

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION
Petition No. 03 of 2013

In the matter of:

Suo-moto proceedings initiated by the Commission on the representation of M/s Rai Bahadur Narain Singh Sugar Mills Ltd., Laksar, Haridwar regarding tariff charged by UPCL

And

In the matter of

M/s RBNS Sugar Mills Ltd.

Petitioner

Versus

Uttarakhand Power Corporation Limited

Respondent

Coram

Shri Jag Mohan Lal	Chairman
Shri C.S. Sharma	Member
Shri K.P. Singh	Member

Date of Order: 5th April, 2013

Date of Hearing: February 11, 2013

ORDER

1. Background

(1) M/s RBNS Sugar Mills, Laksar, Haridwar (hereinafter referred to as “the Petitioner” or “the generator”) had been representing before the Commission against the bills raised by UPCL (Respondent) for power drawn by it through the grid for start up/emergency. The Commission vide its order dated 20.09.2011 had dealt with this issue wherein it held that:

“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 11 kV, 250 kVA sanctioned industrial connection point of the Petitioner for the purpose of billing under rate schedule (RTS-7) applicable for industries category.”

- (2) The Petitioner vide its letter dated 22.03.2012 has submitted that UPCL has raised the bills for energy consumed in the plant for start up, repair and emergency requirement treating it as a consumer with reference to other connection of 250 kVA and the bill for consumption at 132 kV point of interface of the generator with the Grid was clubbed with the bill for consumption at 250 kVA connection. The Petitioner submitted that after clubbing the demand at 132 kV alongwith the demand of 250 kVA, UPCL charged excess demand charges which the Petitioner has submitted was against the order dated 20.09.2011 of the Commission. The Petitioner also submitted that UPCL has been wrongly treating the energy drawn from 132 kV grid interface by the generator as unauthorized use of electricity by the Petitioner as a consumer against 250 kVA contracted load connection availed by it. The Petitioner has, accordingly, requested the Commission to waive off the MCG and excess demand charges on such usage of power in its generating station.
- (3) The Respondent in its reply submitted that billing was being carried out by it under Rate Schedule RTS-7 category and the contracted load of 11 kV was clubbed with monthly maximum demand recorded on 132 kV evacuation system and the clubbed demand was considered as total contracted load for the month and the billing was being done as per order issued by the Commission.
- (4) The Petitioner again vide letter dated 05.01.2013 submitted to the Commission that the sugar mill is a seasonal industry which operates generally from the month of November to April. The Petitioner also submitted that it has a 36 MW bagasse based cogeneration plant generating about 27 - 28 MW of power, out of which 12 MW power is for its captive use in the process and the rest is

sold to Respondent. The Petitioner also submitted that it draws power from UPCL in case of any shutdown/breakdown which is maximum of 4 MVA and that too only for 1 or 2 days in a month in bits and pieces to start its auxiliary and that it has never used UPCL's power to run the process/sugar plant for production of sugar. The Petitioner also enclosed the details of power drawn from Respondent during the last two years in support of its submission. On its latest aforesaid submission during the proceedings, the Petitioner again reiterated that Respondent had raised a revised bill for energy consumed in its plant for start up, trial and emergency requirement clubbing the demand of 132 kV connection with 250 kVA connection and charged the Petitioner 100% extra for the demand exceeding 250 kVA for the whole month, which was against the Orders of the Commission. Accordingly, the Petitioner requested the Commission to issue necessary directions to the Respondent to charge single demand charge for the number of days during which energy was drawn in the month and not to levy excess load/demand penalty as above.

- (5) In accordance with provisions of section 94 of the Electricity Act, 2003 and Regulation 68 of the UERC (Conduct of Business) Regulation, 2004, the Commission decided to initiate proceedings for review of its Order dated 20.09.2011 and, accordingly fixed a hearing in the matter on 11.02.2013 directing the Petitioner as well as the Respondent to appear before the Commission.
- (6) During the course of hearing, the Petitioner reiterated the issues raised in its representation and written submission in the matter that the demand of 132 kV connection has been clubbed by the Respondent with its 250 kVA connection and, accordingly, excess demand penalty has been levied on it. The Commission asked the Petitioner that why the power is being drawn by the Petitioner from two points of connections in the same premises namely 11 kV and 132 kV interconnections with the Respondent/Grid System and whether the Petitioner would have any apparent difficulty in surrendering the 11 kV (250 kVA) connection while drawing power through 132 kV system whenever the same was required. The Petitioner replied that the provision of Start up power came into existence w.e.f. July 2010 when UERC (Tariff and Other

Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations 2010 were notified while the 11 kV, 250 kVA connection was an old connection since the inception of the sugar mill complex. The Petitioner brought to the notice of the Commission that since it requires power during off season for lightning and maintenance of its premises/complex, it never contemplated disconnecting the same. The Petitioner submitted during the hearing that with the provisions of Start up/energising power in the Regulations, it proposes to surrender its 11 kV, 250 kVA connection now. The Commission directed the Petitioner to submit in writing that it intends to get its 250 kVA connection disconnected.

- (7) During the course of the hearing, the Respondent submitted that Petitioner is a consumer of UPCL and that they are billing it in accordance with the Commission's Order dated 20.09.2011. The Commission directed both the Petitioner and the Respondent to file specific written submissions in lieu of their contention made before the Commission.
- (8) Based on the above directions, the Petitioner on 12.02.2013 filed a written submission requesting the Commission to treat it as a consumer and generator separately. The Petitioner in this submission also committed to surrender its 11 kV, 250 kVA connection and stated that it was applying for disconnection of the same with the Respondent and requested the Commission to issue necessary directions to the Respondent for treating it as a consumer and generator separately.

However, UPCL did not submit any response in the matter.

2. Commission's View

- (1) Before going into the merits on the issues raised, the Commission first examines the powers vested in it to review its Orders so as to establish the legality of the matter. In this regard, reference is drawn to Section 94(1)(f) of the Act which specifically empowers the Commission to undertake review, which can be exercised in the same manner as a Civil Court would exercise such powers under section 114 and Order XLVII of the Code of Civil Procedure, 1908 (CPC). Conduct of Business Regulation, 2004 U/s 68 also

allows the Commission to review its decision either on its own or on application received. Under the said provisions, review of the Order is permitted on the following specific grounds only, namely:

- Discovery of new and important matter or evidence, which after the exercise of due diligence was not within the applicant's knowledge or could not be produced by him at the time of passing of the Order.
- Mistake or error apparent on the face of the record;
- If there exist other sufficient reasons.

In the instant case, the earlier Order does not clarify the basis of levying demand charges. The basis adopted by the Respondent for levying these charges, *prima-facie*, is inequitable. It has therefore become expedient to review/clarify the earlier Order.

- (2) The Commission has taken cognizance of the schematic diagram and supply arrangements of the Petitioner and finds that both the 11 kV, 250 kVA, consumer connection and 132 kV grid interface of the generator exists on the ground. From the available records, the Commission is of the view that the possibility of the power drawn from 132 kV interconnection also being used for consumption in the sugar plant including its colony, street lights etc., is feasible. However, extending 11 kV supply for use in production or charging the auxiliaries does not appear to be feasible.
- (3) During the course of the hearing, the Commission desired to know if the Respondent has conducted any survey of such type of installations/consumers having multiple connections in single premises. **Respondent admitting of not having done such survey, the Commission directed the Respondent to examine such installations/consumer and to take necessary action for removal of more than one connection in single premises of all the consumers including that of the Petitioner.** The Commission also enquired from the Respondent that whether it foresees any problem in case 250 kVA, 11 kV connection is surrendered by the Petitioner and the 132 kV grid interconnection of the Petitioner is treated as a Generator. The Respondent namely, MD, UPCL replied that there would be no problem in doing the same, however, he made a suggestion that adjustment of the energy supplied by the

Petitioner (Generator) to the Respondent (Distribution Licensee) and energy supplied by the Respondent (Distribution Licensee) to the Petitioner (Generator) should be allowed. The Commission informed the Respondent that since as of now no such provision existed in the Regulations, therefore, the suggestion made by the Respondent may not be acceptable under the present scheme of Regulations.

- (4) The Commission does not accept the contention of the Petitioner that the provisions of drawal of power by the RE Generator for making its emergency/start-up requirement were introduced in Uttarakhand Electricity Regulatory Commission (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2010 (hereinafter referred to as "RE Regulations, 2010). It is clarified that such provisions existed even in RE Regulations, 2008. However, certain modifications were made in RE Regulation, 2010, wherein, the Regulations explicitly provided that the generator should not be a consumer of the licensee. Also, certain relaxation in charging fixed/demand charges and monthly minimum charges were introduced in RE Regulation, 2010. However, the intent of both the Regulations was to allow the generator, in case its generating plant was not in a position to generate electricity, to draw power from the Grid to meet its emergency/start-up requirement as and when required.
- (5) Based on the above discussions in the Order, clubbing of power drawn from the two connections namely 11 kV, 250 kVA connection (where the Petitioner is a consumer of the Respondent) and 132 kV interconnection point of the Petitioner (generator) with the Grid has been detrimental in so far as the billing of electricity drawn by the Petitioner is concerned. The Commission directs the Respondent to treat these two points of drawal of power by the Petitioner separately and w.e.f. 20.09.2011 the billing for the power drawn through 132 kV Grid interconnection point shall be done in accordance with 1st Proviso of Regulation 43 of RE Regulations, 2010 which reads as under:

"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."

In respect of 250 kVA, 11 kV connection billing shall be done as per the approved Rate Schedule RTS-7 in the Tariff Orders.

(K.P. Singh)
Member

(C.S. Sharma)
Member

(Jag Mohan Lal)
Chairman