

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

Case No. HERC/Petition No.- 17 of 2023

Case No. HERC/Petition No.- 18 of 2023

Date of Hearing : 10.05.2023
Date of Order : 11.05.2023

IN THE MATTER OF:

Petition filed under Section 42 of the Electricity Act 2003 and 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 and amended thereof for determining the Additional Surcharge for 1st Half of FY 2022-23 and approval for levying the same to the Open Access consumers till the issuance of the next order.

Petitioners

1. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL), Panchkula
2. Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL), Hisar

Respondents

General Public

Present on behalf of the Petitioner(s)

1. Shri B.S. Kamboj, XEN/RA, UHBVNL
2. Ms. Urmila Grewal, XEN/RA, DHBVNL

Present on behalf of the Respondents

1. Shri Gaurav Saini

QUORUM

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

**Chairman
Member**

ORDER

1. The instant petition(s) 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 2nd half of the FY 2022-23 onwards based on actual data of generator backed down, Day Ahead Market (DAM) power purchase and Open Access data for the 1st half of the FY 2022-23 i.e. April, 2022 to September, 2022.
2. The DISCOMs have submitted as under:
 - a) 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 net of power purchased on DAM basis in each time slot has been taken into account to calculate the quantum of stranded power for determination of Additional Surcharge.

- b) That based on the time slot wise stranded power, the total quantum of backing down of power, eligible for computation of Additional Surcharge, has been determined.
- c) That the admissible quantum of power backed down is further multiplied by the per unit fixed charge (Rs. kWh) approved by this Hon'ble Commission 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 30.03.2022 (Case No. HERC/PRO - 46 of 2021 & HERC/PRO-47 of 2021), is Rs. 1.12 per kWh.
- e) Accordingly, the per unit Additional Surcharge is determined by dividing the total Additional Surcharge with the estimated Open Access Units (MUs) in the second half of the FY 2022-23, on an assumption that the quantum of power bought by the consumers under open access mechanism, will be the same as that in the first half of the FY 2022-23.
- f) The details of the backing down, attributable to Open Access in MW and MUs, for calculation of Additional Surcharges and power brought 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)
April'22	0.75	0.54	2.02	1.45
May'22	1.74	1.29	7.15	5.32
June'22	1.94	1.40	2.74	1.97
July'22	6.96	5.18	9.32	6.93
Aug'22	11.66	8.67	14.70	10.93
Sep'22	4.20	3.02	4.80	3.45
H1 of FY 2022-23	∑ 4.54	∑ 20.10	∑ 6.79	∑ 30.07

- g) The calculation of total Additional Surcharge and Rupees per unit (Rs / Unit) to be recovered from the Open Access consumers in the second half of the FY 2022-23 and onwards, as submitted by the DISCOMs, is as follows:

Calculation of Additional Surcharge

SN	Particulars	Units	Value
1	Admissible stranded power for Additional Surcharge	MU	20.10
2	Effective Fixed Charges as per Tariff Order dt. 30.03.2022	Rs/kWh	1.12
3	Cost of stranded power eligible for Additional Surcharge	Rs Cr.	2.25
4	Estimated Open Access Units for H2 for FY 2022-23 (considered equivalent to H1 of FY 2022-23)	MU	30.07
5	Additional Surcharge recoverable from Open Access Consumers during H2 of FY 2022-23 and onwards	Rs/kWh (rounded off)	0.75

- h) That the DISCOMs have proposed to recover Additional Surcharge of Rs 0.75 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) The instant petition for additional surcharge may kindly be approved;
 - ii) Additional Surcharge of Rs. 0.75/kWh may kindly be allowed to recover from Open Access consumers in Second Half of FY 2022-23 and thereof till the issuance of subsequent Order;
 - iii) Condone any inadvertent omissions/errors/shortcomings and permit the petitioners to add/change/modify/alter this filing and make further submissions as may be required during the proceedings in the matter;
 - iv) Pass the necessary order as may be 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 in two Newspapers having wide circulation in Haryana i.e. The Dainik Tribune (Hindi) and The Tribune (English) both dated 26.04.2023, for inviting comments/objections from the general public/stakeholders, on or before 01.05.2022 and intimating that hearing shall be held on 10.05.2023 in the court room of the Commission. The said public notice was also hosted on the website of the Commission under the heading "Public Notice".
- 4. In response to the ibid public notice, M/s Saini Power Transactor has filed its comments / objections. No other comments were received by the Commission from any other stakeholder.
- 5. **The comments/objections filed by M/s. Saini Power Transactor, is briefly set out as under:-**
 - a) All Short Term Purchase data not considered: -

The data considered by the petitioner (s) mentioned in point 2.1 are: -

 - a. Actual data of backdown
 - b. DAM power purchase
 - c. Open Access data

Point 2.2 clearly states that:

"Further to ensure that power stranded due to open access consumers shall only be considered for determination of additional surcharge, lower of the open access or

surrendered power net of power purchased on DAM basis has been considered in each slot to calculate the additional surcharge.”

The material data pertaining to the power purchase in the RTM and Intra-Day contracts, Day Ahead Contingency (DAC), Daily Contracts & GDAM, has not been considered.

A total of 763.63 MU's were purchased through RTM and 1,668.52 MU's were purchased through DAM. The RTM volume of quite large and must be considered while calculating Additional Surcharge. Some Volume was also purchased through TAM in IEX which should have been considered.

b) Not to consider Open Access data for the month of May-2022: -

The Open Access data for the month of May-22 may be excluded, as industries had faced power cuts and were forced to purchase power from IEX in order to keep the industry running. NGT has ordered to disconnect all the Diesel Generator in the NCR region. Although some industries generated power using D.G., but the cost of generating power reached approx. ₹. 28/unit. So, to keep the power cost low open access consumer purchased power through IEX. There was also no exact time of power cuts provided by DHBVN or UHBVN and it was also not sure whether the cuts would be imposed or not. Due to this miscommunication, some consumers ended up buying power to be on safer side during those time slots when generators were backed down.

In view of the above, the revised calculation of additional surcharge is as under: -

SN	Particulars	Units	Proposed by Discoms	After considering RTM volume	After considering OA volume purchased in May
1	Admissible stranded power for Additional Surcharge	MU	20.10	19.25	17.98
2	Effective Fixed Charges as per Tariff Order dt. 30.03.2022	Rs/kWh	1.12	1.12	1.12
3	Cost of stranded power eligible for Additional Surcharge	Rs Cr.	2.25	2.16	2.01
4	Estimated Open Access Units for H2 for FY 2022-23 (considered equivalent to H1 of FY 2022-23)	MU	30.07	30.07	30.07
5	Additional Surcharge recoverable from Open Access Consumers during H2 of FY 2022-23 and onwards	Rs/kWh	0.75	0.717	0.670

6. **DHBVNL has filed its reply to the comments/objections raised by the intervenors, through letter dated 05.05.2023, submitting as under:-**

“Open Access consumers have to provide their injection and drawl schedule on a day ahead basis and based on this data itself the Discom plan supply-demand for the next

day after considering the Open Access demand. Hence, the backdown affected by Open Access consumer has already been factored in for the next day. On the other hand, any short-term sale purchase on intra-day basis i.e. Real time Market (RTM), Day Ahead Contingencies (DAC) etc., is the result of real time demand and supply situation and includes several uncontrollable factors (weather changes, shutdown of any unit, variation in RE generation, deviation from projections etc.) affecting the demand on real time basis. These factors are not linked to the demand from Open Access consumers. Accordingly these factors cannot be included in the calculation of Additional Surcharge. It is also important to note that Term Ahead Market (TAM) power is primarily scheduled for the time slots when the Discom is in clear deficit.”

Commission’s Order

- 7 As both the petitions i.e. petition no. 17 and 18 of 2023 were identical, the Commission considered it appropriate to hear them as a bunch matter and decide them through the present common order. Accordingly, both the cases were heard on 10.05.2023, as scheduled. The representatives of both the Discoms present reiterated the contents of the petition. The Commission heard the arguments of the petitioner (s) at length as well as perused the comments/objections filed by the interveners i.e. M/s Saini Power Transactor and Discom’s reply thereto.
- 8 The Commission has carefully examined the Regulations occupying the field and earlier orders passed in the matter of the determination of Additional Surcharge.
- 9 The Commission has considered the objections filed by M/s. Saini Transactor as well as the reply 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. The issue of adjustment of short term power purchased by Discoms on real time market (RTM)/day ahead contingency (DAC), raised by the intervenor i.e. M/s. Saini Transactor, does not hold good given the factual matrix i.e. the backdown affected by Open Access consumer is factored in while planning for DAM, which has been duly considered while calculating the backing down of power. Whereas, the short-term power purchase is the result of real time demand and supply situation affected by quite a few uncontrollable factors viz. weather changes, shutdown of any unit. variation in RE generation, deviation from projections etc. Since, these factors are not linked to the demand from Open Access consumers, these factors cannot be included in the calculation of Additional Surcharge.
- 10 The Commission has examined the proposed Additional Surcharge keeping in view the past practice, which has attained finality. It is observed that Regulation 22 of the Haryana Electricity Regulatory Commission Open Access Regulations, 2012, casts an

obligation on the DISCOMs to file the requisite data regarding quantum of stranded power on six monthly basis, which forms the basis for determination of Additional Surcharge by the Commission. Accordingly, the DISCOMs have filed the relevant data. The same 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 2022-23 (1st half), from the implemented schedule and the entitlements as per their last revision, for a particular day. 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 net of power purchased on DAM basis in each time slot has been taken into account to calculate the quantum of stranded power for determination of the Additional Surcharge.
- 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 at 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 estimating the Additional Surcharge, the DISCOMs have taken the average fixed cost approved by the Commission in its ARR order dated 30.03.2022, for the FY 2022-23.
- e) Accordingly, the Additional Surcharge, recoverable from the Open Access consumer(s) has been determined as per the details provided in the table 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	
April'22	0.75	0.54	2.02	1.45	
May'22	1.74	1.29	7.15	5.32	
June'22	1.94	1.40	2.74	1.97	
July'22	6.96	5.18	9.32	6.93	
Aug'22	11.66	8.67	14.70	10.93	
Sep'22	4.20	3.02	4.80	3.45	
Total		20.10		30.07	
Quantum considered for Addl. Surcharge (lower of the power backed down/surrendered and open access power)				MU	20.10
Per Unit Fixed Cost of Power Purchase for the FY 2022-23				Rs/kWh	1.12
Cost of stranded power eligible for Additional Surcharge				Rs. Cr.	2.25
Estimated Open Access Units for H2 of FY 2022-23 (considered same as in H1 of FY 2021-22)				MU	30.07
Additional Surcharge to be applicable on OA Consumers				Rs /kWh	0.75

It is observed that the methodology as well as the calculations placed on record by the Discom (s) are in order. Hence, the Commission orders that Rs. 0.75/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 the 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.

11 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 11.05.2023.

**Date: 11.05.2023
Place: Panchkula**

**(Naresh Sardana)
Member**

**(R.K. Pachnanda)
Chairman**