

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO 220-221, SECTOR 34/A, CHANDIGARH

Petition No. 19 of 2015
Date of Order: 01.06.2015

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

In the matter of : Petition challenging the action of PSPCL regarding charging Peak Load Violation Penalty charges which has not been approved by the PSERC in the Tariff Order.

AND

In the matter of : All India Steel Re-Rollers Association, Bhadla Road, Khanna – 141401 (Punjab).

Versus

Punjab State Power Corporation Limited, The Mall, Patiala.

Order:

The present petition has been filed by All India Steel Re-rollers Association (Association). It has been submitted that the members of the Association brought to its notice that PSPCL had issued bills charging peak load violation charges, which has not been approved in the Tariff Order passed for FY 2014-15. A representation dated 16.02.2015 was submitted to the Engineer-in-Chief/Commercial, PSPCL, Patiala by the Association. The president of the Association also met Engineer-in-Chief/Commercial, PSPCL, Patiala in his chamber on 20.02.2015, who assured the Association that a decision in the matter will be taken within a week. When no action was taken by the Engineer-in-Chief, the president of the Association met the

Director/Commercial of PSPCL on 17.03.2015 and submitted a copy of the representation dated 16.02.2015 to him, who also assured to take a decision in the matter within 3 days. But no action in the matter was taken. It has also been submitted that PSPCL started issuing supplementary bills to the members of the Association on account of penal charges for running the units during Peak Load Hours. The Petitioner has annexed copies of the bills of Natraj Steel Rolling Mills, Khanna (Account No. LS-56), Jawala Steel Corporation Khanna (Account No. LS-31) and Regal Pipe, Khanna (Account No. 61316) to support its claim.

The Petitioner has quoted and reproduced relevant part of paras 7.3.9 and 7.3.15 of the Tariff Order for FY 2014-15, wherein the proposal for replacement of PLEC with ToD tariff was discussed and ToD tariff for Large Supply Industrial Category and Medium Supply Industrial Category consumers was approved by the Commission. The Petitioner has submitted that PSPCL had issued Commercial Circular No. 46/CC/2014 dated 04.09.2014 in the same line and length as approved by the Commission in the Tariff Order for FY 2014-15.

The Petitioner has submitted that as per the Tariff Order for FY 2014-15, all Large Supply Industrial category consumers shall be charged PLEC as existed prior to FY 2013-14, from 6.00 PM to 10.00 PM during the period from October, 2014 to March, 2015 and for the period of April, 2014 to September, 2014. The PLEC charges as existed prior to FY 2013-14 were notified by PSPCL vide Commercial Circular No. 5/2013 dated 11.04.2013. As per the provisions of this circular, the PLEC as applicable to LS consumers availing peak load

above 100 kW & above 65% of SCD are ₹4.05/kW/hour. But PSPCL is charging ₹25 per kWh and ₹50 per kWh.

It has been submitted by the Petitioner that PSPCL is not charging any peak load penalties during the period October, 2014 to March, 2015 from the consumers who had opted for ToD tariff, but is charging the same from the consumers who had not opted for ToD tariff, which has not been approved by the Commission in the relevant year Tariff Order. As per Tariff Order for FY 2014-15, there is no provision to apply for PLEC exemptions in advance both for consumers who had opted for ToD tariff and who had not opted for ToD tariff, failing which the respondent PSPCL is empowered to charge peak load penalties. The decision of PSPCL that only those consumers who had opted for ToD tariff are not subject to payment of peak load penal charges and are not required to apply in advance for PLEC is wrong. As per decision taken by PSPCL, if a consumer had opted for ToD tariff, he shall not be required to apply for PLEC and shall not be charged peak load penalties, irrespective of the fact whether the said consumer had actually availed ToD tariff exemption of ₹1.50 per kVAh from 10.00 PM to 6.00 AM or not. The only expenditure to be incurred on filing the application for opting for ToD tariff is on purchase of ToD meter, the amount of which ranges between ₹11000 to ₹12000. If the version of PSPCL is accepted, no provisions can be expected to have been passed that a unit after incurring expenditure of ₹11000 to ₹12000 only can save lakhs of rupees by getting itself exempted from peak load penalties.

The Petitioner has further submitted that one of its members Jawala Steel Corporation, who had even applied for ToD tariff, had been imposed the peak load penalties. Jawala Steel Corporation had

applied to opt for ToD tariff vide letter dated 18.11.2014, which was acknowledged by the official of respondent PSPCL on 19.11.2015. To provide ToD tariff, the A.E./SDO of the respondent had visited the factory premises of this unit on 27.11.2014 and recorded reading of the meter in meter reading book though monthly readings of this unit were being taken by the Sr. Executive Engineer between 7th to 10th of the month. The Petitioner has submitted that by such an act, the impression was given that this unit has opted for ToD tariff and was eligible for all such exemptions available for the units who had opted ToD tariff. In this case, even if it has to be taken, though not accepted and challenged, that only those units who had opted for ToD tariff shall not be charged peak load penalties and are not required in advance for sanction of PLEC, the charges imposed on this unit are illegal.

The Petitioner has submitted that from the above submissions, it will be appreciated that PSPCL is illegally charging peak load penal charges, which have not been approved by the Commission.

The Petitioner has prayed that:

- (i) PSPCL should be directed to stop charging Peak Load Penal charges, which have not been approved by the Commission.
- (ii) PSPCL should be ordered to refund the charges already recovered from the consumers and pay interest on the illegally charged amount, from the date of receipt and till the date of payment, at the rate of 2% per month.
- (iii) Petition be allowed with costs.

2. The Commission admitted the petition vide order dated 07.04.2015. PSPCL was ordered to file reply to the Petition by 28.04.2015, with advance copy to the Petitioner, for filing rejoinder to the reply of PSPCL by 04.05.2015 with copy to PSPCL. The next date of hearing was fixed as 05.05.2015.

3. PSPCL vide its letter dated 04.05.2015 (received during hearing of the Petition on 05.05.2015) submitted the para wise reply to the Petition. Regarding charging of peak load penalties to Natraj Steel Rolling Mills, Khanna (A/c No. LS-56), Jawala Steel Corporation, Khanna (A/c No. LS-31) & Regal Pipe, Khanna (A/c No. 61316), PSPCL submitted consumer wise reply as under:

(i) Natraj Steel Rolling Mills, Khanna – A/c No. LS-56

Natraj Steel Rolling Mills had submitted option for ToD tariff on 12.09.2014 and withdrew the same w.e.f. 28.10.2014.

As per the checking report attached with the Petition, the consumer was charged for peak load violation charges for the period from 01.11.2014 to 03.12.2014. The amount charged to the consumer is to the tune of ₹1,78,300/-. Since the consumer had withdrawn the ToD option w.e.f. 28.10.2014 and PLR charges have been levied on the consumer after the withdrawal of ToD option, the charges levied on the consumer are correct and need to be recovered.

(ii) Jawala Steel Corporation, Khanna – A/c No. LS-31

The consumer had opted for ToD tariff on 19.11.2014. For installation of ToD Meter, MCO was issued on 26.11.2014. After that the meter was finally installed in the premises of

consumer on 28.01.2015. In accordance with the instructions issued by the Director/Distribution vide letter no. 2019/45 dated 11.09.2014, the following guidelines were circulated for smooth implementation of ToD tariff:-

“No private meter may be accepted or got purchased for 11 kV LS and 66 kV consumers. Where the ToD readable meters are not available, the DDL may be got done as per the previous year practice.”

As per CC no. 46/14, the consumer becomes eligible for ToD rebate on 04.12.2014. The consumer has retained its option for ToD tariff and due to late installation of meter by PSPCL, the DDL was done for the period from 27.11.2014 to 24.01.2015 and the consumer was charged for peak load violations. Further, the charges levied on the consumer for the period from 04.12.2014 to 24.01.2015 are not chargeable and are being refunded in the light of instructions issued by the Director/Distribution.

(iii) Regal Pipe, Khanna- A/c No. 61316 :

The consumer had not opted for ToD Tariff. As such, the charges levied on the consumer through DDL done for the period from 03.08.2014 to 18.10.2014 need to be recovered.

On the issue of charging of peak load violation charges, it has further been submitted by PSPCL that the issue raised by the Association is not correct as these charges are levied in accordance with the policy approved by PSERC in its order dated 28.03.2013 on Peak Load Hours (PLH) Restrictions and Exemptions. These instructions are also mentioned in Para 49.5 of the Conditions of Supply approved by PSERC. On the issue that there is no provision in the Tariff Order for FY 2014-15 to apply for PLEC exemption in

advance both for consumers who had opted for ToD tariff and who had not opted for ToD tariff, PSPCL has submitted that in case of the consumers who have not opted for ToD tariff, they are liable to pay the normal tariff for FY 2014-15 plus PLEC during Peak Load Hours as existed prior to FY 2013-14. These consumers are also liable to pay peak load violation charges in accordance with the Policy approved by PSERC in this regard, if these consumers do not seek peak load exemptions and run their loads during peak load hours.

4. In the hearing of the Petition on 05.05.2015, the Commission directed the Petitioner vide its order dated 07.05.2015 to file rejoinder to the reply of PSPCL by 12.05.2015 and supply a copy of the same to PSPCL. The next date of hearing was fixed as 19.05.2015.
5. The Petitioner filed the rejoinder to reply of PSPCL which was received in the Commission on 13.05.2015. The Petitioner submitted as under:
 - (i) The order dated 28.03.2013 was passed by the Commission in Petition No. 9 of 2013 authorizing the PSPCL to impose power cuts, peak load hour restrictions for the year 2013-14 only. The present petition has been filed to challenge the peak load penalties levied during the year 2014-15. So the version of the respondent (PSPCL) is wrong that PSPCL can charge peak load penalties as approved by the Commission in its order dated 28.03.2013.
 - (ii) During the relevant period (FY 2014-15), the provisions of Punjab State Electricity Commission (Electricity

Supply Code and Related Matters) Regulation 2014, in short Supply Code 2014 issued vide notification dated 5th November 2014 are applicable. At para 8.11 of the above Supply Code, the Commission has approved as under:

“In the event of shortage of electricity or to maintain grid stability and securing equitable distribution of electricity, the distribution licensee may with the approval of the Commission impose regulatory measures such as weekly off days, power cuts and peak load hour restrictions.”

PSPCL can impose peak load hour restrictions in the event of shortage of electricity with the approval of Commission, while there is no shortage of electricity during the ToD period and the approval of the Commission was not taken for levy of Peak Load Penalties.

The Petitioner has reproduced an extract from the Staff Paper issued by the Commission in the matter of Replacement of Levy of Peak Load Exemption charges with Time of Day tariff and has submitted as under:

- (i) The Commission in Tariff Order for FY 2014-15 replaced the PLEC with ToD tariff.
- (ii) Discontinued the practice seeking peak load exemptions.
- (iii) The Commission had not approved the peak load penalties to be levied for FY 2014-15.

It has been further submitted that the Commission had approved the ToD tariff in two categories, for the period from October, 2014 to March, 2015; one who opt for ToD tariff and the other for who

do not opt for ToD tariff. For both the categories, peak load penalties have not been approved and practice for seeking PLH Exemption was discontinued. PSPCL had at its own, without approval of Commission, made 4 categories to levy peak load penalties, as under:

- (i) Those who opt for ToD tariff and meter was installed. (No Peak Load Penalties levied and no requirement of permission of seeking peak load exemptions).
- (ii) Those who opt for ToD tariff and meter was not installed (as the case of Jawala Steel Corporation, in these cases Peak Load Penalties charged).
- (iii) Those who do not opt for ToD Tariff and not obtained permission for PLH (In these cases, peak load penalties are charged).
- (iv) Those who do not opt for ToD tariff and obtained permission for PLH. (In these cases, peak load penalties are not charged).

The four categories as stated above were not approved by the Commission. In surplus power state, peak load exemptions/penalties were replaced with ToD tariff.

The Petitioner has further submitted that although no evidence is available, but it is a matter of fact, as informed by the consumers to the Petitioner, that the field staff visiting the factories for taking meter reading has informed the members of the Association verbally that they can run their units during peak load hours by paying for peak load exemptions and peak load penalties are no more applicable. After taking these verbal clarifications, during the day when the unit noted that there remain some hot material in the furnace un-rolled

and if the unit is closed, all the heated material will have to be reheated and lot of coal will be consumed, the unit preferred to pay ₹3/4 per kW for 1/2 or 1 hour instead of incurring too much money on reheating. During the discussion with the officers of the PSPCL at Head Office, the impression was given that peak load penalties are being levied by mistake and that the same are being refunded. The present Petition has been filed as no action was taken by PSPCL authorities in the matter. In the past, there is hardly any incident when the peak load penalties are paid by the re-rolling mills and now during the year 2014-15, there are hundred instances when peak load penalties are charged, meaning thereby that the units were given impression rightly by the field staff that peak load penalties are no more applicable. Otherwise, no unit would have preferred to pay heavy penalties for running the unit for 1/2 hour or 1 hour. The readings of Jawala Steel Corporation were normally taken on 09,10,11th day of every month. After this unit applied for ToD, a special schedule was fixed to record meter reading on 27.11.2014. When the meter reading was taken on 27.11.2014, the impression was given and it was verbally told that this unit comes under ToD tariff on 27.11.2014. So, the decision of PSPCL to bring the unit under ToD tariff w.e.f. 04.12.2014 is wrong and not acceptable. In this case, ToD tariff is applicable with recording of reading on 27.11.2014 and not w.e.f. 04.12.2014, as stated in reply by the respondent (PSPCL).

6. On 19.05.2015, after hearing the parties at length, further hearing of the Petition was closed and order was reserved. The parties were ordered to file written submissions by 25.05.2015.
7. The Petitioner filed the written submissions dated 21.05.2015 (received on 26.05.2015) and has reiterated the submissions as

made in the Petition and Rejoinder. It has also been submitted that:

- (i) Peak load permission is no longer required both who had opted for ToD and who had not opted for ToD during the relevant period i.e. in the year 2014-15. PSPCL had failed to disclose any regulation/order of the Commission vide which the pre-permission is required by the consumer who do not opt for ToD and not required for the consumer who had opted for ToD.
- (ii) No Peak Load penalties are leviable during the year 2014-15. In the rejoinder, the petitioner has strongly objected to the contention of PSPCL stating that this order was passed for the year 2013-14 and not for FY 2014-15 onwards. PSPCL had filed Petition No. 9 of 2013 to get peak load violation charges sanctioned for FY 2013-14 and had not filed any such petition for FY 2014-15.
- (iii) In the Staff Paper and in the relevant year Tariff Order (for FY 2014-15), the Commission has categorically mentioned that seeking peak load exemptions are discontinued and PLEC has been replaced with ToD Tariff.
- (iv) The order to be passed against this Petition will have implications for the current year (FY 2015-16) also. As mentioned in the Petition (para 4), it cannot be expected that a system has been passed vide which a consumer after incurring only about ₹12000/- (charges on ToD Meter), can save ₹10 to ₹12 lakh, as merely by filing ToD application and installation of ToD meter, it is not mandatory for the consumer to avail ToD tariff. If the version of PSPCL is accepted that only those consumers who had opted for ToD tariff, peak load penalties

are not applicable, every consumer will file application for opting for ToD tariff to run the unit during peak load by paying ₹3/4 per kWh/kVAh instead of paying ₹50 per kW/kVA per hour.

8. PSPCL filed the written submissions dated 25.05.2015 (received on 26.05.2015) and has submitted that the contention of the Petitioner that the PLEC charges levied in accordance with the order dated 01.04.2013 is not correct as the charges are levied as per para 49.5 of Conditions of Supply approved by PSERC and continuation of the same has also been approved by PSERC in its order dated 25.04.2014. Accordingly, the penalty have been levied for peak load violations as per the Conditions of Supply duly approved by PSERC and also confirmed vide order dated 01.04.2013 and subsequent order dated 25.04.2014.

PSPCL has further submitted that written submissions made in its reply to the Petition may be considered as part of the submissions before PSERC.

PSPCL has confirmed that the amount wrongly charged to Jawala Steel Corporation, Khanna has already been refunded. The amount charged to Regal Pipe, Khanna and Natraj Steel Rolling Mills, Khanna have been charged correctly as per para 49.5 of Conditions of Supply duly approved by the Commission in its order dated 01.04.2013 and 25.04.2014.

9. The Commission after carefully examining the submissions made by the Petitioner and PSPCL, observes and decides as under:

The Commission in the Tariff Order for FY 2014-15 approved the Time of Day (ToD) tariff for Large Supply industrial category and Medium Supply industrial category consumers on optional basis for the period from October, 2014 to March, 2015. The following ToD tariff was approved for Large Supply industrial category consumers who opt for ToD tariff: -

Period	Time period	Tariff
October, 2014 to March, 2015	06.00 AM to 06.00 PM	Normal Tariff for FY 2014-15*
	06.00 PM to 10.00 PM	Normal Tariff for FY 2014-15* plus ₹3.00 per kVAh
	10.00 PM to 06.00 AM	Normal Tariff for FY 2014-15* minus ₹1.50 per kVAh

* As per Schedule of Tariff for FY 2014-15.

The following tariff was approved for those Large Supply industrial category consumers who do not opt for ToD tariff: -

Period	Time period	Tariff
October, 2014 to March, 2015	06.00 AM to 06.00 PM	Normal Tariff for FY 2014-15*
	06.00 PM to 10.00 PM	Normal Tariff for FY 2014-15* plus PLEC# during peak load hours as existed prior to FY 2013-14
	10.00 PM to 06.00 AM	Normal Tariff for FY 2014-15*

* As per Schedule of Tariff for FY 2014-15.

Peak Load hours shall not be for more than 3 (three) hours between 6 PM to 10 PM depending upon season to season.

From the above, it is clear that for those Large Supply consumers who do not opt for ToD tariff during the period from October, 2014 to March, 2015, normal tariff for FY 2014-15 plus PLEC during peak load hours as existed prior to FY 2013-14 shall be applicable for 3 hours during the time period from 06.00 PM to 10.00 PM. Further, it is mentioned in para 7.3.14 of the Tariff Order for FY

2014-15 that existing mechanism shall continue to be applicable to those consumers, who do not opt for it. Levy of peak load exemption charges and ToD tariff is also mentioned in para 15 of the General Conditions of Tariff approved by the Commission in the Tariff Order for FY 2014-15 (Annexure-I of Vol.II of the Tariff Order for FY 2014-15). Further, it is mentioned in the order of the Commission dated 25.04.2014 in case of Petition No. 14/2014 that the policy approved by the Commission in respect of peak load hours restrictions/exemptions which was applicable during FY 2013-14 would be applicable for the year 2014-15 also. This policy was made part of the ibid order of the Commission as Annexure-II. It is mentioned in para 9 of Annexure-II that penalty for violation of PLH restrictions will be as prescribed in para 49.5 of the Conditions of Supply approved by the Commission. In para 49.5 of the Conditions of Supply approved by the Commission, it is mentioned as under: -

“Penalty leviable for violation of peak load hour restrictions or use of excess load than the permissible limit will be as per rates specified in the Tariff Order. Present rates of penalty are indicated in Annexure-20.”

In para 2 of Annexure 20 of Conditions of Supply, the rates of penalty for violation of peak load hours restrictions or use of excess load than the permissible limit have been specified as under: -

“(a) ₹50 per kW of the maximum load used in excess of the Peak Load Exemption Limit per day of first default in a block of 2 months and ₹100 per kW in the 2nd block of 2 months immediately after the first default block.

- (b) *If the default occurs either during the first ‘half hour; or the last ‘half hour’ of Peak Load Hours Restrictions period on any day, the penalty will be levied at half the rate. If, however, the default occurs both during first ‘half hour’ as well as last ‘half hour’ of Peak Load Hours Restrictions period, the penalty shall be levied at full rate.*
- (c) *If there is no default in any time block of two months, the next time block in which a default occurs will be treated as the ‘First Time Block’ and penalty levied accordingly.”*

In view of the above, the contention of the petitioner that peak load violation penalties have been wrongly charged by PSPCL from the consumers who had not opted for ToD tariff and who have not taken the approval for running their units during PLH restrictions after paying PLEC is not correct. As brought out above, clear cut orders and instructions in the matter of peak load hours restrictions, exemptions, charges and penalty have been specified by the Commission in its orders. It is mandatory for the Large Supply industrial category consumers who do not opt for ToD tariff, to take prior permission from PSPCL for running their units during peak load hours restrictions, after paying peak load exemption charges.

In view of the facts of the case as brought out by the petitioner in its petition and above discussion, the cases of 3 No. consumers to whom peak load violation penalties have been levied by PSPCL are discussed and decided as under: -

- (i) Natraj Steel Rolling Mills, Khanna (A/C No. LS-56)
This consumer submitted option for ToD tariff on 12.09.2014, and later on withdrew the option on 28.10.2014. In this case, PSPCL rightly levied peak load

violation charges during the period 01.11.2014 to 03.12.2014.

(ii) Jawala Steel Corporation, Khanna (A/C No. LS-3)

The consumer opted for ToD tariff on 19.11.2014. For installation of ToD meter, MCO was issued on 26.11.2014 and meter was installed on 28.01.2015. PSPCL has submitted that in accordance with CC No. 46/14, the consumer became eligible for ToD rebate on 04.12.2014 i.e. 15 days after giving the option for ToD tariff. Further, DDL of the meter of this consumer was done for the period from 27.11.2014 to 24.01.2015.

As per para 7.3.15 (vi) of the Tariff Order for FY 2014-15, Large Supply and Medium Supply industrial category consumers who are unable to give their option and/or arrange their own meters by 15.09.2014, may submit their option and arrange their own meter capable of recording ToD readings/data, after 15.09.2014. Further, the meters of such consumers will be installed by PSPCL within 15 days of the receipt of option and meter from the consumer(s) and these consumers will be able to avail the ToD tariff from the billing cycle falling immediately after installation of the energy meter by PSPCL. In the present case, the meter was installed on 28.01.2015. However, the billing was done on the basis of DDL of the existing meter of this consumer for the period from 27.11.2014 to 24.01.2015. Therefore, the consumer will be deemed to have availed the ToD tariff from the billing cycle falling immediately after the date of option (19.11.2014) for

availing ToD tariff. The accounts of the consumer be revised and peak load violation charges be levied accordingly.

(iii) Regal Pipe, Khanna (A/C No. 61316)

This consumer has not opted for ToD tariff. As such, peak load violation charges have been rightly levied during the period 03.08.2014 to 18.10.2014.

The Petition is disposed of accordingly with no cost.

Sd/-
(Gurinder Jit Singh)
Member

Sd/-
(Romila Dubey)
Chairperson

Chandigarh
Dated: 01.06.2015