

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

**Petition No.45 of 2014
Date of Order: 17.09.2014**

In the matter of : Petition in the matter of extension of Load of GNA Udyog Limited A/c No.N36-RK01-00007 GT Road Distt. Jalandhar – Violation of Sec 47.4 Electricity Act 2003

AND

In the matter of: GNA Udyog Limited, GT Road Goraya, Distt. Jalandhar

Versus

Punjab State Power Corporation Limited, The Mall,
Patiala

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

ORDER

GNA Udyog Limited has filed this petition in the matter of extension of load, alleging violation of Section 47 (4) of the Electricity Act, 2003 by Punjab State Power Corporation Limited (PSPCL). The petitioner has submitted that it has sanctioned load of 3313.933 kW with a Contract Demand (CD) of 2480 kVA fed at 11 kV. The petitioner applied for extension in load of 5525.112 kW i.e. from 3313.933 kW to 8839.095 kW and extension of CD from 2480 kVA to 6480 kVA. Earnest money of ₹4,72,000/- was deposited on 28.04.2011 and A & A form No.1322/LS dated 04.11.2011 was registered in the office of AEE Rurka Kalan, Sub-Division of PSPCL after feasibility clearance. Security of ₹47,20,000/- was deposited on 04.11.2011 including amount of earnest money. Demand Notice was issued vide memo No.161 dated 24.02.2012. Through this Demand Notice, the petitioner was directed to deposit a sum of ₹15,78,600/- on account of 66 kV line and ₹41,00,000/- towards cost of 66 kV

Bay and also to submit test report etc. The petitioner deposited the above sums on 05.03.2012 and 19.03.2012 respectively, within one month period from the issue of Demand Notice and respondents were requested to take the work in hand. The test report was submitted by the petitioner on 08.01.2013 after construction of 66 kV Sub-Station of the petitioner and clearance by the Chief Electrical Inspector (CEI) and Protection Wing of PSPCL. Even after full compliance of the Demand Notice by the petitioner, PSPCL did not start work of 66 kV line and Bay till April, 2014. Release of load is still pending. The petitioner got a Notice from AEE Rurka Kalan vide memo No.976 dated 09.07.2014 directing the petitioner to deposit a sum of ₹13,52,104/- within 10 days. It was intimated through this Notice that the amount of ₹13,52,104/- has been wrongly paid to the petitioner on account of interest on security, since no interest was payable before release of connection/extension.

The petitioner has submitted that this action of the respondents is wrong and against the provisions of Section 47 (4) of the Electricity Act, 2003. The respondents are relying on Regulation 14.2 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007, which makes no mention of interest. The petitioner has further submitted that respondents have failed to release extension of load within specified period in violation of Reg. 5.6, Reg. 6.2 (c) and Reg. 6.3 (b) of the Supply Code. The petitioner is being harassed on one pretext or the other.

The petitioner has prayed that respondents be restrained from recovering the amount of ₹13,52,104/- already paid to the petitioner on account of interest and the respondents be directed to continue to pay interest on security deposit till release of extension in load. The respondents be further restrained from disconnecting power supply of the petitioner to recover the said amount.

The petition was admitted on 12.08.2014 and PSPCL was directed vide Order dated 13.08.2014 to file reply with a copy to the petitioner. PSPCL filed reply vide memo No.5021 dated 08.09.2014 with a copy to the petitioner.

After hearing the arguments of the parties on 09.09.2014, hearing of the petition was closed. Order was reserved.

The Commission has perused the petition and reply of PSPCL. The Commission has also considered the arguments of the parties on 09.09.2014. The Commission notes that although the petitioner has raised the issue of delay in release of extension in load/demand but has not sought any relief in his prayer on this account. Accordingly, the Commission has not gone through the merits of this issue.

The only prayer of the petitioner is to restrain PSPCL from recovery of ₹13,52,104/- paid to the petitioner by PSPCL on account of interest on security deposit and to continue the payment of interest on security till release of extension in load. The petitioner has further requested to restrain the respondents from disconnecting power supply of the petitioner to recover the said amount. So the issue to be decided is whether interest on initial security deposited by an applicant/consumer under regulation 14 of the Supply Code is payable or not?

As per Regulation 14 of the Supply Code, an applicant requiring new connection or extension in load/demand is required to pay initial security which is adjusted against Security (consumption) after release of the connection. Payment of interest on security is governed by Regulation 17.1 of the Supply Code which provides for interest on Security (consumption) at SBI's base rate prevalent on 1st of April of the relevant year plus 2%. This interest shall be credited to the account of a consumer annually on first day of April each year and will be adjusted on 1st May of every year against the outstanding dues and/or any amount becoming due to the licensee thereafter as per Regulation 17.3 of the Supply Code. Since two different terms i.e 'initial security' and 'Security (consumption)' have been used in the Supply Code for security deposit required to be deposited by the consumer so these regulations are being misinterpreted by PSPCL.

All these regulations of the Supply Code are required to be read in conjunction with Section 47 of Electricity Act, 2003 (Act). Sub section (1) of Section 47 of the Act, empowers the distribution licensee to recover security from the person requiring supply of electricity for payment which may become due in respect of electricity supplied to such person and also for any electric line/plant or meter which is to be provided for supplying electricity to such person. Sub section (2) of Section 47 further empowers the distribution

licensee to recover additional security through a notice if the security deposit has become invalid or insufficient. Sub section (4) of Section 47 provides for payment of interest on security by the distribution licensee at the rates as may be specified by the Commission on security amount recovered from the person. So the security recovered from the person both under sub section (1) and sub section (2) of Section 47 of the Act qualifies for interest as per sub-section (4) of section 47. Thus the Act is very clear that interest is payable on security whether the same has been recovered from the person before release of connection or thereafter during review while determining the adequacy of the amount of security deposited by the consumer. Moreover, it is an established law that regulations framed by the Commission under an Act of the Parliament are sub-ordinate legislation and in case of any ambiguity or in-consistency, the Act shall prevail.

Though as per Regulation 14 of the Supply Code, this amount recovered from the applicant has been termed as "Initial Security" but it is a security amount recovered as provided in Section 47 (1) of the Act and interest on such initial security is also payable. Since as per regulation 17.3 of the Supply Code, the interest is to be adjusted in the bills against the outstanding dues or any amount becoming due to licensee thereafter, so in case of a new connection although interest is payable from the date of deposit of such amount but is actually paid to the consumer after release of connection through bills. However, for the existing consumers requiring additional load, the interest on Security (consumption) and the additional security deposited as initial security for additional load/demand, can be paid to the consumer as and when the same becomes due as per Supply Code even before the release of extension in load/demand.

In the instant case, since the petitioner is an existing consumer of PSPCL who has requested for extension in load/demand so the action of PSPCL of allowing interest to the petitioner on security including the initial security deposited against extension in load/demand in the first instance is perfectly as per the letter and spirit of the Act and the Supply Code. Thus PSPCL is accordingly directed not to make any recovery of interest paid on the additional initial security deposited by the consumer for extension in load/demand and also to continue the payment of interest till release of

extension in load/demand. The Notice issued by AEE Rurka Kalan, Sub-Division of PSPCL vide No.976 dated 09.07.2014 for recovery of ₹13,52,104/- as interest on security is set aside.

The petition is allowed.

**Sd/-
(Gurinder Jit Singh)
Member**

**Sd/-
(Virinder Singh)
Member**

**Sd/-
(Romila Dubey)
Chairperson**

**Chandigarh
Dated: 17.09.2014**