

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

**Petition No. 29 of 2017  
Date of Order:05.06.2018**

Present: Ms. Kusumjit Sidhu, Chairperson  
Sh. S.S. Sarna, Member  
Ms. Anjuli Chandra, Member

In the matter of: Petition under section 62, 65, 86 of the Electricity Act, 2003 regarding non-payment of subsidy by Govt. of Punjab and related matters.

AND

In the matter of: Er. Padamjit Singh (Retd.) CE/PSEB, 45, Ranjit Bagh, Opposite Modi Mandir, Patiala-147007.

.....Petitioner

Versus

1. State of Punjab, through Principal Secretary/Power
2. Punjab State Power Corporation Limited, The Mall, Patiala though its CMD

.....Respondents

**ORDER**

The instant Petition has been filed by Er. Padamjit Singh, Chief Engineer (Retd.) of erstwhile Punjab State Electricity Board under sections 62, 65, 86 of the Electricity Act, 2003. The petition relates to non-payment of subsidy in full, by the Govt. of Punjab and non-compliance of Section 65 of the Electricity Act, 2003, during FY 2016-17 and FY 2017-18. The petitioner has prayed that the Commission may consider and adjudicate on the following details:

- That the subsidy default of FY 2016-17 to be paid upfront in FY 2017-18 as subsidy is by law an advance payment that cannot be spread over next year.

- Government of Punjab be directed to give the priority of various subsidized categories of consumers so that in case of part payment of subsidy the priority categories can be given credit and defaulting categories can be identified.
  - That in case GoP does not give priority list or merit order for adjustment of part payment of subsidy, the Commission may specify the priority/merit order for adjustment of part payment of subsidy. The criteria may be based giving highest priority to AP, followed by vulnerable/weak categories such as SC, BPL.
  - That period of persisting subsidy default may be decided by the Commission after which the levy of full tariff is to be ordered as per Sec 65 of the Act. The period of default may be decided as one month after which the action prescribed in Section 65 be triggered. For the month, of say June, the advance subsidy should be paid by 31 May. However, if subsidy is not paid upto 30 June, the unsubsidized tariff be levied from 01 July.
  - To pass any other order in the interest of justice and implementation of Electricity Act, 2003.
2. The Petition was fixed for admission on 09.05.2017. During the hearing, the Petitioner submitted additional information regarding payment of subsidy by GoP as on 30.04.2017 showing a shortfall of subsidy for FY 2016-17 as ₹2432.37 crore and two months of advance installments of ₹967.54 crore of FY 2017-18, resulting in total subsidy shortfall of ₹3399.91 crore. The Petition was admitted and vide Order dated 11.05.2017, Principal Secretary, Department of Power, Government of Punjab and PSPCL were asked to file reply / comments by 23.05.2017. The next date of hearing was fixed for 30.05.2017.
3. PSPCL furnished its reply and in brief submitted that out of the total subsidy determined by the Commission of ₹7943.07 crore, the State Govt. has paid ₹5600.70 crore (including adjustments) leaving balance of ₹2342.37 crore. It was further submitted that in FY 2017-18, GoP sanctioned subsidy of ₹1996 crore in Vote on Account and total subsidy of ₹898.80 crore upto May, 2017 was received by PSPCL. During the hearing on 30.05.2017, Principal Secretary to Govt. of

Punjab was directed to file reply/comments on the petition by 27.06.2017 and the next date of hearing was fixed for 29.06.2017.

4. The State Govt. submitted its parawise reply/comments on the petition. The GoP has admitted that out of ₹7943.07 crore to be paid during 2016-17, the State Government has only paid ₹5600.70 crore (including adjustments against subsidy) thus, leaving balance of ₹2342.37 crore. It was further submitted that in FY 2017-18, the State Government has sanctioned subsidy of ₹1996.00 crore as per provisions made in Vote on account, out of which subsidy of ₹1645.40 crore has been released to PSPCL.

The State Government agreed that as per the provisions of section 65 of the Electricity Act, 2003, actual payment of subsidy has to be made in advance as a statutory obligation. It was also stated that GoP is paying interest on the delayed payment of subsidy to PSPCL.

5. The petition was fixed for hearing on 27.07.2017 and further fixed for 17.08.2017, 31.08.2017 and 07.02.2018. During the hearing on 07.02.2018, the State Government submitted the up-to-date status of subsidy payment as on 28/2/2018 as under:-

		(₹ crore)
1.	Detailed subsidy payable for 2017-18 including the additional subsidy committed by Govt. of Punjab for Industrial Tariff for ₹5/-	11,542
2.	Subsidy due upto February, 2018	10,424
3.	Less subsidy received in cash	3,372
4.	Less subsidy adjusted through Ed/IDF	2,304
5.	Subsidy due as on 28/2/2018	4,748

It was further submitted, that the matter was taken up with the Finance Department who have conceded that subsidy is liable to be paid in advance as per Electricity Act, 2003. The Finance Department has further stated that the financial position of the State is not so good as to allow them to give advance subsidy. There has been major disruption in the receipt of the revenues during the current year on account of introduction of GST. Besides, the State Government has to pay an additional sum of ₹3,000 crore per year on food



account. But that they were committed to paying the subsidy in full to PSPCL.

The Commission notes that the State Government has not submitted its reply on the issue of fixation of priority of various subsidized categories of consumers so that in case of part payment of subsidy the priority categories can be given credit and defaulting categories can be identified. The next date of hearing was fixed for 25.04.2018.

6. The Petitioner has submitted several submissions dated 08.05.2017, 10.05.2017, 16.05.2017, 27.05.2017, 31.05.2017, 08.06.2017, 25.07.2017 etc, since the contents of the said submissions remained the same and just intimation regarding receipt of subsidy by PSPCL from time to time, the details of said submissions is not reproduced to avoid repetition.

The petitioner vide its letter dated 06.04.2018 submitted additional written submissions and stated that a proven/ admitted default in subsidy payment on part of the State Government attracts the provision of second para of Section 65 of the Electricity Act 2003 which states as under:

*“Provided that no such direction of the State Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by State Commission shall be applicable from the date of issue of orders by the Commission in this regard.”*

The petitioner claimed that there is overwhelming documentation and evidence that the State Govt., year after year, has failed in its commitment to pay subsidy and section 65 of Electricity Act does not permit the continuation of subsidized power in the face of continuing and massive default in subsidy payment.

7. During the hearing on 25.04.2018, the Petitioner raised the issue that the Tariff Order has been issued and the State Govt. has given its consent to payment of subsidy for FY 2018-19 without providing the copy of the letter of the finance department regarding schedule of payment of subsidy and requested for the copy of approval / concurrence of the finance department for disbursement of subsidy. The Commission vide its Order dated 30.04.2018 directed the State Government to supply the said copy within a week.
8. The petitioner further made some suggestions for the consideration of the

Commission through additional submission filed on 26.04.2018. The relevant extract of the same is reproduced as under:-

- a) *Presently, the subsidy received statement issued by PSPCL and put on its website is on monthly basis. It was proposed that the subsidy received statement should be updated on daily (next day) basis. Hence, if a subsidy payment is received by Punjab State Power Corporation Limited on, say, the 15<sup>th</sup> of the month, the updated subsidy statement of Punjab State Power Corporation Limited should be put on the website the next day i.e. 16<sup>th</sup>. This will ensure transparency in tracking the actual progress of subsidy payments. In addition the monthly subsidy statement should be continued as at present.*
- b) *The monthly payment summary of subsidy receipt by Punjab State Power Corporation Limited should also include an upto date summary of subsidy which should have been received as per Commission order in comparison with the actual subsidy received and the shortfall.*
- c) *The Punjab state Power Corporation Limited should put on its website the weekly statement of amount of pending bills such as power purchase, Railways and Coal, Material receipts etc. as the pendency of these bills is directly related to short payment of subsidy.*
- d) *The Punjab State Power Corporation Limited should put on its website on weekly basis the statement of loans taken / working capital loans taken from banks / financial institutions so as to make payments of revenue expenditures, pending bills etc.*
- e) *The Punjab State Power Corporation Limited should put on its website on weekly basis the summary of late payment surcharges in respect of power purchase and other bills which were subject to the late payment.”*

9. The Commission has considered the averments of the petitioner, replies filed by PSPCL and the Govt. of Punjab. The Commission notes with concern that there is a shortfall of payment by GoP on account of subsidy for FY 2016-17 and FY 2017-18. The subsidy payable as on 31<sup>st</sup> March, 2017 was ₹2918.67 crore which has increased to ₹4768.65 crore as on 31<sup>st</sup> March, 2018. As informed by GoP, the financial position of the State Government is not good. However, the submission of GoP that payment of interest on delayed payment takes care of the delay in the payment of subsidy is not appropriate, as such defaults by the State Government violate section 65 of the Electricity Act, 2003, apart from adversely

affecting the cash flow position of the utility and its ability to make payment for expenditure related to salaries, repair & maintenance, power purchase and other important expenses. Moreover, the utility is unable to raise working capital loans over and above the limit prescribed under the UDAY Scheme. Default of payment by the GoP on account of subsidy affects the credibility of the utility before the banks/financial institutions. PSPCL is a utility fully owned, controlled and managed by the Government of Punjab, thus, it becomes even more imperative for the State Govt. to release the subsidy in a timely manner.

10. Financial distress in the power distribution utility adversely affects the consumers of the State. The Commission has directed in its Tariff Order (dated 19.04.2018) that the arrears of subsidy and subsidy due in FY 2018-19 as per Govt.'s commitment be paid in advance monthly installments. The Commission notes that the GoP has given a commitment to disburse the entire subsidy to PSPCL. In case there is a default in disbursement of the subsidy, PSPCL is free to charge the applicable tariff from the respective subsidized category.
11. The Commission further notes the suggestion given by the petitioner on 26.04.2018 and directs that PSPCL should make available the subsidy position i.e. subsidy paid and subsidy due on its website on fortnightly basis.

The petition is disposed of accordingly.

-Sd/-

(Anjuli Chandra)  
Member

-Sd/-

(S.S. Sarna)  
Member

-Sd/-

(Kusumjit Sidhu)  
Chairperson

Chandigarh  
Dated: 05.06.2018