

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

Petition No. 20 of 2019
Date of Order: 28.11.2019

Petition for the Determination of Additional Surcharge U/S 42 (4) of the Indian 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 01.10.2019 to 31.03.2020.

AND

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

Present: 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 applicable for the period from 01.10.2019 to 31.03.2020, on the consumers availing power through open access from the sources other than PSPCL.

2. PSPCL submitted the detailed data of corresponding period of the previous year i.e. 01.10.2018 to 31.03.2019, for the computation of the applicable additional surcharge. It is submitted PSPCL has adequate generating capacities available to meet the entire demand of power of the consumers of PSPCL including the open access consumers during the relevant period. In the event of sourcing of power by open access consumers from sources other

than PSPCL, the available generating capacities are likely to remain stranded during the period from October, 2019 to March, 2020. However, open access was not availed by any consumer during the same period of previous year. 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 Open Access Regulations be determined and made applicable to open access consumers in the State. Provisions as regards to additional surcharge are made in Para 8.5 of the Tariff Policy which reads as follows:

".....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 covered through wheeling charges....."

Regulation 27 of the PSERC Open Access Regulations, 2011, which is reproduced as under:

Additional Surcharge

- a) *An open access consumers, receiving supply 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.

- b) *The additional surcharge shall become applicable only if the obligation of the licensee in terms of power purchase commitments has been made any 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 the amount of additional surcharge.*

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

- c) *The additional surcharge shall be determined by the Commission.*
- d) *The consumers availing Open Access exclusively on interstate transmission system shall also pay the additional surcharge as determined under these Regulations.*
- e) *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 these Regulation."*

2.1 PSPCL has made the following prayer:

i) Admit the above Petition for determination of additional surcharge for the period 1.10.2019 to 31.03.2020, payable by the Petitioner's consumers 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 01.10.2019 to 31.03.2020 and there is an unavoidable obligation and incidence to bear fixed costs consequent to such commitments.

iii) Approve the draft Public Notice and fix a timeline so that process of determination of the application additional surcharge for the control period 01.10.2019 to 31.03.2020 can be completed before the next date of its applicability.

iv) Determine the Additional Surcharge payable by open access consumers for the period 01.10.2019 to 31.03.2020 on the quantum of power 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 Hon'ble Commission may deem just and proper in the facts and circumstances of the present case

3. The petition was admitted vide Order dated 13.09.2019 and

PSPCL was directed to publish the public notice inviting objections, as required under Regulation 67 of PSERC (Conduct of Business) Regulations, 2005. The petition was fixed for hearing and Public hearing on 16.10.2019. PSPCL was also asked to submit the information/documents with regard to the deficiencies/discrepancies observed vide letter No. 1356-1357 dated 16.09.2019.

4. Meanwhile, by-poll elections for the Punjab Assembly were announced by the Election Commission of India on 21.09.2019, bringing into force the Model Code of Conduct. Since, the Order dated 06.09.2019 in Petition No. 07 of 2019, determining the additional surcharge payable by open access consumers was applicable for the period upto 30.10.2019 only, therefore vide interim Order dated 27.09.2019 it was decided to continue with the existing additional surcharge as per said Order provisionally till the issuance of new Order after completion of the polls. It was also mentioned in the said Order that as and when the final Order for Additional Surcharge for the period 01.10.2019 to 31.03.2020 is issued, the same shall become applicable from the date as mentioned therein and shall have an overriding effect on the said Order dated 27.09.2019.

5. In compliance to the above referred letter dated 16.09.2019, PSPCL vide Memo No. 5748/TR-5/939 dated 27.09.2019 submitted as under:

- i) The fixed cost during the period H2 is more as compared to H1 due to increase in plant availability of certain plants (Pragati, Singrauli, Durgapur, Raghunathpur & CGPL).
- ii) The quoted figure of 46863 MU in Business & CIP Petition

is of power purchase only and is without own generation.

- iii) No open Access power (Interstate or intrastate) has been availed by any consumer through exchange or Bilateral transaction.
- iv) Plant wise month wise details of power availability, scheduled and surrendered separately from Own generation (thermal and hydro separate), IPPs, CGs and any other sources.
- v) Fixed cost of GVK, during H2 is more as compared to H1 due to more declared capacity in H2 than H1.
- vi) With revised fixed cost calculation of Additional Surcharge works out to be Rs. 1.414/kWh.

However, on pointing out certain discrepancies in PSPCL's reply vide letter no. 1578- 1579 dated 10.10.2019, PSPCL vide its memo No. 5828/TR-5/939 dated 18.10.2019 submitted its revised the calculation of Additional Surcharge to Rs. 1.347/kWh.

6. ★ The petition was taken up for hearing and public hearing on 21.11.2019. No one from public appeared in the Public hearing. During the hearing PSPCL reiterated that the available capacity, the fixed cost for the same and the energy scheduled/consumption have been considered based on the actual figures of H2 of FY 2018-19. After hearing PSPCL, the Order was reserved vide Order dated 21.11.2019.

7. **Objection/Comments by Sh. L.K.Dham**

Sh. LK Dham submitted that the objections can be heard only within Punjab. He further submitted that surcharges and taxes cannot be recovered from earlier date.

PSPCL's reply to the objection

PSPCL submitted that the additional surcharge as determined by the Commission vide order dated 06.09.2019 in Petition No. 07 of 2019, applicable for the period upto 30.09.2019 was continued provisionally till the issue of new order by the Commission vide Order dated 27.09.2019. Further, additional surcharge is only payable by the Open Access consumers (with load more than 1 MW) availing power from the sources other than the PSCPL and it has no effect on the tariff of general consumers.

Commission's view

The Commission is of the view that, consumers of Punjab should not have any objection to holding of public hearings in the capital of the State. However, the Commission agrees with the contention of the objector to revise the additional charge from the prospective date.

8. Commission's Observations and Findings

The Commission after considering the submissions made by PSPCL in the petition, revised submissions, objection/suggestions from the Public observes and decides as under:

- i) The Electricity Act, 2003, Tariff Policy, 2016 and PSERC Open Access Regulations mandates 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) The Commission notes that, 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 a 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. In the petition, PSPCL has calculated the additional surcharge as Rs. 1.347/kWh after factoring-in the impact of Fixed Charges payable by such consumers under the Two Part Tariff structure.
- iii) The Commission in its Order dated 06.09.2019 in Petition No. 07 of 2019 has observed as under:

“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.”

The Commission decides to continue with the same

methodology for calculating the additional surcharge.

- iv) The available capacity, the fixed cost for the same and the energy scheduled/consumption have been considered by the Commission based on the actual figures for H2 of FY 2018-19 as submitted by PSPCL in its Petition. However, in order to assess the 'Total Fixed Costs of PSPCL' more accurately, the Commission has considered the Fixed Cost of Power Purchase as per the actual figure now submitted by PSPCL, and other fixed cost components have been considered as approved in the Tariff Order for FY 2019-20.(Refer L iv of Annexure-A enclosed)

Accordingly, the Commission determines the Additional Surcharge as Rs. 1.350 per kWh (Detailed in Annexure-A), to be paid by the consumers situated within the area of supply of PSPCL, on the 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. The additional surcharge determined above shall be applicable, from the date of issue of this Order upto 31.03.2020.

Further, keeping in view the time involved in regulatory process (i.e holding public hearings, inviting stakeholders' comments/objection, and prudence check by the Commission) in determination of additional surcharge, PSPCL is directed to file the subsequent petitions for determination of the additional surcharge, if applicable,

atleast 2 months before the date of the commencement of the same.

The petition is disposed of accordingly.

Sd/-

(Anjuli Chandra)
Member

Sd/-

(S.S. Sarna)
Member

Chandigarh

Dated: 28.11.2019



Annexure-A

Calculation of Additional Surcharge

(Based on the data for the period i.e. 01.10.2018 to 31.03.2019)

Sr No.	Particulars	Submitted by PSPCL vide letter dated 18.10.2019	Computed by the Commission	Unit	
A	Installed/Contracted Capacity	13510		MW	
B	Average Availability Capacity	8094		MW	
C	Average Scheduled Capacity	5988		MW	
D	Average Stranded Capacity	2106		MW	
E	Average Open Access Aailed	0		MW	
F	Capacity Stranded due to Open Access	0		MW	
G	Fixed Cost for the available power capacity	4310.19		Rs. Cr.	
H	Fixed Cost per MW available (G/B)	0.53		Rs. Cr. /MW	
I	Fixed Cost of Stranded Capacity on account of Open Access (F*H)	0.00		Rs. Cr.	
J	Total Energy Scheduled/Consumption	26201.00		MU	
K	Fixed Cost per Unit (G/J)	1.645		Rs/Kwh	
L	Adjustment of Fixed Charges under Two Part Tariff contributing towards the cost of stranded power				
	i)	Energy consumed by all consumers with load more than 1 MW	6831.53	MUs	
	ii)	Fixed Charges recovered from all consumers with load more than 1 MW.	364.08	Rs. Cr.	
	iii)	Fixed Charges per unit (ii/i)	0.533	Rs/KWh	
	iv)	Total Fixed Costs of Distribution Licensee (as per Tables 3.48 of TO of FY 2019-20) i.e. {1/2*(Employee Expense+ R&M and A&G Expense + Depreciation + Interest Charges + Interest on working Capital + Return on Equity)+Fixed Cost of Power Purchase worked out in G}	7711.94	7785.96	Rs. Cr.
	v)	Proportion of 'Fixed Cost for power purchase' to the 'Total Fixed Costs of the Distribution Licensee' (G/iv)	55.89%	55.36%	
	vi)	Part of the Fixed Charges paid by consumers with load more than 1 MW, contributing towards fixed cost of power (iii*v)	0.298	0.295	Rs/Kwh
M	Additional Surcharge payable under Two Part Tariff (K-L(vi))	1.347	1.350	Rs/Kwh	