribution licensee as per Schedule of General Charges.

29.2 -----

29.3 All consumers shall make payment for **every billing cycle** to the distribution licensee within the time specified in Regulation 31 at the notified offices of the distribution licensee or any other place or through any agency approved by the distribution licensee for the purpose.

29.4 **The Monthly Minimum Charges (MMC) shall be payable by a consumer even if no electricity is actually consumed or the charges on actual consumption basis is less than the monthly minimum charges fixed by the Commission. Minimum charges shall also be payable on reconnection for the period the connection remained disconnected due to default on the part of consumer.** However for any delay in re-connection by distribution licensee, the consumer shall not be liable to pay MMC for such period of delay.

“30.3 Issue of Electricity Bills

The distribution licensee shall issue bills to the consumer **for the electricity supplied** or for other services rendered with a periodicity of;

(a) -----

(b) *in the case of DS and NRS consumers with loads of 50 kW and above and all other categories of consumers including agricultural pump sets (metered supply), bills shall be issued monthly;*

(c) -----

30.4 When supply to a new consumer is commenced in the middle of a billing cycle, all the fixed charges, including minimum charges shall be levied on pro rata basis for the number of days for which supply is given during the billing cycle.

30.5 The consumers shall pay on a pro-rata basis in case any tariff/other charges are made applicable in the middle of a billing cycle.[emphasis added]

The bare reading of regulation 29 and 30 would reveal that a distribution licensee can recover charges for supply of electricity through a bill issued to the consumer as per regulation 30.3 of the Supply Code, 2014. Further as per regulation 29.3, a consumer is liable to pay bill for every billing cycle to the distribution licensee.

Now the words “Billing Cycle” and “Supply” in relation to electricity have been defined in regulations 2(i) & 2(zzb) of the Supply Code, 2014 respectively as under:

2(i) **“Billing Cycle or Billing period”** means the period for which electricity bills are issued by the distribution licensee to different categories of consumers;

2(zzb) **“Supply”**, in relation to electricity, means the sale of electricity to a licensee or consumer;

As per reg. 29.4 of the Supply Code, 2014, MMC is payable by the consumer during the period no electricity is consumed, as in case of disconnection due to default by the consumer or if charges, as worked out on the basis of actual consumption, are less than the MMC amount. Both these situations are distinct and are required to be dealt separately. The bill during the billing cycle when electricity was supplied and consumed by the consumer is to be calculated as per regulation 29 which shall be subject to payment of MMC

during this period of supply. Further, if the period of supply of electricity is less than the billing cycle, then charges shall be calculated on pro-rata basis. MMC during period of disconnection shall be recovered as per regulation 29.4 of the Supply Code, 2014 in addition to bill for supply of electricity.

This arrangement has further been clarified in regulation 34 of the Supply Code, 2014 which deals with restoration of supply of electricity where the distribution licensee has disconnected the supply due to consumer default. The conditions for restoration of supply have been laid down in reg. 34. 2 (if the disconnection period is less than 6 months) and reads as under;

“34 RESTORATION OF SUPPLY OF ELECTRICITY

- 34.1 Supply to the consumer shall be immediately reconnected, if the distribution licensee reasonably believes that the circumstances leading to the disconnection were actually an omission on the part of the distribution licensee. In such an event, no charges on any account shall be recoverable from the consumer.*
- 34.2 Where a distribution licensee has disconnected supply of electricity to any premises in consequence of a default on the part of the consumer and if the consumer seeks reconnection within 6 months from the date of disconnection provided the service line has not been dismantled, then the distribution licensee shall resume supply of electricity (other than theft cases) within twenty four (24) hours from the time the consumer:*

- (a) *makes good the default and makes payment of 1st instalment of outstanding amount (if allowed to deposit the charges in instalments). However, if the consumer defaults in making the 2nd instalment, the connection shall be disconnected again and then the supply shall only be restored after the recovery of total outstanding amount. In case of consumers found to be resorting to theft of electricity, the supply shall be restored only after recovery of entire amount as specified in Regulation 37.2.3 (c) ;*
- (b) *pays the prescribed amount as per Schedule of General Charges, if any for disconnecting and reconnecting the supply of electricity; and*
- (c) *pays the monthly minimum charges/ fixed charges for the period of disconnection and the additional charges for the delayed payment.*

Provided, however, that if the electric line or plant supplying electricity to the consumer is/are removed by reason of disconnection, the distribution licensee shall restore supply after undertaking the work for providing the electric line or plant within the time specified in the case of a new connection and the consumer shall deposit charges as if a new connection is being released.”

It is amply clear that at the time of restoration of supply which was disconnected due to the default of the consumer, all charges as per regulation 34.2 which includes defaulting amount including surcharge for delayed payment plus MMC

during the period of disconnection, are payable by the consumer. There is no mention in any of the regulations reproduced above that in case the actual bill amount on the basis of consumption of electricity of a consumer during a billing cycle is more than the MMC then MMC for the period of disconnection recovered at the time of restoration of supply as per regulation 34.2 shall be adjusted in the bill or refunded to the consumer.

Accordingly, **the Commission concludes that during a billing cycle, if there is some period of disconnection due to default of the consumer, the bill shall comprise of charges for electricity supplied to the consumer as per General Conditions of Tariff and Schedules of Tariff for the period the premises of the consumer remained connected to the supply system of the licensee during a billing cycle. For the disconnection period, the MMC shall be recoverable on pro rata basis for the period the supply remained disconnected as per regulation 29.4 read with regulation 34.2 of the Supply Code, 2014.** In the present case, the supply remained connected from 11.05.2016 to 13.05.2016 and then from 03.06.2016 to 16.06.2016 during the billing cycle. Since as per regulation 29.3, a consumer is to be billed for the billing cycle so a single bill for recovery of charges on account of supply of electricity to the consumer should have been prepared from 11.05.2016 to 16.06.2016 and not separately from 11.05.2016 to 13.05.2016 and 03.06.2016 to 16.06.2016 as has been done by PSPCL. The MMC during period of

disconnection i.e from 13.05.2016 to 03.06.2016 is recoverable separately as per regulation 34.2 of the Supply Code, 2014. **PSPCL is directed to revise the bill from 11.05.2016 to 16.06.2016 of the petitioner and the supplementary bill dated 24.08.2016 in view of the clarification/interpretation of various regulations of the Supply Code, 2014 rendered above within 10 days from the date of issue of this order. In case, the petitioner is not satisfied with the revised bill as per the clarification/interpretation of the Supply Code, 2014 rendered through this Order, the petitioner shall be free to approach the Grievance settlement mechanism of the licensee as per law.**

The petition is disposed of accordingly

**Sd/-
(S. S. Sarna)
Member**

**Sd/-
(D.S.Bains)
Chairman**

**Dated: 19.05.2017
Chandigarh**