

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

Present : Shri S. P. Nanda, Chairperson
Shri A. K. Das, Member

	<u>Case No. 61/2015</u>	
NESCO Utility	.....	Petitioner
- Vrs. –		
DoE, GoO & others	.....	Respondents
AND		
	<u>Case No. 62/2015</u>	
WESCO Utility	.....	Petitioner
- Vrs. –		
DoE, GoO & others	.....	Respondents
AND		
	<u>Case No. 63/2015</u>	
SOUTHCO Utility	.....	Petitioner
- Vrs. –		
DoE, GoO & others	.....	Respondents
AND		
	<u>Case No. 64/2015</u>	
CESU	.....	Petitioner
- Vrs. –		
DoE, GoO & others	.....	Respondents

In the matter of: **Applications of NESCO Utility, WESCO Utility, SOUTHCO Utility & CESU for approval of Open Access Charges (Transmission /wheeling Charges, Surcharge and Additional Surcharge) for the FY 2016-17 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.**

For Petitioners : Shri P. K. Mohanty, NESCO Utility, Ms. Malancha Ghose, NESCO Utility, Shri K. C. Nanda, DGM (Fin), WESCO Utility, Shri Subrat Kumar Routray, Manager, Finance, (Comm. & RA), SOUTHCO Utility, Shri P K Dash, CESU, Shri T K Mohanty, CESU, Shri S Biswal, AM (Elect.), CESU.

For Respondents : Shruti Bhatia, Vice President, Indian Energy Exchange (IEX), Shri S. K. Puri, GM, OPTCL, Shri Bibhu Charan Swain, the Authorized Representative of M/s. NOCCI, M/s. Facor Power Ltd., M/s. VISA Steel Ltd., M/s. Shri Radha Krishna Ispat(P) Ltd., M/s. Shree Salasar Casting Pvt. Ltd., M/s. Bajrang Steel & Alloys(P) Ltd., M/s. Refulgent Steel & Alloys (p) Ltd., M/s. Top tech Steels(P) Ltd., M/s. Maa Girija Ispat(P) Ltd., M/s. Jagannath Alloys (P) Ltd., M/s. Radharaman Alloys (P) Ltd., M/s. Vishal Ferro Alloys Ltd., M/s. Swain and Sons Power

Tech. (P) Ltd., Shri Ashok Kumar Parida, Chief Resident Manager, M/s. NBVL, Shri Manoj Satpathy, AGM (Legal), M/s. Vedanta Ltd., Shri S K Nanda, Advocate and Shri Satyakam Swayamsiva, Advocate on behalf of M/s. NBVL and M/s. Vedanta Ltd., Shri D P Modani and Shri R P Mohapatra the authorised representative of M/s. Grasim Industries Ltd., Shri Prashant Kumar Das, President State Public Interest Protection Council, Cuttack, Ms. Niharika Pattanaik, ALO, DoE, GoO.

Date of Hearing: 15.02.2016

Date of Order:11.04.2016

ORDER

1. The Distribution Licensees WESCO Utility, SOUTHCO Utility, NESCO Utility and CESU (the DISCOMs) had filed their applications before this Commission for Determination of Open Access Charges for the FY 2016-17 applicable to open access customers for use of intra-state transmission/distribution systems following Section 42 of the Electricity Act, 2003, read with OERC (Terms and Conditions for Determination of Open Access Charges) Regulations, 2006.
2. As per direction of the Commission, the applications filed by the DISCOMs were published in the English and Odia Newspapers for inviting suggestions/objections, if any, from various stakeholders. The Commission had received the objections/suggestions from the following persons/ institutions with regard to the application of DISCOMs for fixing Open Access charges. The DISCOMs also have filed their rejoinders to the objections / suggestions of the stakeholders.

Shri Prashant Kumar Das, M/s. NOCCI, M/s. Facor Power Ltd., M/s. VISA Steel Ltd., M/s. Indian Energy Exchange (IEX), M/s. OPTCL on the application for Open Access charges for FY 2016-17 of NESCO Utility, M/s. Grasim Industries Ltd., Shri Prashant Kumar Das, President State Public Interest Protection Council, Cuttack, M/s Swain & Sons, Power Tech Pvt. Ltd., M/s. Indian Energy Exchange (IEX), M/s. OPTCL on the application for Open Access charges for FY 2016-17 of SOUTHCO Utility, Shri Prashant Kumar Das, M/s. Shri Radha Krishna Ispat(P) Ltd., M/s. Shree Salasar Casting Pvt. Ltd., M/s. Bajrang Steel & Alloys(P) Ltd., M/s. Refulgent Steel & Alloys (p) Ltd., M/s. Top tech Steels(P) Ltd., M/s. Maa Girija Ispat(P) Ltd., M/s. Jagannath Alloys (P) Ltd., M/s. Radharaman Alloys (P) Ltd., M/s. Vishal Ferro Alloys Ltd., and M/s. Vedanta Ltd., M/s. Indian Energy Exchange (IEX), M/s. OPTCL on the application for Open Access charges for FY 2016-17 of WESCO Utility, Shri Prashant Kumar Das, M/s Swain & Sons, Power Tech Pvt. Ltd., M/s. NBVL, M/s. Indian Energy Exchange (IEX), M/s. OPTCL on the application for

Open Access charges for FY 2016-17 of CESU along with the submissions of DoE, GoO on the above applications for open access charges of the DISCOM Utilities.

3. The DISCOMs in their applications have calculated Open Access Charges for the year FY 2016-17 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 consumers for FY 2016-17

Name of the Licensee	Open Access Surcharge for EHT Consumer (Paise/Unit)	Open Access Surcharge for HT Consumer (Paise/Unit)	Wheeling Charge at HT (Paise/Unit)	Additional surcharge (Paise/Unit)
CESU	206.00 (400.00 for Emergency Supply to CGP consumer)	188.00 (387.00 for Emergency Supply to CGP consumer)	86.00	8.70
NESCO Utility	233.00	79.00	159.00	-
WESCO Utility	292.00	137.00	85.00	-
SOUTHCO Utility	351.00	188.00	206.00	-

4. The DISCOMs have submitted that the distribution licensee may be allowed to reserve adequate transmission corridor for new consumers while allowing open access. On contract demand of OA consumers they have submitted that while approving SMD in respect of each distribution licensee the Commission should take into consideration contract demand / recorded maximum demand of the Open Access consumers. They have also submitted that the new consumers should pay cross subsidy surcharge as per existing consumer.
5. The respondents/ objectors have submitted the following points on the proposed Open Access charges before the Commission for consideration.
 - In absence of approved ARR for FY 2016-17, it is not appropriate to go ahead with present petition.
 - As per Electricity Act, the Cross subsidy Surcharge should be gradually reduced every year and also a road map is to be made by the Commission for reduction of same.

- Due to very high cross subsidy surcharge in SOUTHCO Utility, the total cost of the energy is very high and no consumer in SOUTHCO Utility area can afford to purchase power through open access.
- Computation of cross subsidy surcharge for EHT & HT consumers of SOUTHCO Utility basing on Tariff Policy & OERC approved tariff for 2015-16 would be as follows.

Table – 2

	EHT	HT
Average tariff for EHT consumers (Rs./Unit)	4.50	4.55
Tariff of top 5% energy to be procured by GRIDCO including PGCIL, OPTCL tr. Charge, ERLDC & SLDC charge (Rs./Unit)	3.70	3.70
Wheeling Charge (Rs./Unit)		CESU: 0.599 , NESCO: 0.593 WESCO: 0.496, SOUTHCO: 0.836
Surcharge (Rs./Unit) (Considering formula laid down in NTP, wheeling charge & system loss as 0% in EHT & 8% at HT)	0.80	CESU: (-) 0.594 , NESCO : (-) 0.588 WESCO: (-)0.490, SOUTHCO: (-) 0.830 (Negative means HT consumer is not required to subsidize the DISCOMs)

- The cross subsidy has been calculated considering cost to serve all consumers of the state taken together , then Cross subsidy surcharge should have been calculated based on the same methodology.
- CSS should be determined for each category of consumer separately, since each consumer category has different tariff rate.
- There should not be any cross subsidy surcharge payable by the consumer procuring renewable and cogeneration based energy from other sources.
- There is no ground to limit the quantum of open access power beyond its contracted capacity for the existing consumer till no new consumer starts drawing power from the network otherwise it will lead to poor utilization of Network.
- No Cross subsidy surcharge 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.
- There is no concept of reservation of distribution capacity as submitted by the DISCOM. DISCOMs are obligated to give appropriate connectivity to the

consumers and for such connectivity adequate capacity of the system is prerequisite.

- Wheeling charges should be 25% of that for long term customers.
- For the purpose of determination of wheeling charge at HT, the applicable cost for the HT distribution system is to be taken into account instead of the total cost of distribution system.
- The Commission may devise a suitable mechanism for determination of the value of 'C' which is the weighted average cost of power purchase of top 5% at the margin as per Tariff Policy.
- One objector proposed the quantum of cross subsidy surcharge basing on Tariff Policy and OERC Tariff order which is given below:

Table – 3

Average tariff as applicable to the EHT consumers as per OERC Tariff (normal energy charge >60% = 415 P/U) and demand charge (38.58 paisa) at 100% load factor	453.58 Paise
Tariff of top 5% energy to be procured by GRIDCO including PGCIL, OPTCL tr. Charge, ERLDC & SLDC charge (P/U)	599.73 Paise (539.9 + 33.8 + 25.0 + 0.6 + 0.34)
Cross Subsidy Surcharge for EHT (P/U) (Considering formula laid down in NTP, wheeling charge & system loss as 0%)	- 146.15 Paise

It may be noted that for any energy intensive industries operating with more than 60% load factor the cross subsidy surcharge is negative. So there should not be any cross subsidy surcharge for these industries.

- The existing open access charges and proposed open access charges of DISCOMs in Odisha is higher 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.
- In case of Consumers procuring power corresponding to their partial demand through Open access and are paying demand charges towards full contract demand to DISCOM, in such case 'T' i.e. Average Tariff in the Formula of CSS should calculated excluding demand charge as demand charge recovered some part of fixed cost of DISCOM.

- 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 or power Regulations, no cross subsidy surcharge should be payable.
 - 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.
6. In reply to the objection raised by the Objector, the DISCOMs have submitted the rejoinder on the proposed Open Access Charges of DISCOMs for the year 2016-17 which are as follows:
- Regarding calculation of 'C', they have submitted that to consider average power purchase cost of top 5% of GRIDCO may not be correct as the DISCOMs are not purchasing power from the Generator directly to distribute the same to the consumers. GRIDCO is sourcing the power from different generator as a Trading Licensee under Single Buyer Model in Odisha.
 - The licensee would in no way stop incurring the other costs except BSP in case a consumer chooses to avail power supply under open access mechanism. Then recovery of other costs is required to be levied from consumers not availing open access.
 - The calculation suggested by M/s. Vedanta is only the rate for the consumption above 60% LF and the rate for the consumption upto 60% of LF has not been considered. Tariff at 100% LF means the average rate for consumption upto 60% and consumption more than 60% which would be Rs.4.78/- P/U instead of Rs.4.15/- P/U. Apart from the demand charges other charges like reliability surcharge, customer service charges, P.F. penalty if any etc. are also part of tariff. Hence while calculating tariff of any HT and EHT category the entire components are also required to be factored in.
 - They submitted that the approved cost under different head in Tariff Order should be taken for determination of wheeling charge instead of actual cost as per audited accounts as suggested the objectors. This is because the actual cost is trued up subsequently with respect to approved cost which is finally passed on to the consumers.

- DISCOMs submitted that in case of shared feeder where other consumers are availing power, the utility is duty bound to make available the required energy rather than facilitate open access.
 - In case of partial open access, for calculation of cross subsidy surcharge (CSS) deduction of Demand charges from Average Tariff i.e. 'T' may not be possible as CSS can not be calculated consumer wise anticipating partial open access. Further, consumers interested to avail partial open access needs to declare their consumption from the licensee for the ensuing year upfront so that the same can be factored in the ARR accordingly, upfront approval can be obtained to the extent of partial/ full open access to be made by the consumers during ensuing year.
 - The contention of objector that no consumer can afford to purchase power through open access is false as because 6nos. of consumer availing open access in NESCO utility alone.
7. The Commission has carefully examined all applications received from the DISCOMs as well as views of objectors on the methodologies for estimating the Cross-subsidy Surcharge and the Additional Surcharge. As the subject matters of all the above cases are similar in nature and the Commission has heard the views of all the applicants analogously, therefore, a common order is passed now.
8. The Commission has approved the Annual revenue requirement and Tariff of the following Utilities on dt.21.03.2015 for FY 2016-17 which has been made effective from 01.04.2016.
- ARR & Transmission charges of OPTCL vide its order in Case No.55/2015
 - ARR & Retail Supply tariff of Distribution licensees in Case Nos.57,58,59 & 60 of 2015
 - ARR & BSP of GRIDCO in Case No.54/2015
 - ARR & Fees and Charges for SLDC vide Case No.56/2015
- 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 the above orders.
9. 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 first fixed by the Commission for 2008-09 in its order dated 29.03.2008 in Case No. 66, 67, 68 & 69 of 2006. The detailed procedures and methodologies for computation of surcharge for different consumer categories had been elaborately described in the said order. Subsequently, the Commission has passed several orders for succeeding years on Open Access Charges applicable to open access customers for use of Intra-state transmission/ distribution system basing on the same principle. In the meantime, Ministry of Power on 28.01.2016 has notified the new Tariff Policy. The Commission is also to be guided by the same Policy. The Commission, therefore, has adopted the consistently 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 i.e. FY 2016-17.

10. 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 GRIDCO has been declared as 'State Designated Agency' to procure power from the Generators to meet the requirements of the State. Therefore, GRIDCO purchases both high cost thermal power and also low cost hydro power and supplies this pooled power to the DISCOM utilities at bulk supply price fixed by the Commission. GRIDCO also discharges the obligation for purchase of Renewable Energy for the consumers of the DISCOMs. Accordingly, GRIDCO becomes a virtual generator for DISCOM utilities. The bulk supply price of GRIDCO is the unique power purchase price of DISCOMs without any differentiation of low or high cost marginal generation. In addition to BSP all the DISCOM utilities pay transmission charges to State Transmission Utility (OPTCL) for transmitting power in its EHT network to be delivered at inter-connection points with the DISCOMs. Hence, for our purpose cost of power purchase by DISCOM utilities is sum of BSP of respective DISCOM utility and transmission charges.
11. The tariff for HT and EHT consumers for determination of cross subsidy surcharge has been assumed in 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 notified by MOP on 28-01-2016 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.

12. The Commission now adopts 'C' in the formula equal to BSP of respective DISCOMs as followed in the earlier years and as explained in the preceding paragraphs. 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 2016-17 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.
13. Basing on the above the wheeling charges and cross subsidy surcharges have been determined as follows:

Table – 4
Wheeling Charges Approved for FY 2016-17

	CESU	NESCO Utility	WESCO Utility	SOUTHCO Utility
Wheeling Charge approved in Case Nos. 57,58,59 & 60 of 2015 for 2016-17 (P/U)	53.18	69.61	43.58	62.63

Table - 5
Computed Surcharge for Open Access Consumer 1MW & above

DISCOM	CESU	NESCO Utility	WESCO Utility	SOUTHCO Utility
Surcharge for EHT Consumer (P/U)	220.89	193.89	194.89	293.89
Surcharge for HT Consumer (P/U)	147.05	101.27	128.39	216.95

14. 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 considered the reduction in cross subsidy in past years. The cross subsidy surcharge has been reduced by the Commission from 70% level in 2015-16 of the computed value (based on the formula prescribed in the Tariff Policy and now termed as leviable surcharge) to 65% this year.

Table – 6
Leviable Surcharge, Wheeling Charge & Transmission Charge for Open access consumer 1MW & above for FY 2016-17

Name of the licensee	Cross Subsidy Surcharge (P/U)		Wheeling Charge P/U applicable to HT consumers only	Transmission Charges for Short Term Open access Customer (applicable for HT & EHT consumers)
	EHT	HT		
CESU	143.58	95.58	53.18	Rs. 1500/MW/day or Rs.62.5/MWh
NESCO Utility	126.03	65.82	69.61	Rs. 1500/MW/day or Rs.62.5/MWh
WESCO Utility	126.68	83.45	43.58	Rs. 1500/MW/day or Rs.62.5/MWh
SOUTHCO Utility	191.03	141.02	62.63	Rs. 1500/MW/day or Rs.62.5/MWh

15. 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.
16. In view of several objections regarding delay in granting permission to open access transaction, SLDC is directed to consider 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 subject to transmission availability and any order of Government or legal barriers, if any, as per the Act under intimation to the applicant within the stipulated period.
17. With regard to the contention of one of the respondent that open access charges should not be applicable to the consumers availing power from renewable sources it is

to be mentioned here that as per Regulation 12.1 of OERC (Procurement of Energy from Renewable sources and its Compliance) Regulation, 2015 third party sale from Renewable energy sources shall be exempted from the cross-subsidy surcharge determined by the Commission from time to time. The Commission also decides that the open access consumer availing renewable power except co-generation and bio-mass through third party sale shall pay wheeling charges 20% of the same charge applicable to other consumers in the current year.

18. While determining CSS, in case of partial open access the deduction of demand charges from applicable tariff is not possible at this stage 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 cannot be accepted at this stage.
19. In case there is statutory power cut or restriction due to major break down the cross-subsidy surcharge is also to be accordingly calculated basing on the actual power drawn and not on the schedule of drawal.
20. We don't agree with the contention of DISCOMs that their SMD over shoots due to open access consumers for which they must be compensated. This is because the DISCOMs must be aware of their own demand well in advance and accordingly estimate the SMD before submitting the same to the Commission for approval.
21. Therefore, we decide accordingly.
 - (i) The wheeling charge and surcharge as indicated in Table - 6 shall be applicable from the date of this order.
 - (ii) The normative transmission loss at EHT (3.70%) and normative wheeling loss for HT level (8%) shall be applicable for the year 2016-17.
 - (iii) No Cross-subsidy surcharge charges 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.
22. These charges as notified for the FY 2016-17 will remain in force until further orders.

23. Accordingly the Case Nos. 61, 62, 63 & 64 of 2015 relating to approval of Open Access Charges (Transmission/wheeling Charges, Surcharge and Additional Surcharge) for the FY 2016-17 are disposed of.

Sd/-
(A. K. DAS)
MEMBER

Sd/-
(S. P. NANDA)
CHAIRPERSON