

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

Petition No.69 of 2015

Date of order: 22.01.2016

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

In the matter of: Petition in the matter of refund of excess amount of cost of 66 kV Bay- violation of regulation 19.7 of Supply Code, 2007 and additional demand of ₹ 42,01,274/- towards cost of 66 kV line – violation of regulations 19.7 & 19.8 of Supply Code, 2007.

AND

In the matter of: T.C Spinners Pvt. Ltd., Lalru, District SAS Nagar through its President Commercial Shri Deepak Jagga.

-----Petitioner

Versus

Punjab State Power Corporation Limited, The Mall,
Patiala

-----Respondent

Order

1.0 The present petition has been filed by T.C. Spinners Pvt. Ltd., Lalru through its President Commercial Shri Deepak Jagga for violation of Regulation 19.7 and 19.8 of Supply Code, 2007 by the respondent. The petitioner made the following submissions:

- 1.1 The petitioner is running a Spinning Mill at Lalru having a sanctioned load of 8766.180 kW and contract demand of 6400 kVA fed at 66 kV. Before 20.11.2014, the sanctioned load was 3695.050 kW and contract demand 2500 kVA which was fed at 11kV.
- 1.2 The petitioner applied for extension in load/demand of 5071.13 kW/3900 kVA on 10.10.2013. The feasibility was originally cleared on 14.11.2013 at 66 kV, which was revised on 27.05.2014.
- 1.3 In response to Sr. XEN/TL Division, PSPCL, Patiala memo no. 1662 dated 15.07.2014, a sum of ₹1,23,26,696/- was deposited on 23.07.2014 towards estimated cost of 66 kV line and ₹49,23,000/- towards cost of 66kV Bay on 12.08.2014.
- 1.4 As per provision of feasibility clearance, the extension in load was temporarily released from 66kV sub-station, Alamgir on 20.11.2014. It was also provided in feasibility clearance that finally, the connection would be given from 220 kV sub-station, Lalru after erecting a new and separate 66 kV line.
- 1.5 After completion of work of 66 kV line, the actual expenditure recoverable from the petitioner is required to be determined as per provisions of feasibility clearance dated 27.05.2014.
- 1.6 The work of erection of 66 kV line as per feasibility is still in progress. The actual expenditure incurred on this work can only be determined after the completion of work. However, the respondents have demanded an additional amount of ₹42,01,274/- vide AEE/DS Lalru memo no. 1522 dated 21.10.2015. This amount is also subject to further revision.

This additional demand of ₹42,01,274/- at this stage is premature and is in violation of regulations 19.7 & 19.8 of Supply Code, 2007.

- 1.7 Although the extension in load has been temporarily released but the final arrangements of supply, as per feasibility, is still pending for nearly one and a half year after deposit of estimated cost of 66kV line i.e. ₹1,23,26,696/-. The work is required to be completed at the earliest as it has already been delayed much beyond the time fixed for EHT works in Supply Code Regulations.
- 1.8 A sum of ₹49,23,000/- has been deposited by the petitioner towards cost of 66kV Bay. The extension in load stand released on 20.11.2014 but the respondents have not refunded so far the excess amount of Security (works) for 66kV Bay after determining the actual expenditure incurred on this work which may not be more than ₹ 30 to 31 lac.
- 1.9 The petitioner is being subjected to financial hardship by not refunding the excess amount of Security (works) after adjusting actual expenditure for 66kV Bay which is long due and at the same time further demanding additional amount of ₹ 42,01,274/- for 66 kV line, which is yet to be completed.
- 1.10 The petitioner made the following prayers:
 - i. to refund the excess amount of Security (works) for 66 kV Bay as per regulation 19.7 of Supply Code, 2007.
 - ii. to restrain the respondent from recovering any amount in addition to the cost of 66 kV line already deposited (₹1,23,26,696/-) before completion of line in violation of regulations 19.7 & 19.8 of Supply Code, 2007.

Respondent may also be restrained from disconnecting power supply to petitioner to recover the undue amount by coercion.

- 2.0 The petition was admitted and the Commission vide Order dated 09.12.2015 directed PSPCL to file reply by 24.12.2015 with copy to the petitioner. The petition was fixed for further hearing on 29.12.2015.
- 3.0 PSPCL vide Chief Engineer/ARR & TR Memo No. 5374 dated 31.12.2015 prayed to grant three weeks times for submission of reply. The Commission vide Order dated 04.01.2016 directed PSPCL to file reply by 12.01.2016 with copy to the petitioner. During hearing on 01.01.2016, the petitioner filed a copy of letter No. 1807 dated 23.12.2015 from AEE/DS, Sub Division Lalru, vide which PSPCL has issued final notice to the petitioner under regulation 9.3.7 of the Supply Code, 2014, to deposit the balance amount of ₹ 42,01,274 immediately. The petitioner submitted that regulation 9.3.7 of the Supply Code specifies that *“In case the applicant fails to deposit the balance amount within a period of thirty (30) days of the service of the notice, the applicant shall, for the period of delay, be liable to pay interest on the balance amount at twice the SBI’s Base Rate prevalent on first of April of the relevant year plus 2%. This shall be in addition to the licensee’s right to disconnect supply of electricity if it has already been provided.”*

The petitioner therefore prayed that PSPCL may be restrained from disconnecting power supply to the petitioner to recover the undue amount by coercion till the final disposal of this petition.

After hearing both the parties on the issues, the Commission restrained PSPCL to disconnect power supply of the petitioner till next date of hearing i.e. 19.01.2016. The petition was fixed for hearing on 19.01.2016.

4.0 PSPCL vide Chief Engineer/ARR & TR Memo No. 5552 dated 18.01.2016 filed reply and submitted as under:

4.1 Originally, the technical feasibility was approved by CE/Commercial, PSPCL, Patiala vide memo no. 2931 dated 22.11.2013 for the extension of load/demand of 5071.13 kW/3900 kVA to already existing load/demand of 3695.05 kW/2500 kVA making the total load/demand of 8766.18 kW/6400 kVA at 66 kV. Due to non-availability of Right of Way on account of dense urban growth under existing 66kV line from 220 kV S/S Lalru to 66kV S/S Alamgir, it could not be converted into multicircuit towers.

4.2 Accordingly, the revised feasibility was issued by EIC/Commercial, PSPCL, Patiala vide memo no. 253 Dated 27.05.2014. The scope of work in the revised feasibility is as below:

a) Due to Dense population, second circuit on existing 66kV SC on DC Alamgir line from 220 kV Lalru Sub-station cannot be erected as required clearance from houses is not available.

b) There is crossing of existing 66kV Lalru-Handesra Line with 66kV Dhoolkot-Chandigarh line using two number 220kV towers. By converting these two no. 220 kV towers into multicircuit towers, the SC on DC line of Lalru-Handesra circuit shall be converted into multi circuit line

upto Lalru sub-station. By doing so, two circuits for Handesra and two circuits for Alamgir can be erected. Therefore, there shall be Multi circuit line (4 No. Circuits).

- c) New DC line on DC Towers (7.50 KM) shall be erected and connected to existing Lalru-Alamgir Line near tower no.19. (1.0KM). An additional circuit on DC towers shall be erected to make it double circuit and accordingly double circuit supply can be given from 220kV Lalru Sub-station to Alamgir.
- d) For giving supply to the petitioner, new SC line on DC Towers shall be erected and supply shall be given from 220kV Lalru grid Sub-station using existing Lalru-Alamgir SC line on DC Towers.

Thereafter, the petitioner deposited ₹1,23,26,696/- on 23.07.2014 towards tentative cost of 66kV line in compliance to ASE/TLSC, Patiala memo no. 1662 dated 15.07.2014 due to revised feasibility .

- 4.3 After deposit of amount of ₹1,23,26,696/-, the load/demand of 8766.18 kW/6400 kVA was released on 20.11.2014 as temporary arrangement from 66kV S/S Alamgir after erection of 66kV O/G Bay and erection of second circuit from 66kV S/S Alamgir.
- 4.4 After completion of work of 66kV line, the actual expenditure recoverable from the petitioner is required to be determined as per regulation 9.3.7 of Supply Code, 2014 but the work could not be completed due to non-deposit of balance

estimated amount of ₹42,01,274/- despite several notices served by ASE/TL Division, Patiala.

- 4.5 The work of 66kV line as per approved revised feasibility and revised estimate is in progress and 40% work has been completed. The final amount to be charged to petitioner firm can be calculated once the work is completed after adjustment of amount already deposited as per regulation 19.8 of Supply Code, 2007 & regulation 9.3.8 of Supply Code, 2014.
- 4.6 ASE/TL Division, PSPCL, Patiala vide his memo no. 90 dated 11.01.2016 intimated that the demand raised for depositing ₹1,23,26,696/- was tentative as per CC/NO. 60/2014 but afterwards an estimate no. 870 dated 17.08.2015 of ₹1,65,27,970/- was sanctioned by Chief Engineer/TS, PSPCL, Patiala for execution of work and therefore, balance amount of ₹42,01,274/- is payable. Service Connection Charges of ₹1,65,27,290/- are payable as per regulation 9.3 of Supply Code.
- 4.7 The petitioner has deposited ₹49,23,000/- towards cost of 66kV bay but work of 66kV Line is still in progress and was delayed due to non-deposit of balance amount of ₹42,01,274/- by petitioner. The final amount to be charged to petitioner firm can be calculated once the work is completed after adjustment of amount already deposited as per regulation 19.8 of Supply Code, 2007 and regulation 9.3.8 of Supply Code, 2014.
- 4.8 As per regulation 9.3.8 of Supply Code, 2014, if consumer fails to deposit the requisite amount within 30 days of the

service of notice, his connection is also liable to be disconnected. Apart from that, he shall be liable to pay interest on the balance amount at twice the SBI base rate prevalent on 1st April plus 2%.

4.9 Therefore, the balance amount of ₹42,01,274/- demanded from the petitioner is justified as this is estimated amount and required for completion of EHT work as per Revised Feasibility. The final adjustment of account can be done only after completion of work as per regulation 19.7 and 19.8 of Supply Code, 2007 & regulations 9.3.7 and 9.3.8 of Supply Code, 2014. The amount to be recovered or refunded, if any, can be assessed only after completion of work as mentioned above.

5.0 During hearing on 19.01.2016, both the parties submitted that they are ready and willing to argue the case. The Commission heard the arguments of both the parties and after hearing the parties, the hearing of the case was closed. The Order was reserved.

6.0 Findings and decision of the Commission:

The issue before the Commission in this petition is the correct interpretation of the regulation 19.7 and 19.8 of Supply Code, 2007 and 9.3.6 & 9.3.7 of Supply Code, 2014 regarding recovery of actual expenditure incurred by the licensee for release of connection called "recoverable amount" after adjusting the Security (works) deposited by the applicant as per regulation 19.2 of the Supply Code, 2007 or 9.3.1 of Supply Code, 2014. Both the parties tried to interpret these regulations as per their own convenience.

The petitioner on one hand claims that since the work of 66 kV line has still not been completed, so as per regulation 19.7 & 19.8 of the Supply Code, 2007, PSPCL is not entitled to recover additional Security (works) over and above the amount already deposited but on the other hand is seeking refund of the excess amount deposited towards cost of 66 kV bay ignoring the same regulations on the basis of his own assessment. Similarly, the respondent is denying refund claimed by the petitioner on account of the excess amount recovered from petitioner towards erection of 66 kV outgoing bay on the grounds that as per regulation 19.7 and 19.8 of the Supply Code, 2007, final adjustment of account can only be carried out only after completion of the work but at the same time is demanding additional Security (works) for completing the 66 kV line in derogation of the same provisions of the Supply Code. Thus, it is evident that both the parties are well aware of the provisions of Supply Code regulations but are interpreting these regulations as per their own convenience.

As per regulation 9 of the Supply Code, 2007 as well Supply Code, 2014, every licensee is entitled to recover from an applicant requiring supply of electricity or additional load/demand, any expenses that the licensee may incur in providing this facility. Further, as per regulation 9.1.1(i) (c), an applicant seeking supply at voltage of 33 kV and above, is liable to pay the expenditure incurred for providing service line and proportionate cost of backup/common line (33 kV or above) up to the feeding Sub-station including bay, if any, provided that the charges payable will not be less than those computed as per kW/kVA basis.

Regulation 19.2 of the Supply Code, 2007 provides that the licensee will be entitled to require deposit of Security (works) against expenditure for providing electric line or electrical plant, as the case may be, which will be estimated by the licensee as per Regulation 9 of Supply Code regulations and communicated to the applicant through a Demand Notice. Accordingly, on the demand of PSPCL, the petitioner deposited ₹1,23,26,696 towards cost of 66 kV line and ₹49,23,000 towards cost of 66 kV bay.

Further as per Regulation 19.4 of the Supply Code, 2007 after the applicant deposited the Security (works) as per regulation 19.2, the licensee is required to take up the work and initiate other necessary steps for effecting supply of electricity within the time limit specified in regulation 6 of the Supply Code, 2007. The respondent started the work and accordingly to the reply submitted by PSPCL, 40% work has been completed.

Now in cases where actual cost for release of connection and extension in load/demand is to be recovered from the applicant, the final adjustment of the account of such works is governed by regulations 19.7 and 19.8 of Supply Code, 2007 or regulation 9.3.6 & 9.3.7 of Supply Code, 2014, as applicable. The relevant regulations 19.7 & 19.8 of Supply Code, 2007 read as under:

*“19.7 **After execution of work** of the electric line or electrical plant as the case may be, **the Licensee will be entitled to demand** from the applicant the total amount actually incurred by the Licensee (recoverable amount) for this purpose and adjust Security (works) against such recoverable amount. In the event of Security (works) being in excess of the recoverable amount, the excess*

amount will be determined by the Licensee within sixty days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months. In case the Licensee fails to refund the excess amount and adjust it against electricity bills of the immediately succeeding months, the Licensee will be liable to pay interest on the excess amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2% for the period of delay beyond sixty days of the date of release of connection till the excess amount is adjusted. The amount of such interest will be adjusted against the electricity bills thereafter.

19.8 In case the recoverable amount from the applicant works out to be more than Security (works), then a Demand Notice will be served on the applicant specifying such amount and requiring him to deposit the same. In case the applicant fails to deposit the balance amount within a period of thirty days of the service of the Demand Notice, the applicant will, for the period of delay, be liable to pay interest on the balance amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2%. This will be in addition to the Licensee's right to disconnect supply of electricity if it has already been provided.”[Emphasis Supplied]

Supply Code, 2014 which came into force from 1.1.2015, after repealing Supply Code, 2007, contains identical regulations 9.3.6 & 9.3.7 which read as under:

“9.3.6 After execution of work of the electric line or electrical plant as the case may be, the distribution licensee shall be entitled to demand from the applicant the total amount of expenditure actually incurred (recoverable amount) and adjust Security (works) against such recoverable amount. In the event of Security (works) being in excess of the recoverable amount, the excess amount shall be determined by the distribution licensee within sixty (60)

days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months. In case the distribution licensee fails to refund the excess amount and adjust it against electricity bills of the immediately succeeding months, the distribution licensee shall be liable to pay interest on the excess amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2% for the period of delay beyond sixty (60) days of the date of release of connection till the excess amount is adjusted. The amount of such interest shall be adjusted against the electricity bills thereafter.

9.3.7 In case the recoverable amount from the applicant works out to be more than Security (works), then a notice shall be served on the applicant specifying such amount and requiring him to deposit the balance amount after adjusting the security (works). In case the applicant fails to deposit the balance amount within a period of thirty (30) days of the service of the notice, the applicant shall, for the period of delay, be liable to pay interest on the balance amount at twice the SBI's Base Rate prevalent on first of April of the relevant year plus 2%. This shall be in addition to the licensee's right to disconnect supply of electricity if it has already been provided."

Since the above referred regulations are identical in both the Supply Codes, so the interpretation of regulations 19.7 & 19.8 of Supply Code, 2007 also holds good for regulations 9.3.6 & 9.3.7 of Supply Code, 2014.

In the present case, the connection is to be released at 66 kV through erection of 66 kV line and bay along with other related works as per revised feasibility issued by EIC/Commercial, PSPCL vide letter dated 27.05.2014. So as per regulation 9.1.1(i) (c) of Supply Code, 2007, the actual expenditure which the licensee is

entitled to recover from an EHT consumer consists of cost of the line, bay and proportionate cost of backup/common line upto feeding sub-station. Thus, cost of bay is also a component of the total estimated cost. PSPCL may have prepared different estimates for 66 kV line and 66 kV bay due to administrative reasons but both the works are part & parcel of the scope of work approved by the Feasibility Committee for release of the connection to the petitioner. Different components of the work for release of connection cannot be dealt individually/separately for recovery/refund of Security (works) as per regulation 19.7 & 19.8 of Supply Code, 2007.

The opening sentence of regulation 19.7 provides that “*after execution of work of the electric line or electrical plant as the case may be, the Licensee will be entitled to demand from the applicant the total amount actually incurred by the Licensee (recoverable amount) for this purpose and adjust Security (works) against such recoverable amount*”. The regulation 19.7 starts with the words “after execution of works” which means after completion of the work and ibid regulation further goes on to define the ‘recoverable amount’ as total amount actually incurred by the licensee to execute the work of the electric line or electric plant, as the case may be, for release of connection or extension in load/demand of the applicant. Thus the licensee will be entitled to demand this recoverable amount only after completion of the work. There is no provision which empowers the licensee to demand additional expenditure or refund the excess amount without arriving at the actual expenditure incurred on the work. The actual expenditure can only be determined once the work is completed

and actual quantity of material used on the work is verified by the competent authority and the rates are available with the concerned office. The regulation 19.7 further provides that if after adjusting Security (works) against such recoverable amount, the actual expenditure is less than Security (works) already got deposited from the applicant, the excess amount recovered from the applicant will be refunded within sixty (60) days of the release of connection by adjustment against electricity bills of the immediately succeeding months. Regulations 19.8 provides that in case actual expenditure i.e. the recoverable amount is more than the Security (works) then a demand notice will be served on the applicant requiring him to deposit the amount within thirty (30) days of the service of demand notice. Thus it is very evident that recovery or refund can be made only when the execution of the work for release of connection or extension in load/demand has been completed as per the scope of work approved by the Feasibility Committee. The issue of levy of interest on the balance amount, if payable by the applicant or disconnection of supply as per regulation 19.8 of Supply Code, 2007 or regulation 9.3.7 of Supply Code, 2014 shall arise only after work is completed and final account as per IWR is prepared.

In the instant case since execution of the work is still incomplete and erection of 66 kV line is still in hand so neither additional amount of Security (works) can be demanded from the petitioner nor any penal provisions of regulation 19.8 of Supply Code, 2007 or regulation 9.3.7 of Supply Code, 2014 can be invoked at this stage by PSPCL. Similarly, no refund for any component of the work, which might have been completed, can be

given to the petitioner at this stage till finalisation of accounts after completion of the job as per feasibility clearance.

Thus the demand of ₹42,01,274/- raised vide AEE/DS, PSPCL, Lalru Memo No.1522 dated 21.10.2015 is set aside. PSPCL is directed to complete the work as per the scope of work approved by the feasibility clearance committee and thereafter overhaul the account of the petitioner as per regulation 19.7 and 19.8 of the Supply Code, 2007 or regulations 9.3.6 & 9.3.7 of Supply Code, 2014, as may be applicable.

It has generally been seen that PSPCL neither adhere to the time schedule specified in regulation 6.3 of the Supply Code, 2007 or regulation 8.1 of the Supply Code, 2014, particularly in case of EHT connections nor seek approval of the Commission for extension in the period for completion of the job beyond prescribed period as provided in aforesaid regulations. **PSPCL is directed to instruct its field officers to strictly follow the regulations in letter and spirit.**

The petition is disposed of accordingly.

Sd/-

(Gurinder Jit Singh)

Member

Chandigarh

Dated: 22.01.2016

Sd/-

(Romila Dubey)

Chairperson