**IN THE COURT OF OMBUDSMAN, ELECTRICITY, PUNJAB,**

**66 KV GRID SUBSTATION, PLOT NO. A-2, INDL. AREA,**

**PHASE-I, SAS NAGAR( MOHALI).**

**APPEAL No: 34/2017** **Date of Order: 19.09. 2017**

M/s ARK Engineering Pvt. Ltd,

E-497, Phase-VI Focal Point,

Ludhiana-141010.

**…..** PETITIONER

**Account No. 3002809619**

*Through:*

Sh. R.S. Dhiman, Authorized Representative.

Shri K.D. Parti - Petitioner

VERSUS

**PUNJAB STATE POWER CORPORATION LIMITED**

**.......** RESPONDENTS

*Through:*

Er. K.P.S. Sidhu,

Addl. Superintending Engineer,

“Operation” Focal Point Division (Special),

PSPCL, Ludhiana.

Petition No: 34 / 2017 dated 06.07.2017 was filed against order dated 19.06.2017 of the Consumer Grievances Redressal Forum (CGRF) in case no. CG-61 of 2017, deciding that charges charged for the period 29.02.2016 to 30.11.2016 amounting to Rs. 2,46,095/- on account of ten Paise / KVAh on Continuous Process Industries is correct and recoverable.

2. Arguments, discussions and evidences on record were held on 19.09.2017.

3. Shri R.S. Dhiman, authorized representative alongwith Shri K.D. Parti, Petitioner, attended the court proceedings, on behalf of the Petitioner. Er. K.P.S. Sidhu, Addl. Superintending Engineer / Operation Focal Point Division (Special), PSPCL, Ludhiana alongwith Shri Varun Goyal, Revenue Accountant, appeared on behalf of the Respondents – Punjab State Power Corporation Limited (PSPCL).

4. Presenting the case on behalf of the Petitioner, Sh. R.S. Dhiman, authorized representative stated that the Petitioner is running an industrial unit at E-497 Phase-VI, Focal Point, Ludhiana under the name and style of ARK Engineering Pvt. Ltd. A large supply connection of electricity bearing account number 3002809619 with sanctioned of 990 KW load and CD of 990 KVA. The nature of load is Continuous Process Industry. The connection is fed at 11KV through an independent feeder. It falls under the jurisdiction of Focal Point Division. All electricity bills are being paid regularly by the Petitioner.

The Petitioner applied for extension of load and grant of continuous Process Industry (CPI) status. For this, the cost of independent feeder and breaker was also deposited. CPI status was granted vide CE/PP& R memo no. 3201 dated 8.6.2015. Separate independent Breaker was installed / energized on 26.2.2017. Thus as per condition No. 5 of CE / PP&R letter dated 8.6.2015, CPI status of petition’s load got regularized on 26.2.2017. Prior to this, the Petitioner was being given supply from a category II feeder which was subject to Regulatory measures and affected Petitioner’s continuity of Supply and hence, its products. But a demand of Rs. 2,46,095/- was raised against the Petitioner vide AEE / Commercial, Focal Point Division, PSPCL, Ludhiana’s memo no.158 dated 16.1.2017 on account of continuous process load from 29.2.2016 to 30.11.2016 at the rate of Ten paise / KVAh unit.

He also stated that the Petitioner objected to the above demand vide letter dated 11.03.2017 addressed to AEE / Commercial, Focal Point, PSPCL, Ludhiana on the ground that Continuous Process Industry charges were leviable only from the date of Supply given through an Independent Category - IV Feeder. It was brought to his notice that the Petitioner had deposited full cost of breaker which was to be installed as per directions of CE / PP&R who had granted CPI status to the Petitioner. He was further informed that Independent Breaker **of** the Petitioner was commissioned on 26.2.2017. As such, the charges raised on account of CPI status of the Petitioner were not tenable. Despite this, the disputed amount was included in the current bill issued on 02.03.2017 under the column “Sundry charges”. The matter was brought before CGRF, PSPCL Patiala. But the Forum, vide order dated 19.6.2017, has upheld the undue charges.

While submitting the Grounds of Appeal, it was stated that the main issue in Petitioner’s case is that the Petitioner has to pay additional charges for power supply to its Continuous Process Industry (CPI) load approved by CE / PP&R, PSPCL. However, supply through an Independent Feeder is an essential pre-requisite in case of CPI load. In Petitioner’s case, CE / PP&R, PSPCL, Patiala while approving CPI status, has specially provided this condition at Sr. No.5 of his Memo. No. 3201 dated 08.06.2015 addressed to CE/Central Zone, PSPCL, Ludhiana and copy to the Petitioner. Now, as per SSE, Dhandari Kalan-2 Memo. No.. 39/DDK2/01 dated 01.03.2017, the Petitioner is getting supply through Independent Feeder w.e.f. 26.02.2017. Accordingly, the Petitioner is liable to pay additional charges from 26.02.2017. But the Respondents have raised additional charges from 29.02.2016, which is wrong and unjustified.

He further stated that by definition, an Independent Feeder is a Supply Line controlled through a separate and independent breaker. This point has been made amply clear in Conditions of Supply 47 (COS 47) approved by PSERC and, in case of the Petitioner, a separate breaker was installed on 26.02.2017 as confirmed by SSE Dhandari Kalana-2 vide his letter referred to above. It is astonishable that the Forum has chose to uphold the undue charges ignoring this glaring evidence.

The Petitioner contended that prior to 26.02.2017, the Petitioner’s supply line was connected to the Breaker of some other feeder. As such, the Break-downs and faults of that other feeder were adversely affecting continuity of supply on the Petitioner’s feeder resulting in huge damage to the Petitioner’s products. This defeated the very purpose of getting CPI status of the Petitioner’s load. On the contrary, the Petitioner has been burdened with undue CPI charges for the period when CPI power supply had not been provided through an Independent Feeder. Besides, the Petitioner was wrongly included by the Respondents in the list of CPI consumers uploaded on PSPCL website before actually providing CPI supply to it. This plea of the respondents to justify the undue charges is therefore, wrong and untenable and prayed to allow the appeal.

5. Defending the case on behalf of the Respondents, Er. K.P.S. Sidhu, Addl. Superintending Engineer, representing the respondents stated that the Petitioner is running under LS category in the name of M/s ARK Pvt. Ltd having Account No. 3002809619. The sanctioned load of this connection is 990KW with contract demand of 990KVA under LS category. The consumer was charged Rs. 2,46,095/- on dated 16.01.2017 on account of Continuous Process Charges and has been added in the bill issued on 02.03.2017.

The Respondents also stated that the amount of Rs. 2,46,095/- was charged vide Half Margin (HM) No. 220 dated 04.01.2017 prepared by AAO/Revenue Audit Party (RAP), Focal Point, PSPCL, Ludhiana. The amount is charged for the period 29.02.2016 to 30.11.2016 for the Continuous Process during Off Peak Hours as 437KVA. The HM is prepared on the basis of list of continuous process status consumers uploaded on PSPCL website as on 15.02.2016 vide which the consumer has been granted CPI (Continuous Process Industry) status at Sr. No. 22 of list. The amount of Rs. 2,46,095/- is leviable as per CC No. 25/2016 dated 29.07.2016, where it is mentioned in note point No. VIII that Ten Paise / KVAh on prorata basis, on Continuous Process Industries, shall continue to be levied as here-to-before. These charges are charged to the consumer for the continuous supply provided to the Consumer. So, the amount charged is correct and recoverable. As the consumer is not satisfied with this he approached Hon’ble CGRF Patiala, which decided the case on 19.06.2017 and found the amount charged Rs. 2,46,095/- recoverable.

While submitting reply to the grounds of Appeal filed against the decision of the Forum, the Respondent stated that the Petitioner was charged Rs. 2,46,095/- on account of Continuous Process charges for the period 29.02.2016 to 30.11.2016 by Audit Party vide HM No. 220 dated 04.01.2017. The consumer was granted Continuous Process status as its name was shown at Sr. No. 22 in the list uploaded on PSPCL website showing at Sr. No. 22 with special note stating that the continuous Process Status granted, is subject to regularization after the erection of Independent Feeder.

As per CE / PP&R, PSPCL, Patiala, Memo. No. 3201 dated 08.06.2015, point No.5 mentions that, “the Continuous Process Status shall be got regularized after charging and extending the supply through 11KV Independent feeder i.e. after the completion of work and extending the supply to the consumer”. It is very clear that Continuous Process status was given to the Petitioner and its contention of Petitioner charging the continuous Process Charges from 26.02.2017 is wrong and against rules. He further stated that as per Note below the revised list of continuous Process Status granted to the consumer as on 15.02.2016, continuous Process Status is subject to regularization after the erection of the Independent feeder. So it is very clear that the Petitioner was granted the Continuous Process Status on 15.02.2016 and the amount charged is correct and recoverable and prayed to dismiss the appeal.

6. The relevant facts of the case are that the connection of the Petitioner is running under Large Scale Category having sanctioned load of 990KW and Contract Demand 990KVA. The Petitioner applied for extension of load and Continuous Process Industry (CPI) status for which cost of Independent Feeder and Breaker was also deposited. Accordingly, CPI status was granted vide CE / PP&R Memo dated 08.06.2015 addressed to Chief Engineer / “OP” Central Zone, PSPCL, Ludhiana with copy to the Petitioner. The Separate Independent Breaker was energized / installed on 26.02.2017. Thus fulfilling the condition of at Sr. No. 5 of letter ibid (08.06.2016) for regularization of CPI status of Petitioner’s load. Prior to this, the Petitioner was being given supply from Category - II feeder which was subject to regulatory measures and affected Petitioner’s continuity of supply and hence, its products. Based on observations of AAO / Revenue audit Party, Focal Point, PSPCL, Ludhiana vide HM No. 220 dated 04.01.2017, the Petitioner was charged Rs. 2,46,095/- on account of Continuous Process load from 29.02.2016 to 30.11.2016 vide AEE / Commercial, PSPCL, Ludhiana’s letter dated 16.01.2017. Though the Petitioner objected to the above demand vide letter dated 11.03.2017 addressed to AEE/Commercial, the disputed amount was included in the bill under “Sundry Charges” issued on 02.03.2017. The Petitioner did not agree to the charged amount and approached CGRF which, decided on 19.06.2017 that the amount charged to the petitioner for the period from 29.02.2016 to 30.11.2016 amounting to Rs. 2,46,095/- on account of Ten Paise / KVAh on Continuous Process Industries is correct and recoverable.

The authorized representative of the Petitioner stated that the Petitioner has to pay additional charges for power supply to its Continuous Process Industry (CPI) load approved by CE/PP&R, PSPCL, Patiala. However, supply through an Independent Feeder is an essential pre-requisite in case of CPI load. He contended that this condition was specially provided while according approval for CPI status by CE/PP&R vide Memo. No. 3201 dated 08.06.2015 at Sr. No.5. He also referred to SSE, Dhandari Kalan’s letter dated 01.03.2017 as per which the Petitioner is getting supply through Independent Feeder w.e.f. 26.02.2017 i.e. when Independent Breaker was installed. Accordingly, the Petitioner is liable to pay additional charges from the said date i.e. 26.02.2017 whereas the Respondents have raised the additional charges from 29.02.2016. He also stated that by definition, an Independent Feeder is a supply line controlled through a separate and Independent Breaker as has also been made clear in Conditions of Supply (COS) Clause – 47, approved by PSERC and in the case of Petitioner, separate Independent Breaker was installed on 26.02.2017. Besides, the Petitioner was wrongly included by the Respondents in the list of CPI consumers on the PSPCL website before actually providing CPI Supply. He prayed that undue charges raised against the Petitioner may be set aside.

The Respondents, in their defence, stated that the Petitioner was charged Rs. 2,46,095/- on account of Continuous Process Charges for the period from 29.02.2016 to 30.11.2016 as per Audit Party HM No. 220 dated 04.01.2017. The consumer was given Continuous Process Status in terms of PR circular No. 06 / 2012 and as per list of CPI consumer uploaded on PSPCL website on 15.02.2016. The Petitioner’s name falls at Serial No. 22 with a special Note stating that continuous Process Status granted is subject to regularization after the erection of Independent Feeder. He also invited reference to CE/PP&R Memo. No. 3201 dated 08.06.2015 (Point No. 5) as per which continuous Status shall be got regularized after charging and extending the supply through Independent Feeder i.e. after the completion of work and extending the supply to the consumer. He also argued that as per definition of Independent Feeder ( Zj of Chapter I of Supply Code-2014), read as under:-

*“means 11KV feeder erected at the cost of consumer or a group of similar type of consumers to supply electricity only to that consumer or group of consumers.”*

He stated that it is very clear that Continuous Process Status was given to the consumer with other group of the consumers and his contention of charging Continuous Process Charges from 26.02.2017 is wrong and against the rules. He further stated that as per Note below the revised list of continuous Process Status granted to consumers, as on 15.02.2016, continuous Process Status is subject to regularization after erection of Independent Feeder. Therefore, it is very clear that continuous Process Status granted on 15.02.2016 is in order and the amount charged is correct and recoverable. He prayed to dismiss the Appeal.

I have gone through written submissions made in the Petition, written reply of the Respondents as well as oral submissions made by the authorized representative of the Petitioner and representative of the Respondents and materials placed on record. The issue requiring adjudication is the legitimacy of the period consider ( 29.02.2016 to 30.11.2016) and charged the amount (Rs. 2,46,905/-) on account of Continuous Process Industry Status granted to the Petitioner.

I noted the contention of the Petitioner’s authorized representative about grant of Continuous Process Industry (CPI) Status vide CE / PP&R vide Memo dated 08.06.2015 after deposit of cost of Independent Feeder and Breaker. He also contended that separate and Independent Breaker was installed / energized on 26.02.2017, thus fulfilling the condition at Serial No. 5 as provided in CE/PP&R letter ibid addressed to the CE/Central Zone, PSPCL, Ludhiana under intimation to the Petitioner. He further stated that as per SSE, Dhandari Kalan-2 letter dated 01.03.2017, the Petitioner was getting supply through Independent Feeder w.e.f. 26.02.2017 when Independent Breaker was installed due to which the Petitioner is liable to pay additional charges from the said date ( 26.02.2017) and not from 29.02.2016 as per demand raised by the Respondent which was patently wrong and unjustified. I also noted that the representative of the Respondent contested by stating that the amount was charged in view of Audit Party HM 220 dated 04.01.2017 as per which, the consumer was granted CPI Status as its name appeared at Serial No. 22 in list of continuous Process Status Industries as on 15.02.2016 uploaded on the website of PSPCL in compliance to instructions contained in PR Circular No. 06/2012. A special Note was also given below the list that the Continuous Process Status is granted subject to regularization after erection of Independent Feeder. I do not agree with the arguments of the Respondents that as per definition of Independent Feeder provided in Supply Code–2014, the Petitioner was provided independent supply with other group of consumers but the tripping data placed on record by the Respondents during the course of hearing show that the Petitioner was given supply from 11KV Sawidhi feeder and from 02.01.2015 to 26.01.2017, the feeder remained off for 123 hours 15 Minutes. Hence, the very purpose of granting of Independent Feeder Supply is not served.

I also agree with the contention of the Petitioner that by definition, an Independent Feeder is a supply line controlled through separate and Independent Breaker and this point has been made amply clear in Condition of Supply (COS) 47 approved by PSERC. In the case of Petitioner, a separate breaker was installed on 26.02.2017. Therefore, I am of the view that though competent authority of Respondent’s Deptt. (PSPCL) viz. Chief Engineer / PP&R, PSPCL, Patiala accorded approval, vide Memo. No. 3201 dated 08.06.2015, to grant the Continuous Process (Category 4) Status subject to completion of work associated with erection of 11KV Independent Feeder to the Petitioner and with one of the conditions ( Serial No. 5) that” the Continuous Process Status shall be got regularized after charging and extending the supply through 11KV Independent Feeder i.e. after completion of work and extending the supply to the consumer”, the onus for not arranging timely compliance of the Conditions laid down in its own approval lies with the Respondent itself. Thus, CPI charges are legitimately due to be levied from the date i.e. 26.02.2017 when CPI supply was actually provided through Independent Feeder.

As a sequel of above discussions, I have no hesitation to set aside the decision dated 19.06.2017 in case No. CG 61 of 2017. Accordingly, it is held that the Petitioner be charged for the applicable Continuous Process Charges from 26.02.2017 onwards. Accordingly, the Respondents are directed that undue amount charged should be refunded and the excess amount charged from the Petitioner, if any, should be refunded with interest in accordance with instructions No. 114 of ESIM.

7. The Petition is disposed off accordingly.

8. In case, the petitioner or the Respondents ( Licensee) is not satisfied with the above decision, he is at liberty to seek appropriate remedy against this order from the appropriate Body in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations – 2015.

(MOHINDER SINGH)

Ombudsman

Place; SAS Nagar (Mohali) Electricity, Punjab,

Dated : 19.09.2017 SAS Nagar (Mohali)