

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION SHILLONG

In the matter of-

A petition for approval of Distribution Open Access Charges for 2013-14 under the MSERC (Terms and Conditions of Open Access) Regulations, 2012.

AND

In the matter of-

The Meghalaya Power Distribution Corporation Ltd, (MePDCL),
Lumjingshai, Shillong-793001, Meghalaya. Petitioner.

Coram: Anand Kumar

ORDER

(12.11. 2013)

Licensee Meghalaya Power Distribution Corporation Ltd (MePDCL) on 30.04.2013 filed a petition seeking Commission's approval of the charges it has proposed to levy on open access consumers for 2013-14. As per the information available with the Commission, there are at present three such open access consumers who buy power from outside the State and use licensee's network for reaching the power to their destinations.

2. The Electricity Act, 2013 (section 42) provides for open access. Regulations have also been framed by the Commission for determination of the wheeling charges, cross subsidy, additional charges and other matters connected with open access. The Regulations, that is, the Meghalaya State Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulations, 2012 (the OA Regulations) came into force on 10.05.2012. It may be mentioned that the Regulations have been challenged by Byrnihat Industries Association (BIA) in the High Court of Meghalaya and the matter is pending. There is, however, no stay.

3. The approval sought for by MePDCL is on the proposed wheeling charges, applicable losses and cross subsidy charges for 2013-14.

4. In order to have a consultative process, public notice was published giving the salient features of the petition including the charges for wheeling, losses and cross subsidy surcharges proposed for IEHT and IHT consumers for 2013-14. Objections/suggestions were invited from the consumers and interested parties. Byrnihat Industries Association (BIA) responded and filed its objections after availing extension of time. The objections pertain mainly to wheeling charges and cross subsidy charges, apart from other issues which are of general, technical or legal nature. Comments of MePDCL thereon were sought for, received and considered. Public hearing, after due notice, was held on 28.10.2013 and on 06.11.2013. Matter was also discussed in the Advisory Committee meeting held on 29.10.2013. The objections and comments received from Byrnihat Industries Association and the response of MePDCL were examined. The objections raised and the views of the Commission are discussed in the following paragraphs.

Wheeling Charges:

5. BIA's objection is that the wheeling charges are not proportionate to the use of the system by the concerned members of the Association. It proceeds to argue that the charges should be based on the actual number of units utilized and not on the contracted load/MW capacity.

6. MePDCL in its response to the objections submits that the calculation of wheeling charges has been done as per the OA Regulations and is based on the ARR for 2013-14. It also states that 2013-14 is the first year of its independent commercial operation after the utility has been corporatized and that it is unable yet to segregate network costs and compute the wheeling charges at different voltages. The data and calculation furnished by MePDCL using regulation 23 of the OA Regulations works up the wheeling charges to Rs.26038/MW/Day and is as follows:

MePDCL-Proposal for Wheeling Charges	
Particulars (FY 2013-14)	Rs. Crores

Annual Revenue Requirement of MePDCL (ARR)	744.22
Total Power Purchase Cost of MePDCL (PPC)	522.02
Total transmission charges payable by MePDCL (TC)	115.82
(ARR-PPC-TC)*	106.38
Total sale	1665.53
Less	
Outside sale (MU)	335
Sale to EHT consumer (MU)	350
Net Sale (MU)	980.53
ALSD (MW)	112
Wheeling Charges =(ARR-PPC-TC)/(ALSD X 365) (Rs/MW/Day)	26038

7. As regards the contention of BIA that the wheeling charges should be on units consumed and not on capacity/MW. We are, however, reminded that open access under regulations 21 & 23 of the OA Regulations is allowed on the basis of contracted load and the capacity reserved for the concerned consumers. The utility has invested to create the infrastructure which involves costs for operation and maintenance of the network. The proposal of MePDCL has been examined and it is seen that it meets the norms specified in the OA Regulations and the Tariff Order for 2013-14. It also matches with the load flow during the year. **The Commission finds it justifiable and, therefore, approves the wheeling charges of Rs.26038 per MW/day (equivalent to Rs.1.08 per unit) for the financial year 2013-14 commencing from 1.4.2013 payable on the basis of the contracted capacity/scheduled load or actual power flow whichever of them is higher.**

Losses:

8. BIA objected and said that proposal to apply 15% losses is not valid without correctly measuring the losses at different voltages. MePDCL responded saying that the losses shown have been approved by the Commission in its earlier order and that it is taking necessary steps to measure the losses at each voltage level. The Commission had already directed the licensee in its order dated 21.08.2012 to do energy audit by putting metering system in place and taking readings regularly. However, MePDCL is unable to put report on energy audit till date. The Commission therefore directs MePDCL to place its report at the time of filing of ARR for 2014-15. The Commission observes that MePDCL could have done well to correctly assess the losses at least for the 33 KV & 11 KV systems. **In any case, till such a time the assessment is done, the losses of 6% at 33 KV and 9% at 11 KV are approved for 2013-14.**

Cross Subsidy Surcharges:

9. In the objections they have filed, BIA and other open access consumers iterate that the cross subsidy surcharge should have been reduced progressively and eliminated. They also argue that the methodology of calculating cross subsidy surcharge is not according to the formula contained in the National Tariff Policy.

10. MePDCL in its response submits that the cross subsidy surcharges are determined in accordance with the provisions of the OA Regulations. It also points out that the level of cross subsidy in the tariff of the industries for 2013-14 has been reduced from that for 2012-13. Particulars in respect of cross subsidy surcharges for IHT and IEHT consumers given by MePDCL are as follows:

MePDCL Proposal for Cross Subsidy Surcharges			
Sl. No	Particulars	IEHT	IHT
1	Contracted Demand (CD) (KVA)	91401.13	163435.32
2	Billing Demand @ 75% of CD	68550.85	122576.49
3	Demand charges (Rs/KVA)	125	125
4	Total Demand Charges (Rs/Crs)	10.28	18.39
5	Energy sale projected (MU)	350	350
6	Energy sale projected (Million MVAH)	411.76	411.76
7	Rate per KVAH(Rs)	4.39	4.54
8	Total energy charges (Rs./Crs)	180.76	205.33
9	Average Tariff (Rs/KWH)	5.46	5.87
10	Average state tariff (Rs/KWH)	4.38	4.38
11	Cross subsidy surcharge (Rs/KWH)	1.08	1.49

11. The Commission is very much concern with the issue relating to cross subsidy surcharge which BIA and open access consumers are obsessed with. Their contention that the surcharge should be reduced progressively and eliminated is an ideal proposition but farfetched in the present day scenario where the largest number of the consumers are those in the subsidized domestic category. They are poor and fall under the BPL group. Their interest cannot be overlooked. The concept of open access in electricity is to encourage competition and develop electricity industry and at the same time to take into account the various factors connected with the purchase, supply and distribution of electricity so as to maintain a balance for the interest of the utilities, the consumers and other stakeholders.

12. It is an accepted fact that in the supply and consumption of electricity the principle of cross subsidy has been in existence even before the Electricity Act, 2003 came into force; high-end consumers cross subsidize domestic and other poor consumers and, that way, the power sector has been sustained. Now, the Act (section 42) is more liberal; it provides that open access shall be allowed to a consumer for use of transmission lines or distribution system of a licensee and that wheeling charges, cross subsidy charges and other charges shall be so leviable in order to meet the requirement within the area of supply of a licensee. Levy of cross subsidy charges as such cannot be wished away.

13. There are two main factors prompting IHT and IEHT consumers to opt for open access. One is the shortage of power from the grid of the local area of the distribution licensee and the other is that power is available at competitive rates from the Power Exchange or other outside stations. In 2012-13, because of the shortage in the State, the Commission has facilitated the process of open access by framing the OA Regulations and fixing the charges relevant at that point of time. The cross subsidy surcharges were fixed on the assumption that in the shortage scenario, the power saved would be distributed to other industries and would prevent shortfall in the revenue derivable from cross subsidy. In 2013-14, the situation of power availability has changed with the operation of OTPC Palatana Project and Leshka Hydro Electric Project. Due to this, in the recent months in 2013-14, MePDCL has been able to trade some of its power outside the State.

14. An examination of the data of sale and revenue in 2012-13 and 2013-14 (pro rata) shows that there is a fall in consumption by the industries and hence in the revenue also. This may be due to economic and other reasons including opting for open access by some consumers. As per the data available with the Commission on sale and revenue for some months of 2013-14, the cross subsidy requirement for domestic (LT), BPL and agriculture categories is around Rs.50 crores. After meeting the requirement of cross subsidy at present extended by the subsidizing consumers of the licensee, there is a shortfall of approximately Rs.6.33 crores. At the present level of cross subsidy surcharge the revenue from the existing open access consumers is only Rs.2.50 crores leaving a gap of Rs.3.83 crores. Therefore, there is

a genuine need to increase the present level of cross subsidy surcharge so as to meet the current requirement of a large number of subsidized consumers of the State and such an increase may go up to Rs.1/unit.

15. The Commission has given its anxious consideration as to what should be the appropriate increase. In the present scenario of consumption by open access consumers and at the existing rate of surcharges, the yield will be about Rs.2.50 crores while the need is Rs.6.33 crores. For meeting the gap, the average cost method (i.e. difference between tariff and average cost of supply) will not suffice. The Commission in this circumstance considers that cost to serve method (i.e. difference between tariff and cost of supply to that category) is more appropriate and it also conforms to objectives envisaged in the National Tariff Policy, Act and the Regulations. According to that method and based on the figures contained in the tariff order for 2013-14, the cross subsidy surcharge will work out to Rs.0.95/unit for IEHT consumers and Rs.1.11/unit for IHT category. While so arriving, the Commission has computed power purchase cost which is a major component of the tariff at EHT and HT levels, taking into account the system losses (technical and commercial). As segregated network costs at different voltages are not available at this stage, the Commission has taken the pool network cost and apportioned it equitably. The cost of supply to IEHT and IHT consumers is computed at Rs. 3.96/unit and Rs. 4.19/unit respectively. The tariff for applicable category has been derived by taking the ratio of expected revenue and expected sale for that category from the tariff order of 2013-14. This method gives Rs. 4.91/unit as tariff applicable to IEHT consumers and Rs. 5.30/unit to IHT consumers. Accordingly the cross subsidy surcharge works out to Rs.0.95 (4.91-3.96)/unit for IEHT category and Rs.1.11 (5.30-4.19)/unit for IHT category.

16. As shown above, the cross subsidy surcharges are Rs 0.95/unit and Rs.1.11/unit. However, the Commission has considered the objectives laid down in the National Tariff Policy and the National Electricity Policy with regard to promotion of competition through open access, extent of cross subsidy, interest of all stakeholders including large section of subsidized consumers of the State and has taken a view that the appropriate level of the surcharge may be fixed at Rs. 0.85/unit for IEHT consumers and Rs. 0.90/unit for IHT consumers. **Accordingly the**

Commission approves cross subsidy surcharges as Rs.0.85/unit for IEHT consumers and Rs.0.90/unit for IHT consumers for 2013-14 commencing from 1.4.2013.

17. The surcharge of Rs.0.85/unit and Rs.0.90/unit for the IEHT and IHT consumers will substantially be able to meet the current level of cross subsidy required for 2013-14. This is also in line with the spirit of the Act and the OA Regulations wherein it is provided that surcharge shall be utilized to meet the requirement of current level of cross subsidy. Looked at from various aspects the increase of the cross subsidy surcharge is reasonable when weighed against the benefits the OA consumers are getting by using the network of the licensee. They get uninterrupted power round the clock for running their business even during peak hours at lower rates. The National Tariff Policy also recognize the need to factor in the element of cross subsidizing by high end consumers to maintain a balance in the tariffs affecting a large number of domestic (LT) consumers and to sustain the power sector.

Additional Surcharge

18. Incidentally, in one of the hearings held, the question of levy of additional surcharge has been brought up by the Commission since such surcharge is permitted under regulation 25 of the OA Regulations. Liberty is given to the utility to file a proposal to the Commission for its approval. However, such a proposal is yet to come. The matter will be taken up as and when the proposal is received.

19. In approving the wheeling and cross subsidy surcharges as above the statutory provisions of the Act and the OA Regulations have been adhered to and the interest of the consumers, including OA consumers, has been borne in mind. Commission has also adopted a transparent approach by consulting and hearing the stakeholders and taking them into confidence. In the hearing held on 06.11.2013, Commission has explained to the representatives of BIA present (no one on behalf of MePDCL or MePTCL attended) and dwelt on the fact that there is a large number of domestic (LT) and poor consumers in the State and that there is an obligation on the part of the better placed beneficiaries to contribute as mandated by law. In such a situation, recast of the cross subsidy surcharge is unavoidable but while

deciding the surcharge the interest of all stakeholders would be kept in view, the Commission asserts. The imperatives as such arise because of the ground realities inherent in running the power sector and the need to sustain it for all round development.

20. Summing up the proceedings in the light of what has been discussed in the preceding paragraphs Commission approves the charges to be paid by open access consumers for 2013-14 as follows:

- a. the wheeling charges of Rs.26038 per MW/day (equivalent to Rs.1.08 per unit) which shall be payable on the basis of the contracted capacity/scheduled load or actual power flow whichever of them is higher.
- b. losses shall be compensated @ 6% by 33 KV consumers and 9% by consumers connected on 11 KV network at their respective drawal/injection points.
- c. cross subsidy surcharge on per unit basis @ Rs.0.85/unit for IEHT consumers and Rs.0.90/unit for IHT consumers for the financial year 2013-14 commencing from 01.04.2013.

21. In implementing this order, the Commission expects the MePDCL and MePTCL to give due importance to it and comply with the provisions of the MSERC (Terms and Conditions of Open Access) Regulations, 2012 while allowing open access to consumers including captive generating plants and recovering the charges as may be due from them.

(ANAND KUMAR)
CHAIRMAN