

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION  
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH**

**PETITION No. 45 of 2015**

**DATE OF ORDER:02.09.2015**

Present: Smt.Romila Dubey, Chairperson  
Shri Gurinder Jit Singh, Member

In the matter of: Petition under clause no. 5 & 6 of the Regulations on Electricity Supply Code for extension of compliance period for registration of A&A forms of Railway Traction sub Stations at Maiser Khana.

AND

In the matter of: Divisional Railway Manager (Elect./TRD), New Delhi through its authorized representative Shri Sudhanshu Krishna Dubey, Sr. Divisional Electrical Engineer(TRD), Northern Railway, New Delhi

-----Petitioner

Versus

Punjab State Power Corporation Limited, Patiala through its Chief Engineer/Commercial.

-----Respondent

**Order**

The Divisional Railway Manager (Elec./TRD), New Delhi has filed the present petition for grant of extension in compliance period for registration of A&A forms of Railway's Traction S/S at Maiser Khana.

1. The petitioner has made the following submissions:
  - (i) Railway submitted an application for a demand of 5000 kVA for Maiser Khana Traction S/S along with other documents

- on 15.03.2011 and deposited 10% ACD i.e. ₹ 5.5 lac on 27.09.2013 through DD No. 207352 dated 06.09.2013.
- (ii) On the instructions of the PSPCL dated 01.11.2013 to submit the load application online, the Railway re-submitted the application on 09.12.2013.
  - (iii) PSPCL vide Memo No.2256 dated 25.02.2014 informed that the validity period of demand draft has expired and accordingly the petitioner got the DD revalidated and deposited the same on 05.03.2014.
  - (iv) According to regulation 6.3.2 of the Supply Code, the distribution licensee is required to grant feasibility clearance within 60 days of receiving the request but no feasibility clearance was given to the Railway within the stipulated time.
  - (v) PSPCL vide Memo No.315 dated 01.07.2014 informed that there is a proposal to grant feasibility clearance from 220 kV sub-station Talwandi Sabo but the case has been deferred due to outstanding amount in a UUE case pending against the Northern Railway.
  - (vi) Deputy Chief Electrical Engineer, Railway Electrification, Ambala vide its letter dated 09.12.2014 requested PSPCL for feasibility clearance since the Railway Electrifications (CORE) is an autonomous unit directly reporting to Railway Board and is not connected with Northern Railway.
  - (vii) The office of Dy. CEE, RE, Ambala received Memo No.711 dated 13.01.2015 from SE/Sales-I, PSPCL (received on 27.01.2015) informing that 10% ACD amount of ₹5.5 lac has been forfeited due to non-submission of A&A form along with balance amount of ACD up to 01.11.2014. Neither feasibility clearance was granted within stipulated time nor was timely

intimation to deposit A&A form along with balance amount of ACD given at the proper address. The letter reached after due date for compliance probably due to dispatch of feasibility clearance letter on the wrong address. As the feasibility clearance letter reached much after the expiry of last date of submission, so the compliance could not be made within the stipulated time.

(viii) The petitioner submitted that there is no fault at his level and the petitioner has always been ready to comply with the instructions of PSPCL for registration of A&A form along with deposit of balance ACD amount provided a reasonable time is granted to the Railway.

The petitioner prayed that permission for submission of A&A form along with balance ACD for Maiser khana Railway Traction S/S, may be accorded in the interest of justice and being a public office.

2. The petition was admitted and the Commission vide Order dated 05.08.2015 directed PSPCL to file reply by 18.08.2015. The petition was fixed for hearing on 25.08.2015.
3. PSPCL vide Chief Engineer/ARR & TR Memo No. 5396/TR-5/712 dated 17.08.2015 filed the reply and submitted as under:
  - (i) The petitioner submitted application through online window on 09.12.2013 and since earnest money was also required to be deposited online, so application could not be processed. The application was processed after giving relaxation to the petitioner to deposit the amount through Demand Draft.
  - (ii) Feasibility clearance could not be granted because of pending UUE case of ₹ 4,51,64,768 against the petitioner and the same was informed by SE/Sales-1, PSPCL, Patiala

vide Memo No.416 dated 28.07.2014. The feasibility was again considered in the subsequent meetings and keeping in view that the scope of work requires longer period for execution as 220 kV line of about 30.2 KM is to be erected so feasibility was cleared in the meeting dated 24.9.2014 and feasibility letter was uploaded on the system as per requirement of Single Window System. Subsequently system generated messages on Mobile No.9717631302 were sent on regular basis from 02.10.2014 onwards for issuance of FCC letter with the message "kindly login and download FCC letter". The hard copy of FCC letter was also sent to the petitioner vide Memo No.564 dated 01.10.2014 which was later on confirmed by SE/Sales-I through Memo No.711 dated 13.01.2015 addressed to Deputy Chief Electrical Engineer, Railway Electrification, Ambala Cantt.

- (iii) Since the petitioner has not deposited the balance ACD along with A&A form within the stipulated period of 30 days and neither got the period extended as per regulation 6.3.3 of Supply Code 2014, so the application was cancelled on 01.11.2014. With regard to the subsequent representation dated 09.12.2014 from the petitioner, SE/Sales-1, PSPCL vide Memo. No. 711 dated 13.01.2015 intimated that feasibility clearance letter has already been sent to M/s DRM/TRD/NR, New delhi Maiser khana Bathinda and copy was enclosed. Dy.Chief Engineer/ Sales-II, PSPCL, Patiala vide Memo No.108 dated 10.04.2015 confirmed to the petitioner that EMD has been forfeited and re-confirmed vide 161 dated 20.5.2015. Dy.Chief Engineer/Sales-I, PSPCL vide Memo No.114 dated 29.05.2015 explained that the

feasibility clearance letter was uploaded on the on-line Single Window System and the same was also dispatched at the concerned address on 10.10.2014 and SMS alert was also sent on the registered Mobile No. of the firm to download the letter.

- (iv) The petitioner was not actually eligible for feasibility clearance because of pending UUE case but the same was given in relaxation with the condition that the petitioner will deposit UUE amount before release of connection.

In view of the above, the petitioner is not eligible to get any relaxation as it has failed to respond to the requirements of PSPCL.

4. After hearing the arguments on behalf of Northern Railway and PSPCL on 25.08.2015, the Commission vide Order dated 26.08.2015 decided to close further hearing of the case and directed PSPCL and Northern Railway to file written submissions by 31.08.2015.
5. PSPCL through its counsel filed written arguments dated 28.8.2015, which were revised on 31.08.2015. PSPCL reiterated the submissions made earlier as reproduced at Para 2 above. The gist of the written arguments is as under:
- (i) PSPCL vide letter dated 01.07.2014 addressed to concerned official at New Delhi Maiser Khana (Bathinda Depot) informed the Railway that the case for release of demand of 5000 kVA from Talwandi Sabo Grid S/S was considered and the same could not materialized on account of outstanding amount of ₹4,51,64,768 due to pending UUE case. There is no averment that Railway did not get this letter or got it late.

- (ii) PSPCL letter dated 28.07.2014 vide which Railway was informed that feasibility clearance for supply from Talwandi Sabo S/S has been deferred was also addressed to the official concerned at New Delhi Maiser Khana (Bathinda Depot). This letter was duly received by Railway and there is no averment that Railways did not get this letter or got it late.
- (iii) The feasibility clearance was granted from 220 kV S/S Mansa & conveyed vide letter dated 01.10.2014, addressed to the official concerned at New Delhi Maiser Khana, Bhatinda. The averment of Railway that this letter was received after the expiry of time period for submissions of documents along with balance money due is without any basis. The address on this letter is same as marked on letter dated 01.7.2014 and 28.07.2014.
- (iv) The intimation was also sent through SMS alerts on the registered mobile number mentioned on the requisition form and these SMS alerts continued till 23.12.2014 but the Railway ignored these messages.

Thus PSPCL discharged its liability but on the contrary the Railway paid no heed to the letter dated 01.10.2014 and SMS alerts sent on their registered mobile number. Due to the failure of the Railway to fulfill the requirements, the requisition was cancelled and EMD has been forfeited.

6. Northern Railway, New Delhi submitted the written arguments vide letter dated 27.08.2015 (received on 31.08.2015) and submitted as under:-

- (i) That as per regulation 44 of the Supply Code any order/notice to the consumer by the licensee shall be required to be served by:

- a) *registered post, under certificate of posting or by Courier.*
  - b) *hand to consumer and an acknowledgement taken from any person in the premises, or*
  - c) *affixing at a conspicuous part of such premises in case there is no person available, to whom the Order/notice can, with reasonable diligence, be delivered.*
- (ii) The Railway did not get any feasibility clearance from PSPCL as per above regulation. Railway on the other hand wrote a letter dated 09.12.2014 requesting PSPCL for grant of feasibility clearance and intimation of the cost estimate for erection of the transmission line.
- (iii) PSPCL replied through a letter containing a photo-copy of the feasibility clearance letter which was received on 27.01.2015 whereas the last date for submission of A&A form along with balance amount of ACD was 01.11.2014.
- (iv) PSPCL knowingly or unknowingly provided wrong address of recipient on the feasibility clearance letter due to which the letter was not delivered.
- (v) Railway being a Govt. Organization, no payment could be made without a signed letter and the approvals cannot be obtained on the basis of SMS.
- (vi) Railway approached various authorities of PSPCL for allowing registration of A&A form along with balance amount of ACD but failed to solicit any response from the authorities, forcing the Railway to approach the Commission for getting the required relief.

The petitioner also submitted a copy of the Requisition Form submitted by it to PSPCL vide email dated 31.8.2015.

7. The Commission considered the submissions made in the petition, reply of PSPCL and the documents supplied by the petitioner and PSPCL along with the detailed arguments of both the parties. The Commission notes that the main contention of the petitioner is that the intimation regarding feasibility clearance issued by PSPCL vide letter dated 01.10.2014 for a load of 5000 kVA for Maiser Khana Traction S/S, was not issued as per regulation 44 of the Supply Code, 2007. Since the letter reached the petitioner after due date for compliance due to wrong address on the intimation letter so the compliance could not be made within the stipulated time and the requisition was wrongly cancelled and earnest money has been forfeited without any notice. Moreover, the feasibility clearance was not granted within 60 days as provided in regulation 6.3.2 of the Supply Code.

On the other hand, PSPCL's plea is that firstly the petitioner is not eligible for feasibility clearance because of pending UUE case of ₹4,51,64,768 as per ESIM clause 3.2(viii). The feasibility clearance was granted in the meeting held on 24.09.2014 subject to compliance of ESIM clause 3.2 (viii) (c) before release of load since it was felt that the execution of 220 kV line of about 30.2 KM will take a long time. The feasibility clearance letter was uploaded on the system as per requirement of Single Window System and system generated messages were sent on regular basis on the registered Mobile No. of the petitioner with the message "Kindly log in and download FCC letter". PSPCL claimed that the hard copy of the feasibility clearance letter dated 01.10.2014 was addressed to the official concerned at New Delhi Maiser Khana (Bathida Depot). The averment of the petitioner that this letter reached late has no basis as the letters dated 01.07.2014 and

28.07.2014 were also sent at the same address and Railway has not pleaded that these letters were not received or got these late. The application of the petitioner was cancelled by PSPCL on 01.11.2014 as the petitioner has not deposited the balance ACD along with A&A form within 30 days and neither got the period extended as per regulation 6.3.3 of the Supply Code.

So, we may refer to regulation 44 of PSERC (Supply Code and Related Matters) Regulations 2007 containing the instructions regarding servicing of notice, which is re-produced below:

**44. Service of notice**

*Any order/notice to a person/consumer by the Licensee including a notice under Section 56 of the Act, shall be deemed to be duly served by the Licensee if it is:*

- a) *sent by registered post, under certificate of posting, or by courier,*
- b) *delivered by hand to a consumer/person and an acknowledgement taken from any person in the premises, or*
- c) *affixed at a conspicuous part of such premises in case there is no person available, to whom the order/notice can, with reasonable diligence, be delivered.*

Although use of latest information technology tools such as issuing of SMS on registered Mobile No.etc., are welcome steps but these may be used in addition to the legal mode of service of notice to the consumer prescribed in the Supply Code particularly in a case where the consumer is required to make any compliance within a stipulated time. The hard copy of the feasibility clearance letter containing directions to the consumer for compliance of certain formalities within the stipulated time was

required to be served, in accordance with regulation 44 of the Supply Code 2007. PSPCL has failed to produce any evidence to show that the feasibility letter dated 01.10.2014 was sent either by registered post or under postal certificate or by courier or delivered by hand to the applicant as per requirement of the Supply Code regulations. Moreover the letters dated 01.07.2014, 28.07.2014 & 01.10.2014 were addressed to “M/s DRM/TRD/NR, New Delhi Maiser khana Bhatinda”. The address provided on the requisition form is “ DRH/TRD/N.RLY, New Delhi”. However while addressing the feasibility letter the name of traction sub-station i.e Maiser khana Bathinda was added in the end by the concerned office of PSPCL that might have created confusion about the destination of the recipient. **It is thus concluded that neither the intimation/notice for compliance of feasibility clearance was sent to the petitioner in accordance with Regulation 44 of the Supply Code 2007 nor the letter was properly addressed. PSPCL’s decision to forfeit the earnest Money of ₹5.5 lac and cancel the requisition for grant of feasibility for a demand of 5000kVA for Maiser khana traction sub-station is set aside. The petitioner is allowed to submit A&A form along with balance amount of Security (consumption) after adjusting EMD already deposited within 30 days from the date of issue of this Order. This period may further be extended by 30 days on the request of the petitioner since being a Central Government department, the necessary approvals from competent authorities may get delayed due to unforeseen circumstances.**

Regarding the decision of PSPCL to first defer the feasibility clearance due to non-compliance of ESIM clause 3.3(viii) and

then grant the feasibility clearance subject to compliance of ESIM instructions referred above is gross violation of the directions given by the Commission to PSPCL not to take any punitive action against any consumer on the basis of ESIM instructions without referring to the relevant clause of the Supply Code or the Act. The Commission had specifically directed EIC/Commercial, PSPCL vide Memo No.9045 dated 23.07.2014 to either delete or amend the clause 3.3(viii) of ESIM since it is in-consistent with the Supply Code and the regulations framed under the Act. **The condition for compliance of clause 3.3(viii) of ESIM before release of load, as contained in the feasibility clearance letter dated 01.10.2014 is totally illegal, in-consistent with the Supply Code & in derogation of the directions of the Commission and is thus set aside. PSPCL is directed to delete the condition of compliance of clause 3.3 (viii) of ESIM in feasibility clearance.**

The petition is disposed of accordingly

Sd/-

**(Gurinder Jit Singh)**  
**Member**

Sd/-

**(Romila Dubey)**  
**Chairperson**

**Chandigarh**  
**Dated: 02.09.2015**