



Penna Cement Industries Limited.

PCIL/TRANSCO/020/2023-24

2nd January 2024.

To

The Commission Secretary (FAC),

Hon'ble Telangana State Electricity Regulatory Commission,
11-4-660, 5th Floor, Singareni Bhawan, Red Hills,
Lakdi-ka-pul, HYDERABAD-500 004.



Respected Sir,

Sub: Penna Cement Industries Limited – Comments/Suggestions on Grid Supporting charges (GSC) for FY 2023-24 – Submitted - Reg.

Ref: 1. TSERC public notice dated 04.12.2023

With reference to your public notice dated 04.12.23, we herewith enclosed our objections/comments/suggestions on grid supporting charges (GSC) for FY 2023-24.

We request the Hon'ble Commission to consider our submissions before finalizing the proposals raised by TS DISCOM's.

Thanking you,

Yours faithfully,

for PENNA CEMENT INDUSTRIES LIMITED,

V Manikanth
General Manager – Projects

**BEFORE THE HONOURABLE TELANGANA STATE ELECTRICITY
REGULATORY COMMISSION**

AT ITS OFFICE AT V TH FLOOR, SINGARENI BHAVAN,
RED HILLS, HYDERABAD

In the matter of: Levy of Grid Support Charges and Proposals of the TS DISCOMs
along with Report of the Grid Coordination Committee

In the matter of:

Southern Power Distribution Company of Telangana Ltd., &

Northern Power Distribution Company of Telangana Ltd.

...Applicants

And

Penna Cement Industries Limited

705, Lakshmi Nivas, Road No.3, Banjara Hills, Hyderabad-500034

...Objector

OBJECTIONS FOR THE PROPOSAL OF GRID SUPPORT CHARGES FOR FY 2023-24

While filing the Tariff Proposals (ARR) for FY 2023-24, the Distribution Licensees in Telangana have proposed, inter alia, a levy of Grid Support Charges (“GSC”) on all the power generating plants in Telangana for parallel operation with the Grid. This Hon’ble Commission vide its Order dt.24.03.2023 in O.P.Nos.80 and 81 of 2023 was pleased to refer the matter to the ‘Grid Coordination Committee’ for undertaking a detailed analysis on the issue. The Grid Coordination Committee has also submitted its report dated 07.10.2023 recommending the levy of GSC for all generators. The Objector has gone through the proposal of the DISCOMs and the report of the Grid Coordination Committee. In the above matter, this Hon’ble Commission has invited the stakeholders to file their comments/suggestions/objection, if any, on or before 27.12.2023.

This Hon’ble Commission may be pleased to condone the delay of 6 days in filing the present objections. No prejudice would be caused to any party if the delay is condoned.

The Objector runs a 77 MW captive [*thermal*] power plant in its premises as well as 7 MW WHRS plant. Excess power generated over and above the Objector’s requirement is exported to 61.5 MW. The Objector comes with the territorial jurisdiction of TSSPDCL.



Our objections against the proposed Grid Support Charges are set out below for this Hon'ble Commission's kind consideration and disposal:

I. HISTORY OF GRID SUPPORT CHARGES (GSC):

1. Grid Support Charges (GSC) were 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) and the levy of grid support charges was set aside. 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. It is pertinent to note that the prevailing conditions during 2002 and the present are totally different. When the Act is not in existence, there was no concept of Open Access, Transmission and Wheeling. The same were allowed by means of mutually agreed agreements at that time.
3. It is also pertinent to note that the erstwhile APERC was constituted under the AP Electricity Reform Act, 1998, and passed the order in O.P.No.1 of 1999 in exercise of its powers under the said Act. The Order in O.P.No.1 of 1999 levied GSC on sole basis that in the event captive power plants were to fail, there would be a momentary transfer of the load to the Grid, which would result in stress on the Grid and corresponding wear and tear of machinery, and it was this wear and tear that was sought to be compensated by way of GSC.

II. 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.

No jurisdiction to Propose or Levy GSC:

3. Under the provisions of the Act, separate entities, being the SLDC/RLDC/NLDC were created to take care of the Grid. SLDC/RLDC is responsible for maintaining grid security, Load forecasting, scheduling and dispatching and balancing of generation and demand (load). The ARR of SLDC was already approved in the MYT Tariff 2021-23. 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 at all.
4. The Applicant DISCOMs are responsible for their distribution business only and can at most levy wheeling charges, and nothing more. Any GSC as sought to be levied would have to be proposed and substantiated by TSSLDC, being the entity tasked with grid security under the Act. Therefore, DISCOMs have nothing to do with GSC. The ARR of the Applicant DISCOMs Distribution Business is recovered through wheeling charges as approved in the relevant MYT orders. As such, the Applicant DISCOMs have no role in proposing GSC, and certainly not at 132 KV voltage.
5. 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.
6. It is thus submitted that the scope of present ARR for Retail Supply Business for FY 2023-24 should be strictly confined in terms of Section 62 of the Act r/w Regulation 4 of 2005 as adopted under Regulation 1 of 2014, and Section 42 of the Act for the purpose of determination of CSS and any proposal of the Applicant DISCOMs to levy GSC **is itself misconceived and patently without jurisdiction.**
7. Strangely, the Grid Coordination Committee does not consider the competence or the jurisdiction of the Discoms in proposing a levy of GSC, which is ultra-vires the provisions of the electricity Act, 2003 ("Act").

Without Prejudice to above submissions of the very authority and jurisdiction to levy GSC, the following further submissions are made.

III. In relation to the Report of the Grid Coordination Committee (GCC)

A. Improper Analysis and lack of consultation:

8. At the outset, it is submitted that there has been no proper consultation with the stakeholders, domain experts, representatives of various industries, particularly generators using power for captive use, co-generators or partly for self-consumption and remaining for export, and those generators who exclusively sell power.
9. Further, there has been no notice wherein parties who would be affected by the proposal for levy of GSC have been informed of the proceedings before the GCC, rather, it appears that the GCC has arbitrarily appointed “representatives” of various categories by itself without any basis.
10. The Report of the GCC (“Report”) primarily proceeds on the input give by the Discoms and there is neither an endeavor nor any effort made to inspect and analyze the power plants with reference to the various factors in the Report which allege to support the Grid.
11. The report appears to be prepared based on short-term data relating to a single unnamed solar generator, which cannot be said to be a proper standard of analysis.
12. The assignment given to the GCC was to was to go into the technicalities of the matter while analyzing what kind of service is rendered by the operator of the Grid and as to who benefits from such service, and as to what contributes to grid stabilization and under what circumstances there is a dependency on the Grid and the matters incidental thereto. However, the Report instead attempts to focus on the justifying the rate of charges to be collected which is the function of this Hon’ble Commission.
13. The Report is does not place any cogent justification, and is inconclusive without any basis and in the absence of proper consultation with the stakeholders, the same cannot be considered.
14. The Report heavily relies on and refers to the GSC determined by the Hon’ble APERC, which is now the subject matter of challenge before the Hon’ble APTEL and at present, there is a stay on the collection of GSC including by way of interim orders dated 20.05.2022 in DFR No.186/2022 and 01.07.2022 in DFR Nos.240/2022, 241/2022 and 271/2022.

B. Determination of GSC by the Hon’ble APERC:

15. The Hon’ble APERC determined GSC in the Retail Supply Tariff Order for FY 2022-23 and FY 2023-24 which is referred to by the Report of the GCC. The said orders have been challenged by various generators as follows:
 - a. Appeal Nos.228 of 2022 and 391 of 2023: Rain CII Carbon (Vizag) Ltd. vs APERC and Ors.

- b. Appeal No.388 of 2023 and batch: Ultratech Cements Ltd. vs APERC and Ors.
- c. Appeal Nos.330 of 2023 and batch: AP Textile Mills Association and Ors. vs APERC and Ors.

16. The Hon'ble APTEL had earlier stayed the collection of GSC by way of an interim order in Appeal No.228 of 2022, and consequently the determination of GSC on generators who operate co-generation plants and who export power has been held to be illegal and the appeals were allowed by way of Judgement dated 14.12.2023. In the said judgement, it was categorically held that there cannot be any GSC on IPPs and even with respect to co-generation plants which do not meet the status of captive power plants, such power plants cannot be made liable to pay GSC. Further it was also held that co-location of generation and consumption units is *sine qua non* for imposition of GSC. The relevant extracts of the said judgement are as follows:

"79. Every Co-generation Plant cannot be termed to be a CPP, the Supreme Court in the case of SC Judgment has considered only CPPs to be liable for payment of GSC, therefore, in case a power plant is not a CPP, such power plants cannot be made liable to pay GSC.

80. Even the case of Shree Renuka Sagars (Supra) does not considered the aspect where a Co-generation plant does not qualify as a CPP, in order to be liable for payment of GSC, an IPP must be co-located with the grid and should be categorized as CPP, these two conditions are necessary for imposition of GSC and absence of any one of them will exempt a plant from payment of GSC.

81. As seen from above, the State Commission passed the Impugned Order relying upon the SC Judgment and the Tribunal Judgments which are rendered in respect of CPPs having captive loads, however, extended the same by including the IPPs and non-captive Cogeneration Plants, further, excluded the IPPs which have signed PPAs with the distribution licensees, without having any statistical data or study carried out and without providing reasons and justification."

17. In the said judgment, since the Hon'ble APTEL had set aside the imposition of GSC based on the status of the plant, it had not gone into the merits of determination of GSC. However, the factors and merits relating to determination of GSC have been canvassed in Appeal Nos.330 and 388 of 2023. Appeal No.388 of 2023 and batch have been heard and are reserved for orders, whereas Appeal No.330 of 2023 and batch have been heard in part and are pending consideration before the Hon'ble APTEL.

18. The judgments in Appeal No.228 of 2022 and batch, as well as those to be rendered in the other pending appeals would have a direct bearing on the levy of GSC as well as the method and manner in which it would have to be

determined. Therefore, propriety may require that the exercise of determination of GSC or otherwise be delinked with the exercise of determination of ARR and initiate separate proceedings to carry out the ongoing exercise.

C. On Levy of GSC

19. The Report of the GCC has proposed Grid Support Charges for all generators, including captive, cogeneration, merchant power plants/PPs, rooftop power plants etc., which is completely against the reasoning of GSC in the first place. Co-location of the generator and the corresponding load is a *sine-qua-non* for imposition of GSC.
20. There has been no study conducted as to how many or what type of generators exist in the State of Telangana, and as to how many of them are captive plants, the method of operation, whether they entirely or partly consume power for themselves, or the nature of their fuel/operation etc., and as to the impact which they would cause to the Grid, if any. Without such basic parameters even being looked into, the GCC's action in recommending levy of GSC is completely irrational and ought not to be countenanced.
21. There has been no study conducted on the differences between the situation in 1998 when the first proposal of GSC was made and the situation prevailing today. There is nothing in the GCC's Report on whether with newer safety equipment over the past 25 years, any load at all gets transferred to the Grid or not when the generator fails or trips for any reason.
22. The levy of GSC in 1999 was proposed when the generation shortfall was prevailing, and the TSDISCOMS were going through occasional R&C periods and frequency fluctuations, etc. when the Regulator considered that the proposed levy had merits. However, the TS Grid has since improved / made many strides in Grid size, availability of power and attained stability and is one of the few Grids in the country being engaged in export of power on a steady basis. Aggregate capacity of the CPPs/generators now is relatively marginal compared to the Grid Size and no real forbearance could be possible warranting such huge and arbitrary levy.
23. Generators have repeatedly expressed their willingness to provide additional protections in their facilities as desired by the grid to see that no untoward load throwbacks or fault currents or reactive power surges happen.
24. There is also no study on whether or how many times such a situation of tripping has occurred in the State of Telangana, and what the immediate impact on the Grid was. Without such foundational aspects being addressed, the GCC's recommendation cannot be looked into.
25. In many cases, the CPP installed capacities are much higher when compared to our captive load to ensure higher availability for captive use. Since the installed and

operating capacity of captive load is much lower than installed Capacity of Captive Power plant, it is required to connected with grid for export of surplus power through open access.

26. When there exist regulations such as the TSERC (State Electricity Grid Code) Regulations, 2018, the TSERC (Forecasting, Scheduling, Deviation Settlement and Related Matters for Solar and Wind Generation Sources) Regulations, 2018, the TSERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2021 etc., as well as the Central Electricity Authority (Technical Standards for Connectivity to the Grid), Regulations, 2007 which already deal with the aspect of reactive power and deviation from scheduling, and injection of harmonics, as well as imposition of ToD tariffs to control demand, there is no requirement for imposing another levy relating to the same issues when the same issues stand covered by the aforesaid regulations. In fact, the SRLDC had proposed a more rational approach of billing reactive power in line with the Indian Electricity Grid Code, 2023, however, the same was not considered by the GCC at all for reasons best known to it.
27. The finding/conclusion of the GCC of the meeting on 05.08.2023 is patently incorrect as no one but the Discoms, CESS and TSGENCO had agreed that GSC needs to be levied. Further, the conclusion that the GCC may initially support the proposal of the Discoms and then request for changes in the future based on experience is completely irrational and shows the abdication of duty of the GCC, which was formed to discuss as to whether there is a need for GSC at all.
28. The failure of the GCC to understand its function and role as assigned by this Hon'ble Commission is also made clear by the fact that the views of a representative of an open access consumer were sought, when open access consumers have no relation to GSC at all, and such a charge can only be levied on generators.
29. The proposed levy of GSC aims to stifle the consuming industries by this arbitrary levy, which in turn erodes the viability of the principal industry to a point that it must perform cease operations.
30. Grid Support Charges cannot be a substitute for Demand or Capacity Charges which are determined on a wider basis by the regulator. So the proposed levy of Grid Support Charges based on its entire installed capacity is arbitrary, excessive and results in undue enrichment of the TSDISCOMs at the expense of CPPs/generators.

D. On Rate of GSC

31. There is no justification at all for how rates of GSC have been arrived at. The proposed levy has no basis and is grossly excessive, arbitrary, and thus requires to be rejected. As stated above, the GCC has merely adopted the methodology used in other states, particularly in Andhra Pradesh, which is now the subject matter of appeal before the Hon'ble APTEL.
32. The methodology of using the R&M expenses and Artisans employee cost is grossly unjust and irrational as the same have already been factored into the Distribution Business of the Discoms and wheeling charges are already being levied on the basis of such approved costs in terms of this Hon'ble Commission's order in O.P.Nos.9 and 10 of 2020 . Further, even the cost of TSTRANCO's R&M expenses and Artisans employee cost has also been added, which is once again wholly unreasonable and TSTRANSCO's expenses and costs have nothing to do with the Discoms, and such expenses are already being recovered by way of transmission charges in terms of O.P.No.3 of 2019. As such, the proposed levy is nothing but double-levy for the very same costs. Any further levy of GSC amounts to illegal and unjust enrichment of the Applicant Discoms at the cost of generating companies.
33. In effect, the entire R&M expenses and Artisans employee costs are sought to be recovered from generators alone by completely omitting the fact that consumers are also users of the Grid and equally impact the operations of the Grid, which cannot be countenanced.
34. Without prejudice to the above, any export of power by the generator ought to be excluded from the installed capacity and not only PPA capacities with the Discoms, as at the point of export, there is no difference if the power is exported to the Discoms or to third parties.

E. Further submissions in relation to Captive Power Plants:

35. Captive Power Generation is delicensed under the Electricity Act so as to lessen the burden on the Grid in meeting the distributed loads. The provision in Para 5.2.26 of National Electricity Policy, 2005 notified by Govt of India laid emphasis on grid connectivity of captive generators even under open access regime which is reproduced below:

“Under the Act, captive generators have access to licensees and would get access to consumers who are allowed open access. Grid inter-connection 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 with the grid.”

In the spirit of this legislation and rules framed thereunder, determination of Grid Support or Parallel Operation Charge should follow the principles of transparency, actual forbearance and fair computation based on time tested

methodology. The proposed levy does not meet any of these criteria and is arbitrary.

36. In the case of CPPs availing Open Access for transmission and wheeling of power from the generation point to the consumption point, charges are levied as determined by the regulator from time to time. Even in these cases there is an established mechanism of UI charges which essentially address the so-called grid support or parallel operation. The proposed levy by the GCC is therefore quite arbitrary, excessive and is not supported by quantifiable data.
37. The Transmission system of the Transco/Discom should be so designed that it should take care of fluctuating load of the consumer as it is the duty of the transmission licensee under Section 40 of Electricity Act, 2003. In relation to CPPs it is also submitted as follows:
 - a. CPPs absorb some amount of harmonics whereas a consumer without CPP inject full quantum of harmonics generated to the grid.
 - b. The unbalanced voltage of the grid is a source of negative phase sequence current which is absorbed by the generators of CPP.
 - c. Fault level depends upon the generation capacity connected to the grid. The parallel operation of CPPs with the grid is in fact beneficial with some degree of voltage support that the CPPs extend to the Grid
 - d. As per Regulations of Supply Code, Industries having CPPs can draw emergency power up to the capacity of largest generating unit by paying required tariff. CPP's drawl of power is limited to "start-up power" that too when there is total loss of generation of the CPP. The drawl of power for production purposes, is limited to the CMD as per the Power Supply Agreement with the DISCOM. Otherwise, penalty is attracted. Overdrawl is prevented by proper setting of the relays at the Grid Sub-station.
 - e. It is wrong to state that active and reactive power demand due to sudden and fluctuating load are not recorded in the meter. Billing is done for all consumers by integration over 15 minutes period and this is also applicable for CPPs and so it does not result in any undue advantage.
 - f. Due to injection of power by CPPs the load on the transformers in the grid reduces resulting in less transformer loss.
 - g. The CPP are acting as distributed generator at the load center for which the transmission and distribution loss has been reduced to great extent.

- h. As per Section 7 of the Electricity Act, 2003 any generating company may establish operate and maintain a generating station if it complies with State Grid Code and standards of grid connectivity as referred in Section 73 (b) of the Act. Both Tariff Policy and National Electricity Policy emphasizes the need for unhindered connectivity of CPPs to the grid. The proposed and arbitrary quantum of Grid Support Charge makes the captive power generation unviable and the spirit of the act and the rules framed thereunder are thus vitiated.
- i. There is no provision in the statute that empowers the DISCOMS to levy Grid Support Charges on the CPPs. They, on the other hand are benefited as CPPs absorb some amount of harmonics. On the contrary consumer without CPPs transmit full quantum of harmonics to the grid. The DISCOMs/TRANSCO is not taking any step to install suitable equipment to filter the harmonics and injecting those pollutants to the grid for which the CPPs are forced to suffer. The grid voltage is always unbalanced due to various categories of consumers and hence is a source of negative phase sequence current which cause stress on the generators of CPPs.
- j. It is relevant to mention the observation and comments of The Hon'ble Orissa Electricity Regulatory Commission in a similar matter, in its Order dated 31.03.2014 in Case No. 46/2012, the excerpt of which is as follows:

ii) Para-16 of Order:

“After going through the submission of various stake holders of the grid system we conclude that the behaviour of industries having CGPs and also without CGPs varies case to case basis. There are ample provisions in the Odisha Grid Code to regulate the behaviour of entities connected to the OPTCL system. Hence, a generic method of calculation of Grid Support Charges for all industries may not be proper. The Petitioner has failed to submit a State-wide study before us on which a decision could have been taken. One solution fits all can't be applicable here. So implementation of a model of another State in our State will not be proper.”

iii) Para- 17 of Order:

“There are enough provisions in Odisha Grid Code, 2006 to maintain quality supply in the grid system. Regulation 4.7 of Odisha Grid Code discuss elaborately the ideal behaviour of constituents of the Grid. OPTCL should play the role of watchdog and analyze the pollutant injected by various constituents of the grid system. CGPs and industries injecting pollution should be directed to take up remedial measures like installation of capacitors, filters for harmonics, etc. so that grid pollution



will be minimized. The non-compliance by any industry or industry having CGP of the Grid Code should be dealt as per Regulation 1.18 of OGC, 2006. Therefore, the prayer of OPTCL for levy of Grid Support Charges is not acceptable.”

For the various reasons cited above, the Grid situation requires to be thoroughly reviewed with reference to the fact whether the Grid suffers any forbearance in providing parallel operations of CPPs, and in the absence of such a thorough and proper review, the present proposal of levy of GSC ought not to be accepted.

P R A Y E R

That, in view of the above, we pray that the Hon’ble Commission may be graciously pleased to

- a) reject the proposal levy of Grid Support Charges as there is no such provision in the Statute/Electricity Act, whereas the STU /Transmission and Distribution Licensees are duty bound under Section 39 and 40 of the Electricity Act, 2003 and the National Electricity Policy, 2005 to provide connectivity to the CPPs like any generating station;
- b) In the event the Hon’ble Commission holds the proposal of GSC is valid, within the powers and jurisdiction and are leviable, it is prayed to engage an independent reputed third party to conduct a thorough system study and technical issues concerning power load throwbacks by CPPS/consuming industries, power harmonics in parallel operation of CPPs, size of the CPPs and judiciously arrive at a reasonable charge as has been done by other state Commissions/governments TS DISCOMS also should pursue this best practice to obtain an arm’s length analysis and fair rates for all constituents;
- c) To hold the levy till the third-party analysis is completed to the satisfaction of the Hon’ble TSERC;
- d) Consider our foregoing objections, grant us a personal hearing and grant leave to adduce further evidential data in our support at the time of hearing;
- e) It is also requested to permit us to submit further submission, if any, during the course of public hearing either by our representative or legal counsel.

For Penna Cement Industries Ltd.



Authorized Signatory

Place: Hyderabad

Date: 02.01.2024