

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 25 of 2017

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Petition No. 29 of 2017

In the matter of:

Petition for review of the Commission's Order dated 29.03.2017 on True up for FY 2015-16, Annual Performance Review for FY 2016-17 and Annual Revenue Requirement for FY 2017-18.

In the matter of:

Uttarakhand Power Corporation Ltd.

...Petitioner

Coram

Shri Subhash Kumar

Chairman

Date of Order: August 03, 2017

These Petitions were filed by Uttarakhand Power Corporation Ltd. (herein after referred to as "UPCL") for review of Commission's Order dated 29.03.2017 on True up of FY 2015-16, APR for 2016-17 and ARR for FY 2017-18 under Section 94(1)(f) of the Electricity Act, 2003 (herein after referred to as "Act"), Regulation 54(1) of the Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014 (herein after referred to as "UERC CBR") and under Section 114 and Order XLVII of the Code of Civil Procedure 1908.

1 Background

- 1.1** The Commission had notified Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2015 (hereinafter referred to as "UERC Tariff Regulations, 2015") for the second Control Period from FY 2016-17 to FY 2018-19 specifying therein terms, conditions and norms of operation for licensees, generating companies and SLDC. The Commission had issued the Multi Year Tariff (MYT) Order dated April 5, 2016 for the Control Period FY 2016-17 to FY 2018-19. In accordance with the provisions of the UERC Tariff Regulations, 2015, the Commission had carried out Annual Performance Review for FY 2016-17 vide its Order dated 29.03.2017.
- 1.2** The Petitioner filed a Review Petition on 09.05.2017 on the grounds that there were certain errors

apparent in the conclusions drawn on certain issues by the Commission in its Tariff Order dated 29.03.2017.

- 1.3 Further, the Petitioner again filed a Petition on 16.06.2017, with reference to and in continuation to its earlier Review Petition dated 09.05.2017, bringing in additional grounds before the Commission for review of the Tariff Order dated 29.03.2017.
- 1.4 The Review Petition was admitted by the Commission on 23.05.2017 and to provide transparency to the process of tariff determination and give all stakeholders an opportunity to submit their objections/suggestions/comments on the proposals of the Distribution Licensee, the Commission also 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 1.1: Publication of Notice

S.No.	Newspaper Name	Date of Publication (Notice related to Review Petition dated 09.05.2017)	Date of Publication (Notice related to additional Petition filed)
1.	Amar Ujala	26.05.2017	25.06.2017
2.	Dainik Jagran	26.05.2017	25.06.2017
3.	Hindustan	26.05.2017	25.06.2017
4.	Rashtriya Sahara	26.05.2017	25.06.2017
5.	Times of India	27.05.2017	26.06.2017
6.	Hindustan Times	27.05.2017	26.06.2017

Through above notice, the stakeholders were requested to submit their objections/suggestions/comments latest by 22.06.2017 & 10.07.2017 respectively on the Review Petition filed on 09.05.2017 and additional Petition for review dated 16.06.2017 (copy of the notices are enclosed as **Annexure II**). The Commission received in all 4 objections/suggestions/comments in writing on the Review Petitions filed by UPCL.

- 1.5 The issues raised by the Petitioner in the Petition as well as in the additional submissions made, comments of the Stakeholders and Petitioners 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 Review of Tariff Order dated 29.03.2017 on True-up for FY 2015-16, Annual Performance Review of FY 2016-17 and Determination of Annual Revenue Requirement for FY 2017-18. 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

M/s Asahi India Glass Ltd. submitted that this is the first time that UPCL is objecting to the final order passed by the Commission in finalizing the rates and second petition on the same is filed before the Commission in the same year. It was further submitted that, UPCL was making tough arguments to make their points authentic, and it seems that they lack proper management to capitalize and utilize available resources to meet their price escalation.

Shri Shakeel A. Siddiqui from, M/s Kashi Vishwanath Textile Mill (P) Limited submitted that low cost electricity is available still UPCL is projecting higher cost of power purchase. It was further submitted that CERC in its Tariff Regulations, 2014 changed the methodology for determining the energy charges with GCV of coal to be considered on "as receipt basis" instead of "fixed basis". CERC in its Order dated 25.01.2016 in Petition 283/GT/2014 decided the issue. In light of the judgment, the variable cost was likely to reduce by 25-30%. It is to be seen whether such reduction in cost has taken while assessing the power purchase cost. Also, the solar energy prices have become lower than the price of thermal and nuclear energy, whether such downfall in prices has been considered in calculation of tariff. The prices have been as low as 2.62/unit and Rs. 2.44/unit in Bhadla Solar Park, Rajasthan. It was further submitted that if UPCL manages its commercial operations efficiently and judiciously allocating the responsibilities there is no need of hike in the ARR as proposed by UPCL.

2.1.2 Petitioner's Reply

In this regard, the Petitioner submitted that, they observed various errors / mistakes in the Tariff Order and for removal of these errors, the review petition was filed by them before the Commission, under the right given to it under Section 94(1)(f) of the Electricity Act, 2003 and order XLVII (1) of the Code of Civil Procedure 1908.

The Petitioner also submitted that no projection of power purchase cost has been made in the review petition except the expenditure to be incurred in FY 2017-18 to meet the RE deficit. A minimum rate of Rs. 1/unit of renewable energy certificate has been estimated for this. Thus, there is no projection of higher cost of power purchase in the review petition.

2.2 Power Purchase Cost for FY 2015-16

2.2.1 Stakeholder's Comments

M/s Asahi India Glass Ltd., Roorkee submitted that the the cost of net inward banking of Rs. 50.88 Crore was reflected in Annual audited account and since this cost was not claimed in ARR petition previously, hence claiming the cost now is not justified as UPCL lists all cost while framing new tariffs.

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that the Commission vide its Order dated 05.04.2016, had already disallowed the provision of 50.88 Crore for inward banking during FY 2015-16 giving specific reasons for inappropriate methodology followed by UPCL. It was further submitted that in line with the views of the Commission it would be a more prudent approach to consider return of energy banked in the year in which it is being returned instead of making provisioning of power purchase cost in the year in which energy has been received under banking arrangement and thus such rejection cannot be taken as an apparent error on the face of the record and needs to be summarily rejected.

Shri Shakeel A. Siddiqui from, M/s Kashi Vishwanath Textile Mill (P) Limited submitted that UPCL had made excess provisioning towards power purchase cost which were written back in subsequent years and the Commission in line with the practices followed does not allow such provisions, hence no such addition should be allowed to be made in the ARR of FY 2017-18.

2.2.2 Petitioner's Reply

In this regard, the Petitioner submitted that the approach of the Commission was to allow cost of energy in the year in which the said energy shall be returned in line with which the Petitioner claimed the cost of energy which was received through banking upto FY 2014-15 but returned in FY 2015-16 amounting to Rs. 299.37 Crore.

The Petitioner also submitted that they had procured energy through banking in FY 2015-16 amounting to Rs. 350.26 Crore but the cost of this energy was not claimed in the Petition for true up of FY 2015-16. A provision amounting to Rs. 350.26 Crore – Rs. 299.37 Crore = Rs. 50.88 Crore was reflected in the power purchases of the Annual Accounts for FY 2015-16 but this cost was not claimed in the petition as per the Commission's approach. However, the Commission wrongly reduced Rs. 50.88 Crore from the claim of the Petitioner.

2.3 NON-TARIFF INCOME - POWER PURCHASE REBATE FOR FY 2015-16

2.3.1 Stakeholder's Comments

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that the Commission considered the power purchase rebate of Rs. 45.69 Crore under non-tariff income against the UPCL's proposal of Rs. 28.77 Crore in the ARR for FY 2015-16. The Commission did not accept the contention of UPCL for proposed share of only upto 1% of the rebate earned on timely payment of power purchase bill and considered the total rebate earned as non tariff income giving reasons for the same, thus there is no error apparent on the face of the record and the said claim of the Petitioner is liable to be summarily rejected.

Shri Shakeel A. Siddiqui from, M/s Kashi Vishwanath Textile Mill (P) Limited submitted that addition on account of differential power purchase rebate for FY 2015-16 amounting to Rs. 16.92 Crore should not be allowed to be made in the ARR.

2.3.2 Petitioner's Reply

In this regard, the Petitioner submitted that the actual estimated period of credit sales (including consumption period) and credit purchases (including consumption period) is three months and two months respectively and, accordingly, the Commission while computing working capital allows credit sales for two months and credit purchases for one month, i.e. one month more for credit sales as compared to credit purchases.

The Petitioner also submitted that rebate earned against the payment of power purchases by availing credit period of one month after consumption month may be treated as Non-Tariff Income but the excess rebate earned for availing the period of credit less than one month belongs to the Petitioner and should not be treated as non-tariff income because the Petitioner bears the opportunity cost of this early payment.

The Petitioner also submitted that the Commission while truing-up the non tariff income for FY 2014-15 in its order dated 05-04-2016, accepted the claim of the Petitioner based on the above methodology but while truing up the non-tariff income for FY 2015-16 in the tariff order dated 29-03-2017 erred by considering the non-tariff income as Rs. 45.69 Crore in place of Rs. 28.77 Crore in view of which the claim of the Petitioner in the Review Petition be allowed.

2.4 Return on Equity for FY 2012-13 to 2015-16

2.4.1 Stakeholder's Comments

M/s Asahi India Glass Ltd., Roorkee submitted that the error claimed by UPCL in calculating opening and closing of equity and Return on equity @ 16% is not comprehensible. There needs

to be a specific audit of all these reports by external agency and same computation must be shared with the Commission to ascertain where the actual gap lies.

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that the Commission had judiciously computed the amount of equity investment in creation of capital assets and the calculation given by the Petitioner is not tenable as the same is not in accordance with the Commission's methodology.

Shri Shakeel A. Siddiqui from, M/s Kashi Vishwanath Textile Mill (P) Limited submitted that the Commission has very well briefed its stand and has been considering the means of finance as submitted by the Petitioner based on the audited accounts. UPCL is misguiding by revising its own submission without assigning any reasons for the same, hence no such addition should be allowed to be made in the ARR.

2.4.2 Petitioner's Reply

In this regard, the Petitioner submitted that the Commission for computation of equity invested in creation of capital assets, first considered the amount of loan and grants and thereafter 30% of the balance is considered as equity which is not correct. About 30% equity is invested in the assets financed through 70% REC Loan/ District and State Plan Loans. This is an apparent error on the face of the record and, therefore, the Petitioner claimed Rs. 32.93 Crore on this head in this review Petition.

2.5 Return on Equity for FY 2017-18

2.5.1 Stakeholder's Comments

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that Petitioner had claimed Return on Equity amounting to Rs. 20.41 Crores in addition to Rs. 50.54 Crores allowed by the Commission for FY 2017-18. The claim is based on additional equity calculated and claimed in the Review Petition and since the claim of additional equity has no merits, therefore, the calculation of additional return and its allowance in the guise of review is not warranted and is highly objected.

Shri Shakeel A. Siddiqui from, M/s Kashi Vishwanath Textile Mill (P) Limited submitted that for the reasons stated for not allowing the RoE for FY 2012-13 to FY 2015-16 no addition should be allowed in the ARR in respect of additional claim of RoE for FY 2017-18.

2.5.2 Petitioner's Reply

In this regard, the Petitioner submitted that the grounds for claiming this claim for additional RoE are based on the same grounds on which RoE for FY 2012-13 to FY 2015-16 was claimed.

2.6 Distribution Losses for FY 2015-16

2.6.1 Stakeholder's Comments

M/s Asahi India Glass Ltd., Roorkee submitted that under different clauses of the Petition, the Petitioner had stressed that they are comprehending GOI policies and directives from time to time. It was further submitted that all the losses incurred like AT&C losses, Distribution losses and vice versa must be equalized through various Govt. operated schemes from time to time. It was also suggested that as Ministry of Power (GOI) is rating the performance of power distribution utilities, hence, the focus must be on the utilization of existing resources to generate economies.

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that the Commission had framed a trajectory for reduction of distribution losses and the Petitioner could not perform and achieve the loss reduction trajectory fixed by the Commission on account of which the deemed revenue was considered by the Commission from FY 2003-04 to FY 2015-16 amounting to Rs. 1303.94 Crore. It was further submitted that the Petitioner has desired relaxation in distribution loss and target based on the improved grading given by the MoP, however, it will be detrimental to the overall interest of the consumers in the State.

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that UPCL in its Review Petition has claimed that the trajectory fixed by the Commission is unrealistic and not based on any study. UPCL has praised itself by mentioning that it is able to reduce the losses by 25.51% at an average of 2% p.a. even after which the Commission while determining the ARR and Tariffs of the petitioner company considered deemed revenue due to non-achievement of distribution loss trajectory fixed by them. The above information reveals that the UPCL has defeated the spirit of UERC as well as Electricity Act, 2003 whose objectives are efficient use of resources and reduction of distribution losses. In the absence of voltage wise, category wise losses, HT consumers being 54% energy consumers of UPCL are being punished with 14.75% losses whereas in actual there is hardly 2% distribution loss in supplying energy by UPCL to HT consumers. UERC has already addressed the reasons for distribution loss still UPCL is unable to meet out the target and projections to reduce distribution losses year on year.

2.6.2 Petitioner's Reply

In this regard, the Petitioner submitted that the existing Distribution Loss Reduction Trajectory fixed by the Commission is unrealistic and the Petitioner has Rs. 1303.94 Crore on this account

for the period FY 2003-04 to FY 2015-16. The Petitioner participated in UDAY scheme of the GOI and has signed a Tripartite MoU wherein level of AT&C losses of the Petitioner Company was fixed. The Petitioner through its Review Petition has requested the Commission to consider the distribution losses as fixed through MoU under UDAY.

2.7 Distribution Losses for FY 2017-18

2.7.1 Stakeholder's Comments

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that as discussed before, the claim for revisiting the distribution loss reduction trajectory is not the issue of review or an error apparent in the order and the Commission may summarily reject the claim of the Petitioner for additional revenue of Rs. 17.12 Crore on account of revisiting of distribution loss trajectory and request for considering 15% distribution loss for FY 2017-18.

Shri Shakeel A. Siddiqui from, M/s Kashi Vishwanath Textile Mill (P) Limited submitted that for the reasons stated for not relaxing the distribution loss trajectory for FY 2015-16, no addition should be allowed in this regard against the claim made by the Petitioner for FY 2017-18.

2.7.2 Petitioner's Reply

In this regard, the Petitioner submitted that the grounds for claiming the revision in distribution loss trajectory are same as already submitted while claiming the amount on similar grounds for FY 2015-16.

2.8 Power Purchase Cost for FY 2017-18

2.8.1 Stakeholder's Comments

M/s Asahi India Glass Ltd., Roorkee submitted that Power purchase cost for FY 2017-18 has been reflected as deficit of procuring renewable energy as per the targets fixed by the Commission. As mentioned by the Petitioner, they are presently facing the financial crunch to meet all its necessary expenses by overdrawing money from bank. It was suggested by M/s Asahi India Glass Ltd. that UPCL must strengthen its own utilities to ascertain how the expenses can be controlled by efficient management of resources available and provide systematic comprehensive plan to meet the requirements of RPO and buy Renewable Energy certificates accordingly.

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that the Petitioner is having deficit procurement of 787.68 MU and 161.32 MU respectively for non-solar and solar procurement of renewal energy against the targets fixed by

the Commission for which the Petitioner through its current Review Petition has requested the Commission to allow and consider the cost of deficit RE power. Through its claim the Petitioner wants to burden the consumers of the State un-necessarily and no relaxation is warranted to the Petitioner in this matter.

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that UPCL has given the argument that they are availing its maximum limit of bank overdraft fixed at Rs. 463 Crore and hence facing difficulty to comply with the direction of the Commission to meet the RPO. The question is why UPCL has created deficit of previous years RPO obligation of 700 MU (non-solar) and 38.37 MU (solar) and why the same was not met in the years in which they were incurred, also the period since the same are pending has not also been mentioned. The financial burden on consumers cannot be extended without any strong financial ground for the same, hence no such addition should be allowed to be made in the ARR.

2.8.2 Petitioner's Reply

In this regard, the Petitioner submitted that the Commission in exercise of powers vested in it under Section 86(1)(e) of the Act had fixed the renewable power purchase targets for the Petitioner by issuing UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013. In the absence of availability of RE Power, the Petitioner could not meet its RE Power Purchase targets. As on 31-03-2017, the deficit of non-solar and solar was respectively 787.68 MU and 161.32 MU. The Petitioner is required to meet this deficit in FY 2017-18 but the Commission did not allow any cost of this deficit RE Power. Therefore, an expenditure of Rs. 94.90 Crore has been estimated and claimed by the petitioner in this review petition.

2.9 Additional claim of ARR on account of the Review Petition & Carrying Cost

2.9.1 Stakeholder's Comments

M/s Asahi India Glass Ltd., Roorkee submitted that additional claim of ARR on account of the Review Petition is very difficult to grasp. Power purchase cost from different agencies is so much escalated to be projected to Rs. 94.90 Crore while carrying cost projected is Rs. 89.05 Crore which is a direct burden to be loaded on to the industrial consumers. Similarly a look at drastic escalation in distribution losses and return on equity speaks of inefficient utilization of existing resources and economic desperation which UPCL should realize and exuberate techniques to improve the system. It was further submitted by Asahi Glass India Limited that, keeping in view above aspects, they vehemently oppose the UPCL's Review Petition before the

Commission for proposed 6.87% hike in existing tariff structure which would lead to indignant displeasure and dismay directly affecting them.

Shri Vikas Jindal, President, Kumaon Garhwal Chamber of Commerce & Industry submitted that as none of the claims made by the Petitioner has merits for allowance in the Review Petition, hence, there is no reason for computation and allowance of the carrying cost to the Petitioner company. It was further submitted that, against the Tariff hike of 5.7% over the prevailing tariff of FY 2016-17 allowed by the Commission in the Tariff order dated 29.03.2017, the Petitioner had claimed a hike of 6.87% on the tariff approved for FY 2017-18 by the Commission, which in turn amounts to an overall hike of 13% on the tariffs prevailing for FY 2016-17.

Shri Shakeel A. Siddiqui from, M/s Kashi Vishwanath Textile Mill (P) Limited submitted that proposed tariff hike is against the principles of Electricity Act and National Tariff Policy and had relied upon the Act and Tariff Policy as below:

Section 62 (4) of Electricity Act 2003 relevant to determination of tariff specifies, *“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”*.

Whereas, one of the core objectives of the National Tariff policy 2006 is to, *“ensure availability of electricity to consumers at reasonable and competitive rates”*.

It was further submitted that as none of the claims made by the Petitioner has merits for allowing in the Review Petition, hence there is no reason for computation and allowance of Carrying cost to the Petitioner company.

Shri Pawan Agrawal from Uttarakhand Steel Manufacturer Association submitted that tariff should be determined for a period of three years and not on yearly basis. It was further submitted that there should be no Tariff hike through Review Petition as the tariff was already increased through the Tariff Order.

2.9.2 Petitioner’s Reply

In this regard, the Petitioner submitted that, they had already given the detailed explanation/ computation in respect of each claim made by them in the Review Petition. Certain errors / mistakes in the Tariff Order were observed, and for removal of these errors, the Petitioner filed the Review Petition before the Commission, to revise the ARR approved by the Commission and to revise the increase in Tariff on the basis of revised ARR w.e.f. 01.04.2017. The

Commission had vide its Tariff Order dated 05.04.2016 fixed the base lines of demand and supply of electricity for a period from FY 2016-17 to FY 2018-19, however, with a view to estimate the price closer to the actual cost of supply it is necessary to determine the tariff every year. It was further submitted that, UPCL being a commercial organization is required to meet its Annual Revenue Requirement out of the revenue realized from the consumers through electricity tariffs. The total claim was of Rs. 401.55 Crore for which increase in Tariff @ 6.87% is required. Further, GoU vide its notification dated 31-05-2017 imposed Cess and Royalty @ Rs. 0.30/unit and Rs. 0.10 / unit respectively. The impact of this levy is equivalent to 2.24%. Thus, total increase in existing tariff is required @ 9.11 %.

2.10 Commission's Views

The Commission has taken note of various suggestions/objections raised by Stakeholders on various issues and the Petitioner's replies thereon. The Commission has addressed the issues raised by the stakeholders on the various issues raised by the Petitioner in its review Petition in subsequent Section. However, the Commission would also like to bring out that the mandate under the Act is to safeguard the consumer's interests as well as to allow recovery of the cost of electricity in a reasonable manner. The Commission under the Act has powers to undertake review under section 114 and Order XLVII of the Code of Civil Procedure, 1908 (CPC).

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

3.1 Powers of the Commission and Grounds for Review

3.1.1 Before going into the merits of the Petition filed by UPCL on various issues, the Commission first looks into the powers vested in it to review its Orders for taking a view on maintainability of the Petition. In this regard, reference is drawn to Section 94(1)(f) of the Act which specifically empowers the Commission to undertake review, which can be exercised in the same manner as a Civil Court exercises such powers under section 114 and Order XLVII of the Code of Civil Procedure, 1908 (CPC). The powers available to the Commission in this connection have been defined in Section 114 and Order 47 of the CPC. Under the said provisions, review of the Order is permitted on three specific grounds only, namely:

- a. Discovery of new and important matter or evidence, which after the exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time of passing of the Order.
- b. Mistake or error apparent on the face of the record; or
- c. Any other sufficient reasons.

- 3.1.2** The application for review has to be considered with great caution to necessarily fulfil one of the above requirements to be maintainable under law. On the discovery of new evidence, the application should conclusively demonstrate that (1) such evidence was available and is of undoubted character; (2) that it was so material that its absence might cause miscarriage of justice; (3) that it could not be even with reasonable care and diligence brought forward at the time of proceedings/passing of Order. It is well settled that new evidence discovered, if any, must be one, relevant, and second, of such character that had it been given during earlier proceedings, it might possibly have altered the Judgment.
- 3.1.3** It is a well-settled law that a review of the Orders of the Court/Commission should be used sparingly after examining the facts placed before the Court. An erroneous view or erroneous Judgment is not a ground for review, but if the Judgment or order completely ignores a positive rule of law and the error is so patent that it admits of no doubt or dispute, such an error must be corrected in the review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for a patent error. A review can only lie if one of the grounds listed above is made out.
- 3.1.4** With this background on legal provisions related to Review Petition, the Commission has examined the issues raised by the Petitioner to assess whether all or any of the issues raised by the Petitioner qualify for review.

3.2 Truing up of Power Purchase Cost for FY 2015-16

- 3.2.1** The Petitioner in the Review Petition submitted that the Commission in its Order dated 29.03.2017 had held as follows:

“After scrutiny of the submissions of the Petitioner, the Commission observed that the Petitioner had again booked the provision of inward banking of Rs. 50.88 Crore during FY 2015-16. The Commission in its Order dated April 05, 2016 had not allowed any cost towards provisioning for banked energy to be returned in FY 2015-16 and held as follows:-

“The Commission does not find the methodology adopted by the Petitioner regarding the provisioning of cost towards banked energy in FY 2014-15 as appropriate since the energy is due to be returned in FY 2015-16. This methodology leads to serious financial implications as observed in the past practices of the Petitioner when the excess provisioning towards power purchase cost was made by the Petitioner in previous years and those provisions were written back in FY 2013-14.

The Commission is of the view that the energy received under banking in FY 2014-15 is to be returned in FY 2015-16 and this is a regular phenomenon every year.

...

...

Thus, the Commission does not confirm to the views of the Petitioner in this regard and is, therefore, of the view that it would be a more prudent approach to consider the return of energy banked in the year in which it is being returned instead of making the provisioning of power purchase cost in the year in which energy has been received under the banking arrangement."

The Commission, accordingly, did not allow the cost towards banking of power in FY 2014-15. In line with its earlier approach, the Commission has not considered provisioning amount of Rs. 50.88 Crore towards banked power and directs UPCL to include the amount in the Petition for truing up of FY 2016-17. Further, in consonance with the Petitioner's submissions that the cost of returned banking was reflected in the power purchase procured from various generators, the Commission has allowed the actual power procurement cost incurred during FY 2015-16."

- 3.2.2** The Petitioner submitted that the cost of net inward banking of Rs. 50.88 Crore was reflecting in the Audited Annual Accounts for FY 2015-16 of the Petitioner Company but the said cost was not claimed in the ARR Petition. The Petitioner, accordingly, submitted that the same was an apparent error on the face of the record as the power purchase cost amounting to Rs. 50.88 Crore for FY 2015-16 had been disallowed and has requested the Commission to review the same.
- 3.2.3** The Commission has gone through the submissions of the Petitioner. It is observed that the Petitioner in its audited balance sheet for FY 2015-16 had booked Rs. 50.88 Crore as cost towards net inward banking. The Commission in its Tariff Order dated 29.03.2017 had taken note of the same and had not allowed the same. It is observed that the Petitioner in its Petition had claimed Rs. 4246.60 Crore towards power purchase cost for FY 2015-16 which did not include Rs. 50.88 Crore towards the cost of inward banking which was booked in the audited accounts. The Commission, however, while approving the cost had wrongly deducted the said amount from Rs. 4246.60 Crore.
- 3.2.4** The Commission therefore, is of the view that there was an inadvertent error wherein cost of net inward banking of Rs. 50.88 Crore was deducted from power purchase cost of Rs. 4246.60 Crore claimed by the Petitioner. The Commission, therefore, admits the review on this issue on the ground of error apparent on the face of the record as the Petitioner was not allowed the same during the truing up for FY 2015-16. Accordingly, the Commission approves an amount of Rs. 62.31 Crore alongwith the carrying cost on Rs. 50.88 Crore to be recovered in FY 2017-18.

3.3 Inclusion of Rebate on Power Purchase as Non Tariff Income

- 3.3.1** The Petitioner in its Review Petition submitted that against the proposal of Rs. 28.77 Crore towards the timely payment rebate received for power purchase, to be considered as non tariff income, the Commission has considered Rs. 45.69 Crore and in its Order dated 29.03.2017 has stated as follows:

"The Petitioner submitted that since UERC MYT Regulations, 2011 allows normative working capital only, any additional rebate earned by the Petitioner by making early payment should be allowed to be retained by the Petitioner. The Petitioner, accordingly, proposed to share only up to 1% of the rebate earned on account of timely payment of the power purchase bills as non-tariff income which has been proposed as Rs. 28.77 Crore. The Commission does not accept this contention of the Petitioner as the Commission in the past has also considered the total rebate earned by the Petitioner as non-tariff income. In this regard, Hon'ble ATE in its Judgment dated May 18, 2015 on the Appeal filed by the Petitioner has already given its findings contrary to the claim of the Petitioner. Accordingly, the Commission has considered the entire rebate as part of non-tariff income."

- 3.3.2** In this regard, the Petitioner submitted that the actual estimated period of credit sales (including consumption period) and credit purchases (including consumption period) was three months and two months respectively and the Commission while computing working capital allows credit sales for two months and credit purchases for one month, i.e. one month more for credit sales as compared to credit purchases. Hence, the rebate earned against the payment of power purchases by availing credit period of one month after consumption month may be treated as non-Tariff Income but the excess rebate earned for availing the period of credit less than one month should belong to the Petitioner and should not be treated as non-tariff income because the Petitioner has borne the opportunity cost of this early payment.

- 3.3.3** The Petitioner further submitted that the Commission in Appeal No. 180 of 2013 before Hon'ble ATE had argued that the Petitioner did not raise the issue that the rebate above 1% should not be considered as non tariff income. In support of this statement, the Petitioner has reproduced Para 6 of the Judgment dated 18.05.2015 as follows:

"It is argued by Learned Counsel for the State Commission that the Appellant for the first time in Appeal has raised the issue of rebate above 1% not to be considered as non-tariff income. The Appellant neither mentioned this in the tariff Petition nor submitted the breakup of rebate."

- 3.3.4** The Petitioner submitted that the Hon'ble ATE rejected Petitioner's prayer based on the submission of the Hon'ble Commission that the Petitioner did not raise this in the tariff

Petition. The Petitioner further reproduced Para 7 of the Hon'ble ATE's Judgment as follows:

"Moreover, as argued by Learned Counsel for the State Commission, the Appellant did not raise this issue either in the Petition or in proceedings before the State Commission. We do not find any merit in the issue raised by the Appellant."

3.3.5 Accordingly, the Petitioner submitted that the Commission has erred by considering the non-tariff income as Rs. 45.69 Crore in place of Rs. 28.77 Crore. Hence, the Petitioner has requested the Commission to consider the Non-tariff income as Rs. 28.77 Crore as there was an error apparent on the face of the record.

3.3.6 The Commission has gone through the submissions of the Petitioner. The Commission in the impugned Order with regard to rebate received towards timely payment of power purchase bills had held as under:

"The Petitioner submitted that since UERC MYT Regulations, 2011 allows normative working capital only, any additional rebate earned by the Petitioner by making early payment should be allowed to be retained by the Petitioner. The Petitioner, accordingly, proposed to share only up to 1% of the rebate earned on account of timely payment of the power purchase bills as non-tariff income which has been proposed as Rs. 28.77 Crore. The Commission does not accept this contention of the Petitioner as the Commission in the past has also considered the total rebate earned by the Petitioner as non-tariff income. In this regard, Hon'ble ATE in its Judgment dated May 18, 2015 on the Appeal filed by the Petitioner has already given its findings contrary to the claim of the Petitioner. Accordingly, the Commission has considered the entire rebate as part of non-tariff income."

3.3.7 Further, earning rebate on timely payment of power purchase dues by the Petitioner does not reflect towards its efficiency. The Petitioner has been withholding dues to be paid to the State Government and Government owned generating companies and has been utilising the money elsewhere including payments to the Central generating stations as well as IPPs. By any stretch of imagination, this cannot be construed as efficiency gain. In view of the above, the Commission has considered the entire Rebate earned by the Petitioner as a part of Non-Tariff Income in accordance with the provisions of the Regulations. Further, it should be the endeavour of the Petitioner to maximise its revenues in the interests of the consumers of the State and any rebate earned on timely payment of power purchase dues should be utilised to reduce the Annual Revenue Requirement and in turn the tariffs of the consumers.

3.3.8 Besides, the Petitioner had submitted that the actual estimated period of credit sales (including consumption period) and credit purchases (including consumption period) was three months and two months respectively and the Commission while computing working capital allows

credit sales for two months and credit purchases for one month, i.e. one month more for credit sales as compared to credit purchases. This contention of the Petitioner is incorrect. About 65% of the Petitioner's revenues come from HT consumers who are raised bills every month and these consumers also pay their bills on time. Hence, the estimated period of credit sales to the HT consumers is about one and a half month. Thus, taking all the consumers in the State, the average collection/credit period is 2 months. Moreover, the Commission has been directing UPCL in every tariff order to improve its financial performance. In the current Tariff Order for FY 2017-18 also, the Commission while mentioning that there were other utilities in the country which have a collection period of less than 60 days, has directed UPCL to submit within 3 months, an action plan to improve its collection period, however, UPCL has not submitted any findings in this regard. In fact, on UPCL's requests the Commission had also approved the pre-paid metering scheme for LT consumers upto 25 kW wherein UPCL would have received the payments from them in advance thereby reducing its collection period. However, till June, 2017 UPCL has managed to issue only 1 prepaid connection despite the fact that the scheme was applicable with changes from December, 2016 and infact was mandatory for all temporary connections and Government connections. This reflects towards the apathy of UPCL in increasing its operating cash flows through efficient receivable management. Further, UPCL have never been prevented from reducing its credit period and improve upon its collection/ collection period.

3.3.9 Hence, based on the above discussion it can be seen, that the Commission has already reasoned in detail for considering the entire amount of rebate received towards timely payment of its power purchase bills by the UPCL, and no new fact/evidence has been brought before the Commission in the Review Petition to rule otherwise. Moreover, since the Commission had already dealt with the said issue in the Tariff Order hence the same cannot be considered as an error apparent on the face of the record. Therefore, the Commission is of the view that the issue does not qualify for review and therefore the same is rejected.

3.4 Return on Equity considered for FY 2012-13 to FY 2015-16

3.4.1 The Petitioner submitted that the Commission in its Tariff Orders issued from time to time had considered following sources of financing the additional capitalization:

Table 3.1: Financing Considered by the Commission for Equity Computation (Rs. Crore)

Particulars	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
RGVVY Loan	-	7.78	9.62	-
State/District Plan	10.9	1.89	-	-
R-APDRP Part A Loan (Considered as Grant)	-	2.97	16.59	2.43
REC Loan	42.58	79.9	189.89	139.81
Deposit works	119.7	28.98	181.84	105.22
Internal Resources	57.32	63.49	95.28	37.32
Total	230.50	185.01	493.22	284.78

3.4.2 The Petitioner further submitted that the Commission had computed the amount of equity invested in creation of capital assets equivalent to 30% of internal resources whereas there is 30% equity against the 70% REC loan / District and State Plan loans. The Petitioner in view of the same submitted that the correct computation of equity may be done as follows:

Table 3.2: Financing proposed by UPCL for Equity Computation (Rs. Crore)

Particulars	FY 2012-13		FY 2013-14		FY 2014-15		FY 2015-16	
	Loan/ Grant	Equity	Loan/ Grant	Equity	Loan/ Grant	Equity	Loan/ Grant	Equity
RGVVY Loan	-	-	7.78	-	9.62	-	-	-
State/District Plan	10.90	4.67	1.89	0.81	-	-	-	-
R-APDRP Part A Loan (Considered as Grant)	-	-	2.97	-	16.59	-	2.43	-
REC Loan	42.58	18.25	79.9	34.24	189.89	81.38	139.81	37.32
Deposit works	119.70	-	28.98	-	181.84	-	105.22	-
Internal Resources	24.08	10.32	19.908	8.532	9.73	4.17	-	-
Total	197.26	33.24	141.43	43.58	407.67	85.55	247.46	37.32

3.4.3 The Petitioner submitted that REC grants loan to the Petitioner Company on the condition that the Petitioner Company invests 30% equity in the project. In support of this statement, the Petitioner submitted a copy of REC letter dated 28.12.2015 along with the Review Petition. The Petitioner submitted that REC through this letter sanctioned 70% loan against a project with a provision of 30% equity.

3.4.4 The Petitioner, accordingly, submitted that the actual equity computation for FY 2012-13 to FY 2015-16 may be done as follows:

Table 3.3: Addition RoE claimed by the Petitioner (Rs. Crore)

Year	Opening Equity	Addition	Closing Equity	Return on Equity @ 16%	ROE Allowed	Short allow
2012-13	191.03	33.24	224.27	30.56	22.30	8.26
2013-14	224.27	43.58	267.85	35.88	33.32	2.56
2014-15	267.85	85.55	353.4	42.86	36.36	6.50
2015-16	353.4	37.32	390.72	56.54	40.94	15.60
				165.85	132.92	32.93

3.4.5 The Petitioner on the basis of the above submission, submitted that the computation of equity by the Commission is not correct and is an apparent error on the face of the record and, accordingly, requested the Commission to review the issue and allow the Petitioner Rs. 32.93 Crore towards return on equity for FY 2012-13 to 2015-16.

3.4.6 The Commission has gone through the submissions of the Petitioner. The Commission during the Tariff proceedings has been directing the Petitioner to submit the details of capitalisation carried out by it in the previous years segregating the same into HT/EHT and LT works alongwith the means of financing thereof. Based on the means of financing submitted by the

Petitioner, the Commission has been allowing interest on loans and return on equity on the assets capitalised. The Petitioner never raised this issue earlier that it is required to invest equity in the schemes funded through State Plan/District Plan or REC.

- 3.4.7 Further, it is observed that the Commission with regard to above, in its Order dated 29.03.2017 has stated as follows:

“Thus, it is to be noted that merely having equity in its accounts does not qualify the equity as eligible for return purposes. For equity to be eligible for return, the same should have been invested in creation of an asset. Moreover, contrary to UPCL’s practice of considering the year wise addition of equity at maximum of 30% of the total capitalisation excluding grants and deposit works for each year, the Commission in accordance with the Regulations has considered project wise financing as submitted by UPCL and if in any project, equity is in excess of 30% of the cost of the project, balance has been treated as normative loan.”

The Commission in its aforesaid Order had also directed the Petitioner as follows:

“Accordingly, the Petitioner is directed to take note of the findings of the Commission in the above referred Order and claim RoE strictly in accordance with the same and not cling to its own set of figures without assigning any reasons for the difference in the two set of figures submitted before the Commission.”

- 3.4.8 Further, the claims made by UPCL now in this Petition suggests that UPCL during the truing up proceedings had been camouflaging the entire equity utilised in creation of assets in the internal resources to derive maximum returns in the form of RoE. Besides, considering the equity claimed by UPCL in this Petition would change the entire financing approved by the Commission and also the interest on loans and return on equity thereon. Thus, it appears that there is no error apparent on the face of the record and therefore, the issue does not qualify for review, hence the same is rejected. **However, the Petitioner is directed to reconcile the figures submitted in the previous tariff proceedings with that claimed in the review Petition and submit the same in the next tariff proceedings. The Commission will take a view on the same thereupon.** However, since the same is due to laxity of UPCL, the Commission holds that no carrying cost on the same would be admissible to UPCL.

3.5 Distribution Loss for FY 2015-16

- 3.5.1 The Petitioner in its Review Petition has submitted that in the ARR and Tariff Petition for FY 2015-16, it had proposed distribution loss of 18.39%, however, the Commission in the Order dated 29.03.2017 has trued up distribution loss of 15% for FY 2015-16.
- 3.5.2 The Petitioner submitted that the Commission in its Tariff Order for FY 2003-04 read with Tariff

Order for FY 2007-08 had estimated the distribution losses of the Petitioner for FY 2002-03 as 44.32%. Further, the Commission while truing-up for FY 2015-16 estimated the distribution losses for the year as 18.81%. Thus, within a period of 13 years the Petitioner company reduced its distribution losses by 25.51% at an average of about 2% p.a. The Petitioner submitted that even after such significant reduction in distribution losses, the Commission while determining the ARR and Tariffs of the Petitioner company considered deemed revenue due to non achievement of distribution loss trajectory fixed by them. The Petitioner further submitted that the trajectory fixed by the Commission is unrealistic and not based on any study and consideration of this deemed revenue is direct loss to the petitioner company. The Petitioner further submitted that the Commission on this account has considered deemed revenue of Rs. 1303.94 Crore from FY 2003-04 to FY 2015-16.

- 3.5.3** The Petitioner further submitted that for achieving operational turnaround of the company, the petitioner participated in the Ujwal Discom Assurance Yojana (UDAY) of the Government of India and a Tripartite Memorandum of Understanding has been signed between Ministry of Power, Government of India (GoI), Government of Uttarakhand (GoU) and the Petitioner Company on 31.03.2016. The Petitioner submitted that keeping in view the overall position, i.e. the actual losses of the Company, investment is to be made to improve the operational performance, consumer habits and the administrative situations, the level of AT&C Losses of the Petitioner Company was fixed as follows under UDAY.

Table 3.4: AT&C Loss Target as per UDAY as submitted by UPCL

Year	Level of AT&C Loss
2015-16	17.00%
2016-17	16.00%
2017-18	15.00%
2018-19	14.50%

- 3.5.4** The Petitioner further submitted that Ministry of Power, Government of India is evaluating the performance of Power Distribution Utilities from FY 2011-12. The ratings in this evaluation assigned to the Petitioner Company is as follows:

Table 3.5: Performance of UPCL and GoI Ratings awarded to UPCL

S. No.	Year	Score	Grading	Position among the DISCOMs	Grading Definition
1.	2015-16	81.2	A+	4 of 40 (State 2 nd in the Country)	Very High Operational and Financial Performance Capability
2.	2014-15	67.7	A	7 of 40 (State 3 rd in the Country)	High Operational and Financial Performance Capability
3.	2013-14	67.50	A	7 of 40 (State 4 th in the Country)	High Operational and Financial Performance Capability
4.	2012-13	55.3	B+	Position not declared	Moderate Operational and Financial Performance Capability
5.	2011-12	29	C+	29 of 39	Low Operational and Financial Performance Capability

- 3.5.5 The Petitioner submitted that it is clear from the above that there is continuous improvement in the performance of the Petitioner Company and the Petitioner Company within a period of 4 years converted its position from “ *Low Operational and Financial Performance Capability*” to “*Very High Operational and Financial Performance Capability*” through its efforts and performance. The Petitioner however submitted that the distribution loss reduction trajectory fixed by the Commission is hindering the Petitioner to get the desired results of Operational and Financial Performance.
- 3.5.6 Further, the Petitioner also submitted that during the meeting of State Advisory Committee held on 08.03.2017 in the office of the Commission, Principal Secretary (Energy), GoU also suggested the Commission to consider the request of the Petitioner of revisiting the distribution loss levels and targets.
- 3.5.7 The Petitioner submitted that consideration of 15% distribution losses is an apparent error on the face of the record and the issue needs to be reviewed by the Commission. The Petitioner accordingly requested the Commission to kindly consider 17% distribution losses as fixed under UDAY and to allow the Rs. 79.34 Crore as computed below:

$$12559.60 \text{ MU}/10 \times 2\% \times 4.2114 \times 75\% = \text{Rs. 79.34 Cr.}$$

- 3.5.8 The Commission has gone through the submissions of the Petitioner and observes that the Commission in its Order dated 29.03.2017 has discussed in detail for not relaxing the distribution loss approved as per UERC Tariff Regulations, 2011. The Commission in the Order dated 29.03.2017 has stated as follows:

“The Commission has considered the distribution loss for FY 2015-16 as approved by it in its MYT Order and, accordingly, has computed the loss of sales as 478.73 MU due to commercial inefficiencies of UPCL. As has been dealt elsewhere in the Order, despite huge capitalisation carried out by the Petitioner, its losses at LT levels are not reducing. Further, no concrete steps have been carried out by the Petitioner to reduce its losses. The meter exceptions of the Petitioner are on a higher side. This issue has also been settled by Hon’ble ATE in its Judgment dated May 18, 2015 on the Appeal filed by the Petitioner. The relevant extracts of the Judgment are reproduced hereunder:

“...It is clear from the submissions made by State Commission that the Appellant has not been taking action on the directions given by the State Commission on defective meter and meter not read which remained above 20% of total consumers more than five years in each billing cycle.

The State Commission UPCL has not taken action for energy audit. We do not find any infirmity in fixing up of loss reduction targets by the State Commission. The Appellant has not given any instances where funds for capital works for strengthening of distribution system have been denied by the State Commission in ARR...”

Thus, the Commission finds no reason to revisit the loss reduction trajectory fixed by it."

- 3.5.9** Moreover, it needs to be understood that the targets fixed under UDAY Scheme are for AT&C losses and not distribution losses, however, the tariffs are fixed by the Commission based on the approved distribution losses in accordance with the MYT Regulations. The Petitioner has requested the Commission to fix the target of 17% based on the target approved under UDAY Scheme, however, the Petitioner conveniently chose to ignore the fact that under UDAY scheme the targets are for AT&C losses and not the distribution losses.

$$\text{AT\&C Losses} = [1 - ((1 - \text{distribution loss}) * \text{Collection Efficiency})] * 100$$

Where, collection efficiency is a ratio of total revenue realised to total revenue billed in the same year. Revenue realised does not include revenue collected from arrears. Hence, based on the targets specified under UDAY scheme considering the actual collection efficiency reported by UPCL for FY 2015-16 in the Business Plan proceedings and approved by the Commission for FY 2016-17 to FY 2018-19, the distribution losses of the Petitioner Company should be as under:

Table 3.6: Distribution losses for FY 2015-16 to FY 2018-19 based on approved AT&C Loss Target as per UDAY and approved Collection Efficiency

Year	AT&C Loss	Collection Efficiency	Distribution losses (%)
2015-16	17.00%	96.65%*	14.12%
2016-17	16.00%	98.50%	14.72%
2017-18	15.00%	98.75%	13.92%
2018-19	14.50%	99.00%	13.64%

* Actual collection efficiency reported by UPCL for FY 2015-16 in the Business Plan proceedings.

Thus, as can be seen from the above Table, the Commission had approved a distribution loss level of 15% for FY 2015-16 and FY 2016-17, however, the distribution losses required to match up with the targets set in the UDAY scheme are much lower than that approved by the Commission. UPCL has camouflaged the actual performances under the AT&C Losses by including the arrears received also to increase the collection efficiency beyond 100% which is incorrect. Thus, to reach at the targets set under UDAY, UPCL has to do much more to bring its distribution losses within the desired levels as its collection efficiency cannot be more than 99% of the current dues. Hence, the contention of UPCL that the Commission has set unrealistic target is unfounded.

- 3.5.10** Hence, as evident from the above, the Commission has already elucidated its rationale for not relaxing the distribution loss for FY 2015-16. The Petitioner has, however, preferred this under review on the ground that the same is error apparent on the face of record which is incorrect.

There is no error apparent on the face of the record and hence, this issue does not qualify for review and therefore, the same is rejected.

3.6 Power Purchase cost for FY 2017-18

3.6.1 The Petitioner in its Review Petition has submitted that UPCL has the following deficit in procuring renewable energy as per the targets specified by the Commission as on 31.03.2017 as summarised below.

Table 2.6: Deficit claimed in meeting RPO for FY 2017-18 (Rs. Crore)

S. No.	Particulars	Non-Solar	Solar
1	Renewable Purchase Obligation (RPO) (%)	8.00%	1.50%
2	RPO for FY 2016-17 (MU)	1021.79	191.59
3	Deficit of the previous year (MU)	700	8.10
4	RPO met during 2016-17 (MU)	934.11	38.37
5	Deficit as on 31-03-2017 (2+3-4) (MU)	787.68	161.32

3.6.2 The Petitioner submitted that the Commission while allowing the ARR for FY 2017-18 did not consider the cost of this deficit Renewable Energy Power which the Petitioner is required to incur as per the direction of the Commission. The Petitioner submitted that it is presently facing the financial crunch and is also bound to meet all its necessary expenses by overdrawing money from the Bank. The Petitioner submitted that it is availing its maximum limit of bank overdraft fixed at Rs. 463 Crore. In such a situation the Petitioner is facing difficulty to comply with the direction of the Commission to meet the RPO. The Petitioner, accordingly, requested the Commission to kindly review the issue and allow Rs. 94.90 Crore (787.68 MU + 161.32 MU = 949 MU @ Rs. 1 per unit) on this head to buy the Renewable Energy Certificate.

3.6.3 The Commission has gone through the submissions of the Petitioner. It is observed that the Commission during ARR determination, while approving the power purchase cost for FY 2015-16 and FY 2016-17 had already considered cost towards meeting RPO by considering cost of power to be procured from solar and non-solar sources to comply with its RPO targets specified by the Commission. Therefore, the cost towards meeting the RPO targets have already been allowed by the Commission during the ARR determination for the respective years. It is observed that the Petitioner failed to meet its RPO target for the respective year. However, the truing up for FY 2015-16 has already been carried out and the truing up for FY 2016-17 is pending.

3.6.4 Further, the Commission in its Tariff Order dated 29.03.2017 had already stated that UPCL has not projected any cost towards meeting the RPO and has erroneously computed the RPO target in MU by excluding the consumption from Hydro generating stations which was not in line with the Regulations notified by the UERC. The relevant part of the order is reproduced

hereunder:

“UPCL in its Petition has submitted that based on the Ministry of Power, GoI Order dated July 22, 2016, it was meeting the RPO obligations, for both Solar and Non-Solar category from the existing procurement from the renewable sources and has, therefore, not projected any cost towards meeting RPO. It is, however, observed that the Petitioner has erroneously computed the RPO target in MU by excluding the consumption from hydro generating stations which is not as per the UERC (Compliance of Renewable Purchase Obligation) Regulations, 2010 and subsequent amendment thereafter.”

- 3.6.5** For FY 2017-18, UPCL has filed a Petition seeking carry forward of Renewable Purchase Obligation for FY 2016-17. Based on the submissions made by UPCL, it can be seen that UPCL has projected a total energy deficit for achieving RPO (Non-solar) to the tune of 307.44 MU and energy deficit for achieving RPO (Solar) to the tune of 59.16 MU after including the carry-forward of unmet RPO for FY 2016-17 of 787.68 MU (Non-solar) and 161.32 MU (Solar).
- 3.6.6** The Commission in its Tariff Order dated 29.03.2017 while working out the additional purchase for fulfilling RPO for FY 2017-18 had not considered the unmet RPO balance for solar as well as non-solar energy sources. Besides the Commission has proposed an amendment in the RE Regulations, 2013 whereby the RPO targets have been proposed to be amended in line with the MoP Order in the interest of UPCL and consumers of the State and the same is expected to be finalised shortly. Accordingly, the Commission feels there is a need of review on this ground so as to enable UPCL meet its RPO requirement as in the absence of funds it will not be able to meet the RPO leading to its default in complying with the stipulations of various Centrally assisted schemes which may lead to forfeiting the funds available under such cheaper Schemes. Accordingly, the RPO requirement of UPCL is reworked as under:

Table 2.7: Additional Purchase for fulfilling RPO for FY 2017-18

Particulars	Units	Approved in the Tariff Order dated 29.03.2017	Approved now
Total Power Purchase at State Periphery	MU	14,166.67	14,166.67
Less: Hydro	MU	-	7,569.00
Energy excluding Hydro Energy	MU	14,166.67	6,597.67
RPO			
Solar	%	2.50	4.75
Non-Solar	%	8.00	9.50
RPO Target (Non-solar)			
Unmet RPO of previous years	MU	-	787.68
RPO of current year	MU	1,133.33	626.78
Total	MU	1,133.33	1,414.46
RPO Target (Solar)			-
Unmet RPO of previous years	MU	-	161.32
RPO of current year	MU	354.17	313.39
Total	MU	354.17	474.71
Purchase from Renewable Sources			
Solar	MU	374.62	404.77
Non-Solar	MU	685.72	685.72
Total	MU	1,060.34	1,060.34
Additional Energy to be purchased for fulfilment of RPO			
Solar	MU	-	69.94
Non-Solar	MU	447.61	728.74
Total	MU	447.61	798.68

3.6.7 Thus, against the deficit of 447.61 MU approved in the Tariff Order dated 29.03.2017, the revised RPO deficit of the Petitioner for FY 2017-18 works out to 798.68 MU (both solar as well as non-solar RPO). The Commission in the Tariff Order dated 29.03.2017, has already allowed cost of Rs. 212.61 Crore towards procurement of power to meet RPO based on the power purchase requirement for the year. The Petitioner in a separate proceeding was asked to submit an action plan for meeting the RPO deficit till FY 2017-18. The Petitioner vide its letter dated 29.07.2017 submitted an Action Plan for meeting the RPO deficit which is summarised hereunder:

Table 2.8: Action Plan submitted by UPCL for fulfilling RPO till FY 2017-18

Particulars	Non-solar	Solar	Total
Deficit (MU)	749.98	80.31	829.79
Through Tender Purchase (MU)	400.00	-	400.00
Cost (Rs. Crore) (A)	190.00	-	190.00
Through REC (MU)	350.00	80.00	430.00
Cost of REC (B)	52.50	15.00	67.50
Total Cost in meeting RPO deficit (Rs. Crore) (A+B)	242.50	15.00	257.50

Thus, as is evident from the Table above, UPCL has proposed a total cost of Rs. 257.50 Crore in meeting its RPO till FY 2017-18. It is to be observed UPCL has considered its RPO on total power purchase approved by the Commission. However, the Act and the Regulations

specifies RPO as a percentage of the total consumption of electricity in the area of a distribution licensee. The Commission has in its Tariff Order considered the total requirement for UPCL as 14166.67 MU whereas the total estimated energy available from firm sources is 14385.45 MU leaving an overall surplus of 218.78 MU. This balance surplus was left to be banked for the next financial year. Accordingly, the RPO of UPCL has to be worked out on 14166.67 MU as approved by the Commission in Table 2.7 above. Hence, the cost towards meeting the RPO for FY 2017-18 to UPCL would be as under:

Table 2.9: Cost to UPCL for fulfilling RPO till FY 2017-18

Particulars	Non-solar	Solar	Total
Deficit (MU)	728.74	69.94	798.68
Through Tender Purchase (MU)	400.00	-	400.00
Cost (Rs. Crore) (A)	190.00	-	190.00
Through REC (MU)	329.00	70.00	399.00
Floor price of REC (Rs. Per unit)	1.50	3.50	
Cost of REC (B)	49.35	24.50	73.85
Total Cost in meeting RPO deficit (Rs. Crore) (A+B)	239.35	24.50	263.85

3.6.8 The Commission in its Tariff Order dated 29.03.2017 has already allowed UPCL, Rs. 212.61 Crore as cost to meet the RPO obligation for FY 2017-18. Hence, UPCL is allowed an additional cost of Rs. 51.24 Crore to meet its remaining RPO obligation.

3.6.9 However, UPCL is directed to explore other sources of power so as to meet its RPO for solar as well as non-solar from purchase of power rather than ensuring to meet the RPO through purchase of RECs. Such power purchased by UPCL may be utilised during the period of shortages or for banking of the same which can be used in the next financial year for meeting its energy requirement.

3.7 Return on Equity considered for FY 2017-18

3.7.1 The Petitioner with regard to RoE for FY 2017-18 has submitted that the Commission in its Order dated 29.03.2017 had approved RoE as follows:

Table 3.7: RoE approved by the Commission for FY 2017-18 (Rs. Crore)

Particulars	Approved
Opening Equity	306.32
Addition during the year	40.96
Closing Equity	347.29
Rate of Return	16.50%
Return on Equity	50.54

3.7.2 The Petitioner further submitted that based on the submission made under the head return on equity for FY 2012-13 to FY 2015-16, the computation of the equity invested in capital assets and return on equity for FY 2017-18 is an apparent error on the face of the record and needs to be

reviewed as per details given below:

Table 3.8: RoE claimed by UPCL for FY 2017-18 (Rs. Crore)

S. No.	Particulars	Amount
1.	Equity as on 01-04-2016	390.72
2.	Equity addition considered by UERC	39.27
3.	Equity as on 01-04-2017	429.99
4.	Return on Equity @ 16.50%	70.95
5.	Return on Equity allowed	50.54
6.	Return on Equity short allowed	20.41

3.7.3 The Petitioner has, accordingly, requested the Commission to allow balance RoE of Rs. 20.41 Crore for FY 2017-18.

3.7.4 It is observed that the Petitioner has sought revision of RoE approved in the Order dated 29.03.2017 on account of revision of equity claimed in the Review Petition for FY 2012-13 to FY 2015-16. As discussed in Para 3.4 above, the Commission has rejected the review sought by the Petitioner for re-computation of Equity for FY 2012-13 to FY 2015-16 for reasons stated therein. Therefore, there is no impact on the RoE approved for FY 2017-18 and hence the issue does not merit any review and hence is rejected. **However, the Petitioner is directed to reconcile the figures submitted in the previous tariff proceedings with that claimed in the review Petition and submit the same in the next tariff proceedings. The Commission will take a view on the same thereupon.**

3.8 Distribution Loss approved for FY 2017-18

3.8.1 The Petitioner submitted that the Commission in the impugned order considered the distribution losses of 14.75% while computing the ARR and Tariffs for FY 2017-18.

3.8.2 The Petitioner submitted that based on the submission made herein above under the head distribution losses for FY 2015-16 and targets of losses fixed under UDAY, the Commission is requested to review the issue and consider the distribution losses equivalent to 15% for FY 2017-18, i.e. the target fixed under the UDAY. The Petitioner submitted the computation of claim on this issue as follows:

Table 3.9: Additional claim of UPCL towards relaxation of Distribution Loss FY 2017-18 (Rs. Crore)

S. No.	Particulars	Value
1.	Approved sales at 14.75% distribution losses (MU)	11883.81
2.	Sales at 15% distribution losses (MU)	11849.00
3.	Reduction in sales (MU)	34.81
4.	Approved average billing rate (Rs./unit)	4.92
5.	Claim on this issue (Rs. Cr.)	17.12

3.8.3 The Petitioner has preferred a review seeking adoption of loss target as per UDAY. The

Commission with regard to it is of the view that the Commission is bound by its Regulation and the distribution loss of 14.75% approved for FY 2017-18 is in accordance with Distribution Loss Trajectory as per the provisions of UERC Tariff Regulations, 2015. Further, for reasons stated in Para 3.5 of this Order, the Commission has already rejected the claim made by the Petitioner to take cognisance of targets set under UDAY. As there is no error apparent on the face of record, the issue does not qualify for review and hence, the same is not allowed.

3.9 Impact of Cess and Royalty on the Tariff for FY 2017-18

3.9.1 The Petitioner submitted that Government of Uttarakhand vide its notification no. 601/1(2)/04(1)-1/2017, dated 31-05-2017 and no. 600/1(2)/04(1)-1/2017, dated 31-05-2017 ordered for imposition and collection of cess (duty) @ 0.30 paisa per unit and Royalty @ 0.10 paisa per unit respectively on the saleable energy generated from those existing hydro power projects of the State Government under UJVNL Limited which are under Commercial Operation for more than 10 years and whose cost of electricity generation is not more than Rs. 2 per unit, with effect from 31-05-2017. In respect of the same the Petitioner submitted the burden of these levies on its expenditure for FY 2017-18 as follows:

Table 3.10: Impact of Cess & Royalty as submitted by UPCL

S. No.	Particulars	Value
A	Approved energy of the 9 LHPs of UJVNL for FY 2017-18 (MU)	3046.18
B	Approved energy of SHPs (Mohammadpur, Pathri and Galogi) MU	224.33
C	Total Energy for FY 2017-18 eligible for levy of Cess and Royalty (MU)	3270.51
D	Energy from 01-06-2017 to 31-03-2018 eligible for levy of Cess and Royalty (MU) (c*10/12)	2725.43
E	Cess and Royalty from 01-04-2017 to 31-03-2018 (, Cr.) (c*, 0.40/ unit)	130.82
F	Cess and Royalty payable by UPCL from 01-06-2017 to 31-03-2018 (< Cr.) (d*, 0.40/ unit)	109.02
G	Approved Revenue for FY 2017-18 (Rs. Crore)	5841.64
H	Impact of Cess and Royalty on the existing Tariff of the Consumers (e/ g) (%)	2.24%

Note: MB-II Plant came into Commercial Operation w.e.f 15-03-2008 and therefore this plant is in Commercial Operation for less than 10 year period and accordingly energy of this plant is not subject to levy of Cess and Royalty.

3.9.2 The Petitioner further submitted that UJVNL Ltd. vide its letter no. 2108/UJVNL/01/MD/ED(O&M), dated 06-06-2017 has requested to make the payment of Cess and Royalty as per notifications of GoU. The Petitioner submitted that the total Tariff hike required in the existing Tariff may be computed as follows:

- (i) Tariff hike proposed in the Petition dated 08-05-2017 6.87%
- (ii) Tariff hike now proposed in view of Cess and Royalty 2.24%
- (iii) Total Tariff hike required from 01-04-2017 9.11%

3.9.3 The submissions made by the Petitioner were examined by the Commission. The notification no. 601/1(2)/04(1)-1/2017, dated 31-05-2017 and no. 600/1(2)/04(1)-1/2017, dated 31-05-2017 of GoU, ordered for imposition and collection of cess (duty) effective from 31.05.2017. The Commission in its order dated 29.03.2017 had approved the energy from 9 LHPs and SHPs of UJVN Ltd. as 3046.18 MU & 33.75 MU respectively for FY 2017-18. The prorated energy for 10 months, i.e. 01.06.2017 to 31.03.2017 works out to 2725.43 MU cumulatively for 9 LHPs and SHPs of UJVN Ltd. The Cess & Royalty payable by UPCL @ Rs. 0.40/unit, works out to Rs. 109.02 Crore for the period 01.06.2017 to 31.03.2018.

3.9.4 In view of the above discussion, the Commission is of the view that the liability to pay cess and royalty as computed above, devolves upon the Petitioner by way of aforesaid Notification issued by the GoU and is mandatory in nature. Hence, the same alongwith two other cost items namely inadvertent deduction of Rs. 50.88 Crore from the power purchase Cost for FY 2015-16 alongwith the carrying cost and cost to meet RPO obligation for FY 2017-18 are allowed to be recovered as an Additional Energy Charge (AEC) during the last three quarters of FY 2017-18.

3.9.5 The total Additional Energy Charge to be allowed to the Petitioner in the current Review Petition works out to Rs. 222.57 Crore, as detailed below:

Table 3.11. : Claims admissible to UPCL for FY 2017-18

S. No.	Particulars	Amount (Rs. in Crore)
1	Inadvertent deduction of Rs. 50.88 Crore from the power purchase Cost for FY 2015-16 alongwith the carrying cost	62.31
2	Cost to meet RPO obligation for FY 2017-18	51.24
3	Cost of levy of Cess & Royalty by the GoU	109.02
TOTAL		222.57

3.9.6 For the purpose of computation of the rate of Additional Energy Charge to be charged from consumers, the Commission has considered the power purchase approved in the Tariff Order dated 29.03.2017 for the last three quarter of FY 2017-18. The Commission has also considered the fact that the total sales approved by it for FY 2017-18 are about 82.61% of the approved power purchases. Hence, in line with the above, the Commission based on the approved power purchase of 10659.21 MU for the last three quarter of FY 2017-18, i.e. for July-September, October-December & January to March 2018 has worked out the sales of 8805.60 MU for the same period. Accordingly, the rate of AEC to be recovered during the last three quarter of FY 2017-18 works out to Rs. 0.25/kWh. Based on the average billing rate of Rs. 4.92/kWh approved in the Tariff Order for FY 2017-18 and as discussed above, the Commission has approved the consumer-category wise rate of AEC as enclosed at **Annexure-I**.

3.9.7 In view of the discussion above, the Commission allows review on three counts, i.e. inadvertent

deduction of Rs. 50.88 Crore from the power purchase cost claimed by the Petitioner finally amounting to Rs. 62.31 Crore with carrying cost, cost to meet the RPO obligation for FY 2017-18 amounting to Rs. 51.24 Crore and cost of levy of Cess & Royalty as per the Notification issued by the GoU to be recovered in the form of Additional Energy Charge. In view of above discussion, the Petitioner is hereby authorized to recover the AEC amount by levying AEC on various consumer categories at the rates indicated in **Annexure-I** during the last three quarters of FY 2017-18. Further, for the reasons stated above, review on all other counts is rejected.

3.9.8 The Petition No. 25 & 29 of 2017 is hereby disposed in terms of the above.

(Subhash Kumar)
Chairman

Approved Rate of AEC to be charged during last three Quarter of FY 2017-18 (i.e. July, 2017 to March, 2018)

S.No	Category	Rate of AEC
1	Domestic (RTS-1)/Concessional Snowbound Area (RTS-1A)	
1.1	<i>Lifeline Consumers(RTS-1)/Concessional Snowbound Area (RTS-1A)</i>	Rs. 0.11/kWh
1.2	<i>Consumers (Metered) (RTS-1)</i>	Rs. 0.20/kWh
2	Non Domestic (RTS-2)	Rs. 0.29/kWh & Rs. 0.28/kVAh
3	Public Lamps (RTS-3)	Rs. 0.25/ kVAh
4	PTW (RTS-4)/ Agriculture Allied Activities (RTS-4A)	Rs. 0.09/kWh
5	GIS (RTS-5)	Rs. 0.25/kVAh
6	PWW (RTS-6)	Rs. 0.25/kVAh
7	Industry (RTS-7)	
7.1	<i>LT Industrial</i>	Rs. 0.28/kWh & Rs. 0.26/kVAh
7.2	<i>HT Industrial</i>	Rs. 0.26/kVAh
8	Mixed Load (RTS-8)	Rs. 0.26/kWh
9	Railway Traction (RTS-9)	Rs. 0.26/kVAh
10	Temporary Supply	Corresponding AEC in appropriate schedule plus 25 %



UTTARAKHAND POWER CORPORATION LIMITED

(A Govt. of Uttarakhand Undertaking) Corporate Identity No. UA40109UP20019GC025867/2358

Victoria Cross Vijayta Gabar Singh Urja Bhawan, Kanwali Road, Dehradun

Telephone 91-135-2763552, Fax 91-135-2763839, EPBX No. 2763672-75

PUBLIC NOTICE

Inviting Comments on the Petition for review of Commission's Order dated 29.03.2017 on the Annual Revenue Requirement & Tariff Petition for FY 2017-18 filed by Uttarakhand Power Corporation Limited (UPCL) before the Uttarakhand Electricity Regulatory Commission Salient Points of the Review Petition

1. Uttarakhand Power Corporation Limited (UPCL), the sole Distribution and Retail Supply Licensee in the State, has filed a Review Petition before Uttarakhand Electricity Regulatory Commission (UERC or Commission) for review of the Commission's order dated 29.03.2017 on the Annual Revenue Requirement & Tariff Petition for FY 2017-18.
2. Through the above Petition, UPCL has made an additional claim of ARR amounting to Rs. 401.55 Crore as summarized below:

S. No.	Particulars of claim	Rs. Crore
1	Power Purchase Cost for FY 2015-16	50.88
2	Non-Tariff Income - Power Purchase Rebate for FY 2015-16	16.92
3	Return on Equity for FY 2012-13 to FY 2015-16	32.93
4	Distribution Losses for FY 2015-16	79.34
5	Power Purchase Cost for FY 2017-18	94.90
6	Return on Equity for FY 2017-18	20.41
7	Distribution Losses for FY 2017-18	17.12
8	Carrying Cost	89.05
Total		401.55

3. UPCL has proposed to recover the additional revenue gap of Rs. 401.55 Crore through increase in tariffs to be made effective from 01.04.2017. UPCL has, accordingly, proposed an average tariff hike of 6.87% in the existing tariffs as approved in the Tariff order of the Commission.
4. Responses/suggestions on the Petition, if any, are sought from consumers and other stakeholders. 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 22.06.2017.
5. 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 VCV 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.
6. 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.: 235/1/EE(CM)/UPCL/A-2 Dt. 25.05.2017

Managing Director

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Salient Points of the Review Petition

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4. In addition to above review petition, UPCL further vide its Review Petition dated 16.06.2017 has made an additional claim of Rs. 109.02 Crore consequent upon it by the Government of Uttarakhand's Order dated 31.05.2017 vide which the State Government has ordered for imposition of cess and royalty of Rs. 0.30 per unit and Rs. 0.10 per unit respectively on the saleable energy generated by those hydro projects under the control of UJVN Ltd. which are under commercial operation for more than 10 years and whose cost of electricity is not more than Rs. 2 per unit. This will lead to an additional tariff hike of 2.24%, thereby making the proposed average tariff hike of 9.11 % in the existing tariffs as approved in the current Tariff order of the Commission
5. Responses/ suggestions on the Petition, if any, are sought from consumers and other stakeholders. 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 10.07.2017.
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 VCV 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.
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No. : 271/EE(CM)/UPCL/A-2 Date : 24.06.2017

Managing Director

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