

Before

**UTTARANCHAL ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Sale of electricity generated by the generating units of Uttaranchal Jal Vidyut Nigam Ltd. and which is surplus to the requirement of consumers of Uttaranchal State.

**Coram**

**Sri Divakar Dev      Chairman**

**Date of Order   19<sup>th</sup> March, 2004**

**ORDER**

Whereas section 63(1) of the Uttar Pradesh Re-organization Act, 2000 empowers the Central Government to issue directions regarding continued functioning of Uttar Pradesh Power Corporation Ltd. (UPPCL), Uttar Pradesh Jal Vidyut Nigam (UPJVNL) and Uttar Pradesh Rajya Vidyut Utpadan Nigam Ltd. (UPRVNL) after bifurcation of the erstwhile Uttar Pradesh;

2.      whereas in exercise of the above statutory powers, the Central Government issued order no. 42/7/2000-R&R under section 63(1) of the Uttar Pradesh Re-

organization Act, 2000, on 5.11.2001 and the same became effective from 09.11.2001;

3. whereas para 3 of the Central Government's above order stipulates sale to any third party of energy that is generated by generating units owned by UPJVNL on the date of transfer only to the extent it is surplus after meeting the consumption requirements of Uttaranchal;

4. whereas generating units of UPJVNL situated in Uttaranchal on the date of transfer have been transferred to the Uttaranchal Jal Vidyut Nigam Ltd. (UJVNL) and the electricity generated by such units is therefore to be sold only in accordance with the above statutory directions of the Central Government;

5. whereas in terms of the above, consumers of electricity in the State of Uttaranchal who were being supplied electricity through UPSEB/distribution licensee in the State should continue to enjoy the benefit of electricity generated in the State by UJVNL and therefore have the first priority and pre-emptive right before such electricity is sold to any other person by UJVNL or Uttaranchal Power Corporation Ltd. (UPCL);

6. whereas in accordance with the above conditions UJVNL was rightly selling the total electricity generated by its generating units to consumers of electricity in the state through UPCL, the distribution and supply licensee, who after meeting the requirements of the State consumers was selling the surplus energy to parties outside the State;

7. whereas in terms of the above, UJVNL and UPCL are required to enter into long term Power Purchase Agreement setting out the terms and conditions for sale of energy by UJVNL to UPCL and providing for first and pre-emptive right to consumers of electricity in the State.

8. whereas such Power Purchase Agreement between UJVNL and UPCL and the tariff, terms and conditions therein required are to be approved by the Commission.

9. whereas the Commission has reasons to believe that sale of electricity

generated by UJVNL to parties outside the state even before meeting Uttaranchal's consumption requirements is being contemplated;

10. whereas the Commission considers that the above matter to be of vital importance for consumers of electricity in the state having serious consequences on distribution and retail supply of electricity in the State and in turn on interests of electricity consumers of Uttaranchal;

11. Accordingly, in exercise of its regulatory powers under section 86 and other applicable provisions of the Electricity Act, 2003 read with the provisions of the Uttaranchal (Uttar Pradesh Electricity Reforms Act) Adaptation and Modification Order, 2001 and with a view to safeguarding the interests of the consumers in the State of Uttaranchal hereby directs as under:

- a) Within the limits laid down by their respective statutory obligations, terms and conditions of sale of electricity by UJVNL to UPCL (which are both owned by the state government) for consumption within Uttaranchal State may be settled and finalized between the two parties within 30 days of this order and their proposed agreement should be submitted to the Commission for scrutiny and approval.
- b) In the event of failure on part of UJVNL and UPCL to conclude the Power Purchase Agreement specifying the terms and conditions in accordance with the principles set out herein above, the Commission may take steps to determine the terms and conditions for sale of energy by UJVNL to UPCL including in regard to the utilization of the generating capacity of UJVNL on the basis on material available before the Commission and after giving opportunity of hearing to both the parties.
- c) In the meanwhile it is hereby directed that UJVNL or UPCL or for that matter any other organization dealing with the energy generated by the generating stations which UJVNL has inherited from Uttar Pradesh Jal Vidyut Nigam Ltd. shall not commit for sale such energy to any third party without first preserving the rights of the State consumers exercised through the distribution and retail supply licensee of the State and such

sale shall be only to the extent of surplus energy available from time to time after meeting fully the requirements for distribution and retail supply of electricity to consumers in State of Uttaranchal. Further UJVNL or UPCL shall not enter into any long-term arrangements for sale of such surplus energy without obtaining prior approval of the Commission.

12. Copies of this order may be sent to State Government and Chairmen and Managing Directors of UJVNL and UPCL for compliance.

**Divakar Dev**  
**Chairman**