

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

**Review Petition No.03 of 2017**

**In Petition No.34 of 2016**

**Date of order: 19.06.2017**

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

In the matter of: Review Petition under Section 94 (1) (f) of the Electricity Act, 2003 in the matter of Order in Petition No.34 of 2016 regarding payment of interest on refundable amount of Security (works) as per Regulation 19.7 of Supply Code, 2007.

**AND**

In the matter of: M/s TC Terrytex Limited, Village Sarsini (Lalru), Tehsil Derabassi, District SAS Nagar through its Director Sh.Ajay Jindal.....Petitioner

**Versus**

Punjab State Power Corporation Limited, The Mall, Patiala-147 001. .... Respondent

**Order:**

1.0 The present review petition has been filed by TC Terrytex Limited, Village Sarsini (Lalru), Tehsil Derabassi, District SAS Nagar through its Director Sh.Ajay Jindal in the matter of Order of the Commission in Petition No.34 of 2016 under Section 94 (1) (f) of the Electricity Act, 2003 regarding payment of interest on refundable amount of Security (works) as per Regulation 19.7 of Supply Code, 2007. The gist of the submissions is as under:

- 1.1 The Petition No.34 of 2016 was filed by the petitioner before the Commission raising two issues viz (i) refund of excess amount of Security (works) than the actual expenditure (ii) Interest on refundable amount of Security (works) for the period of delay beyond the specified period of 60 days from the date of release of connection.
- 1.2 The issue No. (i) has been decided by the Commission vide Order dated 14.02.2017 but Issue No.(ii) seems to have inadvertently skipped the notice of the Commission.
- 1.3 The issue of interest on Security (works) cannot be ignored by the petitioner as he is also paying interest to the Banks from which it has taken loans to deposit the huge amount of Security (works).
- 1.4 The extension in load was released at 66 kV on 17.10.2013. In accordance with regulation 19.7 of Supply Code, 2007, the respondents were required to compute the expenditure actually incurred within 60 days from the date of release of the connection and adjust the Security (works) against such recoverable amount. In the event of Security (works) being in excess of the recoverable amount, such excess amount was to be refunded by adjustment against electricity bills of the immediately succeeding months. In case of failure to do so, interest is payable as per provisions of regulation 19.7 of Supply Code, 2007.
- 1.5 Accordingly, the present review petition has been filed under section 94 (1) (f) of the Electricity Act, 2003 praying for specific Order on the issue of interest on refundable amount

of Security (works), which seems to have inadvertently remained unresolved in the Order of the Commission in Petition No.34 of 2016.

2.0 After hearing the representatives of the petitioner on 25.04.2017, the petition was admitted. The Commission vide Order dated 26.04.2017 directed PSPCL to file its reply to the petition with a copy to the petitioner by 15.05.2017 (through e-mail and hard copy). The petitioner was also directed to file its rejoinder, if it so desires, with a copy to the respondent by 22.05.2017 (through e-mail and hard copy). The next date was fixed on 25.05.2017 for arguments.

3.0 PSPCL vide Er-in-Chief/ARR & TR memo no.5871 dated 10.05.2017 (received on 11.05.2017) filed its reply to the petition and submitted as under:

3.1 The Commission in its Order dated 14.02.2017 in petition No.34 of 2016 directed PSPCL to adjust the refundable amount of ₹27,33,509/- against the electricity bills of the immediately succeeding months of the petitioner till the excess amount is adjusted. In compliance to the Order, the same had been adjusted in the bill of Feb., 2017 issued on 14.03.2017.

3.2 Regarding Issue No. (ii), the Security (works) amounting to ₹1,17,56,504/- was got deposited from the petitioner on account of actual expenditure to be incurred. After completion of works, as per the prevalent instructions, the actual expenditure was worked out as ₹1,18,42,860/-. However, the amount of actual expenditure i.e.

₹1,18,42,860/- was disputed by the petitioner and was pending before the Commission through previous petition no.34 of 2016. The Commission decided the matter on 14.02.2017 and in compliance to this order, the amount of ₹27,33,509/- has already been adjusted against the electricity bill of Feb., 2017 without any delay.

- 3.3 The interest is not payable in this case, because as per the prevalent instructions, the actual expenditure worked out was ₹1,18,42,860/- which was disputed by the petitioner and was pending before the Commission. The matter was decided by the Commission on 14.02.2017. In compliance to the decision, the amount of ₹27,33,509/- was adjusted against the electricity bill of 02/2017.
- 3.4 It is incorrect that the issue of interest on refundable amount of Security (works) has inadvertently remained unresolved. The Commission decided the petition no.34 of 2016 on 14.02.2017 after meticulously reviewing all the aspects including issue of interest raised by the petitioner and in compliance to the decision, the amount of ₹27,33,509/- was refunded without any delay. So, the present petition is not maintainable and needs to be dismissed.
- 4.0 The review petitioner vide email dated 17.05.2017 requested for adjournment. After consultation with the opposite party, the review petitioner proposed 13.06.2017 for arguments, which was allowed by the Commission.
- 5.0 During hearing on 13.06.2017, the representative of the review petitioner submitted that he is not interested to file any rejoinder to

the reply of the respondent and would like to argue the case. The representative of the review petitioner contested the claim of PSPCL that the actual expenditure was worked out as ₹1,18,41,860/- and since recoverable amount was more than Security (works) so no amount was refundable to the petitioner. It was argued that in case the recoverable amount was more than the Security (works) then PSPCL should have issued a demand notice for recovery of balance amount as per regulation 19.8 of the Supply Code, 2007. However, no such notice was issued by PSPCL and the concerned offices of PSPCL calculated the recoverable amount only after Commission's interim orders during proceedings of petition no. 34 of 2016.

The officers representing PSPCL failed to convince the Commission and produce any documentary evidence to show that the recoverable amount was calculated as provided in regulation 19.7 of the supply Code, 2007.

After hearing the arguments of both the parties, the order was reserved.

#### **6.0 Commission's findings and Order:**

The review petitioner has sought review of the Order of the Commission dated 14.02.2017 in petition no.34 of 2016 on the grounds that his prayer for payment of interest on the refundable amount of Security (works) as per regulation 19.7 of Supply Code, 2007 has inadvertently skipped the notice of the Commission. We have gone through the contents of petition no.34 of 2016 dated 27.04.2016 filed by the petitioner and noted that in the concluding para of the original petition, the review petitioner made the following prayer:

*“It is prayed that action under section 142 E.A 2003 may be initiated against delinquent respondents for their failure to comply with Supply Code, 2007 regulation 19.7 despite repeated requests of the petitioner for refund of excess amount of Security (works) in excess to actual expenditure”.*

Accordingly, the Commission examined the issue and passed its order dated 14.02.2016 in petition no. 34 of 2016. However, as pointed out by the review petitioner, it has been noticed that in the sur-rejoinder dated 01.08.2016, the petitioner in para 7 had claimed that the actual refundable amount was ₹39,49,821/-, which is required to be refunded by PSPCL with interest as per regulation 19.7 of Supply Code, 2007. This fact has also been recorded in para 10.0 of the Commission’s order dated 14.02.2017. Thus, we are of the view that since the petitioner had demanded interest on refundable amount as per regulation 19.7 of the Supply Code, 2007 in the proceedings of petition no. 34 of 2016, so the matter needs to be adjudicated.

PSPCL contested the argument of the petitioner for payment of interest on the ground that as per prevalent instructions, after completion of work, the actual expenditure was worked out as ₹1,18,42,860/- which was more than the security (works) deposited by the petitioner. This amount was disputed by the petitioner and the issue was pending before the Commission. PSPCL further argued that refund of ₹27,33,509/- has been made to the petitioner in view of the Commission’s Order dated 14.02.2017 immediately in the next electricity bill of February, 2017. Thus there is no delay in refund of Security (works) to the petitioner.

As brought out in Commission's Order dated 14.02.2017 in petition no.34 of 2016, the petitioner deposited ₹1,17,56,504/- as Security (works) for the release of extension in load. The extension in load was released at 66 kV on 17.10.2013. As per regulation 19.7 of Supply Code, 2007, after execution of work, PSPCL was required to determine the total amount actually incurred (recoverable amount) for this purpose and adjust Security (works) against such recoverable amount. The regulations 19.7 and 19.8 of the Supply Code, 2007 relevant to this case 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.*

**Note** : - *Regulations 19.7 and 19.8 will be applicable in cases where actual cost for release of connection, extension in load/demand is to be recovered from the applicant as per Regulation 9 of these Regulations."*

From the contents of the petition no. 34 of 2016, it is evident that the petitioner filed the petition for taking action against PSPCL under section 142 of the Electricity Act, 2003 for its failure to compute the actual expenditure as per regulation 19.7 of the Supply Code, 2007. There is no reference of ₹1,18,42,860/- as recoverable amount in the original submissions made by the petitioner. The petitioner approached the Commission only after failure of PSPCL to calculate and determine the recoverable amount within 60 days of release of extension in load. Thus, it is wrong that the petitioner had challenged the recoverable amount of ₹1,18,42,860/- calculated by PSPCL in the first instance. PSPCL intimated that the total recoverable amount from the petitioner was ₹1,18,42,860/- in its reply to the petition submitted vide Chief Engineer/ARR & TR letter dated 07.06.2016 which was challenged by the petitioner in its rejoinder dated 09.07.2016. Had PSPCL determined the recoverable amount within the stipulated time after



release of load and found it more than Security (works), as claimed by the distribution licensee, then demand notice for recovery of excess expenditure of ₹86,356/- should have been issued to the petitioner as per regulation 19.8 of the Supply Code, 2017. However, PSPCL has failed to provide any evidence on record to show that the distribution licensee has determined the actual expenditure incurred before filing of the petition no. 34 of 2016 by the petitioner or had issued any notice for recovery of excess expenditure, if any, to the petitioner.

On the other hand, during hearing on 09.06.2016, the Commission pointed out that PSPCL's calculation of recoverable amount as intimated vide CE/ARR&TR letter dated 07.06.2016 was based on an estimate and not on actual expenditure booked against the work, as required under the Supply Code. It was only after the directions of the Commission that PSPCL calculated the actual expenditure and intimated vide its letter dated 06.07.2016 that the total recoverable amount from the petitioner is ₹1,01,85,237/- and ₹15,71,267/- was refundable. This refundable amount was revised to ₹14,92,132/- vide PSPCL letter dated 29.07.2016. The petitioner disputed this refundable amount and the Commission after interpreting the relevant regulations and the cost data approved by the Commission, decided that a refund of ₹27,33,509/- is admissible to the petitioner.

**From the above it is evident that the actual recoverable amount of ₹90,22,995/- was determined by the Commission in its order dated 14.02.2017 in petition no. 34 of 2016 after necessary clarifications on various aspects of the case, on which the provisions of the Supply Code and the cost data**

**were silent, and an order was passed by the Commission. Since the excess amount of ₹27,33,509/- has been adjusted in the electricity bills of the petitioner as per the orders of the Commission so no interest is payable on the refundable amount.**

However, the Commission reiterates its order dated 14.02.2017 to initiate action against delinquent officers/officials under section 142 of the Act for contravention of the provisions of the Supply Code Regulations and specific orders dated 25.06.2015 of the Commission in petition no. 5 of 2015.

The petition is disposed of accordingly.

**Sd/-  
(S. S. Sarna)  
Member**

**Sd/-  
(D.S.Bains)  
Chairman**

**Dated: 19.06.2017  
Chandigarh**