Telangana Spinning & Textile Mills Association (TSTMA)

Statement of Objections

on

the Petitions (O.P. No. 28 & 29 of 2026) for determination of Additional Surcharge to be levied on Open Access consumers as per provisions of the Electricity Act, 2003 and National Tariff Policy, 2016 for the H2 of the Financial Year 2026-27

filed by

Southern Power Distribution Company of Telangana Limited (TSSPDCL)

&

Northern Power Distribution Company of Telangana Limited (TSNPDCL)

October, 2026

Contents

1. Statutory provisions.....4

2. Compliance to Electricity (Amendment) Rules, 2024.....5

3. Stranded Capacity - inefficient Power procurement portfolio.....7

4. Stranded Capacity – Open Access or Captive.....14

5. Fixed Costs - Power purchase and Transmission costs.....22

6. Summary of Additional Surcharge for the H2 of FY 2026-27 29

Index of Tables

Table 1: AS approved over the past years 6

Table 2: Comparison of Stranded capacity arising due to OA and OA + Captive consumption 15

Table 3: Illustration of excess burden borne by OA consumers due to excess stranded capacity consideration.....20

Table 4: Deviation in Charges paid as per Accounts vs Data sheet 22

Table 5: Admissible Fixed charges as per Objector's assessment 28

Table 5: AS as per Objector's Assessment 29

SUBMISSION TO THE STATEMENT OF OBJECTIONS BY THE OBJECTOR

The distribution licensees, namely Southern Power Distribution Company of Telangana Limited and Northern Power Distribution Company of Telangana Limited (hereinafter referred to as the 'discoms', 'TS discoms', 'Petitioners', 'distribution companies' or 'Licensees'), have filed petitions for determination of Additional Surcharge (AS) to be levied on Open Access consumers under the provisions of the Electricity Act, 2003 (hereinafter referred to as the 'Act') and the National Tariff Policy, 2016 (hereinafter referred to as the 'Tariff Policy, 2016') for the Second Half (H2) of the Financial Year 2026-27.

The Statement of Objections is being filed on behalf of 'Telangana Spinning & Textile Mills Association (TSTMA), an association established in 2015 and currently having its office at 1st Floor, Surya Towers, 105, Sardar Patel Road, Opp. Gymkhana Grounds, Secunderabad, Telangana – 500003 India. The main function of TSTMA is to promote and protect the interests of trade, commerce and textile industry.

TSTMA has been working proactively to address issues relating to open access for its members and to facilitate a competitive power market in the country. Electricity costs contribute significantly to the overall costs of industries and therefore have a significant bearing on their financial viability. In the past, owing to severe power crises in the erstwhile Andhra Pradesh, industrial consumers were compelled, rather than choosing voluntarily, to explore alternative options for competitive power procurement. The current framework for procuring power through open access has been helpful in this regard. Another set of industrial consumers has also chosen to install captive units and procure power from such units through open access under the existing framework of the Act. All such consumers are open access consumers, as defined under Section 2(15) of the Act, operating in the area of supply of Telangana discoms. It is pertinent to mention that consumers availing open access through a captive generating plant are exempted from surcharge in terms of Clause 39(2)(d)(ii) of the Act.

The Objector strongly objects to the claim for AS from Open Access consumers during H2 of FY 2026-27 (hereinafter referred to as the 'Petitions') and prays that the same be rejected in limine, in the interest of justice and equity.

The Objector has also submitted a Statement of Objections to the petitions for determination of Additional Surcharge to be levied on Open Access consumers for H2 of FY 2026-27.

1. Statutory provisions

1. Section 42(4) of the Act provides as follows:

"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. As per the Telangana State Electricity Regulatory Commission (Terms and Conditions of Open Access) Regulation, 2024 [Regulation No.1 of 2024]:

   "22. Open Access Charges

   22.1 The licensee(s) charges for the use of the transmission and/or distribution system of by an open access user shall be regulated as under:

   d. <u>Additional Surcharge (AS)</u>

   The open access user shall also be liable to pay Additional Surcharge (AS) as may be specified by the Commission from time to time under Section 42(4) of the Act, in case open access is sought for receiving supply from a person other than the distribution licensee of such consumer's area of supply, ***to meet the fixed costs of the distribution licensee arising out of his obligation to supply****:*

   Provided that AS shall not be applicable for GEOA consumer, if fixed charges/demand charges are being paid by such a consumer:

   Provided also that AS shall not be applicable in case power produced from a Waste-to-Energy plant is supplied to the GEOA consumer:

   Provided also that AS shall not be applicable if green energy is utilized for production of green hydrogen and green ammonia:

   Provided also that AS shall not be applicable in case electricity produced from offshore wind projects, which are commissioned upto December, 2032 and supplied to the GEOA consumers.

   Provided also that AS shall not be applicable on such open access consumers to the extent of open access availed for wheeling of power from their own Captive Power Plants (CPPs)."

3. As per the National Tariff Policy, 2016 (Para 8.5.4):

   "The 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.****"*

4. Based on the above statutory and regulatory provisions, the Hon'ble Commission, in exercise of its powers, approved the methodology for computation of Additional Surcharge by way of Order dated 18.09.2020 in O.P No. 23 of 2020 (AS Order). It is observed that, in O.P. No. 28 & 29 of 2026, the Petitioners have deviated from the methodology approved by the Hon'ble Commission in the AS Order and its past orders. In addition, the Objector wishes to highlight certain key aspects specific to the TG Discoms' power-procurement portfolio.

5. As per the Order dated 10.03.2026 in O.P.No.65 and 66 of 2025 (AS H1 Order), the AS currently applicable for H1 of FY 2026-27 has been determined at Rs. 0.13/ unit.

2. Compliance to Electricity (Amendment) Rules, 2024

6. Vide Notification dated 10.01.2024, the Ministry of Power, Government of India, issued the Electricity (Amendment) Rules, 2024 (hereinafter referred to as the "Rules"), which provide as follows in respect of AS:

   "(3) Additional Surcharge – *The additional surcharge levied on any Open Access Consumer shall not be more than the per unit fixed cost of power purchase of the distribution licensee concerned:*

   Provided that for a person availing General Network Access or Open Access, the additional surcharge shall be linearly reduced from the value in the year in which General Network Access or Open Access was granted so that, if it is continued to be availed by this person, the additional surcharge shall get eliminated within four years from the date of grant of General Network Access or Open Access:

   Provided further that the additional surcharge shall not be applicable for Open Access Consumer to the extent of contract demand being maintained with the distribution licensees:

   Provided also that the additional surcharge shall be applicable only for the Open Access Consumers who are or have been consumers of the concerned Distribution licensee.

   Explanation.– For the purpose of this rule, General Network Access and Temporary-GNA shall have the same meaning as defined in the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 as amended from time to time."

7. Against the backdrop of the provisions highlighted above, the Objector submits that the intent of open access is to foster competition, reduce electricity costs for high-load consumers and promote a clear, market-driven energy environment.

8. It is emphasized that, under Section 42(2) of the Electricity Act, 2003, open access is a statutory right enabling eligible consumers to procure power from alternative suppliers while using the existing transmission and distribution network.

9. Accordingly, the legislative intent has been to ensure a reduction in the level of surcharges (both CSS and AS). In accordance with the Rules, AS should follow a continuously declining trajectory, leading to its elimination within 4 years.

10. Although AS was high in previous years, it was determined to be NIL during H2 of FY 2025-26. The trend in AS applicable during the last few years is shown below:

Table 1: AS approved over the past years

Period	AS
FY 2021-22 – H1	0.52
FY 2021-22 – H2	0.96
FY 2022-23 – H1	1.15
FY 2022-23 – H2	1.38
FY 2023-24 – H1	0.39
FY 2023-24 – H2	0.39
FY 2024-25 – H1	1.40
FY 2024-25 – H2	1.09
FY 2025-26 – H1	1.45
FY 2025-26 – H2	**NIL**
FY 2026-27 – H1	**0.13**
FY 2026-27 – H2	**0.83 (claimed)**

11. As observed above, the AS determined in preceding years does not appear to follow a consistent trend. The Hon'ble Commission has been determining AS in accordance with the AS Order. Nevertheless, AS was determined to be NIL during H2 of FY 2025-26 and Rs. 0.13 per unit during H1 of FY 2026-27 (currently applicable).

12. In view of the Rules providing for the progressive reduction and eventual elimination of AS, the Objector submits that AS ought to be determined at NIL for the ensuing control period (or, at worst, maintained at the currently applicable Rs. 0.13 per unit). It is not disputed that the State has recently witnessed a significant increase in the offtake of green energy under captive mode, particularly following the promulgation of GEOA Regulations by the Hon'ble Commission. This has

resulted in increased offtake of green power through Open Access/captive mode. Open Access consumers have benefited from lower AS levels over the past 1 year (NIL during H2 of FY 2025-26 and Rs. 0.13 per unit during H1 of FY 2026-27), while captive consumption continues to enjoy a statutory exemption. Retaining a zero AS would enable consumers and generators to participate in a more competitive power market, thereby supporting a competitive industrial landscape, especially for industries directly dependent on electricity for production. Such an approach aligns with the statutory objective under the Act.

3. Stranded Capacity – Inefficient Power Procurement Portfolio

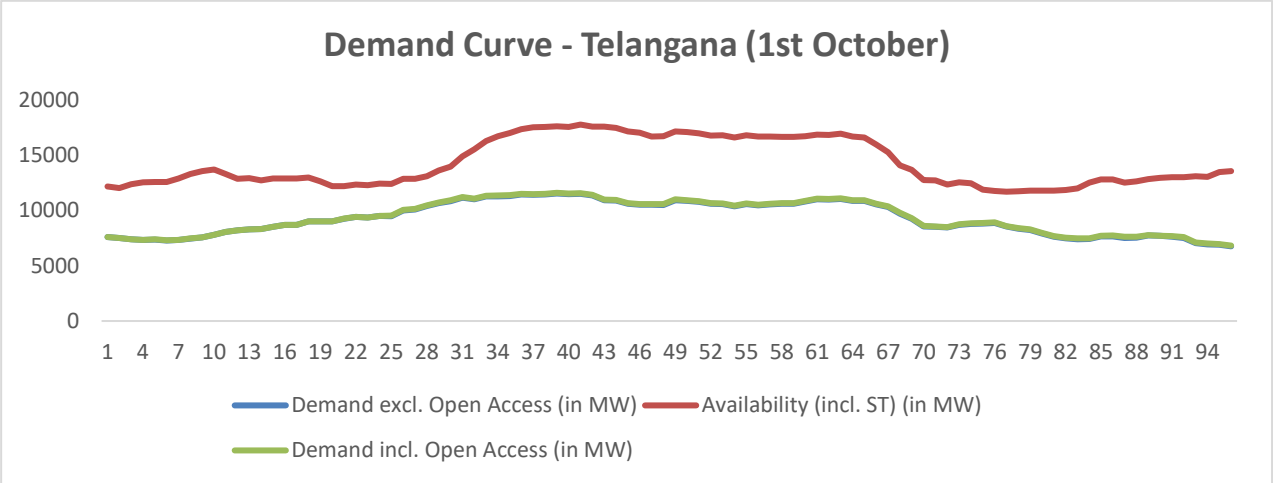
13. Section 42(4) of the Electricity Act, 2003 permits DISCOMs to collect AS, as specified by the SERC, to meet the fixed costs arising from their obligation to supply. However, this right is not unfettered and is circumscribed by Clause 8.5.4 of the National Tariff Policy, 2016, which states as follows:

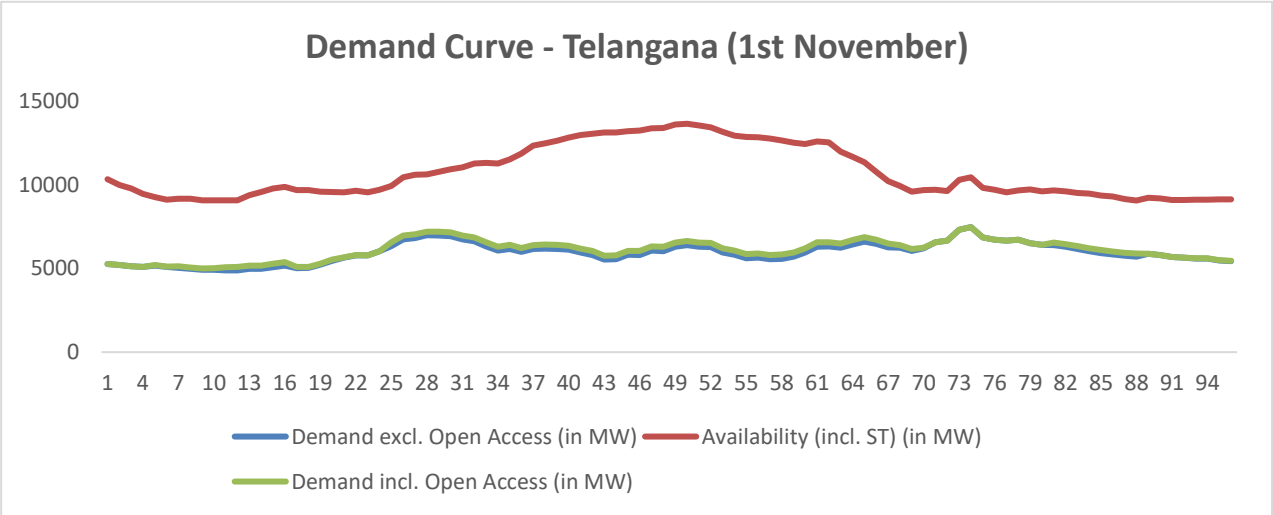
> *"The additional surcharge for obligation to supply as per section 42(4) of the Act should become applicable only if it is* ***<u>conclusively demonstrated</u> that the obligation of a licensee, in terms of existing power purchase commitments, has been and <u>continues to be stranded</u>****, or there 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.****"*

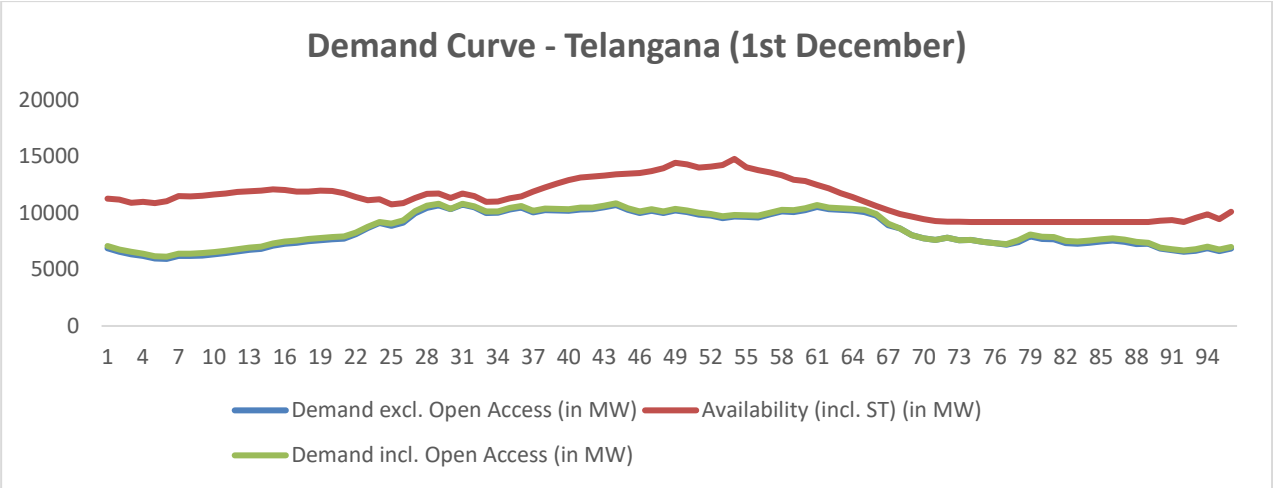
14. The Objector emphasises the phrase 'conclusively demonstrated' and the requirement that capacity 'has been and continues to be stranded' in the above paragraph. The Petitioner has not conclusively demonstrated how migration to Open Access has caused the long-term tied-up capacity to remain stranded. Rather, the Petitioners continue to apply the methodology specified by the Hon'ble Commission in the AS Order, as set out below:

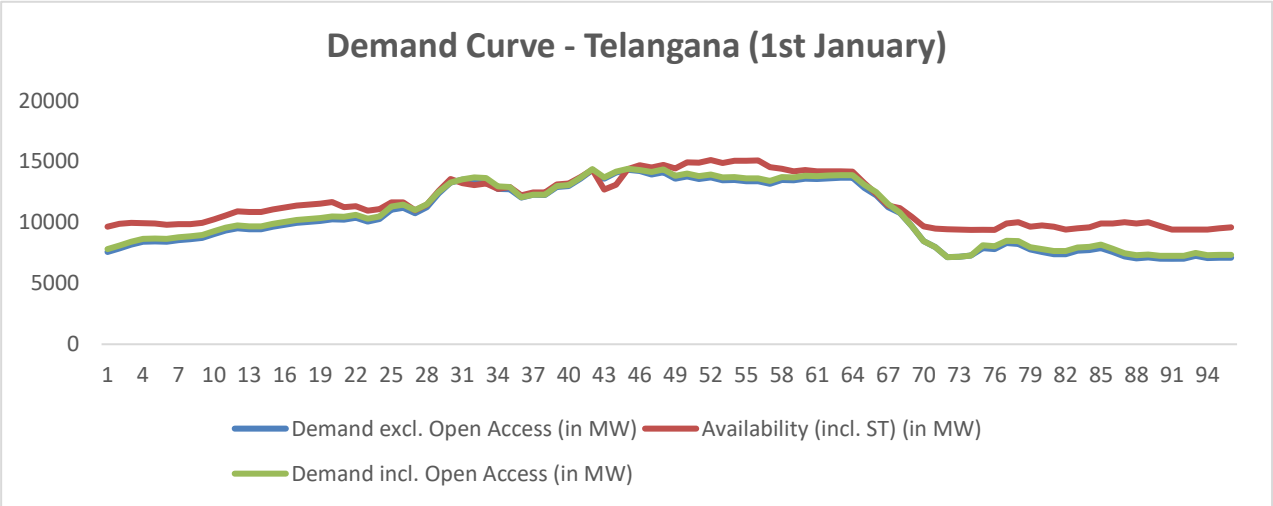
> *"a) Mechanism for Demonstration of Stranded Capacity*
>
> ***i. The 15-minute time-block data of available capacity and scheduled capacity of all generating stations having long term PPAs with the Discoms, and the scheduled capacity of OA consumers of six months period is to be taken.***
>
> *ii. In case of hydel generating stations, the scheduled capacity is to be treated as available capacity in that time block.*
>
> ***iii. The lower of the surplus capacity (i.e., available capacity less scheduled capacity) and capacity scheduled by OA consumers is to be considered as stranded capacity for the 15-minute time block.***
>
> *iv. Accordingly, the average stranded capacity for six-month period due to open access has to be arrived."*

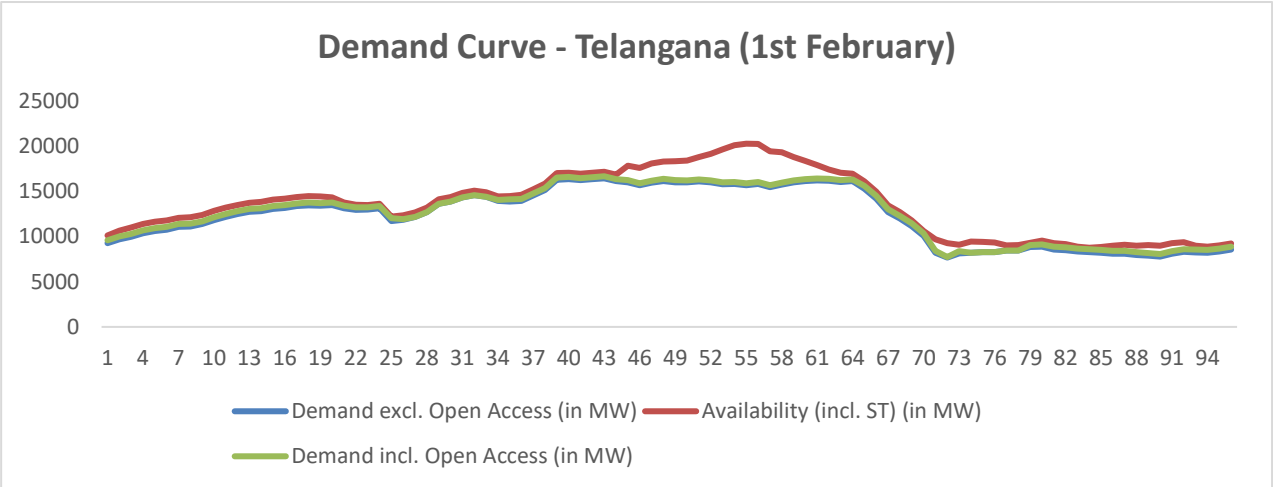
15. The Petitioner states that it has tied up significant long-term renewable energy capacity in its portfolio, leading to excess availability during solar hours and resulting in such capacity being stranded. To illustrate this, a sample analysis of Telangana's daily demand profile is set out below (daily demand on the 1st day of each month of H2):

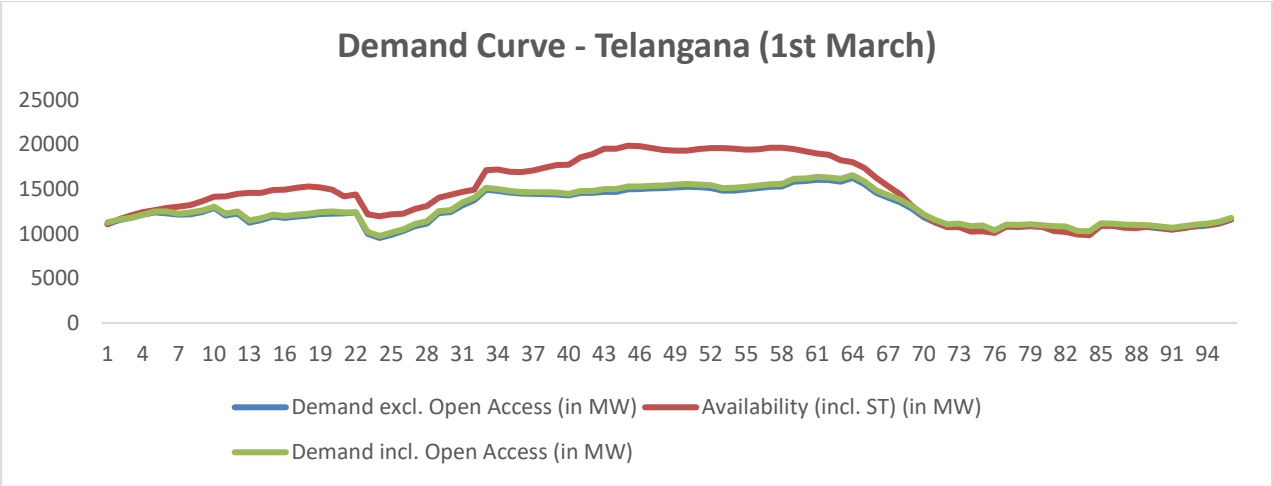





Demand Curve - Telangana (1st December)
20000
15000
10000
5000
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Demand excl. Open Access (in MW)
Availability (incl. ST) (in MW)
Demand incl. Open Access (in MW)


Demand Curve - Telangana (1st January)
20000
15000
10000
5000
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Demand excl. Open Access (in MW)
Availability (incl. ST) (in MW)
Demand incl. Open Access (in MW)


Demand Curve - Telangana (1st February)
25000
20000
15000
10000
5000
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Demand excl. Open Access (in MW)
Availability (incl. ST) (in MW)
Demand incl. Open Access (in MW)

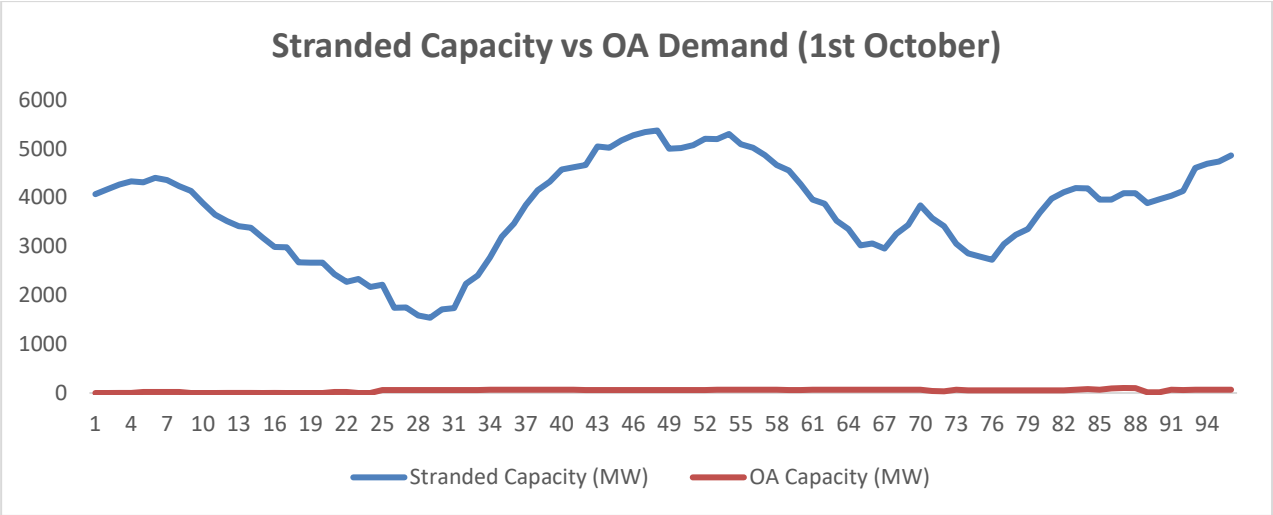


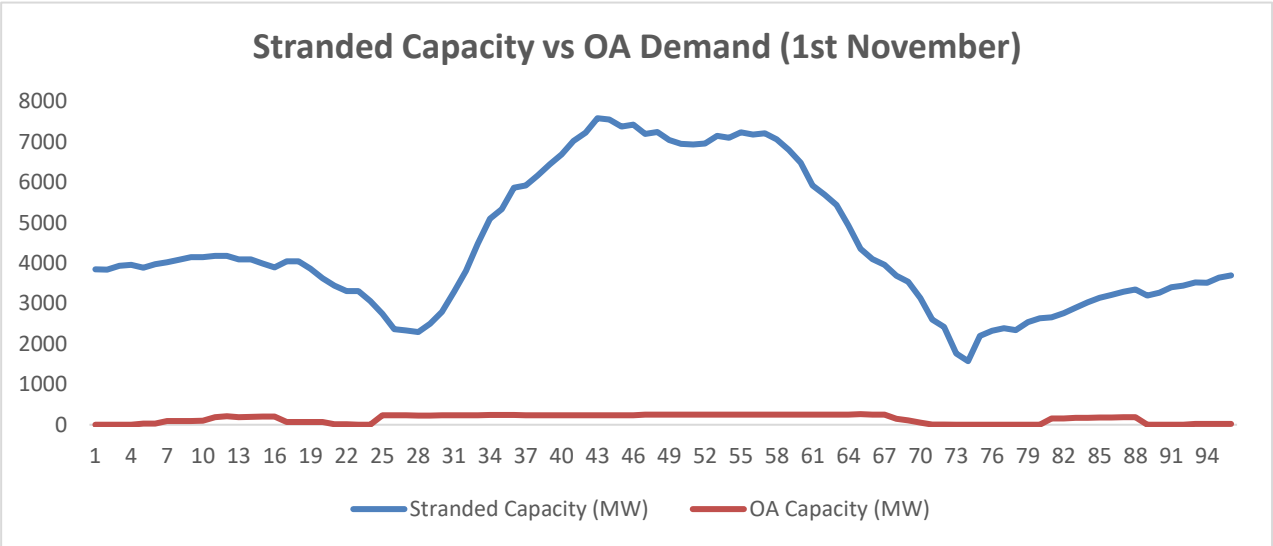
16. The following submissions are advanced in support of the demand curves:

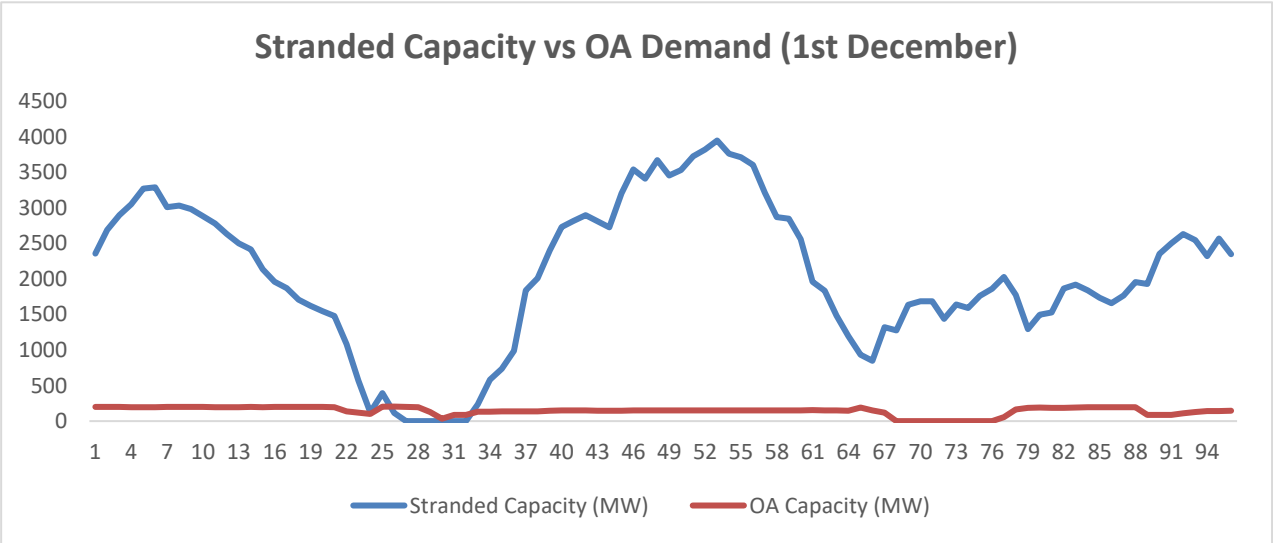
- Available capacity with TG Discoms (including short-term procurement) is significantly higher than demand during most months of H2.
- The daytime bulge in the demand curve indicates that surplus RE power is being fed into the grid.
- Demand during the Oct–Dec months declines, resulting in a much greater variation in the demand-supply gap, whereas demand picks up during January–March.
- Demand from Open Access does not appear to bridge the variation between demand and supply.

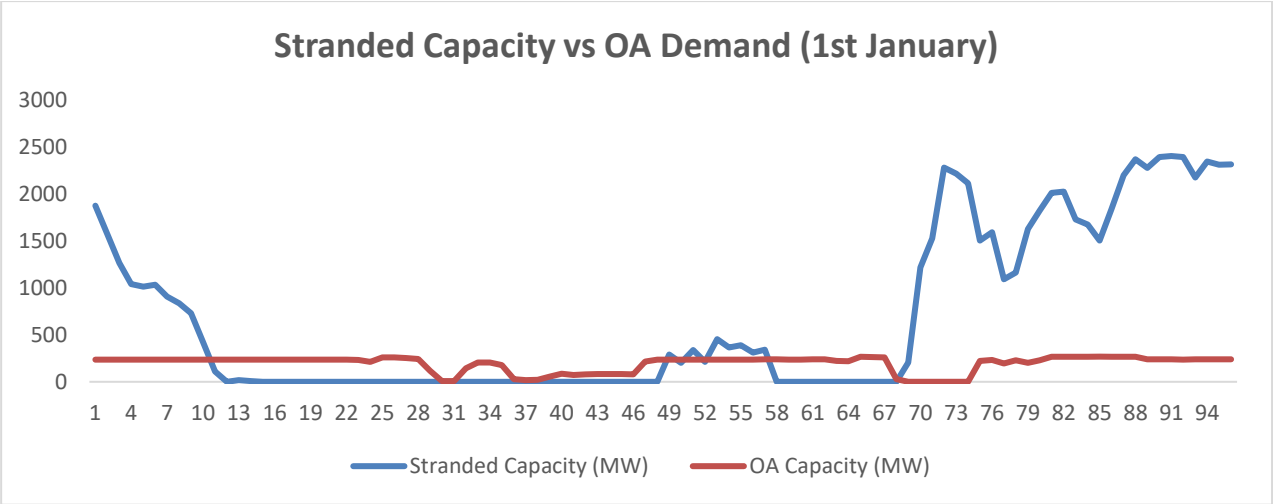
17. Except for January and February, the power-procurement portfolio remains highly skewed and warrants a structural realignment of the LT:MT:ST capacity mix. During January–March, the quantum of stranded capacity is comparable to Open Access demand. This appears to be an incidental outcome of surplus capacity (including short-term tie-ups) being absorbed by increased seasonal demand, rather than the result of deliberate optimisation. In contrast, during October–December, the variation between stranded capacity and OA demand is significantly higher. This indicates inefficiencies in portfolio planning and highlights the need for a calibrated rebalancing of long-, medium- and short-term procurement to avoid persistent over-contracting and under-utilisation.

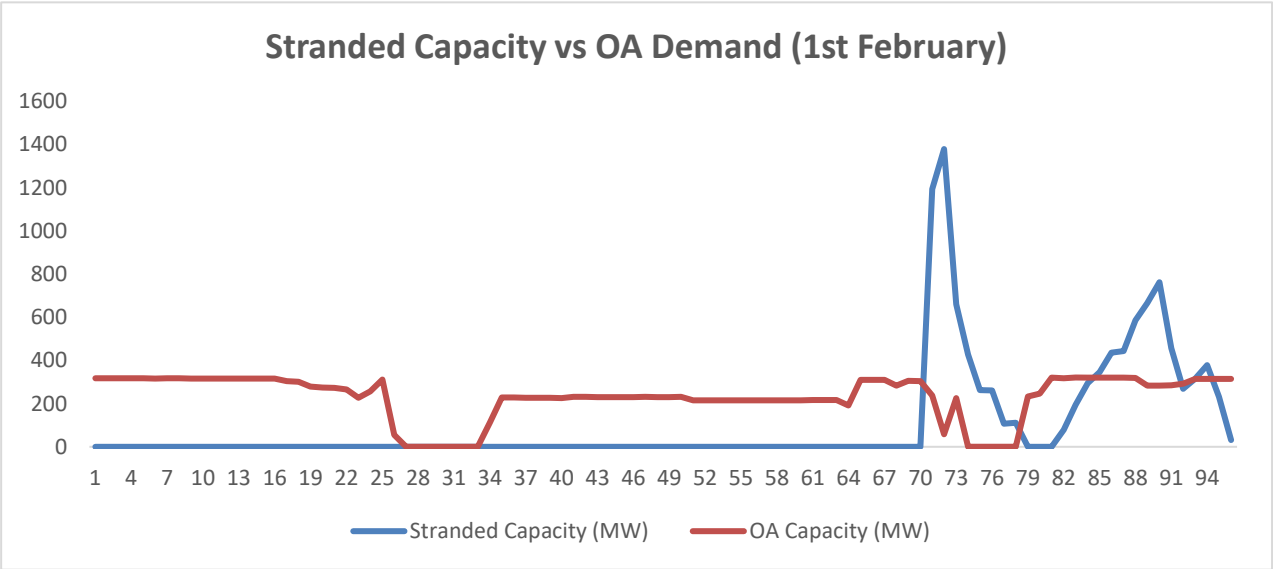
18. A like-for-like comparison of stranded capacity and Open Access demand, illustrating the above contention, is shown below:

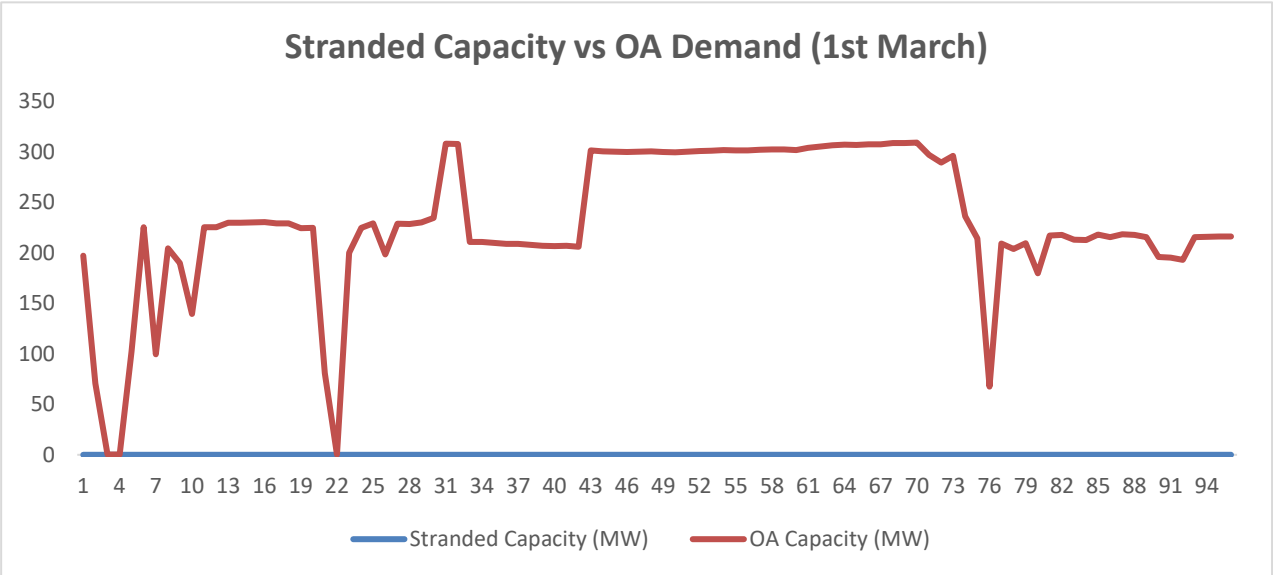

Stranded Capacity vs OA Demand (1st October)
6000
5000
4000
3000
2000
1000
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Stranded Capacity (MW)
OA Capacity (MW)


Stranded Capacity vs OA Demand (1st November)
8000
7000
6000
5000
4000
3000
2000
1000
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Stranded Capacity (MW)
OA Capacity (MW)


Stranded Capacity vs OA Demand (1st December)
4500
4000
3500
3000
2500
2000
1500
1000
500
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Stranded Capacity (MW)
OA Capacity (MW)


Stranded Capacity vs OA Demand (1st January)
3000
2500
2000
1500
1000
500
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Stranded Capacity (MW)
OA Capacity (MW)


Stranded Capacity vs OA Demand (1st February)
1600
1400
1200
1000
800
600
400
200
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Stranded Capacity (MW)
OA Capacity (MW)


Stranded Capacity vs OA Demand (1st March)
350
300
250
200
150
100
50
0
1 4 7 10 13 16 19 22 25 28 31 34 37 40 43 46 49 52 55 58 61 64 67 70 73 76 79 82 85 88 91 94
Stranded Capacity (MW)
OA Capacity (MW)

19. As observed, particularly during October–December, the pronounced bulge during solar hours reflects surplus RE injection into the grid, resulting in conventional capacity remaining idle or stranded during most months. During January–March, demand picks up, with almost the entire energy quantum being absorbed by agricultural consumption. Accordingly, the Objector submits that capacity may remain unutilised for reasons other than migration of consumers to Open Access, including the intermittency of RE, with surplus during solar hours and significant seasonal variations in demand.

    To serve such volatile demand, a carefully curated mix of LT:MT:ST in the supply portfolio is essential. While supply-side considerations remain relevant, there also appears to be a case for introducing seasonal tariffs in the retail schedule.

    Based on the above charts and illustrations, which show significant stranded capacity for 3 months and very little stranded capacity for the remaining 3 months, it cannot be conclusively established that the stranded capacity is attributable to consumers migrating to Open Access/captive mode.

20. In this context, while the methodology prescribed by the Hon'ble Commission treats stranded capacity as the lower of (i) surplus capacity (available capacity minus scheduled capacity) and (ii) capacity scheduled by OA consumers, it overlooks two critical aspects: first, deficiencies in DISCOMs' power-procurement planning, including the ability to match seasonal demand variability; and second, the impact of RE intermittency, which may displace and strand long-term tied-up capacity. Consequently, the present approach attributes stranding to OA consumers without adequately accounting for portfolio design and RE-driven operational constraints.

21. Notably, a significant quantum of RE power has been added, or is proposed to be added, to the TG Discoms' portfolio in recent years. For illustration, the Hon'ble Commission, in the RST Order for FY 2022-23, approved 7699.34 Mus of NCE (RE) power, whereas for FY 2026-27, the Hon'ble Commission approved 16,525.08 Mus towards RE procurement.

22. As discussed above, excessive RE injection during solar hours may materially contribute to long-term capacity remaining stranded. Accordingly, the Objector submits that loading the cost of such idle capacity onto consumers does not justify treating it as capacity that 'has been and continues to be stranded' under the National Tariff Policy, 2016. Stranding arising from RE intermittency and procurement-planning choices should not, by itself, justify recovery of long-term capacity charges from consumers.

23. Notably, while RE intermittency may contribute to capacity stranding, its impact is not factored into the AS computation, as RE power does not carry a fixed-cost recovery obligation in the same manner as conventional generation. Therefore, the

Objector submits that the fixed costs considered for AS computation should be appropriately adjusted to account for the displacement effect of RE power, so that consumers are not burdened with costs arising from RE-induced stranding of conventional capacity rather than Open Access migration.

24. Notwithstanding the above submissions, the Objector also raises item-wise objections to other components of the AS computation, as set out below:

4. Stranded Capacity – Open Access or Captive

25. The Petitioners have claimed stranded capacity of 282.56 MW, stated to have been computed in accordance with the methodology prescribed by the Hon'ble Commission in the AS Order, based on demand and supply data for the period October to March 2026.

26. The TG Discoms have computed stranded capacity on the basis of idle capacity, treating OA and captive consumption on the same footing.

27. It is respectfully submitted that stranded capacity may arise when consumers migrate from the Discoms to an alternative source of supply, whether their own generation or a third party. While AS may be levied on Open Access consumers under Section 42(4) of the Act, captive consumers are stated to have a statutory exemption from payment of surcharge under Section 39(2)(d)(ii) of the Act. The relevant statutory provisions are reproduced below:

> "***Section 39. (State Transmission Utility and functions):***
>
> *…….*
>
> *(2) The functions of the State Transmission Utility shall be –*
>
> *(d) 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:

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."

28. In their petitions, the TG Discoms have considered stranded capacity arising from both captive and OA consumption. To demonstrate the difference, stranded capacity arising from Open Access and captive consumption is 282.56 MW, whereas stranded capacity attributable only to Open Access consumption is 108.55 MW for the period October 25 – March 2026. Notably, the figure of 108.55 MW is based on the methodology prescribed by the Hon'ble Commission in the AS Order.

29. In effect, stranded capacity arising from consumers migrating to captive consumption is being charged to Open Access consumers, even though captive consumers enjoy a statutory waiver.

30. While captive consumption was insignificant in the initial years, it has increased significantly in recent years. To compare stranded capacity arising from OA and captive consumption with that attributable to Open Access consumption, it is observed that Open Access consumers account for less than half of the stranded capacity. A month-on-month comparison of stranded capacity for these categories is shown below:

Table 2: Comparison of Stranded capacity arising due to OA and OA + Captive consumption

Stranded capacity arising out of	Oct-25	Nov-25	Dec-25	Jan-26	Feb-26	Mar-26	Average
Open Access + Captive (MW)	395.38	424.66	322.66	275.81	198.35	42.04	282.56
Open Access (MW)	154.73	177.33	115.18	145.05	45.00	-	108.55

31. The Objector submits that a similar issue was raised during the proceedings for determination of AS for H1 of FY 2025-26 (refer to the Hon'ble Commission's Order dated 29.04.2025), wherein the Hon'ble Commission observed as follows:

"***TGDISCOMs' replies***

3.4.8 TG DISCOMs have computed the Stranded capacity by considering 15 min block wise data, day-wise/month-wise and thereafter 6 months average as per the methodology approved by the Commission. The calculations have already been submitted by the Licensees to the Commission and are hosted in the respective websites of TGDISCOMs and TGERC.

3.4.9 Though Captive Power Plant (CPP) and GEOA are exempted for levy of AS, they contribute to stranded capacity and hence are considered for AS computations.

Commission's Analysis and Findings

3.4.13 One of the objections raised by the stakeholders is that since CPP and GEOA consumers are exempted from levy of AS, the capacity stranded on account of captive consumption and also on account of purchase of electricity by GEOA consumers shall also be exempted for calculating quantum of stranded capacity*. The TGDISCOMs on the other hand while objecting to the said submissions have mentioned that in case if this electricity stranded on account of captive consumption and also on account of purchase of electricity by GEOA consumers is not considered, the finances of the TGDISCOMs will be affected adversely.* ***The Commission having considered both the views, is of the opinion that the methodology standardized by this Commission for calculation of stranded capacity does not permit for exclusion of the electricity on account of captive consumption and also GEOA consumers. <u>Therefore, though the objection raised appears to be reasonable, still same will be considered whenever an occasion comes to revisit the procedure in respect of calculation of stranded capacity</u>.*** *Therefore, the request of the stakeholders for the time being is hereby rejected*

"

32. In response to the TG Discoms' submission that they would lose revenue due to stranded capacity attributable to captive consumers, the Hon'ble Commission observed that the consumers' objection appeared reasonable. However, the Commission did not revise its methodology and deferred consideration of the objection until the methodology was reviewed.

33. In these circumstances, the question arises whether TGERC may adopt a corrected methodology for determining stranded capacity in future AS orders, where the existing methodology considers the combined impact of Open Access and captive consumers.

<u>Correction of Methodology</u>

34. It is respectfully submitted that the present submission does not seek revision, reopening or retrospective alteration of any previously determined AS. Rather, it seeks the adoption of a legally appropriate methodology in a subsequent determination, having regard to an issue already raised before and acknowledged by the Commission.

35. As discussed above, in its order dated 29.04.2025 determining AS for H1 of FY 2025-26, TGERC recorded the DISCOMs' position that captive power plant (CPP) and Green Energy Open Access (GEOA) consumers, although exempt from AS, contribute to stranded capacity and are therefore included in its computation. In a subsequent determination, the Commission may examine whether this approach is consistent with the statutory basis for levying AS and the principle that the surcharge must be attributable to stranded capacity arising from Open Access.

36. The Supreme Court in BSES Rajdhani Power Ltd. v. Delhi Electricity Regulatory Commission, (2023) 4 SCC 788, held that a concluded tariff determination cannot be retrospectively altered under the guise of truing-up. The judgment protects the finality of past determinations; it does not establish that a regulator must perpetuate an erroneous methodology indefinitely in future proceedings.

37. Accordingly, where the Commission identifies a defect in the existing methodology, it may consider adopting a corrected methodology for a subsequent determination, subject to the Electricity Act, 2003, applicable regulations, procedural requirements and the need for a reasoned order. Such prospective application does not, by itself, amount to reopening an earlier order.

38. Section 42(4) of the Electricity Act, 2003 provides for AS to meet fixed costs arising from a distribution licensee's obligation to supply electricity. The methodology should therefore establish a rational nexus between the stranded capacity for which recovery is sought and the Open Access consumers against whom AS is levied.

39. Where captive consumers are statutorily exempt from AS, their contribution to the distribution licensee's stranded capacity should not, without a reasoned statutory and methodological justification, automatically be transferred to non-exempt OA consumers. The Commission should distinguish between the physical contribution of different consumer categories to capacity surplus and the capacity that may lawfully be attributed to OA for AS recovery.

40. TGERC is respectfully requested to adopt, in the current AS determination (H2 of FY 2026-27), a methodology that considers only stranded capacity appropriately attributable to eligible OA consumers, excluding capacity attributable to exempt captive consumption to the extent legally warranted. This would constitute a prospective correction of the methodology, consistent with the Commission's acknowledged need to revisit the issue, without disturbing any past AS determination.

Cross-subsidisation in Surcharge Computation

41. As discussed above, Section 42(4) of the Act provides for the levy of AS to meet the fixed costs of a distribution licensee arising from its obligation to supply electricity. The underlying objective is to address the unavoidable fixed-cost liability that may remain with the distribution licensee when consumers procure electricity through Open Access instead of taking supply from the distribution licensee.

42. However, the computation of AS must distinguish between consumers procuring electricity through chargeable Open Access and consumers meeting their requirements through qualifying captive generation, who are statutorily exempt from AS. Capacity rendered surplus on account of these two categories should not be aggregated indiscriminately when determining stranded capacity attributable to chargeable Open Access consumers.

43. Qualifying captive consumers are exempt from AS under Section 42(4), as upheld by the Hon'ble Supreme Court in Maharashtra State Electricity Distribution Co. Ltd. v. JSW Steel Ltd., Civil Appeal Nos. 5074–5075 of 2019, decided on 10.12.2021. Consequently, although captive consumers may contribute to a reduction in the distribution licensee's demand, their migration should not automatically increase the stranded-capacity burden recoverable from consumers who remain liable to pay AS. Such an approach would extend the statutory language beyond its intended scope, as the objective is to promote captive generation. The statutory exemption should not be used to impose a surcharge automatically on other consumers, thereby discouraging them from procuring power through OA.

44. The distinction is also consistent with the principle laid down by the Hon'ble Appellate Tribunal for Electricity in Birla Textile Mills & Ors. v. Himachal Pradesh Electricity Regulatory Commission, Appeal No. 154 of 2016 and batch, decided on 09.08.2019. The Tribunal emphasised the need to identify capacity stranded as a consequence of Open Access transactions, rather than treating the entire surplus capacity of the distribution licensee as stranded capacity attributable to Open Access. Although the Hon'ble Commission does not treat the entire surplus capacity as stranded, the Objector submits that capacity attributable to captive consumption also needs to be identified separately.

45. Accordingly, the stranded capacity considered for computation of AS should be restricted to capacity demonstrably attributable to chargeable Open Access consumers. Capacity rendered surplus on account of captive consumption should be identified separately and should not be loaded onto chargeable Open Access consumers merely because captive consumers are exempt from the surcharge.

46. The TG Discoms have argued that they would lose revenue. However, the TG Discoms' ARR is trued up periodically. Any residual fixed-cost liability associated with stranded capacity attributable to captive consumers should be examined through the applicable true-up framework, subject to the relevant regulatory provisions and prudence review. The possibility of recovery through true-up should not, by itself, justify transferring the burden to OA consumers. The relevant provisions of the MYT Regulations 2023 (Regulation No. 2 of 2023), which include receipts from AS as part of ARR, are reproduced below:

> ***"86 Components of Aggregate Revenue Requirement for Retail Supply Business***
> *86.1 The Tariff for retail supply of the Distribution Licensee shall provide for the recovery of the Aggregate Revenue Requirement of the Retail Supply Business for the respective Years of the Control Period, as approved by the Commission and comprising the following components:*
> *(a) Power purchase expenses;*
> *(b) Inter-State Transmission Charges;*
> *(c) Intra-State Transmission Charges;*
> *(d) SLDC Charges;*
> *(e) Operation and Maintenance expenses;*
> *(f) Depreciation;*
> *(g) Interest and finance charges on loan;*
> *(h) Interest on working capital;*
> *(i) Interest on consumer security deposits;*
> *(j) Return on Equity Capital;*
> *minus:*
> *(k) Non-Tariff income;*
> *(l) Income from Other Business, to the extent specified in this Regulation;*
> *(m) Receipts on account of Cross-Subsidy Surcharge;*
> ***(n) Receipts on account of Additional Surcharge:***
> *Add:*
> *(o) Impact of true-up for prior period as approved by the Commission:*
> *Provided ……..*
> *……."*

47. Based on the above, any alleged under-recovery by the Discoms is addressed through the true-up of ARR, which takes into account receipts on account of Additional Surcharge.

Illustration:

48. Consider a Distribution Licensee having fixed-cost commitments corresponding to 100 MW of power-purchase capacity. Following a reduction in demand, 20 MW becomes stranded due to consumers migrating to alternative sources of supply. Of this, 10 MW is attributable to consumers procuring power through chargeable open access and the remaining 10 MW to consumers shifting to qualifying captive generation.

49. For simplicity, assume that the fixed costs associated with the stranded capacity is Rs. 1 crore per MW per year and that the entire cost associated with the identified stranded capacity is otherwise admissible for consideration.

Table 3: Illustration of excess burden borne by OA consumers due to excess stranded capacity consideration

Particulars	OA-only approach	OA + captive approach
Capacity stranded due to chargeable OA consumers	10 MW	10 MW
Capacity stranded due to captive consumers	Excluded	10 MW
Total capacity considered for AS computation	10 MW	20 MW
Fixed cost considered for AS computation	Rs. 10 crore	Rs. 20 crore
Increase in cost base due to captive capacity	—	Rs. 10 crore
Increase in cost base (%)	—	100%

50. Under the OA-only approach, the stranded fixed cost considered for AS is Rs. 10 crore. If the capacity attributable to captive consumers is also included, the cost base doubles to Rs. 20 crore, notwithstanding that the additional 10 MW relates to consumers who are statutorily exempt from payment of AS.

51. The financial burden on chargeable open-access consumers would therefore increase by Rs. 10 crore solely because of the inclusion of capacity associated with captive consumers. Such an approach risks transferring the cost consequences of captive migration to a different category of consumers without establishing why those costs should be recoverable from them under Section 42(4).

52. The illustration is intended to demonstrate the effect of the competing methodologies. Actual AS would depend on the applicable regulations, admissible fixed costs, the relevant period, and the prescribed computation methodology.

<u>Need for separate attribution and equitable cost allocation</u>

53. The fact that captive migration may result in surplus capacity does not, by itself, establish that the corresponding fixed costs should be recovered through AS from chargeable open-access consumers. **The computation must establish both the admissibility of the fixed costss and their proper attribution to the transactions giving rise to the surcharge liability.**

54. **Including captive-attributable capacity in the surcharge computation would effectively enlarge the cost pool borne by chargeable open-access consumers on account of a category of consumers that Parliament has exempted from the levy.** Unless supported by a clear statutory or regulatory basis and a reasoned allocation methodology, such treatment would raise concerns regarding equitable cost allocation and the proper application of Section 42(4).

55. Further, the Distribution Licensee may have surplus capacity for several reasons, including demand variations, procurement decisions and migration to different supply arrangements. The principle in Birla Textile Mills supports the need to distinguish capacity stranded on account of open access from surplus capacity arising for other reasons. A transparent computation should therefore separately identify the capacity and fixed costs attributable to chargeable open-access transactions, captive consumption and other causes, while ensuring that the same fixed costs are not recovered more than once through different tariff or surcharge mechanisms.

56. The proposed approach does not affect recovery of reasonable costs of the distribution licensee that are admissible under the applicable framework (the MYT Regulations have an enabling feature). Rather, it seeks to ensure that AS is computed on a defensible cost base and that costs associated with exempt captive consumption are not automatically transferred to chargeable Open Access consumers.

Consideration of OA Sales

57. While the TG Discoms consider stranded capacity attributable to both Open Access and captive consumption when computing AS, they propose to recover the entire stranded cost through Open Access sales alone, excluding captive sales, based on actual data for the corresponding period of the previous year. This asymmetric treatment effectively shifts the cost burden associated with the statutory exemption granted to qualifying captive consumers onto chargeable Open Access consumers. It disproportionately burdens one class of consumers with costs arising, in part, from another class that is statutorily exempt from the levy, raising concerns regarding equitable cost allocation and consistency with the underlying principles of Section 42 of the Electricity Act, 2003.

5. Fixed Costs – Power Purchase and Transmission Costs

58. The Petitioners have claimed Power Purchase (Fixed Costs) of Rs. 8436 Crore for the period October 2025 to March 2026, based on the quarterly accounts for the said period.

Likewise, the Petitioners have claimed transmission costs (intra-state and inter-state) of Rs. 2,178 Crore, based on the quarterly accounts for the said period.

59. At the outset, there is a significant mismatch between the figures shown in the accounts and the breakdown of Power Purchase (Fixed) Costs and Transmission Costs submitted by the Petitioner in the *FC VC 2025-26 Up to March'26 (Provisional)-TGPPCC 30-04-2026 –Mail* data sheet. The table below summarises the deviation:

Table 4: Deviation in Charges paid as per Accounts vs Data sheet

SN	Particulars	Unit	Accounts	Data sheets	Variation
1	Fixed Charges paid	Rs. crore	8,436.14	7,487.85	12.5%
2	Transmission charges paid	Rs. crore	2,177.74	1,917.25	13.6%

60. It is undisputed that the Hon'ble Commission has previously determined AS based on costs indicated in the accounts. However, this does not automatically mean that all costs booked in the accounts are admissible for AS determination. The Petitioner should therefore be directed to submit a detailed reconciliation statement explaining the variation between the accounts and the data sheets.

61. Notwithstanding the mismatch in costs noted above, the costs indicated in the accounts should not be adopted directly for determining AS. For illustration, the fixed charges paid during H1 of FY 2025-26 were Rs. 6454 Crore, indicating that the current claim based on the Accounts is around 31% higher than in the previous half-year. The trend in previous years also indicates that fixed charges paid during H2 were comparable to those paid during H1 of the same year. However, H2 of FY 2026-27 appears to be an outlier.

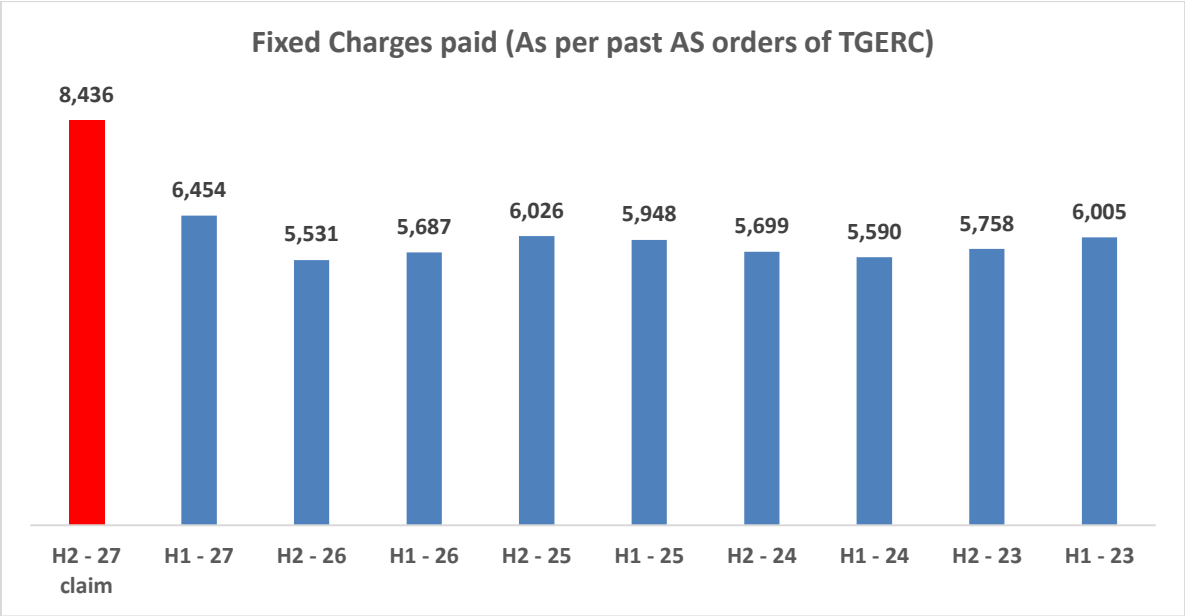


Figure 1: Fixed Charges paid approved by the Commission in the previous AS Orders

62. While the TG Discoms have relied on the note titled POWER PURCHASE COST in the respective accounts, it is not discernible whether these costs have actually been paid by the TG Discoms. For instance, the note titled TRADE PAYABLES in the accounts for Q4 of FY 2025-26 shows that payables to Power Purchase Creditors increased by Rs. 2,940 Crore (Rs. 31,665 Crore from 28,725 Crore). The Petitioner should explain this significant increase in detail. If power-purchase costs have merely been booked in the accounts and have not actually been paid, they should be considered when discharged. Undischarged power-purchase liabilities should not be loaded onto consumers.

<u>Additional Pension Liabilities (or Interest on Pension bonds)</u>

63. In addition to the mismatch in fixed costs noted above, the Petitioner argues that the Additional Pension Liabilities do not pertain to TGGENCO but were transferred to TGGENCO following the unbundling of the erstwhile Andhra Pradesh. The Petitioner also relies on the order dated 24.03.2003 of the erstwhile APERC in O.P.No.402 of 2002.

64. This issue arises from the unbundling of the erstwhile APSEB in undivided Andhra Pradesh pursuant to power-sector reforms, followed by tripartite agreements for the allocation of assets, liabilities and personnel among generation, transmission and distribution entities, and the consistent regulatory practice of allowing interest on pension bonds as a pass-through. Following the bifurcation of erstwhile Andhra Pradesh, the pension-related liabilities of erstwhile APGENCO were transferred to the newly formed APGENCO and TGGENCO, and the same approach has continued in both States.

65. Conventionally, the contribution to pension funds for erstwhile APSEB pensioners was to be taken over by the State Government. However, as an interim arrangement, responsibility was assigned to the successor utility of APSEB. Consequently, under the first transfer scheme and following asset revaluation, the then APERC permitted recovery of interest on pension bonds from consumers, a practice followed by subsequent Commissions. Although APERC had earlier requested the Government to take over the pension liabilities, no action followed. After bifurcation, Telangana utilities inherited these arrangements, and TGERC has continued the same approach.

66. Allowing recovery of interest on pension bonds from consumers effectively penalises them for historical failures of the erstwhile APSEB and the Government. Further, the tripartite agreement envisages that the Government should assume these pension liabilities.

67. The Hon'ble Commission has directed the Petitioner on multiple occasions to take up the matter with the State Government. However, pending the Government's assumption of this responsibility, the Commission has been admitting such expenses as a pass-through in tariff. Relevant extracts from the Hon'ble Commission's Order dated 29.04.2025 in the matter of Retail Supply Tariff determination for FY 2025-26 are reproduced below:

"Commission's analysis & findings

Interest on Pension Bonds

3.8.65 This issue of interest on pension bonds has been subject matter for every tariff order. It is submitted by DISCOMS during the course of public hearing that allocation of funds towards additional liability on pension bonds is on account of unsettled dispute between the Government of Andhra Pradesh and Government of Telangana in respect of sharing of additional liability of pension of the retired employees of the erstwhile APSEB and subsequent retirements.

3.8.66 After enactment of Andhra Pradesh Electricity Reform Act, 1998 subsequent to unbundling of APSEB into various companies the liability of the pensions of the retired employees of the APSEB was taken over by GENCO, TRANSCO and four DISCOMs. ***Neither the government in the combined state nor the government after bifurcation of the state of Telangana has come forward to accept the liabilities in respect of pensions of the retired employees. Thereby until alternative arrangements are made, this Commission is of the opinion that additional liability on pension of retired employees shall be allowed to be continued as approved in MYT order****.*

……."

68. In a similar manner, to the objections raised during the proceedings for AS determination for H1 of FY 2026-27, the following was observed by the Hon'ble Commission:

> ***"Commission's Analysis and Findings:***
>
> *3.4.20 The Commission has gone through the submissions of both the stake holder and the Discoms.* ***The Commission has directed TGGenco on multiple occasions to take up the matter of additional pension liabilities with State Govt. However, in the absence of a clear outcome on the matter, the Commission approves the additional pension liabilities which are to be borne by the TGGENCO as per the first transfer scheme*** *and water charges paid by Hydel generators for drawing water form part of the fixed costs of the TGGENCO stations even though they are shown separately."*

69. As noted above, the Hon'ble Commission has observed that the State Government's reluctance to assume these liabilities does not absolve it of its obligations. However, permitting recovery of such liabilities through tariff, solely to protect the financial interests of the utilities and without regard to the statutory framework, places an undue burden on consumers, who are made to absorb costs through no fault of their own.

70. A similar issue has arisen in Karnataka. It is submitted that the Ld. KERC did not allow these liabilities to be passed through to retail consumers, despite the State Government's attempt to amend the transfer scheme by Government Order. Relevant extracts from the Ld. KERC Order dated 12.05.2023 (Tariff Order for FY 2023-24) are reproduced below:

> *"**Commission's Analysis and Decision:***
>
> ***P & G Contributions payable by Government:*** *The Commission notes that at the time of filing the APR application by KPTCL dated 30.11.2022, for revision of transmission tariff for FY24, the Government was expected to pay the P & G contribution as per the existing Rules.* ***The decision to claim the same in retail supply tariff was based on the Government Order dated 15.11.2022, which was not supported by any Rules.***
>
> ***Rule 4 (13) (1) of the "Karnataka Electricity Reforms (Transfer of Undertakings of KPTCL and its personnel to Electricity Distribution and Retail Supply Companies) Rules, 2002" stipulates as under:***
>
> > *"(13)(1)* ***The State Government, and not the Escoms, shall be liable for and shall make appropriate arrangements in regard to, the funding of the pension funds and all the statutory and other personnel related funds for the services rendered by the Specified Personnel to Karnataka Electricity Board and KPTCL prior to the***

Effective Date of Second Transfer of the Specified Personnel and to the extent they are unfunded as at the respective Effective Date of the Specified Personnel. *Until such arrangements are made by the State Government, the discharge of all such unfunded liabilities for Specified Personnel who retire after the Effective Date of Second Transfer of such Specified personnel shall be arranged by KPTCL".*

The Commission also notes that, the GoK has added a proviso to the above Rule, vide Notification dated 31.12.2022, which was published in the official Gazette on 6th January, 2023, which reads as follows:

"Provided that the Government whenever deems it fit, may by an order direct KPTCL to claim the Government portion of Pension Contribution through tariff by filing an application before the State Regulatory Commission".

As per the clause-1 sub-rule 2) of the Notification dated 31.12.2022, the amended Rules shall come into force from the date of its publication in the Official Gazette of Karnataka. The amended rules were published in the Official Gazette on 06.01.2023.

Further, as per Rule 4(13(1)), which is an absolute Rule, it is the State Government, and not the Escoms which is responsible for funding the Pension and Gratuity payment of the Specified Personnel. The Government's responsibility cannot be shifted to the KPTCL by issue of a Proviso to the 'Absolute Rule'.

Hence, the Commission is unable to accept the claim of KPTCL to pass on a sum of Rs. 2,734.10 Crores in the tariff. The Commission reiterates that the said amount shall be provided by the Government."

71. According to publicly available information, the above finding of the Ld. KERC has not been stayed by any court. In view of this, the Objector submits that Additional Pension Liabilities should not be allowed as a pass-through in fixed costs.

72. It is also worth noting that Additional Pension Liabilities do not form part of the Annual Fixed Cost approved by the Hon'ble Commission under the Telangana State Electricity Regulatory Commission (Multi Year Tariff) Regulation, 2023 (Tariff Regulations). Such expenses are allowed to be recovered in full without being linked to the operational performance of TGGENCO. Therefore, the Additional Pension Liabilities claimed by the Petitioner as part of fixed costs do not necessarily qualify as fixed costs of the distribution licensee arising from its obligation to supply under the Act.

Water Charges

73. In previous proceedings, the Petitioner claimed water charges as part of fixed charges. The Objector submits that such charges do not fall within the scope of Annual Fixed Charges admissible under the applicable Tariff Regulations and should not be included in fixed costs solely on the basis of their accounting classification. Since water charges are incurred to meet the operational requirements of the generating station and are contingent upon its operation, they should be examined separately from fixed charges. Although the MYT Regulations, 2023 are silent on the treatment of water charges, the CERC Tariff Regulations, 2024 provide a relevant reference by permitting recovery of water charges at actuals, subject to prudence check, over and above the approved Annual Fixed Charges, as reproduced below:

"36. Operation and Maintenance Expenses:

(1) Thermal Generating Station: Normative Operation and Maintenance expenses of thermal generating stations shall be as follows:

…….

……..

(6) The Water Charges, Security Expenses, Ash Transportation Expenses and Capital Spares for thermal generating stations shall be allowed separately after prudence check:

Provided that water charges shall be allowed based on water consumption depending upon type of plant and type of cooling water system or water agreement with state govt./utilities, and the norms specified by the Ministry of Environment, Forest and Climate Change subject to prudence check*. The details regarding the same shall be furnished along with the petition;*

Provided further that the generating station shall submit the assessment of the security requirement and estimated expenses along with the petition seeking the determination of tariff;

Provided also that the generating station shall submit the details of year-wise actual capital spares consumed individually costing above Rs. 10 Lakh at the time of truing up with appropriate justification for incurring the same and substantiating that the same is not funded through compensatory allowance as per Regulation 17 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 or Special Allowance or claimed as a part of additional capitalisation or consumption of stores and spares and renovation and modernization."

74. In the absence of specific details regarding water charges in the Petitioner's claim and pending submission of a detailed break-up of the claimed fixed charges, the Objector apprehends that such charges may have been included under the fixed-

cost component of power-purchase costs in accordance with prevailing accounting practices. The admissibility of such charges should not be determined solely on the basis of their accounting classification as fixed costs.

75. Additionally, the Petitioner has not provided a detailed break-up of fixed costs that are one-time in nature or fall outside the scope of Annual Fixed Charges, such as Late Payment Surcharge or otherwise. The Hon'ble Commission is therefore requested to exclude such exceptional expenses while approving fixed costs for the purposes of AS determination.

76. Based on the above discussion, the Objector submits that the lower of the costs indicated in the data sheet and accounts, less the applicable deductions proposed above, should be considered for determining admissible Power Purchase Costs (Fixed Costs). As per the Objector's submissions, admissible fixed costs should not exceed Rs. 7,487 Crore:

Table 5: Admissible Fixed charges as per Objector's assessment

(all figures in Rs. Crore)

SN.	Particulars	Unit	Petitioner's Claim	Admissible as per Objector's assessment
1	Power Purchase (Fixed Charges)	Rs. crore	8,436.14	7,487.85
2	Transmission charges	Rs. crore	2,177.74	1,917.25

6. Summary of Additional Surcharge for H2 of FY 2026-27

77. Based on the data available on record for the consideration of stakeholders, the Objector has computed the allowable AS for H2 of FY 2026-27 as follows:

Table 6: AS as per Objector's Assessment

SN.	Particulars	Unit	Petitioner claim	As per Objector's assessment
{A}	Long term available capacity	MW	11,424.82	11424.82
{B}	**Capacity stranded due to open access**	**MW**	**282.56**	**108.55**
{C}	**Fixed Charges paid**	**Rs. crore**	**8,436.14**	**7487.85**
{F}	**Transmission charges paid**	**Rs. crore**	**2,177.74**	**1917.25**
{G}	Actual Energy scheduled	MU	44,570.89	44570.89
{H}={F}÷{G}	Transmission charges per unit	Rs./kWh	0.49	0.43
I	Distribution charges as per Tariff Order	Rs./kWh	0.13	0.13
{J}={H}+{I}	Total transmission and distribution charges per unit	Rs./kWh	0.62	0.56
{K}	Energy consumed by open access consumers from the DISCOMs	MU	1,560.99	1,560.99
{L}={K}x{J}	Transmission and distribution charges to payable by open access consumers	Rs. crore	96.57	87.45
{M}	Demand charges recovered by the DISCOM from open access consumers	Rs. crore	227.27	227.27
{N}={M}-{L}	Demand charges to be adjusted	Rs. crore	130.70	139.82
{O}={E}-{N}	**Net stranded charges recoverable**	**Rs. crore**	**77.95**	**-68.68**
{P}	Open access sales	MU	936.26	936.26
{Q}={O}÷{P}	**AS computed**	**Rs./kWh**	**0.83**	**-**

78. The Objector respectfully submits that there is no case for levying AS on Open Access consumers in the State, as the net stranded-capacity charges are negative.