



SARVOTHAM CARE

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To,
The Secretary,
TSERC, 5th Floor, 11-4-660, Singareni Bhavan,
Red Hills, Hyderabad - 500 004

Date: 03-08-2023

Dear Sir,

Sub:- Submission of comments, objections and suggestions on the proposals of TSSPDCL (OP No.15 of 2023 for TSSPDCL, OP No.16 of 2023 for TSNPDCL) **in the matter of determination of Additional Surcharge (AS) to be levied for the H2 of FY 2023-24** in respect of the open access consumers (OA) as per directions of Hon'ble Commission in its order dated 18.09.2020 in O.P.No.23 of 2020 in accordance with provisions of Electricity Act' 03 and National Tariff Policy'16- Reg.

- Ref:-** (1) O. P. No. 23 of 2020 Dated 18.09.2020
(2) Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022, Dated: 06.06.2022
(3) Telangana Solar Open Access Developers Association Submission of comments, objections and suggestions on the proposals of TSSPDCL & TSNPDCL in the matter of determination of Additional Surcharge (AS) to be levied on Open Access (OA) users for the 2nd half (H2) of FY2022-23, Dated: 08.08.2022 , 1st Half (H1) of FY2023-24, Dated: 25-01-2023
(4) O.P.No.55 & 56 of 2022, Dated: Dated 27.09.2022
(5) Telangana Solar Open Access Developers Association Submission on 13.10.2022, 20.01.2023.
(6) Electricity (Amendment Rules), 2022 Dated: 29.12.2022

Vide ref (4) cited, commissioned expressed following view in respect of ASS orders related to H2 of FY22-23:

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- HOME CARE PRODUCTS
- BTS OFFICES
- SOLAR POWER

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“The Commission takes note of the submission of the stakeholder on the applicability of AS on Green Energy Open Access Consumers as per the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022. In terms of Rule 5(1) of the said Rules, 2022 the Commission is in the process of amending the relevant regulations”

Vide ref (5) cited, we have further requested your good office to expedite the process as delays in making amendments would cause irreparable damage to the green generators and further adding up to existing litigations with DISCOMs.

We also brought to the notice to this Hon’ble commission that several other state regulatory commissions have already published final amendment open access regulations to effect GOI rules published vide ref (2) cited.

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION order dated: 31-05-2023, which was passed to give effect to the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 dated 06.06.2022 can be found at

“<https://pserc.gov.in/pages/order%20in%20Regulation%20No.%20177.pdf>”

Relevant clauses extracted below for quick reference of this commission for kind consideration:

Further, the exemption of additional surcharge is applicable in case of partial open access consumers whose open access is within the limit of sanctioned contract demand, since in such cases the OA consumers shall pay the fixed charges to the consumers for its sanctioned CD. However, in cases where the open access to a consumer is allowed over and above the sanctioned contract demand, such consumers shall be paying Fixed Charges to the Discom for sanctioned CD only, hence such consumers cannot be covered under the ambit of the proposed clause. In view of the above following proviso is proposed to be added under the proposed 2nd proviso of Regulation 27 (2) of the

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Principal Regulations: "Provided that consumers including green energy open access consumers taking open access over and above the sanctioned contract demand as per the provisions of Regulation 31(2) of the PSERC OA Regulations, 2011 shall be liable to pay Additional Surcharge as payable by Full open access consumers for availing open access beyond the contract demand maintained with the distribution licensee as determined by the Commission under these Regulations."

Hence, it is made clear through orders and interpretations of various commissions is that FIXED charges mean only FIXED charges determined by respective state regulatory commission and collected by distribution utilities in dependent of actual fixed costs of distribution utilities.

TS DISCOMS have so far made proposals for levy of ASS for various Half Years without any exemption to Solar Green Projects in line with Electricity Rules'2022, dated:06.06.2022. While Rule 5(1) of the Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules, 2022 imposes a duty on the appropriate commissions to amend the relevant regulations made by it, ensuring that they are consistent with these rules. As such, the said rules shall come into force on the date of their publication in the Official Gazette, i.e., 6th June 2022. Despite this, the Hon'ble commission had passed multiple orders without regard to these rules but with the above-mentioned view.

To prevent solar generators from being burdened due to administrative delays in the Hon'ble commission's administrative functions, this Hon'ble commission should pass an ASS exemption for solar projects until the relevant regulations are amended duly instructing DISCOMs to refund all ASS levies made so far from 06.06.2022 as it is a legitimate right to seek exemption from date the rules come into force. Otherwise, open access solar developers will be left with no choice than to seek necessary judicial intervention towards exemption/refund.

In addition, Rule 13, which was reproduced below, was added though Electricity (Amendment Rules), 2022 Dated: 29.12.2022 restricts the amount of surcharge that can be levied.

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“13. Surcharge payable by Consumers seeking Open Access.-The surcharge,determined by the State Commission under clause (a) of sub-section (1) of section 86 of the Electricity Act,2003 shall not exceed twenty per cent of the average cost of Supply.

Already the CSS determined by this commission was capped at 20% of Average Cost of Supply (ACoS), therefore we believe there is no scope of determination of any Additional Surcharge.

For Sarvotham Care,

D.P. Varma

Authorized Signatory.



Copy Communicated to:-

- 1) The Chairman/TSERC,
- 2) The Member/Technical/TSERC,
- 3) The Member/Finance/TSERC
- 4) The CGM (Comml & RAC)/TSSPDCL/Hyderabad.

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