

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

**Petition No. 67 of 2022
Date of Order: 01.06.2023**

Petition under Regulation 8.1 (b) of the supply code 2014 by Punjab State Power Corporation Limited for seeking approval of Hon'ble Regulatory Commission for extension in time period of release of EHT connection under regulation 69, 70, 71 & 72 of chapter XIII of the conduct of Business Regulations 2005.

In the Case of New Connection of 4500kV load/ 5000kVA contract demand applied by Divisional Railway Manager (Elect./TRD), Ferozpur through Senior Divisional Electrical Engineer (TRD), DRM office Ferozpur under the category Railway Traction in sub Division Ghubaya under Division Jalalabad (RID No. 5553).

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

.....Petitioner

Present: Sh. Viswajeet Khanna, Chairperson
Sh. Paramjeet Singh, Member

ORDER

The petition filed by PSPCL for extension in time to release electricity connection to the Northern Railway under Regulation 8.1(b) of the Supply Code, 2014 was admitted vide Order dated 10.11.2022. Vide subsequent Order dated 20.01.2023, the Northern Railway was directed to file reply within two weeks with copy to PSPCL. During the hearing held on 22.02.2023, the Northern Railway requested for four weeks time to file their reply. Vide Order dated 27.02.2023, PSPCL was directed to submit activity-wise timelines for completion of work for releasing

electricity connection to the Northern Railway. PSPCL submitted its reply vide memo dated 21.03.2023. During the hearing held on 22.03.2023, the Northern Railway again requested for time to file their reply and vide Order dated 29.03.2023, the Northern Railway was directed to file their reply within two weeks with a copy to PSPCL. The Northern Railway filed its reply vide memo dated 28.03.2023. The matter was further heard on 24.05.2023 and vide Order dated 30.05.2023, the order was reserved.

Brief facts of the case as forthcoming from the submissions made by the parties are that the Northern Railway applied on 21.10.2021 to PSPCL for release of new connection for Bahmaniwala TSS with load 4500 kW/5000kVA. The Feasibility Clearance Committee of PSPCL decided on 21.02.2022 to allow load of 4500kW/5000kVA after erecting a new 220 kV line emanating from 220 kV sub-station, Ghubaya having an approx. length of 4.5 km after shifting 220 kV Busbar at 220 kV Ghubaya sub-station for erecting 220 kV bay for Railways. On 09.03.2022, PSPCL issued Feasibility Clearance and requested the Northern Railway to register A&A form which was complied with by the Northern Railway in time. Clause 15 of the A&A form provides that the Supply Code, 2014 would be deemed to be a part of the agreement and would govern the parties. The Northern Railway wrote to PSPCL on 25.04.2022 highlighting that the demand notice is yet to be issued. On 12.05.2022, PSPCL issued the Demand Notice for Rs.14,06,03,640/- and intimated the acceptance/ approval of the A&A form. The payment was made by the Northern Railway on 30.05.2022 as per Demand Notice. PSPCL transferred the amount for construction of transmission line to PSTCL on 08.08.2022. The Northern Railway wrote to PSPCL on 30.05.2022

requesting for waiver from submission of test report on an immediate basis and undertook to submit the same in due course and further confirmed that remaining compliances have all been made. PSPCL wrote to PSTCL on 24.08.2022 to complete the construction work of the transmission line within 90 days i.e., latest by 20.09.2022. On 22.08.2022, a tender was floated by PSTCL for appointment of route surveyor to carry out detailed survey and preparation of route plan for construction of 220 kV line for release of connection specifying that the work was to be completed within one month by the successful bidder. Vide memo dated 30.08.2022, PSTCL gave a generic response to PSPCL's letter dated 26.08.2022 stating that it generally takes more than 2 years' time to complete the transmission line work if everything goes without any hindrance. However, top priority has been accorded to Railway works and efforts shall be made to complete all the projects at the earliest possible.

Thereafter, on the basis of PSTCL's response, PSPCL filed the present petition seeking relaxation in Regulation 8.1(b) of the Supply Code to extend the time limit to release the connections to the Northern Railway till 31.03.2025 in view of huge quantum of civil and erection work involved to release the connection. Later, with reference to Commission's Order dated 27.02.2023, the activity wise timelines for completion of work were submitted by PSPCL which indicated time schedule of 19 months which presumably stood reckoned from the date of submission i.e. 21.03.2023, thus translating into the period up to 21.10.2024. In the reply vide memo dated 28.03.2023, the respondent raised the following issues:-

- (i) PSPCL has suppressed material facts such as delay in transfer of the amount collected from the Northern Railway to PSTCL i.e. PSPCL had recovered the amount from the Northern Railway on 30.05.2022 towards expenditure for providing connection but transferred the amount to PSTCL only on 08.08.2022 thereby violating Regulation 9.1.1(w) of the Supply Code which specifies that such transfer shall be done within 15 days of the receipt of amount from the applicant.

In this regard, Hon'ble Supreme Court Orders (1994) 1 SCC 1 & (2008) 12 SCC 481 have been quoted.

- (ii) Petition is time barred as it has not been filed within the time limits specified in Regulation 8.1(b) of the Supply Code i.e. even going by PSPCL memo dated 24.08.2022 to PSTCL, connection was to be released within 90 days i.e. by 20.09.2022. Therefore, the petition for extension in time should have been filed 15 days before 20.09.2022 i.e. by 05.09.2022 as per Regulation 8.1(b) but the petition has been filed after the delay of more than one month.

In this regard, Hon'ble Supreme Court Orders (1984) 2 SCC 500 & (2014) 2 SCC 401 have been quoted.

- (iii) Petition does not disclose the cause of action i.e. PSPCL has not given specific reasons for requirement of time extension. PSPCL is relying on the generic statements in PSTCL letter dated 30.08.2022 regarding time required for completion of such works without any particular reference to this work. Later PSPCL contradicted itself by submitting timelines vide memo

dated 21.03.2022, wherein the process was shown to take 19 months.

In this regard, Hon'ble Supreme Court Orders (1985) 3 SCC 217, (1977) 1 SCC 791 & (2012) 8 SCC 706 have been quoted.

(iv) PSPCL has wrongly invoked the discretionary powers of the Commission under Regulation 69, 70, 71 and 72 of the PSERC Conduct of Business to obtain extension in time period for providing electricity connection to the Northern Railway. Citing various case laws, the Northern Railway has submitted that

(a) The Commission under Regulation 69 ibid is only empowered to invoke its inherent power sparingly and when the regulation is silent on an issue whereas in the present case the timelines to be followed by the distribution licensee for the release of EHT connection have been clearly laid down in the Supply Code.

(b) PSPCL has erroneously invoked Regulation 70 ibid which bestows the Commission with the power to review or rectify any decision, direction or order that it has passed but in the present case PSPCL is not seeking for review or rectification of any decision, direction or order of the Commission but of the regulation itself with a view to wrongly legitimize its illegal and unreasonable actions.

(c) PSPCL has erroneously relied on Regulations 71 of PSERC Conduct of Business Regulations. The "Power to Remove Difficulties" under Regulation 71 ibid can only be exercised to give effect to a regulation and not to derogate from it. In this regard, the view of Hon'ble APTEL case of

RGPPL V/s CERC and others (Appeal No.130 of 2009) has been cited that the power to remove the difficulties is to be exercised when there is difficulty in effecting the regulations and not when difficulty is caused due to application of the regulations.

- (d) Similarly, PSPCL has erroneously invoked Regulation 72 of PSERC Conduct of Business Regulations. The power to dispense with the requirement of the regulations under Regulation 72 ibid is akin to the 'power to relax' which is discretionary in nature and must be exercised reasonably in exceptional cases with circumspection and in keeping with the facts and circumstances of the case and the party seeking exercise of this power must establish that the circumstances are not created due to its own acts of omission or commission whereas in this case, the delay has been on the part of the petitioner itself as mentioned in the above paras.

★ In this regard, Hon'ble Supreme Court Orders (2004) 8 SCC 307, (2016) 9 SCC 426, (2017) 16 SCC 498, (2010) 4 SCC 603 & (1981) 3 SCC 592 have also been quoted.

- (v) PSPCL is bound by the doctrine of promissory estoppels and legitimate expectations. In view of the fact that the Supply Code was deemed to be a part of the A&A agreement with PSPCL which itself specifies that the connection would be provided within 90 days, thus, the Northern Railway had the legitimate expectation that the connection would be released within 90 days especially since PSPCL had not approached

the Commission by filing a petition under the proviso to Regulation 8.1(b) within the specified time period.

In this regard, Hon'ble Supreme Court Orders (2012) 11 SCC 1, (1988) 1 SCC 86 & (1999) 4 SCC 727 have been quoted.

The Northern Railway has pleaded that the petition be dismissed with strict directions to PSPCL and PSTCL to release the connection and construct the 220 kV Ghubaya-Bahmaniwala transmission line on top priority and other related works at 220 kV Ghubaya sub-station and within a specified time frame failing which strict action should be initiated against them.

Commission's Findings and Decisions

With reference to the issues raised by the respondent, the Commission observes that the petitioner has brought out the details and event dates in its submissions and has not suppressed the facts to the extent as alleged by the respondent though PSPCL and PSTCL have failed to adhere to the timelines for various jobs specified in the Supply Code, 2014. PSPCL was required to transfer the amount recovered from the applicant to PSTCL for execution of transmission works within 15 days as per Regulation 9.1.1(a)(iii)(w) but did so after 53 days. PSTCL failed to promptly inform PSPCL about the timelines for completion of job and PSTCL, even after getting the reply from PSTCL, delayed the filing of petition for seeking approval of the Commission for extension of time period for completion of job as provided in Regulation 8.1(b) of the Supply Code, 2014. Regarding the comments of respondent on invocation of the petitioner to the discretionary powers of the Commission, it is observed that Regulation 8.1 as discussed

below, *per se*, vests the Commission with the power to grant extension in time period for release of connection keeping in view the magnitude of work involved.

In this regard, Regulation 8.1 is reproduced below:

8.1 The distribution licensee shall provide supply of electricity to the premises pursuant to the application submitted under regulation 6 within time limits mentioned hereunder:

.....

(b) In cases where augmentation/extension of a distribution main or augmentation of power transformer or erection/augmentation of distribution transformer is required but there is no requirement of erecting and commissioning a new HT/EHT line or grid sub-station or power transformer, the supply shall be provided within the period specified hereunder;

<i>Type of service connection requested</i>	<i>Period from date of application in cases covered under 6.2.1 and from the compliance of Demand Notice for cases covered under 6.2.2 within which the distribution licensee shall provide supply</i>
<i>Low Tension (LT) supply</i>	<i>30 days</i>
<i>High Tension (HT) supply</i> <i>- 11000 volts</i> <i>- 33000 volts</i>	<i>45 days</i> <i>75 days</i>
<i>Extra High Tension (EHT) supply</i>	<i>90 days</i>

Provided that the distribution licensee may, at the earliest but not later than fifteen days before the expiry of the time schedule, seek approval of the Commission, for extension of period specified above, in cases where the magnitude of work involved for extension/augmentation of the supply system is such that the distribution licensee may reasonably require more time.

(c) In cases where supply of electricity requires erection and commissioning of a new sub-station or power transformer including HT/EHT line, if any, (other than service line), the

distribution licensee shall within fifteen days of receipt of application, submit to the Commission a proposal for erection of the substation or power transformer and/or HT/EHT line together with the time required for their commissioning. The Commission shall, after hearing the distribution licensee and the applicant(s) concerned, decide the time frame for erection of the sub-station or power transformer and/or HT/EHT line. The distribution licensee shall erect and commission the sub-station or power transformer and/or HT/EHT line and commence supply of electricity to the applicant(s) within the period approved by the Commission.

Provided that, where such sub-station or power transformer and/or HT/EHT line is covered in the Investment Plan approved by the Commission, the distribution licensee shall complete the erection of such sub-station or power transformer and/or HT/EHT line within the time period specified in such Investment Plan or period approved by the Commission, whichever is earlier. Provided further that where the distribution licensee fails to submit the proposal as mentioned above, the time period as prescribed in regulation 8.1(b) shall apply.”

It is a fact that erection of 4.114 km of EHT line and shifting 220 kV busbar at 220 kV Ghubaya and constructing new 220 kV busbar and shifting of 2 no. terminal towers along with 3 no. 220 kV line bays involves substantial work and such transmission works require more time as compared to execution of distribution works. It is precisely due to this reason that no time frame has been specified in Regulation 8.1(c) which deals with cases where supply of electricity requires erection and commissioning of new sub-station or power transformer including HT/EHT line. In such cases, the distribution licensee is required submit to the Commission a proposal for erection of the sub-station or power transformer and/or HT/EHT line along with the time required for their commissioning within 15 days of receipt of application. As the petitioner has not submitted the proposal to the Commission within

15 days of receipt of application so the Regulation 8.1(b) shall apply.

Accordingly, PSPCL should have approached the Commission for approval for extension of period for release of connection atleast 15 days before the expiry of the time period specified for release of EHT connection. Moreover, the requirement of transferring the amount received from the applicant to PSTCL within 15 days as specified in Regulation 9.1.1(a)(iii)(w) has also not been complied with by PSPCL. PSPCL has also not given any cogent reasons for such delays. In this regard, the Commission tends to agree with the respondent and also with their contention that PSPCL had initially based their petition for extension in timelines based on generic estimate without making efforts to draw the specific timelines for this transmission line though later activity wise timelines were submitted by the petitioner on 21.03.2023 after directions to that effect were issued by the Commission.

★ In the present case, the Commission has been vested with specific power under Regulation 8.1(b) of the Supply Code, 2014 to allow extension in period specified for completion of work and release of connection. The petitioner has sought extension in time for release of electricity connection to the respondent till 31.03.2025 and later has submitted activity wise timeline which translate into the required time frame upto 21.10.2024. Seeking aforementioned time extension itself implies the inability of the petitioner to complete the work within 90 days as specified in Regulation 8.1(b). Moreover 90 days period has already elapsed and infeasibility of completing the work in 90 days has also not

been denied by the respondent. The Commission, as per the provisions of Regulation 8.1 of the Supply Code, 2014 approves the extension in period for completion of works to release the connection to the respondent and directs the petitioner to complete the work to release the electricity connection to the respondent by 31.10.2024 by making all out efforts. At the same time, petitioner has committed violation of Regulation 9.1.1(a)(iii)(w) by not transferring the amount received from applicant to PSTCL within 15 days which in itself delayed the execution of work. Further, violation of Regulation 8.1(b) was committed by not approaching the Commission within the specified period. PSTCL is also responsible for not taking up the job with the promptness which was expected of it. In this regard, a stern warning is issued to PSPCL/PSTCL to take all necessary actions to prevent such reoccurrence in future failing which punitive action may be initiated as per law.

The petition is disposed of accordingly.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: 01.06.2023