

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Applicability of Tariff for the power import by M/s Rai Bahadur Narain Singh Sugar Mills., Laksar, Haridwar on his Co-generation Plant

And

In the matter of

M/s RBNS Sugar Mills - Petitioner

Vs.

Uttarakhand Power Corporation Limited - Respondent

Coram

Shri Jagmohan Lal Chairman

Date of Order: 20.09.2011

ORDER

M/s RBNS Sugar Mills, Laksar, Haridwar (Petitioner) has been representing before the Commission against the bills raised by UPCL for power drawn by it through the grid during Start up/emergency. It is the contention of the Petitioner that under the provisions of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations 2010, they are entitled to draw power during Start up/emergency requirement/energise transformers and need not pay any minimum consumption guarantee charges. On the

other hand, it has been the contention of UPCL that they are billing the Petitioner as per the provisions of the Tariff Order and Regulations issued by the Commission.

2. Accordingly, to understand the dispute in its proper perspective, the Commission decided to treat the representation filed by M/s RBNS as a Petition before it and to conduct suo-moto proceedings in the matter. A hearing in the matter was accordingly fixed for 16.08.2011. On the date of hearing, Petitioner was represented by Shri Vivek Agarwal, GM (F/A) and UPCL was represented by MD, UPCL, CGM (Commercial) and Sri S.K. Mehta, Accountant, UPCL.

3. During the course of proceeding, Shri Agarwal appearing on behalf of the Petitioner re-iterated the stand of the Petitioner that as per the provisions of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations 2010, they are entitled to draw power during emergency and need not pay any minimum consumption guarantee charges. Managing Director, UPCL, however, informed the Commission that the petitioner has a separate connection of 250 kVA for meeting its day-to-day load requirements and also the power requirement during off-season. Accordingly, it was submitted by UPCL that the petitioner is a consumer of UPCL and that they are billing it as per the provisions of the Tariff Order issued by the Commission from time to time. It was also the contention of UPCL that by drawing power from the grid as well as 11 kV connection, the Petitioner has violated the provisions of agreement and Tariff Orders and accordingly action can be initiated against the Petitioner under the provisions of section 126 of the Electricity Act, 2003.

4. UPCL in its written submission vide affidavit dated 16.08.2011 has informed that the Petitioner besides selling surplus generation to UPCL under the Power Purchase Agreement (PPA) from its co-generation facility, is a consumer of licensee and avails 250 kVA electricity connection under industrial category (RTS-7) having K.No. 9664. UPCL has further averred that the Petitioner has also been drawing power for its consumption through 132 kV evacuation system and that under conditions of power purchase agreement (PPA) for sale of power from its co-generation plant to UPCL, the Petitioner was not entitled to draw power through the 132 KV system which is meant for

injection/evacuation of power from the generating station and UPCL has contended that this amounts to violation of the agreement and can be construed as an unauthorised use of electricity under the Electricity Act, 2003.

5. In support of its claim, UPCL has submitted month-wise details of past 04 years starting from April 2007 and upto June 2011 of energy drawn and supplied by the Petitioner. Taking cognizance of the information, the Commission has found that through 132 kV evacuation system connected to the Grid, M/s. RBNS has drawn power in the range of more than 1000 kVA to as high as more than 2,00,000 kVAh across various months. Whereas, from the details of energy drawn by the Petitioner from its 11 kV, 250 kVA connection as consumer of UPCL, it has shown to draw power consistently in the range of 50,000 to 80,000 kVAh. Examining the submissions of UPCL, the Commission has found that while for the power drawn from 250 kVA connection as consumer of UPCL, the Petitioner has been billed at the tariffs applicable for industrial category of consumers namely RTS-7 Rate Schedule. While for the power drawn by the Petitioner through the 132 kV evacuation system, UPCL raises bills at temporary rate of charge under Rate Schedule RTS-10. The submissions of UPCL show that billings for electricity drawn by the Petitioner from both these points of connection include all charges applicable under the said rate schedules including minimum consumption guarantee charges.

6. The Commission is of the view that the generator selling power to UPCL may at times be required to draw power for start-up purposes or for carrying out maintenance during the shutdown/outages of its generating plant and therefore, it may not be justified to treat these draws of power through 132 kV evacuation system as an unauthorised use of power. The Commission would now like to delve upon the most critical issue of as to what tariff should be applicable on such drawal of power by the Petitioner for its consumption during aforesaid conditions/purposes through the 132 kV evacuation system. It would be pertinent to reproduce the written submission of the Petitioner which reads as follows:

"1. We have two Agreements with the UPCL. One for 'purchase' of power for maintenance of sugar plant during off season and Light & Fan requirement for

*factory colony. The commercial connection load is **250 KW** from UPCL 11 Kv line.*

*Another Agreement (PPA) with UPCL is 'Sale' of surplus **19.1 MW** power from our 30 MW Cogeneration plant connected at 132 Kv PTCUL line. So, both agreements are in different capacity for different purposes.*

Under first agreement, we are the customer of the UPCL and in other agreement UPCL is our customer. So, both agreements should be seen in different perspective. Therefore, we should not be treated as consumer (on the basis of other agreement in different capacity) for our acts as a Generator and use of reverse power from the Grid. Moreover, the quantum of Power used is less than 5% of whatever energy we have sold to the UPCL in a financial year.

Further, we should not be treated as consumer for our acts allowed under Clause 43 of the applicable Regulations of 2010.

2. *In the matter of question of purpose of drawl of energy from 132 KV grid, we wish to mention that in case of **start up** and/or emergency requirement and/or to **energize Transformers**, we need to draw some energy from the 132 Kv grid which is very much less quantum than the energy given. Further, start up of sugar mill Cogeneration plant begins from the point of generation of Fuel i.e. Bagasse from cane crushing line.*
3. *Even if we treated as 'Consumer' in the light of above said both agreements, the bill should be raised by applying RTS-7 only. **RTS- 10 shall not be applicable in the case** and so surcharge of 25% not be levied."*

7. The contention of the Petitioner that for drawal of power through the 132 kV evacuation system, the provisions of Regulation 43 of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil based Co-generating Stations) Regulations, 2010 should be applicable and the Petitioner should not be treated as a consumer.

8. The Commission would like to point out that there can be two situations, one when the person is purely a generating company and other situation when the

generating company is also a consumer of the distribution licensee. Generating company, who is also a consumer of the licensee, has supply agreement with the licensee for its sanctioned/contracted load and can draw power from this connection point for meeting its township/colony requirements and such other miscellaneous consumption. However, in case of purely a generating company having no electricity connection as consumer of the licensee, the Commission has provided facility of drawl of power from the distribution licensee system, in case its plant is not in a position to generate electricity, to meet the requirements of his own use or for plant Startup purposes and has accordingly provided in the earlier as well as prevailing Regulations namely Regulation 41 of UERC (Tariff and Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources) Regulations, 2008 applicable w.e.f 01.04.2008 and Regulation 43 of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil based Co-generating Stations) Regulations, 2010 applicable from 01.07.2010. The relevant extracts of the earlier as well as prevailing Regulations are reproduced below:

“41. Purchase of Electricity by the Plant/Start up Power

(1) Any person, who establishes, maintains and operates a generating plant and normally does not need power from the licensee round the year, may purchase electricity from a generating company or a distribution licensee in case his plant is not in a position to generate electricity to meet the requirement of his own use or for start up and consequently power is required to be drawn from distribution licensee. Provided that such purchase of electricity, from a distribution licensee, shall be charged as per the tariff determined by the Commission for temporary supply under appropriate ‘Rate Schedule of tariff’ under which the total load requirement of the plant shall belong to. Provided also that in case of purchase of power through a trader or a generating company, rate shall be as mutually agreed however, transmission and wheeling charges shall be payable as determined by the Commission.”

“43. Purchase of Electricity by the Generating station/Start up Power

Any person, who establishes, maintains and operates a generating station and normally does not need power from the licensee round the year, i.e. who is not a consumer of the licensee, may purchase electricity from a generating company or a distribution licensee in

case his plant is not in a position to generate electricity to meet the requirement of his own use or for start up and consequently power is required to be drawn from distribution licensee.

Provided that such purchase of electricity, from a distribution licensee, shall be charged as per the tariff determined by the Commission for temporary supply under appropriate „Rate Schedule of tariff“ for Industrial Consumers considering maximum demand during the month as the contract demand for that month. Fixed/Demand charges for that month shall payable for the number of days during which such supply is drawn. Such person shall, however, be exempted from payment of monthly minimum charges or monthly minimum consumption guarantee charges or any other charges.

Provided also that in case of purchase of power through a trader or a generating company, rate shall be as mutually agreed, however, transmission and wheeling charges shall be payable as per relevant tariff order of the Commission.”

8. Since the Petitioner is not purely a generating company and is also a consumer of the licensee, the above provisions shall not be applicable on the Petitioner for drawal of power through its evacuation system for Startup and other purposes mentioned above. On further examination of the Regulations, the Commission has found that a provision exists for drawal of power by the generating companies in these Regulations namely Regulation 46 of UERC (Tariff and Other Terms for Supply of Electricity from Non-conventional and Renewable Energy Sources) Regulations, 2008 and Regulation 44 of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil based Co-generating Stations) Regulations, 2010 dealing with Banking of power. The relevant portions of these Regulations are reproduced below:

“46. Banking of Power

(1) The Generating Plants shall be allowed to bank power within a period of one calendar month, for the purpose of withdrawal of the banked power in the event of emergency or shut down or maintenance of the plant, subject to following conditions:

(a) Banking of energy upto 100%, as agreed between the plant and the distribution licensee, shall be allowed during the the period 17:00 hrs. to 22:00 Hrs. (specified as peak hours for this purpose).

(b) *Withdrawal of power shall be allowed only during the period other than 17:00 hrs. to 22:00 Hrs.*

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(e) *The power withdrawn by the plant as ascertained by SEM readings, which could not be considered as withdrawal from banked power, shall be considered as power purchased by the plant.*

(f) *The purchase of power by these plants under clause (e) or otherwise shall be charged for the maximum-recorded demand and the energy at rate specified in the Schedule of retail Tariff corresponding to the declared load by the generator. No minimum consumption guarantee or other charges shall be levied on such generators. Excess load over and above the declared load shall be billed according to the provision of the relevant Schedule of Tariff specified by the Commission. This shall apply only to those generators who have commissioned the supply of power under the PPA with the licensee."*

44. Banking of Power (Applicable only in case of Captive Generating Plants)

(1) *The Generating Stations shall be allowed to bank power within a period of one calendar month, for the purpose of withdrawal of the banked power in the event of emergency or shut down or maintenance of the plant, subject to following conditions:*

(a) *Banking of energy upto 100%, as agreed between the plant and the distribution licensee, shall be allowed during the period 17:00 hrs. to 22:00 Hrs. (specified as peak hours for this purpose).*

(b) *Withdrawal of power shall be allowed only during the period other than 17:00 hrs. to 22:00 Hrs.*

(c) *The plants shall provide ABT compliant Special Energy Meters and the monthly settlement of energy sales shall be done based on Power supplied during the peak hours as per SEM meter readings shall be considered as banked power and*

monthly settlement shall be done for the balance energy supplied by the plant at the rate specified for supply of electricity to distribution licensee.

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(f) The purchase of power by these plants under clause (e) or otherwise shall be charged as per the provisions of Regulation 43 above.

9. Examining the above provisions in the Regulations, The Commission is of the view that banking of power is exclusively a commercial arrangement between the two entities namely UPCL and Generating Company and which is also subject to several restrictions and fulfillment of conditions specified therein for such banking of power under the regulations. Such agreements have to be formally entered into and signed between the entities participating in any such banking arrangement beforehand. In the absence of any such agreement as in the case of Petitioner and UPCL, these provisions shall not apply for drawal of power by the generator through 132 kV evacuation system.

10. After examining the relevant provisions of the Regulations in the matter, the Commission is of the view that UPCL charging temporary supply rate of charge RTS-10 on the power drawn by the Petitioner through 132 kV evacuation system has no basis and is totally misconceived. These views of the Commission are also being found to be convergent with the written submission of the licensee when it submits as below:

"5.1 The Mill was a consumer of the respondent company at the time of execution of power purchase agreement between the Mill and the respondent company. No change has been done in this status so far. Accordingly, the Mill should be billed under Rate Schedule RTS-7 (HT Industry) for the power drawn through the grid. (refer para-1, 1.1 & 2.2 above)"

And also from the submission of the Petitioner which reads as follows:

*"3. Even if we treated as 'Consumer' in the light of above said both agreements, the bill should be raised by applying RTS-7 only. **RTS- 10 shall not be applicable in the case and so surcharge of 25% not be levied.**"*

11. Based on the above, the Commission is of the view and considers it appropriate that the power drawn by the Petitioner from the 132 kV evacuation system shall be considered as power drawn by the Petitioner as a consumer of the licensee and should be clubbed along with power drawn through 11kV, 250 kVA sanctioned industrial connection point of the Petitioner for the purpose of billing under rate schedule (RTS-7) applicable for industries category.

(Jagmohan Lal)
Chairman