

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

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Statement of Reasons for Draft UERC (Terms and Conditions for Determination of Multi Year Tariff) (First Amendment) Regulations, 2020

Statement of Reasons

1. The Commission had issued UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2018 (hereinafter referred to as “Principal Regulations” or “UERC Tariff Regulations, 2018”) vide notification dated October 6th, 2018.
2. The State discom, i.e. Uttarakhand Power Corporation Limited, had filed a Petition before the Commission seeking amendment of the UERC Tariff Regulations, 2018, to amend Regulation 33, related to computation of Working Capital Requirement, and Regulation 85, related to Non-Tariff Income as the existing provision were causing financial loss to the Corporation. The Commission vide its Order dated 03.09.2020 rejected the Petition filed by UPCL on the grounds that amendment of Regulation is done by following procedure laid down under section 181 of the Electricity Act, 2003, and cannot be carried out through an Order. The Commission through the aforesaid Order also directed the staff of the Commission through the Secretary to examine the claims made by UPCL and put up the proposal for amendment of the Regulations before the Commission, if so required.
3. In view of the above, the Commission’s staff analysed the relevant provisions of the MYT Regulations, 2018 and observed that as per the sub-clause (a)(v) of clause 2 of Regulation 33, of MYT Regulations, 2018, the amount held as security deposits from the consumers and distribution system users is deducted while computing the working capital requirement of the discom. Such practice is being followed, deeming that the licensee is utilising such funds to meet its periodic working capital requirement, and any shortfall or otherwise is met through other sources viz. borrowings, internal accruals etc. However, from the representation made by UPCL and also during the past tariff proceedings, it was observed

that UPCL is not utilising the deposits received from the consumers to meet its working capital requirement, rather it is keeping the same in the form of Fixed Deposits with the banks and availing Overdraft against the same to meet its requirement of working capital. The Commission observed that, in light of the business practice being followed by UPCL, the deduction of consumer security deposit while working out the normative working capital requirement as per the MYT Regulations, 2018, is leading to a considerable amount of decrease in normative working capital requirement of the discom, thus resulting in a very low amount of normative Interest on Working Capital. The impact of this on the ARR of the discom is that, UPCL, without utilising the amount of consumer security deposit to meet its working capital requirement, is borrowing from bank, by keeping the said consumer security deposit in the form of FDs, and paying interest thereon, however in the ARR it is able to recover only 1/3rd of the interest paid on bank overdraft due to sharing of gain/losses under the MYT Regulations, 2018, resulting in under recovery to the extent of 2/3rd amount of interest paid on bank overdraft by UPCL. The Commission observed that this ought to cause financial hardship to the discom as it is managing its funds by keeping them in the form of FDs and availing over- draft facility against the same which bears a certain amount of interest cost. Moreover, the Commission under MYT Regulations, 2018 has been adding the interest received on the FD's, created by the discom from consumer security deposit, under the head Non-Tariff income, which is having a cascading effect on the ARR of the discom being approved by the Commission.

The Commission has, therefore, decided to amend the Principal Regulations to remove sub-clause (a)(v) of clause 2 of the existing Regulation 33 of UERC Tariff Regulations, 2018, which in effect would lead to computation of more realistic normative working capital requirement of the discom in line with the business practice being followed by it. However, the Commission also clarifies that while comparing the normative Interest on Working Capital against the actual cost on borrowing paid by the discom, the Commission shall reinstate the actual borrowing cost considering the actual working capital requirement at the level of approved collection efficiency and not on actual collection efficiency which is abysmal in the initial months. The amended Regulation 33(2)(a) of the UERC Tariff Regulations, 2018 shall be read as follows:

“(2) Distribution:

(a) The Distribution Licensee shall be allowed interest on the estimated level of working capital for the

financial year, computed as follows:

(i) Operation and maintenance expenses for one month;

(ii) Maintenance spares @ 15% of operation and maintenance expenses; plus

(iii) Two months equivalent of the expected revenue from sale of electricity at the prevailing tariffs;

(iv) Capital required to finance such shortfall in collection of current dues as may be allowed by the Commission; minus

(v) One month equivalent of cost of power purchase, based on the annual power procurement plan.”

4. Further, UPCL also represented before the Commission that it utilises the money borrowed through bank overdraft to make early payment of the power purchase bills and avails rebate from the power suppliers, and the entire amount of said rebate earned by the discom is added up under Non-Tariff income, and accordingly, reduced from the ARR of the discom, thus causing financial loss to the discom due to its efficient operations. The Commission in this regard is of the view that earning of rebate by the discom on timely payment of its power purchase liability is a result of the efforts put by it to manage its funds in an efficient manner and hence, benefit of such efficiency should be shared by both the discom and the consumers. Therefore, the Commission has decided to amend Clause (6) of Regulation 12 of the UERC Tariff Regulations, 2018 to add Sub-Clause (k) “Rebate earned on discharge of power purchase liability”, thus, considering the same as a controllable factor under the MYT Regulations, 2018, and accordingly, the amount of such rebate shall be shared by the discom and the consumers in accordance with Regulation 14 of the MYT Regulations, 2018.
5. Further, UPCL in its above referred Petition submitted that sometimes due to crisis of funds, it delays in payment of power purchase bills and consequently makes the payment of delayed payment surcharge (DPS) due to such delay, and such delayed payment surcharge is not allowed by the Commission in the ARR of the discom, thus causing financial loss to the discom as the entire rebate earned on timely payment is passed on to the consumers and the DPS is not allowed in tariffs. The Commission in this regard is of the view that similar to amount of rebate earned on timely discharge of power purchase liability, the amount of DPS due to late discharge of power purchase liability is also a controllable factor, the cost of which needs to be shared by both the discom and consumers. Therefore the Commission has decided to amend Clause (6) of Regulation 12 of the UERC Tariff Regulations, 2018 to add Sub-Clause (l) “Late payment surcharge on account of delayed discharge of power

purchase liability”, thus considering the same as a controllable factor under the MYT Regulations, 2018, and accordingly, the amount of such DPS shall be shared by the disom and the consumers in accordance with Regulation 14 of the MYT Regulations, 2018.

The amended Regulation 12(6) of the UERC Tariff Regulations, 2018 shall be read as follows:

“(6) Some illustrative variations or expected variations in the performance of the applicant which may be attributed by the Commission to controllable factors shall include, but shall not be limited to, the following:

- a) Variations in capital expenditure on account of time and/or cost overruns on account of land acquisition issues;*
- b) Efficiency in the implementation of a project not attributable to an approved change in scope of such project, change in statutory levies or force majeure events and Delay in execution of the project on account of contractor, supplier or agency of the generating company or transmission licensee or Distribution licensee or SLDC;*
- c) Variations in technical and commercial losses;*
- d) Bad debts;*
- e) Variations in performance parameters;*
- f) Variations in working capital requirements;*
- g) Failure to meet the standards specified in the UERC (Standards of Performance) Regulations, 2007 as amended from time to time except where exempted in accordance with those Regulations;*
- h) Variation in financing pattern due to variation in capital expenditure;*
- i) Variation in quality of supply;*
- j) Variation in operation & maintenance expenses;*
- k) Rebate earned on discharge of power purchase liability;*
- l) Late payment surcharge on account of delayed discharge of power purchase liability;”*

6. Further, UPCL submitted before the Commission that the R&M expenses allowed by the Commission under the MYT Regulations are not commensurate with the actual R&M expenses incurred by it owing to high cost of actual R&M on IT Assets, and therefore, requested that R&M expenses on IT assets as well as on the other assets may be approved on actual basis. In this regard, considering the fact that the K factor derived on the basis of R&M expenditure of previous years may not be sufficient to enable UPCL to recover the actual R&M cost of the utility, as UPCL has been considerably increasing its IT base in the

past, the R&M expenses on which is considerably on a very high side owing to the cost of AMC's, software renewal etc. as compared to other Non-IT assets. The K factor which is being calculated based on past years average R&M expenses gets reduced when calculated as a whole for the consolidated asset base, however, the actual R&M expenses consists of mix of both IT related assets and Non-IT related assets, with R&M on IT related assets being on a higher side as compared to Non-IT assets as discussed above. However, for implementing the proposed change, UPCL would be required to provide assets wise details of R&M expenses for past 5 years initially, and subsequently a separate record of asset wise R&M expenses is required to be maintained, so that the K factor, and in turn R&M expenses could be worked out under the Regulations separately for IT related assets and Non-IT related assets failing which R&M expenses will be approved by the Commission on consolidated basis as per its previous approach.

The amended Regulation 84(3) of the UERC Tariff Regulations, 2018 shall be read as follows:

“(1) The above components shall be computed in the manner specified below:

$$EMP_n = (EMP_{n-1}) \times (1+G_n) \times (1+CPI_{inflation})$$

$$R\&M_n = K \times (GFA_{n-1}) \times (1+WPI_{inflation}) \text{ and}$$

$$A\&G_n = (A\&G_{n-1}) \times (1+WPI_{inflation}) + Provision$$

Where -

- *EMP_{n-1} – Employee Costs for the (n-1)th year;*
- *A&G_{n-1} – Administrative and General Costs for the (n-1)th year;*

Provision: Cost for initiatives or other one-time expenses as proposed by the Distribution Licensee and validated by the Commission.

- *‘K’ is a constant specified by the Commission in %. Value of K for each year of the control period shall be determined by the Commission in the MYT Tariff order based on licensee’s filing, benchmarking of repair and maintenance expenses, approved repair and maintenance expenses vis-à-vis GFA approved by the Commission in past and any other factor considered appropriate by the Commission;*
- *CPI_{inflation} – is the average increase in the Consumer Price Index (CPI) for immediately preceding three years;*

- *WPIinflation – is the average increase in the Wholesale Price Index (CPI) for immediately preceding three years;*
- *GFA_{n-1} – Gross Fixed Asset of the distribution licensee for the n-1th year;*
- *G_n is a growth factor for the nth year and it can be greater than or less than zero based on the actual performance. Value of G_n shall be determined by the Commission in the MYT tariff order for meeting the additional manpower requirement based on licensee's filings, benchmarking, and any other factor that the Commission feels appropriate:*

Provided that repair and maintenance expenses determined shall be utilised towards repair and maintenance works only.

Provided further that, repair and maintenance expenses for IT related assets and non-IT related assets shall be computed separately under these Regulations if the distribution utility maintains separate record of assets wise detail of R&M expenses claimed under these Regulations."

7. Further, UPCL in its above referred Petition has also sought that the provision in the Regulations w.r.t. treatment of delayed payment surcharge (DPS), collected due to non-payment of bills by the consumers, as Non-Tariff income should be amended. It is pertinent to mention that UPCL initially was booking the DPS in its accounts on cash basis and for the past few years has changed its practice and is now booking the entire DPS on accrual basis. This cannot be allowed to be retained by UPCL as unrecovered arrears will be written off which would be passed on to the consumers in UPCL's ARR. Further, segregation of the amount of DPS not realised and written off out of the DPS accrued and booked in the books of account and not booked in the books of accounts would also be difficult and cumbersome. Besides, the honest paying consumers who would be loaded with bad debts should be incentivised in the form of DPS. Accordingly, UPCL's proposal is not acceptable.
8. Further, UPCL also sought adjustment of part payment of electricity dues by the consumers first towards delayed payment surcharge and the remaining amount towards principal amount. In this regard, the Commission is of the view that the changes proposed by UPCL are not related to the MYT Regulations, 2018, and accordingly, no amendment is required to be carried out for the same.

By the Order of the Commission

(Neeraj Sati)
Secretary