**BEFORE THE PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**

**CHANDIGARH**

**PETITION NO. OF 2024**

**IN THE MATTER OF:**

**Petition under Sections 86, 181 and other applicable provisions of the Electricity Act, 2003 read with Regulation 71 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 notified by this Hon'ble Commission for directions in relation to levy of fuel and power purchase adjustment surcharge.**

**IN THE MATTER OF:**

Punjab State Power Corporation Limited,

The Mall, Patiala, Punjab

- Petitioner

**INDEX**


| Sr. No. | PARTICULARS | PAGE NOS. |
|---|---|---|
| 1. | Petition | 1-9 |
| 2. | Annexure-1 (a) | 10 |
| 3. | Annexure-1 (b) | 11 |
| 4. | Annexure-1 (c) | 12 |
| 5. | Annexure-1 (d) | 13 |
| 6. | Annexure-1 (e) | 14 |
| 7. | Annexure-1 (f) | 15 |
| 8. | Annexure-1 (g) | 16 |
| 9. | Annexure-2 | 17 |
| 10. | Annexure-3 | 18 |
| 11. | Annexure-4 | 19 |

**BEFORE THIS HON'BLE PUNJAB ELECTRICITY REGULATORY COMMISSION AT CHANDIGARH**
**PETITION NO. ____ OF 2024**

**IN THE MATTER OF:**

Punjab State Power Corporation Limited .....Petitioner

**PETITION UNDER SECTIONS 86, 181, AND OTHER APPLICABLE PROVISIONS OF THE ELECTRICITY ACT, 2003, READ WITH REGULATION 71 OF THE PUNJAB STATE ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2005, NOTIFIED BY THIS HON'BLE COMMISSION FOR DIRECTIONS IN RELATION TO LEVY OF FUEL AND POWER PURCHASE ADJUSTMENT SURCHARGE**

**MOST RESPECTFULLY SHOWETH:**

1. The present Petition has been preferred by the Petitioner - Punjab State Power Corporation Limited ("**PSPCL**") seeking directions from thisHon'ble Commission in relation to the levy of Fuel and Power Purchase Adjustment Surcharge ("**FPPAS**") in terms of the Punjab State Electricity Regulatory Commission (Conduct of Business) (6th Amendment) Regulations, 2023 framed and notified by this Hon'ble Commission.

2. Punjab State Electricity Regulatory Commission (Conduct of Business) (6th Amendment) Regulations, 2023, *inter alia*, provides as under:

> *2. Amendments in Regulation 55 of the Principal Regulations – Revision of Tariff*
>
> *Regulation 55 (1) of the Principal Regulations shall be substituted as under:*

H.Kaur

*"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 and Power Purchase Adjustment Surcharge" (FPPAS)formula as specified in Appendix - 7 of the PSERC (Conduct of Business) Regulations, 2005 as amended from time to time."*

*3. Amendments in Appendix 7 of the Principal Regulations – Fuel Cost Adjustment (FCA) Formula*

*Appendix 7 of the Principal Regulations shall be substituted as under:*

*APPENDIX-7*
*(See Regulation 55)*

***FUEL AND POWER PURCHASE ADJUSTMENT SURCHARGE (FPPAS)***

1. *For these Regulations "Fuel and Power Purchase Adjustment Surcharge" (FPPAS) means the increase in cost of power, supplied to consumers, due to change in Fuel cost, power purchase cost and transmission charges with reference to cost of supply approved by the Commission.*

2. *The Fuel and power purchase adjustment surcharge shall be calculated and billed to consumers, automatically, by the Licensee, on a monthly basis, according to the formula prescribed by the Commission, subject to true up, on an annual basis, Provided that the automatic pass through shall be adjusted for monthly billing in accordance with these Regulations.*

3. *Fuel and Power Purchase Adjustment Surcharge shall be computed and charged by the distribution licensee, in (n+2)th month, on the basis of actual variation, in cost of fuel and power purchase and Interstate Transmission Charges for the power procured during the nth month. For example, the fuel and power purchase adjustment surcharge on account of changes in tariff for power supplied during the month of April of any financial year shall be computed and billed in the month of June of the same financial year:*

H.Kaur

*Provided that in case the distribution licensee fails to compute and charge fuel and power purchase adjustment surcharge within this time line, except in case of any force majeure condition, its right for recovery of costs on account of fuel and power purchase adjustment surcharge shall be forfeited and, in such cases, the right to recovery the fuel and power purchase adjustment surcharge determined during true-up shall also be forfeited.*

3. The above provision is notified in terms of Section 62(4) of the Electricity Act, 2003, for recovery of variations in the power purchase costs from time to time. The objective of the above provision is that the variations in the power purchase cost, which may be affected due to variation in fuel cost or other factors, are recovered in a timely manner to ensure adequate cash flow and funding to the licensee.

4. It is however stated that the working of the formula as presently notified in the regulations of thisHon'ble Commission leads to certain unintended and unjust consequences, on account of which PSPCL has preferred the present Petition before thisHon'ble Commission seeking directions and removal of difficulties in the implementation of the regulations. ThisHon'ble Commission is also empowered to amend the regulations if necessary, considering the facts and circumstances of the present case.

5. It is stated that in terms of the formula as provided for FPPAS, the same is required to be computed and billed to the consumers on a monthlybasis. The charging is on the (n+2) month. It is further provided that in case the computation and levy is not done in a timely manner, the entire cost of power purchase variation shall be forfeited by the distribution licensee and shall not be claimed in the truing up process.

H.Kaur

6. It is stated that the FPPAS for the first 7 months of the FY 2023-24 works out to a negative figure by applying the formula as provided in the regulations of the Hon'ble Commission. The calculation sheets of FPPAS for April 2023 to October 2023 are annexed as **Annexure-1.**The details regarding the same areas under:

| Month | Amount of FPPAS (Rs. Crore) | FPPAS (%) | FPPAS (Rs./unit) |
|---|---|---|---|
| April 2023 | -390.89 | -12.90% | -0.91 |
| May 2023 | -185.56 | -6.26% | -0.44 |
| June 2023 | -208.09 | -6.37% | -0.45 |
| July 2023 | -142.90 | -4.64% | -0.33 |
| August 2023 | -76.24 | -2.03% | -0.14 |
| September 2023 | -74.08 | -2.26% | -0.16 |
| October 2023 | -12.08 | -0.44% | -0.03 |
| **Total** | **-1089.84** | | |

7. It is relevant to mention that the regulations only envisage and provide for levy of increased FPPAS to the consumers and not for any reduction in the tariff in case the FPPAS works out to a negative figure. Therefore, there was no reduction in the tariff for the month of April, 2023 to October, 2023, as the FPPAS worked out to negative figures.

8. However, for the month of November, 2023 the FPPAS worked out to a positive figure of Rs. 0.22/- per unit, with the quantum of FPPAS being Rs. 77.87 crores. The calculation sheet of FPPAS for November, 2023 is annexed as **Annexure-2.** The details regarding the same are as under:

H.Kaur

| Month | Amount of FPPAS (Rs. Crore) | FPPAS (%) | FPPAS (Rs./unit) |
|---|---|---|---|
| November 2023 | 77.87 | 3.17% | 0.22 |

9. It is stated that the above position results ina very unjust consequence inasmuch as even when there was a substantial negative amount which was worked out for the previous month, there is no express and specific provision for adjustment of such negative amount against the positive amounts worked out for the subsequent months.

10. It was considering the above anomalous position of there being a substantial negative amount for the month of April to October, 2023, resulting in no variation in FPPAS till December, 2023 the increased FPPAS for November, 2023 to be recovered in January, 2024 was not given effect to in the tariff.

11. In the above circumstances, PSPCL has preferred the present petition seeking directions of the Hon'ble Commission to enable the adjustment of negative FPPAS during the previous months of the financial year as against the positive FPPAS during the subsequent months of the same financial year. Quite apart from the fact that there would be no prejudice to the consumers on account of the above, the above methodology would in fact be in the interests of the consumers in as much as there is certainty of the tariff as there would be no immediate increase in the tariff, as the increase in FPPAS would get immediately adjusted in the tariff against the negative FPPAS of the previous months.

H.Kaur

12. This would also benefit the licensee – PSPCL inasmuch as the surplus or savings in power purchase cost gets adjusted in the immediately following months without waiting for the truing up process.

13. It is pertinent to mention here that the amount of FPPAS for the month of December 2023 was worked out to be negative i.e. Rs -8.34 Crore (-0.28%).The calculation sheet of FPPAS for December, 2023 is annexed as **Annexure-3.** The details regarding the same are as under:

| Month | Amount of FPPAS (Rs. Crore) | FPPAS (%) | FPPAS (Rs. /unit) |
|---|---|---|---|
| December, 2023 | -8.34 | -0.28 | -0.02 |

14. It is stated that the licensee may not recover the FPPAS on a monthly basis for various reasons, an example being of the present case, wherein there was substantial negative FPPAS during the previous months which was far greater than the positive FPPAS during subsequent months. In fact, there has been a positive FPPAS for the months of January 2024 amounting to Rs 226.67 Crore (6.51%). The calculation sheet of FPPAS for January, 2024 is annexed as **Annexure-4.** The details regarding the same are as under:

| Month | Amount of FPPAS (Rs. Crore) | FPPAS (%) | FPPAS (Rs. /unit) |
|---|---|---|---|
| January, 2024 | 226.67 | 6.51 | 0.46 |

15. It is further stated that thisHon'ble Commission may also consider giving directions under the Power to Remove Difficulties as provided for in the regulations or by way of amendment of the regulations to the effect that any increase in the FPPAS cost which is not recovered in the tariff during the year for any reason, may be claimed in the

Hkaur

truing up process. The regulations ought not to prohibit any such claim to be made in the truing up process or to the effect that the entire amount be forfeited by the licensee.

16. In any event, these being in the nature of power purchase cost which are uncontrollable expenditure to the licensee, ought to be recovered in the tariff and cannot be denied to the licensee. The quantum of power purchase cost cannot be deprived to the distribution licensee merely on the ground that the same was not recovered in the immediately following month, but recovery of the same has been postponed to the truing up process.

17. In the facts and circumstances mentioned above, PSPCL also seeks directions of thisHon'ble Commission to hold that any delayed recovery of variation in fuel and power purchase cost would not result in denial of the cost itself.

18. It is respectfully stated that denial of cost would result in unjust and unintended consequences of power purchase cost incurred by PSPCL for supply of electricity to the consumers at large which shall be denied.

19. The facts of the present case in fact best illustrate the unintended consequences inasmuch as while the FPPAS for the month from April, 2023 to October, 2023 and December, 2023, was substantially in the negative, the FPPAS for November, 2023 to be recovered in January 2024 and FPPAS for January, 2024 to be recovered in March 2024 were positive and well within the quantum that can be adjusted against the negative FPPAS.

H.Kaur

20. The non-recovery of the positive FPPAS ought not to result in denial of the higher cost in itself to PSPCL, whereas PSPCL has *bona fide* adjusted the negative FPPAS of the previous months against the positive FPPAS for the subsequent months.

21. In the above facts and circumstances, PSPCL has filed the present petition before the Hon'ble Commission.

22. The present petition is within the jurisdiction of the Hon'ble Commission.

23. PSPCL has paid the requisite fees for filing of the present petition.

24. The present petition is not barred by limitation.

25. In the facts and circumstances mentioned above, it is respectfully the that the Hon'ble Commission may be pleased to:

(a) Direct the adjustment of the negative FPPAS for the previous months as against the positive FPPAS for the subsequent months to ensure there is no tariff shock to the consumers while at the same time recovery of cost by PSPCL;

(b) hold and direct that the nonrecovery of FPPAS in any month would not result in denial of the cost itself to PSPCL in the truing up process;

(c) exercise the power to remove difficulties as provided in Regulation 71of the Conduct of Business Regulations, 2005, of thisHon'ble Commission for in the alternate initiate proceedings for amendment of the regulations to provide for the above;

 H.Kaur

(d) pass such other further order(s) as the Hon'ble Commission may deem just in the facts of the present case.

H.Kaur
5/3/24

**Date:05.03.2024**
**Place: Patiala.**

**Chief Engineer/ARR & TR**
**PSPCL, Patiala**