

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

Petition No.30 of 2015

Date of Order: 29.06.2015

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

In the matter of : Petition in the matter of release of connection of KRBL Limited Bhasaur (Dhuri) A/c no. LS-14, inclusion of undue charges in the cost of line - violation of Reg. 9.1.1 (b) of Supply Code and Tariff provisions.

AND

In the matter of: KRBL Limited, Village – Bhasaur (Dhuri), District Sangrur through its Chief Operating Officer Shri R.K.Sharma.

Versus

Punjab State Power Corporation Limited, The Mall, Patiala.

Order

The present Petition has been filed by KRBL Ltd., Village Bhasaur, (Dhuri), District Sangrur through its Chief Operating Officer Shri R.K.Sharma. The Petitioner is running a Rice Milling Unit having a sanctioned load of 10931 kW with a Contract Demand of 6598 kVA fed from 66 kV line.

- 1.0 Following submissions have been made by the petitioner:
- 1.1 The Petitioner's unit is running in the premises of erstwhile Oswal Agro Furnace Ltd., which was purchased by the petitioner in 2003 including its electricity connection having sanctioned load of 5939 kW with a Contract Demand of 4600 kVA. The connection of Oswal Furnace Ltd. was permanently disconnected on 06.05.1996 and connection to KRBL Ltd. was released on 13.03.2005 on terms & conditions approved by the Empowered Committee of the Punjab Government in relaxation to rules applicable at that time.
- 1.2 The petitioner applied for extension in load of 4992 kW with Contract Demand (CD) of 1998 kVA thus making a total load of 10931 kW with CD of 6598 kVA. The issue of payment of Advance Consumption Deposit (ACD) and Service Connection Charges (SCC) cropped up at the time of release of extension in load and Empowered Committee decided to exempt the petitioner from payment of ACD and further decided that PSPCL will calculate the original line charges incurred during 1985-86 and 1986-87 when the line was originally laid along with any additional amount that might have been incurred on the maintenance/up-gradation of the line already laid by PSEB till the signing of the agreement and the same would be intimated by PSPCL to KRBL Ltd. for payment, thereof.
- 1.3 PSPCL raised a demand of ₹45,47,411/- vide Memo No.2833 dated 23.8.2011 and on the request of the petitioner provided the break-up of this amount which is as under:
- | | |
|---------------|--------------|
| Line Charges. | ₹ 3,95,827/- |
| Bay Charges. | ₹23,85,394/- |

Line Maintenance Charges.	₹16,916/-
Salary of Staff.	₹17,49,274/-
Total	₹45,47,411/-

- 1.4 The Petitioner vide its letter dated 30.08.2011 objected to the inclusion of bay charges and salary of staff and sent a cheque of ₹4,12,743/- to PSPCL, which was not accepted by the department. PSPCL reiterated the demand of ₹45,47,411/- vide Memo No.12008 dated 09.09.2011 and due to non-payment, the connection of the Petitioner was also disconnected.
- 1.5 The Petitioner approached CMD/PSPCL, who insisted on payment of line charges, bay charges and maintenance charges for restoration of connection but agreed to get the issue of salary of staff amounting to ₹17,49,274/- re-examined, subject to an undertaking by the Petitioner that the decision of PSPCL will be acceptable to it. According to the Petitioner, since new paddy season had started, so to get the connection re-connected, the petitioner agreed to the proposal of CMD/PSPCL and the petitioner submitted the undertaking and deposited a total amount of ₹27,98,173/- including line charges, bay charges, line maintenance charges and re-connection charges and the connection was re-connected on 20.09.2011.
- 1.6 After more than three years, PSPCL has again raised the demand of ₹27,66,746 towards salary of staff along with interest at SBI's Base Rate + 4% for delay in payment vide Memo No.707 dated 26.02.2015 and the petitioner was

directed to deposit this amount within seven days failing which action as per departmental instructions was contemplated.

- 1.7 The demand of salary of staff amounting to ₹17,49,274/- along with interest is totally unjustified since the salary of staff is included in the establishment cost of ARR and is being recovered by PSPCL through the tariff approved by the Commission. Similarly, R&M charges are also part of ARR and recovered through tariff approved by the Commission. So, PSPCL is raising undue demand in violation of Regulation 9.1.1(b) of the Supply code and tariff notified by PSPCL with the approval of the Commission. Since, the Petitioner has already paid the actual cost of the line and bay including actual expenditure incurred by the department on its maintenance as intimated by PSPCL, so there is no justification of payment of salary of staff. The Petitioner, therefore, prayed that undue demand of ₹27,66,746/- raised against the Petitioner vide Memo No.707 dated 26.02.2015 on account of salary of staff and interest thereon is in violation of Regulation 9.1.1 (b) of Supply code and tariff revision, may be set aside. It was also prayed that PSPCL may be restrained from disconnecting the power supply of the Petitioner.
- 2.0 The Petition was admitted vide Commission's Order dated 13.05.2015 and PSPCL was directed to file reply by 28.05.2015 with a copy to the Petitioner, who may file re-joinder to the reply of PSPCL by 01.06.2015. The Petition was fixed for hearing on

03.06.2015 and PSPCL was restrained from disconnecting the power supply to the Petitioner.

3.0 PSPCL vide Chief Engineer/ARR&TR Memo No.5861/TR-4/702 dated 28.05.2015 filed reply and submitted as under:

3.1 The matter regarding payment of salary of the staff required for maintenance of 66 kV line amounting to ₹17,49,274/- was kept pending for re-examination of the issue on the specific undertaking of the Petitioner that the decision of PSPCL will be acceptable to the Petitioner.

3.2 The total demand of ₹27,66,747/- raised vide Memo No.707 dated 26.2.2015 include salary of staff amounting to ₹17,49,274/- and interest charges at SBI's Base Rate +4% due to delay in payment of salary charges by the Petitioner. The demand is fully justified as per the decision of High Empowered Committee of Punjab Govt.

3.3 The Petitioner is bound to make the payment of salary of staff for the maintenance of line as per rules envisaged under TIE-IV and the decision of the Empowered Committee dated 29.12.2014. The Petitioner is bound to deposit the payment as per the undertaking given by the Petitioner to PSPCL.

3.4 The connection of Oswal Agro Furnace Limited was permanently disconnected on 06.05.1996 and new connection to KRBL Ltd., was released on 13.03.2005. The 66 kV feeding line remained in idle condition and was being maintained by PSEB line staff from 07.05.1996 to 12.03.2005. During this period, no bill on any account was raised to Oswal Agro Furnace Limited & KRBL Ltd. and

hence the amount of staff salary charges, is justified and recoverable from the consumer.

4.0 After hearing the submission made by both the parties during the course of hearing on 03.06.2015, the Commission decided to close the hearing of the matter and directed the Petitioner and PSPCL vide Order dated 04.06.2015 to file written note of arguments by 08.06.2015 and order was reserved.

5.0 The Petitioner filed the written arguments dated 05.06.2015 (received on 08.06.2015) and made the following submissions:

5.1 The demand of salary of staff by including the same in the cost of line charges payable by the Petitioner towards Service Connection Charges is wholly unjustified as the salary of the staff is an establishment cost and is included in the tariff, approved by the Commission every year.

5.2 PSPCL has not quoted any instructions/rules or regulations under which salary of the staff has been included in the cost of service line of the Petitioner. The Petitioner got the connection in the premises purchased from the liquidator and as per the decision of the competent authority, the petitioner was to pay only the original line charges incurred by the respondent when the line was originally laid during 1985-86 along with any additional amount that might have been incurred by the respondent on its maintenance/up-gradation from the time the line was originally laid till the date of agreement i.e. 31.03.2005 and thus the amount as demanded by the PSPCL vide letter dated 25.08.2011 have already been paid in full by the Petitioner.

5.3 The demand of salary of staff is in violation of Supply Code Regulation 9.1.1 (b). The Petitioner contested the claim on the basis of TIE-IV instructions as these instructions only provide the norms for creation of posts of technical staff and has nothing to do with the salary of staff or its recovery from the prospective consumer.

5.4 The undertaking was given under throttling circumstances and it was done under pressure of the circumstance with the hope that Board of Directors of PSPCL will give justice to the Petitioner.

6.0 PSPCL vide memo. No. PSERC/Reg./2638 dated 11.06.2015 followed by reminder vide Memo No. 3019 dated 18.06.2015 was directed to submit copies of the memorandums along with annexures put up to the Board (PSEB) for revision of tariff between FY1996-97 and FY2001-02 and decision of the Board thereon. PSPC vide CE/ARR&TR Memo.No. 5087/TR-5/702 dated 24.06.2015 intimated that such record could not be traced in the office of EIC/Commercial since memorandums for FY 2001, 2002 & 2005 have been destroyed on 16.03.2011.

7.0 Findings & Decision of the Commission

The only prayer of the Petitioner is to set aside the demand of ₹27,66,746/- on account of salary of the staff and interest thereon raised by PSPCL vide Memo No.707 dated 26.02.2015. The main ground of the Petitioner is that since the salary of the staff is an establishment cost which is allowed in the tariff by the Commission every year, so the same should not be included in the cost of the line payable by the Petitioner towards Service Connection charges. On the other hand, PSPCL justified its claim regarding payment of

salary of the staff on the plea that the Petitioner at the time of getting its connection re-connected on 20.09.2011 gave an undertaking that the decision of PSPCL will be acceptable to it.

PSPCL claimed that the amount of the salary has been calculated as per rules envisaged under TIE-IV and the decision of the Empowered Committee. The argument of the Petitioner is that the TIE-IV is just norms laid down by the department for the creation of posts of technical staff and has nothing to do with the claim of PSPCL. Regarding decision of the Empowered Committee, it has been argued by the Petitioner that the decision was to recover original line charges incurred by the department when the line was actually laid, along with amount spent on the maintenance/up-gradation of the line, already laid by PSEB till signing of the agreement and the Petitioner had already deposited the line charges of ₹3,95,827/-, bay charges of ₹23,85,394/- and line maintenance charges of ₹16,916. So, the demand for salary of the staff is totally unjustified.

PSPCL agreed to re-examine the demand for salary of staff amounting to ₹17,49,274 in September, 2011 and took more than three years to decide the issue and this delay was on the part of PSPCL. Thus, the levy of interest at SBI's Base Rate + 4% on the disputed amount on the plea that the consumer has delayed the payment of ₹17,49,274/- is totally unwarranted and unjustified.

Further, from the scrutiny of the record provided by PSPCL, it is observed that the salary of the staff has been calculated from FY 1987-88 to FY 2005-06. Although we do not comment on the authenticity of the calculations and its methodology but charging of the salary for the period FY 1987-88 to FY1995-96 from KRBL Ltd. is without any logic since the connection of Oswal Agro Furnace

Ltd. was running during this period and was permanently disconnected on 06.05.1996. The lines/electrical equipments installed/erected even at the cost of the consumer becomes the property of the licensee, which the licensee can use for giving supply to other consumers on the terms & conditions specified in the rules/regulations. All such lines/electrical equipments are maintained by the licensee and the expenditure incurred on the maintenance are recovered by the licensee as a part of Annual Revenue Requirement (ARR) through O&M expenses which include employee cost & R&M cost. Although, PSPCL failed to produce the documents relating to tariff revision before constitution of State Electricity Regulatory Commission in FY 2001-02 but it is fair to assume that the employee cost must have been an integral part of the expenditure statement compiled by the Board to justify any tariff revision . There is no instance or rules/regulation for charging of salary of the staff for maintenance of any Idle line from the consumer. The cost already recovered through tariff cannot be loaded again on the consumer for maintenance of an idle line.

In view of the above, the Commission decides to set aside the demand of ₹27,66,747/- on account of salary of the staff and interest thereon raised by PSPCL vide Memo No.707 dated 26.02.2015.

The Petition is disposed of, accordingly.

Sd/-

(Gurinder Jit Singh)

Member

Chandigarh

Dated: 29.06.2015

Sd/-

(Romila Dubey)

Chairperson