

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

Petition No. 65 of 2021
Along with IA No. 25 of 2021
Date of Order: 04.05.2022

Petition under Regulation 68,69,70,71 and 72 and other relevant provisions of Chapter XIII of the Conduct of Business Regulations 2005 as amended up to date, Regulations 44, 45 and 46 of Supply Code 2014 as amended up to date and other relevant provisions of the Electricity Act, 2003 for setting aside notice bearing No. 1573 dated 03.11.2021 raising a demand of Rs. 46,65,251/- issued by Respondent No. 4 to Petitioner No. 01 for seeking a demand of Rs. 46,65,251/- on account of difference of fixed charges as per Audit note being the Lead cluster member on the purported pretext of the separate CD of the cluster.

And

- In the matter of:
1. M/s Mahaluxmi Steels, having its Registered office at Budhewal Road, Ludhiana, Punjab, through its Partner, Sh. Sanjay Gupta.
 2. M/s Monga Brothers Limited, having its Registered office at Gill Road, Ludhiana, Punjab, through its Director Sh. Sanjay Gupta.

.....Petitioners

Versus

1. Punjab State Power Corporation Limited (PSPCL), The Mall Patiala, Punjab, through its Chairman cum Managing Director.
2. Chief Engineer, Operation South Zone PSPCL, Patiala, Punjab.
3. The Senior Executive Engineer, DS Division, PSPCL, Samrala.
4. The Assistant Executive Engineer, Distribution S/D PSPCL Kohara.

..Respondents

Present: Sh. Viswajeet Khanna, Chairperson
Ms. Anjali Chandra, Member
Sh. Paramjeet Singh, Member

ORDER

The petitioners have filed the present petition for setting aside notices issued by Punjab State Power Corporation Limited (PSPCL) raising a demand of Rs. 46,65,251/- and 40,91,407 on account of difference of fixed charges as per Audit note and for directions to PSPCL to execute fresh cluster agreement with revised/reduced CDs effective retrospectively from 13.03.2018. The petitioners further prayed that PSPCL may be directed to provide the admissible 66 kV rebate w.e.f. June, 2021. The petitioners also filed an IA No. 25 of 2021 praying to stay the operation of the impugned demands and restraining PSPCL from taking any coercive action against the petitioners under the garb of the impugned notices.

2. The submissions of the petitioners in brief, are that the petitioners being closely held family entities and having their factories nearby, sought a cluster connection in 2010. Considering the demand of the cluster, 66 kV grid substation was set up by the petitioners at their own cost in the premises of petitioner no. 1 for drawing power by both the petitioners. The connected load/contract demand of petitioner no. 1 was 5500kW/5900kVA and that of petitioner no. 2 was 3900kW/3900kVA. While specifying respective contract demands for both the connections, a cluster agreement was signed but no separate contract demand for the cluster was sanctioned. The demand of the cluster was considered as the sum of individual contract demands of the constituent members. The cluster arrangement and billing of Energy Charges continued up to 31.12.2017 and no dispute ever existed regarding billing.

The petitioner no. 1 vide communication dated 05.03.2018 requested PSPCL for reduction of its CD from 5900KVA to 5200 KVA while keeping the load of 5500 kW and similarly petitioner no. 2 vide communication dated 28.02.2018 requested PSPCL for reduction of its CD from 3900 kVA to 3150 KVA, keeping the load of 3900 KW. Both the petitioners submitted new A & A forms to PSPCL in this regard. Chief Engineer/South, PSPCL, Patiala vide communication dated 09.03.2018 approved the proposal for reduction in demand of both the connections but no separate cluster agreement was sought by PSPCL.

PSPCL issued supplementary bills dated 03.11.2021 to the petitioners raising a demand on account of difference of fixed charges pointed out by Audit Party on constituent members of Cluster and sought a recovery of Rs. 46,65,251/- from petitioner no. 1 and Rs. 40,91,407/- from petitioner no. 2 vide communications 03.11.2021. It has been submitted by the petitioners that there was no separate demand sanctioned for the cluster. PSPCL has never indicated the sanctioned CD of the cluster on the bills of constituent members. In the absence of valid cluster agreement in 2011 as well as on 13.03.2018 when reduced CDs were approved, the CD of cluster has to be taken as sum of individual CDs of constituent members. The petitioners have never been informed about the requirement of applying for the demand of cluster separately on 03.03.2018 when the reduced demands were sanctioned. Thus, the amounts have not been charged due to any fault on the part of

petitioners but due to lack of appropriate action by PSPCL as per Regulations and PSPCL cannot be allowed to take benefit of its own wrong.

3. PSPCL has submitted that both the cluster constituents have reduced their respective contract demands in 2018, but they did not alter the contract demand of cluster as per earlier sanctioned cluster agreement. Thereafter, PSPCL audit party observed that fixed charges were being levied as per the sanctioned contract demand of individual constituents of cluster substation, resulting in loss of fixed charges amounting to Rs.87,56,658/- to PSPCL. The constituent members of the cluster have got their individual contract demands reduced, however, the same would not amount to automatic reduction of sanctioned Contract demand of cluster as agreed by the petitioners in the earlier cluster agreement. In the absence of modification of the cluster agreement or execution of fresh cluster agreement on such reduced individual contract demands, PSPCL is bound by Regulation 4.3.3 of the Supply Code, 2014 to levy fixed charges on the basis of earlier sanctioned contract demand of the cluster sub-station.

4. **Observations and decision of the Commission**

The Commission has examined the petition and the submissions of both the parties. The petitioners have filed the present petition challenging the demand notices/supplementary bills dated 03.11.2021 whereby a demand of Rs. 46,65,251/- and Rs. 40,91,407/- has been raised by PSPCL towards differential of fixed charges as per audit note. Thus, the substantive relief claimed in the petition is with respect to recovery of charges by the licensee, which falls within the meaning of consumer grievance as defined under Regulation 1.5 (g) of the PSERC (Forum & Ombudsman) Regulations, 2016, as amended from time to time.

The petition was taken up for hearing on admission on 19.01.2022. During hearing, it was pointed out by the Commission that the matter pertains to billing dispute and does not fall within the jurisdiction of the Commission. On being queried by the Commission as to why the petitioner has not approached the Appropriate forum i.e. CGRF, the Ld. Counsel for the petitioner submitted that the present matter does not pertain to a billing dispute and the petitioner wants clarification/interpretation under Regulation 40, 45 and 46 of the Supply Code, 2014. The petitioner was directed to amend its prayer within one week in conformity with the professed argument seeking clarification of the Supply Code Regulations.

However, the petitioner has failed to amend the prayer inspite of over three months having passed since the last order. The substantive relief claimed by the petitioner in the present petition shows that the dispute in the present petition is a dispute regarding billing/recovery of charges and therefore, the same is not maintainable before the Commission. The petitioner is at liberty to invoke the jurisdiction of the Appropriate forum/authority for the redressal of his grievance.

The petition along with the IA is dismissed and is disposed of accordingly.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Anjuli Chandra)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: 04.05.2022

