

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**  
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 13 of 2021  
Alongwith IA No. 14 of 2021  
Date of Order: 12.09.2022

Petition under section 43 of the Electricity Act, 2003 read with Regulation 5.1 of the Supply Code, 2014 and other relevant rules and regulations as approved by the Commission including 68,69,70,71 and 72 and other relevant provisions of Chapter XIII of the Conduct of Business Regulations 2005 as amended up to date and the provisions of the Electricity Act, 2003 for directing the Respondents to render respective Domestic Supply Electricity connection to the Petitioners for their residential houses in the colony-Sunny Enclave

AND

In the matter of: Ranjit Kaur & Ors.

.....Petitioner

Versus

1. Punjab State Power Corporation Ltd. (PSPCL), having its office at the Mall, Patiala, through its Chairman-CumManaging Director.
2. Chief Engineer (Commercial), The Mall, Patiala.
3. Superintending Engineer/DS, PSPCL, Near Bus Stand, Patiala.
4. Executive Engineer, (DS), PSPCL, Patiala.
5. Assistant Executive Engineer, PSPCL, Sanaur, Patiala.
6. Bajwa Developer Limited, Main office Sunny Business Centre, 5th Floor, New Sunny Enclave, Greater Mohali, Punjab.

.....Respondents

Commission: Sh. Viswajeet Khanna, Chairperson  
Sh. Paramjeet Singh, Member

Petitioner: Sh. Aditya Grover, Advocate

PSPCL: Sh. Naveen S. Bhardwaj, Advocate

DTP: None  
PUDA: None  
Local Govt.: Vinay Mahajan, MC/Kharar, Engineer Punjab  
PDA: Sh. Ashish Grover, Advocate  
Bajwa: Sh. Pushpinder Kaushal, Advocate  
Developer

### **ORDER**

- 1.0 The petition has been filed by the residents of a colony known as Sunny Enclave, situated at Village Ghalori, Devigarh Road, Tehsil and District Patiala, Punjab under Section 43 of the Electricity Act, 2003 read with Regulation 5.1 of the Supply code, 2014 and other relevant rules and regulations as approved by this Commission including Regulations 68, 69, 70, 71 & 72 and other relevant provisions of Chapter XIII of the PSERC (Conduct of Business Regulations), 2005 as amended up to date and the provisions of the Electricity Act, 2003 for directing the Respondent PSPCL to render respective domestic supply electricity connections to the petitioners for their houses in the colony.
- 1.1 It has been submitted that the petitioners own their respective houses in the above said colony and as such there are almost 150 houses in the colony wherein almost 80 families are residing. The said colony has been developed by Sh. Jarnail Singh son of Sh. Bishan Singh and accordingly the plots/houses have been sold to persons like the petitioners. The petitioners were earlier being supplied electricity by Sh. Jarnail Singh for which the petitioners had been duly paying the electricity charges on the pretext that Sh. Jarnail Singh has

been rendered franchisee by the respondent PSPCL. The petitioners have duly paid the entire amount on account of the electricity consumed as demanded by him from time to time and nothing is payable by the petitioners on account of electricity charges. Later on, it transpired that Sh. Jarnail Singh has not been authorized by PSPCL for selling electricity in the colony to the occupants, rather he had only taken a normal NRS electricity connection from PSPCL and was wrongly selling electricity in the colony. Accordingly, Sh. Jarnail Singh has been charged on account of unauthorized use of electricity (UUE) by PSPCL for which a penalty of Rs. 26,52,389/- has been imposed upon him. The petitioners came to know about the same once Sh. Jarnail Singh started raising the demand of charges imposed upon him by PSPCL on account of UUE.

1.2 It has been pleaded that they have been cheated by Sh. Jarnail Singh who is trying to impose the penalty of his sins and wrongs on them. They have been regularly paying the electricity dues to him on account of the consumption of electricity by them. However, since PSPCL has imposed charges on account of UUE, Sh. Jarnail Singh is wrongly loading the same upon them which is illegal, arbitrary, unjust and unsustainable in the eyes of law.

1.3 They have time and again approached PSPCL for rendering respective electricity connections, however, PSPCL has flatly refused to provide electricity connection to any of the houses in the colony. As per the provisions of the Electricity Act and the regulations framed by this Commission, the petitioners are entitled to get individual electricity connections.

- 1.4 The aforesaid arrangement is a well-known fact to PSPCL as nearly 10 PSPCL officials are the residents of the colony. Apparently, Sh. Jarnail Singh could not carry out such sale of electricity to the residents of the colony without the aid of PSPCL.
- 1.5 The petitioners have further stated that in terms of PSPCL's Electricity Supply Instructions Manual (ESIM) Clause 3.3 (c), no NOC is required for the release of connection for domestic/ industrial/commercial use of electricity. As per Commercial Circular No. 19 of 2017 issued by PSPCL itself, on the basis of the instructions issued by the Government of Punjab, it has been held that no NOC/CLU is required for the release of electricity connection/extension of load/demand for domestic, Industrial and commercial category anywhere in Punjab. The petitioners in terms of the regulations framed by this Commission are willing to pay the requisite charges to PSPCL for release of electricity connections. The petitioners cannot be left in the lurch in this manner by PSPCL. As per Section 43 of the Electricity Act, PSPCL is bound to render connectivity to the petitioners being the sole distribution licensee in Punjab. However, PSPCL instead of performing its duties, is unnecessarily harassing the petitioners. In this regard, Section 43 of the Electricity Act has been quoted as under:

*“Section 43. (Duty to supply on request): --- (1) Save as otherwise provided in this Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:*

*Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:*

*Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.*

*Explanation.- For the purposes of this sub-section, "application" means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.*

*(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1):*

*Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as determined by the Appropriate Commission.*

*(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default."*

- 1.6 It has been added that once the petitioners are willing to pay the requisite charges for seeking new connection, PSPCL cannot be permitted to refuse new electricity connections to them. By this act of refusal, PSPCL is showing its dominance being the sole distribution licensee and is working on the might is right

fundamentals.

- 1.7 Further, on various occasions and from time to time, the Hon'ble courts have rendered indulgence on similar issues being faced by similarly placed persons, upon which the distribution licensee has been directed to immediately provide the connectivity to the residents. In case of Ravi Dutt Badyal Vs. PSPCL and others, while deciding Civil Misc. No. 5737 in CWP No 34999 of 2019, vide order dated 20.07.2020, Hon'ble Punjab and Haryana High Court has passed the following order:

**“CM-5737-CWP-2020**

1. *Learned counsel for the Respondent No. 5/Builder states that the laying of electricity cables for the Petitioner's plot will be completed within one week from today.*

2. *As regards providing the electricity connection to the Applicant/ Petitioner's plot, it appears that the plot was not part of the Mega Housing Project. It is part of a colony which was subsequently regularized by the competent authority of the local government in Patiala. It appears that the plot is under the jurisdiction of the Municipal Council, Kharar.*

3. *Learned counsel for the Punjab State Power Corporation Ltd. ('PSPCL') states that a separate electricity line has to be laid to the Petitioner's plot for providing electricity connection. Learned counsel for the Petitioner, on instructions, states that the Petitioner is prepared to pay the requisite charges for the laying of such line “as per regulations”.*

4. *Mr. Sehajbir Singh, Advocate for the PSPCL states that within two weeks from today, the Petitioner will be informed about the requisite charges that have to be paid by him for laying of the line from the transformer, as per regulations.*

5. *It will be open to the Petitioner, if aggrieved by such decision of the PSPCL, to seek appropriate remedies in accordance with law.*

*6. The application is disposed of in the above terms.*

.....”

The petitioners are living under threat of disconnection by the builder who is forcefully imposing unnecessary charges upon them. They have no choice and due to the aid of PSPCL to the builder, they are coerced to bow before him, as PSPCL is not performing its duties to render electricity connection to them.

- 1.8 It has been prayed that in case the petitioners are not rendered electricity connections for their respective houses, they shall suffer irreparable loss.
- 2.0 The petition was admitted vide order Dated 23.02.2021 and PSPCL was directed to file its reply by 05.03.2021 and the petitioner was asked to file rejoinder to the reply by 15.03.2021.
- 3.0 PSPCL filed its reply to the petition vide memo No. 5963 dated 22.04.2021. PSPCL submitted that a mega residential project in 84.641 Acres land at Devigarh Road, Patiala, named as "Sunny Enclave", comprising of pockets of different sized residential plots, EWS area, commercial area, educational, public buildings and parks was approved by PUDA and License No. 2007/199 dated 08.01.2007 under PAPR Act, 1995 was issued to M/s Bajwa Developers Pvt. Ltd., Mohali. PSPCL has not appointed any franchisee or signed any franchisee agreement with Sh. Jarnail Singh or the developer firm M/s. Bajwa Developers Pvt. Ltd., Mohali. As per the condition of license, the developer was required to get approval for the electrification scheme of its project from electrical wing of PUDA. Thereafter, NOC was issued by Chief Engineer/Commercial, PSEB to the developer vide memo no. 285-87 dated 05.02.2009. As per

NOC terms and conditions, the release of electric connections to the proposed colony would be governed by prevalent instructions contained in Commercial Circular (CC) 66/2002 dated 30.12.2002, CC No. 39/2003 dated 03.06.2003 and CC No 50/2007 dated 17.09.2007. The copies of the aforementioned documents have been enclosed. These instructions stipulate as under:

*“LD system shall be laid down by the PUDA/Developer as per standard design of the board & IE Rules and detailed sketch of LD System alongwith specification of material shall be got approved by PUDA/Developer from CE/Commercial of the Board and work shall be carried out strictly as per approved sketch. After the LD System is completed the 11 KV system including distribution transformers up to maximum 300 KVA capacity shall be got approved from the CE and Board. Thereafter the LD System shall be taken over by PSEB and energized for release of connections to different individual consumers in the Colonies by the Board.”*

- 3.1 Further, the initial NOC was applied for the load 3717.178 kW/4130 kVA. The cost to develop internal LD System of the colony was estimated Rs. 187.06 lakh and the promoter was required to deposit cost of link line giving 11 kV supply to the colony as connectivity charges. As per the terms and conditions of NOC, the developer has to complete the internal LD System in the colony within 3 years (i.e. upto 04.02.2012 in this case) from the issuance of NOC. This developer failed to comply with the instructions till now. Due to this, electricity connection to individual applicants cannot be issued inside the colony. Presently, the supply of electricity to individual consumers in the residential colonies can only be possible if



the developer completes the formalities as per the Regulation 6.7 of the Supply Code, 2014

- 3.2 PSPCL further submitted that before getting the license, the developer Sh. Jarnail Singh had got a regular NRS connection for office use vide A&A no. 25158 dt. 02.11.2006 for a load of 2.906 kW. Later, the load of this connection was got extended to 144.806 kW by the developer. From this connection, the developer started illegally giving supply to the residents of colony. This connection was checked by PSPCL officers vide LCR No. 10-11/352 dated 05.11.2019 and a case of unauthorized use of electricity was detected and a penalty of Rs. 26,52,389/- was imposed. The developer challenged this notice before the competent authority CE/TS, PSTCL which was dismissed by order dated 08.01.2020. Developer has challenged this order before Hon'ble Punjab & Haryana High Court vide CWP No. 4391 of 2020 which is pending till date.
- 3.3 It has been added that the revised NOC was applied by the developer through single window on dated 07.01.2020 against RID 21852. The feasibility case of revised NOC has been sent to the Chief Engineer/Commercial, PSPCL through SE/Op, DS Circle, Patiala. The tentative cost of laying the internal LD system of the colony is Rs. 2,20,23,160/- and estimated connectivity charges as per Regulation 6.7 of Supply Code, 2014 is Rs. 3,51,27,863/-.
- 3.4 PSPCL has denied the statements made by the petitioner in respect of Clause 3.3 (c) of ESIM and Commercial Circular No 19/2017 dated 22.05.2017 and has submitted that the same

are not applicable to a licensed colony where license to develop the colony has been granted under PAPR Act 1995.

- 3.5 It has been added that the provisions of Section 43 of the Electricity Act, 2003 should not be read in isolation. In the case of licensed colonies under PAPR Act, 1995, a license is issued by the authorized state agency such as GMADA/PUDA etc. to the developer. As per the terms and conditions of the licence, it is the responsibility of the developer to provide the electrical network (LD System) in the colony. Further as per the provisions of Regulation 6.7 of Supply Code, 2014, the release of electricity connections in a licensed colony are governed by certain terms and conditions, which make it obligatory for the developer to obtain NOC from PSPCL for developing the LD System. Accordingly, the developer has to lay the LD System in the colony as per approved NOC along with the payment of prescribed charges towards electrical connectivity to the colony. After complete LD System is laid and inspected by the Chief Electrical Inspector, PSPCL will take over the LD System and connect it to its distribution system. Later, it shall be the responsibility of PSPCL to release connections to the residents of the colony. Therefore, in case of licensed colonies, the provisions of Section 43 of Electricity Act 2003 shall apply to PSPCL only after the developer fulfills his obligation under the terms of conditions of license granted under PAPR Act, 1995 and Supply Code, 2014.
- 4.0 During the hearing on 28.04.2021, the learned counsel for the petitioners prayed to the Commission to direct PSPCL to release permanent electricity connections to the residents of

this colony, as an interim measure, on the lines of the decision of the Commission in Petition Nos. 22 of 2020 and 48 of 2020. Further, it was alleged that for the electricity connections provided to the petitioners by the developer, the latter is collecting electricity charges from the residents at exorbitant rates posing as franchisee of PSPCL. The Commission asked the learned counsel to immediately submit documentary evidence, such as receipts etc., to substantiate his allegations.

The officer representing PSPCL submitted that the developer failed to erect the LD system within the 3 year validity period of the NOC. The developer got an NRS connection in 2006 for his office use having a load of 2.906 kW which was got extended from time to time to 144.86 kW. However, PSPCL failed to give any satisfactory reply to the query of the Commission as to how such a large load can be justified for an office of the developer and why this fact was not verified at the time of release of extension in load. Since the NRS connections with load above 20 kW are covered under contract demand system, PSPCL was directed to submit the monthly MDI readings of this NRS connection for the entire period.

PSPCL's officer further submitted that on 05.11.2019, upon checking and detecting the illegal supply of electricity to the residents, a penalty of Rs. 26.52 lacs for UUE was imposed. An amount of over Rs. 80 lac is outstanding against the developer as electricity dues. However, when PSPCL disconnected the connection, the residents started agitating by blocking the road and the connection was restored after the intervention of the local administration, which shows that the residents were fully

aware of the illegal arrangement which they made with the developer to get supply of electricity.

Considering the above, the Commission, vide order dated 04.05.2021. made observations as under:

*“.....it appears that the irregularities being committed by the developer were allowed to continue for such a long period which does not appear to be possible without the active connivance of the officers/officials of PSPCL. The matter needs detailed investigation and we direct the PSPCL management to order enquiry in to this matter and submit Action Taken Report within one month of the issue of this order. The matter will be examined further after getting the enquiry report from PSPCL.....”*

5.0 The petitioners filed I.A. No. 14 of 2021 for rendering interim relief to them by directing PSPCL to provide respective domestic electricity supply connections to them for their houses in the colony. Further to the submissions made in the petition as brought out in Para 1 above, it was additionally submitted that the supply of electricity by the developer to the residents of the colony could not have been possible without the aid and knowledge of PSPCL.

5.1 Emphasising their right to live a peaceful and dignified life, the petitioners pleaded that by not rendering permanent electricity connections to them, PSPCL is impinging upon their life and liberty and their lives and survival may be under threat especially in the approaching peak summer season. Even this Commission, while adjudicating upon Petition No. 22 of 2020 vide interim order dated 02.11.2020, has inter-alia held that residents cannot be denied essential electricity services and therefore, till such time the matter is resolved, PSPCL is

obligated to provide supply to the residents. Further, while adjudicating a similar matter in case of Gulmohar City Vs. PSPCL, in Petition No. 48 of 2020, vide its interim order dated 15.03.2021 in IA No. 7 of 2021, this Commission has inter-alia passed the following order (relevant extract):-

*“.....After hearing the counsel and the officers of PSPCL, the Commission directs PSPCL to release electricity connections to the residents of Gulmohar Residency after recovery of Service Connection Charges/ other applicable chargers as per the Cost Data approved by the Commission within the time limits specified in Regulation 8 of the Supply Code, 2014 subject to the final order in the instant petition. A separate account of the expenditure incurred by PSPCL on release of these connections may be kept and the amount may be recovered from the Developer or the delinquent officials/officers as per applicable law. It is reiterated that the above interim directions to PSPCL have been issued keeping in view the peculiar facts and circumstances of the present case and are not necessarily applicable to other cases. IA No. 07 of 2021 stands disposed of accordingly.*

*.....”*

Copies of the above mentioned orders were also appended.

- 5.2 The petitioners also referred to Petition No. 07 of 2021 filed by PSPCL before this Commission under Regulation 6.7 & 47 of Supply Code, 2014 and Regulations 69,70,71 & 72 of Chapter XIII of the PSERC (Conduct of Business Regulations), 2005 regarding erection of LD system by PSPCL and release of electricity connections in those licensed colonies where developers sold plots/flats without obtaining NOC from PSPCL or where developers, after obtaining NOC, have abandoned the

project without installing the LD system and other related matters. This colony has been mentioned at Sr. no. 40 in Petition No. 7 of 2021. Since PSPCL has conceded and has applied for seeking approval from this Commission to erect the LD system by PSPCL and release of electricity connections in those licensed colonies where developers sold plots/flats without obtaining NOC from PSPCL or where developers after obtaining NOC have abandoned the project without installing the LD system, therefore, no prejudice shall be caused to PSPCL in case of a similar order in this case.

5.3 It was prayed that in case the instant matter was not taken up immediately and the petitioners not rendered regular electricity connections in the interim, they shall suffer irreparable loss and injury.

6.0 Vide memo no. 6282 dated 31.05.2021, PSPCL submitted MDI readings of the NRS connection of Sh. Jarnail Singh from June, 2015 to April, 2021. The highest MDI reading was observed to be 144.8 kW for August, 2019. Further, PSPCL submitted an abstract of the findings of the interim inquiry report vide memo no. 6294 dated 01.06.2021 wherein it has been mentioned that the developer managed to get the load of the NRS connection extended to 144.80 kW in connivance with the official/officers of concerned DS offices of PSPCL despite non-compliance of terms and conditions of NOC by the developer. The power from this NRS connection was found under unauthorized use by the developer by catering to the load of individual residents of the colony. The connectivity application of the developer in 2014 should not have been entertained by the concerned

officials/officers of DS offices as the validity period of NOC granted by the PSPCL had already expired in 2012 (3 years after the grant of NOC). The unauthorized use of electricity from the aforementioned NRS connection was done by the developer from 10.06.2009 by extending power supply to street lights of the project and by supplying power to a 25BHP motor (beyond premises of his office) for the high rise water tank. It was further requested by PSPCL to grant a period of two months to conduct the detailed enquiry and fix the responsibilities in the matter.

7.0 After hearing the parties on 02.06.2021, the Commission, vide order dated 16.06.2021, made observations and issued directions as under:

*“The Commission, vide Order dated 04.05.2021, observed that the irregularities being committed by the developer were allowed to continue for a long period which does not appear to be possible without the active connivance of the officers/officials of PSPCL. PSPCL management was directed to order an enquiry in this matter and to submit an action taken report within one month. PSPCL vide memo No. 6296 dated 01.06.2021 has submitted only an interim enquiry report. They further submitted that a detailed enquiry in this matter shall be conducted for fixing the responsibility of concerned officers/officials of PSPCL. PSPCL shall submit the detailed inquiry report and action taken report as directed vide order dated 04.05.2021, without any further delay, before the next date of hearing.*

*Further, during the hearing it has been observed by the Commission that the inputs and response of the Chief Administrator, PUDA, Director, Town & Country Planning, Punjab, Secretary Department of Housing and Urban Development, Govt. of Punjab and Secretary and Director, Deptt. of Local Govt. Punjab are necessary for the proper*

*adjudication of the matter since a number of such petitions have come up due to violation by developers of the conditions of licenses resulting in hardship and harassment to the residents due to non development of LD system for proper electrical supply distribution to residents. Therefore notice be issued alongwith the copy of the petition to the above said authorities. A senior officer of the said departments not below the rank of joint Secretary/Additional Director/Additional CA should be present on the next date of hearing to give proper inputs and file a written response by way of an affidavit on behalf of the respective departments.*

*The Commission finds it appropriate to implead the Developer of the Colony, Sunny Enclave situated at Village Ghalori, Devigarh road, Tehsil and District Patiala, Punjab as a party to the petition for proper adjudication of the matter. The developer of the colony is impleaded as a respondent in the petition and notice be issued to the developer to file its reply to the petition within two weeks. The Learned Counsel for the petitioner submitted that the builder/developer has issued electricity connections and inflated bills to the petitioner and during the hearing submitted copies of some of the bills which are taken on record. It is observed by the Commission that the petitioners have been compliant in accepting illegal connections from the developer and paying bills not raised by the Distribution Licensee, PSPCL. The petitioners have also filed an IA No. 14 of 2021 seeking direction of PSERC to PSPCL to immediately render electricity connections for their houses as an interim relief. It has been submitted that as the present supply of electricity by the builder is unauthorized and without the electricity connections, the petitioners and their family members will face serious hardship in the peak of the summer season.*

*After hearing the parties, PSPCL is directed to submit the reply to the IA filed by the petitioners along with details such as connected load/other relevant details of the residents of this colony who are being supplied electricity in an illegal manner by the developer. PSPCL should also inform the*



*Commission regarding feasibility of supplying electricity to these residents from the distribution system of the licensee and estimated expenditure likely to be incurred on release of connections to the residents who are being supplied electricity in an illegal manner by the developer. PSPCL is also directed to intimate the Commission regarding action being taken against the developer, as per law, to recover the outstanding amount and get the conditions of license fulfilled. Director Distribution PSPCL shall also remain present on the next date of hearing. PSPCL shall be submit the aforesaid information within three weeks....”*

- 8.0 PSPCL submitted their reply vide memo no. 6655 dated 09.07.2021 and intimated that the detailed inquiry report and action taken report would be sent at the earliest. In reply to I.A. No. 14 of 2021, PSPCL submitted, further to the already made submissions, that Petition no 22 of 2020 quoted by the petitioner is having different facts and circumstances from this instant petition. In the present case, PSPCL has not released any permanent connections in Sunny Enclave Colony, Patiala till date and the developer delinquently has not made compliance of the terms and conditions of NOC. The requisite connectivity charges worked out for granting the revised NOC to the developer are approx. Rs. 3.51 Crore. The Civil Misc. No. 5737 in CWP No. 34999 of 2019 and order passed by Hon'ble Punjab and Haryana High Court dated 20.07.2020 quoted by the petitioner also have facts and circumstances different from this instant petition. Further, Petition No. 48 of 2020 quoted by the petitioner also has facts and circumstances different from this instant petition and the Commission has also mentioned in order dated 15.03.2021 in IA 07 of 2021 that *"interim directions to PSPCL have been issued keeping in view the peculiar facts*

*and circumstances of the present case and are not necessarily applicable to other cases."*

- 9.1 PSPCL further submitted that Petition no. 07 of 2021 is sub judice before the Commission. PSPCL has included the colony Sunny Enclave, Patiala at Sr. No. 40 as the developer is not coming forward to complete the documentation for a revised NOC (applied for in year 2020) even after repeated reminders by PSPCL.
- 9.2 PSPCL also referred to the Commission's order dated 16.06.2021 wherein the developer and PUDA were made parties in the instant petition and prayed that the developer may be directed to come forward for taking revised NOC from PSPCL and ensure compliance at the earliest to enable PSPCL to release electricity connections in the colony or PUDA may be directed to place the requisite funds at the disposal of PSPCL for releasing connectivity to the project and for completion of the balance internal LD System.
- 10.0 During the hearing on 14.07.2021, no one appeared on behalf of the developer. Vide order dated 16.07.2021, a last opportunity was given to the developer to appear before the Commission and file its reply failing which adverse inference would be drawn and proceedings in accordance with regulations would be initiated. Since PSPCL had not submitted the detailed inquiry report and action taken report, PSPCL was directed to file the same without any delay

On a query by the Commission to PSPCL during the hearing on 14.07.2021 as to why action has not been taken against the developer for the recovery of the electricity bills, PSPCL

stated that Patiala Development Authority (PDA) had given an undertaking that it would ensure that the developer clears its electricity dues towards PSPCL and also ensure the completion of L.D. system. However, PDA disputed the statement given by PSPCL and requested for time to file its reply. Vide order dated 16.07.2021, PDA was directed to submit its reply to the petition alongwith its submission regarding the ibid undertaking mentioned by PSPCL during the hearing. PSPCL was also directed to submit the current status of the payment made by the developer against the outstanding amount of electricity bills along with the pending dues against the developer for electricity bill(s).

During the hearing, PSPCL also submitted a copy of the judgment dated 07.04.2020 passed by the Hon'ble High Court of Punjab and Haryana in the case of M/s Impact Projects Private Ltd. & Anr. Vs PSPCL & Ors. to the effect that all the development work are to be completed by the developer and only then PSPCL is liable to provide the electricity connections. The contention of PSPCL has been disputed by the learned counsel for the petitioner with the submission that judgment cited by PSPCL was not attracted to the facts of the present case and that the residents of the colony in question are ready to take over the common services of the colony. Vide order dated 16.07.2021, the petitioners were directed to file a reply in this regard on affidavit alongwith comments on the judgment submitted by PSPCL.

11.0 PSPCL submitted the detailed inquiry report and action taken report vide memo no. 6734 dated 19.07.2021 and intimated

that disciplinary action is being initiated against delinquent officers/officials. Further, current status of payment by the developer as on 19.07.2021 against the outstanding amount of electricity bills along with the pending dues was also submitted which showed the outstanding amount as on 19.07.2021 as Rs.81.17 lacs.

12.0 During the hearing held on 20.07.2021, the learned counsel for Patiala Urban Development Authority (PDA) requested for time to file their reply. The petitioners filed an affidavit that the residents of the colony shall form an association for maintaining the common area/services and prayed for some more time to obtain the consent of the other residents in the colony for maintaining the common areas services. Vide order dated 30.07.2021, the petitioners were directed to file the same within two weeks alongwith their comments on the judgment referred to by PSPCL in the case of M/s. Impact Projects Private Ltd. & Anr. Vs PSPCL & Ors, passed by the Hon'ble Punjab and Haryana High Court. PDA was directed to file a reply within two weeks, including its response to the undertaking/assurance given by PDA to ensure the payment of dues by the developer. PSPCL was asked to submit, within a week, the order/sequence in which various components of the bill are adjusted/extinguished against deposit made by the consumers. Since nobody appeared on behalf of the developer, a final opportunity was given to the developer to appear before the Commission and to file its reply within two weeks failing which adverse inference would be drawn and further action will be taken as per the law. Further, the

learned counsel for the petitioners pleaded during the hearing that residents' plight may be redressed by releasing electricity connections to them. Vide order dated 30.07.2021, the Commission made observations and issued further directions as under:

*“.....presently electricity is being illegally supplied by the developer through his permanent NRS connection to the residents. Even the charges collected from the residents are not being deposited with PSPCL i.e. besides continuation of grossly illegal position, PSPCL is even being deprived of its legitimate revenue. As per the record, PSPCL has not been able to disconnect the connection owing to apprehension of deterioration in law and order situation as was encountered during 2019. Thus, keeping in view the peculiar circumstances of the case, the Commission as an interim measure, directs PSPCL to release regular electricity connections to the residents after recovery of service connection charges & other applicable charges as approved by the Commission and subject to the formation of Residents Welfare Association for taking over the electricity connections for maintaining common serves such as street lights, water works etc. PSPCL shall ensure the legitimacy and credentials of the Residents Welfare Association to safeguard its commercial interests. Further action against the developer including but not limited to disconnection and recovery of charges shall be taken by PSPCL as per law. The developer shall not remove any part whatsoever of the electricity system installed by him in the colony and PSPCL shall ensure compliance.....”*

13.0 PDA filed its reply dated 10.08.2021 wherein it submitted that the petitioners have not claimed any relief against the PDA. Further, the Competent Authority, PUDA, S.A.S. Nagar had issued licence No.LDC 2007/199 on 08.01.2007 to M/s. Bajwa Developers Pvt. Ltd. for developing the colony namely "Sunny

Enclave in land measuring 84.6410 acres at Village Ghalori, Tehsil and District Patiala. As per terms and conditions of the licence, the Promoter is liable to provide all basic amenities like water, sewerage, electricity etc. to the residents of colony, the relevant condition of the licence being as under:

*“xxxiv) Promoter will make his own arrangement of independent water supply and install sewerage treatment plant and also ensure smooth supply of electricity and other requisite service of the colony at their own cost.....”*

A copy of the said license has been enclosed.

13.1 The licence issued to the promoter/developer was last renewed vide letter dated 14.11.2019 up to 31.12.2019 (stated by PDA as 31.12.2020 in succeeding para of the reply dated 10.08.2022 and also in reply dated 06.01.2022). However, during this period, a dispute arose between the promoter/residents of the said colony with PSPCL on account of default in payment of actual consumption of electricity and unauthorised use of the same. Due to this dispute, a law and order problem arose at the site and to get the same normalized , a letter dated 21.12.2019 was written by Divisional Engineer (E) to Addl. SE, Patiala for ensuring that developer will deposit pending bills with PSPCL. A copy of the said letter dated 21.12.2019 has been enclosed.

13.2 Further, to solve the dispute, a joint meeting of the officers of PSPCL and of the developer was called on 27.12.2019. In the said meeting, the representative of the developer made a statement that dues of the electricity bill till 31.12.2019 would be cleared by them and they would also file an appeal within

one week before Dispute Settlement Committee for penalty of Rupees twenty six lakhs imposed on account of unauthorised use of electricity. It was stated by PSPCL's representatives that after the clearance of the dues of the electricity bill and on filing the appeal before the Dispute Settlement Committee, the undertaking given by PDA to PSPCL would elapse and would be returned officially. A copy of the minutes of the meeting held on 27.12.2019 issued vide letter dated 31.12.2019 have been enclosed. Again a meeting was called on 09.01.2020 between the officers of PSPCL and of the developer, wherein it was informed by the representative of the developer that they had deposited 50% of Rs. 26,52,839 while filing the appeal before the Dispute Settlement Committee, but the same has been dismissed. Now, they will challenge the decision of the Dispute Settlement Committee in the High Court within ten days and also undertook that arrears of the consumption of electricity would be cleared on the same day. Apart from this, certain other steps taken by the developer were also considered. A copy of minutes of meeting dated 09.01.2020 has also been enclosed.

- 13.3 The PDA further added that the developer vide letter dated 20.01.2020 had intimated that in pursuance to the statement made by their representative in the meeting held on 09.01.2020, dues of electricity consumption stood deposited by them. It was also learnt that the developer had approached the Hon'ble High Court by filing a Civil Writ Petition challenging the decision of the appellate authority and the same is awaiting adjudication. PDA submitted that PSPCL

would be in a better position to explain to the Commission and concluded that the consumption charges of electricity till 31.12.2019 stood deposited and 50% of the penalty for unauthorised use of electricity was deposited by the developer at the time of filing the appeal. Thus, the undertaking given by the PDA to PSPCL stood complied with and thereafter PSPCL was bound to release the same unconditionally. A copy of the letter dated 20.01.2020 was enclosed.

13.4 PDA further submitted that the licence issued to the developer expired on 31.12.2020 and the same had not been got renewed by the developer. Accordingly, the Competent Authority, PDA had already written the letter dated 19.05.2021 to the Tehsildar, Patiala for stopping the registration of sale deeds executed by the developer and intimation in this regard had been sent to PSPCL vide letter dated 07.07.2021. The copies of the above mentioned letters were enclosed.

13.5 PDA added that the project "Sunny Enclave" at Patiala is also registered with Real Estate Regulatory Authority vide registration no. PBRERA-PTL63 PM00044 dated 16.09.2019. Therefore, developer is also liable for penal action on account of default in not providing basic amenities to the residents of the colony under the provisions of RERA Act.

13.6 As per terms and conditions of the licence, agreement and the provisions of PAPR Act, 1995, the developer/promoter is liable to provide all internal works in the colony as per approved layout plan and to provide all basic amenities like



water, sewerage, electricity etc. to the residents of colony. Hence, the Promoter is entirely responsible to obtain NOC from PSPCL and to ensure regular power supply to the residents of the colony.

14.0 PSPCL filed its reply vide memo no. 7064 dated 20.08.2021 wherein the amount recoverable from Sh. Jarnail Singh as on 09.08.2021 was shown as Rs. 27,04,617/-. PSPCL made additional submissions vide memo No. 7234 dated 20.09.2021 that in compliance with the Commission's order dated 30.07.2021, PSPCL's field office carried out a survey in the colony and observing that at present PSPCL electricity connections have to be released to the existing 88 Nos. DS, 3 Nos. NRS, 1 No. Water Works & 1 No. Street Light with estimated load 519.43 kW scattered in the whole project area. In order to implement the directions of the Commission, PSPCL has to lay two LD System amounting to approx. Rs. 27.61 lakhs to release regular electricity connections to the existing residents of colony. However, PSPCL will be able to recover approx. Rs. 7.16 lakh only as service connection charges. PSPCL prayed that it may be allowed to recover additional expenditure done over and above the service connection charges from the developer or PUDA may be directed to place requisite funds at the disposal of PSPCL. PSPCL further submitted that in future, demand for new connections might also come from any of the vacant plot owner or newly built house inside the colony, which is beyond their control. The total liability to erect the complete internal LD system in the colony and external connectivity charges

was intimated as approx. Rs. 5.38 crore (Rs. 2.38 crore for internal LD system and Rs. 3.00 crore for external connectivity) whereas the total prospective service connection charges for all the plots was intimated to be inadequate i.e., Rs. 85.91 lakhs approx. PSPCL further prayed that the developer may be directed to come forward for taking a revised NOC from PSPCL and to make compliance at the earliest for enabling PSPCL to release electricity connections for the whole project or PUDA may be directed to place the requisite funds at the disposal of PSPCL for releasing connectivity to the project and for completion of the balance internal LD system. Till then, no more connections other than the above may be allowed to be released inside the colony.

15.0 Despite being giving ample opportunity, the developer failed to submit its reply and appear before the Commission in the hearing on 22.09.2021. Since it amounted to clear violation of the directions of the Commission, accordingly vide order dated 04.10.2021, a cost of Rs. 1,00,000/- was imposed on the developer M/s Bajwa Developer Limited for the non-compliance of the directions of the Commission. During the hearing, the Commission took note of the PDA's reply dated 10.08.2021 and PSPCL's replies dated 20.08.2021 and 20.09.2021. PSPCL submitted that the connections would be released within one month and that an amount of approx. Rs. 5.38 Crores was required to complete the internal LD system and external connectivity charges. The representative appearing for PDA informed that they have a bank guarantee of approx. 2.77 crores against the colony. Vide order dated

04.10.2021, PDA was directed to make its submissions regarding handing over the amount of bank guarantee to PSPCL for electrification infrastructure and proper power supply to the residents of the colony.

16.0 During the hearing held on 10.11.2021, the representative appearing on behalf of PSPCL submitted that domestic supply electricity connections have been released to the petitioners. The learned counsel appearing on behalf of PDA has requested for some more time to file the reply regarding encashing the bank guarantee and handing over the required amount for completion of LD system and for connectivity charges. Vide order dated 15.11.2021, PDA was directed to file the same within a week. Further, directions were given to initiate necessary action for compliance of the order dated 04.10.2021 for recovery of the cost against the developer M/s Bajwa Developer Limited.

17.0 PDA filed its reply dated 06.01.2022 and submitted that a survey of the colony with regard to the pending development works has been got conducted by the authority and as per the report dated 13.08.2021, an amount of Rs. 171.77 lakhs is required for carpeting of roads, Rs. 203.39 lakhs is required for completing water supply and sewerage and Rs.120.34 lakhs is required for LT and street light. Thus, the cost for completing the development works of the colony is about double of the bank guarantee lying with the Authority. A copy of the said report dated 13.08.2021 has been enclosed.

17.1 Further, Section 5(14), (15) and (16) of PAPR, 1995 were reproduced as under by PDA being relevant for making submissions on the issue:

*(14) In the event of the promoter contravening any provisions of this Act, or rules made there under or any conditions of the license granted under sub-section (3), the competent authority may, after giving an opportunity of being heard, suspend or cancel the license and enforce the bank guarantee or mortgage property furnished by promoter under sub-section (3).*

*(15) When the licensee is suspended or cancelled under sub-section (14), the competent authority may itself carry out or cause to be carried out the development works, and after adjusting the amount received as a result of enforcement of bank guarantee or by disposal of mortgaged property, recover such charges, as the competent authority may have to incur on the said development works from the promoter and the allottees in the manner prescribed as arrears of land revenue.*

*(16) The liability of the promoter for payment of development charges referred to in sub-section (15), shall not exceed the amount the promoter has actually recovered from the allottees less than amount actually spent on such development works, and that of the allottees shall not exceed the amount, which they would have to pay to the promoter towards the expenses of the said development works under the terms and conditions of the agreement of the sale or transfer entered into between them:*

*Provided that the competent authority may, recover from the allottees with their consent, an amount in excess or what may be admissible under the aforesaid terms of agreement of sale or transfer.*

17.2 PDA added that the licence was issued to the colonizer/developer under PAPR Act, 1995. However, the colonizer/developer has not got the license renewed after

31.12.2020. Thus, for the said default, registration of the sale deeds of the colony has been stopped by the Competent Authority and in this regard a letter dated 19.05.2021 has been written to Tehsildar, Patiala. Intimation in this regard has also already been sent to PSPCL vide letter dated 07.07.2021. The copies of letters dated 19.05.2021 and 07.07.2021 are part of the earlier affidavit dated 10.08.2021 filed by PDA. PDA further submitted that as per Section 5(14) & (15) of the said Act, the issue of encashment of the bank guarantee would arise only if the colony is taken over by the Competent Authority, after cancelling the license for violating its conditions, whereas, considering the various aspects, the Authority has not taken over the colony. Thus, at this stage the bank guarantee of the colonizer/developer could not be encashed.

17.3 PDA submitted that in view of the position explained above, the bank guarantee of the colonizer/developer could not be encashed/transferred to PSPCL for completing LD system and connectivity charges.

18.0 During the hearing held on 11.05.2022, the Commission took note of PDA's written submission dated 06.01.2022 that the issue of encashment of bank guarantee would arise only if the colony is taken over by the competent authority and considering the various aspects, the Authority has not taken over the colony and therefore at this stage the bank guarantee of the developer could not be encashed.

Vide order dated 17.05.2022, the Commission observed that the issue regarding taking over of the colony is an internal

matter of PDA. As per the conditions of license, the developer is required to take NOC from PSPCL within 90 days of the issuance of license and submit compliance to the Development Authority which is required to monitor the compliance of license conditions which it had failed to do. Having been responsible for this lapse, the Commission directed PDA to encash the bank guarantee and handover the required amount to PSPCL for completion of LD system or alternatively to get the LD system in the colony completed at its own level and to file an affidavit on this matter.

19.0 During the hearing on 22.06.2022, an Advocate appeared on behalf of M/s. Bajwa Developers Pvt. Ltd. and filed a memo of appearance, further requesting for time to file a reply to the petition. Vide order dated 23.06.2022, it was directed that he may file his Vakalatnama as well as the reply to the petition by M/s. Bajwa Developers Pvt. Ltd within two weeks. PDA was given a last opportunity to file an affidavit within three weeks on the observations made by the Commission detailed above.

20.0 PDA filed its reply dated 13.07.2022 and referred to its earlier affidavit dated 06.01.2022 as brought out in Para 17.0 above submitting that the cost for completing the development works of the colony is about double the bank guarantee available with them. PDA further submitted that as per section 5(14) & (15) of the PAPR Act, 1995, the issue of encashment of the bank guarantee would arise only if the colony is taken over by the competent authority, after cancelling the license for violating its conditions, whereas, in the present case, the

colonizer has not got the license renewed after 31.12.2019. Considering the various aspects, the colony has not been taken over by the Authority. Thus, under these circumstances neither the amount of bank guarantee could be transferred to PSPCL for completion of LD system nor can it be completed by PDA at its own level.

21.0 The next hearing was held on 03.08.2022. The above mentioned affidavit given by PDA was taken on record. The learned counsel for the developer requested for time to file written submissions. Vide order dated 08.08.2022, it was directed to file the same within a week and the order was reserved.

### **Commission's Findings and Order**

The petition sought directions to the distribution licensee i.e., PSPCL to render respective domestic supply electricity connections to the petitioners for their houses in the colony named Sunny Enclave, situated at Village Ghalori, Devigarh Road, Tehsil and District Patiala, Punjab for the development of which the licence bearing No. LDC 2007/199 dated 08.01.2007 was issued by the licensing authority i.e. PUDA to M/s. Bajwa Developers Pvt. Ltd. The main argument of the petitioners was that they cannot be held responsible for the wrongs committed by the developer; his failure to obtain revised NOC from PSPCL and to complete the LD system in the colony and that they cannot be left deprived of an essential service like electricity even when they are ready to pay requisite charges to the licensee. It was pleaded that as per Section 43 of the Electricity Act, PSPCL was bound to release connections to the petitioner being the sole distribution licensee in the state of Punjab.

On the other hand, PSPCL submitted that in the case of the licensed colonies under PAPR Act, 1995, a license is issued by the authorized state agency such as GMADA/PUDA etc. and as per the terms and conditions of the licence, the developer is responsible to provide the electrical network (LD System) in the colony. Further, as per Regulation 6.7 of Supply Code, 2014, the release of electricity connections in a licensed colony is governed by certain terms and conditions, which make it obligatory for the developer to obtain NOC from PSPCL for developing the LD System. Accordingly, the developer has to lay the LD System in the colony as per approved NOC along with the payment of prescribed charges towards electrical connectivity to the colony. After the complete LD System is laid and inspected by the Chief Electrical Inspector, PSPCL takes over the LD System and connects it to its distribution system and releases connections to the residents of the colony. PSPCL, therefore, submitted that in case of licensed colonies, the provisions of Section 43 of Electricity Act 2003 shall apply to PSPCL only after the developer fulfills his obligation under the terms and conditions of license granted under PAPR Act, 1995 and Supply Code, 2014.

In this context, it is observed that the Commission in exercise of its powers, conferred under Section 181 of the Act read with all other powers enabling it in this behalf, notified PSERC (Electricity Supply Code and Related Matters) Regulations, 2014 as amended from time to time (hereinafter referred to as Supply Code, 2014) and Regulation 6.7 of *ibid* Regulations specifies as under:

*“6.7 Supply of Electricity to Individual Consumers in the Residential Colonies / Multi- Storey Residential Complexes Developed under bye- laws/rules of the State Govt.*



6.7.1 In the event of residential colonies/complexes developed by developers/builders/societies/owners/associations of residents/ occupiers under bye-laws/rules of the State Govt. not covered under Regulation 6.6 above, the residents/occupiers of such colonies /complexes shall obtain individual connections directly from the distribution licensee. The release of such connections shall be governed by the following terms and conditions:-

a) The developer/ builder/society/owners/ association of residents/ occupiers shall submit the complete lay out plan of the electrical network proposed to be erected in the colony and other documents prescribed by the licensee along with the processing fee as per Schedule of General Charges and obtain the preliminary NOC from the licensee. The NOC shall be issued by the licensee within 45 days of the receipt of proposal complete in all respects along with requisite documents. In case the developer/ builder/ society/ owners/ association of residents/ occupiers withdraw his request or fails to comply with the conditions within stipulated time, the processing fee shall be forfeited.

Note: The developer/builder/society/owner/association includes any agency whether Govt./ Local body or private that constructs the colony/complex.

b) For planning the L.D system of such colonies/complexes or to issue NOC, the following guidelines may be adopted by distribution licensee for assessment of expected connected load/ demand of such colonies/complexes:

.....  
.....

c) The developer/ builder/ society/ owners/ association of residents/ occupiers may deposit the estimated cost of Local Distribution (LD) system of the colony as per approved layout sketch and get it executed from the distribution licensee. The expenditure of L.D system including service cable up to the metering point of each

consumer and the 11kV system shall include cost of the material, labour plus 16% establishment charges there on. The phase wise development of LD system may be carried out by the licensee as per requirement but any cost escalation over a period of time shall be borne by the licensee. The distribution licensee shall be responsible to release individual connections within the time frame specified in Reg. 8. The expenditure incurred by the distribution licensee for providing connectivity to the colony shall also be borne by the developer/ builder/ society/ owners/ association of residents, as the case may be. This shall include the expenditure incurred by the distribution licensee for providing the individual 11kV service line(s) to the colony (cable or conductor from pole/ tower of feeder/ distribution main to the colony premises/ metering point) and proportionate cost of common portion of the distribution main including breaker from nearest feeding grid sub-station having power transformer of 33-66/11kV or 132-220 /11kV, as the case may be, which is feeding the 11kV line connected to the colony, as per the Standard Cost Data approved by the Commission. In case the existing 11kV distribution main is required to be augmented/ extended/bifurcated or a new 11kV line/plant is to be erected to allow connectivity to any colony then such work shall be carried out by the distribution licensee at its own cost provided the applicant pays the full cost of service line and proportionate cost of the common portion of the augmented/extended /bifurcated /new distribution main including breaker as per the Standard Cost Data approved by the Commission. However, the developer/ builder society/ owners/ association of residents/ occupiers shall have the option to execute the works of internal L.D system of the colony/ complex of its own in accordance with the layout plan/sketch approved by the distribution licensee subject to payment of 15% supervision charges on the labour cost to the licensee. In such case, the developer/ builder society/ owners/

*association of residents/ occupiers, as the case may be, shall furnish a Bank Guarantee (valid for the period of NOC) from any bank registered and regulated by RBI equivalent to 20% of the estimated cost of the LD system of the colony to be executed by the developer/ builder society/ owners/ association of residents/ occupiers before the approval of the electrification plan and issue of NOC by the distribution licensee. This BG shall be returned after the developer fulfils the conditions of NOC and submit BG in case he avails partial connectivity from the distribution licensee. Provided that the distribution transformers and other material to be used for the internal LD System of the colony shall be as per the specifications approved by the licensee and shall be procured from the vendors approved by the licensee. The Distribution Transformers (DTs) may be procured by the developer from the distribution licensee. However, the developer shall be at liberty to procure the DTs from the approved vendors of the distribution licensee after getting the same inspected from the distribution licensee at manufacturer's site. A 21 days' notice shall be served on the distribution licensee by the developer to inspect the DTs. In case DTs are not inspected within 21 days from the date of receipt of notice by the distribution licensee from the developer, it shall be deemed to have been inspected and approved by the distribution licensee. Provided further that the phase wise development of LD system may be carried out by the developer/ builder society/ owners/ association of residents/ occupiers, as per requirement. In case the developer/ builder/ society/ owners/ association of residents/ occupiers requests for energisation of incomplete/partial LD system, the same shall be allowed provided the developer/ builder/ society/ owners/ association of residents/ occupiers furnish a Bank Guarantee (BG valid for 3 years) from any bank registered & regulated by RBI equivalent to the estimated cost of balance works as per the cost of material and labour*

*prevailing at the time of allowing connectivity for the partial load plus expected % age increase in the cost of material & labour in the next 3 years as may be approved by the Commission on the basis of increase in the cost during the preceding 3 years. This BG may be extended for each block of 3 years by increasing the base value with expected % age increase in the cost of material & labour as may be approved by the Commission. The amount of Bank Guarantee shall keep on reducing with the completion of remaining works of the L.D system. After submission of Bank Guarantee to the satisfaction of the licensee, the BG accepted at the time of issue of NoC shall be returned to the developer and it shall be the responsibility of the licensee to release connections to the residents/ occupiers of the colony/complex according to the time frame specified in Reg. 8. After its completion and inspection by the Chief Electrical Inspector to Govt. of Punjab, the distribution licensee will take over the L.D system which will be connected to its distribution system. The distribution licensee shall thereafter maintain the L.D system at its own cost.*

d) .....

e) *Each resident/occupant shall submit A&A form for supply of electricity to the distribution licensee in accordance with regulation 6 of Supply Code and connected load of each applicant shall be determined/ computed as per regulation 4.5 of the Supply Code. The distribution licensee shall release the connections within time limits prescribed in regulation 6.8 & 8.*

f) A developer/builder/society/owner/association of residents/occupiers shall obtain separate connection for common services under relevant category. The developer shall also be responsible to lay service cables up to the metering point of individual occupier's premises/common service connection points at its cost. In case meter is

*installed outside the consumer's premises, the service cable from the meter up to the main switch of the consumer shall also be provided at its own cost by the developer. The distribution licensee shall not recover any Service Connection Charges from individual consumers. However, applicant shall deposit Security (consumption) and Security (meter) as per Schedule of General Charges."*

As per Section 43 of the Electricity Act, 2003, the obligation of the distribution licensee to provide supply of electricity in its area of supply is subject to the rules/regulations framed under the Act. The aforementioned Supply Code, 2014 regulations specify the procedure to be followed and conditions to be fulfilled by the developers in case of licensed colonies before the electricity connections are released by the distribution licensee. In this case, the developer has not taken the revised NOC and has not completed the LD system in the colony. However, PSPCL also failed to take up the matter with the licensing authority i.e., PUDA/PDA regarding non-compliance by the developer with the conditions of licence in respect of obtaining revised NOC from the distribution licence and completing the LD system in the colony. Even PSPCL went ahead with extending the load of NRS connection earlier taken by Sh. Jarnail Singh from 2.906 kW to 144.806 kW without checking the ground position. Even the illegal supply of electricity given from the said NRS connection to the residents remained unchecked for long by PSPCL. Further, the charges against consumption of electricity collected from the residents were not being deposited with PSPCL i.e., besides continuation of the grossly illegal position, PSPCL was even being deprived of its legitimate revenue. PSPCL did not even disconnect

the connection owing to their stated apprehension of deterioration in the law and order situation as was encountered during 2019.

Keeping in view the peculiar circumstances of the case and that the developer had not fulfilled the conditions of the licence and the licensing authority and distribution licensee had failed to get the conditions of the licence implemented by the developer, the Commission vide order dated 30.07.2021, as an interim measure, directed PSPCL to release regular electricity connections to the residents after recovery of service connection charges and other applicable charges as approved by the Commission and subject to the formation of Residents Welfare Association for taking over the electricity connections for maintaining common services such as street lights, water works etc. PSPCL was also asked to ensure the legitimacy and credentials of the Residents Welfare Association to safeguard its commercial interests and also to take further action against the developer including but not limited to disconnection and recovery of charges as per law. It was also directed that the developer would not remove any part whatsoever of the electricity system installed by him in the colony.

Sr. No. XXII of the conditions stipulated in Licence No. LDC 2007/199 dated 08.01.2007 issued by PUDA to the developer clearly provides the following:

*“XXII) Promoter will obtain provisional/final NOC from the PSEB within 90 days of the issue of the licence positively failing which penal action under the relevant provisions of the law shall be initiated.”*

In this case, against the license dated 08.01.2007, the developer got the NOC only on 05.02.2009 i.e., well beyond the

90 days period stipulated in the conditions of licence. Despite this delay, nothing on the record shows that the matter was taken up by PSPCL with the licensing authority. Even the licensing authority i.e., PUDA/PDA failed to monitor the developer's compliance with the conditions of licence and to take any penal action against the developer on this account. Even at the time of renewal of licence vide memo dated 14.11.2019, PDA failed to notice that the three years period stipulated in the NOC given by PSEB/PSPCL had expired and the LD system was yet to be completed by the developer. Thus, PDA failed to take notice of the non-compliance by the developer with the conditions of licence and did not take timely penal action against the developer. The submission of PDA that the developer is entirely responsible to obtain NOC from PSPCL and to ensure regular power supply to the residents of the colony does not absolve PDA of its responsibility as the licensing authority to ensure compliance of the conditions of the license by the developer and to take penal action against the developer in case of non-compliance, as has happened in the instant case.

Thus, despite clear provisions in the conditions of licence to take action against the errant developer, PDA has not brought on record any action taken by it against the developer except now, as an afterthought, asking the concerned authorities to stop the registration of the plots. It is though an action too late since a substantial number of plots have already been sold and also occupied after construction of houses resulting in the present petition. PDA's action is akin to trying to close the stable after the horse has bolted.

The Commission observes that people invest their lifelong earnings in purchasing a dwelling unit or a plot in an approved colony duly licensed by the licencing authority like PDA, with their sacred belief in the enforceability of the conditions of licence and robust development of requisite civic facilities including well-developed local electricity distribution (LD) system and electricity connections. However, rampant violations of the conditions of licence by the developers, e.g., non-development of LD system as in the instant case coupled with inexcusable inaction by the concerned departments results in undue harassment to the residents. In this backdrop, negligent attitude of the licencing authorities and their turning a blind eye towards violations by the developers is alarming. The Commission directs the Secretary, Department of Housing and Urban Development, Govt. of Punjab and the Chief Administrator, PDA to identify the lapses which led to collusive or lenient oversight of PDA officials regarding the violation of the conditions of licence by the developer i.e. M/s. Bajwa Developers Pvt. Ltd. and further fix responsibility and to take appropriate action against those responsible and also remedial measures to prevent recurrence of such lapses.

The developer has violated the conditions of license and has not completed the LD system in the colony. Even after applying for revised NOC, the specified requirements w.r.t. documents, Bank Guarantee etc. have not been fulfilled by the developer, thus leaving the process midway. Further, inspite of repeated notices given to the developer, his representative appeared before the Commission only after cost of Rs.1 lakh was imposed on him. Even then, the developer has failed to make written submissions in



respect of the petition. In view of the developer's non-compliance with the conditions of license and its grossly irresponsible conduct resulting in undue harassment of the public, PDA should take, as a deterrent, immediate penal action against the developer M/s. Bajwa Developers Pvt. Ltd. and its Director(s) as per law.

The Secretary, Housing and Urban Development, Govt. of Punjab may also look into inserting appropriate checks in licensing conditions to plug the loopholes which enable such developers to get away with encashing the benefits of their license without meeting their obligations to the detriment of their customers/buyers of plots. PSPCL also needs to take similar action against those responsible for unbridled extension in the load given to NRS connection and its illegal extension to the residents of the colony in the instant case without any field check, that too inspite of payments outstanding and license conditions being violated by the developer.

PSPCL has intimated that the cost of completing the LD system in the colony and giving connectivity to the colony is Rs. Rs.5.38 crores (approx.) and that PUDA/PDA may be directed to place requisite funds at the disposal of PSPCL for releasing connectivity to the colony and completion of balance internal LD system. However, PDA has filed an affidavit stating that an amount of approx. Rs. 495.50 lakh is required for completing the development works in the colony such as roads, water supply, sewerage, LT and street light, which is double of the bank guarantee amounting to approx. Rs. 2.77 crore available with them. Further, by referring to Section 5(14), (15) and (16) of the PAPER Act, 1995, as reproduced in Para 17.1 above, PDA has

submitted that the issue of encashment of the bank guarantee would arise only if the colony is taken over by the Competent Authority, after cancelling the license for violating its conditions, whereas, considering the various aspects, the Authority has not taken over the colony. Thus, at this stage, the bank guarantee of the colonizer/developer could not be encashed/transferred to PSPCL for completing LD system and connectivity charges. However, the Commission is of the view that the issue regarding taking over of the colony is an internal matter of PDA. Moreover, in this case, the licence also stands expired. In fact, PDA should have acted long back to safeguard the interests of the residents by taking appropriate penal action as per law against the developer for his non-compliance with the conditions of licence. As the licensing authority, PDA should have ensured the completion of development works through the developer or should itself have come forward to effect the same through the proceeds of bank guarantee which may have been sufficient had the necessary steps been taken by PDA long back before the cost increased due to time-inflation. Now PDA cannot escape from its responsibility of ensuring developer's compliance with the conditions of the licence given by it on the basis of which the buyers have entrusted their lifelong savings with the developer. Moreover, the Commission has come across Department of Housing and Urban Development, Government of Punjab memo No. 12092-98 dated 18.06.2013 which reads as under:

*“The promoter brought to the notice of the government that as per the provisions of PAPRA they have to deposit bank guarantee equivalent to 25 percent of the cost of internal development works to the licensing authority. But the Punjab*

*State Power Corporation Limited (PSPCL) again asks them to deposit 150% of the estimated cost of electric works in the colony with it as bank guarantee. This is double bank guarantee for the same work puts extra burden on the promoter. It should either be the total responsibility of licensing authority to transfer the bank guarantee taken in lieu of electric works in the colony to PSPCL or the estimated cost for providing the electric works be excluded from the total estimated cost for internal development and for electric works the PSPCL should take separate bank guarantee.*

*The Govt. has agreed to the suggestions of the Promoters and has decided that from now onward no bank guarantee against electric works to be carried out by the Promoters in his project under PAPRA 1995 shall taken by the licensing authority.”*

It is amply clear from above mentioned Govt. of Punjab memo dated 18.06.2013 that the Bank Guarantee taken from the developers before the issue of this memo, as was the case in the instant matter, included and covered the electric works to be executed by the developer.

However, no action by PDA against the developer seems to have been taken except stopping the registration of plots that too only now vide memo dated 19.05.2021. PDA is thus held responsible for breaching public trust and for failure to implement and monitor licensing conditions and is directed to immediately arrange either directly or through the developer, Rs.5.38 crore to enable PSPCL to complete of the LD system in the colony and provide proper connectivity to the residents.

Vide order dated 30.07.2021, PSPCL was directed to release regular electricity connections to the residents of the Sunny Enclave, Devigarh Road, Patiala after recovery of service

connection charges and other applicable charges approved by the Commission and subject to the formation of Resident Welfare Association for taking over the electricity connections for maintaining common services such as street lights, water works etc. PSPCL was also to keep a separate account of the expenditure incurred on release of these connections and recover the amount from the developer or the delinquent officials/officers as per applicable law. The Resident Welfare Association formed by the residents of the colony, the legitimacy and credentials of which was to be ensured by PSPCL, was to take the electricity connection for common services from PSPCL. PSPCL was also directed to ensure that the developer doesn't remove any part whatsoever of the electricity system installed by him in the colony. PSPCL was further directed to take suitable action against the developer including but not limited to disconnection and recovery of the amount spent/to be spent on developing and completing the LD system in the colony and to investigate the lapses that led to the inexplicable extension in load of NRS connection of Sh. Jarnail Singh and illegal supply of electricity from this connection to the residents of the colony and to fix responsibility to prevent any such recurrence in the future.

The matter regarding release of permanent electricity connections to any other residents is to be decided in Petition No. 24 of 2022 which is under consideration of the Commission.

Further, the licensing Authority i.e., PDA and the distribution licensee i.e., PSPCL are also directed as under:

**Licensing Authority i.e., PDA**

1. Compliance of the conditions of licence by the developers including the one for obtaining NOC from distribution licensee

i.e., PSPCL be monitored regularly and a multilateral institutional mechanism be immediately set up. A mechanism be set up to ensure that the license conditions are complied with within the specified period failing which the required action as per law be initiated by the licensing authority.

2. To prevent cheating of customers, licensee should be allowed to sell plots, only after complying with the licensing conditions.
3. Clearance from the distribution licensee i.e., PSPCL be taken before giving completion/partial completion certificate for the colony.
4. Immediate action be taken against the developer i.e. M/s. Bajwa Developers Pvt. Ltd and its Directors as per law.

#### **Distribution Licensee i.e. PSPCL**

1. Expeditious reporting to the licensing authority be ensured in case the developer fails to obtain the NOC within the stipulated time or fails to implement the conditions of licence related to PSPCL/electricity system.
2. It must be ensured that temporary electricity connections are issued only in the name of the developer after the issue of NOC.
3. It must be ensured that the temporary connection is used only for the purpose for which it has been given.
4. The timeline to set up the LD system must be a part of the NOC
5. Formal mechanism be set up immediately to undertake periodic checking vis-à-vis the timelines for erection of the LD system as per the conditions of NOC.

6. Immediate action be taken against the developer as per law for effecting the recovery of expenditure for laying the LD system in the colony.
7. The expenditure to lay the LD system and to release electricity connections be recovered from the service connection charges, recovery from encashment of the Bank Guarantee with PDA/its own resources, the developer and from errant PSPCL personnel. Any uncovered expenditure will have to be borne by PSPCL and will not be allowed as a pass through in the ARR.

Since this is a serious issue affecting many similar licensed colonies and their residents both in Local Govt. and Development authority areas, this Commission had earlier flagged the issued and also formally discussed it in the meetings with RERA, PSPCL and with senior Govt. representatives to bring about appropriate policy changes to prevent similar violations in the future. As yet no action seems to have been taken to address the problem. Thus, in addition to the above, copies of this order may be addressed to the policy making authorities in the Local Govt. and Housing and Urban Development Departments who may now coordinate to devise a comprehensive policy to plug above loopholes in the licensing procedures and conditions so that the hard-earned savings of common citizens, who aspire to acquire plots for building their homes, are not jeopardized. Keeping that in mind, a copy of this order may be furnished to the Principal Secretaries of the above departments for further effective policy intervention.

Secretary, PSERC may also forward a copy of this order to the Chief Secretary, Punjab as to apprise him of the issue so that

coordinated policy correction can be done in the concerned departments and linked municipal and Development authorities.

The petition is accordingly disposed of.

Sd/-

(Paramjeet Singh)  
Member

Sd/-

(Viswajeet Khanna)  
Chairperson

Chandigarh

Dated: 12.09.2022

