Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 38 of 2024

In the matter of:

Application for 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.

And

Uttarakhand Power Corporation Limited. (UPCL)

…Petitioner

Coram

Shri M.L. Prasad	**Member (Technical)/Chairman(I/c)**
Shri Anurag Sharma	**Member (Law)**

Date of Order: September 30, 2024

ORDER

This Order relates to the Petition dated 29.06.2024 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 October 2024 to March 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. Regulation 8 of the UERC (Green Energy Open Access) Regulations, 2023 in respect of applicability of Additional Surcharge specifies as under:

"(1)…

Provided also that no additional surcharge shall be applicable on embedded consumers of distribution licensee who opt for Green Energy Open Access.

Provided also that cross subsidy surcharge and additional surcharge shall not be applicable in case power produced from a non-fossil fuel-based Waste-to-Energy plant is supplied to the Open Access Consumer.

Provided also that cross subsidy surcharge and additional surcharge shall not be applicable if green energy is utilized for production of green hydrogen and green ammonia.

Provided also that additional surcharge shall not be applicable in case electricity is produced from offshore wind projects, which are commissioned upto December,2032 and supplied to the Open Access Consumers."

1.5. 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.

1.6. 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 October, 2023 to March, 2024 as shown in the Table below:

Table 1

S. No.	Month	Open Access Energy (MU)	Stranded Energy (MU)
1	October,2023	2.14	2.14
2	November, 2023	5.79	5.79
3	December, 2023	3.71	3.71
4	January, 2024	1.68	1.68
5	February, 2024	2.18	2.18
6	March, 2024	6.45	6.45
Total		**21.95**	**21.95**

1.7. 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 October, 2023 to March, 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	36.86	48.96	85.82	13.26	1.55
2	Dadri Gas	17.23	104.91	122.14	10.67	0.87
3	FG Unchahar-3	28.24	27.07	55.31	6.03	1.09
4	FG Unchahar-4	45.67	50.03	95.70	19.96	2.09
5	Anta	6.60	76.25	82.85	6.73	0.81
6	Auriya	8.98	107.61	116.59	13.11	1.12
Total		**143.58**	**414.83**	**558.41**	**69.76**	**1.25**

1.8. As per the Petitioner the computation of per unit additional surcharge to be levied for the period from October 2024 to March 2025 has been shown in the table below:

Table 3

S. No.	Particulars	Value
a	Average fixed cost at State periphery (Rs. / unit)	1.25
b	Average fixed cost at consumer end after considering approved PTCUL losses @ 1.40% and distribution losses 13.25% @ (Rs. / unit)	1.46

c	Stranded energy (MU)	21.95
d	Open access energy (MU)	21.95
e	Proposed additional surcharge (b x c / d) (Rs. / unit)	1.46

1.9. 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.	Dainik Jagran	07.07.2024
2.	The Hindustan Times	08.07.2024

2. Stakeholders Comments

2.1. In response to the Public Notice, following 03 nos. stakeholders have submitted their objections/suggestions/comments before the Commission.

(i) Shri Ashok Bansal, President, Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand, Chamber House-Industrial Estate Bazpur Road, Kashipur-District U.S. Nagar.

(ii) Shri Shakeel Siddiqui, Industrial Advisor, SPNG Indostar HD, M/s Galwalia Ispat Udyog Pvt. Ltd. Narain Nagar Industrial Estate, Bazpur Road, Kashipur, U.S. Nagar.

(iii) Shri Shakeel Siddiqui, Industrial Advisor, Spinning Division, Kashi Vishwanath Textile Mills (P) Ltd. 5th Km Stone, Ramnagar Road Kashipur, U.S. Nagar.

2.2. The comments made by the aforesaid three stakeholders are same and similar in nature. The primary concerns of the stakeholders have been summarised as under:

2.2.1. Why provisional and estimated percentage are being considered when audited results are available? Factual data that too audited needs to be considered for evaluation.

2.2.2. Was power stranded only because of open access power, were there no other reasons, it needs to be analysed. The power as much as purchased by OA consumers is shown stranded, OA 21.95 MU and similarly 21.95 MU stranded. The actual figures should be presented for better understanding and conclusion, since there may be other reasons too for power being stranded, breakdowns etc.

2.2.3. Why no reconciliation is being done between estimated and actual? The additional surcharge is being worked out on previous year figure, current year's actual figures and needs to be reconciled after end of current half year.

2.2.4. Why distribution loss is considered @ 13.25%, the rate decided for the previous year? The distribution loss for evaluation of additional surcharge is being considered @ 13.25% in Apr-Sep calculations and similarly has been taken for the calculation of the current half year October-March.

2.2.5. Why distribution loss in actual is not being considered for evaluating additional surcharge which is much less than that allowed by the Commission for calculation of tariff.

2.2.6. If UPCL was having surplus power and it needed to surrender that power, why the open market purchases from IEX/PXIL are 657.03 MUs (Ist HY 2023-24) and 1879.44 MUs (IInd HY 2023-24). UPCL in spite of having the stranded power continued purchasing power from IEX on short term basis. Whereas, the same would have been purchased less to balance the power.

2.2.7. How the shortfall of 1845.85 MU was managed by UPCL. The second half year data reflects there was shortfall of energy by 1841 MU in second half of the year 2023-24, then how UCPL is calculating stranded power, the same needs to be elaborated.

2.2.8. If UPCL can make up the deficit of the power through OA why the industry is being restricted to purchase the same through OA?

2.2.9. UPCL should also submit how much rostering and power break down during the above-mentioned period happened. If UPCL has supplied electricity round the clock which it needs to whether there would have been surplus electricity? For additional surcharge UPCL needs not only file the proposal but also needs to demonstrate that in terms of power purchase commitments has been and continues to be stranded. The justification given are baseless and are devoid of valid facts and calculations. UPCL data reflects that the availability of power from the existing stations and upcoming stations shall not be sufficient to meet the increasing demand of the State and the Petitioner is itself relying on other sources to meet the demand of the State.

3. Petitioner's Response

3.1. The Petitioner vide letters No. 4459, 4460 & 4461/UPCL/RM-B-24 dated 04.09.2024 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 no provisional or estimated figures were used in calculating the additional surcharge for the period from 01.10.2024 to 31.03.2025. The computation of additional surcharge has been done 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.

3.1.2. With regard to issue at Para 2.2.2 above, the Petitioner submitted that in case if schedule of hydro power increases or due to sudden change in weather condition, demand decreases, then in that condition UPCL can be in surplus or can have stranded energy for few time-blocks till the load is revived. This stranded energy is surrendered through under drawl or sale in exchange through DAM/RTM mode. Total under drawl energy from month October 2023 to March 2024 is around 94.26 MU and energy sold in exchange from Oct 2023 to March 2024 is around 96.72MUs. This stranded energy (190.98MU) is after considering all factors, i.e. open access, generation increase and drop in demand due to various reasons. While stranded energy considered due to open access is only 21.95 MU which is only 11.49% of total stranded energy. The Petitioner has submitted the details of under drawl energy for the months of October 2023 to March 2024 as follows:

Table 5: Details of Sales & Stranded Energy in MUs

Sl. No.	Months	Energy sales	UD	Total (Sales+UD)	Stranded energy considered due to open access
1	October,2023	11.23	16.12	27.35	2.14
2	November, 2023	15.01	14.86	29.87	5.79
3	December, 2023	19.64	14.67	34.31	3.71
4	January, 2024	5.85	13.27	19.12	1.68
5	February, 2024	20.90	16.92	37.82	2.18
6	March, 2024	24.09	18.41	42.5	6.45
	Total	**96.72**	**94.25**	**190.97**	**21.95**

3.1.3. With regard to issue at Para 2.2.3 above, the Petitioner has submitted that the actual figures for the corresponding half year are used to arrive at the rate of Additional Surcharge for the ensuing period (half year) and the reconciliation between the figures of the two half years is not required in the matter. This is as per provisions of UERC (Terms and Conditions of Intra State Open Access) Regulations, 2015.

3.1.4. With regard to issue at Para 2.2.4 above, the Petitioner has submitted that the Commission vide its tariff order dated 30.03.2023 has approved the distribution loss at 13.25% & Transmission loss at 1.40% and the same has been considered for evaluating the additional surcharge which is as per the provisions of UERC (Terms and Conditions of Intra - State Open Access) Regulations, 2015.

3.1.5. With regard to issue at Para 2.2.5 above the Petitioner has submitted that the distribution loss considered for evaluating additional surcharge is as per the provisions specified in the UERC (Terms and Conditions of Intra - State Open Access) Regulations, 2015.

3.1.6. With regard to issue at Para 2.2.6 above, the Petitioner has submitted that its aim is to provide 24x7 supply to consumers of the State at minimum rate. The Petitioner has thus already tied up various PPAs for procurement of power from various generators. To achieve this, UPCL has entered into various Power Purchase Agreements (PPAs) with generators to meet the State's demand, including industrial load. These PPAs tariff has two components, i.e. Fixed Cost and Variable Cost. Fixed Cost has to be paid according to the tied up quantity of power while Variable cost is paid according to power purchase unit. UPCL always explores options from where power can be procured at lower rate in comparison to variable cost of existing PPAs, i.e. through Energy Exchanges. If power is available at lower rate from energy exchanges, then it is procured through energy exchanges and high variable cost power of tied up PPAs is surrendered to optimize power purchase cost. Therefore, the purchases from energy exchanges are made to replace costly power of long term PPAs. If industries purchase power in open access, then UPCL has to sell that surplus power in exchanges in Real Time Markets (RTM) and to meet the Fixed Cost (which would have been met if industrial load met through power purchased from DISCOM) UPCL has to levy surcharge. Detail of high variable cost power surrendered from month of Oct 2023 to March 2024 is as below:

Table 6

Sl. No.	Months	Surrendered Energy (MUs)
1	October,2023	136.53
2	November, 2023	180.2
3	December, 2023	145.33
4	January, 2024	125.44
5	February, 2024	108.57
6	March, 2024	152.32
	Total	**848.39**

3.1.7. With regard to issue at Para 2.2.7 above, the Petitioner has submitted that it managed the shortfall in second half of the year by purchasing the power in short term from exchange through LDC/UPC arrangement or through DAM or RTM. Detail of power purchase from Energy exchange as submitted by UPCL is follows:

Table 7: Month wise power arrangement from Exchange

Sl. No.	Months	LDC/UPC power in MU	Power from Exchange in MU
1	October,2023	0	222.176
2	November, 2023	57.72	237.325
3	December, 2023	140.736	149.300
4	January, 2024	184.6553	228.077
5	February, 2024	120.1827	141.118
6	March, 2024	53.600	264.075
	Total	**556.94**	**1242.07**

3.1.8. With regard to question that UPCL can make up the deficit of the power through OA why the industry is being restricted to purchase the same through OA the Petitioner has submitted that no such restriction has been imposed by UPCL/ Commission.

3.1.9. With regard to the question of power rostering and power break down the Petitioner has submitted that UPCL endeavours to provide the reliable and quality power supply 24 x 7 to all the category of consumer to the best of its efforts. So, as such UPCL does not carry out any scheduled load shedding. However, in case of an emergency conditions where in the power purchase bids in the energy exchanges are not cleared and in order to tackle the emergent conditions to maintain grid discipline as per the directions of SLDC / NRLDC, emergency load shedding is to be carried out. The details of emergency load shedding for the period from October, 2023 to March, 2024 as submitted by UPCL is tabulated below:

Table 8

Sl. No.	Months	Surrendered Energy (MUs)
1	October,2023	**5.19**
2	November, 2023	**0.49**
3	December, 2023	**5.80**
4	January, 2024	**20.82**
5	February, 2024	**5.41**
6	March, 2024	**0.61**
	Total	**38.32**

4. Commission's views and decision

4.1. The Commission has gone through the Petition filed by UPCL, objections/suggestions/comments raised by 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 queries/objections of the Stakeholders are similar to the one received earlier during determination of additional surcharge for the previous periods. Since the Commission has already spelt out its views in the previous Orders for determining additional surcharge, therefore, nothing new is required to be expressed in this Order.

4.3. The Additional surcharge determined 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 (October 2023 to March 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 (October 2023 to March 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 (October 2023 to March 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 9

S. No.	Month	Open Access Energy (MU)	Stranded Energy (MU)
1	October,2023	4.938	4.938
2	November, 2023	9.710	9.710
3	December, 2023	6.755	6.755
4	January, 2024	2.676	2.676
5	February, 2024	3.465	3.465
6	March, 2024	8.427	8.427
Total		**35.97**	**35.97**

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 October 2023 to March 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 13.25% and Transmission losses as 1.40%.

Table 10

S. No.	Month	Total Entitlement at State periphery (in MU)	Total Fixed Cost (Rs. Cr)
1	Jhajjar	84.78	13.26
2	Dadri Gas	206.70	10.67
3	F G Unchahar-3	54.70	6.03
4	F G Unchahar-4	94.85	19.96
5	Anta	110.20	6.73
6	Auriya	178.02	13.11
Total		**729.25**	**69.76**

4.4.4. For arriving at the stranded cost of power (in Rs. Crore) due to open access consumers during the period October 2023 to March 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 October 2024 to March 2025. The per unit Additional Surcharge to be levied by the Distribution licensee for the period 01.10.2024 to 31.03.2025 is as shown in the table below:

Table 11

a)	Stranded Power due to open access consumers at State Periphery (MUs)	35.97
b)	Stranded Power due to open access at consumer end (MUs)	30.77
c)	Billed fixed cost of 6 Generating Stations during the period October 2023 to March 2024 (Rs Cr)	69.76
d)	Energy received at State periphery from the 4 ISGS stations during the period October 2023 to March 2024 MUs)	729.25
e)	Corresponding energy received from the 6 ISGS stations during the period at Consumer end (MUs)	623.76
f)	Weighted average fixed cost of 6 stations at consumer end (Rs. /Unit) [(c)*10/(e)]	1.12
g)	Total cost of Stranded power due to open access consumers (Rs. Cr) [(f)*(b)/10]	3.44
h)	Total Open Access Units at State periphery for the period October 2023 to March 2024 (MUs)	35.97
i)	Corresponding Open Access power at consumer end (MUs)	30.77
j)	Applicable Additional Surcharge for the period October 2024 to March 2025 (Rs./Unit) based on the open access units for the period October 2023 to March 2024 [(g)*10/(i)]	1.12

4.5. In view of the above, the Commission determines Additional Surcharge as Rs. 1.12 Unit. The additional surcharge so determined shall be effective for the period 01.10.2024 to 31.03.2025.

Ordered accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Member (Technical)/Chairman(I/c)