

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNAKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021**

Present: **Shri U. N. Behera, Chairperson**
 Shri A. K. Das, Member
 Shri S. K. Parhi, Member

Case No. 09/2017

M/s. Vedanta Limited	Petitioner
Vrs.		
GRIDCO Limited & Others	Respondents

In the matter of: **An application under S.86(1)(f) of the Electricity Act, 2003 to set-aside the application filed by WESCO Utility under S.42 of the said Act and in conformity with Regulations 4-(1)(xiv), 2(vii) & 3(vi) of the OERC (Determination of Open Access Charges) Regulations, 2006 & other enabling provisions of the OERC (Terms and Conditions of Open Access) Regulations, 2005 as the calculation of Cross Subsidy Surcharge proposed by WESCO Utility as it is not in line with the directive of the Commission issued in various orders.**

For Petitioner: **Shri S. Satyakam, Advocate on behalf of M/s. Vedanta Limited.**

For Respondent: **Shri K. C. Nanda, DGM (Fin.), WESCO Utility, Shri Manas Kumar Das, Director (Comm.), GRIDCO Limited and Ms. Niharika Pattnayak, ALO, DoE, GoO.**

ORDER

Date of hearing: 18.02.2017

Date of order: 17.04.2017

The petitioner M/s. Vedanta Limited (formerly known as M/s. Sesa Sterlite Ltd.) owns & operates the thermal power plant of 2400 MW (4x600 MW) capacity, 0.5 Million Metric Tonne per Annum (MMTPA) aluminium smelter unit (Smelter-I), 1215 MW CGP and 1.25 MMTPA smelter unit (Smelter-II) at Jharsuguda. The instant petition filed by the Petitioner pertains to disputes arising out of certain principles and methodologies adopted by the WESCO Utility in its Open Access filing before the Commission for approval for the financial year 2017-18. The objection has been filed by the Petitioner pursuant to public notice dt.22.12.2016 issued by the Commission. The major objections raised by the petitioner are as follows;

2. The Cross subsidy Surcharge (CSS) proposed by WESCO Utility is very high as compared to the preceding financial year which is not in accordance with the provisions of the Act, Tariff Policy and the regulations framed by the Commission.
3. The purpose of Open Access Charges is to provide the consumer non-discriminatory Open Access, so that the consumer will be able to procure power from cheaper sources so as to ensure that the operation of its industry is commercially viable. While purchasing power from other sources, the consumer has to pay energy charges to the Power Exchange/seller/IPP /other generators and very high Cross Subsidy surcharge to WESCO Utility. As a result the total cost of the energy has become very high; thereby dissuading consumer in WESCO Utility area not to go for Open Access. That because of the high cross subsidy charges and wheeling charges, the Open Access is nearly non-existent in Odisha.
4. As per Regulation 4(2) (iv) of OERC (Determination of Open access Charges) Regulations, 2006, CSS has to be computed by the licensee as the difference between the tariff applicable to the relevant category of consumers and the cost of the distribution licensee to supply electricity to the consumers of the applicable class.
5. In addition to the above, the petitioner proposes that WESCO Utility may not be permitted to levy additional surcharge in cases where it has not incurred any fixed cost such as that of the Petitioner. No CSS should be levied on the open access customer for procuring extra power from third party for the quantum beyond its contract demand as approved during start of financial year.
6. Further, if the DISCOM is not able to supply power due to power regulation or shortage of power, then in that case the industries should be allowed to source power from third party through open access without payment of CSS.
7. The Calculation of Cross Subsidy Surcharge proposed by the respondent is not in line with tariff policy, E Act, 2003 & OERC Regulation. The Commission should ensure that the Cross Subsidy Surcharge is progressively reduced and also lay down a roadmap for the same.
8. WESCO Utility in its rejoinder submitted that the petition in its present form is not maintainable in the eyes of law. The petitioner has filed the present application under section 86(1)(f) of Electricity Act, 2003 but from the prayers so made indicates the nature of the application is purely an objection to the petition of the respondent for

determination of open access charges for FY 2017-18 before the Commission which has been registered as case No.71 of 2016. Hence, the petition may kindly be rejected.

9. Further, WESCO Utility submitted that the present level of Cross Subsidy has been reduced drastically as compared to the initial years. Due to lower Cross Subsidy Surcharge of WESCO Utility, during the current financial year till January, 2017 around 407 MU has been drawn by different industries under open access out of which the petitioner has drawn around 42 MU. Presently 20 industries including the petitioner company are availing power through open access.
10. The petitioner has objected regarding the proposal of open access charges of the utility which has been filed on the basis of proposed figure instead of approved figure for FY 2017-18. In this regard it is to submit that as per Odisha Electricity Regulatory Commission (Terms and Conditions for Determination of Wheeling Tariff and Retail Supply Tariff) Regulations, 2014 vide clause 6, the utility is required to file its ARR along with computation of wheeling and retail tariff before 30th November each year.
11. WESCO Utility stated that GRIDCO being the deemed Trading Licensee, is the State Aggregator of power. It purchases power from different sources including Renewable Sources and supplies the same to DISCOMs at Bulk Supply Price (BSP) fixed by the Commission. In this scenario of Single Buyer Model of Power Purchase, the BSP as approved by the Commission is the prudent Cost of Power for respective DISCOMs. It is not proper to ascribe weighted Average Cost of Power Purchase of top 5% at the margin by GRIDCO to any particular DISCOM or several DISCOMs because the power procured by GRIDCO has already been pooled at their end before it is sold to DISCOMs. Accordingly, the BSP of respective DISCOMs is the Power Purchase Cost for calculation of Cross-Subsidy Surcharge
12. The Commission heard the parties at length and observed that the above issues have already been dealt in the Aggregate Revenue Requirement (ARR), Wheeling Tariff and Retail Supply Tariff order (Case No. 66, 67, 68 & 69 of 2016) and approval of wheeling charges, surcharges and additional surcharges (Case No. 70, 71, 72 & 73 of 2016) order dt.23.03.2017 for FY 2017-18 of DISCOMs namely NESCO, WESCO, SOUTHCO Utilities & CESU, hence no further deliberation is required.
13. However, the extract of the said order vide Para 323 to Para 335 are reproduced below for convenience.

“Decision of the Commission on Open Access Charges (Cross Subsidy Surcharge and Wheeling Charges)

323. *The Commission has carefully examined all applications received from the DISCOMs as well as from objectors on the methodologies for estimating the Cross-subsidy Surcharge and the Additional Surcharge.*
324. *Some objectors pointed out that the cross subsidy surcharge should be calculated as per the methodology specified in Regulation 4.2 of OERC (Determination of Open Access Charges) Regulations, 2006. This Regulation deals with computation of cost for determination of cross subsidy surcharge. The power purchase cost which is one of the cost should be determined as per that Regulation basing on in weighted marginal cost of power purchase and should be considered as avoided cost of power purchase for the capacity that is likely to move away due to open access transaction. But we have certain uniqueness in the structural and functional aspects of power sector in the State. DISCOM utilities purchase power from GRIDCO where all the PPAs of the Generators have been assigned. The rational behind the approach of calculating “C” has already been defined vide para 355 of RST order for FY 2015-16. Accordingly, cost of power purchase by DISCOM utilities is sum of BSP of respective DISCOM utility and transmission charges.*
325. *The tariff for HT and EHT consumers for determination of cross subsidy surcharge has been assumed at 100% load factor since open access drawal is made to utilise the full quantum of the power so availed. The formula prescribed in Tariff Policy in Para 8.5.1 for determination of cross subsidy surcharge is as follows:*

Surcharge formula:

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

Where:

S is the surcharge

T is the tariff payable by the relevant category of consumers, including reflecting the Renewable Purchase Obligation

C is the per unit weighted average cost of power purchase by the Licensee, including meeting the Renewable Purchase Obligation

D is the aggregate of transmission, distribution and wheeling charge applicable to the relevant voltage level

L is the aggregate of transmission, distribution and commercial losses, expressed as a percentage applicable to the relevant voltage level

R is the per unit cost of carrying regulatory assets.

326. *The Commission now adopts 'C' equal to BSP of respective DISCOMs as followed in earlier years and as explained above. Similarly 'T' is the tariff at 100% load factor including demand charges for the respective voltage level. The wheeling charges 'D' is as determined from the distribution cost approved for the FY 2015-16 and 'L' is presently 8% at HT level whereas for EHT there is no requirement of incorporation since it has already been accounted for in the Bulk Supply Price of the DISCOM utilities.*
327. *The Commission does not differentiate between 11 KV and 33 KV in determination of wheeling charges. The wheeling as per our Wheeling Tariff and Retail Supply Tariff Regulations, 2014 includes distribution system and associated facilities of a distribution licensee. This takes care of both the voltage at 11 KV and 33 KV. Therefore, the Commission determines a single wheeling charge for 11 KV and 33 KV.*
328. *Regarding inclusion of medium term open access as pointed by one objector we feel that it is a regulatory issue and hence cannot be decided by this order. Commission may consider the same at an appropriate stage.*
329. *While determining CSS, in case of partial open access, the deduction of demand charges from applicable tariff is not possible at present unless information on actual intended quantity of power to be procured under open access is known. Therefore, the contention of one of the objector for factoring reduction of demand charges in case of partial open access for calculation of CSS is not acceptable.*
330. *In view of several objections regarding delay in granting permission to open access transaction, SLDC is directed to consider independently as per law and allow Open Access applications of all the consumers within the permissible time frame on receipt of requisite fee and on completion of all formalities as detailed in OERC Regulation without any discrimination under intimation to the applicant within the stipulated period.*
331. *Basing on the above the wheeling charges and cross subsidy surcharges have been determined as follows:*

Table – 26
Wheeling Charges Approved for FY 2017-18

	CESU	NESCO Utility	WESCO Utility	SOUTHCO Utility
<i>Energy Handled at HT (MU)</i>	7977.37	3852.56	5855.00	3196.94
<i>Net Distribution Cost</i>	401.42	296.72	294.51	209.50
<i>Wheeling Charge calculated for 2017-18 (Paise per unit)</i>	50.32	77.02	50.30	65.53

Table - 27
Computed Surcharge for Open access consumer 1MW & above

DISCOM	CESU	NESCO Utility	WESCO Utility	SOUTHCO Utility
<i>Surcharge for EHT Consumer (P/U)</i>	224.90	197.90	197.90	299.90
<i>Surcharge for HT Consumer (P/U)</i>	153.57	97.52	124.24	219.88

332. As per mandate of the Electricity Act, 2003 under Section 42 the cross subsidy surcharge is to be reduced progressively. The Commission is authorized to evolve a methodology for such reduction. Basing on the suggestions during the hearing in the last year so also in the current proceeding, the Commission have fixed leviabale surcharge at 65% of the computed value of the same for this year.

Table – 28
Leviabale Surcharge, Wheeling Charge & Transmission Charge for Open access consumer 1MW & above for FY 2017-18

<i>Name of the licensee</i>	<i>Cross Subsidy Surcharge (P/U)</i>		<i>Wheeling Charge P/U applicable to HT consumers only</i>	<i>Transmission Charges for Short Term Open access Customer (applicable for HT & EHT consumers)</i>
	<i>EHT</i>	<i>HT</i>		
CESU	146.19	99.82	50.32	Rs. 1500/MW/day or Rs.62.5/MWh
NESCO Utility	128.64	63.39	77.02	Rs. 1500/MW/day or Rs.62.5/MWh
WESCO Utility	128.64	80.76	50.30	Rs. 1500/MW/day or Rs.62.5/MWh
SOUTHCO Utility	194.94	142.92	65.53	Rs. 1500/MW/day or Rs.62.5/MWh

Additional Surcharge

333. As per principle followed in the previous order, we have not determined additional surcharge over and above the surcharge to be paid to the DISCOMs 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.

334. *Therefore, we decide accordingly.*

- (i) The wheeling charge and surcharge as indicated in Table above shall be applicable from the date of this order.*
- (ii) The normative transmission loss at EHT (3.50%) and normative wheeling loss for HT level (8%) shall be applicable for the year 2017-18.*
- (iii) No Cross-subsidy surcharge is payable by the consumers availing Renewable power through open access.*
- (iv) 20% wheeling charge is payable by the consumers drawing power through open access from Renewable source excluding Co-generation & Bio mass power plant.*

These charges as notified for the FY 2017-18 will remain in force until further orders.

14. Accordingly, the case is disposed of.

Sd/-
(S.K.Parhi)
Member

Sd/-
(A. K. Das)
Member

Sd/-
(U. N. Behera)
Chairperson