

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3, BLOCK B, SECTOR 18-A, MADHYA MARG, CHANDIGARH

Petition No. 55 of 2021
Date of Order: 13.12.2021

Petition for the Determination of Additional Surcharge U/S 42 (4) of the Electricity Act-2003 read with Regulation 27 of Punjab State Electricity Regulatory Commission (Terms and Conditions for Intra-State Open Access) Regulations, 2011 to be made applicable on to the open access consumers availing power from the sources other than PSPCL for the period 01.10.2021 to 31.03.2022.

AND

In the matter of: Punjab State Power Corporation Limited,
The Mall, Patiala.
.....Petitioner

Present: Sh. Viswajeet Khanna, Chairperson
Ms. Anjali Chandra, Member
Sh. Paramjeet Singh, Member

ORDER:

1. This petition has been filed by the Punjab State Power Corporation Limited (PSPCL) for determination of applicable additional surcharge for the period 01.10.2021 to 31.03.2022, to be levied on the open access consumers receiving supply of electricity from the sources other than PSPCL. The submissions made by PSPCL are summarized as under:

- a) The detailed data including hourly-based (Month-wise) data for Total Availability/ Total Scheduled Power/ Total Surrendered Power of the corresponding period of the previous year i.e. 01.10.2020 to 31.03.2021, for the

computation of the applicable additional surcharge has been submitted in the petition.

- b) From the detail of the data submitted, it is evident that, PSPCL has adequate generating capacities available to meet the entire power demand of the consumers of PSPCL including the open access consumers during the relevant period. Therefore, in the event of sourcing of power by open access consumers from sources other than PSPCL, part of the available generating capacity is likely to remain stranded during the period from October 2021 to March, 2022.
- c) Provisions as regards to additional surcharge are made in Para 8.5 of the Tariff Policy and Regulation 27 of the PSERC Open Access Regulations, 2011. The Commission has notified the above Regulations in accordance with the provisions of the Electricity Act and the Tariff Policy, so as to compensate the distribution licensee for its stranded generation capacity arising out of its universal supply obligations. The additional surcharge is payable under the Regulations notwithstanding that only the inter-state transmission system is being used for availing open access and even when the lines of transmission/distribution licensee are not used.
- d) The burden of fixed cost is adversely affecting the financial interests of PSPCL, which in turn is affecting the consumers in the State buying power from PSPCL. As such, it is necessary that Additional Surcharge as provided under Section 42(4) of the Electricity Act, 2003 and the PSERC Open Access Regulations, 2011 be determined and made applicable to

open access consumers in the State.

2. The petition was admitted vide Order dated 30.09.2021 wherein the Commission has further observed as under:

“Vide Order dated 03.05.2021 passed by the Commission in petition No. 19 of 2021, additional surcharge payable by open access consumers is applicable for the period upto 30.09.2021. Therefore, it is necessary to fix the provisional Additional Surcharge till it is finally determined by the Commission for the period from 01.10.2021 to 31.03.2022. Since the Order dated 03.05.2021 in Petition No. 19 of 2021 determining the Additional Surcharge payable by open access consumers is applicable for the period up to 30.09.2021, the Commission decides to continue with the same provisionally during H2 of FY 2021-22, till the final order for Additional Surcharge for the period of 01.10.2021 to 31.03.2022 is issued by the Commission. As and when the Order for Additional Surcharge for the period of 01.10.2021 to 31.03.2022 is issued, the same shall become applicable from the date as mentioned therein and will have overriding effect on this Order.”

3. The petition was fixed for hearing as well as public hearing on 27.10.2021. The public notice was published on 02.10.2021 in 'The Tribune', 'Hindustan Times', 'Jagbani' and 'Punjab Kesari' with the last date for submission of objections as 15 days from the date of publication of the notice. In response to the public notice, 1 no. objection was received from IEX on 25.10.2021 which was sent to PSPCL for its comments/reply on the same.

4. The petition was taken up for hearing as well as public hearing on 27.10.2021. However, nobody appeared from the public in the

public hearing except representatives of PSPCL. During hearing PSPCL filed revised figures of Additional Surcharge vide memo No. 7516 dated 26.10.2021, which were taken on record. The Commission vide interim Order dated 01.11.2021, reserved the Order.

5. Objections/Comments

5.1 PSPCL submitted its reply to the objections raised by IEX vide Memo No. 7594 dated 03.11.2021. PSPCL further submitted its amended reply on the objections vide Memo No. 7702 dated 16.11.2021. The issues raised by the objectors IEX (Indian Energy Exchange) and PSPCL's amended reply thereon are summarized as under:

A) Incorrect Consideration of Transmission Charges

Objection/Comment

It was submitted that:

- a) As per Regulation 11 (3) of the CERC(Sharing of Inter-State Transmission Charges and Losses Regulations, 2020 the transmission charges paid by any short term embedded open access consumer shall be refunded in the following billing month to the State in which such consumer falls.
- b) Further, the PSERC Open Access Regulations clearly define the applicability of additional surcharge on the obligation of the licensee in respect of its power purchase commitments only; thus, recovery of fixed cost associated to transmission charges contravenes the Open Access Regulations of the Commission.

Reply of PSPCL

- a) It is agreed that Inter-state Transmission Charges paid by embedded STOA by the customer shall be reimbursed to the State and inclusion of such charges in the Fixed Cost of the available capacity will lead to double recovery of Transmission Charges from such STOA customer.
- b) However, the statement is not true for embedded LTAMTOA customers, where the Inter-State Transmission charges are not reimbursed to the State and same are required to be included in the fixed Cost of available capacity.

B) Computation of Fixed Cost of Available Capacity

Objection/Comment

It was submitted that:

- a) In Annexure-H of the petition the 'Other Charges' is mostly on account of RLDC/ WRLDC charges, Water Cess, Change in Law, ED, Excise duty, GST, compensation for Gas, RLNG etc. These charges do not form part of the fixed cost and thus ought to be excluded.
- b) Also PSPCL has inadvertently considered same charges twice both in 'Other Charges' and 'Other Charges (Variable Cost)' for all the power plants leading to excessive fixed cost of available capacity.

Reply of PSPCL

- a) The components of other Charges (Variable Cost) are not part of fixed cost and are already excluded from other

charges as mentioned in Annexure-H and there is no error in computation of fixed cost component of other charges. However, PSPCL has inadvertently taken the Intra-State Transmission Charges in the fixed cost of Distribution Licensee also and accordingly the Annexure-H and Annexure-J are amended.

C) Consideration of Total Fixed Cost of the Distribution

Objection/Comment

It was submitted that:

- a) While working out the additional surcharge, PSPCL has deducted the fixed cost paid by the partial open access customers to the Licensee. Such fixed cost paid to the Distribution Licensee has been considered on the basis of fixed cost for FY 2021-22 as approved by the Commission vide Tariff Order for FY 2021-22 dated 28.05.2021. However, all the other data in current Petition (such as stranded capacity, open access availed, available capacity etc.) has been taken by the Petitioner for 01.10.2020 to 31.03.2021 i.e. FY 2020-21.
- b) Thus, the approval is not aligned with that approved by the Commission in its earlier Orders and needs rectification.

Reply of PSPCL

- a) PSPCL has considered Fixed Cost on the basis of APR of FY 2020-2021 only in Tariff Order for FY 2021-22.

The findings and decision of the Commission:

6. Determination of the Additional Surcharge

6.1 The Electricity Act-2003, Tariff Policy- 2016 and PSERC Open Access Regulations, 2011 provide for payment of Additional Surcharge by open access consumers receiving supply of electricity from a person other than the distribution licensee of his area of supply, to meet the fixed cost of such distribution licensee arising out of his obligation to supply. The various regulatory provisions related to additional surcharge are as under:

Section 42(4) of the Electricity Act, 2003

“4) Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.”

Clause 8.5.4 of Tariff Policy

“The additional surcharge for obligation to supply as per section 42(4) of the Act should become applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The fixed costs related to network assets would be recovered through wheeling charges.”

Regulation 27 of the PSERC (Terms & Conditions for Intra-state Open Access) Regulations, 2011

“27. Additional Surcharge

1) *An open access consumer, receiving supply of electricity from a person other than the distribution licensee of his area of supply, shall pay to the distribution licensee an additional surcharge on the charges of wheeling, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under sub-section (4) of section 42 of the Act.*

2) *This additional surcharge shall become applicable only if the obligation of the licensee in terms of power purchase commitments has been and continues to be stranded or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The distribution licensee shall indicate the quantum of such stranded costs and the period over which they would be stranded. The Commission shall scrutinize the statement of calculation of fixed cost submitted by the distribution licensee and obtain objections, if any, and determine the amount of additional surcharge:*

Provided that such additional surcharges shall not be levied in case distribution access is provided to a person who has established a captive generation plant for carrying the electricity to the destination of his own use.

3) *The additional surcharge shall be determined by the Commission.*

4) *The consumers availing Open Access exclusively on interstate transmission system shall also pay the additional surcharge as determined under this Regulation.*

5) *The consumers availing Open Access through dedicated lines even without involving licensee's transmission and / or distribution system shall be liable to pay same additional surcharge as determined under this Regulation.”*

6.2 The Commission has carefully gone through the data submitted by PSPCL. The Commission observes that, in order to meet its obligation to supply, PSPCL has installed/contracted adequate

generation capacities from various sources and there is an unavoidable obligation and incidence to bear fixed costs consequent to such contracts. Also, from the data submitted by PSPCL, it has been conclusively demonstrated that the obligation of the licensee, in terms of existing power purchase commitments, has been and continues to be stranded.

6.3 The fixed costs obligations for the distribution licensee consist of the following:

- The fixed costs payable to the generating companies (including own) for the capacity booked by the distribution licensee to meet its obligation to supply.
- The fixed costs for availing long term access i.e cost payable to the Transmission licensees (Inter-State and Intra-State) for transmitting of energy from the generating stations to the input point of the distribution licensee, and
- The fixed costs of distribution business (wheeling and retail infrastructure) from the input point or receipt of electricity from transmission licensee to place of consumption of electricity at consumer place.

6.4 PSPCL in its submission dated 26.10.2021 revised the fixed cost of power purchase (including other charges) to Rs. 4145 Crore as compared to Rs. 4794.73 Crore submitted in its petition. The variation was due to inadvertent inclusion of PSTCL charges (Transmission and SLDC charges) of Rs. 683.255 Crore in other charges by PSPCL in its original petition.

6.5 The Commission notes that in the revised calculation sheet for determination of additional surcharge, PSPCL has worked out

the additional surcharge @Rs. 0.88/kWh for open access within the contract demand maintained with PSPCL and Rs. 1.22/kWh for full open access without any contract demand and partial open access in excess of the contract demand maintained with PSPCL. The Commission observes that partial open access consumers availing open access upto their sanctioned contract demand are also paying fixed charges for the said demand as per the tariff schedule to the licensee. However, full open access consumers and partial open access consumers availing open access over and above their contract demand do not pay any fixed charges. Hence, it is prudent to work different rates of additional surcharge for different consumers depending upon whether or not they are paying the fixed charges to the distribution licensee.

6.6 Accordingly, the Commission determines Additional Surcharge as under:-

Calculation of Additional Surcharge

(Based on the data for the corresponding period of the previous year i.e. 01.10.2020 to 31.03.2021)

Sr. No.	Particulars	Unit	
A	Total Installed/Contracted Capacity	MW	13893
B	Average Availability Capacity*	MW	7873
C	Average Scheduled Capacity	MW	4967
D	Average Stranded Capacity	MW	2907
E	Average Open Access Availed	MW	19.67
F	Capacity stranded due to Open Access	MW	19.67
G	Fixed Cost for the available power capacity	Rs. Cr.	4145
H	Fixed Cost per MW available at consumer end considering availability (B) at consumer end (G/B)	Rs./MW	0.53
I	Fixed Cost of Stranded Capacity on account of Open Access (FxH)	Rs. Cr.	10.36
J	Open Access Energy Scheduled	MU	85

Sr. No.	Particulars	Unit	
K	Additional Surcharge payable by Full open access consumers and partial open access consumers for availing open access beyond the contract demand maintained with the distribution licensee (I/J)	Rs/kWh	1.22
L	Adjustment of Fixed Charges paid to the distribution licensee by partial open access consumers as consumers of the licensee		
i)	Energy consumed	MUs	6218.22
ii)	Fixed Charges recovered	Rs. Cr.	411.00
iii)	Fixed Charges per unit (ii/i)	Rs/kWh	0.66
iv)	Total Fixed Costs =1/2 of Yearly Distribution fixed cost (Table 138, Chapter-4 of TO FY 2021-22, i.e. Rs. 4072.26 Crore) + G (Rs. 4145 Crore)	Rs. Cr.	8217.26
v)	Proportion of 'Fixed Cost for power purchase' to the 'Total Fixed Costs of the Distribution Licensee' (G/iv)	%	50.44%
vi)	Part of the Fixed Charges paid by consumers with load contributing towards fixed cost of power (iii*v)	Rs/kWh	0.333
M	Additional Surcharge payable by partial open access consumers for availing open access upto the contract demand maintained with the distribution licensee (K-L(vi))	Rs/kWh	0.88

**The availability at the consumer end is calculated by deducting inter-state losses @ 3.57% & intra-state losses @ 2.57% from average available capacity as submitted by PSPCL.*

The Additional Surcharge shall be applicable for the period 01.10.2021 to 31.03.2022 as under:

- a. Payable by full open access consumers and partial open access consumers who are availing open access over and above their contract demand maintained with the distribution licensee **Rs. 1.22/kWh**
- b. Payable by partial open access consumers for availing open access upto their contract demand maintained with the distribution **Rs. 0.88/kWh**

licensee

6.7 This Additional Surcharge shall be leviable on the consumers situated within the area of supply of PSPCL on the actual open access power brought by them from sources other than PSPCL, subject to the condition that the contracted capacity of PSPCL continues to remain stranded during the period. Further, this Order shall have an overriding effect on the Commission's Order dated 30.09.2021.

The petition is disposed of accordingly.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Anjuli Chandra)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: 13.12.2021