



Petition No. 1720 of 2021

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

(Date of Order: 07/07/2021)

**Quorum**

Hon'ble Shri Raj Pratap Singh, Chairman

Hon'ble Shri Kaushal Kishore Sharma, Member

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

**In the matter of:**

Petition under Regulation 51 of UPERC (conduct of business) Regulations, 2019 read with section 94(1)(f) and other related provisions of the Electricity Act, 2003 seeking review of Tariff Order for FY 2020-21 dated 11.11.2020 in Petition No. 1595 / 2020, 1597 / 2020, 1598 / 2020, 1596 / 2020 and 1594 / 2020.

1. M/s Rimjhim Stainless Limited, Plot No. 1, UPSIDC Industrial Area, Akrapur, District Unnao - 209862

.....Petitioner

Vs.

1. Managing Director, U.P. Power Corporation Ltd., Shakti Bhawan, 14 Ashok Marg, Lucknow – 226001

2. Managing Director, Madhyanchal Vidyut Vitran Nigam Limited (MVVNL), Gokhley Vihar, Butler Colony, Lucknow, Uttar Pradesh - 226001.

..... Respondents

The following were present:

1. Shri Amarjeet Rakhra, Counsel, MVVNL / UPPCL.
2. Shri D. D. Chopra, Counsel, Rimjhim Stainless Ltd.
3. Shri Nihar Varshney, Rimjhim Stainless Ltd.

ORDER

(Date of Hearing: 29.06.2021)

- 1 A Petition No. 1720 of 2021 was filed by M/s Rimjhim Stainless Limited seeking review with respect to the computation of Cross Subsidy Surcharge (hereinafter referred to as CSS), approved in Tariff Order for FY 2020-21 dated November 11,





2020 passed in Petition No. 1595 / 2020, 1597 / 2020, 1598 / 2020, 1596 / 2020 and 1594 / 2020 limited to the extent of computation of Cross Subsidy Surcharge (CSS).

- 2 Petitioner is engaged in the manufacturing of Stainless Steel products and is industrial consumer of Madhyanchal Vidyut Vitran Nigam Limited, (MVVNL), and draw power from 132KV Transmission Line of STU (through Short Term Open Access route).
- 3 The Petitioner submitted that the Commission has not dealt with certain objections/comments raised by the Stakeholders (that go the root of the controversy with regard to abnormal increase in Cross Subsidy Surcharge). The Petitioner has made submissions in regard to Average Billing Rate (ABR), Average Cost of Supply (ACoS) and Losses considered in the determination of Cross Subsidy Surcharge (CSS).
- 4 In regard to ABR, the Petitioner further submitted that the Commission has wrongly computed Cross Subsidy Surcharge while applying formula as laid in UPERC (Multi Year Distribution and Transmission) Regulations, 2019 in the absence of information to be provided by the licensee. The Commission, while approving higher ABR as proposed by the DISCOMs has committed error by assuming that the sale projections of industrial category are low in view of lockdown arising due to COVID-19 situation. Also, Commission while computing CSS has committed error by taking into account both Demand Charges and Energy Charges that constitutes ABR. The Demand Charges for the full contracted load is already paid by the Open Access Consumers including the Petitioner, therefore, the ABR for the purpose of computing CSS should have been calculated after reducing the amount of Demand Charges already paid by the Consumers/Petitioner.
- 5 In regard to ACoS, the Petitioner submitted that Commission has determined Tariff, on the basis of ACoS much against the intent of Tariff Policy, 2016 that provides for computation of CSS on the basis of Voltage wise Cost of Service (VCoS) and objections/comments against the same as raised by the Stakeholders have not been replied/dealt in by the Commission while passing the Tariff Order.





6 In regard to losses the Petitioner submitted, that Commission has committed mistake in computing Cross Subsidy Surcharge in the absence of relevant details/data to be provided by the DISCOMs. The average losses at 132 KV and above arrived at ought to have been based on simple average and not on the basis of weighted average. Further, the Petitioner submitted that the average loss of KESCO is 0.55% and 2.14% (for 132KV and 33KV respectively) as against average loss of 0.00% and 1.45% of PVVNL, the Petitioner's DISCOM and by applying weighted average of all the DISCOM the average loss has inflated to overall average of 0.18% (for 132KV & 33kV), and the same would have been much lower had the Commission considered simple average for the purpose of determining average loss of all the DISCOMS. The Petitioner submitted that as per Clause 7.3.13 of Tariff Order, payment of wheeling charges is not applicable on Open Access Consumers drawing power from 132 KV Transmission line of the STU network. The Petitioner No.1 (M/s Amba Shakti Steels Limited) is drawing power from 132KV transmission line of STU Network and therefore it is not liable to pay wheeling charges to the DISCOM and on the same analogy the Petitioner is also not liable to bear the cost of wheeling losses of the DISCOM which has already been taken into account while computing CSS and the Commission has acknowledged the above fact in its Tariff Order for FY 2020-2. The same is reproduced as below:

*Quote*

*7.3.10 "In addition to the payment of wheeling charges, the open access customers also have to bear the wheeling losses in kind. The Commission has been seeking voltage level loss data from the utility but the same has not been forthcoming. Further, it is also logical that the open access customers have to bear only the technical losses in the system and should not be asked to bear any part of the commercial losses."*

*Unquote*

7 Apart from the above, the Petitioner has also submitted that the Commission has committed error while computing Cross Subsidy Surcharge by losing sight of the fact that:






Uttar Pradesh Electricity Regulatory Commission

- a) That the amount of Cross Subsidy Surcharge was Nil/much lesser in preceding years and the same has now surged to Rs. 1.56 per Kwh (even after Cap of 20% as provided in the Tariff policy, 2016).
- b) While it is being claimed that Tariff for the year under consideration has not been increased due to COVID-19 pandemic, the Cross Subsidy Surcharge nevertheless, has been increased steeply thus giving an impartial treatment to the open access consumers who too were affected by Covid-19.
- 8 The Petitioner has submitted that the prevailing Covid-19 pandemic conditions have severely affected business operations and the added burden of cross subsidy surcharge may hit the manufacturing operations of the petitioner adversely. The Petitioner has also requested that as the present Review Petition filed by the Petitioner and the Review Petition No. 1668 of 2021 filed by M/s Rimjhim Ispat Limited are based on similar matter, an interim relief may also be provided to the Petitioner.

**Commission's Analysis and Directions**

- 9 The Commission is of the view that it must first decide on the maintainability of the Review Petition. Further, as per the fundamental principle of Audi Alteram Partem, the Commission directs the Respondents to make its submission in the matter.
- 10 The next date of hearing is scheduled to be held on 07<sup>th</sup> September, 2021.

  
(Vinod Kumar Srivastava)  
Member (Law)

  
(Kaushal Kishore Sharma) Member

  
(Raj Pratap Singh)  
Chairman

Place: Lucknow

Dated: 07.07.2021

