

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SITE NO. 3, MADHYA MARG, SECTOR 18-A, CHANDIGARH-160018**

**Review Petition No. 5 of 2019
in Petition No. 02 of 2019
Date of Order: 13.09.2019**

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

In the matter of: Petition seeking review of the Tariff Order dated 27.05.2019 in Petition No. 02 of 2019 to the extent that the Commission has held that cumulative effect of ToD rebate and Voltage rebate on the Energy Charges (including reduced energy charges for consumption exceeding threshold limit / use of electricity exclusively during night hours) at any time shall be limited to the lowest Energy Charges of Rs. 4.45 per kVAh.

AND

Sh. D.K. Mehta, Miller Ganj, Ludhiana
(Authorised signatory of the applicants) and
Ors.....

.....Review Petitioner

Versus

Punjab State Power Corporation Limited
(PSPCL), through its Managing Director,
The Mall, Patiala, Punjab.

.....Respondent

ORDER

The Petitioner has filed the present petition under Regulation 64 of the PSERC (Conduct of Business) Regulations, 2005 with prayer that the impugned order dated 27.05.2019 passed by the Commission in Petition No. 2 of 2019 filed by

PSPCL may be reviewed and recalled to the extent this Commission has held that cumulative effect of ToD rebate and Voltage rebate on the Energy Charges (including reduced Energy Charges for consumption exceeding thresholds limit/ use of electricity exclusively during night hours) at any time shall be limited to the lowest energy charge of Rs. 4.45 per kVAh, in the interest of justice.

2. The submissions made in the review petition are as under:

- i) For getting supply at 66kV voltage supply the applicants installed various transformers etc. in their premises at their own cost and due to higher voltage supply the transmission losses of PSPCL were minimized. The applicants and similarly situated consumers were getting a voltage rebate of 3% or 5%, depending upon their supply voltage. In the Tariff Order for FY 2009-10, the Commission held that new connection or additional load would be released only on the prescribed voltage level and no voltage rebate will be given. But for consumers who were already getting supply at a higher voltage than that specified in Conditions of Supply it was held that they will be entitled to a rebate in Tariff at the prevailing rates specified in the General Conditions of Tariff.
- ii) In the Tariff Order for FY 2013-14 the Commission noted that cost to serve at higher voltages is lesser than the cost to serve at lower voltages and the commission accordingly decided to approve the rebate of 25 paise and 20 paise, as per the supply voltage. Further, the benefit of voltage rebate was granted to all consumers

who were getting power at higher voltage levels because PSPCL was saving on account of low transmission losses.

- iii) In the Tariff Order for FY 2014-15 the Commission decided to approve rebate of 30 paise/kVAh to consumers catered at 220/132 kV voltage and 25 paise/kVAh at 66/33kV voltage. The Commission also approved the Time of Day (ToD) tariff for large supply (LS) and medium supply (MS) industrial category consumers in the same Order. The purpose of introducing the ToD was that the consumers will shift their operation to off peak hours resulting in reduction in consumption during peak hours & normal hours and increase in consumption during off peak hours. In the same Order the Commission had also approved rebate of Rs. 1/kWh (or kVAh) to utilize the surplus power of PSPCL. The purpose was to reduce burden of fixed cost of surrendered power to some extent.
- iv) In the Tariff Order for FY 2015-16 the Commission approved the voltage rebate to the consumers catered at higher voltages in the same manner as done for FY 2014-15. Further, ToD rebate @ Rs. 1.00/kVAh for LS industrial consumers was continued. However, rebate on surplus power was discontinued by the Commission.
- v) In the Tariff Order for FY 2016-17 the Commission noted in para 6.20.1 of the Tariff Order that the cost to serve at higher voltages is lesser than the cost to serve at lower voltages and accordingly continued the Voltage Rebate

to the consumers catered at higher voltages. In the same Order the Commission decided to remove PLEC and approved the ToD tariff for various categories of consumers including LS Industrial Category Consumers. Regarding rebate on surplus power the Commission approved the base tariff rate of Rs. 4.99/kVAh for LS Industrial Category consumers who consume power above the threshold limit. All other surcharge and rebate as approved by the Commission and Govt. Levies as notified by the State Government were charged separately.

- vi) In the Tariff Order for FY 2017-18 the Commission introduced two part tariff. In the two part tariff structure the Commission in order to further encourage the industry for productive use of surplus power decided the reduced energy charges @ Rs. 4.45/kWh for small power (SP) and Rs. 4.23/kVAh for LS/MS industrial consumers. Further, in order to flatten the demand curve the Commission also decided the ToD tariff and held that the cumulative effect of ToD rebate and reduced energy charges for consumption beyond threshold limited shall be limited to the lowest Energy charges of Rs. 4.23 per kVAh. As per note (vi) to table 8.2 (Revised Two Part Tariff for 2017-18) the Voltage rebate was continued to be granted to the consumers catered at higher voltages.
- vii) In the Tariff order for FY 2018-19 the Commission decided to continue with its policy of encouraging the

industry in promoting the productive use of surplus power and determined the reduced energy charge @ Rs. 4.28 per kVAh for LS/MS/SP industrial consumers. It was also decided that all other surcharges and rebates as approved by the commission and Govt. Levies shall be charged extra. Further, the Commission limited the cumulative effect of ToD rebate and reduced Energy Charges for consumption beyond threshold limit to the lowest Energy Charge of Rs. 4.28 per kVAh. As per note (v) attached with table 6.2 (revised Tariff for FY 2018-19) the voltage rebate was continued to be granted to the consumers catered at higher voltages.

viii) In the Tariff Order for FY 2019-20, the Commission decided to continue with the policy of encouraging the industry in promoting the productive use of surplus power by offering lower rate of energy charge. The Commission further decided to continue with ToD tariff as approved in the Tariff Order for FY 2018-19. The Commission further held that cumulative effect of ToD rebate and Voltage rebate on the Energy Charges (including reduced Energy Charges for consumption exceeding threshold limited/ use of electricity exclusively during night hours) at any time shall be limited to the lowest energy Charge of Rs. 4.45 per kVAh.

ix) That the applicants are Industrial Consumers who are getting electricity supply at 66 KV voltage (higher voltage level) and were getting voltage rebate in line with provisions of various Tariff Orders because due to

supply on higher voltage the PSPCL saves on account of Transmission Losses. Further, by limiting the cumulative effect of various rebates including voltage rebate to Rs. 4.45 kVAh the Commission has virtually taken away the voltage rebate which the applicants were earlier getting.

- x) That the Commission has also specified the Voltage Rebate in General Conditions of Tariff as under:

“13.2 Voltage Rebate:-

As the cost to serve at higher voltage is lower than the cost to serve at lower voltage so rebate on energy charges to the consumers getting supply at HT/EHT voltages shall be applicable as under:

“Rebate of 30 paise/kVAh to all consumers getting supply at 400/220/132 kV, 25 paise/kVAh to all consumers getting supply at 66/33 kV,

However, cumulative effect of ToD rebate and Voltage rebate on the Energy Charges (including reduced Energy Charges for consumption exceeding threshold limit/ use of electricity exclusively during night hours) at any time shall be limited to the lowest Energy Charge of Rs. 4.45 per kVAh.”

From the bare perusal of the above it is very much clear that the voltage rebate is given because cost to serve at higher voltage is lower than the cost to serve at lower voltage. It is admitted position that by supplying at higher voltage the PSPCL is saving on account of Transmission losses etc. and the applicants and other similarly situated consumers have installed transformers etc. at their own cost. So the applicants and other similarly

situated consumers are entitled to get the benefit of Voltage Rebate.

- xi) Further, the purpose of granting ToD tariff and benefit for utilising the surplus power are different than the voltage rebate. So the benefit of voltage rebate could not be taken away by the Commission. The consumers who are getting supply at higher voltage and also getting benefits of ToD and Surplus power and the consumers who are getting benefits of ToD and Surplus Power but getting supply at lower voltage level would get same benefit. That in the impugned order the un-equals have been treated as equals and this is in violation of article 14 of the Constitution of India.
- xii) That the bare perusal of all the Tariff Orders referred above, it is very much clear that the consumers are getting voltage rebate because they are getting voltage supply at higher voltage and due to this reason the PSPCL is saving charges. The benefit of Voltage surcharge once granted cannot be taken away. By limiting the cumulative effect of ToD tariff, Voltage rebate and rebate due to surplus power the Commission has taken away the benefit of voltage rebate from the consumers who are getting other benefits of ToD tariff and surplus power.
- xiii) PSPCL never proposed in its ARR Petition to include Voltage rebate while limiting the cumulative effect of other rebates. As it was never proposed so no objections were submitted by the applicants and other

stake holders. Now without any notice or hearing the Commission in the impugned Tariff Order has added the Voltage Rebate while limiting the cumulative effect of other rebates of ToD tariff and surplus power. So the applicants have been made to suffer without affording an opportunity of being heard and there are mistakes and errors in the above said order apparent on the face of record and there are sufficient reasons for reviewing this order.

3. Observations and Decision of Commission

The Commission has examined the submissions made in the petition and refers to the Regulation 64(1) of the PSERC (Conduct of Business) Regulations, 2005 which reads as under:

“Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent on the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order of the Commission.”

3.1 The Commission observed that, the submissions made in the petition are only matter of record. No new and important matter or evidence was produced nor was any mistake or error apparent on the face of record pointed out by the petitioner requiring review of the Order. In order to give an opportunity to the petitioners to be heard, the petition was

listed for hearing on admission on 28.08.2019.

3.2 During the hearing of the petition on admission also, the Counsel for petitioners only reiterated his submission made in the petition that voltage rebate given to petitioners availing power at 66 kV as cost to serve at higher voltage is lower than the cost to serve at lower voltage cannot be taken away without any notice or affording an opportunity of being heard.

3.3 The Commission observes that:

a) In order to utilize the surplus power and reduce the burden of fixed cost of surrendered power on the consumers of the State, the Commission has decided to incentivize the industrial category consumers for the productive use of surplus power by offering a reduced tariff rate for any consumption above the threshold limit of previous years and also for use of electricity during night hours. However, being conscious of the fact that concessional/ discounted tariff can be provided subject to certain limitations only, it was decided to limit the same to Rs. 4.45 per kVAh, being the marginal cost to generate additional energy. Charging tariff below this cost would have resulted in a revenue gap which would have defeated the purpose of giving concessional tariff.

b) The Commission vide Condition "13.2 Voltage Rebate" of the General Conditions of Tariff annexed with the Tariff Order, has retained the voltage rebates on the normal applicable tariff. Only, the cumulative effect of ToD rebate and Voltage rebates on the Energy Charges including reduced Charges for

consumption exceeding threshold limit/ use of electricity exclusively during night hours at any time has been limited to the lowest Energy Charge of Rs. 4.45 per kVAh. For petitioners (i.e. Large Supply industrial consumers availing supply at 66 kV), this limitation comes into effect only in case they opt to consume power in excess of the threshold consumption (i.e. the consumption in excess of maximum annual consumption in any of the last two financial years) and/or exclusively during night hours. The applicants are at liberty not to increase their consumption if they feel that the concession is not beneficial to them.

- c) The Commission determines the ARR of the utility after following due process of putting it in public domain, inviting objections/comments on the same, holding public hearings and after due consideration of objections/ comments received. However, determination of Tariff, including the concessional/reduced charges with intended objective(s), is the prerogative of the Commission. Proposals for discount/rebates need not necessarily come from the utility. The elements of tariff are to be decided by the Commission, keeping in view the ARR of the utility and interests of various stakeholders etc. and are not required to be made public before announcing the tariff. The concessions for the consumption, in excess of the threshold limit and/or use of electricity exclusively during night hours, are purely meant to encourage the

increase in consumption of power at marginal cost and thus are advantageous to both the consumers and PSPCL.

As such, the Commission is of the view that the present petition does not qualify for review of the Tariff Order dated 27.05.2019 in Petition 02 of 2019 and is accordingly dismissed.

Sd/-

(Anjuli Chandra)

Member

Sd/-

(S.S. Sarna)

Member

Sd/-

(Kusumjit Sidhu)

Chairperson

Chandigarh

Dated:13.09.2019

