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**BEFORE**

**UTTARANCHAL ELECTRICITY REGULATORY COMMISSION**

**Petition No.:** 02 of 2004

**In the Matter of:**

Petition for amendment in the prevailing tariff for Steel and other Power Intensive Industrial Consumers u/s 62 (4) and 86 of the Electricity Act, 2003 read with the relevant regulations and guidelines of the Commission.

**AND**

**In the Matter of:**

Uttaranchal Power Corporation Limited, being the Distribution licensee in the State of Uttaranchal, having its registered office at Urja Bhawan, Kanwali Road, Dehradun.

………… Petitioner

**Coram**

Sh. Divakar Dev Chairman

Date of Order: 24 August 2004

# 1. The Petition

## 1.1 Pleadings

(1) Uttaranchal Power Corporation Limited (hereinafter referred to as UPCL, licensee or Petitioner) was incorporated on February 12, 2001 pursuant to section 63(4) of the Uttar Pradesh Reorganisation Act, 2000 (hereinafter referred to as "Reorganisation Act") and is the sole licensee for distribution and supply of electricity in the State of Uttaranchal.

(2) The licensee filed its first "ARR and Tariff petition" before the Commission on 14.05.2003, on which the Commission passed a detailed order on 08.09.2003.

(3) The tariffs for the different categories of consumers approved by the Commission in

the above Order dated 08.09.2004 are, currently in force in the State of Uttaranchal.

(4) UPCL filed this Petition (No. 2 of 2004) under section u/s 62 (4) and 86 of the Electricity Act, 2003 read with the relevant regulations and guidelines of the Commission. UPCL has pleaded that steel units by their nature are heavy consumers of electricity and abnormal increase in their demand which the Licensee has projected would totally distort its power purchase costs. Accordingly, the Licensee has proposed that the increased cost of power purchase incurred for meeting such increased demand should be recovered from this category of consumers and for this purpose has sought amendment in the tariff earlier approved by the Commission. It has been stated by the Licensee that:

(a) The Commission's Tariff Order dated 08.09.2003 had resulted in reduction in consumer tariffs in the State. Accordingly the current tariff for industrial consumers in the State is substantially lower than the tariffs applicable in neighboring States. This has resulted in development of unexpectedly high new demand for power from industrial consumers in general and from power intensive units such as Arc/Induction Furnaces, Rolling Mills etc in particular.

(b) The above increase in demand is reflected in increasing consumption of power by industrial units in the State particularly by heavy consumers of power like steel units. Further with lower costs many such consumers tend to be reckless in their consumption even during peak hours resulting in the Licensee having to incur heavy Unscheduled Interchange charges under the ABT regime. In support of this, the Licensee has given position of monthly average load factor of steel industry in the State, and the same is given in the Table 1.1 below.

**Table 1.1 : Load Utilization by Steel Industry**

| **Month** | Apr'03 | May'03 | Jun'03 | Jul'03 | Aug'03 | Sep'03 | Oct'03 | Nov'03 | Dec'03 | Jan'04 | Feb'04 | Mar'04 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **(%)** | 42 | 53 | 49 | 53 | 59 | 58 | 58 | 51 | 57 | 62 | 60 | 62 |

(c) Increase in demand for power is also reflected in large number of applications received by the Licensee for grant of connections for new steel units proposed to be setup in the State. Against the total contracted demand of 59.7 or say 60 MVA of the existing steel units, 58 applications for a total demand of 249.45 or say 250 MVA have been received of which 10 applications with a total demand for 37.25 MVA have been sanctioned. This position is given in Table 1.2 below.

**Table 1.2 : Application from Steel/Induction Furnace industry seeking new connection /additional load**

| S. No. | Item | Number of applications | Total Load (MVA) |
|---|---|---|---|
| 1 | Load sanctioned for release | 10 | 37.25 |
| 2 | Applications pending for new connection | 38 | 195.05 |
| 3 | Applications pending for sanction of additional load from the existing consumers | 10 | 17.15 |
| | **Total** | | **249.45** |

Applications from another 23 such units with load requirement of 95 MVA are said to have been received by The State Industrial Development Corporation of Uttaranchal Ltd (SIDCUL).

(d) The load and consumption characteristics of such consumers are significantly different from those of general industry and servicing this significant increase in load of such consumers would necessitate purchase of huge additional quantities of power from incremental sources and at a significantly higher cost. This would result in increase in Licensee's power purchase cost thereby placing significant financial burden on the licensee.

(e) For meeting such large additional loads, Petitioners existing system will need substantial strengthening and up gradation. The cost of such additional system strengthening will be over and above the energy costs mentioned above.

(f) The licensee has also claimed that the addition of new consumers and additional load would also increase the normal administrative expenditure of the licensee.

(g) For meeting the demand of such power intensive consumers the Licensee is already incurring extra expenditure on power purchase due to introduction of availability based tariff (ABT) and that on account of reasons enumerated above, it is likely to incur significant loss.

(5) The Licensee has further submitted that its ARR for the year 2004-05 and the tariff proposals, already overdue are likely to be delayed further for the reasons given below;

(a) The Transfer Scheme dividing the assets and liabilities between UPPCL and UPCL is yet to be notified by the appropriate Government.

(b) UPCL's accounts for the year 2002-03 are still not final and are under audit.

(c) UPCL's provisional accounts for the year 2003-04 are still under preparation.

(d) UPCL's assets and liabilities have been again divided between it and the new Transmission Company formed by the State Government namely Power Transmission Corporation of Uttaranchal Ltd. Effect of this on UPCL's revenue and expenditure needs to be worked out and reflected in the ARR.

(6) Taking into consideration the contracted load and its utilization, the Licensee wants distinction to be made between the normal HT industrial units and the industrial units, which are heavy consumers of electrical energy. The Steel Arc/Induction Furnaces, Rolling Mills are heavy consumers of power and they may be grouped separately and termed as Power Intensive Industrial Units (PIU). Further the Licensee has proposed that such industrial consumers should be required to pay tariff which is higher than the tariff payable by other industrial consumers.

(7) Since the Licensee is unable to file its tariff proposals for the year 2004-05, and since increasing demand for power from such Power Intensive Units is likely to increase the Licensee's costs manifold, the Licensee may be given relief by amending the prevailing tariff approved by the Commission on 08.09.2003 so far as it applies to power Intensive Industrial Units in the State.

(8) The Licensee has proposed a new rate schedule for Arc/ Induction furnace, steel rolling mills, steel mills etc. having a contracted load above 100 BHP / 75 kW / 88 KVA, inclusive of auxiliary loads, Loads of Pollution Control Machinery, Gas Plants and corresponding Lighting loads etc. The tariff chargeable from Power Intensive Industrial Units as proposed by the Licensee is given in the Table 1.3 below:

**Table 1.3 : Tariff proposed by UPCL for PIUs**

| | Existing tariff for HT Industry | Proposed Tariffs for PIU |
|---|---|---|
| Demand Charges (Rs./kVA/ Month) | 125 | 170 |
| Energy Charges (Rs./kVAh) | 1.90 | 3.00 |
| Minimum Charges (Rs./kVA of the Contracted Demand/Month) | 350 | 460 |

(9) On 01.07.2004 UPCL made a supplementary submission, through its letter no. 3251/UPCL/UERC/Tariff dated 01.07.2004, to the Commission stating that the Government of Uttaranchal vide letter no. 138/ID/PA/2003 dated 26.12.2003, no. 174 dated 28.01.2004 and no. 1463/PS (E) dated 27.06.2004 had directed UPCL to sanction power loads only in the Industrial Estates, i.e. the area developed by the Government.

The Licensee has claimed that it has to follow the policy of the Government in releasing power loads to the power intensive industries in particular in the State.

## 1.2 Processing

(1) Recognizing that the licensee's ARR and tariff proposals for the year 2004-05 are likely to get delayed even further and in view of unusually high demand from new steel units and its implications on availability and cost of power in the State, the Commission decided to admit and consider this Petition. The proposals made by UPCL were notified through a public notice inviting responses from affected parties/stakeholders/public by 30.06.2004. The public notice was published in the following newspapers.

**Table 1.4 : Details of Public Notice**

| S.No. | Newspaper | Date of publication |
|---|---|---|
| 1 | Dainik Jagran | 10th June 2004 |
| 2 | Hindustan Times | 12th June 2004 |

A copy of the Petition was posted on Commission's website www.uerc.org and could also be obtained free of cost from the designated offices of the Licensee and the office of the Commission.

A copy of the public notice was sent to the Licensee for forwarding the same to all affected parties vide Commission's letter no. 346(04)/UERC/Misc.App.No.15/2004 dated 09.06.2004. Copies of the petition and the public notice were also sent to Principal Secretary (Energy & Irrigation) and Secretary (Industry) inviting State Government's views and suggestions.

(2) A total of 25 responses were received till the last date prescribed for this purpose namely 30.06.2004. One response was received after the last date and the same was also taken on record. The List of responding parties is given in Annexure 1. A copy of these responses was sent to the Licensee; vide letter no. 394/UERC/(4/PL)/Petition No. 2 of 2004 dated 01.07.2004 for its comments.

(3) The Commission also held Public Hearing on 13th July 2004 at 11.00 A.M. at Indian Medical Association Hall, Chakrata Road, Dehradun. Notices for the public hearing were published in the following Newspapers. Copy of the Public Notice for hearing was also sent to all the stakeholders who had submitted their written responses.

**Table 1.5 : Public Hearing**

| S.No. | Newspaper | Date of publication |
|---|---|---|
| 1 | Amar Ujala | 1st July 2004 |
| 2 | Times of India | 2nd July 2004 |

(4) In all, 14 persons representing various interests appeared before the Commission during the public hearing and made their submissions. A list of such participants is enclosed as Annexure 2.

(5) The comments on the responses received from various stakeholders were submitted by the Licensee on 15.07.2004 and on 29.07.2004. Gist of responses received have been enumerated and discussed later in this order.

(6) To get the benefit of State Government's views on the issues listed in the Petition, the Commission invited the concerned Secretaries of Uttaranchal Government on 05.08.2004 at 10.30 AM. The officers invited were Principal Secretary (Energy & Irrigation), Principal Secretary (Finance), Secretary (Industry) and Secretary (Planning). The State Government's views were presented by Principal Secretary (Energy & Irrigation) and Secretary (Industry) who appeared before the Commission on 05.08.2004. These are reflected in the minutes placed at Annexure 3. Subsequently in a written communication sent to the Commission on 19.07.04, government conveyed that they have no objection to the licensee's proposals.

(7) For proper analysis and scrutiny of the claims made in the Petition, the Commission sought month-wise information pertaining to certain operational and financial parameters such as consumption, maximum demand, time of maximum demand, contracted demand, power purchase/banking/trading details, weekly UI bill details, voltage-wise losses, daily peak demand, revenue assessment for all HT industrial consumers etc, for the year 2003-04.

(8) In response the Licensee furnished following additional information:

- Month-wise station-wise Power Purchase Cost for the period Apr. to Nov. 2003
- Month-wise details of Unscheduled Interchange (UI) and UI Charges during peak hours for 2003-04
- Month-wise details of Banking/Trading of Energy Purchased
- Month-wise consumption details of all categories of consumers for 2003-04

- Month-wise, consumer-wise consumption and demand details of the HT industry for 2003-04.
- List of industries, alongwith their load requirement, allotted sites for establishing their units in Uttaranchal.

# 2. Summary of Responses

## 2.1 Responses to the Petition

(1) In response to the public notice inviting responses to the petition filed by the Licensee, the Commission received responses from 26 stakeholders whose particulars are given in Annexure 1. Summary of responses relating to the petition and licensee's comments on the same are given in the following paragraphs.

(2) The following issues were raised by the stakeholders.

## 2.2 Maintainability of the Petition

(1) Application is not maintainable, as UP Electricity Reforms Act, 1999 applicable in Uttaranchal has not been repealed by Electricity Act, 2003. Application can only be filed under UP Electricity Reforms Act, 1999. Section 62(4) of EA-2003 is only applicable in respect of tariff framed by Commission under Electricity Act, 2003, which is not the case in the instant petition.

(2) Licensee's Comments

*a) The Licensee has clarified that Electricity Act 2003 was notified on June 9, 2003 and is the primary legislation in force from the date of its notification, repealing all regulations existing prior to the notification as per Section 185(1) of the Act. As per Section 185(3) of the Act, the only surviving provisions of UP Electricity Reforms Act, 1999 would be the ones not inconsistent with the provisions of the Electricity Act, 2003. The petition has been validly filed under the applicable law, which is the Electricity Act, 2003.*

*b) Further, Section 185(2)(a) of the Electricity Act 2003 specifically mentions about the survival of any rule, notification, order or notice made or any license, permission, authorization or exemption granted or any document or instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act. The previous Tariff Orders of the Commission shall, therefore, be* *deemed to have been made under the Act. The instant petition is, therefore, maintainable in law.*

### 2.3 Non-submission of ARR

(1) Section 24 of UP Electricity Reforms Act, 1999, Sub-section 4(a) of Section 24 of the Adaptation Order and Regulation 125 of the Conduct of Business Regulation require UPCL to file ARR seeking revision in Tariff between 15th to 31st December each year. No evidence on record to show that UPCL has taken any action to file its ARR and the Tariff proposal within the period prescribed under the statute. Hence the petition needs to be rejected.

(2) Reply from the Licensee

*The Licensee has submitted here that the Tariff Order of the Commission for FY 2003-04 was passed on September 8, 2003. The Transfer Scheme between UPCL and UPPCL was finalized on October 12, 2003. UPCL filed a Writ Petition on the Order of the Commission before the Hon'ble High Court of Uttaranchal. The Writ petition was ultimately withdrawn by UPCL on December 12, 2003. After the withdrawal of the writ petition by UPCL from the Hon'ble High Court of Uttaranchal, the licensee earnestly took up the work of preparation of the ARR & Tariff filing of the licensee for FY 2004-05. While the ARR and Tariff petition for FY 2004-05 was being finalized for submission to the Commission, the State Government in its letter No. 167/ Prin. Secy./ E&I/PS/04 dated March 10, 2004, directed that UPCL submit its ARR And Tariff application for FY 2004-05 before UERC only after the modalities of separation of Transmission business from the other business of UPCL required under the Act is notified and included, to the extent possible, in the ARR and tariff petition for FY 2004-05. It is, therefore, incorrect to say that there is a deliberate delay on the part of the UPCL in submission of the petitions within the statutory timeframe.*

### 2.4 Frequency of amendment in tariff

(1) Section 24(8) of the UP Electricity Reforms Act, 1999 and Adaptation order issued by State Government in 2001 require that electricity tariff shall not be amended more than once in two financial years except expressly permissible under Fuel Surcharge formula provided by regulations. The proposed amendments are, therefore, unsustainable.

(2) Reply from the Licensee

*It is clarified that Electricity Act, 2003 was notified on June 9, 2003 and is the primary legislation in force from the date of its notification, repealing all regulations existing prior to the* *notification as per Section 185(1) of the Act. As per Section 185(3) of the Act, the only surviving provisions of UP Electricity Reforms Act, 1999 would be the ones not inconsistent with the provisi ons of the Act. The petition has, therefore, been validly filed under the applicable law, which is the Electricity Act, 2003.*

### 2.5 Discrimination between consumers

(1) Discrimination to a class of consumers is against the Indian Constitution.

(2) Reply from the Licensee

*The Electricity Act, 2003 specifies that the Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required. The petition is, therefore, maintainable in law.*

### 2.6 Claim of loss of revenue not substantiated

(1) UPCL has not placed any records to justify its argument of facing a significant loss of revenue on account of tariffs approved by the Commission for FY 04 being applicable in FY 2004-05. No calculation of income and expenditure provided in the petition to justify the increase in operational costs, therefore, no amendment is possible.

(2) Reply from the Licensee

*It may be mentioned here that the availability from the State hydro generating sources has reduced considerably in comparison to the previous year levels and the demand from certain consumer categories has picked up considerably, resulting in purchases from external sources at a significantly higher cost and resorting to drawl from Northern Grid under unscheduled interchange (UI). This has resulted in significantly higher power purchases at higher cost for consumption within the State than that envisaged in the Order to meet the existing demand. The other operating and financing expenditure of UPCL has also increased considerably than approved levels over the year. Any abnormal increases in demand would, therefore, have to be met by power purchases from marginal sources of external power at a significantly higher per unit cost based on merit order. The revenue at current tariffs is not sufficient to meet the operating and financing costs of the licensee being incurred during the year.*

### 2.7 Basis of claiming higher service cost for new applicants

(1) There is no basis of claims that grant of supply to new applicants imposes additional

financial burden on UPCL, on account of higher cost than the cost of servicing to the existing consumers.

(2) Reply from the Licensee

*UPCL has already detailed out the shortage in supply from the State sources which has increased the dependence of the Licensee on external sources. This has resulted in significantly higher power purchases at higher cost for consumption within the State than that envisaged in the Order to meet the existing demand. The other operating and financing expenditure of UPCL has also increased considerably than the approved levels for FY 2003-04. In this context, the additional load from the upcoming power intensive consumers shall need to be serviced from the incremental sources of power at a significantly higher cost based on merit order than the cost of servicing the existing consumers. Further, the cost of system strengthening for accommodating such a massive increase in load in a short timeframe will be over and above the costs mentioned above. The addition of new consumers and additional load would also increase the normal administrative expenditure of the licensee.*

### 2.8 Claim of deficient availability of supply for new consumers

(1) There is nothing on record to show that UPCL is deficient in electricity for supplying to the new consumers.

(2) Reply from the Licensee

*It may be mentioned that UPCL normally remains energy surplus for the period April to October and deficient in the remaining months during a year when availability from the State hydro sources is at a low.*

### 2.9 Increase for existing induction furnaces/rolling mills not justified

(1) The increase in Tariffs will be unjustified for induction furnace / rolling mill consumers who have already set up operations in the State due to attractive tariffs in the State.

(2) Reply from the Licensee

*The Licensee has already detailed out the reasons for increase in its cost. The increase in tariffs is, therefore, required to keep UPCL commercially viable and to enable it to continue providing quality service to its consumers at efficient costs.*

### 2.10 Emphasis on loss reduction rather than tariff increases

(1) UPCL does not make any attempt to arrest its Transmission & Distribution losses, rather resorts to the option of increasing tariffs.

(2) Reply from the Licensee

*The Licensee has embarked upon a program for efficiency improvement and loss reduction and plans are already underway to strengthen energy audit & accounting, consumer coding, bifurcation of feeders and redistribution of loads under APDRP and other schemes. This would help in identifying the areas with higher commercial losses for focused and sustained vigilance drives in such areas. The physical infrastructure, systems, processes and procedures of the licensee are still being established accordingly.*

## 2.11 Rate of trading vis-à-vis industrial tariff

(1) The State is energy surplus and undertakes energy trading. The overall rate available from trading is less than the prevailing rate of electricity applicable to large industries and, therefore, there is no reason for this tariff proposal.

(2) Reply from the Licensee

*a) The Licensee has already detailed out that seasonality of demand allows it to sell the surplus power outside the State on behalf of the State Government during these months. Hence, it needs to be noted that trading of energy by UPCL is only a seasonal phenomenon unlike the consumption pattern of the large industries and cannot be compared.*

*b) Further, the energy for State consumption is procured on a merit order principle with higher associated cost for higher levels of demand. The average price of power purchase in the past is not reflective of the current operations as it is a function of the availability and cost of various sources and level of demand. An extraordinary jump in load growth has been applied for in certain class of industrial consumers during the year, while at the same time the availability from State hydro sources has gone down considerably. These dynamics would lead to a much higher level of average price of power purchase for the current period in relation to the past. Further, the transmission and distribution costs associated with making the energy available in the premises of the consumer is over and above these costs. Roughly speaking, the cost of power purchase ranges on an average between 50-60% of the total delivered cost to the consumer.*

## 2.12 Steel rolling mills not power intensive

(1) Steel Rolling Mills should not be construed as Power Intensive as they operate 10-12 hours per day just like any general-purpose industry. Induction / Arc furnaces, on the other hand, work on a continuous basis.

(2) Reply from the Licensee

*Given the constraints in filing the ARR & Tariff for FY 2004-05 highlighted earlier, and the requirement of UPCL to release the connections for the new HT consumers, the licensee has approached the Commission with the instant application of a tariff hike for the class of consumers seeking this extraordinary load growth. This would enable the licensee to garner requisite resources for efficient servicing of these consumers.*

### 2.13 Fee and location for new connections

(1) UPCL presently does not collect any substantial application money from applicants. UPCL should collect earnest money of at least 25% of system loading and service connection charges along with application to discourage non-serious applicants. Further, UPCL should allow load extensions or new connections only in State Government notified industrial areas / estates.

(2) Reply from the Licensee

*The suggestion is well taken.*

### 2.14 Availability to increase in future

(1) Keeping in view the fact that the State will have surplus power in 1-3 years time – it is desirable that a reasonable number of steel units be allowed in the State in a planned & transparent manner so that power supply and demand are properly matched in the coming years.

(2) Reply from the Licensee

*The comment is beyond the ambit of the instant petition wherein a tariff has been proposed to power intensive consumers so as to meet the additional power purchase requirements at marginal costs and other operational cost of the licensee, to ensure its commercial viability with the potential load for which the applications are pending.*

### 2.15 Tariff increase counter-productive for industrial development

(1) Increasing of power tariff to discourage industry is a panic reaction and counter-productive to development of engineering industry in Uttaranchal.

(2) Reply from the Licensee

*UPCL has proposed a tariff to ensure its commercial viability with the potential demand of power intensive consumers for which applications have been received.*

## 2.16 Tariffs in the State not lowest

(1) It is stated that the tariffs in the State are not lowest in the country. Himachal Pradesh also has similar tariffs.

(2) Reply from the Licensee

*The licensee has proposed a tariff to ensure it's commercially viability and has not considered the effective billing rates in other States post Electricity Duty. The increase in cost of operations due to a sudden spurt in demand would need to be allocated to the consumers primarily responsible for this additional cost insulating the other consumers from this development.*

## 2.17 Commission's Observations

(1) The Commission has taken into consideration all the objections filed on the petition and the replies to them filed by the licensee. The Commission has examined most of these issues and dealt with them in subsequent portions of tariff order. Remaining issues are discussed below.

(2) It has been alleged that since the licensee has failed to file the ARR, which is already overdue the present Petition is therefore not maintainable under law. The circumstance under which Licensee has not been able to file the ARR have been given by him in the Petition and discussed in the preceding paragraphs. The Commission having considered the same has found force in them and decided to admit the present Petition as it does not suffer from any such legal inadequacy. In view of the facts and circumstances mentioned in the petition and the various developments which the Licensee has listed as detailed above, the Commission holds that the Licensee should not be penalized by rejection of the present petition on grounds of delay or default in the filing of ARR for the year 2004-05. The Commission hereby directs the Licensee to take effective steps to file the ARR within the time prescribed and the Commission may pass such orders as it considers appropriate in case of delays and/or defaults on the part of the Licensee. In the opinion of the Commission it will not be appropriate to refuse to deal with the present petition, if the facts pleaded by the Licensee are likely to lead to financial losses to the Licensee on account of substantial growth of demand from power intensive units, both existing and those to be set up. The Commission is required to take cognizance of the above developments and pass appropriate orders balancing the interest of all stakeholders. The Commission will therefore consider the Petition filed by UPCL notwithstanding that there are defaults and delays in the filing

of the ARR for the year 2004-05.

(3) It has also been stated that the present Petition should not have been entertained u/s 62(4) of the Electricity Act, 2003 but should have been filed under Adaptation Order, 2001. The Electricity Act, 2003 being a Central Act and having been passed subsequent to the Adaptation Order has the over-riding effect as has been spelt out categorically in section 185(3) of the Electricity Act, 2003. Further in terms of Section 185(2), all actions and orders earlier passed should be deemed to have been done under the Electricity Act, 2003, the petition filed under Section 62(4) of the Electricity Act, 2003 is, therefore, valid in law and maintainable.

(4) Another issue raised pertains to the frequency of amendment in tariffs. Section 62(4) of the Electricity Act, 2003 stipulates that ordinarily the tariffs shall not be amended more frequently than once in a financial year. No such amendment having been made so far, this objection does not affect the present petition. The scheme of Section 62 of the Electricity Act, 2003 is clear. Sub-section (1) to (3) of Section 62 deals with the determination of tariff. Sub-section (4) deals with the amendment of tariff. The amendment of tariff is in relation to the tariff already determined and does not relate to fixation of Tariff pursuant to an ARR or other revenue requirement applications filed by the Licensee. In Association of Industrial Electricity Users vs. State of Andhra Pradesh (2002) 3SCC 711, the Hon'ble Supreme Court dealing with the similar situation from Andhra Pradesh held as under:

> *"9. There is no doubt that sub-section (9) of Section 26 is unhappily worded. There does appear, at first blush, some overlapping between sub-section (5) and sub-section (9), but on a careful reading of sub-section (9), we agree with the contention of Shri Shanti Bhushan that sub-section (9) comes into play only when during the financial year an amendment to the tariff or a new tariff is proposed. Reading sub-section (5) and sub-section (9) together, it appears to us that the annual exercise with regard to the fixation of tariff has to be undertaken under sub-section (5), but if for any reasons there is a new tariff which is to be proposed or an amendment is to take place during the financial year, then the procedure set out in sub-section (9) of Section 26 has to be followed. It is for this reason that while under Section 26(5) it is stated that the particulars are to be supplied by the Licensee at least three months before the ensuing financial year, on the other hand under Section 26(9) the particulars are to be supplied at least three months before the proposed date of*

*implementation. By use of the words "proposed date of implementation" in contradistinction to the use of the words "ensuing financial year" occurring in sub-section (5), the indication clearly is that sub-section (9) will apply only in a case of amendment during a financial year. For normal fixation of tariff with or without modification, the exercise which has to be undertaken is under sub-section (5) of Section 26."*

In the circumstances under Section 62(4), the Commission can make amendments to tariff already determined from time to time, till the determination of new tariffs pursuant to a regular ARR, provided such amendment is ordinarily not more than once in any financial year. The application filed by the Licensee for amendment in the tariff of the specified category is, therefore, maintainable in law and is required to be considered on merits.

(5) It has also been stated by one of the respondents that the Commission cannot discriminate between consumers in fixing tariffs, as the same will be violative of the Constitution. The very fact that different rates are prescribed in the Tariff Order for different categories of consumers shows that there cannot be one uniform tariff for all consumers and fixing different rates payable by different categories of consumers does not amount to discrimination. Section 62(3) of the Electricity Act, 2003 reads as under:

"*62(3): The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required."*

Section 62(3) of the Electricity Act, 2003 also envisages differentiation in fixing tariffs on factors mentioned therein. Creating another category of consumers and fixing a separate tariff for them does not violate any legal or Constitutional requirement as long as the differentiation is done on rational and comprehensible basis and all consumers falling in that category are treated alike.

(6) The Licensee's claim that increase in demand of PIUs is likely to increase its administrative cost also has been questioned. The Licensee has not given any data or argument in support of this contention. The Commission is of the view that the main impact of such additional demand will be on the power purchase cost and not on

administrative cost. Any marginal increase on another cost on account of working capital interest or maintenance etc. should get absorbed even in the existing tariff.

(7) It has also been stated that UPCL should control its T&D losses rather than seek increase in tariff. It is a well known fact that UPCL's T&D losses are unacceptably high and need to be reduced. The Commission in its tariff order dated 08.09.2003 has laid down a five year target of 20% reduction in these losses. The Commission has no reason to revise the same and will factor this issue while calculating the Licensee's power purchase requirement for meeting the additional demand.

# 3. Commission's Analysis and Approach

While scrutinizing the present Petition, the Commission has examined long term implications of some of the issues arising from the Petition. In this context the Commission has specifically addressed the following aspects.

- Consumption Trends
- Consumption Profile
- Availability of Power
- Fallouts of the Quantum increase in demand

## 3.1 Consumption trends

### *3.1.1 Existing Consumers*

(1) The Licensee has alleged that low industrial tariff has led to reckless consumption by units like induction / arc furnace, steel and rolling mills etc. In support, the Licensee has contended that the load factor of such consumers was 52% in the first half of the year 2003-04, and the same has increased to 58% in the second half of this year.

(2) The current tariff rates were implemented by the licensee only in January 2004 and the consumption data that has been furnished by the Licensee is only up to March 2004. Three months is too short a period for drawing any conclusions about definite trends in consumption or about reckless consumption of electricity claimed by the Licensee. It is, however, recognized that relatively low rates of power do carry an attendant risk of encouraging consumption and wastage by some irresponsible consumers.

### *3.1.2 New Consumers*

(1) On historical basis while the growth in demand over last 9 years for which figures are

available has been negligible, the annual growth in demand since separation of Uttaranchal from U.P. has been around 5-6%. Accordingly growth in demand of 5.79% had been assumed and taken into account while working out the power purchase requirement of the licensee in the tariff order dated 08.09.2003. Normal increase in total demand for power would have been of this order and would not have necessitated any amendment in the Tariffs already approved. While projections for the year 2004-05 are still not available, previous year's growth rate can be taken as the basis while assessing licensee's power requirement. Government's increased emphasis on village and household electrification programmes coupled with the packages of incentives that is being extended to new industrial units could result in comparatively higher growth in demand for power in the State. Such increases are signs of development and growth and are normally factored in by the licensee in planning the power purchase for the year.

(2) Attractive Electricity tariff in conjunction with concessions and incentives announced by the Government seem to have generated considerable interest amongst entrepreneurs. The Licensee has stated that large number of applications for connections for new industrial units have been received or are in the pipeline. This indeed is a welcome development both for the State and the Licensee. It has further been pointed out that of applications for new connections that have been received, a large number are from induction/arc furnace, and steel rolling mills that are heavy consumers of electricity and are apparently planning to shift their units from adjoining States only to take advantage of relatively low tariff in this State. As many as 58 applications from such consumers are said to have been received by the Licensee seeking a load of about 250 MVA and another 23 with load requirement of about 100 MVA are in the pipeline, against the total present contracted demand of about 60 MVA for consumers of this category. This huge, sudden, and abnormal spurt in demand of energy guzzling industrial units is extraordinary and can understandably not be met by the licensee from the regular sources identified for meeting the normal requirements. Catering to such extraordinary appetite for power is bound to have serious long term implications both on future availability of power as well as on the tariffs for other consumers. These have been addressed later in this order.

### *3.1.3 Power Intensive Industrial Units*

(1) The licensee has identified steel units as power intensive units that are responsible for

abnormal increase in demand which in turn, is said to be pushing up the power purchase cost of the licensee.

(2) For examining validity of this assertion, one needs to examine the consumption pattern and other related characteristics of the existing steel units in the State.

(3) Of the 195 HT industrial consumers presently working in the State, only 24 are steel units of which 18 are furnaces and another 6 are rolling mills with or without furnaces. One large industrial consumer is BHEL which stand on a totally different footing and cannot be clubbed with other industrial units.

(4) The present average monthly energy consumption of steel units as a group is 23 MUs making their average monthly consumption as 9.58 lac units/industry. Against this the average monthly consumption of all other HT industrial consumers, excluding BHEL, is only 22.20 MUs and the per industry average monthly consumption is only 1.31 lac units/industry.

(5) The contracted load of steel units varies from 200 kVA to 6000 kVA, the average contracted load being 2488 kVA. Against this contracted load of other HT industrial consumers, excluding BHEL varies from 88 to 7500 kVA and the average load of such units is only 525 kVA.

(6) Another important parameter namely the load utilization percentage of steel units in the State ranges from 15 % to 80 % and the average for the group is about 70 %. Against this the average load utilization of HT industrial units is only 27%.

(7) It is clear from above that whether one looks at the absolute figures of energy consumption or the contracted load or for that matter the load utilization, steel units as a group, possess characteristics which are markedly different from those of other industrial units. All these characteristics indicate extraordinarily high energy consumption and to that extent validate each other and the licensee's contention in this regard. This trait gets even more pronounced in the new steel units coming to the State. For instance against the average contracted load of existing steel units of 2488 kVA, which is self is high, the average load being sought by new steel units is even higher and is 4310 kVA. These units having a prominent common characteristic in the shape of extraordinarily high power consumption are real power guzzlers and therefore can rightly be grouped separately and called 'Power Intensive Industrial Units' (PIUs). Any abnormal variation in their demand whether on account of

increased consumption of existing steel units or on account of additional units being established has substantial impact on licensee's procurement and sales. These have been examined and dealt with later in this order.

### 3.2 Consumption Profile

(1) For proper appreciation of relative position of existing steel units, one needs to look at the licensee's total consumer profile. The position in regard to total number of consumers as on 01.04.2003 is given below:

| Category | No. of consumers |
|---|---|
| Domestic Consumers | 7,51,992 |
| Agricultural Consumers | 17,618 |
| Commercial Consumers | 89,854 |
| LT Industrial Consumers | 7971 |
| Non PIU HT Industrial Consumers | 171 (as on 01.04.04) |
| **HT (steel) PIU Industrial Consumers** | **24 (As on 01.04.04)** |
| Others | 808 |
| **Total** | **8, 68,438** |

(2) Position of consumption of different categories of consumers during 2003-04 is given in the Charts 3.1 and 3.2 below:

**Chart 3.1**

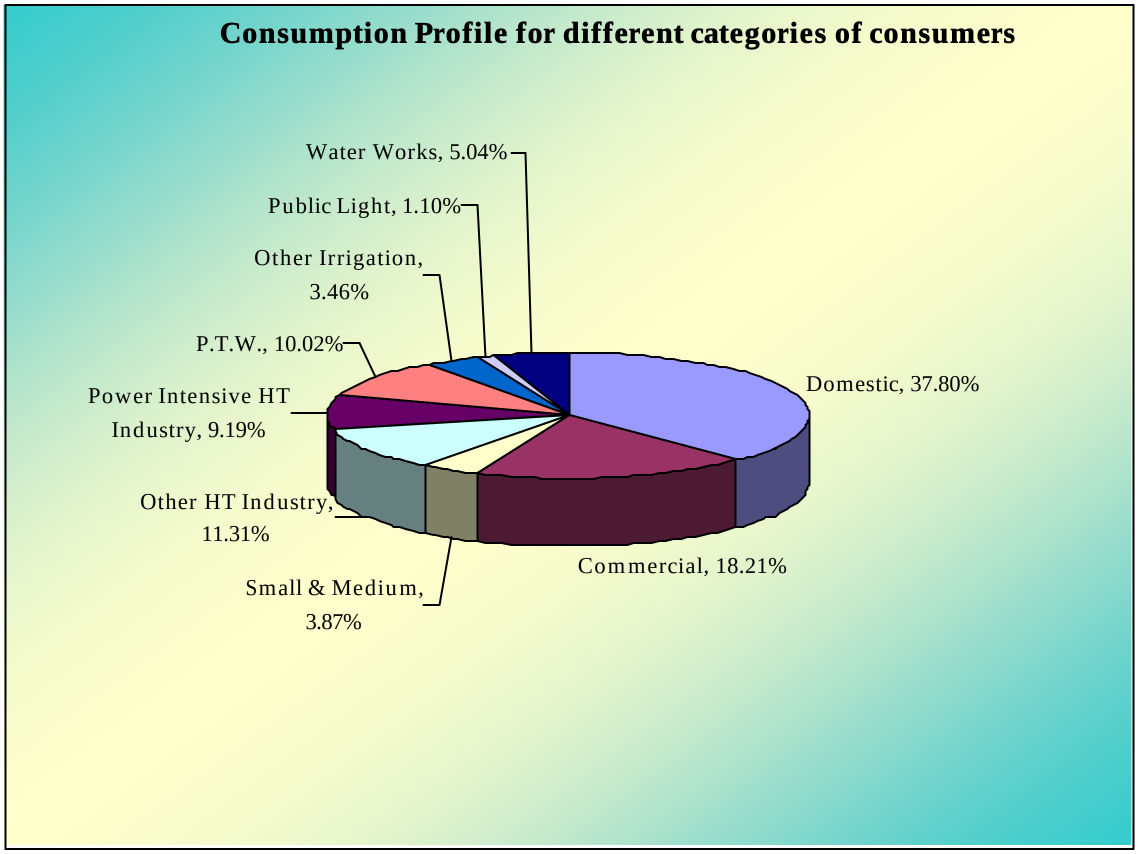
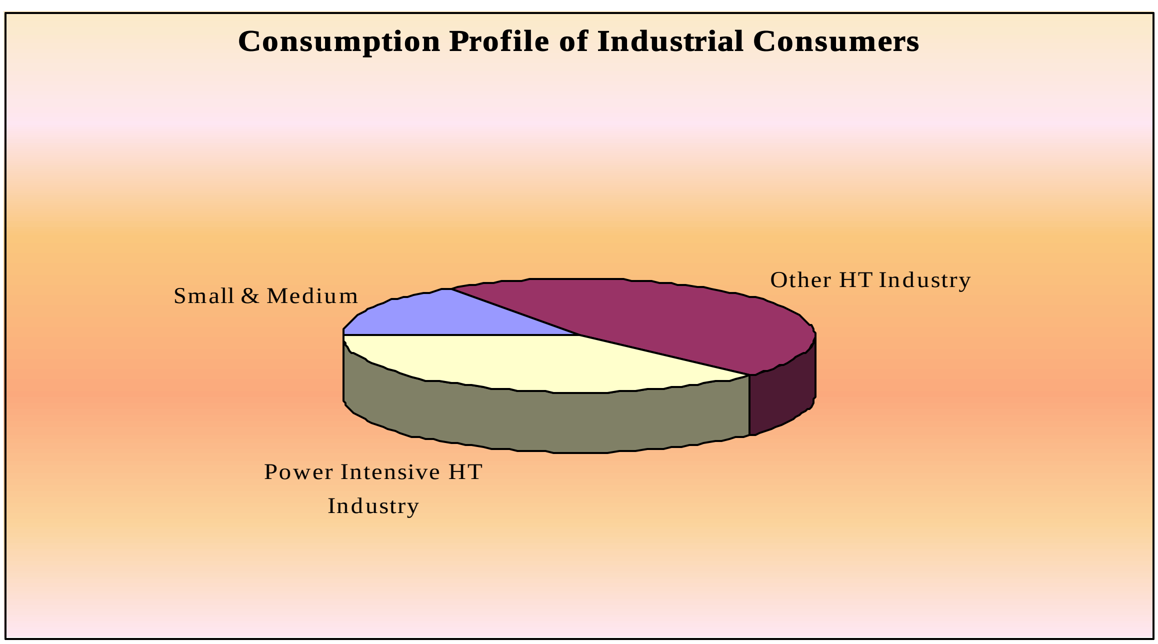



**Chart 3.2**



## 3.3 Availability of Power

### *3.3.1 Total Availability*

(1) The State's requirement of power is met from its Generating Stations located in the State and run by Uttaranchal Jal Vidyut Nigam Ltd. (UJVNL), the Central Generating Stations and through market purchases from Power Trading Corporation (PTC) or other sources. As per the Govt. of India order dated 5.11.2001 issued in exercise of power conferred under section 63(4) and section 64 of the Uttar Pradesh Re-organization Act, 2000, the entire power generated in the hydro generating stations transferred to UJVNL from UPJVNL under this order, is to be used for meeting the requirements of Uttaranchal's consumers first. This statutory position has been reiterated by the State Government in their orders dated 24.11.2003 and again in their communication to the Commission sent on 5.07.2004. The Commission in the order dated 19.03.2004 has also directed that power generated by the generating stations of UJVNL within the State will be first used for supply to consumers of the State and only surplus power will be sold to any third party outside the State. UJVNL had challenged Commission's above order before the Hon'ble High Court of Uttaranchal and the Hon'ble High Court has been pleased to dismiss UJVNL's said petition. In short total power generated by generating stations transferred to UJVNL is earmarked for supply to consumers in the State as per Government of India's statutory order dated 5.11.2001 issued under The Uttar Pradesh Re-organization Act, 2000, this Commission's order dated 19.03.2004 and the State Government's order dated 24.11.2003.

(2) Power procured from UJVNL is supplemented by power purchased by the licensee against State's allocations from Central Generating Stations. Another source of supplemental power is the State's share of free power, which the State Government has made available to the licensee subject to certain conditions. The total power available to the State from all these sources put together during 2003-04 was estimated to be 5298 or say 5300 MUs.

(3) The increased requirement of steel units, which is abnormally high can clearly not be met from the present availability and would compel the licensee to explore and locate additional sources of power. These could be:

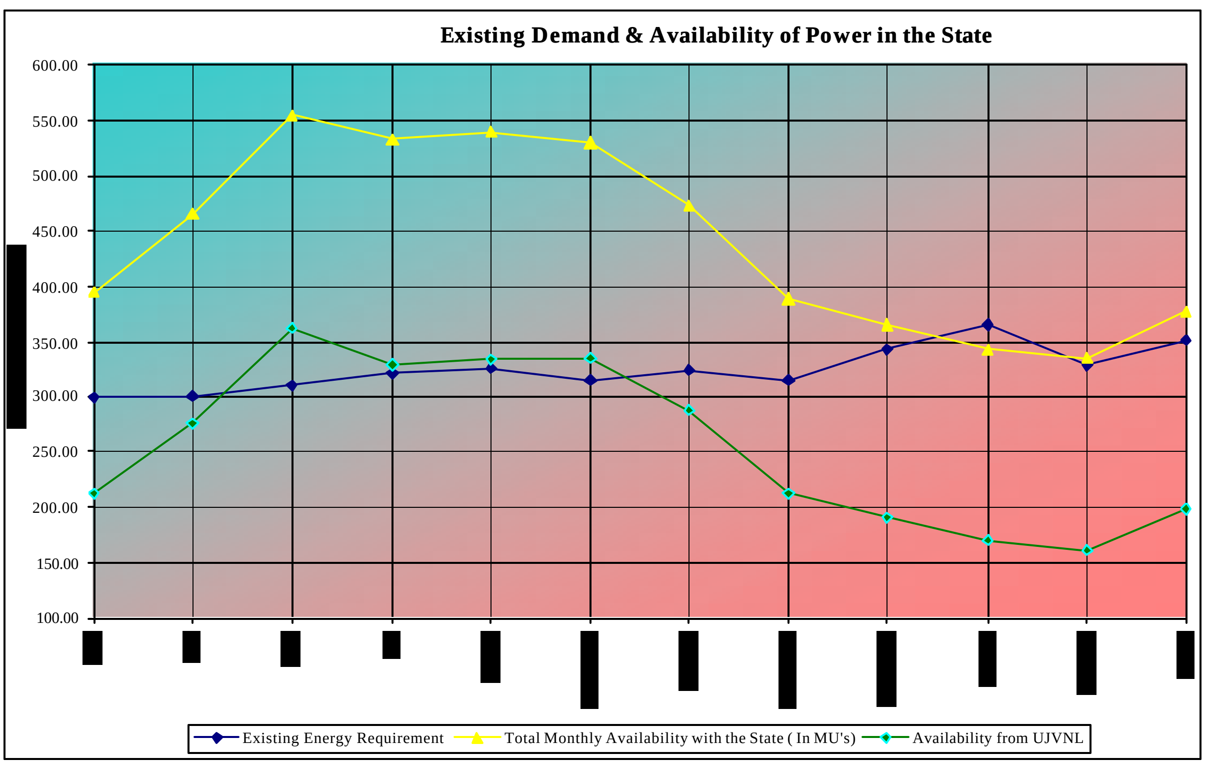
- Power Trading Corporation, other traders and utilities.
- Independent Power Producers (IPPs)

- Excess drawls from the grid on payment of Unscheduled Interchange (UI) charges. This is very expensive and can not be done on regular basis without causing serious disturbances in the grid

### *3.3.2 Utilization of available power*

(1) Of the total 5300 MU of power which was to be available for purchase by the licensee, 3900 MU was estimated to be the power required to be purchased for meeting the requirements of consumers in the State, leaving a surplus of about 1400 MUs. As per the figures furnished by the licensee, the actual surplus in 2002-03 was 1128 MUs and 1202 MUs in 2003-04. The surplus for first 4 months of the current year is said to be only 98 MUs. Month-wise position of power availability is even more disturbing and at times the total power available to the licensee is not enough to meet even the existing requirement of the State's consumers. Month-wise position of the licensee's power requirement to meet the existing demand and its availability is shown in Chart 3.3 below.

**Chart 3.3**

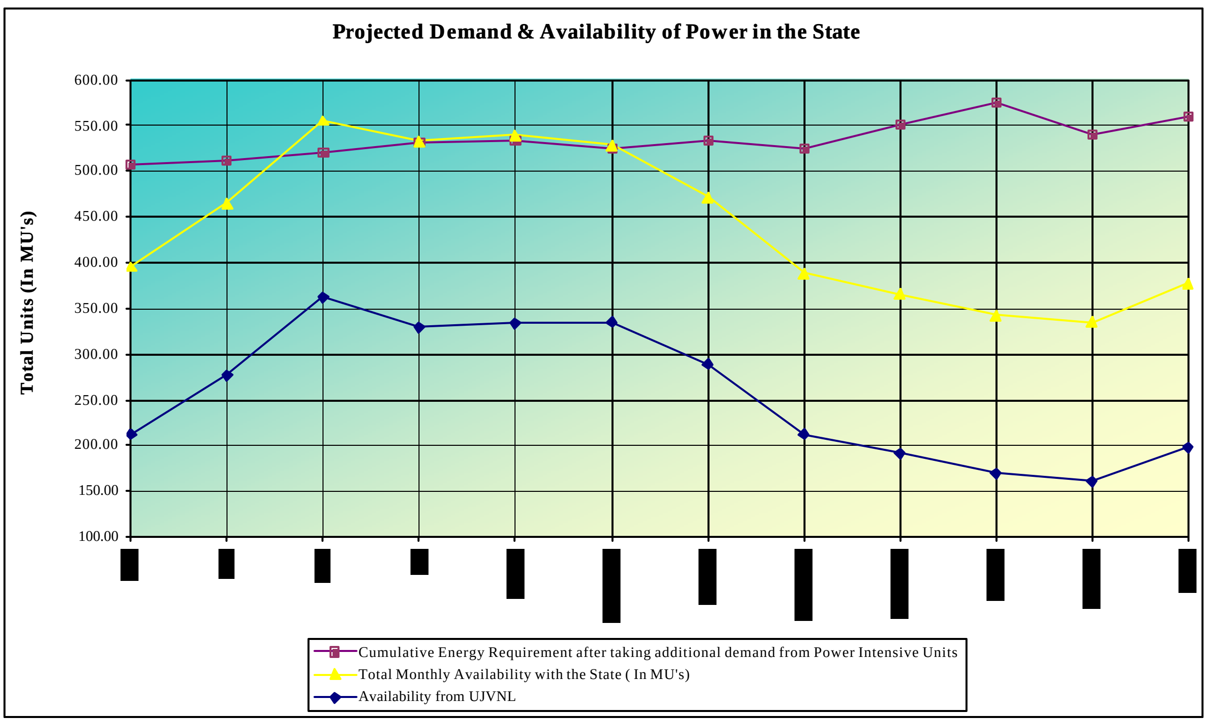



(2) It is clear from the chart that:

(a) For about 4 months in a year the total power presently available to the licensee is either just or not even enough to meet the present demand.

(b) For the remaining period, the licensee has some cushion available. This is said to be utilized partly by the licensee to meet the requirement during the lean months through banking arrangements with other States. From the information furnished by the Licensee it is seen that the requirement of new industrial units other than steel is 81 MVA or based on the average utilization percentage of industries this requirement will be around 250 MUs. Against this, if the additional power requirement of only the steel units is taken into account which is about 2000 MUs, the availability position in the State from all existing sources undergoes a dramatic change. This is reflected in Chart 3.4 given below:

**Chart 3.4**




(3) It will be seen from the above that for 8 months in a year the licensee will not have power available to meet the full demand. As a result even for existing consumers sufficient power will not be available and there will be severe shortages for almost 8-9 months in a year. Further while meeting the requirement of steel units, the licensee will not have any power left for meeting new demand of non steel consumers of any category.

### 3.4 Other fallouts of quantum increase in demand

(1) According to the Licensee another 58 applications for new connections from prospective PIUs have been received by him with total load demand of about 250 MVA or average load of 4310 kVA. Applications from another 23 steel units are set to have been received by The State Industrial Development Corporation of Uttaranchal Ltd. (SIDCUL) with total load requirement of about 100 MVA. It is noteworthy that against this high average load of new industrial units, the average load of existing steel units is only 2488 kVA per industry which in turn will further push up the energy consumption. A large number of these units are said to be steel furnaces shifting their operations from adjoining States on account of attractive power tariffs in Uttaranchal. Assuming that the load utilization of these new units will be similar to the load utilization of existing similar units, this new demand alone translates into energy consumption of another 2000 MUs which after providing for losses will require the licensee to purchase another 2511 MUs or say 2500 MUs in 2004-05. For want of reliable information on availability of power during the current year, the Commission has no option but to assume the same availability as has been projected for the year 2003-04, ignoring minor variations. This requirement of 2500 MUs is over and above the requirement of 3900 MUs stipulated in the tariff Order. It may be recalled that even on aggregate basis the further quantity of power available to the State is at the best only about 1400 MUs. Looking at the overall power position in the country, it is extremely doubtful that such huge volumes required to meet fully this new demand will actually become available over and above the State's present allocation. At the best a portion of it could be available and the cost of such power is likely to be high. Non-availability of power required to meet the full demand has implications not only by way of inevitable power cuts for all existing consumers but also by way of denying supply even to prospective consumers of modest quantities including those targeted under time bound programmes like the Village Electrification and Household Electrification.

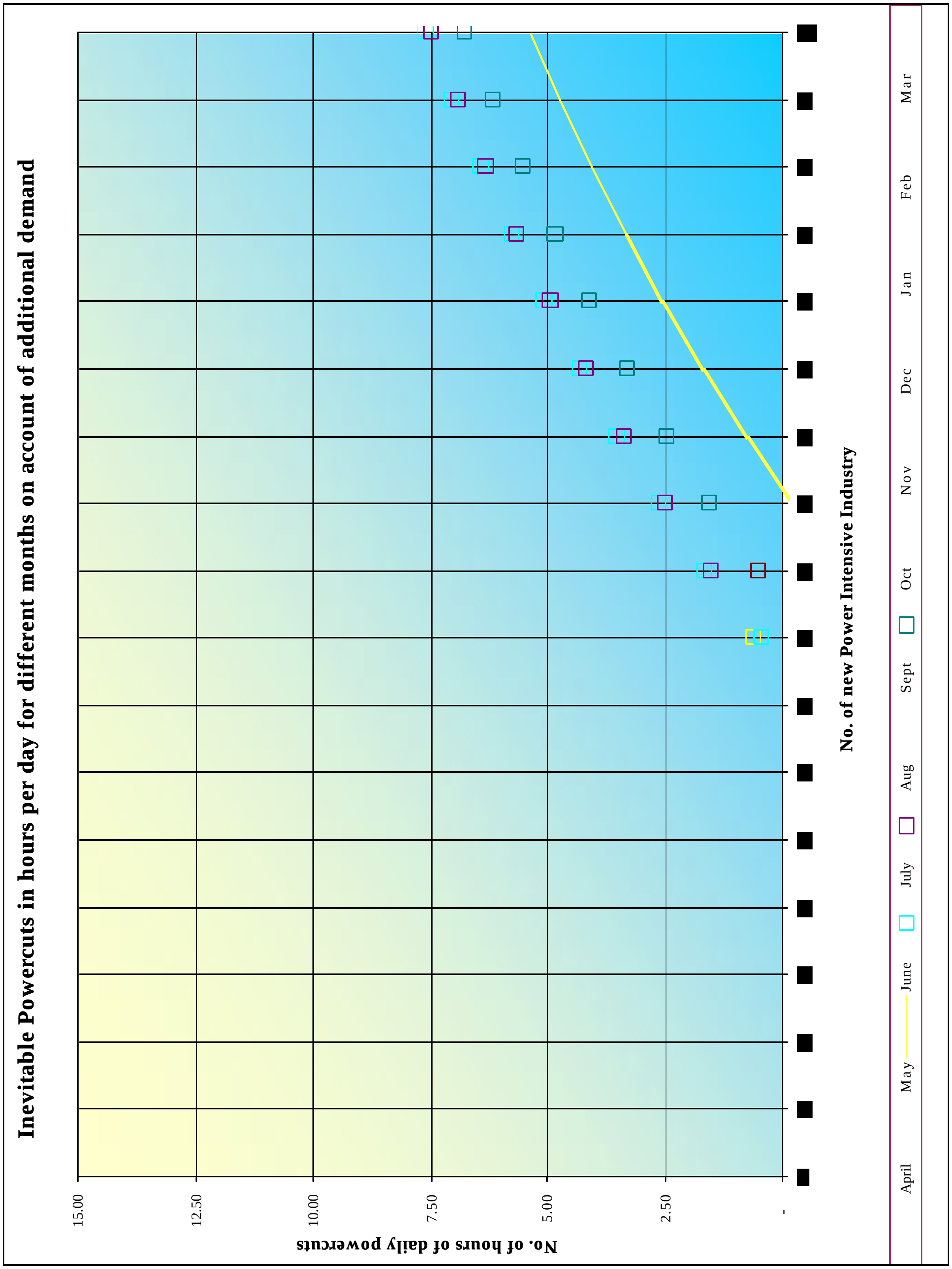
(2) As per the available data out of a total of 16053 villages as many as 2357 villages are still without electricity. The position of household electrification is no better and only 77.75% households have access to electricity against more than 90% in Himanchal Pradesh and Punjab. If the total quantity of the electricity presently available to the State for meeting new demand was to be fully utilised only by a handful of PIUs, even

core programmes like electrification of un-electrified villages and of un-electrified households will have to be slowed down and may even come to a stop. In the context of optimum utilization of presently available power, the State Government representatives had informed the Commission that the Government's topmost priority is speedy electrification of un-electrified villages and households. This can be done only if power for this purpose continues to be available and is not siphoned off by PIUs, many of whom appear to be only trying to take advantage of relatively cheaper power in the State. The licensee inability to extend, the benefit of electricity to individual consumers, farmers, petty shopkeepers etc. on account of supplies to such PIUs, would be a distorted, perverse and indefensible situation.

(3) As stated earlier heavy additional drawl of power by PIUs is also likely to adversely affect supply to existing consumers. Given the present availability of power, if only 16 such new units get established in the state, the licensee will be forced to manage the demand and for it resort to daily power cuts for all consumers in the entire State. Chart 3.5 below shows position of average daily power cuts in hours that will have to be imposed on all existing consumers in the state as more and more such units get established. This position varies from month to month as both the availability as well as the demand keep changing. The duration of such power cuts goes up as the number of such new PIUs increases. This is a very serious consequence of the present pattern and trend of increase in demand. The gravity of this could get diluted to the extent additional power becomes available from new sources.

(4) If the above negative fall outs of the additional demand of PIUs are to be avoided and the power available to the licensee is to be utilized in a just and equitable manner, the requirement of PIUs will have to be met not at the cost of all other consumers but primarily from new and additional sources of power. The licensee is accordingly directed to make serious attempts to explore the possibility of procuring power from additional sources like PTCs, other utilities etc. in quantities commensurate with this additional requirement and enter into suitable arrangements with such suppliers and PIU consumers in a balanced way. After meeting requirements of other consumers, if a portion of licensee's present allocation is surplus to the requirement and therefore available for supply, the same should be used for supply to PIUs instead of trading.

**Chart 3.5**

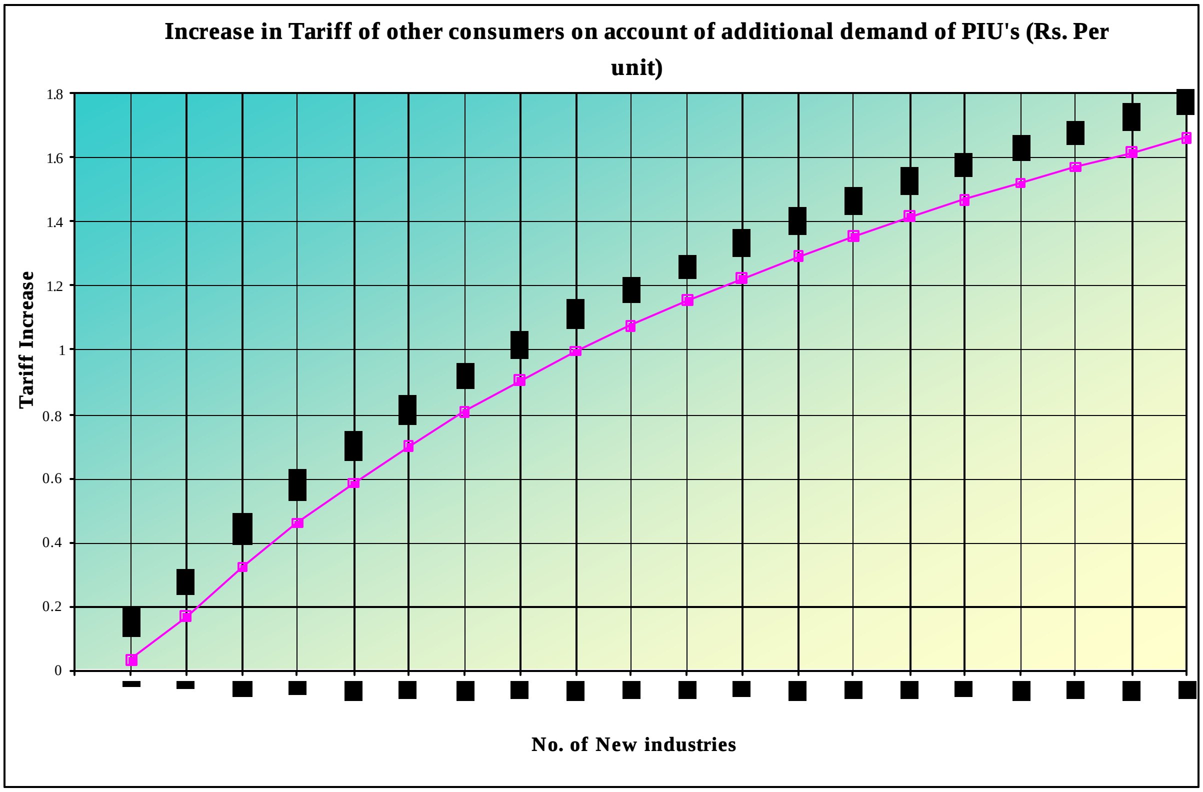

Inevitable Powercuts in hours per day for different months on account of additional demand
No. of hours of daily powercuts
15.00
12.50
10.00
7.50
5.00
2.50
-
No. of new Power Intensive Industry
April
May
June
July
Aug
Sept
Oct
Nov
Dec
Jan
Feb
Mar

(5) The question that now arises is that should the additional cost incurred by the licensee for meeting additional requirement of PIUs as directed above, be recovered from all consumers in the State or from PIUs themselves. While determining the tariffs for the year 2003-04, in absence of consumer- category wise data the Commission had pooled the licensee's power purchase costs and allowed their recovery in proportion to the tariff fixed for each category of consumers. While determining these tariffs it had also been assumed that the demand for power will grow for each category of consumers, including industrial consumers at the rate stipulated in the tariff order based on past trends. As has been stated earlier the growth in demand from existing and new PIUs is extraordinarily high and considerably more than what had been projected. To meet this additional and abnormally high demand, the licensee will have to purchase additional power at the prevailing market rate. The exact rates at which such additional power is likely to become available will be known only when the licensee has been able to finalize such arrangements, however it can be safely assumed that the price of such additional quantities is not likely to be lower than the price at which power is currently available to the licensee. If the additional cost of power purchase on account of such increase is distributed uniformly on the total power sold by the licensee, tariffs for all consumers in the State will have to be increased. Chart 3.6 given below shows the extent to which consumer tariffs will have to be increased as more and more such PIUs come to the State.

(6) It will be seen from Chart 3.6 that when all the 58 pending applications of such units for new connections are approved by the licensee, tariffs for all other consumers will have to be increased uniformly by about Rs. 1.27/kWh.

(7) Putting it plainly to meet the cost of supply of power to PIUs, all consumers in the State even small householders, farmers, petty shopkeepers and people living in interior areas will be required to pay another Rs. 1.27/kWh for the electricity consumed by them without any increase in quantity or improvement in quality of supply to them. In fact if such a huge quantity of energy is utilised to feed these PIUs, both the availability as well as the quality of power for existing consumers is likely to only deteriorate.

**Chart 3.6**




(8) Subjecting all categories of existing consumers in the State to power cuts, poorer quality of supply and then burdening them with higher tariffs to meet the requirement of small number of PIUs, in Commission's view, would not be fair or equitable and difficult to justify particularly if such power intensive industrial units are enjoying significant price advantage as compared to their counterparts in other States. The Commission is therefore not in favour of uniform recovery of this additional cost from all consumers of the State, including non PIUs industrial consumers. The Commission is of the view that the additional power purchase cost of the licensee should be recovered by the licensee but only from that category of consumers because of whom this additional cost is being incurred. The Commission accordingly accepts Licensee's request for creating another category of Power Intensive Industrial Units (PIUs) and fixing a separate tariff for them. Details of tariff for such PIUs are given later in this order.

(9) In induction/arc furnaces the magnitude of current changes abruptly and sometimes periodically causing large swings in reactive power and consequent voltage fluctuations. These voltage fluctuations are harmful both for the supplier as well as the

consumer. The magnitude of this disturbance can be controlled at the supplier end by having a very strong network and at the consumer end by using a compensator. Making the network very strong with high redundancies is very costly and therefore not a viable solution. On the other hand, the compensators tend to cause ill effects such as harmonic introduction in the grid and power loss. Thus, each solution to the problems introduced by such consumers has its own limitations and no solution fulfils one objective without sacrificing another. It is therefore directed that:

(10) In order to insulate supply to other consumers from such adverse effects, the licensee is hereby directed to give power to PIUs only through independent feeders as defined by the Hon'ble Allahabad High court in L.M.L. Ltd Vs State of UP and Others in C.M.W.P. No. 40692 of 2000, in a manner and after due consideration of capacity of the licensee's network for carrying and supplying such loads without disturbing supply to other consumers. Such supplies should in no case be below 33 kV.

# 4. Tariff Design for Power Intensive Units

## 4.1 Approach

(1) The tariff for any consumer category should reflect the cost of supply, which comprises of power purchase cost and all other costs that the licensee incurs. For realizing the additional cost of power required to be purchased for meeting their demand from the PIUs themselves, the charges realizable from them will have to be linked to their consumption levels.

(2) The power consumption of any unit is a function of its contracted load and the extent of its utilization, which in turn get reflected in the demand charges and energy charges respectively. Both these elements of tariff need to increase with consumption beyond a threshold level.

(3) The Two Part Tariff suffers from a drawback that it inherently tends to encourage high consumption as the same reduces the effective per unit composite rate. This inevitable distortion is more pronounced with higher consumption levels. To correct this, tariff also needs to increase in a manner so as to achieve a near uniform composite rate. To do this demand and energy charges would have to increase with every small increase in contracted demand or load utilization percentage. Although theoretically possible, such an approach would make the tariffs too complex, incomprehensible and will pose serious problems in implementation.

(4) There is, therefore, a trade of between the simplicity of the tariff structure and precision in correcting the above distortion. The Commission's attempt has been to strike a balance between the two by choosing a uniform rate of demand charge and three rates of energy charges linked to the consumption levels represented by the Load Factor.

(5) The Commission has avoided sharp increases in energy charges and has relied more on demand charges to be levied on such consumers. This approach is likely to be helpful in discouraging overuse and wastage by consumers induced by high minimum charges as substantial part of the minimum charge gets subsumed in the demand charges and the temptation to use extra energy gets limited to the balance minimum charge.

(6) Accordingly while the demand charges have been increased for all Power Intensive Units, the energy charge has not been changed upto a maximum load factor of 33%, where after it increases in stages.

## 4.2 Tariff required for full Recovery of Power Purchase Cost

### *4.2.1 Power purchase requirement*

(1) A major part of the licensee's current energy loss is due to pilferage, euphemistically called Commercial Loss. This element of loss is not the same in all geographical areas of the State or for that matter for all consumer categories. Ideally the cost of such commercial loss should be recoverable from the consumers or group of consumers who are causing it. Unfortunately the loss data that is available is not precise or detailed enough to permit such consumer-wise or area-wise or group-wise allocation. For this reason only the Commission had in the tariff order dated 08.09.2003 directed the licensee to develop and furnish detailed information on losses which is awaited. The status of information on losses has not improved since then. Therefore for working out the additional energy requirement of licensee for PIUs, the Commission is taking a generous view and assuming a loss level of only 20% for these consumers which is substantially lower than 45.17% allowed for other consumers in the Tariff Order. This position shall be reviewed by the Commission when level of information on these data comes to an acceptable level.

### *4.2.2 Cost of Additional Power*

(1) In absence of any firm commitment or agreement regarding purchase of additional quantities of power required for PIUs, it is not possible to work out the precise cost of procurement of such power. However, it can be safely assumed that the price of such additional quantities is not likely to be lower than the price at which power is currently available to the licensee, which goes up to Rs. 2.60 per kWh. Therefore, for working out the estimated cost of power purchase, its minimum price is provisionally being assumed at this level. If the actual price that the licensee has to pay for purchasing this power is different from this assumed price, the same can be periodically taken into account and necessary changes in the tariff made. The licensee should work out these details and submit the same to the Commission in the ARR and if necessary during middle of the year on 1st of October so that changes in the tariff, if warranted on this account, are allowed by the Commission.

(2) Accordingly, even at this conservative estimate of rate of power purchase, the cost of additional power purchased for meeting each unit of additional demand from PIUs works out to Rs. 3.25 (i.e. 2.60/0.8 @ 20% loss level). Thus, if only the additional cost of power purchase is to be recovered from PIUs, their charges will have to be at least Rs.3.25/Unit or Rs. 3.09/kVAh.

(3) Licensee's other costs have already been distributed on the sales projected for existing consumers and are, therefore, not being charged to PIUs. There is no reason why proportionate share of the same should not be borne by them. Necessary corrections in this regard will be made when licensee's ARR is available and is examined.

## 4.3 Tariff for PIUs

Considering the above figures, the Commission approves the following for HT-Power Intensive Industrial Units (PIUs), as defined in this order on provisional basis. Further adjustments in the same, if required, will be made when licensee's actual power purchase cost is furnished.

**Table 4.1 : Approved tariff for PIUs**

| Charges | Existing tariff | Proposed tariff | Approved Tariff for PIUs | |
|---|---|---|---|---|
| Demand Charges (Rs./ kVA /month) | 125 | 170 | 350 | |
| Energy Charges (Rs/kVAh) | 1.90 | 3.00 | Energy Charges | |
| | | | If Load Factor is upto 33% | 1.90 |
| | | | If Load Factor is above 33% and upto 50% | 2.20 |
| | | | If Load Factor is above 50% | 2.50 |
| Minimum Charges (Rs./kVA of the Contracted Demand/month) | 350 | 460 | 650 | |

* For tariff purposes Load Factor (%) would be deemed to be =

$$\frac{\text{Consumption during the billing period}}{\text{Maximum Demand or Contracted Demand whichever is less} \times \text{No. of hours in the billing period}} \times 100$$

## 4.4 Effect of Peak Hour Consumption

The Licensee has also submitted that low rates of power are resulting in reckless consumption and wastages mainly by industrial consumers. In this context it has been stated that in spite of slightly higher charges, consumption during peak hours has increased resulting in the Licensee having to overdraw power from the grid and pay heavy UI charges. The Commission has observed earlier that the present tariff has been introduced in the State only in January 2004 and the figures given by the licensee are only for three months thereafter. This is too short a period for drawing any definite conclusions. However, it is recognized that 12.5% additional charge for peak hour consumption on a low tariff base may not prove to be sufficient deterrent against such consumption. The Commission accordingly accepts the Licensee's contention in this regard and revises the additional peak hour charges for all HT Industrial Consumers including PIUs to 25% from 12.5% and hopes this in conjunction with other measures will discourage peak hour consumption permit better demand management by the licensee.

## Order

The Commission having accepted the Licensee's prayer hereby directs that:

(a) Effective from 01.09.2004, the tariff provisionally applicable to all steel units whether Induction/Arc furnaces or Rolling Mills, Re-rolling mills, Mini Steel Plants, etc. designated hereby as Power Intensive Industrial Units (PIUs) will be the tariff worked out in this order and given in paragraph 4.3 above. On the basis of the actual power purchase cost incurred by the licensee during each half of any financial year, necessary amendments in this provisional rate will be made and the amended tariff will become the final tariff for that period.

(b) Licensee should take immediate effective steps and meet the additional demand of PIUs as directed in para 3.4(4) above.

(c) The Time of Day (ToD) tariff for all HT industrial consumers shall stand modified w.e.f. 01.09.2004 and energy charges for consumption during peak hours as may be defined by the Commission from time to time, will be 25% (earlier 12.5%) higher than the energy charges realizable as per the existing Tariff. Currently the peak hours will be as defined in the Commission's tariff order dated 08.09.2003.

(d) All other conditions given in Rate Schedule RTS-7 for HT industrial consumers in Tariff Order shall apply mutatis-mutandis.

(e) Notwithstanding any earlier orders, power supply to all PIUs in the State will be subject to conditions given in para 3.4 (10) of this order.

**(Divakar Dev)**

**Chairman**

# 5. Annexures

## 5.1 Annexure 1: List of Respondents

| Sl. No. | Name | Designation | Organization | Address |
|---|---|---|---|---|
| 1. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s H.R.J. Steels (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 2. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Poddar Alloys (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 3. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Pushkar Steels (P) Ltd. | Plot No. D -23/225, Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 4. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Sant Steels & Alloys (P) Ltd. | Plot No. 1, Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 5. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Bhagyashree Steels Alloys (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 6. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Rana Castings (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 7. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Aruna Steels (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 8. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Amrit Versha Udyog (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 9. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Sumo Steels (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 10. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Kotdwar Steels (P) Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garh wal |
| 11. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Kukreti Steels (P) Ltd. | F-23/27, Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 12. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Shree Sidhbali Suga r Steel Ltd. | Industrial Area, Jasodharpur Kotdwar, District – Pauri-Garhwal |
| 13. | Bansidhar | President | Rudrapur Audhyogik Aasthan Sangh, Rudrapur | Rudrapur Audhyogik Aasthan Sangh, Rudrapur - 263153 |
| 14. | Pankaj Gupta | President | Indian Industrial Association | C/o Satya Industries, Mohabewala Industrial Area Dehradun |
| 15. | Om Prakash Arora | President | Zila Udyog Vyapar Pratinidhi Mandal, Udham Singh Nagar | Ramraz Industies Janta Inter College Road, Rudrapur (U. S. Nagar) |

| Sl. No. | Name | Designation | Organization | Address |
|---|---|---|---|---|
| 16. | Tushar Agrawal | Director | M/s B.T.C. Industries (P) Ltd. | C/o Bhawani Agencies Building, New Mandi Gate, Bareilly Road, Haldwani |
| 17. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Amrit Versha Ispat Ltd. | Dhalwala, Narendranagar, Bye pass Road, Rishikesh |
| 18. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Tehri Steels Ltd. | Dhaluwala, Muni ki Reti District – Tehri Garhwal |
| 19. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s Vimal Industries | Dhalwala, Narendra Nagar bye pass Road Rishikesh |
| 20. | Anubhav Trivedi & Bidhan Chandra Rai | Counsel | M/s R.S. Steel | D3/D4 UPSIDC Industrial Area, Dhalwala, Muni ki reti District – Tehri Garhwal |
| 21. | S.K. Thusu | | M/s Ace Glass Containers Ltd. | P.O. Virbhadra, Rishikesh – 249 202 |
| 22. | Hemant K. Arora | Vice Chairman, Uttaranchal State Council | Confederation of Indian Industry | 30/1 Rajpur Road, First Floor, Nepal House Dehradun |
| 23. | Jai Bhagwan Agarwal | Management Consultant | | Murali Bhawan, Rama Mandir Road, Ramnagar (Nainital) |
| 24. | Devendra Kumar Agarwal | Managing Director | M/s Kashi Vishwanath Steels Ltd. | Narain Nagar, Bazpur Road, Kashipur (U.S. Nagar) |
| 25. | Yogesh Kumar Jindal | President | Kumaon Garhwal Chambers of Commerce & Industries | Industrial Estate, Bazpur Road, Kashipur (U.S. Nagar) |
| 26. | Mool Chand Aggarwal | Director | Moolchand Industrial Estate Pvt. Ltd. | E-13/29, Harsha Bhawan, 2nd Floor, Middle Circle, Cannaught Place, New Delhi |

## 5.2 Annexure 2: List of participants in Public Hearing

| Sl. No. | Name | Designation | Organization | Address |
|---|---|---|---|---|
| 1. | Gulshan Rai | | Shri Ganesh Roller Flour Mills | Dehradun |
| 2. | Rajiv Aggarwal | | Indian Industries Association | Dehradun |
| 3. | Pankaj Gupta | President | Indian Industries Association Uttaranchal | Dehradun |
| 4. | Sharat Goel & Members | | K.G.C.C.I. | Kashipur |
| 5. | J.B. Agrawal | Director | Kashi Vishwanath Steel Ltd. | Kashipur |
| 6. | M.C. Bansal | Legal Advisor | K.G.C.C.I. | Kashipur |
| 7. | Pradeep Dutta | | C.I.I. | Dehradun |
| 8. | Mayur Dev | | | Dehradun |
| 9. | M.L. Sharma | Retd. C.E. | U.P.S.E.B. | Dehradun |
| 10. | Anubhav Trivedi | Advocate | Counsel for Steels Industries, Kotdwar, | High Court, Allahabad |
| 11. | Neeraj Aggarwal | | | Kotdwar |
| 12. | M.P. Singh | Manager | B.T.C. Industries Pvt. Ltd. | Haldwani |
| 13. | R. K. Handa | | | Premnagar, Dehradun |
| 14. | P.Y. Agrawal | | | Haridwar |

## 5.3 Annexure 3: Record Note of Discussions

To ascertain Government's views on the petition filed before the Commission by Uttaranchal Power Corporation Ltd. (UPCL), the Commission had invited State Government's representatives to a meeting held on 5th August, 2004 at 10.30 am at Scientist Hostel, FRI, Dehradun. On behalf of the State Government following representatives appeared;

1. Shri S. Krishnan, Principal Secretary Energy & Irrigation
2. Shri Sanjeev Chopra, Secretary Industry

The Commission was assisted by;

1. Shri Anand Kumar, Secretary UERC
2. Shri Deepak Pandey, Assistant Director, UERC

Copies of the petition had already been sent to the State Government. Since no formal response had been received from the State Government, the Commission wanted to ascertain State Government's views on the issues raised in the petition particularly on the issue of migration of intensive power industrial units from adjoining States on account of extremely attractive tariff for such industries in Uttaranchal. In this context, the number of applications received for new power connections by UPCL and the load required for them is indicated in the petition. It was recognized that while power availability in the State is presently better than most of other States in the country, the surplus aggregate availability does not hold good through out the year and at all time. In other words notwithstanding the present comfortable position the State needs to spare no efforts in crucial areas like conservation of power and prudent well planned utilization of the available power including the surplus. The Commission requested the State Government's representative to indicate the State Governments approach and policy in this regard.

In response it was indicated;

(a) In tune with the National Policy the State Government's priority is on completing the rural electrification and ensuring quality supply of power to all villages in the State by the year 2007 and to all household by the year 2012 (now proposed to be modified to year 2009). The objective of supply of reliable power at affordable costs cannot be sacrificed.

(b) State Government is of the view that there is a need to promote "Energy Conservation" as is provided in the Draft National Electricity Policy. Further, energy being a limited resource with the State of Uttaranchal, it needs to be used in an optimal manner so as to provide the maximum benefit to the State.

(c) State Government's prime objectives in promotion of industry in the State has been generation of employment. Hence the Government expects that supply of power to industries should result in creation of significant employment in the State.

(d) Protection of environment in the State is another priority area for the Government and Government's strategy is toward economic development of the State without compromising on environmental requirements.

The Commission thanked the State Government's representatives for attending the meeting and sharing State Government's priorities with the Commission. The Commission will keep State Government's concerns in mind while taking a view on the petition under consideration and the responses to it received by the Commission.