

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH

Petition No. 47 of 2015

Date of Order: 03-02-2016

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

In the matter of : Petition under Regulation 45 of Punjab State Electricity Regulatory Commission (Terms and Conditions for intra-State Open Access) Regulation, 2011 and Para 15 of Procedure for intra-State Short Term Open Access of SLDC/PSTCL for directing the Transmission Licensee/SLDC to exempt penalty on the power drawn above the admissible drawl and up to contract demand for curtailment of bilateral schedules under Force Majeure condition and removal of other difficulties in Open Access arising in consequence to Amendment No. 5 of PSERC Open Access Regulations, 2011 and PSPCL's Commercial Circular No. 29 of 2015.

AND

In the matter of : Open Access Users Association, 2nd Floor, D 21 Corporate Park, Sector 21, Dwarka, New Delhi - 110075

.....Petitioner

Versus



- 1) Punjab State Power Corporation Limited,
The Mall, Patiala.
- 2) Punjab State Transmission Corporation Ltd.,
The Mall, Patiala.

.....Respondents

ORDER:

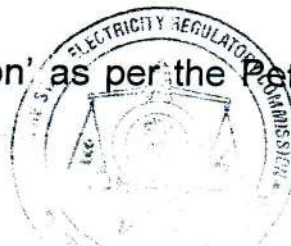
The present petition has been filed by Open Access Users Association under Regulation 45 of Punjab State Electricity Regulatory Commission (Terms and Conditions for intra-State Open Access) Regulations, 2011 and Para 15 of Procedure for intra-State Short Term Open Access of SLDC/PSTCL, challenging Commercial Circular No. 29 of 2015, issued by PSPCL on 22.07.2015.

- 2) The submissions made by Open Access Users Association (OAU) in the Petition are summarized as under:
 - i) Punjab State Electricity Regulatory Commission notified PSERC (Terms and Conditions for intra-State Open Access) Regulations, 2011 (Open Access Regulations, 2011) vide notification dated 01.07.2011, and also approved the intra-State Short Term Open Access Procedure framed by PSTCL/SLDC. On a Petition (No. 16 of 2013) filed by PSPCL, the Commission decided in its Order dated 01.06.2015 to incorporate the amendment proposed by PSPCL in Open Access Regulations, 2011. Accordingly, an amendment (5th amendment) in the Open Access Regulations, 2011 was notified by the Commission.
 - ii) Some Open Access consumers approached the Commission



and PSPCL for clarifying the following :

- a. Penalty for violation of admissible drawl.
 - b. Value of power factor for conversion of open access schedule in MW to MVA for working out the admissible drawl.
 - c. Consequences of revision in already approved open access schedules by Nodal Regional Load Dispatch Centre (NRLDC) due to system constraints in inter-state transmission system/sudden revision in ATC/TTC etc.
- iii) For the implementation of 5th amendment in Open Access Regulations, 2011, PSPCL issued commercial circular 29 of 2015, on 22.07.2015, clarifying points (a) & (b) of above para. The Petitioner submitted that except for levy of demand surcharge for violation of admissible drawl, the other instructions in the said circular are not as per the Open Access Regulations, 2011 and as per the provisions of the Act. The matter having huge financial implications has been decided without issuing mandatory public notice, inviting comments and holding public hearing of the stakeholders. Further, for implementation of the 5th Amendment, open access procedure should have been amended with the approval of the Commission.
- iv) Aggrieved by the impugned CC 29 of 2015, the Petitioner has filed the present Petition, challenging the wrongful findings of CC 29 of 2015 and removal of difficulties of the Open Access Consumers of the State.
- v) The 'Grounds of the Petition' as per the Petitioner have been



summarized in the following paras.

vi) Variation in admissible drawl due to curtailment in approved schedule by Nodal RLDC under Force Majeure conditions in the bilateral inter-state open access transactions:

- a) In case of inter-state/inter-regional bilateral schedules, heavy congestions are being observed on inter-state transmission corridors, particularly of the links of Northern Region with Western and Eastern Regions. Even after such open access bilateral transactions are approved by nodal RLDC on 3/2/1 month advance reservation basis or otherwise and put on the web site, forced outages of inter-state transmission links/lines do happen and National Load Dispatch Centre (NLDC), on every occurrence of such outage, revises the Total/Available Transmission Capacity, resulting in curtailment of approved bilateral schedules. As per Regulation 15 of CERC Open Access Regulations, 2008, such curtailments of bilateral short term open access transactions are permitted. The Regulation further provides that STOA will be curtailed first amongst STOA, MTOA and LTOA and bilateral transactions will be curtailed first followed by collective transactions. These curtailments may be uniform or uneven for the 96 time blocks or duration of anticipated congestion, depending on the margin.
- b) PSREC Open Access Regulations, 2011 provide that inter-state short term open access transactions shall be governed by CERC Open Access Regulations. Accordingly, the bilateral schedule of Open Access



customers of PSPCL for inter-state open access also gets curtailed as under:

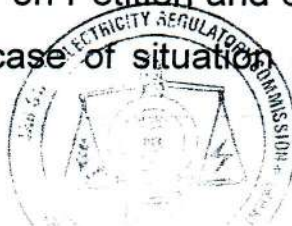
- If the curtailment is uniform for the day, 5th amendment in Open Access Regulations, 2011 is implementable.
- If the curtailment is not uniform, then the consumer will not be able to stick to the admissible drawl as per 5th amendment, as he will have to change the drawl from PSPCL after every 15 minutes time block, depending on curtailment, which is next to impossible.

- c) Perusal of the Order in Petition No. 16 of 2013 reveals that PSPCL made submissions before the Commission that the proposed amendment in Open Access Regulations, 2011 will not affect the bilateral transactions. In this regard, paras 22(iv) and 22(x) of the Order have been reproduced as under:

“22(iv) The impact of proposed amendment will be only to the consumers who will be drawing power through Exchanges. The consumer drawing power through bilateral agreements will have no impact.

22(x) Open Access Consumers can anticipate the drawl from PSPCL by properly planning their bid in the Exchange and the problems raised in the objections will not exist if the Open Access consumers make bilateral agreements for their requirement.”

- d) As per the final order on Petition and 5th amendment issued in consequence, in case of situation as mentioned above,



the consumer having arranged the bilateral power as per Open Access Regulations, 2011, in advance, will be penalized due to Force Majeure conditions which are beyond his control.

- e) The case of curtailments due to forced reduction of approved bilateral schedule by Nodal Regional Load Dispatch Centre due to congestion of transmission corridor or outage of interstate/regional links/lines also has to be covered in the PSERC Open Access Regulations, 2011 appropriately, providing that the Open Access consumers shall be allowed to draw full power up to the Contract Demand from PSPCL.
- vii) Admissible Draw is applicable for the day i.e. all the 96 time blocks:
- a) Regulation 28 (3) of PSERC Open Access Regulations, 2011 now introduced provides that the quantum of drawl of electricity by an Open Access consumer from the distribution licensee in any time block of a day shall be limited to the admissible drawl (in kVA) in such time block wherein the schedule for drawl from open access is maximum. Regulation 28(3) of PSERC Open Access Regulations, 2011, reads as under:

"28 (3) The quantum of drawl of electricity by an Open Access Consumer from the distribution licensee during any time block of a day shall not exceed the admissible drawl of electricity by the Open Access Consumer from the distribution licensee in such time block wherein the schedule for Open Access drawl is the maximum."



As per this provision, the admissible drawl is for the day i.e. for 96 time blocks. Then, this admissible drawl will be applicable for Peak Load Hours (PLH) also instead of load permitted during PLH.

viii) Surcharge/Penalty for violation during Peak/Non Peak hours and under TOD Regime.

(a) The paras 3(i) and 3(ii) of CC 29 of 2015 dated 22.07.2015 are defective and PSPCL is assuming powers to levy penalties on its own without authority. As per present regulations and Commission's directions, demand violations and peak load violations are assessed and penalty for demand surcharge and penalty for peak load violations are imposed independently, but the circular says these are concurrent and will be levied simultaneously. As per 5th amendment to Open Access Regulations, 2011, the admissible drawl will be applicable for all the 96 times blocks, including peak period.

(b) Those who opt for ToD in ToD tariff regime have been permitted to quit Peak Load Restrictions regime by the Commission and allowed to avail load up to Contract Demand. Such consumers are not covered under PLEC and there is no provision in regulations to levy penalty for peak load violations on those who opt for ToD. As such consumers will be violating CD in case they exceed their load beyond CD permitted in ToD. In addition to ₹3/- per unit on actual drawl in kVAh during ToD charge period, such consumers should be required to pay Demand Surcharge only for violation of Contract Demand on 24 hours basis. It



has been submitted by Open Access Users Association that CC No. 29 of 2015 issued by PSPCL needs to be amended accordingly.

ix) Usage of Different Power Factor (PF) for different purposes-
Need to adopt uniform PF.

a) PSPCL has specified:

- To apply power factor of 0.9 for working out permitted quantum (in MW) on the Contract Demand in kVA for the purpose of granting NOC/Standing clearance/ permission for Open Access.
- Usage of actual power factor attained by the industry during the month for working out the energy scheduled by Power Exchange in kWh to kVAh, for working out the power consumption from PSPCL, for raising monthly bills, as per Commission order dated 20.05.2013, in Petition No. 3 of 2015.
- To adopt power factor of 0.9 for allowing maximum load (in kW) to be used during Peak Load Hour restrictions on the sanctioned Contract Demand as per policy of Peak Load Restrictions approved by the Commission.
- Power Factor of 0.98 is being used for Power Intensive Industries and 0.95 for General Industries for working out the tariff in kVAh as per the study report of PSPCL for kVAh tariff, accepted by the Commission. These power factors are also being used for fixing open access charges (e.g. Cross subsidy Surcharge) in Tariff orders.



- b) The Commission and PSPCL has acknowledged that the normative power factor for LS industry has improved to 0.95/0.98 from earlier 0.90, which was based on the mechanical Trivector Meters and was being adopted for the last about 10 years. Prior to these 10 years, this grid normative power factor was 0.88.
- c) With the introduction of electronic energy meters, monitoring of demand in kVA instead of kW, power factor based rebate/surcharge etc, consumers have improved the power factor of the system by installing capacitor banks, after incurring huge expenditure. Now, with the introduction of kVAh tariff, almost all of the LS and MS consumers have further invested and are incurring maintenance expenditure to maintain power factor near to unity for ultimate benefit. This has also helped PSPCL to achieve better voltage profile and reduction in system losses/outages. The figures of PSPCL in reduction in damage to transformers and in grid losses over the years also support this.
- d) Open Access Users Association has prayed that present grid normative power factor of 0.90 being used by PSPCL for the last ten years be improved to normative power factor of 0.98 for PIU and 0.95 for General Industry. These figures are based on the study conducted in FY 2013-14 when kWh tariff was applicable and now with the introduction of kVAh tariff, there has been improvement in power factor of every consumer. These should be reviewed every year. These grid normative power factors should be used for grant of peak load exemptions and grant of NOC for open access



power etc. PSPCL and PSTCL be directed to amend their instructions accordingly.

x) Curtailment in Contract Demand due to application of CC 29 of 2015.

- a) The action of PSPCL of using 0.90 as power factor for conversion of load/demand in kW to kVA as per CC 29 of 2015 virtually amounts to denying the rightful entitlement of sanctioned Contract Demand. An example has been given in the Petition by Open Access Users Association in support of its submission.
- b) The situation will be addressed if actual power factor is used for converting open access power in MW to MVA on daily basis.
- c) As per CC 29 of 2015, violation of admissible drawl is to be worked out from readings of ABT meters by SLDC. Since the data is to be analyzed after down loaded data of ABT meter is sent by DS office to SLDC at end of month, there will be no difficulty in usage of actual power factor and software algorithm can be structured that way.

xi) Usage of 0.90 as Power Factor.

- a) PSPCL vide its CC 29 dated 22.07.2015 has considered the usage of power factor as 0.90 to convert load/contract demand from MW to MVA. Para 5 of CC 29 of 2015 reads as:

"Power factor of 0.90 shall be considered to convert load/contract demand from MW to MVA."

In case, such power factor is implemented, it will



impose a penalty on the theoretical figures of admissible drawl in spite of actual figures being available.

- b) Both the DLMS and ABT meters are recording the actual 30 minute/15 minute data of kVA, kW, kVAh and kWh. Therefore, when there is already availability of actual data, then such use of presumptive/theoretical/normative data, instead of using the actual data is improper in determining the levy of penalty, and should be set aside.
- xii) Treatment of banked power for outage of grid system of the Licensee.
- a) Under collective transactions, if in case there arise a fault in the feeding substation/line, the open access power purchased by a consumer during the period of fault is considered as power banked with PSPCL, and as per para 8 of Procedure for Intra-State Short Term Open Access issued by Punjab State Transmission Corporation Limited, that banked power can be utilized by Open Access consumer within fifteen (15) days from the date of fault in such substation/feeder, with the approval of PSPCL, in the allotted time slot.
- b) Whereas, prior to Commission Order dated 01.06.2015, with reference to Petition No. 16 of 2013, Open Access consumers were not purchasing power in that time slot, so as to ensure utilization of such banked power in the allotted time and power used in such slot was adjusted against the banked power.



c) With the 5th amendment in PSERC Open Access Regulations, 2011, there is no clarity in the order dated 01.06.2015/CC 29 of 2015 to the effect that whenever PSPCL allows Open Access consumer to use such power, then that power is to be considered as scheduled open access power or the power of PSPCL to determine the admissible drawl for that day. The order dated 01.06.2015 as well as CC 29 of 2015 do not provide clarity as to whether the slot for which open access power is banked shall be excluded for the purpose of calculation of admissible drawl for that day. Since it is difficult to adjust the unutilized power in the allotted time schedule in view of the amended regulations and non utilization is due to Force Majeure conditions of PSPCL and PSTCL, such unutilized power be adjusted as utilized and consumption from PSPCL be reduced accordingly.

xiii) Effective date of CC 29 of 2015 and amendment of Procedure for Short Term Open Access.

a) CC 29 of 2015 has been issued on 22.07.2015, but made effective from 03.06.2015 i.e. after a delay of 50 days. Representations on the issue of methodology to work out MVA from MW were made by many affected consumers to the Commission, but the issue was not resolved and many consumers used actual/normative PF (0.98/0.95) for deciding the quantum of open access power and now all such consumers will suffer on this account. These issues should have been resolved before issue of said notification by the Commission. The retrospective implementation of CC

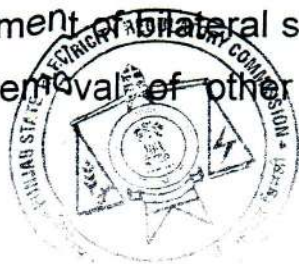


29 of 2015 will put the open access consumers to great financial loss as the clarifications can only be taken care of in future. Therefore, the implementation of CC 29 of 2015 should be prospective.

- b) PSTCL has issued Procedure for intra-State Short Term Open Access with the approval of the Commission in compliance to Open Access Regulations, 2011. For proper implementation of 5th amendment in Open Access Regulations, 2011, the best course should have been revision of open access procedure with the approval of the Commission, which would have provided clarity to consumers on all these issues. It has been requested that PSPCL and PSTCL be directed to revise the Open Access Procedure immediately in line with the decisions on the issues raised in this Petition.
- xiv) Open Access Users Association prayed as under:
- a) To amend and bring the regulations and policy on Peak Load Hours Restrictions and Exemptions in consonance with each other for proper implementation of PSERC (Terms and Conditions for intra-State Open Access) (5th Amendment) Regulations, 2015, read with order on ToD.
- b) To provide for a uniform normative Power Factor of 0.95/0.98 for PIU/General LS industrial consumers for grant of Peak Load Exemption and NOC for Open Access and usage of actual power factor for converting open access power in MW to MVA for determining the daily admissible drawl of an Open Access consumer as per the practice of working out open access energy in MWh to MVAh.



- c) To provide in the Open Access Regulations, 2011 for drawl of power by Open Access consumers up to the Contract Demand, under Force Majeure conditions of curtailment of approved bilateral schedules by RLDC, due to outage of transmission corridors or forced outage of inter-state links/lines.
 - d) To decide on the treatment of banked power due to outage of transmission/distribution system of PSPCL and PSTCL.
 - e) To order immediate stay on the implementation of CC 29 of 2015 issued by PSPCL till decision of this Petition and then issue fresh Commercial Circular.
 - f) To direct PSPCL to use actual data instead of normative data while calculating/determining the levy of penalty.
 - g) To direct PSTCL to amend the short term open access procedure in line with the 5th amendment, covering all aspects.
 - h) To pass such other Order/(s) as it may deem fit and necessary in the interest of justice.
- 3) The Petition and Interlocutory Application (IA) were admitted by the Commission vide its order dated 11.08.2015. PSPCL and PSTCL were directed to file the reply to the Petition and IA by 25.08.2015. The next date of hearing was fixed for 02.09.2015.
- 4) PSTCL vide its letter dated 31.08.2015 filed reply to the Petition and IA, and submitted that the matter relates to imposition of penalty on power drawn above the admissible drawl and upto contract demand for curtailment of bilateral schedule under Force Majeure conditions and removal of other difficulties in open



access arising in consequence to 5th amendment in PSERC Open Access Regulations, 2011 and PSPCL CC 29 of 2015. PSTCL/SLDC does not levy any penalty as mentioned in the Petition. The same is levied by PSPCL as per their CC 29 of 2015. PSPCL is also the first and the prime respondent in this case. All other difficulties mentioned in the Petition also relate to PSPCL only. PSTCL has offered no comments in this case as there is no implication involved, financial or otherwise to PSTCL/SLDC.

- 5) PSPCL vide its memo no. 5500 dated 31.08.2015 prayed for grant of atleast 2 weeks time for submission of reply to the Petition and IA.
- 6) The Commission vide its order dated 02.09.2015 directed PSPCL to file the reply to the Petition and IA by 15.09.2015, with copy to the Petitioner. The next date of hearing was fixed for 22.09.2015.
- 7) PSPCL vide its letter dated 11.09.2015 filed the reply, which is summarized as under:
 - i) It is true that Commercial Circular 29 of 2015 was issued on 27.07.2015 for implementation of Commission's Order dated 01.06.2015 and 5th amendment in Open Access Regulations, 2011. This circular was issued after in-depth deliberations with higher authorities and other concerned departments of PSPCL, like PP & R. It has been denied by PSPCL that CC 29 of 2015 was issued without applying any mind.
 - ii) a) The main objective of 5th amendment in Open Access Regulations, 2011 was to discourage the open access consumers for over draw of power beyond schedules,



causing unbalancing/overloading the power system of PSPCL. Such consumers are to be dealt with instructions in CC 29 of 2015 dated 27.07.2015, which was issued in line with 5th amendment in Open Access Regulations, 2011. There is no intention to penalize the open access consumers under Force Majeure conditions.

- b) Under Section 45 of the Open Access Regulations, 2011, the Commission has full powers for curtailment due to forced reduction of approved bilateral schedule by Nodal Regional Load Dispatch Center due to congestion of transmission corridor or outage of inter-state/regional links/lines etc, to be covered in PSERC Open Access Regulations, 2011, for drawl of full power up to the contract demand from PSPCL system.
- iii) a) Paras 3(i) & 3(ii) of CC 29 of 2015 regarding levying of penalties on open access consumers for violation in contract demand and peak load violations are not defective, because as per CC 29 of 2015, these penalties should be charged simultaneously and not independently as mentioned in the Petition. It is worth to mention that peak load hours and off peak load hours are two different segments of the day. For the safety of transmission network, PSPCL is required to control demand during peak load hours to avoid collapse of transmission network, as well as controlling demand as per entitlement of open access consumers during the day and issues are interrelated.
- b) Even during the period ToD tariff is applicable, the consumer has the option to be governed either under ToD tariff or under



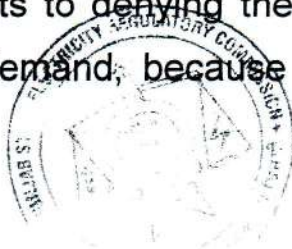
peak load hours restrictions and in the later case, a consumer is allowed to use permitted demand after paying PLEC.

It has been denied by PSPCL that the consumers who opt for ToD tariff are not liable to observe peak load instructions, as controlling maximum demand is the necessity for the safety of the network.

Extra charge of ₹3 per kVAh for drawl during peak load hours does not give liberty to the consumer to consume demand higher than the sanctioned contract demand, even if he is covered under ToD tariff.

iv) While issuing CC 29 of 2015, normative power factor of 0.90 has been considered for conversion of open access power in MW to MVA according to guidelines of the Commission regarding short term open access consumers vide which procedure has been laid down for intra-State short term open access by the office of Chief Engineer /SO&C (Open Access), wherein it is mentioned at Sr. No. 2.1(A)(ii) that Short Term Open Access shall be permissible to a consumer having demand of one MW and above, connected at 11 kV or above. However, all generating plants are to be allowed open access for wheeling of power further, for consumers of distributions licensee, the demand in MW shall be computed based on Sanctioned contract demand and power factor as 0.90.

v) a) It has been denied by PSPCL that using 0.90 as power factor for conversion of load/demand in kW to kVA as per CC 29 of 2015 virtually amounts to denying the rightful entitlement of sanctioned contract demand, because consumer having 4.5



MW sanctioned load will have sanctioned contract demand of 4.545 MVA at 0.99 power factor, but consumer has been granted 5 MVA contract demand with power factor of 0.90. So, for conversion of MW power purchased through open access, power factor of 0.90 is taken as a level playing field.

If the sanctioned contract demand of consumer is 4.545 MVA with 0.99 power factor, instead of 5 MVA, then no point of curtailment of power arises. That is why the open access contract demand has been converted from MW to MVA by considering normative power factor of 0.90.

- b) If power factor for converting open access power in MW to MVA is considered on daily basis, then the open access contract demand of the consumers will keep on changing on daily basis and lot of complications will arise for SCADA system of PSPCL and PSTCL to control the load flow and power and its scheduling. It would be impossible for PSPCL and PSTCL to maintain the values as bench-marks for power generation, transmission and distribution systems, because the power factor of the consumers may keep on changing on daily basis and there will no standardized control for the load shedding. Further, it would not be possible to maintain the reserved capacity for admissible drawl of open access consumers on the basis of/considering the daily power factor. So, the system may also collapse in some cases.
- vi) a) The power factor of 0.90 has been used for sanction of contract demand of all LS industrial consumers. For example, for a connected load of 1260 kW, the maximum contract demand which can be sanctioned will be 1400 kVA. In case,



contract demands have been sanctioned with 0.90 power factor, comparison of admissible drawl has to be worked out by taking power factor of 0.9 and this procedure is correct, otherwise it will result in to disparity.

- b) It is correct that DLMS and ABT meters give actual 30 minutes average demand. But for billing purposes and as per tariff of LS industrial consumers, the highest average maximum demand of half hourly demands is taken into account. Further, for open access consumers, the demand surcharge is to be levied only once in a billing month, even though open access consumer may violate the admissible drawl many times during the month. The purpose of amendment of regulation 28 of Open Access Regulations, 2011 is to regulate the drawl of power from PSPCL in a systematic way, as abrupt changes in demand by open access consumers during peak load hours, are forcing PSPCL to switch off DS & NRS category feeders, causing inconvenience to these consumes, apart from revenue loss to PSPCL. The purpose of amendment notification issued on 01.06.2015 shall be totally defeated, in case the demand put forth by the Open Access Consumers Association is accepted.
- vii) The Petitioner has only given provisions of treatment of banked power as per regulations and has tried to take shelter under such conditions without giving any such examples of banked power having been utilized later or having not been purchased such power during breakdowns of the system. Such hypothetical explanations are not relevant to the



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challenge made by the Petitioner in the present petition. PSPCL submitted that open access consumers should regulate their power drawl in a systematic way for which amendment notification of dated 01.06.2015 has been issued by the Commission.

Drawl of power through open access and its control is entirely in the hands of the Petitioner and keeping the drawl of power from PSPCL as per schedule entails no demand surcharge. The Petitioner is trying to exploit the laid down procedure for his pecuniary gains only, at the cost of system stability and inconvenience to lacs of DS & NRS consumers of the State and same needs to be discouraged.

- viii) a) CC 29 of 2015 was issued after deliberations with different offices of PSPCL like PPR and higher authorities. The circular is applicable from the date of issue of notification on 01.06.2015, which is legally correct, as before issue of notification on 01.06.2015, the Commission had wider discussion with the stakeholders in case of Petition No. 16 of 2013 and they were aware of the amendment beforehand. The advice given by the respondent in the matter of petition no. 16 of 2013 was not feasible of acceptance as the amendment vide notification dated 01.06.2015 was issued after discussions with the stakeholders and suggesting revision of open access procedure now is an after-thought only.
- b) The circular issued by PSPCL is in line with the amended Open Access Regulations, 2011 and it is clear, so far its implementation is concerned.



- c) In case power factor of 0.95/0.98 is to be used for working out open access power in MW to MVA and violation of schedule of power as suggested, the contract demands already sanctioned by PSPCL shall have to be again worked out for such erring consumers and the procedure suggested is not practical.
- d) PSPCL has no objection to provide relief to open access consumers under Force Majeure conditions after such conditions are detailed and approved by the Commission.
- e) The issue is not directly related to the problem of levy of surcharge for violation as the control of drawl of power through open access is not in the hands of PSPCL. Further, such outages are not common/frequent.
- f) The demand is not possible of acceptance as respondent is trying to gain, least caring for the inconvenience to lacs of DS & NRS consumers and revenue loss to PSPCL.
- g) The use of power factor of 0.9 has been explained and demand is not feasible of acceptance.
- h) The circular already issued by PSPCL is clear, unambiguous and Petitioner is trying to create confusion for its pecuniary gains only.
- i) kVA contract demand of the LS consumers is worked out by taking normative power factor of 0.9 and this sanctioned CD is the base for working out admissible drawl from PSPCL system by open access consumers.

Moreover, as per para 10.2 of the Tariff Order for FY 2015-16, all consumers with load exceeding 100 kW (except Public



Lighting & AP High-tech/ High-density farming), MS/BS consumers and DS/NRS consumers with load exceeding 50 kW but up to 100 kW shall declare maximum demand in kVA, which shall not exceed 100% of sanctioned load in kW and converted into kVA by using 0.90 power factor.

Further, as per General Conditions of Tariff for FY 2015-16, para 18.5, sub para- (ii), Note- 1, 0.90 power factor is being used for MS and LS category consumers to convert kWh consumption into kVAh consumption for billing purposes. Accordingly, as per Schedule of Tariff for FY 2015-16, clause SIII, power factor surcharge/incentive is being levied/paid for power factor below 0.90.

Moreover, while granting the entitlement to different types of consumers seeking open access power under different conditions, e.g. open access involving intra-State transmission system, open access without involving intra-State transmission system, open access on first come first served basis, open access in advance, day ahead open access etc., as per procedure laid down for intra-State Short Term Open Access (para 6.4), PSPCL does not know about power factor to be maintained by the open access consumers at the time of drawl of power from PSPCL. Therefore, normative power factor i.e. 0.90, as approved by the Commission has been used in CC 29 of 2015.

- 8) During hearing of the Petition on 23.09.2015, Open Access Users Association sought time to file Counter reply to the reply of PSPCL. The Commission vide its Order dated 24.09.2015 directed the Open Access Users Association to file the counter reply by



14.10.2015 and supply a copy of the same directly to PSPCL. The next date of hearing was fixed for 20.10.2015.

- 9) Open Access Users Association filed counter reply vide its letter dated 12.10.2015, to the reply of PSPCL, which is summarized as under:
- i) The Open Access Users Association and other Large Supply consumers of PSPCL are opting for open access only under duress as survival of industry is the challenge and almost all of them are operating the industry at loss, as there is no other option for them. In view of high power tariff and other exorbitant charges of PSPCL, open access has to be availed and save on the production cost to the extent possible so as to remain competitive in the national and international market.
 - ii) PSPCL is consistently denying the data regarding open access sought by the Commission during hearing of Petition No. 16 of 2013 available with them now and only making sweeping statements without substantiating them on record.
 - iii) CC 29 of 2015 was issued on 22.07.2015 and made effective retrospectively from 03.06.2015. The Petitioner further submitted that it should be noted that this CC 29 of 2015, having very wide financial and commercial implications for open access consumers has been issued without consultations with the stake-holders i.e. without issuing any public notice and without holding public hearing, mandatorily required for such policy decisions, affecting a large number of consumers. PSPCL may have conducted in house consultations, but it is not a matter of the Petition. How a consumer availing open access can implement the orders contained in CC 29 of 2015



issued on 22.07.2015 retrospectively from 03.06.2015. He is bound to be penalized for the violations of CD in the process, which in fact he has not violated as per his perception and understanding of the 5th Amendment of PSERC Open Access Regulations, 2011.

- iv) PSPCL has stated that there is no intention to penalize the consumers under Force Majeure Conditions. However, the reply is silent as to how the variation in admissible drawl (as defined in 5th Amendment) occurring due to revision of approved bilateral schedule by Nodal RLDC as brought out in the Petition will be dealt by PSPCL. If the intent is certainly to exempt the OA consumers from penal provisions in case of such curtailment of bilateral open access schedule, PSPCL needs to spell out the proposed amendment in the Regulations and CC 29 of 2015.

As per Regulation 15 (2) of CERC Open Access Regulations 2008, curtailment occurs one day before or on the same day of scheduling power, but the consumers has already paid all the charges to Nodal RLDC for such bilateral schedule on advance basis and always intended to draw full power up to its contract demand by proper mix of open access schedule and admissible drawl schedule. However, due to sudden revision of schedule on day ahead/on the spot, OA consumer draws power in excess of admissible drawl from PSPCL. Now, PSPCL has issued CC 29 of 2015 issued on 22.07.2015, to be made effective from 03.06.2015, in which this situation is not addressed. It clearly shows that the basic intent behind such applicability of CC 29 of 2015 is to penalize and discourage the



open access consumers from procuring power under bilateral arrangements.

- v) It is true that the Commission has full powers under Regulation 45 of PSERC Open Access Regulations, 2011, for removal of difficulties and for that matter, allowing drawl of power (admissible drawl) up to contract demand in case of curtailment of bilateral schedule of open access power by Nodal RLDC in case of congestion/overloading of lines etc. It has been reiterated by Open Access Users Association that for covering such curtailment of contract demand under Force Majeure conditions, the open access consumers should be allowed to draw full power up to its contract demand, even if the consumer gets revised schedule of zero power in some time blocks and that no penalty should be levied in such time slots for drawl of additional power, in addition to the revised entitlement/admissible drawl. As such, for this purpose, PSERC Open Access Regulations, 2011 may be amended to cover such eventuality and in the meanwhile, the Commission should exempt bilateral transactions from the ambit of 5th amendment in Open Access Regulations, 2011 and CC 29 of 2015 issued by PSPCL.
- vi) As per Tariff Order for FY 2015-16, issued by the Commission, the Commission has already defined ToD regime and PLEC regime separately into two different segments and conclusively, these are independent of each other. It has been reiterated by the Petitioner that by opting for ToD regime, consumer has quit PLEC regime for 6 months, as clearly laid down in the Tariff Order and also provided in the Commercial



Circular issued consequently by PSPCL. For those opting for PLEC, conditions of Peak Load Policy approved by the Commission, will be applicable, while for those opting for ToD, terms and conditions of relevant para of Tariff Order will be applicable (since there is no other regulation or policy for ToD separately approved by the Commission). It is wrong that such consumers opting for ToD are covered under ToD as well as PLEC and shall be levied the penalty for violation of contract demand as well as PLEC simultaneously. In this regard, paras 3 (i) & (ii) of CC 29 of 2015 are in contradiction to Tariff Order for FY 2015-16. Therefore, for consumers opting for ToD, only Demand Surcharge for violation of CD or admissible drawl for the day should be levied and no peak load violation is to be levied.

- vii) PSPCL has acknowledged that different power factors are being used as pointed out by the Petitioner and these are as per Regulations and Procedures approved by the Commission. Petitioner has only requested for bringing uniformity in these Regulations and Procedures based on earlier kWh regime and update/amend these to align these with the now introduced kVAh tariff regime as per the latest ground realities.

There is no justification in granting Peak Load Exemption in kW when Industry is following kVA system for tariff, voltage level of connectivity and demand violations and it needs to be approved in kVA. Usage of 0.90 power factor for grant of permitted load for open access provided in Procedure was proposed by PSPCL and approved by the Commission in 2011, when kWh tariff was in vogue and there was no concept

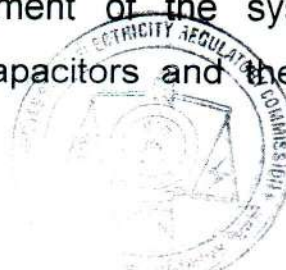


of admissible draws for open access. Now, it needs to be relooked in view of changed scenario.

The Commission has already ordered in Petition No. 3 of 2015 for converting open access power in kWh to kVAh at actual average power factor upto 2 decimal points, in para 16(ii), at page no. 28 of the order dated 20.05.2015, which was also agreed upon by PSPCL in its replies. Usage of actual power factor of around 0.99 of individual consumer for converting open access energy in kWh to kVAh and usage of uniform power factor of 0.90 for converting open access power in kW to kVA is discriminatory for open access consumers and violative of provisions of Electricity Act, 2003, which has cast a duty on the Commission to provide non discriminatory open access. Equity and justice demands that one figure be used for these twin purposes as both relate to open access.

Generation is to be scheduled on MW basis as per IEGC, Punjab also has to schedule power on MW basis. However, IEGC and SGC both provide for monitoring the flow of reactive energy and penalize the entities which draw reactive power when voltage is below 97% of nominal voltage or inject reactive power in the grid when voltage is above 103% of nominal voltage. In Punjab, generators are not being monitored for reactive power injections or draws and all stress is on LS industrial consumers for managing the reactive compensation to the grid.

Lacs of DS, NRS and Agriculture consumers do not care about reactive energy requirement of the system and are not installing the required capacitors and their financial liability,



including, even to some extent, the liability of PSPCL, also has been transferred to industrial consumers to improve power factor of grid by incurring huge expenditure and they need incentives for improving the power factor of the grid from 0.9 to 0.98.

- viii) By using power factor of 0.99, there shall be no curtailment of power. There shall be curtailment of power even if such power factor of 0.99 is used, but in such a case, the entitlement of an open access consumer shall be more, in case PSPCL uses power factor of 0.99 as compared to power factor of 0.90.

PSPCL has failed to give examples of consumers' load and demand pattern in support of its claim that there will be no curtailment.

When PSPCL was short of power in 2009, it encouraged consumers to bring power under open access and now it is discouraging when it is declaring itself surplus. Arbitrary increase in open access charges set aside by APTEL is pending before the Hon'ble Supreme Court. Peak load charge of ₹ 3/- was collected on open access power from consumers without any justification and are yet to be returned.

While calculating admissible drawl, a power factor of 0.95/0.98 or actual power factor of the day of each consumer should be considered, as in such a case, the entitlement of an open access consumer shall be more.

- ix) The apprehensions expressed by PSPCL are imaginary, unfounded and only a desperate attempt to justify the contents of CC 29 of 2015. To implement CC 29 of 2015, PSPCL has to

