

BEFORE THE JOINT ELECTRICITY REGULATORY  
COMMISSION FOR THE STATE OF GOA AND UNION  
TERRITORIES

FILING NO.:

CASE NO.:

(To be filled by the Office)

IN THE MATTER OF:

Perfect Filaments Ltd. .....Petitioner  
Survey No.285, Bhimpore, Daman

V/s

Electricity Department of Daman .....Respondent

AND

IN THE MATTER OF:

Petition filed under Section 86(1)(c) and Section 142 of the  
Electricity Act, 2003 read with JERC (Open Access in  
Transmission and Distribution) Regulations, 2009

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MOST RESPECTFULLY SHOWETH:

1. It is most respectfully submitted that this Hon'ble Commission has the power and jurisdiction under section 86(1)(c) of the Electricity Act, 2003 to issue the direction/ order/ rule/ instruction sought by the Petitioner in the present petition.
2. Petitioner is a public limited company having an industrial unit located at Bhimpore, Daman connected with 66kv level at the Dalwada substation involved in the business of manufacturing of yarn.

**Copy of the Memorandum of Appearance is attached herewith as Annexure-I**

3. Petitioner has been compelled to prefer the present petition under section 86(1)(c) and section 142 of the Electricity Act, 2003 read with JERC (Open Access in Transmission and Distribution) Regulations, 2009 against the denial of permission for Open Access by the Electricity Department of Daman. Hon'ble Commission is having the power under section 86(1)(c) of Electricity Act 2003 to decide on the matter relating to facilitation of intra-state transmission and wheeling of electricity and under section 142 of the Electricity Act 2003 Hon'ble Commission is having the power to impose penalty on the party contravening the Act and the Regulations framed by the Commission.
4. Petitioner submitted the application for grant of open access before the Electricity Department of Daman on 24<sup>th</sup> July 2013 for the quantum of 3.5MW after submitting all the required documents and the applicable fee. **Copy of Application is also attached with the petition as Annexure-II.**

5. Electricity Department of Daman in its letter dated 3.8.2013 to the petitioner rejected the open access application by giving the rationale that the existing line is overloaded and the network needs to be augmented to accommodate any new transaction. In this letter Electricity Department mentioned that the existing infrastructure does not have extra capacity or does not have reserved margins to accommodate the demanded transaction and asked the petitioner to give the consent for depositing the charges for augmentation of the system.

The contention of the Electricity Department of Daman is totally baseless and illegal on the grounds of law. Petitioner asked for open access for the quantum of 3.5MW from the already sanctioned contract demand of 5MW, so, the question of overloading of line and non availability of reserved margin in transmission is totally invalid and illegal. Again the department asked for the consent for payment towards augmentation of transmission capacity which reflects the intention of the department that they don't want to allow open access to the consumers and even they are trying to discourage it by raising different demand towards the augmentation of the transmission capacity.

6. It is respectfully submitted that Petitioner has been sanctioned a contract demand of 5MW out of which only it applied for 3.5MW under open access power requirement. So, the contention of electricity department on transmission constraint is totally invalid as the consumer is asking for the power requirement under open access from the already sanctioned contract demand. Demand raised by the Electricity Department of Daman for augmenting transmission capacity

is an intentional step towards discouraging the non-discriminatory open access provision prescribed under the section 42 of the Electricity Act 2003.

7. Electricity Department of Daman has violated the JERC (Open Access Transmission and Distribution) Regulations 2009 and the provisions of the Electricity Act 2003. Electricity Department of Daman has violated the Regulation 5 of JERC (Open Access in Transmission and Distribution) Regulations 2009 by denying the Open Access to the petitioner who fulfils the eligibility criteria for availing open access as laid down under JERC Regulations. Quotes from Regulation 5 of JERC (Open Access in Transmission and Distribution) Regulations 2009 are given below:

"... (ii) Short-term open access shall be allowed, if the request for open access can be accommodated by utilizing: -

- a) Inherent design margins
- b) Margins available due to variation in power flows; and
- c) Margins available due to in-built spare transmission capacity created to cater to future load growth"

As per Regulation 5 of the JERC (Open Access in Transmission and Distribution) Regulation 2009 Short-term open access shall be granted if transmission margins are available for the flow of power. Petitioner applied for the Open Access from the already sanctioned contract demand which was denied by Electricity Department of Daman which is a violation of Regulation 5 of JERC (Open Access in Transmission and Distribution) Regulation 2009.

Denial of Open Access by the Electricity Department of Daman is the violation of Section 42 of the Electricity Act 2003 which states that Open Access in the states shall be

allowed on payment of charges towards surcharge and wheeling charges determined by the state commission. Relevant quotes of the section 42 of the Electricity Act are given below:

“(2) The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

Provided that [such open access shall be allowed on payment of a surcharge] in addition to the charges for wheeling as may be determined by the State Commission:”

This step of Electricity Department of Daman is a discriminatory action towards the Petitioner as the Electricity Department of Daman allowed the open access to another industry namely Wellknown Polyesters Ltd., Daman while they denied open access to the petitioner. Allowing one industry for the open access and denied another on wrongful grounds is just a discriminatory action of the Electricity Department of Daman.

8. Petitioner submitted the application before Electricity Department of Daman on 24<sup>th</sup> July 2013 for the grant of open access permission. But Electricity Department of Daman replied through its letter dated 3.8.2013 and rejected the Open Access permission to the petitioner. Here the point to be highlighted is that despite the letter was dated 3.8.2013 but it was couriered on 22.8.2013 and delivered to the

petitioner on 24.8.2013. There was a total of no. of 29 days taken by the Electricity Department of Daman for processing the application which was finally rejected. Time taken in this processing of application was in excess and hence, violated the Regulation 21 of the JERC (Open Access in Transmission and Distribution) Regulation 2009 which stipulated that Open Access application for the duration of more than one week shall be processed within 3 days of submitting the application and the petitioner submitted the application for the duration of 1<sup>st</sup> August 2013 to 31<sup>st</sup> October 2013. Relevant quotes are given below:

“21. Time-schedule for Processing Application For Open Access

As far as practicable, the following time schedule shall be adhered to by the nodal agency for processing of the application for grant of open access:

1. Short-term Open Access

Up to one week - 2 days

More than a week - 3 days”

9. Petitioner applied for the Open Access for the purchase of power through Power Exchange (PX) platform. Open Access purchase of power on Power Exchange is an inter-state open access transaction defined under the procedure for scheduling of Collective Transactions governed by the Central Electricity Regulatory Commission (Open Access in inter-state transmission) Regulations, 2008. Hon'ble Central Electricity Regulatory Commission (CERC) has included the Power Exchange transactions in its inter-state Open Access Regulation of which detailed scheduling has been defined in

the procedure of scheduling of Collective Transaction. CERC in its Open access Regulation has clearly defined the eligibility criteria and the time frame within permission to be granted by the state load dispatch centre/nodal agency. Open Access should be granted by the State Load Despatch Centre (SLDC) to the applicant if it possesses necessary time block wise metering infrastructure and there is surplus transmission availability in the state transmission system. Also in that case the permission shall be granted by the concerned State Load Despatch Centre within 3 working days of the receipt of the application. Relevant quotes of the CERC (Open Access in inter-state transmission) Regulation, 2008 are given below:

"....(b) While processing the application for concurrence or 'no objection' or prior standing clearance, as the case may be, the State Load Despatch Centre shall verify the following, namely-

- (i) existence of infrastructure necessary for time-block-wise energy metering and accounting in accordance with the provisions of the Grid Code in force, and
- (ii) availability of surplus transmission capacity in the State network.

(c) Where existence of necessary infrastructure and availability of surplus transmission capacity in the State network has been established, the State Load Despatch Centre shall convey its concurrence or 'no objection' or prior standing clearance, as the case may be, to the applicant by e-mail or fax, in addition to any other usually recognised mode of communication, within three (3) working days of receipt of the application:



Provided that when short-term open access has been applied for the first time by any person, the buyer or the seller, the State Load Despatch Centre shall convey to the applicant such concurrence or 'no objection' or prior standing clearance, as the case may be, within seven (7) working days of receipt of the application by e-mail or fax, in addition to any other usually recognised mode of communication."

10. Electricity Department of Daman has also violated the Regulation of Hon'ble CERC which should be complied by state nodal agency while granting open access to the applicant for inter-state open access transaction for the purchase of power through Power Exchange. All the states have framed the Regulation on Open Access in line with the Regulations framed by the CERC on inter-state open access transaction. Electricity Department of Daman contravened the Regulation by refusing the application of open access despite the petitioner fulfils the eligibility criteria for availing open access and applied for the quantum within its contract demand. Also, Open Access application was processed by Electricity Department after 29 days which is against the prescribed limit of 3 days. Electricity Department of Daman rejected the application only after 29 days of its submission which is another violation of Regulation as any rejection for whatsoever reason shall be communicated within 3 days of submission of the application.

11. Electricity Department of Daman rejected the application for open access on account of overloading and transmission constraint in the network. Petitioner was sanctioned contract demand of 5MW power for which it was purchasing from the Electricity Department and there was no issue in the

transmission network of the state but when the same power out of the already sanctioned contract demand applied for open access Electricity Department of Daman created the issue of transmission constraint and rejected the petitioner's application. This action of the Electricity Department of Daman is wrongful and it should be held responsible for guilty and to be penalized under section 142 of the Electricity Act 2003.

12. Petitioner has suffered a huge financial loss on account of wrongful action of denial of open access by the Electricity Department of Daman. Petitioner was denied to purchase power from open access which costs it heavily as the petitioner missed the chance to avail cheaper power from the Exchange discovered on its platform. Petitioner applied for the Open Access for the duration from 1<sup>st</sup> August 2013 to 31<sup>st</sup> October 2013. Petitioner suffered the loss which amounts to Rs.83,45,842/- (around 83 lakhs) from August-September 2013. This financial loss has been calculated by considering only months of August and September 2013 for which the electricity bill raised by Electricity Department, Daman is available. Financial loss has been calculated by comparing the cheaper prices on the Exchange with the Electricity tariff of Daman. This huge financial (figure) loss which petitioner faced because of the irresponsible and wrongful denial of the open access permission by the Electricity Department of the Daman. Petitioner is requesting the Hon'ble JERC to consider its claim for compensation which it suffered in loss on account of denial of open access permission. Hon'ble JERC is requested to consider its genuine claim which should be recovered from the Electricity Department of Daman.

Petitioner's claim is legally maintainable in the present petition on denial of open access as in the case of Aarti Steel Ltd. in petition no. 4/MP/2012 before CERC in which Aarti Steel was denied the Open Access permission by SLDC; CERC accepted the case of Aarti Steel Ltd. and held that compensation demand of Aarti Steel Ltd is maintainable before the CERC through its order dated 9.5.2013. Also, in another same case on denial of open access permission, APTEL (Appellate Tribunal of Electricity) in its judgment for Parrys Industries Ltd. considered the compensation demand of the industry. Relevant quotes of the CERC order on the maintainability of compensation claim are given below for the kind direction of Hon'ble JERC on the petitioner's claim for the compensation:

"38. The Open Access Regulations have been notified by this Commission in exercise of its powers under Section 178 of the Electricity Act. As provided under Regulation 26 of the Open Access Regulations, all disputes arising under these regulations are to be decided by this Commission on the basis of an application made by the person aggrieved. This Commission has not only the power to notify the regulations for the purses of the Electricity Act but also to implement and enforce such regulations in all respects. The power to grant compensation is incidental to this Commission's power to implement and enforce the Open Access Regulations. The monetary claim for compensation is also considered to be included in the expression "all disputes under these regulations" used in Regulation 26 of the Open Access

Regulations. On this view of the matter also, this Commission possesses the power and authority not only to entertain an application from the aggrieved person who has been denied open access but also to dispose of the same in accordance with law by doing such acts which are necessary for exercise of power of adjudication of the grievance relating to denial of open access.

39. We may examine the matter from yet another angle. Under Section 142 of the Electricity Act, this Commission is empowered to impose penalty for contravention of its orders, regulations etc. Thus contravention of the Open Access Regulations by any person, which includes the statutory bodies like SLDC, is punishable under Section 142 of the Electricity Act. Section 147 of the Electricity Act declares that the penalties imposed are in addition to, and not in derogation of, any liability in respect of payment of compensation. Therefore, the liability of the person contravening the orders, regulations etc of this Commission to compensate the aggrieved person for the losses suffered by such aggrieved person on account of contravention of the Open Access Regulations cannot be denied.

40. Recently, the question of grant of compensation in a situation of denial of open access was considered by the Appellate Tribunal in *Parrys Sugar Industries Limited Vs Karnataka Electricity Regulatory Commission and Others* (Appeal No 140/ 2012). In its judgment dated 27.9.2012 the Appellate Tribunal held that -

“This Tribunal has in the past held that any injection by a generating company without any schedule or concurrence could not be recognized for payment by the distribution licensee which did not have any PPA with the generating company, in the interest of security and economic operation of the grid and maintaining grid discipline. However, the Tribunal has also decided to grant compensation for unscheduled injection by the generator in case the circumstances of the case warranted so and where the generator had to inject energy in the compelling circumstances forced by the action of the licensee. The circumstances in the present case are also similar. The Appellant’s application for NOC for open access for the period 15.10.2011 to 31.10.2011 was pending before Respondent no. 3 and despite follow up they did not get any response, either accepting or rejecting the application. The Appellant’s power plant is not a normal power plant and operates only in the crushing season for a few months during the year. According to the Appellant, crushing had to be commenced on

3.11.2011. They, however, did not approach the Respondent no. 3 for granting open access for further period commencing from 3.11.2011 as their earlier application for the period 15.10.2011 to 31.10.2011 was already pending with the Respondent no. 2, without any decision.

We find force in the arguments of the Ld. Counsel for Appellant. In the circumstances of the case, we feel that the claim of the Appellant for compensation could

not be outrightly rejected on the technical grounds that the injection of power was subsequent to the period for which open access was sought and the Appellant should have again applied for NOC for the further period. Considering that the injection of power commenced only 3 days after the end of the period for which open access was sought and the Appellant was being made to run from pillar to post to obtain the NOC for open access despite the clear findings of the Central and State Commission in their favour. In our opinion, the Appellant deserves to be compensated for the energy injected. Now, we have to decide the rate at which the compensation may be given to the Appellant to meet the end of justice." (Emphasis added)

41. The Appellate Tribunal awarded compensation to the aggrieved person denied open access."

13. Cases of denial of Open Access have always been dealt sternly by the SERCs (State Electricity Regulatory Commission) and the CERC (central Electricity Regulatory Commission). Regulations on inter-state open access have been prescribed by the Hon'ble CERC which all the states/union territories have to follow and accordingly open access permission shall be issued by the State Load Despatch Centre. If any applicant satisfies the eligibility criteria for obtaining open access permission as laid down by CERC Regulations, it shall be granted by SLDC of the state within the 3 working days. CERC also in its various judgments has decided in favour of the applicant of open access. Hon'ble CERC

in Petition No. 231/2010 (Tata Power Company Ltd Vs Maharashtra State Load Despatchcentre) decided through its order dated 1.10.2012 that Open Access shall be granted on the basis of only two factors namely, existence of necessary infrastructure and surplus transmission capacity and directed Maharashtra State Load Despatch Centre (MSLDC) to grant NOC for Open access and held that issue raised by MSLDC regarding transmission constraint is invalid. Relevant quotes from the judgment of said order is given below:

"14. It is clear from the above that while deciding the application for grant of standing clearance, SLDC is to take into account only two factors, namely, existence of necessary infrastructure and availability of surplus capacity. Consideration given in the present case to GOM Memorandums for deciding the application was extraneous to the statutory regulations. In the instant case, MSLDC mechanically acted on the directives contained in the State Government's Memorandums, without any application of mind. The Hon'ble Tribunal has held in its aforesaid Judgment that MSLDC is undoubtedly a statutory body designed to ensure integrated operation of power system and it acts in terms of Section 33 of the EA 2003. It was not the case of MSLDC that there was network constraint or congestion and lack of required metering infrastructure. The grounds of refusal must be within the parameters of the law and any action which is not within the domain of the Authority would be without jurisdiction.

15. MSLDC is a statutory authority constituted under Section 31 of the Electricity Act, 2003. It is required to act and function as an independent and autonomous body. Its

function is to ensure integrated operation of the power system in the State and to optimize scheduling and despatch of electrical energy in accordance with the contracts entered into with the licensees or generating companies operating in the State and to monitor Grid system. In the discharge of its function as an independent system operator, MSLDC in this particular case should, not have been influenced by anything other than the Act and the rules and regulations made thereunder. Therefore, MSLDC while rejecting or not processing Tata Trading's applications did not act in accordance with the open access regulations. For these reasons the action of MSLDC requires to be deprecated. The actions of MSLDC to reject the applications for standing clearance were erroneous.

16. In the light of above discussion, we set aside and quash the endorsement dated 30.6.2010 made by MSLDSC on the Tata Trading's application dated 28.6.2010 seeking standing clearance for sale of electricity through power exchanges during the period 1.7.2010 to 31.7.2010. However, the petitioners' prayer for grant of standing clearance has become infructuous as the petition was filed only on 12.8.2010 after expiry of the first period (1.7.2010 to 31.7.2010), for which the standing clearance was sought. We, take this opportunity to reiterate that as an independent operator and statutory body under the Electricity Act, MSLDC should consider the applications for concurrence, 'no objection', 'standing clearance' in an impartial manner and in line with provisions of Electricity Act and the open access regulations."



14. Open Access in inter-state transmission should not be denied just on the basis that state has not determined the transmission charges for the use of state network. Regulation of Hon'ble CERC has clearly stated that rejection of NOC for open access shall never be on the grounds of the non-determination of transmission charges by the state. In case of non determination of transmission charges, charges for the use of state network shall be Rs. 80/Mwh. Quotes from the CERC (Open Access in inter-state transmission) Regulations are given below:

"(2) The intra-State entities shall pay the transmission charges for use of the State network as fixed by the respective State Commission in addition to the charges specified under clauses (1) of this regulation:

Provided that where the State Commission has not determined the transmission charges for use of the state network in Rs/MWh. The charges for use of respective State network shall be payable at the rate of ' 80/MWh for the energy approved:

Provided further that non-fixation of the transmission charges by the State Commission for use of the State network shall not be a ground for refusal of open access:"

Hon'ble JERC is also humbly requested to determine the Open Access charges to be applicable for short term open access transactions.

15. Procedure for implementation of Short term open access has been defined by the various State Electricity Regulatory Commissions in line with their notified Regulations on open access transactions. Hon'ble JERC is humbly requested to laid down the procedure for implementation of Open Access

transactions in the state of Goa and Union Territories. Other states like Punjab, Gujarat, Haryana etc. have notified the detailed procedures for implementation of short term open access transactions in the state and those states are also having a big no. of open access consumers buying power through Exchange at competitive prices. It is also requested before Hon'ble JERC to implement the same in line with CERC and SERC regulations. Relevant extracts from the procedure of short term open access in Punjab are given below:

“3 Procedure for Submission of Application:

### 3.1 Application Format

The application for approval of STOA shall be made in the prescribed appropriate format/form for applying Open Access which shall be submitted to the Nodal Agency in accordance with the Regulations and the procedures. The applicable formats as appended herein are listed as follows:

<b>Nature of Short Term Open Access transaction to be applied</b>	<b>Type of Format/ Form</b>	<b>Attachment Reference</b>
Interstate STOA purchase of power through Power exchange, for consumers of PSPCL.	Form – IA (PE)	Appendix IIA
Interstate STOA purchase of power through Bilateral for consumers of PSPCL.	Form- IB ( PB)	Appendix IIB
Interstate STOA for sale of power through Power exchange	Form – IC (SE)	Appendix IIC
Interstate STOA sale of power through Bilateral	Form – ID (SB)	Appendix IID
Intrastate Sale/Purchase of Power by consumer of PSPCL (Bilateral)	Form – IE ( SPB)	Appendix IIE
Interstate Purchase of Power by non consumer of PSPCL through Power exchange	Form – IF (NPE)	Appendix IIF

### 3.2 Documents required:

The application shall accompany the following documents:

i) Application Fee:

The application shall be accompanied by a non-refundable application fee, specified as under , through DD in favour of Accounts Officer/SLDC, payable at Patiala

<b>A) <u>Intrastate bi-lateral STOA</u></b>		
i) When location of drawl & injection point within same distribution licensee i.e. without involving STU.	Rs 2000/-	(Two Thousand only)
ii) When location of drawl & injection point in the intrastate transmission system within the State i.e. involving STU.	Rs 5000/-	(Five Thousand only)
<b>B) Inter- state STOA (Collective transaction/ bi-lateral )</b>		
	Rs 10,000	(Ten Thousand only)

ii) Self-attested documents:

- a) Copy of A&A form showing Account No., sanctioned Load and CD.
- b) Copy of Peak load exemption and/or continuous process industry letter
- c) Copy of latest energy bill issued by distribution licensee, in case customer is a consumer of distribution licensee.
- d) Copy of stay granted by the competent authority, in case of disputes regarding outstanding dues pending with any Forum or Court.
- e) PEDDA clearance in case of Power producers/ CPPs/Generators using NRSE fuel(s).
- f) Feasibility clearance and connectivity details with transmission/distribution licensee in case of generators or a customer who is not a consumer of the Distribution licensee.
- g) Single Line Diagram of the electrical system showing details of metering equipments installed.

.....  
4.3 Time Frame:

i) The maximum processing time for verification of field data and subsequent initial consent to SLDC by the designated office of Distribution Licensee (PSPCL) on the Form I-I (Appendix II-I), shall be within 12 working days, from the date of receipt of application from SLDC.

ii) Subject to receipt of consent, as per (i) above, the time frame for conditional approval, NOC/Standing clearance, concurrence/consent by the SLDC shall be;

- 7 working days in case of first time transaction.
- 3 working days on subsequent transactions

iii) In case of incomplete or defective application, SLDC shall communicate the deficiency or defect to the applicant by e-mail or fax, or any other usually recognized mode of communication, within two (2) working days of receipt of application. In such cases, the date of receipt of application shall be the date on which the application has been received duly completed, after removing the deficiency or rectifying the defects, as the case may be."

Extracts from the Procedure for implementation of Short term Open Access Transaction for Gujarat are given below:

"Procedure for short-term Open Access:

(1) Involving inter-State transmission system: Notwithstanding anything contained in clauses (2) to (3) herein below, procedure for inter-State short-term Open Access shall be as per Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations, 2008, or its statutory re-enactments, as amended from time to time: Provided that in respect of a consumer connected to a distribution system seeking

interState short-term open access, the SLDC, before giving its consent to the RLDC as required under the Central Commission's regulations, shall require the consumer to submit the consent of the distribution licensee concerned.

(2) Involving only intra-State transmission system: Subject to the provisions of clause (1) herein above, intra-State short-term Open Access shall be in accordance with the provisions of sub clause (a) to (f) herein below:

(a) Open Access in advance (i) Application may be submitted to the Nodal Agency seeking short-term open access upto the fourth month, considering the month in which an application is made being the first month.

(ii) Separate application shall be made for each month and for each transaction in a month. (iii) The application to the Nodal agency shall be on the prescribed form given in FORMAT-ST1 containing such details as capacity needed, generation planned or power purchase contracted, point of injection, point of drawal, duration of availing open access, peak load, average load and such other additional information as may be required by the Nodal agency. The application shall be accompanied by a non-refundable application fee in cash or by demand draft in favour of the officer so notified by Nodal agency. (iv) An application for grant of open access commencing in any month may be submitted in a cover

marked Application for Short-Term Open Access – in advance up to 15th day of the preceding month. For example, application for grant of open access commencing in the month of July shall be received up to 15th day of June.

(v) Nodal agency shall acknowledge receipt of the application

by indicating time and date on ACKNOWLEDGEMENT to the applicant.

(vi) A consumer of distribution licensee intending to avail open access shall also furnish a copy of his application to the distribution licensee of his area of supply.

(vii) Based on the type of transactions Nodal agency shall take a decision on the applications for short-term open access in the manner provided herein below.

(viii) All applications received under sub-sub-clause (iv) above shall be taken up for consideration together and processed as per allotment priority criteria specified under Regulation 19 (Notification no.3/2011 of Hon'ble State Commission).

(ix) Nodal agency shall check transaction for congestion of any element (line and transformer) of transmission and distribution system involved in transaction.

(x) Nodal agency shall convey grant of open access or otherwise in FORMAT-ST2 along with schedule of payments to the consumer latest by 21st day of such preceding month.

(xi) Nodal agency shall assign specific reasons if open access is denied under sub-sub clause

(x).

(b) Day-Ahead Open Access (i) An application for grant of day-ahead open access may be received by Nodal agency within three days prior to the date of scheduling but not later than 1300 Hours of the day immediately preceding the day of scheduling for day-ahead transaction. For example, application for day-ahead transaction on 25th day of July shall be received on 22nd day or 23rd day or upto 1300 hours on 24th day of that month. (ii) Nodal agency shall check for

congestion and convey grant of approval or otherwise in FORMAT-ST2. All other provisions of application for short-term open access shall apply.

(c) Procedure for scheduling transaction in a contingency.

In the event of a contingency, the buying utility may locate a source of power to meet shortterm contingency requirement even after the cut-off time of 1300 hrs of the preceding day and apply to the nodal agency for open access and scheduling and in that event, the nodal agency shall endeavour to accommodate such request as soon as and to the extent practically feasible, in accordance with the detailed procedure.

(d) Bidding Procedure (i) If the capacity sought by the consumers for Open Access in Advance for the following month is more than the available capacity or SLDC perceives congestion of any element of transmission and distribution system involved in the transaction, the allocation shall be made through electronic bidding procedure. (ii) The decision of SLDC in respect of an expected congestion shall be final and binding....."

Hon'ble JERC is requested to prescribe the detailed procedure for implementation of Short term Open Access Procedure and it shall be available on the website of the SLDC for the sake of public information.

16. In view of the aforesaid, it is most respectfully submitted that this Hon'ble JERC shall exercise its jurisdiction under section 86(1)(c) and Petitioner shall be allowed for open access permission and Electricity Department of Daman should be penalized with the maximum penalty as per the

section 142 of the Electricity Act, 2003. Section 142 of Electricity Act 2003 is quoted below:

“Section 142. (Punishment for non-compliance of directions by Appropriate Commission):

In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.”

17. Petitioner submits that appropriate fee has been paid through Demand Draft of Rs. 5000/- in favour of Secretary, Joint Electricity Regulatory Commission payable at Gurgaon issued on 23.10.2013 from ICICI Bank.

18. Petitioner therefore, most respectfully prays the following before this Hon'ble JERC:

(i) Direct the Electricity Department of Daman to grant Open Access permission to the Petitioner.

(ii) Impose maximum penalty on the Electricity Department of Daman for contravening the Regulations of this



Hon'ble JERC and violating the provision of section 42 of Electricity Act 2003.

- (iii) Consider the claim for compensation for the Petitioner which it suffered as a huge financial loss because of wrongful denial of open access.
- (iv) Hon'ble JERC is humbly requested to laid down the detailed Procedure for implementation of Short term Open Access and also determine the open access charges to be applicable on open access transactions.
- (v) Pass such order or necessary directions which this Hon'ble JERC deems fit in the present circumstances of the Petition.

PETITIONER

RAJENDRA GUPTA  
Chairman & Managing Director  
1101, Jaywant Appartments, Tardeo Road, Mumbai- 34.

Place : Mumbai

DATED: 1<sup>st</sup> November, 2013

BEFORE THE JOINT ELECTRICITY REGULATORY  
COMMISSION FOR THE STATE OF GOA AND UNION  
TERRITORIES

FILE No.  
CASE NO.  
(To be filled by the Office)

In the matter of

Petition filed under Section 86(1)(c) and Section 142 of the  
Electricity Act, 2003 read with JERC (Open Access in  
Transmission and Distribution) Regulations, 2009

And In the matter of:  
Perfect Filaments Ltd. .....Petitioner  
Survey No.285, Bhimpore, Daman

V/s

Electricity Department of Daman .....Respondent  
Plot No. 35,OIDC Complex  
Somnath, Daman- 396210

Affidavit

I, RAJENDRA GUPTA, S/O Madanlal Gupta Aged about 51 years,  
Occupation: Chairman & Managing Director, residing at 1101,  
Jaywant Apartments, Tardeo Road, Mumbai- 34, the deponent  
named above do hereby solemnly affirm and state on oath as  
under: -

1. That the deponent is authorized as per the resolution of the  
company dated 31.10.13 (In case the Petitioner is a Company)  
and is acquainted with the facts deposed to below.

2. I, the deponent named above do hereby verify that the  
contents of the paragraph Nos. 1 of the affidavit and those of the

paragraph No. 1 to 5, & 16 to 17 of the accompanying petition are true to my personal knowledge and those of the paragraph Nos. 6 to 12 of the accompanying petition are based on the perusal of records and those of the paragraph Nos. 13 to 15 of the accompanying petition are based on information received which I believe to be true and verify that no part of this affidavit is false and nothing material has been concealed.

(Deponent)

BEFORE THE JOINT ELCTRICITY REGULATORY  
COMMISSION FOR THE STATE OF GOA AND UNION  
TERRITORIES

IN THE MATTER OF

Petition No.

Perfect Filament Ltd. ....Petitioner

V/s

Electricity Department of Daman .....Respondent

I, Gaurav Nand, having been authorized by Rajendra Gupta (Chairman & Managing Director), hereby enter appearance on behalf of Perfect Filament Ltd. and undertake to plead and act for him/it in all matters in the aforesaid case.

Place:

Date:

Signature

Address for Correspondence

A-49, 3<sup>rd</sup> Floor, Sector-8,  
Dwarka, New Delhi- 110075