

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

**Petition No. 61 of 2022**  
**Date of Order: 10.01.2023**

Petition for the Determination of Additional Surcharge U/S 42 (4) of the 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 01.10.2022 to 31.03.2023.

AND

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

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

PSPCL: Sh. R.S Randhawa, CE/ARR&TR

**ORDER:**

1. Punjab State Power Corporation Limited (PSPCL) has filed the present petition for determination of applicable additional surcharge for the period 01.10.2022 to 31.03.2023, 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. 01.10.2021 to 31.03.2022, 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 2022 to March, 2023.
- 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 01.10.2022 to 31.03.2023 was to be made public before 01.10.2022 however, the petition was received only on 10.10.2022. As such the Commission vide Order dated 30.09.2022 in petition No. 59 of 2022 (Suo-Motu), decided to continue with the existing additional surcharge as per the Order dated 03.08.2022 in petition No. 16 of 2022 provisionally till the time PSPCL files the petition and final Order in this regard is issued. The petition was admitted vide Order dated 17.10.2022 and PSPCL was directed to issue the public notice inviting objections from general public/stakeholders. The petition was fixed for hearing as well public hearing on 07.12.2022.

3. The public notice was published by PSPCL in 'The Tribune (English)', 'Ajit' (Punjabi) and 'Dainik Bhaskar (Hindi) 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 07.12.2022. However, nobody appeared from the public during the public hearing except representatives of PSPCL and no objections/comments were received from any stakeholders. After hearing the representative appearing on behalf of PSPCL, Order was reserved on 09.12.2022.

## 5. 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.

5.1 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 source other than the distribution licensee of the area of supply, to meet the fixed cost of such distribution licensee arising out of its 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.”*

5.2 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.

5.3 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 consumer's place.

5.4 Since the additional surcharge is 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 consumers end.

5.5 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 Annexure J submitted alongwith the petition, PSPCL has worked out the additional surcharge @Rs. 1.54/kWh for open access within the contract demand maintained with PSPCL and Rs. 1.19/kWh for full open access without any contract demand and partial open access in excess of the contract demand maintained with PSPCL.

5.6 The Commission observes that the Cost of Generation considered by PSPCL is based on the projected data of H2 of FY 2021-22 as submitted in ARR Petition of FY 2022-23. Hence, the Commission accepts 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 2022-23, as submitted by PSPCL.

5.7 The Commission further observed that in Annexure H "Annual Fixed Cost (AFC) of Generating Stations from which

PSPCL received power during October, 2021 to March, 2022”under the head ‘Other Charges’, PSPCL has shown an amount of Rs. 349.48 Crore thereby increasing the fixed cost of Generation as compared to that of H1 (i.e during April, 2021 to September, 2021) as submitted and considered in Petition No. 16 of 2022 (Petition for determination of Additional Surcharge for the period 01.04.2022 to 30.09.2022). In reply to the Commission’s observation PSPCL submitted that in view of Hon’ble APTEL’s judgment dated 19.07.2021 and considering the critical coal position, PSPCL has made part payment of Rs. 349.48 Crore to TSPL in H2 of FY 2021-22 and the same has been considered under the head ‘other charges’. The Commission observes that vide Judgment dated 19.07.2021 in Appeal No. 220 of 2019 & IA No. 246 of 2021 & Appeal No. 317 of 2019 & IA No. 1675 of 2019 & IA No. 247 of 2021, in the matter of Talwandi Sabo Power Limited versus PSERC and PSPCL, the Hon’ble APTEL has directed PSPCL as under:

- “i) The impugned order dated 11.04.2019 is set aside. We direct the Respondent-PSPCL to make payment of differential amount as sought in the appeal No. 220 of 2019 along with late payment surcharge in terms of provisions of PPA from the date of billing for the period June 2017 to September 2017 till payments are made.*
- ii) The impugned order dated 30.08.2019 pertaining to Appeal No. 317 of 2019 is set aside. We direct Respondent-PSPCL to pay the cost of alternate/imported coal incurred by the Appellant along*



*with late payment surcharge in terms of PPA from the date of billing till payment is made.*

*iii) We also direct the PSPCL to pay deemed capacity charges from October 2017 onwards along with late payment surcharge”*

In view of the above directions of the Hon’ble APTEL, the Commission accepts PSPCL’s submission regarding the increased Fixed Cost of Generation from October, 2021 to March, 2022 and has considered the same for working out the additional surcharge for the period 01.10.2022 to 31.03.2023.

**5.8 Accordingly, the Commission determines Additional Surcharge applicable for the period 01.10.2022 to 31.03.2023 as under:**

(Based on the data for the corresponding period of the previous year i.e. 01.10.2021 to 31.03.2022)

Sr. No.	Particulars	Unit	Submitted by PSPCL in the Petition	Worked out by the Commission
A	Total Installed/Contracted Capacity	MW	13933	
B	Average Available Capacity	MW	6911*	
C	Average Scheduled Capacity	MW	5055*	
D	Average Stranded Capacity	MW	1888	1856
E	Average Open Access Aailed	MW	27.17	
F	Capacity stranded due to Open Access	MW	27.17	
G	Fixed Cost for the available power capacity	Rs. Cr.	4627.4	
H	Fixed Cost per MW available at consumer end considering availability (B) at consumer end (G/B)	Rs./MW	0.67	
I	Fixed Cost of Stranded Capacity on account of Open Access (FxH)	Rs. Cr.	18.20	
J	Open Access Energy Scheduled	MU	118	
K	<b>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)</b>	<b>Rs/kWh</b>	<b>1.54</b>	
	Adjustment of Fixed Charges paid to the distribution licensee by partial open access			

Sr. No.	Particulars	Unit	Submitted by PSPCL in the Petition	Worked out by the Commission
L	consumers as consumers of the licensee			
i)	Energy consumed by all consumers with load more than 1 MW	MU	6182.23	
ii)	Fixed Charges recovered from all consumers with load more than 1 MW.	Rs. Cr.	444.81	
iii)	Fixed Charges per unit (ii/i)	Rs/kWh	0.72	
iv)	Total Fixed Costs =1/2 of Yearly Distribution fixed cost(Table 138, Chapter-4 of TO FY 2022-23) + G	Rs. Cr.	9399.56	
v)	Proportion of 'Fixed Cost for power purchase' to the 'Total Fixed Costs of the Distribution Licensee' (G/iv)	%	49.23%	
vi)	Part of the Fixed Charges paid by consumers with load contributing towards fixed cost of power (iii*v)	Rs/kWh	0.35	
M	<b>Additional Surcharge payable by partial open access consumers for availing open access upto the contract demand maintained with the distribution licensee (K-L(vi))</b>	Rs/kWh		<b>1.19</b>

\*The availability at the consumer end is calculated by deducting inter-state losses @ 3.70% & intra-state losses @ 2.52% from average available capacity

**5.9 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 on Additional Surcharge dated 30.09.2022 in Petition No. 59 of 2022 (Suo-Motu).**

**The petition is disposed of accordingly.**

Sd/-

(Paramjeet Singh)

Member

Sd/-

(Viswajeet Khanna)

Chairperson

Chandigarh

Dated: 10.01.2023