

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

Petition No. 37 of 2015
Dated: 22.01.2016

In the matter of: Petition for approval of change of Regulation
for Fuel Cost Adjustment (FCA) Surcharge
Formula.

And

In the matter of: Punjab State Power Corporation Limited,
F-4, Shakti Vihar, Patiala-147001
....Petitioner

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

ORDER

The present petition has been filed by Punjab State Power Corporation Limited (PSPCL) for approval of change of nomenclature of Fuel Cost Adjustment (FCA) Surcharge Regulation/Formula and also such changes in respective regulations as are deemed fit and proper in the facts and circumstances of the case, as brought out in the Petition.

2. The Commission vide its Order dated 24.06.2015 admitted the Petition. The next date of hearing was fixed for 14.07.2015.
3. On 14.07.2015, after hearing PSPCL, the Commission vide its Order dated 15.07.2015 pointed out that proposal submitted vide this Petition by PSPCL for approval of change in Regulation for Fuel Cost Adjustment (FCA) Surcharge Formula, needs to be thoroughly revised and PSPCL was directed to file revised proposal by 28.07.2015. The next date of hearing was fixed for 04.08.2015.

4. PSPCL vide its letter dated 28.07.2015 filed the revised petition in compliance with the Commission's Order dated 15.07.2015.
5. PSPCL in its Petition has reproduced the existing Clause (1) of Regulation 55 and Appendix-7 of PSERC (Conduct of Business) Regulations, 2005 relating to FCA surcharge, as under:

55. Revision of Tariff:-

- (1) *No tariff determined by the Commission may be amended more frequently than once in any financial year except that tariff rates shall be adjusted in accordance with Fuel Cost Adjustment Formula incorporated in the tariff order or in any other order of the Commission. Till otherwise notified by the Commission Fuel Cost Adjustment Formula shall be as per Appendix-7.*

Appendix-7

FUEL COST ADJUSTMENT (FCA) FORMULA

To reflect change in fuel cost for PSEB Thermal Stations and Central Generating Stations that are due to reasons beyond the control of the Board, the following is approved:-

1. Adjustment Amount :

$$A = C_{fc.gen} + C_{fc.PP}$$

$$A = \text{Adjustment Amount (during the quarter)}$$

$$C_{fc.gen} = \text{Change in Fuel Cost of licensee's thermal stations.}$$

$$C_{fc.PP} = \text{Change in power purchase cost due to change in fuel cost for all thermal stations from which the distribution licensee purchases power under long term contracts.}$$

2. Chargeable FCA from the consumers:

Metered Category

$$FCA_M = A_m/U_m$$

Un-metered Category

$$FCA_{HP} = A_{HP}/L_{HP} \text{ where}$$

A_m and A_{HP} are to be arrived at by apportioning A on the basis of consumption of metered and un-metered category.

U_m is the number of units billed to metered consumers during the quarter under consideration.

L_{HP} is the sum of the connected load of un-metered consumers at the end of each month for the quarter under consideration.

3. The approved formula is subject to the followings:-

- i) Commission can review the formula at any stage.*
- ii) FCA surcharge shall not be charged, if the energy bill including FCA surcharge remains within MMC.*
- iii) The FCA amount shall be calculated on the basis of norms fixed by the Commission for various parameters including total Generation, Power Purchase, SHR, Transit Loss of Coal, Auxiliary consumption at thermal plants and T & D losses.*
- iv) The FCA for the first quarter of a financial year i.e from April to June and for the 2nd quarter i.e from July to September shall be worked out by the Licensee and levied w.e.f. 1st October and 1st January of the same year respectively.*
- v) The FCA for the 3rd quarter of a financial year i.e from October to December, showing basis of calculations/ authenticated data shall be supplied by the Distribution Licensee to the Commission by February end, so that the FCA is approved by the*

Commission by the end of March of the same year and is charged from April onwards.

Similarly FCA for the 4th quarter i.e from January to March, showing basis of calculations/authenticated data shall be supplied by the Distribution licensee to the Commission by May end, so that the FCA is approved by the Commission by the end of June and is charged from July onwards.

6. PSPCL in its petition submitted that the formula for calculation of FCA surcharge is not covering any change/variation in Annual Fixed Cost (AFC) of power purchased from all generating stations, including IPPs, from which the distribution licensee purchases power under long term contracts. The formula for calculation of FCA surcharge is also not covering the expenses incurred by the utility in period prior to quarter, on account of change/variation in Annual Fixed Cost (AFC) / Variable cost /Fuel Cost from licensee's generating stations and all thermal generating stations, including IPPs, from which utility purchases power under long term contracts, which became payable during the quarter due to decisions of various Regulatory Bodies/Courts.

PSPCL has further submitted that due to fast changing scenario of Power Sector and number of changes being implemented in the Power Sector, viz that Water Cess has become payable in the past years, and various issues for GCV, SHR, transportation etc. are under adjudication by various institutions. All such issues affect the power purchase cost in hundred of crores and affect the cash flow of the utility. Burden of such payments which arise out of such decisions also cannot be passed on to the consumers in the present scenario as the same do not

qualify for FCA in the present formula. These amounts accumulate and result in tariff shock to the consumers as the accumulated amount needs to be passed on to the consumers in the tariff order of the next year. The recent examples of such issues are:

- i) Payment of ₹200.07 crore to Malana-II HEP, arising out of Hon'ble Supreme Court decision.
- ii) Payment of ₹180.63 crore to THDC, arising out of CERC Order.
- iii) Payment of ₹391.46 crore to the Central Govt., arising out of Hon'ble Supreme Court decision.

7. PSPCL has reproduced para 5.3 (h) (4) of the of Tariff Policy in support of its prayer, which is reproduced as under:

Uncontrollable costs should be recovered speedily to ensure that future consumers are not burdened with past costs. Uncontrollable costs would include (but not limited to) fuel costs, costs on account of inflation, taxes and cess, variations in power purchase unit costs including on account of hydro-thermal mix in case of adverse natural events.

8. PSPCL has concluded that this necessitates the FCA formula be changed, so as to accommodate the following costs also in addition to the existing costs:-

- i) Any change/variation in Annual Fixed Cost (AFC) of Power Purchased from all generating stations, including IPPs, from which the distribution licensee purchases power under long term contracts.
- ii) Any expenses incurred by the utility for the period prior to the quarter on account of change/variation in Annual Fixed

Cost (AFC) / Variable cost /Fuel Cost from licensee's generating stations and all thermal generating stations including IPPs, from which utility purchases power under long term contracts, which became payable during the quarter due to decisions of various Regulatory Bodies/Courts.

9. PSPCL accordingly proposed, in the Petition, to amend the FCA Surcharge nomenclature and Formula (Appendix-7) of Regulation 55 (1) for speedy recovery of expenses incurred by the utility on account of fuel cost and power purchase cost, as under:

Regulation 55 (1)

Revision of Tariff:-

*No tariff determined by the Commission may be amended more frequently than once in any financial year except that tariff rates shall be adjusted in accordance with the **Fuel and Power Purchase Price Adjustment Formula** incorporated in the tariff order or in any other order of the Commission. Till otherwise notified by the Commission **Fuel and Power Purchase Price Adjustment Formula** shall be as per Appendix-7.*

Appendix 7 (see Regulation 55)

FUEL AND POWER PURCHASE PRICE ADJUSTMENT (FPPA) FORMULA

*To reflect change in **Fuel and Power Purchase Price Adjustment** for distribution licensee's own Thermal Stations and **all other Generating Stations including IPPs** from which the Distribution Licensee purchases power under long term contracts that are due to reasons beyond the control of the Distribution Licensee/ **Generating Stations /companies including IPPs**, the following is approved:-*

1. **Adjustment Amount :**

$$AA = C_{fc.gen} + C_{fc.PP} + \underline{\mathbf{C\ any\ other}}$$

$$AA = \text{Adjustment Amount (during the quarter)}$$

$$C_{fc.gen} = \text{Change in Fuel Cost of Licensee's Thermal Stations.}$$

$$C_{fc.PP} = \text{Change in Power Purchase Cost due to change in } \underline{\mathbf{Annual\ Fixed\ Cost\ (AFC)}} \text{ and Variable/Fuel Cost during the quarter for } \underline{\mathbf{all\ generating\ stations\ including\ IPPs}} \text{ from which the Distribution Licensee purchases power under long term contracts.}$$

$$\underline{\mathbf{C\ any\ other}} = \underline{\mathbf{Any\ other\ costs\ for\ the\ period\ prior\ to\ the\ quarter\ which\ were\ paid\ during\ the\ quarter,\ which\ became\ payable\ due\ to\ decisions\ of\ various\ regulatory\ bodies/courts\ on\ a/c\ of\ change\ in\ Annual\ Fixed\ Cost\ (AFC)\ and\ Variable/Fuel\ Cost\ for\ the\ generating\ stations\ of\ licensee\ and\ all\ other\ generating\ stations\ including\ IPPs\ from\ which\ the\ Distribution\ Licensee\ purchases\ power\ under\ long\ term\ contracts.}}$$

2. **Chargeable FPPPA from the consumers:**

Metered Category

$$\mathbf{FPPPA_M = AA_m/U_m}$$

Un-metered Category

$$\mathbf{FPPPA_{HP} = AA_{HP}/L_{HP}}$$

Where,

AA_m and AA_{HP} are to be arrived at by apportioning AA on the basis of consumption of metered and un-metered category.

U_m is the number of units billed to metered consumers during the quarter under consideration.

L_{HP} is the sum of the connected load of un-metered consumers at the end of each month for the quarter under consideration.

3. The approved formula is subject to the followings:-

- i) Commission can review the formula at any stage.
- ii) **FPPPA** surcharge shall not be charged, if the energy bill including **FPPPA** surcharge remains within MMC.
- iii) The **FPPPA** amount shall be calculated on the basis of norms fixed by the Commission for various parameters including total Generation, Power Purchase, SHR, Transit Loss of Coal, Auxiliary consumption at thermal plants and T & D losses.
- iv) The **FPPPA** for the 1st quarter of a financial year i.e from April to June and for the 2nd quarter i.e from July to September shall be worked out by the Licensee and levied w.e.f. 1st October and 1st January of the same financial year respectively.
- v) The **FPPPA** for the 3rd quarter of a financial year i.e from October to December, showing basis of calculations/ authenticated data shall be supplied by the Distribution Licensee to the Commission by February end, so that the **FPPPA** is approved by the Commission by the end of March of the same year and is charged from April onwards.

Similarly **FPPPA** for the 4th quarter i.e from January to March, showing basis of calculations/ authenticated data shall be supplied by the Distribution licensee to the Commission by May end, so that the **FPPPA** is approved by the Commission by the end of June and is charged from July onwards.

If the amount of FPPPA works out to more than Rs. 1.00/kWh (or kVAh) in a quarter, to save the consumers from tariff shock, the uncovered FPPPA amount [above Rs. 1.00/kWh (or kVAh)] shall be carried over to subsequent quarters till the whole amount is recovered.

10. PSPCL in the Petition also proposed to amend Regulation 5 and Regulation 8 (1) of PSERC (Terms and Conditions for Determination of Tariff) Regulations, 2005. The existing and proposed regulations have been reproduced as under:

(i) Regulation-5 Periodicity of Tariff Determination:

Existing

“No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of the Fuel Cost Adjustment Formula specified by the Commission.

Proposed

“No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of the Fuel and Power Purchase Price Adjustment (FPPPA) Formula specified by the Commission.”

(ii) Regulation-8 (1) Fuel Cost Adjustment:

Existing

Regulation-8 (1) Fuel Cost Adjustment:

“The fuel cost revisions for the generating companies/units owned by the licensee and Central Generating Stations that are due to reasons beyond the control of the generating companies/the licensee or the Central Generating Stations shall be in accordance with the Fuel Cost Adjustment (FCA)

Formula notified by the Commission in the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005.

Proposed

Regulation-8 (1) Fuel and Power Purchase Price Adjustment (FPPPA):

*“The **Fuel and Power Purchase Price** revisions for the generating companies/units owned by the **distribution licensee and all other Generating Stations including IPPs from which the distribution licensee purchases power under long term contracts** that are due to reasons beyond the control of the Generating stations/companies/ licensee or other generating stations/companies including IPPs shall be in accordance with the **Fuel and Power Purchase Price Adjustment (FPPPA) Formula** notified by the Commission in the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005.”*

11. PSPCL has also proposed to amend Regulation 50 of PSERC (Terms and Conditions for Determination of Generation, Transmission, Wheeling & Retail Supply Tariff) Regulations, 2014. The existing and proposed regulations have been reproduced as under:

Existing

Regulation-50 Fuel Surcharge Adjustment (FSA):

“Any change in fuel cost from the level approved by the Commission shall be determined by the distribution licensee in accordance with the fuel cost adjustment (FCA) formula specified by the Commission in the Conduct of Business

Regulations and recovered from the consumers after following the procedure detailed in the Conduct of Business Regulations.”

Proposed

Regulation-50 Fuel and Power Purchase Price Adjustment (FPPPA):

“Any change in Fuel and Power Purchase Price Adjustment (FPPPA) from the level approved by the Commission shall be determined by the distribution licensee in accordance with the Fuel and Power Purchase Price Adjustment (FPPPA) formula specified by the Commission in the Conduct of Business Regulations and recovered from the consumers after following the procedure detailed in the Conduct of Business Regulations.”

12. The Commission vide its order dated 05.08.2015 directed PSPCL to file a statement showing comparison of Fuel and Power Purchase Price Adjustment Formulae of at least five/ six State Electricity Regulatory Commissions of the States for scrutiny and consideration of the Commission.
13. PSPCL vide letter dated 13.08.2015 filed a statement showing comparison of Fuel and Power Purchase Price Adjustment Formulae of five State Regulatory Commissions and resubmitted the comparison on 20.08.2015 due to typographical error in the earlier comparison.
14. The Commission vide its order dated 13.11.2015 directed PSPCL to put the Petition along with Submissions dated 13.08.2015 and 20.08.2015 on the website of PSPCL and a Public Notice inviting objections/comments from the general public/stakeholders be issued in accordance with Regulation 67 of PSERC (Conduct of Business) Regulations, 2005.

15. A Public Notice was issued by PSPCL for inviting objections/ comments from the general public /stake holders in respect of proposal contained in the petition (Petition No. 37 of 2015), which appeared in various newspapers on 05/06.12.2015. In response to Public Notice, 7 No. Objections from following objectors were received:

1. Nahar Industrial Enterprises Ltd., Focal Point, Ludhiana
2. Nahar Fibres, 373, Industrial Area-A, Ludhiana
3. Hansco Iron & Steels Pvt. Ltd., Jalalpur Chowk, Amlah Road, Mandi Gobindgarh
4. All India Steel Rerollers Association, Ram Bhawan, G.T. Road, Mandi Gobindgarh
5. Mandi Gobindgarh Induction Furnace Association, Grain Market, Mandi Gobindgarh
6. PHD Chamber of Commerce and Industry, New Delhi
7. Steel Furnace Association of India, Dhandari Industrial Focal Point, Ludhiana

16. The contents of all 7 No. Objections were similar and the same were forwarded to PSPCL for supplying its comments/reply. PSPCL vide its letter no. 2014 dated 11.01.2016 submitted the reply to Objection No. 1 to the Commission. Further, PSPCL submitted comments on remaining 6 number objections vide its letter no. 2021 dated 18.01.2016. The issues raised by the Objectors and point wise reply submitted by PSPCL on these issues is summarized below:

Objection		PSPCL reply
1.	We strongly object to the repeated attempts of PSPCL to make the tariff determination exercise to be converted to determination of tariff based on	PSERC existing FCA Surcharge formula is to recover the fuel cost on quarterly basis that are due to reasons beyond the control of utility and its proposed

	<p>cost plus approach in place of an exercise based on principles laid down in Section 62 of the Electricity Act, 2003. The present petition is also the continuation of the same mindset on the part of sole distribution licensee of the state.</p>	<p>amendments in formula for change of regulation in the petition are also same and are in line with the provisions of Act. Proposed amendment is to recover the fuel cost timely to avoid tariff shock to the consumers, otherwise accumulated amount (including carrying cost) needs to be passed on to the consumers in the tariff order of next year, which is in favour of consumers. This proposed amendment is also to ensure that future consumers are not burdened with the past cost. This will also help to maintain equilibrium in cash flow of the utility. Hence, proposed amendment in formula is not cost plus approach for utility as mentioned in objection.</p>
2.	<p>We do not have any objection in changes proposed in para 3.1 of the petition indicated in bold and underlined words as the existing formula also takes care of Fuel and power purchase cost.</p>	<p>Objector agrees, no comments required.</p>
3.	<p>a) PSPCL has proposed the amended FPPPA formula as under :- $AA = C_{fc} \text{gen} + C_{fc} \text{PP} + C \text{any other}$ The proposed formula includes a factor <u>C any other</u> which has been defined at Page-9 of the Petition as under:- <i>C any other = Any other cost for the period prior to the quarter which were paid during the quarter, which became payable due to decisions of various</i></p>	<p>a) Factor "C any other" has been proposed in the petition to cover change in annual fixed cost and fuel cost timely, to avoid tariff shock to the consumers otherwise this accumulated amount (including carrying cost) needs to be passed on to the consumers in the tariff order of next year and also to ensure that future consumers are not burdened with the past cost.</p>

	<p><i>Regulatory bodies/courts on account of change in Annual Fixed Costs (AFC) and Variable/Fuel cost for the generating stations of licensee and all other generating stations including IPPs from which the Distribution Licensee purchases power under long term contracts.</i></p> <p>b) Further para 3 (iv) of the Appendix provides as under:-</p> <p><i>iv) The FPPPA for the 1st quarter of a financial year i.e from April to June and for the 2nd quarter i.e from July to September shall be worked out by the Licensee and levied w.e.f. 1st October and 1st January of the same financial year respectively.</i></p> <p>Conjoint reading of the above proposed provisions indicate that the Licensee will assume seamless powers to include anything which is paid/payable irrespective whether it is justified or not in the calculations of FPPPA and load the same on the consumers without due scrutiny of the Hon'ble Commission.</p>	<p>b) This is totally as per existing fuel surcharge formula as per para 3 (iv) of Appendix-7 of Regulation-55, only change of nomenclature has been proposed in the existing formula. Factor "C any other" explicitly specifies "Any other cost on account of change in annual fixed cost and fuel cost for the period prior to the quarter which were paid during the quarter, which became payable due to decisions of various regulatory bodies/courts" and is not randomly decided component in the proposed formula by PSPCL alone.</p> <p>Moreover, working of PSPCL is fair regarding working out fuel surcharge for 1st and 2nd quarters of financial year and levying itself to consumers as PSPCL submits the detailed calculations to Hon'ble PSERC after levying fuel surcharge.</p> <p>Hence, as per proposed provisions, PSPCL cannot assume seamless powers as mentioned in the objection.</p>
4.	Hon'ble Commission may recall Petition No. 13 of 2015 filed by	The objection is not in line with the proposed amendment

	<p>PSPCL for the reimbursement of ₹392 crore paid to Gol towards coal evacuated by PSPCL from PANEM coal mine (a JV company) which was disapproved by this Hon'ble Commission vide order dated 1.9.2015. Had the proposed FPPPA made applicable at that time, they would have passed on this amount to the consumers in the quarter through FPPPA charge without approaching the Commission for approval. Keeping in view the consumption of around 12860 MU at Punjab periphery/10540 MU metered consumption after Punjab losses in the 1st quarter of 2015-16, consumers would have been loaded with abnormal rise in tariff by about 40 paise per unit for the quarter. PSPCL has also pointed out this order of Supreme Court in para 4.0 (iii) of the Petition and their intention to recover such unjustified amount through FPPPA.</p>	<p>because amount of ₹392 crore was paid to MoC, Gol on 31.12.2014 i.e. during 3rd quarter of FY 2013-14. As per provisions of existing fuel surcharge formula or its proposed amendments, petitions for 3rd and 4th quarters of a financial year are worked out by licensee and filed for decision with PSERC, which is prerogative of the Hon'ble Commission.</p> <p>Further, working of PSPCL is fair regarding working out fuel surcharge for 1st and 2nd quarters of a financial year and levying itself to consumers as PSPCL submits the detailed calculations to Hon'ble PSERC after levying fuel surcharge for these quarters.</p>
5.	<p>Hon'ble Commission's attention is also invited to its order dated 27.6.13 in Petition Nos. 14 and 31 of 2013. The Commission has acknowledged in para 4 of the order that PSPCL presented the Petitions for determining FCA amount but did not give the reworked FCA amount and also failed to supply information sought by the Commission on one pretext or the other. The Commission determined the FCA amounts as per Regulations and as per available data. The amount claimed by PSPCL in these</p>	<p>It is not so as mentioned in the objection that PSPCL has overstated the amounts in petitions. Petitions for 3rd and 4th quarters of financial year are filed with PSERC for decision by working out fuel surcharge as per approved parameters and change in fuel cost level than the approved values of fuel and power purchase cost in tariff order available at the time of filing. The main reasons for variation of fuel surcharge worked out by PSPCL and approved by Hon'ble Commission</p>

petitions and finally approved in order by Commission are as under :-

Amt (₹crore)	Petition No. 14		Petition No.31	
	Claimed	Approved	Claimed	Approved
Fuel Cost	175.46	23.37	94.79	107.27
Power Purchase Cost	41.04	(-) 52.66	(-) 51.54	(-) 55.15
Total	216.50	(-) 29.29	43.25	52.12

Thus, PSPCL has overstated the amounts in the Petitions. Against the FCA amount of ₹259.75 crore claimed by PSPCL, the Commission could find the justified amount as ₹22.83 crore only.

This casts a doubt on the fair working of the PSPCL while working out the FCA amounts for the 1st and 2nd quarters allowed to the PSPCL as per para 3 (iv) of the Appendix.

for 3rd and 4th quarter of FY 2012-13 (Petition No. 14 and 31 of 2013) was due to change in GCV calculating methodology and values reviewed for fuel and power purchased in the review exercise of FY 2012-13 as compared to values approved in T.O for FY 2012-13.

PSPCL filed FCA surcharge petition for 3rd quarter of FY 2012-13 (Petition No. 14 of 2013) on 28.02.2013 with PSERC and fuel surcharge amount of ₹216.50 crore was worked out by taking GCV of bunkered coal and taking change in fuel cost then approved values of fuel and power purchase as per T.O. of FY 2012-13 available at that time. The Hon'ble Commission passed Tariff Order for FY 2013-14 on dated 10.04.2013 in which review exercise for FY 2012-13 was conducted. In review exercise, the Hon'ble Commission approved to adopt the GCV of received coal minus 150 kCal/kg for working out the fuel cost from Nov. 2012 to March, 2013, instead of taking GCV of bunkered coal. The Hon'ble Commission as per its prevailing practice approved the fuel cost for 3rd quarter of FY 2012-13 (petition No. 14 of 2013) as per above GCV parameters and reviewed values of fuel and power purchase in review exercise of FY 2012-13. This was the reason for variation in fuel cost worked out by PSPCL

		<p>and approved by the Hon'ble Commission.</p> <p>FCA surcharge petition for the 4th quarter of FY 2012-13 (Petition No. 31 of 2013) was filed for decision on 30.5.2013 by working out fuel cost on the basis of GCV of bunkered coal because PSPCL had challenged the decision of PSERC (to adopt the GCV of received coal minus 150 kCal/kg for working out the fuel cost) in the Hon'ble APTEL, New Delhi. The Hon'ble Commission approved fuel cost for 4th quarter of FY 2012-13 on the basis of GCV of received coal minus 150 kCal/kg. This was the reason for variation in fuel cost worked out by PSPCL and approved by the Hon'ble Commission.</p> <p>Regarding working out fuel surcharge for 1st and 2nd quarters of a financial year and levying itself to consumers, PSPCL stated that its working is fair and transparent because the detailed calculations are submitted to Hon'ble PSERC after levying fuel surcharge.</p>
6.	<p>PSPCL has misused the provision to levy unjustified amounts on the consumers in the garb of FCA as is evident from the observations made by the Commission in paras 6 and 9 of its order dated 27.6.13 in Petition No. 14 and 31 referred to above. PSPCL continued to charge the FCA of the previous quarter in an unauthorized manner. Thus, the para 3(iv) of the proposed Appendix</p>	<p>As replied in above objection at Sr. No. 5, regarding Petition Nos. 14 & 31 of 2013, PSPCL has not misused the provisions of levying unjustified amounts to the consumers in the garb of FCA. Paras 3 (iv) & 3 (v) of Appendix-7 of Regulation-55 are same as per the existing PSERC FCA Regulation. In the proposed amendment, only nomenclature has been proposed to be</p>

	needs to be deleted and para 3 (v) should include all quarters. In view of this para, 3(vi) would be deleted as PSERC has full powers to fix tariffs.	amended. Proposed para 3 (vi) is to cap on the fuel surcharge to ₹1.00/kWh to save the consumers from tariff shock. Further, it is prerogative of the Hon'ble Commission to accept or not to accept the views of the objector.
7.	<p>In this regard it is appropriate to reproduce Section 62 (4) of the Electricity Act, 2003, as under :-</p> <p><i>No tariff or part of any tariff may ordinarily be amended more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.</i></p> <p>Thus, the Act provides for FCA or FPPPA only for fuel related expenses and not anything else.</p> <p>Thus, the Factor, C any other, proposed is beyond the mandate of the Act.</p>	<p>The proposed amendment of Factor "C any other" is in line with Section 62 (4) of the Electricity Act, 2003, which covers change in fuel cost and annual fixed cost relating to the period prior to the quarter that are due to reasons beyond the control of utility. It has been proposed to cover this cost timely to avoid tariff shock to the consumers, otherwise accumulated amount (including carrying cost) needs to be passed on to the consumers in the tariff order of next year and also to ensure that future consumers are not burdened with the past cost.</p>
8.	<p>It will also be relevant here to reproduce the extract the relevant para of judgment given by the Hon'ble Appellate Tribunal of Electricity in OP No. 1 of 2011 as under:-</p> <p><i>"(vi) Fuel and Power Purchase cost is a major expense of the distribution company which is uncontrollable. Every State Commission must have in place a mechanism for Fuel and Power Purchase Cost in terms of Section 62(4) of the Act. The Fuel and Power Purchase Cost adjustment should preferable be on monthly</i></p>	<p>The Hon'ble Commission has already framed the fuel surcharge regulation in line with Section 62(4) of the Act as well as APTEL judgment. Its proposed amendments in the petition are also in line with the Act as replied above regarding Factor "C any other".</p>

	<p><i>basis on the lines of the Central Commission's Regulations for the generating companies but in no case exceeding a quarter. Any State Commission which does not already have such formula/mechanism in place must within 6 months of the date of this order put in place such formula/mechanism."</i></p> <p>Here also the mandate is for "Cfc.gen & Cfc PP" only as proposed in the petition and not for "C any other".</p>	
9.	<p>The FPPPA formula defines Um as the number of units billed to metered consumers during the quarter under consideration. This also needs to be reconsidered as by taking energy billed for determination of FPPPA, PSPCL is being paid as per the actual Transmission and Distribution Losses instead of approved T&D losses for the year approved in the Tariff Order. Thus, inefficiencies of the Licensee are being passed on to the consumers against the spirit of the Act. It has been proposed that Um be defined as</p> <p>= energy received at Punjab Periphery in the quarter x (1-T&D Loss approved for the year in %) /100.</p> <p>Thereafter, it be worked out (in kVAh) for each category based on the conversion/normative power factor for each category.</p>	<p>In the existing FCA surcharge formula, the Hon'ble Commission has already covered T&D Losses under para 3 (iii) of Appendix-7 of Regulation-55. In the proposed amendment only nomenclature has been proposed to be amended in the petition, so proposed amendment is in line with the existing regulation. PSPCL already works out fuel surcharge rate (kWh) as per FCA formula and kVAh rate is worked out by multiplying the kWh rate with conversion factor (for each category of consumers) as approved in the Tariff Order.</p>

Findings and Decision:

17. After going through the Petition, objections raised by the Objectors and reply submitted by PSPCL to the objections, the Commission observes and decides as under:

(i) All the 7 Objectors have objected to the amendments proposed by PSPCL in the Petition as the same are not as per Section 62(4) of the Electricity Act, 2003. It has been pointed out by the Objectors that Electricity Act, 2003 provides for FCA or FPPPA only for fuel related expenses and not for anything else. In the formula, the inclusion of “C any other” (as defined in the Petition) is beyond the mandate of the Electricity Act, 2003.

The Objectors have also expressed their apprehensions of giving authority to PSPCL for working out and charging FCA for 1st and 2nd quarters of a financial year at its end without prior approval of the Commission. They fear that if the proposed amendments are approved by the Commission, then PSPCL may charge some amounts which need thorough checking by the Commission, before these are charged to the consumers.

(ii) Section 62(4) of the Electricity act, 2003 states as under :-
“No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge as may be specified.”

(iii) In view of the strong objections from all the Objectors and also the provisions contained in 62(4) of the Electricity

Act, 2003, the Commission is of the view that the present Regulation as contained in PSERC (Conduct of Business) Regulations, 2005 relating to Fuel Cost Adjustment meet the requirements of Section 62(4) of the Electricity Act, 2003. As such, no amendment is required in the present regulations as prayed in the Petition.

The Petition is dismissed.

Sd/-

(Gurinder Jit Singh)
Member

Sd/-

(Romila Dubey)
Chairperson

Chandigarh
Dated: 22.01.2016