

8.5:- ".....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.....'

It becomes clear from the aforesaid that additional surcharge is payable on the stranded capacity arising out of supply obligations of the distribution licensee under existing power purchase commitments.

5. Also that the provisions as regards to additional surcharge are made in Clause 27 of PSERC Open Access Regulations-2011, which reads as under:-

"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

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shall be liable to pay same additional surcharge as determined under this Regulation."

In this manner, this Hon'ble Commission has notified the above referred Open Access Regulations in accordance with the provisions of the Indian Electricity Act-2003 and the National Tariff Policy framed there under so as to compensate the distribution licensee for its stranded generation capacities 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.

6. That in view of the aforesaid, it is submitted that as the burden of fixed cost is adversely affecting the financial interests of the Petitioner, which in turn is affecting the end consumers in the State buying power from the Petitioner, as such it is necessary that an additional surcharge as provided under Section 42 (4) of the 2003 Act and the Open Access Regulations of this Hon'ble Commission be determined and made applicable to open access consumers in the State.

Thus Hon'ble Commission is therefore requested to determine the additional surcharge to be recovered from open access consumers based on the data submitted above. The petitioner undertakes to submit such further and additional data in this behalf as may be directed by this Hon'ble Commission.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Commission may be pleased to:

- i) **Admit the above Petition for determination of additional surcharge for the period 01.10.2023 to 31.03.2024, leviable to a consumer or class of consumers receiving supply of electricity from the sources other than PSPCL.**
- 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 01.10.2023 to 31.03.2024 and there is an unavoidable obligation and incidence to bear fixed costs consequent to such commitments.**

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- iii) Approve the draft Public Notice appended as Annex. K and fix a timeline so that process of determination of the applicable additional surcharge for the control period 01.10.2023 to 31.03.2024 can be completed as soon as possible.
- iv) Determine the Additional Surcharge payable by open access consumers for the period 01.10.2023 to 31.03.2024 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 availed through open access from the sources other than PSPCL.
- 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.

H. Kaur
22/1/24
Chief Engineer/ARR&TR,
PSPCL, Patiala.