

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

**Petition No. 71 of 2022  
Date of Order: 01.06.2023**

Petition under Regulation 8.1 (b) of the Supply Code 2014 by Punjab State Power Corporation Limited for seeking approval of the Commission for extension in time period of release of EHT Connection under Regulation 69, 70, 71 & 72 of chapter XIII of the Conduct of Business Regulations 2005.

In the case of new connection of 4500 kW load/5000 kVA contract demand applied by Divisional Railway Manager (Elect./TRD), Ambala Cantt. Through Sr. D.E.E./TRD/NR/UNB under the category Railway Traction in S/d Suburban Gidderbaha under DS Division, Gidderbaha (RID No. 5903).

In the matter of: Punjab State Power Corporation Limited, The Mall, Patiala.

.....Petitioner

Present: Sh. Viswajeet Khanna, Chairperson  
Sh. Paramjeet Singh, Member

**ORDER**

The petition filed by PSPCL for extension in time to release electricity connection to the Northern Railway under Regulation 8.1(b) of the Supply Code, 2014 was admitted vide Order dated 01.12.2022 and Northern Railway was directed to file reply within two weeks with a copy to PSPCL with directions to PSPCL to file the rejoinder to the reply filed by the Northern Railway within one week thereafter with a copy to the Northern Railway. The Northern Railway filed the reply vide memo dated 20.01.2023. Vide subsequent order dated 31.01.2023, PSPCL was directed by the

Commission to file rejoinder to the reply filed by Northern Railway within one week with a copy to Northern Railway and also submit the activity-wise timeline for completion of work for releasing the electricity connection. Vide memo dated 21.02.2023, PSPCL filed rejoinder to the reply filed by Northern Railway and the Northern Railway filed additional affidavit dated 14.03.2023 to the rejoinder filed by PSPCL. The activity-wise timelines were submitted by PSPCL vide memo dated 21.03.2023. During the hearing held on 22.03.2023, the Northern Railway requested for time to file their reply. Vide Order dated 31.03.2023, the Northern Railway was directed to file the reply by 17.05.2022. The matter was further heard on 24.05.2023 and vide Order dated 30.05.2023, the order was reserved.

Brief facts of the case as forthcoming from the submissions made by the parties are that the Northern Railway applied on 21.12.2021 to PSPCL for release of a new connection for Balluana TSS with load 4500 kW/5000kVA. The Feasibility Clearance Committee of PSPCL decided on 21.02.2022 to allow load of 4500kW/5000kVA after erecting new 132 kV line emanating from 132 kV sub-station, Balluana having an approx. length of 4 km. On 09.03.2022, PSPCL issued Feasibility Clearance and requested the Northern Railway to register A&A form which was complied with by the Northern Railway in time. Clause 15 of the A&A form provides that the Supply Code, 2014 would be deemed to be a part of the agreement and would govern the parties. On 04.05.2022, PSPCL issued the Demand Notice for Rs.4,81,09,000/- and intimated the acceptance/approval of the A&A form. The payment was made by the Northern Railway on

23.05.2022 as per Demand Notice. PSPCL transferred the amount for construction of transmission line to PSTCL on 01.08.2022. PSPCL wrote to PSTCL on 26.08.2022 requesting PSTCL to complete the construction work of the transmission line within 90 days i.e., latest by 02.11.2022. On 05.08.2022, a tender was floated by PSTCL for appointment of route surveyor to carry out detailed survey and preparation of route plan for construction of 132 kV line for release of connection specifying that the work was to be completed within one month by the successful bidder. Vide memo dated 30.08.2022, PSTCL gave a generic response to PSPCL's letter dated 26.08.2022 stating that it generally takes more than 2 years' time to complete the transmission line work if everything goes without any hindrance. However, top priority has been accorded to Railway works and efforts shall be made to complete all the projects at the earliest possible.

Thereafter, on the basis of PSTCL's response, PSPCL filed the present petition seeking relaxation in Regulation 8.1(b) of the Supply Code to extend the time limit to release the connections to the Northern Railway till 30.09.2024 in view of huge quantum of civil and erection work involved to release the connection. Later, with reference to Commission's Order dated 27.02.2023, the activity wise timelines for completion of work were submitted by PSPCL which indicated the approval of route plan on 30.01.2023 and subsequent time schedule of 14 months. In the submission vide memo dated 20.01.2023, the respondent raised the following issues:-

- (i) PSPCL has suppressed material facts such as delay in transfer of the amount collected from the Northern Railway to

PSTCL i.e. PSPCL had recovered the amount from the Northern Railway on 23.05.2022 towards expenditure for providing connection but transferred the amount to PSTCL only on 01.08.2022 thereby violating Regulation 9.1.1(w) of the Supply Code which specifies that such transfer shall be done within 15 days of the receipt of amount from the applicant.

In this regard, Hon'ble Supreme Court Orders (1994) 1 SCC 1 & (2008) 12 SCC 481 have been quoted.

- (ii) Petition is time barred as it has not been filed within the time limits specified in Regulation 8.1(b) of the Supply Code. In the present case, the Demand Notice was issued on 04.05.2022 and full amount in compliance thereof was transferred by Northern Railway on 23.05.2022. As per the extant regulations, such amount should have been transferred by PSPCL to PSTCL within 15 days and the connection has to be released within a period of 90 days thereafter. In terms of the above, the time limit for release of EHT connection as sought by Northern Railway expires on 05.09.2022. Therefore, the petition for extension in time should have been filed 15 days before 05.09.2022 i.e. by 21.08.2022 as per Regulation 8.1(b) but the petition has been filed after much delay.

In this regard, Hon'ble Supreme Court Orders (1984) 2 SCC 500 & (2014) 2 SCC 401 have been quoted.

- (iii) Petition does not disclose the cause of action i.e. PSPCL has not given specific reasons for requirement of time extension. PSPCL is relying on the generic statements in PSTCL letter

dated 30.08.2022 regarding time required for completion of such works without any particular reference to this work.

In this regard, Hon'ble Supreme Court Orders (1985) 3 SCC 217, (1977) 1 SCC 791, (2006) 3 SCC 558 & (2012) 8 SCC 706 have been quoted.

(iv) PSPCL has wrongly invoked the discretionary powers of the Commission under Regulation 69, 70, 71 and 72 of the PSERC Conduct of Business to obtain extension in time period for providing electricity connection to the Northern Railway. Citing various case laws, the Northern Railway has submitted that

(a) The Commission under Regulation 69 ibid is only empowered to invoke its inherent power sparingly and when the regulation is silent on an issue whereas in the present case the timelines to be followed by the distribution licensee for the release of EHT connection have been clearly laid down in the Supply Code.

(b) PSPCL has erroneously invoked Regulation 70 ibid which bestows the Commission with the power to review or rectify any decision, direction or order that it has passed but in the present case PSPCL is not seeking for review or rectification of any decision, direction or order of the Commission but of the regulation itself with a view to wrongly legitimize its illegal and unreasonable actions.

(c) PSPCL has erroneously relied on Regulations 71 of PSERC Conduct of Business Regulations. The "Power to Remove Difficulties" under Regulation 71 ibid can only be exercised to give effect to a regulation and not to

derogate from it. In this regard, the view of Hon'ble APTEL case of RGPPL V/s CERC and others (Appeal No.130 of 2009) has been cited that the power to remove the difficulties is to be exercised when there is difficulty in effecting the regulations and not when difficulty is caused due to application of the regulations.

- (d) Similarly, PSPCL has erroneously invoked Regulation 72 of PSERC Conduct of Business Regulations. The power to dispense with the requirement of the regulations under Regulation 72 ibid is akin to the 'power to relax' which is discretionary in nature and must be exercised reasonably in exceptional cases with circumspection and in keeping with the facts and circumstances of the case and the party seeking exercise of this power must establish that the circumstances are not created due to its own acts of omission or commission whereas in this case, the delay has been on the part of the petitioner itself as mentioned in the above paras.

In this regard, Hon'ble Supreme Court Orders (2004) 8 SCC 307, (2016) 9 SCC 426, (2017) 16 SCC 498, (2010) 4 SCC 603 & (1981) 3 SCC 592 have also been quoted.

- (v) PSPCL is bound by the doctrine of promissory estoppels and legitimate expectations. In view of the fact that the Supply Code was deemed to be a part of the A&A agreement with PSPCL which itself specifies that the connection would be provided within 90 days, thus, the Northern Railway had the legitimate expectation that the connection would be released within 90 days especially since PSPCL had not approached

the Commission by filing a petition under the proviso to Regulation 8.1(b) within the specified time period.

In this regard, Hon'ble Supreme Court Orders (2012) 11 SCC 1, (1988) 1 SCC 86 & (1999) 4 SCC 727 have been quoted.

The Northern Railway has pleaded that the petition be dismissed with strict directions to PSPCL and PSTCL to release the connection and construct the 132 kV Balluana-Balluana TSS transmission line on top priority and within a specified time frame failing which strict action should be initiated against them.

Vide rejoinder dated 21.02.2023, PSPCL submitted that the respondent had only deposited the amount against the demand notice but the rest of the conditions were yet to be fulfilled. The compliance of demand notice is considered to be made only if all the conditions of demand notice are fulfilled and in this case, the applicant has not submitted the test report till date but has only given the consent for submission of the test report in future. The respondent submitted application vide memo dated 27.06.2022 for allowing submission of the Test Report at a later stage and requested PSPCL to start execution of the work. Thus there was no delay on the part of PSPCL as respondent had submitted his request only on 27.06.2022. PSPCL further referred to PSTCL memo dated 09.02.2023 bringing out that it would take time upto 30.06.2024, if no ROW problem occurs at site.

Vide affidavit dated 14.03.2023, while reiterating most of the submissions made earlier, the respondent contended that submission of test report is not an essential pre-requisite for either the commencement of works for release of EHT connection or its completion. The applicant has a choice to either submit the test

reports immediately upon issuance of the Demand Notice or at a later stage and PSPCL not only can commence the work but even go ahead and complete it. In case of delay in completion of work, the validity period of demand notice is deemed to be extended.

### **Commission's Findings and Decisions**

With reference to the issues raised by the respondent, the Commission observes that the petitioner has brought out the details and event dates in its submissions and has not suppressed the facts to the extent as alleged by the respondent though PSPCL and PSTCL have failed to adhere to the timelines specified in the Supply Code, 2014. PSPCL was required to transfer the amount recovered from the applicant to PSTCL for execution of transmission works within 15 days as per Regulation 9.1.1(a)(iii)(w) of the Supply Code, 2014 but did so after a delay of 54 days. In this regard, relevant part of Regulation 9.1.1(a)(iii)(w) *ibid* is extracted below:

*9.1.1(a)(iii)(w)*

*..... The distribution licensee shall be responsible to recover the amount from the consumer and transfer the cost that may be incurred by the transmission licensee including proportionate cost of transmission assets to transmission licensee for execution of work, within 15 days of the receipt of amount from applicant. ....*

PSTCL failed to promptly inform PSPCL about the timelines for completion of job and PSPCL, even after getting the reply from PSTCL, delayed the filing of petition for seeking approval of the Commission for extension of time period for completion of job as provided in Regulation 8.1(b) of the Supply Code, 2014. Regarding the comments of respondent on invocation of the petitioner to the



discretionary powers of the Commission, it is observed that Regulation 8.1 as discussed below, *per se*, vests the Commission with the power to grant extension in time period for release of connection keeping in view the magnitude of work involved.

In this regard, Regulation 8.1 is reproduced below:

*8.1 The distribution licensee shall provide supply of electricity to the premises pursuant to the application submitted under regulation 6 within time limits mentioned hereunder:*

- a) *Where no augmentation, erection and extension of distribution main, erection/augmentation of distribution transformer or power transformer is required for effecting such supply, the supply shall be provided within Seven (7) working days for DS/NRS category consumers and Fifteen (15) working days for other than DS/NRS consumers from the date of submission of application complete in all respects in case of consumers covered under regulation 6.2.1 and from the date of compliance of the Demand Notice in case of consumers not covered under regulation 6.2.1.*
- (b) *In cases where augmentation/extension of a distribution main or augmentation of power transformer or erection/augmentation of distribution transformer is required but there is no requirement of erecting and commissioning a new HT/EHT line or grid sub-station or power transformer, the supply shall be provided within the period specified hereunder;*

<i>Type of service connection requested</i>	<i>Period from date of application in cases covered under 6.2.1 and from the compliance of Demand Notice for cases covered under 6.2.2 within which the distribution licensee shall provide supply</i>
<i>Low Tension (LT) supply</i>	<i>30 days</i>
<i>High Tension (HT) supply</i>	
<i>-11000 volts</i>	<i>45 days</i>
<i>- 33000 volts</i>	<i>75 days</i>
<i>Extra High Tension (EHT) supply</i>	<i>90 days</i>

*Provided that the distribution licensee may, at the earliest but not later than fifteen days before the expiry of the time schedule, seek approval of the Commission, for extension of period specified above, in cases where the magnitude of work involved for extension/augmentation of the supply system is such that the distribution licensee may reasonably require more time.*

- (c) *In cases where supply of electricity requires erection and commissioning of a new sub-station or power transformer including HT/EHT line, if any, (other than service line), the distribution licensee shall within fifteen days of receipt of application, submit to the Commission a proposal for erection of the substation or power transformer and/or HT/EHT line together with the time required for their commissioning. The Commission shall, after hearing the distribution licensee and the applicant(s) concerned, decide the time frame for erection of the sub-station or power transformer and/or HT/EHT line. The distribution licensee shall erect and commission the sub-station or power transformer and/or HT/EHT line and commence supply of electricity to the applicant(s) within the period approved by the Commission.*

*Provided that, where such sub-station or power transformer and/or HT/EHT line is covered in the Investment Plan approved by the Commission, the distribution licensee shall complete the erection of such sub-station or power transformer and/or HT/EHT line within the time period specified in such Investment Plan or period approved by the Commission, whichever is earlier. Provided further that where the distribution licensee fails to submit the proposal as mentioned above, the time period as prescribed in regulation 8.1(b) shall apply.”*

It is a fact that erection of EHT line involves substantial work and such transmission works require more time as compared to execution of distribution works. It is precisely due to this reason that no time frame has been specified in Regulation 8.1(c) which deals with cases where supply of electricity requires erection and commissioning of new sub-station or power transformer including HT/EHT line. In such cases, the distribution licensee is required submit to the Commission a proposal for erection of the sub-

station or power transformer and/or HT/EHT line along with the time required for their commissioning within 15 days of receipt of application. As the petitioner has not submitted the proposal to the Commission within 15 days of receipt of application so the Regulation 8.1(b) shall apply.

Accordingly, PSPCL should have approached the Commission for approval for extension of period for release of connection atleast 15 days before the expiry of the time period specified for release of EHT connection. Moreover, the requirement of transferring the amount received from the applicant to PSTCL within 15 days as specified in Regulation 9.1.1(a)(iii)(w) has also not been complied with by PSPCL. PSPCL has also not given any cogent reasons for such delays. In this regard, the Commission tends to agree with the respondent and also with their contention that PSPCL had initially based their petition for extension in timelines based on generic estimate without making efforts to draw the specific timelines for this transmission line though later activity wise timelines were submitted by the petitioner on 21.03.2023 after directions to that effect were issued by the Commission. Further, Regulation 6.8.8 of the Supply Code specifies that the work can be started for providing the connection in anticipation of the submission of the Test Report and after deposit of various charges. PSPCL and PSTCL have committed delay in starting the execution of work after the respondent deposited the amount and also in approaching the Commission for approval for extension of period for release of connection vis-à-vis the provision of the regulations.

As per Regulation 6.8.8 of the Supply Code, 2014 the

distribution licensee may start work on receipt of the request from the applicant along with deposit of security (works) and test report can be submitted by the applicant at a later stage. However, the applicant shall intimate its proposed schedule for availing the demand so that the distribution licensee may plan the execution of work accordingly. There is nothing on record to establish that the respondent had submitted any such schedule to PSPCL.

In the present case, the Commission has been vested with specific power under Regulation 8.1(b) of the Supply Code, 2014 to allow extension in period specified for completion of work and release of connection. The petitioner has sought extension in time for release of electricity connection to the respondent till 30.09.2024 and has later submitted activity wise timelines which translate into the required time frame upto 30.03.2024. Seeking aforementioned time extension itself implies the inability of the petitioner to complete the work within 90 days as specified in Regulation 8.1(b). Moreover, the 90 days period has already elapsed and infeasibility of completing the work in 90 days has also not been denied by the respondent. The Commission, as per the provisions of Regulation 8.1 of Supply Code, 2014 approves the extension in period for completion of works to release the connection to the respondent and directs the petitioner to complete the work by 31.03.2024 by making all out efforts and to proceed further in accordance with the provisions of the Regulation 6.8.8 of the Supply Code, 2014. It is observed that the petitioner has committed violation of Regulation 9.1.1(a)(iii)(w) of Supply Code by not transferring the amount received from applicant to PSTCL within 15 days which, in itself, delayed the execution of work.

Further, violation of Regulation 8.1(b) was committed by not approaching the Commission within the specified period. PSTCL is also responsible for not taking up the job with the promptness which was expected of it. In this regard, a stern warning is issued to PSPCL/PSTCL to take all necessary actions to prevent such reoccurrence in future failing which punitive action may be initiated as per law.

The petition is disposed of accordingly.

Sd/-  
**(Paramjeet Singh)**  
Member

Sd/-  
**(Viswajeet Khanna)**  
Chairperson

Chandigarh  
Dated: 01.06.2023

