

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

**Petition No. 7 of 2018  
Date of Order: 04.06.2018**

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

In the matter of: Petition under Regulation 69, 71 & 72 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 and any other Regulation of the Punjab State Electricity Regulatory Commission, read with provisions of the Electricity Act, 2003 seeking quashing/setting aside the communication dated 19.12.2017 issued by CE/Commercial-PSPCL, whereby, the request of the petitioner made by way of communication dated 21.11.2017 to transfer power from its Biomass Fired Captive Power Plants set up in the factory premises to the Pump Sets installed on the wholly owned Agricultural Land of the Petitioner-Company has been wrongly declined and the Petitioner has been conveyed that such case will be treated as Unauthorized Use of Electricity while wrongly applying and interpreting Section 36(e) of the Supply Code 2014.

AND

In the matter of: Satia Industries Limited, Village Rupana, Muktsar - Malout Road, Muktsar, Punjab, India through its Authorized Representative Sh. Deepak Jagga.

...Petitioner

Versus

Punjab State Power Corporation Limited, The  
Mall, Patiala through its Chairman-cum-  
Managing Director

...Respondent

**ORDER**

The petitioner has filed the present petition under Regulation 69, 71 & 72 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 and any other Regulation of Punjab State Electricity Regulatory Commission, applicable in this regard, read with provisions of the Electricity Act, 2003 seeking quashing/ setting aside the communication dated 19.12.2017 issued by respondent, PSPCL. The petitioner has submitted that its request vide communication dated 21.11.2017, to transfer power from its Biomass Fired Captive Power Plants set up in the factory premises to the Pump Sets installed on the wholly owned Agricultural Land of the petitioner – Company, has been wrongly declined and the petitioner has been conveyed that such case will be treated as Unauthorized Use of Electricity while wrongly applying and interpreting Section 36(e) of the Supply Code 2014.

2. The petition was fixed for hearing on admission on 18.04.2018. In the meanwhile the petitioner filed an I.A. dated 06.03.2018 (I.A. no. 2 of 2018) praying for early hearing of the above said petition and for directing the respondent to allow the petitioner to transfer the power generated from its captive plants for running the pump house set-up by the petitioner in the newly established area, during the pendency

of the present petition, as it is mandated upon the petitioner to run the same as per the norms of the Punjab Pollution Control Board and to pass any such Orders as the Commission may deem fit in the facts and circumstances of the case. The petitioner reiterated the submissions made in the petition in the aforesaid I.A. and further stated as under:

- i) That since the directives issued by the Pollution Control Board are mandatory to be met with and the respondent has declined permission to run the pump house newly established by the petitioner by transfer of its captive power, the petitioner being constrained/having no option, is running the pump house set up at the newly established area with the help of generator sets running on diesel as fuel which is not only economically unviable, is also not a permanent solution to the problem in hand.
- ii) That the respondent has wrongly and in the most mechanical manner declined to come to the rescue of the petitioner, thus making the subject a matter of urgent adjudication and in case the present application is not allowed, the petitioner shall suffer irreparable loss and injury.

3. The petition was admitted vide Order dated 05.04.2018. PSPCL was directed to file reply by 17.04.2018 with a copy to petitioner and the petitioner was directed to file rejoinder, if any, by 20.04.2018 with copy to PSPCL. The petitioner was further

directed to file a detailed proposal / generic chart with respect to the transmission line as well as the voltage level of the transmission line required to transfer its captive power generated from the captive plants for running the pump house set up within a week, with a copy to PSPCL. The petition was fixed for hearing/arguments on 24.04.2018.

4. The petitioner, in compliance to the Commission's Order dated 05.04.2018, vide letter dated 10.04.2018, submitted a detailed proposal and SLDs (Single-Line Diagrams) with respect to voltage level and transmission line for transferring power from its captive power plant at 3-phase, 415V, 50Hz through underground cable up to the pumping system installed in its own land for irrigation of its plantation with discharged effluent treated water from the industry. It has been submitted in the proposal, as under:

- i) Satia Industries Ltd. (SIL) has 4 generating units as captive power plants synchronized with grid at 11kV. Out of these, two TG sets are of 5MW each, out of which one is generating power at 11 kV & the other at 6.6 kV. Further, the third TG set is of 12.5 MW capacity generating power at 11 kV and fourth one is of 10.45 MW generating capacity at 11 kV. These TG sets are synchronized at 11 kV with each other & with the grid. Power is distributed in the plant at 11 kV through the distribution system and stepped down to 3 phase 415 Volt near the load through appropriate 11 kV/415 V capacity Transformers and then to the LT PCC/MCC system for distribution and motor load etc. Out of

the four generating units, one no. 5MW 6.6 kV condensing TG set is not in operation.

- ii) Satia Industries Ltd. is normally meeting all its electrical demand from the captive power and running in desynch mode. To meet the MMC as fixed for LS general industry, SIL is consuming minimum units of energy from PSPCL. Hence power to pumping system will be used from captive power plants only. It is also proposed to provide an electrical interlock to ensure that in case if any of the TG sets of 10.45 MW or 12.5 MW or 5 MW capacity trips or shuts down, power supply to Pumping System is cut and shut this pumping system power. Moreover, this pumping system is non critical & non important type load so will be kept shut in case of TG sets power is not available.
- iii) Satia Industries Ltd. will transfer LT 415V 3 phase 50Hz power through one no. underground cable of size 3.5 core x 240 sq. mm. Aluminum XLPE insulated from one of its LT MCC panel located at a distance of approx. 660 metres. SIL will follow PSPCL guidelines / norms for laying the cable. Voltage drop is also in permissible limits and the prescribed procedure shall be followed and comply with the conditions as ordered by the Commission in this regard.

5. PSPCL in compliance to the Commission's Order dated 05.04.2018, vide Memo. No. 6803/TR-5/894 dated 13.04.2018, filed

reply to the petition. In response to the same, the petitioner filed the rejoinder dated 19.04.2018 to the reply filed by PSPCL.

6. The petition was taken up for hearing on 24.04.2018 wherein after hearing the petitioner and the officers of PSPCL, the Commission raised certain queries. On the queries raised by the Commission during the hearing, PSPCL desired to revise / resubmit its reply to the petition. Accordingly, vide Order dated 26.04.2018 PSPCL was directed to file the same by 27.04.2018 with a copy to the petitioner. The Commission further directed PSPCL to submit the rules / regulations / provisions of law under which permission is not being granted to the petitioner for its proposal to transfer the power from its Captive Power Plant to the load centre for its own use. The petitioner was directed to file rejoinder, if any, to the same by 30.04.2018 with a copy to PSPCL. The petition was fixed for hearing / arguments on 01.05.2018.

7. On the date of hearing on 01.05.2018, PSPCL submitted a letter dated 01.05.2018 stating that they have no objection for transfer of power from the Captive Power Plant of the petitioner to the proposed 3 nos. pump-sets situated about 660 m away from the existing premises of the firm. PSPCL expressed its concern with respect to the misuse of PSPCL power to run the above referred pumps whenever the captive generation is zero and to check this possibility, PSPCL proposed that the petitioner should take captive power from the TG set output before the 11 kV bus, to the proposed pump-sets. Alternatively, PSPCL proposed that the firm should install

TOD meter at proposed pump house and data downloaded from PSPCL end as well as at the pump-set end be supplied to PSPCL every month so that requisite monitoring against misuse of PSPCL power could be carried out effectively. Additionally, the firm should also provide interlocks to avoid misuse of PSPCL power.

Petitioner agreed to the above proposal of PSPCL to install TOD meter and provide interlocks to avoid misuse of PSPCL power. After hearing the parties, Order was reserved.

8. The submissions of the petitioner are summarized as under:

- i) That the petitioner is having a Pulp & Paper manufacturing unit in Village Rupana on Muktsar- Malout road in the District Shri Muktsar Sahib, in the State of Punjab and has taken Large Supply Continuous Process electricity connection with 11750 KVA Contract Demand/15000 KW Connected Load from the respondent at 66 KV voltage level. The petitioner has installed its captive (Biomass based Renewable source of energy) power plants having total capacity of 32.95MW, out of which TG set of 5MW (condensing, installed in 2003) is not in operation. Thus, the petitioner at present has captive generation capacity through its RE power projects of 27.95 MW. The petitioner is meeting almost all of its total requirement from these captive power plants. Simultaneously, the petitioner is availing the power through a dedicated 66 KV feeder from PSPCL's 66 KV

Grid, Rupana, to meet out its exigencies/shortfall. The petitioner for the said connection is having an Account No Y64-RP01-00004 under Rupana Sub Division of Shri Muktsar Sahib Division and Circle of the respondent.

- ii) That the petitioner is operating a pulp & paper manufacturing plant at the facility. To meet the steam and power requirements of the facility, the petitioner has set up 4 No Captive power plant(s) of 2x5 MW each, 1x12.5 MW and 1x10.45 MW after getting due approvals of PSPCL and PEDDA. The plants are operating in synchronization with PSPCL system.
- iii) That the power generated is being used in house and the Petitioner has not executed any PPA with PSPCL or with third parties for sale of power generated by the petitioner till date. Further, the power plants are fully owned by the petitioner and thus these meet with the criteria of Captive Power Plants as per Rule 3 of the Electricity Rules 2005.
- iv) That during the manufacturing process of pulp & paper, some quantity of effluent in the form of waste water is generated which has to be disposed off after treatment in Effluent Treatment Plant. As per the requirement of Punjab Pollution Control Board, such treated water has to be taken to the area where the company is required to plant large number of Eucalyptus plants, for irrigating those fields. This water cannot be discharged in the

natural drains or disposed off in any manner other than specified by the PPCB.

v) That the petitioner has arranged required agriculture land (mainly on lease basis) scattered on side and back of the factory and planted eucalyptus plants to consume the waste water and for taking the water to the fields. The petitioner company has to procure land on time to time basis from different farmers with different locations & levels of the land. Due to this, the petitioner company is facing the problem of water logging/flooding in nearby areas as well as dry area at tail end/remote area/uneven level of land. Therefore, the petitioner has to discharge the treated effluent water for irrigation at different levels of land and at remote area/tail end as per the availability of land. But, there is head loss in the water carriage system due to additional area and due to difference of ground levels/slope of available land. Due to these reasons, the waste water instead of reaching to the extended area, floods the fields of area earlier being irrigated and the fields at the tail end remain dry.

vi) That the in house study carried out by Civil & Engineering wing of the petitioner-company revealed that there is need to further boost the pressure of flowing water by installing pumps and recreating the required head en-route. Accordingly, the petitioner has set up a pump house about 1000 meters from the existing feeding point

of the factory en-route and has shifted 3 pumps & motors of 30 HP each from the factory to the newly established area . The petitioner has also created infrastructure for raising the head, round the clock operation and monitoring of disposal of treated effluent. The petitioner has also modified the openings of the drain line in various blocks of land parcels scattered en-route to ensure uniform disposal of water up to tail of the drain line.

- vii) That the petitioner approached the local office of the respondent (PSPCL) and requested them to allow the petitioner to lay a cable from the captive power plant(s) to the pump house to run the 3x30 HP motors shifted from the factory premises to the pump house clarifying that the premises of the pump house is fully owned by the petitioner and there is neither any increase in connected load nor in the contract demand as the petitioner has only shifted the motors from the factory premises to pump house. Consequently, the petitioner was directed to approach the office of SE/DS of PSPCL at Shri Muktsar sahib. Accordingly, the petitioner submitted its request to PSPCL vide communication dated 21.11.2017, which was forwarded by SE/DS Shri Muktsar Sahib to the CE/Commercial, PSPCL Patiala for advice in the matter vide letter dated 30.11.17. CE/Commercial, PSPCL vide his letter dated 19.12.2017 conveyed that such cases will be treated as Unauthorized Use of Electricity while

wrongly applying and interpreting Section 36(e) of the Supply Code 2014.

viii) That the petitioner has 4 Nos. fully captive power plants of aggregate installed capacity of 32.95 MW. These plants meet with the requirements of Captive Power Plant as laid down in Rule 3 of Electricity Rules 2005 as these plants are fully owned by the petitioner company and 100% generation is consumed by petitioner in the factory itself.

ix) That the Electricity Act 2003 provides that the consumer having Captive Power Plant can take the power to the destination of its use. The relevant provisions in this regard are extracted as under:-

a) Section 2 of the Act provides the definition of Captive Power Plant (CPP) and dedicated transmission line as under:-

*(8) "Captive generating plant" means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association;*

*(16) "Dedicated Transmission Lines" means any electric supply-line for point to point transmission which are required for the purpose of connecting*

*electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;*

b) Section 9 of the Act provides regarding CPP as under:-

9. (1) *Notwithstanding anything contained in this Act, a person may construct, maintain or operate a captive generating plant and dedicated transmission lines:*

*Provided that the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating station of a generating company:*

<sup>1</sup>*[Provided further that no licence shall be required under this Act for supply of electricity generated from a captive generating plant to any licensee in accordance with the provisions of this Act and the rules and regulations made there under and to any consumer subject to the regulations made under sub-section (2) of Section 42.]*

Further, the Electricity (Removal of Difficulty) Fifth Order 2005 notified by Central Government on 08.06.2005 provides as under:

**“2. Establishment, operation or maintenance of dedicated transmission lines.-** A generating company or a person setting up a captive generating plant shall not be required to obtain license under the act for establishing, operating or maintaining a dedicated transmission line if such company or person complies with the following:-

- (a) Grid code and standards of grid connectivity;
- (b) Technical standards for construction of electrical lines;
- (c) System of operation of such a dedicated transmission line as per the norms of system operation of the concerned State Load Dispatch Centre (SLDC) or Regional Load Dispatch Centre (RLDC).
- (d) Directions of concerned SLDC or RLDC regarding operation of dedicated transmission line.”

- x) That in petition no. 13 of 2007, the petitioner therein i.e. Nectar Life Sciences, District Mohali, prayed to the

Commission that the petitioner-company may be allowed to set up a 6MW Biomass Fired Captive Power Plant and to transfer 3 MW power from its Unit-II to Unit-I (both being distinct and independent consumers of PSPCL) by using a 11KV dedicated line. The Commission vide Order dated 23.7.2007 allowed the prayer in terms of the following Order:-

*“.....Section 9 read with Section 7 of the Electricity Act, 2003 allows any person to construct, maintain or operate a captive generating plant without obtaining a license under the Act. Clause 2 of the Electricity (Removal of Difficulties) Fifth Order 2005 further provides that a generating company or a person setting up a captive generating plant shall not be required to obtain a license under the Act for establishing, operating or maintaining a dedicated transmission line subject to compliance of conditions specified in the Order.*

*In view of the above provisions of law, no approval of the Commission is required in this regard and the petition is disposed of accordingly.”*

- xi) That in another Petition No. 10 of 2004, the petitioner therein i.e. Malwa Industries Limited, Machhiwara prayed before this Commission that the petitioner-company may be allowed to transfer its surplus power from its 6 MW

power plant to its sister concerns drawing power from the same cluster substation using the dedicated system erected at its own cost. The Commission vide Order dated 10.01.2007 disallowed the prayer with Orders as under:-

*“To conclude, it is held that in view of the provisions contained in Sections 9, 10 and 12 of the E.A.03 and decision of the Hon’ble Supreme Court in the case of Bhushan Steel Limited cited above, it is not open to the petitioner to claim that it can transfer surplus electricity from its CPP using its own dedicated transmission lines to the place of its sister concern for end use. It is further held that sister concern of the petitioner does not comply with the conditions of ownership and consumption as laid down in Rule 3 of the ER 05 as the ownership of CPP is through Proprietary interest and control of the petitioner alone. Hence transfer of surplus electricity from CPP by the petitioner to its sister concern is not permissible under the E.A. 03.”*

- xii) That being aggrieved of the aforesaid Order passed by the Commission, the petitioner therein filed an Appeal before the Hon’ble APTEL in which the Hon’ble Tribunal remanded back the matter to the Commission for adjudication, upon which the Commission vide Order

dated 25.3.2008, allowed the petition in terms of the following Order:-

*“The Hon’ble Appellate Tribunal has, in its Order referred to above, observed that criteria of ownership as laid down in Rule 3(1)(a) read with explanation (1)(c) in relation to the CPP will mean the equity share capital with voting rights of captive users. The other criteria is laid down in Rule 3(1)(a)(ii) and is based on consumption of not less than fifty one percent of electricity generated in a CPP. The Power Plant owned by M/s Malwa Industries Ltd. satisfies both criteria of ownership and consumption and hence qualifies as a CPP. The Appellate Tribunal has further observed that two divisions of M/s Malwa Cotton Spinning Mills Limited are connected with the works of Punjab State Electricity Board and fall within the definition of consumer. Therefore, under Section 9(1) of the Act, surplus power from the CPP can be supplied by M/s Malwa Industries Limited to its sister concern, M/s Malwa Cotton Spinning Mills Limited without license but subject to Regulations framed under sub section 2 of Section 42 of the Act. The Appellate Tribunal has, also stipulated that PSEB shall have control over the dedicated transmission line set up*

*by the petitioner for supply of power to its sister concern and that PSEB could make its own arrangement for switching and metering that may be necessary for keeping check on the supply of electricity to its sister concern.*

*In the light of the decision and observations of the Appellate Tribunal discussed above, the Commission allows the prayer of the petitioner to supply surplus power from its CPP to its sister concern M/s Malwa Cotton Spinning Mills Limited without license but subject to Regulations framed under sub section 2 of Section 42 of the Act and also directs the PSEB to facilitate such supply of surplus power in accordance with the Regulations mentioned above”.*

- xiii) That Trident Ltd. has been allowed to transfer power from their captive power plant at Dhaula unit to its Sanghera Unit through a dedicated 66 kV line erected by Trident Ltd. The details of the same if required can be sought from the respondent.
- xiv) That the captive capacity, which is in operation to the tune of 27.95 MW, is being generated from RE power plants, set up by the petitioner under NRSE Policies of the State

of Punjab/MNRE. The NRSE Policy 2012 provides in para 3(i) at page 19 of the Policy as under:-

*“.....Captive power generators will be required to seek permission of PSPCL/P SERC for laying of transmission line for taking power to destination of use in Punjab.”*

- xv) That as per the above provisions, the petitioner can transfer the power from its Captive Power Plant in the Factory to the Pump House located at a distance of about 1000 Mtr from factory for operation of the pumps with the approval of the respondent /this Commission. In the instant matter, the petitioner has duly approached the respondent for seeking permission to lay the cable for the purpose, however, the respondent has not accepted the request of the petitioner. Thus, the petitioner by way of the present petition is seeking kind indulgence of the Commission to exercise its jurisdiction for rendering the relief to the petitioner as prayed for.
- xvi) That the Hon'ble APTEL vide Order dated 22.8.2007, passed in Appeal Nos. 20 of 2007 and 77 of 2007, filed by Universal Cables Limited, Satna (M.P.) and M/s Satna Cement Works Satna (M.P.) has allowed transfer of power from CPP of Satna Cement Works to Universal Cables through dedicated line. However, in the present

case the petitioner is merely seeking transfer of power for self use.

- xvii) That similarly, the Hon'ble APTEL upheld the decision of Haryana Electricity Regulatory Commission allowing M/s Toshiba Corporation to supply electricity to its captive consumers through its own distribution network and rejected the Dakshin Haryana Discom's Appeal No. 254 of 2013 vide its Order dated 29.5.2015.

In light of the facts and submissions made above, the petitioner prayed for the following:

- i) Quash/Set-aside the communication dated 19.12.2017 issued by CE/Commercial-PSPCL, whereby, the request of the petitioner made by way of communication dated 21.11.2017 to transfer power from its 27.95 MW Biomass Fired Captive Power Plant(s) set up in the factory premises to the wholly owned Pump House of the petitioner- company has been wrongly declined and the petitioner has been conveyed that such case will be treated as Unauthorised Use of Electricity while wrongly applying and interpreting Section 36(e) of the Supply Code 2014;
- ii) Allow the petitioner-company to transfer 70 KW power from its 27.95 MW Biomass Fired Captive Power Plant(s) set up in the factory premises to the wholly owned Pump House of the petitioner- company situated at a distance of

about 1000 Metres by laying dedicated 415 Volt three phase underground cable for proper and equitable disposal of treated effluent water of the paper plant as per the requirement of Punjab Pollution Control Board,

- iii) Direct the respondent-PSPCL to render complete co-operation to the petitioner and not to create any hurdle for transferring power from its 27.95 MW Biomass Fired Captive Power Plant(s) set up in the factory premises to the wholly owned Pump House of the petitioner-company;
  - iv) pass any such further Orders as this Commission may deem fit in the facts and circumstances of the case.
9. The submissions made by PSPCL in its reply to the petition, are summarized as under:
- i) That the petitioner is availing power from PSPCL 66 kV grid, Rupana to meet out its requirements or whenever needed and as per available record between 30.09.2017 to 31.12.2017, energy consumed by petitioner is 371700 kVAh which is more than MMC. It clearly indicates that during shut down or any problem in generation of captive power plant then at that time automatically power is being drawn from PSPCL due to synchronization. The petitioner has setup 4 no. captive power plants of 2x5MW, 1x12.5 MW and 1x10.45 MW after getting approval from PSPCL. It is clearly mentioned in the approval letter for installation

of captive power plants that energy generated from captive generation units can be used within boundary of the plant at point no. IV of approval and point no 7, 8, 9 of approval quoted as under.

*"Conditions for use of energy generated from captive Generation Units:*

- a) *Can be used by the owner at one point i.e. within the boundary of the plant.*
  - b) *Use by any concern including sister concern outside the overall boundary of the premises shall not be permitted.*
  - c) *Third party sale shall not be allowed."*
- ii) That the petitioner has taken agriculture land (mainly on lease basis), but if premises are distinctly separated or leased, then conditions of supply 7.4 (iii) are applicable, quoted as under.

*"An existing industrial consumer will not be allowed a new connection in the same premises or even in an independent adjoining premises/shed/piece of land with a separate identity owned by him. A New connection may be allowed in the name of a new firm/company with a district License /VAT no. of which the owner is a Director/Partner, only if the premises are distinctly separate/partitioned or are sold or leased to the new unit."*

- iii) That the petitioner had requested for approval to lay 1000 metre, 415 Volt, Three phase cable from the captive power plant (Feeding supply point) to pump house located about 1000 metre outside the plant boundary. But it is clearly mentioned in the approval letter for installation of captive power plant that energy generated from captive generation units can be used within boundary of the plant at point no IV of approval and point no 7,8,9 of approval as quoted in sub-para (i) herein above.
- iv) That all the conditions of the Electricity Act, 2003, as mentioned in para 8 of the petition, are correct but the petitioner is not covered under this category as it is a different case because they are not distinct and independent consumers of PSPCL.
- v) That in the case of Nectar Life sciences, District Mohali, it was prayed before this Commission regarding transfer of power of 3 MW from its Unit-II to Unit-I. In that case both were distinct and independent consumers of PSPCL but in the present case petitioner is consumer at feeding end only. In the above case, power transfer from one unit to another unit is allowed as both are independent consumers and conditions of supply 7.4 (iii) are followed which are quoted as under.

*"An existing industrial consumer will not be allowed a new connection in the same premises or even in an independent adjoining premises/shed/piece of*

*land with a separate identity owned by him. A New connection may be allowed in the name of a new firm/company with a district Licence /VAT no. of which the owner is a Director/Partner, only if the premises are distinctly separate/partitioned or are sold or leased to the new unit."*

If the petitioner becomes independent consumer at the new site of pump house, PSPCL is ready to allow transfer of power from plant premises to pump house.

- vi) That Malwa Industries Limited was allowed to transfer its surplus power to its sister concern, but it is clearly mentioned that both are independent consumers of PSPCL and conditions of supply 7.4 (iii) are followed.

Further, a petition no.17 of 2003, filed by M/S Narindra Paper Products Limited regarding grant of permission for transfer of surplus power to its associates was allowed but in that case all connections were installed at one premise and also were independent consumers of PSPCL.

In view of the above submissions, PSPCL prayed that the instant petition may be dismissed and the petitioner may be directed to apply for new connection at the site of pump house mentioned in the petition.

10. The petitioner filed rejoinder to the reply filed by PSPCL reiterating and reaffirming the contents of the petition. The submissions made in the rejoinder, in brief, are as under:

- i) That the respondent, so as to justify, it's illegal, arbitrary and unjust act of not allowing the petitioner to transfer power for running pump sets from its captive Renewable Energy Power Projects has filed the reply in question, which apparently is unsustainable in the eyes of law, as the submissions made by the respondent in the reply are totally alien to the law as well as NRSE Policy, 2012. Thus, no reliance can be placed upon the reply filed by the respondent which is a device designed out of whims and fancies of respondent.
- ii) That the contents of the reply to the assertions made by the respondent with respect to utilization of captive power generated from the captive generating station of the petitioner within the boundary of the plant and the conditions quoted by the respondent in the reply are contrary to the provisions of the Electricity Act, 2003 which allows utilization of captive power by the generator for its captive use anywhere and to lay a dedicated transmission line for such transfer of power and further exempts such arrangement from obtaining any licence. Thus, the purported plea setup by the respondent that the petitioner has not been rendered approval for its captive

power plants to transfer power for running its pump set is unsustainable in the eyes of law and in no manner can be relied upon.

- iii) That as per the settled cannons of law, the subordinate legislation, Rules and Regulations cannot be made in derogation to the main Act read with Electricity (Removal of Difficulty) Fifth Order 2005 and NRSE Policy 2012 which allows utilization of captive power by the generator for its captive use anywhere (NRSE Policy allows the facility with the approval of PSPCL/PSERC). Thus, the purported plea setup by the respondent that the case of the petitioner falls under Regulation 7.4(iii) of the conditions of supply does not hold any substance. That the Regulation 7.4(iii) is specific for adjoining piece of land/plot and requires a consumer to have separate licence / VAT number which is not the case here. In the instant case, the pump house is not adjoining to the factory but there are pieces of land owned by third parties. Further, the said Regulation lays no compulsion upon the captive user to have an independent connection in case transfer of captive power has to be made by way of its own line, as prayed for in the instant case.
- iv) That the assertions made by respondent that captive power generated from the captive generating station of the petitioner can be utilized within the boundary of the

plant and the conditions quoted by respondent in the reply are wrong and denied being contrary to the provisions of the Electricity Act, 2003 which allows utilization of captive power by the generator for its captive use anywhere and lay dedicated transmission line without obtaining any licence. As per the settled cannons of law, the subordinate legislation, Rules and Regulations cannot be made in derogation to the main Act. NRSE Policy 2012 also allows transfer of power for captive power and lay transmission line with the approval of PSPCL/P SERC. Thus, the purported plea setup by the respondent that the petitioner has not been rendered approval for its captive power plants to transfer power for running its pump set is unsustainable in the eyes of law and in no manner can be relied upon.

- v) That the assertions made by respondent with respect to captive power generated from the captive generating station of the petitioner can be utilized within the boundary of the plant and the conditions quoted by respondent in the corresponding para of the reply are wrong and denied being contrary to the provisions of the Electricity Act, 2003.
- vi) That the provisions of the Electricity Act, 2003 permit the petitioner being captive power producer to use the captive power produced at other destination, thus, the

respondent, without there being cogent reasoning cannot be permitted to restrain the petitioner from enjoying and exercising his rights permissible under the statute. The respondent has failed to bring out any provision of the Act requiring status of distinct and independent consumers / connections from licensee at the generating station and the premises where captive power is to be consumed.

- vii) That the respondent just in Order to sustain its illegal decision of not allowing the petitioner to transfer its captive power for operating pump sets through its own line, is trying to make vague interpretations of the statute and the judgments rendered by this Commission as per its own suitability. With regard to Regulation 7.4 (ii), the respondent has failed to note that the premises of the petitioner-SIL and Pump house premises are not adjoining premises/shed/piece of land but separated by land owned by third parties and a public road which is evident from the sketch supplied. In the instant matter, the respondent has miserably failed to demonstrate as to how the case of the petitioner does not fall under the provisions of the Electricity Act, 2003 more particularly laid down in Section 2 and Section 9 of the Electricity Act, 2003. As per the settled cannons of law there cannot be an estoppel against the statute and the respondent by not allowing the petitioner to transfer its captive power for

running pump sets as prayed for, as per its whims and fancies is not only violating the rights of the petitioner provided under the Act but is also creating an estoppel against the statute, which is totally impermissible in nature. The respondent at the time of declining the permission to transfer captive power by the petitioner, which is under challenge, had never stated that the petitioner is required to have a separate connection from the respondent for operating its pump set as well as for transferring its captive power, which clearly demonstrates the malafides and fallacy of the respondent and further goes to show that the respondent so as to sustain its illegal decision of declining permission to the petitioner to transfer its captive power for operating its pump sets, has set up an afterthought as to having an independent connection from respondent at the pump set, which is patently illegal, unjust, arbitrary and unsustainable in the eyes of law. Thus, no reliance can be placed upon the false and frivolous assertions made by respondent in its reply under reference. Reliance placed by respondent on the case of M/s Narindra Paper Mills is misleading as the case is not at all akin to petitioner's case. All the three units of Narindra Paper Mills were in one premise whereas in the case of petitioner, the premises are separated by land owned by third parties.

viii) That the petitioner has already supplied the proposal of laying 660 metre of 3.5 core 240 sq mm aluminum XLPE insulated cable from the MCC in the SIL to pump house with voltage drop calculations etc also providing for an interlock that in case of tripping of the CPPs, power flow to the Pump House will immediately trip. The petitioner will abide by the additional conditions also, if any, prescribed by the Commission for the transfer of power.

In light of the facts and submissions made above, the petitioner prays to allow the petition and grant reliefs as prayed for.

### **Commission's Findings and Decision**

11. The crux of the issue involved in this petition is that the petitioner, who is a large supply continuous process Industrial consumer with a sanctioned load of 15000 kW with a contract demand of 11750 kVA fed at 66 kV, has installed its Captive Power Plant with running capacity of 27.95 MW. During manufacturing, some quantity of effluents in the form of waste water is generated which has to be disposed of as per the requirement of Punjab Pollution Control Board. The petitioner requested the respondent PSPCL to allow transmission of its captive power from its premises to pump house situated at a distance of about 700 metres to feed three pumps of 30 BHP each by laying a LT cable. PSPCL vide letter dated 19.12.2017 rejected the proposal on the ground that a consumer cannot

use supply outside its premises under regulation 36 (e) of the Supply Code, 2014.

The petitioner cited section 2(8), 2(16), section 9 of the Electricity Act, 2003 and various Orders of this Commission to claim that as per the provisions of the Act, a person can construct, maintain & operate a captive power plant and dedicated transmission line. Such person has the right to transmit the electricity from its captive power plant to the destination for its use through a dedicated line.

During hearing, the Commission specifically asked PSPCL to submit the rules, regulations and provisions of law under which permission is being denied to the petitioner to transfer the power from its captive power plant to the load centre for its use. The officers of the PSPCL submitted in writing that PSPCL has 'No Objection' in case the petitioner transfers its captive power from the captive power plant to proposed pump house situated at a distance of about 660 metres from the premises of the firm. However, PSPCL proposed that to take care of misuse of PSPCL power to run the pump sets, either captive power from TG output is taken out from the 11 kV bus to the pump house or the petitioner may be asked to install ToD meter at pump house and the data should be downloaded monthly & supplied to PSPCL.

**In view of the submissions of PSPCL & various provisions of the Electricity Act, 2003, the petitioner is**

permitted to transmit electricity from its captive power plant situated in the premises of Satia Industries Ltd. to the pump house fully owned by the petitioner for its own use through a dedicated supply line. However, it shall be ensured that under no circumstances PSPCL power is taken out of the premises of the Petitioner's said Industry. As proposed and agreed by the petitioner, a suitable electrical interlocking system shall be installed by the petitioner to ensure that in case of failure of supply from its TGs, the power supply to its pumping system is cut. The petitioner shall also install a ToD meter at the pump house to ensure that PSPCL power is not used for running the pumps. It shall be the responsibility of the petitioner to take necessary permissions from the competent authorities and also to ensure compliance of all rules & regulations, necessary approval of PSPCL for specification of the material, route plan and construction etc. of the dedicated supply line to pump sets. The petitioner shall download the meter data on 1<sup>st</sup> of each month and supply the same to PSPCL.

**The petition is disposed of accordingly.**

-Sd/-

**(Anjuli Chandra)  
Member**

-Sd/-

**(S.S. Sarna)  
Member**

-Sd/-

**(Kusumjit Sidhu)  
Chairperson**

Chandigarh

Dated: 04.06.2018