

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Show Cause Notice dated 13.04.2007 regarding supply of electricity to Industrial consumers on selective basis.

Coram

Shri V.J. Talwar Chairman

Shri V.K. Khanna Member

Date of Order: 17th August 2007

ORDER

These proceedings have been drawn up to take a view on violations of Commission's different orders and provisions of the Electricity Act, 2003 committed by Shri B.M. Verma S/o Late Shri Walaiti Ram, R/o 200, Phase-2, Vasant Vihar, Dehradun, while working as CMD, Uttarakhand Power Corporation Ltd. (UPCL) in the course of supplying of electricity to consumers in the State during the period 10.01.2007 to 15.03.2007. Brief history of the same is given below:

2. Section 23 of the Electricity Act, 2003 stipulates that if the Commission is of the opinion that it is necessary or expedient so to do for maintaining the efficient supply, securing the equitable distribution of electricity and promoting competition, it may, by order, provide for regulating supply, distribution, consumption or use thereof. While no such order was passed by the Commission prior to 09.01.2007, UPCL, on its own, had been regulating supply and imposing power cuts in the State from time to time without having authority to do so. The Commission has been repeatedly taking up this issue with UPCL at the level of its CMD and JMD but

without any response for implementation of provisions of the Act. When such unauthorized cuts started resulting in large scale dissatisfaction amongst consumers and innumerable complaints and repeated news paper reports came to its notice, the Commission called the Principal Secretary (Energy), Government of Uttarakhand and CMD of UPCL on 03.01.2006 to ascertain reasons for this deliberate and continued violation of legal provisions. In the said meeting the Commission was assured that a proper plan for regulating supply to consumers will be drawn up and submitted for Commission's approval by 09.01.2007. Accordingly a plan for regulating supply to all consumers of the State was finally submitted to the Commission on 08.01.2007. As per this plan no supply was to be made available to consumers on all industrial feeders emanating from 33 kV and 132 kV substations between 17:00 hrs and 22:00 hrs up to 15.03.2007. For other industrial consumers restriction on supply was to be as applicable to the mixed feeder from which they were being fed. The same was approved by the Commission on 09.01.2007, under section 23 of the Electricity Act 2003 and UPCL was asked to notify it in leading daily newspapers for information of all consumers in the State.

3. On 19.01.2007, UPCL made a proposal to the Commission that the above restriction was proving inadequate as industrial units located on mixed feeders continued to draw their full requirement and proposed that all industries may be restricted to use only 15% of their sanctioned load during evening peak hours (17.00 hrs to 22.00 hrs). In the Schedule of Load Shedding enclosed with the above proposal UPCL proposed that power supply will be restricted between 17.00 hrs to 22.00 hrs for all industrial consumers above 25 BHP getting supply from 132 kV and 33 kV substations, SIDCUL Haridwar, SIDCUL Pant Nagar , Munikireti and 11 kV Mixed towns/rural feeders etc. The Commission approved UPCL's above proposal on 25.01.2007 subject to the following conditions:

- i) Increase in evening demand due to above restriction (in place of complete power cut) shall not result in load shedding for other consumers during this period.
- ii) Restriction shall be closely monitored. All meters shall be read through

MRI and only computerized bills shall be issued.

- iii) In case an industrial consumer uses more than 15% of sanctioned load during restriction period provisions of tariff order shall apply.

4. Meanwhile, complaints were received from some consumers that UPCL was giving favoured treatment to some selected industrial units and had totally exempted them from the restrictions as being imposed on other industrial consumers. Factual position on these allegations was sought. Shri B.M. Verma, CMD, UPCL in his letter dated 07.02.2007 admitted that four industrial units had indeed been totally exempted from power cuts as a special case and 27 odd applications for similar exemption have been received. The Commission responded to this communication on the very next day i.e. 08.02.2007, rejecting the above proposition and emphasizing that total transparency and uniformity in imposing these restrictions has to be maintained. Relevant portion of the said letter are reproduced below:

“.....In this connection, I am directed to inform you that first paragraph of the said letter mentions exemption for power cuts having been given to certain selected feeders by UPCL. In this connection, it is being made clear that the Commission has not allowed any such exemptions to the approved schedule of power cuts. The Commission has all along been emphasizing on a transparent and uniform treatment for all consumers of a particular category and has not been in favour of selective treatment on case to case basis. Commission’s position is being clarified in view of the misleading impression being conveyed in your above letter.

As stated earlier to maintain transparency and uniformity in treatment of consumers the Commission does not favour selective approach reflected in your above letter seeking to treat some selected industrial consumers more favourably than others. The Commission is, therefore, unable to accept your above recommendation and reiterates its position that all consumers of a particular category including industrial consumers should be treated equally without any discrimination. If actual availability of power with UPCL has indeed improved from what had been stipulated at the time of seeking Commission’s approval, possible relief may be given from power cuts but uniformly to all consumers without any favour or discrimination and with

intimation to the Commission.....”

5. Thereafter, on 15.03.2007 another proposal for imposing power cuts on industries between 18.00 hrs to 23.00 hrs for the period 16.03.2007 to 31.05.2007 was received in the Commission. The Secretary of the Commission wrote to the CMD of UPCL on 21.03.2007 stating that reports have been reaching the Commission that the restrictions approved by the Commission earlier have not been imposed in a uniform and transparent way and notwithstanding Commission's categorical directions in this connection exemptions from these cuts are being given by the UPCL on selective basis. Accordingly, some related information was sought from the UPCL before the proposal for extending the power cuts beyond 15.03.07 could be considered. Meanwhile, independent inquiries by the Commission revealed that at least from 12.03.2007, UPCL had not been drawing its full entitled quantum of energy from the Northern Grid but it continued to impose power cuts on consumers of the State day after day and that too again without obtaining Commission's approval. Comprehensive data was collected and sent to the State Government at the highest level. Thereafter, on Government's intervention, unauthorized and unwarranted power cuts imposed on State consumers w.e.f. 16.03.2007 by UPCL, were discontinued on 17.04.2007.

6. In spite of being directed categorically to impose power cuts on all consumers in a uniform and transparent manner and not to grant any relief on selective basis, UPCL had been exempting some selected units from these restrictions. This has been done under personal direction of Shri B.M. Verma. A show cause notice was accordingly issued to him on 13.04.2007 as to why action should not be taken against him under section 142 and 146 of the Electricity Act, 2003 for this deliberate violation of Commission's specific directions and provision of law. Shri Verma's reply to the show cause notice was received on 20.04.2007. In this reply, the specific explanation to the two points contained in the show cause notice is that:

- i) Some industrial consumers had approached the UPCL as their minimum requirement of power was more than 15% of the sanctioned load. A proposal relating to them was made to the Commission on 07.02.2007

which was responded to by the Commission on 08.02.2007.

- ii) Exemptions have been given keeping in view the criticality of manufacturing process or production of these industrial units.
- iii) Executive discretion has been exercised by Shri Verma in good faith.
- iv) Power supply to these five industrial units was maintained by PTCUL between 09.01.2007 and 20.01.2007 despite Commission's order, but no action has been taken against them.
- v) No discrimination has been done between consumers and what has been done is in exercise of executive discretion.
- vi) The Commission, and in particular Member (Technical) have been updated from time to time.
- vii) Action taken was in the interest of continuous process industries like Glass, Chemicals, BHEL and BEL who contacted Shri Verma through 'crash' messages.
- viii) Government of Uttarakhand had directed UPCL to file a petition before the Hon'ble Commission with respect to these five industrial units and also to direct them to put their case before the Commission.

7. Shri Verma, in a separate communication dated 20th April 2007, sought opportunity for personal hearing by the Commission. Accordingly, time was fixed for hearing Shri Verma on 25th April 2007. Shri Verma instead of appearing before the Commission sought adjournment on account of his scheduled meetings in Delhi with MoP, CEA etc. on 25th and 26th April 2007. The Commission once again accommodated Shri Verma's request and adjourned the hearing to 27.04.2007. Shri Verma once again did not appear to make his submission to the Commission and notwithstanding these 'preoccupations' Shri Verma did, however, find time to approach the Hon'ble Appellate Tribunal for Electricity (ATE) on 26th April 2007 and obtained a stay order on these proceedings. On the very first hearing on 16th May 2007, when full facts were placed before the ATE, the said stay order was vacated. The Commission fixed another date for personal hearing on 18th May 2007. Shri

Verma, who had himself sought an opportunity for personal hearing, once again failed to appear before the Commission and instead chose to proceed on leave seeking yet another adjournment, which was again granted to him. Shri Verma finally appeared before the Commission on 24th May 2007 and was heard. As requested by Shri Verma, he was allowed to file his submission in writing also which he did. Apart from reiterating his earlier submissions Shri Verma now for the first time claimed that the restriction on use power on industrial consumers approved by Commission Order dated 9th Jan 2007 which in turn was based on UPCL's own proposal dated 08.01.2007 was not applicable on some exempted areas which has been listed in para 7 of his affidavit dated 24.05.2007 as given here below:

"Exempted Areas

Ex- Project Feeders Hydro

Ex- Opoto Electronics (defence)

Ex- BHEL Hardwar

Ex- IIT Roorkee

Ex- Ramnagar Town

Ex- Nainital Town

Ex- Mussoorie Town

Ex- Dehradun Town

Ex Industries on 132 kV- 3 Nos.

Ex- JJ Glass, 33 KV Rishikesh

Ex- SIDCUL Hardwar

EX- SIDCUL Pantnagar

We were informed by SLDC that M/s IGL, Asahi Glass and Century Paper Ltd. are covered under exemption."

8. This claim is being made notwithstanding the fact that no such exempted areas were specified in UPCL's own proposal dated 8th Jan 2007. In fact, UPCL's proposals dated 08.01.2007, was for imposing restrictions on

"all industrial feeders emanating from 132 kV and 33 kV substations, SIDCUL Haridwar, SIDCUL Pant Nagar..."

And even modified proposal of UPCL dated 19.01.2007 was also for restrictions on

“all Industrial consumers above 25 BHP getting supply from 132 kV and 33 kV substations, SIDCUL Haridwar, SIDCUL Pantnagar, Muni ki Reti and 11 kV mixed towns/ rural feeders etc (restriction in Usage)”.

9. While it is now being claimed that Industries on 132 kV – 3 Nos., SIDCUL Haridwar, SIDCUL Pantnagar etc. were exempted from these restrictions, the proposal made by UPCL specifically stated imposing of restrictions on these industrial consumers as well, as quoted above. Accordingly, no such exemption was made by Commission in its order dated 9th Jan 2007 and such a claim now being made by Shri Verma is only to cover up his own lapses and is not supported by documents on record. This is also evident from Shri Verma’s own earlier submission wherein it has been stated that some industrial consumers have been exempted by him exercising his executive discretion, the need for which would not have been arisen if these units were actually exempted as has now been claimed. Though factually not correct, even if one was to accept this contention, the same does not stand even preliminary scrutiny as stated hereafter. While three industrial consumers were being fed from 132 kV sub-stations as now being claimed, are exempted from power cuts, actually only two of them viz., Asahi Glass and IGL were exempted and the third such unit viz., Century Paper Ltd. was subjected to power cuts. Similarly, while SIDUL Haridwar, SIDCUL Pantnagar are claimed as exempted (as per list given in para 7 above), power cuts were imposed on both areas. It is obvious that the exemption now being claimed is only to justify and cover up the favored treatment given to select industrial consumers without any rationale and no such claim is valid and can be accepted.

10. It is distressing that while Shri Verma has time and again claimed under oath that exemption from power cuts were given only to five industries viz., M/s IGL, Asahi Glass, ACE Glass, BHEL and BEL, it has come to Commission’s knowledge that M/s Air Liquid, Mangalore have also been kept exempted from power cuts throughout this period (This fact stand validated from MRI dump of concerned ToD meter). This fact has been deliberately concealed from the Commission and factually incorrect statement has been made under oath by Shri Verma. What is still worse is

that this consumer has not been billed on enhanced tariff in accordance with the applicable Tariff Schedule, resulting in financial loss to the UPCL and uncalled for financial gain to the said consumer. The Commission will take a view on this separately.

11. In Para 13 of his affidavit dated 24th May 2007 Shri Verma has stated that UP Government had issued an order in exercise of power under Section 22(B) of the Indian Electricity Act, 1910 called UP Electricity (Regulation of Supply, Distribution, Consumption and Use) Order 1977. The said order laid down the manner in which power cuts were to be imposed and also stipulated exemptions from such cuts for certain areas and consumers. He has claimed that as per section 185(2)(a) of Electricity Act 2003, this order not being inconsistent with provisions of the said Act, continues to be operative, notwithstanding Commission's order dated 09.01.2007. This plea is seriously flawed for reasons given below:

- (a) Regulation of Supply which was earlier being done by the State Government has now been vested in the State Regulatory Commission. It is, therefore, not correct to claim that an order passed in 1977 under Section 22(B) of the Indian Electricity Act 1910 by the State Government is not inconsistent with the provisions of Electricity Act, 2003 even though a substantive change has been made in the new Act and this power has been taken away from the State Government and given to the Commission. This is all the more so as the Commission in exercise of these powers has issued an Order on 09.01.2007 and the provisions of the 1977 Order are clearly inconsistent with those of Commission's Order dated 09.01.2007. In face of all this claiming that the 1977 Order protected under section 185(2)(a) is still valid is nothing but a perverse interpretation of a straight forward provision of law.
- (b) Even if it is accepted for a moment that the 1977 Order is still operative, Shri Verma's conduct in granting exemptions to select industries does not get validated as these exemptions have been given in violation of even 1977 Order also. For instance:

i) Para 6 of the said Order stipulates:

“Any industrial consumer who has his own source of thermal generation of energy and that source by itself enables him to obtain the extent of power or more which is allowable to him from time to time by Uttar Pradesh State Electricity Board shall observe a power cut of 100 per cent on the power supplied by the Uttar Pradesh State Electricity Board”

In violation of the above provision Shri Verma has granted exemption to M/S Asahi Glass and M/S IGL who have adequate captive generating capacity for meeting their requirement.

ii) Similarly Para 6(2) stipulates:

“In respect of electrical energy consumed by the industries having load up to and above 100 bhp/100 kvA/75 kW receiving power from the Uttar Pradesh State Electricity Board, a 100 per cent power cut shall be observed in fertilizer unit, cement and M/s IDPL Rishikesh, Dehradun and a power cut mentioned against the following shall be observed by them in their highest demand recorded in any single month during the twelve months from November 1983 to October 1984 and also on maximum energy consumed in any month during above period.

(a) BHEL Units 25 per cent

(b) All continuous and non-continuous industries
other than at (a): 50 percent”

Against this Shri Verma has totally exempted BHEL and has thus violated even the 1977 Order.

iii) Para 6(4) of the said order stipulates:

“All rolling and re-rolling mills receiving powers from Uttar Pradesh State Electricity Board shall use energy for eight hours only every day during the period specified by the Uttar Pradesh State Electricity Board from time to time”

Shri Verma while imposing power cuts has violated this provision as

well.

iv) Para 6(5) of the said Order stipulates that:

“All arc/induction furnaces receiving power from Uttar Pradesh State Electricity Board shall observe 100 per cent power cut:

Provided that in respect of rolling and re-rolling mills and arc/induction furnaces mentioned in sub-classes (4) and (5) the consumption of power up to 10 per cent of the maximum highest demand recorded during the 12 months from November 1983 to October 1984 or contracted demand whichever is less and also energy to this extent during the above period shall be allowed during the hours the supply is not available for manufacturing purposes to meet the requirements of light and fan, tube well repaid workshop, cranes, blowers, twisting machines and scrap processing machines”

However Shri Verma has supplied power to such consumers in total violation of this provision.

v) Provisions of Para 6(6) have also been violated.

vi) Para 6(7) of the said order stipulates

“Power cuts under sub-clauses (1) to (5) shall not be applicable to the hill region comprising Almora, Pithoragarh, Tehri Garhwal, Pauri Garhwal, Uttarkashi, Chamoli, Nainital and Dehradun districts (except on Indian Drugs and Pharmaceuticals Ltd., Rishikesh, Dehradun). However, the non-continuous industries in this region shall observe one weekly closure day and shall also not use power during the hours mentioned in Clause 8(a)”

If this provision is considered as continued to be valid as claimed by Shri Verma, no power cuts could have been imposed in any part of the state as the districts listed in 1977 order then covered the entire area of Uttarakhand except a few districts such as Haridwar, Roorkee etc. Nothing more can bring out the absurdity of the claim being made by Shri Verma with regard to this order.

vii) Para 7 of the said order dealing with exemptions stipulate that:

“Exemptions. – The cut referred to in Clause 6 shall not apply to the electrical connection of all Government Hospitals, Medical Colleges, and other recognized hospitals, waterworks and POL (Petrol, Oil and Lubricants) storage points owned by the Indian Oil Corporation Ltd. and Bharat Petroleum Corporation located in all district and corporation class towns, tube-wells and pumping-sets used for irrigation purposes, State Lift Irrigation Schemes and State Tube-wells, State Pump Canals, Railway traction, Defence and Military installations, newspaper printing presses and Government presses, milk chilling and processing centres, fruit preservation industries, cold storages, ordnance factories, H.A.L. units sugar mills, All India Radio Stations, Television Stations, Earth Satellite Stations, Air Force Station and Aerodromes, Central and State Government offices and the industries getting supply as per rural Schedule.”

This provision has again been totally violated and the exemptions granted by Shri Verma are not in accordance even with this provision.

12. As brought out above, Shri Verma’s action violates repeatedly even provisions of the 1977 Order which he is relying upon. Hence, selectively invoking the said Order is nothing but a clumsy effort to legitimize his own misdeeds.

13. The issues relevant in these proceedings are:

- i) Whether Shri B.M. Verma has knowingly flouted Commission’s directions while imposing power cuts on industrial consumers in the State.
- ii) Whether such violations are only technical or have substantive ramifications.
- iii) Whether these actions have been taken inadvertently or deliberately with full knowledge that the same are in violation of Commission’s directions issued under section 23 of the Electricity Act, 2003.

14. Before we take up the above issues and examine them, it would be useful to

recall here some of the relevant points related to the matter:

- i) As stated earlier, UPCL's own proposal was for imposition of total power cut for five hours between 17.00 to 22.00 hrs. on all industrial feeders emanating from 33 kV and 132 kV substations. (No exemptions were stipulated)
- ii) For other industrial units fed on mixed feeders the restriction applicable to other consumers of such feeders were to apply. (No exemptions were stipulated)
- iii) The schedule of rostering of supply was drawn up keeping the worst scenario in mind with the clear stipulation that if sufficient power is available from northern grid there would be no load shedding.
- iv) The Commission had approved the above proposal on 09.01.2007 without modifying its earlier directions dated 30.06.2006 that:

"No schedule load shedding shall be carried out when UPCL is under drawing from the grid and the system frequency is more than 49 Hz."

- v) Within few days of the Commission's above approval UPCL proposed an amendment to its earlier scheme namely for industrial units instead of the cut of for five hours, their consumption during peak hours should be restricted to 15% of the sanctioned load. The justification given for this amendment, amongst others was their continuous requirement. The Commission approved this amendment, although the standing arrangement for continuous supply of power as stipulated in para 6 of the Rate Schedule (RTS-7) of the tariff order dated 12.07.2006 already permitted drawl of power upto 15% of the contracted demand even during peak/restricted hours. Similarly for consumers using more power during the restricted hours, their tariff for all their consumption and for all times was to be enhanced as given in the tariff order. Relevant portions of the tariff order are reproduced below:

“6. Restriction in usage

In case, imposition of restriction towards the usage of electricity by the industry during certain hours in the day is effected by the Commission at any point of time, then the following rates and charges shall start to be applicable.

- i) For consumers opting for supply during restricted hours (Continuous) - 20% increase in the Energy charge as given in Rate of charge. The new applicable energy charge shall be Rs. 2.95 /kWh for the LT industry (upto 100BHP), Rs.2.30/kVAh for the HT industry (above 100BHP) and Rs 2.85/kVAh for steel units. Demand charge and other charges remain same as per rate of charge given above.*
- ii) For consumers not opting for supply during restricted hours (Non continuous) - Energy charge, Demand charge and other charges as per rate of charge given above.*
- iii) Peak Hour Violation Penalty shall get attracted. Consumers who do not opt for supply during Peak hours/Restricted hours (Non Continuous supply) shall not be allowed to use power in excess of 15% of their contracted demand. Any violation detected shall attract a penalty of Rs. 50 per KVA per day of the contracted demand, for the number of days of such violation. For the month of default, the consumer shall be billed at the rates specified at (i) above (for consumers opting for supply during restricted hours (Continuous)).”*

15. In the following paragraphs, we now take up the issues listed above:

It is not disputed that Shri B.M. Verma had himself proposed certain restrictions on supply of power to industrial units in the State and that he decided to exempt some chosen industrial consumers from these restrictions for various stated reasons like the continuous nature of their manufacturing process or their importance as perceived by him. This fact has been admitted in various written submissions made by Shri Verma including the reply to the show cause notice. While doing so he has knowingly flouted Commission’s following orders:

- i) Commission’s order conveyed by Secretary’s letter no. 921/UERC/UPCL

dated 08.02.2007 reproduced earlier in the order.

- ii) Para 6 of the Rate Schedule (RTS-7) of the tariff order dated 12.07.2006 which laid down a transparent system for meeting requirement of consumers wanting continuous supply.

16. For reasons which are not known, Shri Verma, instead of following a transparent and non discriminatory approach emphasized upon by the Commission time and again chose to do so on the basis of his personal judgment and satisfaction. Even this was not done in a proper and consistent manner. Changing and often conflicting directions were issued by him through his field officers some times in writing and some times even verbally. This is brought out clearly in PTCUL's MD letter no. 215/PTCUL/MD/07/UPCL/PS written to him on 24.01.2007, a copy of which is attached to this order at Annexure I. Even his submissions to the Commission reveal that the arrangement for continuous supply already stipulated in the para 6 of the Rate Schedule (RTS-7) of the Tariff order was known to him but instead of abiding by the same he has deliberately allowed these relaxations in a subjective manner based only on his own whims and fancy. Contrary to the Commission's categorical directions, Shri Verma adopted a discriminatory approach in exempting totally few units while similar requests from others units were not accepted.

17. It is, therefore, established beyond doubt that Shri Verma was fully aware of the Commission's directions for implementing power cuts on industrial consumers in the State and such directions were indeed given to him time and again. Further in total defiance of these directions Shri Verma has favoured few industrial consumers by exempting them from the stipulated restrictions. What is worse is that these exemptions were given not on any scientific basis but on only personal satisfaction of Shri Verma in total violation of Section 23 of the Electricity Act 2003 and Commission's statutory order dated 09.01.2007 and other related directions. Shri Verma is, therefore, found guilty of knowingly flouting the provisions of law and Commission's unambiguous directions issued from time to time. This was done despite the Commission's having already put in place a transparent arrangement for

meeting requirements of consumers needing continuous supply in para 6 (i) of the Rate Schedule (RTS-7) of the Tariff order dated 12.07.2006 in a nondiscriminatory and objective manner. While granting the select exemptions Shri Verma also failed to comply with this provision of the tariff order which required such consumers to be billed for their total consumption on 20% higher tariff from the date such restrictions were introduced for the first time. Records furnished in this connection clearly reveal that these requirements were not fulfilled. On specific query by the Commission, some action for determining arrears on account of higher tariff that should have been imposed and recovering them appear to have been initiated. But this at the best is a cover up and a step to now make good the financial loss caused to the licensee company by Shri Verma's above action. Even this cover up exercise has not been done uniformly for all exempted consumers and not in accordance the provisions of the tariff Order. For instance, while arrears have been demanded from M/s IGL from 09.01.2007 (the date of introducing restrictions), arrears demanded from M/s Asahi Glass and M/s ACE Glass are from 01.10.2006. No such arrears appeared to have been demanded from M/s BHEL, M/s BEL and M/s Air Liquid. Similarly, consumers' options required as per the tariff order have either not been obtained or are not in accordance with the said provisions of the tariff order. It is, therefore, clear that Shri Verma has violated Commission's specific directions and provisions of Tariff Order discussed above and have done so with full knowledge of his illegal actions.

18. Further, these violations have given considerable benefits to the select industrial consumers and same has been done at the cost of not only other industrial consumers, but also of other categories. As already stated this has also caused revenue loss to the licensee on account of charging of lower than the stipulated tariff. What is worse is that a large number of other industrial consumers, as per Shri Verma's own submission dated 24.05.2007, were willing to opt for continuous supply as per the Tariff Order but were not given this benefit, causing revenue loss to UPCL on account of not charging them the higher tariff. Shri Verma's arbitrary approach in this matter has resulted in substantial benefits being extended to some industrial consumers even without their opting for continuous power at higher tariff

or recovery of the same while denying this facility to number of other industrial consumers who were willing to opt for higher tariff as stipulated in the Tariff Order.

19. Considering all this, Shri Verma's violations of provisions of the Electricity Act 2003, Tariff Order dated 12.07.2006 and Commission's repeated directions are not merely technical violations but are deliberate and have resulted substantive benefit to some consumers and similar loss to others and indeed to the licensee.

20. In his reply Shri Verma tried to suggest that supply to these selected industrial consumers was maintained by PTCUL, the Transmission Licensee and STU for the State and it is PTCUL that has not enforced the restriction on these industries between 09.01.2007 and 20.01.2007. The primary responsibility for supply of electricity to consumers in accordance with law rests with Supply and Distribution Licensee that in this case is UPCL and not with the Transmission Licensee viz., PTCUL. The issue being dealt with here is violation of law and Commission's directions by UPCL and these violations do not lose their gravity or grant immunity to Shri Verma's own illegal actions. If the Commission finds that any other person or organization has also violated its orders, appropriate action for the same shall be separately taken and the same has no relevance or bearing on these proceedings.

21. Shri Verma has also made a clumsy effort to suggest that his above misdemeanors had approval of the Commission and Member (Technical). Shri Verma's own understanding of any informal interaction with any individual officer or even with Member of the Commission becomes totally meaningless in the face of repeated unambiguous and written directions issued by the Commission's emphasizing on non-discriminatory and transparent treatment. In fact the letter 8.2.2007 and referred to in para 1 of this order states in clear terms that

"the Commission has not allowed any such exemption to the approved schedule of power cuts".

This has further been emphasized in the said letter by stating that

“Commission’s position is being clarified in view of misleading impression being conveyed in your above letter.”

If in spite of all this Shri Verma continues to nurture a belief that his illegal actions enjoyed approval of the Commission, the same is totally devoid of logic and commonsense and in no way minimises Shri Verma’s own misdemeanors.

22. For reasons given above, the Commission has come to conclusion that Shri B.M. Verma has deliberately and with full knowledge violated provisions of the Electricity Act 2003, the Tariff Order Dated 12.07.2006 and Commission’s repeated directions to follow a non-discriminatory, transparent and objective approach. In the process he has unduly favoured some consumers and discriminated against some other. Further, Shri Verma has done all this knowingly and with impunity, betraying an unfortunate and totally unacceptable contempt for law. This has been done not with the approval of the Board of Directors of UPCL but personally by Shri Verma as has been admitted by him repeatedly in his written submissions claiming his actions to be executive discretion exercised by him. Such being the case the consequences of these violations should devolve on Shri Verma alone. Such misdeeds can not be overlooked and call for deterrent penal action. The Commission, therefore, in exercise of its power Section 142 of the Electricity Act 2003 hereby imposes a fine of Rupees Twenty Thousands Only (Rs 20,000/=). Shri Verma shall deposit this amount within Ten days of this Order, failing which he shall pay additional penalty of Rupees Five Hundred (Rs 500/=) per day for contravention of this order.

23. This is, however, without prejudice to any of such actions as the Commission may take under section 146 of the Act.

(V.K. Khanna)
Member

(V.J. Talwar)
Chairman