

**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-85 of 2013

Instituted On: 04.07.2013

Closed On: 06.09.2013

**Punjab Small Industries & Export Corp Ltd.,
Mandi Gobindgarh.**

.....Appellant

Name of Op/Division: Mandi Gobindgarh

A/c No.: GT-52/1363, 1364 & 1365

Through

Sh. Sudhir Kumar, PC

V/s

PUNJAB STATE POWER CORPORATION LTD

....Respondent

Through

Er. Inderjit Singh, ASE/Op. (Spl.) Divn. Mandi Gobindgarh.

BRIEF HISTORY

Petition No. CG- 85 of 2013 was filed against order dated 22.02.2013 of ZDSC Central, Ludhiana, deciding that the difference of stipulated units (AMC) charged to the consumer is in order and amount is recoverable.

The consumer is having 3 nos. NRS connections bearing Account No. GT-53/1363, 1364 & 1365, with sanctioned load as 9.31 KW (for

each connection) in the name of Punjab Small Industries & Export Corp, Ltd (PSIEC), operating under Spl. Divn. Mandi Gobindgarh.

The Internal Audit Party on verification of MCO No. 116/47429 dated 16.02.2006 and report dated 08.02.2006 of Sr.Xen/Enf. Khanna, observed that supply from 3 nos. NRS connections is being used for Street Light (S.L.) purpose. The concerned meter reader also confirmed to audit party that supply from the NRS connections is used for yard street lighting of the Focal Point, Mandi Gobindgarh. The accounts of all the three connections were overhauled for the period 01/2003 to 11/2006 as per Sales Regulations 89.6 which read as under:-

"Annual Minimum Charges; if the total number of units consumed in the whole year (Calendar Year) is less than those would have been consumed if the lamps had been lit on an average of 8 hours per night over the whole year, the Board shall charge the difference between the stipulated units and units actually consumed at tariff rates. The units consumed in a calendar year will be calculated on the basis of sanctioned load or connected load detected whichever is higher."

The audit pointed out an amount of Rs.10,58,381/- vide HM No. 63 dated 28.12.2006, as difference between the stipulated units and units actually consumed for the period 01/2003 to 11/2006. The consumer was asked to deposit the amount vide AEE/Comml. Gobindgarh, Memo No. 3180 dated 30.08.02007. The consumer did not agree to the amount so raised and requested for review of disputed case in ZDSC, Central Zone, Ludhiana. The consumer

deposited 20% of the disputed amount of Rs.2,11,676/- vide DD No 114320 dated 06.12.2007.

ZDSC heard the case on 22.02.2013 and decided that difference of AMC charged to the consumer is correct and amount is recoverable as per instructions of PSPCL.

Being not satisfied with the decision of ZDSC, the consumer made an appeal in the Forum. The Forum heard the case in the proceedings held on 18.07.2013, 06.08.2013, 20.08.2013, 27.08.2013, 03.09.2013 and finally on 06.09.2013. Then the case was closed for passing speaking orders.

Proceedings:-

The petitioner has filled appeal for Rs.10,58,381/-. Another amount of Rs.23,20,567/-, including the current energy bills, is outstanding against the consumer. Forum directs that if the consumer deposits Rs.23,20,567/-, the supply to the consumer be restored immediately on receipt of the payment, under intimation to Forum.

PR submitted Cheque No. 974473 dated 19.08.2013 for Rs. 23,20,567/- & the same has been handed over to the representative of PSPCL. So forum directs PSPCL to restore the Electricity Supply to the consumer.

On 06.09.2013 PSPCL stated that consumer cases are not available in the record, as such cannot be submitted.

PC contended that agreement between the PSIEC & PSPCL was for NRS connections and PSIEC was using the connection for

steel lights in Focal Points. No notice was ever served by the PSPCL to PSIEC for changing the tariff till date. The NRS category was allotted by PSPCL after verification of the A & A form.

Till date PSPCL never asked PSIEC regarding wrong submission of agreement and for executing a fresh agreement. Even in the bills of consumption of the year 2007 i.e. in the bill dated 24.10.2007 & 8.11.2007 the tariff has been shown by PSPCL in NRS category otherwise in some other focal points still the tariff charged by the PSPCL in NRS category. The interest/surcharge has wrongly been charged in the total recovery amount raised by PSPCL. PSIEC request for the acceptance of the appeal by setting aside the order of ZLDSC.

PSPCL contended that it is wrong that PSIEC was not informed regarding change of tariff from NRS to street light tariff. Memo No. 3180 dated 30.08.2007 was issued to the PSIEC regarding street light tariff is applicable to their NRS connections being used for street light purpose in Focal Point Mandi Gobindgarh, But PSIEC did not come forward for the deposit of difference of tariff and for submitting revised A & A form.

The connection was checked by Sr.Xen/Enf. Khanna on dated 08.02.2006 vide ECR No. 277/3510 & It clearly mentions that Electricity is being used for street light purpose.

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 connections to the consumer (PSIEC) were released under NRS category. The consumer cases (A&A form) are not available with PSPCL for confirmation of breakup of load and purpose for which supply was intended to be used. However the consumer has admitted in the petition that connections were taken for providing street lights to Industrialist in Industrial Focal Point, Mandi Gobindgarh. As such these connections were required to be given under street lighting supply (S.L.) category. However connections to the petitioner were released under NRS category and billing continued accordingly, till the audit pointed out on 28.12.2006 that S.L. tariff is applicable to the consumer. Further as per Sales Regulation 89.6 differences between stipulated units and units actually consumed (AMC) are charged from S.L. consumers.

Forum also observed that energy bills against NRS connections for the period 01/2003 to 11/2006 were not properly raised. There is huge variation in consumption from year to year due to non replacement of defective meters. The units billed against three NRS connections from the year 2003 to 2006 are as under

Year	GT52/1363	GT52/1364	GT52/1365
2003	27988 units	16618 units	7006 units
2004	8773 "	7950 "	2285 "
2005	3004 "	367 "	1107 "
2006	1350 "	1124 "	- "

The stipulated units for 9.31 load works out to be 27185 units. From the above data, it is clear that in the year 2003, consumption for all the connections have been properly measured and difference between stipulated units and actual consumption is

less. In case of Account No. GT52/1363, the actual consumption for the year 2003 is 27988 units against stipulated units of 27185 units, therefore chargeable amount for AMC is nil. The consumption against all the connections decreased considerably after the year 2003 which is the reason for higher difference of stipulated units and actual consumption. Had the defective meters been replaced in time, and average charges levied as per rules, the chargeable amount against AMC and resultant disputed would have been much less.

Further, the meter reader never reported the use of supply from NRS connections, for the purpose of street lighting. Similarly concerned JE was required to check the connections of the petitioner as prescribed in Sales Regulation 112.2. It appears that JE of the area also did not report the use of supply for street lighting, by the petitioner. Thus there are lapses on the part of various officials such as consumer clerk, R.A., JE, AEE/C, which lead to release of connections under wrong category and billing continued accordingly, for such a long period. All these officials also failed to ensure replacement of defective meter and charging of average against defective meters.

PR contended that at the time of releasing of the connection to the appellant in NRS category by the PSPCL proper test reports were submitted and the concerned official of the PSPCL verified the site in question and completed all the other formalities and after the full satisfaction the agreement between the parties were executed for NRS category and there is no fault on the part of the appellant. It was the obligatory duty on the part of the officials of the PSPCL to see and to check that which tariff is to be charged from the consumer at the time of releasing the connection. The appellant deposited the amount of Rs. 2,11,276/- being 1/5th

amount vide draft No. 114320 dated 6/12/07 vide letter No. PSIEC/XEN(E)/898-899 of dated 26.12.07 and requested the respondent to refer the case before the Dispute Settlement Authority for its adjudication of matter in dispute. But the respondent failed to refer the case of the appellant before the Dispute Settlement Authority in spite of repeated requests. Agreement between the PSIEC & PSPCL was for NRS connections and PSIEC was using the connections for street lights in Focal Points. No notice was ever served by the PSPCL to PSIEC for changing the tariff till date. PSPCL never asked PSIEC regarding wrong submission of agreement and for executing a fresh agreement.

PSPCL contended that Internal Auditor, Mandi Gobindgarh pointed out wrong application of tariff and difference of SL tariff and NRS tariff was only charged. As per ESR No. 89.6 the applicable tariff to A/C No. GT-52/1363, GT-52/1364 and GT-52/1365 should have been street light tariff rather than NRS tariff. Further, it is a case of UUE under section 126 of the Indian Electricity Act-2003 and if made applicable PSIEC will be responsible to pay @ double of SL tariff, as per Electricity Supply Code-2007. PSIEC not only refused to pay arrears of difference of tariff rather also stopped payment of current bills raised after the years 2007 and therefore, these connections were permanently disconnected on 25.04.2012.

PSPCL further contended that PSIEC was informed regarding change of tariff from NRS to street light tariff vide Memo No. 3180 dated 30.08.2007. But PSIEC did not come forward for the deposit of difference of tariff and for submitting revised A & A form.

Forum observed that contention of the petitioner regarding release of connections under NRS category by PSEB (now

PSPCL) is tenable. It is also correct that PSPCL never asked the petitioner for executing a fresh agreement, till date. PSPCL has only asked the petitioner to deposit difference of AMC as per SL tariff, vide letter dated 30.08.2007. But the petitioner is not entitled to use the supply from NRS connections for the purpose of street lighting. This is violation of agreement between PSPCL & the petitioner and such cases are considered as unauthorized use of electricity under section 126 of the Electricity Act-2003.

Forum concluded that both the petitioner and the respondent are at fault for release of NRS connections and their subsequent use for street lighting. However, it is admitted fact that supply from the connections is being used for street lighting since the release of connections. Thus in such a situation Forum do not find any reason for non-payment of charges (AMC) as per SL tariff. However Forum considered the demand of interest & surcharge on arrears amount as unjustified due to the fact that difference of AMC was raised after a long time. Moreover, the disputed case of the consumer was not send for adjudication by ZDSC for about 5-1/2 years.

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 difference of AMC for the period 01/2003 to 11/2006 be recovered without interest & surcharge.
- That interest & surcharge as applicable be levied (for the period of delay) if payment is not deposited within 15 days after issue of notice as per decision of the Forum.

- That a fresh agreement be executed under SL category.
- That disciplinary action be initiated by Dy.CE/Op. Khanna against concerned Consumer Clerk, R.A., J.E. and AEE/C for various lapses on their part.
- 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