

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Vidyut Niyamak Bhawan, Near I.S.B.T., P.O.-Majra, Dehradun-248171

Coram

Shri C. S. Sharma

Member - Chairman

Shri K. P. Singh

Member

June 20, 2014

No. UERC/6/TF/217/561--Statement of Reasons for the "UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) (Second Amendment) Regulations, 2014" and "UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) (Second Amendment) Regulations, 2014"

Statement of Reasons**INTRODUCTION**

The Commission had issued the UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013 (hereinafter referred to as "Principal Regulations-1") vide notification dated April 15th, 2013 repealing earlier UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2010 (hereinafter referred to as "Principal Regulations-2"). Both the Regulations provided an option to the generator either to opt the "generic tariff" as specified in the regulations or "project specific tariff" to be determined by the Commission based on petition filed by the generator. Keeping in view the main objective of the applicability of option exercised by the generator during the currency of PPA (i.e. life of the project), the Principal Regulations-1 were amended vide notification dated October 15, 2013 wherein, Regulation 3 of Chapter 1, Chapters 4 and 5 of the Principal Regulation-2 were reinstated. These reinstated regulations were made applicable to the projects commissioned prior to coming into force of the Principal Regulations-1.

The Commission based on the representations received from the SHPs generators issued a draft amendment to Principal Regulations-1 & Principal Regulations-2 inviting comments from all stakeholders. The draft amendment covered the following:

- i. Additional capitalisation on account of Force Majeure events.
- ii. Revision of Capacity Utilization Factor to ensure recovery of normative AFC.

Last date of submission of the comments / suggestions / objections was kept as 12.05.2014. A list of stakeholders who submitted comments is enclosed as **Annexure-I**. The Commission also held a hearing in the matter on 15.05.2014, list of participants is enclosed as **Annexure-II**.

Consideration of the views of the stakeholders and analysis and findings of the Commission on important issues:

1. **Additional capitalisation on account of Force Majeure (Amendment in Regulation 14(7) of the Principal Regulations-1 and Amendment in Regulation 15(9) of the Principal Regulations-2)**

Comments received

M/s Rishiganga Power Corporation Ltd., M/s Birahi Ganga Hydro Power Ltd. & M/s Himalaya Hydro Power Ltd. had while referring to natural calamity of June, 2013 submitted that most of the SHPs in Uttarakhand have suffered extensive damage due to the floods occurred during this calamity and many of them are still under shut down because of extensive repairs. They further submitted that even UPCL was able to restore its 33 kV transmission lines only in May, 2014, i.e. almost 11 months after the disaster. The developers requested the Commission to take into account the loss of revenues and under recovery of AFC due to this calamity as well and also the additional capital cost being incurred in rehabilitating the project.

M/s Him Urja Pvt. Ltd. submitted that the Commission has allowed the additional capitalization on account of loss due to natural disasters but it has not protected the annual fixed charges in the event of natural disasters. The regulation of the large hydropower projects has given this protection to large projects. Though the relaxation in PLF gives relief to the developers but it does not insulate the developer from such disasters. Many projects in Uttarakhand were shut down for a period varying from two months to 10 months due to extensive damage to the project and thus would not be able to achieve CUF of even 20%. Therefore, the Commission may consider introducing provision of relief by way of payment upto AFC in the event of loss of generation due to natural disaster. The tariff for such projects is based on cost plus basis, therefore, it is not possible for such projects to recover the loss in future. The only chance of recovery could have been through obtaining high PLF but as the Commission has itself observed that the projects are able to achieve only 34% PLF and hence, expecting drastic recovery in PLF would be too remote to be realized.

Analysis and Decision

The developers have sought securing revenue losses incurred on account of stoppages caused by natural calamities and also to cover calamity of 2013 for additional capitalisation. Since the provisions for recovery of such losses do not exist in the Principal Regulations, the same cannot be introduced retrospectively by notification of amendment in Regulations. The Commission vide the amendment Regulations is not specifying entirely new Regulations, but is amending the existing Regulations recognising problems being faced by the hydro developers and, hence, introducing reliefs sought is not being considered. The reference made by the developers to the regulation for the large hydropower projects affording such protection is neither borne out by the provisions therein nor is relatable to the issue being examined. The existing MYT Regulation, 2011 provides for recovery of AFC in respect of large hydro projects by way of two part tariff. These regulations provides for recovery of 50% AFC in the form of energy charges and the balance 50% in the form of capacity charges on

attaining Normative Annul Plant Availability Factor (NAPAF). In case any HEP is not able to achieve its NAPAF during a year, capacity charges are allowed to be recovered on prorata basis. However, for under-recovery of energy charges due to lower generation caused by force majeure events, no mechanism has been provided in the Regulations. Therefore, basic principle of recovery of AFC by LHPs requires developers to ensure availability of their projects for generation and in no other way they are given protection for recovery of AFC in the regulations. Further, it is to note that the SHPs are governed by single part tariff and are not subjected to scheduling of power. Hence, there is no similarity between the two sets of Regulations.

Based on the above discussion, the Commission decides to retain the relevant provision of the draft amendment regulations.

2. Incentive/recovery mechanism for generation beyond revised normative CUF (Amendment in Regulation 26(1) of the Principal Regulations-1 and Amendment in Regulation 27 of the Principal Regulations-2)

Comments received

M/s Rishiganga Power Corporation Ltd., M/s Birahi Ganga Hydro Power Ltd., M/s Himalaya Hydro Power Ltd. and M/s Swasti Power Ltd. submitted that above amendment would be detrimental to the overall interest of Renewable Energy power generation and Small Hydro Power Sector in Uttarakhand State and therefore should not be adopted for the following reasons –

- i. The 9 out of the 12 SHPs in operation are achieving CUFs of only 31% to 38% and the other SHPs are unlikely to exceed 40% CUF given their performance in the last four years and it is extremely improbable that they can do so on a consistent year-on-year basis. These 9 SHPs have already accumulated great financial losses on account of not recovering their AFCs in the last 4 years, since their tariffs were based on normative CUF of 45%. While the Commission has now proposed reduction of normative CUF to 40%, it has not provided any means for recovery of these accumulated financial losses due to under-recovery of AFC prior to April, 01, 2014.
- ii. Furthermore, the proposed amendment to reduce normative CUF to 40% does not provide for any mechanism to recoup losses due to under-recovery of AFC if the actual CUFs of SHPs continue to be below 40% (as is the case with 9 SHPs who have operated 31% to 38% CUF in the last 4 years). This means that the SHPs continue to carry all the risk of under-recovery of AFC due to the admitted risks posed by uncertainty of weather patterns, hydrology and calamities. In such circumstances, it is respectfully submitted that the SHPs may at least be allowed a legitimate chance to recoup some of their accumulated and future under-recovery of AFC by fixing tariff for power generation over 40% CUF at the applicable generic tariff, which is the case under the existing Principal Regulations.
- iii. Based on historical data and hydrological risks the probability of SHPs exceeding 40% CUF is remote, and it is much more likely their CUFs will be below 40% in the future as well. In the unlikely event that an SHP does exceed CUF greater than 40% in a particular year, it will only be recouping a small portion of already accumulated losses from previous years of under-recovery of AFC. In view of this,

it is submitted that the Commission's apprehension that SHPs will somehow maximize their returns by consistently achieving CUF in excess of 40% is misplaced, as the historical data and the vagaries of nature preclude that possibility.

- iv. In the Tariff Regulations of 2010 and 2013, the Commission had given the SHPs an incentive to exceed the previous normative CUF of 45% by allowing the same generic tariff for any generation over and above the normative CUF. The same principle may therefore be applied in the amended regulations as well. As such the apprehension of the Commission that SHPs will maximize returns is misplaced, as the vagaries of nature ensure that the actual CUFs achieved by SHPs over their 35+ year life will certainly fluctuate up and down as proven by currently available historical data. In view of this, the Commission may kindly allow the same generic tariff for any generation over and above the 40% normative tariff and not seek any recovery/adjustment of payments made over the 40% normative tariff.
- v. It is submitted that the proposed amendment to Regulation 26 whereby tariff for the power generated between 40% to 45% CUF has been reduced to the Operations & Maintenance (O&M) charges and then recovered from any generation beyond 45% would actually result in the unintended and undesirable consequence of throttling down Renewable Power generation in Uttarakhand State. O&M charges under the current regulations is abnormally low to begin with and do not meet the actual operations and maintenance costs of SHPs. It is submitted that under Tariff Regulations of 2008, the Commission had allowed 4-5% of capital expenditure as annual O&M charges, whereas under Tariff Regulations 2010 & 2013 the O&M charges work out only about 2-3% of normative capital expenditure. If actual capital cost incurred by SHPs were taken into account, then current O&M charges are only about 1-1.5% of actual capital cost. In view of the above, there is no reason for SHPs to try to generate power above the proposed normative CUF as the existing O&M charges are insufficient to meet the actual operating cost, and SHPs may in fact find it financially prudent to shut down the plant to avoid costly wear and tear of plant and machinery.
- vi. The above mentioned unintended throttling of Renewable Power generation over and above 40% CUF would have an adverse impact on Uttarakhand State and UPCL as the total installed capacity of the SHPs impacted by these regulations is 57.9MW and the total energy generated by them from 40% to 45% CUF range would be 25.36 million units. If SHPs do not have much incentive to generate power over 40% CUF, then UPCL would potentially forego 25.36 million units of Renewable Power available in Uttarakhand state. In order to meet its RPO obligations UPCL would then have to purchase this 25.36 million units of power from outside sources at a potentially higher price of about Rs. 5.50 (Rs. 4/Unit market price + Rs.1.5 REC/Unit) at a total cost of about Rs. 13.95 Crore.

Analysis and Decision

As mentioned in the SOR accompanying the draft amendment Regulations, the Commission has recognised the hydrological risk in the operation of SHPs, difficulties caused by their remote location etc. It was also observed that number of SHPs have not been able to achieve CUF prescribed in generic tariff i.e. 45%. It was also observed that such variation in hydrology may also turn in favour of the developers and that the single part tariff structure could result in an SHP developer earning much higher returns if actual generation exceeds the normative CUF. The Commission is aware that about two-third of the revenues in the initial period of operation of SHPs are spent on debt servicing and O&M. Only after the loan is fully retired, this burden comes down. Inability to recover their AFC in this initial period has a potential threat of loan default and

consequential adverse actions of the lenders. As majority of the SHPs were not achieving the CUF, they were not receiving their AFC. It was in this context that the Commission undertook this exercise to reassess achievable CUF for recovery of AFC. The Principal Regulation-2 has been in operation for almost 4 years now. The developers did not agitate this issue, presumably under mistaken belief that new regulations - Principal regulation-1 will improve their tariffs and have taken up this issue after notification of Principal regulations-1. Their demand that amendments should allow part recoupment of their past financial losses cannot be conceded.

The developer submitted that the rate of levelised generic O&M charges for CUF above 40% is very low as their actual O&M expenditure is higher than the normative O&M charges allowed under the regulations. They submitted that under such circumstances developer would prefer to stop generation from their SHP beyond the CUF of 40% as they would incur financial loss. They also submitted that recovery of amount paid for generation between CUF of 40% to 45% should not be made on generation beyond CUF of 45%. There is some merit in the contention taken by the developers. Their request for same tariff beyond 40% cannot be acceded as the intent of this amendment is only to allow them to recover their AFC if they strive and achieve atleast average PLF. The Commission observes that UPCL being the distribution licensee has obligation to meet its RPO compliances in accordance with the RE Regulations, 2013. In the event of shortfall in non-Solar RPO, UPCL would be required to procure RECs at the market-price. The distribution licensee in that case would have to meet the shortfall, if any, in non-Solar RPO by purchasing equivalent RECs atleast at the floor price which as of now is Rs. 1,500.00/REC (Rs. 1,500.00/MWh, i.e. Rs. 1.50/kWh). Once the AFC of SHP is recovered by the developer on attaining revised normative CUF, further generation should be eligible for incentive so that the generator is motivated to increase its generation. Additional generation of non-Solar RE power by the developer would relieve the licensee from procurement of equivalent RECs. Hence in partial acceptance of contention raised by developers, the cost which otherwise would be incurred by the licensee on procurement of REC is being considered as incentive to the developers for making efforts in maintenance of SHPs and generating beyond the revised normative CUF so that there would be a win-win situation for both the generators as well as for the licensee. Accordingly, the Commission decides to fix the tariff for generation beyond 40% & upto 45% as Rs. 1.50/kWh which at present is the floor price of non-solar RECs. Accordingly, the draft amendment Regulation is modified to this extent.

The developers had also submitted that in the Principle Regulations-1 & 2, the Commission had given the SHPs an incentive to exceed the previous normative CUF of 45% by allowing the same generic tariff for any generation over and above the normative CUF. The sole purpose of revision of normative CUF of SHP is only to ensure recovery of AFC and financial viability of SHP business. In case SHPs generates over and above 45% of CUF situation would become similar to that of pre-amendment state, and therefore, such SHPs would be entitled to earn revenues at the tariffs as provided in the Principal Regulations. It is not intended to allow additional incentives to developers who achieve higher CUF.

However, the Commission instead of allowing the full recovery of incentive earned for energy generated at the CUF exceeding 40% and upto 45% on generation exceeding the annual CUF of 45% as proposed in the draft Regulations, has decided to adjust this incentive gradually and has decided deduction of Rs. 0.75 per unit from energy generated beyond CUF of 45% from the levelised generic rates specified in the Principal Regulations at CUF of 45% till entire amount paid as incentive for generation between 40 to 45% CUF is recovered. This will help the generators from the potential threat of loan default and consequential becoming the project as NPA. The draft amendment Regulation is modified to this extent accordingly.

3. Capacity Utilisation Factor (Amendment in Regulation 28 of the Principal Regulations-1 and Amendment in Regulation 29 of the Principal Regulations-2)

Comments received

M/s Rishiganga Power Corporation Ltd., M/s Birahi Ganga Hydro Power Ltd., M/s

Himalaya Hydro Power Ltd. and M/s Swasti Power Ltd. submitted that average PLF for SHPs for the years 2009-10, 2010-11, 2011-12, 2012-2013 have only been 31.34%, 37.89%, 30.59%, 33.91% respectively and, also that the average PLFs for SHPs in year 2013-14 will be far less than 30% due to the floods that occurred in Uttarakhand State in June, 2013. The developers requested to set the new normative CUF to 35% in the proposed amendments to the Principal Regulations.

M/s HUPL submitted that the cost of the risk associated with non generation due to external factors as enumerated in the SOR remains the same for all projects irrespective of project specific or generic tariff. It has requested that the projects with specific tariff may also be included in the benefits being given to other projects to mitigate under recoveries due to low generation. M/s HUPL submitted that the concept of adopting CUF of DPR in the case of project specific tariff was itself discriminatory as it is a case of giving by one hand and taking by other. It is also contrary to the regulations of even the large hydro power projects where only 95% of the generation in 90% dependable year is taken as CUF for recovery of the Annual Fixed Cost of the project. It also encourages the developers to move to high capacity low CUF regime which is detrimental to both the utility and the generator in the long run.

Analysis and Decision

The Commission in its draft amendment Regulations had proposed to revise the Normative CUF of SHPs to 40% keeping in view that majority of them did not achieve 45% CUF and consequently did not receive their AFC. This norm of 40% was arrived on the basis of actual data received from UPCL for FY 2008-09 to FY 2012-13, wherein the average CUF worked out to 39.58%. Hence, the Commission decided to fix the normative CUF at 40% for recovery of AFC. Accordingly, the Commission decides that revised normative CUF of 40% would remain unchanged as proposed in the draft amendment regulations.

In this regard, it may be noted that for determination of project specific tariff, CUF specified in the DPR of the respective SHP or normative CUF whichever is higher is considered for determination of tariff. Relevant extract of Regulation 11(3) of the RE Regulations, 2010 & Regulation 10(3) of the RE Regulations, 2013 are reproduced as following:

“(a) For projects opting to have their tariffs determined on the basis of actual capital cost instead of normative capital cost as specified for different technologies under Chapter 5, the CUF (generation) for recovery of fixed charges shall be taken as that envisaged in the approved

DPR or the normative CUF specified under Chapter 5 for the relevant technology, whichever is higher; "

In case CUF specified in the DPR is higher than the normative CUF as specified in the Regulations, "project specific tariff" would be determined based on the CUF specified in the DPR. Hence, these projects shall not be affected by any revision made in the normative CUF.

It is mentioned that in case of "Project specific tariff", the tariff determination is based on capital cost as per actual as compared to normative capital cost considered in determining generic tariff. The Developers seek "Project specific tariff" only in case when their actual cost is higher than Normative Capital cost considered in generic tariff determination. Both capital cost as well as CUF has linkages with DPR. Any change in one parameter keeping the other same will not be proper.

4. Review Period of RE Regulations, 2010

M/s HUPL submitted that before the amendment of the main regulation itself amendment in respect of the review period specified in Regulation 12 of the RE Regulations, 2010 would be required otherwise it will run contrary to the amendments. It further submitted that the review period may be extended under the Regulation 47 (Power to Relax) for which reasons have to be recorded in writing.

Analysis and Decision

The Commission observes that Chapters 4 & 5 of the Principal Regulations-2 have been reinstated for the projects commissioned before 01.04.2013 vide UERC(Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) (First Amendment) Regulations, 2013. Accordingly, Regulations 15(9), 27 & 29 of the Principal Regulations-2 are in force for the above mentioned projects. However, review or control period of the Principal Regulation-2 had been specified till 31.03.2013 in accordance with Regulation 12 of the Regulations. This is anomalous. The review or control period of regulations reinstated has to be till they are operative. For the present, Commission decides to extend this up to the period of Principal regulation-1. A fresh view in the matter shall be taken when these regulations are reviewed or restated.

5. Additional Submissions

M/s HUPL submitted that in determination of project specific tariff all other costs have been taken on the normative basis as for other projects. Further, the full cost is actually not passed through as the CUF of the project specific tariff is more than the generic tariff.

M/s Swasti Power Ltd. submitted that normative capital cost considered in the RE Regulations are less as compared with the actual capital cost incurred in implementation of SHPs. It suggested that the Commission

should consider increase in capital cost by 14% on annual basis. It further submitted that as per UERC Regulation deemed generation benefit would be available if the total duration of interruption / outages exceeds 48 hours in a month, i.e., a transmission availability of 93.5%. This norm is very low and does not carry compulsion for the utility to improve grid reliability while the loss to the SHP developer is substantial. The developers have also submitted that Capital subsidy is given to encourage development of SHPs and it is an important element to alleviate the problems being faced. The receipt of capital subsidy from MNRE requires fulfilling of certain performance parameters, some of which are subject to the vagaries of monsoon. Since this would take considerable amount of time, accordingly, tariff adjustment should be carried only after allowing a period of 2 years to complete the formalities and availing the actual benefit.

Analysis and Decision

Both, normative generic tariff as well as project specific tariff is determined in accordance with the regulations framed under the Electricity Act, 2003. Norms specified in the regulation are being fixed after giving due consideration to all the relevant operational & financial parameters such as auxiliary consumption, CUF, rate of inflation, interest rate, etc. Norms decided & fixed in the regulations are the guiding principle for determination of tariff, i.e. generic tariff or project specific tariff. If a generator is not able to recover its cost fixed in accordance with the regulations it should, at first place, look into operational & financial efficiency and thereafter, should endeavour to improve upon the same.

Normative Capital cost in the Regulations have been specified after giving due consideration to the existing normative cost, prevailing market condition etc. The Commission is not framing any new Regulations wherein the norms of operations are re-fixed. The Commission in its SoR accompanying the draft amendment Regulations has already elaborated in detail as to why the same is not being provided and hence, there is no merit in the suggestion of the stakeholder.

The Commission vide UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) (First Amendment) Regulations, 2012 already discussed the issue at sub Para (2) of Para 2.2 of SOR as following:

"(2) The Commission discussed the issue of allowing the time limit of 20 minutes at a time and also 40 hours/month towards outages/interruptions to be excluded from deemed generation, with UPCL during the meeting. UPCL submitted that allowance of 20 minutes would be insignificant as normally breakdown in the hilly terrain, if they occur, would take about 12 hours to be restored. Hence, UPCL requested the Commission to increase the limit of 40 hours/month to 48 hours/month to cover eventualities of at least 4 breakdowns in a month. The Commission on the request of the generators and after seeking UPCL's views on the issue has decided to do away with the time limit of 20 minutes at a time for outages/interruptions. The Commission has also increased the total duration of interruptions/outages to 48 hours/month on the request of UPCL."

Accordingly, revisiting the same issue at this stage is not required, and hence, no amendment to this effect is warranted.

On the issue of capital subsidy, the Commission has already opined in draft notification that capital subsidy is provided for promotion of RE based power generation and also to reduce financial burden on the project developers and make their tariffs attractive. If adjustment of capital subsidy only after receipt of the same is allowed, as requested by the generators, then all the project developers shall be getting higher tariffs and they would stop making efforts for availing capital subsidy. Moreover, the Principal Regulations already specify the correction mechanism in case the subsidy amount is reduced by MNRE provided the reduction in subsidy amount is not due to the inefficiency of the generator. Accordingly, no change to this effect is required.

6. UPCL's Additional Submissions

During the hearing held on 15.05.2014 in the matter, licensee submitted that amendment in regulations will have financial impact on it, therefore, it requested for additional time of 2 months to carry out a study for analyzing the reason for reduced CUF achieved by the developers. The Commission during the hearing allowed it 7 days time for submission of its comments. On UPCL's request copies of the comments submitted by developers was also provided to it.

UPCL vide its letter dated 22.05.2014 submitted that it would require additional time of at least 15 days for effectively replying to the contentions and the submissions of the generators. Further, it also submitted that during the hearing none of the generator mentioned about the scarcity of availability of water or any wrong estimation of design energy by them, however, from the oral submission made by the generator it appears that the reason for attaining low CUF by SHPs was attributed to condition/availability of the evacuation system. UPCL also submitted that the Commission may constitute or appoint an expert agency in the matter and to postpone the finalization of the draft regulation till the time such report is made available. UPCL also mentioned that none of the generators made any submission regarding the erroneous estimation of design energy in the detailed project report, even when the officials of UPCL specifically mentioned that no data or evidence is available to impeach the correctness of the data collected by the government agency while preparing the detailed project report, which only shows that the generators were not challenging the estimation of design energy as calculated during the preparation of detailed project report, hence, the very object and reason upon which the draft regulation were proposed does not survive. UPCL also requested the Commission to seek the comments and records from the concerned department/agencies of the government, responsible for collecting the hydrological data and preparing the DPR of the various SHPs and also to ensure the wide circulation of the present draft regulation and its implication upon the interest of the electricity consumer of Uttarakhand state so that the proper and effective representation of the consumer interest is made. UPCL again requested the Commission to provide it atleast 2 months time for collecting necessary data to ascertain actual cause of lower CUF.

Analysis and Decision

The draft amendments to the Regulations were issued vide notification dated 18.04.2014. The notice of the same was published in the news papers having wide circulation in the State for information of all the stakeholders. These amendment regulations alongwith SOR were also made available on the Commission's website: www.uerc.gov.in for submission of comments by all the stakeholders. Last date for submission of comments was fixed on the date 12.05.2014, thereafter, hearing in the matter was also conducted on 15.05.2014. Effectively one month's time was provided for submission of comments by the stakeholders. UPCL's submission regarding additional time of 15 days for replying on comments made by developer is unfounded as

license was already aware of the issues represented by developers as the same were provided in the SoR accompanying the draft Regulations.

The Commission vide its Order dated 19.03.2014 held that considering the difficulties faced by the developers in achieving norms of operation specified in the Regulations, the Commission ordered its staff to examine the data of CUF submitted by the petitioners and also the other issues raised by the developers and, if required, frame an appropriate draft amendment to RE Regulations, 2010 & 2013 for inviting comments from all stakeholders. In the hearing, representatives of UPCL were also present.

It is apparent that the Commission took cognisance of the difficulties faced by developers in the State in achieving the normative CUF and accordingly, directed for analysis of the details furnished by them. Issue has not just sprung up and the amendment of the regulations are being undertaken all of sudden. UPCL, being a respondent was aware of the issues. Moreover, being a licensee all the generation data and relevant details of all the projects including SHPs in the State are available with it. Analysis of the fact that developers are facing hardship in achieving normative CUF since past 4 years could have been done by UPCL in the past as it was the sole beneficiary of power from the SHPs and the decreased generation from these SHPs should have been a matter of concern to it. Moreover, the data of CUF worked out by the Commission was based on the data obtained from UPCL itself.

As mentioned heretofore, the necessity of review/amendment in Normative CUF arose as it was observed that majority of developers are unable to recover their AFC and that they are facing potential threat of debt default as in initial year major part of revenue is utilised for debt servicing i.e. interest and repayment. A study as suggested by UPCL is not relevant to the issue being examined and appears to be a delaying ploy.

Accordingly, the Commission has decided to issue the Amendment Regulations.

Annexure-I

List of Stakeholders who submitted their written comments on draft Amendment Regulations:

S.No.	Name of Stakeholders
1	Uttarakhand Power Corporation Ltd. (UPCL)
2	M/s Rishiganga Power Corp. Ltd.
3	M/s Birahi Ganga Hydro Power Ltd.
4	M/s Himalaya Hydro Power Ltd.
5	M/s Him Urja Pvt. Ltd.

Annexure-II

List of participants during the hearing held on 15.05.2014 on draft Amendment Regulations:

S.No.	Name	Organization
1	Sh. S.K. TamtaSh. Anurag Sharma	Uttarakhand Power Corporation Ltd. (UPCL)
2	Sh. Rupak Agrawal	M/s Rishiganga Power Corp. Ltd.
3	Sh. Alok Dangwal	M/s Birahi Ganga Hydro Power Ltd.
4	Sh. Vikram Reddy	M/s Himalaya Hydro Power Ltd.
5	Sh. Arun Gupta	M/s Him Urja Pvt. Ltd.
6	Sh. Y.S. Ravindranath ReddySh. Sumer Singh	M/s Swasti Power Ltd.
7	Sh. B.S. Reddy	M/s Chamoli Hydro Power Pvt. Ltd.

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Vidyut Niyamak Bhawan, Near I.S.B.T., P.O.-Majra, Dehradun-248171

Notification

June 20, 2014

No. F-9(21)/RG/UERC/2013/558: In exercise of powers conferred under section 181(2)(zc) read with Section 61(h) of the Electricity Act, 2003, and all other powers enabling it in this behalf, and after previous publication, the Uttarakhand Electricity Regulatory Commission hereby makes the following amendments in the UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013 (Principal Regulations) and subsequent amendment made in the same, namely:

1. Short Title, Commencement and Interpretation

(1) These Regulations may be called the UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) (Second Amendment) Regulations, 2014.

(2) These Regulations shall come into force w.e.f. April 01, 2014.

2. Amendment in Regulation 14(7) of the Principal Regulations:

Following be added after Regulation 14(7) of the Principal Regulations:

"Provided that any additional expenditure of capital nature which becomes necessary on account of damages caused by natural calamities (but not due to flooding of power house attributable to the negligence of the generating company) after prudence check by the Commission, shall be allowed as additional capitalisation after adjusting the proceeds from any insurance scheme for all the generating stations covered under these Regulations. For additional capital expenditure admitted, as above, appropriate adjustment in tariff shall be allowed for balance life of that project based on the norms given in Chapters 4 & 5 of the Regulations.

Provided that additional capitalisation on this account would only be allowed if appropriate and adequate insurance cover was available for the generating station at the time of occurrence of natural calamities referred to in first proviso above."

3. Amendment in Regulation 26 of the Principal Regulations:

Regulation 26 of the Principal Regulations stands deleted and shall be replaced by the following:

"26. Applicability of Tariff

The tariff shall be allowed to be recovered in the following manner:

(1) *For generators opting generic tariff:*

i. *Till the actual CUF is less than or equal to annual CUF of 40%, tariffs would be payable at the levelised generic rates specified in this Amended Regulations arrived at based on the normative CUF of 40%.*

ii. *For generation beyond annual CUF of 40%, following will apply:*

(a) *For generation beyond annual CUF of 40% but upto annual CUF of 45%, tariff shall be Rs. 1.50/kWh.*

(b) *For generation beyond annual CUF of 45%, incentive shall be equal to the levelised generic rates specified in the Principal Regulations*

at CUF of 45% reduced by Rs. 0.75 per kWh. Such reduction of Rs. 0.75/kWh shall be made from the subsequent monthly bills only till the actual annual CUF reaches 55%.

Provided further that for generation beyond actual annual CUF of 55%, incentive shall be equal to the levelised generic rates specified in the Principal Regulations at CUF of 45%.

(2) For generators opting for project specific tariffs, the tariff for generation beyond the applicable CUF (i.e. the CUF envisaged in the approved DPR or the normative CUF specified for the relevant technology under Chapter 5, whichever is higher), when entire fixed cost has been recovered, shall be allowed to be recovered at the generic tariff specified by the Commission in the Principal Regulations.

(3) The annual CUF shall be calculated in accordance with the principles specified in Regulation 3(1)(f) of the Principal Regulations."

4. Amendment in Regulation 28 of the Principal Regulations:

Regulation 28 of the Principal Regulations shall be read as:

"28. Small Hydro Generating Plant

The technology specific parameters for determination of generic tariffs for Small Hydro Generating Stations shall be as below:

Projects Commissioned on or after 01.04.2013

Project Size	Capital Cost	O&M Expenses for year of commissioning	Capacity Utilization Factor	Auxiliary Consumption
	(Rs. Lakh/MW)	(Rs. Lakh/MW)	(%)	(%)
Upto 5 MW	785	26.43	40%	1%
> 5 MW & upto 15 MW	750	22.73		
> 15 MW & upto 25 MW	715	19.03		

NOTE: For the purpose of this Regulation, normative CUF is based on Energy Sent Out at interconnection point and for tariff purposes energy net of free power to the home State, if any, committed by the developer shall be factored. For generic tariff determination, home State share has been taken as 18% from 16th year onwards."

1. Levellised rate of Fixed Charges (RFC) in Rs./kWh for SHPs (upto 25 MW) commissioned on or after 01.04.2013, applicable up to annual CUF of 40% from 01.04.2014

Particulars	Upto 5 MW	Above 5 & upto 15 MW	Above 15 & upto 25 MW
Gross Tariff	4.75	4.52	4.21
Less: Accelerated Depreciation	0.35	0.35	0.35
Net Tariff	4.40	4.17	3.86