

**Before**

**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**Petition No. 31 of 2021**

**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 2021 to March 2022.

**And**

Uttarakhand Power Corporation Limited. (UPCL)

...Petitioner

**CORAM**

**Shri D.P. Gairola Member (Law)-Chairman (I/c)**

**Shri M. K. Jain Member (Technical)**

**Date of Order: October 05, 2021**

This Order relates to the Petition dated 30.06.2021 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 2021 to March 2022.

## 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 October, 2020 to March, 2021 as shown in the Table below:

**Table 1**

<b>S. No.</b>	<b>Month</b>	<b>Stranded Energy (MU)</b>	<b>Open Access Energy (MU)</b>
1	October,20	26.10	30.27
2	November, 20	25.45	29.64
3	December, 20	28.40	29.70
4	January, 21	14.86	15.52
5	February, 21	8.46	8.46
6	March, 21	3.77	4.09
<b>Total</b>		<b>107.04</b>	<b>117.68</b>

- 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, 2020 to March, 2021 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	27.34	25.99	53.33	8.07	1.51
2	Dadri Gas	19.60	4.78	24.38	9.26	3.80
3	FG Unchahar-4	73.65	22.68	96.33	17.10	1.78
4	FG Unchahar-3	26.63	15.51	42.14	6.08	1.44
<b>Total</b>		<b>147.22</b>	<b>68.96</b>	<b>216.18</b>	<b>40.51</b>	<b>1.87</b>

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

**Table 3**

S. No.	Particulars	Value
a	Average fixed cost at State periphery (Rs. / unit)	1.87
b	Average fixed cost at consumer end after considering approved PTCUL losses @ 1.40% and distribution losses @14% (Rs. / unit)	2.21
c	Stranded energy (MU)	107.04
d	Open access energy (MU)	117.68
e	Proposed additional surcharge (b x c / d) (Rs. / unit)	2.01

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.	The Times of India	19.07.2021
2.	Amar Ujala	18.07.2021

1.9. Through above notice the Commission received in all two 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 Indian Energy Exchange Ltd., (IEX) Corporate Office, 9<sup>th</sup> Floor, Max Towers, Sector 168, Noida, UP.
- (ii) M/s Ambuja Cement Ltd., Unit-Roorkee, District Haridwar.

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

- 2.2.1. M/s IEX referred to the order of Ministry of Power dated 22.03.2021 which enabled the distribution utilities with a choice to either continue or exit PPA post completion of the term of PPA i.e.25 years or for a period specified in the PPA. In compliance of the said order of MoP, M/s IEX has requested that UPCL should optimize the power purchase cost by revisiting the existing PPAs with power stations with high variable cost and who have outlived their useful life of 25 years.
- 2.2.2. M/s IEX stated that drastic increase in the average fixed cost per unit is due to the decrease in the entitlement for the selected power plants from October 2020 to March 2021, however, from the definition of 'Entitlement' in the UERC(State Grid Code)Regulations, 2016, it is evident that entitlement of plants do not have any bearing on the open access volume instead, it is the power declared to be available (DC) that helps in the estimation of stranded capacity, if any, due to open access.
- 2.2.3. M/s IEX further averred that despite continuous decrease in the open access volume in the past years the additional surcharge is showing an increasing trend. Lower open access would mean lower stranded capacity attributable to open access and thus, low or nil additional surcharge. The same is not getting reflected in the claims/orders of additional surcharge.
- 2.2.4. M/s Ambuja Cement Ltd. has submitted that UPCL has propose approximately 78% increase in additional surcharge which is very high, therefore the Commission should not consider any increase of additional surcharge.
- 2.2.5. M/s Ambuja Cement Ltd. further stated that the Industry is already reeling under Covid-19 pandemic business loss and any further increase in additional surcharge would make open access unviable.

### **3. Petitioner's Response**

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

- 3.1.1. With regard to MoP order on exit of PPA UPCL has stated that it is aware of the said order of the MoP dated 22.03.2021 and the decision in the matter shall

be taken in due course of time.

3.1.2. As far as the increase in average fixed cost per unit of Jhajjar, Dadri, Unchahar-III & Unchahar-IV, UPCL stated that the fixed cost has been calculated on the actual data and the computation of additional surcharge has been done as per the provisions of Electricity Act, 2003, National Tariff Policy, 2016, UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015 and the methodology approved by the Commission in its Order dated 29.08.2019 and 19.06.2020.

3.1.3. With regard to increase in additional surcharge despite reduction in open access volume, UPCL has stated that additional surcharge is based on the average cost of the plants whose power has been stranded due to open access and the average fixed cost is based on the total energy entitlement (energy received + energy surrendered) at the periphery from these plants. In case energy entitlement for any period is low then the average fixed cost will be high and *vice-versa*. Further, the computation of additional surcharge has been done based on the actual data.

#### **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 Additional surcharge determined by the Commission has been done in accordance with the provisions of the Electricity Act, 2003, Tariff Policy and UERC (Terms and Conditions of Intra State Open Access) Regulations, 2015.

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 2020 to March 2021) of the 04 generating stations namely Jhajjar, 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 2020 to March 2021) 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 2020 to March 2021) by considering the lower of the quantum of open access power including short term open access transactions (RTM) 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,20	31.19	23.28
2	November, 20	31.10	27.30
3	December, 20	31.09	27.01
4	January, 21	16.83	15.42
5	February, 21	9.72	9.69
6	March, 21	4.82	4.60
<b>Total</b>		<b>124.75</b>	<b>107.30</b>

4.3.3. The Commission calculated the average fixed cost of the power purchased through 04 generating station namely Jhajjar, 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 2020 to March 2021. 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 14.00% 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	52.26	8.07
2	Dadri Gas	23.01	9.26
3	F G Unchahar-3	42.02	6.08
4	F G Unchahar-4	94.57	17.10
<b>Total</b>		<b>211.86</b>	<b>40.51</b>

4.3.4. For arriving at the stranded cost of power (in Rs. Crore) due to open access

consumers during the period October 2020 to March 2021, the Commission has considered the weighted average fixed cost (Rs/unit) derived herein above and the quantum of stranded power due to open access drawl (MUs). Thereafter, the Commission has considered recovery of the said stranded cost over the next six months period, i.e. from October 2020 to March 2021. The per unit Additional Surcharge to be levied by the Distribution licensee for the period 01.10.2021 to 31.03.2022 shall be as shown in the table below:

**Table 7**

a) Stranded Power due to open access consumers at State Periphery (MUs)	107.30
b) Stranded Power due to open access at consumer end (MUs)	90.99
c) Billed fixed cost of 4 Generating Stations during the period October 2020 to March 2021(Rs Cr)	40.51
d) Energy received at State periphery from the 4 ISGS stations during the period October 2020 to March 2021(MUs)	211.86
e) Corresponding energy received from the 4 ISGS stations during the period at Consumer end (MUs)	179.65
f) Weighted average fixed cost of 4 stations at consumer end (Rs./Unit) [(c)*10/(e)]	2.25
g) Total cost of Stranded power due to open access consumers (Rs. Cr) [(f)*(b)/10]	20.52
h) Total Open Access Units at State periphery for the period October 2020 to March 2021(MUs)	124.75
i) Corresponding Open Access power at consumer end (MUs)	105.78
j) Applicable Additional Surcharge for the period October 2021 to March 2022 (Rs./Unit) based on the open access units for the period October 2020 to March 2021[(g)*10/(i)]	1.94

4.4. In view of the above, the Commission determines Additional Surcharge as Rs. 1.94/ Unit. The additional surcharge so determined shall be effective for the period 01.10.2021 to 31.03.2022.

Ordered accordingly.

**(M. K. Jain)**  
Member (Technical)

**(D.P. Gairola)**  
Member (Law)-Chairman (I/c)