

**PUNJAB STATE POWER CORPORATION LTD
CONSUMERS GRIEVANCES REDRESSAL FORUM
P-1, WHITE HOUSE, RAJPURA COLONY ROAD, PATIALA
PHONE: 0175-2214909 ; FAX : 0175-2215908**

Appeal No: CG-43 of 2013

Instituted On: 10.04.2013

Closed On: 20.06.2013

**M/s Sandhu Gram Udyog Samiti,
Vill: Kuthala, Teh. Malerkotla,
Distt. Sangrur.**

.....Appellant

Name of Op/Division: Malerkotla

A/c No.: **MS-34/0015**

Through

Sh. Inderjit Singh, PR

V/s

PUNJAB STATE POWER CORPORATION LTDRespondent

Through

Er. Gafoor Mohammed, ASE/OP. City Divn., Malerkotla

BRIEF HISTORY

Petition No. CG-43 of 2013 was filed against the decision dated 01.09.2012 of CDSC, deciding that the amount charged on account of 3% LT surcharge was correct and recoverable from the consumer.

The consumer is having MS category connection with sanctioned load of 41.35 KW operating under Op. Sub Division, Sherwani Kot.

The connection of the consumer was checked by Sr.Xen/Enf., Patiala-I, on 19.11.2011 vide ECR No. 38/55. It was reported that the connection is running for ice factory having supply from Urban Pattern Feeder and metering on LT side. On the basis of this report, a notice no. 1162 dated 31.10.2011 was issued to the consumer by the SDO/Sherwanikot to deposit Rs. 1,95,066/-(Rs.75006 as transformation charges and Rs. 1,20,060/- as unauthorized use of electricity for Ice Factory).

After receiving the notice of Rs. 1,95,066/-, the consumer made an appeal before SE/Op. Barnala for reviewing the case in DSC, SE/Op. Barnala allowed the case to be reviewed by DSC vide letter No. 319 dated 28.11.2011 subject to deposit of 20% of the disputed amount. The consumer deposited the amount of Rs.39,020/- vide BA-16 No. 516/90574 dated 30.11.2011. The case was heard in the CDSC on 01.09.2012 and it was decided that amount charged on account of 3% LT surcharge is correct and recoverable. However, for unauthorised use of electricity (UUE) it was decided that action be taken as per instruction No. 101 of ESIM and Annexure-8 of Electricity Supply & Related Matters Regulations-2007.

As per decision of CDSC a notice No. 931 dated 05.11.2012 amounting to Rs. 2,87,945/- was served by SDO/Sherwani Kot (Rs.75,006/- as 3% LT surcharge and Rs. 212939/- as penalty for UUE), due to change of nature/kind of industry without the permission of PSPCL.

After receiving the notice, the consumer filed a complaint in DCDRF, Sangrur. On 12.11.2012 Hon'ble DCDRF ordered to deposit 50% of the disputed amount. The consumer deposited Rs. 1,05,000/- vide BA 16 No. 555/600 dt. 13.12.2012. The complaint of the consumer was

dismissed by the DCDRF on 07.01.2013 on the point of jurisdiction only.

Being not satisfied with the decision of CDSC the consumer filed an appeal before the Forum. The forum heard the case in its proceedings held on 08.04.2013, 23.04.2013, 07.05.2013, 14.05.2013, 21.05.2013, 28.05.2013, 18.06.2013 and finally on 20.06.2013. Then the case was closed for passing speaking orders.

Proceedings:-

PR stated that written arguments already submitted be treated as part of oral discussion. In the written arguments the consumer contended that:-

i) The connection for running Ice Factory/Milk Chilling Factory was applied by the Samiti through its authorized representative and the connection was released during 2001. The supply to the village Kothala was coming from 66 KV Grid Sub Station Katron (Malerkotla) and there was a Urban Supply Pattern Feeder. The premises of the factory is located at a distance of about 150 meter from the Phirni of village Kothala and the Urban Supply pattern Feeder was existing.

ii) The connection of the Samiti was also checked on 16.5.2006 by Xen/Enforcement PSEB, Patiala vide ECR 33/3270 and nothing wrong was found by the Department.

iii) The connection of the applicant has been checked by Senior Xen/Enf.I, Patiala on 19.10.2011 vide ECR No. 38/55. The Senior Xen/Enforcement gave unnecessary remarks on the said checking report regarding non-charging of LT Surcharge 3% inspite of the fact that the connection has been released from UPS feeder and meter on LT-Supply has been provided. There is another allegation regarding change of Industry by the appellant Samiti.

iv) That as far as change of industry without prior approval is concerned, the connection was applied in the first instance for Milk Chilling Centre-Ice Factory and till today even no addition or alteration has been made by the Samiti and the connection in dispute is used for milk chilling centre only and not for any other purpose.

v) The AEE Sherwani Kot, issued notice bearing No. 1162 dated 31.10.2011 in which Rs.1,95,066/- were demanded on account of difference in monthly minimum charges to the tune of Rs.1,20,060/- and Rs.75006/- on account of transformation charges. There is no compliance of Commercial Circular No. 14/2004 by the Department.

On 21.05.2013, Representative of PSPCL contended that:

1. The connection was applied and released for Milk Chilling plant, not for Milk Chilling and Ice factory. By switching over to Ice Factory, the consumer has violated the contract obligation. At the time of release of connection, the consumer has submitted the clearance from the Punjab Pollution Control Board for Milk Chilling Centre. The connection was released from 11KV UPS Feeder fed from 66KV Katron Sub Station which was transferred on 66KV Sub Station Kuthala later on. The consumer premises/ connection is located about 700 meter from phirni of village Kuthala. The connection was released by erecting 100KVA transformer as per Estimate No. 14003 dated 16.04.2001. The sanctioned of the load is 41.35 KW.
2. Para No. 2 is correct and admitted.
3. It is true that the connection was checked by the Senior Xen, Enforcement-I, Patiala on dated 19.10.2011 vide ECR No. 38, 39/55. The Senior Xen Enforcement noted on ECR the type of industry as Ice Factory. 3% transformation charges are recoverable from the samiti as per ESR 2004 and ESIM 2007 Rule 45.3.2/45.3.1 which reads as under:

Regulation 45.3.2

“All new single phase and three phase consumers (except AP) without any upper load limit beyond 500 mtrs. of phirni shall also be required to get the 11KV line erected at their cost alongwith 16% establishment charges and they shall be required install their own transformers. The consumer shall have the option to set the supply method at 11KV or LT with 3% transformation charges depending upon

the load. While extending single phase and three phase 11 KV line (including distribution T/F) in all cases. It shall be ensured by the Sr. Xen Operation that this is not misused by AP tubewell consumers in any case.”

The existing consumers are covered under Circular No. CC-21/2002 and CC-29/2003 and Regulation 45.3.1 of Electricity Supply Regulation 2004 which is read as under:

Regulation 45.3.1

“Existing consumers including poultry farm connections, except AP tubewell located beyond 500 meters of the phirni shall be entitled for Urban Pattern Supply facility provided they pay the actual cost of works involved in the shifting of supply line etc. along-with 16% establishment charges. 24 hours supply to Poultry Farm (s) located in rural areas shall be released at 11KV supply voltage and consumer shall be required to install his own transformer. Metering will be done on LT side and consumption shall be enhanced by 3% to cover the transformation losses. Existing Industrial Consumers shall be given 24 hours urban pattern supply and metered on 11KV after shifting. The requisite changes in the system for this purpose shall be made at the consumer’s cost.”

Hence, 3% transformation charges are recoverable from the samiti.

CC-14/2004 was not applicable to the Milk Chilling Centre, all new connections are covered under 45.3.2 of ESR 2004, where the running connections are covered 45.3.1 of ESR 2004, in both the cases 3% transformation charges are recoverable from the consumer.

It is not correct that the Regulation 45.3.2 /45.3.1 is not applicable on the Samiti. It is applicable the Samiti and rest of the Para is denied.

4. Para No. 4 is wrong and denied, the consumer applied the connection for Milk Chilling Centre only. It is very

clear from the documents of Punjab Pollution Control Board submitted by the consumer.

5. Para 5 is correct to the extent that the mentioned notices have been issued by AEE Sherwanikot, as Honorable Forum is considering only 3% transformation charges portion of the appeal as per order of Honorable Forum dated 10.04.2013, hence the rest of para need not to be replied. CC-14/2004 was not applicable to the said consumer prior to the checking of the Enforcement dated 19.10.2011. Because it was detected by the Enforcement on dated 19.10.2011 that the connection is used for Ice Factory.

In view of the above transformation charges are recoverable from the consumer. Hence the Samiti be ordered to deposit the balance amount with interest as per rules. The appeal of the Samiti be dismissed.

PR contended that their petition and written arguments be considered as a part of oral discussion. it is also contended that our unit is situated in the Rural Focal Point area. The connection was released to us under the scheme of Focal Point, and we were given loan and subsidy for industry under focal point scheme.

Forum observed that consumer had contended in the written arguments that his factory is situated at a distance of about 150 mtr. from the phirni of village Kothala whereas respondent contended that the premises of the consumer is situated at about 700mtr. from phirni of village Kothala. Forum directed ASE/Op. Divn. Malerkotla to get the distance of the factory/premises rechecked by AEE/Op. S/D Sherwanikot, in the presence of the consumer. Report of the measurement along with proof of the location of the factory being in focal point area be submitted on the next date of hearing.

On 28.05.2013, In the proceeding dated 21.05.2013, Forum directed ASE/Op. Divn. Malerkotla to get the distance of the factory/premises from village phirni rechecked by AEE/Op. S/D Sherwanikot, in the presence of the consumer. Report of the measurement along with proof of the location of the factory being in focal point area be submitted on the next date of hearing.

Representative of PSPCL submitted the requisite information vide memo No.5826 dated 28.05.2013 and the same has been taken on record.

PR stated that he has already applied for proof of location of his factory being in the focal point area and the same shall be submitted on the next date of hearing.

On 18.06.2013, PR vide letter dated 18-06-2013 submitted to the forum that the concerned office has not provided him the copy of A& A form which was required to confirm the information regarding existence of his connection to the focal point area. Forum directs ASE/Op City Divn. Malerkotla to present the case (consumer case) and appear before the Forum along with AEE concerned on the next date of hearing .

In the proceeding dt. 18-06-2013 Forum directed the respondent to submit the copy of A& A form to confirm the information regarding existence of his connection in the focal point area & Forum also directed ASE/Op City Divn. Malerkotla to present the consumer case and appear before the forum along with AEE concerned.

Representative of PSPCL submitted consumer case & detail of LT surcharge charged to the consumer.

PR stated that written arguments already submitted be treated as part of oral discussion.

Respondent also submitted that their reply be treated as part of oral discussion.

Both the parties have nothing more to say and submit and the case was closed for passing speaking orders.

Observations of the Forum:-

After the perusal of petition, reply, written arguments, proceedings, oral discussions and record made available to the Forum, Forum observed as under:-

The connection under MS category for 41.35 load was released to the consumer on dated 10.05.2001 for Milk Chilling Plant, on Urban Pattern Supply (UPS) Feeder. The consumer was charged Rs.1,95,066/-(Rs.75,000/- as transformation charges and Rs. 1,20,060/- for UUE) on the basis of checking of Sr.Xen/Enf., Patiala vide ECR No. 38/55 dated 19.11.2011. LT surcharge/transformation charges @ 3% were charged to the consumer for the period 05/2001 to 10/2011. The Forum admitted the appeal only for transformation charges of Rs. 75006/- as review of UUE case is not under the purview of the Forum. **However, the Forum observed that UUE has not been dealt with as per provisions of Electricity Act- 2003 and procedure laid down in Electricity Supply Code & Related Regulations-2007.**

PR contended that the connection was released about 12 years back and electricity bills were being issued without LT surcharge, were duly audited, as such no LT surcharge is applicable as stated by the enforcement wing. The connection was released from 11 KV UPS feeder and LT meter has been installed as such the applicant is entitled for 7.5% rebate. The regulation 45.3.2 of Electricity Supply Regulation (ESR) deals with new connections whereas the connection of the petitioner was released after installation and commissioning of UPS feeder, as such this regulation is not applicable on the consumer. The PR also contended that their unit is situated in the Rural Focal Point Area and connection was released under the scheme of Focal Point. PR further contended that their factory is situated at a distance of about 150 meter from the phirni of village Kothala and UPS feeder was existing before release of connection.

Representative of PSPCL contended that the premises/connection of the consumer is located at a distance of about 700 meter from phirni of village Kuthala. The connection was released by erecting 100KVA transformer and as per regulation No. 45.3.1 & 45.3.2, 3% transformation charges are recoverable from the existing and new

consumers where supply is given from UPS feeder and metering is on LT side.

Forum observed that certain relaxation as mentioned below were given to the consumers vide CC No. 36/99 dated 05.08.1999 for release of power connections in Rural Focal Points:

- i) A sum of Rs.5,000/- for each Rural Focal Point shall be deposited with PSEB by the State Government.
- ii) For the release of connection each consumer/consumers shall pay all other charges as per the prevailing instructions of the Board barring the cost of 11 KV line & pole mounting sub-station.

However 3% transformation charges are recoverable from the consumer where supply is from UPS feeder (11KV) and metering on LT side as per regulation No. 45.3.2 of Sales Regulations (1999 edition) and 45.3.1 and 45.3.2 of ESR- 2004. Thus forum is of the view that amount charged for 3% transformers charges on the basis of checking of Sr.Xen/Enforcement dated 19.11.2011, is justified.

Decision:-

Keeping in view the petition, reply, written arguments, oral discussions, and after hearing both the parties, verifying the record produced by them and observations of Forum, Forum decides:

- **To uphold the decision of CDSC taken in its meeting held on 01.09.2012 for recovery of 3% transformation charges.**
- **That the amount charged for UUE be finalized after observing the procedure prescribed in Regulation No. 36 of Electricity Supply Code & Related Matters Regulation 2007.**
- **That the balance amount recoverable/refundable, if any, be recovered/refunded from/to the consumer along-with interest/surcharge as per instructions of PSPCL.**

- As required under Section 19(1) & 19(1A) of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulation-2005, the implementation of this decision may be intimated to this office within 30 days from the date of receipt of this letter.

**(Rajinder Singh)
CAO/Member**

**(K.S. Grewal)
Member/Independent**

**(Er. Ashok Goyal)
EIC/Chairman**

