



RAIN CEMENTS LIMITED

27 January 2022

**The Chief General Manager (RAC),
Southern Power Distribution Company of Telangana Ltd.**
(A Govt. of Telangana Undertaking)
(Formerly Central Power Distribution Company of A.P. Ltd.)
Corporate Office: 'A' Block, First Floor,
Mint Compound, HYDERABAD-500 063.
(Telangana, India)



Respected Sir / Madam,

Sub: Comments/Objections on the ARR filings for FY 2021-22 – Proposed Grid Support Charges-Reg

Ref: Public Notice in O.P.No. 58/2021, 59/2021 dated 30-11-2021.

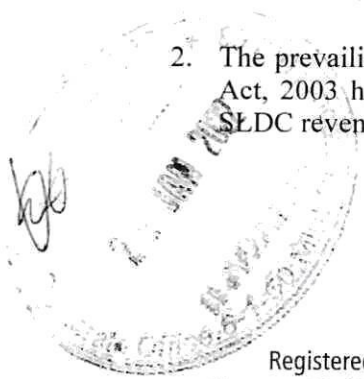
1. With reference to the Public Notice calling for Views/Objections/Suggestions, we would like to submit the following objections/suggestions, specifically with regard to the proposal to levy Grid Support Charges on Captive Power Plants (“CPP”). The said proposal is found under the caption of “Other Proposals” in the Retail Supply Tariff proposals for FY 2022-23 as follows:

Discom	(Case No.)	Pg.Nos.
TSSPDCL	(O.P.No.58 of 2021)	31-36
TSNPDCCL	(O.P.No.59 of 2021)	31-36

2. We, Rain Cements Limited (“RCL”) are inter-alia engaged in the manufacture of Cement at its and plant at Ramapuram village, Mellacheruvu Mandal, Suryapet District, Telangana, India unit and also generate 3.8 MW of clean Electricity from a co-generation facility equipped with waste-heat recovery boilers that utilize flue gases evolved during the cement calcination process. The plant was established as per the approvals granted by the Government of Telangana and thro its Department of Energy had conveyed its approval to the captive utilization for internal plant power utilization.

1) HISTORY OF GRID SUPPORT CHARGES (GSC):

1. The Grid Support Charge (GSC) was initially levied by the erstwhile Hon’ble APERC vide Order in O.P.No. 1 of 1999 dated 08.02.2002 in the context of the AP Electricity Reform Act, 1998. The GSC order was implemented vide Tariff Order FY 2002-03 from 01.04.2002. The same was challenged before the Hon’ble High Court for the erstwhile State of A.P which was decided in favour of the generators/Captive Power Producers (CPPs) by setting aside the levy of grid support charges. An Appeal was filed by APTransco (Civil Appeal No. 4569 of 2003) in the Hon’ble Supreme Court. The Hon’ble Supreme Court, vide its judgement dated 29.11.2019 affirmed the orders of the erstwhile Commission.
2. The prevailing conditions during 2002 and the present are totally different. Then the Electricity Act, 2003 had not came into existence and SLDC had no separate statutory identity then and SLDC revenue was part of APTRANSCO.



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3. There was lot of indiscipline in Transmission Companies. States were exceeding the drawal limits as there was no stringent enforcement mechanism. The result is that, we have witnessed failure of Northern grid in Jan 2, 2001 and 230 million people were affected.
4. There was no concept of Open Access, and Transmission and Wheeling were allowed by means of mutually agreed agreements as per the prevailing statutes viz. The Indian Electricity Act, 1910, The Electricity (Supply) Act, 1948 and rules made thereunder.
5. It is pertinent to note that the erstwhile APERC was constituted under the AP Electricity Reform Act, 1998, and has passed the order in O.P.No.1 of 1999 in exercise of its powers under the said Act.

2) THE IMPACT OF THE ELECTRICITY ACT, 2003:

1. In 2003, the Electricity Act, 2003 ("Act") came into force. The Act brought in substantial changes to the previous regime, including the establishment of State Commissions, delicensing of Generation, unbundling of transmission and distribution, specification of tariffs and charges, crystallized the scheme of Open Access, brought in procedures and standards to enforce discipline, etc. However, it left the Commissions established by States under earlier State enactments (such as the AP Electricity Reform Act, 1998) untouched and treated them to be Commissions established under the Act, essentially conferring them with powers under both Acts, in as much as the State enactments were not in derogation to the Act.
2. Open Access was introduced under Section 42 of the Act, in pursuance to which APERC Regulation Nos.2 of 2005 and 2 of 2006 were also promulgated by the erstwhile Commission. The Grid Code came into existence. In 2017, this Hon'ble Commission also notified Regulation No.4 of 2017 for forecasting, scheduling and deviation settlement.
3. CPP's are exempt from the payment of CSS as per the 4th proviso to S.42(2) of the Act, as the legislature intended to reduce the charges on CPP's in order to encourage generation. Further, S.86(1)(e) of the Act also prescribes that generation from cogeneration sources be promoted.
4. Now, as there is an established mechanism to bring discipline among the Generators and Consumers by levying various charges as per the Grid Code, Open Access (OA) Regulations. Both OA Consumers and OA Generators are supposed to declare Week Ahead and Day Ahead Schedules.
5. SLDC/RLDC is the nodal agency to maintain Grid discipline and optimum scheduling and despatch of electricity under Sections 28 and 32 of the Act. Every Licensee, Generating companies and other persons connected with the operation of power system are under strict obligation to comply with the directions issued by RLDC (Section 29(1) of the Act) and SLDC (S.33(1) of the Act) as per the Regulations prescribed by the appropriate Commission.
6. Under the provisions of the Act, a separate agency by SLDC/RLDC/NLDC were created to take care of the Grid. SLDC/RLDC is responsible for maintaining grid security, Load forecasting, scheduling and despatching and balancing of generation and demand (load). The ARR of APSLDC was already approved in the MYT Tariff 2019-24. The DISCOMs have no role in maintaining Grid security and have to comply with the directions issued by SLDC/RLDC. Hence, in the present scenario, there is no need to propose GSC by DISCOMs and the DISCOMs have no role in seeking GSC.

7. TSTRANSCO and DISCOMs are responsible for Transmission and Wheeling business and can levy these charges only while the levy of GSC is under the purview of SLDC only. Therefore, TSTRANSCO and DISCOMs have nothing to do with GSC. The ARR of Transmission and DISCOMs distribution business is recovered through Transmission charges and wheeling charges as approved in the relevant MYT orders. As the present ARR and Tariff proposal is to recover the retail supply business costs, the DISCOM has no role in proposing any GSC.
8. It is also pertinent to note that this Hon'ble Commission is constituted under the Act, and thus the earlier AP Electricity Reform Act, 1998 under which GSC were earlier determined is neither applicable nor relevant in the present day. The Act, 2003 specifically lays down the charges and tariffs to be collected, and no charges beyond what is prescribed can be levied. Admittedly, there is no charge such as GSC mentioned in the Act or the regulations, let alone under S.62 under which the present petitions are filed, and as such, any such proposal to levy GSC is without jurisdiction.
9. It is thus submitted that the proposal of the DISCOMs in proposing a levy of GSC is itself misconceived and patently without jurisdiction.

4) THE CONCEPT OF AVAILABILITY BASED TARIFF (ABT) (FREQUENCY BASED LINKED TARIFF):

1. Prior to power sector reforms, the southern grid frequency was being maintained around 47.8 Hz to 48 Hz in order to meet load. If system is maintained at lower frequency, the motive power consumption would be less than the rated power of equipment. This is being done to reduce the motive load on the system and thus system demand.
2. Now, due to implementation of frequency based tariff, levy of tariff for reactive power drawal, charges for deviations from schedules, the grid frequency is being maintained in the range between 49.90 to 50.05. In case of any deviations from schedules, penal charges are being levied as per the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2014. Practically, the grid security is being maintained by SLDC/RLDC/NLDC. Since the grid security is being maintained by SLDC/RLDC/NLDC, the DISCOMs are not entitled to levy Grid Support Charges on CPPs/Co-generation plants.

5) WHO IS CONTRIBUTING TO GRID SUPPORT:

Support for Grid is being provided by all Generators including APGENCO, IPPs, CPPs and Co-generation Power Plants. The DISCOMs are in no way providing any Grid support. For example, if the system demand increases/decreases due to consumer requirement, the nearby generators will respond as per the system's requirement as per the directions of the SLDC.

6) CHARGES PAID BY GENERATORS:

1. All generators are paying demand charges (Capacity charges), reactive power charges as prescribed by the Commission or single part energy tariff which is around Rs. 12.25/unit for start-up and other purposes. This high single part tariff includes demand component also apart from variable charge. Apart from above tariffs, the CPP/Co-generation plants are also paying charges for deviation of schedules. This is being implemented to bring discipline among OA generators and OA Consumers, as specified in the relevant regulations and thereby the grid's stability and its equilibrium are maintained.

2. The Commission also has approved kVAh tariff to maintain grid security, avoid voltage collapse, minimise reactive power drawal and thus minimise power loss. Due to levy of Reactive power charge/kVAh tariff, the system voltages are being maintained at optimum level which also helps in maintaining grid stability.

7) TSSLDC ARR TARIFF APPROVED IN MYT ORDER FY 2019-24 DT. 08.03.2019:

Description	Approved in MYT ARR. Rs (crs)	SLDC charges mentioned in Notification. Rs (crs)
SLDC charges (Capital Cost + Operating charges)	71.19	69.82

Levy of GSC on CPPs and Co-generation power plants is redundant as Generators are already paying Capacity charges, Deviation charges and reactive power charges (or kVAh tariff). Three types of charges i.e., Capacity charges (demand charges), Deviation charges and Reactive power charges (or kVAh tariff) are being levied and levying GSC again cannot be justified on same ground. Since the SLDC's ARR is already approved in the SLDC MYT tariff Order, there is no need to once again levy GSC, more so without any proposal or requirement shown by the SLDC.

8) NATIONAL POLICIES AND CAPTIVE GENERATION:

The relevant provisions of National Electricity Policy, 2005 are extracted hereunder:

Captive Generation

5.2.24 The liberal provision in the Electricity Act, 2003 with respect to setting up of captive power plant has been made with a view to not only securing reliable, quality and cost effective power but also to facilitate creation of employment opportunities through speedy and efficient growth of industry.

5.2.25 The provision relating to captive power plants to be set up by group of consumers is primarily aimed at enabling small and medium industries or other consumers that may not individually be in a position to set up plant of optimal size in a cost effective manner. It needs to be noted that efficient expansion of small and medium industries across the country would lead to creation of enormous employment opportunities.

5.2.26 A large number of captive and standby generating stations in India have surplus capacity that could be supplied to the grid continuously or during certain time periods. These plants offer a sizeable and potentially competitive capacity that could be harnessed for meeting demand for power. Under the Act, captive generators have access to licensees and would get access to consumers who are allowed open access. Grid inter-connections for captive generators shall be facilitated as per section 30 of the Act. This should be done on priority basis to enable captive generation to become available as distributed generation along the grid. Towards this end, non-conventional energy sources including co-generation could also play a role. Appropriate commercial arrangements would need to be instituted between licensees and the captive generators for harnessing of spare capacity energy from captive power plants. The appropriate Regulatory Commission shall exercise regulatory oversight on such commercial arrangements between captive generators and licensees and determine tariffs when a licensee is the off-taker of power from captive plant.

The relevant extracts of the National Tariff Policy, 2016 are as under:

5.12 [...] In some cases, the duties etc. on consumption of electricity is linked to sources of generation (like captive generation) and the level of duties levied is much higher as compared to that being levied on the same category of consumers who draw power from grid. Such a distinction is invidious and inappropriate. The sole purpose of freely allowing captive generation is to enable industries to access reliable, quality and cost effective power. Particularly, the provisions relating to captive power plants which can be set up by group of consumers has been brought in recognition of the fact that efficient expansion of small and medium industries across the country will lead to faster economic growth and creation of larger employment opportunities. For realizing the goal of making available electricity to consumers at reasonable and competitive prices, it is necessary that such duties are kept at reasonable level.

6.3 Harnessing captive generation Captive generation is an important means to making competitive power available. Appropriate Commission should create an enabling environment that encourages captive power plants to be connected to the grid. [...]

Wheeling charges and other terms and conditions for implementation should be determined in advance by the respective State Commission, duly ensuring that the charges are reasonable and fair [...]

As per both the National Electricity Policy and National Tariff Policy, an enabling environment and encouragement for both the establishment of, and consumption of power from CPP's is envisaged. The levy of GSC without any basis in the present day scenario would run contrary to the aforementioned policy directives.

9) NO METHODOLOGY SPECIFIED:

1. It is pertinent to note that RCCVL had established the co-generation power plant as per the mandatory requirement of Andhra Pradesh Pollution Control Board's norms and was not its choice but as per the condition imposed by GoAP to establish such a co-generation power plant to protect the environment from greenhouse gases and to address its concerns on global warming. RCCVL is also exempt from the payment of CSS under S.42 of the Act in view of the Electricity [Removal of Difficulties] Second Order, 2005 dated 8.06.2005, exempting the levy of CSS for those generating companies who were allowed to sell power with the consent of the government granted in terms of Sec 43A(1)(c) of Electricity Supply Act, 1948.

It also is averred in the proposals that the levy of GSC is being sought in compliance of/pursuant to the Hon'ble Supreme Court's judgement. Such an averment is completely false as the Hon'ble Supreme Court merely affirmed the erstwhile Commission's order in levying GSC under the AP Electricity Reform Act, 1998, and did not give any direction, express or implied, to levy GSC.

2. Further, if any Co-generation Power Plant capacity is more than the inhouse plant consumption, such unit provides grid support by exporting power to the grid and does not take any support from the Grid. Such power plants must be excluded from levying GSC.

3. Even assuming that GSC is applicable, the DISCOMS have not specified the total CPP capacity in their proposals, and the impact such levy may have. Moreover, while arriving at the CPP capacity, auxiliary consumption capacity necessarily needs to be excluded alongwith the capacity that the CPP exports. There are various anomalies and ambiguities in the proposal made by the DISCOMS.

There is no information as to the formula or methodology intended to be adopted. Further, the DISCOMS had sought for retrospective determination of GSC, which is impermissible in both law and due to the fact that the DISCOMS have been recovering their ARR from the retail supply business every year as approved by this Hon'ble Commission.

PRAYER:

For the reasons mentioned above, we humbly request this Hon'ble Commission's to reject the contentions and claims filed by DISCOMS for levying GSC on RCCVL as being a Co-generator.

Apart from the above, as the Levy of GSC being only under the purview of SLDC, with TSTRANSCO and DISCOMS having nothing to do with it, we pray that that the proposal to levy GSC by the DISCOMS may kindly be rejected by the Hon'ble Commission, as being made without jurisdiction.

We also humbly request the Hon'ble Commission to grant us an opportunity to orally present our submissions during the hearings to be conducted on the approval of the ARR and RST.



[Handwritten signature]

OBJECTOR

Rain Cements Limited
Unit-1, Ramapuram
Suryapet District, Telangana State

Copy to.:

1. The Secretary, TSPERC, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004

Name and full address of the Objector along with e-mail id and contact Number	Brief detailed Objections/ Suggestions	Objections against Tariff Proposals of TSSPDCL	Whether copy of objections & proof of delivery at licensee office enclosed (Yes/No)	Whether objector wants to be heard in person (Yes/No)
Name: V. P. Srikanth e.Mail V.P.Srikanth@raincarbon.com Cell No.9959305566			YES	YES through Counsel Mr Challa Gunaranjan, e.mail: cgr@ckrassociates.in Cell No.9849503922