

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA**

Case No. HERC/Petition No.-33 of 2021

Case No. HERC/Petition No.-37 of 2021

Date of Hearing : 27.10.2021

Date of Order : 28.10.2021

IN THE MATTER OF:

Petition under Section 42 of the Electricity Act 2003 read with Regulations 22 of Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 for approval of Additional Surcharge for 1st half of FY 2021-22 and onwards (HERC/Petition No. 33 of 2021).

AND

Petition under Section 42 of the Electricity Act 2003 read with Regulations 22 of Haryana Electricity Regulatory Commission (Terms and conditions for grant of connectivity and open access for intra-State transmission and distribution system) Regulations, 2012 for approval of Additional Surcharge to the DISCOMs – DHBVN and UHBVN recoverable from Open Access Consumers in the 1st half of FY 2021-22 and onwards (HERC/Petition No. 37 of 2021).

Petitioners

Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL), Panchkula
& Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), Hisar

Respondents

General Public

Present On behalf of the Petitioners through Video Conferencing

1. Shri Samir Malik, Advocate, for the Petitioners

QUORUM

**Shri R.K. Pachnanda,
Shri Naresh Sardana,**

**Chairman
Member**

ORDER

1. The instant petitions have been filed by the distribution licensees in Haryana viz. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL), Panchkula and Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), Hisar (hereinafter referred to as "DISCOMs) for determination of Additional Surcharge for the 1st half of the FY 2021-22 onwards on the basis of data for the 2nd half of the FY 2020-21 i.e. October, 2020 to March, 2021.
2. The DISCOMs have submitted as under:
 - a) That in order to ensure that only the power stranded/surrendered due to open access consumers is considered for determination of additional surcharge, the

lower of the open access power and surrendered power in each time slot is taken into account to calculate the stranded power quantum for determination of the Additional Surcharge.

- b) That based on the time slot wise stranded power, as determined above, the total quantum of backing down, eligible for computation of the Additional Surcharge, has been determined.
- c) That the admissible backing down quantum of power is further multiplied by the HERC approved per unit fixed charge to determine the total amount of Additional Surcharge.
- d) That the per unit average fixed charges, approved by the Commission, in the tariff order dated 30.03.2021 (Case No. HERC/PRO - 77 of 2020 & HERC/PRO - 78 of 2020), is Rs. 1.17 per kWh.
- e) Accordingly, the per unit Additional Surcharge is determined by dividing the total Additional Surcharge with the estimated Open Access Units in MUs in the first half of the FY 2021-22, on the assumption that the quantum of power bought by the consumers under open access mechanism will be same as that availed in the second half of the FY 2020-21.
- f) The details of the backing down, owing to Open Access in MW and MUs, for the calculation of the Additional Surcharges and power bought under Open Access mechanism, is given in the table below:-

Month-wise Stranded Power & Open Access Power

Month	Stranded Power Min. of OA & backdown (MW)	Stranded Power Min. of OA & backdown (MU)	OA Purchase (MW)	OA Purchase (MU)
Oct'20	206.38	153.55	247.33	184.02
Nov'20	164.28	118.28	220.11	158.48
Dec'20	180.46	134.26	216.70	161.22
Jan'21	151.69	112.86	167.06	124.30
Feb'21	141.00	94.75	153.88	103.40
March'21	52.72	39.22	55.70	41.44
Total		652.92		772.86

- g) A summary of calculation of the total additional surcharge to be recovered from the Open Access consumers in the first half of FY 2021-22, as submitted by the DISCOMs, is as follows:

Calculation of Additional Surcharge

SN	Particulars	Units	Value
1	Total Eligible Quantum (Min of Backing down and OA) to be considered for Additional Surcharge	MU	652.92
2	Actual Fixed cost per unit for FY 2021-22	Rs/kWh	1.17
3	Total Additional Surcharge	Rs. Cr.	76.59
4	Estimated Open Access Units for H1 of FY 2021-22 (considered same as in H2 of FY 2020-21)	MU	772.86
5	Additional Surcharge to be applicable on OA Consumers	Rs /kWh	0.99

- h) That the DISCOMs have proposed to recover additional surcharge of Rs 0.99 per unit from the open access consumers, calculated on the basis of details of the slot wise surrendered power and slot wise open access power, considering data of all days.
- i) In view of the above, following prayers have been made:-
- i) Allow the recovery of Additional Surcharge Rs. 0.99/kWh from the Open Access consumers in first half of FY 2021-22 and onwards.
 - ii) Determine the additional surcharge under the instant petition filed before the Commission and may set right the submissions made in this regard in other petitions thereof.
 - iii) Condone any inadvertent omissions/errors/shortcomings and permit the petitioners (UHBVN and DHBVN) to add/change/modify/alter this filing and make further submissions as may be required at a future date.
 - iv) To pass any order as deemed fit, for recovery of Additional Surcharge from the Open Access Consumers.

Proceedings in the Case

3. In order to take the process forward, the Commission issued a Public Notice on its official website, inviting comments/objections from the general public/stakeholders, on or before 14.10.2021 and intimating that hearing shall be held through video conferencing with a link of the video conference to be shared with the stakeholders who may file comments/objections in the matter.
4. In response to the ibid public notice, M/s. IEX filed their comments/objections. However, the said intervener neither joined the proceedings in person nor through any authorized representative/counsel, in the hearing held on the matter. Shri Malik, Advocate, appearing for the petitioners, mostly reiterated the contents of the petition, which for the sake of brevity are not being reproduced here. The petitioners have not filed any written reply to the comments/objections raised by the intervener i.e. M/s.

IEX. However, Shri Malik made oral submissions before the Commission in the virtual hearing held on 27.10.2021. The learned counsel argued at length that the issues raised by M/s. IEX have already been dealt and decided by the Commission in its order dated 06.03.2020 (Case No. HERC/PRO-40 of 2019) and the same has been reiterated in the subsequent orders of the Commission as well.

5. The comments/objections filed by M/s. IEX is briefly set out as under:-
- a) There are multiple reasons for backing down of the capacity tied up by the DISCOMs, such as demand crash, fault in lines, accommodating renewable energy to comply with RPO requirement, optimization of power purchase etc. Therefore, it is pertinent that the methodology for working out the stranded capacity considers all such factors and additional surcharge can be levied only if it is established without any doubt that such loss is because of consumers opting for open access.
 - b) Additional Surcharge has been computed on based on the fixed cost of power purchase @ Rs. 1.17/ kWh. Whereas, fixed cost of power purchase from HPGCL approved for the FY 2020-21 & FY 2021-22 was Rs. 0.787/kWh and Rs. 0.948. However, due to non-performance of these power plants upto normative level, fixed cost per unit becomes higher. Therefore, fixed cost per MW may be considered, instead of per unit.
 - c) DISCOMs have sought levy of additional surcharge for the period from 01.04.2021 to 30.09.2021 and onwards, on the basis of data for the period from Oct. 2020 to March 2021. Period upto 30.09.2021 is already over. Therefore, the additional surcharge should be from October 2021 onwards.

Commission's Order

6. The Commission heard the arguments of the petitioner(s) at length as well as perused the comments/objections filed by the intervener i.e. M/s. IEX in the matter. The Commission has carefully examined the Regulations occupying the field and earlier orders passed by it in the determination of Additional Surcharge.
7. The Commission has considered the objections filed by M/s. IEX as well as the oral reply of the counsel of the petitioner (s) thereon. It is observed that while passing the order dated 06.03.2020 (Case No. HERC/PRO-40 of 2019) approving the Additional Surcharge to be recovered w.e.f. 22.10.2019, the Commission had, at length, dealt with almost all the issues raised by the intervener. Further, the methodology of calculation of Additional Surcharge including the issue of recovery of fixed charge raised by M/s. IEX was also examined and decided by the Commission. Therefore, the issues raised by the intervener are res-judicata as no new argument/facts and figures

have been brought before the Commission that may call for reconsideration of the methodology as well as the underlying data for the calculation of per unit (Rs./kWh) additional surcharge recoverable from the short term open access consumers. The Commission further observes that the intervener i.e. M/s. IEX had earlier suggested (petition no. HERC/PRO-1 of 2021) that average fixed cost of Rs. 1.076/kWh, approved by the Commission in its order dated 01.06.2020, should be considered for computation of additional surcharge instead of actual fixed cost of Rs. 1.15/kWh for the 1st half of FY 2020-21, considered by the DISCOMs. Now, the same intervenor is suggesting an alternative method of calculating the fixed cost, for the purpose of determination of rate of recovery of additional surcharge. Further, additional surcharge, as per past practice, is calculated on per unit basis, therefore, considering fixed cost on MW basis will not serve any useful purpose. The Commission has also considered the suggestion of the intervenor that the DISCOMs have sought levy of additional surcharge for the period from 01.04.2021 to 30.09.2021 and onwards; whereas period upto 30.09.2021 is already over. Therefore, additional surcharge should be from October, 2021 onwards. The Commission observes that its order in the matter is applicable w.e.f. the date of the order. DISCOMs had earlier filed petition no. 1 of 2021 for determination of additional surcharge for 2nd half of FY 2020-21 (01.10.2020 to 31.03.2021) and onwards. However, the order of the Commission dated 31.03.2021, wherein additional surcharge @ Rs. 0.89/kWh was determined, was applicable w.e.f. 31.03.2021. Therefore, the suggestion of the intervenor has already been considered and accepted by the Commission.

8. The Commission now proceeds to examine the applicable additional surcharge in line with the past practice which has attained finality. Regulation 22 of the HERC OA Regulations, 2012, casts an obligation on the DISCOMs to file bi-yearly data regarding the quantum of stranded costs, which shall form the basis for determination of Additional Surcharge by the Commission. Accordingly, the DISCOMs have filed the requisite data, which has been examined as under: -
- a) That the petitioner has worked out backing down quantum day-wise and slot-wise for six months of the FY 2020-21 (2nd half), from the implemented schedule and the entitlements as per their last revision, for the particular day.
 - b) That due to the change in the declared capacity of the inter-state generator during the day, the change in entitlement of the State from that particular generator is automatically accounted for.
 - c) It has been further observed that the generating units which are not on bar due to less demand have not been considered and only the backing down of running units has been considered for arriving at the stranded cost of power for determination of the additional surcharge.

- d) While calculating the fixed cost for the purpose of estimating Additional Surcharge, DISCOMs have taken the average fixed cost approved by the Commission in its ARR order dated 30.03.2021, for the FY 2021-22. The Commission had approved the fixed cost at Rs. 1.17/kWh (rounded off) i.e. Rs. 70056 Million divided by the approved volume i.e. 59720 MUs.
- e) Accordingly, the admissible Additional Surcharge had been determined as per the details provided below:-

Months	MW	MU	OA (MW)	OA (MU)	
	A= Stranded Power lower of OA & backdown (MW)	B= A converted into MU	C= Open Access Purchase (MW)	D= C converted into MU	
Oct'20	206.38	153.55	247.33	184.01	
Nov'20	164.28	118.28	220.11	158.48	
Dec'20	180.46	134.26	216.7	161.22	
Jan'21	151.69	112.86	167.06	124.29	
Feb'21	141.00	94.75	153.88	103.41	
March'21	52.72	39.22	55.70	41.44	
Total	896.53	652.92	1,060.78	772.86	
Quantum considered for Addl. Surcharge (lower of the power backed down/surrendered and open access power)				MU	652.92
Per Unit Fixed Cost of Power Purchase for the FY 2021-22				Rs/kWh	1.17
Avg. Additional Surcharge				Rs. Millions	763.92
Expected Open Access Power				MU	772.86
Additional Surcharge (rounded off)				Rs/kWh	0.99

It is observed that the methodology as well as the calculations placed before this Commission are in order. Hence, the Commission orders that Rs. 0.99/kWh shall be the Additional Surcharge applicable from the date of this order and shall be applicable to the consumers of Uttar Haryana Bijli Vitran Nigam (UHBVN) and Dakshin Haryana Bijli Vitran Nigam (DHBVN) who avail power under the Open Access mechanism in terms of Haryana Electricity Regulatory Commission (Terms and Conditions for Grant of Connectivity and Open Access for Intra-State Transmission and Distribution System) Regulations, 2012, from any source other than the distribution licensees. The additional surcharge shall continue to be effective till the same is revised / amended by the Commission.

9. In terms of the above order, the present petition is disposed of.

This order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 28.10.2021.

Date: 28.10.2021
Place: Panchkula

(Naresh Sardana)
Member

(R.K. Pachnanda)
Chairman