

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION
SCO NO. 220-221, SECTOR 34-A, CHANDIGARH

Petition No. 56 of 2015
Date of Order: 15.01.2016

In the matter of : Petition under section 86 (1) (a), (c) and (e) of Electricity Act, 2003 and Regulation 46 of PSERC (Terms and Conditions of Intra-state Open Access) Regulations 2011, as amended upto date, for further amending Regulation 25 of the Open Access Regulations, 2011 in accordance with addition/amendment made by Govt. of Punjab in the NRSE Policy, 2012 (i.e. allowing intra-state transmission & wheeling of NRSE power without levy of transmission and wheeling charges, which is currently levied @ 2% as per Open Access Regulations of PSERC) for promotion of NRSE Projects.

AND

In the matter of : Punjab Energy Development Agency (PEDA), Plot No. 1 & 2, Sector 33-D, Chandigarh.

Present: Smt. Romila Dubey, Chairperson.
 Er. Gurinder Jit Singh, Member.

ORDER:

The present petition has been filed by Punjab Energy Development Agency (PEDA) under section 86(1)(a),(c) and (e) of the Electricity

Act, 2003 and regulation 46 of PSERC (Terms and Conditions of Intra-state Open Access) Regulations, 2011.

2) The submissions made by PEDDA in the Petition are summarized as under:

(i) Punjab Energy Development Agency (PEDDA) is the State Nodal Agency for implementation of NRSE Policies on behalf of Govt. of Punjab. PEDDA is also responsible to support NRSE projects and schemes for generation of energy from NRSE sources. Currently, PEDDA is the Nodal Agency for NRSE Policy, 2012 notified by GoP vide Notification No. 10/174/2012/STE(3)/4725 dated 26.12.2012.

(ii) Section 86(1) (a), (c) and (e) of the Electricity Act, 2003 provides as under:

“86. (1) The State Commission shall discharge the following functions, namely:

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State :

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(c) facilitate Intra-State transmission and wheeling of electricity;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

PEDA has submitted that the Commission is empowered to determine the wheeling charges for intra-state open access so as to facilitate wheeling of power in the State and provide measures to promote NRSE projects in the State.

- (iii) In order to promote development of Renewable Energy in the State of Punjab and also to encourage intra-state wheeling of NRSE power, the Council of Ministers, through department of New and Renewable Energy, Govt. of Punjab has waived off transmission and wheeling charges on transfer of renewable energy generated at the NRSE Projects to the end users. Accordingly, NRSE Policy, 2012 has been amended by Govt. of Punjab vide amendment bearing Notification No. 18/7/2015/PE1/1605 dated 09.07.2015.

As per Para (e), sub paras (i) & (iv) of the Notification for amendment to the NRSE Policy, 2012, the transmission and wheeling charges have been waived off by Govt. of Punjab for intra-state wheeling of NRSE power. Sub paras (i) & (iv) of para (e) of the amendment to the NRSE Policy, 2012 have been reproduced by PEDA as under:

“(i) Power Wheeling: The PSPCL/LICENSEE/PSTCL will undertake to transmit/wheel the NRSE power through its grid, to consumers located in the State without any transmission and wheeling charges on the energy fed to the grid, irrespective of

the distance from the generating station. However, all transmission & distribution losses and all other charges as per open access regulation shall be to the account of the OA consumers. Such wheeling and/or transmission of power shall be governed by Open Access Regulations/procedures.

(iv)The facility of exemption of transmission & wheeling charges on intra state open access shall be available to the NRSE plants achieving commercial operation (CoD) from the date of issuance of this amendment notification uptill 31.3.2017 for a period of ten years from the date of COD of the plant.”

- (iv) The solar power projects were exempted from payment of Transmission Charges of Central Transmission Utility (CTU) for interstate transmission of power for projects commissioned after 01.07.2011 for a period of 3 years, as per Regulation 7(1) (u) and (v) of CERC (Sharing of Inter State Transmission Charges & Losses) Regulations, 2011, for useful life of projects. This period has been further extended by the Hon'ble CERC, vide order dated 02.03.2015, in Petition No. 3/SM/2015, in the matter of transmission charges for power generated from solar generating stations. Third Amendment of CERC (Sharing of Inter State Transmission Charges & Losses) Regulations, 2015 notified on 01.04.2015 also provides that solar based generation projects commissioned on or after 01.07.2011 to 30.06.2017 are exempted from payment of transmission charges and losses for use of Inter-State Transmission System and the provision shall be applicable till the useful life of the project.
- (v) The Govt. of Andhra Pradesh, Karnataka, Madhya Pradesh and Joint Electricity Regulatory Commission for Union Territories

have also exempted such projects from payment of wheeling charges.

- (vi) The wheeling charges as per Intra State Open Access Regulations, 2011 are provided under Regulation 25. The relevant provision for wheeling charges applicable to NRSE Projects under the 'Note' provided below Regulation 25 has been reproduced by PEDDA as under:

“In case of wheeling of power generated from NRSE project, transmission and wheeling charges shall be levied @ 2% of the energy injected into the State Grid, irrespective of the distance i.e. additional 2% of the total energy shall be injected at injection point(s). 10% of the average revenue realized by distribution licensee from such additional injection shall be passed on to the STU/Transmission licensee for compensating on account of transmission charges.”

- (vii) Note under Regulations 25 was further amended vide Amendment no. 2 of the regulations vide Notification No. PSERC/Secy/Reg/77 dated 13.12.2012, as under:

“For Note under Regulation 25 of the Punjab State Electricity Regulatory Commission (Terms & Conditions for Intra-state Open Access) Regulations, 2011, the following shall be substituted namely:

“ In case of wheeling of power generated from NRSE project for consumption within the State, transmission and wheeling charges shall be levied @ 2% of the energy injected into the State Grid, irrespective of the distance i.e. additional 2% of the total energy shall be injected at injection point(s). 10% of the average revenue realized by distribution licensee from such additional injection shall be passed on to the STU/Transmission

licensee for compensating on account of transmission charges. In case of wheeling of power generated from NRSE project outside the state, full transmission and wheeling charges shall be leviable.”

- (viii) Regulation 46 of the PSERC (Terms and Conditions for Intra-state Open Access) Regulations, 2011 provides as under:

“46. Power to Amend

The Commission may at any time add, vary, alter, modify or amend any provision of these Regulations”.

PEDA has submitted that the Commission at any time can add/vary/alter/modify or amend any provisions of the Regulations formulated by the Commission.

- (ix) PEDA has prayed as under:

(a) Amend the PSERC Open Access Regulations, 2011 in accordance with the amended NRSE Policy, 2012 of Govt. of Punjab and allow intra-state transmission & wheeling of NRSE power without any charges, which are currently levied @ 2%.

(b) Grant any other relief as deemed fit in the case.

3. The Commission vide its order dated 24.09.2015 observed and ordered as under:

“The petition is admitted. PEDA is directed to file by 30.09.2015 a proposal in annotated form, showing the existing clauses and clauses proposed to be amended of PSERC (Terms and Conditions of Intra State Open Access) Regulations, 2011. Copy of proposal shall be supplied directly to PSPCL. PSPCL shall file reply to the petition after considering the proposed amended clauses of the Regulations, by 08.10.2015 with copy to PEDA.

The Petition shall be taken up for hearing on 14.10.2015 at 11.30 A.M.”

4. PEDDA submitted in annotated form the existing & proposed clause of the PSERC (Terms and Conditions of Intra-state Open Access) Regulations, 2011, as under:

Regulation No.	Existing Clause	Proposed Clause
25	Note: In case of wheeling of power generated from NRSE project for consumption within the State, transmission and wheeling charges shall be levied @ 2% of the energy injected into the State Grid, irrespective of the distance i.e. additional 2% of the total energy shall be injected at injection point(s). 10% of the average revenue realized by distribution licensee from such additional injection shall be passed on to the STU/Transmission licensee for compensating on account of transmission charges. In case of wheeling of power generated from NRSE project outside the state, full transmission and wheeling charges shall be	Note: In case of wheeling of power generated from NRSE project for consumption within the State, transmission and wheeling charges shall be levied @ 2% of the energy injected into the State Grid, irrespective of the distance i.e. additional 2% of the total energy shall be injected at injection point(s). 10% of the average revenue realized by distribution licensee from such additional injection shall be passed on to the STU/Transmission licensee for compensating on account of transmission charges. In case of wheeling of power generated from NRSE project outside the state, full transmission and wheeling charges shall be leviable.

	leviable.	Provided that NRSE projects achieving Commercial Operation (COD) in the state between the period 9.7.2015 to 31.3.2017 shall be allowed intra-state open access to consumers within the state without any transmission and wheeling charges for a period of ten years from the date of COD of the plant. In case of wheeling of power generated from NRSE project outside the state, full transmission and wheeling charges shall be leviable.
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5. The Commission vide its order dated 14.10.2015 observed and ordered as under:

“In compliance with Order dated 24.09.2015 of the Commission, PEDDA has filed the proposal in annotated form showing the existing clauses and proposed clauses of PSERC (Terms and Conditions of Intra State Open Access) Regulations, 2011 vide its reply dated 08.10.2015 with copy to PSPCL. PSPCL has, however, not filed its reply in compliance with Order dated 24.09.2015 and seeks time to do so. PSPCL shall file the same by 23.10.2015 and supply a copy to PEDDA directly. The petition shall be taken up for hearing on 28.10.2015 and 11.30 A.M.”

6. PSPCL vide its letter dated 26.10.2015 filed reply to the petition, which is summarized as under:

- a. As per clause 25 (3) of the Open Access Regulation, 2011, the Annual Wheeling Charges are in lieu of cost of wired business of Distribution Licensee. The Commission determines the prudent level of Annual Wheeling Charges. While doing so, it uses its own foresight for apportioning the expenses of a licensee for the purpose of computing expenses pertaining to wired business.
 - b. At present, there are some open access consumers which are having bilateral arrangement directly with the NRSE Power Developers. Such like entire power generated is injected directly into the State Grid which gets subjected to voltage regulations and transformations by the system/equipment of State Utilities before this power is used by the end users.
 - c. At present, although the revenue involved on account of wheeling charges in respect of NRSE Projects is not significant; however, this is likely to grow in future in view of anticipated growth in these type of projects and the revenue on this account shall increase, for which the interest of PSPCL needs to be taken care of, since the waving off these charges shall impact the revenue of PSPCL.
 - d. PSPCL has prayed that in view of the technical and financial implications of the proposed amendment, the Commission may make a provision for the ways and means in order to compensate the likely loss of revenue to PSPCL in view of the proposed amendment.
7. The Commission vide its order dated 28.10.2015 observed and ordered as under:

“PSPCL was directed vide Order dated 14.10.2015 to file reply to the petition by 23.10.2015 with copy to PEDDA directly. PSPCL has filed its reply vide memo No. 5798 dated 26.10.2015 with copy to PEDDA. PEDDA is directed to get the petition and reply of PSPCL published in accordance with Regulation 67 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005 under intimation to the Commission.”

8. PEDDA vide its letter dated 26.11.2015 intimated that it has got published public notice inviting objections/comments on Petition No. 56. of 2015 in news papers, in accordance with Regulation 67 of PSERC (Conduct of Business) Regulations, 2005.
9. In response to the public notice, comments/objections have been received from Open Access Users Association and Nahar Industrial Enterprises Ltd., which have been summarized as under:
 - i) Open Access Users Association has submitted that the steps taken by the State of Punjab for promotion of energy are really praise worthy and the proposal to fully exempt the wheeling of such energy from wheeling charges will further promote the setting up such plants in the State of Punjab.
 - ii) Nahar Industrial Enterprises Ltd (NIEL) has submitted that the steps taken by the State of Punjab for promotion of green energy are really praise worthy and the proposal to fully exempt the wheeling of such energy from wheeling charges will further promote the setting up such plants in the State of Punjab. NIEL has welcomed the proposal of PEDDA and are in full agreement with it and has requested the Commission to accept the proposal of PEDDA and fully exempt the Intra State

wheeling of NRSE power from Transmission and Wheeling charges. It will help in achieving the renewable energy targets set by Gol and GoP.

10 Findings and Decision:

After going through the submissions made by PEDA, PSPCL and comments/objections received from Open Access Users Association and Nahar Industrial Enterprises Ltd, the Commission observes and decides as under :-

- i) The objectors have welcomed the proposal of PEDA to fully exempt the wheeling of NRSE power from transmission and wheeling charges as the same will promote the setting up of such plants in the State of Punjab.
- ii) The apprehension of PSPCL regarding loss in revenue due to waiving off transmission and wheeling charges in case of intra-state wheeling of NRSE power will be taken care of during processing of the ARR of PSPCL/Licensee.
- iii) As per section 86(1)(e) of the Electricity Act, 2003, the State Commission has been assigned the function to promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person.
- iv) The Commission decides to amend Regulation 25 of PSERC (Terms and Conditions for Intra-state Open Access) Regulations, 2011, by adding a proviso under 'Note' in Regulation 25 of the PSERC (Terms and

Conditions for Intra-state Open Access) Regulations, 2011, as under :-

Provided that in case of wheeling of power for consumption within the State, generated from NRSE project in the State, achieving commercial operation (COD) from 09.07.2015 to 31.03.2017, no transmission and wheeling charges shall be leviable, irrespective of the distance, for a period of 10 (ten) years from its date of commercial operation (COD),

Notification for the same will be issued separately.

The petition is disposed off accordingly.

Sd/-

(Gurinder Jit Singh)
Member

Chandigarh
Dated: 15.01.2016

Sd/-

(Romila Dubey)
Chairperson