

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 01 of 2025

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 April 2025 to September 2025.

And

Uttarakhand Power Corporation Limited. (UPCL)

...Petitioner

Coram

Shri M.L. Prasad

Chairman

Shri Anurag Sharma

Member (Law)

Date of Order: April 8, 2025

ORDER

This Order relates to the Petition dated 30.12.2024 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 April 2025 to September 2025.

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 April, 2024 to September, 2024 as shown in the Table below:

Table 1

S. No.	Month	Open Access Energy (MU)	Stranded Energy (MU)
1	Apr-24	0.05	0.05
2	May-24	6.24	6.24
3	Jun-24	9.65	9.65
4	Jul-24	10.12	10.12
5	Aug-24	0.09	0.09
6	Sep-24	11.87	11.87
Total		38.02	38.02

- 1.6. Further the Petitioner submitted the details of energy received, energy surrendered, total energy entitled at State periphery and fixed cost of 06 plants for the period from April, 2024 to September, 2024 and the same is shown in the 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	22.77	18.20	40.97	6.36	1.55
2	Dadri Gas	12.46	122.83	135.29	7.50	0.55
3	FG Unchahar-3	24.43	22.62	47.05	6.18	1.31
4	FG Unchahar-4	64.99	54.76	119.75	19.84	1.66
5	Anta	1.82	63.91	65.73	4.97	0.76
6	Auriya	3.12	121.21	124.33	9.82	0.79
Total		129.59	403.53	533.12	54.67	1.03

- 1.7. The Petitioner has given the computation of per unit additional surcharge to be levied for the period April 2025 to September 2025 as per the table below:

Table 3

S. No.	Particulars	Value
a	Average fixed cost at State periphery (Rs. / unit)	1.03
b	Average fixed cost at consumer end after considering approved PTCUL losses @ 1.40% and distribution losses 13.00% @ (Rs. / unit)	1.20
c	Stranded energy (MU)	38.03
d	Open access energy (MU)	38.03
e	Proposed additional surcharge (b x c / d) (Rs. / unit)	1.20

- 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.	Amar Ujala	18.01.2025
2.	The Times of India	18.01.2025

2. Stakeholders Comments

- 2.1. In response to the Public Notice, following 04 nos. stakeholders have submitted their objections/suggestions/comments before the Commission.

- (i) Shri Pawan Agarwal, Vice President, Uttarakhand Steel Manufacturers Association (Body of Small & Medium Industries of Uttarakhand), C/o Shree Sidhballi Industries Ltd. Kandi Road, Kotdwar.
- (ii) Shri Alok Bansal, President, Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand, Chamber House-Industrial Estate Bazpur Road, Kashipur-District U.S. Nagar.

- (iii) Shri Shakeel A. Siddiqui, Industrial Advisor, SPING Indostar HD, M/s Galwalia Ispat Udyog Pvt. Ltd. Narain Nagar Industrial Estate, Bazpur Road, Kashipur-2447313
- (iv) Shri Shakeel A. Siddiqui, Industrial Advisor, Spinning Division, Kashi Vishwanath Textile Mills (P) Ltd. 5th Km Stone, Ramnagar Road Kashipur-244713-U.S. Nagar.

2.2. The comments made by the aforesaid four stakeholders are basically same and similar in nature, which can be summarised as under:

- 2.2.1. Delayed sharing of Petitions/documents with consumers. The Petition including public notice is dated 30-12-2024 but was posted on the website of UPCL on 17-01-2025.
- 2.2.2. Rule 13 of The Electricity Rules, 2005 provides that the surcharge, determined by State Commission under clause (a) of subsection (1) of Section 86 of The Electricity Act, 2003 shall not exceed 20% of the average cost of supply.
- 2.2.3. The Petition filed is defective in absence of support of detailed information and is liable to be dismissed.
- 2.2.4. The petition is ultra vires to the Act, Rules, Policy and Regulations and needs to be dismissed.
- 2.2.5. The petition does not evaluate the additional surcharge based on The Electricity Rules 2005 which is very specific that the additional surcharge shall not be applicable for Open Access Consumer to the extent of contract demand being maintained hence all the consumers cannot be made liable to pay demand surcharge to the extent of demand, hence needs to be dismissed.
- 2.2.6. There is no stranded power as is exhibited by the UPCL data, it is merely making the additional surcharge a tool to recover extra amount from the industrial consumers.
- 2.2.7. The submissions with detailed information should be asked for from UPCL and to be shared with the consumers, and further the consumers

need to be given chance to keep their view on submissions and information from UPCL before deciding order on additional surcharge.

- 2.2.8. When UPCL is in shortage of power, its claim for surrender for power due to open access is not correct.

3. Petitioner's Response

- 3.1. The Petitioner vide letters No. 1165, 1166, 1167 & 1168/UPCL/RM/B-24 dated 03.03.2025 has submitted its reply, the same has been summarised as under:

3.1.1. With regard to issue at Para 2.2.1 above, the Petitioner has submitted that it had filed the instant Petition within stipulated time i.e. on 30.12.2024. The Commission after admitting the Commission vide letter dated 08.01.2025 directed the Petitioner and thereafter the Petitioner published a Public Notice on 18.01.2025 and the said notice along with Petition was posted on website on 17.01.2025. There was some delay in posting the petition and notice on the website. UPCL will ensure in future for doing this activity within stipulated time.

3.1.2. With regard to issue at Para 2.2.2 above, the Petitioner has submitted that the rule 13 of The Electricity Rules, 2005 speaks about the Cross Subsidy Surcharge, not the Additional Surcharge and the Cross Subsidy Surcharge as determined by the Commission in its Tariff Order is much less than the 20% of Average Cost of Supply, as per details mentioned hereinbelow:

- i. Cross Subsidy Surcharge for FY 2024-25: Rs. 0.58 p.u. (8% approx.)
- ii. Average Cost of Supply for FY 2024-25: Rs. 7.32 p.u.

3.1.3. With regard to issue at Para 2.2.3 above, the Petitioner has submitted that this Petition has been filed as per the provisions, as specified in the Electricity Act, 2003, the National Tariff Policy, 2016, UERC (Terms and Conditions of Intra State Open Access) Regulations, 2015 and methodology approved by the Commission in its order dated 29.08.2019 and 19-06-2020. All the information required to be filed with petition has been provided within the petition. Further, all information as desired by

the Commission shall also be provided by UPCL to the Commission.

- 3.1.4. With regard to issue at Para 2.2.4 above, the Petitioner has submitted that the petitioner does not agree with the contention of the Consumer that the petition is ultra vires to the Act, Rules, Policy, and Regulations. The filed petition is as per the provisions, as specified in the Electricity Act 2003, the National Tariff Policy, 2016, UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2015 and methodology approved by the Commission in its order dated 29-08-2019 and 19-06-2020.
- 3.1.5. With regard to issue at Para 2.2.5 above, the Petitioner has submitted that Section 42 (4) clearly mandates for levy of Additional Surcharge to meet the fixed cost of the distribution licensee arising out of his obligation to supply. 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."

It is clear that the Additional Surcharge shall be charged as per the Regulations specified by the Commission. The Petitioner referred to Regulation 23 of the (Terms and Conditions of Intra-State Open Access) Regulations, 2015, which specifies the applicability of Additional Surcharge as follows:

"(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 established a captive generation plant for carrying the electricity to the destination of his own use."

The Petitioner further 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.

The Petitioner further referred to second proviso of Rule 22 (3) of The Electricity Rules, 2005, which stipulates about the non-applicability of Additional Surcharge on the energy procured by the Consumer from the Distribution Licensee. Accordingly, the Petitioner has not proposed any Additional Surcharge on the energy to be procured by the Consumer from UPCL.

3.1.6. With regard to issue at Para 2.2.6 above, the Petitioner has submitted the

details of stranded energy due to open access and the energy drawn through open access by the Consumers at State Periphery as shown in **Table 1 above**.

- 3.1.7. With regard to issue at Para 2.2.7 above, the Petitioner has submitted that all the details, including the methodology for computation of Additional Surcharge, have been mentioned in the Petition. Furthermore, the Petitioner shall provide all the desired information regarding this Petition as per the direction of the Commission.
- 3.1.8. With regard to the issue at Para 2.2.8 above, the Petitioner has submitted that, it is correct that there is a deficit of power in UPCL, which is met through short-term sources, i.e., purchase from energy exchanges, tender purchases, and banking arrangements. However, the entire deficit is not uniform across all 96 blocks of the day (each block being 15 minutes), in some cases, UPCL is forced to surrender its power due to open access and is required to bear the fixed cost of the stranded energy resulting from such open access. For recovery of this fixed cost, UPCL has computed and claimed an additional surcharge in its Petition.

4. Commission's views and decision

- 4.1. The Commission has gone through the Petition filed by UPCL, objections/suggestions/comments received from the Stakeholders and response of the Petitioner, i.e. UPCL and further replies submitted by the Stakeholders.
- 4.2. The Commission observes that most of the contentions of the Stakeholders are similar to the one made earlier during the determination of additional surcharge for the previous periods. Since the Commission has already spelt out its views on those contentions in the previous Orders for determining additional surcharge and in the Order dated 12.03.2025 of the Commission passed in the review of the Order dated 30.09.2024. Therefore, there being nothing new the views expressed earlier, are not reiterated.
- 4.3. The determination of Additional surcharge 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.

4.4. The Commission examined the relevant data submitted by the Petitioner pertaining to slot wise energy surrendered, open access availed in that particular time slot, and the calculation submitted for working out the average fixed cost during the period (April 2024 to September 2024) of the 06 generating stations namely Jhajjar, Dadri Gas, FG Unchahar-3, FG Unchahar-4, Anta & Auriya. The procedure followed by the Commission for working out the additional surcharge during the period is as detailed below:

4.4.1. Slot-wise surrendered power (in MW) was calculated for each day of the period (April 2024 to September 2024) 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.

4.4.2. Slot-wise stranded power (in MW) was calculated for each day of the period (April 2024 to September 2024) 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	Apr-24	6.19	6.19
2	May-24	7.27	7.27
3	Jun-24	10.96	10.96
4	Jul-24	13.34	13.34
5	Aug-24	17.09	17.09
6	Sep-24	16.15	16.14
Total		71.00	71.00

4.4.3. The Commission calculated the average fixed cost of the power purchased through 06 generating station namely Jhajjar, Dadri Gas, FG Unchahar-3, FG Unchahar-4, Anta & Auriya on the basis of actual bills raised against the respective generating stations during the period April

2024 to September 2024. The Commission for calculation of stranded power, energy received from the aforesaid 06 stations and open access power at consumer end has taken distribution losses as 13.00% and Transmission losses as 1.10% as has been approved in respective Tariff Orders dated 28.03.2024.

Table 6

S. No.	Month	Total Entitlement at State periphery (in MU)	Total Fixed Cost (Rs. Cr)
1	Jhajjar	39.80	5.91
2	Dadri Gas	134.42	7.53
3	F G Unchahar-3	45.53	6.37
4	F G Unchahar-4	117.35	18.90
5	Anta	79.11	4.98
6	Auriya	128.85	9.82
Total		545.06	53.51

- 4.4.4. For arriving at the stranded cost of power (in Rs. Crore) due to open access consumers during the period April 2024 to September 2024, 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 April 2025 to September 2025. The per unit Additional Surcharge to be levied by the Distribution licensee for the period 01.04.2025 to 30.09.2025 is shown in the table below:

Table 7

a) Stranded Power due to open access consumers at State Periphery (MUs)	71.0
b) Stranded Power due to open access at consumer end (MUs)	61.09
c) Billed fixed cost of 6 Generating Stations during the period April 2024 to September 2024 (Rs Cr)	53.51
d) Energy received at State periphery from the 06 ISGS stations during the period April 2024 to September 2024 (MUs)	545.07
e) Corresponding energy received from the 06 ISGS stations during the period at Consumer end (MUs)	468.99
f) Weighted average fixed cost of 06 stations at consumer end (Rs. /Unit) [(c)*10/(e)]	1.14
g) Total cost of Stranded power due to open access consumers (Rs. Cr) [(f)*(b)/10]	6.97
h) Total Open Access Units at State periphery for the period April 2024 to September 2024 (MUs)	71.0
i) Corresponding Open Access power at consumer end (MUs)	61.09
j) Applicable Additional Surcharge for the period April 2025 to September 2025 (Rs./Unit) based on the open access units for the period April 2024 to September 2024 [(g)*10/(i)]	1.14

- 4.5. In view of the above, the Commission determines Additional Surcharge as Rs. 1.14 per Unit. The additional surcharge so determined shall be effective for the period 01.04.2025 to 30.09.2025.

Ordered accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman