

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**  
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

**Petition No. 47 of 2022**  
**Date of Hearing: 18.01.2023**  
**Date of Order: 23.01.2023**

Petition under Section 86 of the Electricity Act, 2003, seeking Approval of the Procedure for determination of Captive Power Status.

AND

In the matter of: Punjab State Power Corporation Limited.

...Petitioner

Commission: Sh. Viswajeet Khanna, Chairperson  
Sh. Paramjeet Singh, Member

PSPCL: Sh. Anand K Ganesan, Advocate  
Sh. Rupinderjit Randhawa, CE & ARR  
Sh. Ajay Bansal, Dy.CE  
Sh. Gurvinder Singh, Sr.Xen/TR-5  
Sh. Ashok Yadav, ASE  
Sh. Arminder Singh Virk, AEE  
Sh. Gurpreet Singh Tiwana, Sr.Xen

## ORDER

The Commission vide Order dated 24.11.2022 directed PSPCL to amend the procedure for verification to establish the captive status of a generating plant in accordance with the provisions of PSERC (Harnessing of Captive Power Generation) Regulations, 2022 and submit the same to the Commission. It was further directed that while drafting the procedure, the Model Regulations approved by the Forum of Regulators and Hon'ble APTEL order dated 07.06.2021 in A.No. 131 of 2020 shall be kept in view. PSPCL submitted the amended procedure for determination of captive status to the Commission vide CE/ARR&TR memo no. 8125 dated 26.12.2022 and also issued public notice inviting objections/comments of the stakeholders vide Public Notice dated 06.01.2023.

During hearing and public hearing on 18.01.2023, none appeared before the Commission in this petition. The Commission pointed out that while framing the procedure, it appears that the findings of the Hon'ble APTEL contained in the order dated 07.06.2021 in A. No. 131 of 2020 have not been kept in view by PSPCL as detailed below:

1. The clause 3(viii) of the draft procedure is not in accordance with the provisions of Rule 3 of the Electricity Rules, 2005 and various orders of the Hon'ble APTEL as the verification is to be carried out at the end of the financial year and not at the time of grant of open access.
2. In clause 6.1.1 of the draft procedure, the documents to be submitted for verification of ownership for different composition of ownership have been listed. Further in clause 6.1.2, it has been mentioned that these documents are to be furnished by the generator/captive user at the time of seeking open access. This is contrary to para 11.28 of the Hon'ble APTEL order dated 07.06.2021 in A. No. 131 of 2020. Further the requirement of documents to be submitted at the end of financial year as listed in clause 6.1.1 may be reviewed in the light of Hon'ble APTEL Order.
3. In clause 6.2.5 it has been provided that verification of consumption criteria and the test of proportional consumption shall be for the financial year. Further in the table under clause 6.2.7, the verification criteria for consumption in case of Special Purpose Vehicle (SPV) has been mentioned as not less than 51% of the net electricity generated on annual basis in proportion to their share in the units identified for captive use. This is contrary to the findings of the Hon'ble APTEL as contained in para 12.19 of the order dated 07.06.2021. It has also been provided in clause 6.2.5 that in case of change in share holding pattern during the financial year verification of consumption criteria shall be made on energy generated and consumed in the corresponding period which is not in line with the findings of the Hon'ble APTEL as contained in para 13.6 read with para 16.10 of the order dated 07.06.2021.
4. The clause 6.5.1 is contrary to the findings of the Hon'ble APTEL as contained in para no. 14.6 and 14.7 of the order dated 07.06.2021.
5. The provision in clause 6.1.4 that in case of any change in share holding pattern the same has to be intimated to the distribution licensee within 10 days is also not in line with the findings of the Hon'ble APTEL as contained in para 16.12 of the order dated 07.06.2021.

6. In Format I of the draft procedure, the table containing information in case of change in ownership may be inserted.
7. In Format V of the draft procedure, the banking charges to be recovered in kind in case of RE based CGPs have not been reflected. Further the grossing up of T&D losses has not been factored in for verification of consumption criteria.
8. Since the estimated amount equivalent to 51% of consumption may vary from year to year, the provision of BG as contained in clause 4.1(i) may be reviewed.
9. The rationale for time block wise accounting and submission of information/data as per format VI may be explained in view of the requirements of Rule 3 of the Electricity Rules 2005.
10. The criteria for verification of consumption in case of change of shareholding pattern in the financial year particularly in case of Association of Persons be clearly brought out with illustrations.

PSPCL is directed to review the draft procedure for verification to establish the captive status of a generating plant in the light of above observations in particular and Hon'ble APTEL order dated 07.06.2021 in A. No. 131 of 2020 in general and submit the same to the Commission within a period of 10 days from the date of issue of this order. PSPCL shall upload the revised draft on its website with intimation to Commission. In order to have wider consultation on the issue and to afford opportunity to the stakeholders to file their objections/comments on the revised draft, PSPCL is directed to issue public notice extending the date of submission of objections/comments in this petition by two weeks from the date of publication of the notice in Newspapers.

The petition shall be taken up for hearing on 01.03.2023 at 11.30 AM.

**Sd/-**

(Paramjeet Singh)  
Member

Chandigarh

Dated: **23.01.2023**

**Sd/-**

(Viswajeet Khanna)  
Chairperson