

**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-70 of 2013

Instituted On: 24.05.2013

Closed On: 25.06.2013

**M/s Asian Polymers,  
D-37, Focal Point,  
Jalandhar.**

**.....Appellant**

**Name of Op/Division: East Comml. Jalandhar**

A/c No.: **LS-04/90**

Through

Sh. Ashwani Kalra, PC

V/s

**PUNJAB STATE POWER CORPORATION LTD** **.....Respondent**

Through

**Er. KPS Sekhon, ASE/OP. Divn. East Comml., Jalandhar.**

### **BRIEF HISTORY**

Petition No. CG-70 of 2013 was filed against order dated 01.06.2012 of the ZDSC North Jalandhar, deciding that the amount already charged on account of Demand Surcharge is justified and therefore, no refund is admissible to the consumer.

The petitioner was having 3 nos. Large Supply Connections, operating under East Commercial Division, Jalandhar namely M/s A.P. Mills, A/C No. LS-02/147, sanctioned load (S.L.) 349.537 KW, CD 365 KVA, M/s L.R. Mills,

A/C No. LS-02/123, SL 480 KW, CD 374 KVA and M/s Asian Polymers, A/C No. LS-02/90, S.L. 389.868 CD 300 KVA. All the three connections were clubbed on 10.07.2011, new A/C No. LS-04/90 has been allotted with SL 1219.405 KW, CD as 1039 KVA. The petitioner had obtained peak load exemption (PLE) of 100 KW on each of the three LS connections. Sr.Xen/MMTS-I, Jalandhar observed that these connections were clubbable and asked AEE/Comml. Unit-I, Jalandhar, vide memo No. 3568 dated. 20.08.2007, to calculate PLEC on the basis of clubbed exempted load i.e. 300KW instead of 100 KW on each connection separately. The amount of PLEC when calculated on 100 KW for each connection, was Rs. 24779/- whereas it was Rs. 48600/- for combined load. The three connections in question were considered as deemed to have been clubbed w.e.f. 08/2005.

On the basis of report of Sr.Xen/MMTS, the consumer was asked to deposit a sum of Rs. 7,16,669/- for the period 08/2005 to 12/2007 as difference of PLE charges. Similarly an amount of Rs. 329149/- was also charged as difference of PLE charges for the period 01/2008 to 01/2009. Thereafter from 02/2009 onwards PLEC were levied at the rate applicable on 300 KW, through regular monthly energy bills. The petitioner filed civil suit in the court against both the amounts viz Rs. 7,16,669/- & Rs. 3,29,149/- raised on him.

The consumer was also charged Rs. 2,82,862/- against A/C No. LS-02/147, on account of peak load violations for the period 09.06.2010 to 17.08.2010, on the basis of DDL taken by MMTS on dated 18.08.2010. The consumer did not agree to the amount so charged and got referred his case for review by ZDSC North, Jalandhar. The petitioner pleaded before the ZDSC that the peak load violations should also be considered on clubbed load as in the case of charging PLE charges. ZDSC observed that the Civil Suit on the same ground is also pending in the court of law, so the consumer was asked to provide complete detail of the case pending in the court. In the meantime the petitioner had applied for clubbing of all the three LS connections on dated 05.05.2011 and had deposited both the disputed amounts of PLEC viz Rs. 7,16,669/- and Rs. 3,29,149/-. The connections of the consumer were

clubbed on 10.07.2011 and one meter was installed instead of three meters. The petitioner also withdrew both the court cases and informed the ZDSC accordingly. Thereafter ZDSC decided the case No. 137/2010/N/JAL of peak load violation charges on 23.09.2011 and ordered that 'PLV charges may be recalculated considering three connections clubbed from the date of clubbing up to the date of violation of one meter'. Similarly CDSC (disputed amount of Rs 183898/-) also decided on 30.11.2011 that exempted load of all the three connections and load used during peak load hours should be clubbed for calculating peak load violations if any.

On the basis of decision of ZDSC and CDSC PLV charges were recalculated on clubbed PLE of 300 KW and consumer was allowed refund of excess amount charged by considering 100 KW PLE on each of the three connections separately.

The consumer also had been levied demand surcharge whenever the maximum demand of any of the three connections exceeded the sanctioned CD. The consumer had paid Rs.5,40,298/- as demand surcharge during the period 08/2005 to 07/2011. The petitioner submitted his refund case before the Zonal Level Refund Cases Committee ( ZLRCC) North and pleaded that all the three connections should be considered as deemed to have been clubbed w.e.f. 08/2005 for the purpose of calculating demand surcharge. ZLRCC heard the case on 01.06.2012 and decided that no refund is admissible on account of increase in CD than the sanctioned CD before the date of actual clubbing of the connections.

Being not satisfied with the decision of ZLRCC, the consumer made an appeal in the Forum. Forum heard the case on 11.06.2013, 18.06.2013 and finally on 25.06.2013. Then the case was closed for passing speaking orders.

#### **Proceedings:-**

On 25.06.2013, PR contended that the decision of ZLRC (NZ) that since the physical clubbing has been done on 10/07/2011 as such the refund of Rs.

5,40,298/- in respect of demand surcharge is not admissible to the consumer prior to 10/07/2011 is wrong, unwarranted and illegal and against the decision of ZLDSC (NZ) pronounced in the dispute case No. 137/2010/N/JAL of the same consumer. The relevant part of the decision of ZLDSC is as under:-

"The case has been discussed at length and during the proceedings pending before the committee the connections have been clubbed and one meter has been installed at the consumer premises. The peak load violation may be re-calculated considering all the three connections clubbed from the date of clubbing (08/2005) up to the date of violation on one meter (10.07.2011) the consumer agrees to this and accordingly the matter is decided.

That from the above it is crystal clear that both the consumer as well as the respondent authorities have categorically agreed that the said connections stood clubbed since 08/2005. In para 14 of the rejoinder the respondent authorities have again admitted that the said clubbing of connections is affective from 08/2005.

That the PLEC for the period 8/2005 to 12/2007, 1/2008 to 1/2009 & from 2/2009 to 07/2011 have been paid and recovered taking the effective date of clubbing as 08/2005 i.e. treating all the connections as deemed to have been clubbed with effect from 08/2005 for all intents and purposes.

Therefore having categorically admitted that the factual clubbing have taken place and given effect from 08/2005 for all intents and purposes, the averments of ZLRC that since the physical clubbing has been done on 10/07/2011, the amount of demand surcharge cannot be refunded is illegal and unlawful.

The question and the relevant issue arises that whether the clubbing can be assumed or presumed to have taken effect from 08/2005 for the

purpose of recovering PLEC, but for the purpose of demand surcharge or any other charges the affective clubbing would take effect from 10-07-2011? Does the law or any other provision permits and justified such interpretation of affective clubbing provisions i.e. for one charge the clubbing is from 08/2005 and for any other charges or matter the clubbing would be affective from 10-07-2011. The interpretation of the effective clubbing cannot be on selective basis having accepted and invoked the clubbing provisions from 08/2005, as admitted by the respondent authorities in para-14 and the orders of ZLDSC the said clubbing, therefore has been effected for all intents purpose and as such for the purpose of said demand surcharges, the effective clubbing was to be with effect from 08/2005 and not from 10-07-2011 as now has been wrongly being implied and interpreted.

Besides this I have asked the following questions from the respondent authorities before the Hon'ble forum & his answer are as mentioned below:-

- 1) Is it correct that PSPCL has charged and recovered difference of PLEC from 8/2005 to 10/07/2011 from the consumer considering all the connections deemed to have been clubbed w.e.f. 08/2005 .

Answer ----- yes.

- 2 Can you Quote any rule/regulation of ESR, ESIM, supply code, COS or any section of Indian Electricity Act which provides that there can be two different dates of clubbing, one for charging and recovering charges from the consumer and the second for giving refund to the consumer

Answer ----- No.

3. Do you agree that the decision of ZLRC is unlawful.

Answer ----- No comments

From the above, it is clear that the decision of ZLRC is biased and against the law of natural justice and needs to be quashed and it is therefore, prayed that the amount of Rs. 5,40,298/- deposited by the appellant on account of demand surcharge during the period 08/2005 to 07/2011 may kindly be got refunded.

Representative of PSPCL contended, as regard to the demand surcharge of Rs. 5,40,298/- this amount relates to the period prior to the physical clubbing of connections i.e. 10-07-2011, it is agreed that the deemed date of clubbing of the connection bearing A/c No. LS-147, LS-123 & LS-90 was 8/2005 and accordingly consumer accounts were overhauled. It is agreed that for all intents and purposes only one date of clubbing of the connections should be considered.

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:-

The consumer had 3 nos. LS connections bearing account No. LS-02/147, LS-02/123 and LS-02/90 and PLE of 100 KW was allowed to the consumer on each of the three connections. These 3 nos. connections were reported as clubbable by MMTS and consumer was charged difference of PLE charges on the basis of total exempted load (300 KW) for the period 08/2005 to 01/2009. From 02/2009 PLE charges applicable on 300 KW were charged through regular energy bills. The consumer filed suit in the court against difference of PLEC levied as applicable on clubbed exempted load. However, the consumer withdrew the court case and paid PLEC amounting to Rs. 1045818/- (Rs. 7,16,669/- + Rs. 3,29,149/-). On the request of the consumer all the three LS connections were clubbed on 10.07.2011.

The consumer was charged Rs. 2,82,862/- as PLV charges for the period 09.06.2010 to 17.08.2010 against A/c No. LS-02/147. The case was referred to ZDSC North and Committee decided that PLV charges may be recalculated considering these three connections clubbed from the date of



clubbing up to the date of violation of one meter. The decision of ZDSC is not very clear, however PLV charges were recalculated on clubbed exempted load of 300 KW and excess amount of PLV was allowed as refund. The petitioner also submitted refund case of CD charges on similar ground before ZDSC North, pertaining to the period 08/2005 to 07/2011 for Rs. 5,40,298/-. However for demand surcharge, ZLRCC did not accept the plea of petition for clubbing the total CD of 3 nos. connections from deemed date of clubbing viz 08/2005 and dismissed the refund case.

PR contended that PLEC for the period 08/2005 to 07/2011 have been recovered taking the effective date of clubbing as 08/2005. Therefore, the averments of the ZLRC that since physical clubbing has been done on 10.07.2011, the demand surcharge cannot be refunded, is wrong and unlawful and also against the decision of ZDSC in the dispute case No. 137/2010/N/JAL, of the same consumer. PR further contended that interpretation of the effective clubbing cannot be on the selective basis i.e. for one charge the clubbing from 08/2005 and for any other charges clubbing of connection effective from 10.07.2011.

Representative of PSPCL contended that demand surcharge of Rs. 5,40,298/- relates to the period prior to the physical clubbing of connections i.e. 10.07.2011. However, he agreed that deemed date of clubbing of connections was 08/2005 and for all intents and purposes only one date of clubbing should be considered.

Forum observed that proper procedure for clubbing of connections was not followed by the concerned office before raising demand on account of difference of PLEC for the period 08./2005 to 07/2011. However the consumer had accepted deemed date of clubbing from 08/2005 and paid the PLE charges. Further the department also accepted the plea of the consumer for considering the clubbing from 08/2005., for the purpose of levy of peak load violation charges.

Forum is of the view that refund of Demand Surcharge cannot be disallowed on the ground that actual date of physical clubbing of connections is 10.07.2011. Thus for the purpose of levy of demand surcharge also the deemed date of clubbing in 08/2005, is 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:

- That the amount of demand surcharge be re-calculated considering all the three connections deemed to have been clubbed w.e.f. 08/2005.
- 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