

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 04 of 2020

In the matter of:

Determination of additional surcharge in accordance with the provisions of UERC (Terms and Conditions of intra-State Open Access) Regulations, 2015 to meet the fixed cost of UPCL arising out of its obligation to supply electricity to the open access consumers for the period April 2020 to September 2020.

And

Uttarakhand Power Corporation Limited. (UPCL)

...Petitioner

CORAM

Shri D.P. Gairola Member (Law)

Shri M.K.Jain Member (Technical)

Date of Order: June 19, 2020

This Order relates to the Petition dated 02.03.2020 filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "the Petitioner" or "UPCL" or "Licensee") under Section 42(4) of the Electricity Act, 2003, Clause 8.5.4 of the Tariff Policy issued by Ministry of Power, Government of India, and Regulation 23 of UERC (Terms and conditions for Determination of Tariff) Regulations, 2015 seeking determination of additional surcharge in accordance with the provisions of UERC (Terms and Conditions of intra-State Open Access) Regulations, 2015 to meet the fixed cost of UPCL arising out of its obligation to supply electricity to the open access consumers for the period April 2020 to September 2020.

1. Background

1.1. Section 42(4) of the Electricity Act, 2003 stipulates as follows:

“Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.”

1.2. Clause 8.5.4 of Tariff Policy stipulates 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 recovered through wheeling charges.”

1.3. Regulation 23 of the UERC (Terms and Conditions of Intra State Open Access) Regulations, 2015 in respect of applicability of Additional Surcharge specifies as under:

- “(1) Any 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. However, the fixed costs related to network assets would be recovered through wheeling charges.*
- (3) The distribution licensee shall submit to the Commission, on six monthly basis, a detailed calculation statement of fixed cost which the licensee is incurring towards his obligation to supply.*

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 any additional surcharge so determined by the Commission shall be applicable on prospective basis on all open access consumers.

- (4) *Additional surcharge determined on per unit basis shall be payable, on monthly basis, by the open access consumers based on the actual energy drawn during the month through open access.*

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

- 1.4. For justification of applicability of additional surcharge and its determination, the Petitioner submitted that due to its obligation, it has made arrangement to supply power to the Consumers including Open Access Consumers which they were buying earlier through Open Access. Due to power purchase through open access by the consumers, the fixed power purchase cost of the Petitioner has become stranded which needs to be recovered from the open access consumers as per provisions of the Electricity Act, 2003.
- 1.5. The Petitioner has submitted month wise Stranded Energy due to open access and Open Access Energy drawn by the open access consumers at state periphery for the period April, 2019 to September, 2019 as shown in the Table below:

Table 1

S. No.	Month	Stranded Energy (MU)	Open Access Energy (MU)
1	April 2019	23.256	23.367
2	May 2019	23.236	23.454
3	June 2019	23.664	24.106
4	July 2019	19.807	19.809
5	August 2019	18.140	18.209
6	September 2019	35.243	35.433
Total		143.346	144.378

- 1.6. Further the Petitioner submitted the details of energy received, energy surrendered, total energy entitled at State periphery and fixed cost of 04

plants for the period from April, 2019 to September, 2019 the same is shown as table below:

Table 2

S. No.	Name of Plant	Energy Received at State Periphery (MU)	Energy Surrendered at State Periphery (MU)	Total Energy Entitled at State Periphery (MU)	Total Fixed Costs Incurred (Rs. Cr)	Average Fixed cost (Rs/kWh)
1	Jhajjar Aravali	5.61	55.78	61.39	9.55	1.56
2	Dadri Gas	28.07	151.19	179.26	9.95	0.56
3	FG Unchahar-4	67.24	45.21	112.45	16.61	1.48
4	FG Unchahar-3	30.78	19.53	50.31	6.06	1.20
Total		131.70	271.71	403.41	42.17	1.05

1.7. As per the Petitioner the computation of per unit additional surcharge to be levied for the period April 2020 to September 2020 has been shown in the table below:

Table 3

S. No.	Particulars	Value
a	Average fixed cost at State periphery (Rs. / unit)	1.05
b	Average fixed cost at consumer end after considering approved PTCUL losses @ 1.40% and distribution losses 14.25% @ (Rs. / unit)	1.24
c	Stranded energy (MU)	143.35
d	Open access energy (MU)	144.38
e	Proposed additional surcharge (b x c / d) (Rs. / unit)	1.23

1.8. A Public Notice inviting comments from the Stakeholders on UPCL's Petition was published by the Petitioner in the following News Papers:

Table 4: Publication of Notice

S. No.	Newspaper Name	Date of Publication
1.	Times of India	22.03.2020
2.	Amar Ujala	21.03.2020

1.9. Through above notice the Commission received in all five objections/suggestions/comments in writing on the Petition filed by UPCL.

2. Stakeholders Comments

2.1. In response to the Public Notice, the following stakeholders filed their written objections/suggestions/comments.

- (i) M/s Asahi India Glass Ltd.

- (ii) M.s Kashi Vishwanath Textile Mill (P) Ltd.
- (iii) Shri Himanshu Joshi
- (iv) M/s Pioneer Polyleathers Ltd.
- (v) M/s Indian Energy Exchange Ltd.

2.2. The primary concerns of the stakeholders have been summarised as under:

2.2.1. The Petitioner in the current Petition has not clarified the methodology adopted for computation of stranded capacity. The DISCOM has not shared data to conclusively demonstrate that power stranded is on account of open access consumers.

M/s IEX Ltd. has stated that the Petitioner in its ARR for FY 2020-21 dated 30.11.2019 has stated that due to the increasing demand of the State, the existing as well as up-coming stations shall not be sufficient to meet the consumers demand, meaning thereby that the Petitioner has to solely rely on other sources such as power through open access market to meet the demand of the State. Since the Petitioner is not in a position to meet the demand of the consumers in the State is was contented by M/s IEX Ltd. that its application for determination of additional surcharge merits rejection.

M/s IEX Ltd. further stated that the fixed cost recovered through demand charges and inherent in the CSS being paid by open access consumers needs to be adjusted in the additional surcharge computations.

M/s IEX Ltd. further averred that the Petitioner in the current Petition has computed effective fixed cost per unit considering only 4 power plants viz. Jhajjar Arawali, Dadri Gas, FG Unchahar-3 and FG Unchahar-4. However, the Petitioner has nowhere specified that only these power plants were supplying power to the consumers who opted for open access. Therefore, it would not be justified to consider fixed cost of only 4 plants while determine additional surcharge.

M/s IEX Ltd. stated that in the power procurement plan for the third control period, the Petitioner has not considered energy from Unchahar station owing to its shutdown in November 2017. Thus, the fixed cost on account of Unchahar-

IV ought not be considered while computing the average fixed cost for determination of additional surcharge.

2.2.2. M/s Kashi Vishwanath Textile Mill (P) Ltd. opposed the present application of the Petitioner for charging additional surcharge @ Rs. 1.23/unit on power purchased through open access, as it was against the statute i.e. Electricity Act, 2003, National Tariff Policy, 2016 and Regulations framed by the Commission. M/s Kashi Vishwanath Textile Mill (P) Ltd. further stated that increase in open access related charges shall eventually lead to consumers giving up their freedom of choice making open access a theoretical reform. M/s Kashi Vishwanath Textile Mill (P) Ltd. further stated that despite deficit in power the licensee i.e. UPCL is claiming the cost of stranded power for determining the additional surcharge.

2.2.3. M/s Asahi India Glass Ltd. enquired why surplus amount of stranded energy is procured from other sources when consumers comprehend advance scheduling of power with prior intimation to UPCL/SLDC.

M/s Asahi India Glass Ltd. requested Commission not to extend additional energy charges on open access units at this time of national calamity.

3. Petitioner's Response

3.1. The Petitioner's response to the stakeholder's comments have been summarised as under:

3.1.1. UPCL has stated that all the required data available and justification for levy of additional surcharge has been submitted in the Petition. The methodology adopted for computation of stranded energy is as follows:

3.1.2. Slot-wise surrendered power (in MW) was calculated for each day of the period (April 2019 to September 2019) by taking the difference of entitlement and the net schedule of all the allotted inter-State generating stations, therefore, month-wise surrendered energy (in MUs) was computed, thereafter slot-wise stranded power (in MW) was calculated for each day of period (April 2019 to September 2019) by considering the lower of the open access power and surrender power in that particular slot. This was done to ensure that only surrendered power is taken for calculating additional surcharge which corresponds to power stranded

due to open access consumers only. Thereafter, total surrendered power (in MUs) for the period was calculated by summing up the stranded power for each month.

In order to counter the contention of the M/s IEX Ltd. that when the Petitioner is not in a position to meet the demand of the consumers due to shortage of power in the State, present Petition needs to be rejected the Petitioner has reproduced Para 4.3 of Additional Surcharge Order dated 29.08.2019 of the Commissions as follows :

“4.3. M/s IEX Ltd. and M/s Kashi Vishwanath Textile Mill (P) Ltd. stated that in the MYT Petition for third control period (FY 2019-20 to FY 2021-22) for UPCL, it has been shown that there is a persistent deficit scenario during the entire control period and UPCL has proposed to buy power from short term bilateral market and also proposed to do forward banking arrangement to meet the shortfall in winter by utilising the summer surplus. Therefore, it cannot be said that there was Stranded power in the State and the question of levying additional surcharge on the OA consumers does not arise. In this regard it is to state that the grid conditions vary on real time basis and the Demand vs. Supply scenario needs to be analysed on a per slot per day basis in the manner real time scheduling is conducted under the IEGC/State Grid Code. It is possible that during certain time slots in a day there might be surplus power available however, taking a period as a whole (say a day or a month or a year) into consideration it is possible that such period might be deficit in power. Short term OA consumers avail open access mostly in those slots when the power is available in the grid at cheaper rates, i.e. when the grid has surplus power and during other slots when there is shortage of power in the grid, i.e. when the power is expensive in comparison to the power supplied by the Discom, the open access consumers draw power from the Discom. On the basis of above, it is possible that a period (i.e a day or a month or a year) may be deficit in power but still it is possible that embedded consumers might be drawing power through open access in certain time slots when there is excess of power. During winter season when there is deficit of power in the State due to low hydro generation, UPCL receives back the power banked during the surplus summer months, as such there is no shortage of power during the winter season as well, therefore there is a possibility of power getting Stranded during the winter

season also when the embedded consumers draw power through open access. Therefore, the contention of the Respondents that as there is a persistent deficit scenario during the entire control period from FY 2019-20 till FY 2021-22, power cannot be Stranded does not hold good."

The contention of the M/s IEX Ltd. that fixed cost recovered through demand charges and inherent in the CSS being paid by open access consumers needs to be adjusted in additional surcharge computation is countered by the Petitioner by reproducing para 4.4 of this Commission Order dated 29.08.2019 as below:

"4.4. M/s Shree Cement has stated that the methodology used to calculate Stranded fixed charges is incorrect as UPCL has not taken into account the recovery of fixed cost component through demand charges whereas M/s Alps industries has stated that all fixed costs against network cost is being levied through transmission and wheeling charges, therefore, demand charges are being recovered against fixed cost of generation therefore, there is no reason for levying Additional Surcharge. In this regard it is pertinent to discuss that demand charges applicable on the consumers do not cover the entire fixed cost of Discom (UPCL), i.e. fixed costs relating to the network costs and power purchase costs. These demand charges to a larger extent cover only the network fixed cost. However, wheeling charges applicable on embedded open access consumers along with demand charges applicable on such embedded consumers covers the network fixed cost substantially while the fixed cost incident on Discom on account of power purchase is not included in the said charges and is recovered from consumers in their energy charges. Hence, for any drawal of power by embedded consumers through open access (from supply other than Discom) the fixed cost of power purchase does not get recovered and remains stranded until unless an additional surcharge is levied on such embedded open access consumers. Therefore, it is understood that demand charges and additional surcharge are not correlated in any manner. At the existing level of demand charges, recoveries only on account of the investments made by the Discom in the distribution network such as transformers, wires and sub-stations etc. is ensured, whereas, additional surcharge is meant to compensate the Discom for the fixed cost of the stranded power out of the capacity entitled/scheduled for the Discom on account of embedded consumers going for open access during some part of the day."

To the contention of M/s IEX Ltd. that the Petitioner is not justified in considering fixed cost of only 4 plants while determining the additional surcharge the Petitioner stated that the fuel cost of the aforesaid plants was the highest and therefore, as and when required the power of these plants was surrendered.

To the content of M/s Kashi Vishwanath Textile Mill (P) Ltd. and M/s Asahi India Glass Ltd. that despite deficit in power UPCL is claiming stranded power the Petitioner has reproduced the views of the Commission as stated in Para 4.3 of the Order dated 29.08.2019 (Supra).

4. Commission's views and decision

- 4.1. The Commission has gone through the Petition filed by UPCL, objections/suggestions/comments raised by the Stakeholders and response of the Petitioner, i.e. UPCL.
- 4.2. The Commission is of the considered view that additional surcharge is payable by open access consumers under the provisions of Section 42(4) of the Electricity Act, 2003, Regulation 23 of UERC (Terms and Condition of Intra-State Open Access) Regulations, 2015 and clause 5.8.3 of National Electricity Policy. As per Regulation 23 of UERC (Terms and Condition of Intra-State Open Access) Regulations, 2015, if and only if it is conclusively demonstrated by the distribution licensee that its obligation in terms of power purchase commitment has been and continues to be stranded or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. Moreover, the licensee has to submit on six monthly basis a detailed calculation statement of fixed cost which it is incurring towards its obligation to supply.
- 4.3. The Commission observes that most of the queries of the Stakeholders are similar to the one received earlier during determination of additional surcharge for the period October 2019 to March 2020. Since the Commission has already spelt out its views in the previous Order dated 29.08.2019 determining additional surcharge for the aforesaid period, the Commission has nothing new to express in this Order.
- 4.4. The Commission examined the relevant data submitted by the Petitioner pertaining to slot wise energy surrendered, open access availed in that particular slot, and the calculation submitted for working out the average fixed cost during the period (April

2019 to September 2019) of the 04 generating stations namely Jhajjar Arawali, Dadri Gas, FG Unchahar-3 and FG Unchahar-4. The procedure followed by the Commission for working out the additional surcharge during the period is as detailed below:

4.4.1. Slot-wise surrendered power (in MW) was calculated for each day of the period (April 2019 to September 2019) by taking the difference of entitlement and the net schedule of all the allotted Inter-State generating stations(ISGS) as per the last revision available on the NRLDC website. Thereafter, month wise surrendered units (in MUs) were calculated.

4.4.2. Slot-wise stranded power (in MW) was calculated for each day of the period (April 2019 to September 2019) by considering the lower of the quantum of open access power and surrendered power in that particular time slot. This was done to ensure that only that surrendered power is taken for calculating additional surcharge which corresponds to power stranded due to open access consumers only. Thereafter, total stranded power (in MUs) for the period was calculated by summing up the stranded power for each month as shown in the Table below:

Table 5

S. No.	Month	Open Access Energy (MU)	Stranded Energy (MU)
1	April 2019	23.37	23.26
2	May 2019	23.43	23.26
3	June 2019	24.05	23.60
4	July 2019	19.81	19.85
5	August 2019	18.21	18.21
6	September 2019	34.90	34.71
Total		143.77	142.89

4.4.3. The Commission calculated the average fixed cost of the power purchased through 04 generating station namely Jhajjar Arawali, Dadri Gas, FG Unchahar-3 and FG Unchahar-4 on the basis of actual bills raised against the respective generating stations during the period April 2019 to September 2019. The Commission for calculation of stranded power, energy received from the aforesaid 4 stations and open access power at consumer end has taken distribution losses as 14.25% and Transmission losses as 1.44%.

Table 6

S. No.	Month	Total Entitlement at State periphery (in MU)	Total Fixed Cost (Rs. Cr)
1	Jhajjar	61.30	7.58
2	Dadri Gas	182.91	9.02
3	F G Unchahar-3	50.93	5.97
4	F G Unchahar-4	115.44	16.23
Total		410.58	38.80

4.4.4. For arriving at the stranded cost of power (in Rs. Crore) due to open access consumers during the period April 2019 to September 2019, the Commission has considered the weighted average fixed cost (Rs/unit) derived hereinabove and the quantum of stranded power due to open access drawal (MUs). Thereafter, the Commission has considered recovery of the said stranded cost over the next six months period, i.e. from April 2019 to September 2019. The per unit Additional Surcharge to be levied by the Distribution licensee for the period 01.04.2020 to 31.09.2020 shall be as shown in the table below:

Table 7

a) Stranded Power due to open access consumers at State Periphery (MUs)	142.89
b) Stranded Power due to open access at consumer end (MUs)	120.77
c) Billed fixed cost of 4 Generating Stations during the period April 2019 to September 2019 (Rs Cr)	38.80
d) Energy received at State periphery from the 4 ISGS stations during the period April 2019 to September 2019 (MUs)	410.58
e) Corresponding energy received from the 4 ISGS stations during the period at Consumer end (MUs)	347.00
f) Weighted average fixed cost of 4 stations at consumer end (Rs./Unit) [(c)*10/(e)]	1.12
g) Total cost of Stranded power due to open access consumers (Rs. Cr) [(f)*(b)/10]	13.50
h) Total Open Access Units at State periphery for the period April 2019 to September 2019 (MUs)	143.77
i) Corresponding Open Access power at consumer end (MUs)	121.51
j) Applicable Additional Surcharge for the period April 2020 to September 2020 (Rs./Unit) based on the open access units for the period April 2019 to September 2019 [(g)*10/(i)]	1.11

4.5. In view of the above, the Commission determines Additional Surcharge at Rs. 1.11/Unit. The additional surcharge so determined shall be effective for the period 01.04.2020 to 31.09.2020.

4.6. The Petitioner was required to file the Petition by 31.12.2019. According to the Petitioner some delay occurred in collection and preparation of data and has sought the Commission to condone the delay in filing the present Petition. The Commission taking a lenient view has condoned the Petitioner for the delay and directs the Petitioner to file all future Petitions for levy of additional surcharge on open access consumers for the period April to September of the financial year based on the data of the corresponding previous period by 31st December and for the period October to March of the financial year based on the data of the corresponding previous period by 30th June of the same financial year.

Ordered accordingly.

(M.K. Jain)
Member (Technical)

(D.P. Gairola)
Member (Law)