

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**

SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

**Petition No. 07 of 2021**

**alongwith IA No. 29 of 2022**

**Date of Order: 25.07.2023**

Petition Under Regulation 6.7 & 47 of Supply Code-2014 and Regulation 69, 70, 71 & 72 of Chapter XIII of the Conduct of Business Regulations 2005 regarding erection of LD system by PSPCL and release of electricity connections in those licensed colonies where the developers sold plots/flats without obtaining NOC from PSPCL OR where the developers after obtaining NOC have abandoned the project without installing the LD system and other related matters.

AND

In the matter of:

Punjab State Power Corporation Ltd. the Mall, Patiala

.....Petitioner

1. M/s Confederation of Real Estate Developers Association of India- Punjab Chapter (CREDAI) having its registered office at SCO 198 1st Floor, Sector 7-C, Chandigarh 160019.
2. Vijay Kumar, S/o Sh. Gopal Dass R/o 1272, Old NAC Road, Manimajra, Chandigarh & Ors.
3. Kalpana Tiwari wife of Sh. Rajjan Kumar Tiwari Resident of Flat No. 235, First Floor Sky Rock City, Sector- 112 S.A.S Nagar Mohali & Ors.
4. Pushap Paul Sharma S/O Madan Lal, House No. 485, Sector- 86, Preet City, SAS Nagar, Mohali Punjab
5. Chief Administrator, Greater Mohali Area Development, Room No. 102, 1st Floor PUDA Bhawan, Sector-62, SAS Nagar.
6. Prinicpal Secretary, Deptt. of Local Govt of Punjab, Plot no 3 Sector 35 A, Dakshin Marg, Chandigarh, 160035
7. Principal Secretary, Department of Housing, Urban Development, Govt. of Punjab Room No.201, IInd Floor, PUDA Bhawan.
8. Bathinda Development Authority, PUDA/BDA Complex, Bhagu Road,Phase 1, Model Town Bathinda-151001
9. Amritsar Development Authority, MV28+FV9, PUDA/ ADA Bhawan, Puda Colony, Green Avenue, Amritsar, Punjab 143001.

10. Secretary, Department of Housing, Urban Development,  
Govt. of Punjab Room No.201, IInd Floor, PUDA Bhawan.

.....Respondents

**WITH**

**Petition No 24 of 2022,**

Petition under Section 43 of the Electricity Act, 2003 read with Regulation 5.1 of the Supply code, 2014 and other relevant rules and regulations as approved by Hon'ble Commission including 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 and the provisions of the Electricity Act, 2003 for directing the Respondents to render respective permanent/ Temporary Domestic Supply Electricity Connection to the Petitioners for their residential houses/Plots in the colony.

In the matter of:

Vijay Kumar, S/o Sh. Gopal Dass R/o 1272, Old NAC Road,  
Manimajra, Chandigarh & Ors.

.....Petitioners

1. Punjab State Power Corporation Limited having its office at the Mall, Patiala through its Chairman Cum Managing Director.
2. Chief Engineer (Commercial), The Mall, Patiala.
3. Superintending Engineer/DS, PSPCL, Near Bus Stand, Patiala.
4. Executive Engineer, (DS), PSPCL, Patiala.
5. Assistant Executive Engineer, PSPCL, Sanaur, Patiala.
6. Patiala Development Authority, PUDA Complex, Urban Estate Phase-II, Patiala, Punjab through its Chief Administrator.
7. Bajwa Developer Ltd. having its office Sunny Business Centre, 5th Floor, New Sunny Enclave, Greater Mohali, Punjab through its Managing Director

.....Respondents

**AND**

**Petition No 33 of 2022**

Petition under Section 43 of the Electricity Act, 2003 read with Regulation 5.1 of the Supply Code, 2014 and other relevant rules and regulations as approved by the Commission including 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 and the provisions of the Electricity Act, 2003 for directing the Respondents to render respective permanent Domestic Supply Electricity Connection to the Petitioners for their residential Flats in the colony and with a further prayer to grant urgent and immediate hearing of the matter and for passing any other relief in favour of the petitioner as the Commission may deem fit in the facts and circumstances of the case.

In the matter of: Kalpana Tiwari wife of Sh. Rajjan Kumar Tiwari Resident of Flat No. 235, First Floor Sky Rock City, Sector- 112 S.A.S Nagar Mohali Punjab & Ors.

.....Petitioners

1. Punjab State Power Corporation Limited having its office at the Mall, Patiala through its Chairman Cum Managing Director.
2. Chief Engineer (Commercial), The Mall, Patiala.
3. Superintending Engineer/DS, PSPCL, Ropar.
4. Executive Engineer, Operation PSPCL, Mohali.
5. Assistant Executive Engineer, Technical-3 PSPCL, Mohali .
6. Greater Mohali Area Development Authority (GMADA) having its office at PUDA Bhawan Sector-62, S.A.S Nagar Punjab through its Chief Administrator.
7. M/s Sky Rock City Welfare Society having its office at Sector 112, SAS Nagar Mohali, Punjab through its President Sh. Navjeet Singh

.....Respondents

AND

**Petition No 23 of 2023**

Petition under Section 43 of the Electricity Act, 2003 read with Regulation 5.1 Regulation 45, 46, 47 of the Supply Code, 2014 and other relevant rules and regulations as approved by Hon'ble Commission including 68, 69, 70, 71, 72 and other relevant provisions of Chapter 12(XII) Regulations, 2005 as amended up to date and the provisions of the Electricity Act, 2003 for directing the respondents to render respective permanent domestic Supply Electricity Connection to the Petitioners for their residential houses in the colony. AND for passing any other relief in favour of the petitioners as this Hon'ble Commission may deem fir the facts and circumstances of the case.

In the matter of: Vikramjit Singh Son of Swarn Jeet Singh R/o House No. 2814, Sector 62, Phase VII Mohali, Punjab & Others

.....Petitioners

1. Punjab State Power Corporation Limited, office of Assistant Engineer/DS Sub Division City 2, PSPCL, Kahrar, Distt. Mohali.

2. XEN Punjab State Power of Corporation Limited, Office of Assistant Engineer/DS Sub-Division, PSPCL, Kharar, Distt Mohali.
3. Best Zone Builders and Developers Pvt. Ltd. through its Managing Director, Shop No.1-2-3, Orchid Greens, Kharar-Landran Road, Sector-115, Mohali, Punjab, through its Managing Director.

.....Respondents

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

**Order**

PSPCL filed this petition under Regulation 6.7 & 47 of the Supply Code, 2014 read with Regulation 69, 70, 71 & 72 of Chapter XII of the PSERC (Conduct of Business) Regulations, 2005 for release of electricity connections in those licensed colonies where the developers sold plots/flats without obtaining NOC from PSPCL or where the developers after obtaining NOC, have abandoned the project without installing the Local Distribution system (LD system)

1.0 PSPCL submitted as under:

1.1 As per the terms & conditions of license issued to the developer of a colony under Punjab Apartment and Property Regulation Act-1995 (in short PAPRA-1995), the developer has the obligation to take an NOC from PSPCL for erecting the LD system in the colony. Similar provisions are also specified in the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014 (in short Supply Code-2014), whereby the developer of a colony can seek the NOC under Regulation 6.6.2 or Regulation 6.7.1.

1.2 As per the provisions of Regulation 6.7.1 of Supply Code 2014, the developers of residential colonies/ complexes developed under bye-laws/rules of State Govt. shall obtain an NOC from PSPCL for approval of the electrical scheme for laying the LD system in the colony. After compliance of terms and conditions of NOC regarding payment of connectivity charges and laying of the LD system, individual electricity connections are released by PSPCL to the consumers. Since the LD system, including service cable is in the scope of the developers, no

Service Connection Charges (SCC) are recovered from the individual consumers in such colonies.

- 1.3 Following issues are being faced in many colonies regarding the non-fulfillment of obligations of the developers towards building the required LD system:

**A) Abandoned colonies**

The developer of any colony to whom a license under PAPRA-1995 is issued by the competent authority (i.e. PUDA, GMADA or Local Bodies etc.); has the obligation to lay down the LD system inside the colony after taking the NOC from PSPCL. There are many cases where the developer had taken the NOC from PSPCL and later had abandoned the project without laying down any LD system or after laying down a partial LD system. Similarly, there are cases where the developer had not even taken the NOC from PSPCL and had abandoned the project. Due to default on the part of the developers, electricity connections were not being released in those colonies where the LD system has not been laid by the developers. Further, in those cases where only a partial LD system has been laid by the developers, the LD system was neither augmented nor taken over by PSPCL. The residents are facing a lot of hardship due to non-release of electricity connections in some colonies and lack of complete electrical infrastructure in many other colonies. Due to these reasons, many petitions have also been filed by the resident associations before the Commission.

**B) Contiguous licensed colonies**

In many licensed colonies, the developers are undertaking phase-wise development of their projects by obtaining separate licenses for each phase. For the overall integrated planning of electrical infrastructure in a single project having adjoining/contiguous phases, PSPCL is demanding that the developers should take a single common NOC for the whole project. Many developers are agitating against this demand of PSPCL. The main plea given by these developers is that the licensing authorities have issued

separate licenses and approved separate layout plans, so all these projects should be considered as separate projects. Further, the developers also expressed that they have already sold most of the plots for the initial phases of the project and at this stage they cannot recover any charges from the residents. Due to this reluctance on the part of the developers for taking a single common NOC for the adjoining/contiguous phases of the same project, electricity connections are not being released in many such colonies.

**C) Unapproved regularized colonies contiguous with licensed colonies**

There are some cases where the developers have planned unapproved regularized colonies adjoining/contiguous to their licensed colonies. For the overall integrated planning of electrical infrastructure, PSPCL is demanding that the developers should take a single common NOC, against which too many developers are similarly agitating. The main plea given by these developers is that as per various regularization policies of the Government of Punjab (GoP) and prevalent instructions of PSPCL, a NOC is not mandatory for the unapproved regularized colonies and these should be treated as stand-alone/separate colonies. Due to a default on the part of the developers, electricity connections are not being released in many such unapproved regularized colonies which are adjoining/ contiguous to the licensed colonies.

1.4 PSPCL submitted a list of 71 abandoned colonies which also includes 16 colonies of Shivalik City Kharar (Petition No. 22 of 2020) and 1 colony namely Gulmohar Residency (Petition No. 48 of 2020).

2. PSPCL further submitted that due to default on the part of the developers, electricity connections are not being released in those colonies where the LD system was not laid by the developers. Further the LD system was neither being upgraded nor taken over by PSPCL where the developers abandoned the projects after laying a partial LD system. To resolve the problems being

faced by residents of these colonies, PSPCL submitted that the following aspects have been considered by PSPCL while framing the proposal: -

- a) Recently the Commission had pronounced an interim order dated 02.11.2020 in Petition No. 22 of 2020 (Shivalik City, Kharar). The Commission had ordered release of electricity connections in this colony by taking Service Connection Charges (SCC) from the consumers.
- b) Under Section-43 of the Electricity Act-2003, it is the duty of the distribution licensee to give supply of electricity on an application by the owner or occupier of any premises within one month after receipt of the application requiring such supply. Therefore, in case connections are not released in any colony, PSPCL can be considered as defaulting on its statutory obligation to supply electricity on demand.
- c) At present PSPCL has surplus power and is paying a huge amount of fixed charges in lieu of stranded power capacity. All efforts need to be made to increase the electricity demand so that stranded capacity of power plants can be utilized.
- d) In the case of Preet City colony in Sector-86 Mohali, when the developer was not honoring conditions of NOC No. 3900 dated 23.09.2016, the matter was referred to concerned licensing authority i.e. GMADA to pay charges on account of the LD system. GMADA vide memo no. 1724 dated 25.06.2018 had replied that .....

*as per prevailing policy, the required charges/ BG is to be deposited by the promoter itself and GMADA has nothing to do with it. Therefore, PSPCL should contact the promoter for getting the needful done.*

Since the recovery of these charges from the licensing authority was very difficult, PSPCL submitted that other options needed to be explored for release of connections in abandoned colonies. PSPCL added that residents of all such abandoned colonies have been harassed by the defaulting developers. Such residents have spent their lifelong savings in building houses and they are without electricity due to default on the part of the developers.

- 3 PSPCL submitted the following proposal for the 71 colonies as per list sent by them. These colonies were mainly situated at Kharar, Mohali, Patiala, Amritsar, Jalandhar etc.

3.1 Proposal for abandoned colonies (Covered under Para 1.3(A) above):-

- i) Treat these abandoned colonies at par with unapproved regularized colonies. Connections should be released by taking normal Service Connection Charges (SCC). PSPCL submitted that the proposal is in line with the Commission's interim order dated 02.11.2020 in Petition No. 22 of 2020 (Shivalik City, Kharar).
- ii) However, in order to protect PSPCL's financial interests and to recover any loss, the following steps were proposed. All these steps were proposed to be monitored/executed at the circle level (i.e. at the level of SE/DS) :-
  - a) Copy of the license along with the latest approved layout plan of the colony should be obtained from the licensing authority. Based upon the layout plan, the total liability of the developer should be estimated towards the LD system and connectivity charges (including System loading charges, if applicable).
  - b) This liability should be intimated to the developer through registered post on the address mentioned in the license and he should be asked to deposit the same within 15 days. A public notice should also be given in two leading newspapers of the State (English & Punjabi).
  - c) In case no response is received from the developer, SE/DS should ensure that a FIR is filed against the developer for loss to the department.
  - d) The SE/DS should write to the licensing authority to deposit these charges within 15 days. Further the licensing authority should be asked to cancel the license to develop the colony along with initiating other legal actions as per the provisions of PAPRA-1995.
  - e) The SE/DS should intimate the matter to RERA.
  - f) The SE/DS should intimate the matter to the local administration i.e. DC and SDM.



- g) The SE/DS should ensure that a recovery suit is filed against the developer.
- h) The SE/DS shall ensure that where ever a BG/Security/EMD of the same colonizer/director/the developer is available with PSPCL pertaining to any colony, same shall be got encashed to recover the loss to PSPCL.
- i) Further SE/DS should ensure that the status report of each such case is updated monthly on the distribution portal.
- iii) The competent authority to allow release of connections in any such colonies shall be the concerned CE/DS. While according such approval, the CE/DS shall mandatorily refer the matter to CE/Technical Audit for getting the matter investigated regarding lapses, if any, on the part of concerned PSPCL officials/ officers for approving release of connections in any such colony. CE/DS shall not wait for the compliance of actions prescribed in Para (ii) above and shall consider the merits of the cases for release of connections to the residents of any abandoned colony.

3.2 Proposal for Contiguous licensed colonies (Covered under Para 1.3 (B) above)

This category includes those colonies where the developers are doing phase wise development of projects by taking separate licenses for each phase. PSPCL is demanding that since these colonies are adjoining/ contiguous, the developer should take a single common NOC and many developers are agitating regarding this demand. It is understood that the primary concern of the developers in non-acceptance of contiguity of different phases of a project is due to levy of system loading charges as per Regulation 6.7.1(d) when the combined estimated load of the project exceeds 4000 kVA. The scope of the developers to erect a grid substation in colonies was approved under Clause 8.5 of Condition of Supply effective from 01.04.2010. In view of this background, PSPCL proposed that those phases of the projects to whom license to develop the colony has been issued by the competent authority 10 years ago should be considered to have been considerably developed and may not be considered for contiguity. Accordingly, date of issue of licenses of various

phases may be considered for deciding contiguity of any project and all those phases of a project to whom licenses have been issued 10 years ago may be excluded from contiguity. PSPCL proposed that the estimated load of only the remaining phases i.e. to whom license has been issued within last the 10 years may be added for contiguity purposes.

3.3 Proposal for Unapproved regularized colonies contiguous with licensed colonies (Covered under Para 1.3(C) above)

This category includes unapproved regularized colonies which are developed adjoining/contiguous to the licensed colonies. As per various regularization policies issued by GoP, it is not mandatory for the developers of unapproved regularized colonies to seek the NOC from PSPCL regarding development of the LD system and connections to the residents of such colonies are being released as GSC connections after recovering SCC from the consumers. However, due to contiguous nature of these projects with licensed colonies, PSPCL has demanded that these developers should take a single common NOC. The Developers are of the view that as per prevalent instructions, the NOC is not mandatory for such colonies and these colonies should be treated as stand-alone/ separate unapproved regularized colonies. Due to non-acceptance by the developers of a single common NOC, the electricity connections are not being released in many such colonies. In order to address this issue, PSPCL proposed that all unapproved regularized colonies should be treated at par and PSPCL may not insist for clubbing of any unapproved regularized colony/pocket with another PAPRA approved colony. PSPCL requested the Commission to issue further directions regarding such cases.

4. PSPCL submitted that the above proposal be considered and approved by the Commission for only these 71 colonies and relevant Regulations of Supply Code be relaxed so that LD system can be laid/augmented/completed by PSPCL and electricity connections could be released by charging SCC from the consumers.

5. The petition was admitted vide Order dated 23.02.2021. PSPCL was directed to submit the information sought vide memo dated 19.01.2021 in respect of colonies on the format enclosed with the memo within two weeks.
6. The information sought was submitted by PSPCL vide memo no. 5983 dated 23.04.2021. However, the information submitted by PSPCL was incomplete. Vide Order dated 03.05.2021, PSPCL was again directed to submit the complete information along with its proposal regarding erection of LD system by PSPCL and release of electricity connections in abandoned colonies, within three weeks.
7. PSPCL submitted the consolidated information vide memo. no. 6229 dated 25.05.2021 and further stated that the proposal was under process for the approval of PSPCL's management and shall be submitted to the Commission immediately after it was approved.
8. During the hearing on 26.05.2021, it was observed that the presence of the Chief Administrator, Greater Mohali Area Development Authority, Planning officer, Town & Country Planning, Punjab Urban Development Authority and Secretary, Deptt. of Housing and Urban Development, Govt. of Punjab and Director, Deptt. of Local Govt. Punjab were necessary for adjudication of the matter. Accordingly, vide Order dated 02.06.2021, it was directed that the notices be issued alongwith copy of petitions to the above authorities with the directions to record their presence through senior officers of the respective authorities. PSPCL was further directed to submit their proposal within two weeks and for the concerned Director, PSPCL to appear on the next date of hearing.
9. PSPCL, in compliance to the Commission's Order dated 03.05.2021, submitted the proposal regarding erection of LD system by PSPCL and release of electricity connections in abandoned colonies vide memo no. 1616 dated 01.06.2021. PSPCL proposed to bring a One Time Settlement for such colonies (where the developer is forthcoming for completing the LD system) wherein each such colony shall be considered for electrification/release of electricity connections on a case-to-case basis.

It has been proposed by PSPCL to classify the colonies as per the criteria below:-

**9.1. Colonies where the developer has abandoned the project:**

Under this category, colonies where the developer has neither paid any connectivity charges or other charges like supervision charges/ establishment charges and has not developed even a partial LD system are to be considered under this category.)

PSPCL reiterated its proposal as mentioned in Para 3.1 of this Order.

**9.2. Colonies where the developer is willing to complete the balance LD system:**

For such colonies PSPCL proposed a One Time Settlement Scheme wherein the requirement for seeking revised NOC from PSPCL has been done away with. Such colonies shall be considered on a case to case basis as per the following categories:

**9.2.1 Colonies where the developer had already deposited the connectivity charges and other charges (supervision charges, establishment charges etc.) as per the original NOC issued by PSPCL (erstwhile PSEB).**

For such colonies, PSPCL proposed as under:

- a) The developer would have to erect the balance LD system as per the electrical layout drawing approved vide the original NOC.
- b) The distribution transformers (DTs) would be purchased from the approved vendors of PSPCL and shall be got inspected from PSPCL inline with Regulation 6.7.1 (c) of Supply Code, 2014 as amended from time to time.
- c) After its completion and inspection by the Chief Electrical Inspector (CEI) to Govt. of Punjab, PSPCL would take over the LD system which would be connected to its distribution system. PSPCL would thereafter maintain the LD system at its own cost.
- d) However, no Bank Guarantee would be required from the developer in such cases.

- e) If connectivity had already been availed by the developer, then the existing connectivity would not be changed.
- f) If connectivity had not been availed, then proposal for revised connectivity would be prepared by SE/DS and got approved from the concerned CE/DS. However, no charges for connectivity would be recoverable from the developer.
- g) In cases, where the developer had proposed a different electrical layout for the LD system viz-a-viz the LD system approved in the original NoC, then the proposed revised electrical layout scheme would be got approved from the concerned SE/DS.
- h) An approved drawing of the revised electrical layout would be sent to the office of CE/Commercial for updation in the NOC case file.
- i) The competent authority to allow release of connections in any such colony would be the concerned CE/DS. The connections would be released without levy of Services Connection Charges.

PSPCL added that if supervision charges, as per the original NoC had not been paid by the developer, then supervision charges calculated @ 15% of labour cost of balance works of the LD system would be recoverable from the developer.

**9.2.2 Colonies where the developer had not deposited the connectivity charges and other charges (supervision charges, establishment charges etc.) as per original NoC issued by PSPCL (erstwhile PSEB).**

For such colonies, PSPCL proposed as under:-

- a) The technical proposal for such cases would be prepared afresh and submitted by SE/DS to the concerned CE/DS for approval. The connectivity charges would be worked out on proportionate basis for the main feeder and on an actual basis for the service link, in line with instructions as per the 5<sup>th</sup> Amendment to the Supply Code, 2014.
- b) The developer would have to erect the balance LD system as per the electrical layout drawing approved vide the original NOC.

- c) The DTs would be purchased from the approved vendors of PSPCL and would be got inspected from PSPCL inline with Regulation 6.7.1 (c) of Supply Code, 2014 as amended and updated.
- d) After its completion and inspection by the Chief Electrical Inspector to the Govt. of Punjab, PSPCL would take over the LD system which would be connected to its distribution system. PSPCL would thereafter maintain the LD system at its own cost.
- e) Supervision charges @ 15% of the labour component of the balance works of the LD system would be payable by the developer.
- f) However, no establishment charges will be chargeable to the developer.
- g) No Bank Guarantee will be required from the developer in such cases.
- h) In cases, where the developer has proposed a different electrical layout for the LD system viz-a-viz the LD system layout approved in the original NOC, then the proposed revised electrical layout scheme would be got approved from the concerned SE/DS.
- i) An approved drawing of the revised electrical layout would be sent to the office of CE/Commercial for updation in the NOC case file.
- j) The competent authority to allow release of connections in any such colony would be the concerned CE/DS. The connections shall be released without levy of Service Connection Charges.

PSPCL added that the One Time Settlement Scheme shall be made applicable from the date of issue of instructions for a period of 1 year exclusively for the 71 nos colonies regarding which data had already been submitted to the Commission.

10. However, during the hearing held on 16.06.2021, except the Chief Engineer/GMADA, none of others were present. Vide Order dated 29.06.2021, it was directed that the notices be issued again to PUDA, Director, Town & Country Planning, Punjab Secretary, Department of Housing

& Urban Development, GoP, Director, Deptt. of Local Govt. Punjab to ensure the presence of some senior officer on the next date of hearing. Further, the Commission expressed its displeasure that various agencies responsible for ensuring that a promoter, while developing a colony, fulfills all the conditions of license and implements the provisions of the Act and the applicable Rules/Regulations, have failed miserably to protect the interest of the residents resulting in multiplicity of petitions and complaints to the Commission. During the hearing CE/GMADA submitted that PSPCL was receiving BGs @ 150% of the cost of the LD system and in case the developer fails to complete the LD system, PSPCL could use the BG to complete the system. The Commission pointed out that as per the conditions of the license inserted by GMADA, a promoter was required to obtain an NOC from PSPCL within 90 days and submit it to the Licensing Authority (GMADA) but in many cases the promoter without even getting the NOC from PSPCL and without laying the LD system in the colony, abandoned the project after selling the plots/flats. The Commission asked GMADA to explain what action GMADA had taken against such promoters who failed to get the NOC from PSPCL and had not fulfilled the conditions of their license by not laying the LD system. The Commission observed that it is the duty of the licensing authority to ensure that the conditions of the license granted are implemented by the promoter since the licensing authority is the competent authority to initiate action against the defaulter under the PAPR Act 1995. Vide ibid order dated 29.06.2021, the CE/GMADA and the other concerned Licensing authorities were directed to furnish the following information on affidavit within 2 weeks.

- (i) The list of colonies to whom licenses have been issued w.e.f 01.01.2001 till date along with the name of the developers & their proprietor/company directors who have not furnished the required NOC from PSPCL.
- (ii) The action taken against the defaulting developers (Colony-wise) who have not fulfilled the conditions of license by not getting the requisite NOC from PSPCL or have not installed the LD system after taking the NOC.

- (iii) Had the licensing authority got the confirmation from PSPCL regarding completion of LD systems in these colonies before issuing partial completion/completion certificate to the colonies? If so, the documentary proof thereof and if not, the reasons there-for.
- (iv) The Bank Guarantees and/or securities of any kind available with the licensing authority against the defaulting licensees/the developers of 71 colonies listed in petition No. 07 of 2021 along with their respective values and dates of validity.

During the hearing, the Commission asked Director/Commercial, PSPCL as to how connectivity was released to the colonies without completion of LD system or without obtaining the BG as per the provisions of the Supply Code, 2014. Director/Commercial explained that disciplinary action has been initiated against the delinquent officials/officers by issuing charge sheets and show cause notices and that it will be ensured that all regulations and directions of the Commission are implemented in letter and spirit. The Commission pointed out that many developers are still misusing temporary or permanent connections which were issued to them only for carrying out construction works and/or for office use but are using them to further distribute the electricity to the residents and charging payments for it.

11. PSPCL was directed to furnish the following information on affidavit within 2 weeks:-
- (i) Out of 71 colonies listed in the petition, connectivity has released to over 40 colonies without completion of LD system or without obtaining a BG from the developer. Action taken against delinquent officials/officers (colony wise) for recovering the loss and the current status in each case. Also, how PSPCL proposes to complete the LD system in these 40 colonies to ensure proper supply to the residents.
  - (ii) As per the Conditions of License, the developer was required to obtain an NOC from PSPCL within 90 days. PSPCL to state whether the matter was taken up with the licensing authority in case of failure of the developer to fulfill the condition of license. PSPCL shall submit documentary proof to substantiate the same.



- (iii) In many cases (e.g colonies at Sr. No. 27, 28, 38, 39, 42,43,45, 55,56 of the list), it was mentioned that connectivity has not been issued and the developer had abandoned the project. PSPCL to state whether it released any connection in these colonies. If so, the list of such connections with their date of release and the sanctioned load be provided. PSPCL was directed to explained as to how the residents were using electricity in these colonies.
- (iv) The reasons for including some colonies in the list of abandoned colonies where the LD system was shown to be complete and connectivity was given by PSPCL (Sr. No. 44, 57 to 67 of the list).
- (v) In some cases it was indicated that no NOC was issued by PSPCL but connectivity had been shown. In some other cases it was mentioned that no LD system was laid but connectivity had been indicated (Sr.No 20,26 etc. of the list). PSPCL was asked to explain the rationale case wise.
- (vi) The reasons for including colonies mentioned as the unregularized category (Sr. No.31 and 32 of the list) in the petition.
- (vii) In para 2.1 of the proposal submitted by PSPCL vide Memo No 1616 dated 01.06.2021, it was mentioned that no BG will be required where the developer was willing to complete the balance LD system. It may be stated as to what shall be the deterrent to bind the developer to his proposal to install the LD system and what steps would be taken in case the developer did not fulfill his obligation. It may also be explained as to how the case where the developer opts for completing the balance LD system in a phased manner will be dealt with by PSPCL. Secondly, although it was mentioned that CE/DS shall allow/release the connection, it was not explicitly mentioned whether connections will be released after completion of the LD system or even before its completion. The same may be clarified.
- (viii) In para 2.2 of the proposal, it was mentioned that SE/DS shall prepare the proposal for connectivity afresh and the developer has the obligation to erect the balance LD system. Further in para 2.2(d), it has been mentioned that after completion of the LD system, it will be connected to

the distribution system of PSPCL. If the condition of the BG has been dispensed with, it may be explained as to how PSPCL will deal with a case where the developer seeks connectivity for a partial LD system. Further, it should be stated as to how connections to the residents will be governed.

- (ix) PSPCL shall map the 71 colonies against the three categories mentioned in the proposal submitted in the petition i.e the colonies falling under para 1, para 2.1 and para 2.2 of the proposal.
- (x) PSPCL shall confirm whether any case is pending in any court w.r.t these 71 colonies.
- (xi) The list of temporary connections which stand issued to the developers as on date along with the load originally sanctioned/ extension in load released from time to time and amount due, if any, against such connections be furnished. PSPCL was directed to submit on affidavit that these temporary connections were not being misused for further supply to residents illegally.

12. Residents of Vishranti City, Zirakpur, SAS Nagar filed IA No. 15 for allowing them as intervener in the petition 07 of 2021. It was added that CWP No. 14927 of 2015 filed by residents on similar issues was already pending before the Hon'ble Punjab & Haryana High Court. During the hearing held on 14.07.2021, the counsel appearing on behalf of the applicants sought time to seek instructions from his clients with regard to the status of the Civil Writ Petition pending before the Hon'ble High Court.

With reference to the directions given by the Commission vide order dated 29.06.2021, GMADA submitted the information vide memo dated 13.07.2021. The information with regard to the name of the directors of the companies who had not furnished the required NOC from PSPCL, action taken against the defaulting developers and the details of bank guarantees/securities available with the licensing authority against the defaulting developers of the colonies was not provided. Vide Order dated 19.07.2021, the Commission directed GMADA to provide the same without any delay. Further, nobody had appeared on behalf of the

Secretary, Department of Housing and Urban Development Govt. of Punjab. The Commission directed Secretary, Department of Housing and Urban Development to show cause why action should not be taken under Section 142 of the Electricity Act 2003 for violation of the directions of the Commission. PSPCL was also directed to submit the information as mentioned in Para No. 01 to 11 of the Commission Order dated 29.06.2021 without any delay. The representative appearing on behalf of Municipal Council stated that they had taken over only the civil works of the colonies and that no communication had been received from PSPCL before taking over the colonies. The representative appearing on behalf of the Department of Local Govt., Punjab submitted that standing instructions would be issued to all the constituent authorities covering the relevant aspects for taking over the colonies. The Commission observed that violation of the terms and conditions of the license by the developers attracts action by PUDA/GMADA and accordingly, PUDA/GMADA were directed to submit the details of action taken against the developers for violation of the terms and conditions of the licenses issued to the developers. Municipal Council was directed to submit the instructions/policy, if any, which provide that the colonies are taken over by the Municipal Council excluding the electric works.

Further, taking notice of numerous complaints that the developers have left the development work incomplete in many projects and the residents/allottees of plots of such projects were facing hardships, Confederation of Real Estate Developers Association of India-Punjab Chapter (CREDAI), which was before the Commission in Petition No. 27 of 2021 representing the real estate developers and seeking various concessions on behalf of all the developers, was impleaded as a respondent in the instant petition for proper adjudication of the matter and it was directed to issue notice since such issues have come before this Commission in various petitions where distress has been caused to the end user/buyers of plots and residents of such colonies developed by several developers. Vide Order dated 24.09.2021 in Petition No. 27 of 2021, this petition was tagged with Petition No. 07 of 2021.

13. During the hearing on 20.07.2021, the counsel appearing in Petition No. 27 of 2021 requested for time to seek instructions from CREDAI to file its reply in

this petition and accordingly, vide Order dated 26.07.2021 CREDAI was directed to file their reply to the petition within two weeks with a copy to PSPCL. The learned counsel appearing for the applicants in IA No. 15 of 2021 requested for some more time to seek instructions from their clients with regard to the status of the CWP pending before the High Court. The applicants as well as PSPCL were directed to submit their written comments with regard to the impact of CWP No. 14927 of 2015 pending before the Hon'ble Punjab and Haryana High Court within two weeks with a copy to each other.

The officers representing PSPCL further submitted that the licensing authorities such as GMADA do not initiate any action against the developer even when the developer's default in laying the LD system in the colonies was brought to their notice by PSPCL. The representative of GMADA i.e. DTP, GMADA submitted that the LD system in the colony was to be laid by the developer after obtaining NOC from PSPCL, for which a Bank Guarantee was also taken by PSPCL. The Commission observed that while issuing a license, the licensing authority must comprehensively secure the interests of prospective residents who invest their lifelong savings in the plots/dwelling units on the basis of such license and must monitor & ensure the comprehensive compliance of the developer with the conditions of license issued by them including the development of electric supply system in the colony.

The Commission asked PSPCL as to why the LD system, stated to be complete in some colonies in the list of 71 nos. colonies submitted by PSPCL, was not taken over. PSPCL's officer submitted that such cases pertain to colonies developed in contiguous areas where the loads of such contiguous colonies should be clubbed for proper development of the distribution system. PSPCL referred to the judgment dated 07.04.2020 passed by the Hon'ble High Court of Punjab and Haryana in the case of M/s Impact Projects Private Ltd. & Anr. Vs PSPCL & Ors. The Commission directed PSPCL and the learned counsel to file their response in this regard on affidavit within a week.

PSPCL requested for some more time to submit the information as desired vide order dated 29.06.2021. PSPCL was directed to submit the information

within two weeks. The Director, Local Bodies Govt. of Punjab submitted that the necessary instructions had been issued to the concerned authorities and a copy of the same would be filed before the Commission. The Department of Local Bodies was directed to file the details of the undertakings/bank guarantees on affidavit within a week.

The Commission directed PUDA to coordinate with all the licensing authorities in the state and to furnish, within two weeks, the details of BGs available against the colonies mentioned in the list of 71 nos. colonies submitted by PSPCL to facilitate completion of LD system in the colonies as well the action taken against the defaulting the developers.

14. PSPCL submitted reply vide memo no. 7046 dated 17.08.2021 in compliance to Commission order dated 29.06.2021. With respect to the queries from Sr. No.1 to 6 and 9 to 11, PSPCL submitted the colony-wise information. Regarding query as Sr. No.7 and 8 of the Order dated 29.06.2021, PSPCL submitted as under;

(i) **Reply to query at Sr. No. (vii) of Commission's Order dated 29.06.2021**

As per para 2.1 of the proposal submitted by PSPCL vide memo no. 1616 dated 01.06.2021, it was mentioned that no BG would be required where the developer was willing to complete the balance LD system. In this regard it was clarified that if the developer approaches PSPCL for completing the LD system of an abandoned colony, then the developer would be first asked to complete the balance LD system. The complete LD system after clearance from CEI shall be taken over by PSPCL. It had already been highlighted on basis of office records that the in few cases developers have not complied with the terms and conditions of the NOC even after a period of more than 10 years in few cases. Thus, PSPCL has not insisted for a BG in case the developer comes forward to complete the balance LD system. However, if the developer wishes to seek a revised NOC to complete the balance LD/ full LD works and is willing to deposit the BG then PSPCL has no objection to it. As per the proposal submitted before the Commission, the developer must complete the balance works of LD system in one go. If the developer quits in

between the colony remains as an abandoned colony and shall be treated as per para-1 of the proposal submitted vide memo no. 1616 dated 01.06.2021. Connection to the residents would normally be released only after completion of the LD system and its takeover by PSPCL. However, in case of pending applications for connections, the same shall be released after payment of SCC by the consumers, as a deterrent in case the developer quits the work of completing the LD system midway. Thereafter, if the developer completes the work of the LD system and hands over the system to PSPCL, then the SCC paid by consumers shall be adjusted in their subsequent bill.

(ii) **Reply to query at Sr. No. 8 of the Commission's Order dated 29.06.2021:**

As per para 2.2 of the proposal, it has been mentioned that SE/DS shall prepare the proposal for connectivity afresh and the developer has to erect the balance LD system. Further as per para 2.2(d), after completion of the LD system, it will be connected to the distribution system of PSPCL. In this regard it was submitted that all 71 no. colonies in the list of abandoned colonies have got individual connections for residents.

As per Regulation 6.7.1 of Supply Code 2014 (amended and updated), the BG from the developer is required to be taken against the balance works of the LD system in case the developer wishes to seek connectivity with a partially erected LD system. In a normal NOC case, under Regulation 6.7.1 of the Supply Code, 2014, partial connectivity to the developer is only allowed after compliance of terms and conditions of the NOC by the developer. Similarly, for a case under para 2.2 of the proposal, the developer must complete the balance LD system alongwith payment of full connectivity charges to PSPCL. All connections released after the completion and handover of the LD system, alongwith payment of full connectivity charges by the developer, shall be without payment of SCC. However, instant release of connections may be allowed with payment of SCC. After completion and handover of the LD system and payment of connectivity charges by the developer, the amount of SCC of such consumers shall be adjusted in their subsequent bill.

Further, it was clarified that phase-wise completion was not being considered in the proposal. Developers who wish to complete the LD system and approach PSPCL in this regard shall have to complete the LD system in one go. As these were abandoned colony cases, phase wise development shall not be allowed. In addition to the above reply, with the intention of further streamlining the monitoring and control over recalcitrant developers in the overall interest of PSPCL, following submissions were made for the consideration of the Commission:-

- 1) In the decision of the Hon'ble Punjab & Haryana High Court in the CWP No 23009 of 2019 in the case of M/s Impact Projects Private Limited and others Vs PSPCL, the Court had taken cognizance of PSPCLs perspective in case of contiguous colonies, where the developer is asked to seek a combined NOC by considering the load of all colonies clubbed together for the purpose of overall proper planning of electrical infrastructure for ensuring quality power to the residents. In light of this decision, the developers of the colonies at Sr. No. 57 to 67 of the list (list of 71 nos abandoned colonies) was asked to apply for a revised NOC by clubbing the total load of 11 colonies. However, in the absence of regulations allowing clubbing of the load of contiguous colonies from the same the developer (or different developers having a common director across different firms), the task of PSPCL becomes difficult.
- 2) Under PAPR Act-1995 and its subsequent amendments, all powers rest with the Licensing Authority to mortgage the plots held as security against EDC/IDC in order to recover financial loss to the Licensing Authority. However, PSPCL does not have any such mechanism in place. Further, licensing authorities take a BG from the developer against EDC/IDC. However, provision of BG for PSPCL was allowed only in 2019 after the 5<sup>th</sup> amendment to the Supply Code, 2014. As most of the NOC cases of abandoned colonies were from the prior period, it was requested to take up the matter with the licensing authorities to part with BGs submitted by the developers against EDC/IDC in order to recoup the cost for completing the LD system of these abandoned colonies.

In this regard, it was further submitted that the Hon'ble courts had also upheld the provisions of PAPR Act and asked the concerned licensing authority to take action against the developers to recover the costs for connectivity charges and internal LD works. In the case of Vishranti City colony of Zirakpur (which is included in the list of abandoned colonies), the Supreme Court of India, after hearing Civil Appeal No. 19962 of 2017 arising out of SLP(C) No. 29919 of 2016, by its order dated 06.03.2017 permitted the appellants to raise a loan of Rs. 70 lakh after selling one property and to pay to PSPCL to enable the corporation to complete the work. By order dated 13.04.2017, the developer was directed to pay an amount of Rs. 50 Lakh to PSPCL for external development charges for electricity. By the same order, the developer was also directed to utilize the balance amount for other miscellaneous works for the purpose of facilitating the electricity supply.

- 3) At the time of issue of partial/full completion certificate, a committee of officers of the Licensing Authority visits the project site for checking the status of infrastructure. However, the concerned XEN/DS of PSPCL was not made a part of the process and thus the important aspect of a completed LD system, which is an integral part of the project, gets ignored while issuing partial/full completion certificate to the developer. It was only after the issue of a completion certificate that residents were allowed to occupy such a project.
- 4) As per the 2<sup>nd</sup> Amendment to the Supply Code, 2014, provision of a BG against balance works of the LD system was allowed for recouping the expenses to be incurred on completion of the LD system, in case the developer abandoned the project. Further as per amendment to PAPR Act in 2014, 35% BG against IDC & EDC is obtained from the developer.
- 5) In order to ensure compliance of instructions issued by the Department of Housing and Urban Development, Housing Branch-II GoP dated 06.05.2008, it becomes imperative to monitor the licenses being issued to the developers by various licensing authorities across the State of Punjab including PUDA (and its sister entities like GMADA, GLADA,



ADA, BDA, JDA, PDA, DBNDA & SASUDA) and the offices of Deputy Director Local Government (for areas falling under Urban Local Bodies). In the absence of a common online portal/common authority, the field offices of PSPCL and this office have to seek information from these various authorities and seldom are replies received. It was requested to direct the Department of Housing and Urban Development to upload the data on the issue of license under PAPR Act to various developers on a common portal for the purpose of the information and further necessary action at PSPCL's end.

- 6) Developers of mega projects get exemption from the necessity of obtaining a license under PAPR Act. In such cases, PSPCL raised the issue as to whether the provisions of PAPR Act in mandating the developer to get an NOC within 90 days from issue of license; and instructions of Deptt. of Housing & Urban Development, GoP dated 06.05.2008 requiring the developer to seek an NOC from PSPCL before the start of any development works at the project site etc. are applicable on such a developer. Further, can such a developer be held responsible if he does not comply with the instructions issued by the Department of Housing & Urban Development, Housing Branch-II, GoP dated 06.05.2008.
15. Vide memo no. 2212 dated 21.09.2021, PSPCL submitted the required information with reference to the Commission's Order dated 26.07.2021 regarding comments on the impact of CWP No. 14927 of 2015 pending before Hon'ble Punjab & Haryana High Court. PSPCL submitted that in the CWP No. 14927 of 2015 (Vishranti City Residents Welfare Society Vs State of Punjab & Ors), Hon'ble High Court in its interim order directed PSPCL to release temporary electricity connections to the residents of Vishranti City. As per the Courts orders, PSPCL released 134 nos. temporary electricity connections and recovered Rs. 1,32,350/- as Service Connection Charges. In the interim order passed on 15.01.2020 the Hon'ble High Court directed as under:

*“Whether regular connections can be granted to the petitioner is the basic prayer in the writ petitions.”*

An affidavit was submitted in the Hon'ble High Court stating that as per Clause 12 of the NOC, the developer/promoter is under bounden duty to develop the LD system of Vishranti City by erecting HT/LT lines and transformers inside the colony and the same was not completed till date. The regular electricity connections to the residents of the colony could be released only on completion of the requisite formalities as per the NOC and thus regular electricity connections were not being released to the residents of Vishranti City as on date.

With reference to the directions of the Commission to file its response with regard to the judgment dated 07.04.2020 passed by the Hon'ble High Court of Punjab and Haryana in the case of M/s. Impact Projects Pvt. Ltd. & Anr. Vs. PSPCL and Ors. PSPCL submitted that the decision of Hon'ble High Court was in line with the Regulation 6.7.1 of the Supply Code. As per regulation 6.7.1 of Supply code-2014 (amended and updated), the developer had to develop the internal LD system of the colony, bear the cost of connectivity and SLC (System Loading Charges), so that the electricity connections to the residents can be released by the PSPCL from the internal LD system developed by the developer. The developer cannot be allowed to absolve himself from fulfilling the terms and conditions of the NOC issued to him by the PSPCL. These are in line with the instructions of Deptt. of Housing & Urban Development, GoP.

16. PUDA filed an affidavit dated 21.09.2021 in compliance to the Commission's Order dated 26.07.2021 and submitted that License to the listed 71 colonies was issued by different Licensing Authorities and Bank Guarantees received for the purpose of issue of license were also available in the office of the Licensing Authorities. The necessary, action against the defaulter promoters was also being taken by these concerned Licensing Authorities only. PUDA further submitted that the Punjab Regional and Town Planning and Development Act, 1995 (hereinafter called the Act of 1995) came into force w.e.f. 01.07.1995 as per Section 2 (d) of the Act 1995. Under the provisions of Section 17 of the Act of 1995, the Punjab Urban Planning and Development Authority (PUDA) had been constituted by the Government of Punjab. PUDA added that all the Special Urban Development Authorities (including Amritsar

Development Authority, Amritsar, Bathinda Development Authority, Bathinda, Jalandhar Development Authority, Jalandhar, Greater Ludhiana Development Authority, Ludhiana, Greater Mohali Area Development Authority, S.A.S Nagar and Patiala Development Authority, Patiala) had been constituted under the provisions of Section 29 of the Act of 1995.

17. PUDA vide letter no. 536-542 dated 29.07.2021 directed the respective Licensing Authorities to provide information regarding license number, bank guarantees and action taken against the promoter in case of it being a defaulter etc., of colonies shown in the list received from the Commission falling under their jurisdiction (outside municipal limits) and to file their reply directly before PSERC. Directions were also issued to defend the case and to depute an officer to be present along with the relevant record on next date of hearing. In reference to this office letter of PUDA, the said information had been directly supplied by various Licensing Authorities (including Amritsar Development Authority, Amritsar, Bathinda Development Authority, Bathinda, Development Authority, Jalandhar, Greater Jalandhar Ludhiana Development Authority, Ludhiana, Greater Mohali Area Development Authority, S.A.S Nagar and Patiala Development Authority, Patiala) to the Hon'ble Commission. The copy of the information received from these Special Urban Development had been compiled and submitted as an Annexure. PUDA further requested that in future the required information regarding these colonies may kindly be collected from the concerned authority and communication may be made directly with these licensing authorities.

It was further prayed that Punjab Urban Planning and Development Authority (PUDA) and all other Special Urban Development Authorities were separate authorities with different powers and functions given under the Punjab Regional and Town Planning and Development Act, 1995, therefore, directions, if any, may be issued to the concerned Special Urban Development Authorities.

18. During the hearing on 22.09.2021, the learned counsel appearing for the applicants of Vishranti City had a request to withdraw the I.A. No. 15 of 2021 with liberty to be allowed to file a revised IA if required. Vide order dated 30.09.2021, considering the request of the counsel for withdrawing the I.A, the

same was dismissed as withdrawn with liberty granted to file a fresh IA as requested.

Further, the learned counsel appearing on behalf of CREDAI submitted that the issue involved in the petition pertains to some individual developers and reply in this regard cannot be filed by CREDAI. The Commission observed that many of the defaulting developers were members of CREDAI on whose behalf CREDAI was seeking concessions while at the same time it expressed its inability to use its offices to ensure compliance of license conditions from its members whom it claimed to represent in its petition. Accordingly, CREDAI was directed to file an affidavit clarifying and stating its position.

19. However, in the hearing dated 10.11.2021 nobody appeared on behalf of the CREDAI. Vide order dated 15.11.2021, CREDAI was again directed to file an affidavit clarifying and stating its position within two weeks.
20. During the hearing on 11.05.2022, it was observed that in the interest of justice, the petition was adjourned vide order dated 15.11.2021 directing CREDAI to file an affidavit within two weeks. However, CREDAI had not filed their response nor had anyone appeared on their behalf on the scheduled date. Vide Order dated 13.05.2022, PSPCL was directed to submit the upto date status of the abandoned colonies along with the criteria adopted by PSPCL for considering a colony as an abandoned colony within two weeks.
21. PSPCL vide memo no. 6333 dated 20.06.2022, submitted the details with reference to the Commission's order dated 13.05.2022 regarding the status of abandoned colonies along with the criteria adopted for considering these colonies as abandoned. During the hearing on 22.06.2022, the Commission observed that information submitted by PSPCL was deficient regarding the criteria for considering a colony as abandoned. Vide Order dated 23.06.2022, PSPCL was directed to submit the criteria adopted for considering a colony as abandoned in detail covering all the relevant aspects along with the proposal as to how to release connections therein, within three weeks.
22. PSPCL submitted the information regarding the criteria for considering a colony as an abandoned colony alongwith their proposal on how to release connections vide memo no. 6726 dated 01.08.2022.

(A) PSPCL also submitted the salient features of the Punjab Apartment and Property Regulation Act, 1995 (hereinafter, 'PAPRA'), the rules framed there under (hereinafter referred as 'PAPRR') and the manner in which NOCs were granted to the developer/promoter, as under:

- (i) The Act mandates that a promoter/the developer desiring to convert a land into a colony is required to make an application to the competent authority. This application (under Section 5 of PAPRA) is to be accompanied by a fee prescribed in Rule 10 of the PAPRR. The fee is to be deposited by way of a demand draft for an amount to be determined by the State Government which shall include development charges or license fee or permission fee or other charges. Further the promoter/the developer is required to furnish a bank guarantee to the extent of 25% of the estimated cost of the development works certified by the competent authority. [Rule 12 of PAPRR]
- (ii) Under terms of Section 5, it is the competent authority itself which is responsible for the supervision and issuance of directions to Promoter/the developer for the proper execution of the works. If the promoter/the developer contravenes any provision of the PAPRA, PAPRR or any conditions of the license granted, the competent authority has the power to cancel the license after following due procedure [Section 5(12)]. Thereafter, it falls upon the competent authority to carry out the development works itself and recover the costs thereof by invoking the bank guarantee and recovering the balance from the promoter/the developer and allottees [Section 5(13)].
- (iii) The balance is to be recovered as arrears of land revenue from the promoter/the developers and the allottees in such a manner that the recovery from the promoter/the developers does not exceed what had been received by them from the allottees (reduced by whatever has been spent on the development works) and the recovery from the allottees does not exceed what is payable by them to the promoter/the developer under the agreement of sale or transfer. (Rule 15 of the PAPRR).

- (iv) Further, after the development works have been carried out by the competent authority in such cases of cancellations, the competent authority may allow the promoter/the developer to receive money from the allottees after adjusting for the amount which was recovered by PSPCL for the development works. [Section 5(15)]
- (v) Upon a bare perusal of the scheme, it becomes apparent that the competent authority under PAPRA is the sole entity responsible for overseeing the proper completion of a project and of ensuring the carrying out of the development works by the promoter/the developer. Further, PSPCL being a DISCOM is merely an institution which carries out the development works upon payment of necessary charges for laying down electric lines and the electrical system. In case the builder or promoter abandons the project, it is up to the competent authority to get the same finished and thereafter recover the costs from the promoter/the developer and builder in an appropriate ratio as laid down in Section 5(14) of PAPRA read with Rule 15 of PAPRR.
- (vi) PSPCL further added that several colonies contiguous to the ones which were licensed have come up. As per the prevailing policies/instructions, the promoters/ developers of these contiguous colonies were requested to procure a common NOC for all the colonies which was not done/complied with. To add to the confusion, prior to 2003 NOCs were to be granted by the field office concerned in contrast to the commercial office as of now. These NOCs were granted on non-standardized terms as per the practice of the officers concerned as compared to the standardized/centralized format of NOCs issued currently by the Commercial Office.
- (vii) Under the old policies/ instructions/ schemes set out for licensed colonies, the developer/ promoters were to take a single NOC and apply for an electricity connection for the entire colony. In such cases, the estimate of expenses to be incurred is given in a single NOC for the entire colony. As such, the expenses borne by the developer in this regard were for the laying down of the LD system as well as the connectivity charges. This was in contrast to the scheme otherwise laid

down in the instructions and code as amended from time to time, wherein an A&A (Application & Agreement) form was to be filled out by the individual consumer who would thereafter be issued a connection after payment of Service Connection Charges (SCC).

However, it was noticed that the developer/promoters are not in agreement to this condition of obtaining a single NOC for all plot-holders. This becomes an issue where the developer thereafter abandons the project and electricity connection cannot be released to individual plot-holders on their application on account of the abovementioned requirement of applying for a single NOC.

As such, the present proposal has taken care of this aspect so as not to leave such plot holders in the lurch and to enable them to obtain electricity connections on the basis of payment of service connection charges.

(B) PSPCL submitted the criteria adopted for considering a colony as abandoned and proposal to release connections in such colonies as under: -

(i) **Criteria:** Promoter/the developer of Licensed colony **did not** apply for an NOC from PSPCL and irregularly extended the incomplete LD system from a nearby colony for which NOC was availed.

**Proposal:** The field office of PSPCL may get approved the layout plan from the concerned competent authority and workout the total estimated load of the colony as per the present loading norms.

PSPCL shall work out the tentative cost of laying the complete internal LD system and connectivity charges (CC) for the total estimated load of the colony. Further PSPCL shall also work out the total Service Connection Charges (SCC) for the total estimated load of the colony as per prevailing instructions. PSPCL may thereafter recover such SCC from individual allottees as per law.

The concerned Competent authority may be directed to deposit the cost of the internal LD system & connectivity charges adjusted for the SCC recovered as above [i.e. (LD+CC)-SCC]. Thereafter, the competent authority may take action against the developers for

recovery under PAPRA or any other law, PSPCL shall install the complete internal LD system and release electricity connections to individual consumers by recovering SCC.

In case, the Competent Authority denies the above proposal, then the same option may be given to the registered RWA of the concerned colony to bear the charges worked out above.

(ii) **Criteria:** Promoter/the developer of the Licensed colony took the final NOC from PSPCL but has not complied with the NOC conditions, as under:

- a. The Promoter/developer had **not** paid connectivity charges/ ACD (whatever applicable as per the NOC) and has **not** completed the LD system or laid out a **partial** LD system.
- b. The Promoter/ developer had paid connectivity charges/ ACD (whatever applicable as per the NOC) but has **not** completed the LD system or laid out a **partial** LD system.
- c. The Promoter/developer had **not** paid the connectivity charges/ ACD (whatever applicable as per the NOC) but has **installed** a **complete** LD system after expiry of validity of the NOC.

**Proposal:**

A one time settlement scheme may be launched for the promoter/developers of such colonies if they come forward to take the revised NOC from PSPCL with the following exemptions and conditions:-

- a. PSPCL shall consider the estimated load as per the already issued NOC (however, load shall be calculated as per the new amended up to date norms where load is not available as per the already issued NOC).
- b. A new revised NOC shall be issued as per documents of the already approved NOC, only without insisting for fresh, valid documentation i.e. Licenses, CLU etc.



- c. PSPCL shall not insist on the installation of a new LD system as per the present norms and the LD system already installed by the promoter/the developer (if installed LD system is approved by the Chief Electrical Inspector) shall be taken over by PSPCL subject to the condition that the promoter/developer shall replace the damaged transformers within 2 years after takeover and the BG (taken before issue of NOC) shall be refunded thereafter.
- d. If the already installed LD system is not approved by the CEI or the LD system is not installed as per the NOC as on the date of commencement of the one time settlement scheme, then the promoter/developer has to install a new LD system as per the present applicable instructions of PSERC/ PSPCL and as per the estimated load (detailed at point 'a' above),
- e. The promoter/developer has to pay connectivity charges including System loading charges (SLC) as per the prevailing instructions for the total estimated load. The connectivity charges already deposited by the promoter/the developer, if any, shall be adjusted (not refunded).

After the above compliance and takeover by PSPCL, the connections to individual consumers shall be released by PSPCL without recovering the SCC.

In case the promoter/developer does not come forward for the one-time settlement scheme, then the same option may be given to Competent Authority to take the revised NOC from PSPCL. The Competent Authority may, thereafter, cancel the license issued and recover the money deposited by it from the promoter/developer and the allottees as per the scheme of PAPRA.

In case the Competent Authority also denies the one time settlement scheme, then the same option may be given to the registered RWA of the concerned colony to take the revised NOC from PSPCL on the basis of documents in the name of promoter/developer, if the

Competent authority authorizes/issues an NOC to the RWA to carry out the development.

(iii) **Criteria;**

The Promoter/developer of the Licensed colony **did not** take the final NOC from PSPCL **nor** installed the LD system as per provisional NOC granted by PSPCL.

**Proposal**

Initially proposal at S.No. 2 above be made applicable and if the promoter/developer does not come forward, then the proposal at S.No. 1 above may be approved to be explored.

(iv) **Criteria;**

The promoter/developer is not ready to take the revised combined NOC for their contiguous/ adjoining colonies:-

- a. Especially Govt. Departments like ADA/JDA/GLADA etc. are applying for NOCs from PSPCL for their particular pockets which are either part of or contiguous to their mega/ large projects developed by Govt. departments. Since the record regarding NOC to such mega/big projects or regarding any charges/ LD systems laid by promoter/developers is not available, PSPCL is not issuing NOCs for such contiguity.
- b. There are a few cases where the promoters/developers have planned unapproved regularized colonies adjoining/contiguous to their licensed colonies. For the overall integrated planning of electrical infrastructure, PSPCL is demanding that these promoter/developers should take a single common NOC; against which many promoters/developers are agitating. The main plea given by these promoter/developers is that as per various regularization policies of the GoP and prevalent instructions of PSPCL, NOC is not mandatory for unapproved regularized colonies and these should be treated as stand-alone/separate

colonies. Due to default on the part of the promoters/developers, electricity connections are not being released in many such unapproved regularized colonies which are adjoining or contiguous to the licensed colonies.

- c. The promoter/developer has previously obtained an individual NOC from the PSPCL for their individual colony but has not complied with the NOC conditions. Now PSPCL has observed that these colonies are contiguous and asked the promoter/developer to obtain a revised combined NOC. The promoter/developer is not applying for the combined NOC due to various reasons like substantial SLC charges, project of other promoter/developer not forthcoming, project sold to another promoter/developer, different layout plans etc.
- d. The promoter/the developer has previously obtained an individual NOC from the PSPCL for their individual colony and has also complied with the terms of the NOC. Now PSPCL has observed that these colonies are contiguous and has asked the promoter/developer to obtain a revised, combined NOC. The promoter/developer is not applying for the combined NOC due to substantial SLC charges, project of other promoter/developer, project sold to another promoter/developer, different layout plans etc.

It was made clear that no benefit can be granted to any of the developers/promoters/residents of a colony in this proposal where the said colony was constructed after 2003 i.e. where the NOC was issued by the commercial office and not the field office of PSPCL.

**Proposal:**

In case of contiguous colonies or mega projects where no clear-cut NOC is available in the Commercial office (i.e. before 2003) and where the field office certifies that the colony or total project was developed before 2003 irrespective of the fact that the LD system

was developed by PSPCL or the promoter/developer in the past, the following would apply:

a) The already developed area should not be clubbed/considered for issue of a combined NOC. Instead, the particular pocket/ area from mega project or particular pocket/ area contiguous to an existing project whose NOC is applied for by the promoter/developer should be given the NOC considering it as an independent/separate project.

b) Due to non-acceptance by the promoters/developers for a single common NOC, electricity connections are not being released in many such colonies. In order to address this issue it is proposed that all unapproved regularized colonies should be treated at par (and PSPCL shall release electricity connections by laying the LD system on its own and recover the SCC from individual consumers) and PSPCL may not insist for clubbing of any unapproved regularized colony/pocket with another PAPRA approved/Licensed colony.

(c&d) A one-time settlement scheme may be launched for promoters/developers of such colonies if they come forward to take revised combined NOC from PSPCL. In such cases, the proposal at S. No. 2 above may be made applicable.

23. It was further submitted that the promoters/developers of 11 No. Holy City colonies of Amritsar represented to PSPCL to takeover the internal LD system of their colonies which was installed by them after expiry of validity period of their respective NOCs. These 11 No. holy city colonies were contiguous and further the promoter/developer had not complied with the conditions of NOCs during its validity due to which PSPCL was not releasing electricity connections in these colonies. The promoter/developer was requested to take the revised combined NOCs from PSPCL in the year 2018. Further, the developer has applied for an NOC for 4 more such colonies which are not included in the list of the 71 colonies for which a status report was filed.

In order to resolve this long pending issue and in the larger Public/residents interest the matter was considered by the WTDs of PSPCL and it was decided as under:-

*RESOLVED THAT If promoter/the developer (Sh. Harinder Singh Dhillon) comes forward and applies for combined revised NOC for all the 15 No. colonies then the promoter/the developer will be exempted (under intimation to Hon'ble PSERC in Petition no. 7 of 2021) for installing new LD system against already installed DTs as per NOC for 11 No. colonies treating it as a special case subject to the condition that the promoter/the developer should undertake to repair/replace the transformers for two years from the date of taken over by PSPCL in 11 no. colonies in case of fault/damage.*

*RESOLVED THAT as the NOCs issued by PSPCL were not complied by the promoter/the developers, so the promoter/the developers have to pay System Loading Charges (SLC) at new rate along with connectivity charges for combined load of 15 no. colonies in single combined NOC as per present applicable instructions, however load of 11 No. colonies will be considered as per already issued NOCs for calculation of charges.*

*The existing transformers shall be got repaired/ replaced by the builder for two years from the date of takeover by PSPCL and shall be replaced immediately on damage.*

PSPCL vide memo. no. 846 dated 13.7.2022 conveyed the above decision to the promoter/developer and requested the promoter/developer to apply for a revised combined NOC of their 15 no. Holy City colonies. The promoter/developer applied for the revised combined NOC of 15 No. (11 old and 4 new) colonies on PSPCL online single window against SAP RID-10000021078. Further PSPCLs submitted that in order to resolve a similar issue of 6 No. contiguous colonies (i.e. Garden and Impact colonies), PSPCL had a meeting with M/s. Impact project for a one time settlement with PSPCL.

The promoter/ developer was requested to apply for a revised combined NOC & withdraw their LPA No. 653 of 2021 filed by them against PSPCL before the Hon'ble Punjab and Haryana High court, but promoter/the developer had not responded yet.

24. Vide Order dated 07.10.2022, the Commission directed PSPCL that the proposal submitted vide memo no. 6726 dated 01.08.2021 may be supplied to CREDAI. The Counsel appearing for the petitioners in petition Nos. 24 of 2022, 33 of 2022 and 37 of 2022 also requested that they may be given an opportunity to submit comments on the proposal submitted by PSPCL as they might also be affected by its outcome. Keeping in view the same, the petitioners in petition Nos. 24 of 2022, 33 of 2022 and 37 of 2022 were impleaded as respondents. All the respondents including the newly added respondents were directed to file their comments/submissions to the proposal submitted by PSPCL within two weeks with a copy to PSPCL (through hard copy & soft copy). Further, the Principal Secretary, Local Govt. and Principal Secretary, Housing and Urban Development Punjab, being the Administrative Secretaries of Departments dealing with and controlling the licensing authorities, were directed to file their replies/submissions within two weeks, since issues arising out of this and similar petitions dealing with licensed colonies concerned these departments.
25. During the hearing on 23.11.2022, the Ld. Counsel appearing for respondents Nos. 02, 03 & 04 (i.e. the petitioners in petition nos. 24 of 2022, 33 of 2022 & 37 of 2022) submitted that they had not received a copy of the proposal submitted by PSPCL. Vide Order dated 30.11.2022, PSPCL was directed to immediately provide the copy of its proposal submitted vide memo No. 6726 dated 01.08.2021 to the respondents. The respondents were directed to file their reply to the same within two weeks with a copy to PSPCL. The Principal Secretary, Local Govt. and Principal Secretary, Housing and Urban Development, Punjab were also directed to file a consolidated reply within two weeks.
26. During the hearing on 18.01.2023, Ld. Counsel for the respondents No. 2, 3 & 4 requested for time to file their reply. Vide Order dated 25.01.2023, the respondents were granted a last opportunity to file their respective replies to

the proposal submitted by PSPCL within two weeks. However, respondent No. 01, i.e. the CREDAI neither appeared nor filed its reply.

27. Special Secretary, Govt. of Punjab, Housing and Urban Development, Chandigarh vide memo no. dated 05.12.2022 made submissions in compliance to the Commission's Order dated 24.11.2022. Their comments with reference to PSPCL's proposal dated 01.08.2022 were as under:

Regarding PSPCL's proposal as mentioned in Para 20(7), it was submitted that although at the time of granting license, the promoter furnishes a bank guarantee equal to twenty five percent (now thirty five percent as amended) of the estimated cost of the development works (Internal) under section 5(3) of PAPER Act, 1995 (as amended) but the same could be en-cashed only after the suspension/cancellation of the license under section 5(14) of the ibid Act. The BG is for all left over/abandoned internal development works (means; roads, parks, footpaths, water supply, sewers, drains, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, storm water drainage, rain water harvesting, domestic solid waste collection centre, electric line upto individual plots or any other work in the colony necessary for its proper development, as may be specified by the competent authority) and not only for erection of the LD System and connectivity charges.

However, if the said proposal was accepted by the registered RWA of the concerned colony, then all left over internal development works, including laying of the LD system etc. can be executed by the RWA without resorting to cancellation of the colony license.

In response to the proposal mentioned at serial No.2 (a), (b), (c), (d) and (e) of Para 22(B) of this order, it was submitted that there is no provision under PAPER Act, 1995 (as amended) or any condition of the license issued to the promoter whereby the promoter could be persuaded to come forward for a one time settlement scheme proposed to be launched by PSPCL. However, if the said option was accepted by the registered RWA of the concerned colony, then all the left over internal works could be carried out by the RWA of the concerned colony without resorting to a cancellation of the license of the

colony and revised NOC can be obtained from PSPCL as proposed. However, this proposal would be applicable only in those cases where the colony license issued to the promoter was still valid and had not expired or been cancelled.

In response to the PSPCL's proposal submitted at serial No. 3 of Para 20(7) it was submitted that the reply already stated above to proposals No. 1 and 2, be read as the reply to this para also. The Housing and Urban Development department had no objection to the proposals mentioned at serial Nos.4 (c) and (d) of Para 20(7). It was submitted that the reply already given in the forgoing paras may be read as their reply to these paras also.

28. PSPCL filed IA No. 29 of 2022, and submitted that a meeting was conducted under the Chairmanship of the Hon'ble Minister of Power, GoP on 14.09.2022 to discuss various issues being faced by the developers. During the meeting, it was desired by the Hon'ble Minister that a high powered inter-departmental committee may be constituted to look into the issues being faced by the developers and submit a report on the same. The Committee was constituted as per following details:

28.1. A committee of the following officers was constituted for deliberating the issues of real estate development related to PSPCL in the State of Punjab:-

i)	Director (Commercial), PSPCL	:	Convener
ii)	Chief Administrator (CA), Punjab Urban Development Authority or representative not below the rank of ACA	:	Member
iii)	Chief Administrator (CA), GMADA or representative not below the rank of ACA	:	Member
iv)	Director Town and Country Planning or representative not below the rank of CTP	:	Member
v)	Director Local Government or representative not below the rank of CTP	:	Member
vi)	5 Representatives from the Real Estate the developer bodies such as CREDAI, PCPDA etc	:	Member

28.2 The committee held its meeting on 30.09.2022 under the chairmanship of Director/Commercial, PSPCL. The minutes of the meeting were also furnished. Out of the many issues deliberated upon in the meeting, it was decided to take up the following issues with the Commission.



- a) Validity of NOC for five years is linked to validity of license granted by the competent authority. PSPCL should also extend the validity of NOC in line with the extension in validity of the license given by the licensing authority.
- b) Regarding old NOC cases (NOCs issued upto 2014) where the already issued NOCs have expired long ago, the matter shall be taken up with PSERC to allow such cases as a One Time measure.
- c) To consider allowing temporary connection upto 10KW load for sales offices without the pre condition of obtaining an NOC.

28.3 PSPCL further submitted observations on the above issues as under:

- a) At present, the validity of an NOC is five years from the date of issue in line with the five year validity of license to develop the colony granted by a competent authority.
- b) In case the NOC gets expired, then the developer has to seek a revised NOC to complete the balance work of the LD system and follow the NOC application procedure in toto once again. At present there is no provision for allowing extension in the already issued NOC, after expiry of its validity.

28.4 However, on the contrary, the licensing authorities from time to time introduce special measures for extending the validity of the expired licence to develop the colony granted to a developer under the PAPR Act, 1995 and its amendments. Under such a scheme, the validity of the expired license is extended by two years without recovery of full External Development Charges, Social Infrastructure Fund (SIF) from the developer.

28.5 On similar lines, it is proposed that extension in an expired NOC (for NOCs issued after 2014) may be allowed for a period of two years in all those cases where there is no change in the approved layout plan of the project without insisting on getting a revised NOC. For all such cases the connectivity charges including System Loading Charges (SLC) shall be worked out as per the latest Supply Code-2014 Regulations. Such a provision may be allowed for all NOCs granted

w.e.f. 01.01.2015 whose validity has expired. Allowing this as a one time measure will provide impetus to the real estate sector in the state of Punjab. However, this extension shall only be granted in those cases where the validity of license has already been extended by the competent authority.

28.6 Regarding old NOC cases (NOCs issued upto 2014) where the already issued NOCs have expired long ago and compliance of the NOC was not made by the developer, PSPCL has already submitted proposals vide memo no. 01.06.2021 and memo no. 928 dated 01.08.2022 in Petition no.7 of 2021 regarding a One Time Settlement Scheme for such cases. However, there may be more NOC cases which have not been accounted for in this petition. To deal with all such cases, PSPCL, by means of this IA to Petition No. 07 of 2021, would like to give a revised proposal for introducing a One Time Settlement Scheme for all such colonies.

28.7 With respect to the NOC granted by PSPCL, the compliance of terms and conditions of NOC implies payment of connectivity charges including SLC & supervision charges by the developer alongwith erection of a complete LD system of the project. For all such cases where the already issued NOC has expired and compliance in NOC has not been made by the developer, an OTS may be offered. Further, in those instances where such a developer has already taken a revised NOC from PSPCL, but compliance has not been done, may also be offered the OTS. Accordingly, it is proposed as under:-

28.7.1 For all such cases the connectivity charges shall be payable as per the latest Supply Code-2014 Regulations. However, System Loading Charges (SLC) may be exempted for such cases.

28.7.2 For all such cases seeking exemptions under the proposed OTS, amendment shall be issued by PSPCL to the already issued NOC which were issued upto 2014; with a validity period of two years from date of issue of the amendment.

However the following exemptions be allowed to encourage the developers to come under the ambit of this scheme:

- i) As in most of such cases, the original license to develop the colony has expired, so the amendment in the NOC may be allowed without insisting for a valid license.
- ii) Only connectivity charges, without any SLC, be allowed to be recovered from the developer.
- iii) The already erected LD system may be accepted by PSPCL subject to its healthiness at site.
- iv) The developer shall complete the balance work of the LD system within two years from grant of amendment in the NOC or the developer may choose to deposit the cost of the balance work of the LD system with PSPCL in one go and for such cases the balance work of the LD system shall be completed by PSPCL.
- v) Immediate release of electricity connections to the residents inside such colonies shall be allowed to the prospective consumers only after payment of 50% of connectivity charges under the proposed OTS by the developer. Balance 50% connectivity charges under the proposed OTS may be allowed to be recovered in quarterly installments in 2 years along with interest as per the prevalent SBI rates. However, if the developer chooses to pay full payable charges in one go, a discount of 5% may be allowed on full payable charges as an incentive to the developer.

28.8 With respect to allowing temporary connections upto 10KW load for sales offices, without pre condition of obtaining the NOC, the Commission in Petition No. 07 of 2021 has already highlighted the notification of Deptt. of Housing & Urban Development, GoP dated 06.05.2008, which is mentioned in the license granted to the developer; which mandates getting an NOC from PSPCL by the developer before start of any development works at the site.

28.8.1 However, in this regard the developer bodies namely CREDAI and PCPDA raised the issue of long delay in the process of grant of license by the competent authority followed by time consuming process of approval of the layout plan. As license and approved layout plan / building plan approval are mandatory documents for seeking an NOC from PSPCL, the developers have to wait for long periods (12-24 months) for arranging these documents as a precursor to the issue of NOC from PSPCL and during that time they can't start any development work at the site.

28.8.2 In view of the above, if deemed fit, the Commission may take up this issue with the concerned competent authority to hasten the process of issue of license and approval of layout plan / building plan.

28.8.3 Furthermore, PSPCL submitted that as per recommendations of the Committee finalized vide MOM dated 30.09.2022, the demand for grant of temporary connection for sales offices was raised by the developer bodies namely CREDAI and PCPDA and noted in the minutes of the meeting. Hon'ble Commission is requested to allow temporary connections for loads upto 10KW for running sales offices in colonies/commercial complexes/industrial estates without precondition of obtaining an NOC from PSPCL.

28.9 In view of the above observations, PSPCL further prayed to approve the OTS as brought out above.

28.10 PSPCL, further requested to the Commission allow temporary connections for loads upto 10KW for running sales offices in colonies/commercial complexes/industrial estates without any precondition of obtaining an NOC from PSPCL.

29. During the hearing on 28.04.2023, the IA was taken up for hearing alongwith the Petition. The respondent No. 01 neither appeared nor filed any reply. In the interest of justice, respondent No. 01 was granted one last opportunity to

file its reply to the petition. The Ld. Counsel appearing for Respondents Nos. 02, 03 & 04 submitted that no reply was required to be filed by the respondents. It was observed by the Commission that the IA cannot be considered merely on the basis of the minutes of a meeting and PSPCL may produce the specific policy decisions of the State Government through issue of a notification. PSPCL submitted during the hearing that the issues had already been taken with the Govt. of Punjab and a meeting in this regard was held on 21.03.2023 under the Chairmanship of the Chief Secretary Govt. of Punjab and the notification/Minutes of Meeting were expected to be issued soon. It was further submitted by PSPCL that the relevant Regulations of the Supply Code are also required to be amended and a proposal in this regard has been taken up as agenda in the next meeting of Supply Code Review Panel. PSPCL requested for some more time to file the necessary submissions in compliance of the order dated 25.01.2023. PSPCL was granted a final opportunity to file the same within 4 weeks.

30. PSPCL, vide memo no. 5893 dated 26.04.2023, submitted that proposals listed as 1(i) and 1 (ii) are regarding extension in validity of expired NOCs including an OTS for old NOCs and these proposals did not require any amendment in the provisions of the Supply Code. These proposals were brought to the knowledge of the Commission through an IA, as these are connected issues to the main petition. However, the proposal listed as 1(iii) pertains to release of temporary connections to the developers for loads upto 10 kW for running sales offices without the precondition of obtaining an NOC which requires amendment in the existing Reg. 6.7.4 of the Supply Code. This proposal has also been taken up as agenda in the forthcoming meeting of Supply Code Review Panel.
31. PSPCL vide CE/ARR&TR memo No. 6323 dated 27.06.2023 filed its reply to the directions of the Commission issued vide interim order dated 25.01.2023 as under;
  - 31.1 Principal Secretary to GoP, Department for Power has issued notification dated 14.06.2023 for sustainable development of the Real Estate Sector in the State of Punjab which read as under:

*For sustainable development of Real Estate Sector in the State of Punjab, the Governor of Punjab is pleased to allow extension upto maximum of two years in expired NOCs issued after 2014 by PSPCL on same terms & conditions as were in original NOC and PSPCL will not insist on getting a revised NOC, subject to the following conditions:-*

- i) The extension shall only be granted in those cases where validity of license to develop the colony is extended by the competent authority subject to maximum of two years.*
- ii) There shall be no change in the approved layout plan of the project.*
- iii) The connectivity charges including System Loading Charges (SLC) & Supervision Charges shall be worked out as per existing PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 and its subsequent amendments.*
- iv) It shall be admissible for all NOCs granted w.e.f. 1.1.2015 whose validity has expired.*

*2. The Governor of Punjab is further pleased to allow One Time Settlement Scheme (OTS) for NOCS, issued upto 2014 expired long time ago and where compliance of the NOC/revised NOC has not been made by the developer, subject to the following conditions:-*

- i) For all these cases, the connectivity charges shall be payable as per existing PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 and its subsequent amendments.*
- ii) The System Loading Charges (SLC) are exempted for such cases.*
- iii) Following exemptions shall be allowed to encourage maximum developers to come under the ambit of this scheme:*
  - a) As in most of such cases, the original license to develop the colony has expired, amendment in NOC may be allowed without insisting for extension of the license.*
  - b) The already erected LD system shall be accepted by PSPCL subject to its healthiness at site.*

- c) *Developer shall complete the balance work of LD system as per existing PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 and its subsequent amendments, within two years from grant of amendment in NOC or may choose to deposit the cost of balance work of LD system with PSPCL in one go and for such cases the balance work of LD system shall be completed by PSPCL.*
- d) *Release of electricity connections to the residents inside such colonies may be allowed to the prospective consumers only after payment of 50% of connectivity charges by the developer under this OTS. Balance 50% connectivity charges under this OTS may be allowed to be recovered in quarterly installments in 2 years along with interest as per prevalent SBI rates. However, if the developer chooses to pay full payable charges in one go, a discount of 5% may be allowed on full payable charges as an incentive to the developer.*
  - i) *PSPCL shall issue an amendment to the already issued NOC with a validity period of two years from date of issue of amendment.*

31.2 The Supply Code Review Panel in its meeting held on 28.04.2023 had not recommended the proposal of PSPCL to allow temporary connection to developers for loads upto 10 kW without meeting the condition of obtaining an NOC. Thus, the same has not been included in the notification.

31.3 IA No. 29 of 2022 only caters to resolving the issue of release of electricity connections in abandoned colonies as elucidated in the Petition No. 07 of 2021. However, the proposals brought out in the said IA and as notified by GoP vide Notification dated 14.06.2023 are a one-time initiative being offered to the developers of abandoned colonies to opt for completing the balance works of the LD system and depositing the connectivity charges, so that release of electricity connections in such colonies could be expedited. Thus, the proposals given in IA No. 29 of 2022 do not warrant amendments in the Supply Code-2014.

32. **Facts of Petition No. 24 of 2022:**

The petition has been filed by the residents of Sunny Enclave, Devigarh Road, District Patiala. The petitioners submitted that despite having complete infrastructure in the colony, PSPCL is not rendering electricity connections to the residents. The Commission in his earlier Order dated 30.07.2021 in Petition No.13 of 2021 had granted permanent electricity connections to residents of this colony. Earlier, residents were supplied electricity by the developer and residents were paying the electricity charges to the developer. Later on, it was noticed that the developer was illegally supplying electricity through a NRS connection granted to the developer for his office use. Since the developer has abandoned the colony, the petitioners requested the Commission to direct PSPCL to release connections in the colony to the remaining residents including temporary connections for construction of new houses.

The Patiala Development Authority (PDA) informed that a license was issued to M/s Bajwa Developers Pvt. Ltd. on 08.01.2007, which was valid for 3 years and as per the conditions of the license, the developer was required to get approval of the electric plan/load from PSEB. An NOC was issued by PSPCL on 05.02.2009 to complete the internal LD System within 3 years. PSPCL released an NRS connection to the developer, initially for a load of 2.906 kW, which was later on extended to 144.806 kW and the developer misused this connection to illegally feed the residents of the colony. The connection was checked by a team of PSPCL on 05.11.2019 and the developer was booked for unauthorised use of electricity. A penalty of Rs.26,52,389 was imposed, which was challenged by the promoter before the Appellate Authority under section 127 of the Act and the same was dismissed by an order dated 08.01.2020 by CE/TS, PSTCL, Patiala. The promoter has now challenged this order before Hon'ble Punjab and Haryana High Court.

PDA submitted that the bank guarantee can be en-cashed only after cancellation of the license. PDA further added that vide letter dated 19.05.2021 Tehsildar Patiala has been instructed to stop the registration of sale deeds executed by the developer. Since the colony has not been taken over by the authority so at this stage the bank guarantee cannot be en-cashed for completing the left over works. The PDA vide office Order dated



06.03.2023 suspended the license of the promoter and ordered to en-cash the bank guarantee of the promoter amounting to Rs.2,77,06,500 and also to initiate criminal proceedings against the developer. It has further been mentioned in the order that Rs.4.03 Crore is required for development works and Rs.5.38 Crore is required to be deposited with PSPCL as per the Orders of the Commission dated 12.09.2022. Thus, after adjusting the bank guarantee of Rs.2.77 Crore, the balance Rs. 6.639 Crore may be recovered under Section 5(15) of PAPRA.

This colony has also been included by PSPCL in the list of 71 colonies submitted in Petition No.7 of 2021.

**33. Facts of Petition No. 33 of 2022:**

The petition has been filed by the residents of Sky Rock City colony under Section 43 of the Electricity Act, 2003 read with Regulation 5.1 of the Supply Code, 2014. The petitioners submitted that they were supplied electricity by the developer and were paying electricity charges to the developer. However, it came to their notice later on that the developer was illegally selling electricity to the residents through a temporary NRS electricity connection released by PSPCL. As the developer has abandoned the colony, the residents approached PSPCL for electricity connections, which were refused. The petitioners quoted Section 43 of the Electricity Act, 2003 to stress that it is the responsibility of the PSPCL, being the sole distribution licensee, to provide electricity connections of the residents. PSPCL, on the other hand, submitted that the license to develop the colony was issued to Sky Rock City welfare society on 06.05.2014 and the NOC was issued by PSPCL on 23.02.2016 which was valid for 5 years. The license issued has expired on 05.05.2017. In view of various irregularities and refusal of the developer to carry out development works, GMADA cancelled the license vide Order dated 07.05.2018 and an FIR has been lodged against the developer. GMADA further informed that the promoter society was to acquire the title of 25 acres of land but it was found that the society is the owner of only 7.475 acres of land. Thus, this colony does not fall under PAPRA. GMADA directed the promoter society i.e. M/s Sky Rock City Welfare Society to refund the full amount collected from the petitioners together with interest @ 12% P.A. from

the date of receipt of the amount so collected till the date of repayment. Despite repeated orders by the Commission, the developer never appeared before the Commission in this case. The colony has been included in the list of 71 colonies submitted by PSPCL in Petition No.7 of 2021.

**34. Facts of Petition No.23 of 2023**

The petition has been filed by residents of Orchid Green, Kharar, Landran Road, Sector 115, Mohali, under Section 43 of Electricity Act, 2003 read with Regulation 5.1 of Supply Code, 2014. The petitioners submitted that they have purchased flats from Best Zone Builders and Developers Pvt. Ltd. They have approach PSPCL for installation of electricity meters in their respective flats, but PSPCL refused to install the electricity meters in their flats. The colony has been included in the list of 71 colonies submitted by PSPCL in Petition no.7 of 2021.

35. After hearing the parties on 19.07.2023, the order was reserved.

36. Since the colonies involved in P.Nos 24 of 2022, 33 of 2022 and 23 of 2023 are included in the list of colonies submitted by PSPCL in P.No 07 of 2021 and also the issues involved in these colonies are common i.e release of electricity connections to the residents of colonies, developed under the bye-laws of the State Government, which have been abandoned by the promoters without completing the electric supply system in the colony and/or without depositing the charges etc. as per the provisions of PAPRA, read with conditions of license and the Regulations framed by the Commission. So we have heard all these petitions together and now we are deciding these petitions by this common order.

**Commission's Findings and Order**

37. The Commission has devoted substantial thought, time and effort in hearing all the stakeholders, examining the various representations, case histories, legal provisions and has kept in mind that the issue affects the livelihood and substantial investments of saving by a large number of residents across the State of Punjab. The Commission is sensitive to their plight and has tried to find an optimum solution to the issue which balances and protects the interests of all the stakeholders. While the focus of the Commission is on

resolving the issues relating to supply of electricity to the consumers, the complexity of the issue needs a policy intervention at the Government level to address and plug the lacuna in the licensing policy and the procedures relating to the housing colonies both in urban local bodies and in the Urban Development Licensing Authorities.

PSPCL filed this petition under Regulation 6.7 & 47 of the Supply Code, 2014 read with Regulations 69, 70, 71 & 72 of the PSERC (Conduct of Business) Regulations, 2005, regarding erection of LD System and release of electricity connections in the licensed colonies where the developers sold plots/flats without obtaining the NOC or abandoned the project without installing/completing the LD System after obtaining NOC from PSPCL. In this regard, PSPCL referred to Interim Order dated 02.11.2020 in Petition No.22 of 2020 of the Commission to release electricity connections in Shivalik City colony by taking service connection charges from the consumers. Further, referring to Section 43 of the Electricity Act, PSPCL apprehended that failure of PSPCL to give electricity connection may be considered as its default on its statutory obligation to supply electricity on demand. PSPCL also referred to its surplus power situation and underlined that efforts were needed to increase electricity demand to utilize the stranded capacity of power plants. In short, the proposals in this petition submitted by PSPCL envisaged to treat such abandoned colonies at par with unapproved regularized colonies and to release connections therein by taking normal service connection charges. However, to protect PSPCL's financial interest and to recover loss, the proposal envisaged the recovery of the expenditure towards setting up of LD System by taking up the matter with the developer as well as the Licensing Authority, the RERA and the civil administration and if required by filing recovery suit against the developer. The proposal given by PSPCL also included the issue of contiguous licensed colonies. PSPCL insisted that in case of contiguous/adjoining colonies being developed by the same promoters, a single NOC for the entire load should be obtained by the promoter. This is being contested by the developers on the plea that these colonies are being developed against different licenses so should be considered as separate. PSPCL proposed that the estimated load of such

adjoining/contiguous phases of the projects to whom license has been issued more than 10 years ago may not be considered as contiguous for clubbing the load. PSPCL also prayed that the unapproved regularized colonies may not be clubbed with adjoining PAPRA approved colonies. To this effect, a list of 71 such colonies was also submitted by PSPCL. Thereafter, PSPCL vide letter dated 01.06.2021 submitted a revised proposal as mentioned in para 9 of this order. While reiterating the proposal in case of colonies abandoned by the developer, PSPCL proposed a One Time Settlement (OTS) for cases where the developer is willing to complete the LD system.

38. As directed by the Commission, PSPCL vide letter dated 17.08.2021 submitted the detailed status of all 71 colonies and further highlighted various policy issues for consideration of the Commission. The gist of these issues is as under;
- i) Under PAPR Act-1995 (PAPRA), the licensing authorities take a BG from the developer against EDC/IDC at the time of issue of license and all powers rest with the Licensing Authority to recover financial loss to the Licensing Authority. The licensing authority should part with the BG submitted by the developers against EDC/IDC in order to recoup the cost for completing the LD system of these abandoned colonies.
  - ii) At the time of issue of partial/full completion certificate, a committee of officers of the Licensing Authority visits the project site for checking the status of infrastructure and only after the issue of completion certificate that residents are allowed to occupy such a project.
  - iii) Provision of BG in the Supply Code, 2014 against balance works of LD system at the time of issue of connectivity is allowed for recouping the expenses to be incurred on completion of the LD system, in case the developer abandons the project.
  - iv) In order to ensure compliance of instructions issued by the Department of Housing & Urban Development, Housing Branch-II GoP dated 06.05.2008, it becomes imperative to monitor the licenses being issued to the developers by the various licensing authorities across the State of Punjab.

39. While dealing with the petition, the Commission observed that the responses from other stakeholders such as the Department of Housing and Urban Development, Government of Punjab; the Department of Local Government, Government of Punjab, the urban development agencies such as PUDA, GMADA etc. is also required since they are the license granting authorities responsible for ensuring development of the colonies and for enforcing the conditions of license. Accordingly, notices were issued to these offices for appearing before the Commission and filing their responses especially on the issue of violation of the conditions of license by the developers in respect of non-installation of LD system in the licensed colonies and the action taken by respective authorities against such delinquent developers and further regarding availability of bank guarantee taken from such developers which could be en-cashed to defray the expenses towards installation of LD System in such abandoned colonies.
40. Additional information was sought from PSPCL including the criteria for considering the colonies as abandoned colonies and the proposal for release of connections in these colonies. In the submissions that followed, various criteria/scenarios along with proposals for release of connections in these colonies were intimated by PSPCL as brought out at para 22(B) of this order.
41. During the course of proceedings, the CREDAI (Confederation of Real Estate Developers Association of India-Punjab Chapter) was also impleaded as respondents in the instant petition and was asked to respond in respect of the violations being committed by their constituent real estate developers causing severe harassment and misery to the owners/residents of the colonies. However, despite giving numerous opportunities, no response was received from the CREDAI which amply highlighted the indifference of the developers and their representative body to the problems faced by the residents due to their gross violations.
42. Meanwhile, petition no. 24 of 2022, 33 of 2022 and 37 of 2022 were also filed by aggrieved residents for release of connections in the colonies where LD Systems had not been installed/completed by the developers. On the request of these petitioners tendered vide IA no.15 of 2022, they were allowed to be the interveners in the instant petition also. However, despite giving

opportunity, these petitioners did not file response to the proposal given by PSPCL. During the hearing on 28.04.2023, the Ld. Counsel for respondents no 2, 3 and 4 submitted that no reply is required to be filed by the respondents.

43. Subsequently, PSPCL filed IA No.29 of 2022 referring to the meeting taken by Hon'ble Minister of Power, Government of Punjab on 14.09.2022 to discuss various issues being faced by the real estate developers. During the said discussions, a Committee with representatives from PSPCL, PUDA, GMADA, Department of Town and Country Planning, Department of Local Government and Real Estate Developer Bodies was constituted to deliberate upon various issues and on the basis of such deliberations, following proposals were sent by PSPCL to the Commission;

*(i) Extension in expired NOCs (NOCs issued after 2014) may be allowed for period of two years without insisting on getting a revised NOC and on same terms and conditions as original NOC; in all those cases where there is no change in the approved layout plan of the project.*

*(ii) Regarding old NOC cases (NOCs issued upto 2014) where already issued NOCs have expired long ago and compliance of the NOC has not been made by the developer including all such instances where such a developer has already taken a revised NOC from PSPCL, but compliance has not been done, may also be offered OTS.*

*(iii) To allow temporary connection for load upto 10KW for running sales offices in colonies/commercial complexes/industrial estates without precondition of obtaining NOC from PSPCL.*

44. PSPCL was directed by the Commission to take up the matter with the Govt. to take specific policy decisions and issue required notifications on issues discussed in the meeting on the basis of which the IA has been filed. Further, PSPCL was asked to explain whether the proposals contained in the IA would not require amendment in the Supply Code Regulations. Subsequently, Department of Power, Government of Punjab, for sustainable development of Real Estate Sector in the State of Punjab, issued Notification dated 14<sup>th</sup> June, 2023 providing for extension in the validity of NOCs since expired subject to

certain conditions for giving another opportunity to the developers to complete the LD system in the abandoned colonies. PSPCL further submitted that the proposals as per IA read with the GOP notification is a onetime measure offered to developers to complete the LD system. Thus, it does not warrant any amendments in the Supply Code Regulations. PSPCL further submitted that the notification does not contain the proposal of PSPCL to release of temporary connections to developers up to a load of 10kW without insisting on NOC as the same was not recommended by the Supply Code Review Panel.

45. Considering the above landscape, the primary issues that confront the Commission are to redress the harassment being faced by the residents of such abandoned colonies while seeking electricity connections from the distribution licensee and also to pin point the role and responsibilities of promoters, licensing authorities and the distribution licensee regarding development of electrical system in the licensed colonies as per the provisions of the PAPRA, Electricity Act, 2003 and the Regulations framed under the Act.
46. PSPCL highlighted various aspects which were considered by the distribution licensee while submitting the proposals for release of connections in abandoned colonies and one of legal aspect is that under Section 43 of Electricity Act-2003, it is the duty of the distribution licensee to give supply of electricity on an application by the owner or occupier of any premises, within one month after receipt of the application requiring such supply. Therefore, in case connections are not released in any colony, PSPCL can be considered as defaulting on its statutory obligation to supply electricity on demand. Same provisions of the Act have been quoted by the petitioners in other related petitions seeking electricity connections in colonies where the developer has abandoned the development of internal works. The Commission, while giving relief to residents of some such colonies in the earlier orders has, in addition to the facts of each case, also taken in to account the obligation of the distribution licensee to provide electricity connection to the residents under section 43 of the Act.

In view of the above, it is important to examine the regulatory regime governing release of connections to the occupier of a premises, particularly

those residing in the colonies developed under the bye-laws of the State Government, as per the provisions of Electricity Supply Act 1948, the Electricity Act, 2003 and the Regulations framed under the Act.

47. Recently, the Hon'ble Supreme court in its Order dated 19.05.2023 in Civil Appeal No.2109-2110 of 2004 has held that the duty to supply electricity under Section 43 of the 2003 Act is not absolute, and is subject to such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity. It has further been held that under section 50 of the Act, the State Commission is authorized to notify the Electric Supply Code and use of expressions such as recovery of charges, disconnection/reconnection etc indicate that scope of regulatory powers of the State Commission is wide enough to govern all matters relating to the Supply of electricity in the premises of an applicant. The relevant portion of the order is reproduced below:

**I. Universal Service Obligation is not absolute**

30. *The relevant portion of Section 43 reads as follows:*

*“43. Duty to supply on request – (1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:*

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*Explanation – For the purposes of this subsection, “application” means application complete in all respects in the appropriate form, as required by the distribution licensee, along with the documents showing payment of necessary charges and other compliances.*



(2) *It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):*

*Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.”*

*(emphasis supplied)*

31. *According to Section 43, the distribution licensee is obligated to supply electricity to the premises of an owner or occupier within a month of the receipt of an application requiring such supply. The provision casts a duty on the distribution licensee to supply electricity to the owner or occupier’s premises. Correspondingly, the owner or occupier of the premises has a right to apply for and obtain electric supply from the distribution licensee. Both the right and the corresponding duty are imposed by the statute. The owner or occupier of the premises has to submit an application to avail of the supply of electricity.*

32. *In Brihanmumbai Electric Supply & Transport Undertaking v. Maharashtra Electricity Regulatory Commission, a two-judge Bench of this Court observed that the obligation of the distribution licensee to supply electricity to premises will begin after the owner or occupier of such premises submits a completed application. The explanation to Section 43 clarifies that the application must be complete in all respects along with the necessary documents showing payment of “necessary charges” and other compliances, as required by the distribution licensee. Thus, under Section 43, the distribution licensee is obligated to supply electricity to the*

*premises of an owner or occupier, provided that the owner or occupier pays all charges and complies with all conditions stipulated by the distribution licensee. **Section 43 begins with the words “Save as otherwise provided in this Act”.** Hence, the operation of Section 43 will also be subject to compliance with the other provisions of the 2003 Act.*

33. *Section 45 lays down the manner of computation of the price to be charged by the distribution licensee for supply of electricity under Section 43. It provides that a distribution licensee may fix charges for supply of electricity in accordance with the tariffs fixed from time to time in accordance with the methods and principles specified by the concerned State Commission. Under Section 46, a distribution licensee is empowered to charge from any person who seeks supply of electricity any expenses reasonably incurred in providing any electric line or electric plant used for the purpose of giving electricity. Section 47 empowers the distribution licensee to seek a reasonable security from any person who requires supply under Section 43. It further provides that the distribution licensee can refuse to supply electricity to any person who fails to give the security deposit. The provision is extracted below:*

**“47. Power to require security –** (1) *Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 43, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him –*

*(a) in respect of the electricity supplied to such person; or*

*(b) where any electricity line or electrical*

*plant or electric meter is to be provided for supplying electricity to such person, in respect of the provision of such line or plant or meter,*

***And if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity or to provide the line or plant or meter for the period during which the failure continues.”***

*(emphasis supplied)*

34. *Section 47 indicates that a distribution licensee can refuse to supply electricity under Section 43 if the applicant fails to furnish the requisite security. Under Section 48, a distribution licensee may require the applicant, who requires a supply of electricity in pursuance of Section 43, to accept (i) any restrictions which may be imposed for the purpose of enabling the distribution licensee to comply with the regulations made under Section 53; and (ii) any terms restricting any liability of the distribution licensee for economic loss resulting from negligence of the person to whom electricity is supplied. Thus, it is implicit that the distribution licensee may refuse electricity supply to the applicant until they accept such terms and restrictions reasonably imposed by the distribution licensee incidental to the statute.*
35. ***Further, Section 50 empowers the State Commission to specify an Electricity Supply Code providing for recovery of electricity charges, among other things. The Electric Utilities have urged that the duty to supply electricity is subject to the Electricity Supply Code specified under Section 50. As mentioned in the preceding paragraphs, an applicant is required to submit a completed application along with documents showing the payment of necessary charges and***

***other compliances. The Electricity Supply Code can stipulate such other compliances that an applicant has to observe for getting the supply of electricity under Section 43. Therefore, reading Section 43 along with Sections 45, 46, 47, 48, and 50, it becomes evident that the right of an applicant to seek supply of electricity under Section 43 is not absolute. The right is subject to the payment of charges, security deposit, as well as terms and restrictions imposed by the distribution licensee.***

**Thus, the right of the person to get electric supply from the distribution licensee is not absolute and is subject to the provisions of the Supply Code Regulations framed by the Commission.**

48. Under section 181 read with other relevant sections of the Electricity Act 2003, the Commission framed PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 issued vide notification no PSERC/Secy/Regu.31 dated 29.06.2007 (hereinafter referred as Supply Code, 2007). It came in to force w.e.f 01.01.2008. Regulation 3.2 of these regulations provides that the licensee shall submit Conditions of Supply for approval of the Commission within 6 months of the date of notification of Supply Code, 2007. Accordingly, the Commission approved the Conditions of Supply vide memo no. 7725 dated 25.02.2010 which came in to force w.e.f 01.04.2010. Before notification of the Supply Code, 2007, the supply to colonies was regulated by the provisions of Electricity Sales Regulations (ESR) framed by PSEB (now PSPCL) under section 49 read with section 79(j) of the Electricity Supply Act 1948 read with the Commercial instructions issued from time to time by PSEB. As per these regulations, the LD system was required to be erected by the developer and electric connections to the residents were released only after completion of the LD system and its inspection by CEI. There was no provision for furnishing of any Bank Guarantee (BG) by the developer with PSEB whereas BG was taken by the licensing authority at the time of issue of license as per sub-section (3) of section 5 of PAPR Act 1995.
49. After approval of the Conditions of Supply (COS) by the Commission vide

letter dated 25.02.2010, the supply to colonies w.e.f 01.04.2010 where individual connections were released directly by PSPCL was governed by condition 8.5 of the CoS which is reproduced below;

**“8.5 Individual connections to residents/occupants in the residential colonies / building complexes / Shopping Malls / Commercial Complexes / Industrial Estates.**

*In the event of a developer/owner/association of resident/occupants not opting for one point supply, residents/occupants will obtain individual connections directly from the Board. The provision of such connections will be governed by the following terms and conditions.*

- i) Local distribution system (LD) including receiving sub station (at a voltage commensurate with the total load) will be provided at the cost of the owner/developer.**

*Actual expenditure incurred by the Board for supply of electricity upto the LD system will be payable by the owner/developer in accordance with the Supply Code.*

*The electric supply to the residents /occupants in the residential colonies/building complexes / Shopping Malls / Commercial Complexes and Industrial Estates having demand more than 2500 KVA and upto 4000 KVA shall be given by erecting separate 11 KV feeder, subject to the condition that the demand of industrial estate should not be more than 50% of the total demand.*

- ii) The PSPCL will ensure that the LD system conforms to specifications and quality of *construction* as adopted by the PSPCL. After its completion and inspection by the Chief Electrical Inspector, the PSPCL will take over the LD system which will be connected to its distribution system. The PSPCL will thereafter repair and maintain LD system at its own cost.**

- iii) (a) Each *resident*/occupant will submit an application for supply of electricity to the Board in accordance with Condition no.7 above.**

- (b) A developer/owner or association formed by the residents/occupants will obtain separate connections for common services under the relevant category.*
- iv) The service cable(s) for providing individual connections will be provided at the cost of the owner/developer and will be connected to the LD system by the Board at the time of release of individual connections.*
- v) An electricity connection will be released to a resident/occupant of a colony/ complex/shopping mall/Industrial Estate in accordance with the time schedule specified in Regulation 6 of the Supply Code. A resident/occupant will also be liable to pay Initial Security/Security (Consumption) to the Board as per the Schedule of General Charges.*
- vi) Electricity meter(s) will either be provided by individual residents/occupants at their cost or supplied by the Board in which case the consumer will be liable to pay meter rentals as per Schedule of General Charges.”*

Thus, as per Conditions of Supply, it was the obligation of the developer to erect LD system and get it inspected from CEI. Only after completion of the LD system and clearance, the system was to be connected to the distribution system for release of connections to the residents. There was no provision of demanding Bank Guarantee from the developer at the stage of issuance of NOC by distribution licensee. There was no provision of connecting an incomplete LD system with the distribution system.

50. Thereafter the Commission, in exercise of the powers conferred under Section 181 read with other sections of the Electricity Act, 2003 (Central Act 36 of 2003), notified PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 (hereinafter referred as Supply Code 2014) vide notification no PSERC/Secy/Regu.97 dated 05.11.2014. These regulations came in to force w.e.f 01.01.2015. The Supply Code, 2007 along with Conditions of Supply was repealed vide Regulation 48 of the Supply Code, 2014. Notwithstanding such repeal, the provisions of the Conditions of Supply, so far

as they are consistent with the provisions of the Act and the Supply Code were saved. The Regulation 48 of the Supply Code, 2014 provides as under;

**“48. REPEAL AND SAVING**

*48.1 The Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007, as amended from time to time, shall stand repealed from the date of commencement of these Regulations.*

*48.2 Notwithstanding such repeal, anything done or purported to have been done under the repealed Regulations shall deemed to have been done or purported to have been done under these Regulations.*

*48.3 The “Conditions of Supply” approved by the Commission under Regulation 3.2 of PSERC (Electricity Supply Code & Related Matters) Regulations, 2007 vide Memo No. 7725/26/PSERC/DTJ-49 dated 25.2.2010 and all the subsequent amendments carried out from time to time with the approval/Orders of the Commission shall also stand repealed from the date of commencement of these Regulations.*

***48.4 Notwithstanding such repeal of “Conditions of Supply” anything done or purported to have been done under the repealed “Conditions of Supply” shall be deemed to have been done or purported to have been done with the approval/Orders of the Commission provided it is in conformity with the provisions of the Act & the Supply Code.***

*48.5 The Punjab State Electricity Regulatory Commission Notification No. PSERC/Secy./Regu.61 dated 02.12.2011 -----  
-----.”*

51. After notification of Supply Code, 2014, the supply of electricity w.e.f 01.01.2015 to the residential colonies developed under the bye-laws/rules of the State Government, such as PAPRA, were governed by the provisions of Regulation 6.7 of these regulations.

The salient features of the Regulation 6.7 of Supply Code, 2014, applicable w.e.f 1.1.2015 were as under:

- i) The developer shall submit the electrification plan proposed to be erected in the colony and get NOC from PSPCL
- ii) PSPCL shall calculate the estimated load as per the norms approved by the Commission.
- iii) The developer can get the LD system erected from PSPCL by depositing the charges or get it erected at its own level by paying supervision charges.
- iv) After completion and inspection by CEI, the LD system shall be taken over by PSPCL to release connections.
- v) In case the developer requests for energization of incomplete LD system then the developer shall deposit BG equivalent to 150% of the cost of balance works.
- vi) In case the estimated load of the colony exceeds 4000 kVA then developer shall pay System Loading Charges also.
- vii) Residents shall submit A&A form along with Security (Meter) for getting connection from PSPCL and no service connection charges shall be recoverable from applicant.

**Thus there was no provision for getting BG at the stage of approval of electrification plan or issue of NOC by PSPCL. However, in case the developer requests PSPCL to energise an incomplete LD system then he had to pay BG for left over works. So, if a developer failed to approach PSPCL for approval of electrification plan or issue of NOC or abandoned the project without completing the LD system, the distribution licensee did not have any instrument by way of surety or BG or powers under the Electricity Act 2003 or PAPRA 1995 to proceed against the developer. However, the licensing authorities have been vested with powers to recover BG at the time of issue of license under section 5(3) of PAPRA 1995 and to proceed against the developer in**



**case the promoter contravenes any provision of the PAPRA 1995 or the conditions of license under PAPRA 1995.**

52. In view of the numerous complaints being received against the developers and reluctance of the licensing authorities to initiate action against delinquent developers the Commission through 5<sup>th</sup> amendment to the Supply Code, 2014 issued vide notification dated 28.01.2019 specified that in case a developer opts to execute the work of internal LD system at its own level then he shall furnish a BG equivalent to 20% of the cost of LD system at the time of seeking NOC from PSPCL. Thereafter after a comprehensive review of the provisions of the Regulation 6.7 of the Supply Code, 2014, the Commission substituted the Regulation 6.7 vide 11<sup>th</sup> amendment to Supply Code, 2014 notified on 08.09.2022. The relevant provisions of Regulation 6.7 are as under;

***“6.7 Supply of Electricity to Individual Consumers in the Residential Colonies/Multi-Storey Residential Complexes, Commercial complexes/malls, IT parks developed under bye-laws/rules of the State Govt.***

*In the event of Residential Colonies / Multi-Storey Residential Complexes, commercial complexes/malls, IT parks (hereinafter referred as colonies/complexes) developed by developers/builders/societies/owners/ associations of residents/ occupiers (hereinafter referred as promoters) under bye-laws/ rules of the State Govt. not covered under Regulation 6.6 above, the promoter(s) shall provide complete Local Distribution (LD) system in the colony/complex as per the electric layout plan approved by the distribution licensee and shall also bear all expenses for providing electrical connectivity to such colony/complex by the distribution licensee as specified in this regulation. The promoter includes any agency whether Govt./Local body or private that develops the colony/complex. The residents/occupiers of such colonies/complexes shall obtain individual connections directly from the distribution licensee and the release of such connections shall be governed by the following terms and conditions:-*

- 6.7.1 a) For obtaining the NOC from the licensee, the promoter shall submit the complete lay out plan of the electrical network i.e. Local Distribution (LD) system proposed to be erected in the colony/complex and other documents prescribed by the licensee along with the processing fee as per Schedule of General Charges within 45 days of the*

*issue of licence. In case the promoter withdraw his request or fails to comply with the conditions within stipulated time, the processing fee shall be forfeited. In case of the failure of the promoter to approach distribution licensee for obtaining NOC within stipulated time, the matter shall be taken up by the distribution licensee with the licensing authority for taking action as per law and conditions of licence.*

- b) *For planning the L.D system of such colonies/complexes, the distribution licensee shall follow the following norms for assessment of estimated connected load of such colonies/complexes:*

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6.7.2 *The distribution licensee shall work out the estimated load of the colony/complex as per the norms specified in clause (b) of regulation 6.7.1 above and approve the electrical layout plan of Local Distribution (LD) system in accordance with the construction practices of the distribution licensee. The distribution licensee, while approving the electrical layout plan, shall design the LD system in such a way as to ensure optimum utilisation of electrical network. The transformation capacity should commensurate with the estimated load of the colony/complex. The estimated cost of the LD system shall be worked out by the distribution licensee. The expenditure of L.D system including service cable up to the metering point of each consumer and the 11 kV system in the colony/complex shall include cost of the material, labour plus 16% establishment charges there on.*

*The distribution licensee shall also plan and approve the 11 kV distribution system for providing connectivity and to feed the estimated load of the colony/complex from its distribution network. Accordingly, the distribution licensee shall work out the connectivity charges which shall include expenditure incurred by the distribution licensee to provide 11 kV connectivity to the colony/complex and the System Loading Charges, as specified in this regulation. The expenditure for providing 11 kV connectivity shall include cost likely to be incurred by the distribution licensee for providing the individual 11kV service line(s) to the colony/complex (cable or conductor from pole/ tower of feeder/ distribution main to the colony premises/ metering point) and proportionate cost of common portion of the*

*distribution main including breaker from nearest feeding grid sub-station having power transformer of 33-66/11kV or 132-220 /11kV, as the case may be, which is feeding the 11kV line(s) connected to the colony/complex, as per the Standard Cost Data approved by the Commission. In case the existing 11kV distribution main is required to be augmented/ extended/bifurcated or a new 11kV line/plant is to be erected to allow connectivity to any colony then such work shall be carried out by the distribution licensee at its own cost provided the promoter pays the full cost of service line and proportionate cost of the common portion of the augmented/extended /bifurcated /new distribution main including breaker as per the Standard Cost Data approved by the Commission.*

*In addition, the promoter shall also be liable to pay the System Loading Charges for the total estimated load of the colony/complex as per the Cost data approved by the Commission. It shall be the responsibility of the distribution licensee to create necessary capacity at the grid sub-station at its cost to cater the load of the colony/complex including the erection or augmentation of grid sub-station or the transmission network, as may be required by the licensee. After the connectivity charges including system loading charges are deposited by the promoter with the distribution licensee, the promoter shall not be liable to erect grid sub-station or provide land to the licensee for erection of grid sub-station.*

*The connectivity charges as per this regulation shall be recoverable from the developers who deposit the connectivity charges with the distribution licensee on or after the date of publication of these regulations in Punjab Government Gazette.*

*Provided that in case the cost of grid sub-station and/ or HT/EHT line including bay/breaker or the connectivity charges including System Loading Charges have been deposited by an authority under the State Act viz. PUDA/GMADA/ GLADA etc., with the distribution licensee, the connectivity charges including System Loading Charges for the same shall not be recovered from the developer of such colony/ complex.*

- 6.7.3 *The promoter shall furnish a Bank Guarantee (BG valid for the period of NOC) from any bank registered and regulated*

by RBI equivalent to 35% of the estimated cost of the LD system of the colony along with connectivity charges as per regulation 6.7.2 before the approval of the electrical layout plan and issue of NOC by the distribution licensee. The NOC shall be issued by the licensee within 45 days of the receipt of proposal complete in all respects along with requisite documents and the BG to the satisfaction of the licensee. The BG as per this regulation shall be recoverable from the promoters to whom the NOC or revised NOC is issued by the distribution licensee on or after the date of publication of these regulations in Punjab Government Gazette. The distribution licensee shall ensure that conditions of NOC and time lines for construction of LD system are implemented by the promoter failing which punitive action shall be taken by the licensee. The NOC shall clearly spell out the events of default on the part of developer which may result in encashment of BG by the distribution licensee.

6.7.4 The temporary connection to the colony/complex shall be released in the name of promoter only after the issue of NOC by the distribution licensee -----  
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6.7.5 The promoter may deposit the estimated cost of Local Distribution (LD) system of the colony as per approved layout sketch along with connectivity charges as specified in regulation 6.7.2 and get it executed from the distribution licensee. The BG accepted by the distribution licensee as specified in Regulation 6.7.3 shall be returned after the promoter deposit all the requisite charges. The phase wise development of LD system may be carried out by the licensee as per requirement but any cost escalation over a period of time shall be borne by the licensee. The distribution licensee shall be responsible to release individual connections within the time frame specified in Reg. 8.

6.7.6 (a) The promoter shall have the option to execute the works of internal LD system of the colony/ complex of its own in accordance with the electric layout plan/sketch approved by the distribution licensee after submission of necessary documents, BG etc as specified in Regulation 6.7.2 subject to payment of 15% supervision charges on the labour cost to the licensee.

Provided that ----- . Thereafter, the partially completed LD system, after clearance from Chief Electrical Inspector,

*shall be taken over by the distribution licensee and energized to release electric connections to the residents according to the time frame specified in Regulation 8 of these regulations. Such partially completed LD system taken over from the promoter shall be maintained by the distribution licensee at its cost.*

- (b) After completion of the LD system of the colony/complex and inspection/clearance by the Chief Electrical Inspector to Govt. of Punjab, the distribution licensee will take over the L.D system which will be connected to its distribution system after deposit of connectivity charges by the promoter as specified in Regulation 6.7.2. The BG accepted by the distribution licensee as per regulation 6.7.2 shall be returned to the promoter. The distribution licensee shall thereafter maintain the L.D system at its own cost. It shall be the responsibility of the licensee to release connections to the residents/ occupiers of the colony/complex according to the time frame specified in Reg. 8.*

*Provided that the phase wise development of LD system may be carried out by the promoter as per requirement. In case the promoter requests for energisation of incomplete/partial LD system, the same shall be allowed provided the promoter furnish a Bank Guarantee (BG valid for 3 years) from any bank registered & regulated by RBI equivalent to the estimated cost of balance works as per the cost of material and labour prevailing at the time of allowing connectivity for the partial load plus expected % age increase in the cost of material & labour in the next 3 years as may be approved by the Commission on the basis of increase in the cost during the preceding 3 years. This BG may be extended for each block of 3 years by increasing the base value with expected % age increase in the cost of material & labour as may be approved by the Commission. The amount of Bank Guarantee shall keep on reducing with the completion of remaining works of the L.D system. After submission of Bank Guarantee to the satisfaction of the licensee, the BG accepted at the time of issue of NoC shall be returned to the developer.*

- 6.7.7 The developer shall also be responsible to lay service cables up to the metering point of individual occupier's premises/common service connection points at its cost. In*

*case meter is installed outside the consumer's premises, the service cable from the meter up to the main switch of the consumer shall also be provided at its own cost by the developer. Each resident/occupier of these colonies/complexes shall submit A&A form for supply of electricity to the distribution licensee in accordance with Regulation 6 of Supply Code, 2014. The applicant shall have the right to seek connection for load/demand as per his/her requirements irrespective of the norms fixed in regulation 6.7.1(b). The distribution licensee shall not recover any Service Connection Charges from individual consumers. However, the applicant shall deposit Security (consumption) and Security (meter) as per Schedule of General Charges. The distribution licensee shall release the connections within time limits prescribed in regulation 6.8 & 8.*

**6.7.8** *A promoter shall obtain separate connection for common services under relevant category. Such connections shall be transferred to RWA or the local authority after the promoter hands over the colony/complex to such RWA/local authority.*

The provision of BG @ 150% of the estimated cost of balance works was inserted in the Supply Code w.e.f 1.1.2015 in case the developer seeks connectivity to a partially completed LD system. Thus, the deterrent available with PSPCL was only after the developer sought connectivity. The provision of getting BG @ 20% of the estimated cost of LD system at the time of NOC was introduced w.e.f 28.01.2019 which was increased to 35% of the estimated cost of LD system w.e.f 08.09.2022 in line with the provisions of the PAPR Act 1995 as amended from time to time, to ensure compliance of the conditions of NOC from the developer. Most of the cases of abandoned colonies quoted by PSPCL in the present petition relates to the period before 2019.

53. PSPCL in its written submissions have quoted various provisions of PAPRA to emphasize that it is the responsibility of the licensing authority under PAPRA to proceed against the promoter in case of violation of the provisions of the State Act or the conditions of license. The licensing authority is empowered to recover the financial liability by en-cashing BG or from disposal of the mortgaged plots held as surety against EDC/IDC. PSPCL also quoted orders

of the Hon'ble High Court and Supreme Court which upheld the provisions of PAPRA and directed the licensing authorities to recover the development charges.

54. Let us examine the provisions of the PAPR Act 1995, as amended from time to time read with various executive orders issued by the competent authorities of the State Government regarding development of residential colonies in the State of Punjab.

Section 2 of the PAPRA-1995 defines development works as under:-

- 2(n) "development works" means internal development works and external development works;
- 2(p) "external development works" includes roads and road systems, water supply, sewerage and drainage systems, electric supply or any other work which may have to be executed in the periphery of, or outside, a colony for its benefit;
- 2(r) "internal development works" means roads, parks, footpaths, water supply, sewers, drains, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, storm water drainage, rain water harvesting, domestic solid waste collection centre, **electric line upto individual plots** or any other work in a colony necessary for its proper development, as may be specified by the competent authority; and PAPRA Act, 1995.

[emphasis added]

Thus, the electrical network executed outside the colony is covered under external development works and electric lines upto individual plots in the colony are covered under the definition of internal development works.

The liability of the promoter to develop the land into colony, execution of external and internal development works, the role of the Licensing Authorities in granting license, procedure and powers to get the conditions of license enforced from the developer and powers of the licensing authority to take punitive action in case of non-compliance by the developer are captured in the PAPRA 1995. The relevant provisions of Section 5 of the PAPR Act 1995, as amended from time to time, is reproduced below;

- "5. (1) Any promoter, who desires to develop a land into a colony Development of having the prescribed qualifications, shall make an application in the prescribed form alongwith his title of minimum twenty five per cent of project land and

*irrevocable consent for the rest of land, if it is owned by other persons, permission for conversion of land use from the competent authority and the prescribed information, with the prescribed fee and charges, to the competent authority for grant of permission for the same and separate permission shall be necessary for each colony.*

(2) -----

(3) *Where an order is passed granting permission under sub-section (2), the competent authority shall grant a license in the prescribed form after the promoter has complied with the following conditions namely:*

*i) the promoter shall acquire the title of land not owned by him, within the time period given in the terms and conditions of the licence, and shall not make any sale or transfer of land which is not under his title;*

***ii) furnish a bank guarantee equal to thirty five percent of the estimated cost of the development works certified by the competent authority, or mortgage plots falling in the same project equal to thirty five percent value of estimated cost of development by equitable mortgage deed to the satisfaction of the competent authority in the manner prescribed, which shall be marked on the layout plan and entered in the revenue record;***

*iii) has entered into an agreement with the competent authority in the prescribed form for carrying out the development works in accordance with the conditions of the licence;*

*iv) has paid, subject to the provisions of sub-section (6), the Change of Land Use Charges, External Development Charges and such other charges, as may be notified by the Government from time to time.*

(4) *In case, a promoter intends to revise the layout plan or zoning plan -----.*

*The license granted under sub-section (3), shall be valid for a period of five years and shall be renewable for a further period of two years on payment, of such fee and charges, and on such terms and conditions, as may be specified by the competent authority.*



(6) *The promoter shall enter into agreement give undertaking to pay development charges for external development works carried out or to be carried out by the Government or a local authority.*

(13) *The promoter shall be responsible for the maintenance and upkeep of all roads, open spaces, public parks and public health services for a period of five years from the date of issue of completion certificate or till the date of transfer the same, free of cost to the State Government or the local authority:*

*Provided that after the completion of development works in die colony, in all respects, the competent authority may allow the promoter to hand over the maintenance infrastructure and services mentioned in this sub-section to an association of residents formed under section 17-A, which shall be responsible for management, maintenance, upkeep of common areas, infrastructure and common services of the colony.*

(14) ***In the event of the promoter contravening any provisions of this Act, or rules made there under or any conditions of the licence granted under sub-section (3), the competent authority may, after giving an opportunity of being heard, suspend or cancel the licence and enforce the bank guarantee or mortgage property furnished by the promoter under subsection (3).***

(15) ***When a licence is suspended or cancelled under sub-section (14), the competent authority may itself carry out or cause to be carried out the development works, and after adjusting the amount received as a result of enforcement of bank guarantee or by disposal of mortgaged property, recover such charges, as the competent authority may have to incur on the said development works from the promoter and the allottees in the manner prescribed as arrears of land revenue.***

(16) *The liability of the promoter for payment of development charges referred to in sub-section (15), shall not exceed the amount the promoter has actually recovered from the allottees less the amount actually spent on such development works, and that of the allottees shall not exceed the amount, which they would have to pay to the promoter towards the expenses of the said development*

*works under the terms and conditions of the agreement of the sale or transfer entered into between them:*

*Provided that the competent authority may, recover from the allottees with their consent, an amount in excess or what may be admissible under the aforesaid terms of agreement of sale or transfer.*

- (17) *Notwithstanding anything contained in this Act, after development works have been carried out under sub-section (15), the competent authority may, with a view to enabling the promoter, to transfer the possession of, and the title of, the land to the allottees within a specified time, authorize the promoter by an order to receive the balance amount, if any, due from the allottees after adjustment of the amount which may have been recovered by the competent authority towards the cost of the development works and also transfer the possession of, and the title of, the land to the allottees within aforesaid time and if the promoter fails to do so, the competent authority shall on behalf of the promoter transfer the possession of, and title of, the land to the allottees on receipt of the amount which was due from them.*
- (18) *After meeting the expenses on development works under subsection (15) the balance amount shall payable to the promoter.”*

From the above stated provisions of PAPRA, it emerges that

- (a) promoter shall furnish a BG equal to 35% of the development works (both internal and external) before grant of license. The amount of BG was increased from 25% to 35% of the cost of the development works vide notification dated 27.08.2014.
- (b) in case a developer contravenes any provisions of this Act, or rules made thereunder or any conditions of the licence, the competent authority under sub-section (14) of Section 5 of PAPRA may suspend or cancel the licence and under sub-section (15) of Section 5 of PAPRA enforce the BG and may itself carry out or cause to be carried out the development works.
- (c) In case additional expenditure is incurred for completing the development works after enforcement of BG or disposal of mortgaged property then such excess expenditure may be recovered as arrear of

land revenue from both promoter and allottees as provided in sub-section (16) of Section 5 of PAPRA.

Thus, PAPR Act, 1995, as amended from time to time, casts an obligation on the licensing authority to get the development works completed. In case of non-fulfillment of the conditions of license by the developer, after encashment of BG or disposal of mortgaged property, the balance amount, if any, can be recovered from the developer and the allottees. The licensing authority has also the powers to initiate criminal proceedings against the developer and to stop sale of plots/flats to the public at any stage. However, the distribution licensee has no power to proceed against the erring developer or recover any expenditure as arrears of land revenue.

55. To absolve themselves from the responsibility of getting the internal and external development works (including electrical system) executed, the licensing authorities referred to Punjab Government letter dated 18.06.2013 wherein it has been mentioned that since PSPCL is recovering 150% BG so the cost of electrical works shall not be considered while recovering BG from the developer while issuing license.

It is an established principle of law that no executive order can supersede the provisions of an Act. It has been specifically provided in the PAPR Act that the developer shall furnish a bank guarantee equal to thirty five percent of the estimated cost of the development works, (which includes LD system) or mortgage plots falling in the same project equal to thirty five percent value of estimated cost of development so this communication dated 18.06.2013 cannot supersede the provisions of State Law. This issue has also been discussed in petition no 22 of 2020 and the Commission in its order dated 30.09.2022 held as under;

*“Thus it is amply clear from the above that the Bank Guarantee was being taken from the Developers before the issue of this memo (dated 18.06.2013 referred to in Para-above) which also included and covered the electric works to be executed by the Developer. Moreover, as per the provisions of the PAPR Act, the Bank Guarantee is to be taken by the licensing authority from the Developer before the issue of licence. In this case, the licenses were issued well before the issue of the*

*above mentioned Govt. of Punjab memo dated 18.06.2013. Thus the Commission is of the view that the prescribed BGs must either be available or should have been obtained by the licensing authority. The concerned licensing authority is thus held responsible for failure to implement and monitor licensing conditions and directed to immediately pay Rs.662.5 lakh to PSPCL for completion of the LD system in the colony which was to be a part of Bank Guarantee for the licenses issued prior to the Govt. of Punjab memo dated 18.06.2013. It is also necessary for the licensing authority to follow up and ascertain from the police about the legal action taken against the developer pursuant to the FIR lodged against the developer on 09.01.2021. It would be appropriate for the higher authorities to review all similar actions to ensure justice and to discourage violations in the future.---*

The Commission in its order dated 26.08.2022 in petition no 47 of 2021 held as under;

*“However, in spite of GMADA’s assertions to the contrary, it is amply clear from above mentioned Govt. of Punjab memo dated 18.06.2013 that the Bank Guarantee taken from the Developers before the issue of this memo included and covered the electric works to be executed by the Developer. Moreover, as per the provisions of the PAPR Act, the Bank Guarantee is to be taken by the licensing authority from the Developer before the issue of licence. In this case, the licence was issued on 07.03.2012 i.e. well before the issue of the above mentioned Govt. of Punjab memo dated 18.06.2013. Thus the Commission does not agree with the submission of GMADA that the Bank Guarantee against electric works to be carried out by the Developer has not been taken as per instructions issued by the Department of Housing and Urban Development, Govt. of Punjab vide memo no. 12092-98 dated 18.06.2013. Vide Officer (licensing), GMADA’s memo no. 3740 dated 23.12.2021, it has been intimated that M/s RKM Housing Limited was required to deposit a Bank Guarantee/hypothecation amounting to Rs. 2.33 crore in connection with the colony RKM City, but the same has not been deposited by them till*

*date. In spite of this serious lapse, no action taken by GMADA against the developer seems to have been taken except stopping the registration of plots that too only now vide memo dated 05.07.2021. GMADA is thus held responsible for failure to implement and monitor the licensing conditions and directed to immediately pay Rs.132 lakh to PSPCL, for completion of the LD system in the colony which was to be a part of Bank Guarantee for license issued prior to the Govt. of Punjab memo dated 18.06.2013. –“*

56. Though in the above-mentioned petitions, the licenses were issued before 18.06.2013 but the Commission holds that as per the provisions of PAPR Act, the licensing authorities are liable for recover BG or other sureties against estimated cost of development works including electrical system which is part of the “development works” as defined in section 2(n) read with section 2(p) and 2(r) of the Act. The licensing authorities are duty bound to proceed against the promoter in case of any contravention of any provision of PAPRA or conditions of license as per section 5(14). One of the conditions of license is that promoter shall get NOC from the concerned department and comply with the conditions of NOC. There is nothing on record to show that the licensing authority had ever bothered to monitor whether the promoter was implementing the conditions of license. The Commission in its interim order dated 29.06.2021 held as under;

*“----The Commission at the outset expressed its displeasure that various agencies responsible for ensuring that a promoter, while developing a colony, fulfills all the conditions of licence and implements the provisions of the Act and the applicable Rules/Regulations, have failed miserably to protect the interest of the residents resulting in multiplicity of petitions and complaints to the Commission. CE/GMADA submitted that PSPCL is recovering BG @ 150% of the cost of LD system and in case the developer fails to complete the LD system, PSPCL shall use the BG to complete the system. The Commission pointed out that as per conditions of licence inserted by GMADA, a promoter is required to obtain NOC from PSPCL within 90 days and submit it to the Licensing Authority*

*(GMADA) but in many cases the promoter without even getting NOC from PSPCL and without laying LD system in the colony, abandoned the project after selling the plots/flats. The Commission asked GMADA to explain what action GMADA has taken against promoters who failed to get NOC from PSPCL and had not fulfilled the conditions of licence of laying the LD system. It is the duty of the licensing authority to ensure that conditions of licence are implemented by the promoter since the licensing authority is the competent authority to initiate action against the defaulter.----- under the PAPR Act 1995.*

The liability of the licensing authority to recover BG against development works ends only after the distribution licensee was empowered to recover the same from the promoter as per the provisions of the Supply Code regulations framed under Electricity Act, 2003. The provision for recovering BG @ 20% of the estimated cost of LD system at the time issuing NOC by PSPCL was specified only after 5<sup>th</sup> amendment to the Supply Code, 2014 notified on 28.01.2019. Thus, after 28.01.2019, once PSPCL accepts BG at the time of issuance of NOC then licensee is responsible to use this BG for ensuring compliance of the conditions of NOC. However, the power and the responsibility to recover the balance expenditure from the developer and the allottees and to initiate other criminal proceedings are vested only with the licensing authority as per sub-section (14) and (15) of section 5 of the PAPR Act 1995. The licensing authority cannot escape its liability/ responsibility as per the provisions of the PAPR Act simply by arguing that they don't have BG or BG is insufficient to complete the development works of a colony which has been abandoned by the developer after getting license. The Act, while visualizing such scenario, has laid down the procedure and empowered the licensing authority to deal with situation to protect the investors/residents from the defaulting developers.

57. The argument of GMADA that since PSPCL is recovering BG @ 150% of the balance works so PSPCL should use this amount to complete the LD system is not sustainable. PSPCL has been recovering this BG as a condition to supply electricity to a partially completed LD system of a colony and not at the initial stage, as is being prescribed in the PAPR Act to ensure compliance of

the conditions of license including execution of development works in the colony. However, once PSPCL accepts BG @ 150% of the balance works and releases connectivity, then the distribution licensee is responsible for completing the remaining LD system if the developer fails to complete system. However, in most of the cases referred to in the petition, either the developer never approached the distribution licensee for obtaining NOC or abandoned the project before seeking connectivity from PSPCL.

**58. Thus, from the above stated position of law, it emerges that;**

- 1. As held by Hon'ble Supreme Court in its order dated 19.05.2023 in Civil Appeal No 2109-2110 of 2004, the duty to supply electricity under Section 43 of the 2003 Act is not absolute and is subject to such charges and compliances stipulated by the Electric Utilities as part of the application for supply of electricity.**
- 2. Under section 50 of the Act, State Commission is authorized to notify Electric Supply Code and use of expressions such as recovery of charges, disconnection/reconnection etc in section 50 of the Act indicate that scope of regulatory powers of the State Commission is wide enough to govern all matters relating to the supply of electricity in the premises of an applicant.**
- 3. The Commission framed the Supply Code Regulations under section 181 read with other relevant sections of the Electricity Act, 2003, which is a sub-ordinate legislation.**
- 4. The release of connection to the applicants by the distribution licensee in his area of distribution is governed by the terms and conditions specified in the Supply Code Regulations. The release of connections in the residential colonies developed under the bye-laws and rules of the State Government are governed by the provisions of Conditions of Supply and the Supply Code, 2014, as amended from time to time.**
- 5. As per this regulation, the LD system is required to be erected by the developer and electric connections to the residents can be released by the distribution licensee only after completion of the LD system and its inspection by CEI. In case a developer intends to**

avail connectivity to a partially developed LD system then BG, as specified in Supply Code, shall be furnished by the developer.

6. PAPR Act, 1995, as amended from time to time, casts an obligation on the licensing authority to recover BG, as prescribed in sub-section (3) of section 5 of PAPR Act 1995 from the promoter at the time of issue of license and get the development works completed. In case of non-fulfillment of the conditions of license by the developer, after encashment of BG or disposal of mortgaged property, the balance amount, if any, can be recovered from the developer and the allottees.
7. The liability of the licensing authority to recover BG against development works ended only after the distribution licensee was empowered to recover the same from the promoter as per the provisions of the Supply Code Regulations framed under Electricity Act, 2003. The provision for recovering BG @ 20% of the estimated cost of LD system at the time issuing NOC by PSPCL was specified only after the 5<sup>th</sup> amendment to the Supply Code, 2014 notified on 28.01.2019. Thus, after 28.01.2019, once PSPCL accepts the BG at the time of issuance of NOC, then the licensee PSPCL is responsible for using this BG for ensuring compliance of the conditions of NOC.
8. PSPCL has been recovering BG @ 150% of the balance works of electrical system only in case a promoter intends to develop the LD system in a phased manner and requests the distribution licensee to energize a partially completed LD system of a colony. So, once PSPCL accepts the BG @ 150% of the balance works and releases connectivity, then the distribution licensee is responsible for completing the remaining LD system if the developer fails to complete the LD system.
9. The power and the responsibility to recover the balance expenditure for completing the development works, after adjusting the amount of BG, from the developer and the allottees or to initiate other criminal proceedings is vested only with the licensing authority as per sub-section (14) and (15) of section 5 of the PARP Act 1995.



59. Having laid down the provisions of law and the Regulations governing the release of connections to the residents of colonies being developed under the bye-laws/rules of the State Government, the Commission now takes up the issue regarding release of connections in the colonies which have been abandoned by the promoter and residents are being denied electricity connections since the promoter has not discharged its obligations.

PSPCL appended a list of 71 abandoned colonies with the petition which includes those colonies also where the dispute is of contiguity. PSPCL submitted various proposals to deal with these cases. It is apprehended that in view of the rampant violations of the conditions of license by the Developers coupled with inexcusable inaction by the licensing authorities as well as PSPCL and their turning a blind eye towards violations by the Developers as observed during proceedings of other related petitions, there is likelihood of more such colonies in the State with gross violations. The Commission cannot adjudicate disputes relating to individual promoters without giving an opportunity to each and every promoter to present their case. Thus, the Commission shall lay down a general criteria for declaring a colony as abandoned by the promoter and shall issue general guidelines to deal with issue of release of connections in these colonies to mitigate the hardship being faced by the residents in getting an electric connection.

60. The first issue to be decided is which colony shall be termed as an "abandoned" colony i.e the colony in which the promoter has stopped executing the development works, particularly the electrical system, and has abandoned the project. PSPCL has submitted the following criteria for considering a colony as abandoned;

- (i) *Promoter of the Licensed colony did not apply for NOC from PSPCL and extended the incomplete LD system from a nearby colony for which NOC was availed.*
- (ii) *Promoter of Licensed colony took final NOC from PSPCL but has not complied with the NOC conditions such as non completion of LD system and/or no- payment of connectivity charges and/or other conditions of license.*
- (iii) *Promoter of Licensed colony did not take final NOC from PSPCL nor installed LD system as per provisional NOC granted by PSPCL.*

(iv) *The promoter is not ready to take revised combined NOC for their contiguous/ adjoining colonies.*

61. We will take the issue of contiguous colonies (criteria no. iv) first since it is basically a dispute between the promoter & the distribution licensee and it is not a case where the promoter has stopped the development works. Thus such colonies cannot be termed as 'abandoned' by the promoter. It is observed that the bone of contention in such cases was that before the 11<sup>th</sup> amendment to the Supply Code, 2014 issued vide notification dated 08.09.2022, the System Loading Charges (SLC) were payable in case the total estimated load of the colony exceeded 4000 kVA. It might have been a tendency of some developers to avoid System Loading Charges by claiming adjoining/contiguous colonies being developed by the same promoter as separate units. However, PSPCL was treating the contiguous colonies being developed by same promoters having some common facilities as one unit to plan electrical system and levy of SLC. Now, after the 11<sup>th</sup> amendment to the Supply Code, 2014, Regulation 6.7.2 provides that the System Loading Charges shall be payable by all the developers, irrespective of the estimated load of the colony. However such charges shall payable by the developer who deposits the connectivity charges including SLC on or after the date of notification. The relevant provisions of Regulation 6.7.2 are as under;

*6.7.2 The distribution licensee shall work out the estimated load of the colony/complex as per the norms specified in clause (b) of regulation 6.7.1 above and approve the electrical layout plan of Local Distribution (LD) system in accordance with the construction practices of the distribution licensee. -----.*

*The distribution licensee shall also plan and approve the 11 kV distribution system for providing connectivity and to feed the estimated load of the colony/complex from its distribution network. Accordingly, the distribution licensee shall work out the connectivity charges which shall include expenditure incurred by the distribution licensee to provide 11 kV connectivity to the colony/complex and the System Loading Charges, as specified in this regulation. -----.*

***In addition, the promoter shall also be liable to pay the System Loading Charges for the total estimated load of the***

**colony/complex as per the Cost data approved by the Commission. -----.**

**The connectivity charges as per this regulation shall be recoverable from the developers who deposit the connectivity charges with the distribution licensee on or after the date of publication of these regulations in Punjab Government Gazette.**

*Provided that -----.*

*[Emphasis added]*

Subsequently, the Commission vide letter dated 03.01.2023 has further clarified that the connectivity charges, as per 11<sup>th</sup> amendment to Supply Code, 2014, are recoverable for the load against which the promoter has not deposited the connectivity charges before the date of notification. **Thus, in view of the above, the issue of contiguous colonies stands settled and further action in this regard may be taken by PSPCL as per the provisions of Supply Code, 2014, as amended from time to time.**

62. One of the criteria proposed by PSPCL to treat a colony as abandoned is where the promoter has not obtained an NOC from PSPCL but has extended the incomplete LD system of the colony from some adjoining colony (criteria no i). Another similar category is where a promoter has neither taken the NOC nor has developed LD system (criteria no. iii). Both these scenarios cover all cases where even after issue of license, the promoter, as per the condition of license, has not obtained an NOC from PSPCL and may or may not be carrying out erection work of LD system in the colony.

Regulation 6.7.1(a) of the Supply Code, 2014 as on 1.1.2015, only provides that the promoter shall submit a complete layout plan and obtain an NOC from PSPCL. As per the condition of license, a promoter is required to obtain NOCs from concerned departments including PSPCL, generally within 90 days of the issue of license. However, during proceedings, it has been observed that neither the licensing authority nor PSPCL ever bother to ensure its compliance from the promoter.

Though the Department of Housing and Urban Development vide notification dated 06.05.2008 has put the responsibility to ensure that no development

work is started by the promoter before getting NOC from the departments, but PSPCL has no power under PAPR Act or Electricity Act 2003 to proceed against the promoter except to report such cases to the licensing authority who has been vested with powers under PAPRA to proceed against the promoter. As per the provisions of PAPR Act, it is responsibility of the licensing authority to ensure that conditions of license are fulfilled by the promoter failing which action should be initiated against the promoter by the competent authority of the State Government.

In view of above, the Commission, through the 11<sup>th</sup> amendment to the Supply Code, 2014 notified on 08.09.2022, specified a period of 45 days from the date of issue of license for the promoter to apply for an NOC. In cases where the promoter after the lapse of 45 days from the date of issue of license fails to approach PSPCL for obtaining the NOC, the matter should be referred to the licensing authority for appropriate action under PAPR Act, 1995.

In such cases, the developer might be postponing its liability to pay connectivity charges or BG etc. but that does not necessarily mean that the developer has stopped development works and has abandoned the project.

Whereas the issue that without getting NOC from PSPCL, the promoter might have connected the incomplete LD system with an adjoining colony, it is made clear that any LD system laid down by the promoter without approval of the electrical plan and issue of NOC is violation of the provisions of the Supply Code, 2014 read with conditions of license. It shall be unsafe to connect the same with the distribution system till it is inspected by CEI and approved by the distribution licensee. Secondly, using electricity of another premises/colony to feed a colony is a case of Unauthorized Use of Electricity (UUE) and should be dealt with in accordance with the provisions of section 126 of the Electricity Act, 2003 read with Regulation 36 of the Supply Code, 2014. The cases of unauthorized use of temporary supply or extending the supply from an adjoining premises etc. by the developers to feed residents of a colony have been detected earlier also. However, despite initiation of proceedings under section 126 of the Act, the promoters continue to proceed with development works. **Thus, to declare that a promoter has abandoned the development works of a colony on this ground in order to release**

**connections to the residents in relaxation to the provisions of Regulation 6.7 of the Supply Code, 2014 shall be prone to misuse by some developers and cannot be accepted.**

63. Another criteria proposed by PSPCL to declare a colony as abandoned is where after obtaining a NOC from the PSPCL, the promoter has not complied with the conditions of NOC and the license viz non-completion of LD system and/or non-payment of connectivity charges and/or non-compliance of other conditions of license. As on date, there may be many promoters who have not yet completed the LD system or have yet to deposit connectivity charges but may be carrying out other activities in the colony. A promoter is supposed to carry out many development works in the colony such as roads, parks, footpaths, water supply, sewers, drains, tree planting, street lighting etc. In case a promoter abandons a project then he is likely to stop executing all or some of these works also and not only the electrical network.

We agree that all these scenarios mentioned by PSPCL in its proposal viz not obtaining NOC or non-compliance of the conditions of NoC etc. may be appropriate ground for initiating action against the promoter for contravention of the conditions of license as per the provisions of sub-section (14) of the Section 5 of the PAPR Act, 1995 but are not sufficient to declare a colony as abandoned without following the procedure prescribed in PAPRA.

The sub-section (14) of section 5 of the PARP Act 1995 provides that in the event the promoter contravening any provisions of this Act, or rules made thereunder or any conditions of the license granted under sub-section (3), the competent authority may, after giving an opportunity of being heard, suspended or cancel the license and enforce the bank guarantee furnished by the promoter under the said sub-section(3). Now the license granted to a developer casts responsibility on the developer to obtain an NOC from the concerned department including PSPCL and carry out internal development works within a specified time unless the period is extended by the competent authority. The NOC issued by PSPCL also lays down the conditions and time period for erection of the LD system in the colony unless extended or relaxed by the distribution licensee. Thus, it is the responsibility of the competent

authority/licensing authorities to initiate action under the PAPR Act to cancel the license of all the developers who are at default.

**It is thus concluded that in case a promoter has not obtained the NOC from PSPCL or has not fulfilled the conditions of the NOC issued by PSPCL such as an incomplete LD system or has not depositing the BG or the connectivity charges etc, it shall be sufficient grounds to initiate action to get the license of such promoter suspended or cancelled from the licensing authority as per the provisions of the PAPR Act 1995. Once the license of a developer is suspended or cancelled by the licensing authority as per sub-section (14) of section 5 of the PAPR Act, such colony shall be treated as abandoned colony and further action for release of connections may be initiated as discussed below.**

64. After a colony is declared as 'abandoned' as discussed in para 58 above, the issue to be resolved is who shall be responsible to lay down the LD system in such an abandoned colony and how the electric connections shall be released to the residents? PSPCL submitted proposals for release of connections in the abandoned colonies vide letter dated 01.08.2022 which has been reproduced at Para-20(7) of this order. The gist of the proposals is as under;
- (i) In the first category where the promoter did not apply for NOC from PSPCL but extended the incomplete LD System from a nearby colony, it has been proposed that the layout plan along with the total estimated load of the colony as per the present loading norms shall be worked out along with the tentative estimated cost of laying the LD System and the connectivity charges for the colony. After estimating the Service Connection Charges (SCC), as approved by the Commission (which will be recoverable from the residents), the balance amount may be recovered from the Licensing Authority along with connectivity charges. The Licensing Authority may recover the amount from the developer as per the provisions of PAPR Act, 1995 (PAPRA). In cases where the Licensing Authority refuses to accept this proposal then the same option may be offered to the registered RWA of the concerned colony. In another category where the promoter has not taken the final NOC and has not

installed the LD system, PSPCL proposed a One Time Settlement (OTS) scheme failing which the proposal as above shall be explored.

Basically, both covers cases where the promoter has neither obtained the NOC from PSPCL nor has developed the LD system so there is no reason to treat them differently.

- (ii) Another category is where the developer took the NOC from PSPCL but has not complied with the conditions of NOC. PSPCL proposed a One Time Settlement (OTS) scheme for release of connections in such abandoned colonies vide letter dated 01.08.2022. Thereafter, PSPCL filed an IA No. 29 of 2022 with a fresh proposal by way of a One Time Settlement Scheme to deal with the cases where, after obtaining NOC from PSPCL, the promoter has not complied with the conditions of NOC but is now willing to complete the project. PSPCL also proposed that temporary connection up to a load of 10kW may be permitted to the promoter without the condition of NOC.

65. Subsequently, in reference of this IA, Government of Punjab, Department of Power issued Notification dated 14.06.2023 wherein the State Government laid down the policy to deal with the cases where NOC has been issued by PSPCL but the conditions in the same have not been complied with by the developer and has since expired. PSPCL informed that the proposal of granting temporary connection upto 10 kW has not been included in the notification since it was not recommended by the Supply Code Review Panel. Thus, this proposal is considered as withdrawn by PSPCL. In view of GoP notification dated 14.06.2023, the OTS proposals initially submitted by PSPCL vide its letter dated 01.08.2022 and IA no 29 of 2022 stand superseded. We will discuss only the revised proposal for OTS based on the provisions of GoP notification dated 14.06.2023.

As per this GoP notification, the expired NOC cases have been bifurcated in two parts. One, where NOC was issued on or after 01.01.2015 and the other where NOC had been issued upto 2014. The GoP notification is only offering a One Time Settlement to promoters who had obtained an NOC from the distribution licensee which has expired but who are willing to complete the project. No policy directions have been incorporated to deal with the cases

where the promoter has not obtained an NOC from PSPCL or may refuse to avail the offered OTS and/or has abandoned the project.

66. In cases where NOC by PSPCL was granted on or after 01.01.2015 and whose validity has expired, the State Government has decided to allow an extension upto 2 years on the same terms and conditions as were included in the original NOC provided, the validity of the license is extended by the competent authority and there is no change in the approved layout plan of the project. In such cases, the connectivity charges, including System Loading Charges (SLC) and other charges, shall be payable as per Supply Code, 2014, as amended from time to time.

It is pointed out that Regulation 6.7.1(a) of the Supply Code, 2014, specifies no validity period of the NOC issued to the promoters of a colony or extension in the validity period of the NOC. Thus, PSPCL is at liberty to extend the validity of the NOC, as deemed fit, provided the promoter has a valid license under PAPRA. However, as per the prevailing regulations, various compliances by the promoter are linked with the date of issue of NOC or revised NOC. In case the validity of the original NOC is extended without issuing the revised NOC then no relaxation in the provisions of Supply Code Regulations is required and PSPCL is competent to resolve the issue at its level.

67. For NOCs issued upto 2014 where compliance of NOC has not been made by the developer and NOC had expired long ago, the State Government has decided to allow a One Time Settlement (OTS) scheme in such cases subject to the following conditions:-
- i) Connectivity charges shall be as per Supply Code, 2014 as amended from time to time.
  - ii) The System Loading Charges shall be exempted.
  - iii) Amendment in NOC may be allowed without insisting for extension of the license.
  - iv) Already erected LD System shall be accepted by PSPCL subject to its health being found to be fit.
  - v) The developer shall complete the balance work of the LD System as per the Supply Code within 2 years from grant of amendment in the NOC or get it executed from PSPCL by depositing the cost of balance works.



vi) Electricity connection may be released to the residents after the developer deposits 50% of the connectivity charge under this OTS and the remaining 50% with interest in quarterly installments within two years.

After the 11<sup>th</sup> amendment to the Supply Code, 2014, issued vide notification dated 08.09.2022, Regulation 6.7.2 provides that the System Loading Charges shall be payable by all the developers, irrespective of the estimated load of the colony and such charges shall be payable by the developer who deposits the connectivity charges including SLC on or after the date of notification. Now, in this case, the GoP has decided to exempt SLC in all cases. Even though it is one-time measure, it needs relaxation of the provisions of the Regulations. Similarly, deposit of 50% connectivity charges and recovery of the remaining in installments is also not as per Regulations.

In case the promoter does not avail OTS then PSPCL has proposed that the same option shall be offered to the Licensing Authority who, after cancellation of the license of the promoter, may recover the expenditure from the promoter, and the allottees as per PAPRA.

68. In response to the proposal of PSPCL as mentioned above, Special Secretary, Government of Punjab, Housing and Urban Development Department, in its reply dated 05.12.2022 submitted that the bank guarantee received at the time of granting license to the promoter could be encashed only after suspension/cancellation of the license under Section 5(14) of PAPRA. Further the bank guarantee is for completing all the leftover internal works which includes roads, parks, footpaths, water supply sewer etc. etc. and not only for erection of LD System and connectivity charges. The Housing Department further submitted that if this proposal is accepted by the registered RWA of the concerned colony then all the leftover internal works can be executed by RWA without resorting to cancellation of license provided the license is still valid and has not expired or cancelled. Regarding the OTS proposed by PSPCL, the department submitted that there is no provision under PAPRA or condition of license whereby the promoter could be persuaded to come forward for a one time settlement scheme. As submitted by PSPCL also, the scheme is being extended to promoters in relaxation of some conditions of NOC issued by PSPCL and not of conditions of license. It

is a onetime measure to give an opportunity to promoters who are willing to complete the electrical works in order to mitigate the hardship of the residents who are without electricity connections in these colonies due to the negligence on the part of the promoters and the concerned authorities to effectively implement the conditions of the license and the NOC.

The condition suggested by Housing Department that RWA may execute the development work provided license has not been cancelled is not in consonance with the proviso to section 5(16) of PAPRA which provides as under;

*“Provided that the competent authority may, recover from the allottees with their consent, an amount in excess or what may be admissible under the aforesaid terms of agreement of sale or transfer”*

So RWA, which represents allottees, can opt to bear the charges to get the development works completed.

69. The argument of the Housing Department that the BG can be encashed only after cancellation of license as per section 5(14) of PAPRA may be factually correct but raises the questions as to what stops the Licensing Authority from cancelling the license in case the promoter violates the provisions of the PAPRA and/or conditions of license. The other argument that the BG is not only for the electrical system but for all internal development works is again a lame excuse since section 5(15) clearly provides that after adjusting the amount received as a result of enforcement of bank guarantee or by disposal of the mortgaged property, the competent authority can recover the charges which it may have to incur on the development works from the developer and the allottees in the manner as provided in section 5(16) of PAPRA. It has been observed in almost of all the disputed cases brought before the Commission through various petitions by the aggrieved residents of such colonies that the both the licensing authorities and the officers of the distribution licensee failed miserably to get the conditions of license or NOC implemented from the promoters, causing hardship to the allottees.
70. A promoter, after getting a license under section 5(3) of PAPRA, is required to carry out development works in the colony including laying of the LD system

upto the premises of the allottee. As per section 14(1) Of PAPRA, it is the responsibility of the developer to obtain completion/partial completion certificate and occupation certificates to the effect that development works have been completed as per the conditions of license. Government of Punjab, Department of Housing and Urban Development issued a policy for issue of completion/partial completion vide notification/orders dated 02.09.2014 and 05.07.2021. A team of officers from the civil, electrical, public health wings etc are required to visit the colony and certify that all development works including, but not limited to, installation of distribution transformers, electric lines and sub-stations have been completed by the promoters. In case of partial completion, the occupancy certificate is issued only for dwelling units within that part of the colony. However, it has been brought out in various investigations conducted by PSPCL on the directions of the Commission that allottees have constructed their house and have occupied them despite an incomplete LD system in the colony. How is such a state of affairs possible without the connivance or at least gross negligence of the concerned officers? Although PSPCL has initiated disciplinary cases against many delinquent officers/officials after these irregularities were highlighted during the proceedings before this court, we have not been informed of any such action having been initiated by the competent State agencies.

The Commission had already recorded these observations in its order dated 30.09.2022 in petition no 22 of 2020, which reads as under;

*“---However, in this case, though the developers had taken NOC from PSPCL for some colonies, but had not completed the LD system. In the remaining cases, the developers had not even approached PSPCL for taking the NOC. However, PSPCL also failed to take up timely action to take up the matter with the licensing authority regarding non-compliance by the developers with the conditions of licence in respect of obtaining NOC from the distribution licence and developing the LD system in the colony. Even PSPCL went ahead with issuing connections in the colonies for which NOC was not taken by the developers or the LD system was not completed by them. PSPCL*

*released electricity connections in the colonies even though the developers had not taken the mandatory NOC from PSPCL.*

*The Government instructions reproduced above forbade the start of any development work without getting an NOC from PSPCL. PSPCL also failed to take up the issue with the licensing authority regarding the violation of the conditions of licence by the developer. Even the licensing authority failed to prevent the commencement of development work in the colony without issue of NOC by PSPCL and further failed to prevent the sale of properties to customers without ensuring the mandatory development in the colony as per license conditions.*

***Thus, despite clear provisions in the conditions of licence to take action against the errant developers, the licensing authority has not brought on record any action taken by it against the Developer except now, as an afterthought, lodging an FIR against one of the developers and issuing instructions for taking over the colonies. It is, though, an action too late since a substantial number of plots have already been sold and also occupied after construction of houses resulting in the present petition. This action is akin to trying to close the stable after the horse has bolted.***

*The Commission observes that people invest their lifelong earnings in purchasing a dwelling unit or a plot in an approved colony duly licenced by the licencing authority like PUDA/GMADA/M.C. with their sacred belief in the enforceability of the conditions of licence and robust development of requisite civic facilities including well- developed local electricity distribution (LD) system and electricity connections. **However, rampant violations of the conditions of licence by the Developers, e.g., non-development of LD system as in the instant case coupled with inexcusable inaction by the concerned departments results in undue harassment to the residents. In this backdrop, negligent attitude of the licensing authorities as well as PSPCL and their turning a blind eye towards violations by the Developers is alarming. Thus, the Commission has, with grave concern, observed that instead of taking***

***proactive actions within their domains, the licensing and development authorities are more in denial and intent on passing the buck and blaming each other rather than enforcing their mandate and protecting the interest of the consumers while the errant developers get away scot free after deliberately avoiding their commitments as per the licensee conditions. Thus, the Commission directs the Secretary, Department of Housing and Urban Development, Govt. of Punjab and the Secretary, Department of Local Government, Govt. of Punjab to identify the lapses which led to collusive or lenient oversight of their officials regarding the violation of the conditions of licence by the Developers of the Shivalik City, Kharar and further fix responsibility and to take appropriate action against those responsible and also remedial measures to prevent recurrence of such lapses. Moreover, as a deterrent, the licensing authority should take immediate penal action against these developers and their Directors as per law. The Secretary, Housing and Urban Development, Govt. of Punjab and the Secretary, Department of Local Government, Govt. of Punjab may also look into inserting appropriate checks in licensing conditions to plug the loopholes which enable such developers to get away with appropriating the benefits of their license without meeting their obligations to the detriment of their customers/buyers of plots. PSPCL also needs to take similar action against those responsible for providing electricity connections despite the Govt. instructions and licensing conditions being violated by the developers.***

[Emphasis added]

Similar observations have been recorded by the Commission in its orders in petition no. 48 of 2020 and 47 of 2021.

71. To ensure that such irregularities are not repeated in future, we reiterate the directions issued to the Licensing authorities and PSPCL in Petition No. 22 of 2020, 48 of 2020, 13 of 2021 and 47 of 2021 as under;

**Licensing Authority such as PUDA/GMADA and municipal authorities**

1. *Compliance of the conditions of licence by the Developers including the one for obtaining NOC from distribution licensee i.e. PSPCL be monitored regularly and a multilateral institutional mechanism be immediately set up. A mechanism be set up to ensure that the license conditions are complied with within the specified period failing which the required action as per law be initiated by the licensing authority.*
2. *To prevent cheating of customers, licensee should be allowed to sell plots, only after complying with the licensing conditions.*
3. *Clearance from the distribution licensee i.e. PSPCL be taken before giving completion/partial completion certificate for the colony.*
4. *Immediate action be taken against the Developers of the colonies and their Directors as per law.*

**Distribution Licensee i.e. PSPCL**

1. *Expeditious reporting to the licensing authority be ensured in case the Developer fails to obtain the NOC within the stipulated time or fails to implement the conditions of licence related to PSPCL/electricity system.*
  2. *It must be ensured that temporary electricity connections are issued only in the name of the Developer after the issue of NOC.*
  3. *It must be ensured that the temporary connection is used only for the purpose for which it has been given.*
  4. *The timeline to set up the LD system must be a part of the NOC*
  5. *Formal mechanism be set up immediately to undertake periodic checking vis-à-vis the timelines for erection of the LD system as per the conditions of NOC. Immediate action be taken against the Developers as per law for effecting the recovery of expenditure for laying the LD system in the colony.*
72. To sensitize various government authorities to such an unwieldy situation and to find practical solutions in the larger public interest, the Commission along with RERA organized two meetings which were held on 05.08.2021 and 14.12.2021 wherein senior representatives from the Department of Housing and Urban Development, Department of Local Government, Department of Town and Country Planning, GMADA, PSPCL etc. were present. After detailed deliberations it was proposed that the Department

of Housing and Urban Development, Government of Punjab in co-ordination and consultation with PSPCL should evolve modalities and come out with a policy framework to resolve the issues highlighted in the meeting. The Department of Local Government was also asked to adopt a similar policy. However, sadly not much headway has been made nor concrete action undertaken by the concerned departments. A few urban development agencies such as Patiala Development Authority and GMADA have initiated some deterrent action such as lodging of FIRs against errant developers, stopping of plot registrations in such colonies, but only after persistent reminders and follow up by the Commission. Moreover, such action though helpful in creating a deterrence for the future, was scarcely enough and did not solve the problem of residents regarding non-availability of electricity connections.

**73. In view of the above, after considering all the legal aspects and discussing the roles and responsibilities of each stakeholder, the Commission, as per the powers conferred under Regulations 45, 46 & 47 of the Supply Code, 2014 read with Regulations 68, 69, 70 & 71 of PSERC (Conduct of Business) Regulations, 2005 and by relaxing the relevant provisions of Regulation 6.7 of the Supply Code, 2014 as amended from time to time, issues the following directions to regulate the release of electric connections in the colonies declared as 'abandoned' in terms of conditions laid down in para 63 of this order, as under;**

- 1. PSPCL shall report all cases of violation by the promoters of the provisions of PAPRA or conditions of license or NOC issued by PSPCL such as failure to obtain NOC from PSPCL within the stipulated time or refusal to complete the LD system or refusal to deposit the requisite charges as approved by the Commission etc. to the competent authority as provided in PAPRA within 45 days of the issue of this order. In case the competent authority refuses to act against the promoter or initiate action under section 5(14) and 5(15) of PAPRA within 3 months, PSPCL shall take up the matter with the competent court or the authority as per law to get necessary**

directions to the competent authority to proceed against the developer and initiate further action as per Section 5(14), 5(15) and 5(16) of PAPRA. It shall also intimate the Secretaries of the relevant departments of the Government and also the Power Secretary so as to flag the concerns to the policy making level of the Government of Punjab.

2. Simultaneously, to give one last opportunity to the promoters who had not earlier complied with the conditions of NOC issued by PSPCL and the conditions of license but are now willing to complete the project, a One Time Settlement Scheme (OTS) for completing electrical works may be offered to such promoters. The promoters can avail of this OTS within one year of the date of issue of this order or of cancellation of the license by the competent authority under Section 5(14) of PAPRA, whichever is earlier. The terms and conditions of this OTS shall be as under;

(A) For NOCs granted by PSPCL on or after 01.01.2015 and whose validity has expired;

- (i) allow extension upto 2 years on the same terms and conditions as were recorded in the original NOC, provided the validity of license to develop the colony is extended by the competent authority, subject to a maximum of 2 years. PSPCL shall not insist on getting a revised NOC. It should be ensured that all conditions of the NOC are complied with.
- (ii) there is no change in the approved layout plan of the project.
- (iii) the connectivity charges including System Loading Charges (SLC) and other charges shall be payable as per PSERC (Electricity Supply Code and related matters) Regulations, 2014, as amended from time to time.

(B) For NOCs granted by PSPCL upto 2014 whose validity has expired and compliance has not been made, provided the license has not been suspended or cancelled under section 5(14) of the PAPRA;

- (i) Connectivity charges shall be payable as per PSERC (Electricity Supply Code and related matters) Regulations, 2014, as amended from time to time.



- (ii) The System Loading Charges shall be exempted.**
  - (iii) Amendment/Extension in the NOC may be allowed for a period of 2 years without insisting on the extension of the license. However, PSPCL shall get the no-objection/concurrence of the licensing authority for getting the electrical works completed in the colony from the promoter.**
  - (iv) Already erected LD System shall be accepted by PSPCL subject to its health being found to be fit.**
  - (v) The developer shall complete the balance work of the LD System as per Supply Code, 2014 within 2 years from grant of amendment in the NOC or get it executed from PSPCL by depositing the cost of balance works.**
  - (vi) Electricity connection may be released to the residents after the developer deposits 50% of the connectivity charge under this OTS and the remaining 50% shall be received with interest as per the prevalent SBI rates in quarterly installments within two years. However, if the developer chooses to pay the full payable charges in one go, a discount of 5% may be allowed on the full payable charges as an incentive to the developer.**
- (3) Once the license of a developer is suspended or cancelled by the licensing authority as per sub-section (14) of section 5 of the PAPR Act, such colony shall be treated as an abandoned colony and the release of connections in such colonies, in relaxation Regulation 6.7 of the Supply Code, 2014, as amended from time to time, shall be governed as under;**
- (i) In case, PSPCL has accepted a BG at the time of allowing connectivity to a colony with incomplete LD system as per the provisions of the Regulations, then PSPCL shall be responsible to complete the remaining LD system and release connections to the residents without recovery of SCC from the residents. Since PSPCL is obligated to obtain a BG before allowing connectivity to a partially completed LD**

system, thus, in case partial connectivity has been released by PSPCL without getting a BG as per regulations then the remaining LD system shall be completed by PSPCL and connections shall be released by recovering Service Connection Charges as approved by the Commission. Any financial loss may be recovered by PSPCL from the delinquent officials/officers as per law.

- (ii) The layout plan along with total estimated load of the colony as per the present loading norms shall be worked out along with the tentative estimated cost of laying the LD System and the connectivity charges for the colony by PSPCL. After estimating the Service Connection Charges (SCC), as approved by the Commission, which will be recoverable from the residents, the balance amount shall be intimated to the Licensing Authority. In case, PSPCL has accepted a BG from the promoter at the time of issue of NOC as per the provisions of Supply Code, 2014, the same may be en-cashed by PSPCL and this amount shall also be deducted from the balance amount communicated to the competent authority. As per the provisions of sub-section (14), (15) and (16) of Section 5 of PAPRA, the Licensing Authorities may get the work of erection of LD System carried out at its level and recover any additional expenditure from the promoter and the allottees as per the provisions of PAPRA. Alternatively the Licensing Authority may get this work completed from PSPCL by depositing the amount worked out above.
- (iii) In case the RWA of such a colony opts to get the work of electrical system executed, the proposal as at Sr No.(ii) above shall be offered to the RWA.
- (iv) During the period the issue is being settled by PSPCL with the licensing authority or RWA as discussed above, in order to mitigate the hardship of the residents of the abandoned colonies, the Commission decides and directs that PSPCL may work out the estimated load of the colony and

expenditure for laying the LD system including connectivity charges as per the norms and the rates approved by PSPCL for preparing estimates for release of GSC connections and work out the per kW expenditure (development charges) for release of connections in the abandoned colony. In case, at least 20% of the plot/flat holders without electricity connections in such a colony opt to get electricity connections from PSPCL by paying development charges as per the applied load (which shall not be less than the approved norms) then the same may be released to the applicants subject to the condition that in case the development charges deposited by the resident are more than the service connection charge approved by the Commission then the excess amount, if any, shall be refunded to the resident after recovery of expenses from either the promoter or the Licensing Authority.

Accordingly, we direct the licensing authorities as under;

- (i) to immediately proceed as per law to take action to suspended or cancel the license of all such developers as per section 5(14) of PAPRA who are in violation of the conditions of license by not obtaining NOC from PSPCL or completing the LD system of the colony or paying connectivity charges, suo-moto or on the report of PSPCL.
- (ii) After the license of the promoter is suspended or cancelled by the licensing authority as per sub-section (14) of section 5 of the PAPR Act, the responsibility for getting the development works of such colonies completed is that of the licensing authority as per sub-section (15) of section 5 of the PAPR Act, 1995, as amended from time to time.
- (iii) The licensing authority can get the works completed by en-cashing the BG or disposing the mortgaged property and in case of excess expenditure, recover it from developer and the allottees as provided

in sub-section (16) of section 5 of the PAPR Act. The electrical works can also be completed by depositing the amount with PSPCL as worked out above.

The above decision/order of the Commission shall also be applicable to similarly placed colonies irrespective of these having been included or not in the list of colonies appended by PSPCL in P.No 07 of 2021.

The petitions 07 of 2021, 24 of 2022, 33 of 2022 and 23 of 2023, along with IA No. 29 of 2022 are disposed of in the light of the above observations and directions.

Sd/-

(Paramjeet Singh)  
Member

Sd/-

(Viswajeet Khanna)  
Chairperson

Chandigarh  
Dated: 25.07.2023

