



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
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From

The Commission Secretary (I/c),
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Singareni Bhavan,
Hyderabad – 500 004

To

The Chairman & Managing Director
APEPDCL, P&T Colony,
Seethammadhara
Visakhapatnam – 530013.

The Chairman & Managing Director
APSPDCL, D.No:19-13-65/A,
Srinivasapuram, Tiruchanoor Road,
Tirupati – 517 503

Lr. No. E- 231 / JD (Engg.)/ 2016, Dated 27 /07/2016

Sir,

Sub: Levy of Cross Subsidy surcharge.

Ref: Lr.No. CGM/C.R&C/EPDCL/CO/VSP/ D.No. 1103/16, Dt: 15-06-2016.

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1). M/s APEPDCL vide letter dated 15-06-2016, sought clarification whether cross subsidy surcharge is to be levied with reference to end use consumption category or with reference to power supply category that was extended to the generating station. M/s. APEPDCL extended power supply to M/s. Sarda Metals and Alloys Ltd., a 80 MW power plant, under HT-II category for startup operation and maintenance. M/s. Sarda Metals and Alloys Ltd., also established their own Ferro alloy industry of 66 MVA capacity in the same premises and availing power supply from the power plant to the Ferro alloy industry.

2). The Commission examined the above issue in detail and the following are the observations.

Act provisions:

Section 42. (Duties of distribution licensee and open access): ---

(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.

(2) 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:

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:

3). As per the Electricity Act, 2003, National Electricity Policy (NEP) and National Tariff Policy (NTP), Surcharge is to be levied on Consumers switching to alternate supply through open access by the State Commission. The National Electricity Policy states that Cross-Subsidy surcharge is levied to compensate the host distribution licensee serving such consumers who are permitted open access, for loss of the cross subsidy element built into the tariff. The present consumer is not availing power supply through the grid. He is availing power from his own power plant to the industry established in the same premises.

4). The Distribution Licensee u/s 43 of the Electricity Act, 2003, is under universal supply obligation to supply electricity to any consumer on request irrespective of the fact that the consumer is an industrial consumer or domestic consumer or an agricultural consumer. To compensate the Distribution Licensee for having the universal supply obligation and having to cater to consumers who pay below the cost of supply, the compensatory charges are levied on the industrial consumers and other consumers taking electricity supply from the 3rd parties. This concept of cross subsidy surcharge is well settled under the provision of the Electricity Act, 2003 and the Regulations framed therein.

5). If an existing or prospective consumer (subsidizing consumer) opts for open access or avails power supply from different source other than Distribution Licensee will cause revenue loss to the extent of cross subsidy component built in the tariff.

6). The relevant portion of the observations of the Tribunal dated 09.02.2010 in Chhattisgarh State Power Distribution Co. Ltd. Versus Aryan Coal Beneficiations Pvt. Ltd. in Appeal No. 119 & 125 of 2009 is as follows:

“17. The cross subsidy surcharge, which is dealt with under the proviso to sub-section 2 of Section 42, is a compensatory charge. It does not depend upon the use of Distribution licensee’s line. It is a charge to be paid in compensation to the distribution licensee irrespective of whether its line is used or not in view of the fact that but for the open access the consumers would have taken the quantum of power from the licensee and in the result, the consumer would have paid tariff applicable for such supply which would include an element of cross subsidy of certain other categories of consumers. On this principle it has to be held that the cross subsidy surcharge is payable irrespective of whether the lines of the distribution licensee are used or not.”

7). From the above, it is evident that a consumer, who avails power supply from a generating station through a dedicated line without using Licensee’s lines, also has to pay cross subsidy surcharge. In the present case, the end user of power is ferro alloy industry and the power supply is availed from his own power plant. Had he been availed power supply from the DISCOM to his Ferro alloy industry, he would have availed power supply under HT-1(B) category and not under HT-II category. In this case, the compensatory charge or loss incurred by the DISCOM is cross subsidy element with reference to HT-1(B). Accordingly, the DISCOM is directed to levy cross subsidy surcharge with reference to end use category, i.e., HT-1(B) category only.

Yours faithfully,


27.2.2016
SECRETARY