

**BEFORE THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION,
CHENNAI**



Filing No : _____

Case No : M.P. No. 30 of 2021.

In the matter of : Petition under TNERC (Grid connectivity and Intra-State Open Access) Regulations, 2014, for determination of additional surcharge payable by open access consumers availing power under open access

Tamil Nadu Generation and Distribution Corporation Ltd.
(TANGEDCO)
NPKRR Maaligai
144, Anna Salai,
Chennai – 600 002

..... Petitioner

Petition filed by the Petitioner

(Petition filed under section 42(4) of Electricity Act 2003. Read with Regulation 24(1) of the TNERC Grid Connectivity and Intra State Open Access Regulations 2014)

The Petitioner named above respectfully states as under:

1 Overview of TANGEDCO

1.1 Tamil Nadu Electricity Board (TNEB) came into existence on 1st July 1957 under the repealed Act of Electricity (Supply) Act 1948 and has been in the business of generation, transmission and distribution of electricity in the state of Tamil Nadu.

1.2 The enactment of the Electricity Act, 2003 has opened up the power sector for competition in all spheres of activities. TANGEDCO as the State Generation and Distribution Utility is entrusted with the duty of generating power and distribution of the same to the end consumers through its generating stations and vast distribution network.

1.3 Contracted capacity of TANGEDCO as on 31.03.2021

Sl. No.	Generation Category	Installed capacity (in MW)
1	Hydro	2321.90
2	Thermal	4320.00
3	Gas	516.08
4	Central Generating Stations - Share	6558.00
5	Independent Power Project	514.42
6	Long Term Open Access	2830.00
7	Medium Term Open Access	550.00
8	Captive Power Projects	18.00
	Total	17628.40


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9	Non Conventional Energy	
I	Wind	2147.37
II	Solar	3450.34
III	Co-Generation	265.00
IV	Bio mass	35.00
	Total	5897.71
	Grand Total	23526.11

1.4 With regard to demand and supply position, the maximum power demand of the State is 16,151 MW during the year. Average daily consumption of the State is about 369.94 MU. Maximum demand met was 16,845.5 MW (10-04-2021) and maximum consumption per day was 372.702 MU (09-04-2021).

2 Legal framework:

2.1 The relevant Provisions of Electricity Act 2003, Policies of Government of India and Regulations on Open Access Notified by Hon'ble TNERC are detailed below.

2.2 The section 40 of Electricity Act describes the duties of Transmission Licensee related to open access

"to provide non-discriminatory open access to its transmission system for use by-
(i) any licensee or generating company on payment of the transmission charges ;
or

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission: Provided that such surcharge shall be utilised for the purpose of meeting the requirement of current level cross-subsidy:

Provided further that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission:

Provided also that the manner of payment and utilisation of the surcharge shall be specified by the State Commission.

2.3 Section 42 (2) of the Electricity Act 2003 provides following provisions wherein the powers have been given to State Commissions for specifying cross subsidy and surcharge.

"The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:

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Provided that such open access shall be allowed on payment of a surcharge in addition to the charges for wheeling as may be determined by the State Commission:

Provided further that such surcharge shall be utilised to meet the requirements of current level of cross subsidy within the area of supply of the distribution licensee:

Provided also that such surcharge and cross subsidies shall be progressively reduced in the manner as may be specified by the State Commission:

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use:"

- 2.4 Further, Section 42 (4) of the Act provides following provisions related to 'Additional Surcharge'.


"Where the State Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the State Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply."

- 2.5 Section 8.5 of the National Tariff Policy provides following provisions that deal with calculation of cross subsidy surcharge and applicability of additional surcharge to be paid by open access consumers.

"National Electricity Policy lays down that the amount of cross-subsidy surcharge and the additional surcharge to be levied from consumers who are permitted open access should not be so onerous that it eliminates competition which is intended to be fostered in generation and supply of power directly to the consumers through open access."

"8.5.4The additional surcharge for obligation to supply as per section 42(4) of the Act should become applicable only if it is conclusively demonstrated that the obligation of a licensee, in terms of existing power purchase commitments, has been and continues to be stranded, or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. The fixed costs related to network assets would be recovered through wheeling charges."

- 2.6 It is respectfully submitted that, the clause 8.5.6 also stipulates that in case of outages of generator supplying to a consumer on open access, standby


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arrangements should be provided by the licensee on the payment of tariff for temporary connection to that consumer category as specified by the Appropriate Commission. Provided that such charges shall not be more than 125 percent of the normal tariff of that category.

- 2.7 It is respectfully submitted that, the Regulation 24 of TNERC(Grid connectivity and Intra-State Open Access) Regulations, 2014, provides following provisions, which deal with 'Additional Surcharge'

"24. *Additional Surcharge.* –

(1) An open access customer, receiving supply of electricity from a person other than the distribution licensee of his area of supply, shall pay to the distribution licensee an additional surcharge on the charges of wheeling, in addition to wheeling charges and cross-subsidy surcharge, to meet out the fixed cost of such distribution licensee arising out of his obligation to supply as provided under subsection (4) of section 42 of the Act.

(2) This additional surcharge shall become applicable only if the obligation of the licensee in terms of power purchase commitments has been and continues to be stranded or there is an unavoidable obligation and incidence to bear fixed costs consequent to such a contract. However, the fixed costs related to network assets would be recovered through wheeling charges.

(3) The distribution licensee shall submit to the Commission on six monthly basis, a detailed calculation statement of fixed cost which the licensee is incurring towards his obligation to supply. The Commission shall scrutinize the statement of calculation of fixed cost submitted by the distribution licensee and obtain objections, if any, and determine the amount of additional surcharge:

Provided that any additional surcharge so determined by the Commission shall be applicable only to the new open access customers.

(4) Additional surcharge determined on per unit basis shall be payable, on monthly basis, by the open access customers based on the actual energy drawn during the month through open access:

Provided that such additional surcharges shall not be levied in case distribution access is provided to a person who has established a captive generation plant for carrying the electricity from such plant to the destination of his own use.

3.0 Background of Petition

- 3.1 It is submitted that this petition is filed based on the directions issued in the order of previous petition vide case M.P.No.18 of 2020, order dated 15.04.2021 in which the Hon'ble TNERC has directed TANEDCO as follows:


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