

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 18 of 2023

In the Matter of:

Application for recovery of Additional Security Deposits against credit sale of electricity in installments from the consumers.

And

In the Matter of:

Managing Director,
Uttarakhand Power Corporation Ltd.,
Victoria Cross Vijeta Gabar Singh Urja Bhawan,
Kanwali Road, Dehradun.

...Petitioner

Coram

Shri D.P. Gairola	Member (Law) /Chairman (I/c)
Shri M.K. Jain	Member (Technical)

Date of Order: October 31, 2023

ORDER

This Order relates to the Petition filed by Uttarakhand Power Corporation Limited (hereinafter referred to as “UPCL” or “the Petitioner” or “the licensee”) seeking approval of the Commission for the recovery of Additional Security Deposits against credit sale of electricity in installments from the consumers.

Background

2. The Petitioner vide its letter No. 1243/UPCL/RM/F-4 dated **18.03.2023** submitted its Petition for ‘recovery of Additional Security Deposits against credit sale of electricity in installments from the consumers’ under the provisions of the Section 47 (Power to require security) of the Electricity Act, 2003 and Regulation 4.2 of the UERC (The Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020.

3. The Petitioner under Specific Legal Provision of its Petition has mentioned that:

“

1. **Specific Legal Provision under which Petition is being filed:**

1.1. As per Section 47 of The Electricity Act, 2003, the distribution licensee is empowered to take security deposits from the consumers in respect of the electricity supplied to them. Section 47 (1) and 47 (2) of the Act stipulates as follows:

Section 47. (Power to require security):

(1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 43, to give him reasonable security, as may be determined by regulations, for the payment to him of all monies which may become due to him –

(a) in respect of the electricity supplied to such persons; or

(b) where any electric line or electrical plant or electric meter is to be provided for supplying electricity to person, in respect of the provision of such line or plant or meter,

and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give the supply of electricity or to provide the line or plant or meter for the period during which the failure continues.

(2) Where any person has not given such security as is mentioned in subsection (1) or the security given by any person has become invalid or insufficient, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all monies which may become due to him in respect of the supply of electricity or provision of such line or plant or meter.

1.2. As per Regulation 4.2 of the UERC (The Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020, UPCL is required to review the consumption pattern of the consumer for the adequacy of the security deposit from April to March of the previous year and excess of required security deposit over existing security deposit is termed as additional security deposit. Assessment of additional security deposit is to be done in the month of April and the same is required to be reflected in the next bill. Regulation 4.2 of the Regulations stipulates as follows:

“4.2 Additional Security Deposit

1. Balance of Security Deposit as on 31st March of the previous year shall be ‘Existing Security Deposit’. Consumer is required to maintain a sum equivalent of estimated average consumption of ‘N’+1 months of previous financial year or the existing security deposit with the Licensee, whichever is higher, as security deposit (‘Required Security Deposit’) towards any delay or default in

payment. Here 'N' is the number of months in a Billing cycle approved in the Tariff Order applicable for preceding year.

- 2. The Licensee shall review the consumption pattern of the consumer for the adequacy of the security deposit from April to March of the previous year. Excess of Required Security Deposit over Existing Security Deposit shall be Additional Security Deposit. Assessment of Additional Security Deposit shall be done once a year in the month of April and the same shall be reflected in the next bill. Such reflected amount shall be deposited by the consumer through Cash/DD/RTGS/NEFT or any other electronic mode accepted by distribution Licensee.*
 - 3. Where the Additional Security Deposit is upto 10% of the Existing Security Deposit, no claim shall be made for payment of Additional Security Deposit. Interest accrued on the Existing Security Deposit upto 31st March of the previous year shall be added to the Existing Security Deposit and shall become the Existing Security Deposit for the current year.*
 - 4. Where the Additional Security Deposit is more than 10% of the Existing Security Deposit, Interest accrued on the Existing Security Deposit upto 31st March of the previous year shall be added to the Existing Security Deposit and Demand for remaining amount of Additional Security Deposit shall be raised on to the consumer.*
 - 5. Where Existing Security Deposit computed as per Clause (1) above is found to be equal to or greater than the Required Security Deposit, the interest accrued on the Existing Security Deposit upto 31st March of the previous year shall be refunded to the consumer through adjustment in his electricity bill upto 31st July of current year.*
 - 6. The security deposit available with the Licensee in respect of each consumer shall be shown in the bill issued to the consumer.*
 - 7. Additional Security Deposit amount shall be shown as a separate entry in the bill particulars/parameters. Any default in payment of dues on account of Additional Security Deposit shall be treated as non-payment of Licensee's dues and shall be dealt as per Regulation 6.1 of these Regulations. No late payment surcharge/delayed payment surcharge shall be applicable on the unpaid dues of Additional Security Deposit."*
4. Further, the Petitioner in its Petition has submitted that "*...the matter of recovery of Additional Security Deposits was discussed during the meeting of Audit Committee of UPCL held on 12-12-2022 and the Committee advised as follows in the matter:*

After deliberations, the Committee broadly advised to consider the following as additional security being part of bill cycle will result in increase in receipts:

- *Additional Security to be included in current bills in separate head on annuity basis in 12 monthly installments.*

- Interest should be computed as and when received.
- The bill should have proper breakup of heads.
- Accounting of the same should be taken care of.
- Prior approval of UERC should be obtained. “

5. The Petitioner in its Petition under ‘Facts of the Case’ has submitted that:

“

3.1 As per Regulation 4.2 of the UERC (The Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020, UPCL is required to review the consumption pattern of the consumer for the adequacy of the security deposit from April to March of the previous year and excess of required security deposit over existing security deposit is termed as additional security deposit. Assessment of additional security deposit is to be done in the month of April and the same is required to be reflected in the next bill.

3.2 The status of category wise amount of security deposits and additional security deposits is as follows:

Category	No. of connections	Amount of Security Deposits available with UPCL (Rs. Cr.)	Amount of Additional Security Deposits to be recovered from the consumers (Rs. Cr.)
RTS-1 : Domestic	22,49,521	171.45	225.73
RTS-2 : Non-Domestic	2,54,634	156.00	41.98
RTS-3 : Govt. Public Utilities	7,405	17.69	61.07
RTS-4 : Private Tube Wells/Pumping Sets	40,756	3.28	21.49
RTS-4A : Agriculture Allied Activities	377	1.20	0.18
RTS-5 : LT& HT Industry	14,196	654.70	102.83
RTS-6 : Mixed Load	83	13.38	2.74
RTS-7 : Railway Traction	2	1.96	2.36
RTS-8 : Electric Vehicle Charging Station	5	0.04	0.00
RTS-9 : Temporary Supply	20,527	68.06	0.00
Grand Total	25,87,506	1087.76	458.37

It is also relevant to mention here that for the period from April, 2022 to December, 2022 an amount of Rs. 56.72 Cr. has been received from 33346 consumers towards Additional Security Deposits.

3.3 As per provisions of Regulations, the amount of Additional Security Deposits is being reflected in the electricity bills of the consumers but only a few consumers make the payment of Additional Security Deposits. Some consumers also request UPCL to grant them the facility for making the payment of Additional

Security Deposits in installments. Due to non - payment of Additional Security Deposits by the consumers, the outstanding amount on this head has been reached to the level of Rs. 458.37 Cr.

...

- 3.5 The petitioner vide its letter no. 442/UPCL/RM/F-4, dated 02-02-2023 (**Annexure -A**) had requested the Hon'ble Commission to approve that the consumers may make the payment of additional security deposit in installments but the Hon'ble Commission vide its letter no. UERC/5/Tech/728/2022-23/1399, dated 13-02-2023 (**Annexure-B**) directed the petitioner to file a petition in the matter in accordance with UERC (Conduct of Business) Regulations, 2014.

*In view of the facts and circumstances mentioned hereinabove, UPCL is of the opinion that the procedure for recovery of Additional Security Deposits against credit sale of electricity needs to be specified for the convenience of the consumers. Accordingly, a draft order (**Annexure -C**) has been prepared and attached herewith. Hon'ble Commission is requested to kindly approve the said order, so that the consumers may make the payment of Additional Security Deposits in installments which will reduce their burden to make the payment of these deposits in one go."*

6. The Petitioner in its Petition under 'Cause of Action' has submitted that:

"As per provisions of Regulations, the amount of Additional Security Deposits is being reflected in the electricity bills of the consumers but only a few consumers make the payment of Additional Security Deposits. Some consumers also request UPCL to grant them the facility for making the payment of Additional Security Deposits in installments. Due to non - payment of Additional Security Deposits by the consumers, the outstanding amount on this head has been reached to the level of Rs. 458.37 Cr. Further, the matter of recovery of additional security deposits was also discussed during the meeting of Audit Committee of UPCL who suggested to include the amount of additional security deposit in current bills in separate head on annuity basis in 12 monthly installments."

7. The Petitioner in its Petition under 'Relief Sought' has prayed the Commission for approving the draft Order, so that the consumers may make the payment of additional security deposits in installments.
8. The Petitioner along with its Petition has enclosed draft Office Memorandum/Order stating that :-

"

Office Memorandum

Pursuant to the approval granted by Hon'ble Uttarakhand Electricity Regulatory Commission, the procedure for recovery of Additional Security Deposits against credit sale of electricity is specified as follows for the convenience of the consumers.

- 1. Amount of additional security deposits as specified in Regulation 4.2 of UERC(The Electricity Supply Code, Release of New connections and related matters) Regulations, 2020 pending with the consumers shall be recovered in 12 equated monthly installments (EMIs) starting from the month of May of the year to April of the next year. However, full payment of security deposit shall be accepted from the consumers who wants to make such payment.*
- 2. The value of installment of security deposits shall be added in the energy consumption bill and the payment of total billed amount inclusive of EMI of security deposits shall be accepted from the consumer. The payment of billed amount exclusive of EMI security deposits shall not be accepted from the consumer. In case a consumer does not make payment of any bill(s), the payment of pending EMIs of security deposit shall be accepted whenever the consumer make payment of the bill.*
- 3. In case part payment is made by the consumer, the amount of energy consumption bill (excluding security deposit) shall be adjusted first and the remaining amount shall be adjusted towards security deposits.*
- 4. The amount of pending security deposits shall be shown separately in the electricity bill of the consumers and no delayed payment surcharge shall be charged on non-payment of the same.*
- 5. In case any Hon'ble Court/Forum pass on order for staying the recovery of security deposits, the action shall be taken as per orders of such Hon'ble Court/ Forum/ Appellate Tribunal of Electricity.*

These orders shall come into force with effect from 01.04.2023."

9. The Commission decided to seek comments/suggestions/objections on the aforesaid submissions of the Petitioner in its Petition from the Stakeholders latest by 30.04.2023.
10. M/s Galwalia Ispat Udyog (Pvt) Limited and M/s Kashi Vishwanath Textile Mill (P) Ltd. vide their email dated 24.04.2023 and 27.04.2023 respectively submitted a letter with following comments/observation/suggestions:-

“ ...

- (i) The LT/HT consumers should be provided with prepaid meters and security need not to be charged.
- (ii) The Security amount may be charged for 30 days consumption as is practice in Himachal Pradesh. The Act leaves it to State Commission to decide the amount of security deposit.
- (iii) The UPCL may be advised to take bank guarantee as security instead of cash security as in Himachal Pradesh and Delhi.
- (iv) The UPCL need to provide interest @ 8-10% which is the current rate of finance available to the industry. The Act leaves it to Commission to decide the bank rate or more.

This will help the industry suffers dual loss, reducing its liquidity and further loss of rate of interest on the security amount provided.”

11. Uttarakhand Steel Manufactures Association, Kotdwar (USMA) vide its email dated 30.05.2023 submitted a letter with following comments/observation/suggestions:-

“ ...

अतः आपसे विनम्र निवेदन है कि जब Electricity Act में Prepaid Metering की व्यवस्था Adopt करने के लिए mandatory किया गया है, तो Steel Sector अथवा 33 kV व 132 kV Feeder पर Connected सभी Industrial Consumer में इसे तुरन्त लागू करके हमारी Already जमा Security को वापस कराने की व्यवस्था होनी चाहिये। और यदि इस व्यवस्था में कुछ कठिनाई हो रही हो तो तब तक पुरानी 15-15 दिन के विद्युत बिल व एक माह की Security की व्यवस्था को बहाल किया जाना चाहिये।

इससे Unnecessary Litigation भी समाप्त होगा। चाहे इसके लिए Regulation में बदलाव करना पड़े, तो माननीय UERC को यह भी करना चाहिये।

हाँ, Timely Online Payment Rebate का Provisions दोनों विद्युत बिलों (Provisional व Final) के लिए होना चाहिये। इस प्रकार UPCL की कुल Additional Security Deposit राशि भी 100 करोड से कम दिखेगी व UPCL की Recovery की ताकत या Efficiency भी दिखेगी।

स्टील सैक्टर तो यहाँ Already बढी हुई विद्युत दरों से तंग आकर उत्तराखण्ड प्रदेश से Shift हो रहा है। Additional Security के Compulsion से तो तुरन्त ही बन्द हो जायेंगे। जबकि सर्वैधानिक व्यवस्था Prepaid Metering की है।”

Besides above, Sh. Madhav Prasad Dhaundiyal vide its letter dated 26.06.2023 has raised his concern that the additional security amount should be taken from consumers in 06 Equal Monthly Instalments as payment of the same in one go is difficult.

12. The Commission vide its letter dated 29.08.2023 sent the aforesaid comments of the Stakeholders to the Petitioner for its reply on the same.

13. In response, the Petitioner vide its submission dated 14.09.2023 furnished its reply to the Stakeholders comments/objections/suggestions as mentioned below:-

Response to comments of M/s Galwalia Ispat Udyog (Pvt) Limited and M/s Kashi Vishwanath Textile Mill (P) Ltd.

S. No.	Objections/Comments/Suggestions	Response
1.	<i>What should be the content of security deposit?</i>	<i>Security deposits is received from the consumers to securitize the credit sales made by the DISCOM. In case a consumer defaults in making the payment of his electricity bills, the recovery of such electricity dues may be made by adjusting the security deposit of the consumer. In this way, security deposit should be computed based on all the charges (by whatever named called i.e. demand charges, energy charges, electricity duty, green energy cess, fuel cost adjustment, continuous supply surcharge etc.) payable by the consumer for the electricity consumed. UPCL accordingly computes and demands amount of security deposits from the consumers which is in-line with the provisions of UERC (The Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020.</i>
2.	<i>What should be the interest on security deposit?</i> <i>The UPCL need to provide interest @ 8-10% which is the current rate of finance available to the industry. The Act leaves it to Commission to decide the bank rate or more. This will help the industry suffers dual loss, reducing its liquidity and further loss of rate of interest on the security amount provided.</i>	<i>Hon'ble Uttarakhand Electricity Regulatory Commission (Commission) vide its order dated 27-07-2007, inter-alia directed UPCL to pay interest on security deposits of consumers, both consumption and material security, at the bank rate, as notified by Reserve Bank of India u/s 49 of the Reserve Bank of India Act, 1934 as on 1st April of the financial year for which interest is due. Accordingly, UPCL vide its O.M. No. 1578/UPCL/RM/D-13, dated 05-04-2023 ordered to allow interest on security deposits @ 6.75% p.a. for FY 2023-24.</i>
3.	<i>Whether security deposit may be excused if a consumer wishes to have prepaid meter?</i> <i>The LT/HT consumers should be provided with prepaid meters and security need not to be charged.</i>	<i>The following is submitted in the matter:</i> <i>(a) Section 47 (5) of Electricity Act, 2003 provides as follows:</i> <i>“A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter.”</i> <i>(b) Ministry of Power, Government of India vide its letter no. 25/25/2004-R&R(Pt), dated 11-02-2005 clarified the matter of taking security deposits for supply of electricity, as follows:</i>

S. No.	Objections/Comments/Suggestions	Response
		<i>"A clarification has been sought from this Ministry as to whether in a situation where the distribution licensee has not started to supply through pre-payment meters, the consumer is entitled to exemption from payment of the security in respect of the electricity supplied to him. The matter has been considered in this Ministry and <u>it is clarified that as and when distribution licensee provides a choice to consumers to opt for pre-paid meters, he will not be entitled to demand security from those consumers who are prepared to take supply of electricity through such meters.</u>"</i> <i>(c) In the case of Sarwottam Ispat Ltd. Vs. Southern Power Distribution Company of Telengana Ltd., 2016, Hon'ble High Court, Hyderabad held as follows:</i> <i>Section 47(2) enables the, distribution licensee to demand additional security, if the security provided by the consumer is invalid or insufficient. Sub-section (3) further vests power in the licensee to stop supply of electricity if the additional amount demanded is not paid. When this provision vests power in the licensee, a demand made by the licensee in terms thereof cannot be held as arbitrary or illegal. As long as prepaid meters are not installed, it is mandatory for the consumers to pay the security deposit as demanded by the licensee. <u>Therefore, waiving of security deposit merely because a request for provision of HT prepaid meter is made when no such meters are available does not arise. Such a request is contrary to statutory scheme and liable to be rejected.</u> It is not the case of the petitioners that the amount of deposit demanded is in excess of what is required by the tariff determined by the Regulatory Commission. They cannot insist for supply of electricity without complying with the demand for additional security deposit. <u>Section 47 does not envisage waiver of security deposit nor prescribe alternative mode of providing security, such as bank guarantee.</u> There is no ambiguity in the provision. Thus, there is no scope for playing in the joints to grant the relief of waiver/reduction of deposit. When the statute vests power in the licensee to demand security deposit and licensee exercises such power and no provision is made for waiver/reduction/alternative mode of</i>

S. No.	Objections/Comments/Suggestions	Response
		providing security, it is not permissible for this Court, in exercise of equity jurisdiction under Article 226 of the constitution of India, to direct the distribution licensee to dispense with payment of security deposit or to furnish bank guarantee or reduce the security deposit demanded. Contrary to the statutory mandate, no direction can be issued. When the language of the provision is plain, simple and clear, it is not permissible for the Court to interpret the same in different manner or issue directions contrary to the statutory mandate. No case is made out by petitioners to waive additional security deposit. In view of the above legal position, it is clear that till the time prepaid metering is not operationalized in UPCL, consumers are required to pay security deposits for supply of electricity to UPCL.
4.	Can the security deposit may be allowed to be taken in form of Bank Guarantee? In some of the States like Himachal Pradesh and Delhi, provision has been made to accept security in form of bank guarantee. This is a great relief to the industry and may be considered by the Hon'ble Commission.	As regards mode of payment of security deposit, the Regulation 4.2 (2) of the UERC (The Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020 is relevant to be quoted which clearly specifies that the amount of additional security deposit shall be in the form of Cash/ DD/ RTGS/ NEFT or any other Electronic mode accepted by distribution licensee.
5.	The Security amount may be charged for 30 days consumption as is practice in Himachal Pradesh. The Act leaves it to State Commission to decide the amount of security deposit.	(i) Security deposits is received from the consumers to securitize the credit sales made by the DISCOM. In case a consumer defaults in making the payment of his electricity bills, the recovery of such electricity dues may be made by adjusting the security deposit of the consumer. (ii) Once the supply is drawn by a consumer the bill is generated after a 1 month period. In next 15 days the bill is received by the consumer and a further 15 days time period is given for payment. Thus a 2 month (n+1) period is justifiable and required which is also in accordance with the UERC (The Electricity Supply Code, Release of New Connections and Related Matters) Regulations, 2020.

**Response to comments of Uttarakhand Steel Manufactures Association, Kotdwar
(USMA)**

S. No.	Objections/Comments/Suggestions	Response
1.	HT steel consumers should be provided with prepaid meters and security need not to be charged.	(a) Section 47 (5) of Electricity Act, 2003 provides as follows: <i>"A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if the person requiring the supply is prepared to take the supply through a pre-payment meter."</i> (b) Ministry of Power, Government of India vide its letter no. 25/25/2004-R&R(Pt), dated 11-02-2005 clarified the matter of taking security deposits for supply of electricity, as follows: <i>"A clarification has been sought from this Ministry as to whether in a situation where the distribution licensee has not started to supply through pre-payment meters, the consumer is entitled to exemption from payment of the security in respect of the electricity supplied to him. The matter has been considered in this Ministry and <u>it is clarified that as and when distribution licensee provides a choice to consumers to opt for pre-paid meters, he will not be entitled to demand security from those consumers who are prepared to take supply of electricity through such meters.</u>"</i> (c) In the case of Sarwottam Ispat Ltd. Vs. Southern Power Distribution Company of Telengana Ltd., 2016, Hon'ble High Court, Hyderabad held as follows: <i>Section 47(2) enables the, distribution licensee to demand additional security, if the security provided by the consumer is invalid or insufficient. Sub-section (3) further vests power in the licensee to stop supply of electricity if the additional amount demanded is not paid. When this provision vests power in the licensee, a demand made by the licensee in terms thereof cannot be held as arbitrary or illegal. As long as prepaid meters are not installed, it is mandatory for the consumers to pay the security deposit as demanded by the licensee. <u>Therefore, waiving of security deposit merely because a request for provision of HT prepaid meter is made when no such meters are available does not arise. Such a request is contrary to statutory scheme and liable to be</u></i>

S. No.	Objections/Comments/Suggestions	Response
		<u>rejected.</u> It is not the case of the petitioners that the amount of deposit demanded is in excess of what is required by the tariff determined by the Regulatory Commission. They cannot insist for supply of electricity without complying with the demand for additional security deposit. <u>Section 47 does not envisage waiver of security deposit nor prescribe alternative mode of providing security, such as bank guarantee.</u> There is no ambiguity in the provision. Thus, there is no scope for playing in the joints to grant the relief of waiver/reduction of deposit. When the statute vests power in the licensee to demand security deposit and licensee exercises such power and no provision is made for waiver/reduction/alternative mode of providing security, it is not permissible for this Court, in exercise of equity jurisdiction under Article 226 of the constitution of India, to direct the distribution licensee to dispense with payment of security deposit or to furnish bank guarantee or reduce the security deposit demanded. Contrary to the statutory mandate, no direction can be issued. When the language of the provision is plain, simple and clear, it is not permissible for the Court to interpret the same in different manner or issue directions contrary to the statutory mandate. No case is made out by petitioners to waive additional security deposit. In view of the above legal position, it is clear that till the time prepaid metering is not operationalized in UPCL, consumers are required to pay security deposits for supply of electricity to UPCL.
2.	Billing of steel industries should for 15 days and security deposits should be taken for one month.	Hon'ble Commission may take a comprehensive view in the matter.

Response to comments of Shri Madhav Prasad Dhaundhiyal

S. No.	Objections/Comments/Suggestions	Response
1.	Security deposits may be recovered from me in 06 monthly installments by adding the each installments in the bill.	UPCL in its petition dated 20-03-2023 has already proposed for recovery of additional security deposits in 12 equated monthly instalments by adding each instalments in the bill.

14. Further, M/s Century Pulp & Paper vide its letter dated 03.10.2023 requested to amend the Regulations to allow consumers the option of providing a Bank guarantee as an alternative to paying the additional security deposit in case or through a demand draft.

Commission's Observations, Views & Directions:-

15. On examination of the submission of the Petitioner in the Petition, comments/objections/suggestions of the stakeholders, Petitioner's reply on the same, the Commission has observed certain observations which are detailed below:-

- (1) The Petitioner in its instant Petition has enclosed a draft Office Memorandum and requested for approval of the same which primarily focuses on allowance of recovery of amount of additional security deposits as specified in Regulation 4.2 of UERC (The Electricity Supply Code, Release of New connections and related matters) Regulations, 2020 pending with the consumers in 12 Equated Monthly Installments (EMIs).
- (2) On examination of the stakeholders comments, the issues on which stakeholders have raised their concerns are as follows:-
 - a) Interest on the security amount deposit.
 - b) Adoption of Prepaid Metering System which allows for no security amount deposition by the consumer.
 - c) Inclusion of Bank guarantee as mode of payment of security deposit in addition to cash/DD/RTGS/NEFT or any other electronic mode accepted by distribution licensee.
 - d) Computation of security amount for 30 days or 45 days consumption period instead of 'N+1' months where N is the no. of the months in a billing cycle approved in Tariff Order.
 - e) Recovery of amount of additional security deposits pending with the consumers in EMIs.

16. The Commission view on the issues/aspects associated with the instant Petition of the Petitioner mentioned at Para 15 (2) above are detailed below:-

- (1) With regard to 'Interest on the security amount deposit', the philosophy of allowing reasonable interest rate on security deposits based on RBI bank rate is ubiquitously being followed in the entire Country in accordance with the provisions of Section 47 (4) of the Electricity Act, 2003 which provides that:

"47. (Power to require security)

...

- (4) The distribution licensee shall pay interest **equivalent to the bank rate or more, as may be specified by the concerned State Commission**, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security. [Emphasis added.]"*

Inline with the same, the Commission has already decided that the interest rate applicable on security deposit amount shall be calculated @ bank rate which is prevailing rate notified by the Reserve Bank of India as on 1st April of the year.

Thus, the Commission does not find any good reason to deviate from the nation-wide set principles in this regard.

- (2) With regard to 'Adoption of Prepaid Metering System which allows for no security amount deposition by the consumer', the Commission understands that adoption of newer technologies which not only improves the consumer experience but also helps in improving the efficiency of the distribution licensee viz. Prepaid Metering System should be readily implemented.

Section 47 (5) of the Electricity Act, 2003 provides that:-

"47. (Power to require security)

...

- (5) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1) **if the person requiring the supply is prepared to take the supply through a pre-payment meter.**"*

[Emphasis added.]

In this regard, the Commission finds it appropriate to highlight that the Commission vide its Order dated 19.10.2023 in the matter of 'application seeking approval of the Commission for the investment on the project REVAMPED DISTRIBUTION SECTOR SCHEME (RDSS)', gave in-principle approval to the Petitioner for installation of approx. 15.77 Lakh Smart Prepaid Meters in its distribution network under the RDSS scheme along with other vital distribution system improvement works.

However, the Commission would like to emphasize that the Prepaid Metering System comes with an inherent limitation of serving only those consumers who are having whole current meters as the remote disconnection facility is not available for CT/PT operated energy meters. Thus, the Prepaid Metering System cannot be implemented for consumers with high load who have CT/PT operated energy meters, so the exemption allowed under the provision of Section 47 (5) by the Electricity Act, 2003 cannot be extended to the consumers other than the consumers connected via whole current energy meters due to technology limitation.

- (3) With regard to 'Inclusion of Bank guarantee as mode of payment of security deposit', the prevailing Regulation 4.2 2 of the UERC (The Electricity Supply Code, Release of New connections and related matters) Regulations, 2020 categorically provides that:-

"4.2 Additional Security Deposit

...

*2. The Licensee shall review the consumption pattern of the consumer for the adequacy of the security deposit from April to March of the previous year. Excess of Required Security Deposit over Existing Security Deposit shall be Additional Security Deposit. Assessment of Additional Security Deposit shall be done once a year in the month of April and the same shall be reflected in the next bill. **Such reflected amount shall be deposited by the consumer through Cash/DD/RTGS/NEFT or any other electronic mode accepted by distribution Licensee.**" [Emphasis Added]*

Hence, as per provisions of the above statute, the provision of Bank Guarantee cannot be extended for payment of additional security amount through the Order. Moreover, this is an Order dealing with the request of the distribution licensee to allow it to take security deposit in Equated Monthly Installments. Therefore, it would not be prudent to incorporate the provision of Bank Guarantee for payment of additional security through an Order, the same shall be considered after following consultative process with all the Stakeholders as and when other requirement of amendment in Regulations would arise.

- (4) With regard to 'Security amount may be computed for 30 days or 45 days consumption period instead of 'N+1' months', the Commission while issuing the UERC (The Electricity Supply Code, Release of New connections and related matters) Regulations, 2020 had carefully thought on this issue as it is very

crucial to safeguard the financial interests of the distribution licensee against the credit sale of one billing cycle of the consumer plus 15 days for payment of dues from the bill date and subsequent to the due date, further 15 days for disconnection as per Section 56 of the Act i.e. one additional month is allowed over and above the billing cycle period. Therefore, the concept of 'N+1' has been arrived where N is the number of months in a billing cycle approved in the Tariff Order.

Further, the Commission would like to highlight that the revenue of the distribution licensee acts like lifeblood for the entire power sector and it is in the interest of the entire power sector to safeguard the distribution licensee against the defaulting consumers. The Commission does not find any good reason for deviating from its stance of security amount computation as set in Regulation 4.2 (1) of the aforesaid Regulations.

- (5) With regard to 'Recovery of amount of additional security deposits pending with the consumers in EMIs', the Commission has observed that earlier the option of EMIs for payment of additional security deposit was allowed by it in its Order dated 06.03.2009 in the interest of distribution licensee & consumers. Taking a considerate view on the request of the Petitioner made in its instant Petition, the Commission finds it appropriate to allow the consumers the option to make their due additional security amount payment in 12 Equated Monthly Installments under the provisions of 'Powers to remove Difficulties' mentioned in Chapter 8 Savings of UERC (The Electricity Supply Code, Release of New connections and related matters) Regulations, 2020 which provides that: -

"Chapter 8: Savings

...

(2) Powers to Remove Difficulties

If any difficulty arises in giving effect to these regulations, the Commission may, of its own motion or otherwise, by an order and after giving reasonable opportunity to those likely to be affected by such order, make such provisions, not inconsistent with these regulations, as may appear to be necessary for removing the difficulty."

And the Commission decides to remove the difficulty in implementation of the provisions of the Regulation 4.2 2 of the aforesaid Regulations and allows the

Petitioner to recover additional security deposit as per provisions of the aforesaid Regulations in maximum upto 12 Equated Monthly Installments from the consumers.

Further, the Commission approves the office memorandum furnished by the Petitioner in its instant Petition with certain revisions and the same is annexed herewith as **Annexure-A**.

Ordered accordingly.

(M.K. Jain)
Member (Technical)

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

Office Memorandum

Pursuant to the approval granted by Hon'ble Uttarakhand Electricity Regulatory Commission, the procedure for recovery of Additional Security Deposits against credit sale of electricity is specified as follows for the convenience of the consumers.

1. Amount of additional security deposits as specified in Regulation 4.2 of UERC (The Electricity Supply Code, Release of New connections and related matters) Regulations, 2020 pending with the consumers shall be recovered in maximum upto 12 equated monthly installments (EMIs) starting from the month of April, 2024. However, full payment of security deposit shall be accepted from the consumers who want to make such payment.
2. The value of installment of security deposits shall be added in the energy consumption bill and the payment of total billed amount inclusive of EMI of security deposits shall be accepted from the consumer. The payment of billed amount exclusive of EMI security deposits shall not be accepted from the consumer. In case a consumer does not make payment of any bill(s), the payment of pending EMIs of security deposit shall be accepted whenever the consumer make payment of the bill.
3. In case part payment is allowed by the distribution licensee to the consumer, the amount of energy consumption bill (excluding security deposit) shall be adjusted first and the remaining amount shall be adjusted towards additional security deposits/EMI of additional security deposit.
4. The amount of pending security deposits shall be shown separately in the electricity bill of the consumers and no delayed payment surcharge shall be charged on non-payment of the same.
5. In case any Hon'ble Court/ Appellate Tribunal of Electricity /Forum pass on order for staying the recovery of security deposits, the action shall be taken as per orders of such Hon'ble Court/ Appellate Tribunal of Electricity/Forum.

These orders shall come into force with effect from 01.04.2024."