

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Inherent power of the Commission to amend certain provision of the Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021.

CORAM

Shri M.L. Prasad

Member (Technical) - Chairman (I/c)

Shri Anurag Sharma

Member (Law)

Date of Order: June 27th, 2024

The Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021 (hereinafter referred to as "UERC Tariff Regulations") were notified on 14th September 2024. These Regulations have come into effect from 01.04.2022.

Regulation 22(4) the Tariff Regulations provides for additional capitalization/modification of existing assets as follows:

"(4) Any addition/modification to the existing assets exceeding Rs. 2.50 Crore in case of distribution licensees, Rs. 5 Crore in case of generating companies/transmission licensees shall be taken up only after prior approval of the Commission. The investment approval applications covered under this sub-regulation are excluded from the application of proviso to Sub-regulation (2) of Regulation 10 of UERC (Conduct of Business) Regulations, 2014 in so far as the requirement of submission of documentary evidence with respect to the approval of BoD is concerned."

2. As per the aforesaid provision of the Tariff Regulations, the utilities were exempt from the submission of approval of BoD for works related to addition/modification of the existing assets. However, it has been observed that continuous applications are being filed by the utilities on the pretext of additional capitalisation which involves substantial amount and have significant impact on tariffs without getting them approved by the Board of Directors which is essential for proper scrutiny based on justification for the work.

3. Regulation 104 of the Tariff Regulations vests the Commission with the power to remove difficulty under certain circumstances. Further, Regulation 59 of the UERC (Conduct of Business) Regulations, 2014 confers inherent powers to the Commission to issue Orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.
4. Thus, in exercise of power under Regulation 103, Regulation 104 of the Tariff Regulations and Regulation 59 of the UERC (Conduct of Business) Regulations, 2014 the Commission directs the distribution licensee, transmission licensee and generating companies to read existing Regulation 22(4) of the Tariff Regulations as follows:

“(4) Any addition/modification to the existing assets exceeding Rs. 2.50 Crore in case of distribution licensees, Rs. 5 Crore in case of generating companies/transmission licensees shall be taken up only after prior approval of the Commission. The application for approval of the Commission shall be accompanied with the approval of the BoD in accordance with UERC (Conduct of Business) Regulations, 2014.”
5. The said modification shall come into effect from the date of Order till further orders.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Member (Technical) - Chairman (I/c)