

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

**Petition No.19 of 2014
Date of Order: 14.10.2014**

In the matter of : Petition under clause 23 (interpretation of Tariff) of General Conditions of Tariff approved by PSERC and directing the respondents to refund excess charges deposited by the petitioner with the respondent PSPCL under protest and grant of any other relief, order or directions which the Commission may deem fit and proper in the facts and circumstances of the case.

AND

In the matter of: G.N.General Mills, Garhshankar Road, Banga, Distt.Nawanshahar, Punjab, through Shri Shyamal Dua S/o Shri Arun Kumar Dua, Partner

Versus

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

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

ORDER

This petition has been filed by G.N. General Mills, Garhshankar Road, Banga, under clause 23 (interpretation of Tariff) of General Conditions of Tariff and for directing the respondents to refund the excess charges deposited by the petitioner with PSPCL under protest and grant of any other relief, order or directions deemed fit and proper in the facts and circumstances of the case.

The brief facts of the case as submitted by the petitioner are as under:-

The petitioner has got a electric connection from the respondents under A/c No.LS-180 having mixed load of Rice sheller (Seasonal Load) of

513.994 kW and Mushroom cultivation unit Load (General Load) of 322.846 kW, with total sanctioned load of 836.840 kW and total sanctioned contract demand of 800 kVA. The petitioner had been getting the benefit of monthly minimum charges on seasonal load of Rice sheller as per clause 18 of General Conditions of Tariff. The Commission amended the General Conditions of Tariff clause 18.1 and 18.4 vide Order dated 23.10.2012. Pursuant to this amendment., PSPCL issued CC No. 40/2012 w.e.f. 23.10.2012. The petitioner normally gets re-connection for seasonal load in the month of October and generally gets it disconnected by the end of the rice shelling season. However during year 2013, the petitioner could not finish shelling work in time and got seasonal load disconnected on 18.07.2013. The respondents issued energy bill for the month of August 2013 vide which MMC has been charged on total load whereas the seasonal load was disconnected in the month of July on 18.07.2013. The petitioner had deposited Rs.8309690/- from September 2012 to September 2013 under protest for 1132562 units whereas the bill of the petitioner should have been for 326160 units. The petitioner has requested many a times to the respondents for proper interpretation of Tariff Regulations applicable to seasonal load category and to refund the excess amount. The respondents have held that there is no commercial circular pertaining to rice sheller which has mixed load. The petitioner has prayed the Commission:

- “(i) To correctly interpret the Clause No.18 of General Condition of Tariff for Seasonal Load Category under mixed load industry for charging of MMC.
- (ii) Not to levy monthly minimum charges on the total load comprising
 - (a) Rice Sheller Load of 513.994 kW (seasonal category Load)
 - (b) Mushroom cultivation unit Load 322.846 kW (General Category Load), during off season.
- (iii) To refund the excess charges paid for 806402 units with interest @ 18% (1132562 units (-) 326160 units), deposited from September 2012 to September 2013 with the respondent.

- (iv) To pass any other appropriate order / directions as this Commission deems fit”.

The petition was admitted vide Order dated 23.04.2014 and PSPCL was directed to file reply by 20.05.2014 with advance copy to the petitioner. PSPCL filed reply vide memo No.5631 dated 23.05.2014. The petitioner sought time to file rejoinder and was directed vide Order dated 29.05.2014 to do so by 08.07.2014 with copy to PSPCL. None appeared for the petitioner for hearing on 15.07.2014 nor filed any rejoinder. PSPCL supplied the copy of bills to the petitioner in accordance with Order dated 29.05.2014. The petitioner was given last opportunity for arguing his case on 12.08.2014 and to file rejoinder, if any, by 05.08.2014 with copy to PSPCL. During hearing on 12.08.2014, the counsel of the petitioner again prayed for time of two weeks to file rejoinder which was allowed to be filed by 26.08.2014. PSPCL sought time during hearing on 02.09.2014 for arguments of the case. Accordingly the Commission decided to hear the arguments of both parties on 23.09.2014. After hearing the arguments of the parties at length on 23.09.2014, the Commission decided to close further hearing of the case. Order was reserved.

In view of the submissions made by the petitioner and the respondent as brought out above, the Commission observes that the following two issues w.r.t clause 18 of the General Conditions of Tariff need clarification/interpretation by the Commission:

- i) Duration of the seasonal period for rice shellers (seasonal load) in a mixed load industries
- ii) MMC in case of a mixed load industry, comprising load of seasonal industry and general industry, if seasonal load is run by the consumer during off-season or after getting it disconnected.

The observation and decision of the Commission on the above issues are as under:

- (i) As per clause 18.1 of the General Conditions of Tariff amended vide Commission's Order dated 23.10.2012 passed in petition no. 66 of 2011, seasonal industries mean industries/factories, which by nature of their production, work during part of the year

upto a maximum of 9 months during the period from 1st September to 31st May, next year. However, seasonal period for rice shellers shall be during the period from 1st October to 30th June, next year. Before the amendment vide Order dated 23.10.2012, the seasonal period for all type of seasonal industries was from 1st Sept. to 31st May next year.

The load of the petitioner is mixed load, comprising of rice sheller load (seasonal load) and mushroom cultivation unit load (general load). The seasonal period for mixed load industries having rice sheller load (seasonal load) and exclusive seasonal industries having load of rice shellers only should be similar i.e for the period from 1st October to 30th June, next year. As such, after amendment dated 23.10.2012, the seasonal period of the petitioner for the rice sheller load (seasonal load) shall be from 1st October to 30th June, next year.

- (ii) The clause 18.4(i) and 18.4(iii) deal with the billing of exclusive seasonal industries whereas clause 18.4(ii) deals with industries having mixed type of load comprising of seasonal and general load. As per clause 18.4(ii) of the General Conditions of Tariff, for mixed type of load industries comprising load of seasonal and general industry, as is the case of the petitioner, billing shall be done/monthly minimum charges levied on full sanctioned load/demand for the period seasonal industry runs. MMC on full sanctioned load as applicable to seasonal industry shall be applicable during the seasonal period, subject to minimum of 4 and half months. For the remaining period, when seasonal load is disconnected, MMC based on general industrial load/demand actually being utilized by the consumer shall be leviable. Industries found running seasonal load after having got disconnected the same and intimation having given to PSPCL, shall be liable to pay MMC as applicable to seasonal industries for full period of 12 months.

For exclusive seasonal industry, if industry runs for more than 9 months of seasonal period, then as per clause 18.4(i),

MMC is applicable at tariff rates applicable to general industry whereas in case of mixed industry, if consumer is found running his seasonal load after getting it disconnected and intimation given to concerned distribution officer, MMC is levied as applicable to seasonal industry for full 12 months. This clause relating to mixed industry is operative only if consumer is found to be running the seasonal load after getting it disconnected, which will be an unauthorized act on the part of the consumer. Moreover in case of mixed load industry such action on the part of the consumer may not be detected only by observing the consumption of the consumer whereas in case of exclusive seasonal industry, higher consumption during off season will be sufficient proof that consumer has been running such industry during off season. It is precisely due to this reason that in case of mixed industry, levy of monthly minimum charges in case seasonal load is **found** to be running after disconnection has been made more stringent as compared to exclusive seasonal industry in clause 18.4(i) of Conditions of Tariff. However, there is no provision to deal with the consumer having mixed type of load and running his seasonal load after the seasonal period is over in the same manner as a consumer who is found running the seasonal load after getting it disconnected under proper intimation to concerned officer of the licensee as prescribed in clause 18.4 (ii).

Since the petitioner has not been found running the seasonal load after having disconnected the same and intimation having been given to PSPCL, so invoking penal provision to levy MMC as applicable to seasonal industry for full 12 months shall be contrary to the letter and spirit of clause 18.4(ii) of the General Conditions of Tariff. As the clause 18.4(ii) is silent on the issue of levy of MMC if mixed industry consumer extends his seasonal period, so to be fair to both the consumer and the utility, PSPCL shall charge MMC as applicable to the seasonal industry for the full load upto the date of disconnection of seasonal load and thereafter the billing/MMC based

on general load/demand being utilized by the consumer shall be leviable. As such, PSPCL shall accordingly revise the bills of the petitioner for the period under dispute and refund the excess amount through future energy bills.

The petition is disposed of in terms of above directions.

Sd/-
(Gurinder Jit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 14.10.2014