

**PUNJAB STATE POWER CORPORATION LTD
CONSUMERS GRIEVANCES REDRESSAL FORUM
P-1, WHITE HOUSE, RAJPURA COLONY ROAD, PATIALA
PHONE: 0175-2214909 ; FAX : 0175-2215908**

Appeal No: CG-79 of 2013

Instituted On: 17.06.2013

Closed On: 01.08.2013

**M/s DCM Engineering Products,
ASRON, Nawanshehar.**

.....Appellant

Name of Op/Division: Ropar

A/c No.: R-46-RP04-00001

Through

Sh. I.D. Verma, PR

V/s

PUNJAB STATE POWER CORPORATION LTD

.....Respondent

Through

Er. P.S. Bains, ASE/OP. Divn. Ropar.

BRIEF HISTORY

Petition No. CG-79 of 2013 was filed against the decision of Chief Engineer/Commercial, Patiala, intimated vide memo No. 1083 dated 29.08.2012, deciding that Rs.30 lac recovered on account of cost of bay, for conversion of supply from 11 KV to 132 KV, is not refundable to the consumer.

The petitioner is having LS category connection bearing account No. R-46-RP04/0001, with sanctioned load of 24568 KW, CD 19900 KVA, operating under Operation Sub- Division, Roopnagar.

The consumer obtained LS category connection with 7173.384 KW load in the year 1976. Thereafter, the consumer built up its connected load in different stages. The consumer had applied for extension in load by 12000 KW in the year-1991 & deposited Rs.30 lac against cost of bay, vide BA-16 No. 64 dated 06.12.1991 for Rs.20,00,000/- & BA-16 No. 387 dated 23.12.1991 for Rs.10,00,000/-The consumer also applied extension in the load by 993 KW in the year 1993. The amount of service connection charges (SCC) for extension of 12993 KW (12000 KW + 993 KW) amounting to Rs.19,48,350/- were deposited on 05.08.1994.

The petitioner again applied for extension in load of 1182.930 KW, vide A&A No. 35469 dated 17.06.2006. The AEE Ropar issued Demand Notice vide memo No. 1339 dated 12.07.2006, asking the consumer to deposit SCC for Rs.8,86,622/-. The consumer submitted objections vide letter dated 24.07.2006, against the demand of SCC on the ground that they had already paid Rs.30.00 as cost of construction of bay and no augmentation of existing system/line is involved. SE/Op. Roopnagar referred the case vide letter dated 25.09.2006, to CE/Commercial for clarification on recovery of SCC from the consumer against extension of 1182.930 KW load. The office of CE/Commercial, Patiala asked SE/Op Roopnagar vide letter dated 11.10.2006, to submit detailed report on the issue keeping in view the provisions of ESR 51.2 along with comments & recommendations. The consumer deposited the amount of SCC for Rs. 8,86,622/- in three installments on 09.01.2007, 09.04.2007 and 09.10.2007 under protest.

The consumer filed petition before the Forum for refund of Rs.30 lac. However the Forum vide letter dated 15.10.2008, informed the petitioner that only appeal cases are registered in the Forum and advised the petitioner to approach the competent authority.

The petitioner approached the office of CE/Commercial for refund of Rs.30 lac vide representation dated 05.02.2009. The office of CE/Comml. vide letter dated 25.05.2009 intimated the consumer that supply was given by constructing 132 KV bay and by lying 132 KV jumpers only and Rs.30 lac charged is on account of cost of the bay only. Hence SCC charged are correct and not refundable.

The refund case of the petitioner was also heard in the ZDSC, Patiala on 25.10.2010, where it was decided that the case is required to be settled by the concerned Chief Engineer. The refund case was re-considered by CE/Comml and it was intimated vide letter dated 29.08.2012, that the amount of Rs.30 lac recovered on account of bay are not refundable. Further the amount of Rs.19,48,350/- SCC were deposited as per Commercial Circular No. 42/1988.

The consumer then approached Ombudsman Electricity Punjab against the decision dated 29.08.2012 of the Chief Engineer/Comml. , Patiala. Hon'ble Ombudsman in its order dated 07.05.2013 stated that refund case is duly covered under the provisions of Regulation-2 clause (e) sub clause (i) & (III) of PSERC (Forum & Ombudsman) Regulations-2005. On the directions of the Ombudsman the appeal was registered for hearing in the Forum.

The Forum heard the case in its proceedings held on 02.07.2013, 11.07.2013 & finally on 01.08.2013. Then the case was closed for passing speaking orders.

Proceedings:-

PR contended that at the time of extension of load of 1182.930 KW, in the year 2006 PSEB/PSPCL had issued Demand Notice No.

35469 dated 19.06.2006 and demand of Rs. 8,86,622/- was raised as Service Connection Charges. The consumer, immediately on receipt of the Demand Notice wrote a letter dated 24.07.2006 to the Assistant Executive Engineer "DS" PSEB/PSPCL Ropar giving all details of the service connection charges and the cost of the line deposited by the consumer from time to time. It was specifically mentioned that the petitioner company paid Rs.30 lac as cost of laying the 132 KV line and construction of bay. It was also mentioned that the petitioner firm paid Rs.19,48,350/- under protest as service connection charges to the PSEB/PSPCL for load of 12993 KW(12000KW + 993 KW) inspite of fact that the cost of line of 132 KV was paid by the consumer.

The respondents have wrongly and illegally disputed the facts and legal position by saying that the petitioner paid Rs. 30 lac as cost of the bay only. It has been further alleged by the respondents that the cost of the bay are different from charges received in respect of cost of line. The respondents have failed to place on record any Sales Regulation, Provision of Electricity Act, rule of regulation framed by the Hon'ble PSERC to show that the charges for bay are separate from cost of line.

PR further contended that in fact the PSEB/PSPCL at the time of release of load in 1994 for 12000 KW + 993 KW was to get service connection charges from the petitioner to the tune of Rs. 25,27,100/-(5,78,750 + 1,48,350 + 18,00,000) or the actual cost of the line/bay whichever is more. As already mentioned above the petitioner had already paid Rs.30 lac as the cost of erection of line and bay. So no SCC were required to be got deposited by the PSEB/PSPCL and the PSEB/PSPCL had wrongly got deposited Rs. 19,48,350/- from the firm after the erection of 132 KV line and construction of bay in utter violation of the CC No. 55/91.

The petitioner was infact entitled to get refund of Rs.30 lac deposited with the PSEB/PSPCL as cost of line and bay as it is

admitted position from the letter No. 11170 dated 29.08.1995 of Sr Xen grid S/S Divn Jalandhar that only Rs.25,72,042/- were spent on the erection of 132 KV line and construction of bay against which the petitioner had deposited Rs.30 lac with the PSEB/PSPCL.

As already mentioned above after paying the SCC at the time of release of load of 1182.930 KW the petitioner company had paid total Rs. 34,13,722/- as SCC (5,78,750+148350 + 1800000 + 886622) and also had paid Rs. 30 lac as cost of line and bay. As per CC No. 55/91, 36/04 S.R. No. 51.3 the PSEB/PSPCL could charge cost of 132 KV line and bay or the Service Connection Charges whichever is more. The cost of the line is much below Rs.30 lac and as such the firm is required to pay SCC to PSEB/PSPCL to the tune of Rs.3413722/- or actual cost of line whichever is more. Whereas as per calculations made above it is very much clear that the PSEB/PSPCL has compelled the petitioner company to pay Rs.64,13,722/- against the required SCC of Rs.34,13,722/- and as such the petitioner company is entitled to get back Rs. 30 lac from the PSEB/PSPCL.

PSPCL contended that SCC of Rs.8,86,622/- (at the rate of Rs. 750/-) per KW at that time) was charged as per CC No. 42/88 as revised from time to time. The amount of Rs. 30 lac was charged as the cost of bay, further Rs. 19,48,350/- were charged in respect of SCC detail of which is:-

	<u>Detail</u>	<u>Rate/KW</u>	<u>Amount</u>
1.	Extension of load for 993 KW in the year 1993	150	Rs.1,48,350/-
2.	Extention of load for 12000 KW the year 1994.	150	Rs.18,00,000/-

It is pertinent to mention that charges received in respect of cost of bay are different from charges received in respect of cost of line, both these charges are recoverable from consumer. Dy.CE/Sales-II, Patiala vide his letter dated 29.08.2012 also upheld that both SCC and Cost of Bay are recoverable from the consumer. Rs.30 lac was recovered only in respect of Cost of Bay and in no respect, does it contain any part of Cost of service line.

Observations of the Forum:-

After the perusal of petition, reply, written arguments, proceedings, oral discussions and record made available to the Forum, Forum observed as under:-

The Forum observed that the petitioner applied for extension in load by 12000 KW during the year 1991 and deposited Rs. 30 lac as cost of the Bay for conversion of supply from 11 KV to 132 KV. The petitioner also applied extension in load for 993 KW in the year 1993. The service connection charges for Rs.19,48,350/- against both the extension viz 12000 KW & 993 KW, were deposited on 05.08.1994, in addition to cost of bay of Rs.30 lac deposited in the year 1991.

The consumer was asked to deposit Rs.8,86,622/- as Service Connection Charges, vide demand notice dated 12.07.2006 against the extension of load 1182.930KW. The petitioner raised objections against this demand on the ground that he had already paid cost of line/bay and no augmentation of existing line is involved. Thereafter, the petitioner lodged a claim of refund of Rs.30 lac deposited as cost of bay on the pretext that he had deposited Rs.64,13,722 (including cost of bay) against required Service Connection Charges of Rs.34,13,722/- for various extension in load. The petitioner contended that PSEB/PSPCL

could charge cost of 132 KV line & the bay or the SCC whichever is more, as per Sales Regulation 51.3, reproduced as under:-

"Industrial and Bulk supply consumers availing connection for load exceeding 1 MW have to pay the entire cost of the service line laid for them. By virtue of paying the entire cost of the line involved in releasing the connection, the consumer is entitled to avail extension in load upto 100% of the original load for which the line had been erected, provided that the line so effected is capable of taking the total load i.e. the original load and extension in load upto 100% of the original load. If, however, the line already erected is unable to take the 100% extension of load, the extension in load shall be limited to the capacity of the line. In such an event, the consumer is not required to pay service connection charges for the extension in load provided the cost of the original line already paid by him is more than per KW charges calculated at the applicable rate from time to time on the total load including extension in load applied by the consumer."

From the above, it is clear that the consumer is not required to pay SCC for extension in load provided the cost of original line already paid is more than per KW charges on total load. The extension in load to the consumer was released by laying 132 KV jumpers only. ASE/Op. Division, Roopnagar has also intimated vide memo No. 8381 dated 16.08.2013 that cost of line was very less, as such cost of bay and fixed SCC were recovered from the consumer. The Sales Regulation 51.3 provides for appropriating only cost of line towards SCC and nothing has been mentioned about cost of bay. The petitioner has contended that cost of line includes cost of bay but he has not mentioned any rule/regulation to support his contention. Further the Commercial Circulars are issued by the office of Chief Engineer/Commercial and he is competent authority to issue clarification, whenever there is any ambiguity or instructions are silent on any matter. The office of Chief Engineer/Commercial has clarified vide letter dated

25.05.2009, that 132 KV line has been constructed from 132 KV S/Stn. Asron to the premises of M/S DCM Ltd., therefore, Rs. 30 lac charged is on account of cost of bay only. Thereafter, refund case was again sent by Chief Engineer/DS, South, Patiala to Chief Engineer/Commercial, on the directions of the Forum. The office of Chief Engineer/Commercial again made clear vide letter dated 29.08.2012 that cost of bay and amount of Rs.19,48,350/- deposited by the consumer as per CC NO. 42/88, are not refundable.

The petitioner also contended that Rs.25,72,042/- were spent on the erection of 132 KV line and construction of bay against which the petitioner had deposited Rs.30 lac. However ASE/ Grid S/Stn. Jalandhar intimated vide memo No. 4004 dated 23.08.2013 that Rs.25,72,042/- were spent by his office for construction of bay. Similarly Sr.Xen/Civil Const. Divn. PSPCL, Mohali confirmed vide memo No. 2426 dated 23.08.2013 that the expenditure on civil works for the bay was Rs.4,74,424/-. Thus total expenditure on the bay was Rs.30,46,466/- (Rs.25,72,042 + 4,74,424), against Rs.30 lac deposited by the consumer as cost of the bay.

Forum observed that cost of bay is different from cost of line. And there is no provision in CC No. 42/88, 55/91 and 36/2004 or Sales Regulation 51.3 for appropriating cost of bay towards Service Connection Charges. Therefore, Forum is of the view that fixed SCC recovered from the consumer on per KW basis against various extension of load at different time interval, in addition to cost of the bay, are justified.

Decision:-

Keeping in view the petition, reply, written arguments, oral discussions, and after hearing both the parties, verifying the record produced by them and observations of Forum, Forum decides:

- To uphold the decision of the Chief Engineer/Commercial on the refund case, intimated vide memo No. 1083 dated 29.08.2012.
- That the balance amount recoverable/refundable, if any, be recovered/refunded from/to the consumer along-with interest/surcharge as per instructions of PSPCL.
- As required under Section 19(1) & 19(1A) of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulation-2005, the implementation of this decision may be intimated to this office within 30 days from the date of receipt of this letter.

(Rajinder Singh)
CAO/Member

(K.S. Grewal)
Member/Independent

(Er. Ashok Goyal)
EIC/Chairman