

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

**Petition No.11 of 2013
Date of Order: 25.04.2013**

In the matter of : Petition under Regulation 6.2 (b) of the Punjab State Electricity Supply Code & Related Matters Regulations 2007 – Service Connection Charges.

AND

In the matter of Krishna Techno Cast, Village & P.O. Nasrala, Hoshiarpur. Presently correspondence address: Vij Enterprises, 19-A, Industrial Estate, Hoshiarpur-146001 (Punjab).

Versus

Punjab State Power Corporation Limited, Patiala
through its Chief Engineer, Commercial.

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

ORDER

Krishna Techno Cast, Village Nasrala, District Hoshiarpur has filed this petition under regulation 6.2 (b) of the Punjab State Electricity Regulatory Commission (Supply Code & Related Matters) Regulations, 2007 (Supply Code). The petitioner has submitted that it applied vide letter dated 12.04.2012 for feasibility clearance for new connection for 1400 kW with Contract Demand of 1250 kVA. Earnest money amounting to Rs.1,74,700/- was deposited vide receipt No.562 dated 18.04.2012. Punjab State Power Corporation Limited (PSPCL) informed the petitioner regarding grant of feasibility clearance vide letter dated 17.07.2012. A & A forms were submitted and balance amount of Rs.16,06,050/- was deposited vide receipt No.398 dated 10.09.2012. The petitioner has submitted that as per regulation 6.2 (b) of Supply Code, the demand notice was required to be issued within stipulated time of 10 days after submission of A & A forms, but the same was issued on 05.11.2012 along with

demand of Service Connection Charges amounting to Rs.27,50,000/- vide memo No.3526 dated 05.11.2012. PSPCL authorities were approached vide letter dated 08.11.2012 to rectify the demand of Rs.27,50,000/-, which was turned down by PSPCL without assigning any reason vide memo No.4045 dated 28.12.2012 issued by AEE/DS Suburban Sub-Division, Hoshiarpur. The petitioner has stated that this Commission had approved revised Service Connection Charges vide memo No.5394/PSERC/DTJ-50-Vol.IV dated 07.09.2012 to be applicable with effect from 01.10.2012. PSPCL had accordingly circulated the same vide No.1269/1273/DD/SR-562 dated 21.09.2012 (CC No. 31 of 2012). As such, PSPCL authorities were well aware that there was going to be hike in SCC w.e.f. 01.10.2012. Had the petitioner received the demand notice within 10 days, on or before 20.09.2012, SCC would have been applicable at the unrevised rates. The petitioner has prayed that PSPCL be directed to withdraw the demand notice dated 05.11.2012 and rectified demand notice be issued as per the rates applicable before 01.10.2012.

2. The petition was admitted vide Order dated 06.03.2013 and PSPCL was directed to file reply by 05.04.2013 after serving a copy upon the petitioner. PSPCL has filed reply vide C.E./ARR & TR memo No.5519 dated 03.04.2013. PSPCL has raised the issue of jurisdiction of this Commission in its preliminary submissions in view of Hon'ble Supreme Court judgement dated August 14, 2007 in Civil Appeal Nos. 2846 of 2006 and No.3551 of 2006 (Maharashtra Electricity Regulatory Commission versus Reliance Energy Ltd. and others). The facts of the case are not disputed by the respondent, but the respondent has submitted that demand notice remains uncomplied with and the firm was not in position to submit Test Report because the construction work of building was still under progress. Had the demand notice been issued on 20.09.2012, its validity would have expired on 19.03.2013 and firm had to bear revised SCC. PSPCL has further submitted that the delay in issuing demand notice was not intentional.

The parties were heard at length on 16.04.2013. Further hearing of the case was closed and Order was kept reserved vide Order dated 17.04.2013.

The petitioner was directed to file written submissions within two days. The same has been filed by the petitioner on 17.04.2013.

3. The Commission has examined the issue of jurisdiction of the Commission in view of Judgement of Hon'ble Supreme Court in Appeal No.2846 of 2006 and No.3551 of 2006. The Commission has noted that Judgement is not applicable to the facts of the instant case. In the matter of said appeals, the dispute was between consumer(s) and the Distribution Licensee. The Hon'ble Supreme Court had held that the right for seeking remedy in such cases was 'the Forum for redressal of grievances of the consumers' forum established under Section 42(5) and Ombudsman appointed under Section 42(6) of the Electricity act, 2003". The Act, defines 'Consumer' in Section 2(15) of the Act as under:

"Consumer means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be."

Evidently the petitioner is not yet the consumer of PSPCL. The provisions of Section 42(5) and 42(6) apply to the grievances of the consumers only. Hence the Judgement of the Hon'ble Supreme Court is not applicable to the facts of the instant petition. Moreover the Hon'ble Supreme Court had held in the same Judgement:

"The contention of the respondents that the Commission has no power is wrong. A comprehensive reading of all the provisions referred to herein above leaves no manner of doubt that the Commission is empowered with all powers right from granting licence and laying down the conditions of licence and to frame regulations and to see that same are properly enforced and also power to enforce the conditions of

licence under Section 128(6) of the Electricity Act, 2003. But the question is whether the said power under Section 128(6) has been rightly exercised by the Commission or not.

The Commission has full power to pull up any of its licensee or distribution company to see that the rules and regulations laid down by the Commission under Sections 45(5), 55(2), 57, 62, 86, 128, 129, 181 and other provisions of the Electricity Act, 2003 to ensure that public is not harassed.”

The above observations of the Hon'ble Supreme Court of India leave no room for doubt that this Commission has the jurisdiction to decide the petitions of the nature of instant petition. As the facts are not disputed, action by the Commission under Section 128 of the Act is not required in this case.

4. The Commission notes that the respondent was required to issue demand notice within 15 days of receipt of A & A forms under Regulation 6.2 (b) of Supply Code as amended vide 2nd amendment notified vide Notification No.PSERC/Secy./Reg.63 dated 29th December, 2011. Thus the demand notice should have been issued by PSPCL on or before 25.09.2012. Had the demand notice been issued by the respondents by 25.09.2012, the petitioner would have been liable to bear the Service Connection Charges at the then prevailing rate of Rs.900/- per kVA and not at the revised rate of Rs.2200/- per kVA which was applicable w.e.f. 01.10.2012. Nobody is entitled to take benefit from his own wrong. The Commission, therefore, directs PSPCL to charge the SCC from the petitioner @ Rs.900 per kVA as per prevalent rate on 25.09.2012 or actual expenditure for release of connection, whichever is higher. Other conditions of the demand notice issued vide No.3526 dated 05.11.2012 shall remain unchanged.

The petition is disposed of accordingly.

Sd/-
(Gurinder Jit Singh)
Member

Sd/-
(Virinder Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 25.04.2013