

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH
email: registrarpsercchd@gmail.com

Petition No. 64 of 2016
Date of Order: 18.10.2016

Present: Shri D.S. Bains, Chairman
Shri S.S. Sarna, Member

In the matter of: Petition for clarification related to Tariff order FY2016-17- defining threshold limit for maximum consumption for Rs. 4.99/unit Tariff, Rs.2/unit charges for peak load hours.

AND

In the matter of: Steel Furnace Association of India (Punjab Chapter)
C/o upper India Steel Mfg. & Engg. Co. Ltd.,
Dhandari Industrial Focal Point, Ludhiana.

.....Petitioner

Versus

Punjab State power Corporation Limited, The Mall,
Patiala.

.....Respondent

Order:

The present petition has been filed by Steel Furnace Association of India (Punjab Chapter) under Section 61 read with Section 181 of the Electricity Act, 2003 and PSERC (Terms and Conditions for Determination of Tariff) Regulations, 2005 for removal of difficulty related to implementation of para 7.4 & 7.2 of the Tariff Order for FY 2016-17.

1.0 The petitioner sought clarification on the following issues:

- (i) Definition of Threshold limit for deciding maximum consumption in the last 2 years and current year consumption to be eligible for ₹4.99/unit tariff as per para 7.4 of the Tariff Order for FY 2016-17.
- (ii) Clarifying hours on which charges of ₹2/unit (for August-September 2016 and any subsequent period which may be decided later) will be charged during peak load hours as per para 7.2 of the Tariff Order for FY 2016-17.

The petitioner submitted as under:

- 1.1 The study of the PSERC tariff order 2016-17 related to power at the rate of ₹4.99/unit to existing units reveals that the lower tariff is available on current year additional consumption over and above the maximum consumption of any of the last two years. This provision carries some ambiguity related to the definition of the threshold consumption as well as current year consumption, which needs to be clarified.
- 1.2 It is not clarified that open access power will be covered for calculating the threshold consumption or not. If open access power is included for calculating threshold consumption, the same should also be covered for calculating the current year consumption to know the additional consumption, on which lower tariff of ₹4.99/unit will be given subject to maximum power consumption from PSPCL whichever is less.
- 1.3 Ideally, PSPCL supplied power should be considered for the calculation of threshold power as well as current year power to know the additional power consumed for lower tariff purpose.

This will incentivize the existing units to shift their consumption from open access to PSPCL power. The aim of increasing sale of PSPCL power through lower tariff for existing units can be achieved by adopting this definition only.

- 1.4 The need for clarification arises due to apprehension that while calculating threshold limit, open access power would be considered and for current year consumption, power purchase from PSPCL only would be considered. This would not serve the intended purpose of the government to increase power consumption in the State. For instance, if about 30% of the power is sourced from open access in last two years, the power consumed from the State has to grow at least by 40% in current year even to become eligible for lower tariff and even after increasing power consumption by 41% over last year, only 1% power purchase will be eligible for concession tariff, which is miniscule to increase PSPCL power consumption in the State.
- 1.5 Thus, power consumed from PSPCL should be used for calculating threshold limit as well as current year consumption, which will directly incentivize the manufacturing units to shift towards PSPCL supplied power. Only power at ₹ 4.99 per unit can compete with open access power and can shift customers from open access to PSPCL.
- 1.6 Alternately, the definition for power consumption should be same for calculating threshold consumption as well as actual consumption. If open access is included in threshold

consumption then current year consumption should also include open access power purchase.

1.7 Para 7.2 of the Tariff Order for FY 2016-17, which deals with ToD tariff structure, has bifurcated FY 2016-17 for imposition of PLEC/TOD/Normal tariff in different months of the year. However, the peak load hours period is 6 PM to 10 PM are kept same through the year. For peak load hours, the following tariff is given:

- (i) During 1st April to 31st July 2016, the normal tariff plus PLEC during peak load hours as approved by the Commission in Tariff Order for FY 2013-14.
- (ii) During 1st August 2016 to 30th September 2016, tariff for peak hours (6 PM to 10 PM) is kept at normal tariff plus ₹2 per kVAH.
- (III) During 1st October, 2016 to 31st March, 2017, peak hour tariff (6 PM to 10 PM) is kept at normal tariff only.

1.8 The above classification has created some confusion regarding the imposition of PLEC during April to July period and additional charges of ₹2/kVAH during August to September 2016 period. The confusion is about the numbers of hours on which PLEC/ Rs. per kVAH will be charged during August to September 2016 and will also be relevant for April to May 2017.

1.9 As per Tariff Order for FY 2013-14, the Peak Load Hours are for 4 hours (6 PM to 10 PM) but PLEC is paid only for 3 hours. Therefore, during peak load hours, whether it is PLEC for April-July 2016 or additional charges of ₹2/unit during August to

September 2016, the same should not be imposed more than 3 hours while the peak load hours are of 4 hours. It is humbly requested to the Commission to issue necessary clarification to avoid any ambiguity later on while billing by PSPCL.

2.0 The petition came up for admission on 30.08.2016 and the same was admitted. After considering the facts and the circumstances of the petition, PSPCL was arrayed as the respondent. During hearing, the copy of the petition was supplied to Shri Ashok Kumar Goyal, Addl.SE/TR-5. PSPCL was directed to give comments by 09.09.2016 through hard copy as well as via e-mail with an advance copy to the petitioner. The petition was fixed for hearing on 15.09.2016.

3.0 During hearing on 19.09.2016, the commission noted that in the Order dated 31.08.2016, PSPCL was directed to submit comments related to Tariff Order for FY 2016-17 by 09.09.2016. However, PSPCL vide CE/ARR&TR Memo No.5942 dated 14.09.2016, requested for grant of two weeks more time to file comments/reply to the petition. This request was found to be unreasonable. The Commission pointed out that the respondent must learn to file replies on time, especially when the copy of the petition was already handed over to Mr.Ashok Kumar Goyal, Addl.S.E./TR-5 on 31st August itself. PSPCL was advised to assist the PSERC by ensuring that all their replies are submitted on time in future. However, acceding to the prayer, PSPCL was directed to file its reply with an advance copy to the petitioner (through email as well as

hard copy) by 23.09.2016. The petition was fixed for further hearing on 04.10.2016.

4.0 PSPCL filed its comments/reply vide CE/ARR&TR Memo No.6069 dated 03.10.2016 (received through email on 03.10.2016 after office hours). PSPCL submitted as under:

4.1 Regarding clarification on para 7.4 of the tariff Order for FY 2016-17, PSPCL argued that the concessional tariff of ₹4.99/- per unit on the incremental consumption by industry has been introduced by PSERC in the Tariff Order for FY 2016-17. In the Tariff Orders for FY 2014-15, there was a provision of rebate of ₹1/- per unit for annual consumption above threshold which was the average consumption of last 3 years. Now in clause 7.4.2 & 7.4.3 of the Tariff Order for FY 2016-17, the maximum annual consumption of the last 2 years has been taken as the basis for threshold value of consumption & which includes PSPCL consumption as well as Open Access consumption. A rebate of ₹1/- per unit has been given on PSPCL consumption above threshold consumption. To illustrate this, an example is given below:-

Year	Consumption (Total)	From PSPCL Source	Through Open Access
2014-15	15 lac	10 lac	5 lac
2015-16	18 lac	11 lac	7 lac

So, the base (maximum consumption) should be taken as 18 lac as it was the total maximum consumption of the consumer

(from PSPCL sources + Open Access). In case the consumption pattern during 2016-17 works out as under:-

Year	Consumption (Total)	From PSPCL Source	Through Open Access
2016-17	19 lac	12 lac	7 lac

In this case, the consumer should be billed normally and the concessional tariff @ 4.99/- per kVAH is not applicable to him. Further concessional tariff @ ₹4.99/- per kVAH shall be applicable on the additional consumption beyond 18 lac units i.e. if his consumption from PSPCL sources exceeds threshold value of 18 lac units. Hence open access power is covered for calculating threshold consumption and lower tariff of ₹4.99/ kVAH be given on PSPCL consumption only.

4.2 Regarding clarification on para 7.2 of the tariff Order for FY 2016-17, PSPCL argued that:

- (i) For the period April 2016 to July 2016: Peak load hours timing of 3 hours as per PR Circular 1/2015 shall remain applicable and PLE charges shall be charged as per PR Circular 5/2013.
- (ii) For the period August 2016 to September 2016: TOD tariff shall remain applicable and additional ₹2/kVAH over and above the normal tariff shall be charged for the consumption recorded for 4 hours between 6.00 PM to 10.00 PM.

- (iii) For October 2016 to March 2017: TOD tariff shall remain applicable without any additional cost during 4 hours of peak load between 6.00 P.M. to 10.00 P.M.

In addition to the above, the tariff structure in the Tariff Order for FY 2016-17, is applicable for the period April 2016 to March 2017 & the tariff for the period April 2017 to May 2017 will be issued by the Commission subsequently.

5.0 During hearing on 15.09.2016, the Commission while showing displeasure on the failure of PSPCL to file reply by the due date, allowed PSPCL to file reply with advance copy to the petitioner (through email as well as hard copy) by 23.09.2016. However, PSPCL submitted the reply vide CE/ARR&TR Memo No. 6069 dated 03.10.2016 which was received through email on 03.10.2016 after office hours. During hearing on 04.10.2016, the Commission noted with concern that the compliance of the directions issued during hearings is not being made by PSPCL within the time frame fixed in the Orders. Such delays should ordinarily invite costs on the party failing to comply with the directions of the Commission. After due consideration, the Commission decided that this time no cost is being imposed on that account. However, in future, in case of non adherence of time line provided in the order, the delinquent person/party will be penalized with cost of Rs.2000/- for first default which will be further enhanced in case of continuing failure to comply with the Orders. The Commission directed that all the persons/parties shall ensure that replies/documents along with annexures are submitted within stipulated time.

The authorised representative of the Petitioner argued his case at length and also submitted that he is not pressing for the clarification regarding peak load hours. PSPCL Officers also put forward their arguments. After hearing the parties, the Commission vide Order dated 12.10.2016 reserved the Order in this case.

6.0 Commission's Findings and Order

The petitioner raised two issues in the present petition but during arguments, the issue regarding peak load hours was dropped. The only issue to be settled in this petition is regarding correct implementation of the Order of the Commission as contained in para 7.4 of the Tariff Order for FY 2016-17 wherein a base tariff rate of ₹4.99 per kVAh for consumption above threshold limit has been approved. **Before we proceed further, it is essential to understand the underlying principle and the motive for introducing this scheme.** While considering the ARR filed by PSPCL for FY 2016-17, the Commission engaged IIM-Ahmedabad as consultants to study the prevailing power sector scenario in Punjab and to suggest ways & means to utilize the surplus power available in the State. The Consultants submitted their report in May, 2016 wherein following very significant observations have been made:

“1.2 Economic Profile of Punjab

----- The Compound Annual Growth Rate (CAGR) of Punjab's secondary sector State Gross Domestic Product (SGDP) has decreased from 13.18% between 2005-06 and

2008-09 to 3.16% between 2012-13 and 2015-16. In the comparative periods the CAGR of India's secondary sector GDP has reduced from 9.53% to 5.52%. What is significant is that the growth rates in the secondary sector for Punjab, which were higher than that for the country during 2005-06 to 2008-09 have become lower than that for the country during 2012-13 to 2014-15. -----

The CAGR of Punjab's tertiary sector SGDP has decreased from 8.10% between 2005-06 and 2008-09 to 7.68% between 2012-13 and 2015-16. In the comparative periods, the CAGR of India's tertiary sector GDP has reduced from 10.30% to 8.85%. Thus, Punjab's tertiary sector has performed worse than the country. -----

In light of the above and the national Make in India campaign, there is a significant opportunity to promote the secondary (industry) sector, followed by the tertiary (services) sector. -----
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2.3 Proposed changes in Tariff & Related Matters

2.3.1 Promote Industry

----- there is a scope and need to promote industrial sector in order to increase the overall SGDP growth and to provide employment opportunities to the people of Punjab, given that agriculture growth has almost saturated as 99% of cultivable land is already under the plough which means there is no further scope of increasing the land under agriculture, with no change in crop pattern. The industrial and service sector CAGR between 2012-13 and 2015-16 was at 3.16% and 7.68%

compared to national CAGR of 5.52% and 8.85%. The decline in industrial growth in Punjab between 2012-13 and 2015-16 is too significant to fail to notice.

*In addition to competition from Chinese goods and high electricity costs, Punjab's industry has to face other disadvantages such as faraway ports for importing raw material and exporting finished goods and more taxes compared to other states. This has resulted in closure of many industrial units and little or no expansion of existing industry. The industrial centres of Ludhiana, Jalandhar and Mandi Gobindgarh have been declining fast since 2010 (M Rajashekhar, Dec 11, 2015). For instance, Punjab State government levies electricity duty of 13%, infrastructure development fee of 5% and octroi of 10 paisa per unit of electricity, thereby increasing the landed cost of electricity by about 20%. Electricity forms an important input cost and in case of LS industry, electricity forms 40% to 70% of the total production cost (HANSCO Iron & Steel Pvt Ltd., 2016 and SIEL chemical Complex, 2016). **Hence any reduction in the landed cost of electricity, either in the form of reduced tariff by PSPCL, reduced taxes by the Punjab state government, or a combination of both, would reduce the production cost of industry and would help industries become competitive enough to survive.[emphasis added]***

In terms of efficiency, the industry segment contributed 37.32% of the revenue of PSPCL (taxes go the state government) with a consumption share of 32.77% in 2015-16. The negative

*externalities created by industries have been well controlled by environmental standards imposed from time to time, unlike in the case of the AP segment. **Given the higher input costs for industry in Punjab due to higher transportation costs (both for raw materials and finished goods) and higher taxes (M Rajashekhar, Dec 11, 2015), the affordability of industry in enhancing power consumption by expansion is not great unless the landed cost of power tariff is reduced substantially to the additional consumption of existing industries, and possibly even to consumption of existing industries on par with the proposed tariff of INR 4.99 for new industries. This would send a clear signal for industry revival.** The power consumption of LS industry has decreased from 11,097 MU in 2014-15 to 10,826 MU in 2015-16. Hence, in the absence of such signals, it may be difficult to reverse a decline.” [emphasis added]*

The Commission while determining the tariff structure for FY 2016-17, particularly for industry, kept the above very significant observations of the consultants in view. In order to encourage consumption of surplus power available in the State, the Commission in para 7.4 of the Tariff Order for FY 2016-17 underlined its views unambiguously and also laid down mechanism to incentivize higher consumption by the industrial consumers. The para 7.4 of the Tariff Order for FY 2016-17 reads as under:

“7.4 Sale of Surplus Power

7.4.1 PSPCL in the ARR for FY 2016-17 has projected surplus power of 18124 MU during FY 2016-17. The surplus power projected by PSPCL from the central generating stations and IPPs in the State of Punjab has been proposed to be surrendered, as per merit order of power purchase from these thermal and gas plants. PSPCL has not submitted any proposal to utilize/sell this power within the State or outside the State. The financial impact of the power to be surrendered during FY 2016-17 has not been projected by PSPCL in the ARR for FY 2016-17. However, the Commission has worked out the financial impact of power to be surrendered, on the basis of data supplied by PSPCL in the ARR, as ₹2075 crore during FY 2016-17 .

In the Tariff Order for FY 2014-15, the Commission, after working out the average per unit cost of the surplus power and with the view to reduce the extra fixed cost of surrendered power to some extent, had approved rebate of ₹1/kWh (or kVAh) on the category-wise tariffs for all categories for consumption over and above threshold limit, except Street Lighting and AP categories.

PSPCL in its submissions in ARR FY 2015-16 had stated that the desired purpose of increase in energy sales was not achieved even with the incentive in the form of rebate of ₹1/kWh (or kVAh) approved by the Commission for increase in energy consumption beyond a threshold limit. Even, the normal increase in energy sales in respect of various categories of consumers during FY 2014-15 was generally less than as

estimated by PSPCL/Commission and as such, there may not be any tangible decrease in the fixed cost of the surrendered power during FY 2014-15.

The Commission therefore decided in Tariff Order for FY 2015-16, not to continue with the rebate as approved in Tariff Order for FY 2014-15.

*7.4.2 Now with the Commissioning of additional units of various IPPs in Punjab, more of surplus power needs to be utilized to reduce the burden of fixed cost of the surrendered power on the consumers of the state, one more chance needs to be given to the consumers of state to utilize surplus power. **Therefore, the Commission approves base tariff rate of ₹4.99 per kVAh for Large Supply industrial category consumers, who consume power above threshold limit as per para 7.4.3. All other surcharge and rebates as approved by the Commission and Govt. levies as notified by the State Government shall be charged extra.** The Commission expects that this will result in reducing extra fixed cost of surrendered power to some extent, the actual quantum of which will only be known at the end of FY 2016-17 and shall be considered by the Commission at the time of true up.*

7.4.3 The criterion for allowing rate of ₹4.99 per kVAh shall be as under:

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

The maximum annual consumption in any of the last two financial years shall be taken as threshold. In case, period is less than two financial years i.e. if connection has been released after 31.03.2014, tariff @ ₹4.99 per kVAh shall not be permissible. Further, in case, there is reduction or extension in load/demand, threshold consumption for a financial year shall be worked out on pro-rata basis.

- (ii) *The billing at the reduced rate shall be done once the consumer crosses the target consumption as worked out under Step (i), e.g. if a consumer has maximum annual consumption in any of two financial years as 10000 kVAh, the consumer shall be entitled for billing at the reduced rate for any consumption exceeding the threshold consumption of 10000 kVAh during FY 2016-17. The reduced rates shall be allowed to the consumer as and when the consumption of the consumer exceeds 10000 kVAh.”*

From the above, it is beyond any doubt that the intention of the Commission while introducing this scheme was to incentivize consumption of power from PSPCL and in its view this was the easiest & quickest way to discourage drawal of open access power by the industrial consumers.

The petitioner has also pointed out that the aim of increasing sale of PSPCL power through lower tariff can be achieved only by considering PSPCL consumption both for calculating threshold limit as well as current year consumption.

Alternatively, the petitioner pleaded that open access power may be considered both for determining threshold limit as well as current year consumption.

On the other hand, PSPCL in its reply dated 03.10.2016 submitted that *“The concessional tariff of ₹4.99/- per unit on the incremental consumption by industry has been introduced by the Commission in the Tariff Order for FY 2016-17. Previously there was a provision of rebate of ₹1/- per unit for annual consumption above threshold (threshold value of consumption was the average consumption of last 3 years) in the Tariff Orders for FY 2014-15.*

Now in tariff order for FY 2016-17 (clause 7.4.2 & 7.4.3), the maximum annual consumption of the last 2 years has been taken as the basis for threshold value of consumption (& this threshold limit includes PSPCL consumption and Open Access consumption) and a rebate of ₹1/- per unit has been given on PSPCL consumption above threshold consumption.”

However, the Commission notes that this is contrary to the letter & spirit of the decision of the Commission enumerated in para 7.4 of the tariff order for FY 2016-17.

While drawing parallel with the provisions of Tariff Order for FY 2014-15, PSPCL has overlooked a very fundamental distinction in para 7.6.3 (i) of the tariff order for FY 2014-15 and para 7.4.3 (i) of tariff order for FY 2016-17. In para 7.6.3 (i) of the tariff order for FY 2014-15, it has been specifically laid down that while calculating average consumption for the last three years

for allowing rebate, open access power purchased by the consumer shall also be taken in to account. The relevant para 7.6.3 of the tariff order for FY 2014-15 reads 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.*

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.”

On the contrary, the Commission in para 7.4.3 of the Tariff Order for FY 2016-17, has laid down that the maximum annual consumption in any of the last two financial years shall be taken as threshold limit. There is no mention of the words “including purchase of power under open access” as was the case in FY 2014-15.

While in the tariff order for FY 2014-15, the Commission decided to consider open access power purchased by the consumers while calculating threshold limit but open access power was not considered while calculating relevant year consumption, otherwise it could have resulted in incentivizing drawal under open access rather than from PSPCL sources.

Principally, we agree with the petitioner that the definition for calculating threshold limit as well as current year consumption for base rate of ₹4.99 per kVAh should be same. In case open access power is considered both for calculating the threshold limit as well as current year consumption, it may result in incentivizing drawal under open access which is not the intent of the Commission as explained above. For example, if the maximum annual consumption of a consumer during last two years was 18 LU including 4 LU of open access power and he achieves an annual consumption of 20 LU during current year including 7 LU of open access power then we will be giving incentive for more drawal under open access rather than

encouraging drawal from PSPCL. Thus, the Commission concludes that only PSPCL power be used for calculating threshold limit as well as current year consumption for allowing base tariff rate of ₹4.99 per kVAh for consumption over and above the threshold limit. It will achieve the objective of the Commission to encourage industrial units to consume more PSPCL power, to lessen the burden of fixed cost, by increasing more drawal of power from PSPCL and it aims at rapid industrialization of the State. **Thus, PSPCL is directed to consider only PSPCL consumption for calculating maximum annual consumption in any of the last two financial years which is to be taken as threshold limit under para 7.4.3 (i) and also for calculating consumption of Large Supply Industrial category consumers eligible for base rate of ₹4.99 per kVAh under para 7.4.2 of the tariff order for FY 2016-17.**

The petition is disposed of accordingly.

Sd/-
(S. S. Sarna)
Member

Sd/-
(D.S.Bains)
Chairman

Dated: 18.10.2016
Chandigarh