

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 28 of 2020
Date of Order: 16.12.2020

Petition under Section 61, 62 and 86 of the Electricity Act, 2003 for amendment in Regulation 55 and Appendix-7 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 regarding Fuel Cost Adjustment Surcharge.

AND

In the matter of: Punjab State Power Corporation Limited, The Mall Patiala.

....Petitioner

Present: Ms. Kusumjit Sidhu, Chairperson
Ms. Anjuli Chandra, Member
Sh. Paramjeet Singh, Member

ORDER

Punjab State Power Corporation Limited (PSPCL) has filed the present petition for amendment in Regulation 55 (1) of PSERC (Conduct of Business) Regulation 2005, and Appendix-7. Regulation 55 (1) stipulates that no tariff determined by the Commission may be amended more frequently than once in any financial year except that tariff rates shall be adjusted in accordance with Fuel Cost Adjustment (FCA) Formula incorporated in the tariff order or in any other order of the Commission. Further, FCA shall be carried out by the licensee every quarter. FCA for the 3rd and 4th quarter shall be subject to the approval of the Commission. Till otherwise notified by the Commission FCA formula shall be as per Appendix -7.

PSPCL has averred that Govt. of Punjab has decided that FCA surcharge shall be levied on annual basis alongwith carrying cost and vide letter dated 18.08.2020 has advised to take up the matter with PSERC for amendment in the PSERC (Conduct of Business) Regulations, 2005. The reasons mentioned by PSPCL for the proposed amendment(s)

are that the levy of FCA on annual basis will bring stability/certainty in electricity prices over longer horizon of one year facilitating business and shall have balancing effect of negative FCA for some quarter(s) thereby partially neutralizing the effect of positive FCA in preceding quarter(s) leading to lower net FCA. PSPCL further averred that the Govt. of Punjab is of the opinion that there should not be frequent tariff revisions and the tariff orders passed on a yearly basis ought to adjust the tariff including the fuel cost adjustment.

The petition was taken up for hearing on admission on 14.10.2020 and during hearing the Commission enquired from the officers of PSPCL regarding the maintainability of the present petition in view of the Order dated 11.11.2011 passed by the Hon'ble APTEL in original petition No. 01 of 2011. In reply thereof PSPCL, referring to the said decision of the Hon'ble APTEL in Petition No. 01 of 2011, has averred that PSPCL has been filing the tariff petitions on regular and timely basis and the Commission has been determining the tariff by way of tariff orders on a yearly basis. The decision of the Hon'ble APTEL cannot be taken as a binding direction on the Commission to frame Regulations in a particular manner or otherwise prevent the Commission from entertaining the present petition and amending Regulation 55 read with Appendix – 7 of the Regulations as sought in the present petition. The petition was taken up for hearing on admission on 11.11.2020 however, the proxy counsel appearing on behalf of the conducting counsel requested for an adjournment and the matter was adjourned to 02.12.2020 for hearing on admission. After hearing the Learned Counsel for PSPCL and its officers, Order was reserved on 02.12.2020.

The Commission referred to the Hon'ble APTEL's order dated 11.11.2011 passed in Petition No. 01 of 2011 in para no. 65 & 66 containing directions as under:-

“Fuel and Power Purchase cost is a major expense of the Distribution Company which is uncontrollable. Every State Commission must have in place a mechanism for Fuel and Power Purchase cost in terms of Section 62 (4) of the Act. The Fuel and Power Purchase cost adjustment should preferably be on monthly basis on the lines of the Central Commission’s Regulations for the generating companies but in no case exceeding a quarter. Any State Commission which does not already have such formula/mechanism in place must within 6 months of the date of this order must put in place such formula/ mechanism.”

66. We direct all the State Commissions to follow these directions scrupulously, and send the periodical reports by 1st June of the relevant financial year about the compliance of these directions to the Secretary, Forum of Regulators, who in turn will send the status report to this Tribunal and also place it on its website.”

In view of the above, it is observed by the Commission that Regulation 55(1) and Appendix-7 of the PSERC (Conduct of Business) Regulations, 2005 is in conformity with the directions of the Hon’ble APTEL. Further, the relief prayed in the present petition is against the clear directions issued by the Hon’ble APTEL vide order dated 11.11.2011 which has already attained finality. Thus the petition seeking amendment of the said Regulation and Appendix is not maintainable and is accordingly dismissed.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Anjuli Chandra)
Member

Sd/-

(Kusumjit Sidhu)
Chairperson

Chandigarh
Dated: 16.12.2020