

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

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

Petition No. 04 of 2024

Date of Order: 05.06.2024

Petition for the Determination of Additional Surcharge 42 (4) of the Indian Electricity Act-2003 read with Regulation 27 of the 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 01.10.2023 to 31.03.2024.

AND

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

.....Petitioner

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

PSPCL: Ms. Harmohan Kaur, CE&ARR/TR
Sh. Amrinder Singh Virk, Sr.Xen

ORDER:

1. Punjab State Power Corporation Limited (PSPCL) has filed the present petition for determination of applicable additional surcharge for the period 01.10.2024 to 31.03.2024, to be levied on the open access consumers receiving supply of electricity from sources other than PSPCL. The submissions made by PSPCL are summarized as under:

- a) PSPCL has submitted 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. 01.10.2022 to 31.03.2023, for the computation of the applicable additional surcharge.

- 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 2023 to March, 2024.
- c) Provisions regarding additional surcharge are made in Para 8.5 of the Tariff Policy and Regulation 27 of the PSERC (Terms and Conditions for Intra-State Open Access) Regulations, 2011. The Commission has notified the above Regulations in accordance with the provisions of the Electricity Act, 2003 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 be determined and made applicable to open access consumers in the State.

2. The additional surcharge for the period 01.10.2023 to 31.03.2024 was to be made public before 01.10.2023. PSPCL failed to file petition for determination of Additional Surcharge for the period 01.10.2023 to 31.03.2024. As such the Commission vide Order dated 16.10.2023 in Petition No. 55 of 2023 (Suo-Motu) allowed to continue, provisionally, the existing additional surcharge as determined vide Order dated 6.10.2023 in petition No. 28 of 2023 for the period 01.04.2023 to 30.09.2023 till the time PSPCL files the said petition and the final Order in the said petition is passed. PSPCL filed the petition on 25.01.2024. The petition was placed before the Commission for admission and after considering the averments made in the petition, the Commission vide Interim Order dated 16.02.2024 admitted the petition. PSPCL was further directed to publish a public notice inviting suggestions/objections from the public/stakeholders as required under Regulation 67 of the PSERC (Conduct of Business) Regulations 2005. The petition was fixed for hearing as well public hearing on 13.03.2024.
3. The public notice was published by PSPCL in the newspapers with the last date for submission of objections as 21 days from the date of publication of the notice.
4. The petition was taken up for hearing as well as public hearing on 13.03.2024. However, nobody appeared from the public during the

public hearing except representatives of PSPCL. The Commission vide Order dated 15.03.2024 directed PSCL to submit the following information:

1. *The sum total of various components of 'other charges' submitted in Annexure H do not match with the 'other charges' given under 5th Column of Annexure-H for following plants:*

- *Pragati-III Gas Plant Bawana (PPCL)*
- *Mundra UMPP (CGPL)*
- *Sasan UMPP (RPL)*
- *Mallana-II HEP (PTC)*
- *Karcham HEP (PTC)*
- *Talwandi Sabo TPS (Sterlite)*
- *NPL Rajpura TPS (L&T)*
- *CTUIL*

PSPCL to reconcile and resubmit Annexure H alongwith detailed break-up of the Charges.

2. *In Format D3 submitted along with ARR & Tariff Petition of FY 2024-25, PSPCL has submitted other Charges for TSPL as NIL, while in Annexure H submitted along with the Petition PSPCL has submitted 'Other Charges' of TSPL as Rs. 5.94 Crore. Also, no break-up of the same has been given in Annexure H. PSPCL to reconcile and resubmit Annexure H alongwith detailed break-up of the Charges.*

3. *In Note to Annexure-J PSPCL has submitted that "The availability at the consumer end is calculated by deducting inter-state losses @ 3.87% & intra-state losses @2.53 % from average available*

capacity.” PSPCL to submit the detailed calculations for the following (including soft copy in Ms. Excel):

- *Average Available Capacity*
- *Average Schedule Capacity*
- *Average Stranded Capacity*

4. *The Commission has issued the Punjab State Electricity Regulatory Commission (Terms and Conditions for intra-State Open Access) (10th Amendment) Regulations, 2023 and Punjab State Electricity Regulatory Commission (Terms and Conditions for intra-State Open Access) (11th Amendment) Regulations, 2023 vide gazette notification dated 05.06.2023 and 13.10.2023 wherein the Commission has incorporated certain provisions in Regulation 27 ‘Additional Surcharge’. However, from the perusal of the Petition, it is observed that PSPCL has not included the same in the Petition. PSPCL to revise and resubmit the Petition after incorporating all the provisions of the PSERC OA Regulations 2011 as amended from time to time well before the next date of hearing.*

The petition was further fixed for hearing on 15.05.2024.

5. The Commission vide Order dated 28.03.2024 further observed that PSPCL is supposed to file the petition for additional surcharge for the period 01.04.2024 to 30.09.2024, well in advance. However, PSPCL is yet to file the petition for additional surcharge for the period 01.04.2024 to 30.09.2024. The Commission observed that in the absence of Order for additional surcharge for the aforesaid period may lead to various issues and ambiguity and

taking Suo-Motu cognizance of the situation, the Commission decided to provisionally continue with the existing Additional Surcharge as per the Order dated 06.10.2023 passed by the Commission in Petition No. 28 of 2023, till the time PSPCL files the petition and final order in this regard is issued. PSPCL was further directed to file the requisite petition without any delay.

6. PSPCL vide Memo No. 5654 dated 24.04.2024 submitted the point wise reply of the Commission's queries raised vide Order dated 15.03.2024.
7. The Petition was taken up for hearing on 15.05.2024. After hearing the representative appearing on behalf of PSPCL, Order was reserved vide interim Order dated 16.05.2024.

8. Findings and Decision of the Commission

The Commission has examined the averments made in the petition and after hearing the representative of PSPCL decides as follows:

- 8.1** The Electricity Act-2003, Tariff Policy- 2016 and PSERC Open Access Regulations, 2011 as amended from time to time 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.

Provided further that the additional surcharge shall not be applicable for Green Energy Open Access Consumers, if fixed charges are being paid by such a consumer.

Provided also that additional surcharge shall not be applicable in case power produced from a non fossil fuel based Waste-to-Energy plant is supplied to the Open Access Consumer.

“Provided also that additional surcharge shall not be applicable in case electricity produced from offshore wind projects, which are commissioned upto December, 2032 and supplied to the Open Access Consumers.

Provided also that additional surcharge shall not be applicable if green energy is utilized for production of green hydrogen and green ammonia.”

Provided that consumers including green energy open access consumers taking open access over and above the sanctioned contract demand as per the provisions of Regulation 31 (2) of the PSERC OA Regulations, 2011 shall be liable to pay Additional Surcharge as payable by Full open access consumers for availing open access beyond the contract demand maintained with the distribution licensee as determined by the Commission under those Regulations.

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.”

8.2 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.

8.3 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 conveyance 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 the consumers place.

8.4 Since the additional surcharge is leviable and payable on the energy consumption measured at the consumer end, the

Commission decides to consider the per unit fixed cost liability of power at the consumer end.

8.5 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. 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. In the revised calculation sheet for determination of additional surcharge submitted alongwith the reply No. 5654 dated 24.04.2024, PSPCL has worked out the additional surcharge @Rs. 1.11/kWh for Partial open access consumers for availing open access upto the contract demand maintained with PSPCL and Rs. 1.47/kWh for full open access without any contract demand and partial open access including green energy open access consumers for availing open access beyond the contract demand maintained with PSPCL in line with the provisions of the OA Regulations.

8.6 The Commission observes that the cost of Generation considered by PSPCL is based on the actual data of H2 of FY 2022-23 as submitted in ARR Petition of FY 2024-25. Hence, the Commission is inclined to accept the fixed cost from Central generating stations as submitted by PSPCL in the current petition, while working out the fixed cost of

generation. With regard to fixed cost of own generation, including BBMB and distribution, the Commission finds it prudent to consider the fixed cost as approved in the Tariff Order of FY 2023-24 as submitted by PSPCL.

8.7 Accordingly, after considering the submissions of PSPCL, the Commission determines Additional Surcharge applicable for the period 01.10.2023 to 31.03.2024 as under:

Sr. No.	Particulars	Unit	Worked out by the Commission
A	Total Installed/Contracted Capacity	MW	14643
B	Average Available Capacity	MW	6804*
C	Average Scheduled Capacity	MW	5624*
D	Average Stranded Capacity	MW	1203*
E	Average Open Access Availed	MW	29.5
F	Capacity stranded due to Open Access	MW	29.5
G	Fixed Cost for the available power capacity	Rs. Crore	4314.67
H	Fixed Cost per MW available at consumer end considering availability (B) at consumer end (G/B)	Rs. Crore /MW	0.63
I	Fixed Cost of Stranded Capacity on account of Open Access (FxH)	Rs. Crore	18.71
J	Open Access Energy Scheduled	MU	127
K	Additional Surcharge payable by Full open access consumers and partial open access consumers including Green Energy Open Access Consumers for availing open access beyond the contract demand maintained with the distribution licensee (I/J)	Rs/kWh	1.47
L	Adjustment of Fixed Charges paid to the distribution licensee by partial open access consumers as consumers of the licensee		
i)	Energy consumed by all consumers having load more than 1MW	MUs	6595.81
ii)	Fixed Charges recovered having load more than 1MW	Rs. Cr.	494.58
iii)	Fixed Charges per unit (ii/i)	Rs/kWh	0.75
iv)	Total Fixed Costs =1/2 of Yearly	Rs. Cr.	8940.81

Sr. No.	Particulars	Unit	Worked out by the Commission
	Distribution fixed cost {Table 123 (Page No. 131) in Tariff order for 2023-24} + G		
v)	Proportion of 'Fixed Cost for power purchase' to the 'Total Fixed Costs of the Distribution Licensee' (G/iv)	%	48.26%
vi)	Part of the Fixed Charges paid by consumers with load contributing towards fixed cost of power (iii*v)	Rs/kWh	0.36
M	Additional Surcharge payable by partial open access consumers excluding Green Energy Open Access consumers for availing open access upto the contract demand maintained with the distribution license (K-L(vi))	Rs/kWh	1.11

**The availability at the consumer end is calculated by deducting inter-state losses @ 3.87% & intra-state losses @ 2.53% from average available capacity*

8.8 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 earlier Order dated 16.10.2023 passed in the Petition No. 55 of 2023 (Suo-Motu) issued on Additional Surcharge as applicable in this petition.

8.9 The Commission further takes serious note of the repetitive delay in filing of additional surcharge petitions by PSPCL every year. Accordingly, it is directed that PSPCL to ensure that in future the petition(s) for additional surcharge be filed within the prescribed timelines failing which the Commission shall have to

resort to take action against PSPCL under Section 142 of the Electricity Act, 2003.

The petition is disposed of accordingly.

Sd/-

(Paramjeet Singh)
Member

Sd/-

(Viswajeet Khanna)
Chairperson

Chandigarh

Dated: 05.06.2024

