

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

Petition No. 07 of 2019

Date of Order: 06.09.2019

In the matter of: Petition for determination of Additional Surcharge under Section 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 upon the open access consumers availing power from the sources other than PSPCL for the period 01.04.2019 to 30.09.2019.

AND

Punjab State Power Corporation Ltd.
(PSPCL), The Mall, Patiala.

Present: Ms. Kusumjit Sidhu, Chairperson
Sh. S.S. Sarna, Member
Ms. Anjuli Chandra, Member

ORDER

The present Petition has been filed by PSPCL for determination of additional surcharge, to be made applicable on the open access consumers availing power through open access from the sources other than PSPCL for the period 01.04.2019 to 30.09.2019.

2. The submissions made by PSPCL in the petition are summarized as under:

- i) The detailed data for the corresponding period of the previous year (i.e. 01.04.2018 to 30.09.2018) for the computation of the applicable additional surcharge has

been submitted in the petition.

- ii) PSPCL has adequate available generating capacity to meet the entire demand of power of the consumers of PSPCL including the open access consumers during the relevant period. Thus, in the event of sourcing of power by open access consumer from sources other than PSPCL, the available generating capacities are likely to remain stranded during the period from April 2019 to September 2019. However, during the same period of the previous year open access was not availed by any consumer.
- iii) Para 8.5 of the Tariff Policy, 2016 and Regulation 27 of the PSERC Open Access Regulations, 2011 provide for Additional Surcharge to be paid by open access consumers. The Commission has notified the Open Access Regulations, in accordance with the provisions of the Electricity Act, 2003 and the Tariff Policy framed there under, so as to compensate the distribution licensee for its stranded generation capacity arising out of the 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 transmission/ distribution lines of the licensee are not used.
- iv) The burden of fixed cost is adversely affecting the financial interests of PSPCL, which in turn is adversely

affecting the end 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 Open Access Regulations be determined and made applicable to open access consumers in the State.

2.1 PSPCL has made the following prayer:

- i) Admit the above Petition for determination of additional surcharge for the period from 1st April-2019 to 30th Sept-2019, payable by the consumers of petitioner purchasing power from within/outside the Petitioner's area of supply/State periphery.
- ii) Hold that the obligation of the petitioner in terms of power purchase commitments has been and continues to be stranded in the event of open access availed by consumers during 01.04.2019 to 30.09.2019 and there is an unavoidable obligation and incidence to bear fixed costs consequent to such commitments.
- iii) Approve the draft Public Notice appended as Annex. K and fix a timeline so that process of determination of the application additional surcharge for the control period 01.04.2019 to 30.09.2019 can be completed before the next date of its applicability.
- iv) Determine the Additional Surcharge payable by open access consumers for the period 1st April-2019 to 30th Sept-2019 on the quantum of power anticipated to be purchased through open access using the network of

the petitioner on the basis of the data submitted along with the petition.

- v) Make applicable the additional surcharge for the relevant period on the power purchased by open access consumers from within/outside the Petitioner's area of supply/state periphery under open access.
- vi) Pass such further and other order(s) as this Commission may deem just and proper in the facts and circumstances of the present case.

3. The petition was admitted vide Order dated 18.03.2019 and PSPCL was directed to publish the public notice as required under Regulation 67 of the PSERC (Conduct of Business) Regulations, 2005 for inviting the objections/suggestions from the public.

4. Meanwhile, the elections to the Lok Sabha were announced by the Election Commission of India (ECI) on 10.03.2019 bringing into force the Model Code of Conduct. Since, the Order dated 25.09.2018 in Petition No. 29 of 2018, determining the additional surcharge payable by open access consumers was applicable for the period 01.10.2018 to 31.03.2019 only, the Commission vide Order dated 18.03.2019 decided to continue with the existing additional surcharge as per said Order provisionally till the issue of the new Order after completion of the polls. It was also mentioned in the said order dated 18.03.2019 that, as and when the Order for additional surcharge for the period 01.04.2019 to 30.09.2019 is issued, the same shall become applicable from the date as mentioned therein and have overriding effect on this Order.

5. After completion of the polls, the public notice was published

by PSPCL on 21.06.2019 in the leading newspapers namely, 'Punjab Kesari', 'The Tribune', 'Spokesman' and 'Ajit', for inviting objections from general public/ stakeholders. The last date for submission of objections/comments was fixed as 21 days from the publication of the notice. However, no objection/comment has been received against the said public notice.

6. The Petition was taken up for hearing as well as for public hearing on 22.07.2019. Nobody from the public appeared during the public hearing. However, the petitioner PSPCL submitted the revised calculations for additional surcharge. After hearing the representatives of PSPCL, the Commission vide Order dated 22.07.2019 fixed the hearing on 24.07.2019.

7. During the hearing dated 24.07.2019, PSPCL submitted that the additional surcharge has been calculated on the basis of total energy available and total fixed cost paid during this period as open access corresponding to this period is nil in the previous year. PSPCL requested for some more time to respond to the query raised by the Commission as to whether the total availability or total energy consumed during this period is to be used for determining the rate of Additional Surcharge. The Commission vide Order dated 31.07.2019 fixed the hearing on 07.08.2019.

8. In response to the Commission's query PSPCL submitted as under:

- i) Determination of additional surcharge on energy availability basis (MW) is according to the provisions of the Electricity Act-2003/ National Tariff Policy/ Intra State OA Regulations-2011.

- ii) However, while calculating the additional surcharge as per the defined methodology adopted during the previous years, it was observed that applicable rate of additional surcharge is incalculable with zero open access during the corresponding period of previous year.
- iii) The fixed cost (on account of power purchase/own generation) being presently borne by all consumers of PSPCL is required to be transferred to open access consumers in same proportion, whenever such consumers opt for power from source other than PSPCL, which is only possible when the rate of Additional surcharge is worked out on the basis of total energy scheduled/consumed during this period of last year.

PSPCL also submitted the revised calculations for additional surcharge, considering the total energy scheduled/ consumed and revised fixed cost approved by the Commission for APR of FY 2018-19 in the Tariff Order for FY 2019-20.

9. In view of PSPCL's submission that the Commission may consider determining the applicable rate of additional surcharge on the basis of total energy scheduled/consumed during this period and the revised calculation sheets, the Commission vide Order dated 08.08.2019 directed PSPCL to publish a public notice regarding the revised calculations, as required under Regulation 67 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulation, 2005, inviting the objections/suggestions from the persons / organizations having interest in the

matter and informing that, the petition shall be taken up for the hearing on 28.08.2019 at 11:00 A.M. and the public at large shall also be heard during the hearing on 28.08.2019.

10. The public notice was published by PSPCL on 10.08.2019 in the leading newspapers namely, 'Punjab Kesari', 'The Tribune' and 'Ajit', for inviting objections from general public/ stakeholders. The last date for submission of objections/comments was fixed as 15 days from the publication of the notice. However, no objection/comment was received against the said public notice.

11. The Petition was taken up for hearing as well as for public hearing on 28.08.2019. No one from the public appeared during the public hearing. After hearing PSPCL, the Order was reserved by the Commission.

12. Observations and Decision of the Commission

The Commission has carefully gone through the petition. The findings and decision of the Commission are as under:

- i) The Electricity Act, 2003, Tariff Policy, 2016 and PSERC Open Access Regulations allow for payment of additional surcharge by a consumer or class of consumers who opt to receive supply of electricity from a person other than the distribution licensee of his area of supply, to meet the fixed cost of the licensee arising out of his obligation to supply, provided 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.

- ii) PSPCL has surplus contracted capacity from various tied up sources, the fixed cost of which is being presently borne by all consumers of PSPCL. Even though presently there is no open access, in case an open access consumer opts for source(s) other than PSPCL, the fixed cost of the power stranded on account of his availing open access is liable to be borne by him.
- iii) The Commission agrees with the contention of PSPCL that in the absence of any open access during the corresponding period of the previous year, the additional surcharge has to be calculated on the basis of total energy consumed during the corresponding period of the previous year, as this method allows the distribution of fixed cost on the open access consumers in the same proportion as is being borne by all other consumers of PSPCL.
- iv) PSPCL has calculated the additional surcharge as Rs. 1.190/kWh after factoring-in the impact of Fixed Charges payable in the Two Part Tariff structure.
- v) The Commission scrutinized the statement of calculation of Fixed costs submitted by PSPCL and observed that Fixed Cost for available power capacity, Energy scheduled/consumption and total fixed cost of the distribution licensee are not in line with that approved by the Commission for APR of FY 2018-19 in the Tariff Order for FY 2019-20.

The Commission decides to consider the fixed costs and energy consumption as approved in the Tariff Order for FY 2019-20 for the period 01.04.2018 to 30.09.2018 and determines the additional surcharge as Rs. 1.198 per kWh (Detailed in Annexure-A), to be paid by the Open Access consumers situated within the area of supply of the licensee, on the open access power bought by them from sources other than PSPCL, subject to the condition that the contracted capacity of PSPCL continues to remain stranded during the period. The additional surcharge determined above shall be applicable, from the date of issue of this Order upto 30.09.2019.

The petition is disposed of accordingly.

Sd/-

(Anjuli Chandra)
Member

Sd/-

(S.S. Sarna)
Member

Sd/-

(Kusumjit Sidhu)
Chairperson

Chandigarh

Dated:06.09.2019

Annexure-A**Calculation of Additional Surcharge**

(Based on the data for the period 01.04.2018 to 30.09.2018)

Sr No.	Particulars	Submitted by PSPCL	Computed by the Commission
A	Installed/Contracted Capacity	13571 MW	
B	Average Availability	8589 MW	
C	Average Scheduled	6452 MW	
D	Average Stranded Capacity	2137 MW	
E	Average Open Access Availed	0 MW	
F	Capacity Stranded due to Open Access	0 MW	
G	Fixed Cost for the available power capacity	Rs. 4404.27 Cr.	Rs. 4271.50 Cr.
H	Fixed Cost per MW available (G/B)	Rs. 0.51 Cr.	Rs. 0.50 Cr.
I	Fixed Cost of Stranded Capacity on account of Open Access (F*H)	0.00	0.00
J	Total Energy Scheduled/Consumption	28360 MU	27585 MU
K	Fixed Cost per Unit (G/J)	Rs. 1.553	Rs. 1.548
L	Adjustment of Fixed Charges under Two Part Tariff contributing towards cost of stranded power		
	i) Energy consumed by consumers with load more than 1 MW	5724.38 MU	
	ii) Fixed Charges recovered from consumers with load more than 1 MW.	Rs. 363.54 Cr.	
	iii) Fixed Charges per unit (ii/i)	Rs. 0.635	
	iv) Total Fixed Costs of Distribution Licensee (as per Tables 3.48 of TO of FY 2019-20) {1/2*(Employee Expense+ R&M and A&G Expense +Depreciation + Interest Charges + Interest on working Capital + Return on Equity) + Fixed Cost of Power worked out in G}	Rs. 7711.94 Cr.	Rs. 7747.26 Cr.
	v) Proportion of 'Fixed Cost for power purchase' to the 'Total Fixed Costs of Distribution Licensee' (G/iv)	57.11%	55.14%
	vi) Part of the Fixed Charges paid by consumers with load more than 1 MW, contributing towards fixed cost of power (iii*v)	Rs. 0.363/kWh	Rs. 0.350 /kWh
M	Additional Surcharge payable under Two Part Tariff (K-L(vi))	Rs. 1.190/kWh	Rs. 1.198/kWh