

ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR – 751012

Present : Shri S. P. Nanda, Chairperson
Shri B.K.Misra, Member
Shri S.P.Swain, Member

Case Nos. 5, 6, 7 & 8 of 2011 and 24, 25, 26 & 27 of 2012

In the matter of: Application for approval of Open Access Charges (Transmission/wheeling Charges, Surcharge and Additional Surcharge for the FY 2011-12 & 2012-13 applicable to open access customers for use of Intra-state transmission/distribution system) in accordance with Sections 39, 40 and 42 of the Electricity Act, 2003 read with the provisions of Chapter II (Charges for Open Access) Regulations 4(1)(xiv),(2)(vii) & (3)(vi) of the OERC (Determination of Open Access Charges) Regulations, 2006.

Case Nos.24/2012 & 08/ 2011

In the matter of: M/s. Southern Electricity Supply Company of Orissa Ltd.
(SOUTHCO), Courtpetta, Berhampur

And

Case Nos.25/2012 & 06/2011

In the matter of: M/s. Western Electricity Supply Company of Orissa Ltd.
(WESCO), Burla, Sambalpur

AND

Case Nos.26/2012 & 07/2011

In the matter of: M/s. North Eastern Electricity Supply Company of Orissa Ltd.
(NESCO), Januganj, Balasore

AND

Case No.27/2012 & 05/2011

In the matter of: M/s. Central Electricity Supply Utility of Orissa (CESU), 2nd
Floor, IDCO Towers, Janpath, BBSR

.....**Petitioners**

-Vrs-

M/s. Jayshree Chemicals Ltd. and Others

..... **Respondents**

For the Petitioners: Shri S. K. Choudhury, Sr. GM, SOUTHCO and Shri M.K. Das, GM (PT), CSO, WESCO,NESCO & SOUTHCO in Case Nos. 24/12 & 08/2011, Shri K.C. Nanda, AGM (Fin.),WESCO and Shri M. K. Das, GM(PT), CSO, WESCO, NESCO & SOUTHCO in Case Nos. 25/12 & 06/2011, Shri S. D. Bhanja, DGM, NESCO and Shri M. K. Das, GM (PT), CSO, WESCO,NESCO & SOUTHCO in Case Nos.26/12 & 07/2011 and Shri L. R. Padhi,DGM, CESU in Case Nos. 27/12 and 5/2011are present.

For the Respondents: Shri S.S. Kalya and Shri R. P. Mohapatra, the authorised representative of M/s. Jaysree Chemicals Ltd. & also for self, Shri M.V.Rao, the representative of M/s. FACOR, Shri Bibhu Charan Swain, Sr. Consultant, M/s. Power Tech Consultants, Shri Raghvendra Upadhy, Shri Sanjay Sen, Advocate, Shri Rajiv Yadav, Advocate, Shri Amit Kumar, Advocate on behalf of M/s. IPPAI are present.

Date of Hearing: 15.05.2012

Date of Order: 13 .07.2012

ORDER

1. The Distribution Licensees CESU, WESCO, NESCO and SOUTHCO had filed their applications before this Commission for Determination of Open Access Charges including Transmission /Wheeling Charge, Surcharge and Additional Surcharge for the FY 2011-12 & 2012-13 applicable to open access customers for use of intra-state transmission/distribution systems following Sections 39, 40 & 42 of the Electricity Act, 2003, read with OERC (Terms and Conditions for Determination of Open Access Charges) Regulations, 2006, which were registered as Case Nos.05/2011, 06/2011, 07/2011, 08/2011 for FY 2011-12 and Case Nos. 24/2012, 25/2012, 26/2012 & 27/2012 for FY 2012-13 respectively.
2. All the distribution licensees were directed by the Commission to publish the matter in the English and Oriya Newspapers by 15.01.2011 inviting suggestions/objections, if any, from various stakeholders to be filed before the Commission on or before 30.01.2011 for FY 2011-12. The Commission further directed the distribution licensees to file a consolidated rejoinder to all the suggestions / objections filed by the interested persons before the Commission on or before 03.02.2011. The Commission has impleaded the Institutions/ organizations/ interested persons who had filed their views/ suggestions/objections (in Case Nos.05/2011, 06/2011, 07/2011 & 08/2011) for determination of Open Access Charges for FY 2011-12 as respondents/objectors in Case Nos. 24/2012, 25/2012, 26/2012 & 27/2012 filed by the DISCOMs for Open Access Charges for FY 2012-13.
3. The DISCOMs have calculated Open Access Charges for the year FY 2012-13 and sought for approval of the Commission. The details of charge are given as under:

Table – 1
Surcharge and Wheeling Charge Proposed by the Licensees for Open Access consumer for FY 2012-13

Name of the Licensee	Open Access Surcharge for EHT Consumer (P/U)	Open Access Surcharge for HT Consumer (P/U)	Wheeling Charge (P/U)
CESU	197	181	85
NESCO	157	32	104
WESCO	158	60	77
SOUTHCO	276	166	116

4. The respondents have submitted the following points on the proposed Open Access Charges of DISCOMs for the year 2012-13 before the Commission for consideration.
- The Open Access Charges applicable for FY 2010-11 was provisionally made applicable for FY 2011-12 due to a stay order passed by Hon'ble High Court of Orissa on 2011-12 tariff order for quite some time. The stay order has been vacated on 30.03.2012.
 - The tariff year 2011-12 has already passed and accounts of Open Access customer have since settled, therefore the passing any approval of open access charges revision for the year 2011-12 based on application of DISCOM in Case Nos. 5, 6, 7 & 8 of 2011 would pose practical difficulties.
 - The existing open access charges and proposed open access charges of DISCOMs in Odisha is high compared to the other states, due to which consumer is generally disinterested to purchase power from other sources, therefore, very purpose of open access is defeated.
 - The Open Access Charges may not be applied to the consumers who are availing power supply through De-centralized Distribution Generation (DDG) scheme, renewable based power project and small generator in order to encourage the growth of DDG scheme, the renewable power project, small power project in the state, which supply power to the localized consumers.
 - Further there should not any open access charges i.e no cross subsidy surcharge, no transmission charges and no wheeling charges applicable to any obligated entity procuring renewable and cogeneration energy from other sources for meeting its Renewable & Co- generation purchase obligation.
 - The wheeling charges calculated by the Distribution Companies for supply of power at 33 KV shall take into account the actual location of the consumers. No wheeling charges should be payable by any consumer who is located next to an EHT Substation or is supplied power from an EHT substation through a dedicated / exclusive feeder constructed and maintained by it.
 - In case power through open access is availed by a consumer during periods of statutory power cut or restrictions due to major breakdown in the transmission system, no cross subsidy surcharge should be payable.

- The calculation of cross subsidy surcharge by DISCOM based on load factor has no meaning. When a consumer avail power supply from other sources through open access, it doesn't sign any contract demand with the generator or other sources of supply. The consumer only informs SLDC MW based schedule and assume that all the energy is availed by the consumer based on its schedule and according the REA account is prepared
 - There should not be any additional surcharge when the open access consumer is availing power supply through dedicated transmission line constructed at its own cost of the consumer.
 - While calculating cross-subsidy surcharge a normative loss in HT not exceeding 8% to be considered.
5. The Commission has carefully examined all applications received from the DISCOMs on the methodology for estimating the Cross-subsidy Surcharge and the Additional Surcharge. As the subject matter of all the above cases are similar in nature, the Commission heard the views of all the applicants analogously and passed the following common order.

Commission's observations

6. Some of the respondents contend before us to issue public notice before the hearing of Open Access Charges applications of DISCOMs. The open access charges are based on the parameters already approved by the Commission in the Retail Supply, Bulk Supply and transmission Tariff Order for the relevant year. The tariff hearing of the concerned year is done through a process of public hearing. Therefore, we do not find any justification of issuing public notice again for this hearing.
7. The Open Access Charges (Transmission/wheeling Charges, Surcharge and Additional Surcharge applicable to open access customers for use of Intra-state transmission/ distribution system) under the provisions of the Act were fixed by the Commission for 2010-11 in its order dated 24.06.2010 in Case Nos. 24, 25, 26 & 27 of 2010.
8. The Retail Supply Tariff Order of FY 2011-12 was under sub-judice before the Hon'ble High Court of Odisha for quite a sometime in W.P.(C) No. 8409/2011. Though the DISCOMs have filed their Open Access Charges applications with this Commission for FY 2011-12 final order could not be issued after completion of hearing due to the stay of operation of the Hon'ble High Court on the above order of

the Commission. The DISCOMs now submit before us to continue with the Open Access Charges for FY 2010-11 in FY 2011-12 also as they have already billed and recovered the said charges from consumers as per prevailing rate of FY 2010-11. The Commission considers the above views of the DISCOMs as well as respondents and opines that there is no need to reopen the issue again and approve the charges for FY 2010-11 in 2011-12 also as the said year is already has elapsed.

9. The commission has determined the open access charge based on the formula prescribed in para 8.5.1 in the tariff policy. So the contention of respondents that the charge is in the State of ODISHA is not correct.
10. With regard to the contention of one of the respondent that open access charges should not be applicable to the consumers availing power from DDG Scheme and renewable sources it is to be mentioned here that as per Regulation 11 of OERC (Renewable and Co-Generation Purchase Obligation and its Compliance) Regulation, 2010 Regulation 11 third party sale from Renewable energy sources shall be exempted from the cross-subsidy surcharge determined by the Commission from time to time. Therefore, the contention of the objector that all the open access charges shall be exempted for consumptions power from renewable and DDG sources is not acceptable.
11. The proposal that the wheeling charges should be based on the location of the consumer on the 33 KV system has no merit as in Odisha we are following postage stamp method for fixation of wheeling charges.
12. In case there is statutory power cut or restriction due to major break down the cross-subsidy surcharge is also accordingly calculated basing on the actual power drawn and not on the schedule of drawal.
13. Some of the respondents sated that the calculation of cross subsidy surcharge by DISCOM based on load factor has no meaning. When a consumer avail power supply from other sources through open access, it doesn't sign any contract demand with the Generator or other sources of supply. The consumer only informs SLDC MW based schedule and assume that all the energy will be availed by the consumer based on its schedule and according the REA account is prepared due to which the Load Factor of the open access consumer is to be treated as 100% in all the cases. The commission agreed to the proposal of respondents. DISCOMs in their submission also pleaded for single rate (Para-3 of above).

14. The detailed procedures and methodologies for computation of surcharge for different consumer categories for FY 2010-11 have been elaborately described in the Open Access Charges Order for the said year. The Commission has adopted the same principle for calculating wheeling Charges, Surcharge and Additional Surcharge applicable to open access customers for use of Intra-state transmission/ distribution system for the current year also i.e. FY 2012-13.
15. The Commission has approved the Annual revenue requirement and Tariff of the following entities on dt.23.03.2012 for 2012-13 which is effective from 01.04.2012.
 - ARR & Transmission charges of OPTCL vide its order in Case No.92/2011
 - ARR & Retail Supply tariff of Distribution licensees in Case No.93, 94, 95 & 96 of 2011
 - ARR & BSP of GRIDCO in case No.-91/2011
 - ARR & Fees and Charges for SLDC vide case No.97/2011

The Cross-subsidy Surcharge and Additional Surcharge to be charged to open access consumers now needs to be re-determined, basing on the new tariffs and costs approved by the Commission in these above orders.

16. In this connection, the formula for computation of surcharge prescribed in the tariff policy in para 8.5.1 is quoted below:

“Quote

Accordingly, when open access is allowed the surcharge for the purpose of sections 38, 39, 40 and sub-section 2 of section 42 would be computed as the difference between (i) the tariff applicable to the relevant category of consumers and (ii) the cost of the distribution licensee to supply electricity to the consumers of the applicable class. In case of a consumer opting for open access, the distribution licensee could be in a position to discontinue purchase of power at the margin in the merit order. Accordingly, the cost of supply to the consumer for this purpose may be computed as the aggregate of (a) the weighted average of power purchase costs (inclusive of fixed and variable charges) of top 5% power at the margin, excluding liquid fuel based generation, in the merit order approved by the SERC adjusted for average loss compensation of the relevant voltage level and (b) the distribution charges determined on the principles as laid down for intra-state transmission charges.

Surcharge formula:

$$S = T - [C (1 + L / 100) + D]$$

Where

S is the surcharge

T is the Tariff payable by the relevant category of consumers;

C is the Weighted average cost of power purchase of top 5% at the margin excluding liquid fuel based generation and renewable power

D is the Wheeling charge

L is the system Losses for the applicable voltage level, expressed as a percentage

The cross-subsidy surcharge should be brought down progressively and, as far as possible, at a linear rate to a maximum of 20% of its opening level by the year 2010-11.

Unquote”

OERC has broadly adopted the above principle laid out in the Tariff Policy for determination of cross-subsidy surcharge. But we have certain uniqueness in the structural and functional aspects of power sector in the State. Hence, we have incorporated certain modifications in the interpretation of definitions of the above formula while keeping in mind the realities of our State. As such, we have adopted the following principles for calculating the open access surcharge as already laid out in our earlier Orders on this subject.

T = applicable tariff for EHT and HT consumers at 100% load factor

C = Power Purchase cost (consider BSP of respective DISCOM as the power purchase cost for calculation of cross-subsidy surcharge) plus transmission charge and SLDC charges payable by DISCOMs.

L = loss at HT 8%, whereas transmission loss of 3.8% is included in the BSP and need not be put in the formula

D = Wheeling charge levied by DISCOMs = Distribution cost/ Input at HT

17. It has been prescribed in our Open Access Charges Regulation, 2006 that the wheeling charges shall also be determined following the same principle as laid down for determination of transmission charge. The total cost of distribution divided by the total energy handled in the distribution system gives the postage stamp rate for utilisation of distribution system. For our purpose, we are only considering the energy handled in the HT distribution system.
18. The Commission has approved the transmission loss and distribution loss which is 3.8% at EHT and 8% at HT distribution system for FY 2012-13. The transmission charge approved by the Commission for FY 2012-13 is 25 P/U. In addition to this, the Distribution licensees have to pay SLDC charges as prescribed in the order in the case No.97/2011 dtd. 23.03.2012 over and above the transmission charges. For the year

2012-13, the Commission has approved the following Bulk Supply Price in respect of four distribution companies.

1. CESU 261.00 per KWH
 2. NESCO 301.00 per KWH
 3. WESCO 300.00 per KWH
 4. SOUTHCO 182.00 per KWH
19. Besides above, Demand charge @ Rs.250/- KVA is payable if the DISCOMs exceed the approved permitted Simultaneous Maximum Demand (SMD) for them. The detail of the Demand Charge elaborated in Case No.-91 of 2011 in ARR & annual BSP Order of GRIDCO for FY 2012-13.
20. Further the wheeling charge has been calculated based on the figures approved by the Commission in the RST Order vide Case No. 93, 94, 95 & 96 on dtd. 23.03.2012. The calculation of wheeling charges pertaining to each DISCOM is tabulated below for ready reference:

Table – 2
Calculation of Wheeling Charge for FY 2012-13

	CESU	NESCO	WESCO	SOUTHCO	TOTAL
Purchase MU	8,236.00	5,306.00	6,496.00	3,047.00	23,085.00
Sale MU					
EHT	1,682.81	1,812.56	1,443.48	377.80	5,316.66
HT	1,056.89	483.31	1,210.00	209.48	2,959.68
LT	3,602.02	2,036.48	2,569.30	1,682.73	9,890.53
TOTAL	6,341.72	4,332.35	5,222.78	2,270.02	18,166.87
Energy Handled at HT MU (Purchase - EHT sale)	6,553.19	3,493.44	5,052.52	2,669.20	17,768.34
Total RR Excl. Mis Rec. (Rs. in Crore)	2,868.70	2,014.70	2,422.10	898.04	8,203.54
Less Cost of PP, Transmission & SLDC Charge (Rs. in Crore)	2,356.98	1,730.71	2,112.37	631.28	6,831.34
NET DISTRIBUTION COST (Rs in Crore)	511.72	283.99	309.73	266.76	1,372.20
Wheeling Charge calculated for 2012-13 (P/U)	78.09	81.29	61.30	99.94	77.23 (avg.)

21. There are various consumer categories availing supply at HT & EHT from the DISCOMs but consumers only with contract demand 1 MW and above can avail the benefits of open access under the present Open Access Regime as per the phasing notified in the Open Access Regulation of OERC.
22. The electricity tariff structure of Orissa has been fully rationalized voltage-wise. Essentially, it consists of two major components i.e. the demand charge which is

Rs.250 per KVA per month both for EHT & HT class of consumers (excepting few small ones) in addition to energy charge expressed in paise per KWH.

23. The energy charges as applicable to HT & EHT class of consumers w.e.f 01.04.2012 are given below:-

Table – 3
Energy Charges for HT & EHT Consumers

Load Factor (%)	HT	EHT
up to 50%	495 p/u	490 p/u
>50% = <60%	450 p/u	445 p/u
>60%	395 p/u	390 p/u

24. In addition to the above charges, a customer service charge of Rs.250 and Rs.700/- per HT and EHT consumers respectively per month are levied by the DISCOMs.
25. Accordingly, the commission determine the Open access charges applicable to the consumers of 1 MW and above availing Open access on the basis of formula and rates such as Bulk Supply Price, Transmission charge, SLDC Charge, Wheeling Charge and taking applicable loss at different voltage as stated above and presented in the table below:

Table – 4
Surcharge, Wheeling Charge & Transmission Charge for Open access consumer 1MW & above for FY 2012-13

Name of the licensee	Cross Subsidy Surcharge for EHT Consumer (P/U)	Cross Subsidy Surcharge for HT Consumer (P/U)	Wheeling Charge P/U applicable to HT consumers only	Transmission Charges for Short Term Open access Customer (applicable for HT & EHT consumers)
CESU	197	101	78.09	Rs. 1500/MW/day or Rs.62.5/MWh
NESCO	157	55	81.29	Rs. 1500/MW/day or Rs.62.5/MWh
WESCO	158	76	61.30	Rs. 1500/MW/day or Rs.62.5/MWh
SOUTHCO	276	165	99.94	Rs. 1500/MW/day or Rs.62.5/MWh

26. In addition to above other charges as applicable as per Regulation 4 of OERC (Determination of Open Access Charges) Regulations, 2006 will also be paid by the customer availing Open Access.
27. The wheeling charges, applicable for HT consumer (33 & 11KV) has been calculated on the basis of postage stamp method and hence the same is applicable per all HT consumers without any discrimination.

28. There are certain consumers for whom the above mentioned surcharges need not be applied *in terms of sub-section (2) of Section 42 of the Act*. The mode of recovery of surcharge has already been explained in Para 8.5.3 of the National Tariff Policy.

Additional Surcharge:

29. As per principle followed in the previous order, we have not determined additional surcharge over and above the surcharge to be paid to the embedded licensees to meet the fixed cost of licensee arising out of his obligation to supply as provided under Sub-Section 4 of Section 42 of the Act. This is because no such case has been brought before us by the DISCOMs.
30. Para 8.5.6 of National Tariff Policy provides that in case outages of generator supplying to a consumer on open access, standby arrangements should be provided by the licensee on the payment of tariff for temporary connection to that consumer category as specified by the Appropriate Commission. In case of Odisha, tariff for temporary supply is applicable as per the nature and use of the power as described in Supply Regulation. Accordingly in the event of failure of scheduled supply by the third party supplier to Open Access consumers, the consumer can continue to avail power from DISCOMs on payment of existing supply rate as approved in the Retail Supply Tariff order for that year.
31. SLDC has been advised to permit all Open Access applications for the consumers drawing power more than 1 MW above on receipt of requisite fee and on completion of all formalities as detailed in OERC Regulation without any discrimination except in case of technical difficulties due to Transmission constraint and statutory order of Govt. if any as per the Act.
32. To sum up we decide and direct as under:
- (i) The wheeling and cross-subsidy surcharge as determined by the Commission for FY 2010-11 shall continue till the issuance of this Order.
 - (ii) The wheeling charge and surcharge as indicated in Table 4 shall be applicable for the year 2012-13 w.e.f. date of issue of this order prospectively and may undergo change from time to time as may be decided by the Commission.
 - (iii) The normative transmission loss at EHT (3.8%) and normative wheeling loss for HT level (8%) are applicable for the year 2012-13 and may undergo change as may be decided by the Commission from time to time.

- (iv) No Cross-subsidy surcharge charges are payable by the consumers drawing power from its own/group Captive Power Plants or availing Renewable power to meet its Renewable & Co-gen purchase obligation (RCPO).
33. These charges as notified for the FY 2012-13 will remain in force until further order.
34. Accordingly the case Nos. 5, 6, 7 & 8 of 2011 and Case Nos. 24, 25, 26 & 27 of 2012 relating to Open Access proceedings are disposed of and the Open Access charges are approved in accordance with the relevant provisions of the Electricity Act, 2003 and OERC (Determination of Open Access Charges) Regulations, 2006.

Sd/-
(S. P. SWAIN)
MEMBER

Sd/-
(B. K. MISRA)
MEMBER

Sd/-
(S. P. NANDA)
CHAIRPERSON