



**VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA**  
First Floor 33/11 kV substation, Hyderabad Boats Club Lane  
Lumbini Park, Hyderabad - 500 063

:: Present:: Smt. UDAYA GOURI

Wednesday the Twenty Eighth Day of August 2019

**Appeal No. 10 of 2019-20**

Preferred against Order dt:30.04.2019 of CGRF in  
CG No. 699/2018-19 of Rajendra Nagar Circle

Between

M/s. Binjusaria Ispat (P) Ltd., C-1, Govt. Industrial Estate, Chandulal Baradari,  
Hyderabad - 500 064. Cell: 7036205211.

... Appellant

**AND**

1. The DE/OP/Shadnagar/TSSPDCL/RR Dist.
2. The SAO/OP/Rajendra nagar Circle/TSSPDCL/RR Dist.
3. The SE/OP/Rajendra nagar Circle/TSSPDCL/RR Dist.

... Respondents

The above appeal filed on 25.05.2019, coming up for final hearing before the Vidyut Ombudsman, Telangana State on 27.08.2019 at Hyderabad in the presence of Kum. Nishitha - On behalf of the Appellant Company and Sri. G. Lokeshwariah - SAO/OP/Rajendra Nagar for the Respondents and having considered the record and submissions of both parties, the Vidyut Ombudsman passed the following;

**AWARD**

This is an Appeal filed against the orders of the CGRF/Rajendra Nagar Circle in CG No. 699/2018-19 dt.30.04.2019.

2. The Appellant stated that a complaint was lodged by them before the CGRF seeking for refund of the excess amount of Rs 14,40,515/- during the period from May'2017 to March'2018 along with interest @ 24% P.A. as prescribed in Clause 4.7.3 of Regulation 5 of 2004 dt.17.03.2004 and that the CGRF failed to appreciate the

evidence and the contentions placed by them and disposed the same against them as such they filed the present Appeal.

3. The Appellant contended that since the CGRF failed to consider the facts and evidence adduced by them and since the CGRF failed to apply its legal mind properly on terms and conditions and applicability of wheeling tariff approved by the Hon'ble TSERC in its order dt.27.03.2015 of wheeling tariff of distribution business for third controlled period of FY 2014-15 TO 2018-19 at page No.58 before rejecting the complaint, they have filed the present appeal.

4. The Appellant stated that it is a company registered under the Companies Act under the name and style of M/s. Binjusaria Ispat Private limited situated at C-1, Government Industrial Estate, Chandulal Baradari, Hyderabad - 500 063 represented by its Director Sri.Hitesh Kedia and having a HT consumer bearing No. HT RJN 1910 with CMD of 9800 KVA for supplying of energy and demand from the Respondents and also open access user as defined in Section 42 of the Electricity Act,2003.

5. That the Appellant during the period from May,2017 to March,2018 billing months paid an amount of Rs 1,31,166/- per month for transmitting the demand 7158 KVA of Open Access. Thus total an amount of Rs 14,44,036/- paid However the Respondents 2 to 4 has not delivered the said open access demand in the said period without furnishing any reason to the Appellant. Hence an amount of Rs 14,40,515/- excess paid in the period from May,2017 to March,2018. In view of the said discrepancy the Appellant approached the Respondent No.3 and 4 vide its representation No. BSIP/2018-19 dt.01.02.2019. But the Respondent No.3 & 4 has not given any response. Hence the Appellant approached the Hon'ble CGRF II vide CG No. 699/2018-19/Rajendranagar circle.

6. That the Respondent No.4 vide its letter No.SE/OP/RJNR/SAO/HT/D.No.504/2018 t.23.03.2019 filed its counter before the Hon'ble CGRF-II. That the Appellant has filed its rejoinder on 30.03.2019 before the Hon'ble CGRF II against the counter filed vide Lr.No.SE/OP/RJNR/SAO/HT/D.No.504/2018 dt.23.03.2019. That the Respondent No.4

vide its letter No.SE/OP/RJNR/SAO/HT/D.No.09/2018 t.08.04.2019 filed its counter before the Hon'ble CGRF-II. That the Respondent No.1 vide its order dt.30.04.2019 rejected the complaint No. CG No. 699/2018-19/Rajendranagar Circle without considering the facts and evidences filed by the Appellant and the terms and conditions and applicability of wheeling tariff approved by the Hon'ble TSERC in its order dt.27.03.2015 of wheeling tariff of distribution business for 3rd control period of FY 2014-15 to 2018-19 at page No. 58 hence the same is liable to be set aside.

7. Apart from the above stated facts, the following provisions also to be noted:-

a. That the Electricity Act,2003 vide Section 42(2) conferred with the responsibility to the State Electricity Regulatory Commission to introduce open access in phase manner on payment of Cross Subsidy Surcharge in addition to the charges for wheeling and additional surcharge;

b. As per Section 42(3) it is the duty of the Distribution Licensee to provide open access facility as **“common carrier providing non discriminatory Open Access.”**

c. Accordingly the then Hon'ble APERC passed the Regulation 2 of 2005 on 01.07.2005. As per clause 15.2 of said Regulation, the **“Nodal agency shall not reduce or cancel the capacity allotted without giving a notice of at least 15 days in advance to enable the concerned open access user to file his objections if any in writing.”** As per Clause 19.4 the open access user shall make reasonable endeavours to ensure that the actual demand or actual sent out capacity shall not exceed their contracted maximum demand.

8. In view of the above said facts, the Appellant prayed that the Hon'ble Vidyut Ombudsman may be pleased to allow the present Appeal directing the Respondents:-

a. To set aside the order dt.30.04.2019 of CG No. 699/2018-19/Rajendranagar Circle passed by the CGRF.

b. To refund an amount of Rs 14,40,515/- excess paid in the period from May,2017 to March,2018 along with interest @ 24% per annum as prescribed in Clause 4.7.3 of Regulation 5 of 2004 dt.17.03.2004 to the Appellant and

c. any other order of orders as may deem fit and proper by the Hon'ble Vidyut Ombudsman under the circumstances of the case in the interest of justice and fair play.

9. The Respondents through the 3rd Respondent SE/OP/Rajendranagar Circle submitted their reply vide Lr/No.SE/OP/RJNR/SAO/HT/D.No.82/2019 dt.11.06.2019 stating as follows:-

With reference to the letter under 1st cited, it is respectfully submitted that the Appellant is the HT consumer of M/s. Binjusaria Ispat Pvt. Ltd bearing SC No. RJN1910 released in 15.01.2005 under Cat-I(A).

Further it is to submit that the Appellant is purchasing the power through power exchange under inter-state short term Open Access. The terms and conditions for inter state open access are governed by the CERC regulations. Wherein the relevant clause of CERC W.r.t. Applicability of wheeling charges is as follows:—

Clause (10)(6) of CERC (Open Access in inter state transmission) second amendment regulation 20133, specifies:

*“The wheeling and other charges payable to distribution utilities shall be paid by the Appellant seeking open access in accordance with the open access regulation of the concerned state commission.”*

Wherein the Hon'ble APERC has issued the Regulation determining the terms and conditions of the open access vide Regulation 2 of 2005 which has been adopted by TSERC vide Regulation 1 of 2014. The relevant clause related to wheeling charges is as follows:-

Clause 17(i) of State Commission (Terms and conditions of Open Access) Regulation 2 of 2005 stipulates that:

*“Open access users connected to the transmission/distribution system shall pay the transmission charges and or wheeling charges and any other applicable charges as determined by the Commission from time to time and notified in the relevant tariff order or otherwise, and as per the conditions stipulated herein; provided that the wheeling charges aso payable shall be subject to a minimum level, as fixed by the*

*Commission in the relevant Tariff Order or otherwise.”*

TSERC approved wheeling tariff for each level separately for TSSPDCL for the control period. FY 2014-15 TO FY 2018-19 in its Tariff Order dt.27.03.2015 (wheeling tariffs for distribution business for 3rd control period) is as given below:-

Voltage	2014-15	2015-16	2016-17	2017-18	2018-19
33 kV (Rs/kVA/Month)	12.67	15.71	16.63	18.34	19.95
11 kV (Rs/kVA/Month)	155.91	173.97	191.53	211.62	231.52
LT (Rs.KVA/Month)	344.17	373.12	406.84	446.15	485.45

Further it is to submit that as per wheeling tariff schedule for 3rd control period FY 2014-15 to 2018-19 the commission has directed that the wheeling charges payable and energy losses to be borne shall be related to contracted capacity in KVA at the entry point except for LT system. That means wheeling charges are to be calculated on Open Access Approved Quantum (MD) contracted by the consumer for purchase through Open Access:-

O/A applied quantum (MW)

Wheeling charges = ----- X 1000 X @ Tariff rate

PF 0.95

The wheeling charges levied in CC bills for the period from 05/2017 to 03/2018 are as follows:-

Month	CMD(MVA)	Open Access approved Quantum	Tariff rate	Wheeling charges
May,2017	9.8	6.8	18.34	1,31,259
June,2017	9.8	6.8	18.34	1,31,275
July,2017	9.8	6.8	18.34	1,31,277
Aug,2017	9.8	6.8	18.34	1,31,277
Sep,2017	9.8	6.8	18.34	1,31,277
Oct,2017	9.8	6.8	18.34	1,31,276
Nov,2017	9.8	6.8	18.34	1,31,277
Dec,2017	9.8	6.8	18.34	1,31,276

Jan,2018	9.8	6.8	18.34	1,31,276
Feb,2018	9.8	6.8	18.34	1,31,276
Mar,2018	9.8	6.8	18.34	1,31,276

From the above it is clear that the consumer is obligated to pay the applicable wheeling charges in Rs/KVA/Month as determined by the commission and the DISCOM is collecting the wheeling charges for the quantum of open access contracted by the consumer as per the tariff determined by the commission.

As per the tariff Order the Maximum Demand of supply of electricity to a consumer during a month shall be twice the largest number of Kilo-volt-ampere-hours (KVAh) delivered at the point of supply to the consumer during any consecutive 30 minutes in the month for consumers having contracted maximum demand less than 4000 KVA. However for the consumers having contracted Maximum Demand above 4000 KVA the maximum demand shall be four times the largest number of Kilo-Volt-ampere-hours (KVAh) delivered at the point of supply to the consumer during any consecutive 15 minutes in the month.

Billing demand: The billing demand shall be the maximum demand recorded during the month of 80% of the contracted demand whichever is higher, except HT-VI category.

It is to submit that to arrive the maximum demand consumed from DISCOM in respect of Open Access consumers, the erstwhile APERC issued proceedings APERC/Secy/25/2013 dt.04.5.2013 vide Clause 7 in clear terms explains with illustration, the method for arriving at the DISCOM demand in each 15 minutes block for open access consumers. Further clause 8 of the proceedings dt.04.05.2013 specify that DISCOM to arrive at 15 minutes block wise demand by deducting the Open Access demand from the recorded demand for all the 2880 time blocks (there are 96 blocks of 15 minutes duration in a day, these 96 blocks for 30 days will be 2880 blocks) in a month. The result would be 2880 demand readings of 15 minute blocks consumer from the DISCOM of all the 2880 fifteen minute block demand readings the Maximum Demand(MD) readings should be billed as per the Tariff Order.

During May,2017 the Appellant purchased total energy of 30,52,387 units and demand varying from Zero KVA to 6220 KVA through Open Access for certain days in

certain time blocks as per his requirement. The APERC Proceedings dt. 04.05.2013 was implemented in toto to arrive at Maximum Demand consumed by the Appellant from DISCOM. It is relevant to go through the CC bill of May-2017 issued by DISCOM to the Appellant to know how the open access demand is arrived at. Total Maximum Demand = 9138 KVA (which includes OA demand and Demand availed from DISCOM) This is the maximum recorded demand attained out of 2880 (15 minutes) blocks. Similarly of the total 2880 (15 minutes ) blocks, after adjusting Open access demand time block wise procured by the Appellant, the Maximum Demand attained is 9126 KVA. Hence 9138 KVA-9126 KVA = 12 KVA deducted (representing open access demand to the credit of the Appellant).

As per the above procedure, after arriving at the Maximum Demand consumed from DISCOM for each time block of 15 minutes for the billing period 21st April,2017 to 20th May 2017 is enclosed as annexures - A,B & C.

To illustrate in brief, as per MRI dump total Recorded Maximum Demand is 9138 KVA including Open Access and DISCOM power. After adjustment of Open access power purchased by the Appellant in the respective time blocks (some of the blocks are zero), Maximum Demand drawn from DISCOM is 9126 KVA and the details are as follows:-

Date	Block No.	Time	Recorded Demand (Total)	Scheduled Demand (Open Access)	DISCOM demand	Demand billed
23.04.2017	81	20:00 - 20:15	9138	6210	2928	
17.05.2017	88	21:45 - 22:00	9138	6210	2928	
03.05.2017	86	21:15 - 21:30	9126	0	9126	9126
05.05.2017	7	01:30-01:45	9126	0	9126	9126
12.05.2017	5	01:00-01:15	9126	0	9126	9126
12.05.2017	6	01:15-01:30	9126	0	9126	9126

Thus Open Access MD = Total Recorded Maximum Demand - DISCOM Maximum Demand i.e. 9138 - 9126 = 12 KVA, it doesn't construe that the Appellant did not draw the demand of 12 KVA only in any consecutive 15 minutes time block in the month through Open Access and wheeling charges will not be applicable. It is a fact that the Appellant drew the demand through Open Access is upto 6220 KVA (Annexure -B) but only certain days and certain time period wherein wheeling charges will be levied for monthly basis not on 15 minutes basis. For better and quick understanding the total demand drawn, open access demand drawn and maximum demand consumed from DISCOM is illustrated with a graph enclosed.

Earlier this Hon'ble Vidyut Ombudsman passed order in favor of TSSPDCL in the similar subject of Open access demand adjustment by DISCOM based on the above APERC proceedings dt.04.05.2013 in Appeal No. 31 of 2016 filed by M/s. Salasar Iron and Steels Pvt Ltd. The said order is applicable to the present case on hand in the matter of open access demand adjustment.

The Hon'ble TSERC determined the wheeling charges for monthly basis. Wheeling charges will be levied on total open access approved quantum (MD) as the approved capacity of network is kept reserved for use by the open access applicant. Further it is also to submit that net energy of 29,72,337 units and demand 12 KVA were adjusted in May, 2017 CC bill of the Appellant which were consumed through open access and also the open access demand was adjusted in the respective time blocks.

The open access capacity as requested by the Appellant was approved and wheeling charges were levied as determined by the Hon'ble TSERC. Upon payment of wheeling charges by the Appellant, the No Objection Certificate was issued for procurement of power through open access. The Appellant will be at his liberty to purchase any quantum of power within approved capacity through open access. Even if the Appellant does not purchase the power or purchase partial power through Open Access for any reason, the Appellant is liable to pay the wheeling charges for the approved quantum in the NOC.

Therefore, in view of the above submissions the wheeling charges which was levied in the CC bills for the period from 05/2017 to 03/2018 and April, 2018 to



December, 2018 are correct in nature, hence it is requested to dismiss the grievance of the Appellant.

**10.** The Appellant filed his rejoinder dt. 17.06.2018 stating as follows:-

**In reply to para No. 12-17 (page No.3)**

The procedure followed to arrive open access demand is illegal and in violation of clause No. 7 of proceeding No. 25 dt. 04.05.2013 of the Hon'ble APERC hence liable to be set aside.

The Respondent No.4 ignored to explain the terms and conditions and applicability of wheeling tariff approved by the Hon'ble TSERC in annexure F. The relevant portion is extracted hereunder for kind reference:-

- a. Applicable for the use of distribution system for wheeling of electricity.
- b. The distribution licensee shall deliver the quantum of and capacity given to it for wheeling reduced by the distribution losses.
- c. Wheeling charges/losses are payable for the contracted demand of the open access user at the entry point of the consumer.
- d. The wheeling charges shall be payable to the distribution licensee of the area where the electricity is delivered.

**In reply to Para No. 18 (First para at page No.4)**

The calculation of Open Access Demand = Total Recorded Maximum Demand - DISCOM Minimum Demand i.e  $9138 - 9126 = 12$  is totally illegal and in violation of Clause No. 7 of Proceeding No. 25 dt. 04.05.2013 of the then Hon'ble APERC hence liable to be set aside.

The Respondent No.4 categorically admitted that the Appellant drew 6220 KVA but only certain days and certain time period. It is pertinent to note at this juncture that the Recorded Maximum Demand for the billing purpose also will be considered of one 15 minutes block of any one of the day of the billing month. Accordingly the Open Access demand of certain time period should be considered for adjustment before raising the bill. This procedure is determined by the then Hon'ble APERC in Clause 8.4

of Regulation 2 of 2006 dt.11.08.2006 and Clause 7 of Proceeding No. 25 dt.04.05.2013.

**In reply to Para No. 19 (Third para at page No.4)**

The order of this Hon'ble authority in Appeal No. 31 of 2016 is in respect of open access demand adjustment but not in respect of wheeling charges payable. Hence the same is not applicable in the present Appeal.

**In reply to Para No. 20 (Fourth para at page No.4)**

The Respondent No.4 categorically admitted that the open access demand of 12 KVA is adjusted which is a violation of clause 7 of proceeding No.25 dt.04.05.2013 and **Clause 8.4 of Regulation 2 of 2006 dt.11.08.2006**. When the open access demand is not considered for billing purposes it cannot be considered only for claim of wheeling charges. If so it is a violation of the terms and conditions of wheeling tariff mentioned annexure F at page No. 58.

**In reply to para No.21 (Fourth para at page No.4)**

The statement of Respondent No.4 in this para is a violation of terms and conditions of wheeling tariff mentioned annexure F.

**In reply to para No.22 (fifth para at Page No.4)**

When the claim of wheeling charges on the open access demand are correct in nature, the open access demand should be adjusted from RMD or considered for billing purposes also. As the open access demand is not adjusted from RMD or not considered for billing purposes the claim of wheeling charges is not in correct nature.

In view of the above facts, the appellant prayed to his Hon'ble authority to allow the appeal as prayed for.

**11.** The Appellant filed his written argument dt.10.07.2019 stating as follows:-

- a. That the Appellant has paid Rs 1,31,166/- per month for transmitting and delivery of 7158 KVA purchased from Open Access from May,2017 to March,2018 billing month i.e. Rs 18.34 per KVA per month. Thus totalling to Rs 14,44,036/-.

- b. That the Hon'ble TSERC approved the Terms and Conditions and applicability of wheeling tariff in annexure F of wheeling tariff order at Page No.58. As per the said terms the Respondent No.4 is responsible to deliver the quantum and capacity given to it for wheeling reduced by the Distribution losses and the consumer has to pay the wheeling charges/losses for the contracted demand of the open access user at the entry point of the consumer.
- c. The Respondent No.4 instead of delivering 7158 KVA per month delivered only 12 KVA in May,2017 6 KVA in July,2017 and 12 KVA in December,2017, 144 KVA in January,2018 and 12 KVA in Feb,2018. Hence the Appellant is liable to pay only Rs 3521/- towards wheeling charges during the period from May,2017 to March,2018 against which an amount of Rs 14,44,036/- has paid by the Appellant in advance. As such the Appellant is liable to get refund of Rs 14,40,515/- along with applicable rate of interest from the date of payment to date of refund.

**Heard both sides.**

**Issues**

**12.** In the face of the said contentions by both sides the following issues are framed:-

- 1. Whether the amount paid i.e Rs 14,40,515/- for the period from May,2017 to March'2018 are in excess and hence are liable to be refunded to the Appellant along with interest @24% P.A. as contended by the Appellant? and
- 2. To what relief?

**Issue No.1**

**13.** Admittedly the Appellant is a registered company situated at C-1, Government Industrial Estate, Chandulal Baradari, Hyderabad - 500 063 represented by its Director Sri.Hitesh Kedia and having a HT consumer bearing No. HT RJN 1910 with CMD of 9800 KVA for supplying of energy and demand from the Respondents and also open access user as defined in Section 42 of the Electricity Act,2003. The contention of the Appellant is that it was purchasing power through power exchange under Inter State Short Term Open Access and that the Respondents

levied excess wheeling charges against the Appellant service connection for the period from May'2017 to March'2018 for an amount of Rs 14,40,515/- and as such the Respondents have to refund the said amount along with interest @24% P.A.

14. The Appellant held that for transmitting the open access demand of 7158 KVA the Licensee has levied Rs 1,31,166/- per month for the period May'2017 to March'2018 towards wheeling charges. It was contended that the Licensee has not delivered the demand of 7158 KVA through Open Access. That they have used the distribution system for less than 200KVA for the said period. That they have paid Wheeling charges of Rs 18.32 per KVA per month. And came to the conclusion in total Rs 14,40,515/- was excess paid towards wheeling charges. That the Licensee is responsible to deliver the quantum and capacity given to it for wheeling reduced by the distribution losses and the consumer has to pay the wheeling charges/ losses for the contracted demand of the open access user at the entry point of the consumer.

The Appellant claimed that the following demands were delivered by the Licensee.

<b>Table-1</b>	
<b>Month</b>	<b>Open Access Demand</b>
May'2017	12 KVA
July'2017	6 KVA
Nov'2017	12KVA
Dec'2017	6 KVA
Jan'2018	144 KVA
Feb'2018	12 KVA

Thereby the Appellant claimed that they are liable to pay only Rs. 3,521/- towards wheeling charges during May-2017 to March-2018 against the amount paid of Rs.14,44,036/- and has given the statement showing the excess claimed amount towards wheeling charges as follows:-

**Table-2**

Sl. No .	Billing Month	Amount paid	Distribution system used for KVA	Wheeling charges rate Rs/KVA/ Month	Wheeling charges amount payable	Balance wheeling charges refundable
1.	May,2017	131276	12	18.34	220	131056
2.	June,2017	131276	0	18.34	0	131276
3.	July,2017	131276	6	18.34	110	131166
4.	August,2017	131276	0	18.34	0	131276
5	September, 2017	131276	0	18.34	0	131276
6	October,2017	131276	0	18.34	0	131276
7	November,2017	131276	12	18.34	220	131056
8	December,2017	131276	6	18.34	110	131166
9	January,2018	131276	144	18.34	2641	128635
10	February,2018	131276	12	18.34	220	131056
11	March,2018	131276	0	18.34	0	131276
	Total	1444036	192		3521.28	1440515

The Appellant relied on the following Annexure - F : Terms and Conditions and applicability of wheeling Tariff of the wheeling tariffs for distribution business for third control period dt.27.03.2015.

## **ANNEXURE-F**

### **Terms and Conditions & Applicability of Wheeling Tariff**

#### **Applicability**

Applicable for the use of distribution system for wheeling of electricity of a licensee by other licensees, generating companies, captive power plants, and consumers who are permitted open access as per terms and conditions of Open Access Regulation (2 of 2005) and any other person(s)

#### **Terms and Conditions**

- The distribution licensee shall deliver the quantum of and capacity given to it for wheeling, reduced by the distribution losses.
- The wheeling charges and losses in kind shall be up to the respective voltage level at which the wheeled electricity is delivered or injected whichever voltage is lower;
- Wheeling charges/ losses are payable for the contracted demand of the open access user at the entry point of the consumers.
- If the wheeling involves transmission of electricity through transmission system of a Transmission Licensee, the consumer or the supplier as the case may be, shall pay the applicable transmission charges and transmission losses in kind also. Transmission system is considered to be involved in the wheeling of electricity in the following cases:
  - Entry/Exit point is connected to the EHT System.
  - The entry and exit points are connected to the network of more than one DISCOM.
  - If the wheeling of electricity is through the distribution system of more than one distribution licensee, the wheeling charges shall be payable to the distribution licensee of the area where the electricity is delivered.
  - The levy of wheeling tariff is subject to the terms and conditions approved by the Commission from time to time.

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It was held that the Licensee is responsible to deliver the quantum and capacity given to it for wheeling reduced by the distribution losses and the consumer has to pay the wheeling charges/ losses for the contracted demand of the open access user at the entry point of the consumer. That when the Wheeling charges were applicable on the contracted Open Access demand, then the said demand should be adjusted from RMD or considered for billing purpose also. As the Open Access demand is not adjusted from

RMD or not considered for billing purpose the claim of wheeling charges is not in correct nature.

**15.** The Respondents on the other hand relied on Clause 17.1 of Regulation 2 of 2005 (Terms and Conditions of Open Access) as shown below:-

*“Open access users connected to the transmission/distribution system shall pay the transmission charges and or wheeling charges and any other applicable charges as determined by the Commission from time to time and notified in the relevant tariff order or otherwise, and as per the conditions stipulated herein; provided that the wheeling charges so payable shall be subject to a minimum level, as fixed by the Commission in the relevant Tariff Order or otherwise.”*

Further relied on the wheeling tariff approved by the TSERC for the control period FY 2014-15 to FY 2018-19, at the rates specified for the different voltage levels, as given below:-

Voltage	2014-15	2015-16	2016-17	2017-18	2018-19
33 kV (Rs/kVA/Month)	12.67	15.71	16.63	18.34	19.95
11 kV (Rs/kVA/Month)	155.91	173.97	191.53	211.62	231.52
LT (Rs.KVA/Month)	344.17	373.12	406.84	446.15	485.45

That as per the wheeling tariff, the Commission has directed that the wheeling charges payable and energy losses to be borne shall be related to contracted capacity in KVA at the entry point except for LT system, means wheeling charges are to be calculated on open access approved quantum (MD) contracted by the consumer for power purchase through open access.

O/A applied quantum (MW)

Wheeling charges = ----- X 1000 X @ Tariff rate

PF 0.95

The wheeling charges levied in CC bills for the period from 05/2017 to 03/2018 are as follows:-

Month	CMD(MVA)	Open Access approved Quantum	Tariff rate	Wheeling charges
May,2017	9.8	6.8	18.34	1,31,259
June,2017	9.8	6.8	18.34	1,31,275
July,2017	9.8	6.8	18.34	1,31,277
Aug,2017	9.8	6.8	18.34	1,31,277
Sep,2017	9.8	6.8	18.34	1,31,277
Oct,2017	9.8	6.8	18.34	1,31,276
Nov,2017	9.8	6.8	18.34	1,31,277
Dec,2017	9.8	6.8	18.34	1,31,276
Jan,2018	9.8	6.8	18.34	1,31,276
Feb,2018	9.8	6.8	18.34	1,31,276
Mar,2018	9.8	6.8	18.34	1,31,276

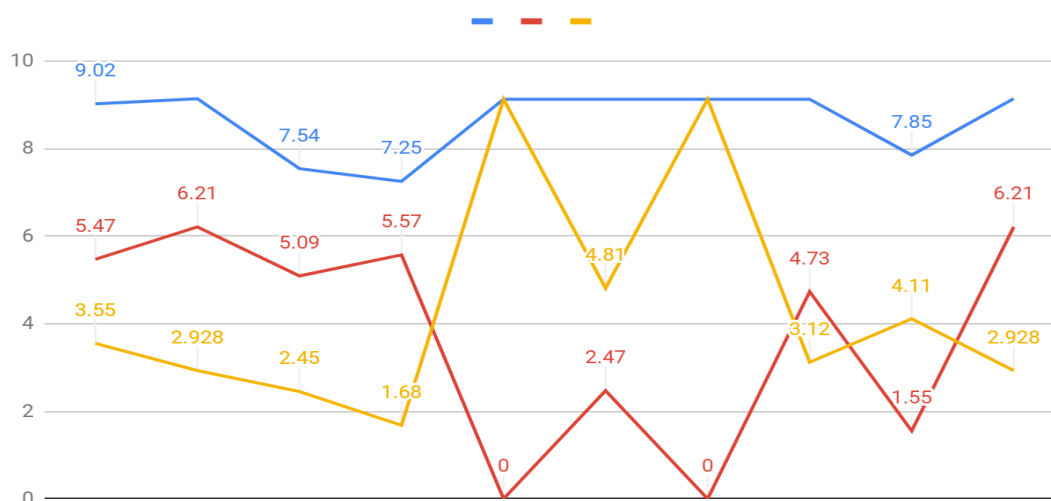
That from the above it is clear that the consumer is obligated to pay the applicable wheeling charges in Rs/KVA/Month as determined by the commission and the DISCOM is collecting the wheeling charges for the quantum of open access contracted by the consumer as per the tariff determined by the commission.

The Respondents relied on the ERC proceedings vide APERC/Secy/25/2013 dt.04.05.2013 under Clause 7, to arrive the Maximum Demand consumed from the DISCOM in respect of Open Access consumers. Further reiterating clause 8 of the said proceedings, it was stated that how the maximum demand consumed from the DISCOM arrived. That there will be 2880 time blocks in a month (96 blocks of 15 minutes duration in a day), for 30 days. The total recorded demand for all the 2880 time blocks shall be taken by deducting the Open Access demand from these time blocks, resulting in the Maximum Demand consumed from the DISCOM. In terms of 2880, 15 minutes time blocks.



16. The Respondent presented his case taking example of billing done for the month of May'2017. The Appellant purchased total energy of 30,52,387units and the Open Access demand varied from 0 KVA to 6220 KVA during the month. The total Maximum Demand arrived from the 2880 time blocks of the month is 9138 KVA. That as per the procedure mandated by the ERC proceedings dt:04.05.2013, the Maximum Demand consumed from the DISCOM after adjusting Open Access Demand in terms of 15 Minutes time block is 9126 KVA. Hence 9138 KVA minus 9126 KVA = 12 KVA deducted (representing open access demand to the credit of the Appellant) . Thus Open Access MD = Total Recorded Maximum Demand - DISCOM Maximum Demand i.e. 9138 - 9126 = 12 KVA, it doesn't construe that the Appellant did not draw the demand of 12 KVA only in any consecutive 15 minutes time block in the month through Open Access and wheeling charges will not be applicable. It is a fact that the Appellant drew the demand through Open Access is upto 6220 KVA (Annexure -B) but only certain days and certain time period wherein wheeling charges will be levied for monthly basis not on 15 minutes basis. In support of their claim the Respondents submitted the data sheets of total recorded demand, OA schedules and demand arrived that is consumed from DISCOM for each time block of 15 minutes for the billing period 21.04.2017 to 26.05.2017. The Respondents has given the illustration of the demands recorded i.e. Total Recorded Demand, Open Access Demand and DISCOM demand through a graph given below:-

RECORDED DEMAND TOTAL (DISCOM+OA) in MVA, SCHEDULED DEMAND (OPEN ACCESS) IN MVA and DISCOM DEMAND IN MVA



17. It was held that wheeling charges were levied on total open access approved quantum (MD) as the approved capacity of the network is kept reserved for the use by the Open Access applicant. That the Open access capacity as requested by the Appellant was approved and wheeling charges were levied as approved by the Hon'ble TSERC. Upon payment of wheeling charges by the Appellant, the NOC was issued for procurement of power through Open Access. The Appellant will be at his liberty to purchase any quantum of power within approved capacity through open access. Even if the Appellant does not purchase the power or purchase partial power through Open Access for any reason, the Appellant is liable to pay the wheeling charges for the approved quantum in the NOC. Hence stated that the CC bills issued for the period from 05/2017 to 03/2018 are correct in nature as per the provisions applicable.

18. The Appellant pleaded by debating that the Licensee have delivered the demands as stated at Table-1 for the period contested. The data of recording of the total demands by the subject service connection will be procured from the relevant Energy meter, more specifically from the data retrieved through the MRI. The respondents submitted the data sheets as per the MRI showing the total recorded demands at each of the 2880 fifteen minutes blocks along with OA schedules and maximum demand arrived from the DISCOM. The demands referred to have delivered by DISCOM at Table-1, has no significant material to contend with, nor the Appellant has shown the way he has arrived such data.

19. The Appellant relied on the terms and conditions and applicability of wheeling tariff which states that ***“the distribution licensee shall deliver the quantum and the capacity given to it for wheeling, reduced by the distribution losses.”***. Here it is to be made clear that those consumers who opt for availing supply through open access has to get prior approval in terms of NOC for the contracted demand through Open Access. Whatever the quantum of demand sought and approved by obtaining the NOC by the consumer through open access, it will be an obligation on the Licensee to deliver such quantum of demand through their network. The term ***“capacity given to it”*** in the above said clause is nothing but the scheduled capacity

contracted by Open Access. To that effect wheeling charges has to be paid by the consumer. The terms and conditions of wheeling tariff under annexure-F also mandates at condition no 3 is that ***“wheeling charges/losses are payable for the contracted open access user at the entry point of the consumer”***. The Appellant has taken the wrong context, that the Licensee has not delivered the demand of **7158 KVA** and hence not liable to pay the wheeling charges on OA demand, whereas as per the provisions said above mandates that the Licensee shall made available the network for the use of the quantum of the MD contracted through Open Access. Since the approved capacity of network is kept reserved for use through open access, wheeling charges will be levied on total open access approved quantum on a monthly basis, upon payment of the wheeling charges by the Appellant, NOC shall be issued. The Appellant will be at his liberty to purchase any quantum as per his requirement to an extent of contracted demand of open access for which the network for the transmission of such power will be readily available. Hence the Wheeling charges are liable to be paid for the contracted open access user at the entry point of the consumer.

**20.** The other aspect of the appeal is that the Appellant questioned the disparity when the Wheeling charges were applicable on the contracted Open Access demand, then the said demand should have been adjusted from RMD or considered for billing purpose also. The appellant on the counter against the May-17 month billing given by the Respondents showing that they had scheduled Maximum Demand through Open Access of 6220 KVA, has urged that said demand ought to have been considered before raising the bill. The plea taken by the Appellant is that the RMD for the billing purpose will be considered of one 15 minute block of any one day of the billing month and accordingly the open access demand of certain time period should be considered for adjustment before raising the bill. It is stressed that 6220KVA Open Access demand scheduled during the said month, had to be taken into account into the billing. It was claimed that when the open access demand is not adjusted from RMD or not considered for billing purpose then the claim of wheeling charges for total contracted OA demand is not in correct nature.

The Hon'ble Commission vide proceedings APERC/Secy/25/2013 dt.04.5.2013, under clause 7 and 8, given clear illustration, on how to go with billing in this case.

Clause 7:- The procedure to consider Open Access (OA) demand component for billing is explained below:-

*For each time block, total recorded energy and total, recorded demand is available in the meter. Similarly for each time block, power availed through open access for both energy and demand is also available from Energy Balancing Centre (EBC).*

*Detailed method of arriving Maximum Demand (MD) consumed from DISCOM in a month is explained with the help of table shown below for nine time blocks:*

*To get demand consumed from DISCOM shown in column (8), deduct the OA Recorded Demand (shown in Column 7) from total Recorded Demand (RD) (shown in column 5). i. e., Demand consumed from DISCOM = (Total Recorded Demand - OA Recorded Demand).*

Sl. No	DISCOM Contract ed Demand	OA Contracte d Demand	Total Demand form all the sources	Total Recorded units in 15 minutes	Total Recorded Demand (RD)	OA Units in 15 minutes	OA Recorded Demand (kVA)	DISCOM Recorded Demand (kVA) (Col5 - Col7)
1.	600	400	1000	200	800	98	392	408
2.	600	400	1000	200	800	88	352	448
3.	600	400	1000	197.5	790	98	392	398
4.	600	400	1000	197.5	790	98	392	398
5.	600	400	1000	202.5	810	78	312	498
6.	600	400	1000	195	780	75	300	480
7.	600	400	1000	194.5	778	69	276	502
8.	600	400	1000	195	780	93	372	408
9.	600	400	1000	205	820	84	336	484

*Of all the nine demands of column (8) the Maximum Demand is 502 KVA mentioned in row (7). The same logic can be extended for 2880 time blocks (15 minutes) in a month.*

In the above table in the row(1) 392 KVA is the OA Maximum Demand, then 408 KVA shall be the DISCOM Recorded demand, which as per the Appellant interpretation, should have been taken as per the above illustration for the billing purpose, it was held that Open Access MD attained should be the reference, but such is not the logic taken in the given illustration. It was clearly sorted out that at row (7) the Maximum Demand of all the nine demands of the Column 8 i.e. 502 KVA shall be billed, drawn from the DISCOM. In the present case, the Appellant's plea is that 6220 KVA Open Access Demand scheduled, should have been adjusted from the total RMD. The total maximum demand recorded of 9126 KVA over the 2880 fifteen minutes blocks for the said period was recorded on dt.03.05.2017, during the time block - 86, 21:15 - 21:30. In the same time block the Open access demand was 0.00 KVA. The Respondent given certain Recorded demands total (OA+Discom) as following

Date	Block No.	Time	Recorded Demand (Total)	Scheduled Demand (Open Access)	DISCOM demand	Demand billed
23.04.2017	81	20:00 - 20:15	9138	6210	2928	
17.05.2017	88	21:45 - 22:00	9138	6210	2928	
03.05.2017	86	21:15 - 21:30	9126	0	9126	9126
05.05.2017	7	01:30-0 1:45	9126	0	9126	9126
12.05.2017	5	01:00-0 1:15	9126	0	9126	9126
12.05.2017	6	01:15-0 1:30	9126	0	9126	9126

Hence the referred OA demand 6220KVA was not taken into account, consequently the demand 9126 KVA drawn from the DISCOM, was billed accordingly. Same was mandated in the below given clause of the proceedings reproduced here under:-

Clause 8: *The AP Transco/ DISCOMs (Energy Billing Centre) account the Demand component from open access while issuing the bills. To arrive at the Recorded Maximum Demand (RMD) of DISCOM, the licensee shall follow the method shown in the above example.*

*The DISCOMs are directed to arrive at 15 minutes block wise demands by deducting OA demand from the Recorded Demand for all the 2880 time blocks in a month. The result would be 2880 demand readings for 15 minutes blocks consumed from the DISCOM. Of all the 2880 fifteen minute block demand readings, the Maximum Demand(MD) reading should be billed as per the tariff order rate.*

The plea of the Appellant that open access demand was not adjusted from the RMD thereby claim of wheeling surcharges on such demand is not liable, is against the provisions of the wheeling tariff and provisions of the Hon'ble Commission. Whereas the net Open Access consumption of 29,72,337 units and demand 12KVA was deducted from the total recorded consumption and demand of the May-17 month and accordingly billed.

21. Thus in the above mentioned circumstances it is concluded that the wheeling charges levied by the Respondents are in line with the provisions of the wheeling tariff for the control period from 2014-15 to 2018-19 at the rates specified for different voltage levels and as such the Appellant is liable to pay the wheeling charges levied by the Respondents and hence the plea of the Appellants for withdrawal of the alleged excess amount paid for the period from May'2017 to March'2018 is not considered. Hence decides this is issue against the Appellant.

## **Issue No.2**

22. In the result the Appeal is dismissed.

TYPED BY Office Executive cum Computer Operator, Corrected, Signed and Pronounced by me on this the 28th day of August, 2019.

Sd/-  
**Vidyut Ombudsman**

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2. The DE/OP/Shadnagar/TSSPDCL/RR Dist.
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**Copy to :**

5. The Chairperson, CGRF-GHA,TSSPDCL,GTS Colony, Vengal Rao Nagar, Hyderabad.
6. The Secretary, TSERC, 5<sup>th</sup> Floor Singareni Bhavan, Red Hills, Lakdikapul,Hyd.