

Before

UTTARANCHAL ELECTRICITY REGULATORY COMMISSION

In the Matter of:

Show Cause Notice dated 01.12.2006 issued to Shri B. M. Verma S/o Late Shri Walaiti Ram R/o 220, Vasant Vihar, Phase-II, Dehradun regarding non compliance of Commission's Orders for implementing ToD tariffs in the State.

Coram

Sh. Divakar Dev	Chairman
Sh. V.K. Khanna	Member
Sh. V.J. Talwar	Member

Date of Order: 22nd December 2006

Order

On account of fluctuations in demand and supply, the State faces energy shortages during peak hours. This gets aggravated further during the winter months. Efforts to obtain supplementary supplies are constrained by the over all power scenario in the country. There is thus a pressing need for so managing the demand that to the extent possible, the same gets shifted to off peak hours or indeed to non conventional sources of energy. One well recognized method of demand management is charging higher tariff for energy consumed during the peak hours and offering discounts during off peak hours.

2. Accordingly, in the tariff order dated 08.09.2003, the Commission, after consulting the then Chairman and Managing Director of Uttaranchal Power Corporation Ltd. (UPCL), introduced Time of the Day (ToD) tariffs for HT industrial consumers. These tariffs were designed so as to discourage these consumers from consuming electricity during peak hours and encourage them to use it during off peak hours. This innovation was in line with not only the demands of the situation,

but also with provisions of the National Electricity Policy issued by Government of India under section 3 of the Electricity Act, 2003. Relevant extract of the said order is given below:

“ The Commission is, therefore, of the view that Time of Day tariffs need to be introduced immediately so that consumption during peak periods is avoided or paid for at a premium while consumption during off-peak hours could be encouraged through properly designed discounts. To this effect, the Commission directs the licensee to meter (having provision for ToD and to be read through MRI) all HT industry consumers (above 100BHP) with time of day meters from the date of installation of TOD meters or by 1st January 2004 whichever is earlier.

In the first phase the Commission approves levy of Time of Day tariffs from the date of installation of ToD meters or by 1st January 2004 whichever is earlier on HT Industries (above 100BHP) which consist of 200 odd consumers.

The Commission, therefore, directs the Petitioner to maintain a time-differentiated hourly data for consumers with ToD metering facility and submit it, along with its analysis, to the Commission by 31st March 2004 to facilitate further fine-tuning of ToD rates.....”

3. The Commission in the tariff order dated 25.04.2005 extended the ToD tariff to all industrial consumers and large commercial consumers. Commission’s instructions regarding reading of ToD meters through Meter Reading Instrument (MRI) were also reiterated in this order and relevant portion of the same is reproduced below:

“16. Other provisions

i) Meter reading of all HT consumers shall be made by Meter Reading Instrument (MRI) and bills shall be raised accordingly as per TOD rate of charge 15(iii).

ii) The licensee shall keep the records of Monthly MRI report for each HT consumer and shall also make it available to the consumer.”

4. Notwithstanding categorical instructions referred to above, it came to Commission's notice that while UPCL had installed ToD meters, though with considerable delay, their reading was being done manually leaving considerable scope for manipulation. Reading such meters through MRI instruments is essential as it ensures correct recording of consumption spread over the day strictly as it took place. Doing the same manually leaves huge scope for manipulation, which is of special concern as most of these consumers enjoy considerable influence and clout. The Commission's concern in this regard was reflected in the tariff order 12.07.2006, relevant portion of which is given below:

"It has come to Commission's notice that while a large number of ToD meters have been installed, their readings are still being recorded manually. This is against specific direction given by the Commission in its Order dated 25-04-2005. Such an arrangement is open to misuse and manipulation, results in revenue loss to the Petitioner and defeats the very purpose of introducing ToD Tariff in the State. The Commission, therefore, reiterates its earlier direction that reading of all ToD meters shall be made by Meter Reading Instrument (MRI) and bills shall be raised accordingly. The Commission hereby cautions the licensee and its officers against violations of this directive which would invite personal punitive action on individuals guilty of misdemeanor on this account."

5. In spite of repeated instructions given by the Commission and clear warning given in the order dated 12.07.2006 regarding personal liability of defaulting officers, manual reading of ToD Meters continues. A show cause notice was accordingly issued to Shri B.M. Verma CMD and Director Operations to appear before the Commission on 12.09.2006 and show cause as to why appropriate punitive action should not be taken against him for non compliance of these directions. During course of the hearing Shri Verma sought one week's time to investigate the matter and report back, which was allowed. Accordingly, Shri Verma submitted letter no. 1633/UPCL/ARR 2006-07 dated 19.09.2006 to Secretary of the Commission undertaking to ensure ToD meter reading through MRI with respect to all LT Industrial consumers having load of more than 25 BHP and all HT

Industrial consumers. With respect to other ToD consumers, the letter was silent. The Commission though not satisfied with Shri Verma's explanation took a lenient view and refrained from imposing any penalty. The Commission however did warn the concerned officer that no such leniency will be shown in future.

6. When no progress in the matter was reported after the promised date of 01.10.2006, the Commission required the CMD to file the status position by 24.11.2006. These directions were again not complied with. Information obtained by the Commission separately indicated that notwithstanding Shri Verma's written undertaking dated 19.09.2006 bills for large number of ToD consumers continued to be made without MRI readings. Shri Verma was accordingly asked to appear before the Commission again on 18.12.2006 and explain why punitive action should not be taken against him. Shri Verma sought time due to certain preoccupations on 18.12.2006 which was allowed and he finally appeared before the Commission on 20.12.2006 at 03.00 pm.

7. During the course of hearing Shri Verma submitted a status report which shows that in the month of November 2006 out of 2970 ToD meters installed in UPCL system, only 1402 (i.e. 47%) were read using MRI and balance 53 % were read manually. Even in case of large number of consumers whose meter readings had been taken with MRI, bills were still not being made on the basis of these readings. For instance in Kumaon Zone during this month the total number of meter readings recorded through MRIs is claimed to be 429 whereas the number of bills that were prepared on the basis of these readings was only 176. **Further data submitted by Shri Verma revealed that out of 2970 consumers with ToD meters only 258 consumers (i.e. 8.68%) were issued computerized bills based on MRI reading and bills of rest of consumers were made or read manually.** Shri Verma was unable to offer any satisfactory explanation for this. He was given an opportunity to file his explanation through an affidavit by 21.12.2006, the same has not been done.

8. Shri Verma tried to explain the non compliance of these directions due to time required in procuring MRIs. However, on questioning he did admit that action

in this connection was started only few months back. Considering that the Commission has been issuing directions in this regard right from 2003, the Commission is unable to accept the contention that the UPCL's officers have been serious or earnest about the issue and have been unable to implement these directions for more than three years only on account of unavoidable procedural delays. Further, Shri Verma was unable to explain why even the consumers whose meter readings have been taken through MRI are not being billed on this basis as stated in the preceding para. Shri Verma also tried to evade his responsibility in the matter by claiming that he has been working as CMD only for few months. However, on questioning by the Commission he did admit that prior to taking over as CMD, he was working as Joint Managing Director and as Director (Operations) in UPCL. In both these capacities Shri Verma was equally responsible for ensuring timely and sincere implementation of Commission's directions and can not take the plea that he is new to the job. Commission is, accordingly, unable to appreciate or accept this plea.

9. The Commission has carefully considered all aspects of this matter including the explanation offered by Shri Verma and has come to the conclusion that both as JMD & Director Operations earlier and then as CMD and Director Operations he was in charge of and responsible for conduct of business of UPCL. Further that Shri Verma has made no serious attempt to implement Commission's repeated directions pertaining to charging of ToD tariff and has consciously been flouting them. Failure to raise bills on the basis of MRI readings, even when available, raises serious questions about the motive behind continued slow pedalling of this matter. It is a matter of serious concern that even after Shri Verma was given a notice regarding non-compliance of this direction, he continued to treat the matter lightly and in a non serious manner. Having himself undertaken to comply with these directions by 01.10.2006 and having been warned in advance against failure to do so, Shri Verma continued to take the matter lightly and did not deem it necessary to even approach the Commission for extension of this time. During the hearing before the Commission on 20.12.2006, Shri Verma submitted a progress report to the

Commission but himself was not even aware that as per this report itself, even consumers whose meters had been read through MRI were not billed on the basis of these readings. In short Shri Verma who apart from being the Chairman and Managing Director of the UPCL now was its Joint Managing Director since August 2004 and is, and has all along been its the Director (Operations), has knowingly failed to implement Commission's directions regarding recording of consumptions in ToD meters only through Meter Reading Instruments. This is in spite of the Commission repeatedly reiterating its directions and warning the concerned officer in this regard. The Commission, is therefore, satisfied that Shri Verma is guilty of continuously contravening Commission's directions and has not been able to offer any satisfactory explanation for his conduct. Accordingly, in exercise of powers under section 142 of the Electricity Act, 2003 the Commission hereby imposes a token fine of Rupees Five Thousand only on Shri B.M. Verma S/o Late Shri Walaiti Ram R/o 220, Vasant Vihar, Phase-II, Dehradun. He will be also liable to pay a further fine of Rupees One Hundred per day, till such time that the Commission is satisfied that all consumers of UPCL covered by the ToD tariff are being billed on the basis of consumption downloaded from their meters through MRI. If Shri Verma still fails to implement these directions to Commission's satisfaction till 31.03.2007, further action u/s 146 of The Electricity Act,2003 will be taken against him. This penalty is being imposed on Shri Verma in his personal capacity and will therefore not be paid or reimbursed to him by the licensee.

Sd/-
(V.J. Talwar)
Member

Sd/-
(V.K. Khanna)
Member

Sd/-
(Divakar Dev)
Chairman