

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION  
SCO 220-21, SECTOR – 34-A, CHANDIGARH**

Petition No. 61 of 2015

Date of Order: 18.12.2015

In the matter of: Petition under Section 142 of Electricity Act, 2003, for taking necessary action against the respondents for violating the Tariff Order passed by this Hon'ble Commission in the ARR petition No. 63 of 2013 filed by the PSPCL for the year 2014-2015, by not giving the rebate in the tariff on the consumption of the electricity, as envisaged by this Hon'ble Commission in para 7.6 of the above said tariff order, and by this way charging the price exceeding the tariff fixed by this Hon'ble Commission and for violating the provisions of section 45 of the Electricity Act, 2003, with further prayer to direct the respondents to bill the consumption of electricity consumed by the petitioner over the thresh hold limit on reduced rates after giving the rebate on the tariff as per para 7.6 of the Tariff Order for the financial year 2014-2015 and refund the excess amount charged along with interest as mentioned in section 62 (6) of the Electricity Act, 2003:

AND

In the matter of: M/s Madhav Alloys Pvt. Ltd., Talwara Road, Sirhind Side, Mandi Gobindgarh, Distt. Fatehgarh Sahib.

Vs.

Punjab State Power Corporation Limited, The Mall, Patiala.

Present: Smt. Romila Dubey, Chairperson  
Er. Gurinder Jit Singh, Member

**ORDER:**

The present petition has been filed by Madhav Alloys Pvt. Ltd. under section 142 of the Electricity Act, 2003. Madhav Alloys

Pvt. Ltd. has a electric connection bearing account no. K62-BD02-00010 with sanctioned Contract Demand (CD) of 30 MVA released on 24.03.2012.

2. It has been submitted by Madhav Alloys Pvt. Ltd. that PSPCL filed a Petition No. 63 of 2013 before the Commission for the purpose of Annual Revenue Requirement and Determination of Tariff for FY 2014-15. In the ARR Petition, PSPCL submitted before the Commission that it was having surplus power of 12807 MU and it is expected that about 3000 MU out of a total surplus power of 12807 MU may be sold if a discount is given on power consumption beyond a threshold. The Commission decided the Petition and passed the Tariff Order dated 22.08.2014 for FY 2014-15. The Commission dealt with the issue of rebate on consumption of electricity in para 7.6 of the above said Tariff Order and approved rebate of ₹1/kWh (or kVAh) on the category-wise tariff for all categories, except Street Lighting and AP categories. The criterion for the rebate was mentioned in para 7.6.3 of the Tariff Order for FY 2014-15 and same has been reproduced by Madhav Alloys Pvt. Ltd. as under:

*“7.6.3 The criterion for allowing the rebate shall be as under:*

- (i) *The rebate shall be allowed for any consumption during the financial year exceeding the consumption worked out on the following methodology :*

*The average consumption (including purchase of power under open access) of three years shall be taken as threshold for allowing rebate. In case, period is less than three years or there is reduction or extension in*

*load/demand, average consumption shall be worked out on prorata basis.*

- (ii) The billing at the reduced rates after allowing the rebate shall be done once the consumer crosses the target consumption as worked out under Step (i), e.g. if a consumer has average consumption of three years as 10000 units, the consumer shall be entitled for billing at the reduced rate for any consumption exceeding the threshold consumption of 10000 units during FY 2014-15. The rebate shall be allowed to the consumer as and when the consumption of the consumer exceeds 10000 units.*
- (iii) In case of consumers to whom kVAh tariff has been made applicable, their consumption threshold shall be worked out by using conversion factors as mentioned in para 7.1.2. of this Tariff Order.”*

3. Madhav Alloys Pvt. Ltd. has submitted that it consumed power during FYs 2012-13, 2013-14 and 2014-15 under open access and also from PSPCL i.e. Distribution Licensee. Calculated as per clause 7.6.3 of the above said Tariff Order, the average consumption of the Petitioner came to 102944000 units (kVAh). It has been submitted that for the purpose of calculating this average, consumption of power purchased from PSPCL and power purchased under open access has been taken for the period from 01.04.2012 to 31.03.2014 and their average was calculated. Madhav Alloys Pvt. Ltd. took connection on 24.03.2012, but for the purpose of calculation, the consumption was taken from 01.04.2012 and so there may be slight difference in the average calculated by it and the average calculated by PSPCL. As per clause 7.6.3, it (the Petitioner) became entitled to be billed on reduced rate after getting rebate

of ₹1 per unit on any electricity consumed in FY 2014-15 more than above said average consumption of 102944000 units (kVAh). The calculation sheet showing the average consumption as calculated by Madhav Alloys Pvt. Ltd. has been appended with the Petition. In FY 2014-15, Madhav Alloys Pvt. Ltd. consumed total power of 129812000 units (kVAh) and this included 15301950 units purchased under open access and 114510050 units (kVAh) purchased from PSPCL. As per clause 7.6.3 of the Tariff Order for FY 2014-15, it (the Petitioner) was entitled to be billed on reduced rates after getting rebate of ₹1 on billing amount on any consumption of electricity beyond the threshold limit (average consumption calculated as per 7.6.3), and as already mentioned above, the average consumption of the petitioner was 102944000 units (kVAh). So any consumption thereafter was required to be billed at reduced rate after giving rebate of ₹1 per unit. Madhav Alloys Pvt. Ltd. consumed the power beyond threshold limit (as mentioned above) in the middle of January, 2015 and thereafter, it has consumed 24767102 units (this included power purchased from PSPCL and also under open access). The month-wise detail of the electricity consumed during FY 2014-15 has been annexed with the Petition. As per clause 7.6 of the Tariff Order for FY 2014-15, once the threshold limit is crossed, the billing of any electricity consumed would be done on reduced rates i.e. after giving rebate of ₹1 per unit (kVAh).

4. It has been submitted by Madhav Alloys Pvt. Ltd. that PSPCL issued a bill dated 13.07.2015 and in this bill a total rebate of ₹26002790/- was granted under the head sundry allowances for the above said consumption, above the threshold limit, as per clause 7.6.3 of the Tariff Order. Copy of the bill has been

annexed with the Petition. But after some time, PSPCL wrongly and illegally cancelled this bill and issued another bill dated 13.07.2015 and reduced the rebate to ₹13479507/- only. Copy of the second bill has also been annexed with the Petition.

5. Madhav Alloys Pvt. Ltd. sent a letter dated 01.09.2015 to the Deputy Chief Engineer (Billing), PSPCL, Patiala and asked for the reason for reducing the rebate but no reply has been given to the Petitioner for reducing this rebate. A legal notice dated 09.09.2015 was served on PSPCL and requested the PSPCL to pay the rebate as per clause 7.6.3 of the Tariff Order. Copy of the legal notice along with courier receipts have been annexed with the Petition.
6. Madhav Alloys Pvt. Ltd. has submitted that it was entitled to get billed at reduced rates after getting rebate of ₹1 on electricity consumed after the threshold limit of ₹26002790/- as calculated by PSPCL in earlier bill dated 13.07.2015. But PSPCL wrongly and illegally reduced the said rebate to ₹13479507/- only without assigning any reason in contrary to the provisions of the Tariff Order. PSPCL should have billed for the electricity consumed, after the threshold limit at the reduced rates i.e. after granting ₹1/- per unit rebate but it has failed to give the rebate as mentioned above and thus charged the petitioner more than the tariff approved by the Commission and thus not only violated the provisions of the Tariff Order for FY 2014-15, but also section 45 of the Electricity Act, 2003.
7. As per section 62 (4) of the Electricity Act 2003, if any Licensee or generating company recovers a price or charge exceeding the tariff determined by a Commission, then a consumer is entitled to get the refund of the excess paid amount with interest equivalent to the bank rate and that is without prejudice to any

other liability incurred by the Licensee. The relevant section 62 (6) has been reproduced by Madhav Alloys Pvt. Ltd. as under:

*“62(6) If any licensee or generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the Licensee.....”*

It has been submitted by the Petitioner that from the bare reading of section 62(6) of the Electricity Act, 2003, it is very much clear that it is entitled to get refund of the excess amount paid with interest equivalent to the bank rate and further action has to be taken against PSPCL and its officials under section 142 of the Electricity Act, 2003, as the officials of PSPCL have violated the provisions of Tariff Order passed by the Commission for FY 2014-15 and section 45 of the Electricity Act, 2003.

8. It has been submitted that as per section 142 of the Electricity Act, 2003, only the Commission has power to decide a complaint and take necessary action. As such, the Petitioner is approaching the Commission for redressal of its grievances. Section 142 of the Electricity Act, 2003, has been reproduced by Madhav Alloys Pvt. Ltd. as under:

*“142. Punishment for non compliance of directions by Appropriate Commission: In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made there under, or any direction issued by the Commission, the Appropriate Commission may after giving such person an*

*opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.”*

9. It has been further submitted by the Petitioner that the State Commission, being State Electricity Regulator, is under statutory obligation to ensure that any particular category of consumers has been rightly considered under the approved tariff category to which it belongs and is charged the tariff approved by the State Commission for the said category because the State Commission is under statutory duty or obligation to ensure the complete and full compliance of its Tariff Order in letter and spirit by the distribution utility and to direct the distribution licensee to comply with the Tariff Order by adhering to consumer categories as approved under the Tariff Order and recover tariff as approved for that category. As such, the Petitioner has approached this Commission.
10. Madhav Alloys Pvt. Ltd. has prayed that the necessary action against PSPCL and its officials be taken under section 142 of the Electricity Act, 2003 for violating the Tariff Order passed by the Commission in the ARR Petition No. 63 of 2013 filed by the PSPCL for FY 2014-15, by not giving the rebate in the tariff on the consumption of power, as envisaged by the Commission in para 7.6 of the above said Tariff Order, and by this way charging the price exceeding the tariff fixed by the Commission and for violating the provisions of section 45 of the Electricity

Act, 2003 and necessary directions may be issued to the respondents to bill the consumption of power consumed by it over the thresh-hold limit on reduced rates after giving the rebate on the tariff as per para 7.6 of the Tariff Order for FY 2014-15. The excess amount charged from it be refunded along with interest as mentioned in section 62 (6) of the Electricity Act, 2003 and the Commission may pass any other order or direction which it may deem fit and proper in favour of the Petitioner.

11. The Petition was admitted by the Commission vide its order dated 06.11.2015. PSPCL was directed to file the reply to the Petition by 17.11.2015, with copy to the Petitioner, who was to file the rejoinder to the reply of PSPCL by 20.11.2015 with copy to PSPCL. The next date of hearing was fixed as 24.11.2015.

12. The Commission vide its order dated 02.12.2015 observed and ordered as under:

*“PSPCL has prayed vide memo no. 5089 dated 01.12.2015 to grant extension in time by one week to file reply to the petition. During hearing PSPCL submitted that its reply is ready and shall be filed within two days. PSPCL is accordingly directed to file reply by 04.12.2015 and supply a copy of the same directly to the petitioner.*

*The petition shall be taken up for hearing on 08.12.2015 at 11.30 A.M.”*

13. PSPCL filed reply to the Petition vide letter dated 02.12.2015 (received on 04.12.2015). The salient points of this reply are as under:

(i) PSPCL submitted that the purpose of contents of para 7.6.3 of Tariff Order for FY 2014-15 passed by PSERC for allowing the rebate of ₹1/kWh (or kVAh) on the category wise tariff for all

categories except Street Lighting and AP categories was to encourage the consumption of surplus power of PSPCL. PSPCL further submitted that it has been opined by the PSERC that this will result in reducing extra fixed cost of surrendered power to some extent. The relevant para (para 7.6.3) has been reproduced by PSPCL in its reply to the Petition.

Average consumption of this consumer has been worked out by PSPCL on basis of average consumption of FY 2011-12 to FY 2013-14 (from date of release of connection). The average consumption has been calculated as 101951405 units (including Open Access units). The consumption of the consumer during FY 2014-15 was 114609633 units (excluding open access units). Based on this, the rebate of ₹12658228 (@ ₹1/unit) on the billing amount was given to the consumer.

- (ii) PSPCL has further submitted that as per para 7.6 of the Tariff Order, the threshold limit of consumption has been fixed and the consumers having higher annual consumption will get rebate as prescribed by the PSERC and the reasons behind allowing this rebate were detailed in the Tariff Order for FY 2014-15. The rebate was allowed by the PSERC on all the categories except AP & Street lighting with an aim of reducing extra fixed cost of surrendered power, keeping in view the net surplus power during FY 2014-15. The relevant para of the Tariff Order for FY 2014-15 has been reproduced by PSPCL as under:

*“ 7.6 Sale of Surplus Power*

*7.6.1 PSPCL has projected in the ARR for FY 2014-15 that it shall be having 12904 MU (gross) and 12807 MU (net) surplus power during FY 2014-15, available from tied up sources i.e. central generating stations and the*

upcoming IPPs in Punjab. In order to manage and to maintain energy balance, the surplus power during FY 2014-15 has been projected to be surrendered by PSPCL, on merit order of power purchase from these stations. After surrender of surplus power, only variable charges have been reduced and fixed/other charges have been considered in the power purchase cost. The impact of fixed charges to be borne due to surrender of surplus power has been projected as ₹1706 crore. It has further been submitted that the projections for power availability as submitted for long term plan of PSPCL differ from the projections submitted in ARR due to difference in demand forecast based on restricted and unrestricted demand. The projections during FY 2014-15 for generation from Talwandi Sabo TPS, Rajpura TPS and Goindwal Sahib TPS are based on availability of 65% considering the stabilization period after commissioning of plants and PLF of 80%. PSPCL has not submitted any proposal to utilize/sell this power within the State or outside the State. PSPCL has not considered its own thermal generating stations in the merit order dispatch. However, PSPCL has stated that due to capacity overhang across the country, it may be difficult to sell surplus power outside Punjab.

7.6.2 The variable cost of surplus power has been projected in the ARR for FY 2014-15 as ₹3376 crore, which gives average per unit variable cost as ₹2.64. After adding T&D losses @ 16% as projected by PSPCL in the ARR, the average variable per unit cost works out to ₹3.06 (approximately). Further, average per unit fixed cost of the surrendered power works out to ₹1.31. The total

*average per unit cost of the surplus power, as such, works out to ₹4.37. The total loss of fixed cost of ₹1706 crore can be recovered if the whole of the surplus power of 12807 MU as projected by PSPCL in the ARR is sold within the State or outside the State, which seems to be unlikely. It is expected that about 3000 MU out of a total surplus power of 12807 MU may be sold if a discount is given on power consumption beyond a threshold. To make up for all this and adding other unforeseen costs of PSPCL in the form of Fuel Cost Adjustment, increase in fixed costs and some return to PSPCL etc. in the average total cost as worked out above, the Commission approves rebate of 1/kWh (or kVAh) on the category wise tariff for all categories, except Street Lighting and AP categories. This will result in reducing extra fixed cost of surrendered power to some extent, the actual quantum of which and savings will only be known at the end of FY 2014-15 and shall be considered by the Commission at the time of true up.”*

PSPCL has further submitted that the sole aim of providing rebate was to encourage the consumers to use PSPCL power beyond the threshold limit so that PSPCL would be able to sell surplus power within the state and minimize the losses. The tariff does not provide any measure that the rebate will be given on open access power. The open access power has been considered only for calculating the average consumption of electricity during the previous years to arrive at the threshold limit, beyond which rebate as per instructions of the Commission is applicable.

- (iii) PSPCL has submitted that the amount of ₹26002790 was wrongly calculated due to malfunction of the software and open access units got included in the consumption of FY 2014-15. The revised correct refund of ₹1,26,58,228/- calculated as per Para 7.6.3 of the Tariff Order 2014-15 passed by the PSERC was refunded to the consumer. The refund of ₹13479507/- as shown in the bill also includes ₹821279/- on account of refund of surcharge. As such, the billing of the Petitioner was done as per instructions contained in Tariff Order for FY 2014-15 passed by the Commission.
  - (iv) PSPCL has informed that the billing of consumer was done as per instructions contained in the Tariff Orders for FY 2014-15, passed by the PSERC. PSPCL has further clarified that it has not violated any of the provisions of the Tariff Order for FY 2014-15 or section 45 of the Electricity Act, 2003.
  - (v) PSPCL has submitted that the Petitioner has been billed for the electricity consumed after the threshold limit as per directions of PSERC in the Tariff Order for FY 2014-15. No charges other than approved by the Commission have been charged from the Petitioner.
  - (vi) It has been stressed that PSPCL has not violated any of the provisions of Tariff Order passed by PSERC or any clause of Electricity Act, 2003.
  - (vii) PSPCL has prayed that the present Petition is devoid of merits and is liable to be dismissed.
14. The Commission vide its order dated 09.12.2015 observed and ordered as under:

*“PSPCL has filed reply to the Petition on 04.12.2015 vide C.E./ARR & TR memo no. 5094 dated 02.12.2015. Copy of the same has been supplied to the Petitioner. The*

*Petitioner submitted during hearing that it intends to file rejoinder to the reply of PSPCL and shall do so by 10.12.2015. The Petitioner is directed to file the rejoinder by 10.12.2015 after supplying a copy to PSPCL directly. The petition shall be taken up on 11.12.2015 at 11.30 AM for hearing the arguments on behalf of the parties.”*

15. Madhav Alloys Pvt. Ltd. vide memo dated 11.12.2015 has submitted rejoinder to the reply of PSPCL. The salient points of the same are as under:

- (i) PSPCL rightly calculated average consumption of FY 2011-12 to FY 2013-14 as 10,19,51,405 units (including open access units). As per above said clause 7.6.3, Petitioner became entitled to be billed on reduced rate after getting rebate of ₹1 per unit on any electricity consumed in FY 2014-15 more than above said average consumption of 10,19,51,405 units. But PSPCL wrongly and illegally took the consumption of FY 2014-15 as 11,46,09,633 units only. PSPCL wrongly and illegally did not include the consumption of electricity purchased under Open Access. No doubt, the Petitioner is entitled to get rebate of ₹1 per unit on the electricity purchased from PSPCL after the thresh-hold limit. But upto thresh-hold limit, both the consumptions i.e, electricity from PSPCL and electricity from Open Access has to be taken into account. Once the Petitioner has crossed the thresh-hold limit, thereafter, the Petitioner is entitled to get rebate of ₹1 per unit on the electricity purchased from PSPCL. PSPCL is wrongly interpreting the clause 7.6 of the Tariff Order for FY 2014-15. For calculating the thresh-hold limit of either side both electricity consumptions i.e.

electricity from PSPCL and electricity from Open Access has to be taken into account. But PSPCL for calculating thresh-hold limit for earlier years is taking into account electricity consumed under Open Access also but in the current year while checking whether the consumer has crossed thresh-hold limit or not, is taking into account only the electricity taken from PSPCL, which is totally wrong interpretation of para 7.6 of the Tariff Order for FY 2014-15.

- (ii) It is correct that sole aim of providing rebate was to encourage the consumers to use PSPCL power beyond the thresh-hold limit. But it does not mean that upto thresh-hold limit also, the consumer is required to take electricity from the PSPCL. Purpose is that after crossing thresh-hold limit, if a consumer takes electricity from PSPCL, instead of Open Access, then he would get the same rebate of ₹1 per unit. Otherwise, the consumer would continue to take electricity from Open Access. The PSPCL is mis-interpreting para 7.6 of the Tariff Order. The Petitioner is not asking any rebate on the power purchased under Open Access. The rebate of ₹1 per unit can be granted only on the power purchased from the PSPCL after the thresh hold limit. But for calculating thresh-hold limit, on either side i.e. for earlier years and also for FY 2014-15, electricity consumed under Open Access is also to be taken into account.
- (iii) The first bill was rightly prepared by the software but later on the PSPCL interfered with the software and reduced the rebate and issued wrong and illegal bill. PSPCL has

acted in violation of the provision of para 7.6 of the Tariff Order for FY 2014-15.

- (iv) PSPCL has mis-interpreted para 7.6 of the Tariff Order for FY 2014-15 and billing of the Petitioner was done wrongly and illegally. The Petitioner is entitled to get the rebate as prayed in the writ Petition.
- (v) The Petitioner could be billed for the electricity consumed, after the thresh-hold limit, at the reduced rates i.e. after granting ₹1 per unit rebate, but the PSPCL has failed to give the rebate as mentioned above and thus charged the Petitioner more than the Tariff approved by the Commission and therefore not only violated the provisions of the Tariff Order for FY 2014-15, but also Section 45 of the Electricity Act, 2003.
- (vi) Madhav Alloys Pvt. Ltd. has alleged that the PSPCL has charged the Petitioner contrary to the provisions of the Tariff Order. PSPCL has violated the provisions of para 7.6 of the Tariff Order and also section 45 of the Electricity Act, 2003.
- (vii) Madhav Alloys Pvt. Ltd. has prayed that submissions made in the Petition be allowed and relief be granted as claimed in the Petition.

16. **Findings and Decision :**

After going through the submissions and arguments made by the Petitioner and the respondent, the Commission observes and decides as under:

The crux of the issue raised in the Petition by Madhav Alloys Pvt. Ltd. is that the rebate of ₹1/- per unit (kVAh) on the consumption of power more than the threshold consumption i.e. average of consumption of three years (including purchase of

power under open access) has been given on power consumed from PSPCL and not on the power purchased by it through open access during FY 2014-15. The Petitioner in the rejoinder to the reply of PSPCL partially modified its submissions to the extent that thresh-hold limit should be calculated by considering both the powers consumed by it i.e. power from PSPCL and power purchased through open access and once the thresh-hold limit so worked out is crossed, rebate of ₹1 per unit (kVAh) should be given on PSPCL power only. Whereas in the Petition, the Petitioner submitted and prayed for rebate on the total power i.e. power from PSPCL system and power purchased through open access.

The Commission in its Tariff Order for FY 2014-15 under paras 7.6.1, 7.6.2 and 7.6.3 has observed and ordered as under:

*7.6.1 "PSPCL has projected in the ARR for FY 2014-15 that it shall be having 12904 MU (gross) and 12807 MU (net) surplus power during FY 2014-15, available from tied up sources i.e. central generating stations and the upcoming IPPs in Punjab. In order to manage and to maintain energy balance, the surplus power during FY 2014-15 has been projected to be surrendered by PSPCL, on merit order of power purchase from these stations. After surrender of surplus power, only variable charges have been reduced and fixed/other charges have been considered in the power purchase cost. The impact of fixed charges to be borne due to surrender of surplus power has been projected as ₹1706 crore. It has further been submitted that the projections for power availability as submitted for long term plan of PSPCL differ from the projections submitted in ARR due to difference in demand forecasts based on restricted and unrestricted demand. The projections during FY 2014-15*

for generation from Talwandi Sabo TPS, Rajpura TPS and Goindwal Sahib TPS are based on availability of 65% considering the stabilization period after commissioning of plants and PLF of 80%. PSPCL has not submitted any proposal to utilize/sell this power within the State or outside the State. PSPCL has not considered its own thermal generating stations in the merit order dispatch. However, PSPCL has stated that due to capacity overhang across the country, it may be difficult to sell surplus power outside Punjab.

7.6.2 The variable cost of surplus power has been projected in the ARR for FY 2014-15 as ₹3376 crore, which gives average per unit variable cost as ₹2.64. After adding T&D losses @16% as projected by PSPCL in the ARR, the average variable per unit cost works out to ₹3.06 (approximately). Further, average per unit fixed cost of the surrendered power works out to ₹1.31. The total average per unit cost of the surplus power, as such, works out to ₹4.37.

The total loss of fixed cost of ₹1706 crore can be recovered if the whole of the surplus power of 12807 MU as projected by PSPCL in the ARR is sold within the State or outside the State, which seems to be unlikely. It is expected that about 3000 MU out of a total surplus power of 12807 MU may be sold if a discount is given on power consumption beyond a threshold. To make up for all this and adding other unforeseen costs of PSPCL in the form of Fuel Cost Adjustment, increase in fixed costs and some return to PSPCL etc. in the average total cost as worked out above, the Commission approves rebate of ₹1/kWh(or kVAh) on the category-wise tariff for all categories, except Street Lighting and AP categories. This will result in reducing extra fixed cost of surrendered power to some extent,

*the actual quantum of which and savings will only be known at the end of FY 2014-15 and shall be considered by the Commission at the time of true up.*

*7.6.3 The criterion for allowing the rebate shall be as under:*

*(i) The rebate shall be allowed for any consumption during the financial year exceeding the consumption worked out on the following methodology:*

*The average consumption (including purchase of power under open access) of three years shall be taken as threshold for allowing rebate. In case, period is less than three years or there is reduction or extension in load/demand, average consumption shall be worked out on prorata basis.*

*(ii) The billing at the reduced rates after allowing the rebate shall be done once the consumer crosses the target consumption as worked out under Step (i), e.g. if a consumer has average consumption of three years as 10000 units, the consumer shall be entitled for billing at the reduced rate for any consumption exceeding the threshold consumption of 10000 units during FY 2014-15. The rebate shall be allowed to the consumer as and when the consumption of the consumer exceeds 10000 units.*

*(iii) In case of consumers to whom kVAh tariff has been made applicable, their consumption threshold shall be worked out by using conversion factors as mentioned in para 7.1.2 of this Tariff Order.”*

The only purpose for providing rebate of ₹1/ kWh or kVAh on consumption of power more than thresh-hold consumption as clearly brought out in paras 7.6.1, 7.6.2 and 7.6.3 of the Tariff

Order for FY 2014-15 (as reproduced above) was to increase the sale of power specifically out of surplus power available with PSPCL during FY 2014-15, so as to reduce losses. It was specifically mentioned under para 7.6.2 that out of total surplus power of 12807 MU (net) available during FY 2014-15, about 3000 MU power may be sold if a discount is given on power consumption beyond a threshold. Power which has not been purchased from a distribution licensee cannot be considered for calculating the thresh-hold limit during FY 2014-15 in view of position explained in Tariff Order of PSPCL for FY 2014-15 and rebate cannot be given by a distribution licensee on the power, which has not been purchased from it. Open access power is to be considered only to calculate the average consumption of last three years and the same is not to be considered to calculate the thresh-hold limit during FY 2014-15 beyond which a rebate of ₹1 per kWh or kVAh is to be given. Rebate is to be given only on the power supplied by Distribution Licensee. Therefore, the contention of Madhav Alloys Pvt. Ltd. that open access power should be included to calculate thresh-hold limit for FY 2014-15 and to give rebate of ₹1/- per unit on total power including power purchased under open access (as prayed in the Petition) beyond threshold limit is not correct. The methodology adopted by PSPCL for calculating thresh-hold limit of power consumed and to calculate rebate of ₹1 per kWh or kVAh beyond thresh-hold limit during FY 2014-15 is correct and justified.

In view of the above, the petition is hereby dismissed.

Sd/-  
(Gurinder Jit Singh)  
Member

Sd/-  
(Romila Dubey)  
Chairperson

Chandigarh  
Dated: 18.12.2015