

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 10 of 2015

In the matter of:

Application seeking approval of the Fuel Charge Adjustment (FCA) to be charged from the consumers during the period from 01.04.2015 to 30.06.2015.

AND

In the matter of:

Uttarakhand Power Corporation Ltd.

... Petitioner

CORAM

Shri Subhash Kumar Chairman

Shri C.S. Sharma Member

Shri K.P. Singh Member

Date of Hearing: May 12, 2015

Date of Order: May 28, 2015

The Order relates to the Petition dated 27.04.2015 filed by Uttarakhand Power Corporation Ltd. (hereinafter referred to as "the Petitioner" or "UPCL" or "Licensee") under Section 86(1)(a) and Section 62(4) of the Electricity Act, 2003 and Regulation 83(4) of UERC (Terms and conditions for Determination of Tariff) Regulations, 2011 seeking post facto approval of the Fuel Charge Adjustment (FCA) to be charged from the consumers during the period from 01.04.2015 to 30.06.2015.

1. Background

1.1 In its instant Petition, UPCL while referring to UERC (Terms and conditions for Determination of Tariff) Regulations, 2011 (hereinafter referred to as "MYT Regulations,

2011”) submitted that Regulation 83 provided for imposition of Fuel Charge Adjustment (FCA) during any quarter of the year if the variable fuel cost during the previous quarter of the year was higher than the approved variable fuel cost for the same period.

- 1.2 UPCL in its Petition has requested the post-facto approval of the Commission for imposition of FCA on account of variation of actual rate of power purchase vis-a-vis the approved rate of power purchase for the last quarter of FY 2014-15. In this regard, UPCL has vide its O.M. No. 1744/UPCL/ RM dated 25.04.2015 issued the rate of FCA to be recovered from different consumer categories for the period from April, 2015 to June, 2015.
- 1.3 The licensee based on the approved variable fuel cost as approved by the Commission vide Tariff Order dated 10.04.2014 and actual variable cost incurred during the last quarter of FY 2014-15, i.e. January-March, 2015 submitted the computation of excess of variable charges as follows:

Table 1.1: Computation of Excess Variable Charges as Submitted by UPCL

S. No	Name of Plants	Approved Variable Charges (Rs./kWh)	Actual Variable Charges			Excess of Actual Variable Charges (Rs. Crore)
			Energy at State Periphery (MU)	Cost (Rs. Crore)	Rate (Rs./kWh)	
1	Singrauli	1.10	181.27	22.24	1.23	2.30
2	F G Unchahar-I	2.43	72.57	23.35	3.22	5.72
3	F G Unchahar-2	2.44	28.18	9.13	3.24	2.26
4	F G Unchahar-3	2.44	24.57	7.92	3.22	1.92
5	N C T Dadri:2	2.86	6.13	2.45	4.00	0.70
6	Rihand-1 STPS	1.37	79.14	14.06	1.78	3.22
7	Rihand-2 STPS	1.38	68.74	12.23	1.78	2.75
8	Rihand-3 STPS	1.35	78.27	13.79	1.76	3.23
9	Kahalgaon-II	2.49	53.77	12.60	2.34	-0.79
10	Jhajjar Aravali	3.58	1.11	0.50	4.49	0.10
11	Anta Gas	3.29	20.48	7.46	3.64	0.72
12	Auraiya Gas	4.02	22.56	10.19	4.52	1.12
13	Dadri Gas	3.94	33.65	14.90	4.43	1.64
14	NTPC-Barh	2.20	0.00	0.00	0.00	0.00
Total			670.44	150.83	2.25	24.88

- 1.4 UPCL also submitted that the sales data available at Corporate Office for the period upto December, 2014 and power purchase data for the month of March, 2015 was under compilation. Therefore, it had estimated the sales for the first quarter of FY 2015-16 on

the basis of approved power purchases and losses by the Commission in accordance with Tariff Order dated 11.04.2015. The estimated sales for the first quarter of FY 2015-16 as submitted by UPCL is as follows:

Total Sales approved for FY 2015-16 (10421.94 MU) x power purchases approved for the first quarter of FY 2015-16 (3143.44 MU) / Total power purchases approved for FY 2015-16 (12775.93MU) = 2564.26 MU

- 1.5 UPCL, in its Petition, has worked out the average rate of FCA of Rs. 0.0970/kWh (Rs. 24.88 Crore/2564.26 MU).
- 1.6 UPCL submitted that for computation of category wise FCA, it has considered the ABR of the consumer categories as approved by the Commission in the Tariff Order for FY 2015-16. However, in respect of consumers having kVAh tariff, power factor of 0.95 has been considered by it for conversion of kWh rate of FCA into kVAh rate of FCA. Further, in respect of unmetered supply, the rate of charge of the category as approved by the Commission in the Tariff Order for FY 2014-15 has been considered by UPCL as the ABR of that category. Category wise rate of FCA proposed to be recovered during April-June, 2015 by UPCL is enclosed as **Annexure-I**.

2. Commission's views and decision

Section 62(4) of the Electricity Act, 2003 stipulates as follows:

"No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified."

- 2.1 Accordingly, Regulation 83 of the MYT Regulations, 2011 specifies as under:

"83. Fuel Charge Adjustment (FCA)

- (1) *The FCA charge shall be applicable on the entire sale of the Distribution Licensee without any exemption to any consumer.*
- (2) *The FCA charge shall be computed and charged on the basis of actual variation in fuel costs relating to power generated from own generation stations and power procured during any month subsequent to such costs being incurred, in accordance with these Regulations, and shall not be computed on the basis of estimated or expected variations in fuel costs.*

- (3) *The FCA charge for the quarter shall be computed within 15 days of quarter end and shall be charged for the quarter from the first month of second quarter itself, without prior approval of the Commission and under or over recovery shall be carried forward to the next quarter.*
- (4) *The Distribution Licensee shall submit the details of incremental fuel cost incurred and to be charged to all the consumers for the entire quarter, along with the detailed computations and supporting documents as may be required for verification by the Commission within 30 days of the end of quarter for post facto approval of the Commission.*
- (5) *The Commission shall examine the FCA computations and approve the same with modifications, if required before the end of second quarter. Any variation in FCA charged by the Distribution Licensee and FCA approved by the Commission will be adjusted in subsequent quarter's FCA computations.*
- (6) *In case the Distribution Licensee is found guilty of charging unjustified FCA charge to the consumers on regular basis, the Commission shall adjust the unjustified charges along with interest on the same...."*

2.2 In accordance with the above provisions of the Act and Regulation 83(3) of the MYT Regulations, 2011, the distribution licensee is entitled to compute FCA for the quarter and charge the same from the consumer from the first month of next quarter itself, without seeking prior approval from the Commission. The provision of claiming FCA has been made so that the licensee is able to recover the shortfall in the variable component of the cost of power purchased by the licensee in a quarter vis-à-vis that approved by the Commission for the period, which otherwise, would get accumulated till the truing up of expenses for the financial year is carried out by the Commission after the statement of accounts are available, which usually have a lag of 1-2 years and hence, such accumulated gaps for a substantial period has a carrying cost which could affect the financial health of the distribution licensee and in turn would result in adversely affecting the quality of supply. Any revenue gaps including the gap in power purchase expenses, on account of truing up are to be borne by the consumers. Allowance of FCA, atleast at the end of each quarter, to some extent minimizes the impact of such gaps on the licensee's operations.

2.3 The Commission during the first proceedings for approval of FCA had invited comments on the Petition filed by UPCL from all the stakeholders. However, the Hon'ble ATE in its Judgment dated 14.11.2014 in Appeal No. 313 of 2013 had held that:

“ 10. At the outset, it shall be mentioned that the issue has been dealt by this Tribunal in 2011 ELR (APTEL) 1375 in the case of M/s. Rohit Ferro Tech Ltd Vs WBERC. The findings is as follows:

“(ii) Section 62(4) of the Act, permits revision of Tariff under any fuel surcharge formula as specified. The State Commission's Regulations provide for Fuel and Power Purchase Cost Adjustment at the end of the year based on a formula but, also permit under Regulations 2.8.7.3, ad hoc fuel and power purchase cost at any time provisionally subject to final adjustment of the same in FPPCA for that year. Thus, ad hoc increase in fuel and power purchase cost under Regulation 2.8.7.3 may not require prepublication and inviting objections and suggestions from public as envisaged for Tariff Order under Section 64 of the Act'.

...

14. Since, the Power Purchase Cost has to be ultimately trued-up as MYT Regulations 2011, as per Clause 4.21 (a) of the MYT Regulations, 2011 it was not necessary to issue any public notice or hold a public hearing before the approval of the Purchase Adjustment Cost.

Similarly, the existing Regulation 83 of MYT Regulations, 2011 as reproduced above allows licensee to recover FCA on the basis of actual variation in fuel costs relating to power procured during any month. Accordingly, the Commission did not seek comments from the stakeholders during the current proceedings in the matter.

2.4 UPCL has in its Petition claimed total cost of power purchase as Rs. 150.83 Crore from the power generating stations as mentioned at Table-1.1 above. UPCL has also submitted the station-wise details including monthly bills of the above referred amount. The Commission from the submissions of UPCL observed that the total variable charges also included arrears of Rs. 2.76 Crore for the past quarters of FY 2014-15 in respect of the above mentioned generating stations. Since Regulation 83(3) as reproduced above stipulates computation of FCA charge for the quarter and levying of the same from subsequent quarter only, accordingly, arrear amount for previous quarters has not been

considered by the Commission. Further, the Commission validated the amount of variable charges from the monthly bills and the total variable charges works out to Rs. 148.47 Crore. The Commission has approved the FCA which pertains only to the fourth quarter of FY 2014-15.

2.5 In this regard, Regulation 83(5) reproduced above specifies that any variation in FCA charged by the Distribution Licensee and FCA approved by the Commission will be adjusted in subsequent quarter's FCA computations. Accordingly, the Commission has analysed the details of the power purchased and monthly bills raised on UPCL by the Central Sector Thermal generating stations where FCA is attracted for fourth quarter of FY 2014-15. Regulation 83(2), reproduced above, specifies that the FCA charge shall be computed and charged on the basis of actual variation in power purchase cost on account of increase in cost of fuel during any month. Accordingly, similar to the approach as discussed in the Order dated 11.09.2014, amount of arrears mentioned in energy bills have not been considered for computation of FCA. Based on the above, the amount of FCA for the quarter ending March, 2015 has been worked out as given in the Table below:

Table 2.1: FCA for the fourth quarter (January- March, 2015) approved by the Commission

S. No	Power Stations	Billed Energy (MUs)	Actual Variable Charges for the quarter (Rs. Crore)	Energy at State Periphery (MUs)	Actual Rate of Variable Charges at State Periphery (Rs./kWh)	Approved Variable Charges (Rs./kWh)	Diff in Variable Charges (Rs./kWh)	FCA Recoverable (Rs. Crore)
(i)	(ii)	(iii)	(iv)	(v = 96% of iii)	(vi = iv*10/v)	(vii)	(viii= vi-vii)	(ix = viii*v/10)
1	Singrauli	188.82	22.16	181.27	1.22	1.10	0.12	2.22
2	F G Unchahar-1	75.60	22.33	72.57	3.08	2.43	0.65	4.70
3	F G Unchahar-2	29.35	8.69	28.18	3.08	2.44	0.64	1.81
4	F G Unchahar-3	25.60	7.57	24.57	3.08	2.44	0.64	1.57
5	N C T Dadri:2	6.38	2.43	6.13	3.96	2.86	1.10	0.67
6	Rihand-1 STPS	82.45	13.90	79.14	1.76	1.37	0.39	3.06
7	Rihand-2 STPS	71.61	12.07	68.74	1.76	1.38	0.38	2.58
8	Rihand-3 STPS	81.53	13.64	78.27	1.74	1.35	0.39	3.08
9	Kahalgaoon-II	56.01	12.72	53.77	2.37	2.49	-0.12	-0.67
10	Jhajjar Aravali	1.16	0.49	1.11	4.43	3.58	0.85	0.09
11	Anta Gas	21.34	7.43	20.48	3.63	3.29	0.34	0.69
12	Auraiya Gas	23.50	10.17	22.56	4.51	4.02	0.49	1.10
13	Dadri Gas	35.06	14.87	33.65	4.42	3.94	0.48	1.61
14	NTPC-Barh	0.00	-	-	-	2.20	-	-
Total		698.40	148.47	670.44	-	-	-	22.52

- 2.6 Accordingly, the Commission approves the FCA of Rs. 22.52 Crore for the fourth quarter of FY 2014-15. For the purpose of computation of the rate of FCA to be charged from consumers, the Commission has considered the power purchase approved in the Tariff Order for FY 2015-16 for the first quarter of FY 2015-16. The Commission has also considered the fact that the total sales approved by it for FY 2015-16 are about 81.58% of the approved power purchases. Hence, in line with the above, the Commission based on the approved power purchase of 3143.44 MU for the first quarter of FY 2015-16, i.e. for April-June, 2015 has worked out the sales of 2564.27 for the same quarter which is also the approach adopted by UPCL in its Petition. Accordingly, the rate of FCA to be recovered during first quarter works out to Rs. 0.0878/kWh. Based on the average billing rate of Rs. 4.41/kWh approved in the Tariff Order for FY 2015-16 and as discussed above the Commission has approved the consumer-category wise rate of FCA as enclosed at **Annexure-II**.
- 2.7 The Petitioner is hereby allowed to recover the FCA amount to the extent mentioned above by levying FCA on various consumer categories at the rates indicated in Annexure-II during the first quarter of FY 2015-16.
- 2.8 It is apparent that Petitioner has raised FCA bills in accordance with its O.M. dated 25.04.2015 in the energy bills for the month of April, 2015. There is difference between FCA charged by UPCL and that being now approved by the Commission vide this order for some of the consumer categories. The rate of FCA determined and charged by UPCL for such consumer categories is higher than the rate of FCA being approved by the Commission. Hence, UPCL is directed to raise the FCA charges from next energy bills (i.e. energy bills for the months of May & June, 2015) in accordance with the rates determined by the Commission in this Order.
- 2.9 Regulation 83(5) of the MYT Regulations specifies as under:
- “(5.) The Commission shall examine the FCA computations and approve the same with modifications, if required before the end of second quarter. Any variation in FCA charged by the Distribution Licensee and FCA approved by the Commission will be adjusted in subsequent quarter’s FCA computations.”*
- Accordingly, UPCL is hereby directed to adjust the amount charged in excess of the FCA

rate approved by the Commission for such consumer categories, in the FCA computation for the subsequent quarters. UPCL is, further directed to maintain a separate record for such recoveries and submit the details of the quarter wise FCA recovered vis-à-vis FCA allowed by the Commission within twenty days of the end of quarter. Details of FCA charged in FY 2014-15 be furnished by 15.06.2015 positively.

2.10 Ordered accordingly.

(K.P. Singh)
Member

(C.S. Sharma)
Member

(Subhash Kumar)
Chairman

Category-wise FCA proposed to be charged during the first quarter of FY 2015-16

S. No.	Category	Rate of FCA
1	Domestic (RTS -1)	
1.1	Lifeline Consumers	Rs. 0.04/ Kwh
1.2	Other Metered Consumers	Rs. 0.07/ Kwh
1.3	Unmetered in Rural (Hilly) areas	Rs. 3.08/month
1.4	Unmetered in Rural (Other) areas	Rs. 6.82/month
1.5	Single Point Bulk Supply	Rs. 0.08/ Kwh
2	Snowbound Area (RTS - 1A)	
2.1	Domestic Metered	Rs. 0.04/ Kwh
2.2	Non-Domestic (Upto 1 kW)	Rs. 0.04/ Kwh
2.3	Non-Domestic (1 kW to 4 kW)	Rs. 0.06/ Kwh
2.4	Non-Domestic (above 4 kW)	Rs. 0.08/ Kwh
3	Non- Domestic (RTS-2)	
3.1	Government/Municipal Hospitals (ii) Government/Government aided Educational Institutions (iii) Charitable Institutions registered under the Income Tax Act, 1961 and whose income is exempted from tax under this Act.	
	a. Upto 25 kW	Rs. 0.10/ Kwh
	b. Above 25 kW	Rs. 0.09/ Kwh
3.2	Other Non-Domestic/Commercial Users	
	a. Upto 4 kW and consumption upto 50 units	Rs. 0.10/ Kwh
	b. Upto 25 kW	Rs. 0.12/ Kwh
	c. Above 25 kW	Rs. 0.11/ Kwh
3.3	Independent Advertisement Hoardings	Rs. 0.12/ Kwh
3.4	Single Point Bulk Supply	Rs. 0.11/ Kwh
4	Public Lamps (RTS - 3)	
4.1	Metered	Rs. 0.10/ Kwh
4.2	Unmetered Rural	Rs. 3.85/100 W Lamp or part thereof (For every 50 Watt or part thereof increase over and above 100 Watt Lamp additional Rs. 1.54)/month.
5	Private Tubewell/Pump Sets (RTS -4)	
5.1	Metered	Rs. 0.04/ Kwh
5.2	Unmetered	Rs. 3.96/BHP/ month
6	Agriculture Allied Activities (RTS - 4A)	Rs. 0.05/ Kwh
7	Government Irrigation System (RTS-5)	
7.1	Upto 75 Kw	Rs. 0.10/ Kwh
7.2	Above 75 Kw	Rs. 0.10/ Kwh
8	Public Water Works (RTS -6)	Rs. 0.09/ Kwh
9	LT & HT Industry (RTS-7)	
9.1	LT Industries upto 100 BHP/75 kW/88 kVA	
	a. Upto 25 kW	Rs. 0.10/ Kwh
	b. Above 25 kW and Upto 75 kW	Rs. 0.10/ Kwh
9.2	HT Industries above 100 BHP/75 kW/88 kVA	
	a. Contracted Load above 75 kW and upto 1000 kVA	

S. No.	Category	Rate of FCA
	Load factor upto 40%	Rs. 0.11/ Kvah
	Load factor above 40%	Rs. 0.10/ Kvah
	b. Contracted Load More than 1000 kVA	
	Load factor upto 40%	Rs. 0.10/ Kvah
	Load factor above 40%	Rs. 0.10/ Kvah
10	Mixed Load (RTS-8)	Rs. 0.10/ Kwh
11	Railway Traction (RTS-9)	Rs. 0.11/ Kvah
12	Temporary Supply (RTS-10)	
12.1	Illumination & Public Address and ceremonies for load upto 15 kW	Rs. 26.39/ day
12.2	Temporary shops setup during festivals/melas having load upto 2 kW	Rs. 1.76/ day
12.3	Other temporary shops/Jhuggi/Jhopris for load upto 1kW (Rural)	Rs. 2.42/month
12.4	Other temporary shops/Jhuggi/Jhopris for load upto 1kW (Urabn)	Rs. 4.84/month
12.5	Temporary Supply for other purposes	Corresponding FCA in appropriate schedule plus 25%.

Annexure-II**Approved Rate of FCA to be charged on consumers during the first quarter of FY 2015-16**

S. No.	Category	Rates of FCA
1	Domestic (RTS -1)	
1.1	Lifeline Consumers	Rs. 0.04/ kWh
1.2	Other Consumers	Rs. 0.07/ kWh
1.3	Single Point Bulk Supply	Rs. 0.07/ kWh
2	Snowbound Area (RTS - 1A)	
2.1	Domestic	Rs. 0.04/ kWh
2.2	Non-Domestic (Upto 1 kW)	Rs. 0.04/ kWh
2.3	Non-Domestic (1 kW to 4 kW)	Rs. 0.05/ kWh
2.4	Non-Domestic (above 4 kW)	Rs. 0.07/ kWh
3	Non- Domestic (RTS-2)	
3.1	Government/Municipal Hospitals (ii) Government/Government aided Educational Institutions (iii) Charitable Institutions registered under the Income Tax Act, 1961 and whose income is exempted from tax under this Act.	
	a. Upto 25 kW	Rs. 0.09/ kWh
	b. Above 25 kW	Rs. 0.08/ kVAh
3.2	Other Non-Domestic/Commercial Users	
	a. Upto 4 kW and consumption upto 50 units	Rs. 0.09/ kWh
	b. Upto 25 kW	Rs. 0.10/ kWh
	c. Above 25 kW	Rs. 0.10/ kVAh
3.3	Single Point Bulk Supply	Rs. 0.10/ kVAh
4	Public Lamps (RTS - 3)	
4.1	Metered	Rs. 0.09/ kWh
5	Private Tubewell/Pump Sets (RTS -4)	
5.1	Metered	Rs. 0.03/ kWh
6	Agriculture Allied Activities (RTS -4A)	Rs. 0.04/ kWh
7	Government Irrigation System (RTS-5)	
7.1	Upto 75 Kw	Rs. 0.09/ kWh
7.2	Above 75 Kw	Rs. 0.09/ kVAh
8	Public Water Works (RTS -6)	Rs. 0.08/ kVAh
9	Industrial Consumers (RTS-7)	
9.1	LT Industries upto 100 BHP/75 kW/88 kVA	
	a. Upto 25 kW	Rs. 0.10/ kWh
	b. Above 25 kW and Upto 75 kW	Rs. 0.10/ kVAh
9.2	HT Industries above 100 BHP/75 kW/88 kVA	
	a. Contracted Load above 75 kW and upto 1000 kVA	
	Load factor upto 40%	Rs. 0.10/ kVAh
	Load factor above 40%	Rs. 0.09/ kVAh
	b. Contracted Load More than 1000 Kva	
	Load factor upto 40%	Rs. 0.09/ kVAh
	Load factor above 40%	Rs. 0.09/ kVAh
10	Mixed Load (RTS-8)	Rs. 0.09/ kWh
11	Railway Traction (RTS-9)	Rs. 0.10/ kVAh

S. No.	Category	Rates of FCA
12	Temporary Supply (RTS-10)	
12.1	Illumination & Public Address and ceremonies for load upto 15 kW	23.89/ day
12.2	Temporary shops setup during festivals/melas having load upto 2 kW	1.59/ day
12.3	Other temporary shops/Jhuggi/Jhopris for load upto 1kW (Rural)	2.19/month
12.4	Other temporary shops/Jhuggi/Jhopris for load upto 1kW (Urban)	4.38/month
12.5	Temporary Supply for other purposes	Corresponding FCA in appropriate schedule plus 25 %