

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

Petition No. 14 of 2024
Date of Order: 30.10.2024

Petition under Section 142 and 146 of the Electricity Act, 2003 read with rule 10 and 69 of the PSERC (Conduct of Business) Regulations, 2005, for taking necessary action against the PSPCL and its officials for not complying with the order dated 22.01.2016 passed by this Hon'ble Commission in petition No. 69 of 2015, filed by the Petitioner, whereby specific directions were issued to the PSPCL to complete the work of erection of 66 kV line, and thereafter overhaul the account of the Petitioner as per Regulation 19.7 and 19.8 of the Supply Code, 2007 or Regulation 9.3.6 and 9.3.7 of Supply Code, 2014, as may be applicable, as the PSPCL has failed to over haul the account of the Petitioner till today and also charged Rs. 42,01,274/- from the petitioner, in violation of the above said order. With further prayer to issue directions to the PSPCL and its officials to overhaul the account of the Petitioner regarding the erection of the 66kV line and refund the amount with interest in excess to recoverable cost of security works deposited by Petitioner, in the interest of justice. Any other relief, order or direction which this Hon'ble Commission may deem fit and proper may also be passed in favour of the petitioner.

And

In the matter of: M/s T.C. Spinners Pvt. Ltd. Lalru, Distt. SAS Nagar, through its authorized signatories Sh. Sanjeev Sharma, AVP Tech. And M.R. Singla, Electricity Consultant

...Petitioner

Versus

Punjab State Power Corporation Limited, The Mall, Patiala, through its Managing Director.

....PSPCL

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

Petitioner: Sh. Tajender Joshi, Advocate
Sh. M.R. Singla

PSPCL: Ms. Harmohan Kaur, CE/ARR&TR
Sh. Harjeet Singh, ASE/TR-2
Sh. Mandeep Kumar, ASE

ORDER

1. M/s T.C. Spinners Pvt. Ltd has filed the present petition under Section 142 and 146 of the Electricity Act 2003 for taking necessary action against PSPCL for not complying with the order dated 22.01.2016 passed by the Commission in Petition No. 69 of 2015. The petition was fixed for hearing on admission on 15.05.2024 and notice was issued to PSPCL to file its reply. PSPCL filed its reply vide memo no. 5732 dated 13.05.2024 and the petitioner filed rejoinder thereto on 03.07.2024. The petition was taken up for hearing on admission on 28.08.2024 and after hearing the parties, the petition was admitted and final arguments heard on 28.08.2024 after which the order was reserved with the directions to the parties to file written submissions, if any, within one week.

Submissions of the Petitioner

2. The petitioner has submitted that the petitioner company has taken electricity connection from PSPCL for running a spinning mill which falls in the jurisdiction of DS Division Lalru, Mohali. The petitioner was having a sanctioned load of 3695.050 kW/2500 kVA and applied for extension of load by 5071.13 kW/3900 kVA on 10.10.2013, thus making total load 8766.180 kW/6400 kVA. The Feasibility Clearance Committee cleared the feasibility for the said extension of load on 14.11.2013 at 66 kV supply and it was further revised vide memo no. 258 dated 27.05.2014 from EIC/Commercial Patiala. The Sr. XEN, TL Division, PSPCL, Patiala asked the petitioner, vide memo no. 1662 dated 15.07.2014, to deposit estimated cost of Rs.1,23,26,696/- for erection of 66 kV line, which was deposited by the petitioner vide BA-16 No. 40/47501 dated 23.07.2014. In addition a sum of Rs.49,23,000/- was also deposited by

the petitioner vide BA-16 No. 26/5273 dated 12.08.2014 towards cost of 66 kV Bay, on the demand raised by PSPCL. After deposit of the above mentioned amount, the extension of load was temporarily released to the petitioner from the 66 kV sub-station Alamgir on 20.11.2014 as per provision in the feasibility clearance as finally the connection was to be given its supply from the 220 kV sub-station Lalru after erection of the 66 KV line and other works.

- 2.1 That work of erection of 66 kV line was in progress and during the same PSPCL demanded an additional amount of Rs.42,01,274/- from the petitioner, due to revision of estimate of the 66 KV line. The demand made by PSPCL was in violation of Supply Code Regulations and the petitioner filed a petition No. 69 of 2015 before the Commission. The Commission, vide order dated 22.01.2016 allowed the petition and set aside the demand of Rs.42,01,274/- raised by PSPCL. The Commission also directed PSPCL to complete the work as per the scope of work approved by the feasibility clearance committee and thereafter overhaul the account of the petitioner as per Regulation 19.7 and 19.8 of Supply Code 2007 or 9.3.6 & 9.3.7 of Supply Code, 2014 as may be applicable. The work of 66 kV line was completed on 07.02.2022 but PSPCL failed to overhaul the account of the petitioner and assess the actual amount spent on the 66 kV line and bay.
- 2.2 The petitioner applied for further extension in load on 22.10.2021 by depositing 5% earnest money of Rs.3,83,500/- and also deposited 20% ACD/Security (consumption) on 14.02.2022. However PSPCL, without overhauling the account of the petitioner after completion of 66 kV line and bay, sent a letter dated 23.02.2022 and asked the petitioner to deposit Rs.42,01,274/- (which was set aside on 22.01.2016 by the Commission and an amount of Rs. 7,56,230/- as GST). The said demand has been raised by PSPCL without working out the actual

recoverable cost as per Regulation 19.7 of Supply Code, 2007 or Regulation 9.3.6 of the Supply Code-2014. The petitioner deposited the amount of Rs.49,57,504/- (Rs. 42,01,274/- + GST) on 17.03.2022 to avoid any coercive action by PSPCL as further extension in load was pending with the PSPCL.

- 2.3 The petitioner requested a number of times to the notified office of PSPCL to settle the account regarding erection of 66 kV line and bay and refund the extra amount but no action was taken by PSPCL. The petitioner submitted a written request on 18.10.2023 to PSPCL for doing the needful. Despite receiving the said letter dated 18.10.2023, PSPCL and its officials failed to overhaul the account and as such the petitioner filed a complaint before the Corporate CGRF vide case no. T-189 of 2023. The CGRF vide order dated 12.12.2023 refused to interfere in the matter and held that non compliance of orders of PSERC does not come under their purview and petitioner may approach the appropriate authority in this regard. On 12.01.2023, the petitioner filed an appeal before the Ombudsman, Electricity, Punjab, against the order of Corporate CGRF dated 12.12.2023 bearing Appeal no A-01 of 2024. The Ombudsman, Electricity, Punjab also held that non compliance of PSERC orders does not fall in its competency and the appellant may approach appropriate authority in this regard. After the decision of the Ombudsman, PSPCL refunded the amount of Rs. 21,08,200/- on 03.02.2024 on account of 66 kV Bay only. The amount was without any interest though as per Regulation 19.7 of the Supply Code-2007 or Regulation 9.3.6 of the Supply Code-2014, PSPCL was liable to pay interest also on this amount.
- 2.4 PSPCL, vide memo No. 295 dated 07.02.2024 intimated the petitioner that they have overhauled the account after completion of the work and as per their checking only Rs. 21,08,200/- is found to be in excess and

they have already paid the same so the order dated 22.01.2016 passed by the Commission has been complied with. However, no calculations of the amount spent on erection of the 66 kV line were ever supplied to the petitioner. Further the above said memo was written to the petitioner by PSPCL just to cover up its lapse as the petitioner had started raising this issue. The amount of Rs. 21,08,200/- refunded to the petitioner was only regarding the excess amount than the recoverable amount for the 66 kV bay and it had nothing to do with the 66 kV line. This fact is very much clear from the letter dated 06.11.2023 vide which information was supplied under RTI Act and it was mentioned that Rs. 24,97,616/- was spent on the 66 kV Bay as per IWR for erection of this bay. Further, as per letter dated 15.01.2024 sent by Addl S.E., Civil Construction Division, PSPCL Patiala to Sr. Xen, Lalru, it was mentioned that Rs. 3,17,184/- was spent for civil work of the 66 kV Bay. The total amount mentioned in both the letters comes to Rs.28,14,800/- (Rs.24,97,616/- + Rs.3,17,184/-). The total amount of Rs. Rs.49,23,000/-, was deposited by the petitioner vide BA-16 No.26/5273 dated 12.08.2014 towards cost of the 66 kV Bay. If from this amount of Rs. 49,23,000/- the amount spent i.e. Rs. 28,14,800/- is deducted then the balance comes to Rs. 21,08,200/-, which was refunded to the petitioner. So it is clear that the PSPCL has wrongly issued the letter dated 07.02.2024 with ulterior motives.

- 2.5 The actual cost for 66 kV works was required to be determined keeping in view Regulation 9.1.2(i)(c) of Supply Code, 2007. As per the said Regulation, actual recoverable cost is much less than the amount of Security (works) got deposited from the petitioner as the actual work done at the site is much less than that estimated. Moreover, the estimate framed by the PSPCL was not as per Supply Code Regulations for charging cost from the petitioner. The relevant provisions applicable

in the present case for calculating the cost to be recovered are as under:

“.... For additional load

9.1.2(i) (c) In case of a consumer with supply voltage of 33000 volts and above, the consumer will only be liable to pay the cost of the service line and proportionate cost of back-up/ common line (33000 volts or above) including bay, if any.”

Reg. 10 Standard cost data

10.1(a) (i) per KW/KVA charges for the cost of service line and proportionate cost of main and feeding sub-station payable by different categories of applicants; ..”

Further, the cost data approved by the Commission circulated by PSPCL vide CC 31 of 2012 is applicable to the petitioner and as per the said cost data, the charges are Rs.17.16 lac per Ckt. per Km for 66 KV line.

- 2.6 The petitioner has annexed a single line sketch of the 66 kV system showing the lengths of the lines erected. This single line sketch is similar to the sketch of work prepared by the PSPCL but the actual length of the lines is different as the petitioner has measured the actual length and has mentioned the actual length of the line in this sketch. As per the

regulation 9.1.2(i) (c) of the Supply Code-2007 and the CC 31 of 2012 of PSPCL, the cost chargeable from the petitioner for the 66 kV line is calculated as under:-

Existing 66 KV line used for giving supply to the Petitioner from 220 KV Sub-Station Lalru (A to B) is 3.60 Km plus new 66 KV line erected for Petitioner (B to C) +0.49 km.

Finally total length of 66 KV service line for the Petitioner is (A to C) $3.60 + 0.49 = 4.09$ Km

*Cost chargeable as per cost data is $4.09 * 17.16$ Lac = **Rs.70,18,440/-***

PSPCL charged Rs. 1,72,84,200/- (Rs.1,23,26,696/- deposited on 23.7.2014 + Rs.49,57,504/- deposited on 17.03.2022) from the petitioner for the 66 kV line, whereas PSPCL could charge only Rs. 70,18,440/- from the petitioner as per regulation 9.1.2(i) (c) of the Supply Code-2007 and the order dated 22.01.2016 passed by the Commission in Petition No. 69 of 2015. The petitioner is running its business by taking loans from banks and paying hefty interest on the loan amount whereas PSPCL's officers/officials are not complying with the Commission's orders which is causing great financial loss to the petitioner. The petitioner is entitled to a refund after adjusting the actual recoverable cost of the Security (works) amount with interest as per Regulation 19.7 of the Supply Code, 2007 or Regulation 9.3.6. of the Supply

Code-2014. The amount in excess to the recoverable cost for the 66 kV line has neither been worked out by the PSPCL nor has the refund been given to the petitioner which is non-implementation of the order 22.01.2016 passed by the Commission in Petition No. 69 of 2015. This inaction on the part of the PSPCL warrants action to proceed against the delinquent officers/officials of the licensee under Section 142 of the Electricity Act, 2003 for non compliance. The petitioner has prayed that

- (i) Necessary action may be taken under Section 142 and 146 of the Electricity Act, 2003 against PSPCL and its officials for not complying with the order dated 22.01.2016 passed by the Commission in Petition No. 69 of 2015 filed by the petitioner, whereby specific directions were issued to PSPCL to complete the work of erection of the 66 kV line, and thereafter overhaul the account of the petitioner as per Regulation 19.7 and 19.8 of the Supply Code, 2007 or Regulations 9.3.6 & 9.3.7 of Supply Code, 2014, as may be applicable, as PSPCL has failed to overhaul the account of the petitioner and also charged Rs.42,01,274/- further from the petitioner, in violation of the above said order, in the interest of justice.

- (ii) Necessary directions may be issued to PSPCL to overhaul the account of the petitioner as per regulation 19.7 and 19.8 of the Supply Code, 2007 or Regulations 9.3.6 & 9.3.7 of the Supply Code, 2014, as may be applicable, after calculating the cost of line as per the regulation 9.1.2(i) (c) of the Supply Code-2007 and the CC 31 of 2012 issued by PSPCL and refund the excess amount got deposited from the petitioner, alongwith interest as per the regulations framed by the Commission in this regard, in the interest of justice.
- (iii) To issue necessary directions to PSPCL to pay interest on the amount of Rs. 21,08,200/- refunded to the petitioner for the cost of 66 kV Bay, in the interest of justice.
- (iv) Any other relief, order or direction which the Commission may deem fit and proper may also be passed in favour of the petitioner.

Submissions of PSPCL

3. PSPCL has submitted in its reply to the petition that M/s T C Spinners Pvt. Ltd. Chandigarh-Ambala Highway, Lalru, A/c No. Z23-LL02-00081 is running a spinning mill at Lalru having a sanctioned load of 12625.18kW and Contract Demand of 9200 kVA fed at 66 kV. Before 20.11.2014, the

initial load of the petitioner was 3695.05 kW/2500 kVA CD and afterwards, the technical feasibility was approved by CE/Commercial, PSPCL Patiala vide memo no. 2931 dated 22.11.2013 for the extension of load of 5071.13 kW/3900 kVA CD in the already existing load of 3695.05 kW/2500 kVA CD making the total load of 8766.18 kW/6400 KVA CD at 66 kV. The petitioner applied for extension in the load/demand of 5071.13 kW/3900 kVA on 10.10.2013. The feasibility was originally cleared vide the aforementioned CE/Commercial, PSPCL, Patiala office memo no. 2331 dated 22.11.2013 at 66 kV which was revised vide CE/Commercial, PSPCL, Patiala office memo no. 253 dated 27.05.2014, due to a right of way problem. In response to Sr. XEN/TL Division, PSPCL, Patiala memo no. 1662 dated 15.07.2014, M/s TC Spinners Pvt. Ltd deposited a sum of Rs. 1,23,26,696/- on 23.07.2014 towards the estimated cost of 66 kV line and Rs. 49,23,000/- towards the cost of 66 kV Bay on 12.08.2014.

- 3.1 As per the provision of feasibility clearance, the extension in load was temporarily released from the 66 kV sub-station, Alamgir on 20.11.2014. It was also provided in the feasibility clearance that eventually, the connection would be given from the 220 kV substation, Lalru after erecting a new 66 kV line upto the 66kV sub-station, Alamgir. As per the approved sketch, new line on a multi-circuit tower from Point D to F and D/C on D/C line from Point F to H and a new S/C on D/C line from Point B to C had to be erected. The expenditure recoverable from the petitioner

as per provisions of the feasibility clearance dated 27.05.2014 was the actual cost of the 66kV line S/C on S/C from Point D to G and point B to C (petitioner's premises) and cost of the 66 kV outgoing bay.

3.2 In line with the revised feasibility, ASE/TL Division, PSPCL Patiala revised the estimate for erection of the 66 kV line. The tentative estimated cost was raised to Rs. 1,65,27,970/-. Accordingly, AEE/DS, Lalru vide memo no. 1522 dated 21.10.2015 demanded an additional amount of Rs. 42,01,274/-. This amount was also subject to further revision. As per the order of the Commission in Petition no.69 of 2015, this additional demand of Rs. 42,01,274/- was withheld. However, the petitioner on its own deposited Rs. 42,01,274/- plus the GST amount Rs. 7,56,230/- on 17.03.2022 with PSPCL without any protest for the purpose of getting further extension of load.

3.3 As per the order of the Commission in Petition 69 of 2015 & Regulation 9.3.6 & 9.3.7 of the Supply Code-2014, PSPCL has already adjusted the actual expenditure incurred (recoverable amount) against Security (works) amount. For release of extension of load to the petitioner as per provisions of feasibility clearance dated 27.05.2014, new line on a multi-circuit tower from Point D to F and D/C on D/C line from Point F to H and a new S/C on D/C line from Point B to C had to be erected for which, as intimated by ASE/TL Division, PSPCL, Patiala vide office memo no. 405 dated 23.01.2024, the actual cost incurred was Rs. 2,60,38,891/-.

However, as per the revised feasibility, the petitioner had to be charged for erection of the 66 kV line on S/C on S/C from Point D to G and Point B to C. Accordingly, a separate estimate (Estimate no. 870 dated 17.08.2015) of Rs. 1,65,27,970/- was prepared by TL Division. The actual expenditure incurred on erection of the multi ckt 66 KV line and the amount recovered from the consumer are different and it was again intimated to the petitioner by ASE/TL Division, Patiala vide memo no. 1720 dated 05.04.2024. ASE/ Civil Works Division, PSPCL Patiala vide office memo no. 198 dated 15.01.2024 has intimated the actual expenditure of Rs.3,17,184/- on civil works and ASE/ Grid Construction, Division, Patiala vide their office memo no. 3658 dated 13.12.2023 has intimated the actual expenditure of Rs.24,97,616/- incurred for the 66 kV Bay. The petitioner deposited a total amount of Rs. 2,14,50,970/- as Security (works) with PSPCL (Rs. 1,23,26,696/- vide BA-16 No. 40/47501 dated 23.07.2014; Rs. 49,23,000/- vide BA-16 no. 26/5273 dated 12.08.2014 and Rs. 42,01,274/- + GST on 17.03.2022). On final calculations, the petitioner was eligible for a refund of Rs. 21,08,200/- which was given to the petitioner in electricity bill for the month Jan/2024 via sundry no. 2/34/68A dated 25.01.2024. The petitioner was also apprised about the refund given vide AEE/DS S/d, PSPCL, Lalru office memo no. 295 dated 07.02.2024.

3.4 The petitioner deposited the balance amount of the estimated cost of Rs. 42,01,274/- + GST (applicable in the relevant year) without any protest for the purpose of getting further extension of load at 66 kV supply. The balance amount deposited by the petitioner was not illegal and it was deposited by the petitioner for its own benefit and for fulfilling its expansion plans because the petitioner had applied for further load extension for 6046.67 kW/6500 kVA CD on 22.10.2021 before the release of the already applied for load from the 220 kV Lalru grid. As per feasibility, the load was temporarily given from the 66 kV Alamgir grid. The Petitioner deposited the initial 25% security for the load extension and the Demand Notice was issued to the petitioner after completing all the necessary formalities on 29.03.2022. No proportionate cost was demanded from the petitioner for further load extension applied for as the full cost of 66 kV S/C on S/C line and Bay was already recovered from the petitioner. The validity of the demand notice was for 6 months but the petitioner had not complied with the Demand Notice till 09.08.2022. On 10.08.2022, the petitioner deposited the balance 75% of security, i.e., Rs.57,52,500/- and requested for a partial load of 3859kW/4200 kVA against the 6046.67 kW/6500 kVA CD which was approved by Dy. CE/PBIP, Chandigarh on 13.09.2022 and the same was released on 20.09.2022 from the 220 kV grid after completion of the new 66 kV line. After that, the petitioner neither intimated PSPCL about availing the full

load nor surrendered the unavailed load till 14.02.2023, whereas, PSPCL was ready to release the balance load to the petitioner. The petitioner surrendered the un-availed of load of 2187.6 kW/2300 kVA on 14.02.2023 in the office of PBIP, Chandigarh. The revised A&A's were submitted by the petitioner on the PBIP site on 16.02.2023.

3.5 As per orders of the Commission, refund/overhaul can only be processed by PSPCL after finalization of accounts after completion of erection of 66 kV line, which has been completed on 20.09.2022, but the petitioner did not comply with further extension of load demanded. So, PSPCL was not in position to finalize the petitioner's account as the petitioner neither intimated PSPCL regarding availing of the full load nor surrendered the unavailed load till 14.02.2023. Petitioner's connection was to be released on 66 kV and to execute the erection work, different wings were involved i.e. TL, Grid Construction and Civil wings. After completion of the work, the consumer did not finalize/ comply with further extension of load demanded.

3.6 As per the sketch of planned line lying to release the connection to the consumer from 220 kV S/S Lalru to 66 KV S/S Alamgir, a new line on the multi-circuit tower from Point D to F and D/C on D/C line from Point F to H and a new S/C on D/C line from Point B to C had to be erected for which the actual cost incurred was Rs. 2,60,38,891/-. However, revised feasibility clearance was accorded and the petitioner had to be charged

for erection of the line from S/C on S/C from Point D to G and Point B to C and for that a separate estimate (Estimate no. 870 dated 17.08.2015) of Rs. 1,65,27,970/- was prepared by TL Division. PSPCL further submitted that it has already complied with the order dated 22.01.2016 passed by the Commission in petition no. 69 of 2015 and has also complied with Reg. 19.7 & 19.8 of Supply Code, 2007 and Reg. 9.3.6 & 9.3.7 of Supply Code, 2014 and the consumer's account has been overhauled after adjusting the Security (works) amount with amount incurred on erection of 66 kV S/C on S/C line as per the Feasibility estimate approved and civil works amount reconciled with actual expenditure incurred for the erection of the 66 kV Bay. The petition filed by the petitioner may be disposed of accordingly.

4. Rejoinder dated 12.09.2024 filed by the Petitioner

- 4.1 The petitioner filed a rejoinder to the reply filed by PSPCL reiterating its earlier submissions. The petitioner again referred to Regulation 9.1.2(c) of the Supply Code, 2007 and the Order dated 22.01.2016 in Petition No.69 of 2015 and submitted that only the actual expenditure incurred on the service line, bay and proportionate cost of backup/common line upto the feeding sub-station could be recovered from the petitioner and nothing more.

- 4.2 The petitioner further referred to the sketch of the site furnished by the respondent and submitted that the clause in Feasibility clearance given by PSPCL, asking to recover expenses on the basis of S/C on S/C from the petitioner from (D) to (G) point is not in accordance with the Supply Code Regulations. The stand of PSPCL that the petitioner never challenged the feasibility clearance dated 27.05.2014 is totally wrong and illegal and PSPCL cannot demand any amount in violation of the regulations framed by this the Commission or the Electricity Act, 2003.
- 4.3 The petitioner further stated that PSPCL's stand is that as per the feasibility clearance, a new line of four circuits on multi-circuit towers from Point D to F and D/C on D/C Line from Point F to H and a new S/C on D/C line from Point B to C was erected and as per office memo No.405 dated 23.01.2024, an expenditure of Rs.2,60,38,891/- was incurred in actual for the whole work. Further, a separate estimate was prepared by PSPCL for the petitioner for the erection of S/C 66 kV line on D/C from point D to G and Point B to C and the estimated cost as per estimate No.870 dated 17.8.2015 was Rs.1,65,27,970/- only. As per PSPCL, it has recovered this estimated cost of Rs.1,65,27,970/-. Even if, for arguments sake, it is presumed that the PSPCL could recover the cost as per the feasibility clearance even then PSPCL was required to recover the actual expenses and not affect recovery on the basis of an

estimate alone. As per PSPCL, it has recovered the estimated cost of Rs.1,65,27,970/- from the petitioner as per estimate No.870 dated 17.08.2015 and not on the basis of actual expenditure, which is totally wrong and in violation of clause 9.1.2(i)(c) of the Supply Code, 2007 and the order passed by this the Commission in Petition No. 69 of 2015.

4.4 The petitioner further submitted that the distribution licensee has the authority to plan its distribution system to fulfill its obligation to ensure uninterrupted quality supply to its consumers as mandated under Section 42 of the Act. Section 42 of the Act provides that it is the duty of the distribution licensee to develop and maintain an efficient and economical distribution system in his area of supply. To achieve these objectives for the existing consumers, the distribution licensee has to augment and strengthen the distribution system for which expenditure is allowed through ARR. By proposing to erect a new line on the Multi-circuit tower from Point D to F and D/C on D/C line from Point F to H, PSPCL has planned to strengthen the Supply to Handesra and 66 kV Alamgir, keeping in mind the future expansion, and for the same the petitioner cannot be burdened.

5. Rejoinder dated 13.09.2024 filed by the Respondent

5.1 PSPCL submitted that the petitioner has no locus standi. In every submission/rejoinder, the petitioner has diverted from the previous

submission made by it and has addressed a new issue to the Commission. In Petition No. 69/2015 for the release of additional load, the petitioner never challenged the terms and conditions of the feasibility, route plan proposed and the recoverable cost as mentioned in the feasibility clearance letter dated 27.05.2014. The petitioner himself admitted in its petition that after the completion of work of the 66 kV line, the actual expenditure recoverable from the petitioner was required to be determined as per the feasibility clearance dated 27.05.2014. In the original feasibility approved by the FCC and issued by CE/Commercial vide memo No.2931, dated 22.11.2013 for extension of load/demand of 5071.13kW/3900kVA, the petitioner's load was proposed to be released by augmenting the existing 66 kV line from the 220 kV Lalru grid to 66kV Alamgir. However, due to the non-availability of the right of way on account of dense urban growth under the existing 66 kV line, it could not be converted into multi-circuit towers and it is only to release the petitioner's additional load. That the new feasible Right of Way (ROW) was selected/proposed in the revised feasibility issued vide memo no. 253 dated 27.05.2014. Single line diagram of the proposed route (now erected) has been attached with the written submission. However, being a distribution licensee, ROW was secured by PSPCL for the petitioner. The petitioner's load could be released from the secured ROW. However, to avoid technical complexity, PSPCL released the 66 kV

connection from its existing ROW from which the 66 kV Alamgir grid was already running and the secured ROW was used to feed the 66 kV Alamgir grid. In this manner, the petitioner was given an independent line, which is easier to maintain and less prone to faults since it is shorter in length, thereby improving the reliability/quality of supply to the petitioner. If petitioner so desires, on the directions of the Commission, the load can be released from the ROW secured for the petitioner. The consumer was well versed with the facts of feasibility granted and never objected to the same in the past 10 years and even in Petition No.69/2015. The petitioner had agreed with the proposal of PSPCL and it is totally unethical on the part of the petitioner to back track from the same after completion of the work. The petitioners claim that the respondent has fulfilled his expansion plans, is completely misleading as no such work was included in the planning list of the concerned year 2014-2015.

5.2 PSPCL further submitted that the petitioner is misinterpreting, by stating that his service line is a backup line and that he should be charged only the proportional cost of the backup line. This claim is not maintainable. As the Commission in its order dated 14.02.2017 against Petition no. 52 of 2016 has given the interpretation/clarification regarding the Service line, Back up/Common Line & the Feeding S/Stn. for computation of recoverable charges. According to that order the 66 kV line feeding the

individual consumer/petitioner from 220 kV grid sub-station is his service line and as per regulation 9.1.1(i)(c) of Supply Code, 2007 as well as Supply Code, 2014, an applicant seeking supply at voltage of 33 kV and above, is liable to pay the expenditure incurred for providing the service line and the same is applicable in the petitioner's case too.

5.3 Further, the respondent has already complied with the order dated 22.01.2016 passed by PSERC in Petition no. 69 of 2015 and accordingly Reg. 19.7 & 19.8 of Supply Code, 2007 and Reg. 9.3.6 & 9.3.7 of Supply Code, 2014 are also complied with and the consumer's account has been overhauled after adjusting the Security (works) amount with the actual amount incurred on erection of the 66 kV S/C on S/C line and erection of 66 bay as per the revised feasibility approved. The respondent accordingly prayed for disposal of the petition.

6. Observations and Decision of the Commission

6.1 The issues before the Commission in this petition as prayed by the petitioner are as under:

- (i) Action under Section 142 and 146 against the respondent for not complying with the order dated 22.01.2016 of the Commission in Petition No. 69 of 2015 for the action of the respondent to demand Rs.42,01,274/- without overhauling the account which even later led to refund of Rs.21,08,200/- to the petitioner,

- (ii) To overhaul the account after calculating the cost of line as per Regulation 9.1.2(i)(c) of the Supply Code, 2007 and to refund the excess amount got deposited from the petitioner along with interest as per regulations, and
- (iii) Payment of interest on the amount of Rs.21,08,200/- refunded to the petitioner

6.2 As per Regulation 9 of the Supply Code, 2007 as well as Supply Code, 2014, every licensee is entitled to recover from an applicant requiring supply of electricity or additional load/demand, any expenses that the licensee may incur in providing this facility. Further, as per regulation 9.1.1(i)(c) of the Supply Code, 2007, an applicant seeking supply at voltage of 33 kV and above, is liable to pay the expenditure incurred for providing the service line and proportionate cost of backup/common line (33 kV or above) up to the feeding sub-station including bay, if any, provided that the charges payable will not be less than those computed as per kW/kVA basis. Regulation 19.2 of the Supply Code, 2007 provides that the licensee will be entitled to require deposit of Security (works) against expenditure for providing the electric line or electrical plant, as the case may be, which will be estimated by the licensee as per Regulation 9 of Supply Code regulations and communicated to the applicant through a Demand Notice. Accordingly, on the demand of

PSPCL, the petitioner deposited Rs.1,23,26,696/- towards cost of 66 kV line on 27.07.2014 and Rs.49,23,000 towards cost of 66 kV bay on 12.08.2014. Further, as per Regulation 19.4 of the Supply Code, 2007, after the applicant deposits the Security (works) as per Regulation 19.2 ibid, the licensee is required to take up the work and initiate other necessary steps for effecting supply of electricity within the time limit specified in Regulation 6 of the Supply Code, 2007. The respondent started the work and as admitted by the respondent vide Para 7 of its reply submitted to the Ombudsman, Electricity, Punjab in Appeal No. 01/2024, the work was completed on 19.10.2022. In the cases where actual cost for release of connection and extension in load/demand is to be recovered from the applicant, the final adjustment of the account of such works is governed by Regulations 19.7 and 19.8 of Supply Code, 2007 or Regulation 9.3.6 & 9.3.7 of Supply Code, 2014, as applicable. The relevant Regulations 19.7 & 19.8 of Supply Code, 2007 read as under:

“19.7 After execution of work of the electric line or electrical plant as the case may be, the Licensee will be entitled to demand from the applicant the total amount actually incurred by the Licensee (recoverable amount) for this purpose and adjust Security (works) against such recoverable amount. In the

event of Security (works) being in excess of the recoverable amount, the excess amount will be determined by the Licensee within sixty days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months. In case the Licensee fails to refund the excess amount and adjust it against electricity bills of the immediately succeeding months, the Licensee will be liable to pay interest on the excess amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2% for the period of delay beyond sixty days of the date of release of connection till the excess amount is adjusted. The amount of such interest will be adjusted against the electricity bills thereafter.

19.8 In case the recoverable amount from the applicant works out to be more than Security (works), then a Demand Notice will be served on the applicant specifying such amount and requiring him to deposit the same. In case the applicant fails to deposit the balance amount within a period of thirty days of the service of the Demand Notice, the applicant will, for the period of delay, be liable to pay interest on the balance amount at twice the SBI's Base Rate prevalent on first of April

of the relevant year plus 2%. This will be in addition to the Licensee's right to disconnect supply of electricity if it has already been provided."

The Supply Code, 2014 which came into force from 01.01.2015, after repealing Supply Code, 2007, contains identical Regulations 9.3.6 & 9.3.7 which read as under:

"9.3.6 After execution of work of the electric line or electrical plant as the case may be, the distribution licensee shall be entitled to demand from the applicant the total amount of expenditure actually incurred (recoverable amount) and adjust Security (works) against such recoverable amount. In the event of Security (works) being in excess of the recoverable amount, the excess amount shall be determined by the distribution licensee within sixty (60) days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months. In case the distribution licensee fails to refund the excess amount and adjust it against electricity bills of the immediately succeeding months, the distribution licensee shall be liable to pay interest on the excess amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2% for the period of delay

beyond sixty (60) days of the date of release of connection till the excess amount is adjusted. The amount of such interest shall be adjusted against the electricity bills thereafter.

9.3.7 In case the recoverable amount from the applicant works out to be more than Security (works), then a notice shall be served on the applicant specifying such amount and requiring him to deposit the balance amount after adjusting the security (works). In case the applicant fails to deposit the balance amount within a period of thirty (30) days of the service of the notice, the applicant shall, for the period of delay, be liable to pay interest on the balance amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2%. This shall be in addition to the licensee's right to disconnect supply of electricity if it has already been provided."

Since the above referred regulations are identical in both the Supply Codes, so the applicability of Regulations 19.7 & 19.8 of Supply Code, 2007 also holds good for Regulations 9.3.6 & 9.3.7 of Supply Code, 2014. As per Regulation 9.1.1(i)(c) of Supply Code, 2007, the actual expenditure which the licensee is entitled to recover from an EHT consumer consists of the cost of the line, bay and proportionate cost of backup/common line upto the feeding sub-station. Thus, the cost of the

bay is also a component of the total estimated cost. PSPCL may have prepared different estimates for the 66 kV line and the 66 kV bay due to administrative reasons but both the works are part & parcel of the scope of work approved by the Feasibility Committee for release of the connection to the petitioner. Different components of the work for release of connection cannot be dealt with individually/separately for recovery/refund of Security (works) as per Regulations 19.7 & 19.8 of Supply Code, 2007 and Regulations 9.3.6 & 9.3.7 of Supply Code, 2014. The opening sentence of Regulation 19.7 *ibid* and 9.3.6 *ibid* provides *that “after execution of work of the electric line or electrical plant as the case may be, the Licensee will be entitled to demand from the applicant the total amount actually incurred by the Licensee (recoverable amount) for this purpose and adjust Security (works) against such recoverable amount”*. These regulations start with the words “after execution of works” which means after completion of the entire work. The *ibid* regulation further goes on to define the ‘recoverable amount’ as the total amount actually incurred by the licensee to execute the work of the electric line or electric plant, as the case may be, for release of connection or extension in load/demand of the applicant.

Thus, the licensee will be entitled to demand this recoverable amount only after completion of the work which may include the construction of

the line and bay. There is no provision which empowers the licensee to demand additional expenditure or refund the excess amount without arriving at the actual expenditure incurred on the work. The actual expenditure can only be determined once the work is completed. The regulations 19.7 ibid and 9.3.6 ibid further provide that if after adjusting Security (works) against such recoverable amount, the actual expenditure is less than Security (works) already got deposited from the applicant, the excess amount recovered from the applicant will be refunded within sixty (60) days of the release of connection by adjustment against electricity bills of the immediately succeeding months. Regulations 19.8 ibid and 9.3.7 ibid provide that in case the actual expenditure i.e. the recoverable amount is more than the Security (works) then a demand notice will be served on the applicant requiring him to deposit the amount within thirty (30) days of the service of demand notice.

- 6.3 Thus, it is very evident that recovery or refund can be made only when the execution of the work for release of connection or extension in load/demand has been completed as per the scope of work approved by the Feasibility Committee. The issue of levy of interest on the balance amount, if payable by the applicant or disconnection of supply as per Regulation 19.8 of Supply Code, 2007 or Regulation 9.3.7 of Supply

Code, 2014 shall arise only after the work is completed and the final account is prepared. In the instant case, since the execution of the work was still incomplete, the additional amount of Security (works) could not be demanded from the petitioner. Thus, the demand of Rs.42,01,274/- raised vide AEE/DS, PSPCL, Lalru memo no.1522 dated 21.10.2015 was set aside vide order dated 22.01.2016 by the Commission in Petition No. 69 of 2015 and PSPCL was directed to complete the work as per the scope of work approved by the feasibility clearance committee and thereafter overhaul the account of the petitioner as per regulation 19.7 and 19.8 of the Supply Code, 2007 or regulations 9.3.6 & 9.3.7 of Supply Code, 2014, as may be applicable.

- 6.4 PSPCL had demanded Rs.42,01,274/- plus GST from the petitioner vide letter dated 23.02.2022 which the petitioner deposited on 17.03.2022 to avoid any coercive action in respect of his application for extension of load as claimed by the petitioner. However, any recoverable amount against the expenditure incurred on the works for extending the load, in excess of the Security (Works) can be demanded by the licensee only after completion of the work and finalisation of the accounts. In this case, the aforementioned demand was raised by the licensee before the finalisation of accounts which is confirmed by the action of refunding Rs. 21,08,200/- by the licensee on 03.02.2024. The

demand was raised even before the completion of work on 19.10.2022 as admitted by the respondent in Para 7 of its reply submitted to the Ombudsman, Electricity, Punjab in Appeal No. 01/2024. The details furnished by the respondent regarding the amounts deposited by the petitioner in respect of the applications made on 22.10.2021 for further load extension are not related to the case under consideration for the extension in load applied for by the petitioner in the year 2013. Nonetheless, in this context, it would be interesting to refer to the Notice sent by the AEE/DS, Lalru, PSPCL to the petitioner vide memo no.383 dated 23.02.2022. Vide this Notice, the account was overhauled in respect of the 66 kV line and after completion of the work of the said 66 kV line, the demand of Rs.42,01,274/- was sent to the petitioner in respect of the 66 kV line. Thus, though the work of the line stood completed at the time of raising this demand, yet the respondent erred in not taking into account the status of the work of 66 kV bay and did not include the expenditure towards 66 kV bay for overhauling the account. It is a settled preposition that the account is to be overhauled after completion of entire work, though for administrative/organizational reasons, the components of the work may be handled by different offices of the respondent. Thus, to that extent the respondent has violated the order dated 22.01.2016 passed by the Commission in Petition No. 69 of 2015 and regulations 19.7 and 19.8 of the Supply

Code, 2007 or regulations 9.3.6 & 9.3.7 of Supply Code, 2014. Still the lapse seems to be the outcome of lack of coordination between various offices of the respondent rather than an object willful violation of the above mentioned order of the Commission or the regulations, as the demand on account of the work of 66 kV line, though raised erroneously, was raised after completion of the work of 66 kV line. Thus, taking a lenient view on account of the foregoing, a stern warning is issued to the respondent to ensure strict compliance of the regulations in letter and spirit in the future failing which the Commission would be constrained to initiate action under Section 142 of the Act.

- 6.5 Regarding the issue at Sr. No.6.1(ii) above, the petitioner has claimed that the actual work done at site for releasing additional load is much less than that estimated. The petitioner has submitted that as per Regulation 9.1.2(i)(c) of the Supply Code, 2007, the cost chargeable from the petitioner for 66 kV line works out to be Rs.70,18,440 instead of Rs.1,72,84,200/- (i.e. Rs.1,23,26,696/- deposited on 23.07.2014 plus Rs.49,57,504/- deposited on 17.03.2022). For this computation, the petitioner has considered the usage of 3.60 km long existing 66 kV line from 220 kV sub-station Lalru and 0.49 km long new 66 kV line erected for the petitioner. However, PSPCL vide memo no.6505 dated 12.09.2024 has responded that in the original feasibility clearance given

by the feasibility clearance committee vide memo no.2931 dated 22.11.2013 for the existing load/demand, the load was proposed to be released by augmenting the existing 66 kV line from the 220 kV Lalru grid sub-station to 66 kV Alamgir Grid. But, due to unavailability of the ROW, it could not be converted into multi-circuit tower line. Therefore, it was only to release petitioner's additional load that the new feasible ROW was selected in the revised feasibility clearance issued vide memo no.253 dated 27.05.2014. PSPCL has claimed that being a distribution licensee, the ROW was secured by it for the petitioner and the petitioner load could be released from a secure ROW, however, to avoid technical complexity, PSPCL released the 66 kV connection from its existing ROW from which 66 kV Alamgir grid was already running and the secured ROW was used to feed the 66 kV Alamgir grid. In this manner, the petitioner was given an independent line, which is easier to maintain and less prone to faults being shorter in length, therefore, improving the reliability and quality of supply to the petitioner. PSPCL further submitted that the petitioner was well versed with the fact of the feasibility granted and never objected to the same in the past 10 years and even in Petition No.69 of 2015.

On the other hand, the petitioner, vide written submissions dated 12.09.2024, has contended that the distribution licensee has the

authority to plan its distribution system to fulfill its obligation to ensure uninterrupted supply to its consumers under Section 42 of the Act which provides that it is the duty of the distribution licensee to develop and maintain an efficient and economical distribution in his area of supply. To achieve this objective for the existing consumers, the distribution licensee has to augment and strengthen the distribution system for which expenditure is allowed through the ARR. The petitioner has further argued that by proposing to erect a new 66 kV line on the multi circuit tower from 220 kV Lalru grid, PSPCL has planned to strengthen the supply to Handesra and the 66 kV Alamgir grid keeping in mind the future expansion for which the petitioner cannot be burdened. To sum up, the petitioner has contended that he should be charged only the cost in respect of the existing 3.60 km length of the 66 kV line from 220 kV Lalru grid and the new 0.49 km long 66 kV line whereas the respondent has recovered the expenditure for, inter alia, the new 66 kV line on multi circuit/double circuit contending that the additional load of the petitioner could be fed from the existing 66 kV line by virtue of the construction of the new multi-circuit/double circuit 66 kV line from the 220 kV Lalru grid. It is thus a dispute between the distribution licensee and the consumer for which the jurisdiction lies with the appropriate Forum as per Regulation 2.9 of the PSERC (Forum and Ombudsman) Regulations, 2016 as amended from time to time. Accordingly, the petitioner may

approach the appropriate Forum in this regard which should hear the parties and pass appropriate orders to decide the issue.

6.6 Regarding the issue at Sr. No.6.1(iii) above in respect of the payment of interest on the amount of Rs.21,08,200/- refunded to the petitioner, Regulation 9.3.6 of Supply Code, 2014 are very clear that the specified interest for the period of delay in making the refund of excess amount is to be paid by the licensee to the consumer. Accordingly, the licensee is directed to ensure compliance in line with the regulations. In case, the petitioner feels aggrieved by any insufficiency of the action taken by the respondent in this regard, he may then approach the appropriate Forum as observed in the above para or this Commission under Section 142 of the Electricity Act 2003 for non-compliance of this order.

The petition is accordingly disposed of with the above directions.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: **30.10.2024**