

Jeevaka Industries Pvt. Ltd.

(STEEL PLANT DIVISION)

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November 22, 2021

The Secretary,
TSERC,
5th Floor, Singareni Bhavan,
Red Hills,
Hyderabad.



Dear Sir,

Sub: Petitions (O.P. No. 48 & 49 of 2021 and O.P. No. 50 & 51 of 2021) for determination of Additional Surcharge to be levied on Open Access consumers for the H1 and H2 of the Financial Year 2021-22- Objections of FTCCI – reg

Ref: Public Notice issued on 2/11/2021

Referring to the subject cited, The Jeevaka Industries Pvt Ltd. is here by submitting its comments and objections on the petitions filed by TSSPDCL and TSNPDCL for determination of Additional Surcharge to be levied on Open Access consumers as per provisions of the Electricity Act, 2003 and National Tariff Policy, 2016 for the H1 and H2 of the Financial Year 2021-22 before the Hon'ble Commission for its consideration.

We request the Hon'ble Commission to permit us to make additional submissions (if any), and to give us the opportunity to present the objections in person during the Public Hearing.

Thanking you,

Yours sincerely,

Authorized Signatory for Jeevaka Industries



Comments on the Telangana Discoms' Petition for Determination of Additional Surcharge

1. The present Petitions have been filed by Southern Power Distribution Company of Telangana Limited (TSSPDCL) and Northern Power Distribution Company of Telangana Limited (TSNPDCL) seeking determination of Additional Surcharge ('ASC') for H1 and H2 of FY 2021-22.
2. Comments on the proposal of Discoms on Additional Surcharge claimed in the said Petitions are submitted hereinafter for kind consideration of the Hon'ble Telangana State Electricity Regulatory Commission ('TSERC' or 'Commission').

A. Maintainability of the Petitions

1. Non-adherence with the timelines

- 1.1. The Hon'ble Commission in the Order dated 18.09.2020, in the matter of determination of stranded capacity and framing the terms & conditions for levy of Additional Surcharge on open access users, directed the Petitioner to submit the filings for determination of Additional Surcharge for the 1st half of the ensuing financial year latest by 30th November of the current financial year and for the 2nd half of the ensuing financial year latest by 31st May of the ensuing financial year. The relevant extract of the Order is extracted below for the kind reference of the Hon'ble Commission:

"Commission's view

*9. The Commission finds merit in DISCOMs proposal to determine the Additional Surcharge in intervals of six months period to which some of the stakeholders have concurred and accordingly the **Commission directs the DISCOMs to submit their filings for determination of AS for the 1st half of the ensuing financial year i.e., for the period from April to September of the ensuing financial year latest by 30th November of the current financial year and for the 2nd half of the ensuing financial year i.e., for the period from October to March of the ensuing financial year latest by 31st May of the ensuing financial year.** The Commission's view regarding the approach for determination of stranded capacity due to OA is as under."*

- 1.2. Adherence with the above timelines is of significance since it provides ample opportunity to the stakeholders for assessment of the veracity of claims and helps the discoms in timely recovery of charges, if any. It is even more important in case of the Petitioner companies since they have not got prudence of ARR and the consequent retail tariff determination for the past 3 years (the last tariff order was issued by the Hon'ble Commission on 27.03.2018 for the year FY 2018-19).
- 1.3. Notably, the present Petitions were initially filed with defects on 05.07.2021 based on incomplete data. Subsequently the Petitioner claims to have filed these petitions with re-computed ASC on 09.09.2021 with further dataset. The filing dates clearly show the casual approach of the Petitioner companies in filing their claims. It not only contravenes the directions of the Hon'ble Commission but also undermines the entire process of determination of charges. Unsurprisingly, the Petitioner companies have similarly failed to file tariff/true up Petitions for the past years within the timelines prescribed by the Hon'ble Commission in the relevant regulations.
- 1.4. Considering the above facts of the matter, the present Petitions are liable to be rejected *in limine*.

2. Retrospective Levy of Additional Surcharge

- 2.1. As is evident from the afore-stated dates of filing the Petitions, the Petitions cover the period of FY 2021-22 that has already elapsed.
- 2.2. Retrospective levy of additional surcharge, if any, will cause grave injustice to the consumers.
- 2.3. Several judgements of the Hon'ble Appellate Tribunal of Electricity ('Aptel') depict that CSS and ASC are in the nature of compensation to the discoms and have no effect on the revenue of the discom since the collected amount is anyways reduced from its ARR. Following may also be referred in this regard:

2.3.1. There has never been retrospective levy of ASC in any state.

2.3.2. During FY 2017-18, the Petitioner discoms had filed ASC petitions on 15.06.2017 based on the data for FY 2016-17 and the order for the same was issued by the Hon'ble TSERC on 13.12.2017. The order was made applicable from 01.01.2018 only.

2.3.3. Similarly, in Haryana, in the first instance of levy of ASC, the Discoms had filed Petition in June 2013 for levy of ASC in FY 2013-14, while ASC was levied by the HERC w.e.f. 29.05.2014. It was not levied on retrospective basis.

2.3.4. In its judgment dated 02.12.2013 in Appeal No.178 of 2011 in the case of RInfravs MERC, the Hon'ble Aptelruled out the retrospective levy of CSS.

2.4. Considering the above facts of the matter, the Petitioners cannot be allowed to recover the alleged costs based on the delayed filings. As an alternate, the Hon'ble Commission may allow the levy, if any, on a prospective basis only after it is found justifiable on merits.

3. Directions of the Hon'ble Commission in Order dated 27.03.2021 allowing continuation of the existing tariffs, CSS & ASC:

3.1. The Petitioner has computed ASC on the actual fixed cost of power purchase, and the actual transmission cost without getting done the truing up/prudence of costs in any of the past years.

3.2. Notably, in the I.A No. 4 of 2021 in O.P. Nos. 21 & 22 of 2017, the Petitioners had submitted to the Hon'ble Commission seeking direction to continue the existing retail supply tariffs, the CSS and the ASC as determined in the tariff order dated 27.03.2018 from 01.04.2021 till issuance of the retail supply tariffs, CSS and ASC orders for the financial year 2021-22.

3.3. Based on such submission, the Hon'ble Commission vide order dated 27.03.2021 allowed the prayer of the Petitioners to continue the existing tariff

along with CSS and ASC with effect from 01.04.2021. Relevant extract of the Order is produced below:

“6. In the circumstances, the Commission considers the request of the TSDISCOMs for continuation of the existing tariff along with cross subsidy and additional surcharge with effect from 01.04.2021 till an order is passed by it on retail supply tariffs, cross subsidy surcharge and additional surcharge for FY 2021-22.

.....

”

3.4. Therefore, while the Petitioners were supposed to file Petitions for determination of retail supply tariffs, CSS and ASC for FY 2021-22, they have chosen only to file the Petitions for determination of ASC.

3.5. By way of only filing the petition for levy of ASC, the Petitioner is attempting to recover the fixed cost from a select few consumers while a significant quantum of its fixed cost and ARR remains unrecovered in the retail tariffs.

3.6. The Hon’ble Commission is requested not to allow determination and levy of ASC without conducting the due prudence of costs and revision of retail tariffs.

4. Data Deficiency w.r.t available capacity and 15 min time block wise data

4.1. The Hon’ble Commission in its order dated 18.09.2020 in OP No. 23 of 2020, has specified that the methodology approved vide Order dated 13.12.2017 in I.A.Nos.22&23 of 2017 in O.P.Nos.22&23 of 2016 respectively for computation of Additional Surcharge will remain active and final.

4.2. Further, the Hon’ble Commission in its order dated 13.12.2017, has considered the long-term available capacity inclusive of all conventional and non-conventional sources of power excluding the market purchases, for the purpose of working out the fixed cost obligation of discoms.

4.3. We submit the following in view of the above:

4.3.1. The 15 min- time block wise data stated to be submitted as soft copy in para 6 of the Petitions is not available to the stakeholders

4.3.2. Due to the absence of data on the plant wise long term available capacity, it is impossible to verify if the Petitioner has adhered to the methodology approved by the Hon'ble Commission for determining long term available capacity.

4.3.3. The stakeholders cannot validate the determination of stranded capacity as purported to be done by the discoms i.e. by considering minimum of backing down and OA scheduled capacity for each 15 min time blocks.

4.4. Considering the above, we request the Hon'ble Commission to direct the Petitioners to furnish all the data to the stakeholders for our analysis and comments thereof. It will not be possible comment on the claims of the discoms without such dataset.

5. Open Access has helped the discoms lower its cost

5.1. It is submitted that when the Open Access Consumers procure power from sources other than incumbent distribution licensee, the distribution licensee avoids procuring power in merit order i.e. highest variable cost generation is avoided first and then the second highest variable cost generation on so on.

5.2. The open access consumers help the Discom in meeting their demand requirements and in avoiding expensive power purchases. Imposing Additional Surcharge in such a case will be tantamount to penalising the OA consumers who are helping in managing the power supply during shortage scenarios in a cost-effective manner.

- 5.3. Open Access consumers lead to non-procurement of power by the Discom from expensive stations and thus help it in maintaining cost effective supply during shortage scenarios.

Notwithstanding the above facts and without prejudice to the decision of the Hon'ble Commission on maintainability of petitions, we submit our comments on the computations of the Petitioner discoms hereinafter.

B. Methodology for determination of Additional Surcharge

1. Expenses approved in the Tariff Order for computation of Additional Surcharge:

- 1.1. The Petitioner has computed ASC on the actual fixed cost of power purchase, and the actual transmission cost without getting done the truing up/prudence of costs in any of the past years.
- 1.2. It is necessary for the Hon'ble Commission to conduct prudence check of the actual data submitted in the petitions so that the cost of the inefficiencies of the Petitioners are not passed on to the Open Access consumers by way of the unjustifiably high additional surcharge.
- 1.3. Thus, the Hon'ble Commission is requested to determine ASC either on the basis of the cost approved in earlier Tariff Order of the Hon'ble Commission or after conducting a thorough prudence check of the claimed costs.

2. Computation of Fixed Charges:

- 2.1. The Petitioners have considered the actual fixed charges paid during FY 2020-21 for working out the ASC. We depict below a comparison of this cost with the fixed cost of power purchase considered by the Hon'ble Commission in its order dated 09.03.2021 issued for determination of the 'pooled cost of power purchase' for FY 2020-21.

	Petition for H1 FY 2021-22 (a)	Petition for H2 FY 2021-22 (b)	Fixed Cost considered for ASC in present Petitions (a+b)	Fixed Cost approved in Pooled Power Purchase Cost Order dated 09.03.2021
Fixed Cost (in Rs. Cr.)	5110.20	5462.49	10572.69	9314.04

- 2.2. It can be observed from the above table that the fixed cost of power purchase considered in the present Petitions is higher by more than Rs. 800 Crore vis-à-vis the cost considered by the Hon'ble Commission in the order dated 09.03.2021.
- 2.3. Besides the above, the Petitioners have also considered additional cost of Rs. 342.169 Crore in each half year on account of 'Interest on Pension Bonds', which is neither approved in the past orders of the Hon'ble Commission nor it is linked in any way to the determination of additional surcharge.
- 2.4. In view of the above, the Hon'ble Commission is requested to thoroughly evaluate the fixed cost to be considered before determining the Additional Surcharge.

3. Transmission Charges for the purpose of Additional Surcharge:

- 3.1. The Petitioners while computing per unit rate of transmission charges have considered the inter-state transmission charges, intra-state transmission charge and SLDC charges. The Hon'ble Commission in its order dated 27.03.2021 for determination of Additional Surcharge for FY 2018-19 has considered only the intra-state transmission charge while computing the transmission charge per unit.
- 3.2. It may also be noted that the CERC (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 also provide for reimbursement of such ISTS charges paid by the consumers availing STOA, back to the state where the entity is located. Thus, inclusion of ISTS charges and SLDC charges in the computation of transmission cost per unit will lead to

unjustified levy of charges on the State Open Access Consumers since they are anyways paying these.

4. Incorrect Consideration of Distribution charges

- 4.1. It is submitted that the Petitioner in the current petition has not provided any details with regard to the calculation of the Distribution Cost per unit at the rate of Rs. 1.01/ unit. The Hon'ble Commission in its past orders has computed the Distribution charges per unit by dividing distribution cost and MOD units as approved in the latest Tariff Order.
- 4.2. It is submitted that as per the clause 8 of the Terms and Conditions of Open Access to Intra-State Transmission and Distribution Regulation 2005, the Hon'ble Commission has allowed open access to consumers with contracted capacity more than 1 MW. Accordingly, it is only the distribution cost at 11 kV and above that can be attributed to the open access consumers. Loading of distribution cost of LT consumers is unjust and arbitrary.
- 4.3. Notably, the Hon'ble Gujarat Electricity Regulatory Commission which follows the similar methodology for determination of the ASC, considers the distribution / wheeling charge at 11 kV& above only. Relevant extracts of the GERC ASC order dated 22.07.2021, and Tariff Order dated 31.03.2021 are enclosed as Annexure I and II respectively.
- 4.4. The Hon'ble Commission is therefore requested to consider the appropriate distribution cost for the computation of Additional Surcharge.

5. Reduced Additional Surcharge on account of low OA capacity compared to Backed down Capacity

- 5.1. The Hon'ble Commission in the Order dated 18.09.2020 in OP No. 23 of 2020, while framing the terms & conditions for levy of Additional Surcharge on open access users, has discussed in detail the various reasons leading to backing down of generating stations by the Discoms including but not limited to load variations, short term purchase by Discoms, open access etc.

- 5.2. The Hon'ble Commission made similar observations in its earlier order dated 13.12.2017 while determining the ASC for FY 17-18 and highlighted that not all stranded capacity is due to open access. Relevant extract of the order is provided below:

“3.5. Determination of Additional Surcharge

3.5.1. The stranded cost is the fixed cost arrived at for the stranded capacity attributable only to the Open Access Consumers for which the Licensees' are to be appropriately compensated for allowing such open access.

.....

The Commission has closely looked into the calculation provided by the Licensees in order to arrive at what could be the reasonable Additional Surcharge.

*The Commission observed that **not all stranded capacity is due to open access as open access sales for FY 2016-17 constitutes 44% of back down of FY 2016-17 (See Annexure 1 for details).***

There are sufficient reasons for levying Additional Surcharge; otherwise the entire liability due to stranded capacity would be loaded in the retail consumers when not all of them are beneficiaries of Open Access.

Further the Additional Surcharge worked out cannot be wholly allowed to be passed on considering the fact that no Additional Surcharge has been allowed by this Commission thus far and levying of entire Additional Surcharge calculated above may adversely impact the Open Access consumers.

In view of the above to strike a balance between the Commissions determines the Additional Surcharge at Rs. 0.52/unit (i.e. 44% of Rs.1.17).

Hence, the Commission determined the additional surcharge at Rs. 0.52 per kWh.”

- 5.3. In line with the above order and the details submitted by the Petitioner in the present petitions for determination of Additional Surcharge in H1 and H2 of FY 2021-22, it was observed that open access schedule constitutes 13% and 25% of the average backed down capacity in H1 and H2 of FY 2020-21 respectively, as shown below-

FY 20-21	Avg Backed Down Capacity (MW) (a)	Avg OA Scheduled Capacity (MW) (b)	Percentage of OA capacity as a part of backed down capacity (b/a)
H1	2014.95	279.68	13.88%
H2	972.26	245.56	25.25%

- 5.4. In view of the above, the Hon'ble Commission is requested to continue with its approach and determine Additional surcharge, if any, considering the percentage of open access capacity as a part of backed down capacity viz. ~26% in H2 of FY 20-21.

GERC Order in the matter of Additional Surcharge payable by Open Access consumers for the period of 1st October, 2020 to 31st March, 2021. (22.07.2021)

Annexure A

Calculation of Additional Surcharge based on data for the period October, 2019 to March, 2020: Effective from 1 st October, 2020 to 31 st March, 2021.				
Sr. No	Description	Nomenclature	Value	Unit
1	Contracted Capacity	A	23,852	MW
2	Maximum Availability	B	19,169	MW
3	Minimum Availability	C	11,504	MW
4	Average Availability	D	15,948	MW
5	Maximum Scheduled	E	13,286	MW
6	Minimum Scheduled	F	5,366	MW
7	Average Scheduled	G	10,413	MW
8	Capacity not availed (Max)	H	12,053	MW
9	Capacity not availed (Min)	I	506	MW
10	Capacity not availed (Avg.)	J	5,535	MW
11	OA Allowed (Max)	K	637	MW
12	OA Allowed (Min)	L	110	MW
13	OA Allowed (Avg.)	M	463	MW
14	Capacity stranded due to OA	N	463	MW
15	Total Fixed Charge (PPA)	O	5,369	Rs. Crore
16	Fixed charges per MW available	$P=O/D$	0.3367	Rs. Crore
17	Fixed charges of stranded capacity	$Q=P*N$	155.90	Rs. Crore
18	Transmission Charges paid	R	3,171.33	Rs. Crore
19	Energy Scheduled	S	45,753	MU
20	Transmission Charges per kWh	$T=R/S*10$	0.69	Rs./kWh
21	Distribution Charges (As approved in Tariff Order)	U	0.15	Rs./kWh
22	Total T & D Charges per kWh	$V=I+U$	0.84	Rs./kWh
23	Energy Consumed by OA Consumer from Discoms	W	1739.50	MU
24	T & D charges payable to Discoms by OA consumers	$X=W*V/10$	146.70	Rs. Crore
25	Demand Charges Recovered by Discoms from OA	Y	179.82	Rs. Crore
26	Demand Charges to be adjusted	$Z=Y-X$	33.12	Rs. Crore
27	Net stranded charges recoverable	$AA=Q-Z$	122.78	Rs. Crore
28	OA scheduled energy	AB	2,033.82	MU
29	Additional surcharge	$AC=AA/AB*10$	0.60	Rs./kWh

Gujarat ERC has considered Distribution Charge per unit at 11 KV (Annexure-II)

GERC Truing up Order for FY 2019-20 and Determination of ARR and Tariff for FY
2021-22 (31.03.2021)

8.2 Wheeling charges

The Wheeling Charges for the four Distribution Companies, DGVCL, MGVCL, PGVCL and UGVCL for FY 2020-21, as given below are applicable for use of the distribution system of a Distribution Licensee by other Licenses or Generating Companies or captive power plants or consumers / users who are permitted Open Access under Section 42 (2) of the Electricity Act, 2003

Table 8-3: Wheeling charges for FY 2020-21

Sr. No.	Particulars	Units	Amount
1	Distribution costs of the four DISCOMs	Rs. Crore	5,014.44



Dakshin Gujarat Vij Company Limited
Truing up for FY 2018-19 and Determination of Tariff for FY 2020-21

Sr. No.	Particulars	Units	Amount
2	Distribution cost of the four DISCOMs at 11 kV level (30% of total distribution cost)	Rs. Crore	1,504.33
3	Distribution cost of the four DISCOMs at LT level (70% of total distribution cost)	Rs. Crore	3,510.11
4	Energy input at 11 kV	MUs	100155
5	Wheeling charges at 11 kV	Ps./kWh	15.02
6	Energy Input at 400 V	MUs	53,749
7	Wheeling charges at 400 V (LT)	Ps./kWh	65.31

Accordingly, the Commission approves Wheeling Charges for HT network (11 KV system) at 15.02 Paise per kWh unit and Wheeling Charges for LT network (400 V system) at 65.31 Paise per unit.