

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

Petition No.25 of 2017

Date of order: 22.05.2017

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

In the matter of: Petition under Clause No.6 of the Regulation on Electricity Supply Code for extension of Demand Notice period regarding Traction Sub Station at Village Kotla Suleman, near Sadhugarh, Sirhind, District Fatehgarh Sahib, Punjab.

AND

In the matter of: Dedicated Freight Corridor Corporation of India Ltd., (DFCCIL) through its authorized representative Mr.Chanky Garg, Project Manager (Electrical), old Railway Colony, near Anand Market, Ambala Cantt.

-----Petitioner

Versus

1. Punjab State Power Corporation Limited, The Mall,
Patiala.

2. Punjab State Transmission Corporation Limited

-----Respondents

Order:

1.0 The present petition has been filed by Dedicated Freight Corridor Corporation of India Ltd. (DFCCIL) through its authorized representative Mr.Chanky Garg, Project Manager (Electrical) for extension of demand notice period regarding Traction Substation at village Kotla Suleman, near Sadhugarh, Sirhind under regulation

6 of the Supply Code, 2014. The gist of the submissions is as under:

- 1.1 The Ministry of Railways, Government of India, has planned to construct railway track dedicated for freight traffic covering about 3330 route kilometres on Eastern and Western Dedicated Freight Corridors (DFCs) to augment transportation capacity on these busy routes. This important project has been identified as an 'Iconic Project' by the "Delivering Monitoring" Unit in the Prime Minister's office. Eastern DFC covers the stretch between Ludhiana in Punjab to Dankuni in West Bengal via Son Nagar – Mughalsarai - Allahabad - Kanpur - Ambala - Ludhiana.
- 1.2 Dedicated Freight Corridor Corporation of India (hereinafter referred as DFCCIL) is a Special Purpose Vehicle set up under the administrative control of Ministry of Railways to undertake planning, development, mobilization of financial resources & construction, maintenance & operation of the Dedicated Freight Corridors. The DFCCIL was incorporated in October, 2006 under Indian Companies Act, 1956.
- 1.3 The petitioner moved an application dated 08.10.2012 to the Punjab State Power Corporation Limited (hereinafter referred as PSPCL) through Dy. Chief Engineer/DS, PSPCL Circle, Khanna for sanction of load of (20MVA-60MVA) on 220 kV for traction substation at village Suleman near Sadhugarh Railway Station, Sirhind, District Fatehgarh Sahib, Punjab. Further, the petitioner had paid earnest money to PSPCL by way of cheque No.32036958 dated 07.03.2013 for ₹22,00,000/- against receipt No.222 dated 11.03.2013.

PSPCL accorded the feasibility clearance vide memo No.942 dated 25.06.2013. On 13.08.2013, petitioner submitted A&A Form & paid Advance Consumption Deposit (ACD) i.e. ₹1,98,00,000/- by way of cheque No.32042666 dated 02.09.2013 against receipt No.241 dated 05.09.2013 to the PSPCL.

- 1.4 On 18.11.2014, the petitioner received Memo No.3976 dated 18.11.2014 from the Punjab State Transmission Corporation Limited (hereinafter referred as PSTCL) demanding ₹3,50,000/- as survey & processing charges for 220 kV transmission line. Although, the petitioner has no direct dealing with PSTCL but being the sister organization of PSPCL dealing with transmission, the amount of ₹3,50,000/- was paid to PSTCL, Mohali by way of cheque No.33013720 dated 09.12.2014 against receipt No.0062 dated 10.12.2014.
- 1.5 On 09.09.2015, the petitioner received provisional Demand Notice No.1807 dated 07.09.2015 from PSPCL. However, the provisional Demand Notice was in Gurmukhi script. Therefore, the petitioner wrote letter on 17.09.2015 to PSPCL & demanded the provisional Demand Notice either in Devnagri or Roman script.
- 1.6 On 04.12.2015, the petitioner received letter Memo No.3628 dated 01.12.2015 from PSTCL that estimate of the transmission line amounting to ₹8,75,96,320/- has been sanctioned. However, the amount of estimate of the transmission line was mentioned ₹8,19,54,340/- in the provisional Demand Notice.

- 1.7 The petitioner vide letter dated 05.12.2015 to both PSPCL & PSTCL sought clarification regarding the estimate of transmission line demanded by PSTCL. Moreover, petitioner also demanded some essential documents as well as sought clarification regarding the agency for depositing the estimated amount of transmission line either to PSTCL or PSPCL. However, no reply was received regarding the same.
- 1.8 The petitioner again demanded the translated copy of the provisional Demand Notice dated 07.09.2015. The petitioner received the translated copy of the provisional Demand Notice in which total estimate amount was shown as ₹9,06,01,340/- out of which the estimate amount of transmission line was shown as ₹8,19,54,340/- & cost of bay was ₹86,47,000/-.
- 1.9 The petitioner has categorically pointed out to PSPCL as well as to PSTCL vide letter dated 22.12.2015 that there is difference between the estimated amount of transmission line given by PSTCL & Demand Notice dated 07.09.2015 issued by PSPCL. The petitioner again requested for documents & the final estimate.
- 1.10 The petitioner received letter dated 13.01.2016 from the PSTCL in which ₹8,75,96,320/- was demanded as estimated cost of the transmission line without giving any clarification sought by the petitioner & no document, as requested, was supplied to the petitioner. Moreover, PSPCL also had not given any clarification regarding the estimate of transmission line given in the provisional Demand Notice.

- 1.11 The petitioner again sent reminder dated 18.01.2016 to PSTCL regarding the clarification already sought & essential documents demanded by the petitioner.
- 1.12 On 02.02.2016, the petitioner received Revised Demand Notice No.2361 dated 17.12.2015 in which PSPCL demanded a total amount of ₹9,62,43,320/- out of which ₹8,75,96,320/- was shown to be the charges of transmission line & ₹86,47,000/- as the bay cost.
- 1.13 On 29.02.2016, the PSTCL provided the translated copy of the sanctioned estimate & other details through letter dated 26.02.2016. After having received the details from the PSTCL, petitioner faced some difficulties in finance department of DFCCIL regarding clearance of the case due to the rate difference of some items as well as details of bay cost of ₹86,47,000/-. Thus, the petitioner demanded the basis of rates of the said items as well as details of bay cost vide letter dated 26.03.2016 & 18.04.2016. However, the same was not provided to the petitioner. In spite of that, the petitioner had timely forwarded the case for the clearance from finance department.
- 1.14 The petitioner informed PSPCL vide letter dated 13.05.2016 that the case for making payment had been processed & payment would be made after clearance from the finance department & sanction by competent authority.
- 1.15 The petitioner tried their best to complete the requisite formalities within a stipulated period as per clause 10 of the demand notice. However, due to non availability of earlier desired data and other procedural delays, formalities could

not be completed in the stipulated period. Hence, the petitioner moved an application dated 15.11.2016 to extend the validity of demand notice up to 31.03.2017, so that all formalities could be completed in said time frame. However, the PSPCL did not give any response to the said letter. Thus, reminder dated 17.01.2017 was sent to the PSPCL to extend the validity of demand notice.

1.16 On 20.01.2017, the petitioner received letter dated 10.01.2017 from PSPCL in which respondent has written that as per the clarification received from the deputy Chief Engineer Sales that as per Supply Code regulations demand notice is valid for the period of one year & there is no provision for extension of demand notice beyond one year. Hence, the petitioner approaches this Commission by way of instant petition. It is pertinent to mention that the revised demand notice dated 07.12.2015 was received on 02.02.2016 and the petitioner had requested for extension of demand notice on 15.11.2016 vide letter CPM/UMB/EL/TSS/SDY, which was within above mentioned period of 1 year.

1.17 From the peculiar set of circumstances it duly reveals that the petitioner has deposited EMD as well as ACD within the stipulated period. However, the delay was caused merely due to late issuing of the translated copy of the provisional demand notice dated 07.09.2015 despite repeated requests. Further, the petitioner time & again sought clarifications regarding the estimated amount ₹8,75,96,320/- by way of numerous letters & reminders. However, PSPCL failed to

give any clarification regarding the objection raised by the petitioner.

1.18 The petitioner prayed for extension in the validity period of demand notice for a reasonable time so that project could be commissioned in the targeted period on the following grounds;

- (i) Two estimates of different rates regarding transmission line were received by the petitioner and the respondents failed to clarify despite repeated reminder.
- (ii) The revised notice dated 07.12.2015 which was received on 02.02.2016 was not served as per regulation 44 of the Supply Code.
- (iii) As per regulation 6.8.5 of the Supply Code, in case revised demand notice is issued on account of revision of feasibility clearance or any other reason, the validity of such demand notice shall start from the date of issue of revised demand notice. So in the instant case, validity period of demand notice shall start from 02.02.2016.
- (iv) The petitioner received the translated copy of the sanctioned estimate and other details on 29.02.2016 and thereafter the petitioner faced some difficulties in finance department regarding clearance of the case due to the rate difference of some items as well as details of bay cost.

- (v) Application for extension of demand notice period was moved on 15.11.2016 and the response from the respondent no.1 was received on 20.01.2017.
- (vi) Huge public money is involved and the Government has already spent huge amount on the said project. In case the extension of demand notice is not granted in that event the petitioner would suffer irreparable loss.

2.0 After hearing the representative of the petitioner, the petition was admitted. Three copies of the petition, two for Respondent No.1 (PSPCL) and one for Respondent No.2 (PSTCL) were handed over to the respondents, who were present in the office of the Commission. Respondent No.1 & 2 i.e. PSPCL and PSTCL were directed to file reply with a copy to the petitioner by 02.05.2017 (through email and hard copy) and the next date for arguments was fixed on 04.05.2017.

3.0 PSPCL vide CE/ARR & TR Memo No.5807 dated 04.05.2017 filed its reply & stated as under:

3.1 A&A form of the petitioner was approved by Chief Engineer/Central Zone, PSPCL, Ludhiana vide Memo No.1833 dated 11.03.2014. The case of petitioner was forwarded vide Memo No.789 dated 27.03.2014 to Additional SE/TLSC Patiala to prepare estimate of petitioner, so that Demand Notice could be issued on time. Despite repeated reminders, PSTCL did not sanction estimate and hence a provisional demand notice vide Memo No.1807 dated 07.09.2015 was issued to the petitioner as per CC 60/2014 considering the length of transmission line to be erected to release load/contract demand of the petitioner as 13.25 KM

in accordance with the feasibility clearance issued by CE/Commercial. Further, on request of the petitioner to translate the Demand Notice in Devnagri or Roman script, this office translated the same in English and supplied to the petitioner vide Memo No.2378 dated 10.12.2015, which was received by petitioner on the same date.

- 3.2 After sanctioning of estimate by CE/TS, PSTCL, Patiala, the revised Demand Notice for ₹9,62,43,320/- including cost of bay was issued vide Memo No.2361 dated 07.12.2015 without changing any terms & conditions imposed in the provisional Demand Notice. It was clearly mentioned in the revised demand notice that the conditions and period of compliance remain the same as mentioned in the original Demand Notice. The petitioner never objected to this condition to any authority of PSPCL before coming to the Commission.
- 3.3 PSPCL has issued a revised Demand Notice No. 2361 dated 07.12.2015 amounting to ₹9,62,43,320/- out of which ₹8,75,96,320/- was actual amount sanctioned by CE/TS, PSTCL, Patiala and ₹86,47,000/- was the cost of bay.
- 3.4 It was the obligation of the petitioner to take financial clearance from their competent authority. In fact, the petitioner up to that time has not made compliance to the terms & conditions of Demand Notice.
- 3.5 There was no delay on the part of PSPCL. The petitioner had submitted application dated 15.11.2016 to extend the validity period of Demand Notice up to 31.03.2017, which was forwarded to competent authority for necessary action.

However, as per clause 6.8.7 of Supply Code, 2014, the validity of the Demand Notice of the petitioner had already elapsed before the petitioner made the request to extend it. Therefore, the request of the petitioner was denied by Chief Engineer/Commercial, PSPCL, Patiala vide Memo No.8412 dated 13.12.2016 and the same was intimated to the petitioner vide office Memo No.108 dated 10.01.2017.

- 3.6 Provisional demand notice was issued to the petitioner vide Memo No.1807 dated 07.09.2015 and revised demand notice after incorporating the actual cost of transmission line and cost of bay was issued vide Memo No.2361 dated 07.12.2015, but the terms & conditions of the provisional demand notice were not changed. Thus the validity of the demand notice was not extended and the petitioner never objected to validity of demand notice before coming to Commission. It is only an afterthought of the petitioner.

Even if the date of revised demand notice i.e. 07.12.2015 is to be considered for calculating validity period, even then as per clause No.6.8.7 of Supply Code, 2014, the validity of demand notice cannot be extended beyond 1 year i.e. 06.12.2016. Moreover, the petitioner never applied for extension of validity of demand notice within six months, which comes out to be 06.06.2016 considering the date of revised demand notice as 07.12.2015. The petitioner applied for extension up to 31.03.2017 in its request letter dated 15.11.2016 after lapse of more than 11 month. Moreover, as per clause No.6.8.7 of the Supply Code, 2014 there is

provision for revival of cancelled AP applications only, there is no provision for any other category.

- 3.7 PSPCL had complied with all the rules & regulations framed by the Commission starting from deposit of earnest money by the petitioner up to issuance of demand notice. The delay in submitting the test report along with Security (works) has been on the part of the petitioner and PSPCL is not responsible for the delay caused due to non-receipt of the necessary approval by the petitioner from his own department.
- 3.8 The respondent denied that the clause No.44 of Supply Code is regarding service of notice. The relevant clause is regulation No.42 which is in accordance with Section 56 of the Act, which relates to serving of the notice regarding Disconnection of Supply in default of payment. The claim of the petitioner regarding receiving of revised demand notice on 02.02.2016 is wrong and denied. All the communication made by PSPCL with petitioner was always within prescribed time and they never claimed for any delay before any authority of PSPCL before filing this petition before this Commission. It is only an afterthought of the petitioner to justify itself.
- 4.0 PSTCL vide FA/ PSTCL, Patiala Memo No.1297 dated 02.05.2017 (received on 04.05.2017 filed the reply & stated as under:
- 4.1 The feasibility regarding supply of electric connection has been issued to Railways by Chief Engineer/Commercial, PSPCL, Patiala vide Memo No.942 dated 25.06.2013 and same has been received through the office of Dy. Chief

Engineer/TLSC Circle, Patiala vide Memo No.4288 dated 12.11.2014.

- 4.2 PSTCL raised the demand to Railways for ₹3.50 lac as survey & processing charges of 220 kV line and the same was deposited on 10.12.2014. The tender for survey of 220 kV line was then processed.
- 4.3 The estimate for erection of 220 kV line was sanctioned by Chief Engineer/TS vide Memo No.4329 dated 16.11.2015 amounting to ₹8,75,96,320/- & the petitioner was requested vide Memo No.3628/29 dated 01.12.2015 to deposit the amount.
- 4.4 The petitioner requested PSTCL vide letter dated 05.12.2015 to provide the detailed estimate in Hindi or English. The copy of detailed estimate in English with reply of queries was provided to the petitioner vide memo No.813 dated 26.02.2016 .
- 4.5 The petitioner and PSPCL were asked repeatedly to deposit the estimated cost but till date the petitioner has not deposited the amount.
- 4.6 The office of Dy. Chief Engineer/TLSC Circle, Patiala had processed the tender for construction of 220 kV line, which was opened on 07.01.2016, but due to non deposit of estimated cost the tender was cancelled after a period of one year. The Demand Notice was issued by PSPCL, so requisite action for extension in Demand Notice is to be carried out by PSPCL only. PSTCL is to carry out the work

of erection of line only and that can be started only after the amount of estimate is deposited.

5.0 The matter was heard on 04.05.2017 and order was reserved by the Commission.

6.0 Commission's Findings and Order

The facts of the case in brief are that the petitioner applied for a load of 18000kW with Contract demand of 20000 kVA for traction substation, which was approved at 220 kV. Provisional demand notice was issued by PSPCL on 07.09.2015 and a revised demand notice on 07.12.2015. The petitioner requested PSPCL on 15.11.2016 for extension of the demand notice period upto 31.03.2017. The request was rejected by PSPCL vide letter dated 10.01.2017 by AEE/PSPCL, Sirhind on the grounds that as per Supply Code Regulations, the demand notice is valid for the period of one year and there is no provision for extension beyond one year. The petitioner admitted that due to non availability of desired documents/clarifications from the respondents and also procedural delays in getting necessary clearances from Railway authorities, compliance of the demand notice could not be made in stipulated time. However, the petitioner argued that the revised demand notice was issued on 07.012.2015 but the same was received on 02.02.2016 and it was not served as per regulation 44 of the Supply Code, 2014. The petitioner further quoted regulation 6.8.5 of the Supply Code to claim that in case revised demand notice is issued, the validity period will be calculated from the date of issue of revised demand notice. Let us examine regulation 6.8.5 which reads as under:

6.8.5 Validity of Demand Notice Period:

*The Demand Notice shall be valid for a period of three (3) months for LT supply categories (except AP) and six (6) months for all other category of consumers (including AP) from the date of issue of Demand Notice unless extension is granted as per regulation 6.8.7. **In case a revised demand notice is issued on account of revision of feasibility clearance or any other reason, the validity period of such demand notice shall start from the date of issue of revised demand notice. [emphasis added]***

Thus it is evident that in case a revised demand notice is issued due to any reason, the validity period of the demand notice shall start from the date of issue of revised demand notice. In this case, it is an admitted fact that revised demand notice was issued on 07.12.2015 so the demand notice was valid upto 06.06.2016, provided it has been served as per law. The petitioner claimed that demand notice was received on 02.02.2016 but could not substantiate its claim. Similarly, PSPCL failed to convince the Commission that demand notice was issued as per established procedure and as per law.

The petitioner applied for extension in demand notice period on 15.11.2016 i.e almost eleven months after issue of revised demand notice. The extension in demand notice period is governed by regulation 6.8.7 of the Supply Code, 2014 which reads as under:

6.8.7 Extension of Demand Notice Period:

- (a) *In case the applicant does not comply within the validity period of Demand Notice, his application shall be liable to be cancelled after serving a 15 days notice to the consumer/ applicant in this regard. However, if the request for extension in the validity period of Demand Notice is received within the validity/notice period along with extension fee as specified in Schedule of General Charges, validity period shall be further extended up to a maximum period of one year from the date of issue of demand notice in all cases in blocks of three months by the distribution licensee.*

Thus the assertion of PSPCL that the demand notice period can be extended only upto a maximum of one year from the date of issue of the demand notice is correct. However, it is also a fact that respondents have failed to supply necessary documents/clarifications to the petitioner in time. Railway is a large Central Government organisation where approvals from various authorities take time. Moreover, Dedicated Freight Corridors (DFCs) project is an ambitious project of the country to augment transportation capacity on the busy routes. This important project has been identified as an 'Iconic Project' and is monitored at the highest level. Such projects of national importance, where huge public money is involved, should not be allowed to get delayed due departmental procedures. During proceedings, the petitioner requested that demand notice validity may be extended by two months and further assured that compliance of the demand notice will be made in the stipulated time. The

Commission is of the considered view that if validity of the demand notice is not extended, it will result in delay in completion of the project and loss to the exchequer.

In view of the above, the Commission using its powers under regulation 46 of the Supply Code, 2014 read with regulation 69 of the PSERC (Conduct of Business) Regulations, 2005 allows the petitioner to comply with the conditions of the demand notice within two months from the date of issue of this order, provided the petitioner deposit the requisite charges as provided in Supply Code, 2014.

The petition is disposed of accordingly.

Sd/-
(S. S. Sarna)
Member

Sd/-
(D.S.Bains)
Chairman

Dated: 22.05.2017
Chandigarh