

# UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

'Vidyut Niyamak Bhawan', Near I.S.B.T., P.O.-Majra, Dehradun-248171

Dated: September 10, 2015

## UERC (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2015

### Statement of Reasons

- 1 The Uttarakhand Electricity Regulatory Commission had notified the UERC (Terms and Conditions for Determination of Tariff) Regulations, 2011 (hereinafter referred to as "previous Regulations"). The Tariff Regulations, 2011 governs all matters relating to filing and determination of tariff for the utilities. These regulations had a control period of three financial years, i.e. April 1, 2013 to March 31, 2016. The Commission issued the draft tariff Regulations for the ensuing control period inviting comments/objections/suggestions on the same from the stakeholders. Last date of submission of comments/objections/suggestions was 30.06.2015. Moreover, in furtherance to the Government of India, Ministry of Power O.M. No. 4/2/2015-Th.I dated 27.03.2015, the Commission also issued draft addendum to the MYT Regulations, 2015. Comments/suggestions/objections received by the Commission have been duly analysed before considering them or rejecting the same. A meeting with the members of the State Advisory Committee was also held on 21.07.2015 and their comments/objections/suggestions have also been considered by the Commission while finalising the draft Regulations.
- 2 The Commission also held a public hearing on 18.08.2015 to facilitate oral submission of the stakeholders and other interested persons. The comments/objections/suggestions of the stakeholders have also been considered. List of stakeholders who submitted comments on draft notification is at Annexure-I enclosed. List of participants who attended the hearing is also at Annexure-II enclosed.
- 3 The Statement of objects and Reasons is being issued with the intent of explaining the rationale which went into finalisation of Tariff Regulations, 2015. However, in case of any deviation/discrepancy in the SOR with respect to Tariff Regulations, 2015 the provisions of Tariff Regulations, 2015 shall be applicable. The comments/suggestions/objections received from the stakeholders and public and the views of the Commission on the same are discussed in subsequent paragraphs.

#### **4 Suggestions and objections of stakeholders and the Commission's views thereon:**

##### **4.1 Sub-regulation (1) of Regulation 1, i.e. defining name of the Regulations.**

The draft regulation has been named as "UERC (Terms and Conditions for Determination of Tariff) Regulations, 2015."

##### **Stakeholders Comments/Suggestions**

- 4.1.1 Sh. Rohtash Dahiya, Member, State Advisory Committee, UERC submitted that the Regulations could be titled as "UERC (Terms and conditions for Determination of MYT Tariff) Regulations, 2015".

##### **Commission's View**

- 4.1.2 The Commission is of the view that although the above mentioned suggestion would have no material effect on the regulations, however, the suggestion be considered.

##### **4.2 Sub-regulation (1) of Regulation 3, i.e. definition of "Accounting Statement".**

In the draft regulation the accounting statement has been defined in accordance with the Companies Act, 2013 and provides the manner in which these shall be submitted by utilities.

##### **Stakeholders Comments/Suggestions**

- 4.2.1 Sh. V.K. Garg, Member, State Advisory Committee, UERC submitted that the definition may not serve the purpose of the tariff fixation as the rate of depreciation and certain other parameters for different items and useful life of the project etc. are different for the Companies Act than that for Electricity Act. He also suggested that para provided below (f) in the definition of the same needs little more elaboration.

##### **Commission's View**

- 4.2.2 The accounting statements referred in the definition gives the information/documents to be submitted by the utilities for the purpose of APR and truing up in accordance with the definition of accounting statement in the Companies Act, 2013. Para (f) is nothing but the auditor's report forming part of the annual statement of accounts. The suggestion, as of now, is not being considered. However, the Commission would separately take up introduction of regulatory accounting for the utilities.

#### **4.3 Sub-regulation (3) of Regulation 3, definition of "Additional Capitalisation".**

In the draft regulation, Additional Capitalisation has been defined as:

*"Additional Capitalisation" means the capital expenditure actually incurred or projected to be incurred, after the date of commercial operation of the Project and admitted by the Commission after prudence check subject to provisions of Regulation 22".*

##### **Stakeholders Comments/Suggestions**

4.3.1 Sh. V.K. Garg, Member, State Advisory Committee, UERC proposed the following definition:

*"Additional capitalization means capital expenditure actually incurred or proposed to be incurred after the date of commercial operation (COD) of the project and admitted subject to the provisions of Regulation 22, page 34-37 defining the definition of cut-off date as mentioned in 22(1).*

##### **Commission's View**

4.3.2 The Cut-off date as used in Regulation 22(1) is already defined in the Regulations. Accordingly, no change is required.

#### **4.4 Sub-regulation (10) and (86) of Regulation 3, Year.**

##### **Stakeholders Comments/Suggestions**

4.4.1 UPCL submitted that Regulation 3 (10) defines base year and Regulation 3 (86) defines year. However, in Regulation 48 and 84, the term nth year has been used which is not defined anywhere. In this connection, it is proposed that the year may be defined as follows and the same terminology may be used in the entire Regulations :-

- (i) Base year - FY 2014-15 (n -1th year).
- (ii) Current year - FY 2015-16 (nth year).

##### **Commission's View**

4.4.2 The same terminology was in vogue in the previous Regulations also. The suggestion put forth by UPCL is not being accepted.

#### **4.5 Sub-regulation (11) of Regulation 3, i.e. Definition of "Beneficiary".**

In the draft regulation "Beneficiary" in relation to a generating station means a person purchasing electricity generated at such generating station whose tariff is determined under these Regulations;

and in relation to the transmission business means the person who has contracted the transmission capacity on payment of transmission charges.”

#### **Stakeholders Comments/Suggestions**

- 4.5.1 PTCUL has proposed that in the definition the word in the third line “person” should be replaced by “Applicant”.

#### **Commission’s View**

- 4.5.2 The Commission has not considered the suggestion. The word person is inclusive of the word applicant and the word person is wider than applicant.

#### **4.6 Sub-regulation (17) of Regulation 3, i.e. Definition of “Contracted power”.**

In the draft regulation contracted power has been defined as “Contracted Power means the Power in MW which the applicant has agreed to transmit/wheel/supply, as per agreement.”

#### **Stakeholders Comments/Suggestions**

- 4.6.1 PTCUL has proposed that the definition should be more specific and can be read as follows:-

“Contracted Power” means the Power in MW which the Applicant has agreed to transmit/wheel/supply as per contractual agreement/transmission services agreement. The term contracted power can be removed as it is not being used in the Regulation.

#### **Commission’s View**

- 4.6.2 The Commission observes that the term contracted power has not been used in the Regulation, and hence, decides to remove the same from final Tariff Regulations, 2015.

#### **4.7 Sub-regulation (18) of Regulation 3, i.e. Definition of “Control period”.**

In the draft regulation control period has been considered as three financial years.

#### **Stakeholders Comments/Suggestions**

- 4.7.1 UPCL has submitted that most of the states, which have adopted the MYT regulations, started the process with three year control period. However, with the improvement in the quality of data being captured and maturity of the tariff determination process these states have adopted a five year control period. The moderate duration of the

control period of five year helps to minimise risk for the utilities and the consumers as has been stated under Clause 5.4.4 of the National Electricity Policy issued by the Ministry of Power, Government of India on February 12, 2005. UPCL also submitted that the Model Regulations for Multi Year Distribution Tariff, 2011, issued by the Forum of Regulators, has also defined a five year control period. Hence, UPCL proposed that, the duration of the control period may be changed to five year from the proposed level of three years.

### **Commission's View**

4.7.2 The Commission is of the view that the time still isn't ripe to have a control period of 5 years. The generating stations in the State are undergoing RMU activities because of which the operational norms will have to be reviewed. Further, the salary structure and the position of staff structure **in all the utilities** is also in variance for the Commission to go for a 5 year Control Period. Hence, the control period for these Tariff Regulations, 2015 shall remain three years as proposed in draft regulations.

### **4.8 Sub-regulation (20) of Regulation 3, i.e. Definition of "Cut-off date".**

In the draft regulation, cut-off date has been defined as:

*““Cut-off Date” means 31st March of the year closing after two years of the year of commercial operation of whole or part of the project, and in case the whole or part of the project is declared under commercial operation in the last quarter of a year, the cut-off date shall be 31st March of the year closing after three years of the year of commercial operation;*

*Provided that the cut-off date may be extended by the Commission if it is proved on the basis of documentary evidence that the capitalization could not be done within the cut-off date for reasons beyond the control of the project developer;”*

### **Stakeholders Comments/Suggestions**

4.8.1 Sh. V.K. Garg, Member, Advisory Committee, UERC submitted that the 3 years has been allowed in the above definition, and in the 4th year the petitioner shall file the Petition for additional tariff, then the burden of four years will either be loaded in the 5th year or phased with carrying cost/IDC in the tariff increase. If in that year tariff happens to be +10% on account of other factors it will give a tariff shock.

### **Commission's View**

4.8.2 The APR and Truing-Up exercise is being carried out by the Commission in accordance with the Regulations regularly and also during the currency of the Control Period and not at the end of the Control Period. The suggestions of Shri Garg refers to the process where the truing up is carried out at the end of the control period, however, this Commission carries out the Performance Review and Truing up for previous year in each financial year. Hence, the apprehension of tariff shock as putforth by Sh. Garg is unwarranted, and accordingly, no change is required in the final Tariff Regulations.

### **4.9 Sub-regulation 21(c)(ii) of Regulation 3, i.e. Definition of CoD of transmission system.**

Sub-regulation 21(c)(ii) of Regulation 3, specifies that *"where the transmission line or substation is dedicated for evacuation of Power from a particular generating station, the generating company and transmission licensee shall endeavor to Commission the generating station and the transmission system simultaneously as far as practicable and shall ensure the same through appropriate Transmission service Agreement in accordance with Regulation 21(7) of these Regulations"*.

### **Stakeholders Comments/Suggestions**

4.9.1 PTCUL submitted that the phrase "to be dedicatedly used" should be incorporated in this provision so that the same may be read as:

*"(ii) where the transmission line or sub-station is dedicated/to be dedicatedly used for evacuation of power from a particular generating station, the generating company and transmission system shall endeavour to Commission the generating station and the transmission system simultaneously as far as practicable and shall ensure the same through appropriate Transmission Service Agreement in accordance with Regulation 21(7) of these Regulations"*.

### **Commission's View**

4.9.2 The Commission is of the view that the intent of the suggestion appears to make the transmission line which is meant to evacuate more than one generators has been energised on account of commissioning of only one generator should be treated as dedicated line which will be against the definition/provision of dedicated line in the Electricity Act, 2003. Hence, no change is being made in the Regulations.

#### **4.10 Sub-regulation (36)(d) of Regulation 3, i.e. Definition of “force majeure”.**

*“(d) Any shutdown or interruption of the grid, which is required or directed by the state or Central Government or by the Commission or the SLDC; any shut down or interruption, which is required to avoid serious and immediate risks of a significant plant or equipment failure”.*

#### **Stakeholders Comments/Suggestions**

4.10.1 PTCUL proposed that often due to natural climatic conditions like storms, heavy rains leading to falling of trees on the transmission lines etc. long duration breakdowns occur which is an unavoidable condition, therefore, such description should also be included in the aforesaid definition of ‘Force Majeure Event’. PTCUL further submitted that Force Majeure’ can be read as:

*“‘Force Majeure’ for these Regulations means the event or circumstance or combination of events or circumstances including those stated below which partly or fully prevents the generating company or transmission licensee to complete the project within the time specified in the Investment Approval, and only if such events or circumstances are not within the control of the generating company or transmission licensee and could not have been avoided, had the generating company or transmission licensee taken reasonable care or complied with prudent utility practices”*

#### **Commission’s View**

4.10.2 In the hilly State like Uttarakhand, heavy rains are normal phenomenon and cannot be construed as Force majeure events. The evacuation infrastructure should be robust to withstand such normal weather conditions. Further, storm has already been included in the definition. Moreover, the definition of force majeure means any event or circumstance which is not within the reasonable control of, or due to an act or omission of, that party and which, by the exercise of reasonable care and due diligence, that party is not able to prevent. Hence, no change as proposed by PTCUL is warranted.

#### **4.11 Sub-regulation (39) of Regulation 3, i.e. Definition of “Generating Unit”.**

*“‘Generating Unit’ in relation to a thermal generating station (other than combined cycle thermal generating station) means steam generator, turbine-generator and auxiliaries, or in relation to a combined cycle thermal generating station, means turbine-generator and auxiliaries; and in relation to a hydro generating station means turbine-generator and its auxiliaries;.”*

### **Stakeholders Comments/Suggestions**

4.11.1 Sh. Dahiya submitted that in the in 4th line after turbine- generator insert 'waste heat recovery unit'.

### **Commission's View**

4.11.2 The Commission noted that combined cycle gas power plants also have 'heat recovery unit' for generation of power using heat of the gas, hence, the same would also constitute part of generating unit of such plants. Accordingly, while accepting the comments of Sh. Dahiya the Commission has decided to rephrase the definition of "Generating Unit".

**4.12 Sub-regulation (42) of Regulation 3, i.e. Definition of "Gross Calorific Value" or "GCV".**

*"Gross Calorific Value" or "GCV" in relation to a thermal generating station means the heat produced in kCal by complete combustion one standard cubic meter of gaseous fuel;"*

### **Stakeholders Comments/Suggestions**

4.12.1 Sh. Rohtash Dahiya, Member, Advisory Committee, UERC submitted that in 2nd line after combustion insert "of one kg. of coal / lignite or one litre of liquid fuel or".

### **Commission's View**

4.12.2 In the proposed Regulations, only gas based thermal generating stations are included and generating stations based on solid fuel such as coal & lignite are not included, accordingly, related terminology (as proposed "one kg. of coal / lignite or one litre of liquid fuel ") has not been included as at present there is no generating station based on coal or lignite in the State and no such station is likely to be commissioned in the State during the Control Period. Hence, Sh. Dahiya's suggestion has not been considered.

**4.13 Sub-regulation (51) of Regulation 3, i.e. Definition of "Long-term transmission customer".**

*"Long-term transmission customer" means a person having a transmission service agreement for more than seven years with the transmission licensee including deemed transmission licensee to use Intra-State transmission system by paying transmission charges.*



### **Stakeholders Comments/Suggestions**

4.13.1 PTCUL submitted that the word in the first line “person” should be replaced by “Applicant”.

### **Commission’s View**

4.13.2 The suggestion not considered by the Commission for reasons already discussed in Para 4.5 above.

### **4.14 Sub-regulation (77) of Regulation 3, i.e. Definition of “Transmission Loss”.**

It has been defined as the energy losses in the transmission system of a Transmission Licensee. Cost of auxiliary power consumption in the sub-station for the purpose of air-conditioning, lighting, battery charging, accessories of sub-station equipments, etc., shall be considered as part of repair & maintenance expenses;

### **Stakeholders Comments/Suggestions**

4.14.1 PTCUL submitted that instead of R&M expenses it should be considered as part of A&G expenses. Further, PTCUL also requested that for this pricing methodology should be provided in the final regulation.

### **Commission’s View**

4.14.2 Similar provision existed in MYT Regulations, 2011, where transmission loss was specified to be a part of Repair & Maintenance Expenses. However, implication of transmission loss has not been accounted for in the ARR of transmission licensee so far. In any case, be it loss or an expense in the ARR of the transmission licensee, the implication of the same would devolve on the distribution licensee. Therefore, the Commission has decided not to consider financial implication of transmission losses for the second Control Period as well. PTCUL is advised to come up with an appropriate methodology in this regard during the proceedings of MYT Regulations for the third Control Period. Hence, the suggestion has not been considered. Necessary amendment has been incorporated in the definition of “Transmission Loss”.

### **4.15 Sub-regulation (84)(b) of Regulation 3, “Useful life of Gas/Liquid fuel based thermal generating station”.**

In the draft regulation, the same has been specified as:

*“Gas/Liquid fuel based thermal generating station - 25 years;”*

### **Stakeholders Comments/Suggestions**

4.15.1 Sh. Rohtash Dahiya, Member, Advisory Committee, UERC submitted that instead of 25 years, useful life may be specified as '15 years'.

### **Commission's View**

4.15.2 Useful life of Gas/Liquid fuel based generating station thermal generating stations is specified as 25 years in line with the existing MYT Regulations, 2011. Further, CERC has also vide Tariff Regulations, 2014 specified the life of such projects as 25 years. Hence, reduction in useful life, as suggested, has not been accepted.

### **4.16 Sub-regulation (d) of Regulation 4, in respect of “Determination of distribution loss (Baseline Values)”.**

In the draft regulation, sub-regulation 4(d) provides that under MYT frame work:

*“Trajectory for specific parameters as may be stipulated by the Commission based on submissions made by the Licensee, actual performance data of the Applicants and performance achieved by similarly placed utilities;”*

Further, Regulation 7 specifies that the baseline values (operating and cost parameters) for the base year of the control period shall be determined by the Commission and shall be based on the approved values by the Commission, the latest audited accounts, estimates for the relevant year, prudence check and other factors considered by the Commission. The Commission may re-determine the baseline values for the base year based on the actual audited accounts of the base year. Regulation 79 of the draft regulation inter-alia provides about the fixation of distribution loss reduction targets during the control period.

### **Stakeholders Comments/Suggestions**

4.16.1 UPCL, submitted that for distribution & retail supply business, one of the most critical operating parameters is the distribution loss which has been defined under regulation 79 of the draft regulation as “... Energy loss in the distribution system”. UPCL submitted that the Commission in its Tariff Order for FY 2003-04 read with Tariff Order for FY 2007-08 had estimated the distribution losses of UPCL for FY 2002-03 as 44.32%. The Commission in its Tariff Order for FY 2015-16 tried up the expenses and revenue

of UPCL for FY 2013-14 and estimated the distribution losses for this year as 20.66%. Thus, during a period of 11 years, UPCL reduced its distribution losses by 23.66% at an average of 2.15% p.a. Even after such significant reduction in distribution losses, the Commission while determining the ARR and Tariffs of UPCL considered deemed revenue due to non-achievement of unrealistic trajectory of distribution losses fixed by them. Consideration of this deemed revenue is direct loss to the Company. The trajectory of distribution losses fixed for the period from 2003-04 to 2015-16 was not based on any factual position including performance of UPCL.

UPCL submitted that the performance of UPCL is worth appreciable and the losses of the company are due to the reason that it is not getting proper tariff from the Commission. The distribution loss reduction trajectory earlier fixed by the Commission adversely affected the financial position of UPCL and, therefore, the Commission is requested to kindly provide in the regulations that distribution loss reduction trajectory shall be fixed considering the starting point of such losses as estimated by the Commission for FY 2014-15. The distribution loss reduction for each year shall be expressed in percentage and be applicable on the actual distribution losses of any year of the licensee. UPCL also submitted that reduction in distribution losses should be linked to capital expenditure incurred during the year of reduction of distribution losses. UPCL proposed in the matter to provide in the regulations that the value of deemed revenue on account of excess distribution losses shall not exceed the return which has to be allowed on capital expenditure incurred during the year for reduction of distribution losses.

### **Commission's View**

4.16.2 The Commission noted that UPCL has submitted its performance on loss reduction of 23.66% in a span of 11 years. However, this loss reduction needs to be viewed keeping in view substantially favourable change in its consumer mix. The sales mix of HT consumers increased from about 25% in FY 2002-03 to .....% in FY 2014-15. Thus, the reduced losses are on account of increased consumption in HT category. Losses in LT levels would still be in the same range and there isn't any significant improvement in this regard. This is also evident from the status of metering, billing, etc.

Despite significant capital investment by UPCL over the years which were also allowed by the Commission in the tariffs, no significant improvement in either

operation of UPCL or reduction in losses is observed. However, UPCL is advised to bring up this issue in the Business Plan for the II<sup>nd</sup> Control Period. Appropriate view would be taken by the Commission during the proceedings. Hence, no change is required on account of submissions made by UPCL in this regard as of now.

#### **4.17 Sub-regulation (3) of Regulation 8, in respect of approval of Business Plan.**

In the draft regulation, Regulation 8(3) provides that Business Plan shall be got approved by the applicant prior to filing of MYT Petition.

##### **Stakeholders Comments/Suggestions**

4.17.1 UPCL submitted that the Regulation 8(1) and 10(1) respectively provide that the Business Plan and MYT Petition shall be filed by 30-11-2015. As the last date of filing of MYT Petition is not after the date of filing of Business Plan, consequently, Business Plan may not be got approved prior to filing of MYT Petition. Hence, the Regulation 8(3) not being in consonance with Regulation 8(1) and 10(1), should be deleted.

##### **Commission's View**

4.17.2 The Commission agrees with the suggestion of UPCL and, accordingly, decides to remove Regulation 8(3) from the final Tariff Regulations, 2015.

#### **4.18 Regulation 9, in respect of "Specific Trajectory for Certain Variables".**

In the draft regulation, Regulation 9 requires that the Commission shall stipulate Trajectory for Certain Variables having regard to the past performance as also the performance of similarly situated licensees. Sub-regulation 9(1) specifies as under:

*"The Commission shall stipulate a trajectory for certain variables having regard to the past performance as also the performance of similarly situated licensees"*

##### **Stakeholders Comments/Suggestions**

4.18.1 Confederation of Indian Industry (CII) submitted that the trajectory for variables should be a practical plan based on the technology available and not on the past performance. The plan should aim for substantial improvements and not incremental improvements.

4.18.2 UJVN Ltd. submitted that as the Trajectories are stipulated for Generating companies too, therefore, the sub-regulation 9(1) should also include generating companies along with licensees as below-

*“The Commission shall stipulate a trajectory for certain variables having regard to the past performance as also the performance of similarly situated licensees/generating companies:”*

UJVN Ltd. also submitted that it would be appropriate to review the trajectory at the beginning of Control Period considering the performance achieved by the licensee/Generating Company during the last Control Period for stipulating a trajectory of Certain Variables as specified in Clause 9(1) of the Draft UERC Regulations 2015. Therefore, a provision in Clause 9(1) should be incorporated similar to the clause 10(1)-Specific Trajectory for Certain Variables in existing UERC Regulations 2011 which specifies as below-

*“Provided further that the Commission shall review the trajectory at the beginning of each Control Period and consider the performance achieved by the licensee/Generating Company during the last Control Period”*

4.18.3 UPCL submitted that Clause 9(1) of the draft regulation provided that the Commission shall inter-alia stipulate a trajectory of Collection Efficiency for Distribution Licensee. Further, Clause 69 (3) defines the net revenue requirement from sale of electricity. In this regard, UPCL submitted that approved collection efficiency should also be considered while computing the Net ARR from sale of electricity and, accordingly, the Net ARR should also be divided by approved Collection Efficiency.

#### **Commission’s View**

4.18.4 The Commission is of the view that while specifying trajectory, past performances have to be kept in view alongwith the efficacy of measures taken by the utility for improving the performance. Hence, no change is required as far as suggestion of CII concerned.

4.18.5 In respect of UJVN Ltd.’s submission regarding consideration of performance of similarly situated generating companies in the above mentioned sub-regulation 9(1), the Commission decided to accept the same as this would help improvement in performance of generating stations in the State. However, in respect of review of past performance and consideration of the same for deciding the trajectory for next control period, the Commission is fixing the trajectory of parameters for a control period after due analysis of actual data and recorded performances provided by utilities. These trajectories are being fixed so as to ensure improvement in operational as well as to create environment for sustained financial viability of the utilities resulting in benefits to not only end user/consumer but for utilities also. In case of adverse deviation/poor

performance by utilities from approved trajectory, aligning the same for fixing trajectory for next control period would defeat the basic principle of MYT regime. Accordingly, the Commission does not accept this submission of UJVN Ltd.

4.18.6 With regards to UPCL's submission, the Commission is of the view that the Commission approves the tariff based on distribution losses and not on AT&C losses, i.e. on accrual basis and not on cash basis. Consideration of tariff based on collection efficiency would imply fixation of tariff on cash basis. Further, improvement of collection efficiency is to the benefit of UPCL. However, the Commission while partially considering the suggestion of UPCL, has decided to allow financing of shortfall in the revenue of the licensee on account of approved collection inefficiency. Accordingly, provision for the same shall be done by way of factoring of the same into working capital so as to meet the revenue gap which may be bridged by the licensee either by way of financing from financial institutions or by way of efficiency. Hence, necessary modification is being done in Tariff Regulations.

#### **4.19 Regulation 12, in respect of "controllable parameters".**

In the draft regulation, following has been considered as controllable parameters:

- the variations in capital expenditure on account of time and/or cost overruns on account of land acquisition issues (Regulation 12(6)(a)); and
- the variation in the 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 (Regulation 12 (6) (b)).

Further, Regulation 12 (10) (b) specifies as follows:-

*"The approved aggregate gain or loss to the Applicant on account of controllable factors and sharing of such gains or such losses that may be shared in accordance with Regulation 14."*

#### **Stakeholders Comments/Suggestions**

4.19.1 UPCL submitted that for execution of most of the projects related to extension of the existing line length and/ or for the establishment of new substations the utility has to be dependent of acquisition of land or for obtaining right of way. In the process of acquisition of land and right of way, the sellers of the contract are the owner of the

lands. If a land owner refuses to sell the land and/or to provide right of way, it becomes difficult to execute the projects. The identification of an alternate route may involve survey and other studies which may result into cost and time overrun.

UPCL further submitted that as the sale of the land and/or right of way is the prerogative of the land owner, and thus is not under the control of the utility, hence, the acquisition of land should be regarded as the uncontrollable parameter. UPCL also mentioned that most states do not consider land acquisition related delays under controllable parameters.

Similarly, the cause of delay in execution of the project being undertaken by a contractor may not be solely held to be controllable. The contract entered into with the contractor clearly lays force majeure conditions including non-availability of raw material due to unexpected surge in demand etc. In the event of delay in execution by the contractor, it is important to ascertain the cause of delay and its controllability by the contractor. Under circumstances beyond the control of the contractor, UPCL may not be in a position to penalize the contractor for the project/cost over-runs. Hence, UPCL requested to remove the placement of “delay in execution of the project on account of contractor” from the controllable parameters.

UPCL also submitted that the reduction in distribution losses should be linked to Capital Expenditure incurred during the year for reduction of distribution losses and, therefore, the following provision may be added to the Regulation 12 (10) (b) :-

*“Provided that the value of deemed revenue on account of excess distribution losses shall not exceed return on Capital Expenditure incurred during the year for reduction of distribution losses.”.*

### **Commission’s View**

4.19.2 Section 68 of the Electricity Act provides that an overhead line shall, with prior approval of the Appropriate Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2). Further, Release of new HT/EHT connections Regulations, 2007 require the licensee to carry out proper route survey during the planning stage. Hence, if the licensee ensures compliance with the provisions of the Act and Regulations, then either it may not encounter the RoW issues or the same may be envisaged at the planning stage itself. Time and again licensee’s failure to comply with the statutory requirement as also absence of prior planning has

been observed. The licensees need to cure these deficiencies rather than seeking relaxations.

Further, the uncontrollable factors already covers the Force Majeure events, hence, no change is required to this extent. The suggestion is not being considered as the licensee is already aware of the loss trajectory specified by the Commission and should plan the capital investment accordingly. Further, reduction in losses would in turn reduce the power purchase cost of the licensee, however, the Commission does not reduce the power purchase cost of the licensee but considers a notional revenue by treating excess loss as a deemed sales, the impact of which is lower on the licensee.

**4.20 Regulation 14, in respect of “Sharing of gains & losses on account of controllable factor”.**

Regulation 14 provides that the 1/3<sup>rd</sup> of such gain or loss shall be passed on as a rebate or allowed to be recovered in tariffs over such period as may be specified in the Order of the Commission and balance amount of such gain or loss may be utilized or absorbed by the Applicant.

**Stakeholders Comments/Suggestions**

4.20.1 UPCL submitted that there are more risk involved in the Business of distribution and retail supply of electricity and, therefore, share of gain should be more than the share of loss for distribution licensee. Accordingly, the above Regulation may be kept as follows:-

*“(1) The approved aggregate gain and loss to the Applicant on account of controllable factors shall be dealt with in the following manner:-*

*(a) 1/3<sup>rd</sup> of such gain/ 50% of such loss shall be passed on as a rebate or allowed to be recovered in tariffs over such period as may be specified in the Order of the Commission;*

*The balance amount of such gain or loss may be utilized or absorbed by the Applicant.”*

4.20.2 Sh. Rohtash Dahiya, Member, Advisory Committee, UERC submitted that the sub-Regulation be read as:

*a) The gain shall be shared between the generating company or the licensee as the case may be and their respective beneficiaries in the ratio of 60:40.*

*b) (i) In case of loss on account of distribution losses one third amount of such losses shall be allowed to be recovered in tariff over such period as may be specified in the order of the*



*Commission, losses on account of other controlling factors unless otherwise specifically provided by the Commission, shall be borne by the distribution licensee. (ii) item wise losses on account of controlling factors in case of generating company / transmission licensee unless otherwise specifically specified shall be borne by the Generating company / transmission licensee.*

4.20.3 Confederation of Indian Industry (CII), submitted that Gain or loss is a function of the utilities efficiency or inefficiency. Hence, working towards improvement should be incentivized by retaining the gains/losses with the utility.

### **Commission's View**

4.20.4 In this regard, the Commission is of the view that provision made in the regulations is appropriate and in line with provisions made in the regulations of majority of other States. Further, in respect of Sh. Dahiya's suggestions for sharing of losses/gain at variance for generating companies and licensee, and also parameter wise sharing, the Commission is of the view that at present sharing should be uniform for all the utilities and all the controllable parameters. Deviation in this approach may be considered when implementation of MYT Regulations in real sense would reflect in planning of the utilities which would be readily available from accounts/records of such utilities so that the Commission may be able to relate their performances with actual gain/losses. Further, as regards CII's submission that all the gain/loss should be absorbed by utilities, the Commission would like to clarify that the provision for gain/losses has to be made in accordance with the Tariff Policy. In this regard, the National Tariff Policy provides as under:

*"The State Commissions should introduce mechanisms for sharing of excess profits and losses with the consumers as part of the overall MYT framework .In the first control period the incentives for the utilities may be asymmetric with the percentage of the excess profits being retained by the utility set at higher levels than the percentage of losses to be borne by the utility. This is necessary to accelerate performance improvement and reduction in losses and will be in the long term interest of consumers by way of lower tariffs."*

Thus, the Tariff Policy states that in the First Control Period, the percentage of the profits being retained by the utility be set at higher levels than the percentage of losses to be borne by the utility. However, the First Control Period is over. Hence, no change is required to this suggestion of UPCL/ Member SAC/CII.

#### **4.21 Sub-regulation (8) of Regulation 16, in respect of “In principle approval of capital cost”.**

In the draft regulation, sub-regulation 16(8) provides that:

*“The Transmission Licensee or Distribution Licensees or SLDC are required to file petition for ‘in-principle’ approval of all projects/schemes whose capital cost is more than Rs. 2.5 Crore or the amount specified by the Commission in a manner specified in Regulation 21.”*

#### **Stakeholders Comments/Suggestions**

4.21.1 UPCL submitted that in its order issued in the year 2002, the Commission made it mandatory for the utility to obtain prior approval of the Commission for executing projects worth Rs 2.5 crore and above. It has been thirteen years since the Commission has revised this limit. Over the years the cost of material and labour has increased substantially which is making it difficult to carry same quantum of work with the same amount as was in the year 2002. UPCL further submitted that the model regulation adopted by the FOR in the year 2011 suggests that any capital expenditure greater than Rs. 10 Crore by the Distribution Licensee shall be undertaken only after the prior approval of the Commission. Since 2011 approximately 5 years has passed during which the cost of various commodities have increased substantially. Under this scenario, the Commission shall increase the minimum capital cost of the project for which prior approval of the Commission is mandated to be at least Rs. 10 crore. Further, in view of the changes in the inflation on year on year basis it is suggested that the amount upto which the prior approval of the Commission may be exempted should be linked to the CPI of the year as indicated below:

*“Cost of the project, at the start of the nth year, for which prior approval shall be required = Ceiling of the cost of the project at decided by the Commission for the base year\*increase in WPI from the base year”.*

#### **Commission’s View**

4.21.2 In this regard, the Commission is of the view that the comment may be considered and the ceiling limit be reviewed. For this purpose, the Commission shall initiate separate proceeding for revising the minimum capital cost of the project for which prior approval of the Commission is mandated in License conditions. However, till such time the existing ceiling shall continue.

#### **4.22 Sub-regulation (3)(b) and (c) of Regulation 21, in respect of “capital cost of project”.**

In the draft regulation, sub-regulation (3)(b) &(c) specifies as under:

*“b) Interest during construction and financing charges, on the actual amount of loan.*

*c) Interest during construction and incidental expenditure during construction as computed in accordance with sub-Regulation 21(9) & 21(10) of these Regulations”*

#### **Stakeholders Comments/Suggestions**

4.22.1 Sh. V.K. Garg submitted that the additional capitalisation to be decided as per Regulation 22 does not put a time limit or a cut -off date & or cap for additional capitalization. The amount of interest during construction, finance charges on the actual amount of loan taken mentioned at sub-regulations (3)(b) and (c) should be specifically for the project and credited to a designated account from where it is drawn for the project may be added.

#### **Commission’s View**

4.22.2 Regulation 22(1) and (2) provides the conditions when additional capitalisation could be allowed. Hence, the provision of time limit is not required. Further, no cap for additional capitalisation can also be provided as there may be instances of petty works which may be carried out after CoD of the project and in case of any calamities, the extent of work required would be substantial. Hence, no change is warranted in this regard.

#### **4.23 Sub-regulation (7) of Regulation 21, in respect of “capital cost of project”.**

In the draft regulation, 4<sup>th</sup> proviso to sub-regulation 21(7) specifies as under:

*“Provided further that if the generating station is not commissioned on the SCOD or actual COD whichever is later of the associated transmission system, the generating company shall bear the IDC or transmission charges if the transmission system is declared under commercial operation by the Commission in accordance with second proviso of Clause (c) of sub-Regulation (22) of Regulation 3 of these Regulations till the generating station is commissioned;”*

#### **Stakeholders Comments/Suggestions**

4.23.1 UJVN Ltd. submitted that the sub-Regulation (22) mentioned above seems to be inappropriate, as sub-Regulation 22 recites as follows:-

*“Day means the 24 hour period starting at 00:00 hour;”*

Similar suggestion has also been made by Sh. Dahiya.

### **Commission's View**

4.23.2 In this regard, the Commission observed that reference has been made to Clause (c) of sub-Regulation (22) of Regulation 3 inadvertently. However, the same has to be read as Clause (c) of sub-Regulation (20) of Regulation 3. Hence, suggestion of UJVN Ltd./Sh. Dahiya is accepted and corresponding changes is being incorporated in final MYT Regulations, 2015.

### **4.24 Sub-regulation (7) of Regulation 21, in respect of "capital cost of project".**

In the draft regulation, 5<sup>th</sup> proviso to sub-regulation 21(7) specifies as under:

*"Provided also that if the transmission system is not commissioned on SCOD of the generating station, the transmission licensee shall arrange the evacuation from the generating station at its own arrangement and cost till the associated transmission system is commissioned ;"*

### **Stakeholders Comments/Suggestions**

4.24.1 UJVN Ltd. submitted that the proviso may be amended as follows:

*"Provided also that if the transmission system is not commissioned on SCOD of the generating station, the transmission licensee shall arrange the evacuation from the generating station at its own arrangement and cost till the associated transmission system is commissioned else the transmission licensee shall be liable to pay the generation company, Interest During Construction (IDC) and Return on Equity (RoE) invested by it till the associated transmission system is commissioned."*

### **Commission's View**

4.24.2 In this regard, the Commission is of the view that the Regulation already lays down that evacuation is to be ensured by the transmission licensee, hence, given suggestion has no relevance. Accordingly, suggestion of UJVN Ltd. is not accepted.

### **4.25 Sub-regulation (9) of Regulation 21, in respect of "Interest During Construction (IDC)".**

In the draft regulation, Regulation 21(9) specifies as under:

- (a) *"Interest during construction shall be computed corresponding to the loan from the date of infusion of debt fund, and after taking into account the prudent phasing of funds upto SCOD.*
- (b) *In case of additional costs on account of IDC due to delay in achieving the SCOD, the*

*generating company or the transmission licensee or the distribution licensee or SLDC as the case may be, shall be required to furnish detailed justifications with supporting documents for such delay including prudent phasing of funds:*

*Provided that if the delay is not attributable to the generating company or the transmission licensee or the distribution licensee or SLDC as the case may be, and is due to uncontrollable factors as specified in Regulation 12(5) of these Regulations, IDC may be allowed after due prudence check and taking into account prudent phasing of funds.;"*

### **Stakeholders Comments/Suggestions**

4.25.1 Sh. Garg submitted that the consumer should not be made to pay IDC for delays caused by various agencies except for change in law or force majeure. He also submitted that a debt equity ratio of 70:30 to be maintained all the time, otherwise the loan remains 80%, 90% and the equity is infused towards the end. This would provide base amount for calculating the permissible IDC. Sh. Garg also suggested that **Rate of Interest** needs to be made more specific and defined w.r.t Base Rate of the lead Bank subject to a weighted average of all loans interest rates.

### **Commission's View**

4.25.2 The Commission allows IDC for delays which are uncontrollable only after due analysis and prudence check. Further, as regards uniform infusion of debt & equity at 70:30 ratio the Commission is of the view that ideally capital cost should be invested in the manner as suggested by Sh. Garg, however, based on the financing available to the utilities, it has been observed that the financial institutions provide them with a initial fund and subsequently funds are disbursed on re-imburement basis. Hence, providing the debt-equity ratio of 70:30 at all times would be difficult. Regarding making the rate of interest more specific, the Commission is of the view that Rate of interest cannot be specified as the interest rates of banks keep changing and the rate of interest is as per the base rate of the bank which depends on the economic conditions. Hence, no change is required in final Tariff Regulations, 2015.

However, for calculation of interest during construction, prudent funding will be considered so as to ensure that the utility does not draw the entire loan first and then infuse equity which may increase the IDC of the project.

#### **4.26 Sub-regulation (10) of Regulation 21, in respect of “Incidental Expenditure During Construction (IEDC)”.**

In the draft regulation, Regulation 21(10) specifies as under:

- a) *“Incidental expenditure during construction shall be computed from the zero date and after taking into account pre-operative expenses upto SCOD:*

*Provided that any revenue earned during construction period up to SCOD on account of interest on deposits or advances, or any other receipts may be taken into account for reduction in incidental expenditure during construction.*

- b) *In case of additional costs on account of IEDC due to delay in achieving the SCOD, the generating company or the transmission licensee or the distribution licensee or SLDC as the case may be, shall be required to furnish detailed justification with supporting documents for such delay including the details of incidental expenditure during the period of delay and liquidated damages recovered or recoverable corresponding to the delay:*

*Provided that if the delay is not attributable to the generating company or the transmission licensee or the distribution licensee or SLDC, as the case may be, and is due to uncontrollable factors as specified in Regulation 12(5), IEDC may be allowed after due prudence check:*

*Provided further that where the delay is attributable to an agency or contractor or supplier engaged by the generating company or the transmission licensee or the distribution licensee or SLDC, the liquidated damages recovered from such agency or contractor or supplier shall be kept in view while computing the capital cost.*

- c) *In case the time over-run beyond SCOD is not admissible after due prudence, the increase of capital cost on account of cost variation corresponding to the period of time over run may be excluded from capitalization irrespective of price variation provisions in the contracts with supplier or contractor of the generating company or the transmission licensee or the distribution licensee or SLDC.;*”

#### **Stakeholders Comments/Suggestions**

- 4.26.1 Sh. Garg submitted that this provision of Tariff Regulations is open-ended and needs capping. Pre-Operative expenses, establishment expenses etc. are given different nomenclature and are added to the capital cost. There is no ceiling/Cap on IEDC. Clause 3 (c) is there but open to interpretation and arguments.

#### **Commission’s View**

- 4.26.2 Capping of IEDC would not be proper as IEDC depends on the tenure in which the

project is commissioned. Projects getting capitalized in a shorter time frame would have lesser IEDC than the projects getting commissioned in a longer time period. Further, IEDC in case of delays of uncontrollable nature would have to be allowed to the utilities. Hence, ceiling on IEDC is not being considered.

#### **4.27 Sub-regulation (11) of Regulation 21, in respect of “Initial Spares”.**

In the draft regulation, Regulation 21(11) specifies as under:

*“Initial spares shall be capitalized subject to the following ceiling norms as a percentage of the Plant and Machinery cost as per actuals upto the cut-off date:*

- (i) Thermal generating stations - 4.0%*
- (ii) Hydro generating stations - 4.0%*
- (iii) Transmission System*
- (iv) Transmission line - 1.00%*
- (v) Transmission Sub-station - 4.00%*
- (vi) Distribution System:*
- (vii) Distribution line - 1.00%*
- (viii) Distribution Sub-station (Green Field) - 4.00%.”*

#### **Stakeholders Comments/Suggestions**

4.27.1 Sh. Dahiya submitted to change the provision of initial spares from 4.0% to 2.5% in respect of hydro station & transmission sub-station and also for reducing the percentage of initial spares in respect of distribution green field from 4.0% to 2.0%.

#### **Commission’s View**

4.27.2 In the existing Regulations the limits specified for initial spares were as a % of capital cost of the project. However, the same have now been proposed as a % of cost of plant and machinery giving better cost estimation of these expenditures. Above mentioned ceiling limits of the initial spares in respect of generating stations & transmission system are based on the norms laid down by CERC based on the information furnished by project developers across the country. Accordingly, similar norms have been adopted in the proposed Regulations. The Commission is of the view that no change is required in this regard. However, in respect of distribution system, the Commission has decided to remove the requirement of initial spares as there would hardly be any requirement of such spares in a distribution business. However, if there is any requirement the same would be capitalised.

#### 4.28 Sub-regulation (2)(h) of Regulation 22, in respect of “replacement of asset”.

Regulation 22(2)(h) specifies as under:

*“In case of replacement of any asset/equipment (e.g. transformer, circuit breaker, C.T.,P.T. etc.) on account of non-performance/failure of the same, the following approach shall be adopted:*

*(i) In case of non-performance/failure of assets/equipment, it shall be sent to Store for assessment to check whether it is repairable or not at zero cost;*

*(ii) In case the asset is repairable, then such asset/equipment shall not be retired from Books of Assets.*

*Provided, proper tracking should be available for the material like location, asset number etc.*

*(iii) In case the asset is not repairable, then following process shall be carried out:*

- The asset is retired from the Books of Assets, at depreciated value.*
- Transfer the failed assets/equipments from failed to scrap material.*
- Dismantle it into of scrap inventory like iron, brass etc.*
- Build up scrap inventory.*

*Provided, exercise of dismantling of scrap inventory and build-up of scrap inventory shall be done simultaneously. Dismantled scrap value would be decided on the basis of last scrap sale value. Control Account (Dismantling) will be expense account.*

*Difference of Control account, i.e. either profit or loss shall be booked accordingly.*

*(iv) In case a new asset/equipment is issued, then it will be issued at weighted average cost and capitalized respectively, and accordingly, new asset would be created and corresponding entries shall be done in the Books of Accounts.”*

#### **Stakeholders Comments/Suggestions**

4.28.1 UPCL submitted that the following approach may be adopted in case of replacement of Assets:-

#### **A1. Where old replaced Asset is not re-usable and the funding is neither through Government Grants nor Consumer Contribution**

- (i) Excess of current cost of new Asset over the current cost of the replaced Asset shall be capitalized.
- (ii) The material of old replaced Asset which is re-usable shall be valued by applying the formula (net book value of the replaced Asset » current cost of the replaced Asset x current cost of the material) and be transferred to the stores. The material which is not re-usable shall be valued at zero cost and be transferred to the stores. The current cost of the replaced Asset, as reduced by the value of material



transferred to the stores, shall be charged to revenue as R&M Expenses. The sale proceeds of the material not re-usable shall be treated as Miscellaneous Income.

**A2. Where old replaced Asset is not re-usable and the funding is fully or partly either through Government Grants or Consumer Contribution**

- (i) Cost of new Asset shall be capitalized.
- (ii) Original book value and Accumulated Depreciation of the old replaced Asset shall be withdrawn. In case original book value of the old replaced Asset is not known, the same shall be considered equivalent to the current cost of the old replaced Asset and accumulated depreciation shall be considered @ 50% on the same.
- (iii) The material of old replaced Asset which is re-usable shall be valued by applying the formula (net book value of the replaced Asset » current cost of the replaced Asset x current cost of the material) and be transferred to the stores. The material which is not re-usable shall be valued at zero cost and be transferred to the stores. The net book value of the replaced Asset (original book value minus accumulated depreciation), as reduced by the value of material transferred to the stores shall be charged to revenue as R&M Expenses. The sale proceeds of the material not re-usable shall be treated as Miscellaneous Income.

**A3 Where old replaced Asset is re-usable after repair or without any repair**

- (i) Cost of new Asset alongwith accumulated depreciation thereon, if any, shall be capitalized.
- (ii) Original book value and Accumulated Depreciation of the old replaced Asset shall be withdrawn. In case original book value of the old replaced Asset is not known, the same shall be considered equivalent to the current cost of the new Asset and accumulated depreciation shall be considered @ 50% on the same.
- (iii) The old replaced Asset either shall be installed at any other location or be transferred to the stores for repairing etc. and accounting entries shall be done accordingly.
- (iv) Any expenditure incurred on shifting or repairing of the Assets shall be charged to revenue as R&M Expenses.

## Commission's View

4.28.2 Commission does not find the submission of UPCL acceptable as UPCL in its comments has proposed a current cost of fixed assets by revaluing the assets in deviation to the historical cost convention of the capital cost of an asset in accordance with the draft Regulations. The draft Regulations specify that the value base for the purpose of depreciation shall be the capital cost of the asset admitted by the Commission, i.e. the historical cost of the asset and not the current cost as proposed by UPCL. Further, in the accounts also the assets are booked as per the cost of acquisition which becomes the historical cost of the asset on which depreciation and servicing is admissible. AS-10 allows revaluation of assets subject to fulfillment of certain conditions which are found to be altogether missing in the Accounting Statements being prepared by UPCL. Hence, no change in this regard is warranted in the Tariff Regulations.

### **4.29 Sub-regulation (2) of Regulation 26, "rate of RoE".**

Regulation 26(2) specifies as under:

*"(2) Return on equity shall be computed on at the base rate of 15.5% for thermal generating stations, transmission licensee, SLDC and run of the river hydro generating station and at the base rate of 16.50% for the storage type hydro generating stations and run of river generating station with pondage and distribution licensee on a post-tax basis. Provided that:*

- (i) In case of generation and transmission projects commissioned on or after 1st April, 2016, an additional Return of 0.5% shall be allowed if such projects are completed within the timeline as specified in Appendix - I to these Regulations.*
- (ii) The additional return of 0.5% shall not be admissible if the project is not completed within the timeline specified above for whatsoever reasons:*
- (iii) Additional RoE of 0.50% may be allowed if any element of the transmission project is completed within the specified timeline and it is certified by the Northern Regional Power Committee that commissioning of the particular element will benefit the system operation in the regional/national grid:*
- (iv) Additional RoE shall not be admissible for transmission line having length of less than 50 kilometers."*

## Stakeholders Comments/Suggestions

4.29.1 UPCL submitted that Equity capital invested in capital work-in-progress should also be

considered for return on equity otherwise the amount of equity capital invested in capital work – in -progress shall lose its time value for the time spent in completion of the fixed assets. It also submitted that as per the Sixth Schedule of the Electricity (Supply) Act, 1948 (financial principals and their application), capital base should have been calculated including the cost of work-in-progress and on this capital base return was admissible. Moreover, capital work-in-progress is also a part of fixed assets as per schedule-III of the Companies Act, 2013. UPCL submitted that keeping in view the high risk involved in Distribution Business, the rate of return on equity may be provided @ 20% on post tax basis for Distribution Business.

4.29.2 Similarly, UJVN Ltd. submitted that Return on equity may also be computed on at the base rate of 16.50% for the run of the river hydro generating stations.

4.29.3 Sh. Dahiya submitted that ROE may be limited to 15.5% for all type of projects. He also suggested that it could be added that 'ROE shall be reduced by 0.5% in case completion of project is delayed beyond timeline specified on account of reasons attributable to the generating company'.

#### **Commission's View**

4.29.4 No asset can generate revenue unless the asset is put to use and even if any income is earned before capitalisation of the asset, the same is also capitalized, i.e. reduced from the CWIP. So the suggestion of UPCL would only increase the capital cost of its asset. Further, the return allowed is already on higher side keeping in view the fact that inflation is on a lower side and interest rates are bound to be lower. Moreover, in case of UPCL, the entire equity is coming from GoU and UPCL is already running into losses, hence, the issue of dividend declaration and passing on the return to GoU does not arise. Further, the return is allowed on post tax basis, i.e. tax on income is allowed to UPCL separately.

4.29.5 In respect of UJVN Ltd.'s submission it is hereby clarified that this provision was there in the existing Regulations also and CERC also allows the differential RoE to the RoR and storage type hydro projects, hence, may not be considered. Further, the differential rate of return to RoR plants and pondage type plants are allowed based on the risks associated with the pondage type plants considering the issues of Rehabilitation and Resettlement, etc.

4.29.6 In respect of suggestion of Sh. Dahiya that rate of RoE should be limited to 15.5% for all

the projects, the Commission is of the view that rate of RoE is being decided based on the risk of investment involved in the projects. Further, riskier project should have higher rate of return, hence, uniform rate of 15.5% shall not be justifiable for all the projects. In respect of Sh. Dahiya's submission for reduction in rate of return by 0.50% for delay in CoD of the project, the Commission is of the view that while approving the capital cost the Commission also takes into account cost overrun & time overrun. Any expenditure due to time overrun attributable to project developer is not being allowed in capital cost of the projects. Accordingly, any delay in commissioning of the project is penalised by way of not allowing corresponding cost thereof and further reduction in RoE by 0.5% would lead to penalising the utility twice.

4.29.7 Hence, no change is required in final Tariff Regulations, 2015.

#### **4.30 Regulation 29, in respect of "Lease charges".**

Regulation 29 specifies as under:

*"Lease charges for assets taken on lease by a generating company, SLDC or a Transmission or Distribution Licensee shall be considered as per lease agreement provided they are considered reasonable by the Commission."*

#### **Stakeholders Comments/Suggestions**

4.30.1 Sh. Garg submitted that where the asset is leased, the benefit of depreciation may go to the owner of the assets and not to the user as per Income Tax provisions prevalent at the relevant time period and, hence, should not be included in the fixed cost for tariff.

#### **Commission's View**

4.30.2 Lease charges or rentals are accounted for in the AFC/ARR as per Lease agreements. Depreciation is not computed on assets taken on lease. Hence, no change is required in final Tariff Regulations, 2015.

#### **4.31 Regulation 31, "Bad and doubtful debts".**

Regulation 31 specifies as under :

(1) *"The Commission may allow a provision for bad and doubtful debts upto one percent (1%) of the estimated annual revenue of the distribution licensee, subject to actual writing off of bad debts by it in the previous years.*

*Provided further that where the total amount of such provisioning allowed in previous years for bad and doubtful debts exceeds five (5) per cent of the receivables at the beginning of*

*the year, no such appropriation shall be allowed which would have the effect of increasing the provisioning beyond the said maximum."*

### **Stakeholders Comments/Suggestions**

4.31.1 Sh. Garg submitted that provision of regulations in this regard should be without number, i.e. 1% or 5% otherwise the Discom may take it as their right to permit that much of bad/doubtful debts.

4.31.2 UPCL referred to Clause 8.2.1(4) of the Tariff Policy which is quoted as follows:-

*"...Bad debts should be recognized as per policies developed and subject to the approval of the State Commission."*

UPCL requested the Commission to include the Bad Debts in the list of expenditures shown under Regulations 69(2).

Further, UPCL submitted that as per Audited Accounts of UPCL for FY 2013-14, the balance of provision for Bad and Doubtful Debts is Rs. 970.71 Cr. and the Commission has approved only Rs. 333.75 Cr. on this account so far. Further, Bad Debts written off till 2013-14 amounts to Rs. 102.01 Cr. Thus, there is unrecovered balance provision of Rs.  $970.71 + 102.01 - 333.75 =$  Rs. 738.97 Cr. as on date. These facts reveals that on applicability of above provision, the existing remaining provision for Bad and Doubtful Debts shall take minimum 17 years more to be recovered in full (Rs. 738.97 Cr. / 1 % of Annual Revenue i.e. Rs. 45 Cr.). For recovery of the Bad and Doubtful Debts for the period from FY 2016-17 and onwards, UPCL proposed that the following provision may be added after the first provision of Regulation 31 (1) :-

*"Provided further that an amount equivalent to approved collection inefficiency during the year shall be allowed as Bad and Doubtful Debts at the time of truing-up exercise. Difference of actual and approved collection inefficiency shall be treated as controllable gain / loss and be passed on to the licensee / consumers as per norms specified by UERC."*

### **Commission's View**

4.31.3 In respect of Sh. Garg's suggestion, the Commission has only given ceiling norms and any such bad and doubtful debts are allowed as and when they are actually written off and after prudence check by the Commission.

4.31.4 The suggestion of UPCL is not reasonable. It is agreed that in a distribution business some amount of receivables may turn bad if not monitored properly. However, there

should be a proper policy of UPCL in identifying and writing off the bad debts. Merely creating a provision cannot be treated as expense. The licensee also has to write off the dues as irrecoverable under a transparent policy. The write offs referred to by UPCL in its response are not writing off the bad debts but correction of the wrong billings. Further, about 75% of its total revenues comes from Industries, Govt. categories and other bulk supply consumers having load above 25 kW and in no way can they be referred to as turning into bad debts. Further, UPCL has misconstrued the Provisions of the Regulations. Moreover, there is no cap on writing off. Hence, no change is required in final Tariff Regulations, 2015.

#### **4.32 Sub-regulation (1)(a)(iv) of Regulation 33, in respect of “maintenance spares”.**

Regulation 33(1)(a)(iv) specifies as under:

*“Maintenance spares @ 30% of operation and maintenance expenses; and.”*

#### **Stakeholders Comments/Suggestions**

4.32.1 Sh. Dahiya submitted that provision of maintenance spares should be reduced from 30% to 20%.

#### **Commission’s View**

4.32.2 The existing MYT Regulations, 2011 and CERC’s Tariff Regulations, 2014 also provides the norm for maintenance spares as 30% of operation and maintenance expenses. Accordingly, same provision has been kept as such in the proposed Regulations and doesn’t need change.

#### **4.33 Sub-regulation (2) of Regulation 33, in respect of “working capital of distribution licensee”.**

Regulation 33(2) specifies as under:

(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; minus (iv) Amount held as security deposits under clause (a) and clause (b) of sub-section (1) of Section 47 of the Act from consumers and Distribution System Users; minus (v) One month equivalent of cost of power purchased, based on the annual power procurement plan.”*

## Stakeholders Comments/Suggestions

4.33.1 UPCL submitted that revenue equivalent to two months credit sales and expenses equivalent to one month credit purchase have been considered for computation of working capital requirement on the basis of the fact that recovery of credit sales takes one month more than the payment of credit purchases. Hence that revenue has not been considered which is received after the due date of payment with delayed payment surcharge. As per these Regulations, delayed payment surcharge is treated as non-tariff revenue. UPCL submitted that it is logical that the capital required to finance such late received revenue should also be added while computing the working capital. Alternatively, delayed payment surcharge should not be treated as income. As per Audited Accounts of UPCL the balances of accumulated losses and trade receivables as on 31-03-2014 are Rs. 1695.38 Cr. and Rs. 2110.21 Cr. respectively. These losses and receivables have been created mainly due to the reason that the Commission approved distribution losses and collection inefficiency and various expenses much less than the actuals of the same. All losses and receivables have the financing cost. UPCL requested the Commission to specify a suitable mechanism for recovery of the financing cost of these losses and receivables.

Further, licensee submitted that in this regulation, it has been provided that amount held as security deposits shall be reduced while computing the working capital. The entire security deposits are blocked in the receivables and this money is not available with UPCL and no return is allowed against the receivables. Accordingly, the security deposits should not be reduced while computing the working capital of company and interest on security deposits should be allowed to UPCL.

4.33.2 PTCUL submitted that Interest on working capital in case of transmission system should also include the amount of TDS deducted by the distribution licensee which is not available until final assessment. PTCUL further submitted that:-

*“The payments received by PTCUL from UPCL are subject to the provisions of Tax Deducted at Source (TDS) under Section 194 J of the Income Tax Act as the payment for transmission and wheeling charges are considered as ‘fees for technical services’. According to the current provisions of Section 194J, 10% TDS is applicable. In view of the fact that the transmission business is regulated and the tariff is determined based on cost plus regime, there is no scope for any margins for PTCUL for covering any shortfall in revenue collection and additional interest burden due to revenue deferment being implied due to the TDS deduction.”*

### **Commission's View**

4.33.3 The Working capital specified under the Regulation is on normative basis. Further, as referred above almost 75% of the revenues is from Industries, Govt. categories and other bulk supply consumers having load above 25 kW and hence, in no way the payment from them can be beyond the period specified in the norms. Further, even UPCL recognises DPS in its accounts on cash basis, i.e. when it is collected from the consumers. UPCL is required to devise system wherein collections from the consumers are received by it within a period of 2 months.

Further, it appears that UPCL is putting the onus of its mounting arrears on the Commission. The Commission did not prevent UPCL from collecting its dues from the consumers or writing off the bad debts. In fact it is alarming to observe that the arrears have increased to such proportions as against the Security Deposit. This clearly reflects towards the careless nature of running a business without any checks in place. Hence, no change is required in final Tariff Regulations, 2015.

However, as discussed above, the Commission is allowing additionally the collection inefficiency approved by the Commission as one of the component of working capital.

In respect of PTCUL's submission regarding shortfall in revenue collection on account of 10% TDS, the Commission is of the view that such shortfall may be there only for first year of the deduction by beneficiary. However, being a cyclic process with the start of next financial year the above mentioned shortfall shall be replenished, hence, no such shortfall upto 10% of total revenue collection would be applicable. Accordingly, no change is required in this regard.

### **4.34 Regulation 46, provides for "Non-tariff income" in respect of generating station.**

#### **Stakeholders Comments/Suggestions**

4.34.1 UJVN Ltd. submitted that provision for exclusion of interest earned from investments made out of Return on Equity corresponding to the regulated business of the generating company should also be incorporated in the Regulation 46 of Draft UERC Regulations, 2015.

#### **Commission's View**

4.34.2 In this regard, the Commission considers the suggestion and allows the provision for



exclusion of interest earned from investments made out of return on equity corresponding to the regulated business of the generating company in the similar manner as that provided for transmission business. However, the generating company would be required to invest the RoE and other investments separately and ensure that source of investment is identifiable. Hence, corresponding changes has been made in the final Tariff Regulations, 2015.

#### **4.35 Sub-regulation (1)(b) of Regulation 47, in respect of “Norms of operation for generating Stations”.**

Regulation 47(1)(b) specifies as under:

*“(b) For existing hydro generating stations:*

*The trajectory for NAPAF fixed by the Commission in case of existing hydro generating stations, in the preceding Control Period would continue to be applicable. However, the NAPAF of the stations undergone RMU would be adjusted accordingly, considering the impact of RMU.”*

#### **Stakeholders Comments/Suggestions**

4.35.1 UJVN Ltd. submitted that it is evident from above regulation that review of NAPAF will not be done by the Commission for existing hydro generating stations for next control period considering the performance achieved by the generating station during previous control period. UJVN Ltd. further submitted that as per the Draft Regulations 2015 the Annual Fixed Charges (AFC) are recovered in two parts energy charges and capacity charges. The actually recoverable capacity charges are directly proportional to the ratio of actual Plant Availability Factor (PAF) and NAPAF. The full capacity charge which is half of the AFC is recovered when actual Plant Availability Factor (PAF) is equal to the NAPAF approved by the Commission. There may be a case that in spite of making various efforts a power station is unable to achieve the trajectory for NAPAF fixed by the Commission in past, which leads to partial recovery of capacity charges thus resulting in substantial losses to the generating company (e.g. a shortfall of Rs 36.10 Crore in recovery of full capacity charges was there in case of MB-II HEP of UJVN Ltd for FY 2013-14). A generating company cannot survive bearing such losses for long periods. UJVN Ltd. submitted that the clause 47(2) may include the following-

*“Provided that if hydro generating station was unable to achieve the approved NAPAF for continuous 03 years preceding to the base year, the NAPAF would be fixed taking note of the*

*historical performance of the hydro power station or any factor considered appropriate by the Commission."*

### **Commission's View**

4.35.2 The Commission vide its Tariff Order dated May 06, 2013 had approved the NAPAF of UJVN Ltd. generating stations, in accordance with Regulations 51 of UERC Tariff Regulations, 2011. Thereafter, UJVN Ltd. had filed the review Petition seeking relaxation in NAPAF for its 9 LHPs. In that Petition, UJVN Ltd. had submitted that LHPs face problems during rainy season in terms of flood pass, high PPM content, silt problem, flushing and choking, etc., since river carries heavy trash, debris and high concentration of silt during monsoon season thereby restricting the operations of the plant significantly resulting in appreciable reduction of plant availability. As a result, there is forced shutdown. Accordingly, the Commission vide Review Order dated September 3, 2013 had re-fixed NAPAF of 9 LHPs. Further, in the Tariff Petition for FY 2015-16, the UJVN Ltd. had also requested to relax the NAPAF norms for its MB-I, Chilla, Ramganga and Khatima LHPs due to natural calamity. However, the Commission vide Tariff Order dated 11.04.2015 observed that UJVN Ltd. could not provide the appropriate justification for its revised projections of NAPAF, further, the Commission also held that it cannot again review the Order passed by it on the Review Petition. Accordingly, the Commission decided to continue with the same provision as proposed in the Regulations. Further, 3 years is a sufficient time period to analyse the shortcomings in the projects which are leading to reduced availability and to work upon towards their improvements.

Hence, no change in the Regulation is being made.

### **4.36 Sub-regulation (2)(a) &(d) of Regulation 48, in respect of "O&M expenses of HEPs".**

Regulation 48(2)(a) provides for O&M expenses of generating station in operation for more than five years and Regulation 48(2)(d) specifies as under:

*Post determination of base O&M Expenses, the O&M expenses for the nth year and also for the year immediately preceding the Control Period, i.e. 2014-15 shall be approved based on the formula given below:-*

$$O\&M_n = R\&M_n + EMP_n + A\&G_n$$

Where –

- *O&M<sub>n</sub> – Operation and Maintenance expenses for the nth year;*

- $EMP_n$  – Employee Costs for the  $n$ th year;
- $R\&M_n$  – Repair and Maintenance Costs for the  $n$ th year;
- $A\&G_n$  – Administrative and General Costs for the  $n$ th year;

The above components shall be computed in the manner specified below:

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

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

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

### **Stakeholders Comments/Suggestions**

4.36.1 UJVN Ltd. submitted that in the above computations,  $EMP_n$  will be less than  $EMP_{n-1}$  which seems to be inappropriate. The above computations are for the escalation costs for  $n$ th year. The appropriate formula in this regard should be –

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

Similar is the case for  $R\&M_n$  and  $A\&G_n$  computation.

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

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

UJVN Ltd. also requested for clarifying as to value of Gross Fixed Asset value for the  $n-1$  the year is at the beginning or end of  $n-1$  year.

### **Commission's View**

4.36.2 In this regard, the Commission observes that CPI inflation & WPI inflation has been defined in Regulation 48(2)(d) of the draft Tariff Regulations, 2015 as follows:

*“CPIinflation – 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;“*

From the definitions of the above mentioned indices it is apparent that these are to be used for escalation of the given value to arrive at value for subsequent year. Formula mentioned in draft regulation itself provides for multiplication by CPIinflation or WPIinflation as the case may be, i.e. for obtaining higher value from available one. However, the Commission decides to modify the formula as follows:

$$\text{EMP}_n = \text{EMP}_{n-1} \times (1 + G_n) \times (1 + \text{CPIinflation})$$

$$\text{R\&M}_n = \text{R\&M}_{n-1} + K \times (\text{GFA}_{n-1}) \times (1 + \text{WPI inflation})$$

$$\text{A\&G}_n = \text{A\&G}_{n-1} \times (1 + \text{WPI inflation}) + \text{Provision}$$

Further, in respect of UJVN Ltd.'s submission for clarification regarding value of GFAn-1, i.e. opening or closing GFA to be considered in the above mentioned formula, the Commission, hereby clarifies that closing GFA of n-1 year shall be used to arrive at R&M of nth year. The above mentioned formulae are in place since earlier MYT Regulation, 2011 and all the utilities in the State have filed Petitions for determination of ARR/Tariff based on the same provisions of regulations, hence, the Commission does not find merit in this submission of UJVN Ltd. for making any changes in Final Tariff Regulations, 2015 except for the formula referred above.

#### **4.37 Sub-regulation (2)(b) of Regulation 48, in respect of "O&M expenses of HEPs".**

Regulation 48(2)(b) specifies as under:

*"(b) For Generating Stations in operation for less than 5 years preceding the base year:*

*In case of the hydro electric generating stations, which have not been in existence for a period of five years preceding the base year, i.e. FY 2014-15, the operation and maintenance expenses for the base year of FY 2014-15 shall be fixed at 2.0% of the capital cost as admitted by the Commission for the first year of operation and shall be escalated from the subsequent year in accordance with the escalation principles specified in clause (e) below."*

#### **Stakeholders Comments/Suggestions**

4.37.1 Sh. Dahiya proposed the insertion of "O&M expenses shall be subject to truing up at later stage after prudence check" at the end of the sub-Regulation.

#### **Commission's View**

4.37.2 Truing-up exercise is done after carrying out the prudence check for all generating stations and O&M expenses has been considered as controllable expenses. Accordingly, no change is required in the proposed Regulations.

#### **4.38 Sub-regulation (2)(c) of Regulation 48, in respect of "O&M expenses of HEPs".**

Regulation 48(2)(c) specifies as under:

*(c) For Generating Stations declared under commercial operation on or after 1.4.2016.*

*In case of new hydro electric generating stations, i.e. the hydro electric generating stations*

*declared under commercial operation on or after 1.4.2016, the base operation and maintenance expenses for the year of commissioning shall be fixed at 4% and 2.5% of the actual capital cost (excluding cost of rehabilitation & resettlement works) as admitted by the Commission, for stations less than 200 MW projects and for stations more than 200 MW respectively."*

### **Stakeholders Comments/Suggestions**

4.38.1 Sh. Dahiya submitted that O&M expenses may not be fixed more than 2% of the actual capital cost subject to truing up at later stage after prudence check.

### **Commission's View**

4.38.2 In this regard, the Commission has taken note of SOR of CERC's Tariff Regulations, 2014, wherein, details of actual O&M expenditure incurred during first full year of CoD in respect of new hydro generating stations have been provided by CERC. It has been observed that O&M expenses in first year of CoD of HEP having capacity upto 200 MW is in the range of 4.39% to 6.88% with average of 6.07%. Similarly, CERC has also mentioned that actual expenditure incurred during first full year of CoD in respect of new hydro generating stations having capacity more than 200 MW and upto 600 MW is in the range of 2.35% to 3.00% with an average of 2.69%. Considering the actual data available in respect of new generating stations CERC has specified 2.5% & 4% of capital cost as O&M expenses during first year of operation. Accordingly, the same has been specified in the proposed Regulations by the Commission.

However, it would be relevant to mention that no new hydro generating station is likely to get commissioned during the Second Control Period. Accordingly, same provision has been kept as such in the proposed Regulations.

### **4.39 Regulation 48 & 84 in respect of "Employee expenses".**

Regulation 48 & 84 specifies the O&M expenses of generating stations & distribution licensee respectively.

### **Stakeholders Comments/Suggestions**

4.39.1 UJVN Ltd. submitted that employee cost for the nth year (EMP<sub>n</sub>) is an uncontrollable factor in case of public sector companies. The employee wages are determined as per the various pay commission's recommendations as accepted by the State government. Therefore, the employee cost is uncontrollable factor, except incentives, if any. Hence,

EMPn should be approved after true up as per actual expenses incurred by the generating stations in operation for more than five years preceding the Base Year.

4.39.2 UPCL requested the Commission to re-examine the linking of the employee cost with the CPI, however, UPCL submitted that the same needs to be considered as per the actual subject to prudence check. Employee cost is well recorded and document on monthly basis and is subject to auditor's scrutiny as and when pending. Further, under the recorded service conditions of each and every employees, the utility is in a very good condition to make an assessment of the possible employee cost in the ensuing year. The projection made by the utility can be considered as deemed Actual and approved by the Commission. Any deviation from the actual, if found out during prudence check can be dealt accordingly at the time of truing up. UPCL suggested that formulae proposed for the calculation of the employee cost may be removed and to allow the deemed actual employee cost minutely assessed, at the time of filling of the ARR approval petition, by the utility for the ensuing year.

#### **Commission's View**

4.39.3 Employee expenses are uncontrollable only to the extent of revision of rates of DA or implementation of recommendations of Pay Commission. In this regard, the Commission is of the view that provision for revision of DA is made while approving employee expenses. Further, Regulations also stipulate provision for VII<sup>th</sup> pay Commission shall also be considered. However, other allowances are fixed and no incentives or additional new allowances can be granted through tariffs. The utilities have to exercise prudence in providing such allowances/incentives or other facilities to the employees and the same if allowed have to be met through its own resources. Accordingly, same provision has been kept as such in the Final Tariff Regulations, 2015.

#### **4.40 Regulation 53, in respect of "Metering and Accounting".**

Regulation 53 specifies as under:

*"The provisions of Uttarakhand Electricity Regulatory Commission (State Grid Code) Regulations, 2007 and the Central Electricity Authority (Installation & Operation of Meters) Regulations 2006, as amended from time to time shall be applicable."*

### **Stakeholders Comments/Suggestions**

4.40.1 M/s CII submitted that as per the Commission's letter no. UERC/7/CL-354/15-16/2015/352 dated 03/06/2015, Open Access Consumers were required to procure ABT Main & Check Meters as per latest specifications of CEA Regulations 2006 and the same had to be installed in the premises of Open access Consumer's duly tested by UPCL's lab. M/s CII further submitted that Distribution Licensee has to install both the meters & make them functional within 10 days. UPCL has to adhere the same. M/s CII added that after installation of ABT meters, Units consumed through Open Access should be deducted from UPCL Monthly bill.

### **Commission's View**

4.40.2 The Commission observed that this submission is not a subject matter of the Regulations as the same is related to open access. Hence, no change is required in the Regulations on this account.

### **4.41 Regulation 55A in respect of "Gas Based Power Plant".**

Subsequent to notification of draft regulation, the Commission also issued draft addendum Regulation 55A which read as follows:

*"A new regulation, namely Regulation 55A shall be inserted after Regulation 55 of the draft Principal Regulations: "55A. Tariff Determination of Gas based generating stations: The tariff of gas based generating stations covered under the "Scheme for Utilization of Gas based power generation capacity" issued by the Government of India, Ministry of Power vide Office Memorandum No. 4/2/2015-Th.1 dated 27.3.2015 shall be determined in due consideration of the provisions of that scheme in deviation of the relevant regulations"."*

### **Stakeholders Comments/Suggestions**

4.41.1 M/s Sravanthi Energy Private Limited submitted that the language of the proposed amendment should be modified as follows:

*"55A. Tariff Determination of Gas based generating stations: The tariff of gas based generating stations covered under the "Scheme for Utilization of Gas based power generation capacity" issued by the Government of India, Ministry of Power vide Office Memorandum No. 4/2/2015-Th.1 dated 27.3.2015("Scheme") shall, for the period that the said Scheme remains applicable and the relevant generating station participates in the bid process thereunder, be determined to be the per unit cost of electricity upto the "Target Price" as determined pursuant to the competitive bid process under the Scheme and the same shall be deemed to be the applicable and approved tariff*

*under these in due consideration of the provisions of that scheme in deviation regulations. In such circumstances, the generating stations shall submit to the Commission the per unit cost of electricity determined pursuant to the Scheme together with the time period for which it would be applicable and the same shall be duly notified by the Commission as the approved tariff under these Regulations for the relevant applicable period.*

*Provided however, the generating station shall apply for determination of long term tariff under these Regulations but for the duration that the said generating station is covered by the Scheme the long term tariff so determined shall not be applicable”.*

M/s SEPL further submitted that the changes to the proposed language are necessitated in order to provide the Lenders of the generating stations with certainty of acceptance, of tariff determined under the GoI scheme, by the Commission, so as to enable the additional financing of the generating station required for their operations.

### **Commission’s View**

4.41.2 The Commission observes that views taken in the matter of Application seeking approval on the Draft Power Purchase Agreement between Uttarakhand Power Corporation Ltd. & M/s Sravanthi Energy Pvt. Ltd. vide the Commission’s Order dated 30.07.2015 shall be applicable, wherein, the Commission denied approval of said PPA on a short term basis. Hence, the comment submitted by M/s SPEL cannot be considered as the same is contrary to the view already taken by the Commission in the above referred Order.

### **4.42 Sub-regulation (2)(b) of Regulation 61, in respect of “O&M expenses of Transmission Systems”.**

In the draft regulation, Regulation 61(2)(b) specifies as under:

*“(2) Target Availability for recovery of full transmission charges*

*(a) AC System : 98%*

*Note:*

*(a) Recovery of fixed charges below the level of target availability shall be on pro-rata basis. At zero availability, no transmission charges shall be payable.*

*(b) The target availability shall be calculated in accordance with procedure specified in Appendix-IV to these Regulations and shall be certified by Uttarakhand State Load Despatch Centre.*

*Provided that no incentive shall be payable for availability beyond 99.75%:*

*Provided also that for AC system, two trippings per year shall be allowed. After two trippings in a year, additional 12 hours outage shall be considered in addition to the actual outage:*



*Provided also that in case of outage of a transmission element affecting evacuation of power from a generating station, outage hour shall be multiplied by a factor of 2."*

#### **Stakeholders Comments/Suggestions**

4.42.1 PTCUL submitted that in the last line multiplying factor should be taken as "8" in place of "2".

#### **Commission's View**

4.42.2 In this regard, the Commission is of the view that increasing the multiplying factor would lead to reduction in availability of the system. Hence, the suggestion is denied and no change in the provision of the Regulations is required.

4.43 **Regulation 69(2): ARR for each Financial Year of the Control Period.**

#### **Stakeholders Comments/Suggestions**

4.43.1 UPCL submitted that Clause 21 of the Principles for determination of ARR (of the FoR Model regulation) for Multi Year Distribution Tariff, 2011, provides the various financial parameters which also include contingency reserves. The Electricity Commissions of states like Maharashtra also allow for contribution to contingency reserves. Considering the recent natural calamities that have struck the state of Uttarakhand, Commission should consider including contribution to contingency reserves under the various heads of Clause 69 of the draft regulation. The same is not mentioned anywhere in the draft regulations.

UPCL further submitted that Regulation 69 (2) provides the list of expenditures to be included in the ARR of distribution licensee and in this list Bad Debts have not been provided. UPCL further referred to Section 8.2.1 (4) of the Tariff Policy which is reproduced below:-

*"...Bad debts should be recognized as per policies developed and subject to the approval of the State Commission."*

UPCL, therefore, submitted for inclusion of Bad Debts in the list of expenditures shown under Regulations 69(2). UPCL further referred to Regulation 31(1) of the draft regulation which specifies about the provision for bad and doubtful debts. In this regard, UPCL submitted that the provision for Bad and Doubtful Debts should be allowed equivalent to (1-approved Collection Efficiency) or actual Collection In -

Efficiency, whichever is lower, of the Annual Revenue and the condition of actual write off and balance of provisioning should also be abolished.

### **Commission's View**

4.43.2 The licensee's submission for creation of a contingency condition appears to be merely an attempt of loading the ARR and in turn increase the tariffs. The recent natural calamities that struck the state of Uttarakhand, the licensee was fully compensated by the State Government through funds in the form of grants for carrying out the work of restoration of supply. Further, in the event of any contingency also, the expenses incurred prudently would be allowed in true ups. Hence, in the opinion of the Commission, there appears no requirement for creation of contingency reserve.

The submission of UPCL to include Bad debts in the ARR of the distribution licensee cannot be considered as the Commission in the previous Regulations has also allowed Provision of Bad and Doubtful Debts as part of the ARR of UPCL on accrual basis. Any writing-off of the Bad debts under the Policy framed by the licensee has to be carried out from the Provisions available with the licensee in this regard and in case sufficient provisions are not available then the excess bad debts written off can be claimed as expenses in the truing up exercise for that relevant year. However, the Provision of Bad and Doubtful Debts which was inadvertently omitted from the list is being included in the final Regulations.

It is surprising to see that on one hand UPCL submitted that Bad debts should be included as an expenditure in the ARR and on the other it has submitted that the provision for Bad and Doubtful Debts should be allowed equivalent to (1-approved Collection Efficiency) or actual Collection In - Efficiency, whichever is lower, of the Annual Revenue and it has also proposed to do away with the condition of actual write off and balance of provisioning. UPCL should realize that being a commercial entity it should be vigilant to keep a check on the mounting arrears and under a transparent policy framed for the purpose should continuously identify the debts which have become irrecoverable and should then write them off. Merely having a provision for bad debts would not serve the purpose unless the provision is utilized for writing off the debts which is not being done in UPCL. Further, any unrealized dues, cannot be said to be bad and provision for the same cannot be allowed as proposed by UPCL. Hence, the submission made by UPCL in this regard is not being considered.

#### **4.44 Sub-regulation (2) of Regulation 70, in respect of “Business Plan”.**

Regulation 70(2) specifies as under:

*“(2) The Business Plan shall comprise among other details capital investment plan, financing plan and physical targets in accordance with the guidelines and formats, as may be stipulated by the Commission from time to time.”*

##### **Stakeholders Comments/Suggestions**

4.44.1 M/s Confederation of Indian Industry submitted that a template to capture individual industry’s consumption should be prepared and put on the website. This will help in better demand estimation.

##### **Commission’s View**

4.44.2 This is already considered by the Commission from the information provided by the licensee.

#### **4.45 Sub-regulation (2)(a) of Regulation 73, in respect of “Power Procurement Plan”.**

Regulation 73(2)(a) specifies as under:

*“(2) The power procurement plan of the Distribution Licensee shall comprise of the following :*  
*a) A quantitative forecast of the unrestricted demand for electricity for each tariff category, within its area of supply over the Control Period.*

##### **Stakeholders Comments/Suggestions**

4.45.1 M/s Confederation of Indian Industry submitted that 55% of the Consumption and 65% revenue is from 0.6% Consumers (Industry) and a valuable forecast input can be taken from Industry.

##### **Commission’s View**

4.45.2 Comments are sought from all the stakeholders on the Business Plan and Tariff Petition filed by UPCL.

#### **4.46 Sub-regulation (2)(c) of Regulation 73, in respect of “Power Procurement Plan”.**

Regulation 73(2)(c) specifies as under:

*“(2) The power procurement plan of the Distribution Licensee shall comprise of the following:*  
*(c) An estimate of availability of power to meet the base load and Peak load requirement. Provided that estimate should be monthly estimation of demand and supply expressed both in Mega-Watt(MW) as well as in Million Units (MUs).”*

### **Stakeholders Comments/Suggestions**

4.46.1 M/s Confederation of Indian Industry submitted that at present the non-peak rate is less than normal rate by 10% and the peak rate is more than normal rate by 50%. To encourage increase of load during non-peak hours for the benefit of Generating unit the difference should be increased.

### **Commission's View**

4.46.2 This is not a subject matter of Regulations but issue related to tariff design and hence, would be reviewed at the time of proceedings for tariff determination of the ensuing year.

### **4.47 Sub-regulation (2)(d) of Regulation 73, in respect of "Power Procurement Plan".**

Regulation 73(2)(d) specifies as under:

*"(2) The power procurement plan of the Distribution Licensee shall comprise of the following:  
(d) Standards to be maintained with regard to quality and reliability of supply, in accordance with the UERC (Standards of Performance) Regulations, 2007, as amended from time to time;"*

### **Stakeholders Comments/Suggestions**

4.47.1 M/s Confederation of Indian Industry submitted that 75-80% of the consumption is from Haridwar, Dehradun, US Nagar & Nainital. Focus on improving the Quality & reliability especially to Industry can improve the status of UPCL.

### **Commission's View**

4.47.2 This is again not a subject matter of the Regulations.

### **4.48 Sub-regulation (2)(d) of Regulation 73, in respect of "Power Procurement Plan".**

Regulation 73(2)(d) specifies as under:

*"(2) The power procurement plan of the Distribution Licensee shall comprise of the following:  
(e) Measures proposed to be implemented as regards to energy conservation and energy efficiency;*

### **Stakeholders Comments/Suggestions**

4.48.1 M/s Confederation of Indian Industry submitted that the Industry being the major consumer, incentive should be defined for subscribers to ISO 50001 (Energy Management System) & those certified by IGBC (Indian Green Building Council).

**Commission’s View**

4.48.2 This is not a subject matter of Regulations but issue related to tariff design.

**4.49 Regulation 75: Additional Short-term power procurement**

**Stakeholders Comments/Suggestions**

4.49.1 UPCL submitted that Regulation 75 (1) to 75 (6) lays the condition under which the short term power may be purchased by the distribution utility and the related approval required to be obtained from the Commission on the power procurement. The possibility of the utility entering into short term power procurement can arise under emergency situation in order to maintain grid stability or when there is a shortfall in supply. However, the draft regulation does not specify the condition where the utility may be forced to meet the unexpected surge in demand due to weather condition or unexpected demand due from some quarters and other similar conditions which may not be attributed to deficiency in supply or emergency situation linked to grid stability and results in excess in demand over the forecasted level. Hence, a pragmatic approach towards the situation that may have demanded short term purchase of electricity and to determine the pass through of the short term purchase on case to case basis should be there instead of putting a blanket ban on its approval in cases other than that specified under Regulation 75 (2) and 75 (4).

**Commission’s View**

4.49.2 The submission made by UPCL in this regard is hypothetical and is hence, not accepted. An unexpected surge in demand due to weather condition or unexpected demand due from some quarters and other similar conditions would anyhow be covered under Regulation 75(2) and 75(4). The situation referred to by UPCL would be of a shorter duration and may not exceed for a day or two and would be covered under a ceiling of 105% of the quantum. Further, any power purchase incurred prudently due to force majeure conditions would be allowed as pass through.

**4.50 Sub-regulation (1) of Regulation 77, in respect of “Sales Forecast”.**

Regulation 77(1) specifies as under:

*“(1) Considering the importance of capturing seasonal variation, Monthly Sales Forecast for the Control Period shall be done in respect of each consumer category /sub-category and to each tariff*

*slab within such consumer category/sub-category, based on the past trends, as far as possible shall be submitted to the Commission for approval along with the Business Plan. Suitable adjustments shall be made to reflect the effect of unknown and measureable changes with respect to number of consumers, the connected load and the energy consumption, thereby removing any abnormality in the past data."*

#### **Stakeholders Comments/Suggestions**

4.50.1 M/s Confederation of Indian Industry submitted that this exercise can be supported with inputs from Industry and Commercial Establishment which are the major consumers amounting to about 70%.

#### **Commission's View**

4.50.2 Comments are sought from all the stakeholders on the Business Plan and Tariff Petition filed by UPCL. Hence, no change in proposed regulation is required.

#### **4.51 Regulation 78 in respect of "Monitoring of sale of electricity to consumers".**

Regulation 78 specifies as under:

*"(1) On the basis of approved sales forecast, the Distribution Licensee shall work out the requirement of monthly sales to different consumer categories, taking into account seasonal variations in demand during the year.*

*(2) The Distribution Licensee shall monitor the sales to different consumer categories and ensure that sale to any category of consumer is not unduly restricted.*

*(3) The Distribution Licensee shall submit monthly reports to the Commission regarding sale of electricity to different consumer categories."*

#### **Stakeholders Comments/Suggestions**

4.51.1 M/s Confederation of Indian Industry submitted that the Licensee should also monitor and report loss of sale.

#### **Commission's View**

4.51.2 This has already been provided in the Regulations. Hence, no change is required in the regulations.

#### **4.52 Regulation 79 in respect of “Distribution losses”.**

##### **Stakeholders Comments/Suggestions**

4.52.1 M/s Confederation of Indian Industry submitted that 70% of the consumption is in 4 Districts where UPCL is well organized, focused working in these 4 Districts will lead to good results. Services of **Distribution Franchises** may be taken to have better service levels.

##### **Commission’s View**

4.52.2 This is not a subject matter of Regulations.

#### **4.53 Sub-regulation (5) of Regulation 79, in respect of “Voltage-wise losses”.**

Regulation 79(5) specifies as under:

*“(5) The Distribution Licensee shall also propose voltage-wise losses for each year of the control period for the determination of voltage-wise cost of supply. The Commission shall examine the filings made by the licensee for the distribution loss trajectory for each year of the control period and approve the same with modification as it may consider necessary.”*

##### **Stakeholders Comments/Suggestions**

4.53.1 UPCL submitted that voltage wise losses and cost of supply are not available with UPCL and, therefore, it requested the Commission to remove the requirement from the proposed Regulations.

##### **Commission’s View**

4.53.2 In this regard, the Commission is of the view that there are various Judgments of Hon’ble Supreme Court and Hon’ble ATE which require determination of voltage wise cost of supply as required under the Act. The Commission has also been directing UPCL to start preparation in this regard in the previous Tariff Orders. Moreover the Commission took the following view while issuing the Previous MYT Regulations:

*“The Commission is of the view that segregation of technical and commercial distribution losses is critical in the MYT framework and is also recognised in the Tariff Policy. Further, determination of voltage-wise distribution loss is also equally important in order to work out voltage-wise cost of supply.*

*UPCL in its Business Plan for the first control period shall submit concrete and time bound roadmap for introducing the desired systems to provide the desired information to the*

*Commission at an early date. The Commission will accordingly take a view in the matter and issue appropriate directions while approving the Business Plan."*

However, considering the ground reality and status of availability of information as appraised by UPCL, one year additional time is being given for preparation of information and necessary ground work which needs to be done. Therefore, the Commission decides to relax this provision till the end of 1<sup>st</sup> year of the control period.

#### **4.54 Regulation 80 in respect of "Availability of Power".**

Regulation 80 requires assessment of availability of power.

##### **Stakeholders Comments/Suggestions**

4.54.1 M/s Confederation of Indian Industry submitted that Agreement with Generating Units should also be made for spinning reserves to cater for peak demands. M/s CII also submitted that Gap between power availability & power demand of state has increased, thereby over a period of time state power scenario has moved power surplus to power deficit. To combat such situation, the Commission should ask Distribution Licensee to make:

- Comprehensive plan to improve existing distribution infrastructure.
- Better distribution & avoid overloading causing unscheduled outages.

##### **Commission's View**

4.54.2 This is subject to availability of spinning reserves. However, the same cannot be provided in the regulations, hence, no change is required in this regard. In respect of for Gap between power availability & power demand of the State, it may be noted that regulation 8 of the Tariff Regulations appropriately covers the above suggestion of M/s CII. Hence no change is required in Tariff Regulations.

#### **4.55 Sub-regulation (2) of Regulation 83, in respect of "Fuel Charge Adjustment".**

Regulation 83(2) specifies as under:

*"(2) The FCA charge shall be computed and charged on the basis of actual variation in fuel costs relating to power generated from own generation stations and power procured during any month subsequent to such costs being incurred, in accordance with these Regulations, and shall not be computed on the basis of estimated or expected variations in fuel costs."*



### **Stakeholders Comments/Suggestions**

4.55.1 UPCL submitted that section 62 (5) of the proposed Electricity Amendment bill, 2014 provides as follows:-

*“No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of fuel and power purchase price adjustment which shall be permitted under the terms of the fuel and power purchase price adjustment formula as may be specified by the Appropriate Commission.”*

UPCL submitted that in view of the above provision, Regulation 83 should cover the entire power purchase cost in place of only fuel cost.

### **Commission’s View**

4.55.2 The amendments referred to by UPCL are in draft stage and have yet not been issued or notified by the Central Government. Moreover, the present statute governing the Electricity Sector namely Electricity Act, 2003 specifically talks only about fuel charge adjustment under Section 62(4). Therefore, the recovery of only FCA is covered in these Regulations. Hence, no change is required.

### **4.56 Sub-regulation (3) of Regulation 83, in respect of “Fuel Charge Adjustment”.**

Regulation 83(3) specifies as under:

*“(3) The FCA charge for the quarter shall be computed within 15 days of quarter end and shall be charged for the quarter from the first month of second quarter itself, without prior approval of the Commission and under or over recovery shall be carried forward to the next quarter.”*

### **Stakeholders Comments/Suggestions**

4.56.1 UPCL submitted that that the Regulation 83 (3) may be kept as follows:-

*“The FCA charge for the quarter shall be computed within 15 days of quarter end and shall be charged for the quarter from the first month of **subsequent quarter** itself, without prior approval of the Commission **and under or over recovery shall be considered during truing-up exercise.**”*

UPCL also submitted that similarly, the Regulation 83 (5) may also be modified.

### **Commission’s View**

4.56.2 If the under or over recovery is deferred for the truing up exercise as proposed by

UPCL, the whole purpose of calculating the FCA charge quarterly gets defeated as the impact on both the utility as well as consumer would be substantial so as to cause the adverse impact on them. Therefore, no change is being done.

#### **4.57 Sub-regulation (5) of Regulation 83, in respect of “Fuel Charge Adjustment”.**

Regulation 83(5) specifies as under:

*“(5) The Commission shall examine the FCA computations and approve the same with modifications, if required before the end of second quarter. Any variation in FCA charged or refunded by the Distribution Licensee and FCA approved by the Commission will be adjusted in subsequent quarter’s FCA computations.”*

#### **Stakeholders Comments/Suggestions**

4.57.1 UPCL submitted that section 62(4) speaks only about recovery of excess fuel cost through fuel surcharge formula and there is no intent of Law to refund any amount due to less fuel cost incurred. UPCL requested the Commission not to provide for refund of less fuel cost incurred. UPCL in view of the above submissions also requested for modification in formula for FCA (Rs. Cr.) = C+B to FCA (Rs. Cr.) = C, wherein, B stands for adjustment for over recovery/under-recovery for previous quarter.

#### **Commission’s View**

4.57.2 The suggestion does not hold any ground. Section 62(6) of the Electricity Act clearly states that the utility cannot recover any revenue in excess of what is due. Hence, the adjustment is required to be carried out in the next quarter itself failing which there would be instance that during truing up the amount to be refunded to the consumer along with the carrying cost would be substantial so as to cause adverse impact on the tariffs for the ensuing years. While denying the submission of the UPCL, the Commission decides to retain the provision.

#### **4.58 Sub-regulation (11) of Regulation 83, in respect of “Fuel Charge Adjustment”.**

Regulation 83(11) specifies as under:

*“(11) Category wise FCA Charge (Rs/kWh) shall be calculated as per the following formula:  
Average Billing Rate (ABR) of Consumer Category (in Rs./kWh) as approved in Tariff Order for the year/Average Billing Rate (ABR) of Distribution Licensee (in Rs./kWh) as approved in Tariff Order for the year x Average FCA (in Rs./kWh).*

### **Stakeholders Comments/Suggestions**

4.58.1 UPCL submitted that the Regulation may be modified as follows:

Category wise FCA Charge (%) shall be calculated as per the following formula:

*(Average FCA charge (in Rs./ kWh) x 100) / Average Billing Rate (ABR) of Distribution Licensee (in Rs./kWh) as approved in Tariff Order for the year*

*Note: FCA shall be computed on the sum of all Tariff Charges and Rebates in respect of supply of electricity excluding revenue from MCG.*

### **Commission's View**

4.58.2 The suggestion is not logical. The licensee has proposed to calculate category wise FCA charge as a percentage of the revenue which the licensee bills to the consumers. However, in the ABR approved by the Commission, the Commission only allows the revenue from tariff charges, i.e. energy charges, fixed charges and minimum charges. However, the revenue billed to the consumers may also include some amount of rebates and surcharges applicable to the consumers and hence, there may be instances of over/under recovery to this account, hence, in the provision is being considered.

4.59 **Sub-Regulation (2) and (3) of Regulation 84: Operation and Maintenance Expenses**

### **Stakeholders Comments/Suggestions**

4.59.1 UPCL submitted that the sub-Regulation be replaced by the following sub-Regulation:-

*"The O&M expenses for the n -1th year and also for the nth year, shall be approved based on the formula given below:-"*

Further, UPCL also submitted that the 8th bullet point to sub-Regulation (3) of Regulation 84 be replaced by:

*"GFAn-1 – Gross Fixed Asset of the distribution licensee for the n -1th year;"*

### **Commission's View**

4.59.2 The first submission of UPCL is not being considered for reasons already elaborated in Para 4.4 above.

The second submission regarding replacement of 8th bullet point to sub-Regulation (3) of Regulation 84 is considered by the Commission as in it the word "transmission licensee" were inadvertently used in place of "distribution licensee".

#### **4.60 Sub-regulation (d) of Regulation 85, in respect of “Non-Tariff Income”.**

##### **Stakeholders Comments/Suggestions**

4.60.1 UPCL submitted that Actual estimated period of credit sales and credit purchases is three months and two months respectively and accordingly the Commission while computing working capital allowed credit sales for two months and credit purchases for one month, i.e. one month more for credit sales as compared to credit purchases. UPCL submitted that rebate earned against the payment of power purchases by availing credit period of two months may be treated as Non- Tariff Income but rebate earned for availing the period of credit less than two months belongs to the licensee and should not be treated as non-tariff income.

##### **Commission’s View**

4.60.2 This issue has already been settled by Hon’ble ATE and hence, the response of UPCL inadmissible. The Commission decides to retain the provision.

#### **4.61 Regulation 85: Non-Tariff Income**

##### **Stakeholders Comments/Suggestions**

4.61.1 UPCL has submitted that Regulation 85 mentions the indicative list of various heads to be considered for Non-Tariff Income and point (d) refers to Rebates for timely payment of bills. UPCL submitted that the actual estimated period of credit sales and credit purchases is three months and two months respectively and accordingly the Commission while computing working capital allows credit sales for two months and credit purchases for one month i.e. one month more for credit sales as compared to credit purchases. In view of this fact, it is submitted that rebate earned against the payment of power purchases by availing credit period of two months may be treated as Non- Tariff Income but rebate earned for availing the period of credit less than two months belongs to the licensee and should not be treated as non-tariff income.

##### **Commission’s View**

4.61.2 The suggestion is illogical as almost 75% of the UPCL’s revenues is from Industries, Govt. categories and other bulk supply consumers having load above 25 kW, from whom payments are received within a period of one month. Further, it is in UPCL’s interest to bill every consumer each month. Moreover, the issue of timely payment

rebate offered to UPCL has also been settled by Hon'ble ATE and hence, the suggestion is inadmissible.

#### 4.62 Clause (l) of Regulation 85: Miscellaneous Receipts

##### Stakeholders Comments/Suggestions

4.62.1 UPCL submitted that only those miscellaneous receipts should be treated as non-tariff income which is derived from the operating activities of UPCL and, therefore, this head should be named as Miscellaneous Receipts from Operating Activities.

##### Commission's View

4.62.2 The submission made by UPCL does not have any substance and is not being considered as Section 51 of the Electricity Act, 2003 stipulates as under:

*"51. (1) A distribution licensee may, with prior intimation to the Appropriate Commission, engage in any other business for optimum utilization of its assets:*

*Provided that a proportion of the revenues derived from such business shall, as may be specified by the concerned State Commission, be utilised for reducing its charges for wheeling:*

*Provided further that the distribution licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business."*

Hence, till such time the licensee starts maintaining separate accounts for every business carried out by it, the entire miscellaneous receipts would be considered as part of non-tariff income and reduced from the ARR of the licensee as all the prudent expenses of the licensee are allowed as pass through during the truing up exercise.

#### 4.63 Regulation 91 in respect of "Cost of Supply".

Regulation 91 specifies as under:

*"The tariffs for various categories/voltages shall be benchmarked with and shall progressively reflect the cost of supply based on costs that are prudently incurred by the Distribution Licensee in its operations. The category-wise/voltage-wise cost to supply may factor in such characteristics as the load factor, voltage, extent of technical and commercial losses etc. The consumers availing electricity at higher voltage shall be entitled to receive suitable rebate, as stipulated by the Commission. However, pending the availability of information that reasonably establishes the category wise/ voltage-wise cost to supply, average cost of supply shall be used as the benchmark for determining tariffs."*

### **Stakeholders Comments/Suggestions**

4.63.1 M/s Confederation of Indian Industry submitted that the rebate should be rationally aligned. Supplying at higher voltages means passing the transformation losses to the consumer. Also distribution at HV means lesser transmission losses as well as less chances of commercial losses.

### **Commission's View**

4.63.2 This is not a subject matter of Regulations but issue related to tariff design. On the issue of voltage wise cost of supply, views have already been given above.

### **4.64 Regulation 93 (1) in respect of "Performance of Distribution License".**

Regulation 93(1) specifies as under:

*"(1) The quality of service provided by the Distribution Licensee to its consumers shall be an important consideration and shall be judged by the extent of adherence by the Distribution Licensee to the standards of performance laid down by the Commission."*

### **Stakeholders Comments/Suggestions**

4.64.1 M/s Confederation of Indian Industry submitted that by improving the performance standard, the Licensee has much to gain, power that is not delivered to the user is a loss to the Distribution Licensee.

### **Commission's View**

4.64.2 This is not a subject matter of Regulations. Hence, no change is required on this account.

### **4.65 Sub-regulation (e) & (i) of Regulation 99, in respect of "Annual Charges of SLDC".**

Regulation 98 specifies the list of various heads under Annual charges of SLDC.

### **Stakeholders Comments/Suggestions**

4.65.1 Sh. Dahiya submitted that sub-Regulation (e) should read as "Interest and finance charges on loan capital".

4.65.2 SLDC/PTCUL submitted that the SLDC fees and charges are allowed to SLDC by the Commission by means of approval of ARR under Section 32(3) of the Indian Electricity Act, 2003. The other income/Non-tariff income is deducted from the ARR. However, one form of income, namely the scheduling and operating charges, are over and above

the SLDC charges and fees (recovered through ARR under section 32(3) of the Act. The operating charges for Intra-State Transactions are defined in Regulation 17 of CERC (Open Access in Inter-State Transmission) Regulation, 2008(along with its notified amendments). In the Note 2 of the aforesaid notified Regulation 17, it is mentioned that:

*“The Operating Charges collected by the nodal agency shall be in addition to the fees and charges specified by the Commission under sub-section (4) of section 28 of the Act”.*

In the CERC (Open Access in Inter-State Transmission) (Third Amendment), Regulations 2015 issued on dated 12.05.2015, it is stipulated in Regulation 2(b) of the amendment that:-

*“Provided that the Operating Charges collected by the State Load Dispatch Centre for Short Term Open Access transactions shall be in addition to fees and charges, specified by the respective State Commission under sub-section(3) of Section 32 of the Act”.*

SLDC/PTCUL submitted that in line of the Act and various Regulations it is clear that SLDC Operating and Scheduling charges are meant to be over and above the SLDC fees and charges which are recovered through ARR. Hence, the SLDC Operating & Scheduling Charges are meant to be over and above the SLDC fees and charges are not to be reduced from the ARR amount, rather these charges may be retained by SLDC as a separate fund on account of additional hardship due to work of Open Access and may be used for capacity building towards the same. SLDC/PTCUL proposed to the Commission for allowing the Operating Charges to be exclusive from the Non-tariff/ other income and not reduce from ARR of SLDC on the same line as mentioned at Regulation 2 of the above said CERC Amendment Regulations, 2015.

### **Commission’s View**

4.65.3 With regard to the comment of Shri Dahiya, the Commission observes that name of the said component of AFC in respect of Generating Stations has been mentioned as “Interest on Loans” whereas the same has been mentioned as “Interest & Finance Charges on loan capital” and “Interest on loan capital and on consumer security deposit” in respect of ARR of Transmission System and Distribution System respectively. Hence, to have consistency, the Commission decides to refer to the same as Interest and Finance Charges on Loan for all the utilities except for distribution utility wherein the same shall be referred as Interest and Finance Charges on Loan and

on consumer security deposit.

4.65.4 With regard to the comment of SLDC/PTCUL, the Commission observes that the CERC (Fees and Charges of Regional Load Despatch Centre and other related matters) Regulations, 2015 specifies that the RLDC Fees and Charges shall comprise of Regional Load Despatch Centre Fees to be recoverable by Power System Operation Company towards registration for commencement of grid access and scheduling and annual charges to be collected in the form of system operation and market operation charges from users. Further, the Regulations specify that the Power System Operation Company shall maintain a separate account for the other income like short term open access charges and REC charges etc.

The Power System Operation Company shall use such income to meet the short fall, if any, in the annual charges allowed by the Commission or to meet the contingency expenses which were not foreseen at the time of making the application for fees and charges and are considered necessary for the efficient power system operation. The balance amount shall be deposited into the LDC development fund after meeting the statutory tax requirements.

Further, the LDC fund would be utilized for creation of new assets, loan repayment, servicing the capital raised in the form of interest and dividend payment, meeting stipulated equity portion in asset creation, margin money for raising loan from the financial institutions and funding of R & D projects and the same shall be treated as grant and no RoE or interest or depreciation would be admissible on it.

The Tariff Regulations provides for recovery of man power cost and any training related expenses as part of ARR of SLDC. Further, servicing of any investment for creation of assets is also allowed under the Regulations.

Based on the above, the Commission decides to allow the SLDC to retain the Operating and Scheduling charges in line with that allowed by CERC as referred above. However, the SLDC shall use such income to meet its short fall, if any, in the annual charges allowed by the Commission or to meet the contingency expenses which were not foreseen at the time of making the application for fees and charges and are considered necessary for the efficient power system operation. The balance amount shall be deposited into the LDC development fund after meeting the statutory tax requirements.



Further, the LDC fund would be utilized for creation of new assets, loan repayment, servicing the capital raised in the form of interest and dividend payment, meeting stipulated equity portion in asset creation, margin money for raising loan from the financial institutions and funding of R & D projects and the same shall be treated as grant and no RoE or interest or depreciation would be admissible on it. Accordingly, necessary modification has been incorporated in final tariff regulations.

#### **4.66 Sub-regulation (1) of Regulation 100, in respect of “O&M expenses of SLDC”.**

Regulation 99(1) specifies as under:

*“The O&M expenses for the first year of the Control Period will be approved by the Commission taking into account actual O&M expenses of the previous years and any other factors considered appropriate by the Commission.”*

#### **Stakeholders Comments/Suggestions**

4.66.1 Sh. Dahiya suggested for insertion of words “till base year subject to prudence check” in 2nd line after the words “previous years”.

#### **Commission’s View**

4.66.2 The Commission observes that provision of prudence check of the O&M expenses of previous years till base year has been made in respect of generation, transmission & distribution utilities. However, the said provision was omitted inadvertently in respect of O&M of SLDC, hence, the Commission considers the inclusion of the same in Regulation 100(1) of the proposed Regulations. The suggestion has been considered and the final Regulation has been modified accordingly.

#### **4.67 Sub-clause C(a)(ii) of Appendix-II, i.e. in respect of “Depreciation Schedule”.**

Appendix-II , sub-clause C(a)(ii) specifies that:

*“Steam electric NHRB & waste heat recovery boilers = 5.28%.”*

#### **Stakeholders Comments/Suggestions**

4.67.1 Sh. Dahiya requested for clarification of the term NHRB.

#### **Commission’s View**

4.67.2 The Abbreviation NHRB stands for Non Heat Recovery Boiler. The same is based on CERC Regulations. Other States also have the same provision.

#### **4.68 Power Trading Process:**

##### **Stakeholders Comments/Suggestions**

4.68.1 M/s Confederation of Indian Industry submitted that the hassle in power trading process should be reduced in situation of power shortage, UPCL should declare rostering well published in advance so that Consumers can prepare for power availability and avail open access power. This will reduce unscheduled power outages.

##### **Commission's View**

4.68.2 This is not a subject matter of Regulations. Provision in this regard are there in SOP regulation and the Commission has been issuing direction in this regard in the Tariff Orders issued from time to time.

#### **4.69 Reduction of AT&C Losses:**

##### **Stakeholders Comments/Suggestions**

4.69.1 M/s Confederation of Indian Industry suggested that distribution sector is the weakest link in the entire power sector. Theft, pilferages, network losses are maximum in this segment. This should not be imposed on Industrial Consumers. It has also been recommended that concrete step should be taken to (i) Reduce technical Losses by improving infrastructure, improving Network design/reconfiguration; (ii) Reduce Commercial losses by reducing theft, pilferage etc & improving collections.

##### **Commission's View**

4.69.2 This also is not a subject matter of Regulations.

#### **Other Comments:**

#### **4.70 Wheeling Charges**

##### **Stakeholders Comments/Suggestions**

4.70.1 UPCL submitted that the objective of introduction of ToD Tariff is to minimize the gap between maximum (peak) demand and minimum demand and to bring the peak demand as closer to the average demand as possible. On every reduction of this gap, the generation cost, transmission cost and distribution cost and power cuts would be reduced and the higher demand can be catered from the available capacity. In other

words, ToD Tariff is very effective tool of demand side management which makes the optimum utilization of the available capacity of Generation, Transmission and Distribution possible, resulting in reduction of costs. The benefit of such reduction in cost is passed on to the consumers. Presently, ToD Tariff is applicable in Retail Supply of Electricity but the same should also be applicable on the Open Access Consumers for determination of Transmission Charges and wheeling charges. The logic behind this submission is that the Open Access Consumers are bearing the high cost of power consumed during peak hours but they are not bearing this high cost of transmission charges and wheeling charges for power consumed during peak hours. To discourage the consumption during peak hours, ToD Tariff of Transmission Charges and Wheeling Charges is necessary for the Open Access Consumers. This should be provided in the Regulations.

### **Commission's View**

4.70.2 The submission of UPCL in this regard is not accepted. At present nowhere in the country there is no ToD tariff for transmission. Further, ToD tariffs are basically to reduce the peak demand. The ToD tariff allows the utility to reduce its power purchase requirement from the costlier stations during peak hours, which reduces the overall cost of supply. Another advantage, which the utility has, is that the load factor of the system improves due to shifting of some peak load to off peak hours and leads to flattening of load curve.

However, ToD tariffs in transmission and wheeling charges would be against the intent of the Act as the consumer would then be deterred from availing open access during peak hours as at that moment it would not only be contracting costlier power but would also be required to pay higher transmission and wheeling charges or else would be subjected to load sheddings.

### **4.71 GPF Liability:**

#### **Stakeholders Comments/Suggestions**

4.71.1 UPCL submitted that as part of transfer scheme agreed with UPCL, as against the receivables for sale of electricity, it got the GPF liability of Rs. 127.10 Crore which it has been servicing regularly whereas its receivables have neither been realized nor giving any return. This is unfunded liability and causing direct loss to UPCL. UPCL has also

referred to the Regulations of the Punjab State Electricity Regulatory Commission wherein it has been clearly provided that the unfunded past liabilities shall be passed on in the Consumer Tariff. Accordingly, UPCL requested to provide a suitable mechanism in the regulations for servicing this liability.

### **Commission's View**

4.71.2 The Commission in its previous Tariff Orders has not been allowing this liability and has been directing UPCL to get the same transferred from UPPSET. However, no concerted efforts in realizing the money have been made by licensee in this regard. The Commission has also expressed its reservations on the Transfer Scheme agreed to by the licensee in its previous Orders, and hence, the Commission sees no reason for allowing the same through this Regulation.

### **4.72 Submissions in respect of "Rebate & Delay Payment surcharge".**

#### **Stakeholders Comments/Suggestions**

4.72.1 UJVN Ltd. submitted that Generating companies allow rebate on monthly bills to beneficiaries so that revenue may be realized at the earliest for meeting the requirement of working capital. Prompt recovery of the bills reduces the requirement of arranging working capital from banks through loans. Hence less expense for Interest on Working Capital (IoWC) are made. UJVN Ltd. further submitted that while the rebate allowed to the beneficiary results in reduced revenue realization of approved AFC on the other hand the efficiency gain arising on account of rebate in form of less expense on IoWC is shared with the consumers, thus approved AFC is reduced by the amount of shared gain to the consumers. In this way the generating company is impacted twice. Therefore, while computing gains/loss on IoWC, it would be appropriate that the rebate allowed during the year on bills by the generating company be considered as an expense towards IoWC else the IoWC may be treated as an uncontrollable factor.

4.72.2 PTCUL submitted that Interest on delayed or deferred payments on bills should be allowed and requested to include the following:-

*"In case the payment of bills of transmission charges is delayed beyond a period of one month from the date of billing, the transmission licensee may levy a late payment surcharge at the rate of 1.25% per month."*

### **Commission's View**

4.72.3 In the existing Regulations rebate and surcharge were not considered as the Commission was of the view that the Late Payment Surcharge and Rebate on regular billing/payment is a commercial arrangement between licensee and the generating company, and therefore, this mechanism should be settled mutually amongst the two in their Power Purchase Agreement/Transmission Service Agreement. Hence, suggestion in this regard is being denied and no change in provision of the Regulations is required.

### **4.73 Formats:**

#### **Stakeholders Comments/Suggestions**

4.73.1 UPCL submitted the following in respect of the Formats specified by the Commission:

- (a) **Form F-2.7:** UPCL submitted that the information as required in the format is not available and, accordingly, it proposed a simpler format.
- (b) UPCL submitted that the information as required in Form 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 7.1, 7.2 is either not available or difficult to prepare, hence, it requested the Commission to not specify these formats and the information as desired by the Commission shall be provided separately in the format according to the requirement and availability of the information.
- (c) Information as required in Form 17.1, 17.2 and 17.3 on SAIFI, SAIDI and MAIFI is being regularly provided to the Commission, the Commission is requested to kindly not specify these formats.
- (d) Form 18.1, 18.3, 18.4, 18.5, 18.6 and 18.7 may also not be specified. Information required in these formats shall be provided separately as per the requirement and availability of the information.

### **Commission's View**

4.73.2 Form F-2.7 seeks information on Detail of UI Charge and Additional UI Charge Payable / Receivable for Overdrawal / Underdrawal from Central Generating Stations during the different range of frequency. This information is necessary as the Commission in its previous Orders had directed UPCL to restrict the net drawal from the grid within its drawal schedules whenever the system frequency is below 49.90 Hz

in order to ensure grid discipline. Hence, if UPCL overdraws electricity whenever the system frequency is below 49.90 Hz, any penalty and additional charges leviable on it would not be allowed as pass through. Hence, UPCL is required to maintain this information. The information is available with NRLDC and UPCL should co-ordinate with it and prepare the said Format.

4.73.3 Form 6.5 to Form 6.10 requires information on Break-up of Construction/Supply/Service Packages, Element wise Break-up of Project/Asset/Element Cost, Statement of Additional Capitalisation after COD, Financing of Additional Capitalisation, Incidental Expenditure during Construction and Statement of De-capitalisation respectively. If accounting statement and records are in place properly, it would not be difficult to provide the same information. Information may not be available for past period but steps have to be taken to provide the information for ensuing years. Merely seeking waiver from the same would not be sufficient. Hence, UPCL is directed to take steps in this direction and any waiver from the submission of the Formats may be made alongwith the ARR and Tariff Petition.

4.73.4 Sub-para (4) of Para 6 of Clause 8 under Schedule-II of UERC (Standards of Performance) Regulations, 2007 specifies that the Licensee shall propose the target level of the indices annually while submitting the ARR and the Commission would accordingly notify these indices. Hence, the licensee has to mandatorily submit the Forms 17.1, 17.2 and 17.3 on SAIFI, SAIDI and MAIFI.

4.73.5 Form 18.1, 18.3, 18.4, 18.5, 18.6 and 18.7 requires information on Shunt Capacitor Addition / Repair Program, Abstract of Outages due to feeder tripping, Category wise Load Shedding carried out during the year, Overloaded Feeders, Failure of Transformers and Overloaded Distribution Transformers (DTRs). These information reflects towards the operational performance of UPCL and it is strange to see UPCL's submissions that the same may not be specified and that the information required in these formats shall be provided separately as per the requirement and availability of the information. It is surprising to note that even UPCL doubts as to whether these information are available with it or not. UPCL in this regard is directed to submit the information alongwith the Tariff Petition.

**List of Stakeholders**

| <b>Sr. No.</b> | <b>Name</b>          | <b>Designation</b>  | <b>Organisation</b>   | <b>Address</b>   |
|----------------|----------------------|---------------------|---|--|
| 1.             | Sh. S.N. Verma       | Managing Director   | UJVN Ltd.   | “UJJWAL”, Maharani Bagh, G.M.S. Road, Dehradun                                 |
| 2.             | Sh. S.K. Sharma      | Director (Projects) | Power Transmission Corporation of Uttarakhand Ltd.          | Vidyut Bhawan, Near I.S.B.T. Crossing, Saharanpur Road, Majra, Dehradun-248002 |
| 3.             | Sh. M.A. Khan        | Director (F)        | Uttarakhand Power Corporation Ltd.                          | Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun.              |
| 4.             | Sh. Rohtash Dahiya   | Member              | State Advisory Committee                                    | F-12, Swati Apartments, I.P. Extension, New Delhi-110092                       |
| 5.             | Sh. V.K. Garg        | Member              | State Advisory Committee                                    | A-24/E, DDA Flats, Munirka, New Delhi-110067                                   |
| 6.             | Sh. Prashant Mahadik | Chairman            | Uttarakhand State Council, Confederation of Indian Industry | Northern Region, 30/1, Rajpur Road, Nepal House, Dehradun                      |
| 7.             | Sh. G. Anjaneyulu    | ED-Projects         | M/s Sravanthi Energy Pvt. Ltd.                              | 3 <sup>rd</sup> Floor, 136, Rider House, Sector-44, Gurgaon-122002, Haryana    |

**List of Participants**

| <b>Sr. No.</b> | <b>Name</b>          | <b>Designation</b>          | <b>Organisation</b>                                | <b>Address</b>   |
|----------------|----------------------|-----------------------------|--|--|
| 1.             | Sh. M.A. Khan        | Director (F)                | Uttarakhand Power Corporation Ltd.                 | Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun.              |
| 2.             | Sh. A.K. Singh       | Chief Engineer (P&C)        | Uttarakhand Power Corporation Ltd.                 | Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun.              |
| 3.             | Sh. Muneer Alam      | Executive Engineer (Comml.) | Uttarakhand Power Corporation Ltd.                 | Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun.              |
| 4.             | Sh. Gaurvav Sharma   | Executive Engineer (RM)     | Uttarakhand Power Corporation Ltd.                 | Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun.              |
| 5.             | Sh. Anurag Sharma    | Advocate                    | Uttarakhand Power Corporation Ltd.                 | Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun.              |
| 6.             | Sh. Shrawan Sharma   | Director (Projects)         | Power Transmission Corporation of Uttarakhand Ltd. | Vidyut Bhawan, Near I.S.B.T. Crossing, Saharanpur Road, Majra, Dehradun-248002 |
| 7.             | Sh. Kamal Kant       | Chief Engineer (C&R)        | Power Transmission Corporation of Uttarakhand Ltd. | Vidyut Bhawan, Near I.S.B.T. Crossing, Saharanpur Road, Majra, Dehradun-248002 |
| 8.             | Sh. Purshottam Singh | Executive Director (O&M)    | UJVN Ltd.  | "UJJWAL", Maharani Bagh, G.M.S. Road, Dehradun                                 |
| 9.             | Sh. Ambrish Sharma   | Executive Engineer          | UJVN Ltd.  | "UJJWAL", Maharani Bagh, G.M.S. Road, Dehradun                                 |
| 10.            | Sh. D.C. Sharma      | Executive Engineer          | UJVN Ltd.  | "UJJWAL", Maharani Bagh, G.M.S. Road, Dehradun                                 |
| 11.            | Ms. Shuchi Rai       | Executive Engineer          | UJVN Ltd.  | "UJJWAL", Maharani Bagh, G.M.S. Road, Dehradun                                 |
| 12.            | Sh. Arvind Jain      | Member                      | Tarun Kranti Manch                                 | Ramleela Bazaar, Dehradun  |