

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

**Petition No.8 of 2013
Date of Order: 28.03.2013**

In the matter of : Petition under Regulation 5.2, 5.5, 5.6 and 6, 9.1.2 (i) (c) concerning EHT consumer of the Electricity Supply Code and Related Matters Regulations & Conditions of Supply read with Section 43, 142 of the Electricity Act 2003.

AND

In the matter of Neel Kanth Concast Steels Pvt. Ltd., Village Khumna, Amlah Road, Mandi Gobindgarh-147203 (Pb.) through its Director Shri Gaurav Parbhat Jain

Versus

1. Punjab State Power Corporation Limited (PSPCL), through its Chairman cum Managing Director.
2. Deputy Chief Engineer, Khanna Circle PSPCL, G.T.Road, Khanna.
3. Assistant Executive Engineer (Distribution) PSPCL, Sub Division Amlah, Tehsil Amlah, District Fatehgarh Sahib.

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

ORDER

Neel Kanth Concast Steels Private Limited has filed this petition under Regulation 5.2, 5.5, 5.6, 6 and 9.1.2 (i) (c) of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007 and 'Conditions of Supply' read with Section 43, 142 of the Electricity Act 2003. The petitioner is a Large Supply Industrial consumer having contract demand of 3150 KVA on 66 kV Supply Voltage since

14.01.2011 under Sub Division Amloh of PSPCL and had borne entire cost of 66 kV Line and Bay. Petitioner applied for extension of load of 9350 kVA making a total load of 12500 kVA vide requisition dated 10.02.2011. Dy.C.E./DS Circle, Khanna directed the petitioner to deposit a sum of Rs.14,02,500/- as Earnest Money which was complied on 15.02.2011. The competent authority was required to grant feasibility clearance within 30 days upto 17.03.2011. It was actually granted on 14.10.2011 after a delay of 246 days, without obtaining any extension in time from the Commission. The petitioner has submitted that it could not have kept a huge amount of Rs.1.26 crore unspent for this long period and therefore requested the respondents to either refund the earnest money or grant further extension of 60 days. AEE/DS Khanna cancelled the requisition and forfeited the earnest money vide memo No.111 dated 19.01.2012. The petitioner moved this Commission through petition No.26 of 2012 with a prayer for setting aside the letter dated 19.01.2012 and for taking action against the respondents. This Commission disposed of the petition No.26 of 2012 vide Order dated 06.08.2012 with following directions:-

“The Commission observes that PSPCL has granted feasibility clearance after a period of 246 days after deposit of earnest money by the petitioner without obtaining any approval of the Commission as per regulations. In fact delay was never brought to the notice of the Commission. The Commission also observes that extension of 21 days beyond 60 days in compliance period allowed to Golden Industries, Mandi Gobindgarh in accordance with an authorization dated 21.12.2005 of WTMs of erstwhile PSEB, is in violation of Supply Code, which is in force since 2007.

8. In view of above facts, the Commission set aside the memo No.111 dated 19.01.2012 of AEE, Distribution Sub Division, Amloh whereby the earnest money amounting to Rs.1402500/- was forfeited and requisition was cancelled. The Commission directs PSPCL to release the extension of load to the petitioner under feasibility clearance dated 14.10.2011 if the petitioner deposits A & A Form and

all dues and complete all other formalities in this regard within 30 days of this Order”.

The period of 30 days allowed by the Commission for deposit of A & A Form and all dues was to expire on 05.09.2012. In the meantime on 13.08.2012, the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) (3rd Amendment) Regulations, 2012 were notified on 13.08.2012. Following two changes were made vide 3rd Amendment of the Supply Code:-

- “a) Regulation 5.2 was amended and instead of 100% deposit of security at the time of Registration of A & A Form, it was provided that applicant would be required to deposit 25% (inclusive of Earnest Money deposited earlier) of the Security amount.
- b) Regulation 9.1.2 (i) (c) concerning EHT consumer was amended and a provision was added that even if there is no augmentation of the HT / EHT line established at the expenses of the consumer, still the consumer would be liable to pay service connection charges on per kVA basis for the total load as applicable at the time of sanction of load, less charges already paid for the existing load”.

The petitioner was informed that amended provisions will not apply to him, therefore, instead of 25% security, he would have to deposit 100% security and was directed to deposit further sum amounting to Rs.1,26,22,500/-. The petitioner deposited the same vide receipt No.144/8896 dated 27.08.2012. The A & A Form was accepted on 27.08.2012 itself. Thus by not applying amendment dated 13.08.2012, the petitioner was made to deposit Rs.1,05,18,750/- in excess. On acceptance of A & A Form, the respondents were required to issue demand notice in accordance of Regulation 6.2 of the Supply Code within 30 days in terms of 2nd Amendment dated 29.11.2011 of the Supply Code. That period expired on 26.09.2012 after 30 days commencing from 27.08.2012. The respondents neither issued Demand

Notice nor sought permission of this Commission in this regard. In the meantime the Commission had allowed the upward revision of Service Connection Charges vide memo No.5394 dated 07.09.2012 with effect from 01.10.2012. PSPCL issued a CC No.31/2012 whereby earlier schedule of charges as per Circular CC No.68/2008 dated 17.11.2008 was amended. For the purpose of the present case, Fixed Charges applicable @ Rs.900/- per kVA were revised to Rs.2200/- per kVA. The respondents issued a demand notice dated 23.10.2012 and demanded a sum of Rs.1,22,69,227/- @ Rs.2200/- per kVA on extension of 9350 kVA load. The petitioner submitted a detailed representation dated 02.11.2012 challenging the arbitrary and illegal demand of Rs.1,22,69,227/-. A reminder was submitted by the petitioner on 22.01.2013.

The petitioner has made the following prayer:

- a) For punishment to the respondents, for their failure to comply with Orders / directions issued by this Commission in Petition No.26 of 2012, decided on 06.08.2012.
- b) For taking suitable action against the respondents for their failure to adhere to time schedule for issuance of demand notice.
- c) Suitable Order / directions directing the respondents to release the extension of load as per order / direction dated 06.08.2012, as consumer having deposited the requisite dues and completion of all formalities on his part on 27.08.2012, in accordance with the feasibility clearance granted on 14.10.2011.
- d) In the meantime, suitable interim Orders / directions be issued to the respondents to proceed with further steps for release of extended load of 9350 kVA on the basis of Service Connection Charges as in vogue as on the date of submission of A & A Form i.e. 27.08.2010 and / or on the date when the competent authority had sanctioned extended load i.e. 19.09.2012, keeping in view the fact that an excess amount of Rs.1,05,18,750/- has already been obtained by the respondents.

e) Suitable Orders imposing suitable punishment / penal action against competent Officers / Authorities of the respondents, especially respondent No.1 for intentionally violating the mandatory provisions of the Electricity Act and Regulations in contravention of the Order passed by this Commission be issued.

2. The petition was admitted vide Order dated 27.02.2013 and PSPCL was directed to file reply by 12.03.2013 with advance copy to the petitioner. PSPCL filed reply vide C.E./ARR & TR memo No.5393 dated 11.03.2013 and submitted that ACD of Rs.1,26,22,500/- was deposited vide receipt No.144/8896 dated 27.08.2012. C.E./DS Central, Ludhiana has sanctioned the load vide letter dated 19.09.2012. The sanctioned A & A Form was collected by the peon of Dy.C.E./DS Circle, Khanna on 21.09.2012.

From 22.09.2012 to 24.09.2012 there were public holidays and after marking the A & A Form on 25.09.2012, these files were forwarded to ASE/DS Divn. Amloh on 27.09.2012. Again from 28.09.2012 to 30.09.2012 were holidays, the case was sent to AEE/DS Amloh from 04.10.2012, thereafter AEE had issued the demand notice on 23.10.2012. The Service Connection Charges @ Rs.2200/- per kVA as per Commission letter No.5394 dated 07.09.2012 and PSPCL Commercial Circular No.31/2012 dated 21.09.2012 were charged. PSPCL prayed that in view of their submissions the petition be rejected.

3. The petitioner filed a short rejoinder dated 18.03.2013 to the written statement of PSPCL. The petitioner has vehemently submitted that it is illegal and unfair on the part of respondent authorities to delay issuance of demand notice beyond the period of 30 days after receipt of huge amount of Rs.1,26,22,500/- on 27.08.2012 especially when the competent authority had sanctioned the A & A Form on 19.09.2012. It has not explained why delay occurred from 27.08.2012 to 19.09.2012. Regarding averment of gazetted holidays on 24.09.2012 and 28.09.2012, the petitioner has submitted that the Supply Code envisages a maximum period of 30 days for the distribution licensee to sanction the A & A Form. Nowhere it is mentioned in the Regulations that weekend and holidays are to be excluded. The petitioner is

liable to pay the charges as admissible on 26.09.2012 i.e. expiry of 30 days period from the deposit of A & A Form alongwith security. The respondents can not reap benefits of their own wrong. A careful examination of the impugned Demand Notice dated 23.10.2012 reveals that the same was firstly issued on 28.09.2012 but was issued belatedly on 23.10.2012 by cutting / overwriting the same. The respondents had acted in a vindictive manner against the petitioner. The petitioner has submitted that the Demand Notice dated 23.10.2012 be quashed / set aside and a fresh demand notice be issued by the respondents keeping in view the Service Connection Charges prevalent on 26.09.2012.

The case was argued at length by the counsel for the petitioner on 19.03.2013. After hearing both sides, further hearing of the case was closed and Order was reserved by the Commission vide Order dated 20.03.2013.

The Commission has gone through the submissions made by the petitioner and respondents and observes that the petitioner had complied with his part of obligations by depositing a sum of Rs.1,26,22,500/- on 27.08.2012 alongwith A & A Form well within 30 days allowed by the Commission in its Order dated 06.08.2012 passed in Petition No.26 of 2012 also related to this case. It was now the obligation of the respondents to issue the demand notice within 30 days amongst themselves as per the Supply Code. There is no allowance for holidays / weekends in the period of 30 days as per the regulations as they stand. Had the PSPCL authorities issued the demand notice within 30 days after 27.08.2012, the date on which A & A Form was submitted and security was deposited, the SCC would have been at the then prevailing rate i.e. Rs.900 per kVA and not the revised rate of Rs.2200/- per kVA which were made applicable by the Commission w.e.f. 01.10.2012. The Commission observes that nobody can be allowed to take benefit of its own wrong. PSPCL was wrong for not issuing the demand notice within 30 days and then levy revised SCC for that wrong. Law does not allow undue enrichment of any of the parties.

The Commission, therefore quashes / set aside the demand notice dated 23.10.2012 as being unfair, unjust and illegal and directs PSPCL to

issue a fresh demand notice and charge Service Connection Charges @ Rs.900/- per kVA as were prevalent on 26.09.2012 (taking that date as deemed date of issue of fresh demand notice).

The fresh demand notice be issued within seven days from receipt of this Order. With these directions, the petition is disposed of.

Sd/-
(Gurinder Jit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 28.03.2013