

Before

# UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 31 of 2022

**In the matter of:**

Petition seeking approval for increasing the Continuous Supply Surcharge (CSS) as approved by the Commission in the Tariff Order for FY 2022-23.

**In the matter of:**

Uttarakhand Power Corporation Ltd.

... Petitioner

**CORAM**

**Shri D.P. Gairola    Member (Law) - Chairman (I/c)**

**Shri M.K. Jain        Member (Technical)**

**Date of Order : October 19, 2022**

Uttarakhand Power Corporation Ltd. (herein after referred to as “UPCL” or “the Petitioner”) has filed a Petition seeking approval for increasing the Continuous Supply Surcharge (CSS) as approved by the Commission in the tariff Order for FY 2022-23 under Section 86(1)(a), Section 62(1) & Section 62(4) of the Electricity Act, 2003 (herein after referred to as “the Act”), Regulation 103 and Regulation 104 of the Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff), Regulations, 2021.

## **1 Background and Petitioner’s Submission**

1.1 The Commission had notified Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021 (hereinafter referred to as “UERC Tariff Regulations, 2021”) for the fourth Control Period from FY 2022-23 to FY 2024-25 specifying therein terms, conditions, and norms of operation for licensees, generating companies and SLDC. The Commission had issued Tariff Order dated March 31, 2022 for FY 2022-23, including Annual Performance Review for FY 2021-22. In accordance with the provisions of the UERC Tariff Regulations, 2018, the Commission had also carried

out truing up for FY 2020-21 vide its aforesaid Order dated 31.03.2022.

The Petitioner filed a Petition dated 23.09.2022 seeking approval for increasing the Continuous Supply Surcharge (CSS) as approved by the Commission in the Tariff Order dated 31.03.2022.

- 1.2 The Petitioner submitted that the Commission vide tariff Order dated 31.03.2022 had approved the CSS @ 2.5% of the energy charges for the industrial consumers who are connected on either independent feeders or industrial feeders and opt for continuous supply.
- 1.3 The Petitioner submitted that Para 8.2.1(1) of the National Tariff Policy, 2016 provides that, the consumers willing to avail continuous and quality power supply are required to pay a tariff which reflects efficient costs. This is an additional charge (premium) payable by the consumer to have the facility of getting continuous supply of power, and such consumers are exempted from load shedding during scheduled/unscheduled power cuts and during restricted hours of the period of restriction of usages approved by the Commission from time to time. The Petitioner submitted that for making available the continuous supply to the industrial consumers who have opted for it, the Petitioner is required to contract the capacity with the generating stations for which the Petitioner is required to pay the fixed charges for the entire year. Further, in case of deficit situation, the Petitioner is also required to buy power through short term sources, i.e. DEEP Portal, Energy Exchange, Banking and Unscheduled Interchange. The Petitioner submitted that normally the power purchase cost of the short term sources is more than the power purchase cost of the long term sources, and for ensuring the continuous supply to some of the consumers, the Petitioner has to make additional arrangement for procuring such power during supply deficit scenario or resort to load shedding to other consumers and, therefore, the cost of such additional power needs to be recovered from the consumers getting such benefit. The Petitioner referred to views expressed by the Commission in the Tariff Order for FY 2008-09 as reproduced hereunder:

*“On the issue of levy of these charges throughout the year, the Commission is of the view that for making available the continuous supply to the industrial consumers, who have opted for it, the Petitioner may have to contract the capacity with generating stations and for which the Petitioner will have to pay the Fixed Charges for the entire year. If the capacity is not contracted to meet continuous supply, the additional energy required during the load shedding period will have to be procured*

*through short term trading or through UI route at very high rates. If the power is procured on short term basis and the impact of same is to be passed on to the consumers who have opted for continuous supply only during the period of load shedding, the additional charges to be levied will be more than 100% of normal energy charges considering the prevalent short term trading rates in the market. In order to avoid higher impact on consumers during load shedding period and to motivate the licensee to make long term arrangements for continuous supply of power, there is merit for charging reasonable premium in energy charges throughout the year."*

- 1.4 The Petitioner submitted the rate of CSS approved by the Commission in the previous years as shown in the Table below:

S. No.	Year	Rate of Continuous Supply Surcharge (as a %'age of Energy Charge)
1.	2015-16	15%
2.	2016-17	15%
3.	2017-18	15%
4.	2018-19	10%
5.	2019-20	10%
6.	2020-21	7.5%
7.	2021-22	5%
8.	2022-23	2.5%

- 1.5 The Petitioner submitted the details of year wise electricity consumption by the industries who opted for continuous supply and the amount of continuous supply surcharge as shown in the Table below:

S. No.	Year	Electricity Consumption (MU)	Continuous Supply Surcharge (Rs. Crore)	Continuous Supply Surcharge (Rs. / unit)
1.	2019-20	1794.99	82.69	0.46
2.	2020-21	1596.13	57.46	0.36
3.	2021-22	1811.38	46.13	0.25
4.	April, 21 to August, 21	729.37	18.00	0.25
5.	April, 22 to August, 22	831.81	10.76	0.13
6.	2022-23 (estimated)	1996.34 (831.81/5*12)	25.82 (10.76 /5*12)	0.13

The Petitioner further submitted that presently, there are 149 consumers who are availing continuous supply and their combined contracted load is 439.38 MVA.

- 1.6 The Petitioner submitted that the Uttarakhand State is facing acute shortage of electricity since the start of the current financial year, i.e. FY 2022-23 due to various factors viz increase in demand, less availability of power in energy exchange because of exceptionally high

prices of coal and gas on account of international crisis, shut down of gas based generating stations of the State having capacity of 321 MW and sudden climate change in the first quarter of the current financial year.

- 1.7 The Petitioner submitted that the Commission had approved power purchase cost and quantum for FY 2022-23 as summarized below:

S. No.	Station	Approved by UERC		
		PP at State periphery	Total Cost	Average Rate
		MU	Rs. Crore	Rs./unit
<b>1</b>	<b>Availability of Power from State Gas Generating Stations</b>	<b>2524.61</b>	<b>1630.87</b>	<b>6.46</b>
1.1	GIPL-I	712.07	440.63	<b>6.19</b>
1.2	GIPL-II	129.47	81.56	<b>6.30</b>
1.3	SEPL-I	1424.14	945.55	<b>6.64</b>
1.4	SEPL-II	258.93	163.13	<b>6.30</b>
<b>2</b>	<b>Availability of Power from Other firm sources</b>	<b>12630.02</b>	<b>3926.48</b>	<b>3.11</b>
<b>3</b>	<b>Total availability from firm sources (1+2)</b>	<b>15154.63</b>	<b>5557.35</b>	<b>3.67</b>
<b>4</b>	<b>Short Term - Tied Up</b>	<b>202.43</b>	<b>135.50</b>	<b>6.69</b>
4.1	Deficit Purchase	138.32	49.22	<b>3.56</b>
4.2	Cost for meeting RPO	18.14	7.25	<b>4.00</b>
4.3	Banking including additional banked energy	45.97	79.03	<b>17.19</b>
	<b>Total availability of power (3+4)</b>	<b>15357.06</b>	<b>5692.85</b>	<b>3.71</b>

- 1.8 The Petitioner further submitted a comparison of approved and actual power purchase cost for the period from April, 2022 to August, 2022 as summarized in the Table below:

S. No.	Source of Power	Approved by UERC*			Actuals (Provisional)		
		Energy (MU)	Cost (Rs. Crore)	Rate (Rs./unit)	Energy (MU)	Cost (Rs. Crore)	Rate (Rs./unit)
1	UJVNL	2007.17	373.33	1.86	2450.00	509.60	2.08
2	Gas based generating stations situated in the State	971.00	630.18	6.49	0.00	151.00**	-
3	Power from other firm sources	3428.78	1379.48	4.02	3635.85	1815.18	4.99
<b>4</b>	<b>Energy Exchange and Short term</b>	<b>76.78</b>	<b>20.52</b>	<b>2.67</b>	<b>1114.15</b>	<b>978.22</b>	<b>8.78</b>
4.1	Energy Exchange	57.63	20.52	3.56	879.65	718.67	<b>8.17</b>
4.2	Short term				135.75	163.04	<b>12.01</b>
4.3	Unscheduled Interchange				98.75	96.51	<b>9.77</b>
4.4	Banking	19.15	-	-	-	-	-
	<b>Total</b>	<b>6483.73</b>	<b>2403.51</b>	<b>3.71</b>	<b>7200.00</b>	<b>3454.00</b>	<b>4.80</b>

\* The Commission in its Tariff Order for FY 2022-23 has mentioned the values of power purchase for the entire year, i.e. 2022-23 and has not mentioned the values of power purchase for the period from April, 2022 to August, 2022 separately. Therefore, these values have been computed/separated by UPCL on estimated basis.

\*\* Fixed costs paid to generators.

The Petitioner submitted that there is an increase in demand of energy by 11.05%, increase in cost of energy by 43.71% and increase in rates of energy by 29.41%.

- 1.9 The Petitioner further submitted a comparison of the power purchase cost between the

period from April, 2021 to August, 2021 and April, 2022 to August, 2022, as summarized in the Table below:

S. No.	Source of Power	April, 21 to August, 21			April, 22 to August, 22 (Provisional)		
		Energy (MU)	Cost (Rs. Crore)	Rate (Rs./unit)	Energy (MU)	Cost (Rs. Crore)	Rate (Rs./unit)
1	UJVNL	2162.17	390.09	1.80	2450.00	509.6	2.08
2	Gas based generating Stations situated in the State	793.58	510.18	6.43	-	151	-
3	Power from other firm sources	3176.78	1123.83	3.54	3635.85	1815.18	4.99
<b>4</b>	<b>Energy Exchange and Short term</b>	<b>292.27</b>	<b>274.53</b>	<b>9.39</b>	<b>1114.15</b>	<b>978.22</b>	<b>8.78</b>
4.1	Energy Exchange	665.10	221.75	3.33	879.65	718.67	8.17
4.2	Short term	-	-	-	135.75	163.04	12.01
4.3	Unscheduled Interchange	69.02	52.78	7.65	98.75	96.51	9.77
4.4	Banking	-441.85	-	-	-	-	-
<b>Total</b>		<b>6424.80</b>	<b>2298.63</b>	<b>3.58</b>	<b>7200.00</b>	<b>3454.00</b>	<b>4.80</b>

The Petitioner submitted that there is an increase in demand of energy by 12.07%, increase in cost of energy by 50.26% and increase in rates of energy by 34.09%.

1.10 The Petitioner submitted that for the period from April, 22 to August, 22, as against the power purchases from short term sources of 57.63 MU approved by the Commission at the rate of Rs. 3.56 p.u., the actual quantum of power purchased from such sources is 1114.15 MU at the rate of Rs. 8.78 p.u. The Petitioner further submitted that as against the total approved power purchase of 6483.73 MU at the rate of Rs. 3.71 p.u. during April, 22 to August, 22, the actual quantum of power purchased during this period was 7200 MU at the rate of Rs. 4.80 p.u. which has resulted in an additional financial burden equivalent to Rs. 784.80 Crore [7200 MU x (Rs. 4.80 p.u. – Rs. 3.71 p.u.)] on the Petitioner, and the financial burden is further expected to increase towards the end of the current year.

1.11 The Petitioner submitted that it is making its best efforts for providing quality supply of electricity to all its consumers and continuous power supply is being ensured to the consumers who have opted for the same by arranging power from all its long-term arrangements as well as from short term procurements. The Petitioner further submitted that even in a situation of acute shortage of power, the Petitioner company is providing continuous supply of electricity to the consumers who have opted for the same and no load shedding is being done for these consumers. The Petitioner submitted that the cost of short-term power purchases is very high and a portion of the same should be shared by the

Industrial consumers who are getting continuous power supply in such a situation of shortage of power. The Petitioner submitted that as per the provisions of Tariff Order dated 31.03.2022, the CSS is only 2.5% of energy charges which is negligible in view of the shortage of electricity and very high procurement cost of the same for the Petitioner Company as submitted in the above Tables and, therefore, this needs to be increased equivalent to atleast 25% of the energy charges for FY 2022-23. The Petitioner submitted that this would lead to estimated increase in revenue of the Petitioner company equivalent to Rs. 232.38 Crore which will be utilized towards reduction of tariff for all the remaining consumers. The Petitioner submitted the computation of additional revenue of Rs. 232.38 Crore as summarized below:

S. No.	Particulars	Value
1.	Electricity consumption of the consumers who have opted for continuous supply for the period for April, 2022 to August, 2022.	831.81 MU
2.	Estimated Annual electricity consumption of the consumers who have opted for continuous supply for the period for April, 2022 to March, 2023.	1996.34 MU
3.	Estimated revenue for FY 2022-23 due to collection of continuous supply surcharge at the proposed rate of 25% of energy charge.	Rs. 25.82 Crore x 25% / 2.5% = Rs. 258.20 Crore
4.	Estimated revenue for FY 2022-23 due to collection of continuous supply surcharge at the existing rate of 2.5% of energy charge	Rs. 25.82 Crore
5.	Estimated additional revenue for FY 2022-23 by increasing the continuous supply surcharge from existing rate of 2.5 % of energy charge to 25% of energy charge (3-4)	Rs. 232.38 Crore

1.12 The Petitioner in view of the above requested the Commission to increase the CSS from the existing rate of 2.5% of energy charge to 25% of energy charge for the whole financial year, i.e. FY 2022-23.

1.13 The Petitioner submitted that it is facing difficulty to make the payment of its regular power purchase bills and even to meet its day to day cash expenses, and also the payables to GoU by the Petitioner as on 31.08.2022 have increased to around Rs. 3954 Crore. The Petitioner submitted that due to shortage of funds, they have not made any payment of GoU dues during the current financial year till date, and therefore, it has become necessary to increase the CSS for the continuous supply in such a situation of acute shortage of power and unprecedented price of electricity procured through short term. The Petitioner further submitted that Section 62(4) of the Electricity Act, 2003 provides that no tariff may ordinarily be amended more frequently than once in any financial year but the same may be permitted

to fulfill the requirements of revenue of the Petitioner mandated due to extraordinary situation as elaborated in earlier paras.

- 1.14 The Petitioner also referred to Regulation 103 of the UERC Tariff Regulations and submitted that sub-Regulation 1 of the aforesaid Regulation empowers the Commission to issue such orders as are necessary to meet the ends of justice. Further, sub-Regulation 2 of the aforesaid Regulations empowers the Commission to adopt a procedure which is at variance with any of the provisions of these Regulations, and sub-Regulation 3 of the aforesaid Regulation empowers the Commission to exercise any power under the Electricity Act, 2003 for which no Regulations have been framed.
- 1.15 The Petitioner under the grounds of relief for the current Petition submitted that even in the situation of acute shortage of power, the Petitioner is providing continuous supply of electricity to the consumers who have opted for the same and no load shedding is being done for those consumers, and as the cost of short term power purchase is very high, therefore, a portion of the same should be shared by the industrial consumers who are getting continuous power supply in such a situation of shortage of power.
- 1.16 The Petitioner through the current Petition had sought the following relief from the Commission:
- a) approve the proposed rate of continuous supply surcharge equivalent to 25% of the energy charge for the entire financial year for FY 2022-23.
  - b) approve that continuous supply surcharge shall also be levied on the energy drawn on open access @ 25% of the applicable Time of Day (ToD) rate of energy charge.
- 1.17 The Commission in order to provide transparency and give all the stakeholders an opportunity to submit their objections/suggestions/comments on the proposals of the Distribution Licensee, directed UPCL to publish the salient points of its proposals in the leading newspapers. The salient points of the proposal were published by the Petitioner in the following newspapers:

**Table 1: Publication of Notice**

S. No.	Newspaper Name	Date of Publication
1.	Hindustan Times, Delhi	01.10.2022
2.	Dainik Jagran, Uttarakhand	01.10.2022

Through the above notice, the stakeholders were requested to submit their objections/suggestions/comments latest by 13.10.2022 on the Petition filed by UPCL (copy of the notice is enclosed as **Annexure-I**). The Commission received in total 4 objections/suggestions/comments on the Petition filed by UPCL.

- 1.18 The Commission also held a Public Hearing in the matter on 14.10.2022 to decide on the admissibility of the Petition.
- 1.19 The Commission vide Order dated 14.10.2022 admitted the Petition filed by UPCL.
- 1.20 The issues raised by the Petitioner in the Petition, alongwith the analysis of the Commission are dealt in the subsequent section.

## **2 Stakeholders' Objections/Suggestions, Petitioner's Responses and Commission's Views**

The Commission during the public hearing as well as through written submissions, received comments from the stakeholders on the Petition filed by UPCL. Since, issues are common and have been raised by more than one Respondent, the suggestions/responses/comments have been clubbed and summarized below.

### **2.1 General**

#### **2.1.1 Stakeholder's Comments**

M/s Vista Furnishing Limited, Haridwar submitted that continuous electricity supply at reasonable rates was one of the major reasons for industrial growth in the State of Uttarakhand and such huge hike in CSS, continuous supply being an essential requirement for industries like theirs, proposed by UPCL would pose difficulty in the business process. It was further submitted that as per tariff policy the continuous power supply arrangement are made for whole year by Discom and extra charges are taken for advance arrangement and such hike is not justified. They further submitted that recently the Commission had also approved levy of Additional Power Purchase Surcharge (APPS) by UPCL on its consumers at different rates. It was further submitted that levy of Continuous Supply Surcharge (CSS) on open access electricity is not justified as it is arranged by consumer by bidding process and UPCL is getting paid for its system use and additional surcharge for stranded power.



Shri Amit Goel, Ashok Leyland Limited, Pantnagar and Shri Ajit Dandavate, Bajaj Auto Ltd., Pantnagar submitted that even after opting for continuous power they faced power cut and power interruptions in FY 2020-21 and FY 2021-22. They further submitted that the recent levy of APPS has created additional burden on the industries, and with proposed increase in CSS their production overhead will increase by 10%. They further submitted that, UPCL's proposal regarding utilization of collection from CSS towards reduction of tariff for all the remaining consumers seems unreasonable and discriminating and they oppose the proposed increase in CSS.

Shri Shakeel A. Siddiqui, Kashi Vishwanath, Kashipur opposed the proposed hike in CSS. He further submitted that, since there is shortage of power with UPCL and it is unable to meet the requirement of its consumers, purchase of power through Open Access to be allowed without levying additional surcharge every six months, and when UPCL may procure power from short term power procurement then the industry may also be allowed supply. He submitted this will not only help the industry to cope the unplanned power cuts of UPCL but will also ensure revenue in form of taxes to the State and employment to the citizens. He further submitted that UPCL should ensure supply of reliable and consistent power to its consumers.

#### **2.1.2 Petitioner's Reply**

In response to the same UPCL submitted that for making available the continuous supply to the industrial consumers who have opted for it, the Petitioner is required to contract the capacity with the generating stations and for which the Petitioner is required to pay the fixed charges for the entire year, and to cater to any deficit situation, the Petitioner is also required to buy power through short term sources, i.e. DEEP Portal, Energy Exchange, Banking and Unscheduled Interchange. The Petitioner submitted that usually the power purchase cost of the short-term sources is more than the power purchase cost of the long-term sources, and the cost of such additional power needs to be recovered from the consumers who are getting such benefit.

The Petitioner further submitted that the Uttarakhand State is facing acute

shortage of electricity since start of the current financial year due to various factors, i.e. increase in demand, less availability of power in energy exchange because of exceptionally high prices of coal and gas on account of International crises, shut down of gas based generating stations of the State having capacity of 321 MW and sudden climate change in the first quarter of the current financial year.

The Petitioner further submitted that even in a situation of acute shortage of power, the Petitioner company is providing continuous supply of electricity to the consumers who have opted for the same and no load-shedding is being done for these consumers. The cost of short-term power purchases is very high and a portion of the same should be shared by the Industrial consumers who are getting continuous power supply in such a situation of shortage of power.

The Petitioner further submitted that out of total claim of incremental power purchase cost of Rs. 1355.41 Crore for FY 2022-23, the Commission vide its order dated 28.09.2022 allowed recovery only of Rs. 379.06 Crore from the consumers. The Petitioner further submitted that CSS is an additional charge (premium) payable by the consumer to have the facility of getting continuous supply of power, and these consumers are exempted from load shedding during scheduled/unscheduled power cuts and during restricted hours of the period of restriction of usages approved by the Commission from time to time. The Petitioner submitted that for providing continuous supply to the consumers, UPCL is required to maintain its distribution system in a manner that the continuous supply of electricity may be ensured to the consumers, therefore, the continuous supply surcharge should also be levied on the energy drawn through open access.

The Petitioner on the issue of power cut/interruptions in FY 2020-21 & FY 2021-22 submitted that it had not carried out any kind of load shedding on continuous supply Industries, and the outages faced by the consumer are basically due to emergency breakdowns and planned shutdown carried out for the maintenance of switchgear/ lines at the end of UPCL and PTCUL.

### 3 Petitioner's submission, and Commission's Analysis and Ruling

3.1 The powers available to the Commission to remove difficulties and pass such orders as may be necessary to meet the ends of justice are defined under Regulation 103 & Regulation 104 of the MYT Regulations, 2021 which reads as under:

***"103. Savings***

- (1) Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice.*
- (2) Nothing in these Regulations shall bar the Commission from adopting in conformity with provisions of the Act, a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or a class of matters, deems it just or expedient for deciding such matter or class of matters.*
- (3) Nothing in these Regulations shall, expressly or implied, bar the Commission dealing with any matter or exercising any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner, as it considers just and appropriate.*

***104. Power to Remove Difficulties***

*If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may by general or special order give directions, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties. "*

3.2 Further, Section 62(3) and Section 62(4) of the Electricity Act, 2003 stipulates as follows:

- "(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.*
- (4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any charges expressly permitted under the terms of any fuel surcharge formula as may be specified."*

3.3 The Petitioner through the current Petition submitted that for ensuring the continuous supply to some of the consumers, the Petitioner has to make additional arrangement for

procuring such power during supply deficit scenario or resort to load shedding to other consumers and, therefore, the cost of such additional power needs to be recovered from the consumers getting such benefit of continuous supply.

- 3.4 The Petitioner submitted that as on the date of filing the current Petition, i.e. 23.09.2022 there were 149 consumers who were availing continuous supply with a contracted load of 439.89 MVA. The Petitioner later on through a separate submission informed that as at the mid of October, 2022 the no. of consumers availing continuous supply has increased to 165 with a contracted load of 505.63 MVA.
- 3.5 The Petitioner submitted that during the period from April, 2022 to August, 2022, as against the power purchase approved by the Commission from short term sources of 57.63 MUs at the rate of Rs. 3.56 per unit, the actual quantum of power purchased from such sources is 1114.15 MUs at the rate of Rs. 8.78 per unit. The Petitioner further submitted that against the total approved power purchase of 6483.73 MUs at the rate of Rs. 3.71 per unit during the period April, 2022 to August, 2022, the actual quantum of power purchased during this period is 7200 MUs at the rate of Rs. 4.80 per unit which has resulted in an additional financial burden of Rs. 784.80 Crore and the same is expected to increase towards the end of the current FY.
- 3.6 The Petitioner during the hearing submitted that there has been a sudden increase in the number of consumers who wish to apply for continuous supply owing to very less premium of 2.5% (CSS rate approved for FY 2022-23) for availing the said supply. The Petitioner submitted that inspite of the Petitioner putting its best efforts to provide uninterrupted supply to all the category of consumers still there has been a surge in new application for continuous supply from the industrial consumers to ensure reliability of power availability, and this situation is putting huge financial stress on the discom to ensure supply of continuous power to such consumers in the current power scenario prevailing throughout the country. The Petitioner submitted that the present rate of CSS of 2.5% approved by the Commission for availing continuous supply by the consumers is not sufficient to meet the obligation for ensuring such supply by the discom and needs upward revision to meet the cost of ensuring such supply.
- 3.7 The Petitioner submitted that the cost of short term power procurement is very high and a

portion of the same should be shared by the industrial consumers who are getting continuous power supply in such a situation of power crisis, as the Petitioner is required to make proper arrangements/contracts for such continuous supply which has an additional cost to the Petitioner company. The Petitioner submitted that as approved in the tariff Order dated 31.03.2022 the CSS of 2.5% of energy charge is very low as compared to the high procurement cost of power in view of shortage of electricity, and this needs to be revised to atleast 25% for the FY 2022-23, which will provide an additional revenue of around Rs. 232.89 Crore during FY 2022-23.

- 3.8 The Petitioner submitted that, in light of the above submissions, this is an extraordinary situation for which the Commission may exercise its powers under Regulation 103 of the MYT Regulations, 2021 and provide relief to the Petitioner by increasing the rate of CSS.
- 3.9 Most of the Respondents have opposed the increase in Continuous Supply Surcharge sought by the Petitioner claiming that such frequent tariff revisions disrupts the planning of industries as electricity is one of the major cost component. The Respondents also stated that recently the Commission had approved levy of APPS which has led to an additional financial burden on the consumers. In this regard, reference may be made to Section 62(4) of the Electricity Act, 2003 which reads as under:

*"No tariff or part of any tariff may **ordinarily be amended**, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified."*

**(Emphasis Added)**

Thus, the plain reading of the above provisions of the Act provides that in ordinary circumstances, the tariff shall not be amended more than once in a Financial Year. However, it may not be denied that the circumstances prevailing in the power sector was unprecedented and beyond the control of the Petitioner company and the rates increased due to global conditions. Hence, the circumstances were not ordinary and as such tariff can be amended in such situations so that UPCL does not face any financial hardship in meeting its day to day expenses and also arrange for power to meet the obligation of continuous and reliable power supply to the consumers opting for the same.

- 3.10 The Commission while issuing the Tariff Order dated March 31, 2022 considering the long

term tie ups of the Petitioner and taking into account the improving demand-supply scenario had reduced the prevailing continuous supply surcharge of 5% to 2.5% and had held as under:

*“The Commission would like to clarify that the State of Uttarakhand is still facing power shortage and UPCL is procuring short term power from market to meet the demand. Even for FY 2022-23, the Commission has estimated a deficit of about 857 MU in winter months during October to March in the requirement of UPCL which is of substantial nature. The Commission has estimated a surplus of about 654 MU during April, 2022 to September, 2022 in the requirement of UPCL for FY 2022-23 which would be banked with other States to offset the deficit during winter months. Hence, the Commission does not find any reason to abolish the continuous supply surcharge altogether as during winters UPCL is still having deficit. However, the deficit in winter months has reduced as compared to the previous years. Hence, the Commission in order to provide relief to HT industries has decided to reduce the continuous supply surcharge from 5% of energy charges to 2.5% of energy charges. The Commission will review the same once the aforesaid deficit in UPCL’s requirement is wiped off.”*

The Commission while issuing the Tariff Order could not foresee the situation nor this was brought before the Commission in the tariff proceedings by the Petitioner and the other stakeholders including the industries. As can be seen from the above extract of tariff Order dated 31.03.2022, the rationale behind reducing the rate of CSS to 2.5% in FY 2022-23 was that the surplus power during the months of summer could be offset by UPCL from the deficit during the months of winter through banking, thus reducing the quantum of deficit power in the months of winter. Since the said deficit was expected to considerably reduce in FY 2022-23 as compared to previous years, but not wiped off completely, therefore, the Commission decided to reduce the rate of CSS from 5% to 2.5% in FY 2022-23. Moreover, the Commission had projected the procurement of deficit power at the rate of Rs. 3.56 per unit in FY 2022-23.

However, the situations of power demand and availability did not turn around as projected by the Commission and there was acute power crisis in the first quarter of FY 2022-23 across the country, in comparison to which the situations had improved a little but not completely normalized till date with hydro generation aiding the supply position to a very large extent. However, the situation in winters is again going to be grim as generation

from hydro generating stations would reduce comparatively due to reduction in water discharge. The power from gas based generating stations could not be scheduled owing to higher gas prices across the world which added to the deficit and no banking of power could take place in the summer/monsoon months which could have been used to meet the demand in winter months.

- 3.11 The Commission also observed that power purchase costs during the month of April, 2022 went as high as Rs. 12 per unit during certain time blocks with an average price of Rs. 8.71 per unit in the said month. The Commission would like to further mention that recently UPCL had issued tender for procurement of 300 MW power on medium term basis, however, it could manage procurement of only 100 MW power out of the proposed 300 MW on medium term basis at the rate Rs. 5.41/kWh from 01.10.2022 to 31.03.2024. Thus, it can safely be assumed here that the rates for procuring power from markets are still on a very higher side vis-à-vis the projections approved by the Commission in the Tariff Order dated 31.03.2022 for FY 2022-23 and the rates would again increase in the winter months.
- 3.12 The Commission is of the view that considering the current power scenario, and high cost of power procurement, as discussed in preceding paras, an extraordinary situation has arisen for which a hike in existing rate of CSS is necessitated to enable UPCL to fulfil its obligation of continuous power supply to consumers opting for it. In this regard Clause 8.2.1 of the National Tariff Policy stipulates as under:

*“All power purchase costs need to be considered legitimate unless it is established that the merit order principle has been violated or power has been purchased at unreasonable rates. The reduction of Aggregate Technical & Commercial (ATC) losses needs to be brought about but not by denying revenues required for power purchase for 24 hours supply and necessary and reasonable O&M and investment for system upgradation. **Consumers, particularly those who are ready to pay a tariff which reflects efficient costs have the right to get uninterrupted 24 hours supply of quality power.**”*

*(Emphasis added)*

Thus, consumers requiring uninterrupted supply can do so by paying additional tariff in accordance with the National Tariff Policy as referred above. Further, this principle of availing uninterrupted power supply by paying continuous supply surcharge is in vogue

since FY 2006-07. For making available the continuous supply to the industrial consumers, who have opted for it, the additional energy required during the load shedding period will have to be procured through short term trading or through power exchanges which at the prevailing time will be at a very higher rate. If the power is procured on short term basis and the impact of same is to be passed on to the consumers who have opted for continuous supply, the additional charges to be levied would be about 100% of normal energy charges considering the expected short term trading rates in the market during the first quarter of the current Financial Year. Besides recently the Commission has approved Additional Power Purchase Surcharge w.e.f 01.09.2022 wherein APPS approved for HT industries is about 9.5% of the approved tariffs for FY 2022-23. Hence, in order to avoid higher impact on consumers and to motivate the licensee to make arrangements for continuous supply of power, there is merit for charging reasonable premium in energy charges.

3.13 The Commission, from the details submitted by the Petitioner, observed that the no. of consumers availing continuous supply as the end of March 2020, March 2021, & March 2022 were 144, 136 & 141 respectively against which the connected load was 449.05 MVA, 433.77 MVA & 430.58 MVA respectively. However, the no. of consumers opting for continuous supply as at the mid of October, 2022 has increased to 165 with corresponding increase in contracted load to 505.63 MVA. The above data clearly shows that there has been a sudden spike in the consumers opting for continuous supply in FY 2022-23 (till the mid of October, 2022), the main reason behind which could be assumed to be the assurance of uninterrupted power at a very low rate of CSS. With the onset of winters this number is again expected to increase considering the prevailing market rates of energy and the anticipated demand and supply scenario.

3.14 The Commission, accordingly, in light of Section 62(4) of the Electricity Act, 2003, is of the view that the power crisis situation being faced by the Petitioner is not an ordinary situation, and therefore, merits the amendment of tariff already approved by the Commission. Further, Regulation 59(1) of UERC (Conduct of Business) Regulations, 2014 reads as under:

***“59. Inherent power of the Commission***

*(1) Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse*



*of the process of the Commission. ...”*

(Emphasis Added)

Further, Regulation 104, Power to Remove Difficulties, of MYT Regulations, 2021 empowers the Commission to pass any general or special order which may be necessary or expedient for the purpose of removing difficulties.

3.15 The Commission, in view of the above, in exercise of powers given under Regulation 103, Savings and Regulation 104, Power to Remove Difficulties, of MYT Regulations, 2021 modifies the rate of Continuous Supply Surcharge (CSS) from the existing 2.50% to 15% for the FY 2022-23.

3.16 However, the rate of CSS proposed by UPCL for the whole Financial Year, i.e. FY 2022-23 does not appear to be reasonable as tariffs cannot be revised retrospectively. Besides the energy scenario was prevalent since April, 2022, i.e. from the date of applicability of the Tariff Order for FY 2022-23, however, UPCL chose to file the Petition for the revision on 23.09.2022, i.e. almost after 6 months. This reflects towards the lack lustre and lethargy approach of UPCL in managing its affairs for which the consumers cannot be penalised. Since the bills for the months of October are yet to be released the Commission decides to revise the continuous supply surcharge from 01.10.2022. Accordingly, against the estimated additional revenue of Rs. 232.38 Crore projected by UPCL for the whole FY 2022-23, the Commission has estimated an amount of additional revenue of Rs. 64.55 Crore during the 2<sup>nd</sup> half of FY 2022-23.

3.17 Further, the Commission in its Order dated 28.09.2022 while allowing recovery of APPS (Additional Power Purchase Surcharge) to UPCL from the consumers in the form of tariff opined as under:

*“The Petitioner, after adjustment of Rs. 379.06 Crore in the form of increased tariff would be left with a deficit of Rs. 196.87 Crore. In this regard, it is pertinent to note that the Petitioner had recently filed a Petition for revision of Continuous Supply Surcharge (CSS) on which the Commission is yet to take a view. Further, the Commission in the tariff Order dated 31.03.2022 had allowed Interest on Working Capital (IWC) for FY 2022-23 to the tune of Rs. 101.90 Crore, and if the Petitioner puts its sincere efforts to ensure 100% collection against its current dues from the consumers, then the requirement of working capital could be minimized and the Petitioner would be left with surplus IWC which could be*

*used to meet its incremental power procurement cost and for balance deficit if any the Petitioner is advised to resort to Working capital loans from Banks/Financial Institutions which will be allowed during the truing up proceedings for FY 2022-23."*

As can be seen from the above, the Commission had left an estimated deficit of Rs. 196.87 Crore, after allowing APPS of Rs. 379.06 Crore to UPCL, and advised UPCL to meet the same out of its own efficiency in the form of ensuring 100% collection efficiency which will allow UPCL to utilise IWC of Rs. 101.90 Crore allowed by the Commission for FY 2022-23 towards its power procurement requirements. Further, as discussed in the above paras, the Commission has approved revision of the rate of CSS from existing 2.5% to 15% w.e.f. from 01.10.2022 that will generate an estimated additional revenue for UPCL amounting to Rs. 64.55 Crore which can be utilised by UPCL for meeting its power procurement requirements. Thus, after considering the savings in the form of IWC and additional revenue from CSS the Petitioner would be left with a deficit of Rs. 30.42 Crore, part of which can be met through the surplus of Rs. 5.39 Crore left by the Commission while approving tariff for FY 2022-23 vide its Order dt. 31.03.2022, and for balance deficit, if any, the Petitioner is advised to resort to Working capital loans from Banks/Financial Institutions which will be allowed during the truing up proceedings for FY 2022-23.

- 3.18 Besides some consumers have raised the issue of power cuts/interruptions despite availing continuous supply. In some cases the interruptions were as high as 146 hours on 108 instances, which works out to almost 9 instances of 12 hours of interruptions per month which is on a higher side. UPCL during the hearing submitted that no load shedding for continuous supply consumers were carried out by it and such interruptions could have been the outcome of maintenance activities or trippings. The Commission has taken a strong exception of the same and directs PTCUL/UPCL to take up augmentation, maintenance and overhauling works on top priority, specially in the sub-stations where circuit breakers, other equipment, etc. are in dilapidated condition and, thereby, ensure minimisation of interruptions of the continuous supply feeders. Further, UPCL/PTCUL shall carry out periodical preventive maintenance of the feeders supplying to continuous supply consumers. The licensees shall prepare preventive maintenance schedule, in consultation with continuous supply consumers, well in advance giving atleast 48 hours notice to the continuous supply consumers, so that such consumers can plan their operations

accordingly.

3.19 As regard the Petitioners proposal for levy of CSS on the energy drawn on open access, the Commission would like to clarify that the same is illogical as the open access consumers arrange for their own power and UPCL is under no obligation to provide them continuous power supply and hence, the question of charging continuous supply surcharge on such consumers doesn't arise. Besides, the Commission has specifically excluded these consumers from levy of CSS in the tariff Order dated 31.03.2022, the relevant portion of which is reproduced hereunder:

"6.1.3.3

...

*Continuous supply surcharge shall not be applicable on power procured by industrial consumers through open access."*

Accordingly, the CSS shall not be applicable on power procured by industrial consumers through open access.

3.20 Accordingly, the revised rate shall stand applicable from 01.10.2022 and shall be applicable till 31.03.2023, subject to the following conditions:

- a) Continuous Process Industry as well as non-continuous process industrial consumers connected on either independent feeders or industrial feeder can opt for continuous supply. For industrial feeder, all connected industries will have to opt for continuous supply and in case any consumer on industrial feeder does not wish to opt for continuous supply, all the consumers on such feeder will not be able to avail continuous supply. Such Industrial consumers who opt for continuous supply shall be exempted from load shedding during scheduled/unscheduled power cuts and during restricted hours of the period of restriction in usage approved by the Commission from time to time, except load shedding required due to emergency breakdown/shutdown.
- b) Consumers who are existing Continuous Supply Consumers shall continue to remain Continuous Supply Consumers and they need not apply again for seeking continuous supply. Such consumers shall pay 15% extra energy charges w.e.f. 01.10.2022, in addition to the energy charges and APPS approved by the Commission till March 31, 2023.

However, in case of any pending dispute with UPCL in the matter of continuous supply on certain feeders, those consumers will have to apply afresh, for availing the facility of continuous supply, by October 31, 2022.

- c) The existing consumers who are new applicants for continuous supply of power (including those who are applying afresh as per above) can apply for seeking the continuous supply option at any time during the year. However, continuous supply surcharge for such consumers shall be applicable with effect from May 1, 2022 to September 30, 2022 at the rate of 2.5% and from 01.10.2022 till March 31, 2023 at the rate of 15%. UPCL shall provide the facility of continuous supply within 7 days from the date of application, subject to fulfilment of Conditions of Supply.
- d) In case of re-arrangement of supply through independent feeder, UPCL shall provide the facility of continuous supply from the date of completion of work of independent feeder subject to fulfilment of Conditions of Supply and the Continuous Supply Surcharge on such consumers shall be applicable from the date of energisation of aforesaid independent feeder till March 31, 2023, irrespective of actual period of continuous supply option.
- e) In case of a new consumer (new connection) opting continuous supply after 01.10.2022, 15% extra energy charges as Continuous Supply Surcharge shall be applicable from the date of new connection till March 31, 2023, irrespective of the actual period of continuous supply.
- f) The existing consumers availing continuous supply option, who wish to discontinue the continuous supply option granted to them earlier, will have to communicate, in writing, to UPCL latest by October 31, 2022 and they shall continue to pay continuous supply surcharge alongwith the tariff approved till October 31, 2022.

Further, in this regard, if due to withdrawal by one consumer from availing continuous supply option on a particular feeder, supplying to other continuous supply consumers as well, the status of other continuous supply consumers on that feeder is affected, then UPCL shall inform all the affected consumers in writing, well in advance.

- g) The Continuous Supply Surcharge shall not be applicable on the power procured by the

industrial consumers through open access.

- h) UPCL shall not change the status of a continuous supply feeder to a non-continuous supply feeder.
- i) UPCL/PTCUL shall take up augmentation, maintenance and overhauling works on top priority, specially in the sub-stations where circuit breakers, other equipment, etc. are in dilapidated condition and, thereby, shall ensure minimisation of interruptions of the continuous supply feeders.
- j) UPCL/PTCUL shall carry out periodical preventive maintenance of the feeders supplying to continuous supply consumers. The licensees shall prepare preventive maintenance schedule, in consultation with continuous supply consumers, well in advance giving atleast 48 hours notice to the continuous supply consumers, so that such consumers can plan their operations accordingly.
- k) The Licensee should show the energy charges and continuous supply surcharge thereon separately in the bills.

3.21 Ordered Accordingly.

**(M.K. Jain)**  
**Member (Technical)**

**(D.P. Gairola)**  
**Member (Law) - Chairman (I/c)**



**UTTARAKHAND POWER CORPORATION LTD.**  
 (A Govt. of Uttarakhand Undertaking) (Corporate Identity No. U40109UR2001SGC025867/2358)  
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### Public Notice

Public Hearing on the Petition filed by Uttarakhand Power Corporation Limited seeking approval for increasing the Continuous Supply Surcharge as approved by the Commission in the Tariff Order dated 31.03.2022 for FY 2022-23.

#### Salient Points of the Petition

1. Uttarakhand Power Corporation Limited (UPCL), the sole Distribution and Retail Supply licensee in the State, has filed a Petition before Uttarakhand Electricity Regulatory Commission (UERC or Commission seeking approval for increasing the Continuous Supply Surcharge (CSS) as approved by the Commission in the Tariff Order dated 31.03.2022 for FY 2022-23.
2. Through the above Petition, UPCL has sought the following relief before the Commission.

S.No.	Particulars
1.	Approve the proposed rate of Continuous Supply Surcharge (CSS) equivalent to 25% of energy charge for the entire financial year for FY 2022-23.
2.	Approve that Continuous Supply Surcharge (CSS) shall also be levied on the energy drawn on open access @25% of the applicable Time of Day (ToD) rate of energy charge.

3. The Petitioner through the proposed increase in CSS from existing level of 2.5% to 25% has estimated an additional revenue of Rs. 232.38 Crore, which it proposes to utilize towards reduction of tariff for all the remaining consumers.
4. Responses/suggestions, if any, are sought from consumers and other stakeholders to decide on the admissibility of the Petition. Responses may be sent to the Secretary, Uttarakhand Electricity Regulatory Commission, either in person, or by post at 'Vidyut Niyamak Bhawan'. Near ISBT, PO-Majra, Dehradun-248171 or through e-mail to secy.uerc@gov.in by 13.10.2022.
5. The Commission has also decided to hold a Public Hearing in the matter on 14.10.2022 at 11:30 AM in the Commission's office on the above-mentioned address. Any person, who wishes to put his views on the subject before the Commission, is invited to appear before the Commission and make the submission in the above public hearing.
6. Detailed Petition can be seen free of cost on any working day at the Commission's office or at the offices of Chief Engineer (Commercial) at Victoria Cross Vijeta Gabar Singh Urja Bhawan, Kanwali Road, Dehradun/Chief Engineer (Distribution), Garhwal Zone, UPCL, 120-Haridwar Road, Dehradun/Chief Engineer (Distribution), Kumaon Zone, UPCL, 132-KV Substation, Kathgodam, Haldwani/Chief Engineer (Distribution), Haridwar Zone, UPCL, Roshnabad, Haridwar/Chief Engineer (Distribution), Udham Singh Nagar, UPCL, 33 kV Sub-Station, Sector-2, SIIDCUL, Pant Nagar, Rudrapur-263153. Relevant extracts can also be obtained from the above-mentioned offices of the Petitioner.
7. The Petition is also available at the website of the Commission ([www.uerc.gov.in](http://www.uerc.gov.in)) and at the Petitioner's website ([www.upcl.org](http://www.upcl.org)).

No : 409/EE(CM)/UPCL/A-2

Dated:- 30/09/2022

Managing Director

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