

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

**Petition No. 32 of 2013  
Date of Order: 13.08.2013**

In the matter of: Petition under Section 142 of Electricity Act, 2003 read with clause 5, 6 & 9 of the PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 and other relevant sections of the Electricity Act, 2003 and regulations framed by the Commission, for taking necessary action against respondent No.1 and its officials for not issuing demand notice as per provisions of the Supply Code, 2007 and further for directing the respondents to charge the amount for service connection charges as per rates applicable when the Demand notice was required to be issued as per Provisions of Supply Code, 2007; and further for setting aside the demand of Rs.10,95,600/- raised by the respondents vide demand notice No.274 dated 6.03.2013, being issued in violation of the provisions of the Supply Code, 2007, framed by the Commission.

AND

In the matter of: M/S Parmatma Singh Jatinder Singh Alloys Pvt. Ltd.,  
Kohara Road , Outside Octroi Post, Village Sahnewal,  
Ludhiana, through its Director Bipan Kumar son of Late Sh.  
Munshi Ram.

Versus

1. Punjab State Power Corporation Limited
2. AEE PSPCL (Op) Division Estate (Special) Giaspur Road  
Ludhiana..

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

**ORDER**

This petition has been filed by Parmatma Singh Jatinder Singh Alloys Pvt. Ltd. Village Sahnewal, Ludhiana under Section 142 of Electricity Act, 2003 read with Regulations 5, 6 and 9 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007 for initiating necessary action against Punjab State

Power Corporation Limited (PSPCL) and its officials for not issuing the demand notice as per provisions of the Supply Code,2007 and further for directing the respondents to charge the amount for service connection charges as per rates applicable at the time when the demand notice was required to be issued; and further for setting aside the demand of Rs.10,95,600/- raised by the respondents vide demand notice No.274 dated 6.03.2013, issued in violation of the provisions of the Supply Code, 2007.

The submission of the petitioner is that it is having an electricity connection for its furnace with the contract demand of 2000 kVA and connected load of 1969.827 kW. The petitioner applied on 29.12.2011 for extension of contract demand from 2000 kVA to 2498 kVA after depositing Rs.75000/- as earnest money vide receipt dated 15.12.2011.

The Feasibility Clearance Committee of PSPCL considered the feasibility clearance of the petitioner for grant of electricity connection in its meeting held on 29.02.2012 and feasibility clearance was granted vide memo No. 229 dated 09.03.2012. The petitioner was required to submit A & A Form within 30 days, which could be extended further by 30 days. The petitioner submitted the A & A Form on 09.04.2012, within 30 days of issuance of letter granting feasibility clearance. The petitioner also deposited Rs.6,72,000/- vide receipt dated 09.04.2012 on account of balance initial ACD.

The petitioner has further submitted that Regulation 9.1.2 (i) (b) of the Supply Code specifies as under:-

- “(i) Domestic, Non-residential, Industrial and Bulk Supply categories:
- (b) where total load including existing load exceeds 500 kW/500 kVA, the consumer will pay per kW/kVA charges for the additional load/demand as approved by the Commission or the actual expenditure for release of load/demand, whichever is higher.”

At time of submission of A & A Form, the rate fixed for the service connection charges by the Commission were at the rate of Rs.900 per kW/kVA.

The petitioner has made further submissions that as per Regulation 5.5 of the Supply Code, the petitioner is required to deposit 10% of initial security deposit as earnest money at the time of applying for feasibility clearance and as per Regulation 5.6 of Supply Code, PSPCL was required to grant feasibility clearance within 60 days of applying for the same. But in the case of the petitioner, application for feasibility clearance was submitted on 29.12.2011, but feasibility clearance was granted on 09.03.2012, this was in violation of Regulation 5.6 of Supply Code. Further, as per Regulation 6.2 of Supply Code, the licensee would issue the demand notice within 15 days from the submission of A & A Form. A&A Form was submitted on 09.04.2012. But the demand notice was issued on 06.03.2013, after a delay of about 11 months in violation of Supply Code.

Further, in the demand notice, the respondents raised a demand of Rs.10,95,000/- on account of service connection charges. On enquiring the petitioner was informed that PSERC has revised the service connection charges to Rs.2200 per kVA w.e.f. 01.10.2012. Commercial Circular No.31 of 2012 was issued by PSPCL and amount has been calculated as per Commercial Circular No.31 of 2012.

The petitioner has submitted that PSPCL is taking advantage of its own wrong, by first not issuing the demand notice within the period prescribed in the Supply Code and then levying service connection charges at the enhanced rate. The petitioner should have been charged service connection charges which were applicable at the time when the demand notice was required to be issued as per Regulations, i.e. as per Commercial Circular No.68 of 2008 and not as per Commercial Circular No.31 of 2012. Therefore, the impugned demand of Rs.10,95,600/- is totally wrong and illegal. The petitioner is ready to deposit the service connection charges as per rates applicable on 24.04.2012, the last date by which demand notice was required to be issued. The petitioner has further submitted that the petitioner wrote a protest letter dated 22.04.2013 requesting respondents to refund the whole amount with interest although the petitioner was interested to get the contract demand extended on unrevised rates of service connection charges.

The petitioner has prayed that by taking into consideration the deemed date of the demand notice to the petitioner, as per provisions of the Supply Code, the respondents be directed to charge the service connection charges from the petitioner at the rates as applicable at the time when the demand notice was required to be issued, that is 24.04.2012. Further, the demand of Rs.10,95,600/- raised by the respondents vide demand notice dated 06.03.2013 be set aside and fresh demand notice be issued on the unrevised rates of service connection charges. The petitioner has also prayed to take action under Section 142 of the Electricity Act, 2003 against PSPCL and its officials for violation of Regulations of Supply Code. The prayer is also for staying the impugned demand during the pendency of this petition and for direction to the respondents to accept the service connection charges on unrevised rates i.e. as per CC No.68 of 2008.

2. The petition was admitted vide Order dated 14.06.2013 and PSPCL was directed to file reply by 16.07.2013, with copy to the petitioner. PSPCL has filed reply vide memo No.5939 dated 15.07.2013 and has submitted as under:-

- (i) It is a petition filed by an individual consumer. The Commission may take note of the decision of Hon'ble Supreme Court in Civil Appeal No.2846 of 2006, wherein the question whether the individual consumer can approach the Commission under the Act or not, has been decided.
- (ii) The applicant / petitioner failed to submit the complete A & A Form within time. It was pointed out by Dy.Chief Engineer/City West Circle, Ludhiana vide letter dated 29.08.2012 that the load detail of the applicant be furnished in five copies signed by the applicant. The applicant was asked to submit load details vide letter dated 05.09.2012. The detail of load was furnished by the applicant on 18.09.2012. The delay in issuing the demand notice dated 06.03.2013 is due to submission of incomplete A & A Form by the petitioner.
- (iii) Even otherwise this petition is not maintainable and merits dismissal because the petitioner vide letter dated 22.04.2013 has requested for

cancellation of his application for extension of load and has sought refund of security amount. The applicant is estopped by his own conduct from raising the contrary pleas. After contesting and denying the points raised by the petitioner, in its parawise reply, the PSPCL has prayed that the petition be dismissed with costs.

3. The petitioner filed a rejoinder dated 23.07.2013 and submitted that this Commission has the jurisdiction to decide case of a particular consumer. The petitioner has also submitted that ground taken by PSPCL that incomplete A & A Form was submitted by the petitioner, is wrong. The petitioner has submitted date-wise details of all events of the case to show and establish that PSPCL took five months to ask for certain information after submission of A & A Form, which was supplied within two weeks. PSPCL again took a time of six months thereafter to issue the demand notice. With regard to the letter dated 22.04.2013 of the petitioner requesting cancellation of application for extension of contract demand, the petitioner has submitted that the PSPCL has never cancelled the application of the petitioner for extension of contract demand and at the time of filing of the petition, the application for extension of contract demand was very much pending with the respondent.

4. The petitioner has further submitted in the rejoinder that PSPCL has got Rs.2500/- deposited from the petitioner on 05.06.2013 for extension of period of compliance of demand notice. Further the petitioner has given a cheque for remaining service connection charges calculating the same at the rate of Rs.900/- per kVA. The petitioner has prayed in the rejoinder that the relief as prayed in the petition be allowed by the Commission.

5. The respondents have filed a submission dated nil of Additional S.E. Estate Division (Special) Giaspura Road, Ludhiana on 30.07.2013 during hearing and has not contested the correctness of dates and events but have submitted that delay is attributable to the submission of incomplete A & A Form by the petitioner in the first instance. The respondents have submitted that in view of submissions of incomplete A & A Form and the

request of the consumer for withdrawal of the application for extension of load, the petition merits dismissal.

After hearing the petitioner and PSPCL on 30.07.2013, further hearing was closed by the Commission. Order was reserved.

6. The Commission has gone through the submissions of the petitioner and respondents carefully. The Commission rejects the plea of the respondent that the petition is not maintainable before the Commission, because the cause of action has arisen on account of alleged violation of Regulations and directions of the Commission. The application for extending contract demand from 2000 to 2498 kVA was submitted by the petitioner on 29.12.2011. As per Regulation 5 of the Supply Code Regulations, the feasibility clearance was required to be granted by the licensee within 60 days of the receipt of application. In the present case, the feasibility clearance was granted by PSPCL vide its letter dated 09.03.2012, i.e. after 71 days instead of 60 days as provided in the Supply Code Regulations. The A&A Form was submitted by the petitioner on 09.04.2012. The respondent/licensee was required to issue demand notice within 15 days of the receipt of application as per Regulation 6.2 (b) of the Supply Code Regulations, as amended vide Second Amendment Notification No.PSERC/Secy./Reg.63 dated 29<sup>th</sup> December, 2011. Thus, the demand notice was required to be issued on or before 24.04.2012. Instead of issuing the demand notice, the respondent/licensee asked for load details vide its letter dated 05.09.2012. The same were submitted by the petitioner on 18.09.2012. The demand notice was issued by the respondent / licensee on 06.03.2013.

7. From the above details, it is observed that the respondent/licensee took 11 days more to issue the feasibility clearance, and then took about 5 months to point out the deficiency with regard to supply of load details, and then again took about 5½ months to issue the demand notice. The Commission is of the view that the details of load demanded by the respondent/licensee were not required as the petitioner had requested only for increase in contract demand.

8. Further, the submission of the respondent/licensee that the petitioner vide its letter dated 22.04.2013, has requested for cancellation of his application for extension of load and has sought the refund of the security amount as per rules, has no merit since the respondent/petitioner extended the validity of the demand notice on 05.06.2012 and further accepted the cheque for the amount worked out by the petitioner @ Rs.900/kVA for the extended part of the contract demand, though no proper receipt has been issued by the respondent/licensee for receipt of the amount deposited by the petitioner through cheque, but as admitted by the respondent/licensee during hearing of the case on 30.07.2013, the cheque is still lying with the respondent/licensee and has not been returned to the petitioner. Had the respondent issued the demand notice within the prescribed period of 15 days of registration of A&A Form by the petitioner i.e. on or before 24.04.2012, the petitioner would have been liable to bear the service connection charges at the then prevailing rate of Rs.900/kVA and not at the revised rate of Rs.2200/kVA which were made applicable with effect from 01.10.2012. The Commission observes that nobody can be allowed to take benefit of his own wrong. In the present case, PSPCL is clearly on the wrong foot for not issuing the demand notice within the prescribed period of 15 days of receipt of A & A Form. The Commission therefore directs PSPCL to release the additional contract demand and charge the service connection charges from the petitioner @ Rs.900/kVA as per the prevailing rate on 24.04.2012 (taking this date as deemed date of issuance of demand notice) or actual expenses for release of connection, whichever is higher. Other terms and conditions of the demand notice shall remain unchanged.

The petition is disposed of accordingly.

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

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

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

**Chandigarh**  
**Dated: 13.08.2013**