

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 15 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 October 2020 to March 2021.

And

Uttarakhand Power Corporation Limited. (UPCL)

...Petitioner

CORAM

Shri D.P. Gairola Member (Law)

Shri M. K. Jain Member (Technical)

Date of Order: September 22, 2020

This Order relates to the Petition dated 24.07.2020 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 October 2020 to March 2021.

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. The Petitioner submitted that as per the directions of the Commission, the petitioner was required to file this petition by 30.06.2020. However, some delay occurred in collection and preparation of the required data due to nationwide lockdown imposed in March 2020 to contain spread of Covid-19 pandemic. Due to the said reasons, the Petitioner stated that delay has occurred in collection and preparation of the required data and accordingly has requested the Commission to condone the delay and admit the Petition.
- 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 October, 2019 to March, 2020 as shown in the Table below:

Table 1

S. No.	Month	Stranded Energy (MU)	Open Access Energy (MU)
1	October, 2019	14.47	14.47
2	November, 2019	22.08	22.33
3	December,2019	20.30	20.61
4	January,2020	23.20	23.55
5	February,2020	22.55	21.80
6	March,2020	21.08	21.69
Total		123.68	124.45

- 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 October, 2019 to March, 2020 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	2.67	46.80	49.47	7.63	1.54
2	Dadri Gas	41.97	129.49	171.46	9.07	0.53
3	FG Unchahar-4	78.18	40.06	118.24	16.89	1.43
4	FG Unchahar-3	33.16	18.68	51.84	6.06	1.17
Total		155.98	235.03	391.01	39.65	1.01

1.7. As per the Petitioner the computation of per unit additional surcharge to be levied for the period October 2020 to March 2021 has been shown in the table below:

Table 3

S. No.	Particulars	Value
a	Average fixed cost at State periphery (Rs./unit)	1.01
b	Average fixed cost at consumer end after considering approved PTCUL losses @ 1.40% and distribution losses @14.25% (Rs. / unit)	1.19
c	Stranded energy (MU)	123.68
d	Open access energy (MU)	124.45
e	Proposed additional surcharge (b x c / d) (Rs. / unit)	1.18

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.	Amar Ujala	30.07.2020
2.	Times of India	31.07.2020

1.9. Through the above public notice the Commission received in all twelve objections/suggestions/comments in writing from the following stakeholders on the Petition filed by UPCL.

Sl. No.	Organization
1.	M/s Ambuja Cement Ltd (Unit- Roorkee)
2.	M/s Indian Energy Exchange Limited,
3.	M/s Alps Industries Ltd.
4.	M/s Kashi Vishwanath Steels Pvt. Ltd
5.	M/s India Glycols Limited
6.	M/s D. S. Rolling Mills Pvt. Ltd.

Sl. No.	Organization
7.	M/s Gold Plus Industries Ltd.
8.	M/s Tehri Iron & Steel
9.	M/s Hindustan National Glass & Industries Ltd
10.	M/s Rukmani Iron Pvt. Ltd.
11.	Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand
12.	Kashi Vishwanath Textile Mills (P) Ltd., SPNG Spinning Division

2. Stakeholders Comments

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

- 2.1.1. M/s Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand, M/s India Glycols Limited, M/s Rukmani Iron Pvt. Ltd., M/s Hindustan National Glass & Industries Ltd, M/s Tehri Iron & Steel, M/s Gold Plus Industries Ltd, M/s D. S. Rolling Mills Pvt. Ltd., M/s Kashi Vishwanath Textile Mill (P) Ltd., M/s Alps Industries Ltd and M/s Indian Energy Exchange Limited, contended that the Petitioner in the current Petition has computed effective fixed cost per unit considering only 4 generating plants viz. Jhajjar Arawali, Dadri Gas, FG Unchahar-3 and FG Unchahar-4. However, the Petitioner has nowhere specified that only these generating 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 determining additional surcharge.
- 2.1.2. M/s Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand, M/s Kashi Vishwanath Textile Mill (P) Ltd., and M/s Indian Energy Exchange Limited, stated that in the power procurement plan for the third control period, the Petitioner has not considered energy from Unchahar-4 station owing to its shutdown in November 2017. Thus, the fixed cost on account of Unchahar-4 ought not be considered while computing the average fixed cost for determination of additional surcharge.
- 2.1.3. M/s Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand, M/s India Glycols Limited, M/s Rukmani Iron Pvt. Ltd., M/s Hindustan National Glass & Industries Ltd, M/s Tehri Iron & Steel, M/s Gold Plus Industries Ltd, M/s D. S. Rolling Mills Pvt. Ltd, M/s Kashi Vishwanath Textile Mill (P) Ltd., M/s Alps Industries Ltd and M/s Indian Energy Exchange Limited, stated that the Consumers of the State pay demand charges even while availing power

through Open Access. These demand charges account for some part of fixed cost borne by the licensee and ought to be considered while working out the fixed cost obligation of the open access consumers. The Petitioner, however, has not deducted the fixed cost already paid by the embedded open access consumers in the form of demand charges to the Licensee. It is imperative that the Petitioner should adjust the demand charges already paid by the open access consumer while calculating the Additional surcharge in order to avoid double collection of revenue by Licensee from open access consumers and also to maintain the balance of competition between the Licensee and open access consumers, as is also the intention of National Tariff Policy, 2016. M/s Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand further stated that the fixed cost recovered through demand charges and inherent in the cross-subsidy surcharge being paid by open access consumers needs to be adjusted in the additional surcharge computations.

- 2.1.4. M/s Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand, M/s India Glycols Limited, M/s Rukmani Iron Pvt. Ltd., M/s Hindustan National Glass & Industries Ltd, M/s Tehri Iron & Steel, M/s Gold Plus Industries Ltd, M/s D. S. Rolling Mills Pvt. Ltd, M/s Kashi Vishwanath Textile Mill (P) Ltd. and M/s Alps Industries Ltd. averred that since the Petitioner in its Petition for ARR for 2020-2021 stated that the availability from the existing stations and upcoming stations shall not be sufficient to meet the increasing demand of the State, so in such event of power deficit scenario, the question of stranded capacity which is a pre-condition under Section 42(4) of the Electricity Act, Regulation 23 of UERC Open Access Regulations and clause 8.5.4 of the Tariff Policy for levy of Additional Surcharge does not arise.
- 2.1.5. M/s Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand, M/s India Glycols Limited, M/s Rukmani Iron Pvt. Ltd., M/s Hindustan National Glass & Industries Ltd, M/s Tehri Iron & Steel, M/s Gold Plus Industries Ltd, M/s D. S. Rolling Mills Pvt. Ltd, M/s Kashi Vishwanath Steels Pvt. Ltd. and M/s Ambuja Cement Ltd. has stated that the Petitioner has erroneously increased the average fixed cost at State periphery from Rs. 1.01/Unit to Rs. 1.18/Unit at consumer end by considering PTCUL losses of 1.4% and

distribution losses of 14.25% notwithstanding the open access consumer compensating for transmission and distribution losses in kind.

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. To the contention of the stakeholders in paras 2.1.1 and 2.1.2 above, the Petitioner has stated that the fuel cost of the stated 04 generating stations i.e. Jhajjar Arvali, Dadri Gas, Unchahar-3 and Unchahar-4 is the highest and, therefore, as and when required the power of these plants is surrendered by the Petitioner upfront. The Petitioner further stated that the power surrendered from these 04 generating stations for the period from October 2019 to March 2020 was 235.03 MUs which was more than the open access energy (124.45 MUs) during this period. Therefore, the fixed cost of these plant has been considered for determination of the additional surcharge during the period.

3.1.3. With regard to adjustment of demand charges while calculating the additional surcharge the Petitioner has countered the contentions of the stakeholders raised in para 2.1.3 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.”

- 3.1.4. To the contentions of the stakeholders raised in para 2.1.4 above, that when the Petitioner is facing power deficit scenario all through the third control period then the question of stranded capacity which is a pre-condition under Section 42(4) of the Electricity Act, Regulation 23 of UERC Open Access Regulations and clause 8.5.4 of the Tariff Policy to levy Additional Surcharge does not arise. To stress its point 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.”

- 3.1.5 To the contention of the stakeholders raised in para 2.1.5 that the Petitioner has erroneously increased the average fixed cost at State periphery from Rs. 1.01/Unit to Rs. 1.18/Unit at consumer end by considering PTCUL losses of 1.4% and distribution losses of 14.25% notwithstanding the open access consumer compensating for transmission and distribution losses in kind the Petitioner stated that as the additional surcharge is charged from open access consumers on the energy drawn through open access at consumer end therefore, the fixed cost per unit at State periphery has been increased by considering the transmission charges @ 1.4% and distribution losses @ 14.25% to arrive at the rate of additional surcharge on open access consumers at the consumer end.

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 observes that most of the queries of the Stakeholders are similar to the one received earlier during determination of additional surcharge for the previous periods. Since the Commission has already spelt out its views in the previous Orders for determining additional surcharge, the Commission has nothing new to express in this Order.

4.3. 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 (October 2019 to March 2020) 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:

4.3.1. Slot-wise surrendered power (in MW) was calculated for each day of the period (October 2019 to March 2020) 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.

4.3.2. Slot-wise stranded power (in MW) was calculated for each day of the period (October 2019 to March 2020) 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	October 19	14.27	14.26
2	November 19	22.32	22.06
3	December 19	20.54	19.56
4	January 20	23.37	23.02
5	February 20	22.88	22.38
6	March 20	22.32	21.24
Total		125.7	122.52

4.3.3. 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 October 2019 to March 2020. 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 1.40%.

Table 6

S. No.	Month	Total Entitlement at State periphery (in MU)	Total Fixed Cost (Rs. Cr)
1	Jhajjar	50.48	7.63
2	Dadri Gas	171.22	9.07
3	F G Unchahar-3	52.90	6.06
4	F G Unchahar-4	120.65	16.89
Total		395.25	39.65

4.3.4. For arriving at the stranded cost of power (in Rs. Crore) due to open access consumers during the period October 2019 to March 2020, 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 October 2019 to March 2020. The per unit Additional Surcharge to be levied by the Distribution licensee for the period 01.10.2020 to 31.03.2021 shall be as shown in the table below:

Table 7

a) Stranded Power due to open access consumers at State Periphery (MUs)	122.53
b) Stranded Power due to open access at consumer end (MUs)	103.59
c) Billed fixed cost of 4 Generating Stations during the period October 2019 to March 2020 (Rs Cr)	39.65
d) Energy received at State periphery from the 4 ISGS stations during the period October 2019 to March 2020 (MUs)	395.25
e) Corresponding energy received from the 4 ISGS stations during the period at Consumer end (MUs)	334.19
f) Weighted average fixed cost of 4 stations at consumer end (Rs./Unit) [(c)*10/(e)]	1.19
g) Total cost of Stranded power due to open access consumers (Rs. Cr) [(f)*(b)/10]	12.29

h) Total Open Access Units at State periphery for the period October 2019 to March 2020 (MUs)	125.70
i) Corresponding Open Access power at consumer end (MUs)	106.28
j) Applicable Additional Surcharge for the period October 2020 to March 2021 (Rs./Unit) based on the open access units for the period October 2019 to March 2020 [(g)*10/(i)]	1.16

4.4. In view of the above, the Commission determines Additional Surcharge at Rs. 1.16/Unit.

The additional surcharge so determined shall be effective for the period 01.10.2020 to 31.03.2021.

4.5. The Petitioner was required to file the Petition by 30.06.2020, whereas the Petition was filed on 24.07.2020. The Commission, however, accepting the reasons put forth by the Petitioner for delay in filing the Petition, condones the delay and directs the Petitioner that 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 should be filed by 31st December and for the period October to March of the financial year based on the data of the corresponding previous period should be filed by 30th June of the same financial year.

Ordered accordingly.

(M.K. Jain)
Member (Technical)

(D.P. Gairola)
Member (Law)