**COURT OF THE LOK PAL (OMBUDSMAN), ELECTRICITY, PUNJAB,**

 **PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

 **S.A.S. NAGAR (MOHALI).**

 **APPEAL NO. 30/2018**

**Date of Registration : 28.05.2018**

**Date of Hearing : 27.09.2018**

**Date of Order : 04.10.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of :**

 Kitty Industries Pvt. Ltd.,

 Village Pangali Hiran,

Ludhiana Samrala Road,

 Ludhiana-141112.

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division,

PSPCL, Samrala.

 ..Respondent

**Present For:**

Petitioner Sh. M.R.Singla,

 Petitioner’s Representative (PR).

Respondent : Er. K P S Sidhu,

 Addl.Superintending Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 08.05.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No. CG-96 of 2018 deciding that:

“*Levy of proportionate cost amounting to Rs.1,17,980/- for extension of load as per Supply Code-2014 Clause 9.1.3 (ii) clarification issued by CC No.60/2014 dated 30.12.2014 is justified and recoverable”.*

**2**. **Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner, having a Large Supply Category Connection with

sanctioned load of 1024.750 kW and contract demand (CD) of 1025 kVA, applied for extension in its load and CD to 1980 kW and 1225 kVA respectively vide Application and Agreement No.9773 dated 02.05.2017.

1. A Demand Notice was issued, vide Demand Notice no.191 dated

01.06.2017,as per which**,**  the Petitioner was asked to deposit a sum of Rs.1,17,980/- as **Service Connection Charges (SCC).**

1. The Petitioner was charged the proportionate cost as per Standard

Cost Data approved by the Hon’ble PSERC and circulated vide Commercial Circular (CC) No.60/2014 dated 30.12.2014**.** The calculation done was as under:

3.9 km x 200 kVA x Rs.131 = Rs.1,02,180/-

 (conductor size of 50 mm2)

Breaker cost 200 kVA x Rs.79/- = Rs. 15,800/-

Total Amount = Rs. 1,17,980/-

1. The Petitioner deposited the said amount online on 05.06.2017 under

protest, whereafter, the extension in load/CD was released on 29.07.2017 at 11 kV Supply Voltage.

1. The Petitioner filed a Petition for refund of the amount deposited

with interest in the Forum on dated 19.03.2018, who, after hearing, passed order dated 08.05.2018. (Reference: Page-2, Para-1), deciding that proportionate Service Connection Charges (SCC) were leviable.

1. Not satisfied with the decision of Forum, the Petitioner preferred an

Appeal in this Court and prayed to accept the Appeal and pass orders to Respondent for refunding the wrongly/illegally charged proportionate cost of Rs.1,17,980/- with interest and giving any other compensation deemed fit by this Court, in the interest of justice.

**3**. **Submissions made by the Petitioner and the Respondent:**

 Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner**:

The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner having a Large Supply Category Connection with

sanctioned load of 1024.750 kW and contract demand (CD) of 1025 kVA, applied for extension in its load and CD to 1980 kW and 1225 kVA respectively vide Application and Agreement No.9773 dated 02.05.2017.

(ii) A Demand Notice was issued asking it to deposit a sum of Rs.1,17,980/- as Service Connection Charges (SCC). The Petitioner did not agree with the demand raised but deposited the same online on 05.06.2017 under protest, so that release of extension in load was not delayed by the Respondent as the same had already been delayed considerably.

(iii) The extension in load was released on 29.07.2017 at the existing 11 kV Kitty Industries Independent Feeder having Continuous Process Status, erected at the cost of the Petitioner.

(iv) Where no expenditure was incurred by the Distribution Licensee for releasing extension in load on Independent Feeder exclusively meant for the same consumer, no Service Connection Charges (SCC) or proportionate cost was payable as per instructions/ regulations.

1. A clarification regarding feeding sub-station, back up line and

service line was issued by the Chief Engineer/Commercial, vide memo no.173/180/DD/SR-463 dated 31.03.2017.

(vi) The Petitioner made so many requests to the Respondent for refund

of the amount of Rs.1,17,980/- with interest, wrongly/ illegally charged Service Connection Charges (SCC). As no action in the matter was taken by the Respondent, the Petitioner was constrained to file a Petition in the Forum, who, after hearing, did not provide any relief and held that the charges were leviable.

1. The Forum wrongly interpreted the Regulation 9.1.3(ii) of the

Supply Code-2014, which provided that :

*“ in case a consumer being fed exclusively from an independent line/feeder requests for additional demand which*

*can be released without augmentation, no charges shall be payable for the additional demand by the consumer”.*

1. In view of the submission made above, the Appeal may be accepted.
2. **Submissions of the Respondent**:

 The Respondent, in its defence, submitted the following for consideration of this Court:

1. The Petitioner, having a Large Supply Category Connection with

sanctioned load of 1024.750 kW and CD of 1025 kVA, applied for extension in its load and CD to 1980 kW and 1225 kVA respectively vide Application and Agreement No.9773 dated 02.05.2017. The metering was done by providing HT Energy Meter.

**(ii)** A Demand Notice was issued, vide Demand Notice no.191 dated 01.06.2017, to deposit of Rs.1,17,980/- as Service Connection Charges (SCC. The estimated cost was Nil in this case and the proportionate cost was charged to the Petitioner as per Standard Cost Data approved by the Hon’ble PSERC and circulated by PSPCL vide CC No.60/2014 dated 30.12.2014. The calculation was as under:

 3.9 km x 200 kVA x Rs.131/- = Rs.1,02,180/-

 (Conductor size 50mm2)

Breaker cost 200kVA x Rs.79/- = Rs. 15,800/-

Total amount = Rs.1,17,980/-.

**(iii)** The Petitioner deposited the amount of Rs.1,17,980/- whereafter, the extension was released on 29.07.2017.

**(iv)** The Petitioner gave a request dated 05.01.2018 in the Sub Divisional Office for refund of Service Connection Charges (SCC) deposited by it, but the Petitioner did not come to the said office for feedback and approached the Forum for resolution of its dispute.

**(v)** The Forum heard and decided the matter in favour of the Respondent with the order that levy of proportionate cost amounting to Rs.1,17,980/- for extension of load as per Regulation 9.1.3(a)(ii) of the Supply Code-2014, read with clarification issued by CC No,60/2014 dated 30.12.2014 was justified and recoverable.

(vi) The Appeal may be dismissed as the amount charged was as per

rules and regulations of the PSPCL approved by Hon’ble PSERC.

**4. Analysis:**

 The issue requiring adjudication is the legitimacy of the claim by the Petitioner for refund of a sum of Rs.1,17,980/- deposited as proportionate charges for extension in load on existing 11 kV Feeder having continuous process status, with interest, as per applicable regulations.

*The points emerged are deliberated and analysed as under:*

1. Petitioner’s Representative contended that the Petitioner, having a

Large Supply Category Connection with sanctioned load of 1024.750 kW and contract demand (CD) of 1025 kVA, applied for extension in its load and CD to 1980 kW and 1225 kVA respectively vide Application and Agreement No.9773 dated 02.05.2017. The metering was done by providing HT Energy Meter. A Demand Notice was issued asking it to deposit a sum of Rs.1,17,980/- as Service Connection Charges (SCC). The Petitioner did not agree with the demand raised but deposited the same online on 05.06.2017 under protest, so that release of extension in load was not delayed by the Respondent as the same had already been delayed considerably. The extension in load was released on 29.07.2017 at existing 11 kV Kitty Industries Independent Feeder having Continuous Process Status, erected at the cost of the Petitioner. Where no expenditure was incurred by the Distribution Licensee for release of extension in load on Independent Feeder exclusively meant for the same consumer, as such, no Service Connection Charges (SCC) or proportionate cost was payable as per instructions/ regulations. A clarification regarding feeding sub-station, back up line and service line was issued by the Chief Engineer/Commercial, vide memo no.173/180/DD/SR-463 dated 31.03.2017. The Forum wrongly interpreted the Regulation 9.1.3(a)(ii) of the Supply Code-2014, which provided that :

*“ in case a consumer being fed exclusively from an independent line/feeder requests for additional demand which can be released without augmentation, no charges shall be payable for the additional demand by the consumer”.*

The Respondent, in its defence, stated that a Demand Notice was issued, vide Demand Notice no.191 dated 01.06.2017, for deposit of Rs.1,17,980/- as Service Connection Charges (SCC). The estimated cost was Nil in this case and the proportionate cost was charged to the Petitioner as per Standard Cost Data approved by the Hon’ble PSERC and circulated by PSPCL vide CC No.60/2014 dated 30.12.2014.

The Petitioner deposited the said amount of Rs.1,17,980/- whereafter, the extension was released on 29.07.2017. The Petitioner gave a request dated 05.01.2018 in the Sub Divisional Office for refund of Service Connection Charges (SCC) deposited by it, but the Petitioner did not come to the said office for feedback and approached the Forum for resolution of its dispute. The Forum heard and decided the matter in favour of the Respondent with the order that levy of proportionate cost amounting to Rs.1,17,980/- for extension of load is as per Regulation 9.1.3(a)(ii) of the Supply Code-2014, read with clarification issued by the PSPCL vide CC No.60/2014 dated 30.12.2014 was justified and recoverable. The Appeal may be dismissed as the amount charged was as per rules and regulations of the PSPCL.

1. During the course of hearing, Petitioner’s Representative brought on

record of this Court, a copy of memo no.12357/RCD/657 dated 28.08.2014 issued by the Dy.Chief Engineer, DS Circle, PSPCL, Ropar giving Feasibility Clearance for extension in load and contract demand to the Petitioner’s Industry from 499.758 kW to 1024.758 kW and from 500 kVA to 1025 kVA respectively subject to terms and conditions mentioned therein including the requirement of registration of Application and Agreement alongwith the deposit of requisite charges. The Petitioner’s Representative also submitted copy of letter no.1209 dated 31.03.2016 of Chief Engineer/Power Regulation addressed to Chief Engineer/DS (South) Patiala, with a copy endorsed to the Petitioner’s Firm stating as under:

“*On the basis of recommendation of the Committee in its meeting held on 30.03.2016, it has been decided to grant continuous process (category-4) status (subject to the erection of 11kV Kitty Industries Independent Feeder at the cost of the consumer-****deposit work*** *and regularization of power supply to the consumer on the said independent feeder emanating from 66kV substation, Bhagpur, getting supply from 220kV Kohara substation), to the aforementioned consumer for a load of 1000 kVA, as verified by Dy.Chief Engineer/DS concerned, against a total sanctioned connected load & sanctioned contract demand of 1024.758 kW & 1025 kVA respectively subject to terms and conditions mentioned therein”.*

Petitioner’s Representative also brought on record of this Court a copy of revised list of Continuous Process Status of the consumers as per PR Circular No.06/2012 as on 31.05.2018 wherein the name of the Petitioner’s Industry had been shown at Sr.No.139. The Respondent stated during hearing that copies of the aforementioned documents furnished by the Petitioner’s Representative (PR) were neither available in the Divisional Office nor in the Sub Division till date. The Respondent, however, admitted that copy of the Estimate sanctioned for erection of 11 kV Feeder of the Petitioner was available in its office records. Accordingly, it was directed to send the same by 28.09.2018. In response, the Addl.SE Samrala, vide its e-mail dated 28.09.2018, sent, the copy of the detailed estimate duly sanctioned alongwith copy of the letter no.6350 dated 28.09.2018 written by the SE/DS Circle, Ropar to EIC/Power Regulation.

 I have gone through the sanctioned estimate No.434341 for the year 2014-2015 amounting to Rs.26,98,224/- sanctioned by the Addl.SE, DS Division, PSPCL, Samrala for giving the extension in load/CD to Kitty Industry (P) Ltd. (Petitioner), Account No: LS-12 against feasibility cleared by the Dy.Chief Engineer/DS Circle, Ropar, vide memo no.12357 dated 28.08.2014. As per the above Estimate, the load/CD already running was 499.758 kW/500 kVA and the applied extension in load/CD was 525kW/525 kVA, resulting into total sanctioned load/CD of 1024.758 kW/1025 kVA. The extension was proposed to be given from 66 kV Substation, Bhagpur by providing 11kV XLPE Cable and ACSR conductor of size 50mm2 (Rabbit). The copy of this sanctioned estimate was sent to the AEE/DS Division, Katani Kalan by the Addl.SE/DS Division, Samrala vide memo no.12656 dated 26.09.2014. This estimate was got revised on actual basis for Rs.32,46,686/- on completion of the work and sanctioned by the Addl.SE/DS Division, Samrala vide sanction No.53231/2015-16. From the perusal of the estimate, it is noticed that **11 kV feeder was erected as Industrial Feeder and not as deposit estimate or Independent Feeder**. The Petitioner had paid Service Connection Charges as per provisions contained in Regulation 9.1.3(a)(ii).

 I have also perused memo no.1209 dated 31.03.2016 issued by Chief Engineer/PP&R and addressed to CE/DS (South Zone), Patiala, vide which the Petitioner’s Kitty Industries (P) Ltd., A/C No.R72-KK01-00012 was granted “ continuous process (Category-4) status (subject to the erection of 11 kV Kitty Industries Independent Feeder at the cost of the consumer-**deposit work and regularization of power supply to the consumer on the said independent feeder** emanating from 66 kV Substation, Bhagpur, getting supply from 220 kV Kohara Substation)”. Besides, the terms and conditions no.5 of the letter ibid, reads as under:

*”(5) The continuous process status shall be got regularized after extending the supply to the consumer through 11 kV independent feeder*”.

 I find that the Respondent vide memo no.6350 dated 28.09.2018 apprised the Court that the said condition has not been complied with by the Petitioner, as per their record. I also find that the Petitioner also could not produce any evidence regarding running of the connection on Independent Feeder.

 From the above analysis, it is clear that the present extension in load/CD was provided to the Petitioner on Industrial Feeder where no augmentation was required. The Feeder has not been declared as Independent Feeder by the competent authority of the Respondent, as per material brought on record before this Court. Hence, the Petitioner is liable to pay proportionate charges of HT main/common line upto feding Substation, including breaker bay for getting the extension in load/CD from 1024.750 kW/1025 kVA to 1980 kW/1225 kVA, as per provision contained in Regulation 9.1.3(a)(ii) of the Supply Code-2014, reads as under:

***“(ii)*** *Supply where Total Load/Demand Exceeds 100*

 *kW/kVA.*

*Where total load/demand including existing load of above mentioned categories exceeds 100 kW/100 kVA, the consumer shall pay the actual expenditure for release of additional load/demand. For 11 kV consumers, the expenditure shall include the cost of the augmentation of individual service line, if any, and proportionate cost of the common portion of main line (including augmentation wherever necessary) upto the feeding substation including breaker as per the standard cost data approved by the Commission. For 33 kV & higher voltage consumers, the expenditure shall include the cost of the augmentation of individual service line, if any, and proportionate cost of the common portion of main line (including augmentation wherever necessary) upto the feeding substation including bay as per standard cost data approved by the Commission. However, creation of new grid sub station or augmentation of existing grid sub station, if required, shall be carried out by the licensee at its own cost as per Regulation 9.2. The distribution licensee shall prepare an estimate based on Standard cost data approved by the Commission and applicant shall be required to deposit such amount as Security (works) before start of work. A final bill shall be prepared by the distribution licensee after completion of work and necessary recovery or refund shall be made as per Regulation 9.3.*

***Provided that where a HT/EHT consumer, having a sanctioned load/contract demand exceeding 100 kW/100 kVA and who has paid the actual cost of HT/EHT service line or feeder (including breaker/bay) at the time of release of connection, requests for additional load/demand and such load/demand can be fed from the same line without any augmentation, then the HT/EHT consumer shall be liable to pay only the proportionate cost of HT/EHT main/common line upto feeding sub-station including breaker/bay****. In case a consumer being fed exclusively from an independent line/feeder requests for additional demand which can be released without augmentation, no charges shall be payable for the additional demand by the consumer”.*

Since the case of the Petitioner does not fall in the category of independent feeder, it is liable to pay the proportionate cost as calculated by the Respondent*.*

**5. Decision:**

 **As a sequel of above discussions, the order dated 08.05.2018 of the Forum in Case No.CG- 96 of 2018 is upheld.**

**6**. The Appeal is disposed off accordingly.

**7**. In case, the Petitioner or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

October 04,2018 (VIRINDER SINGH)

SAS Nagar(Mohali) Lokpal (Ombudsman),

 Electricity, Punjab.