

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 41 of 2016

In the matter of:

Adjudication of dispute under Section 86(1)(f) of the Electricity Act, 2003 between Uttar Bharat Hydro Power Private Limited and Uttarakhand Power Corporation Limited in respect of 12.6 MW Sarju II Hydro Power Project.

In the matter of:

M/s Uttar Bharat Hydro Power Pvt. Ltd. ...Petitioner

&

In the matter of:

Uttarakhand Power Corporation Limited (UPCL) ...Respondent

AND

Petition No. 36 of 2016

In the matter of:

Relaxation in RE Regulations, 2013 in respect to Sarju-II & Sarju-III SHPs of M/s UBHP Ltd. for restriction of any claim under deemed generation on account of the restraint in evacuation system caused due to allowance of evacuation of power from Sarju-II SHP, till the under constructed 33 kV line between Bageshwar and Kapkote on panther conductor is completed.

In the matter of:

Uttarakhand Power Corporation Limited (UPCL) ...Petitioner

&

In the matter of:

M/s Uttar Bharat Hydro Power Pvt. Ltd. ...Respondent

Coram

Shri Subhash Kumar Chairman

Shri K.P. Singh Member

Date of Order: December 8, 2016

ORDER

This Order relates to the Petition filed by M/s Uttar Bharat Hydro Power Limited (hereinafter referred to as “UBHP” or “the Petitioner” or “the generator”) for adjudication of dispute under Section 86(1)(f) between M/s UBHP and Uttarakhand Power Corporation Limited (hereinafter referred to as “UPCL” or “the Respondent”) and the Petition filed by UPCL for relaxation in RE Regulations, 2013 in respect to Sarju-II & Sarju-III SHPs of M/s UBHP Ltd. for restriction of any claim under deemed generation on account of the restraint in evacuation system caused due to allowance of evacuation of power from Sarju-II SHP, till the under constructed 33 kV line between Bageshwar and Kapkote on panther conductor is completed.

Since the parties involved in the matters are common in both the Petitions and the issues are also similar, accordingly, the Commission decided to club both the Petitions in this Order.

I. Background

(Petition No. 41 of 2016)

1. The Petitioner (M/s UBHP) is a generating company and has setup a 12.6 MW Sarju-II SHP at Kapkote, District-Bageshwar, Uttarakhand.
2. The Petitioner and the Respondent (UPCL) had entered into a PPA dated 16.12.2002 and a supplementary PPA dated 26.02.2015 wherein, the Petitioner had agreed to set up Sarju-II project to generate & supply electricity to UPCL.
3. Under the said PPA, M/s UBHP was required to construct 33 kV transmission line from Sarju-II project upto 33 kV Kapkote S/s, Bageshwar and UPCL was required to grant approval as well as technical assistance in addition to facilitation of inter-connection at the substation.
4. UPCL was responsible for evacuation of power beyond 33 kV Kapkote S/s and was required to plan & execute necessary augmentation work for ensuring evacuation of the upcoming generation including that from Sarju-II project.
5. In the meantime the UPCL had built a new 33 kV S/s at Karmi and a new 33 kV transmission line from Kapkote S/s to Karmi S/s was constructed. M/s UBHP approached the Commission with regard to the grid connectivity for its 12.6 MW Sarju-II project through Loop In Loop Out (LILO) on Kapkote to Karmi 33 kV transmission

line.

6. The Commission with regard to the Grid connectivity for its 12.6 MW Sarju-II project, initiated a suo-moto proceeding and issued an Order dated 02.07.2015 directing that:-

“

- 1 Respondent No. 2 informed that its plant is ready to be commissioned by July end. Hence, to avoid bottling up of the generation the Commission, ad-interim, allows Respondent No. 2 Loop In Loop Out (LILO) connection from 33 kV Kapkote-Karmi Transmission line and directs Respondent No. 1 to provide the same.
- 2 Respondent No. 1 submitted that in its PPA dated 16.12.2002, Respondent No. 2 agreed for construction of evacuation line from its generating station to Kapkote substation. Representative of Respondent No. 2 also informed that the construction of the generating station started in 2008 and in February 2015, it informed Respondent No. 1 that it would not be able to construct the line till Kapkote. Respondent No. 2 is directed to submit the details of steps taken by it in this regard from 2008 to 2015 latest by 20.07.2015.
- 3 Further, the Respondent No. 1 is directed to submit following information latest by 20.07.2015:-
 - (1) The details of existing power evacuation capacity at Kapkote S/s and its adequacy with respect to evacuation of the available generation in the Kapkote region.
 - (2) Submit details of upcoming generation capacity in Kapkote region (Bageshwar district) in next 5 years and the comprehensive plan for power evacuation for the same.”

7. M/s UBHP has now approached the Commission vide its Petition dated 12.03.2016 requesting for adjudication of dispute between it and UPCL in respect of 12.6 MW Sarju-II Hydro Power Project claiming the loss caused to it arising due to the delay in providing inter-connection and evacuation facility to it.

8. M/s UBHP in its petition has claimed that it had completed the construction of the 12.6 MW Sarju-II project by August, 2015 and UPCL has not granted inter-connection to it on Kapkote-Karmi line. Further, M/s UBHP has claimed that due to non-availability of inter-connection to Kapkote-Karmi line despite the directions of the Commission, the testing & commissioning activities and consequent declaration of the commercial operation of the power plant had not been possible solely for reasons attributable to the Respondent.

9. Hearing in the instant Petition was conducted and the Commission issued an Order dated 19.04.2016 directing UPCL to submit:

“

- (1) Written submission on the issues raised in the Petition.
- (2) Status of compliance of the directions issued at para 1 of the Commission's Order dated 02.07.2015 in the matter of 'Grid Connectivity for 12.6 MW SHP for M/s Uttar Bharat Hydro Power Pvt. Ltd. (UBHP)'.
- (3) Status of the compliance of the directions issued at para 4(1) (b) of the Commission's Order dated 11.09.2015 in the matter of 'Grid Connectivity for 12.6 MW SHP for M/s

Further, in the aforesaid Order, M/s UBHP was directed to submit:-

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(1) *Status of the compliance of the direction issued at para 4(2) (a) & (b) of the Commission's Order dated 11.09.2015 in the matter of 'Grid Connectivity for 12.6 MW SHP for M/s Uttar Bharat Hydro Power Pvt. Ltd. (UBHP)'.*

(2) *Preparedness w.r.t. the generation from Sarju-II generating station and status of line between the generating station and LILO point on 33 kV Kapkote-Karmi line including installation of necessary protection and metering arrangements as on 01.08.2015."*

The above written submissions/replies were required to be submitted to the Commission under affidavit within 10 days from the date of issuance of the Order. Further, M/s UBHP and UPCL were also directed to forward copies of their respective replies to each other and they were directed to file their counter replies on each other's written submission before the Commission within 01 month from the date of issuance of the Order.

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10. Incompliance to the aforesaid directions of the Commission, UPCL & M/s UBHP vide their letters dated 29.04.2016 & 27.04.2016 submitted their reply respectively and thereafter, UPCL & M/s UBHP vide their letters dated 21.07.2016 & 11.05.2016 submitted their counter reply respectively.

11. **Petition No. 36 of 2016**

(i) UPCL in its Petition submitted that the Commission vide its suo-moto Order dated 02.07.2015 in order to avoid bottling up of the generation of 12.6 MW Sarju-II SHP had ad interim allowed LILO from 33 kV Kapkote-Karmi line and directed UPCL to provide the same. UPCL submitted that after submission of the parties and hearing in the matter final order dated 11 September, 2015 was passed in the aforesaid matter whereby various directions were issued to both UPCL and M/s UBHP Ltd.

(ii) The Commission considering the circumstances of the facts held that the deemed generation claims shall not be admissible to M/s UBHP on account of interruption/trippings/breakdown on 33 kV Kapkote-Karmi line till the construction of 33 kV dedicated line between Sarju-II generating station and 33 kV S/s Kapkote is completed by M/s UBHP Ltd. in accordance with the agreed PPA and supplementary PPA between the parties.

(iii) UPCL submitted that M/s UBHP in complete defiance of the said order filed the petition dated 12.03.2016 before the Commission under section 86 (1)(f) of the Electricity Act, 2003 for adjudication of dispute with UPCL in respect of 12.6 MW

Sarju-II SHP wherein inter alia M/s UBHP requested for deemed generation for entire capacity of Sarju-II project from 01.08.2015 alongwith delayed payment surcharge/interest.

- (iv) M/s UBHP also filed a petition dated 12.03.2016 under section 86 (1)(f) of Electricity Act, 2003 for adjudication of dispute between M/s UBHP and UPCL in respect of 10.5 MW Sarju-III SHP claiming deemed generation for Sarju-III project from 11.07.2014 (date of commissioning) alongwith delayed payment surcharge/interest.
- (v) UPCL in both the petitions had filed their preliminary objections regarding the maintainability of the petitions on various grounds.
- (vi) However, the Commission vide order dated 08.06.2016 in the matter of Sarju-III held that the claim of Deemed Generation is admissible to M/s UBHP in accordance with the provision of RE Regulations and directed the parties to jointly sit together for monthly reconciliation of the deemed generation claimed by M/s UBHP and settle the amount so arrived at within 2 months time in accordance with the provisions of the Regulations.
- (vii) UPCL submitted that it had submitted detailed objection regarding maintainability of the petition vide letter dated 18.04.2016, the principle of UPCL was that M/s UBHP never reconciled deemed generation annually as per the provision of the Regulations and cannot now file the petition as there was neither any dispute nor the mandatory compliance of the Regulations had been done. Further, UPCL had also made submission regarding the factual circumstances and also regarding conduct of M/s UBHP which even otherwise disentitled them from claiming deemed generation.
- (viii) UPCL submitted that the Commission disposed off the petition granting leave to M/s UBHP to agitate the issues remaining disputed after 2 months. UPCL submitted that the Commission disposed the petition without giving any finding upon the merits of the case and UPCL, whenever a fresh petition is made in the matter, would be at liberty to raise all available ground of defense against the said petition. The present reconciliation proceeding is being conducted in the light of directions of the Commission. However, UPCL would challenge the

maintainability of any petition made by M/s UBHP if the same is not as per the provisions of the relevant Regulations.

- (ix) UPCL submitted that the Commission is aware of the evacuation facility and its capacity in Bageshwar region and the Commission is being updated about the current status (progress of the ongoing works) and UPCL has also submitted a comprehensive action plan for evacuation of existing and proposed generation in Kapkote region including 3 generating stations (Sarju-I, II, III of M/s UBHP Ltd.). UPCL vide letter dated 18.04.2016 and 30.06.2016 had informed the Commission that the work of replacement of conductor at 33 kV Bageshwar-Kapkote line from Raccoon to Dog was completed on 14.05.2016 and the work of construction of new 33 kV line between Bageshwar and Kapkote on Panther conductor is in progress and out of scheduled 30 four pole structures, 430 double pole structures and 15 single pole structures, work of 4 four pole structures, 107 double pole structures and 4 single pole structures respectively has been completed and that the work is targeted to be completed by the end of this year and thereafter UPCL will be able to evacuate approximately 45 MW of power in the region.
- (x) UPCL submitted that the Commission had although not allowed any deemed generation to Sarju-II SHP however, considering the present restraint in the evacuation system it is imperative that the generation from Sarju-II would inadvertently affect the evacuation of quantum of power from Sarju-III SHP however the claim for deemed generation of Sarju-III SHP would be maintainable as per the present regulations.
- (xi) The evacuation of complete power from Kapkote region can only be done once 33 kV line between Bageshwar and Kapkote on panther conductor is completed. The evacuation facility from Sarju-II SHP as per the PPA is from a dedicated line to be constructed by M/s UBHP Ltd. UPCL submitted that as has been already informed to the Commission M/s UBHP has not initiated the work for constructing the said line, keeping in view the possibility of generation in Sarju-II SHP and the evacuation restraints there is a possibility that the generator might use these circumstances thereby promoting gaming and hence may curtail the generation from Sarju-II SHP and on the other hand increase the capacity of

Sarju-III so as to become entitled to claim deemed generation for Sarju-III SHP thereby also bypassing the effect of Order dated 02 July 2015 of the Commission.

- (xii) That with the limited evacuation facility in the region, till the construction of separate 33 kV line between Bageshwar and Kapkote, it is very much clear that the generation from one SHP will affect the generation from another SHP, limited by the capacity of evacuation, and even the trippings may be caused in case the cumulative generation tried to be pushed in the system is more than the evacuation capacity. Further, UPCL submitted that while calculating for generation loss as per deemed generation principle, for Sarju-III SHP, the reasons attributable to other generating SHP should also be considered but including the same will complicate the matter as exact quantum affected, excluding the quantum attributable to the other SHPs, will always be difficult to ascertain.
- (xiii) UPCL submitted that the Commission while incorporating the provision for deemed generation in the RE Regulation did so with the objective to compensate the generator when the evacuation facility could not be made available due to maintenance reasons thereby losing the generation, however, in those circumstances it was possible to determine the amount of deemed generation both on accounts of Non-availability of evacuation line and voltage fluctuation, however, in the present situation where the deemed generation is being claimed not for any tripping or maintenance of the evacuation line but due to the evacuation restraints (capacity) of the existing lines which was not only within the knowledge of the generator but to which the generator also readily agreed and further the regulation do not lay down any criteria whereby deemed generation in this peculiar matter can be calculated as the provisions of the regulations were not framed considering such situations and the provisions of deemed generation in such cases is not applicable. UPCL also submitted regarding the requirement of 132 kV S/s at Bageshwar since the limitations in evacuation from Kapkote substation to Bageshwar are not solely dependent upon the capacity of the evacuation system but also on the direction of the load flow in the line as various trippings have been observed to be caused when the generator tries to push the generation in the line and the voltage difference between Kapkote and Bageshwar S/s does not permit the same.

(xiv) UPCL submitted that in light of the aforesaid fact it is in the interest of justice that the provision regarding deemed generation in RE Regulation 2013 be relaxed in respect to Sarju-III SHP of M/s UBHP Ltd. and the said SHP should not be entitled to claim any deemed generation on account of the restraint in evacuation caused due to evacuation of power from Sarju-II SHP till the aforesaid 33 kV line between Bageshwar and Kapkote on panther conductor is completed. Further, the said provisions should continue to be relaxed in Sarju-II SHP even in case the dedicated line between Sarju-II and Kapkote be constructed before the completion of Kapkote-Bageshwar line for the reasons not within control of UPCL.

12. UPCL in its Petition also submitted that the cause of action arises with the release of Order dated 11.09.2015 by the Commission whereby Sarju-II SHP was allowed to get connected by ad-interim LILO arrangement through Kapkote-Karmi line which resulted in restraint in capacity of existing evacuation network in the region.
13. Further, UPCL in its Petition requested the Commission to relax the provisions of RE Regulations, 2013 in respect of Sarju-II & Sarju-III SHPs of M/s UBHP Ltd. for restriction of any claim under deemed generation on account of the restraint in the evacuation system caused due to allowance of evacuation of power from Sarju-II SHP, till the under constructed 33 kV line between Bageshwar and Kapkote on panther conductor is completed.
14. M/s UBHP submitted its comments in the matter on 08.08.2016. Hearing in the matter was conducted and the Commission issued an Order dated 09.08.2016 admitting the Petition and directed:

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District Magistrate, Bageshwar to form a Committee headed by him and comprising of the representatives of both UPCL as well as the Generator (M/s Uttar Bharat Hydro Power Pvt. Ltd.) and submit the status alongwith schedule date of completion of each of the following works within 15 days from the date of Order after holding a proper meeting of the aforesaid Committee constituted in the matter:

- (a) *On going works carried out by UPCL including replacement of Racoon conductor by Dog Conductor between its existing 33 kV S/s at Kapkote and the 33 kV S/s at Bageshwar.*
- (b) *Construction of 33 kV additional line on panther conductor between existing 33 kV Kapkote S/s and 33 kV Bageshwar S/s.*
- (c) *Construction of dedicated line by the Generator (M/s Uttar Bharat Hydro Power Pvt. Ltd.) from its Sarju-II generating station and upto UPCL's 33 kV S/s at Kapkote.”*

II. Issue-wise Submissions of the Respondent(UPCL) &the Petitioner (M/s UBHP) in Petition No. 41 of 2016

15. With regard to maintainability of the Petition, the Respondent has submitted that there was no dispute between UPCL and M/s UBHP which needs to be adjudicated and that the statement of M/s UBHP that it had completed its project on August, 2015 and its claim of deemed generation since August, 2015 is false as the plant cannot be commissioned unless certificate from Electrical Inspector is obtained which was in fact granted on 02.03.2016. Moreover, M/s UBHP can claim deemed generation only after CoD of the project.
16. On the above issue of maintainability, the Petitioner has submitted that:-
 - (i) There is clearly a dispute between it & UPCL and its Petition should be admitted.
 - (ii) Its petition seeking inter-connection for its power project is in compliance to the Orders of the Commission and also in reference to the loss caused to it due to inability of UPCL to provide inter-connection and evacuation facilities.
 - (iii) The contention of UPCL that Power Project was not completed on 01.08.2015 or that it was not entitled to any deemed generation prior to commissioning of the project is on merits of the case and not maintainability of the Petition.
 - (iv) UPCL cannot be permitted to take advantage of its own wrong and deny the deemed generation benefit to it. The inability to evacuate power is a reason for the grant of deemed generation as per the Regulations.
17. With regard to dedicated transmission line from Sarju-II to 33 kV Kapkote S/s, the Petitioner has submitted that:-
 - (i) It had started the work and completed the survey work for the dedicated transmission line from Sarju-II switchyard to UPCL's 33 kV Kapkote S/s in September, 2015.
 - (ii) It has completed 5 km of transmission line (3 km common route in existing LILO line and 2 km partial line thereafter).
 - (iii) It has to finalize the balance route of the line and related equipments for which exact location of gantry at Kapkote S/s is required from UPCL. In case the route finalized by it is followed for construction of balance line and if the space is not

available at Kapkote S/s then the dedicated transmission line would not be functional.

- (iv) It had repeatedly informed UPCL for confirming the exact location of the gantry and space for the relating equipments and UPCL is not providing any assistance/responding in this regard.
- (v) For construction of balance 11 km. of dedicated transmission line upto Kapkote S/s, M/s UBHP would require a minimum of 8-10 months after the confirmation of space for fixing of gantry and related protection system by UPCL.

18. On the above issue of dedicated transmission line from Sarju-II to 33 kV Kapkote S/s, the Respondent has submitted that:-

- (i) The survey report submitted by UBHP alongwith its reply dated 27.04.2016, was simply a sketch and does not appear to be an authentic document as date and details of the agency carrying out the survey work has not been mentioned. Further, the Respondent has submitted that UBHP has not submitted any consent to it which shows that the statement of UBHP pertaining to completion of survey in December, 2015 is false.
- (ii) With regard to the construction of the dedicated line from Sarju-II to Kapkote S/s, UPCL has submitted that an inspection was conducted by S.E., EDC-Almora who vide his letter dated 20.05.2016 informed that neither the line has been constructed nor any construction material was found at site.
- (iii) With regard to confirmation of gantry location at Kapkote S/s, UPCL has submitted that M/s UBHP with an objective of hiding its own mistake is making baseless justification for not being able to complete the construction of dedicated line from Sarju-II to Kapkote S/s. Further, UPCL has submitted that the impact of location of gantry will be in the last 100 m of the line and hence the contention of the Petitioner that it is not able to construct the dedicated transmission line upto Kapkote S/s due to non-confirmation of the exact location of gantry is incorrect and is rather trying to make grounds for getting time extension for construction of dedicated transmission line from Sarju-II to Kapkote S/s.

19. With regard to LILO Connectivity for Sarju-II project, the Petitioner has submitted that:-

- (i) It was ready for commissioning in August 2015 of the project but could not do so due to absence of interconnectivity which was to be provided by UPCL.
- (ii) It had constructed LILO line by 01.08.2015 and had installed necessary protection system in switchyard and had also requested the Electrical Inspector to provide NOC for its Sarju-II SHP.
- (iii) In order to avoid multiple inspections, the electrical Inspector had not conducted the inspection in the absence of interconnection. Therefore, inspection was not conducted even though it was ready to commission the plant in August 2015; the delay in Electrical Inspector approval was solely attributable to UPCL.
- (iv) Electrical inspector inspected the site on 19.02.2016 and issued a NOC vide letter dated 02.03.2016. It was submitted that the delay in the inspection was only on account of non-availability of the interconnectivity and not any other reason and the delay was solely attributable to UPCL.
- (v) It was ready for commissioning Sarju-II generating station as on 01.08.2015 as its OEM had completed the work as on 01.08.2015 and certified that the machinery was capable of generating 12.6 MW and can undergo testing & commissioning/be declared for commercial operation after interconnection from LILO from Kapkote-Karmi line.
- (vi) The Engineer appointed by SBI (lender) of the Sarju-II Project had also completed its inspection of the site and certified that construction of the project was complete in all respect and the machines were ready for commissioning. Further, the Engineer had also certified that LILO transmission line had also been completed upto Kapkote-Karmi transmission line.
- (vii) It had informed UPCL regarding its plant's readiness for commissioning by July end and this was also recorded by the Commission in its Order dated 02.07.2015 and consequently interim arrangement for LILO connectivity for avoiding bottling-up of generation was provided to UBHP.
- (viii) They had informed UPCL that they were ready for commissioning/commercial operation of the project since August 2015 and this was not denied by UPCL. Further, UPCL vide its letter dated 24.07.2015 had raised an issue of providing interconnection to it but had admitted that the line for evacuation had not been

constructed.

- (ix) It had requested Chief Electrical Inspector (CEI) for inspection vide its letter dated 10.08.2015, however, CEI did not inspect due to absence of interconnection. Thereafter, again CEI was requested and a fee was deposited on 12.02.2016. Inspection of the plant was done on 19.02.2016 and certificate was granted on 02.03.2016. The delay was solely attributable to UPCL.
- (x) UPCL prevented it to undertake testing, commissioning and commercial operations of 12.6 MW Sarju-II by not providing the interconnectivity to Kapkote-Karmi line which was a clear violation of the Commission's Orders dated 02.07.2015 and 11.09.2015.
- (xi) It had been repeatedly requesting UPCL regarding exact location of gantry and space for breakers, isolators, CTs, control panels, etc. in the S/s so as to finalize the route for its line.

20. On the above issue of LILO Connectivity for Sarju-II project, the Respondent has submitted that:-

- (i) With regard to UBHP's claim that it was ready in all respect since August, 2015 is wrong as any testing/commissioning test could only be performed after obtaining the Electrical Safety Report from the Electrical Inspector. Further, UPCL submitted that the intent and readiness for the inspection can only be proved with the deposition of fees for inspection in the office of CEI and in the instant case the fee was deposited on 11.02.2016.
- (ii) With regard to the Electrical Inspector's inspection, UPCL has submitted that the inspection report from the Electrical Inspector is a mandatory document for energizing any plant/transmission line and the same was obtained as late as in March, 2016.
- (iii) With regard to the M/s UBHP's claim that due to non-availability of evacuation capacity it was unable to commission its project, UPCL has submitted that the submission of the Petitioner is wrong and as construction of line for evacuation was the responsibility of the generator and it has not constructed the same hence, all the assertions made by the Petitioner are of no relevance.

- (iv) With regard to M/s UBHP's claim that the Electrical Inspector himself had advised for delay in inspection, in this regard, UPCL has submitted that the Petitioner has not submitted any documentary evidence in support of his claim.

21. With regard to Testing of Meters, the Petitioner has submitted that:-

- (i) The metering panel & protection panel were installed at metering room of the switchyard by August 2015. Meters were purchased and provided to UPCL's distribution division at Bageshwar vide letter no. 34 dated 15.06.2015 alongwith necessary fees for testing and installation. Meters were tested but could not be installed due to non-availability of interconnectivity. On 29.03.2016, UPCL communicated that the meters shall be re-tested as more than six months have passed and, accordingly, the fee for re-testing of the meters was deposited on 07.04.2016. The Petitioner has claimed that such delay is solely attributable to UPCL.
- (ii) UPCL has not placed complete facts with regard to meters. It had provided meters to UPCL vide letter dated 15.06.2015 for testing and installation. Meters were tested in the month of Aug 2015 and were ready for installation but could not be installed due to non-availability of interconnectivity. Without prejudice meter testing fee was re-submitted on 07.04.2016 as per the UPCL's communication dated 29.03.2016 which stated that as more than six months have passed so re-testing of meters is require.
- (iii) It had requested UPCL vide its letter dated 11.07.2015, 10.09.2015, 15.11.2015, 22.01.2016 & 19.01.2016 for interconnectivity and at no point UPCL raised the issue of clearance from electrical inspector or meters. UPCL is seeking cover of its own non-compliance by blaming the Petitioner.
- (iv) UBHP vide its letter dated 26.05.2016 submitted that Sarju-II has started its commercial operation on 25.05.2016.

22. On the above issue of Testing of Meters, the Respondent has submitted that UBHP had deposited fee for testing of meters on 07.04.2016, thereafter, the meters were sent for testing to Central test Lab of UPCL in Dehradun. The electricity meter for Sarju-II plant was installed on 08.05.2016 as informed by UPCL vide its letter dated 30.06.2016.

23. With regard to Power Evacuation System, the Petitioner has submitted that:-

- (i) UPCL had acknowledged in its letter dated 24.07.2015, the insufficiency of

evacuation arrangement.

- (ii) Even after replacement of Raccoon to Dog conductor the evacuation capacity would be 15.5 MW and for evacuation of power from Sarju-II another panther conductor line is required, for which UPCL has not submitted any status.
 - (iii) UPCL has not submitted explanation as to actions taken by it for complying with the Commission's Order dated 11.09.2015. As per UPCL's submissions, replacement of Raccoon to Dog was done in Feb 2016 after a delay of 5 months from the date of Order of the Commission. The DM issued directions on 04.04.2016 for replacement to be done after harvesting of the existing crop. UPCL has not submitted any reason for the delay and not resolving the dispute.
 - (iv) UPCL was seeking to delay the commissioning of Sarju-II project due to non availability of the evacuation capacity which was the responsibility of UPCL. UPCL has not raised any objection on the readiness of the project.
24. On the above issue of Power Evacuation System, the Respondent submitted that the replacement of Raccoon conductor by Dog conductor has been completed from Kapkote to Bageshwar except for village Davalchaura due to obstruction in the work by some people. It was informed that assistance from District Magistrate, Bageshwar had also been sought in the matter. It was further informed that District Magistrate, Bageshwar vide his letter dated 04.04.2016 has directed that the work for replacement of conductor of Kapkote-Bageshwar 33 kV line is to be done after the harvesting of the existing crop as agreed by the people of village Davalchaura and their representatives.

Submissions of the Respondent (M/s UBHP) (Petition No. 36 of 2016)

25. M/s UBHP submitted its reply vide letter dated 06.08.2016 in response to the UPCL's Petition dated 27.07.2016. The submissions of M/s UBHP are as follows:-
- (i) M/s UBHP submitted that the Commission vide its Order dated 08.06.2016 in Petition dated 16.03.2016 filed by it (in relation to Sarju III project) had held that the claim of deemed generation is admissible to the M/s UBHP. However, UPCL is seeking to circumvent the Order dated 08.06.2016 and avoid payment towards deemed generation by raising frivolous grounds under the guise of seeking relaxation. UPCL is re-agitating the issues already decided by the Commission. M/s UBHP submitted that UPCL has bizarrely interpreted the Order dated 08.06.2016 as

disposing off the Petition filed by the Respondent without any findings on the merits of the case and reserving its rights to raise the issue on maintainability of the claim. This is a complete misreading of the Order dated 08.06.2016 and a deliberate attempt by UPCL to delay payment to M/s UBHP.

- (ii) M/s UBHP submitted that UPCL has once again raised issues on maintainability of the claim of deemed generation despite a specific order admitting such claim by the Commission. The claim made by UPCL is barred by the principles of res judicata. UPCL cannot re-agitate the issues already decided by the Commission. There has to be a finality to the decision of the Courts.
- (iii) Therefore, all submissions/contentions made by the UPCL with regard to the non-availability of the evacuation system and admissibility of deemed generation claims of M/s UBHP is to be rejected.
- (iv) Further, with regard to the Sarju II project, M/s UBHP submitted that the claim has not been disallowed as alleged by UPCL but is pending before the Commission. Therefore, issues regarding deemed generation claim in Sarju II project cannot be raised in a fresh proceeding.
- (v) With regard to the prayer for relaxation, M/s UBHP submitted that UPCL cannot seek such relaxation of payment of deemed generation benefits unilaterally when such deemed generation has been incorporated into a mutual agreement and M/s UBHP cannot be denied of its entitlement on the basis of any vague claim of relaxation. UPCL had not even raised the issue of relaxation at that stage. It is not open to UPCL to avoid compliance with the Orders of the Commission and mandate of the Regulations and PPA by seeking relaxation at this belated stage.
- (vi) M/s UBHP submitted that the Power to relax can only be exercised only in exceptional cases when there is injustice caused to a person or the application of regulations leads to unjust result.
- (vii) It is submitted that the exercise of power to relax under the Regulation 50 is minimized by the requirement to record the reasons in writing by the Commission before any provision of the Regulations is relaxed. In the present Application, the Applicant has not provided any reason for such relaxation. In fact it is the Applicant's default that it is liable to pay deemed generation claims to the

Respondent. The Applicant cannot be allowed to take advantage of its own defaults failure and wrong and seek relaxation to cover up the same.

- (viii) M/s UBHP referred to the Commission's Order dated 11.09.2016 & 08.06.2016 and submitted that the Commission has repeatedly observed on the lackadaisical approach of UPCL and its failure to strength and augment the system for evacuation of power from small hydro power projects.
- (ix) M/s UBHP submitted that Regulation 47 of RE Regulations, 2013 specifically recognizes the non availability of evacuation system as one of the reasons for Deemed Generation. Therefore, it is not open to UPCL to now claim relaxation of deemed generation claims on the ground that the evacuation system is not ready. UPCL cannot claim relaxation due to reasons attributable to it. This would be contrary to the principle settled by the Hon'ble Tribunal as well as principles of equity and justice.
- (x) M/s UBHP submitted that UPCL was required to provide evacuation facilities and is now further denying deemed generation on the ground of absence of evacuation facilities. M/s UBHP referred to judgments of Hon'ble Supreme Court and stated that it is well settled principle that UPCL cannot take advantage of its own wrong.
- (xi) M/s UBHP submitted that UPCL has delayed the evacuation facilities for the power project which has resulted in stranding of the generation capacity. If UPCL is permitted to avoid deemed generation claim despite its own fault, this would not only result in the generators being penalized for no fault of their own, but also set a wrong precedent for UPCL who will have no disincentive to ensure timely evacuation arrangements.
- (xii) M/s UBHP contended on UPCL's claim that the evacuation facility for Sarju III was affected by provision of evacuation facility to Sarju II as per the Order dated 11.09.2015 is untenable. As noted by the Commission, it is the UPCL's responsibility to ensure evacuation of power from the small hydro projects. The UPCL was required to ensure evacuation for both Sarju II and Sarju III power project. Failing to do so, it is not open for UPCL to seek to avoid deemed generation claim by stating that the commissioning of one project affected the evacuation facility for the other project.

- (xiii) Further the Applicant did not challenge the Order dated 11.09.2015 and did not raise any issue on being exempted from payment of deemed generation to Sarju III project. It is not open to the Applicant to raise such issues at this belated stage. The Order dated 11.09.2015 specifically recognized that deemed generation claim for Sarju II project would not be allowed for failure of evacuation of power due to trippings etc. on the said line. Therefore, the failure of UPCL to evacuate power for any other reason, including downstream constraint on the Kapkote - Bageshwar transmission line would result in payment of deemed generation benefit to M/s UBHP. Further, this issue is subject matter of the Petition filed by M/s UBHP in relation to the Sarju II project and the same cannot be agitated in the present Application.
- (xiv) UPCL is only seeking to delay payment is clear from the fact that the Applicant is seeking relaxation even after dedicated line between Sarju II and Kapkote is completed. UPCL is delaying the completion of dedicated line by not providing cooperation to M/s UBHP and is further seeking to deny deemed generation on this count. This clearly shows that UPCL is unable to complete evacuation facilities for the power projects and is only seeking to avoid making payments.
26. M/s UBHP submitted that UPCL has raised vague claims that the trippings have been observed due to generator pushing the generation in the line without any evidence or proof or that evacuation restraints may result in gaming without any reason or rationale. UPCL is seeking to blame the generators for its own inadequate evacuation facilities, which cannot be permitted. M/s UBHP's two projects are ready to generate electricity but are unable to do so because of the UPCL's failures. In such circumstances, the M/s UBHP cannot be denied the deemed generation benefits. This has already been held by the Commission.
27. M/s UBHP further submitted that as per the Order dated 08.06.2016, it has held meetings with UPCL for reconciliation, however, UPCL has not been cooperative with M/s UBHP. Further, despite clear orders of the Commission, UPCL is denying the deemed generation claim for 3.5 MW on the basis of the minutes of meeting dated 22.05.2014. UPCL has once again raised the issue in the present Application despite the clear finding of the Commission that the Minutes of Meeting cannot prevail over the PPA and the provisions on deemed generation under the Regulations. It is apprehended that the reconciliation may not be completed within 2 months and this would further delay the payments of the

necessary amount to M/s UBHP. In view of the financial situation of M/s UBHP, it is imperative that the payments be made as soon as possible. In this regard, M/s UBHP requested the Commission to direct UPCL to ensure full cooperation and completion of the reconciliation process within 2 months.

28. In compliance to the Commission's Order dated 09.08.2016 District Magistrate, Bageshwar vide its letter No. 1844 dated 26.08.2016 submitted its compliance stating that a meeting was held on 19.08.2016 with the representatives of UPCL and Generator (M/s UBHP) and submitted the status as follows:-

- (i) Works pertaining to replacement of Raccoon conductor by Dog conductor between existing 33 kV S/s Kapkote and 33 kV S/s Bageshwar has been completed.
- (ii) With regard to Construction of 33 kV additional line on Panther conductor between existing 33 kV Kapkote S/s and Bageshwar S/s, DM, Bageshwar has submitted that out of total 24 km 33 kV line, only 3.5 km 33 kV line has been completed with the help of installation of 135 Double Poles, the stringing work is still pending. Moreover, around 1.5 km forest land is in-route of the proposed line for which NOC from the Forest Department is pending. Further, he submitted that UPCL has informed that the work of additional panther line would be completed in next 6 months i.e. by the end of February, 2017.
- (iii) With regard to construction of dedicated line by M/s UBHP from its Sarju-II generating station upto 33 kV Kapkote S/s, DM, Bageshwar has submitted that as per joint inspection only 2 kms LILO line has been constructed between Sarju-II project to 33 kV Kapkote S/s and M/s UBHP has been directed to complete the work of construction of 33 kV dedicated line from Sarju-II to 33 kV Kapkote S/s in next 6 months i.e. by the end of February, 2017.

III. Commission's observations, views and decision:

(Petition No. 41 of 2016)

29. On examination of the petition, replies and counter replies by the Petitioner & Respondent in the matter the Commission has observed that:-

(1) Maintainability of the Petition

- (i) The dispute between M/s UBHP and UPCL arises as UPCL has failed to

comply with the directions of the Commission issued vide Order dated 02.07.2015 vide which it was directed to provide ad-interim LILO connectivity from 33 kV Kapkote-Karmi transmission line.

- (ii) Further, it has been observed that the Commission vide its Order dated 11.09.2015 had directed it to “...ensure timely completion of ongoing works including replacement of Raccoon conductor by Dog conductor between its 33 kV S/s Kapkote and 33 kV S/s Bageshwar, additional panther conductor circuit between the aforesaid sub-stations etc, so as to ensure that generation of Sarju-III & Sarju-II and other upcoming generators in the vicinity of Kapkote region does not get bottled-up”. However, almost one year have passed and still the works w.r.t. the additional Panther Conductor Circuit are pending.
- (iii) It would also be relevant to bring out that Supplementary Implementation for Sarju-II was signed by GoU with the generator on 20/04/2011 and that of Sarju-III was signed on 03/06/2011, however, UPCL completely ignored the fact that two SHPs having combined capacities of about 25 MW were to be commissioned in the region and did nothing to augment its evacuation infrastructure. Findings of the Commission in this regard in Order dated September 11, 2015 is reproduced hereunder:

“UPCL has not planned in a coordinated manner with PTCUL and execution of necessary augmentation work has been tardy, be it replacement of Raccoon conductor by Dog or additional Panther conductor circuit between 33 kV Kapkote S/s and 33 kV Bageshwar S/s, for ensuring evacuation of existing/upcoming generators in the area technically feasible and also economically viable for them. On the contrary, it has come to the notice of the Commission that UPCL on account of above reason has been issuing instructions to restrict generation from the existing projects namely Sarju-III and Sarju-II in the Kapkote region which is blatant disobedience of the duties cast upon the licensee in the Act/Regulation under which UPCL has to play a pivotal role in providing evacuation system for transmitting power from the existing as well as upcoming Small Hydro Power projects in the State. Apathy shown on distribution licensee’s part towards evacuation of Power from their projects is in contravention to the provisions of the Act/Regulations. The Commission is of the view that bottling up of renewable power for want of proper evacuation capacity has been primarily on account of poor planning and lack of co-ordination between the transmission and distribution

licensee in the State."

- (iv) For effective power evacuation of RE power in the State the distribution licensee has been bestowed with the responsibility for the same and in the instant case UPCL has shown lackadaisical approach in providing the effective power evacuation system for the RE generators in the Kapkote/Bageshwar region. Having executed PPAs with the upcoming generators, simultaneous creation of adequate evacuation infrastructure including upgradation/augmentation of existing evacuations system became imperative with the commissioning of such generating stations and the same was the duty of the distribution licensee.
- (v) However, it may not be ruled out that the fault also lied with the generator. Power Purchase Agreement for Sarju-II SHP dated 16.12.2002 & supplementary PPA dated 26.02.2015 between M/s UBHP & UPCL, it has been observed that M/s UBHP was required to construct, operate and maintain 33 kV power evacuation line from generating station to 33 kV S/s Kapkote. The generator waited till its project was ready to be commissioned and applied to the Commission for LILO connectivity on 33 kV Kapkote-Karmi line of UPCL. However, to avoid bottling up of the generation, the Commission had vide its Order dated 02/07/2015 allowed LILO connection as an ad-interim arrangement for evacuation of power from Sarju-II generating station.
- (vi) The Commission in its Order dated 11.09.2015 has already held that the deemed generation claim, if any, on account of tripping of 33 kV Kapkote-Karmi line would not be justified in such circumstances and in case of interim LILO connection for evacuation of power from the concerned generator.
- (vii) The Commission had recognized the bottlenecks in the distribution system of UPCL for evacuation of power from RE sources including SHPs and had accordingly, amended its RE Regulations, 2010 to include the provision of deemed generation. However, UPCL has failed to develop prompt internal systems to identify the deficiencies in the existing evacuation system for the upcoming RE sources including SHPs in the State and rectify the same well in advance to avert invoking of deemed generation claims by the developers of these sources of generation in accordance with the RE Regulations.

(viii) Regulation 47 of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013 specifies as under:-

“47 Deemed Generation (Applicable only in case of Small Hydro Generating Plants & Solar PV & Solar Thermal Projects)

(1) After the COD of the Project, loss of generation at the Station on account of reasons attributed to the following, or any one of the following, shall count towards Deemed Generation:

- Non availability of evacuation system beyond the Interconnection Point; and*
- Receipt of backing down instructions from the SLDC.”*

(ix) Thus, from the above deemed generation is applicable only after CoD of the project and since the Sarju-II did not attain CoD, therefore, the claim of M/s UBHP with regard to deemed generation from 01.08.2015 till commissioning of the project is not justified. However, deemed generation for Sarju-II is applicable from CoD of the project subject to submission of such claim by the Petitioner in accordance with the provisions of the RE Regulations, 2013 to the Respondent. Provided that any loss of generation due to tripping of 33 kV Kapkote-Karmi line shall not counted as valid event for claim of deemed generation till evacuation of Sarju-II is being conducted through a interim LILO connectivity with the aforesaid line.

(2) Dedicated transmission line from Sarju-II to 33 kV Kapkote S/s

- (i) Submission of UBHP that it has completed construction of 5 km line from its Sarju-II project to 33 kV Kapkote S/s seems to be an attempt to shadow its obligation for completing the construction of 33 kV dedicated transmission line from its Sarju-II project to 33 kV Kapkote S/s. Since, its claim of completing 5 km of work is actually inclusive of 3 km line which is common for connectivity upto the LILO point and still work of approx. 10 km line is pending for connectivity of Sarju-II project upto 33 kV Kapkote S/s.
- (ii) The rationale submitted by M/s UBHP for its inability to complete its work of construction of line upto 33 kV Kapkote S/s does not appear to be satisfactory as only the last stretch of 0.5 km will actually be affected due to non confirmation of the exact location of gantry at 33 kV Kapkote S/s. Further, it is

observed that UPCL have blatantly rejected M/s UBHP's claim that it has constructed the 5 km line is also questioning M/s UBHP's efforts on ground for construction of 33 kV dedicated transmission line from its Sarju-II project to 33 kV Kapkote S/s. Infact, from the report of DM in compliance to the Commission's Order dated 09.08.2016 regarding the status of works to be completed by the generator and UPCL received in the Commission's office on 05.09.2016, it is evident that the generator had constructed only 2 km line from its SHP till 33 kV Kapkote S/s and that remaining work would be completed in next 6 month. Thus, it appears that M/s UBHP is trying to gain time extension for completing the works and is circumventing the matter by making baseless explanation for not being able to proceed with the construction of dedicated transmission line from Sarju-II project to Kapkote S/s.

- (iii) The Commission is of the view that from the very beginning of the project M/s UBHP was required to construct the line and even after a passage/lapse of almost 14 years, M/s UBHP is still circumventing the issue. Furthermore, even after the directions of the Commission issued vide Order dated 11.09.2015, the generator has so far completed only 2 km of line as is evident from the report of DM, Bageshwar and its claim that it has completed 5 km line work between Sarju-II and 33 kV Kapkote S/s stands void.
- (iv) From the above the Commission is of the view that M/s UBHP should work in the right earnest for completing the construction of dedicated 33 kV line from its Sarju-II SHP to 33 kV Kapkote S/s.

(3) LILO Connectivity for Sarju-II project

- (i) It is observed that M/s UBHP had repeatedly requested UPCL for providing interconnectivity of its Sarju-II project immediately after the Commission's Order dated 02.07.2015. However, despite its several requests UPCL should have asked M/s UBHP to first obtain clearance from Electrical Inspector and then approach them for LILO connectivity.
- (ii) It is observed that M/s UBHP's rationale that the Engineer of SBI had also certified that LILO transmission line has been completed upto Kapkote-Karmi transmission line is not justified. Infact, the Commission has observed that in

accordance with the Rules, the Electrical Inspector is authorized to declare that the HT line is ready for energisation and not the Engineer of SBI.

- (iii) The Commission has observed that the Electrical inspector inspected the site on 19.02.2016 and issued a NOC vide letter dated 02.03.2016.
- (iv) Thus, the Commission is of the view that M/s UBHP was not ready by 01.08.2015 as by that time it had neither taken approval from Electrical Inspector which was actually taken on 02.03.2016 nor had completed the installation of meters which was actually done on 08.05.2016.

(4) Testing of Meters

- (i) It is observed that necessary fees for testing & installation of meters was deposited by the generator on 15.06.2015 and the meters were sent to meter testing lab at Dehradun and the meters were got tested but could not be installed due to non-availability of inter-connectivity. Later, the meters were re-tested as the approval from Electrical Inspector was taken after a lapse of more than 6 months by M/s UBHP.
- (ii) Thus, the Commission is of the view that No Objection Certificate (NOC) from Electrical Inspector for electrical safety of the equipments/system is a mandatory obligation which is to be complied by any entity and after obtaining NOC only meter installation can be done. Hence, the delay in installation of meter was solely on account of delay in taking NOC from the Electrical Inspector as in the instant case the requisite fee for electrical safety inspection to the CEI was deposited on 12.02.2016 which clearly shows delay on the part of M/s UBHP.

(5) Power Evacuation System

- (i) It is observed that UPCL has not taken action for augmenting the existing power evacuation capacity at Kapkote S/s for catering to the upcoming generation in the area considering the economics of Power Transmission/evacuation. Moreover, it has come to the notice of the Commission that UPCL is restricting the power generation of generators in the Kapkote region on the pretext of insufficient power evacuation system between Kapkote and Bageshwar which is against the Act/Regulations.

- (ii) Regulation 39 of UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Sources and non-fossil fuel based Co-generating Stations) Regulations, 2013 specifies that:-

“39. Evacuation of Power

(1)Transmission Licensees and Distribution Licensees shall endeavor to provide connectivity to the RE Based Generating Stations and Co-generating Stations at nearest possible sub-station preferably within a range of 10 kilometers from the location of such generating station. They may further mutually agree to provide connectivity at appropriate voltage level subject to technical feasibility and technical standards for construction of electrical lines and connectivity with the grid as may be specified by CEA.”

- (iii) From the above Regulation, it is clear that UPCL has an important role to play in harnessing the huge potential of SHPs in the State. However, the indifference shown on its part towards evacuation of Power from SHPs is dismal throughout the State. The Commission is of the view that bottling up of power due to insufficient evacuation capacity for any reason cannot be accepted in any case.
- (iv) UPCL has shown a complete apathy in providing prompt connectivity to M/s UBHP Sarju-II project and infact this scenario is common in the whole State where the Small Hydro Power Plants are struggling in evacuating their power generation resulting in bottling-up of the generation. On one side, UPCL is defaulting in terms of RPO compliances and on the other it is indifferent in taking power from RE sources located within the State.

(Petition No. 36 of 2016)

30. On examination of the petition and replies by the Petitioner (UPCL) & Respondent (M/s UBHP) in the matter the Commission has observed that:-

- (i) No new fact has been brought out by UPCL in support of its request for disallowance of deemed generation claim by M/s UBHP for Sarju-III project. Further, it is observed that the Commission had already dealt the matter of deemed generation pertaining to Sarju-III project vide its Order dated 08.06.2016 and October 28, 2016 and the Commission finds that no new fact of compelling nature has been brought out by UPCL which can lay the basis for disallowance of deemed generation claimed for Sarju-III project. Moreover, UPCL in its petition at Para (xii)

has itself agreed that the claim of deemed generation for Sarju-III SHP is maintainable as per present regulations.

- (ii) UPCL in its petition submitted that due to limitation in evacuation facility in the region generation from one SHP will effect generation from another SHP. UPCL submitted that while calculating deemed generation for Sarju-III SHP reason attributable to other generating SHP should be considered, however, this would complicate the matter in determination of exact impact of other SHPs. In this regard, the Commission is of the view that every project is unique in terms its generation and responsibility of evacuation facility as provided in the regulations. Impact of generation from other generating facilities in no way provides relaxations to UPCL for deemed generation loss caused to Sarju-II SHP.
- (iii) With regard to disallowance of deemed generation claim for Sarju-II project, the Commission has observed that in case of Sarju-II project the generator itself was in default of not honoring the clauses of the PPA wherein it was the responsibility of the generator to construct a dedicated 33 kV line from Sarju-II project to 33 kV Kapkote S/s and it was in the interest of M/s UBHP that the dedicated line is constructed within the 12 months from the date of the Commission's Order dated 11.09.2015. However, M/s UBHP itself showed a callous approach in constructing the 33 kV dedicated line and tried to seek extension for construction of the same on the pretext of non-confirmation of gantry location at 33 kV S/s Kapkote. This fact is itself complete for the Commission for drawing the conclusion that deemed generation claim of M/s UBHP for its Sarju-II project is not justified for its LILO connectivity on 33 kV Kapkote-Karmi line till it completes the construction of dedicated 33 kV line from its Sarju-II project to 33 kV Kapkote S/s as per agreed PPA and supplementary PPA between M/s UBHP & UPCL.
- (iv) Further, relaxation in regulations, if any, is carried out keeping in view interest of all the stakeholders at large and not for the purpose of promoting inaction or procrastination of performing duties/responsibilities entrusted under the Act & Regulations.
- (v) Accordingly, UPCL's prayer vide petition no. 36 of 2016 seeking relaxation in regulations is disallowed.

31. In light of the above, it is ordered that:

UPCL is directed to:

- (i) Complete the work of additional panther conductor circuit between 33 kV S/s Kapkote and 33 kV S/s Bageshwar latest by February, 2017 and submit monthly progress report to the Commission within 7 days of the end of each month.
- (ii) In case of failure on part of UPCL resulting in non-completion of the additional panther conductor circuit, action under provisions of Section 142 of the Electricity Act, 2003 may be initiated against it.
- (iii) Comply with the Commission's directions issued at 4.12 a), b) & c) of the Order dated 08.06.2016 in the matter of Adjudication of dispute pertaining to Sarju-III project and provide deemed generation claim to M/s UBHP for its Sarju-III project in accordance with the provisions of the RE Regulations.

M/s UBHP is directed to:

- (i) Complete the construction of dedicated 33 kV line from Sarju-II project upto 33 kV S/s Kapkote as per agreed PPA and supplementary PPA between M/s UBHP & UPCL latest by February, 2017. Any deemed generation claim for Sarju-II project shall be admissible to M/s UBHP only after February, 2017 subject to completion of the construction of dedicated 33 kV line from Sarju-II project upto 33 kV S/s Kapkote by M/s UBHP.
- (ii) Comply with the Commission's direction at 4.12 a) of the Order dated 08.06.2016 in the matter of Adjudication of dispute pertaining to Sarju-III project.

Both the parties are directed to:

- (iii) With respect to Deemed Generation claim for Sarju-II, both the Petitioner and the Respondent to jointly sit together for monthly reconciliation of the deemed generation claimed by the Petitioner and settle the amount so arrived at within two months time in accordance with the provisions of the Regulations and findings of the Commission in this Order.
- (iv) UPCL to submit fortnightly progress report of the same before the Commission jointly signed by both the parties failing which the Respondent will render himself liable for action under Section 142 of the Electricity Act, 2003.

(v) The Petitioner granted leave to agitate the issues remaining disputed after two months.

32. Ordered accordingly.

(K.P. Singh)
Member

(Subhash Kumar)
Chairman