

**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-52 of 2013

Instituted On: 30.04.2013

Closed On: 11.06.2013

**M/s Ganga Oil & General Mills
& Ajit Singh Cold Store,
Karyam Road, Nawahshehar.**

.....Appellant

Name of Op. Division: Nawanshehar

A/c No.: **LS-07**

Through

Sh. R.K. Grover, PC

V/s

PUNJAB STATE POWER CORPORATION LTDRespondent

Through

Er. Ashwani Kumar, ASE/OP. Divn. Nawanshehar

BRIEF HISTORY

Petition No. CG-52 of 2013 was filed against order dt. 18.04.2012 of the ZDSC North, Jalandhar deciding that the amount already charged on account of clubbing of connections is justified and therefore, not to be refunded.

The consumer had two no. MS category connections bearing Account No. MS-43/12 having sanctioned load 98.40 KW (M/s Ganga Oil Mills

and General Mills in the name of Sh. Gurcharan Arora) and MS-43/33 having sanctioned load 49.85 KW (M/S A.S. Cold Storage, in the name of Sh. Ajit Singh). Both the connections were operating under City Sub division, Nawanshehar. These connections were checked by the Sr.Xen/Op. Divn. Nawanshehar and AEE/City Sub Divn. Nawanshehar in continuation to previous inspection dated 16.04.1996 and reported that there was no common wall in between the premises of both the consumers and also reported that connections will be shortly separated by the consumers, but had recommended for clubbing the connections of MS-12 and MS-33 being in the same premises. Subsequently Sr.Xen/Enf. Nawanshehar in his checking report dated 16.06.1998 and 06.09.1999 had pointed out that the above two no. MS category connections are clubbable. On the basis of checking report of ASE/Enf/DS. The consumers was charged LS tariff from 01.01.1996 to 31.03.2001 and recovered difference of tariff and 20% LT surcharge was recovered through energy bills. During this period the consumer had also requested on 21.09.1997, 05.11.1997 and 06.02.1998 that his both connections be clubbed and on the other side he had also requested on 05.08.1997 that his connections be not clubbed. The case was referred to clubbing committee as per CE/Comml. orders dated 24.11.1997 and committee decided the case on 25.11.2000 that both the MS connections were not clubbable. The clubbing committee report was received in the sub divisional office vide Dy. CE/Op. Nawanshehar endst.No. 4622/26 dated 12.03.2001 and on this basis the AEE/City S/Divn. Nawanshehar started billing on MS tariff from 01.04.2001. The clubbing committee had not passed any refund orders for the amount already charged on this account.

The consumer made an appeal for refund in the Zonal Level Refund Case Committee (ZLRCC). The ZLRCC considered the case in its meeting dated 18.04.2012 and decided that both the connections were

running in the same premises and amount already charged is justified and therefore, not to be refunded.

Being not satisfied with the decision of ZLRCC, the consumer made an appeal in the Forum. Forum heard the case on 14.05.2013, 23.05.2013, 28.05.2013 and finally on 11.06.2013. When the case was closed for passing speaking orders.

Proceedings:-

On 14.05.2013, Representative of PSPCL submitted four copies of the reply and the same has been taken on record. One copy thereof has been handed over to the PC.

On 23.05.2013, Representative of PSPCL submitted authority letter No. 7294 dated 22.05.2013 in his favour duly signed by ASE/Op. Divn Nawanshehar and the same has been taken on record.

PC requested that their written arguments are not ready and requested for giving some another date.

On 28.05.2013, Representative of PSPCL submitted authority letter No.7467 dt.27.05.2013 in his favour duly signed by ASE/Op. Divn. Nawanshehar and the same has been taken on record.

PC submitted four copies of the written arguments and the same has been taken on record. One copy thereof has been handed over to the representative of PSPCL.

Representative of PSPCL stated that the reply submitted on 14.05.2013 be treated as their written arguments.

On 11.06.2013, PC contended that their petitioner and written arguments be treated as the part of oral discussions. It is case of clubbing of two connections, one M/S Ganga Oil and General Mills & other M/S Ajit Singh Cold Store Nawanshehar. The first connection was released in the year 1977 and the other was released in 1994. Both the connections exist physically independent and electrically

separate from each other. The case of clubbing came into being after the inspection of SDO, Nawanshehar in the year 1996 and in his report he recommended the clubbing of two connections, then the consumer gave in writing that the connections are not clubbable and does not want to club them. Again the premises of the appellant were checked during the year 1998 & 1999 and the consumer was asked to club the connections. The appellant protested and brought to the notice of the respondent that he is being charged clubbing charges since 1996. The department has also admitted this fact in their reply. The matter was referred to the CE/DS who referred the case to the higher authorities suggesting that a clubbing committee should be formed to assess whether the connections are clubbable or not. After this reference two inspections were made by the department and they also suggested that the connections are clubbable. Since the matter was already referred to an arbitration Tribunal (i.e. clubbing committee), the reports of the officers carry no weight. There is no consent of the party for the clubbing of the connection.

Then the clubbing committee based on Director/Enf. Jalandhar/ SE/Op. Naswanshehar and a representative each of the two firms were constituted and the committee visited the site on 25.11.2000 and submitted its report which is exhibit annexure A-I attached with the original petition. The clubbing committee gave its verdict that the connections are not clubbable and the reasons for not clubbing have been explained by the committee in the report submitted by it. The copy of the decision of the clubbing committee was given late after several oral requests. Then the appellant started making requests in oral and in writing for the refund of the amount charged by the PSPCL. The copy of the order of the clubbing case by the clubbing committee was forwarded to AEE/Op. City S/D Nawanshehar on dated 12.3.2001 vide letter No. 4622/26 dt. 12.3.2001 submitted in the reply of the department. The appellant was being charged additional surcharge @

20% in relation to the clubbing of load and the appellant used to deposit this amount under protest and letter dt. 15.11.97 attached as Annexure A-3 by the PSPCL is a proof of the demand raised by the appellant to refund the amount.

Despite the fact that the committee had given its report saying that connections are not clubbable even then the department charged the clubbing charges against the verdict of the clubbing committee. This fact has also been admitted by the department vide filing their reply. the orders of the committee were also implemented by the department as admitted in the reply filed that from April,2001 tariff on MS basis was started realized.

Then the appellant represented before the ZLRCC for getting refund of the amount charged by the department in the process of clubbing the connections. The refund committee rejected the case of the appellant on the ground that the proceedings of the clubbing committee were not got approved within time from the CE/Comml. and quoted Reg.35.7 and 35.8 in its decision. The copies of the regulation are on record. This section does not apply to the appellant especially in the case of any difference of opinion of the committee, the case shall be referred by concerned CE/DS to CE/Comml. for decision. In the appellant case there was no difference of opinion and the clubbing committee was unanimous in its decision, therefore, this regulation cannot be invoked for the rejection of the case of appellant. In Reg.35.8, it is again pointed out that the regulation says that the consumer shall be charged on account of clubbing, if required, only after the decision of SE/DS or CE/DS as the case may be. In the appellant case it is again not applicable. The refund case was approved by the CE/DS/Op. and it was sent to the head office for getting the approval for refund from Member, Finance and Accounts. It was the department to secure all the approvals what so ever and not the consumer. So the consumer

has been penalized for no fault of his. The refund is due and due amount has been withheld against the principal of natural justice.

Representative of PSPC L contended that their reply be considered as a part of oral discussions. M/s Ganga Oil & General Mills and AS Cold Store were running in MS category. On 14.6.96 SDO City & Sr.Xen/op. Nawanshehar checked the premises of the consumer and found that there is no wall/physical separation between the connections. Based on this checking the department started charging 20% LT surcharge and LS tariff in the monthly bills from 1.1.96.

On 5.8.97 consumer Gurcharan Dass Arora of Ganga Oil and General Mills gave representation that these two connection MS-12 & MS-33 are quite physically separate, so the proposed clubbing of these connection may be dropped. Consumer on the other hand on 5.11.97 requested that above two connections may please be clubbed and paying 20% additional surcharge under protest, this letter is signed by Gurcharan Dass Arora Account No. MS-12. This shows that he is the owner of both these connections. On dated 26.11.97 both the consumers gave undertaking on their letter pad that after clubbing the meter in the clubbed account will be shifted to MS-12 premises near the gate and connection may be clubbed in the name of Gurcharan Dass Arora only. Consumers also filled A&A form for clubbing by A&A No. 13831/LS dated 17.12.97 on which both the consumers signed. These connections were also checked by Sr.Xen/Enf.on 16.6.98 and 6.9.99 in their report they also mentioned that both these connections are running in the same premises and the clubbing of these connections is in process.

The clubbing committee was formed on the instructions of CE/Comml. memo No. 45913/45918 dt. 24.11.97. As per the opinion of the committee the connections are not clubbable but not given the decision

regarding the refund of money already charged from the consumer in the monthly bills.

ZLRCC rejected the refund of the consumer on the basis of ESIM regulation 35.7 & 35.8 these were not applicable in the year 2000 when the clubbing committee gave decision of this case.

So the consumer should not be given the refund because he himself admitted after checking of SDO and Sr.Xen vide letter 5.11.97 and filled A&A form for clubbing which clearly indicates both these connections are running in the same premises. So clubbing of these connections is justified. Afterwards in 13.1.05 consumer Gurcharan Dass Arora (for MS-12 & MS13) again admitted that now these connections are running in the same premises under the same proprietor.

Both the parties have nothing more to say and submit and the case was closed for passing speaking orders.

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:-

Forum observed that both the MS connections of the consumer were checked by the AEE & Sr.Xen/Op. Division, Nawanshehar on 16.04.1996 and 14.06.1996 and found that both connections were clubbable. The Sr.Xen/Enf. Nawanshehar also checked the connections on 16.06.1998 and 06.09.1999 and reported that both the connections were clubbable as there was no common wall between the premises of two consumers. **Forum is of the view that as per above checking of the officers, connections were clubbable.**

The Chief Engineer/Comml. on the request of the consumer dated 05.08.1997 constitute a clubbing committee vide memo No. 45913-18 dated 24.11.1997. The committee visited the site on 25.11.2000 i.e.

after a period of more than four years from the date of checking of SDO/Sr.Xen/DS and decided on 25.11.2000 after obtaining certain documents that the connections were not clubbable. The consumer requested the concerned officers of the PSPCL on 05.08.1997, that the premises of two MS connections are separated from each other, so these connections may not be clubbed. **Further the same consumer requested the PSPCL officials on 21.09.1997, 05.11.1997 and 06.02.1998 that their connections be clubbed and consumer also submitted A&A form No. 13831/LS dt. 17.12.1997 which was approved by the competent authorities.** In this case formation of clubbing committee was not required. It might be possible that some incomplete information had been submitted to the CE/Comml.Patiala for formation of clubbing committee. It shows that the request of the consumer dated 05.08.1997 for non clubbing was nullified when he submitted the A&A form on 17.12.1997 and made requests three times on different dates for clubbing the MS category connections. **So Forum is of the view that the amount already charged be not refunded because the consumer's request for non clubbing of connections were contradicted with the submission of A&A form.** However the energy bills on LS tariff are not justified from the date of inspection by the clubbing committee i.e. 25.11.2000. Moreover his connections were also clubbed later on in the year 2005 on his request. Furthermore the consumer had never protested against the regular energy bills issued under LS category except on 05.08.1997.

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 ZLRCC taken in its meeting held on 18.04.2012 except to revise the energy bills issued for**

the period from 25.11.2000 to 31.03.2001 on the basis of MS tariff.

- 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.

