

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

**Petition No. 20 of 2021  
alongwith IA No. 09 of 2021  
and Petition No. 39 of 2021  
Date of Order: 22.03.2022**

Petition under section 94 and other relevant provisions of the Electricity Act, 2003 read with condition No. 24 of the General Conditions of Tariff contained in tariff order for the year 2020-21 and similar condition(s) in the tariff orders for the year 2019-20 passed by the Commission and other relevant rules and regulations as approved by the Commission including 64,68,69,70,71 and 72 and other relevant provisions of Chapter XIII of the Conduct of Business Regulations 2005 as amended up to date for Clarifying/ Interpreting the provisions of the tariff orders for the year 2019-20 and 2020-21 to the effect that 25% increased energy charges shall not be levied upon all Govt. hospitals and hospitals run by charitable institutions covered under Section 80-G of Income Tax Act, 1961 and to levy the same only upon the private hospitals and MRI/CT scans centers getting continuous supply through independent feeders under BS Schedule, as already exempted in the tariff order for the year 2018-19 AND Carry out the necessary amendment(s) to the effect.

AND

In the matter of: Mohan Dai Oswal Cancer Treatment and Research Foundation, GT Road, Sherpur Bypass, Ludhiana, through its authorized Representative Sh. H.N. Singhal.

2. Dayanand Medical College and Hospital, Civil Lines Ludhiana, through its Chief Electrical Engineer, Sh. Raj Kumar Goyal.

.... Petitioners

1. Punjab State Power Corporation Ltd. (PSPCL), having its office at the Mall, Patiala, through its Chairman-Cum-Managing Director.
2. Deputy Chief Engineer, City East Circle, PSPCL, Ferozpur Road, Ludhiana.
3. Deputy Chief Engineer, City West Circle, PSPCL, Ferozpur, Road Ludhiana.
4. Sr. Executive Engineer, CMC (Special Division), Ludhiana.
5. Sr. Executive Engineer, City West Division, Fountain Chowk, Ludhiana.
6. AEE (Commercial) City East Division (Special), PSPCL, Ludhiana.
7. AEE (Commercial) City West Division (Special), PSPCL, Ludhiana.

.....Respondents

Petition No. 39 of 2021

Petition under Section 94 and other relevant provisions of the Electricity Act 2003 read with Condition No. 24 of the General conditions of tariff contained in tariff Order for the year 2020-21 and similar conditions(s) in the tariff orders for the year 2019-20 passed by the Commission and other relevant rules and regulations as approved by the Commission including 64,68,69

70,71 and 72 and other relevant provisions of chapter XIII of the Conduct of Business Regulations 2005 .

AND

In the matter of: Sh. Nihal Singh Pahwa Charitable Hospital, situated at Industrial Area-B, Ludhiana through its authorized Representative Sh. Simrinder Singh, S/O Sh. Surjit Singh

.....Petitioner

Versus

1. Punjab State Power Corporation Ltd. (PSPCL) having its office at the Mall, Patiala, through its Chairman-Cum-Managing Director.
2. Chief Engineer, Central Zone, Ferozpur Road, Ludhiana.
3. Additional Superintending Engineer, PSPCL, Janta Nagar, Ludhiana.
4. AEE (Commercial), West City, PSPCL Janta Nagar, Ludhiana.

.....Respondents

Present: Sh. Viswajeet Khanna, Chairperson  
Ms. Anjuli Chandra, Member  
Sh. Paramjeet Singh, Member

**Order**

Mohan Dai Oswal Cancer Treatment and Research Foundation, Ludhiana & Dayanand Medical College and Hospital, Civil Lines, Ludhiana, filed petition No. 20 of 2021 for clarifying/interpreting the provisions of the tariff order for the year 2019-20 and 2020-21 to the effect that 25% increased energy charges shall not be levied upon hospitals run by

charitable institutions covered under Section 80-G of the Income Tax Act, 1961, and setting aside the communications issued by PSPCL to the petitioners demanding 25% extra energy charges in terms of circulars No. 25/2019 and 28/2020. An IA No. 09 of 2021 was also filed for staying the operation of the impugned demand raised by PSPCL, restraining PSPCL from taking any coercive action against the petitioners. The petition was admitted vide order dated 04.05.2021. PSPCL filed its reply to the petition vide memo No. 5988 dated 27.04.2021 and the petitioners filed rejoinder dated 19.06.2021 to the reply filed by PSPCL. PSPCL also filed reply to the I.A vide e-mail dated 22.06.2021. The petition alongwith IA No. 09 of 2021 was taken up for hearing on 23.06.2021 and PSPCL was directed to submit the list of similar Charitable Hospitals in the State of Punjab, District wise, alongwith the billing details for FY 2019-20 and FY 2020-21 on affidavit. PSPCL submitted information vide memo No. 6801 dated 27.07.2021

2. The Petition No. 39 of 2021 filed by S. Nihal Singh Pahwa Charitable Hospital, Ludhiana, involved the same issue and the counsel for the petitioner as well as the representative appearing on behalf of PSPCL submitted that issue involved in both the petitions is the same. PSPCL had filed its reply in petition No. 39 of 2021 and the learned counsel appearing for the petitioner submitted that he does not want to file rejoinder in Petition No. 39 of 2021 and adopts the rejoinder filed in petition No. 20 of 2021. The petition No. 39 of 2021 was clubbed with petition No. 20 of 2021 and was heard along the petition No. 20 of 2021. After hearing the parties on 28.07.2021, Order was reserved. However, vide Order dated 02.11.2021, PSPCL was directed to confirm the number of similar charitable hospitals and their billing details. PSPCL filed the information vide memo No. 7833

dated 14.12.2021 and the petitioners filed additional submissions which were received on dated 03.02.2022.

### **Submissions of the Petitioners**

- 3.1 The petitioners have submitted that Mohan Dai Oswal Cancer Treatment and Research Foundation, Ludhiana, Dayanand Medical College and Hospital, Civil Lines, Ludhiana & S. Nihal Singh Pahwa Charitable Hospital, Ludhiana are societies registered under the provisions of the Societies Registration Act, 1860 and are Charitable Institutions running Charitable Hospitals at Ludhiana since 1964 and 1980 respectively. The Charitable Hospitals have been recognized by the Government and are availing exemption under Section 80G of the Income Tax Act, 1961.
- 3.2 That the Petitioners are the bulk supply consumers of PSPCL, through independent feeders. Mohan Dai Oswal Cancer Treatment and Research Foundation is having a sanctioned load of 3816 KW /2000 KVA contract demand, Dayanad Medical College and Hospital, Civil Lines Ludhiana is having a sanctioned load of 4995.25 KW / 5000 KVA contract demand and S. Nihal Singh Pahwa Charitable Hospital, Ludhiana is having a sanctioned load of 796KW/175KVA contract demand.
- 3.3 That as per commercial circular No. 24 of 2018 the Petitioners were exempted from additional 25% charges on the energy charges in terms of the tariff order but PSPCL in a most illegal, arbitrary, unjust and unsustainable manner directed the petitioners to deposit 25% enhancement charges in terms of the commercial circular No. 25/2019 and 28/2020 and vide communication dated 05.02.2021, 08.02.2021 and 25.03.2021. The petitioners have been directed to deposit a sum of Rs. 4,76,25,818/- Rs. 1,16,80,758/- and Rs. 4,64,458/- respectively. PSPCL

issued bill dated 22.02.2021 for the power consumption for the billing cycle 22.01.2021 to 21.02.2021 to S Nihal Singh Pahwa Charitable Hospital, at the enhanced tariff rate i.e. Rs. 7.56 KWh instead of Rs. 6.05/- KWh and vide communication dated 24.03.2021 PSPCL was requested to modify/rectify the bill but PSPCL instead of rectifying its faulty/illegal action of wrongly charging 25% extra energy charges issued another supplementary bill dated 15.03.2021 demanding a sum of Rs. 478206/- on account of 25% extra energy charges including the late payment surcharge. PSPCL further vide communication dated 25.03.2021 demanded Rs. 464458/- for the period June 2019 to January 2020 on account of 25% extra energy charges.

- 3.4 That the demand raised by PSPCL is belated as the same pertains to the period June 2019 to December 2020. The Charitable Hospitals are covered under Section 80G of the Income Tax Act and the day today expenses of the Hospital are met from the voluntary contributions and donations made by the public and the trustees. If PSPCL intended to levy 25% additional charges at the time the commercial circulars were issued, the Petitioners would have taken up the matter with the management to continue availing the facility with higher energy charges or to seek transfer to domestic category. The Petitioners took up the issue with PSPCL to withdraw the wrongly levied energy charges or in the alternate prayed for the change of the category from bulk supply to domestic supply as per CC/25/2019 from 01.06.2019.
- 3.5 That Dayanand Medical College and Hospital, Ludhiana, while disputing the demand raised PSPCL in terms of communication dated 05.02.2021 requested to withdraw the said demand, submitting that PSEB had also accepted their institution as charitable institution vide its decision in the

Board of Directors and therefore the demand of Rs. 4.02 Crores was set-aside. Further, the status of their institution as a charitable institution has also been recognized and accepted by Punjab State Electricity Regulatory Commission, vide its order dated 01/12/2010 passed in petition no. 39 of 2010. Therefore, their institutions cannot be treated as Private Hospitals and the provisions of C.C. No. CC25/2019 and 28/2020 cannot be invoked for the levy of 25% enhancement energy charges due to independent feeder supply. Further, appreciating the nature of constitution of the charitable institutions and role played by them, the charitable institutions till 2019, were exempted from the levy of 25% enhancement energy charges for the continuous supply from the independent feeder, in the following words.

*Schedule of Tariff for Bulk Supply (BS)*

*S1/11.3 Tariff*

*ii) The energy charges shall be increased by 25% in case of existing private hospitals & MRI/CT Scan centres getting continuous supply through independent feeders under BS Schedule. All Govt. hospitals and hospitals run by charitable institutions covered under Section 80-G of Income Tax Act, 1961 shall be exempted from levy of 25% extra energy charges. ....”*

Therefore, the said exemption to the charitable institutions seems to have been inadvertently overlooked.

- 3.6 That the Deputy Chief Engineer, Commercial, PSPCL, Ludhiana vide its communication dated 17.02.2021 while apprising Chief Engineer PSPCL, Patiala about the request made by Mohan Dai Oswal Cancer Treatment and Research Foundation, Ludhiana, for imposition of extra tariff of 25% of

energy charges, requested the Commission for considering the matter in light of the facts mentioned by the Petitioners. A similar type of issue arose in the year 2009-10. Dayanand Medical College and Hospital, Civil Lines Ludhiana, filed petition No. 39 of 2010 before the Commission seeking clarification to the extent that the levy of 25% extra tariff is applicable on Private Hospitals only, other than Charitable hospitals. Petition No. 39 of 2010, was disposed of vide order dated 01.12.2010 and the Commission duly clarified that the exemption from levy of 25 % extra charge tariff would be available to all government hospitals and hospitals run by charitable institutions exempted under section 80G of the Income Tax Act, 1961.

- 3.7 That the Commission while passing the tariff order for the year 2020-21, enunciated by PSPCL by way of commercial circular No. 28/2020 dated 03.06.2020, did not change the clause with regard to 25% energy charges and maintained status quo in terms thereof, apparently while interpreting that 25% increased energy charges shall not be levied upon All Govt. hospitals and hospitals run by charitable institutions covered under Section 80-G of Income Tax Act, 1961, as specifically mentioned in the tariff order for the previous year 2018-19 and the benefit therein of the exemption of 25% increased energy charges rendered to all Govt. hospitals and hospitals run by charitable institutions covered under Section 80-G of Income Tax Act, 1961 shall continue even during the year 2020-21.
- 3.8 That the interpretation made by PSPCL in this regard is totally faulty and cannot be relied upon. Had this Commission intended to impose the 25% extra energy charges upon Govt. hospitals and hospitals run by charitable institutions covered under Section 80-G of Income Tax Act, 1961, the same would have been categorically stipulated by the Commission in the tariff orders for the subsequent years. In fact, on a perusal of the tariff



orders from the year 2018 to 2021 it is apparent that the Commission revised the clause with regard to 25% extra energy charges from the tariff order for the year 2018-19, only to bring the private hospitals and MRI/CT Scans Centres getting continuous supply through independent feeders under BS Schedule under the Umbrella of 25% extra energy charges. Therefore, the interpretation made by PSPCL in this regard and levying 25% extra energy charges upon the Petitioners is patently bad in the eyes of law and cannot be sustained.

3.9 That PSPCL without considering this aspect has mechanically passed the impugned order which carries no sanctity in the eyes of law and as such deserves to be set aside. In case the Petitioners are not exempted from the extra 25% energy charges and the illegal demand raised by PSPCL is not withdrawn, the petitioners shall suffer irreparable loss.

3.10 The petitioners have prayed to:

- i. Clarify /Interpret the provisions of the tariff orders for the year 2019-20 and 2020-21 to the effect that 25% increased energy charges shall not be levied upon All Govt. hospitals and hospitals run by charitable institutions covered under Section 80-G of Income Tax Act, 1961 and to levy the same only upon the private hospitals and MRI/CT Scans Centres getting continuous supply through independent feeders under BS Schedule, as already exempted in the tariff order for the year 2018-19.
- ii. Carry out the necessary amendment(s) to the effect that 25% increased energy charges shall not be levied upon All Govt. hospitals and hospitals run by charitable institutions covered under Section 80-G of Income Tax Act, 1961, in the tariff orders for the years 2019-20 onwards, if need be;

- iii. Set aside the communications dated 08.02.2021, 05.02.2021 and 15.03.2021 wrongly issued by PSPCL, upon the Petitioners respectively, whereby, the Respondent has wrongly demanded 25% extra energy charges from the Petitioners in terms of commercial circulars No. 25/2019 and 28/2020;
- iv. Set aside all the similar/subsequent/prior communications, whereby, the PSPCL has raised the impugned demand(s) upon the Petitioners on account of 25% extra energy charges in terms of commercial circulars No. 25/2019 and 28/2020.
- v. For any other relief in favour of the Petitioner as the Commission may deem fit in the facts and circumstances of the case.

It is further prayed that during the pendency of the instant petition PSPCL may kindly be restrained from taking any coercive steps against the Petitioners in the garb of the impugned communications dated 08.02.2021, 05.02.2021, 15.03.2021 and 25.03.2021.

### **Submissions of PSPCL**

- 4.1 PSPCL filed reply to the petitions submitting that Mohan Dai Oswal Cancer Treatment and research Foundation is consumer of HT Bulk Supply (HT BS) category bearing Contract Account No.:3002984464 Legacy Account No.:E12BS0200001 having a sanction Load of 3816 K.W and Sanction Contract Demand of 2000 KVA. A revised billing statement from CBC cell PSPCL Ludhiana bearing No.:96/2021 dated 13/01/2021 was received through which CBC cell PSPCL Ludhiana overhauled the account of Mohan Dai Oswal Cancer Treatment and Research Foundation for Rs. 1,16,80,759/- from June 2019 to December 2020 as per CC25/2019 and 28/2020 on account of 25%increased Energy Charges. As per CC25/2019 and 28/2020 there is no clause in BS tariff for not levying 25% increased

energy charges on government hospitals and hospitals run by charitable institutions covered under section 80-G of income tax act,1961. On receipt of RBS from CBC Cell PSPCL Ludhiana office memo No.:543 dated 08.02.2021 was issued to the said charitable hospitals to deposit the amount in question.

- 4.2 That on receipt of grievance of the consumer, the matter was sent to Chief Engineer Commercial PSPCL Patiala Vide memo no.1458 dated 17.02.2021 of Dy. Chief Engineer City East Circle, PSPCL, Ludhiana. The matter was also taken by the Director Commercial PSPCL Patiala vide their office memo No.:551/SSD/DD dated 18.02.2021, with PSERC and it was advised that for seeking any clarification/interpretation of the order a petition is required to be filed. The amount raised by PSPCL was not belated and was well within limit as per the rules and regulations of PSPCL. The commercial circulars 25/2019 and 28/2020 were already available on PSPCL web site in a transparent manner.
- 4.3 That commercial circular 25/2019 dated 31.05.2019 does not contain any such provision under BS category for not levying 25% increased energy charges on government hospitals and hospitals run by charitable institutions covered under section 80-G of income tax act,1961. Even the commercial circular no. 28/2020 dated 03.08.2020 does not contain any such provision under BS category for not levying the 25% increased energy charges on government hospitals and hospitals run by charitable institutions covered under section 80-G of income tax act,1961. Hence the amount raised by CBC Cell, PSPCL, Ludhiana by RBS bearing No.:96/2021 dated 13/01/2021 is correct and recoverable.

4.4 Even the petitioners wrongly presume that the Commission wanted to continue to give relaxation to the petitioners and other such consumers and that 25% increased energy charges should not be levied on government hospitals and hospitals run by charitable institutions covered under section 80-G of income tax act,1961. It is the wrong interpretation of petitioners as there is no such clause under BS category tariff in commercial circular 25/2019 dated 31.05.2019 and 28/2020 dated 03.08.2020. The order issued by PSPCL is as per the commercial circular 25/2019 dated 31.05.2019 and 28/2020 dated 03.08.2020.

#### **Rejoinder filed by the Petitioners**

5. The petitioners filed rejoinder to the reply filed by PSPCL reiterating its earlier submissions and further submitted that in case of change in tariff, PSPCL was required to inform the Petitioners regarding change of tariff w.e.f. 01.06.2019 in terms of CC No 25/2019 (imposing 25% increased energy charges on Charitable Hospitals getting supply through independent feeders) read with CC No 24 of 2018 (granting exemption to Government Hospitals and Charitable Hospitals from levy of 25% increase in energy charges) w.e.f. 01.06.2019.

5.1 That Mohan Dai Oswal Cancer Treatment and Research Foundation's sister companies are regularly filing the objections on ARR of PSPCL and also attending public hearings being conducted prior to the issue of tariff Order. As per the knowledge of the petitioners and records, no proposal was submitted to the Commission by PSPCL for treating the charitable hospitals as private hospitals for the purpose of applicability of 25% surcharge on energy charge during the submission of ARR for 2019-20 or thereafter. Further, there are no speaking orders in Chapter 4 titled "Tariff

Related Issues” of the Tariff Order 2019-20 granting approval of the Commission as is mandatory for such alterations. Thus, by no stretch of imagination the change of tariff as alleged by PSPCL has taken place and the assumption/interpretation drawn by PSPCL is faulty and illusionary, which needs to be set aside.

- 5.2 That even as per the case set up by PSPCL, in case of change in condition of tariff, it is also not explained as to how PSPCL has assumed that the Petitioners category still remains the BS category and not Domestic Supply (where the schedule provides for the Charitable Hospitals) during the period. In fact, even if the petitioners are to be treated as private hospitals, the Petitioners should have been given the option to choose from being treated as Private Hospitals and avail uninterrupted supply with 25% additional energy charges or shift to Domestic Category and complete the formalities. Had this been notified to the Petitioners, the Petitioners would have considered the options and Governing Bodies of the Petitioners would have taken the appropriate decision. However, PSPCL first chose to remain silent for period of 20 months and thereafter unilaterally chose to change the Petitioners status to treat them as Private hospitals in-spite of being entitled to be treated as a charitable hospital or keep the status of the Petitioners as Charitable hospital and get itself covered under Domestic Category.

### **Additional Submissions filed by the Petitioners**

6. The petitioners reiterating their earlier submissions have further submitted that M/s International Hospital Limited having a multiple specialty hospital at Amritsar filed petition No. 66 of 2021 alongwith IA No. 24 of 2021 for clarifying/interpreting the applicability of provisions of the tariff orders

regarding charging 25% increased energy charges from the year 2010 onwards till date and vide Order dated 15.12.2021 the Commission issued notice to PSPCL to file its reply.

### **Observations and Decision of the Commission**

- 7.1 The Commission has carefully gone through the submissions made in the petition, replies of PSPCL, rejoinders and arguments made during the hearings. The findings and decision of the Commission are as here under:

The Commission observes that the Schedule note iii) of Schedule SVII.3 (Schedule of tariff for Bulk Supply) listed in Tariff Order for FY 2019-20 and FY 2020-21 specifies that:

“Energy charges shall be increased by 25% in case of private hospitals & MRI/CT Scan centres getting continuous supply through independent feeders under BS Schedule.”

It is amply clear from a bare reading of the above mentioned schedule note that the ibid enhancement of energy charges is applicable for all private hospitals & MRI/CT scan centres and the Commission has not allowed any exemption to any private hospitals including private charitable hospitals. We find no ambiguity in the relevant provisions of the Tariff Order. Hence, no further clarification/interpretation is required.

Moreover any amendment in schedule of Tariff to provide relief of 25% increased charges to Charitable Hospitals covered under Section 80-G of Income Tax Act as sought by the petitioners will lead to undue over burdening of other categories consumers. There is no logic to giving any additional relief based on section 80-G exemption in the income tax Act. The relief under that provision is linked to the liabilities of the

petitioner under the income tax Act and there is no logical reason to provide additional relief to the petitioners in the applicable power tariff. In view of the above, the petitioners prayer to set aside all the communications of PSPCL seeking 25% extra energy charges is rejected.

- 7.2 The petitioners have further submitted in the additional submissions that petition No. 66 of 2021 is pending adjudication before the Commission for clarifying/interpreting the applicability of the provision of the tariff Orders regarding charging 25% additional energy charges from the Year 2010 onwards. However, the petitioner has alleged in petition No. 66 of 2021 that the hospital had never agreed for paying any 25% extra charges for getting power as an essential service and despite being covered under 'essential services' the hospital never got uninterrupted power supply and has also submitted the list of the power cuts in the present petition which interrupted the constant supply. Reliance on petition No. 66 of 2021 by the petitioners in the present petition is misconceived. Accordingly, the additional prayer of the petitioner for amendment in Schedule of Tariff as is claimed in petition No. 66 cannot be accepted in the current petition. However, the petitioner is at liberty to respond to the public notice and state its views/comments on the issue for consideration of the Commission in the tariff petition filed by the distribution licensee every year of subsequent year(s). Even otherwise the issue with regard to validity of 25% additional charges for uninterrupted supply would be determined in that petition.

In light of the above discussion, the issue of clarification of exemption of 25% increased charge under Section 80 is dismissed. IA No. 09 of 2021 stands disposed of accordingly. With regard to the issue that the petitioner is not getting un-interrupted supply on continuous basis, and still being charged 25% additional charges being arbitrary, the issue is similar to

issues raised in petition No. 66 of 2021 pending with the Commission for adjudication and the same would be decided therein. The Petitioners would be at liberty to raise this issue in the petition No. 66 of 2021.

Sd/-

(Paramjeet Singh)  
Member

Sd/-

(Anjuli Chandra)  
Member

Sd/-

(Viswajeet Khanna)  
Chairperson

Chandigarh  
Dated: 22.03.2022

