

**PUNJAB STATE POWER CORPORATION LIMITED
FORUM FOR REDRESSAL OF GRIEVANCES OF CONSUMERS
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Case No.: CG-93 of 2013

Instituted on: 29.07.2013

Closed on: 24.09.2013

**Sh. Anil Kumar,
SCO No.6, Hotel Shivalik,
Patiala Road, Zirakpur.**

.... Appellant

Name of the Op. Division: Ziarkpur

A/C No. GC-74/0279

Through

Sh. V.K. Sharma, PR

V/s

PUNJAB STATE POWER CORPORATION LTD.Respondent

Through

Er. M.P. Singh, ASE/Op. Divn. Ziarkpur

BRIEF HISTORY

Petition No. CG-93 of 2013 was filed against order dated 21.05.2013 of the CDSC, Mohali, deciding that the account of the consumer overhauled on the basis of LDHF formula is correct and amount charged is recoverable.

The consumer is having NRS category connection bearing Account No. GC74/279, with sanctioned load as 34.86 KW, operating under Commercial S/Divn. PSPCL, Mohali.

The consumer got his load extended from 15 KW to 34.960 KW on 25.03.2011. The connection of the consumer was checked by Sr.Xen/Enf., Patiala vide ECR No. 20/49 dated 19.07.2011. The connected load of the consumer was found as 34.860 KW (including 14 nos. ACs) and the reading of Kwh meter was mentioned as 5038. The energy bill to the consumer in 09/2011 was issued on 'N' code for 157 days on MMC basis. The energy meter of the consumer got burnt and was replaced on 25.11.2011, vide MCO No. 021/80909 dated 17.10.2011. The audit overhauled the account of the consumer for 157 days on the basis of LDHF formula (4195 units P.M.), vide H.M. No. 451 dated 21.09.2012 and pointed out Rs.1,13,140/- recoverable from consumer. The energy meter of the consumer again got burnt in 09/2012 and was replaced on 12.12.2012, vide MCO No. 123/80909 dated 08.10.2012. The energy bill for 09/2012 (billing month 10/2012) was issued on average basis for 4195 units, amounting to Rs. 28,677/-. The consumer did not agree to the amount of Rs. 1,13,140/- charged at the behest of audit and also energy bill issued in 10./2012. The consumer referred his disputed case of Rs.1,42,960/- (Rs. 1,13,140 + Rs.28,677 + Rs.1143/- arrear of revised tariff) for review in CDSC, Mohali.

The CDSC heard the case on 21.05.2013 and decided that the amount charged to the consumer with LDHF formula is correct and recoverable.

Being not satisfied with the decision of the CDSC, the consumer made an appeal in the Forum. The Forum heard the case on 08.08.2013, 20.08.2013, 27.08.2013, 06.09.2013, 12.09.2013 and finally on 24.09.2013. Then the case was closed for passing speaking orders.

Proceedings:

PR contended that in continuation to written arguments of above case submitted on 12.09.2013 the summarized detailed discussion / oral arguments are as under :-

As per detailed contents of the above case in the serial no 1 to 22 and various clauses quoted of electricity sales instructions manual- 2010 i.e 59.6 (page 61), 54.6 ,57.1, 57.3 (for damage or burnt meters) and 54.1 (i) of “Resealing of meters” be referred to.

Further as per clause 21.4 (g) of supply code PSERC -2007 onwards the consumption for proceedings six months and as well as successive six months is available to calculate the average on actual basis.

Since no such results / reports of any kind found suspicious / adverse in spite of enforcement checking's 19/49 dated 19.07.2011, ECR no. 20/49 dated 19.07.2011, ECR NO. 46/166 dated 27.08.2013 (Anil Kumar) & 45/166 Dated 27.08.2013 (Mahesh Kumar) in the premises of the hotel, do not reveal any such UAE / theft which can attract the implementation of the L.D.H.F formula because nothing mollified/ intentional convince of any sort established in the checking's.

Now as per 21.4 (g) of PSRC Supply code for defective / burnt meters , the immediate succeeding consumption after the change of meter in 9/11 as well as successive consumption after change of meter in 9/12 is available for its implementation .

So question of imposing the LDHF formula on 34.96 KW is not sustainable from any angle. In any case the PSERC does not permit to charge the average excessively detrimental to the consumer, when the petitioner is not at fault so average exceeding six months is not applicable.

The consumption data of A/C No. GC-74/279 (Anil Kumar) pertaining to hotel premises is at variance but with status of meter 'O' from 1/12 to 8/12 and 1/13 to 7/13 is available to arrive at correct decision for delivering justice to petitioner. The rate of occupancy of hotel is just varying from 0 to 40 percent. Then how the consumption w.r.t to full load (34.96 KW) can be assumed / calculated by implementing the LDHF Formula. It is High Handedness of the PSPCL to penalize the consumer by calculation for 157 days as under: -

$34.96 \times 25 \times 12 \times 40\% = 21955$ units, when the load of 34.96 KW is not being used fully due to low occupancy % (42.2 max) in Hotel. So deriving the full load to impose 21955 units is totally wrong. Only average available from 2/12 to 7/12 and 2/13 to 7/13 as under:-

$9931 \text{ Units} / 6 = 1655 \text{ Units per month}$

OR

$10079 \text{ Units} / 6 = 1679 \text{ Units per month}$

whichever is higher of the above can be applied for such period where readings of meter stuck or correctly not taken due to burnt meters in 9/11 and 9/12 . No results of M.E Lab/ MMTS were made available of burnt meters till 11.09.2013 as per order of the Forum on 06.09.2013. However now results, ch. No. 60 Dt. 9.9.2013 of M.E Lab of one burnt meter in 9/12 Sr. no. 875605 replaced vide M.C.O No. 123/80909 Dt. 8.10.2012 was provided by PSPCL on 12/9/2013 to Hon,ble Forum but do not carry any adverse report/ theft etc. as per remarks certified on the report jointly signed by various officers of PSPCL (including XEN enforcement) placed on record in proceedings dt. 12.9.13 before Forum.

Further, any document pertaining to support the contention of % occupancy of Hotel Shivalik can be authentically produced immediately if so warranted or sought by the Hon'ble Forum for a justified decision/ corrective measures . Still the data

provided of hotel is authentic/ declared as per facts on record with written arguments already submitted.

Therefore, average of bill of month 10/12 of Rs. 28,677/- debited to Petitioner/ calculated is not correct So the average on actual consumption can be taken as justifiable decision for giving relief to the petitioner.

As such, in view of above facts the amount of Rs. 1,42,960/- billed for petitioner is not recoverable and unjustified . As per CDSC decision in meeting 21.05.2013, without taking cognizance of all the facts of the dispute into account. Therefore the same may be quashed as per detailed arguments brought out / oral discussion as well submitted before the Hon'ble authority of the Forum w.r.t relevant clauses of ESIM- 2011 PSERC supply code in vogue.

PSPCL contended that the present disputes case relates to overhauling of consumer account for the period of 157 days where the billing is done on 'N' code status. The meter got burnt in Oct. 2011 and the accounts of the consumer can be overhauled as per supply code regulation no. 21.4 (g) for 157 days period. The written arguments submitted vide Memo No. 8977 dt, 23.09.2013 may be considered for supporting the oral discussion.

PR further contended that sufficient data of the consumption as indicated in above para of the arguments from 2/12 to 7/12 & 2/13 to 7/13 is available for applying the overhauling the account as per 21.4(g)-ii in case of burnt meters, however the authenticity of the report ME Lab in case of both the meters burnt in 9/2011 is not established/ not provided by PSPCL . Only ME Lab report of one

meter of 9/12 is now supplied at a belated stage on 12.09.2013 of dt 09.09.2013, on the intervention of the forum. Otherwise as explained in the whole case no proper procedure as referred under various clauses in written arguments/oral arguments has been adopted by the PSPCL. Keeping in view the lapse on the part of PSPCL at various steps since Jan. 2011 to 31.07,2013 may please be kept in view for deciding the matter. However the occupancy rate of the Hotel since 3/2011 to 7/2013 for assessing the monthly consumption is placed on record in four copies before the Hon'ble forum. The variance in the consumption is based on the above rate of occupancy. It is lastly requested to set aside the recoverable amount of Rs. 1,42,960/- which is not justified and also any amount deposited under pressure from the petitioner be refunded to the consumer with interest as per clause No. 114 (P-133) of ESIM 2010.

Observations of the Forum:

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:

The supply from the connection bearing Account NO. GC-74/279, is being used for Hotel Shivalik. There was another connection in the Hotel premises bearing Account No. GC-74/280. Both the connections were checked by Sr.Xen/Enf., Patiala on 19.07.2011. As per his report, the connected load of Account No. CG-74/279 (old Account No. GR-62/3548) was 34.860 kw including 14 no. ACs and connected load (33.770 kw) of Account No. GC-74/280 (old A/C No. GC-62/3549) was including 11 no. ACs. These two connections were also checked by AEE/T Mohali vide LCR No. 17,18/93 dated 24.04.2013, the combined load of both the

connections has been mentioned as 75.656 KW, which includes the load of 26 no. ACs. The connections were reported as clubbable.

On the directions of the Forum, the connections were again checked by Enf. vide ECR No. 44,45/166 dated 27.08.2013. It was reported that supply and load of both the connections are intermixed and being used in one premises. Thereafter, the connections have been clubbed vide SJO No.59/64952 dated 30.08.2013.

The Forum observed that the electricity consumption of both the connections, from 1/2011 onwards is very less keeping in view the installation of 26 nos. ACs. by the consumer. The consumption of A/C No. GC-74/279 was recorded as 362 units and 1728 units in 03/2011 and 05/2011 respectively. In 07/2011, old & new reading has been shown as 3077, resulting into Nil consumption. The energy bill of 09/2011 was prepared for MMC on 'N' code for 157 days. Thereafter, the meter was replaced on 25.11.2011 due to burning and final reading has been mentioned as 3077 on the MCO. The same meter was checked by the enforcement on 19.07.2011 and reading was mentioned as 5038. The meter was never sent to ME lab for testing and the same is still not traceable as reported by PSPCL. It appears that the consumer was manipulating the electricity consumption from the meter, in connivance with meter reader and concerned JE.

The consumption of Account No. GC-74/279, after replacement of meter on 25.11.2011, is very inconsistent and cannot be considered as basis for overhauling the account for the disputed period. The consumption of 1542 units and 2235 units has been recorded in 02/2012 and 03/2012 (winter months) respectively, whereas the consumption in 05/2011 & 06/2011 is only 1215 units and 1288 units. In normal case, the consumption from the meter would have increased substantially, in summer period, keeping in

view the fact that the load 16 nos. ACs was connected through this meter. The energy meter was again totally burnt in 09/2012 and final reading was not visible.

Forum also observed that during the period 03/2011 to 09/2011, the consumption of 2nd connection (A/C. No.GC-74/280) was very less and it increased substantially after the replacement of meter of Account No. GC-74/279 on 25.11.2011. This proves that majority of the load of the Hotel during the period 03/2011 to 09/2011, might had been connected with the meter of Account No. GC-74/279, which was defective/burnt. It has been established that supply and load of both the connections was intermixed and consumer was putting load on either of the meter at his convenience to manipulate the consumption. The meter of Account No. GC-74/280 was also replaced in 06/2013.

Thus Forum is of view that the consumption data after replacement of meter on 25.11.2011 of Account No. GC-74/279, cannot be relied upon for overhauling the account for the disputed period i.e. 03/11 to 09/2011.

Forum further observed that the consumption with LDHF formula for 34.96 kw used for Hotel, works out to be 8390 units ($34.96 \text{ kw} \times 30(\text{days}) \times 20(\text{hrs.}) \times 0.40$ (demand factor). However, the account of the consumer for the period 25.03.02011 to 09/2011 has been overhauled with 4195 units only.

Forum do not find merit in the submission of PR on behalf of the petitioner that full sanctioned load of 34.96 KW was not used considering that Demand Factor is taken as 0.40 in LDHF formula for working out consumption. Further, the plea of the PR for overhauling of account on the basis of consumption recorded from 1/2012 to 8/2012 is also not convincing, as consumption after replacement of meter in 11/2011, is very inconsistent and

load/supply is inter-mixed with another connection in the same premises.

Therefore, keeping in view all the facts of the case, the forum concluded that overhauling the account of the consumer with LDHF formula 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:

- To uphold the decision taken by CDSC in its meeting held on 21.05.2013.
- That the disciplinary action be initiated against the meter reader concerned JE, RA and AEE/Commercial for bogus readings/release of 2 nos. connections in one premises and for delay in clubbing of connections.
- 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