IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APL No. 258 OF 2017

Dated: 17th November, 2025

Present: Hon`ble Ms. Seema Gupta, Technical Member (Electricity)
Hon`ble Mr. Virender Bhat, Judicial Member

In the matter of:
M/S ASIAN FINE CEMENTS PVT. LTD
Through its Director,
S.C.F. No.270, Motor Market,
Mansa Devi Road,
Mani Majra,
Chandigarh, (UT) PIN – 161001 … **Appellant(s)**

VERSUS

1. **PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**
Through its Secretary
SCO 220-221, Sector 34A,
Chandigarh – 160022. … **Respondent No.1**

2. **PUNJAB STATE POWER CORPORATION LIMITED**
Through its Chairman and Managing Director
The mall, Patiala – 147001
Punjab … **Respondent No.2**

Counsel on record for the Appellant(s)	:	Sourav Roy Anshu Deshpande Pranav Bafna for App. 1
Counsel on record for the Respondent(s)	:	Sakesh Kumar for Res. 1 Meenakshi Midha Kapil Midha for Res. 2

JUDGMENT

(PER HON'BLE MRS. SEEMA GUPTA, TECHNICAL MEMBER - ELECTRICITY)

1. The instant appeal is preferred by the Appellant - Asian Fine Cements Pvt. Ltd challenging the order dated 29.03.2017 (**"impugned Order "**) passed by the Punjab State Electricity Regulatory Commission (**Respondent No1 / PSERC/ State Commission**) in Petition No 63 of 2016. By way of the Impugned Order, State Commission has held that though the 66 kV line to the Appellant premises is extended from the nearest 66 kV grid focal point Rajpura, the load of the Appellant is actually fed from 220kV mother substation Rajpura and thus the 66 kV line from 220 kV substation Rajpura to 66 kV substation, Focal Point Rajpura is the common point of line for which Appellant is liable to pay proportionate cost of the line including bay in terms of Regulation 9.1.1 (a) of the Supply Code 2014 **(" Supply Code")** in addition to the full cost of 66 kV service line from Focal point Rajpura to the premises of the Appellant.

2. The facts, in brief, which lead to filing of the instant appeal, are as follows:

Asian Fine Cements Pvt. Ltd. **("Appellant"**) has set-up a fine cement grinding plant at Rajpura Road in Patiala. Appellant applied for an electricity connection for the said plant with load of 7500 KW and contract demand (CD) of 6500KVA. The Appellant was granted/released a connection from the 66 kV sub-station Focal Point Rajpura. The Appellant is aggrieved because the Punjab State Power Corporation Ltd (**"PSPCL/Respondent No. 2"**), vide demand notice dated 18.05.2016, has imposed charges beyond the 66 kV sub-station at Focal Point Rajpura from which the connection was released i.e. proportionate cost for a line from 220 kV Rajpura substation to the 66 kV sub-station at Focal Point Rajpura, though, this line is an existing line and levy of such cost was upheld by State Commission in the Impugned Order.

It is of relevance to note following dates

DATE	PARTICULARS
01.10.2014	The Appellant applied for electricity connection for setting up its fine cement grinding plant with load of 7500 KW and contract demand of 6500 KVA.
01.10.2014	Feasibility Clearance Committee (**"FCC"**) of PSPCL granted feasibility clearance in its meeting on 24.09.2014 and communicated vide letter dated 01.10.2014.
27.01.2015	Upon objection from the Appellant, PSPCL issued a revised feasibility clearance on 30.12.2014 which was communicated on 27.01.2015.
11.03.2015 till 15.06.2015	Appellant filed Petition No. 12 of 2015 before State Commission against the revised feasibility clearance communicated on 27.01.2015. The State Commission, through interim order dated 15.06.2015 directed PSPCL to give a personal hearing to the Appellant with regard to their representation objecting feasibility clearance
17.07.2015	PSPCL accorded personal hearing to the Appellant on 03.07.2015 and vide its letter dated 17.07.2015 upheld its earlier feasibility clearance granted in

	meeting dated 30.12.2014, conveyed vide letter dated 27.01.2015.
18.05.2016	PSPCL issued the Demand Notice No 1333 for Rs. 3,65,85,380 as Service Connection Charges.
30.05.2016	Upon request from Appellant, PSPCL provided break-up of the payments demanded under 4 heads - 1. As per Estimate No. 1219/10-05-2016: Rs. 2,42,75,000. 2. Out Bay Charges Grid Naushera: Rs. 49,23,000. 3. Back up A to E(from 220kV Rajpura to 66 kV FP Rajpura) @18.36 X 57 X 6500: Rs. 68,02,380. 4. Proportionate Bay Charges @ 90,000 X 6.500 MVA: Rs. 5,85,000. PSPCL also provided a approved sketch plan of the Appellant's line.
12.06.2016 & 02.07.2016	Appellant objected to the demand raised stating that it was in contravention of Regulation 9.1.1(a)(ii) of the Supply Code, 2014 in the relation to item 3&4 above.
25.07.2016/ 27.07.2016	Appellant deposited Rs. 2,42,75,000 with PSPCL which included full payment towards estimate No. 1219/10-05-2016 (item 1) and revised payment of Rs. 39,23,000 towards Out Bay Charges at Focal Point Rajpura (item 2).

01.08.2016	Appellant filed the Petition No. 63 of 2016 before State Commission challenging the Demand Notice issued by PSPCL (item 3 &4).
29.03.2017	Impugned Order passed in Petition No. 63 of 2016. Wherein State Commission upheld the levy of proportionate cost of common portion of main line from 220 kV substation Rajpura to 66 kV Focal Point Rajpura

Aggrieved by the Impugned Order, Appellant filed instant appeal before this Tribunal on 22.04.2017 with following prayers :

> *"It is, therefore, respectfully prayed that this Appeal may kindly be allowed and following reliefs granted in favour of the Appellant:-*
>
> *A Quash and set aside the impugned order dated 29.03.2017 being in violation of the regulation 9.1.1(a)(ii) of the Supply Code-2014;*
>
> *B. Necessary action under section 142 and 146 of the Electricity Act, 2003 may kindly be taken against the PSPCL and its officials for violating the provisions of the Regulation 9.1.1(a)(ii) of the Supply Code-2014 by raising the impugned demand of Rs. 68,02,380/- and Rs. 5,85,000/- in violation of the above said regulation, in the interest of justice.*
>
> *C. It is, further, prayed that during the pendency of the present petition before this Hon'ble Tribunal the respondent No-2 may kindly be directed to start the work of laying the line as the*

Appellant has already deposited Rs. 2,42,75,000/- as per estimate prepared by the respondent and Rs. 39,23,000/- as bay charges and further to extend time for.

D. Call for the records of the case from the respondents.

E. Any other relief or order which this Hon'ble Commission may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the Appellant, in the interest of justice."

Heard Mr Sourav Roy, learned counsel on behalf of Appellant, Mr Sakesh Kumar, learned counsel on behalf of State Commission (Respondent No 1) and Ms Meenkshi Midha, learned Counsel for PSPCL (Respondent No 2). Mr Dharamvir Kamal, Additional superintending Engineer of PSPCL also made submissions. Their submissions are summarised below:

Submissions by the Appellant

3. Learned counsel for the Appellant has contended that The Impugned Order ought to be set aside as the Demand Notice is contrary to law as

1) Section 46 of the Act states that a distribution licensee is entitled to charge for supply of electricity expenses which are "reasonably incurred" in providing the electric line or electric plant.

2) Regulation 9.1.1(a)(ii) of the Supply Code allows recovery of expenses only "upto" the feeding substation and which, in the present case, is the 66 kV Focal Point Rajpura and not the 220 kV Rajpura Sub Station.

4. Learned counsel for the Appellant submitted that the Impugned Order has been passed by placing sole reliance on judgement dated

14.02.2017 passed in Petition No. 52 of 2016 titled "***Sportking India Ltd. vs. PSPCL***", however facts in which facts are different from the present case. The case of Sportking pertained to two aspects- (i) Service Connection Charges payable at the time of setting up of a new electricity line (ii) Service Connection Charges payable at the time of demand of additional load on an existing line erected at the cost of the consumer. The consumer in Sportking had paid for erection of an exclusive supply line from 66kv substation at Jeeda to the premises of the consumer; however, the Feasibility Clearance report states that though the connection was to be released from the 66kv sub-station at Jeeda to the firm's premises, the same was approved subject to "*deloading of 100 MVA 220/66 kV power transformer at 220 kV mother substation at Baja Kahna by shifting load of 66 kV substation Sukha Nand and Tharaj, having a total installed capacity of 25 MVA, on 132 kV substation Smadh Bhai and by carrying out various works.*"Based on this, the State Commission had concluded that the "*load was to be catered from the 100 MVA, 220/66 kV Power Transformer installed at 220 kV substation Baja Khana*". In the case of the Appellant, there is neither any reference to the mother and feeder substation nor is there any reference to the 220 kV substation at Rajpura in the Feasibility Clearance Report

5. Placing reliance on the judgement of this Tribunal dated 14.11.2024 in **"Indian Sucrose Limited vs. PSERC & Anr.,** (Appeal Nos. 19 of 2016) with regard to interpretation of Section 46 of Electricity Act, learned counsel submitted that a distribution licensee is only entitled to charge for expenses reasonably incurred for providing the electric line/supply; and such reasonable expense cannot include expenses for a pre-existing line or facility. In the present case, by saddling the Appellant with charges for the common portion of an existing line running from 220 kV substation Rajpura to 66 kV substation Focal Point Rajpura, the PSPCL/Respondent

No. 2 has sought to recover expenses which are not reasonably imputable to the Appellant.

6. Learned Counsel for Appellant further placed reliance on this Tribunal Judgement dated 10.04.2015 rendered in "**Punjab State Power Corporation Limited and Ors. vs. Nabha Power Limited and Ors.,** (Appeal Nos. 75, 76 and 164 of 2014), and submitted that Section 46 of the Electricity Act and Regulation 9 of the Supply Code have to be read together in their application; the Distribution Licensee while operating as per the provisions of Regulation 9 can only recover expenses reasonably incurred which would include (a) cost of electric line provided by distribution licensee and (b) expenses actually incurred on the line. As per the feasibility Clearance Report, connection is being released from 66 kV substation Focal Point Rajpura, meaning this is the feeding substation. Accordingly, the Appellant has no dispute and paid the charges qua the cost of the electric line constructed between the 66 kV substation Focal Point Rajpura and the premises of the Appellant as well as for the outbay charges for Focal Point Rajpura and thus, all reasonably expenses which could be incurred for the Appellant alone are payable/paid without dispute. The Demand Notice for demanding the payment for common portion of main line running from 220 kV substation Rajpura to 66 kV substation Focal Point Rajpura and proportionate bay charges, exceeds the ambit of what is permissible to be recovered and is therefore bad in law.

Submissions by Respondent - PSPCL

7. Learned Counsel for PSPCL submitted that the State Commission in the Impugned order placing reliance upon Regulation 9 of the Supply Code 2014 as also upon its earlier order in ***Sportking India Ltd. vs PSPCL*** dated 14th February, 2017 (which squarely apply to the present

case) observed that although the 66 KV service line is extended from the nearest 66 KV grid substation to the premises of the applicant/consumer, the load/demand is actually fed from the 220 KV mother substation and there is liability of the EHT Consumer to pay proportionate charges in lieu of the common supply line emanating from the mother substation to the substation. Accordingly, the State Commission has rightly held that the Appellant is liable to pay the proportionate charges of the backup line as also the bay charges associated with the said line.

8. Learned counsel further submitted that the feasibility clearance issued in consonance with the Supply Code, 2014 makes it clear that the supply line in question is the common line emanating from 220KV mother Station, Rajpura, which also stands enunciated from the following: -

(i) If the said line in question is assumed to be emanating from 66KV Substation, it would render the third and fourth condition of the feasibility clearance completely redundant, since the third and the fourth conditions explicitly stipulate replacement of existing lines from point B to C and C to D in totality from 66KV Substation, Rajpura to the premises of the appellant consumer with exact measurements of the same.

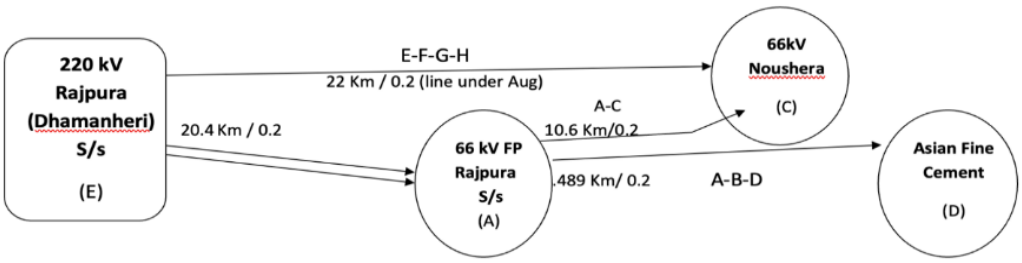
(ii) A bare perusal of the sketch enunciating the supply line cements the fact even further, since the line as described in condition one is on DC to DC Tower, which matches with the description provided for the common line emanating from the 220KV mother Station Rajpura, to the 66KV Substation, Rajpura, whereas the service line emanating from 66KV Substation, Rajpura is on SC to DC Tower.

In view of above submissions, the present appeal deserves to be dismissed.

CONSIDERATION AND OUR VIEW

9. The issue arising for consideration in the present appeal is whether the Appellant is liable to bear proportionate charges towards the 66 kV transmission line extending from the 220 kV Rajpura Substation to the 66 kV Rajpura Focal Point, in addition to the entire cost of the 66 kV service line laid from the Rajpura Focal Point from where the service connection has been effected up to the Appellant's premises.

Rough Sketch for showing connectivity of 220 kV Rajpura to FP Rajpura to 66 kV Noushera, AFC



10. In the Impugned Order, the State Commission has placed reliance upon its earlier decision dated 14.02.2017 passed in Petition No. 52 of 2016 titled ***Sportking India Ltd. v. PSPCL*** ("*Sportking Order*"), wherein Regulation 9.1.1 of the Supply Code, 2014 was interpreted. The Commission observed that although the 66 kV service line is extended from the nearest 66 kV grid substation to the consumer's premises, the actual load/demand is met from the upstream 220 kV mother substation. Accordingly, it held that the consumer is liable to pay proportionate charges for the backup line as well as bay charges associated with the said infrastructure.

11. Learned Counsels appearing on behalf of the State Commission and for PSPCL have reiterated reliance on the "*Sportking Order"*, contending that the said decision has attained finality in the absence of any challenge thereto. *Per contra*, learned Counsel for the Appellant has submitted that the factual matrix in the present case is materially distinct, and as such, that the *Sportking Order* is not applicable.

12. In our considered view, it is not necessary to delve into the applicability or correctness of the "*Sportking Order"*, as the said decision has not been assailed before this Tribunal. Furthermore, this Tribunal is not bound by the findings rendered by the State Commission in its earlier orders. The present matter shall, therefore, be adjudicated independently, based on its own factual circumstances and in accordance with the applicable provisions of the Supply Code, the relevant regulations, and the governing law.

13. The issue involved in the present Appeal pertains to the liability of payment in respect of the new connection availed by the Appellant in terms of PSPCL Supply Code, 2014; it is profitable to reproduce Regulation 9.1 of the said code, which is relevant for the present adjudication, hereinbelow.

> *"9. Power to Recover Expenditure/Service Connection Charges:*
>
> *9.1 Subject to the provisions of the Act & these Regulations and subject further to such directions, orders or guidelines which the, Commission may issue, every distribution licensee is entitled to recover from an applicant requiring new connection or additional load/demand, <u>any expenses reasonably incurred</u> by the distribution licensee for providing any electric line &/or electrical plant, The Service Connection Charges or the actual expenditure to recover such expenses shall be*

computed in accordance with regulations 9.1.1,9.1.2, 9.1.3 and 9.1.4,

9.1.1. For New Connection

(a) Domestic, Non-Residential, Industrial, Bulk Supply and Compost plants/solid waste management plants for municipalities/ urban local bodies categories:

…

(ii) Supply for Load/Demand Exceeding 100kW/100kVA

Where load/demand required for above mentioned categories exceeds 100 kW/ 100 kVA, the applicant shall be required to the actual expenditure incurred by the distribution pay licensee for release of connection for 11 kV consumers, the expenditure shall include the cost of the individual service line and proportionate cost of the common portion of main line upto the feeding substation including breaker as per the cost data approved by the Commission. For 33 kV & higher voltage consumers, the expenditure shall include the cost of the individual service line and proportionate cost of the common portion of main line upto the feeding substation including bay as per the cost data approved by the Commission. If the service line is emanating from the feeding sub-station, the applicant shall bear the entire expenditure along with cost of breaker/bay. However, creation of new grid sub-station or augmentation of existing grid sub-station, if required, shall be carried out by the licensee at its own cost as per regulation 9.2.

In such cases, the distribution licensee shall prepare an estimate based on Standard cost data approved by the Commission and applicant shall be required to deposit such amount as Security (works) before start of work. A final bill shall be prepared by the distribution licensee after completion of work and necessary recovery or refund shall be made as per regulation 9.3"…..

14. As per Regulation 9.1.1 (a) (ii) of Supply Code, 2014, in the case of consumers availing supply at 33 KV and above, such consumers shall be liable to pay the cost of the individual service line as well as the proportionate cost of the common portion of main line up to the feeding substation, however in case the service line is emanating directly from the

feeding sub-station, the applicant shall bear the entire expenditure along with cost of breaker/bay. Further the creation of a new grid sub-station or augmentation of an existing grid sub-station, if required, shall be carried out by the licensee at its own cost.

15. In the present case, the Appellant was provided connectivity in terms of the revised feasibility clearance letter dated 27.01.2015 issued by PSPCL, the relevant extract is reproduced as under:

> *"M/s Asian Fine Cements Pvt. Ltd.,*
> *S.C.F.270, Motor Market,*
> *Mansa Devi Road,*
> *Manimajra, Chandigarh.*
>
> *Memo no.722 /sws/RID No. 13 Dated: 27-1-15*
>
> *Sub: Revised Feasibility Clearance for a new connection of M/s Asian Fine Cements Pvt. Ltd having load 7500 KW/6500 KVA CD, at 66 KV supply voltage.*
>
> *The case on your request for Revised Feasibility Clearance for a new connection of load 7500 KW/6500 KVA CD, at 66 kV supply voltage was discussed in the FCC meeting held on 30.12.2014.*
>
> *After detailed deliberations, the FCC has decided to allow release of consumer's load as follows:-*
>
> 1. *After installation of another new T/F of 100 M.V.A. at 220 KV S/S Banur and after shifting the load of 66 KV S/S Mohi Kalan on it, which will be in operation up to 31st March 2015 as per Letter no. 3869/71 dated 22.09.2014 of Chief Enginner/T.S (Transco) .*
>
> 2. *After changing the ACSR 0.1 square inch to 0.2 square inch on the 66 KV Line which goes from 66 KV Sub Station Rajpura to Dhulkot and which is on DC on DC Tower, construction of SC on DC Tower with 0.2 square inch conductor from point B to D and after construction of 66kV outsourcing Bay at 66 kV S/S Focal Point Rajpura.*

3. *After shifting the old 66 KVA line as per clause 3.3 (xii) of ESIM, which is going through the premises of the consumer.*
4. *The expenses of erection of new S.C. on D.C. Line from Focal Point Rajpura to the premises of the consumer, which will be erected after utilizing the existing right of way, will be recoverable from the consumer as per S.C.on S.C. Tower along with 66 KV Outgoing Bay at 66 KV S/Stn. Focal Point Rajpura.*
5. *Expenses in respect of dismantling of existing 66 KV Line going from 66 KV S/Stn Focal Point to the consumer's premises, will be recoverable from the consumer.*

The expenditure shall be recoverable from the consumer as per Supply Code clause no.9.1.1……

You are requested to get your application registered within 30 days extendable upto 60 days from the date of issue of this letter failing which this permission shall automatically be elapsed."………...

16. Subsequent to the request of the Appellant to provide connectivity from existing old 66 kV substation focal point Rajpura – Dholkote line, after carrying out maintenance instead of new 66 kV line, and in compliance with the direction issued by the State Commission to grant a personal hearing to the Appellant, PSPCL, after affording such personal hearing to the Appellant, intimated vide its letter dated 17.07.2015, that due to the technical condition of existing 66kV line being very old, connectivity cannot be provided from it and therefore feasibility clearance already conveyed vide letter dated 27.01.2015 (in terms of FCC decision in meeting dated 30.12.2014) is in order. It was intimated that Appellant is only required to bear the cost of SC on SC for this portion from 66 kV Focal Point to firms premises and the Appellant was asked to deposit other charges as brought out in FCC meeting dated 30.12.2024. the relevant Para from the said letter dated 17.07.2015 is extracted as hereunder :

"…………… Under such circumstances, the best way to give reliable uninterrupted supply is possible only by using the right of way of this line and erect a new 66 KV SC on DC tower. However Asian Fine Cement is only required to bear the cost of SC on SC for this portion from 66 KV Focal Point to firm's premises whereas balance expenditure will be borne by PSPCL. However Asian Fine Cement shall also require to deposit the other charges as brought out in FCC meeting on dated 30.12.2014 conveyed to the firm vide above referred as per supply code-2014.

Accordingly, FCC decides that feasibility clearance already coveyed to M/s Asian Fine Cements as per meeting held on 30.12.2014 is in order and M/s Asian Fine Cement is required ?? service connection charges accordingly………..."

17. We take note that in both the feasibility clearance letter dated 27.01.2015, and the subsequent letter dated 17.07.2015, there is no mention that connectivity is provided from 220 KV Rajpura Substation, which has been referred by PSPCL as "feeding substation" and by State Commission as the "mother station". It is also noted that in the earlier feasibility permission letter dated 01.10.2014 from PSPCL to Appellant, that connectivity shall be provided from 66 kV Rajpura substation after dismantling the existing Rajpura – Dhulkote line, utilising its ROW and changing the conductor for some portion thereof, whereafter the Appellant was asked to get its application registered. Our attention has not been drawn to any reference made by PSPCL that connection to the Appellant shall be provided from 220 KV Rajpura Substation which shall be the feeding substation while informing feasibility permission of the connection to the Appellant. There is no dispute with regard to payment of entire cost of 66 KV line from 66 kV Focal point Rajpura up to the premises of the Appellant (Line A-B-D) including the dismantling cost as mentioned in the revised feasibility clearance by the Appellant and the dispute is with

regard to payment of proportionate cost of 66 KV line from 220kV Rajpura substation to 66 kV Focal point Rajpura, and considering that 220kV Rajpura substation to be the feeding/ mother station, the State Commission has affixed the liability of payment of proportionate cost of said line in terms of Supply Code, 2014.

18. As noted above, Regulation 9.1.1(a)(ii) of the supply code,2014 provides that, in the case of consumers availing supply at 33 kV & higher voltage consumers, the expenditure shall include the cost of the individual service line and proportionate cost of the common portion of main line up to the feeding substation and if the service line is emanating directly from the feeding sub-station, the applicant shall bear the entire expenditure along with cost of breaker/bay. The PSPCL in the referred feasibility clearance letter has not mentioned anything which is the feeding station and has only stated that expenses for erection of 66 kV line from focal point Rajpura to the Appellant premises including dismantling of existing 66 kV line shall be recoverable from the Appellant. Our query with regard to definition of "focal point station" and a "feeding substation" so as to understand the distinction between the two as per supply code has been answered in negative, meaning thereby that such a distinction/interpretation is not discernible from the Supply Code, 2014.

19. Learned counsel for the State Commission referring to the definition of sub-station as per section 2(69) of the Electricity Act, 2003, contended that since it is only at 220 kV Rajpura substation, transformation is taking place from 220kV to 66 kV, at which voltage connection is provided to the Appellant and therefore Rajpura 220 KV is the feeding substation and not the Rajpura 66 kV focal point as desired transformation is not taking there;

therefore it is from Rajpura 220 kV, from where power shall be supplied to the Appellant. In this context, the section 2(69) of Electricity Act 2003 is reproduced hereunder:

> ***<u>“Section 2 (69) of EA</u>***
> *(69) "sub-station" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cable and other appurtenant equipment and any buildings used for that purpose and the site thereof”*

20. During the course of the hearing, it was informed on behalf of PSPCL that at 66 KV Focal Point Rajpura, transformation is taking place from 66kV to 11 kV. We are unable to countenance such distinction being contended between Rajpura 220kV installation being termed as a “substation”(S/S) and Rajpura 66 kV installation being referred to as a “Focal Point”, because in terms of definition of substation in the Electricity Act, as noted above, substation is a station for transforming or converting electricity for transmission and distribution thereof and in our view both Rajpura 220 kV and Rajpura 66 kV qualify to be the substations. In fact in the feasibility permission letters noted above, PSPCL has referred 66 kV Rajpura Focal point as 66 kV S/S Focal Point Rajpura.

21. Furthermore, as per Regulation 9.1.1(a)(ii) of the Supply Code, in cases where the load or contract demand exceeds 100 kW or 100 kVA, the applicant is liable to bear the actual expenditure incurred by the distribution licensee for effecting the release of connection. In the present case, the expenditure incurred pertains solely to the construction of the 66 kV line from the Rajpura 66 kV Focal point to the Appellant’s premises, including dismantling and change of conductor of existing 66 kV line. The payment for this segment is not in dispute. It is further noted that the

transmission infrastructure between Rajpura 220 kV substation and Rajpura 66 kV focal point substation is pre-existing and does not involve any additional expenditure attributable on account of providing connection to the Appellant. The sketch attached with the letter of PSPCL dated 30.05.2016, giving details about the components of demand notice also mentions the works done which pertains to the dismantling and change of conductor and tower for the 66 kV line from 66kV focal point Rajpura up to Naushera and further up to Appellant premises for providing connection; entire other system including that from Rajpura 220 KV substation to Rajpura 66 kV focal point, has been shown to be existing. The Supply Code explicitly provides that the creation of a new grid substation or augmentation of an existing grid substation, if necessitated for release of connection, shall be undertaken by the licensee at its own cost. As per Section 46 of the Electricity Act, 2003, the distribution licensee is entitled to charge any expenses reasonably incurred for providing the connection. The said Section 46 the Electricity Act, 2003 is reproduced hereunder:

> **"*46. Power to recover expenditure-*** *The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply."*

22. The entitlement of distribution licensee to recover expenditure reasonably **incurred** for providing electric supply and not for existing lines has been decided in the judgement of this Tribunal dated 14.11.2024 in **"Indian Sucrose Limited vs. PSERC & Anr**. (Appeal No 19 of 2016), relevant portion extracted hereunder :

> *"35. Further, we also find it appropriate to refer to Section 46 of the Electricity Act, 2003 on this aspect which is quoted hereinbelow:-*

…
36. This legal provision envisages that a Distribution Licensee can be permitted to charge from a person requiring Supply of Electricity, only reasonable expenses incurred in providing any electric line or electric plant used for the purpose of giving that supply. Therefore, the Distribution Licensee is authorized to levy expenses from a person needing supply of electricity only in case it provides the electric line or electric plant and has incurred some amount on the same. In the instant case, admittedly, the 2nd Respondent PSPCL did not erect any fresh 66 KV line and bay for connecting the Appellant's power project with its grid and did not incur any expenses on the same. The 66 KV line an bay used for connecting the Appellant's power project to the grid was already in existence and had been built in the year 1994 at the cost of Mukerian Paper Ltd. which was subsequently purchased by the Appellant. Hence, the 2nd Respondent, PSPCL could not have charged the Appellant for the said line and bay."

23. In terms of the supply code, recovery of costs from the applicant does not extend to even system strengthening or capital investment made in upstream infrastructure for providing such connection, and in the present case the transmission/distribution system for which proportionate cost being levied is the existing infrastructure of Distribution Licensee. In support of this position, the judgement of this Tribunal dated 10.04.2015 in "***Punjab State Power Corporation Limited and Ors. vs. Nabha Power Limited and Ors*** (Appeal 75,76 and 164 of 2014) is being referred, reliance on which has been placed by Appellant, that while interpreting Section 46 of the Act and its application to Regulation 9 of the Supply Code, 2007 (which is *pari materia* to the Regulation 9 of Supply Code) it has been held that distribution licensee is entitled to recover cost from the consumer for the amount incurred by it in providing the connection; the relevant extract from the judgment is quoted below:

"10.13 The bare perusal of this Section would show that the distribution licensee is competent to charge from a person

requiring a supply of electricity any reasonable expenses incurred in providing any electric line or electrical plant used for the purpose of giving that supply. ***So, there are two things which are necessary for recovering expenses. First is that, there has to be some electric line or electrical plant provided by the distribution licensee and second that some amount has to be incurred upon that****. In the present case, the Appellant did not provide any electric line or electrical plant for the purpose of supplying start-up power and no amount was spent on creation of any electric line or electrical plant for supplying start up power. It is further submitted that the aforesaid 400 kV transmission line (interconnection facility) through which PSPCL is providing the commissioning and Startup power is the same infrastructure (interconnection facilities) which in any case, was an obligation of PSPCL for evacuation of power from the project under the PPA. Also, as per the PPA, the Appellant is liable to pay for power and energy consumed for startup power and it is paying the same. The supply code Regulations are applicable only when a new line is created by the Appellant and not otherwise.* ***The State Commission held that the Section 46 of the Electricity Act, 2003 and Regulation 9 of the Supply Code had to be read in tandem and not in isolation.***

10.14 The 400 kV line used for catering start up power is a transmission line of transmission licensee (PSTCL) to be used for evacuation of power from the generating plant and cannot be termed as a service line of the Distribution Licensee. Further, the Distribution Licensee has not given any proof of incurring any expenditure for giving start up power as per PPA. The cost of 400 kV system laid by PSTCL for evacuation/dispersal of power from TSPL has been claimed by PSTCL in the ARRs."

24. Furthermore, in case contention advanced on behalf of the State commission is accepted that it is Rajpura 220 kV substation which is feeding the load of the Appellant so it has been rightly held to be feeding station, in our view, as no energy is generated at Rajpura 220 kV substation, it also cannot be termed as feeding station as Rajpura 220 KV substation is merely transforming and transmitting the power/energy so received from upstream network/ generator. With the contention so advanced by PSPCL would mean that for feeding the load of a consumer, system need to be traced up to the generating stations, being supplier of

energy and in such case the proportionate cost of such entire infrastructure becomes liable to paid; which is not the scheme of things as per provisions of Electricity Act, 2003 and the provision of the Supply Code. This argument put forth on behalf of PSPCL has no merit and cannot be sustained.

25. On a query, whether the 66 KV system from 220 kV Rajpura substation to 66 kV focal point Rajpura, for which proportionate cost has been levied is part of ARR of distribution licensee or not; the Additional superintending Engineer of PSPCL has fairly submitted that this portion is already included as part of infrastructure of distribution licensee in the ARR and recovered through tariff. Therefore, in our view, recovery of proportionate cost of such infrastructure from the Appellant, which is already included for ARR purposes of Distribution Licensee, would lead to double recovery for the same infrastructure and such a practice is impermissible in a regulated sector such as electricity and, therefore, cannot be sustained.

26. Viewed from any angle/perspective, in our considered view, the Appellant is not liable to pay the proportionate cost of infrastructure from 220 kV Rajpura substation to 66kV Focal point Rajpura. Having regard to the above discussion, the findings of the Commission in the impugned orders, whereby it is held that Rajpura 220 kV substation is the feeding/mother station and consequently, Appellant is also liable to pay for the proportionate cost of 66kV line from 220 KV Rajpura 220 kV substation to 66 kV Focal point Rajpura, in terms of Supply code, is erroneous and cannot be sustained. During the course of hearing, it has been informed that the Appellant had deposited the amount of Rs.73,87,380/- under protest with the PSPCL (for the item 3&4 of the demand notice) on 15.05.2017

Conclusion

27. In view of above deliberations, the Appellant is not liable to pay the proportionate cost of the infrastructure extending from 220 kV Rajpura substation to 66kV Focal point Rajpura. The State commission order impugned in this Appeal is set aside, and the Appeal succeeds. In view of the same, as a logical corollary, and the Appellant is entitled for consequential relief also i.e refund of Rs.73,87,380/- from the 2nd Respondent PSPCL, which it had deposited under protest. PSPCL shall refund the said amount to the Appellant within one month from the date of the order.

28. The subject appeal and associated IAs, if any, are hereby disposed of in the above-mentioned terms.

Pronounced in open court on this 17th Day of November, 2025

(Virender Bhat) Judicial Member	(Seema Gupta) Technical Member (Electricity)

Reportable / ~~Non-Reportable~~