

**Objections on proposals of TS Discoms in I.A. nos.22 and 23 of 2017
on Additional Surcharge for FY 2017-18**

1. The petitioners computed the stranded Fixed Costs as Rs.1125 / KVA /Month , (Rs1.95 /KVA h @ 80 % L/F) on the basis of the imaginary demand charge of Rs.1515 /KVS less the Demand Charge of Rs.390 applicable for HT- 1 A Industrial General category consumers as per Retail Tariff Order of 2017-18.

Objection : At the outset it is submitted that the proposals are not in line with Sec. 42 (4) read with Clause 8.5.4 of the New tariff Policy of Jan 2016. There is no scope for any **stranded costs** in the “**full cost tariff**” regime followed by this Hon’ble Commission. Entire ARR is realised through tariff from all consumers, Subsidy of Rs.4774 Crs from GOTS and Rs. 20.18 Crs through internal efficiency improvement as specified by this Hon’ble Commission, vide para 7.6.2 of the Tariff Order of 2017-18.

2. Licensees have stated that that they projected the energy sales for 2017-18 assuming that they could retain OA consumers.

Objection: Licensees have not indicated the basis for this assumption. AO regulations have been in existence since 2005, and the many consumers have been opting for OA for various reasons and such OA usage should have been foreseen for 2017-18 also, unless any special incentives are offered to attract the OA users to the fold of DISCOMs. In the absence any such scheme, the assumption of retaining them is arbitrary, and the stranded costs if any, arising on that account cannot be passed on to OA consumers.

3. It is seen from the Tables in para 3.2.6 of the Retail supply tariff Order, 2017-18, that about 58,358 MU is available against the requirement of 52, 245 MU including losses on the projected energy sales of 45,125 MU, thus leaving a surplus of 6,113 MU in 2017-18.

Suggestion: Instead of selling this surplus energy at throw away prices, it can be offered to OA consumers who consume additional energy over previous year, at the cost of supply at relevant voltage applicable for the category of consumer or at a mutually acceptable (negotiated) price, with approval of Hon’ble Commission, so that the alleged stranded Fixed Costs on account of OA users can be avoided. This step will be mutually beneficial.

4. Sec.42(4) stipulates that “Additional Surcharge” shall be as may be specified by State Commission, to meet fixed cost arising out of Obligation to Supply. Sec.181 (2) (q) provides that State Commission may make Regulations for payment of Additional Charges u/s 42(4).

Suggestion : Neither the erstwhile APERC, nor this Hon’ble Commission notified any Regulations so far in this regard. Framing of Regulations is necessary in the interest of regulatory certainty more so, as there is considerable ambiguity in the provisions of the Act. Hence the levy of Additional Surcharge may be deferred till the regulations are made specifying the basis and procedure for computing it.

5. Para 8.5.4 of Tariff Policy appears to be inconsistent with sub-section (4) of Sec.42 of the Act, while the said sub-section (4) itself appears to be anomalous and needs a judicial interpretation considering the following aspects:

(i). All costs including fixed costs arising out of universal obligation to supply are covered in the "full cost tariff" determined for Retail Supply to consumers. Thus the stranded fixed costs if any traceable to Obligation to Supply to the specific consumer who opts for OA may be relevant and not of the universal obligation to supply which involves many factors like load forecast, power procurement planning, merit Order dispatch, etc.

(ii). Therefore, It can be reasonably presumed that the legislative intent of Sec.42 (4) is to fasten this liability on such consumers, for whom dedicated capacity is created under "special agreements" entered by them committing to avail supply for long term with certain specific conditions, but not for consumers who are governed by agreements conforming to the General terms and Conditions of Supply (GTCS)

(iii). The liability for additional surcharge u/s 42(4) is omitted and Sec. 181(2)(q) is being deleted in the "supply license regime" being introduced through the Electricity Amendment Bill of 2014/15 placed in the Parliament. This provision is substituted by a new provision as follows:

Sec. 42 (5): " Notwithstanding anything contained in this section, the open access consumer shall not switch over to any other supplier except by giving the notice of minimum time period as may be specified by the Appropriate Commission. "

Sec. 181 (2) ,

Hon'ble Commission may consider these aspects before deciding the I.A.s filed by DISCOMs.

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