Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 32 of 2019

In the matter of:

Petition seeking approval for recovery of power purchase cost incurred in excess of the approved power purchase cost for FY 2018-19.

In the matter of:

Uttarakhand Power Corporation Ltd. …Petitioner

Coram

Shri D.P. Gairola	**Member (Law)**
Shri M.K.Jain	**Member (Technical)**

Date of Order: October 25, 2019

Uttarakhand Power Corporation Ltd. (herein after referred to as "UPCL" or "the Petitioner") has filed a Petition seeking approval for recovery of power purchase cost incurred in excess of the approved power purchase cost for FY 2018-19 under Section 86(1)(a) and Section 62(4) of the Electricity Act, 2003 (herein after referred to as "the Act"), Regulation 12 and Regulation 103 of the Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2018 (herein after referred to as "UERC Tariff Regulations, 2018") and provisions of the Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014 (herein after referred to as "UERC CBR").

1. Background & Petitioner's Submissions

1.1 UPCL has submitted the Petition under Section 86(1)(a) of the Electricity Act, 2003 for seeking approval for recovery of power purchase cost incurred in excess of the power purchase cost approved by the Commission for FY 2018-19.

1.2 UPCL submitted that Section 62(4) of the Electricity Act, 2003 stipulates as follows:

"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."

1.3 UPCL submitted that as per Section 12 of the UERC Tariff Regulations, 2018, the Distribution Licensee is required to file an application before the Commission for Annual Performance Review (APR) by November 30th every year. The APR inter-alia, includes the following:

- A comparison of the Audited Performance of the applicant for the previous Financial Year with the approved forecast for such Financial Year and truing - up of Expenses and Revenue.
- Revisions of estimates for the ensuing Financial Year, if required, based on Audited financial result for the previous Financial Year.

1.4 UPCL also submitted that Section 103 of the UERC Tariff Regulations, 2018 stipulates as follows:

"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."

1.5 UPCL submitted that the current petition has been filed under the above provisions of law and as per the directions of Audit Committee of the Petitioner company issued in the 50th meeting held on 19-08-2019 which directed as follows in the matter:

"A petition to be filed with UERC to allow immediate increase in tariff due to increase in power cost by central sector plants, alternatively, cost of additional working capital required due to above should be permitted."

1.6 UPCL submitted that the Commission vide its Tariff Order dated 21.03.2018 for FY 2018-

19 approved the input energy and billed energy as per details given below:

S. No.	Particulars	Unit	Approved
1.	Power Purchase at State Periphery	MU	14426.32
2.	Outward Banking	MU	(302.75)
3.	Net Energy at State Periphery	MU	14123.57
4.	Transmission Losses	%	1.55%
5.	Energy at Distribution Periphery	MU	13904.65
6.	Distribution Loss	%	14.50%
7.	Billed Energy	MU	11888.48

1.7 UPCL submitted that the Commission in the Tariff Order for FY 2018-19 allowed the power purchase cost for FY 2018-19 as given below:

S. No.	Particulars	Approved Power Purchase Cost (Rs. Cr.)
1.	Power Purchase Cost	4932.43
2.	Truing up of UJVN Limited	(47.09)
3.	Inter State Transmission charges	388.08
4.	Intra State Transmission charges	192.46
5.	SLDC Charges	16.84
Total		**5482.72**

UPCL submitted that the Commission, accordingly, approved power purchase cost for FY 2018-19 @ Rs. 3.94 per unit (Rs. 5482.72 Cr. / 13904.65 MU).

1.8 UPCL submitted a comparison of the approved and actual power purchases for FY 2018-19 as detailed below:

S. No.	Particulars	Approved power purchase cost			Actual power purchase cost			Increase in Rates
		Energy (MU)	Amount (Rs. Cr.)	Rate (Rs./ Unit)	Energy (MU)	Amount (Rs. Cr.)	Rate (Rs./ Unit)	
1	Central Sector	4570.88	1596.55	3.49	3429.34	1396.82	4.07	16.61%
1.1	NHPC	645.20	225.25	3.49	588.33	246.59	4.19	20.06%
1.2	SJVNL	284.86	101.67	3.57	230.62	93.64	4.06	13.76%
1.3	THDC	184.29	86.29	4.68	175.55	145.88	8.31	77.47%
1.4	NTPC	3150.59	1077.80	3.42	2129.75	792.09	3.72	8.72%
1.5	NPCIL	305.94	105.54	3.45	305.09	118.62	3.89	12.71%
2	UJVNL	4354.05	897.69	2.06	4163.63	781.13	1.88	(9.00%)
3	IPPs	4480.31	2115.59	4.72	3008.46	1671.11	5.55	17.64%
3.1	Sasan	690.27	95.40	1.38	694.73	103.73	1.49	8.03%
3.2	Gas	2718.81	1504.72	5.53	1223.35	1024.50	8.37	51.32%
3.3	Other	1071.23	515.47	4.81	1090.38	542.88	4.98	3.47%
4	State Royalty Power	1021.07	197.15	1.93	1021.85	197.22	1.93	(0.04%)
5	Market Purchases				2209.78	983.82	4.45	
6	UI Net drawl				(25.70)	66.66	(25.94)	
7	Inward Banking (Advance)				811.31	0.00		
8	Outward Banking	(302.75)			(781.19)		0.00	
9	Cost to meet RPO		46.46					
10	Total Purchases (1 to 9)	14123.56	4853.44	3.44	13837.48	5096.76	3.68	7.18%
11	PGCIL Charges		419.97	0.30		494.38	0.36	20.15%
12	PTCUL Charges		209.31	0.14		212.29	0.15	12.58%
13	Total (10 to 12)	14123.57	5482.72	3.88	13837.48	5803.43	4.19	8.04%

Note: The power purchase cost for FY 2018-19 as per Annual Accounts is Rs. 5838.28 Cr. (Rs. 4.23 p.u. at distribution periphery).

UPCL submitted that the power purchase cost from all sources has been approved on lower side by the Commission and the actual average power purchase cost is 8.04% higher than the approved power purchase cost.

1.9 UPCL further submitted that the Commission for FY 2018-19 approved the excess of actual Fuel Cost over the Fuel Cost as approved in the Tariff Order for FY 2018-19 vide its various orders, and allowed recovery of the same through charging Fuel Charge Adjustment amounting to a total of Rs. 145.77 Crore for FY 2018-19. UPCL computed the additional financial impact on account of difference between the approved and actual power purchase cost for FY 2018-19 as follows:

S. No.	Particulars	Value
1.	Actual power purchase cost	Rs. 4.23 p.u.
2.	Approved power purchase cost	Rs. 3.94 p.u.
3.	Excess of actual power purchase cost (1-2)	Rs. 0.29 p.u.
4.	Actual energy purchased for the consumption of the State consumers	13803.71 MU
5.	Additional financial burden on the Petitioner (3 x 4)	Rs. 400.31 Crore
6.	Recovery of power purchase cost through FCA	Rs. 145.77 Crore
7.	Net financial impact on the Petitioner (5-6)	Rs. 254.54 Crore

1.10 UPCL submitted that the difference of approved and actual power purchase cost is allowed by the Commission to be recovered during truing-up exercise which is done after two years from the year for which ARR and Tariffs have been approved and the truing-up of expenses and revenues for FY 2018-19 will be done by the Commission on the basis of Audited Annual Accounts along with ARR and Tariff Petition for FY 2020-21. UPCL submitted that because of very high difference of approved and actual power purchase cost for FY 2018-19, and disallowances of expenses by the Commission, the Petitioner is facing difficulty to make the payments of its regular power purchase bills and even to meet its day to day cash expenses and its power purchase liabilities as on 31.03.2019 have reached to Rs. 3049.60 Crore as per details given below:

- UJVNL : Rs. 175.19 Crore
- PTCUL : Rs. 53.31 Crore
- GoU for Royalty Power : Rs. 1104.02 Crore
- GoU for Water Tax : Rs. 211.83 Crore
- GoU for Cess and Royalty : Rs. 347.74 Crore
- Others : Rs. 1157.51 Crore

The Petitioner submitted that it has become utmost necessary to recover the differential of approved and actual power purchase cost for FY 2018-19 during the current year, i.e. FY 2019-20, as this being an extra–ordinary situation, the same is permitted under Section 62(4) of the Electricity Act, 2003 wherein it is provided that no tariff may ordinarily be amended more frequently than once in any Financial Year. The Petitioner submitted that as the difference of power purchase cost for FY 2018-19 is very high which is an extra ordinary situation thereby leading severe cash crunch, the recovery of the same needs to be made during FY 2019-20 by amending the tariff as approved by the Commission for FY 2019-20, and this is also permitted under Regulation 103 of the UERC Tariff Regulations as follows:

- Sub Regulation 1 empowers the Commission to issue such orders as are necessary to meet the ends of justice;
- Sub Regulation 2 empowers the Commission to adopt a procedure which is at variance with any of the provisions of these Regulations ; and
- Sub Regulation 3 empowers the Commission to exercise any power under the Electricity Act, 2003 for which no Regulations have been framed.

1.11 The Petitioner submitted that recovery of power purchase cost pertaining to FY 2018-19 for which no tariff has been allowed by the Commission (Rs. 254.54 Crore) needs to be recovered as soon as possible and the Petitioner proposes the recovery of the same during the current year, i.e FY 2019-20. UPCL submitted that the Commission in Tariff Order of FY 2019-20 has allowed tariff revenue amounting to Rs. 6592.52 Crore, and, accordingly, the required tariff hike in existing tariff shall be as follows:

Rs. 254.54 Cr. / Rs. 6592.52 Cr. x 100 = 3.86% (w.e.f. 01-04-2019);

or

3.86% / 7 x 12 = 6.62% (w.e.f. 01-09-2019)

1.12 The Petitioner submitted that because of very high difference in approved and actual power purchase cost for FY 2018-19, and disallowances of expenses made by the Commission, the cash flow of UPCL has been disturbed resulting into the following:

- The power purchase liabilities of UPCL have reached to Rs. 3049.60 Cr.;

- The accumulated losses of UPCL as on 31.03.2019 have reached to Rs. 3263.88 Cr.;
- UPCL is facing difficulty in paying its regular power purchase bills and even to meet its day to day cash expenses; and
- In case the above claim is not allowed to UPCL, it will not be in a position to clear the power purchase liabilities which may affect the quality of supply of electricity to the State consumers for which UPCL will not be held responsible.

1.13 Further, the Petitioner vide its letter dated 04.10.2019 submitted before the Commission that the earlier claim for recovery of excess power purchase cost was submitted by UPCL on the basis of the provisional Annual Accounts for FY 2018-19. UPCL submitted that the Annual Accounts for FY 2018-19 have been finalized and audited and on the basis of the audited Accounts, the earlier claim of Rs. 254.54 Crore has been revised to Rs. 295.95 Crore as detailed below:

S. No.	Particulars	Value
1.	Power Purchase Cost including the transmission charges in respect of 400 kV Srinagar Substation for FY 2016-17, 2017-18 & 2018-19	Rs. 6076.59 Crore
2.	Sale of Power outside the State	Rs. 138.37 Crore
3.	Power Purchase Cost for State consumption (1-2)	Rs. 5938.22 Crore
4.	Transmission charges in respect of 400 kV Srinagar Substation for FY 2016-17 & 2017-18 allowed by UERC in the ARR for FY 2019-20	Rs. 62.90 Crore
5.	Power Purchase Cost for State consumption as reduced by the transmission charges in respect of 400 kV substation for FY 2016-17 & 2017-18 (3-4)	Rs. 5875.32 Crore
6.	Input Energy at distribution periphery	13803.71 MU
7.	Actual power purchase cost (5/6)	Rs. 4.26 p.u.
8.	Approved power purchase cost	Rs. 3.94 p.u.
9.	Excess of actual power purchase cost (7-8)	Rs. 0.32 p.u.
10	Additional financial burden on the Petitioner (6x9)	Rs. 441.72 Crore
11.	Recovery of power purchase cost through FCA	Rs. 145.77 Crore
12.	Net financial impact on the Petitioner (10-11)	Rs. 295.95 Crore

UPCL, accordingly, revised the required tariff hike in existing tariff as under:

Rs. 295.95 Cr. / Rs. 6592.52 Cr. x 100 = 4.49% (w.e.f. 01-04-2019);

or

4.49% / 6 x 12 = 8.98% (w.e.f. 01-10-2019)

1.14 The Commission in order to provide transparency to the process of tariff determination 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 (Notice related to Petition seeking approval for recovery of excess power purchase cost incurred in FY 2018-19)
1.	Amar Ujala	17.09.2019
2.	Dainik Jagran	17.09.2019
3.	Hindustan Times	17.09.2019
4.	The Times of India	18.09.2019
5.	The Hindustan Times	18.09.2019
6.	Indian Express	18.09.2019

Through above notice, the stakeholders were requested to submit their objections /suggestions/comments latest by 14.10.2019 on the Petition filed by UPCL (copy of the notice is enclosed as Annexure I). The Commission received in all 32 objections/ suggestions/comments in writing on the Petition filed by UPCL.

1.15 The Commission also held a public hearing in the matter on 15.10.2019.

1.16 The issues raised by the Petitioner in the Petition as well as in the additional submissions, comments of the Stakeholders and Petitioner's response on the same, 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 has received suggestions and objections on UPCL's Petition for approval of recovery of power purchase cost incurred in excess of the approved power purchase cost for FY 2018-19. The Commission also held a public hearing in the matter on 15.10.2019. The Commission also obtained responses from UPCL on the comments received from the stakeholders.

Since, several issues are common and have been raised by more than one Respondent, all suggestions/responses/comments have been clubbed issue-wise and summarized below.

2.1 General

2.1.1 Stakeholder's Comments

Shri Ankit Kumar Prajapati submitted that increasing the rates of electricity multiple times in a year is not justified. Shri Prajapati also submitted that the consumers are facing problems related to quality and quantity of supply and no corrective actions is being taken by the officials of UPCL, and in such a situation increasing the Tariff rates is not justifiable.

Shri Aman Raj, Shri Bhagwat Singh, Shri Amit Kurmanchali, Shri D.P. Mishra, Dr. Sachin Garg, Shri Lalit Joshi, Shri Nitin Sharma, Shri Prakash Chandra Joshi, Dr. Pramod Kumar, Shri Pritam Saini, Shri Shahnawaz Mirza, Shri Vinay Gupta, Smt. Shakuntla Singh, Shri Pankaj Satija, Shri Deepak Batra, Shri Mohit Singh Kulyal, Shri C.M. Pandey, Shri Shakeel A. Siddiqui, Vice President, Kashi Vishwanath, and M/s Digital Solutions opposed the proposed increase in Tariff rates and pointed out that systems of UPCL do not work efficiently and UPCL should decrease electricity theft by using prepaid meters or other methods to curb the losses. Shri Nitin Sharma also suggested for charging the electricity bills on monthly basis by UPCL. Dr. Pramod Kumar also pointed out that UPCL is not providing Earth wire from their distribution transformers to the consumer's meter, and rather withdrawing the same from old connections where it already existed. Smt. Shakuntala Singh also submitted that recovery for theft of electricity should be made at double the rates of tariff, and practice of providing free electricity to the departmental employees should be stopped. Shri C.M. Pandey also submitted that UPCL should improve its systems, reduce its line losses, strengthen its recovery mechanism, and should stop giving concessions.

Shri Anil Pargain submitted that it is highly shameful that every time UPCL in order to balance its loss increases the burden on the consumers by raising the electricity prices per unit. Shri Pargain submitted that UPCL suffers losses due to their inefficiency, and in turn they increase electricity prices to recover it from the consumers, therefore, the proposal for Tariff hike should not be accepted.

Col. Baleshwar Nath Sharma submitted that UPCL keeps increasing tariff every now and then to cover up their losses, and suggested that UPCL should reduce the line losses.

Shri C.S. Joshi opposed the proposed hike in electricity charges and submitted that actual rate of electricity should be charged from the officers and employees of the electricity department.

Shri Kishan Gopal Behl from All India Consumers Council and Sanyukta Nagrik Sangathan Uttarakhand opposed the proposed increase in electricity tariff by UPCL. Shri Behl submitted that there are number of constituents which are projected by UPCL on the basis of which the increase is demanded and if all those factors are taken into consideration and got implemented the rates of electricity should come down rather than going up. These factors include:

(i) Pending recoveries of electricity supplied to various departments and individuals that are under process in the courts, but can be realized by withdrawing those cases and settling with the concerned bodies. These mostly show increased rate of interest rather than the actual expenditure incurred on supply of electricity. The amount spent on pleading of those cases in courts will also come down considerably.

(ii) The rate of loss of electricity in transmission which is quite high can be reduced.

(iii) There is lot of unmetered electricity supplied which is again loss to the UPCL.

(iv) There is lot of theft of electricity which needs to be plugged and the culprits to be punished for which more raids need to be conducted by the vigilance section of the department.

Shri Behl further submitted that electricity in the State is being produced at a very low rate but domestic consumers are being charged at a much higher rate, and to tax the consumers by increasing the rates further by 6.62% is on a higher side and should not be allowed by UERC. Shri Behl further submitted that UPCL should plan their power purchase requirements well ahead and should aim to get electricity at cheaper rates.

Shri Ranjeet Singh Bisht submitted that the commercial rate is about Rs. 7.57 per unit which is costly to the small entrepreneur which is against the policy of migration. Shri Bisht submitted that UPCL should reduce administrative expenditure because works are in the hands of contractual staff, if it is necessary to increase the cost of bills the State Govt. should subsidise the cost of consumer bills including fixed charges as has been done by Delhi Govt. for domestic bills.

Shri Rajendra Prasad submitted that electricity is being stolen abundantly by many people including religious places for which the honest consumers are likely to be charged in near future, and UPCL should perform raid operation to identify such connections for necessary corrective action.

Shri S.K. Awasthi submitted that UPCL is trying to cover the losses incurred by them because of their administrative failures. Shri Awasthi submitted that UPCL is not able to control their line losses, which is due to uncontrolled employees of UPCL. The employees of UPCL are enjoying free consumption of electricity, and in some cases even without meter. Shri Awasthi further submitted that the employees of UPCL are also involved in providing electricity to others from their connection against monetary consideration.

Shri Shiv Narayan Baloni, General Secretary, Nehru Colony Resident Welfare Society, Dehradun, submitted that an average Tariff hike of 3.47% was allowed by the Commission effective from April, 2019 to UPCL. Further FCA was also allowed to UPCL on quarterly basis, hence, the proposed tariff hike of 6.62% is opposed and should not be allowed.

Shri Ashok Bansal, President, Kumaun Gahwal Chamber of Commerce and Industry, M/s BST Textile Mills Pvt. Ltd., Shri Suresh Kumar, President, Sitarganj Sidcul Industries Welfare Association and Shri Achal Sharma, President, East West Products Ltd., submitted that the proposal of UPCL for Tariff hike in the middle of the year is not justified. It was further submitted that the difference of approved and actual power purchase cost is allowed to be recovered during truing-up exercise on the basis of audited annual accounts, and there is no ground for deviation from the said practice. It was further submitted that the Petition filed by UPCL does not qualify to be covered under Section 62(4) of the Electricity Act, 2003, and the power purchase cost of UPCL has increased due to non achievement of the targets of reduction in distribution losses, the inefficiency on account of which cannot be rewarded.

2.1.2 Petitioner's Reply

The Petitioner submitted that it is a commercial organization and is required to meet its Annual Revenue Requirement out of the revenue realized from the consumers through electricity tariffs. UPCL submitted that against the proposed tariff hike of 13.71% for FY

2019-20, the Commission approved only 3.47% increase in tariff. UPCL submitted that for FY 2019-20, they had claimed the costs other than power purchase cost amounting to Rs. 979.29 Crore against which the Commission approved only Rs. 677.87 Crore. Further, the Commission also reduced the ARR for FY 2019-20 by an amount of Rs. 305.31 Crore towards the surplus allowed by the Commission in the past years. UPCL also submitted that they had also filed a review petition against the Tariff Order dated 27.02.2019 before the Commission for an additional claim of Rs. 440.11 Crore which is under consideration of the Commission.

The Petitioner further submitted that against the approved power purchase cost of Rs. 3.94 per unit, the actual power purchase cost for FY 2018-19 as per Audited Annual Accounts is Rs. 4.26 per unit, and the revised net financial impact of this excess power purchase cost after considering the FCA allowed by the Commission for FY 2018-19 is Rs. 295.95 Crore. UPCL submitted that the true-up of expenses and revenue for FY 2018-19 shall be done based on the audited annual accounts alongwith the ARR and Tariff Petition for FY 2020-21, and since the difference between approved and actual power purchase cost for FY 2018-19 and disallowances of expenses by the Commission was very high, UPCL is facing difficulty in making the payment of its regular power purchase bills and even in meeting its day to day cash expenses, and, therefore, it has become utmost necessary to recover the differential of approved and actual power purchase cost for FY 2018-19 during the current year, i.e. in FY 2019-20 itself. UPCL submitted that this being an extraordinary situation, is permitted under Section 62(4) of the Electricity Act, 2003 wherein it is provided that no tariff may ordinarily be amended more frequently than once in any Financial Year.

The Petitioner in respect of objections regarding quantity and quality of supply submitted that on an average 23 and half hours electricity is being supplied during the day across the State.

The Petitioner with respect to objections regarding the provisioning of free electricity to the departmental employees submitted that the employees of UPCL are being given the facility of departmental electricity connection since U.P. State Electricity Board was in existence, and under this facility, a fixed lump-sum amount is charged from the employees according to their designation towards electricity charges for electricity supplied to them. UPCL submitted that erstwhile UPSEB was unbundled under the provisions of Uttar Pradesh Electricity Reforms Act, 1999 and Section 23(7) of the said Act provides that "terms and conditions of service of the personnel shall not be less favorable to the terms and condition which were applicable to them before the transfer", and the same spirit has been echoed under first proviso of section 133(2) of the Electricity Act, 2003. UPCL submitted that, the benefits for employees/pensioners as provided in Section 12(b)(ii) of the Uttar Pradesh Reform Transfer Scheme, 2000 includes "concessional rate of electricity", which means concession in rate of electricity to the extent it is not inferior to what was existing before 14th January, 2000, and the rates and charges indicated above for this category are strictly in adherence of the above statutory provisions. UPCL also submitted that as per the existing orders, all the three Corporations, namely UPCL, PTCUL and UJVNL have to bear the burden of the electricity concession provided by them to their own employees/pensioners and the Commission is not passing the same to the consumers.

With respect to the recovery of fixed charges, the stakeholders had submitted that there should not be recovery of fixed charge from those consumers who are consuming plenty of units every month, rather, if necessary, it should be levied on those consumers who are not consuming electricity in a particular period.

The Petitioner with respect to fixed charges based on consumption in domestic category, submitted that the Commission vide its order dated 11.04.2015 had introduced fixed charges for domestic consumers based on consumption, and the same was done considering the comments of all the stakeholders during the public hearings. The Petitioner submitted that earlier fixed charges were based on contracted load, however, the consumption based fixed charges are more reflective of costs incurred to supply electricity to the consumers and also reduces cross subsidy available to the consumers of this category who have higher consumption as they are affluent consumers and should be paying proportionately higher cost of electricity supplied to them.

The stakeholder's also submitted that it has been noticed that Urja Nigam is not providing earth wire from their distributing transformer to the consumers meter, rather is withdrawing the same where it already existed.

In this regard, UPCL submitted that the electricity connections are being issued to the consumers as per the provisions of the Regulations issued in the matter, and in case of any grievance in the matter, the Executive Engineer of the concerned distribution division may be contacted. Further, the complaint may be filed before the Consumer Grievance Redressal Forum constituted by UPCL under Section 42(5) of the Electricity Act, 2003.

With regard to imposition of FCA, UPCL submitted that Section 62(4) of the Electricity Act, 2003 and Regulation 83 of UERC Tariff Regulations, 2018 mandates the imposition of Fuel Charge Adjustment for recovery of additional power purchase cost over and above the approved power purchase cost, and accordingly, FCA is being charged by the Petitioner only when the actual power purchase cost in any quarter is more than the approved/considered power purchase cost for that quarter in the Tariff Order.

The Petitioner with respect to improvement in systems and reduction of distribution losses submitted that the vigilance raids are being conducted and cases are being registered under Sections 126 and 135 of Electricity Act, 2003. Further, mechanical meters are being replaced by electronic meters, and defective meters are also being replaced. UPCL submitted that LT ABC cables are being laid in theft prone areas to curb the same. Further, android based billing has been introduced for improvement in billing efficiency, and automatic meter reading is being done of high value consumers. UPCL submitted that on account of above measures the following reduction in distribution losses has been achieved:

Year	Distribution Loss	Reduction in distribution loss
2013-14	19.18%	1.32%
2014-15	18.53%	0.65%
2015-16	18.01%	0.53%
2016-17	16.68%	1.32%
2017-18	15.17%	1.51%
2018-19	14.32%	0.85%

The Petitioner submitted that each 1% reduction in distribution losses results in savings of around Rs. 70 Crore which is passed on to the consumers resulting in reduction of their electricity tariff.

UPCL, with respect to implementation of system of monthly billing, submitted that earlier the billing of domestic consumers other than single point bulk supply consumers was being done on bi-monthly basis and the billing of single point bulk supply consumers on monthly basis. UPCL in first phase vide its O.M No. 2658/UPCL /RM/L-20, dated 20-08-2019 ordered to convert the billing of domestic consumers in plain areas having load above 4 kW from bi-monthly basis to monthly basis from October, 2019, and the matter of conversion of bi-monthly billing to monthly billing of all the remaining domestic consumers is under consideration and shall be done in due course of time.

The Petitioner, in response to the comment that the commercial rate is about Rs. 7.57 per unit, submitted that the average effective tariff of non domestic (RTS-2) category has been computed at the rate of Rs. 6.10 per unit by the Commission in its Tariff Order dated 27.02.2019 for FY 2019-20. Further, with respect to the provision of subsidy on the consumer bills by the State Government, UPCL submitted that in case State Government wants to give any concession to any category, it may give direct subsidy to that category as provided under Section 65 of the Electricity Act, 2003.

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

3.1 Section 62 (4) of the Electricity Act, 2003 stipulates as follows:

"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."

3.2 Regulation 12 of UERC MYT Regulations, 2018 specifies as under:

"12. Annual Performance Review

…

(3) The scope of the Annual Performance Review shall be a comparison of the actual performance of the Applicant with the approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges and shall comprise of following:

a) A comparison of the audited performance of the applicant for the previous financial year with the approved forecast for such previous financial year and truing up of expenses and revenue subject to prudence check including pass through of impact of uncontrollable factors;

b) Categorisation of variations in performance with reference to approved forecast into factors *within the control of the applicant (controllable factors) and those caused by factors beyond the control of the applicant (un-controllable factors).*

c) *Revision of estimates for the current and/or ensuing financial year, if required, based on audited financial results for the previous financial year;*

d) *Computation of the sharing of gains and losses on account of controllable factors for the previous year."*

3.3 Further Regulation 15 (2) of UERC MYT Regulations, 2018 specifies as under:

"15. Periodicity of Tariff determination

(1) The Commission shall determine the tariff/charges, of a Generating Company/ Transmission Licensee/Distribution Licensees/SLDC covered under a multi-year tariff framework for each financial year during the Control Period, having regard to the following:

a) The MYT principles specified under these Regulations; and

b) The approved forecast of Aggregate Revenue Requirement and expected revenue from tariff and charges for such financial year, including approved modifications to such forecast; and

c) Impact of truing up for previous financial year and performance review for the current financial year; and

d) Approved gains and losses to be allowed as pass through in tariffs,

(2) The tariff and charges for recovery of ARR for a Transmission Licensee or a Distribution Licensee or a Generating Company or SLDC shall ordinarily be determined not more than once in a year, except in respect of any changes expressly permitted under the terms of fuel surcharge formula as may be specified under these Regulations on account of fuel cost and power purchase cost."

3.4 The Petitioner has filed the current Petition seeking approval for recovery of power purchase cost incurred in excess of the power purchase cost approved by the Commission in the Tariff Order for FY 2018-19 dated 21.03.2018. The Petitioner submitted that the difference in power purchase cost for FY 2018-19 is very high which is an extraordinary situation, thus leading to severe cash crunch, therefore, the recovery of the same needs to be made during FY 2019-20 by amending the tariff as approved by the Commission for FY 2019-20.

3.5 The Petitioner based on the audited financial statements for FY 2018-19, claimed an amount of Rs. 295.95 Crore towards recovery of power purchase cost incurred by the Petitioner for FY 2018-19 in excess of the power purchase cost approved by the Commission vide order dated 21.03.2018.

3.6 In this regard, before going into the merits of the Petition, it is to be seen that whether the claims of UPCL for recovery of excess power purchase cost can be allowed under the relevant provisions of the Electricity Act, 2003 and the applicable Tariff Regulations. From a plain reading of Section 62(4) of the Electricity Act, 2003 and Regulation 15(2) of the UERC MYT Regulations, 2018, it can be understood that the Tariff once determined for a financial year cannot be ordinarily amended except in respect of any charges expressly permitted under the terms of any fuel surcharge formula as may be specified.

3.7 In the present case, the truing up proceedings for FY 2018-19 is likely to commence from the month of December, 2019 alongwith ARR and tariff determination for FY 2020-21. Regulation 12(3)(a) of the UERC MYT Regulations, 2018 states that the scope of Annual Performance Review, to be taken up alongwith ARR/tariff determination of ensuing financial year, shall be a comparison of the audited performance of the applicant for the previous financial year with the approved forecast for such previous financial year and truing up of expenses and revenue subject to prudence check including pass through of impact of uncontrollable factors. Thus, in normal parlance, truing up of previous year is done based on audited financial statements, alongwith the ARR/Tariff determination of the ensuing year.

3.8 In this regard, after analyzing the submissions of the Petitioner and comments of the stakeholders, the Commission observed that the claims for recovery of excess power purchase cost for FY 2018-19 made by UPCL would tantamount to truing up exercise of the power purchase cost for FY 2018-19, which would result in exclusive examination/ scrutiny of only a single components out of the overall cost elements of ARR for carrying out the truing up of FY 2018-19 at this stage without taking any holistic view of the entire true-up exercise as per the MYT Regulations. It would also be pertinent to mention here that the power purchase cost being most vital and exhaustive element of the ARR of distribution licensee, the analysis of the same would involve analysis and validation of large amount of data including scrutiny of bills, allocations criterion etc., which at this stage is not possible as the Tariff proceedings are due to start by the end of next month itself. Moreover, this exercise itself would take sufficient amount of time and the same is bound to merge with the proposed tariff proceedings by all means.

3.9 With regard to the submission of the Petitioner that an extraordinary situation has arisen in FY 2019-20 due to the difference in approved and actual power purchase cost for FY 2018-19, it is understood that the power purchase expenses comprises of about 80%-85% of the total ARR of the distribution licensee and variations between actual vs. approved expenses occur due to change in mix of power procured, change in variable costs of thermal generating stations, variation in water discharge for hydro stations etc. and accordingly, the Commission allows the actual power purchase costs incurred based on the audited accounts while carrying out the truing up for the respective year after due prudence check.

3.10 The Commission after analyzing the submissions of the Petitioner and the stakeholders is of the view that a thorough analysis of the claims of UPCL is not possible at this stage due to reasons discussed above. However, an interim relief can be provided to UPCL considering the exigencies of the situation and also to ensure delivery of reliable and quality power to the consumers by the licensee. Hence, the Commission exercising its powers under Regulation 103 of UERC MYT Regulations, 2018 whereby the Commission has powers to make such orders as may be necessary to meet the ends of justice. Accordingly, the Commission allows interim relief only to the extent of truing of power purchase costs and some elements of its revenues (namely on account of revenue through FCA recovery and revenue realised from inter State sales) as proposed by the Petitioner. Notwithstanding the above decision of the Commission, the distribution licensee remains bound by the provisions of the MYT Regulations to file APR Petition by 30th November, 2019.

3.11 The only relaxation being allowed to UPCL is the interim truing up of power purchase costs and some elements of its revenues based on the audited accounts, therefore, in the instant case, the Commission allows the recovery of Rs. 295.95 Crore to UPCL in the form of increased Tariff w.e.f. 01.10.2019. The said amount shall be charged in the energy bills of the consumers under a separate head of Additional Energy Charge (AEC), and shall remain effective till 31.03.2020. The rate of energy charge to be levied on different category of consumers shall be as per the rates given at Annexure 1 to this Order.

3.12 The amount of AEC of Rs. 295.95 Crore as allowed by the Commission through this Order, to be recovered from consumers of the State during the period 01.10.2019 to 31.03.2020, shall be adjusted at the time of truing up proceedings of FY 2018-19 and will not be allowed again so as to avoid double loading of these costs on to the consumers. UPCL is directed to take note of the same and file its truing up Petition for FY 2018-19 accordingly.

3.13 The Commission would like to categorically state that the interim relief being allowed under this Order is a one-off relief being allowed to UPCL considering its precarious financial conditions and should not be construed as a precedent in future proceedings. UPCL is directed to prepare a road map for improving its collection efficiencies from the consumers and also for managing its financial performances as well as efficient planning of its power purchase expenses so as to avoid repetition of such contingencies in future and submit the same alongwith the tariff Petition for the ensuing FY 2020-21. It should also be remembered that any inefficiencies on the part of UPCL shall not be allowed to be pass through in the tariffs.

3.14 Ordered Accordingly.

(M.K. Jain) **Member (Technical)**	**(D.P. Gairola)** **Member (Law)**

Approved Rate of AEC to be charged during last two Quarter of FY 2019-20 (i.e. October, 2019 to March, 2020)

S.No	Category	Rate of AEC
1	**Domestic (RTS-1)**	
1.1	*Lifeline Consumers*	Rs. 0.22/ kWh
1.2	*Consumers (Metered)*	Rs. 0.39/ kWh
2	**Non Domestic (RTS-2)**	Rs. 0.56/kWh & Rs. 0.53/kVAh
3	**Govt. Public Utilities (RTS-3)**	Rs. 0.47/ kVAh
4	**PTW (RTS-4)**	Rs. 0.18/ kWh
5	**Industry (RTS-5)**	
5.1	*LT Industries*	Rs. 0.53/kWh & Rs. 0.50/kVAh
5.2	*HT Industries*	Rs. 0.50/ kVAh
6	**Mixed Load (RTS-6)**	Rs. 0.49/ kWh
7	**Railway Traction (RTS-7)**	Rs. 0.49/ kVAh
8	**Temporary Supply for other purposes**	Corresponding AEC in appropriate schedule plus 25 %

Annexure- I

UTTARAKHAND POWER CORPORATION LIMITED

(A Government of Uttarakhand Undertaking) Corporate Identity No. U40109UR2001SGC025867/2358
Victoria Cross Vijeta Gabar Singh Urja Bhawan, Kanwali Road, Dehradun
Telephone No. 0135-2762444, Fax No. 0135-2763839, E-mail ID: cecommercialupcl@gmail.com

PUBLIC NOTICE

Inviting Comments on the Petition seeking approval for recovery of power purchase cost incurred in excess of the approved power purchase cost for FY 2018-19 filed by Uttarakhand Power Corporation Limited (UPCL) before the Uttarakhand Electricity Regulatory Commission

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 recovery of power purchase cost incurred in excess of the power purchase cost approved by the Commission for FY 2018-19.
2. Through the above Petition, UPCL has made an additional claim of ARR amounting to Rs. 254.54 Crore to be recovered during FY 2019-20 as summarized below.

S. No.	Particulars of claim	Value
1	Actual Power Purchase Cost	Rs. 4.23 p.u.
2	Approved Power Purchase Cost	Rs. 3.94 p.u.
3	Excess of actual Power Purchase Cost (1-2)	Rs. 0.29 p.u.
4	Actual energy purchased for the consumption of the State Consumers	13803.71 MU
5	Additional financial burden on the Petitioner (3x4)	Rs. 400.31 Crore
6	Recovery of power purchase cost through FCA	Rs. 145.77 Crore
7	Net financial impact on the Petitioner (5-6)	Rs. 254.54 Crore

3. UPCL has submitted that the truing-up of expenses and revenue for FY 2018-19 will be done by the Commission on the basis of audited annual accounts along with ARR and Tariff Petition for FY 2020-21, i.e. almost 2 years from the year for which ARR and Tariffs have been approved, and being very high difference of approved and actual power purchase cost for FY 2018-19 and disallowances of expenses made by the Commission, the petitioner is facing difficulty to make the payment of its regular power purchase bills and even to meet its day to day cash expenses.
4. UPCL has proposed to recover the excess power purchase cost of Rs. 254.54 Crore through 3.86% hike in existing tariff w.e.f. 01.04.2019 or 6.62% hike in existing tariff w.e.f. 01.09.2019, and allow the recovery of the same by imposing "power purchase surcharge" on per unit basis.
5. Responses/suggestions, if any, are sought from consumers and other stakeholders on 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 email to **secy.uerc@gov.in** by **14.10.2019**.
6. The Commission has also decided to hold a public hearing in the matter on **15.10.2019 at 11.00 AM** in the Commission's office. 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.
7. 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 Zone, UPCL, 33KV Sub-Station, Sector-2, SIDCUL, Pantnagar, Rudrapur-263153. Relevant extracts can also be obtained from the above mentioned offices of the Petitioner. Relevant extracts can also be obtained from the above mentioned offices of the Petitioner.
8. The Petition is also available at the website of the Commission (**www.uerc.gov.in**) and at the Petitioner's website (**www.upcl.org**).

No.: 492/1/EE(CM)/UPCL/A-2 Dt. 16.09.2019

(B.C.K. Mishra)
Managing Director