

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

**Petition No.69 of 2014  
Date of Order: 13.07.2015**

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

In the matter of : Petition for removing of difficulty in grant of general category status for G.N.General Mills, Banga account number CB02/0180 vide CC No.44/2014 dated 27.08.2014 and grant of any other relief, order or directions which the Commission may deem fit and proper in the facts and circumstances of the case.

AND

In the matter of: G.N.General Mills, Garshankar Road, Banga, District Nawanshahar, Punjab, through Shri Shyamal Dua S/o Shri Arun Kumar Dua, Partner.  
-----Petitioner

Versus

1. Punjab State Power Corporation Limited, through its Chairman-cum-Managing Director, The Mall, Patiala
2. Assistant Executive Engineer, City Sub-Division, Banga, District Nawanshahar, Punjab  
-----Respondent

**ORDER**

G.N.General Mills, Banga, Distt. Nawanshahar has filed the present petition for removing of difficulty in grant of general category

status to the petitioner according to Commercial Circular No.44/2014 dated 27.08.2014 and to give any other relief, Order & directions which the Commission may deem fit or proper in the case. The petitioner made the following submissions:

- 1.1 The petitioner is running a mixed load industry having electricity connection bearing A/C No.LS-180 engaged in the business of rice shelling and mushroom cultivation having rice sheller load (seasonal load) of 513.994 kW and mushroom cultivation unit load (general load) of 322.846 kW. Thus the total sanctioned load of the petitioner is 836.840 kW with a sanctioned contract demand of 800 kVA.
- 1.2 AEE/City Sub-Divn., PSPCL, Banga vide Memo No.1471 dated 05.09.2014 (received by the petitioner on 19.09.2014) brought to the notice of the petitioner the Commercial Circular No.44/2014 dated 27.08.2014 issued by CE/Commercial, PSPCL vide which seasonal industry consumers have been given an option to be covered under general industrial category for which they have to exercise the option by 30.09.2014.
- 1.3 The petitioner submitted the option in the office of AEE/City Sub-Divn., Banga on 10.10.2014 and the delay was due to late receipt of the information from the office of PSPCL. AEE/City Sub-Divn., Banga refused to accept the option on the plea that it has been submitted beyond the scheduled date.

In view of the above, the petitioner prayed that the Commission may issue directions to PSPCL to accept the option

submitted by the petitioner firm on 10.10.2014 for considering petitioner's industry as general industry.

2.0 The petition was taken up for admission on 08.01.2015 but none appeared on behalf of the petitioner, so the Commission vide Order dated 09.01.2015 decided to take up the petition for admission on 20.01.2015. The petition was admitted vide Commission's Order dated 21.01.2015 and PSPCL was directed to file reply by 24.02.2015 with a copy to the petitioner. The petition was fixed for further hearing on 03.03.2015.

3.0 PSPCL vide Chief Engineer/ARR & TR Memo No.5151/TR-5/674 dated 20.02.2015 (received on 24.02.2015) filed the reply and submitted as under:

3.1 As per Commercial Circular No.44/2014 dated 27.08.2014, AEE/City Sub-Divn., Banga issued a registered letter vide Memo No.1471 dated 05.09.2014 to the petitioner which was received by the petitioner on 10.09.2014 and not on 19.09.2014 as claimed by the petitioner.

3.2 The petitioner was asked to give option before 30.09.2014 to cover a seasonal industrial load under general industrial category but the petitioner submitted the option on 10.10.2014 after the expiry of schedule date i.e. 30.09.2014. Thus the claim of the petitioner that PSPCL did not intimate him in time is incorrect.

3.3 All the Commercial Circulars are available on PSPCL website from where the consumer should have down loaded the instructions for necessary action.

It was, therefore, prayed that the petition be dismissed.

- 4.0 The petition was taken up for hearing on 03.03.2015 and after hearing PSPCL & the petitioner, the Commission vide Order dated 04.03.2015 directed the parties to file additional affidavits by 01.04.2015 stating therein as to whether any seasonal industry consumer who had given option after 30.09.2014 to be covered under general industry category has been allowed general industry category status and relaxation in tariff in the State.

The petition was fixed for further hearing on 07.04.2015.

- 5.0 PSPCL vide Chief Engineer/ARR & TR Memo No.5394/TR-5/674 dated 6.4.2015 clarified that as per the record, no relaxation of any kind pertaining to Commercial Circular No.44/2014 dated 27.08.2014 has been granted to any consumer.
- 6.0 During hearing on 07.04.2015, it was observed that the petitioner has not filed any additional affidavit and the Commission vide Order dated 09.04.2015 decided to take up the petition for hearing arguments of the parties on 05.05.2015. During hearing on 05.05.2015, the petitioner submitted that he intends to file amended petition and two weeks times be allowed to do so. The Commission vide order dated 06.05.2015 directed the petitioner to file the amended petition by 15.05.2015 with a copy to the respondent who shall file reply by 22.05.2015 with a copy to the petitioner. The petition was fixed for hearing on 26.05.2015.
- 7.0 During hearing on 26.05.2015, the petitioner filed amended petition and made the following additional submissions:

- 7.1 Re-iterating the facts of the case as already mentioned in the original petition and brought out at para 1 above, it was submitted that the delay of 10 days in giving option by the petitioner would not cause any prejudice to the respondent and the Commission has amended clause 18.4 of the General Conditions of Tariff for the benefit of consumers having mixed load. Thus by not giving the consent within period prescribed no loss is going to be caused to the respondent.
- 7.2 The Commission has inherent powers to pass orders as may be necessary for meeting the ends of justice as per regulation 69 and 71 to 73 of the PSERC (Conduct of Business) Regulations, 2005 which are reproduced below:

***“69. Saving of inherent power of the Commission:***

- 1. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.*
- 2. Nothing in these Regulations shall bar the Commission from adopting a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient.*
- 3. Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters and exercise powers and functions in a manner it thinks fit.*

**71. Power to remove difficulties:-**

*If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act or rules framed there under which appears to it to be necessary or expedient for the purpose of removing the difficulty.*

**72. Power to dispense with the requirement of the Regulations:-**

*The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, to dispense with the requirements of any of the Regulations in a specific case or cases subject to such terms and conditions as may be directed by the Commission.*

**73. Extension or abridgment of time allowed:-**

*Subject to the provisions of the Act, the time allowed by these Regulations or by order of the Commission for doing any act may be extended or abridged by order of the Commission”.*

- 7.3 In view of the above rules and regulations, it clear that the Commission has inherent powers to extend the time prescribed for doing any act and since no prejudice would be caused to the respondent in case the time is extended, so the delay of 10 days for giving option by the petitioner may be condoned.
- 8.0 The Commission vide order dated 26.05.2015 directed PSPCL to file reply to the amended petition by 09.06.2015 with a copy to the

petitioner and the petition was fixed for further hearing on 16.06.2015.

- 9.0 PSPCL vide Chief Engineer/ARR & TR Memo No.5930/TR-5/674 dated 10.06.2015 filed reply to the amended petition and submitted as under:
- 9.1 PSPCL reiterated the reply submitted earlier which has been reproduced at Para 3.0 above. It was further submitted that the option of the petitioner dated 10.10.2014 was entered in the Diary Register on 13.10.2014, so the option was submitted after the last date of submission i.e. 30.09.2014 as per Commercial Circular No.44/2014 dated 27.08.2014. Since the petitioner submitted his option after the last date of submission of the option, therefore, his option was not considered and the same was intimated to the petitioner vide AEE/City Sub-Divn., Banga office Memo No.1814 dated 03.11.2014.
- 9.2 The claim of the petitioner that the intimation from AEE/City Sub-Divn., Banga was received by him on 19.09.2014 is incorrect as the stamp of the post office on the envelope shows the date of delivery of the letter as 10.09. 2014. This fact has been verified by the Post Office through a certificate which has been annexed to the reply.
- 9.3 Even if it is assumed that the letter was delivered to the petitioner on 19.09.2014, even then the petitioner has sufficient time to submit the option by 30.09.2014.

In view of the above, PSPCL prayed that since the delay in submitting the option was due to laxity and negligence of the petitioner

and there is no fault on the part of PSPCL, so the petition may kindly be dismissed.

10.0 During hearing on 16.06.2015, the petitioner sought time to file rejoinder to the reply of the PSPCL. The Commission vide Order dated 17.06.2015 directed the petitioner to file rejoinder by 30.06.2015 with a copy to PSPCL. The petition was fixed for hearing on 07.07.2015.

11.0 The petitioner filed rejoinder and written arguments during hearing on 07.07.2015 and made the following submissions:

11.1 The petitioner denied that the Memo No.1471 dated 05.09.2014 issued by AEE/City Sub-Divn., Banga was received by the petitioner on 10.09.2014. The postal receipt is dated 09.09.2014 and the stamp is of 10.09.2014 which proves that this letter was received by the petitioner on 19.09.2014. The delay in submitting the option by the petitioner is due to late receipt of the information from the AEE/City Sub-Divn., Banga as the time after receipt of the information from PSPCL on 19.09.2014 was very less, so the petitioner could not submit the consent before 30.09.2014 and also the letter dated 05.09.2014 was not very clear.

11.2 The availability of Commercial Circulars on website of the respondent is not a valid communication of the circular to a consumer.

11.3 PSPCL has failed to show delay of 10 days in giving option, would cause prejudice to the department. In case, the Commission condoned the delay, no loss or damage will be caused to the respondent.



11.4 PSPCL has not denied that the Commission has powers to pass orders as may be necessary for meeting the ends of justice.

In view of the submissions, the petitioner prayed that the delay of about 10 days in giving option to cover the industrial unit in general industrial category as per clause 18.4 of General Condition of tariff be condoned and PSPCL be directed to consider petitioner's industry as general industry.

After hearing the counsel for the petitioner and representatives of PSPCL, the Commission vide Order dated 08.07.2015 closed the hearing and Order was reserved.

## **12.0 Findings and Orders of the Commission:**

12.1 The only prayer of the petitioner is to condone a delay of 10 days in filing option for considering the petitioner's industry having mixed load (seasonal as well general load) as general industry for the seasonal period pertaining to FY 2014-15 as per clause 18.4 of the General Conditions of Tariff. The argument of PSPCL is that since the petitioner has submitted its option after the due date of 30.09.2014, so the option given by the petitioner cannot be entertained.

12.2 The General Conditions of tariff were up-dated & amended and made a part of the Tariff Order for FY 2014-15. A new Clause 18.4 was inserted in the General Conditions of Tariff to facilitate the seasonal industrial consumers to opt for running the seasonal load during any year under general industrial category in which case relevant industrial tariff shall be applicable. A minimum period of one month has been provided to the consumers to submit the

option before the start of the season. The Tariff Order for FY 2014-15 was issued on 22.8.2014. So for the season starting w.e.f. 01.09.2014, the consumers were provided a period of one month from the date of issue of the Tariff Order to assess their requirements and exercise the option as per their convenience within the permissible period.

12.3 Under this clause, the consumer is surrendering the benefits available to seasonal industry by opting to run its industry under general industry category for the entire year. It provides flexibility to a consumer to use electricity connection as per his business needs without causing any financial loss to the licensee. The period of one month has been provided to check misuse of this clause by some consumers. Even if it is assumed that the notice regarding exercising option was received by the consumer in this case on 10.09.2014, even then the consumer has exercised his option within a month i.e on 10.10.2014. Since this clause has been inserted for the first time, so it can be assumed that probably the consumers were not aware of this change in the General Conditions of Tariff. PSPCL has not contested the assertion of the petitioner that no loss will be caused to PSPCL if a delay of 10 days in submitting the option is condoned by the Commission.

12.4 **Thus, in view of the submissions made by both the parties, the Commission using the inherent powers to make such Orders as may be necessary for making the ends of justice and powers to relax, condones the delay of 10 days in exercising/submitting the option by the petitioner as per clause 18.4 of the General Conditions of Tariff applicable for**

**FY 2014-15 and directs PSPCL to consider the load of the petitioner under general industrial category and charge the relevant applicable industrial tariff.**

The petition is disposed of accordingly.

**Sd/-  
(Gurinder Jit Singh)  
Member**

**Sd/-  
(Romila Dubey)  
Chairperson**

**Chandigarh**

**Dated: 13.07.2015**