

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 27 of 2025

In the matter of:

Petition seeking implementation of Clause 26-Taxes and Duties of UERC (Tariff and other Terms for supply of Electricity from Non-conventional & Renewable Energy Sources) Regulations, 2010, for Vanala Small Hydro Electric Power Generating Station (15 MW) unit of M/s Him Urja Pvt. Ltd.

In the matter of:

M/s Him Urja Pvt. Ltd.

... Petitioner

AND

In the matter of:

Uttarakhand Power Corporation Ltd.

... Respondent

CORAM

Shri M.L. Prasad

Chairman

Shri Anurag Sharma

Member (Law)

Date of Hearing: June 17, 2025

Date of Order: June 17, 2025

Heard both Petitioner and the Respondent in the matter.

During the hearing, the Petitioner submitted that any deduction from the determined tariff would necessarily imply lesser recovery to the generator unless the tariff determined is modified or adjusted taken into account the changes.

During the hearing, the Respondent was asked the basis on which the amount pertaining to LADF is being collected from the generator. In the matter, the Respondent could not advance any satisfactory explanation but only relied upon a letter dated 10.04.2024 of GoUK addressed to all the DM's, letter dated 25.06.2024 informing the generators and letter dated 30.05.2024 of the Commission and also submitted that GoUK has directed them to contribute the revenue obtain

from the sale of 1% additional free power to LADF. UPCL further submitted that UPCL vide its letter dated 17.05.2024 had requested the Commission to determine the tariff of the additional 1% free power considering the guidelines issued by GoUK for management of LADF and the Commission vide letter dated 30.05.2024 informed UPCL that the rate of free power of Rs. 2.32/kWh as determined by the Commission in Tariff Order dated 28.03.2024 for FY 2024-25, shall be equitably applicable for additional 1% free power.

From the above letters, it is not evident that the duty of deducting LADF was entrusted to UPCL by GoUK. Further, the amount equivalent to 1% of additional free power was to be deposited in LADF by the generators as per LADF guidelines. Furthermore, such contentions are contrary to the letter addressed by Secretary Energy, GoUK dated 07.11.2024 to the Commission (with a copy to MD, UPCL), as per which the redetermine the tariff of 1% of additional free power, to be contributed to LADF based on the application filed by the generator, was to be done by the Commission. This also negates the contentions of UPCL that the Commission vide its letter dated 28.03.2024 had allowed UPCL to deduct amount equivalent to 1% of generation and deposit the same in LADF. Although the intent and contents of the letter dated 28.03.2024 was clear and unambiguous, still considering its incorrect interpretation by UPCL. The Commission would like to clarify that through the aforesaid letter, the Commission had only specified the rate at which the additional 1 % free power would be considered by UPCL and had not approved the amount of LADF to be deducted from the generators.

Moreover, Section 62 of the Electricity Act, 2003 specifies that no amount shall be recovered by the distribution licensee over and above the determined tariff by the Commission and in the present case, the Commission has not determined any tariff for generators giving impact of LADF.

Further, during the hearing, various aspects regarding applicability of the LADF Policy and ambiguity in the provisions of the said Policy were raised before the Commission and however, these aspects were not dealt elaborately or specifically in the Petition or in the reply of UPCL, but the issues raised are very relevant and considering the nature and impact of the contentions/issues, the Commission finds it appropriate to analyse the same before taking any view in the matter. Accordingly, the Commission, directs its officers through its Secretary to examine the LADF Policy and submit its report within 2 months. Since as per the provision of Electricity Act, 2003, as stated above, the recovery of any amount by UPCL unless the Tariff Order is modified prima facie is not legally tenable. Therefore, the Commission after the presentation of

the said report would take a final view in the matter, and meanwhile UPCL is directed not to deduct an additional 1% on account of LADF policy till further Order.

Judgment reserved.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman