

# **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**‘Vidyut Niyamak Bhawan’, Near I.S.B.T., P.O.-Majra, Dehradun-248171**

**Dated: August 16, 2023**

## **UERC (Terms and Conditions for Determination of Multi Year Tariff) (Second Amendment) Regulations, 2023**

### **Statement of Reasons**

The Commission had issued UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021 (hereinafter referred to as “Principal Regulations” or “UERC Tariff Regulations, 2021”) vide notification dated October 2nd, 2021. The Tariff Regulations, 2021 governs all the matters relating to filing and determination of tariff for the utilities. These regulations have a Control Period of three financial years, i.e. April 1, 2022 to March 31, 2025. The Commission, in light of the Rule 14 of the Electricity (Amendment) Rules, 2022, decided to amend the Principal Regulations to amend Regulation 83 of the UERC Tariff Regulations, 2021, to revise the existing methodology and formula for computation of Fuel Charge Adjustment in sync with the intent of the policy makers, and, accordingly, issued the draft amendment to the Tariff Regulations, 2021 inviting comments/objections/suggestions on the same from the stakeholders. Last date of submission of comments/objections/suggestions was 25.07.2023. Comments/suggestions/objections received by the Commission have been duly analysed before considering them or rejecting the same.

Earlier, the State discom, i.e. Uttarakhand Power Corporation Limited, had filed a Petition before the Commission seeking amendment of Regulation 83 of the UERC Tariff Regulations, 2021, regarding amendment of formula for computing the Fuel Charge Adjustment in light of Electricity (Amendment) Rules, 2022 issued by the Ministry of Power vide notification dated 29.12.2022. The Commission vide its Order dated 09.05.2023 rejected the Petition filed by UPCL, on the grounds that amendment of the Regulations is done by following the procedure laid down under Section 181 of the Electricity Act, 2003, however, the comments received on the aforesaid Petition as well as comments received during the Public Hearing held on 09.05.2023 in the aforesaid Petition have also been considered by the Commission while finalizing the

Regulations. The Commission, in order to give an opportunity to all the stakeholders, also held a Public Hearing on 11.08.2023 wherein the comments/suggestions were received from the public which have been taken into consideration by the Commission while finalizing the amendment to the Regulations. List of stakeholders who submitted comments on draft notification, as well as comments received earlier, is enclosed at **Annexure-I**.

The Statement of objects and Reasons is being issued with the intent of explaining the rationale which went into finalisation of second amendment to Tariff Regulations, 2021. However, in case of any deviation/discrepancy in the SOR with respect to second amendment to Tariff Regulations, 2021 the provisions of second amendment to Tariff Regulations, 2021 shall be applicable. The comments/suggestions/objections received from the stakeholders and the views of the Commission on the same are discussed in subsequent paragraphs.

Suggestions and objections of stakeholders and the Commission's views thereon:

### **1.1 Regulation (83), Fuel Charge Adjustment (FCA).**

In the draft Regulation, Regulation 83 has been proposed as follows:

*“(83) Fuel and Power Purchase Cost Adjustment (FPPCA):*

- (1) The FPPCA charge shall be applicable on the entire sale of the Distribution Licensee without any exemption to any consumer.*
- (2) The FPPCA charge shall be computed and charged on the basis of actual variation in fuel and power purchase costs relating to power generated from own generation stations and power procured during any month subsequent to such costs being incurred, in accordance with these Regulations, and shall not be computed on the basis of estimated or expected variations in fuel and power purchase costs.*
- (3) The FPPCA charge for the  $n^{\text{th}}$  month shall be computed and charged for the month from the subsequent  $(n+2)^{\text{th}}$  month itself, without prior approval of the Commission and any under or over recovery shall be carried forward to the next month.*

*Provided also that such carry forward shall be adjusted within the respective quarter of the year. If any amount is still pending to be adjusted under FPPCA after three months period, i.e. at the end of the respective quarter, the licensee shall be eligible to adjust the amount through the regulatory process specified in sub regulation (4) below.*

- (4) *The Distribution Licensee shall submit the details of the FPPCA incurred and to be charged or refunded to all the consumers for the entire quarter, along with the detailed computations and supporting documents as may be required for verification by the Commission within 60 days of the end of quarter for post facto approval of the Commission.*
- (5) *The Commission shall examine the FPPCA computations and approve the same with modifications, if required before the end of second quarter. Any variation in FPPCA charged or refunded by the Distribution Licensee and FPPCA approved by the Commission will be adjusted in the FPPCA computations of subsequent months as the Commission may determine.*
- (6) *In case the Distribution Licensee is found guilty of charging unjustified FPPCA charge from the consumers on regular basis, the Commission shall adjust the unjustified charges along with the interest on the same which shall not be allowed to be pass through.*
- (7) *The Distribution Licensee shall upgrade the billing and IT systems to incorporate FPPCA charge as a component in tariff design and the same shall be reflected separately.*
- (8) *The formula for calculation of the FPPCA shall be as given under:*

$$\text{FPPCA (Rs. Crore)} = C + B,$$

Where

*FPPCA = Fuel and Power Purchase Cost Adjustment*

*C = Change in cost of own generation and power purchase costs (including interstate and intrastate transmission charges) due to the variation in these costs and fuel cost,*

*B = Adjustment factor for over-recovery / under-recovery for previous quarter*

$$C \text{ (Rs. Crore)} = A_{FC,Gen} + A_{FC,PP},$$

Where:

*A<sub>FC,Gen</sub> : Change in fuel cost/generation cost of own generation. This would be computed based on the norms and directives of the Commission, including heat rate, auxiliary consumption, generation and power purchase mix, etc.*

*A<sub>FC,PP</sub> : Change in energy charges and power purchase cost of power procured from other sources. This change would be allowed to the extent it satisfies the criteria prescribed in these Regulations and the prevailing tariff order, and subject to applicable norms.*

- (9) *The FPPCA charge for any category shall not exceed 20% of the base energy charge for respective category, or such other ceiling as may be stipulated by the Commission from time to time:*

*Provided that any excess in the FPPCA charge over the above ceiling shall be carried forward by the Distribution Licensee and shall be recovered over such future period as may be directed by the Commission.*

- (10) *Calculation of FPPCA charge shall be as per the following formula:*

*Average FPPCA Charge (Rs/kWh)= (FPPCA/(Estimated sales within the State for the next month as approved by the Commission in the Tariff Order)\*10.*

- (11) *Category wise FPPCA Charge (Rs/kWh) shall be calculated as per the following formula:*

*(Average Billing Rate (ABR) of Consumer Category (in Rs./kWh) as approved in Tariff Order for the year/Average Billing Rate (ABR) of Distribution Licensee (in Rs./kWh) as approved in Tariff Order for the year) x Average FPPCA (in Rs./kWh)."*

## **1.2 Stakeholders Comments/Suggestions (General)**

- 1.2.1 Shri Shakeel A Siddiqui, Legal Advisor, M/s Galwalia Ispat Udyog Pvt. Ltd. and M/s Kashi Vishwanath Textile Mills (P) Ltd. submitted that they oppose any tariff hike in either way, i.e. FCA. He submitted that UPCL was exploring every method through which it can fetch more money through tariff hikes, however, it has no interest in providing quality and reliable power supply to the consumers, and if the same condition persists the day is not far when the industries will be shut down and UPCL will have no industrial consumers to exploit. He further submitted that in the month of April, their industry faced more than 15% load shedding almost on regular basis and is continuing, and before increasing any sort of tariff UPCL should give reliable electricity supply since the supply that will run the industry and then only, we can afford burden of increased tariff, otherwise all will be in vain.

Shri Siddiqui also suggested other amendments in MYT Regulations, 2021, however, since the proposed amendment is limited to amending the existing FCA provision, therefore, the Commission is not delving into the other issues raised by Shri Siddiqui.

1.2.2 Shri Devendra Kumar Agarwal, Managing Director, M/s Kashi Vishwanath Steels (P) Ltd. submitted that the proposed automatic pass through of Fuel & Power Cost Purchase Adjustment Surcharge on monthly basis must necessarily imply that the power supply would be continuous and uninterrupted though no such assurance has been given by UPCL. He submitted that if the distribution licensee gets purchase cost reimbursed from the consumers, it must bear the responsibility of supplying uninterrupted power to all sections of consumers and it should provide the customers with a legally enforceable right to power, otherwise conferring such an open and wide discretion upon the discom will ultimately jeopardize the interest of the consumers at large.

He further submitted that broad guidelines be placed as riders and guiding light to the discom which will keep a check upon purchasing the power at a reasonable rate, else the discom will hardly require to show any efficiency and prudence during power purchase. Further, the distribution licensee has been repeatedly asked by the Commission to compute voltage wise supply data so that distribution losses can be recovered from the consumers on the basis of the voltage supply, however, the distribution licensee has deliberately not done the exercise all along inspite of the specific direction to do so because there is no deterrent to not comply with the directions and it does not have to bear the financial cost involved caused by the delay. Therefore, the principle of automatic pass through of cost cannot be and should not be applied selectively only where it suits the distribution licensee.

He further submitted that MoP has stated that the change to provide for automatic pass through in tariff of change in costs on account of change-in law or power purchase costs will result in less working capital requirements by the discoms, leading to less costs of power for the consumers, therefore, a provision may be made in the regulation to ensure that consumers must necessarily benefit from the decreased cost of working capital.

1.2.3 Further, Shri Pawan Agarwal, Vice President, Uttarakhand Steel Manufacturer Association submitted that UPCL is still not responsible enough to be given the unlimited discretionary power to levy the extra monthly power purchase cost on the

consumers of the State without regulatory approval. He submitted that since last so many years we are requesting that tariff must be based on category/voltage wise line loss, however, UPCL always submits that it does not have data for such computation.

He further submitted that in the neighboring State of UP, tariff is being designed based on 10.50% line losses when the industrial load is only 10%-15%, whereas in the State of Uttarakhand industrial load is more than 50% still the tariff is designed based on line loss of 13.50%-14%, which shows inefficiency of the corporation and if they are allowed the discretionary power to recover excess monthly power purchase from consumers then this may result in their inefficiency being passed on to the consumers without any regulatory check.

He further submitted that the burden of subsidized category of consumers is being loaded on the Commercial/Industrial consumers, i.e., subsidizing category consumers which is against the intent of National Tariff Policy. Further, the MoP recently declared the recovery of cess, royalty & water tax as illegal and wrong whereas the same were being recovered from the consumers regularly. Furthermore, in case of rostering, foremost Steel Industries are subject to power cut and other industries are kept out of the purview of rostering, and also in the Lakshar, Roorkee and Landour areas many Steel Industries don't face power cut. This is discretionary behavior on the part of discom which the Electricity Act does not allow. Shri Agarwal submitted that in such a situation the chances of UPCL using its discretionary powers in a fair manner to recover extra power purchase cost from consumers is minimalistic.

### **Commission's View**

- 1.2.4 The Commission noted the submissions of the stakeholders as summarized above and is of the considerate view that consumers are entitled to receive proper supply of electricity and without any discrimination to carry out their operations in an efficient manner, however, the issues with respect to the same cannot be dealt in this forum and needs to be taken up separately. However, the Commission would like to point out that in the absence of voltage wise losses and also voltage wise costs, it has allowed a benefit of voltage rebates to the consumers so as to compensate them to some extent for taking supply at higher voltages where losses are less. Further, reference has been made by one

consumer to the tariffs prevailing in U.P. It must be remembered that every State has its own unique peculiarity which cannot be compared with the other State. Uttarakhand unlike UP does not have any base load plant except for PPAs with 2 gas based stations located in Uttarakhand and some share from NTPC plants, and hence, have to rely on hydro power which alongwith the seasonal discharge in the rivers also depends upon vagaries of nature including silt, flash flood etc. In case of increase in demand their generations cannot be ramped up and hence, UPCL has to rely upon short term procurement which at times is costly. Further, Shri Pawan Agrawal submitted that recovery of cess, royalty & water tax has been declared as illegal and wrong by the Government of India whereas the same are being recovered from the consumers regularly. In this regard, these taxes and cess have been levied by the State Government and till such time it withdraws or abolishes the same, it will be a cost for UPCL and has to be allowed. The Commission has no jurisdiction to disallow the same. However, the consumers are at liberty to approach the State Government in the matter.

- 1.2.5 Besides this, GoI also recognizes that power purchase costs is increasing and the discom would be under severe financial stress if they are allowed the recovery of any increase in power purchase costs during the truing up exercise, hence, the Electricity (Amendment) Rules, 2022 were issued on 29.12.2022 wherein Rule 14 talks about *“Timely recovery of power purchase costs by distribution licensee”*.
- 1.2.6 Rule 14 of the Electricity (Amendment) Rules, 2022 which clearly states that the Appropriate Commission shall within ninety days of publication of these rules, specify a price adjustment formula for recovery of the costs, arising on account of the variation in the price of fuel, or power purchase costs and the impact in the cost due to such variation shall be automatically passed through in the consumer tariff, on a monthly basis, using this formula and such monthly automatic adjustment shall be trued up on annual basis by the Appropriate Commission. Further, this rule stipulates that till such a methodology and formula is specified by the Commission, the methodology and formula specified in the rules shall be applicable meaning thereby that UPCL was at liberty to charge the FPPCA from 01.01.2023 without even waiting for the Commission to issue Regulations. Thus, in view of the same and to ensure compliance to the Rules,

the amendment to the existing MYT Regulations, 2021 in respect to provision related to FCA is inevitable and cannot be done away with.

1.2.7 Further, w.r.t. the comments of Shri Devendra Kumar Agarwal, regarding guidelines to keep a check upon power purchase by the discom, the Commission would like to state that as per the Tariff Order, the Discom is required to seek prior approval of the Commission in case the variation in power purchase during a specified period exceeds the specified percentage or in case short term power procurement exceeds the price laid down by the Commission and has to seek approval of every power purchase agreement it wishes to enter into.

1.3 UPCL, Centre for Energy Regulations, IIT-Kanpur (CER-IITK), and Shri Devendra Kumar Agarwal have submitted regulation wise suggestion on the draft second amendment to MYT Regulations, 2021 which are dealt with in the following paras.

1.3.1 Sub-regulation (1) and (2) of Regulation 83.

**Stakeholder's Comments/Suggestions**

Shri Devendra Kumar Agarwal submitted that the sub-regulation (1) of Regulation 83 provides that the FPPCA shall be applicable on the entire sale of the distribution licensee, however, the sale has not been specified. He submitted that AT&C losses are high and the sale of energy that will be booked will, therefore, be far less than what has been purchased and incremental fuel cost would reflect a higher impact on the per unit power consumed by the consumer, and the said impact would be higher for power intensive units. He requested the Commission that a clarificatory provision be included in the Regulations so as to not include within the term sale the losses or the word sales may be defined by the Commission.

Further, w.r.t. sub-regulation (2), Shri Agarwal submitted that no clarity has been provided as to how the actual variation in fuel and power purchase cost will be derived by UPCL.

Centre for Energy Regulations, IIT Kanpur, suggested that the energy sale outside the State and the energy banked (within the state as well as outside the state) should be excluded from the calculation of the FPPCA charge for the distribution



licensee.

### **Commission's View**

The Commission analyzed the submission made by Shri Agarwal and clarifies that sales here means the billed energy across the consumer category. The incident of FPPCA will arise due to incremental power purchase costs which has to be recovered from energy sold to the consumers. The provisions of the Regulations in this regard are amply clear, and no additional clarification needs to be included as part of the Regulations. Sales for the financial year would imply the sales as approved by the Commission in its Tariff Order for the relevant financial year.

Further w.r.t. comment on sub-regulation (2), the Commission has already elaborated the methodology for computing the actual variation in fuel and power purchase cost in sub-regulation (8) and, therefore, no further clarification is required in this regard.

Further, w.r.t. suggestion of CER-IITK, the Commission is of the view that the energy sold outside the State is an incidental activity. Such sale will take place only if the demand falls short of supply in case of sudden drop in temperature in summers due to rains etc., as UPCL arranges power to meet the demand in the State and any power left would have to be necessarily traded and hence, the costs for the same will have to be considered, however, the same would be reduced by revenue realized from such activity. Banking of energy is a planned activity and is in kind, wherein power is banked in surplus months and is received back in deficit months which are usually winters, free of costs. Hence, cost of power arranged for advance banking will have to be considered with overall power requirement of the Discom or else there will be a mismatch in the power purchase costs. Therefore, no further clarification in the Regulations is required w.r.t. to the same.

- 1.3.2 Shri Agarwal submitted that the third proviso to Rule 14 of the Electricity (Amendment) Rules, 2022 which reads as under, should be included in the proposed Regulations.

*“Provided also that in case the distribution licensee fails to compute and charge fuel and power purchase adjustment surcharge within the time line specified by the Appropriate Commission, except in case of any force majeure condition, its right for recovery of costs on account of fuel and*

*power purchase adjustment surcharge shall be forfeited and in such cases, the right to recovery the fuel and power purchase adjustment surcharge determined during true-up shall also be forfeited and the true up of fuel and power purchase adjustment surcharge by the Appropriate Commission, for any financial Year, shall be completed by 30th June of the next financial year."*

In this regard, the Commission is of the view that the suggestion of the stakeholder may be accepted with some modifications. As the truing up exercise is carried out based on the audited accounts, hence, the truing up for fuel and power purchase adjustment surcharge shall be carried out based on the audited accounts alongwith the truing up of other costs and revenues of UPCL. Accordingly, the following proviso be inserted after sub-Regulation 11.

*"Provided also that in case the distribution licensee fails to compute and charge fuel and power purchase adjustment surcharge within the time line specified, except in case of any force majeure condition, its right for recovery of costs on account of fuel and power purchase adjustment surcharge shall be forfeited and in such cases, the right to recovery of the fuel and power purchase adjustment surcharge determined during true-up shall also be forfeited and the true up of fuel and power purchase adjustment surcharge by the Commission, for any financial Year, shall be carried out alongwith the truing up of other costs and revenues based on the audited accounts for the relevant financial year of the distribution licensee."*

### 1.3.3 Sub-regulation (2) of Regulation 83.

#### **Stakeholder's Comments/Suggestions**

CER-IITK suggested that in the aforesaid sub-regulation further clarification may be given that whether the power purchase cost includes fixed charges or capacity charges and the transmission charges, and, accordingly, proposed that the said sub-regulation be modified as follows:

*"(2) The FPPCA charge shall be computed and charged on the basis of actual variation in fuel and power purchase costs for delivery at the periphery of the distribution licensee relating to power generated from own generation stations and power procured during any month subsequent to such costs being incurred, in accordance with these Regulations, and shall not be computed on the basis of estimated or expected variations in fuel and power purchase costs.*

### **Commission's View**

The Commission analysed the suggestion made by CER-IITK and is of the view that the components of fuel and power purchase cost has been defined in detail under sub-regulation (8) where the commission has clarified that the change in power purchase cost of power procured shall include the inter-state and intra-state transmission charges. However, for the sake of clarity, the Commission accepts and modifies the sub-regulation (2) as suggested by CER-IITK.

#### **1.3.4 Sub-regulation (3) (4) & (5) of Regulation 83.**

### **Stakeholder's Comments/Suggestions**

UPCL proposed that the aforesaid sub-regulations be modified as follows:

*(3) The FPPCA charge for the  $n^{\text{th}}$  month shall be computed and charged for the month from the subsequent  $(n+2)^{\text{th}}$  month itself, without prior approval of the Commission and any under or over recovery shall be carried forward to the next **consumption** month **e.g. : The FPPCA charge for the month of April, 2023 shall be charged for the consumption of June, 2023 and any under or over recovery shall be carried forward to be charged alongwith consumption of August, 2023.***

*Provided also that such carry forward shall be adjusted within the **next quarter of the** respective quarter of the year. If any amount is still pending to be adjusted under FPPCA after three months period, i.e. at the end of the **next quarter of the** respective quarter, the licensee shall be eligible to adjust the amount through the regulatory process specified in sub regulation (4) below.*

*(4) The Distribution Licensee shall submit the details of the FPPCA incurred and to be charged or refunded to all the consumers for the entire quarter, along with the detailed computations and supporting documents as may be required for verification by the Commission within 60 days of the end of **the next** quarter for post facto approval of the Commission.*

*(5) The Commission shall examine the FPPCA computations and approve the same with modifications, if required before the end of **third** quarter from the quarter under consideration for FPPCA computation. Any variation in FPPCA charged or refunded by the Distribution Licensee and FPPCA approved by the Commission will be adjusted in the FPPCA computations of subsequent months as the Commission may determine.*

UPCL submitted that billing for the energy consumed during any month say June, 2023 shall be billed in July, 2023 and the billing details shall be available after July,

2023 i.e. during first week of August, 2023. Thereafter, the over recovery/under recovery may be computed. Therefore, any under or over recovery of FPPCA billed during any month should be carried forward to the next consumption month.

Further, the billing of FPPCA pertaining to the quarter 1 of any year shall be billed till the last month of the second quarter. Therefore, carry forward of over recovery/under recovery of FPPCA should be allowed within the next quarter of the respective quarter.

UPCL further submitted that the FPPCA for any quarter shall be charged till the last month of the next quarter, therefore the true-up of the same can be done during the third quarter.

CER-IITK suggested that period of 60 days as given in sub-regulation (4) is relatively a long period for verification as invoice from generators are generally available within 10-15 days after the end of a month. Thus, associated FPPCA calculation based on energy scheduled for the respective month can be undertaken soon afterwards, and even for the calculations to be done on quarterly basis, the time frame of 60 days is long. They suggested that duration of the verification of FPPCA charge by the Commission may be kept as 30 days as also provided in the principal Regulations.

#### **Commission's View**

The Commission analysed the modifications proposed by UPCL alongwith rationale given and accepts the same considering the practical difficulty being faced by the corporation in implementation of the proposed amendment Regulation. With respect to the suggestions of CER, IIT Kanpur there are many small IPPs who normally submit their bills by month end or the reconciliation takes time. Hence, the time-period proposed by UPCL appears genuine. However, the Commission has decided to revise the period of 60 days as given in sub-regulation (4) to 45 days as the amendment proposed by UPCL in that sub-regulation will give sufficient time to it for filing the requisite details before the Commission.

#### **1.3.5 Sub-regulation (6) of Regulation 83.**

### Stakeholder's Comments/Suggestions

CER-IITK suggested that the term “regular basis” as appearing in sub-regulation (6) be objectively specified and proposed that sub-regulation (6) be modified as follows:

*(6) In case the Distribution Licensee is found guilty of charging unjustified FPPCA charge from the consumers **for (2) consecutive months**, the Commission shall adjust the unjustified charges along with the interest on the same. **The interest so imposed shall not be allowed to pass through.***

### Commission's View

The Commission analysed the modifications proposed by CER-IITK and is of the view that the same shall give more clarity to the interpretation of the proposed regulations thus ruling out the possibility of any ambiguity in future. The Commission, however, is of the view that period of consecutive default must comprise of a period of 3 months instead of 2 months to represent a quarter of the year, i.e. the duration for which the distribution licensee shall submit the details of FPPCA computations for post facto approval of the Commission, and accordingly, the Commission modifies the draft sub-regulation (6) in line with suggestion made by CER-IITK except that the no. of consecutive defaults be considered as (3) in place of (2) as proposed by CER-IITK.

#### 1.3.6 Sub-regulation (8) (9) & (11) of Regulation 83.

### Stakeholder's Comments/Suggestions

UPCL proposed that the aforesaid sub-regulations be modified as follows:

*(8) The formula for calculation of the FPPCA shall be as given under:*

$$FPPCA \text{ (In Rs. Crore)} = C + B,$$

*Where*

*FPPCA = Fuel and Power Purchase Cost Adjustment*

*C = Change in cost of own generation and **total** power purchase costs (including interstate and intrastate transmission charges) due to the variation in these costs and fuel cost,*

*B = Adjustment factor for over-recovery / under-recovery for previous **month/quarter***

$$C \text{ ( In Rs. Crore)} = \underline{A_{Gen}} + \underline{A_{PP}}.$$

Where:

**A<sub>Gen</sub>** : Change in fuel cost/generation cost of own generation. This would be computed based on the norms and directives of the Commission, including heat rate, auxiliary consumption, generation and power purchase mix, etc.

**A<sub>PP</sub>** : Change in power purchase cost of power procured (**including inter-state and intra - state transmission charges**) from **all** sources **other than own generation**. This change would be allowed to the extent it satisfies the criteria prescribed in these Regulations and the prevailing tariff order, and subject to applicable norms. **This shall be computed as follows:**

**Power purchased/Procured during n<sup>th</sup> month at state periphery (kWh ) x (actual weighted average rate of power purchases (Rs./kWh) - approved weighted average rate of power purchases (Rs. / kWh)**

**Note: Intra-State & Inter-State transmission losses shall be considered as approved in the tariff order.**

(9) The FPPCA charge for any category shall not exceed 20% of the base **average billing rate as approved in the tariff order** for respective category, or such other ceiling as may be stipulated by the Commission from time to time:

Provided that any excess in the FPPCA charge over the above ceiling shall be carried forward by the Distribution Licensee and shall be recovered over such future period as may be directed by the Commission.

(11) Category wise FPPCA Charge (Rs/kWh) shall be calculated as per the following formula:  
(Average Billing Rate (ABR) of Consumer Category (in Rs./kWh) as approved in Tariff Order for the year/Average Billing Rate (ABR) of Distribution Licensee (in Rs./kWh) as approved in Tariff Order for the year) x Average FPPCA (in Rs./kWh)

**Note: kWh Tariff will be converted into kVAh Tariff considering the power factor at 90%.**

UPCL also suggested that the name of formula for recovery of incremental power purchase cost has been specified as Fuel and Power Purchase Cost Adjustment Surcharge (FPPAS) in the Electricity (Amendment) Rules, 2022, and therefore the same name should be specified in the Regulations.

UPCL, w.r.t. modification proposed in sub-regulation (8), submitted that carry forward of under recovery/over recovery has been permitted on monthly basis in sub-regulation 3, and as a result of true-up of FPPCA of any quarter, the Commission

may allow recovery of balance FPPCA during next quarter, and therefore, adjustment factor for over-recovery / under-recovery should be for previous month/ quarter. UPCL further submitted that as the total incremental power purchase cost has to be included in FPPCA, it will be appropriate if C should represent:

$$C \text{ (In Rs. Crore)} = A_{\text{Gen}} + A_{\text{PP}}, \text{ in place of } A_{\text{FC,Gen}} + A_{\text{FC,PP}}$$

UPCL submitted that the formula for computation of incremental power purchase cost needs to be clarified as proposed by UPCL.

Further, UPCL, w.r.t. modification proposed in sub-regulation (9), submitted that as the formula for computation of average FPPCA and category wise FPPCA has been specified in sub regulations 10 & 11 on average billing rate basis, it will be appropriate that ceiling of FPPCA charge should also be based on average billing rate basis i.e. combination of fixed charge and energy charge.

CER-IITK suggested to further clarify the meaning of “base energy charge” in sub-regulation (9), as in case of slab-wise tariff for a category, there would be ambiguity associated with “20% of base energy charge”, and therefore that same may be defined with reference to Average Billing Rate (ABR).

Further, UPCL, w.r.t. modification proposed in sub-regulation (11), submitted that the ABR is approved as per the tariff order on kWh basis whereas the category wise FPPCA has to be specified on kVAh basis where energy charge has been specified on kVAh basis, therefore a conversion factor of kWh tariff into kVAh tariff needs to be specified.

Shri Agarwal submitted that the formula for computation does not seem to provide as to how the adjustment factor ‘B’ would be determined.

### **Commission’s View**

The Commission analysed the modifications proposed by UPCL and rationale given for the same. The Commission accepts the modification proposed by UPCL in the above sub-regulations as the same will give more clarity about the inclusion of total power purchase cost in FPPCA calculation.

Further, w.r.t. suggestion of UPCL and CER-IITK regarding ceiling of FPPCA charge on Average Billing Rate (ABR) instead of base energy charge as appearing in sub-regulation (9), the Commission accepts the same as the FPPCA has been specified in the sub-regulation (10) & (11) on the basis of ABR, and accordingly, modifies the sub-regulation (9) as proposed by UPCL.

Further, the note proposed by UPCL in sub-regulation (11) for conversion of kWh tariff into kVAh tariff considering the power factor at 90% is not relevant as power factor varies across separate consumer categories and hence, considering the same as 90% across all the consumer categories would not be correct. The Commission would separately provide the power factor considered by it for different categories while determining the tariffs for the categories having kVAh tariffs.

Further, the amendment in name of the Regulation, proposed by UPCL, as Fuel and Power Purchase Cost Adjustment Surcharge (FPPAS) is not required as it is only a matter of nomenclature.

Further, w.r.t. comment of Shri Agarwal regarding the determination of adjustment factor B, the Commission would like to clarify that the same shall be based on the comparison of actuals vis-à-vis proposed recovery by the corporation in previous month/quarter.

- 1.4** Shri Agarwal submitted that a provision may be inserted in the Regulations that the Commission may review and revise the methodology from time to time as considered suitable and necessary. He further submitted that the variation in power purchase cost due to UI and other unapproved purchases shall not be covered under FPPCA. Shri Agarwal further submitted that unit rate of FPPCA be calculated in paise after rounding off to the next place and in case of negative FPPCA, the credit shall be given to the consumers. He further submitted that the submission of information made to the Commission and data required for calculation of FPPCA must be certified by a Chartered Accountant. He further suggested that the capping of 20% is very high and it be reduced to 10%.

In this regard, the Commission is of the view that no such inclusion is necessary in the proposed Regulations as the same is already covered by the inherent powers of the Commission. Further, the Commission clarifies that UI charges and unapproved power



purchase may be required under emergency conditions, however, any penalty imposed due to under drawal or over drawals shall not be allowed as part of the FPPA computation. Besides any unapproved power purchases exceeding the ceiling fixed by the Commission shall be capped at the ceiling fixed by the Commission and the same shall be examined by the Commission at the time of quarterly truing up of FPPCA and also during the annual truing up proceedings. Further, the proposed Regulations inhibits that the negative FPPCA would be passed on to the consumers. The Commission, with regard to requirement of certification of information and data by a Chartered Accountant is of the view that the same is not required at the time of monthly computation of FPPCA by the corporation, as ultimately the corporation would get its accounts audited on yearly basis wherein all such details would be certified by the CA. Further, w.r.t. to limit of capping of 20%, the Commission has laid down this ceiling which was not there in the Rules issued by the MoP. This ceiling has been so fixed so that the tariff shock to any consumer category be avoided. In certain months when the State is in deficit a ceiling of 10% may not be adequate so as to enable the licensee recover its FPPA which may cause stress to its financial position leading to deterioration in quality of supply. Hence, for this reason the Commission does not find any need to change the same.

- 1.5** CER-IITK suggested that FPPCA charge should be announced before beginning of the month so that the consumers may be able to take appropriate decision (for e.g. use of captive power, or procurement from open access, or reduce consumption) in light of the updated tariff. They further suggested that the following clauses may be added after clause (83)(11) in the proposed draft:

- 12. The distribution licensee shall provide the details of month-wise FPPCA charges calculated and revenue collected thereof at the time of filing the tariff petition for the next year.*
- 13. All the FPPCA calculations and consumer wise FPPCA collections should also be displayed on the website of the distribution licensee as well.*

The Commission analysed the suggestions made by CER-IITK and agrees with their suggestion regarding announcement of FPPCA charge before the beginning of the month. Hence, the Commission has decided to add second proviso to Regulation 11 which shall be read as under:

*"Provided that the distribution licensee shall be required to notify the FPPCA charges atleast 1*

*week before the month for which the same shall apply, for information of all the consumers."*

Further, the Commission agrees with the insertion of sub-regulation (12) & (13) as suggested by CER-IITK as the same would bring more transparency as to the calculation and collection of FPPCA charges from the consumers.

- 1.6** Shri Vijay Kumar submitted that the increase in electricity on year on year basis should be stopped, and UPCL should not be allowed to increase the tariff any further by way of FPPCA.

The Commission analysed the submissions made by Shri Vijay Kumar, and clarifies here that levy of FPPCA would be governed by the provisions of the applicable regulations.

- 1.7** The Commission also conducted a public hearing in the matter on 11.08.2023 whereby the participating stakeholders namely, Shri Pawan Agarwal, Vice President, Uttarakhand Steel Manufacturers Association, Shri Suresh Bansal, Director, Kukreti Steels Ltd., Shri Amit Koul, Manager, Asahi Glass, Shri Rajeev Gupta, DGM, Kashi Vishwanath Steels, and Shri Sanjay Agarwal, Kashi Vishwanath Steels generally opposed the proposed modification and also opposed the levy of FCA by UPCL for the first quarter of FY 2023-24 being on a very high side and detrimental to the growth of the industries.

The Commission analysed the submissions made during the public hearing and is of the view that the proposed modification in the MYT Regulations, 2021 is in accordance with the Electricity (Amendment) Rules, 2022 issued by the Ministry of Power vide notification dated 29.12.2022 and is inevitable. Further, although the matter related to high levy of FCA charges by UPCL for the first quarter of FY 2023-24 is not relevant to these proceedings, still for the sake of clarity the Commission would like to clarify that the provisions of the MYT Regulations, 2021 empowers the discom to compute and levy the FCA charges on the consumers of the State on periodical basis which is, however, subject to post facto approval by the Commission. With the coming into force of these amendment to the MYT Regulations, the provision of FCA shall stand superseded.

- 1.8** The Commission, accordingly, modifies the proposed draft Regulations, and the revised Regulation 83 shall be read as:

*"(83) Fuel and Power Purchase Cost Adjustment (FPPCA):*

- (1) *The FPPCA charge shall be applicable on the entire sale of the Distribution Licensee without any exemption to any consumer.*
- (2) *The FPPCA charge shall be computed and charged on the basis of actual variation in fuel and power purchase costs for delivery at the periphery of the distribution licensee relating to power generated from own generation stations and power procured during any month subsequent to such costs being incurred, in accordance with these Regulations, and shall not be computed on the basis of estimated or expected variations in fuel and power purchase costs.*
- (3) *The FPPCA charge for the  $n^{\text{th}}$  month shall be computed and charged for the month from the subsequent  $(n+2)^{\text{th}}$  month itself, without prior approval of the Commission and any under or over recovery shall be carried forward to the next consumption month e.g.:*

*The FPPCA charge for the month of June shall be charged for the consumption of August billed in September and any under or over recovery shall be carried forward to be charged alongwith consumption of October billed in November.*

*Provided also that such carry forward shall be adjusted within the next quarter of the respective quarter of the year. If any amount is still pending to be adjusted under FPPCA after three months period, i.e. at the end of the next quarter of the respective quarter, the licensee shall be eligible to adjust the amount through the regulatory process specified in sub regulation (4) below.*

- (4) *The Distribution Licensee shall submit the details of the FPPCA incurred and to be charged or refunded to all the consumers for the entire quarter, along with the detailed computations and supporting documents as may be required for verification by the Commission within 45 days of the end of the next quarter for post facto approval of the Commission.*
- (5) *The Commission shall examine the FPPCA computations and approve the same with modifications, if required before the end of third quarter. Any variation in FPPCA charged or refunded by the Distribution Licensee and FPPCA approved by the Commission will be adjusted in the FPPCA computations of subsequent months as the Commission may determine.*
- (6) *In case the Distribution Licensee is found guilty of charging unjustified FPPCA charge from the consumers for (3) consecutive months, the Commission shall adjust the unjustified charges along with the interest on the same which shall not be allowed to be pass through. The interest so imposed shall not be allowed to pass through.*
- (7) *The Distribution Licensee shall upgrade the billing and IT systems to incorporate FPPCA charge as a component in tariff design and the same shall be reflected separately.*

(8) The formula for calculation of the FPPCA shall be as given under:

$$\text{FPPCA (Rs. Crore)} = C + B,$$

Where

*FPPCA = Fuel and Power Purchase Cost Adjustment*

*C = Change in cost of own generation and total power purchase costs (including interstate and intrastate transmission charges) due to the variation in these costs and fuel cost,*

*B = Adjustment factor for over-recovery / under-recovery for previous month/quarter*

$$C \text{ (Rs. Crore)} = A_{\text{Gen}} + A_{\text{PP}},$$

Where:

*A<sub>Gen</sub> : Change in fuel cost/generation cost of own generation. This would be computed based on the norms and directives of the Commission, including heat rate, auxiliary consumption, generation and power purchase mix, etc.*

*A<sub>PP</sub> : Change in energy charges and power purchase cost of power procured (including inter-state and intra – state transmission charges) from all sources other than own generation. This change would be allowed to the extent it satisfies the criteria prescribed in these Regulations and the prevailing tariff order, and subject to applicable norms. This shall be computed as follows:*

*Power purchased / Procured during nth month at state periphery (kWh) x (actual weighted average rate of power purchases (Rs. / kWh) – approved weighted average rate of power purchases (Rs. / kWh)).*

Note :

- 1. Intra – State & Inter-State transmission losses shall be considered as approved in the tariff order.*
- 2. Penalty imposed due to under drawals or over drawals or DSM penalty shall not be allowed as part of the FPPCA computation.*

(9) The FPPCA charge for any category shall not exceed 20% of the base Average Billing Rate as approved in the tariff Order for respective category, or such other ceiling as may be stipulated by the Commission from time to time:

*Provided that any excess in the FPPCA charge over the above ceiling shall be carried forward by*

*the Distribution Licensee and shall be recovered over such future period as may be directed by the Commission.*

- (10) *Calculation of FPPCA charge shall be as per the following formula:*

*Average FPPCA Charge (Rs/kWh)= (FPPCA/(Estimated sales within the State for the respective month as approved by the Commission in the Tariff Order)\*10.*

- (11) *Category wise FPPCA Charge (Rs/kWh) shall be calculated as per the following formula:*

*(Average Billing Rate (ABR) of Consumer Category (in Rs./kWh) as approved in Tariff Order for the year/Average Billing Rate (ABR) of Distribution Licensee (in Rs./kWh) as approved in Tariff Order for the year) x Average FPPCA (in Rs./kWh).*

*Provided also that in case the distribution licensee fails to compute and charge fuel and power purchase adjustment surcharge within the time line specified, except in case of any force majeure condition, its right for recovery of costs on account of fuel and power purchase adjustment surcharge shall be forfeited and in such cases, the right to recovery of the fuel and power purchase adjustment surcharge determined during annual true-up exercise shall also be forfeited and the true up of fuel and power purchase adjustment surcharge by the Commission, for any financial Year, shall be carried out alongwith the truing up of other costs and revenues based on the audited accounts for the relevant financial year of the distribution licensee.*

*Provided that the distribution licensee shall be required to notify the FPPCA charges atleast 1 week before the month for which the same shall apply, for information of all the consumers.*

- (12) *The distribution licensee shall provide the details of month-wise FPPCA charges calculated and revenue collected thereof at the time of filing the tariff petition for the next year.*
- (13) *All the FPPCA calculations and consumer wise FPPCA collections should also be displayed on the website of the distribution licensee as well."*

**Annexure-I****List of Stakeholders**

<b>Sr. No.</b>	<b>Name</b>	<b>Designation</b>	<b>Organisation</b>	<b>Address</b>
1.	Sh. Shakeel A. Siddiqui	Legal Advisor	M/s Galwalia Ispat Udyog Pvt. Ltd.	Narain Nagar Industrial Estate, Bazpur Road, Kashipur-244713, Distt. Udham Singh Nagar.
2.	Sh. Shakeel A. Siddiqui	Legal Advisor	M/s Kashi Vishwanath Textile Mill (P) Ltd.	5th Km. Stone, Ramnagar Road, Kashipur-244713, Distt. Udham Singh Nagar.
3.	Pawan Agarwal	Vice President	M/s Uttarakhand Steel Manufacturers Association	C/o Shree Sidhbali Industries Ltd., Kandi Road, Kotdwar.
4.	Sh. Ajay Kumar Agarwal	Director (Projects)	Uttarakhand Power Corporation Ltd.	Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun.
5.	Sh. Devendra Kumar Agarwal	Managing Director	M/s Kashi Vishwanath Steels Pvt. Ltd.	Narain Nagar Industrial Estate, Bazpur Road, Kashipur-244713, Distt. Udham Singh Nagar.
6.	Dr. Anoop Singh	Professor	M/s Center for Energy Regulation (CER) & Energy Analytics Lab (EAL)	Department of Management Sciences, Indian Institute of Technology, Kanpur.
7.	Sh. Vijay Kumar	-	-	91, THDC Colony, Dehrakhas, Dehradun.