

**\PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO 220-221, SECTOR-34 A CHANDIGARH**

Petition No.63 of 2016

Date of order:29.03.2017

Present: Shri D.S. Bains, Chairman
Shri S.S. Sarna, Member

In the matter of: Petition under regulation 44 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2014 (hereinafter to be called Supply Code, 2014) read with Regulation 10 of the PSERC (Conduct of Business) Regulations, 2005 and other relevant regulations framed by the Commission and sections of the Electricity Act, 2003 seeking interpretation/clarification of the regulation 9 of the Supply Code, 2014 and further under section 142 & 146 of the Electricity Act, 2003 for taking appropriate legal action against the respondent and its officials for issuing Demand notice and demanding Service Connection Charges in violation of the provisions of the regulation 9 of the Supply Code, 2014, framed by the Commission;

AND

In the matter of: M/s Asian Fine Cements Pvt. Ltd., S.C.F. No.270, Motor Market, Mansa Devi Road, Mani Majra, Chandigarh, through its authorized signatory Karan Aggarwal s/o Sh. Harish Aggarwal, Director of the Company.

.....Petitioner

Versus

Punjab State Power Corporation Ltd., through its
Managing Director, The Mall, Patiala.

.....Respondent

Order:

- 1.0 The petitioner is a Private Limited Company duly registered under the companies Act, 1956 and has filed this petition seeking interpretation of regulation 9 of Supply Code, 2014 under regulation 44 of the supply Code, 2014. The petitioner has also prayed for action against respondent under section 142 & 146 of the Act for violation of the provisions of the Regulations & the Act. The gist of the submissions is as under:
- 1.1 The petitioner applied for electricity connection for setting up fine cement grinding plant with a load of 7500 kW and Contract Demand (CD) of 6500 kVA. The Feasibility Clearance Committee (FCC) granted feasibility in its meeting held on 24.09.2014 and the same was intimated to the petitioner on 01.10.2014. The petitioner found the proposal of the feasibility committee financially unviable besides being against the provisions of the law, the Act and regulations framed by the Commission and hence requested for review of the feasibility clearance. The respondent informed the petitioner vide memo no.722 dated 27.01.2015 that the revised feasibility has been worked out in a meeting held on 30.12.2014.
- 1.2 The petitioner was aggrieved by the feasibility clearance granted by the PSPCL and accordingly filed a Petition No.12 of 2015 before the Commission. The petition was not admitted and the

Commission vide Order dated 11.03.2015 advised the petitioner to first approach the PSPCL by filing a representation.

- 1.3 Thereafter, the petitioner filed a detailed representation with the Chief Engineer/Commercial, PSPCL, Patiala and enclosed therewith a correct diagram of Power System around Rajpura. PSPCL vide its letter dated 24.03.2015 reiterated their earlier feasibility clearance dated 27.01.2015
- 1.4 Since the respondent failed to comply with the Order dated 11.03.2015 passed by the Commission so, the petitioner filed a petition No.32 of 2015 before the Commission under section 142 and 146 of the Electricity Act, 2003.
- 1.5 The Commission vide Interim Order dated 15.06.2015 directed the respondent to give a personal hearing to the petitioner in respect of the objections of the petitioner regarding Feasibility Clearance earlier granted. The respondent vide letter dated 02.07.2015 fixed 03.07.2015 for giving personal hearing to the petitioner. On 03.07.2015, the authorized person of the petitioner company, appeared before the Feasibility Clearance Committee and pointed out various defects in the earlier feasibility clearance granted by the respondent. But the FCC did not agree with the objections of the petitioner and vide its letter dated 17.07.2015 intimated that the earlier feasibility clearance granted as per meeting held on 30.12.2014 is in order.
- 1.6 The Commission vide Order dated 05.08.2015 disposed of the above said petition No.32 of 2015 filed by the petitioner. The Commission held that in view of the detailed decision of the

Feasibility Clearance Committee after giving an opportunity of being heard to the petitioner, PSPCL has made the compliance of the Order dated 11.03.2015, passed by the commission in petition No.12 of 2015.

- 1.7 A dispute arose regarding filing of A&A form by the petitioner with the PSPCL and accordingly the petitioner filed petition No.66 of 2015 before the Commission and the Commission vide Order dated 27.01.2016 allowed the petition and granted 10 days period from the date of issue of the Order for submitting A&A form with the respondent. Accordingly, the petitioner submitted A&A form with the respondent.
- 1.8 As per section 181 of the Electricity Act, 2003 the State Commissions may by notification, make regulations consistent with the Electricity Act, 2003 and accordingly the commission framed PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 (hereinafter to be called Supply Code, 2007). The Commission further vide notification No. PSERC/Secy./Regu-97 dated 05.11.2014 and published in Govt. of Punjab Gazette (Extra) dated 05.11.2014 issued PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 (hereinafter to be called Supply Code, 2014). It was specifically mentioned in clause 48 of the Supply Code, 2014 that 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 but 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.

1.9 The regulation 6.8 of the Supply Code, 2014 deals with issuance of demand notice and regulation 9 deals with payment of Service Connection Charges.

1.10 PSPCL issued a demand notice No.1333 dated 18.05.2016 and the petitioner was asked to deposit a total amount of ₹3,65,85,380/- as Service Connection Charges (SCC). After receiving the demand notice the petitioner requested the PSPCL officials for supply of details of the expenses/SCC as mentioned in the demand notice dated 18.05.2016. PSPCL vide memo No.1485 dated 30.05.2016, supplied the details of the amount shown in the demand notice. PSPCL has asked for four payments as mentioned below, which are the part of the total demand of ₹3,65,85,380/-.

1. As per estimate No.1219/10.05.2016	=₹2,42,75,000/-
2. Out Bay Charges Grid Naushehra	=₹49,23,000/-
3. Back-UP line from 220 kV Rajpura to 66 kV FP Rajpura 18.36X57X6500	=₹68,02,380/-
4. Proportionate Bay Charges @90000X6.500MVA.	=₹5,85,000/-

The PSPCL officials also provided an approved Sketch plan of the line of the petitioner.

1.11 The perusal of the approved map would show that point (A) has been mentioned as 66 kV Sub Station, Focal Point, Rajpura from

which the connection would be released to the petitioner and bay would be installed here and this is feeding Sub Station. PSPCL has demanded ₹68,02,380/- as proportionate cost of the line from 220 kV Substation, Rajpura to 66 kV S/S, Focal Point, Rajpura and also demanded ₹5,85,000/- as proportionate cost of bay at 220 kV Substation, Rajpura.

1.12 The 220 kV Sub-station Rajpura is mother Sub-station and the petitioner cannot be asked to deposit any charges beyond the feeding Sub-station i.e. 66 kV Sub Station, Focal Point, Rajpura. So demand of ₹68,02,380/- on account of Back-up Line is in violation of regulation 9.1.1 (a) (ii) of the Supply Code, 2014. The feasibility clearance given vide letter dated 17.07.2015 also clearly says that the connection has been released from 66 kV Sub-station, Focal Point, Rajpura. Meaning thereby the feeding Sub-station in this case is 66 kV Sub-station, Focal Point, Rajpura and charges up to this feeding station can only be recovered and not beyond that. So, the demand of ₹68,02,380/- on account of back-up line is in violation of regulation 9.1.1 (a) (ii) of the Supply Code, 2014.

1.13 The fourth demand raised by the PSPCL which constitute the part of the total demand is regarding proportionate bay charges for 220 kV Sub-station, Rajpura and the respondent cannot charge any amount after the feeding Sub Station and as such this demand is also in violation of regulation 9.1.1 (a) (ii) of the Supply Code, 2014.

1.14 The petitioner sent a detailed letter dated 12.06.2016 and requested the respondent to delete the demand which is in violation of the provisions of the Supply Code and issue fresh demand notice. PSPCL failed to give any reply and so the petitioner again sent a letter dated 02.07.2016 addressed to the Chief Engineer/Commercial, PSPCL and again requested to issue the demand notice in consonance with the provisions of the regulation 9.1.1 (a) (ii) of the Supply Code, 2014. But PSPCL has failed to reply any such letter.

1.15 PSPCL failed to issue the correct demand notice so the work of the petitioner was getting delayed. Accordingly, the petitioner vide letter dated 25.07.2016 approached the respondent and deposited the amount of ₹2,42,75,000/- shown by the PSPCL as per estimate No.1219/10.05.2016 with the PSPCL, subject to corrections as per the original amount spent. Regarding out going bay charges of Grid Naushehra, the petitioner submitted in this letter that the petitioner has nothing to do with the Grid Naushehra because the petitioner is getting electricity from 66 kV Sub-station, Focal Point, Rajpura and this is the Feeding Sub-station. Naushehra Grid is not feeding Sub-station and as such the petitioner is not liable to pay any Bay Charges for this Grid. Though, the petitioner admitted that he is liable to pay Bay Charges for Feeding Sub-station i.e. 66 kV Sub-station, Focal Point, Rajpura but argued that as per Standard Cost Data duly approved by the Commission, charges for 33/66 kV line bay are ₹39,23,000/- and not ₹49,23,000/- . The petitioner has mentioned in the above said letter that he is depositing above said amount of ₹2,42,75,000/- and ₹39,23,000/-

so that the construction work of the line is started. The petitioner further mentioned that he is going to file a petition before the Commission seeking clarification/interpretation of regulation 9.1.1 (a) (ii) of the Supply Code regarding the impugned demand raised by the PSPCL on account of line charges from 66 kV Substation, Focal Point, Rajpura to 220 kV Substation, Rajpura and also for proportionate bay charges regarding bay at mother Sub-station. The petitioner requested PSPCL that the payment of ₹2,81,98,000/- (₹2,42,75,000/- as per estimate + ₹39,23,000/- for Bay Charges) may kindly be accepted against the demand notice No.1333 dated 18.05.2016, subject to the decision of the Commission on the issue of interpretation/clarification regarding regulation 9.1.1 (a) (ii) of the Supply Code, 2014, for the remaining demand raised by the PSPCL and requested that the work of laying the line may kindly be started. Regarding bay charges of ₹39,23,000/-, the petitioner prepared a draft for this amount but the PSPCL refused to take this amount on the ground that the account for this head is yet to be opened and asked the petitioner to bring the draft in different name. The petitioner assured to submit the same on 29.07.2016.

- 1.16 PSPCL has mis-interpreted the provisions of the regulation 9.1.1 (a)(ii) of the Supply Code, 2014 and as such necessary clarification/interpretation is required to be issued by the Commission of the regulation 9.1.1 (a) (ii) of the Supply Code, 2014. Further the clause 44 of the Supply Code, 2014 specifically provides that any dispute arising between the distribution licensee and a consumer in respect of interpretation of the Supply Code

shall be referred to the Commission and as such the present petition is being filed before the Commission.

1.17 Since the licensee has failed to comply with the regulations framed by the Commission and has thus violated the conditions of the License issued to it. As such the petitioner is filing the present petition before the Commission and the Commission has jurisdiction to decide the present petition. The Appellate Tribunal for Electricity in Appeal No.149 of 2010, titled as Brihanmumbai Electricity Supply and Transport Undertaking Versus Maharashtra Electricity Regulatory Commission and others decided the issue of the jurisdiction of the State Commission and specifically stated that only billing disputes have to be decided by the Consumers Forum but the State Commissions alone have got the jurisdiction to deal with the other situations where the non-compliance of the condition of licence or Rules and Regulations by the licensees are reported.

1.18 The petitioner prayed that;

- (i) necessary clarification/ interpretation of regulation 9.1.1 (a) (ii) of the Supply Code, 2014 may kindly be issued, as per the facts of the present case, as mentioned above in the petition.
- (ii) necessary action under section 142 and 146 of the Electricity Act, 2003 may kindly be taken against the PSPCL and its officials for violating the provisions of the Regulation 9.1.1 (a) (ii) of the Supply Code, 2014 by raising the impugned demand of ₹68, 02,380/- and ₹5, 85,000/- in violation of the above said regulation, in the interest of justice.

- (iii) impugned demand of amount on account of impugned demand of ₹68,02,380/- and ₹5,85,000/- raised by the PSPCL, which is the part of the demand raised vide demand notice No.1333 dated 18.05.2016, may kindly be set aside, being in violation of the regulation 9.1.1 (a) (ii) of the Supply Code, 2014.
- (iv) during the pendency of the present petition before the Commission, the respondent may kindly be directed to start the work of laying the line as the petitioner has already deposited ₹2,42,75,000/- as per estimate prepared by the respondent and ₹39,23,000/- as bay charges. The petitioner has not paid impugned demand of ₹68,02,380/- and ₹5,85,000/- raised by the PSPCL, as the same in violation of the regulation 9.1.1 (a) (ii) of the Supply Code, 2014 and has been challenged before the Commission.

2.0 The petition came up for hearing on 06.10.2016 and after hearing the petitioner, the same was admitted. The Commission vide Order dated 07.10.2016 directed PSPCL to file reply by 03.11.2016 and the petition was fixed for hearing on 10.11.2016.

3.0. PSPCL vide Chief Engineer/ARR & TR letter No.6290-91 dated 24.10.2016 filed the reply and made the following submissions:

3.1 PSPCL admitted that a demand notice dated 18.05.2016 for a sum of ₹3,65,85,380/- (as per the details mentioned in para 1.10 above) was issued to the petitioner on account of Service Connection Charges. PSPCL further admitted that the sum of ₹68,20,380/- has been demanded as proportionate cost of the line from 220 kV

Substation, Rajpura to 66 kV Substation, Focal Point, Rajpura and ₹5,85,000/- as cost of the bay at 220 kV Substation, Rajpura. According to PSPCL, this amount is chargeable as per regulation 9.1.1 (a) (ii) of the Supply Code, 2014. PSPCL also admitted that a sum of ₹2,42,75,000/- has been deposited by the petitioner as per estimate No.1219/10.05.2016. PSPCL prayed that the petition be dismissed and the petitioner be directed to deposit the amount demanded by PSPCL as per demand notice No.1333 dated 18.05.2016 since the demand of proportionate cost of the backup line and bay is as per regulation 9.1.1 (a)(ii) of Supply Code, 2014 and is correct.

4.0 The petitioner filed rejoinder to the reply of PSPCL on 19.12.2016 and reiterated its submissions made in the original petition.

5.0 During hearing on 20.12.2016, PSPCL sought time to file sur-rejoinder to the rejoinder of the petitioner. The Commission vide Order dated 23.12.2016 directed PSPCL to file the same with copy to the petitioner by 27.12.2016. After hearing the arguments of both the parties, the Order was reserved.

6.0 PSPCL vide Chief Engineer/ARR & TR letter No.6755 dated 30.12.2016 (received on 04.01.2017) filed reply to the rejoinder of the petitioner and reiterated the arguments advanced in its reply to the petition.

7.0 **Commission's Findings and Orders:**

After going through the submissions and arguments made by both the parties, it is evident that the dispute is regarding recovery of proportionate cost of the common portion of 66 kV line from 220

kV substation Rajpura to 66 kV substation FP Rajpura including bay, which require interpretation of regulation 9.1.1 (a)(ii) of Supply Code, 2014. The bone of contention is whether 66 kV FP substation Rajpura or 220 kV substation Rajpura is the feeding substation for catering to the load of the petitioner.

We refer to regulation 9.1.1 (a)(ii) of Supply Code, 2014, which reads as under:

“9.1.1 For New Connection

(a) *Domestic, Non-Residential, Industrial, Bulk Supply and Compost plants/solid waste management plants for municipalities / urban local bodies categories*

(i) Supply For Load/Demand Not Exceeding 100 kW/100kVA
The applicant requesting the distribution licensee for a new connection for above mentioned-----

(ii) Supply For Load/Demand Exceeding 100 kW/100 kVA

*Where load/demand required for above mentioned categories exceeds 100 kW/100 kVA, the applicant shall be required to pay the actual expenditure incurred by the distribution licensee for release of connection. For 11 kV consumers, the expenditure shall include the cost of the individual service line and proportionate cost of the common portion of main line upto the feeding substation including breaker as per the cost data approved by the Commission. **For 33 kV & higher voltage consumers, the expenditure shall include the cost of the individual service line and proportionate cost of the common portion of main line upto the feeding substation including bay as per the cost data approved by the Commission.** If the service line is emanating from the feeding sub-station, the applicant shall bear the entire expenditure along with cost of breaker/bay. However, creation of new grid*

sub-station or augmentation of existing grid sub-station, if required, shall be carried out by the licensee at its own cost as per regulation 9.2.

In such cases, the distribution licensee shall prepare an estimate based on Standard cost data approved by the Commission and applicant shall be required to deposit such amount as Security (works) before start of work. A final bill shall be prepared by the distribution licensee after completion of work and necessary recovery or refund shall be made as per regulation 9.3.”[emphasis supplied]

Thus an EHT consumer is liable to pay the cost of the service line and proportionate cost of the common portion of main line up to feeding substation including breaker. The petitioner has sought the clarification regarding whether 66 kV FP Rajpura or 220 kV substation Rajpura is the feeding substation in his case. The matter regarding the feeding substation for an EHT consumer and recovery of charges for backup/common line up to feeding substation has been discussed in detail in the Order of the Commission dated 14.02.2017 in Petition No. 52 of 2016, which is squarely applicable in this case also. It is reiterated that for an EHT consumer, although the 66 kV line may be extended from the nearest 66 kV grid substation to the premises of the applicant/consumer but the load/demand is actually fed from the 220 kV mother substation. In the present case, the 66 kV line was extended from 66 kV substation, Focal Point, Rajpura to the premises of the consumer but the load of the petitioner is to be fed from 220 kV substation, Rajpura. Thus the 66 kV line from 220 kV substation, Rajpura to 66 kV substation, Focal Point, Rajpura is the common portion of the line for which the petitioner is liable to pay

proportionate cost of the line including bay as per regulation 9.1.1(a)(ii) of the Supply Code, 2014. The 66 kV line from 66 kV FP substation to the premises of the consumers is the service line for which he is liable to pay full cost along with bay(s) erected for supplying power to the petitioner.

In view of above interpretation of regulation 9.1.1(a)(ii) of the Supply Code, 2014, PSPCL is directed to calculate the charges recoverable from the petitioner within 15 days of the issue of this Order and intimate the same to the petitioner. In case, the petitioner is not satisfied with the amount calculated by PSPCL as per the interpretation of Supply Code rendered through this Order, the petitioner shall be free to approach the grievances settlement mechanism of the licensee as per law.

The petition is disposed of accordingly.

-Sd/-

(S. S. Sarna)

Member

-Sd/-

(D.S.Bains)

Chairman

Dated: 29.03.2017

Chandigarh