

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Suo-Moto

In the matter of:

Applicability of Rate Schedule RTS-4A: Agriculture Allied Activities on the connection no. 557 issued to M/s Flex Foods Limited at their Mushroom Farm at Chidderwala, Dehradun.

In the matter of:

Uttarakhand Power Corporation Ltd.

... Respondent

CORAM

Shri Subhash Kumar Chairman

Date of Order: March 29, 2017

This Order relates to the issue related to the applicability of consumer tariff in respect of mushroom-cultivation being carried out by M/s Flex Foods Ltd. (herein after referred to as "Consumer") in its Farm situated at Chidderwala, Dehradun.

1. Background

- 1.1 M/s Flex Foods Ltd. had vide its letter dated 21.12.2016 stated that its unit at Chidderwala, Dehradun is engaged in cultivation of fresh mushroom where 1000 kVA electricity connection no. 557 was issued by the Distribution Licensee (hereinafter referred to as "Respondent" or "UPCL"). M/s Flex Foods Ltd. had submitted that the mushroom growing is an agricultural activity and, therefore, its mushroom cultivation farm should be categorized under RTS-4A applicable for Agriculture Allied Activities. However, the consumer submitted that billing of its above mentioned connection is being carried out by UPCL under RTS-7 category specified for industrial category.
- 1.2 The Consumer submitted that it had approached UPCL earlier in the matter vide its letter dated 03.11.2016 addressed to Chief Engineer (Distribution), UPCL and copy endorsed to Director (Operations), UPCL, however, no communication was received by it from UPCL in

the matter.

- 1.3 The Commission, on receipt of the above referred representation from M/s Flex Foods Ltd., asked UPCL for submission of its comment alongwith action taken in the matter. In response, UPCL had vide its letter dated 24.12.2016 submitted that M/s Flex Foods Ltd. procures its raw material from elsewhere and process, store and packs the same in the premises where the connection has been released. The Respondent submitted that as these activities are clearly covered under RTS-7, therefore, the electricity connection of the consumer is rightly covered under RTS-7 and, hence, cannot be converted into RTS-4A. Copy of the UPCL's response was forwarded to the Consumer.
- 1.4 M/s Flex Foods Ltd. vide its letter dated 17.01.2017 requested the Commission to depute from the Commission's office or to appoint any third party to inspect and ensure that its unit at Chidderwala, Dehradun is engaged in growing of fresh mushroom. The Consumer vide its aforesaid letter also enclosed the details of fresh mushroom production of last five years duly certified by an independent Chartered Accountant alongwith photographs of its Mushroom cultivation farm. The consumer further requested the Commission to categorize its mushroom cultivation farm under RTS-4A applicable for Agriculture Allied Activities.
- 1.5 The Commission vide its letter dated 19.01.2017 directed UPCL to form a joint team comprising of Chief Engineer, Distribution (Garhwal Zone), UPCL and Chief Engineer (Comml.), UPCL Head Quarter for inspection of the activity being carried out at the electricity connection no. 557 for verification of the claims made by M/s Flex Foods Ltd. and submit the inspection report to the Commission within 10 days. UPCL vide its letter no. dated 17.02.2017 submitted the report of the Committee comprising of Er. A.K. Singh, Chief Engineer (Commercial), UPCL and Er. S.K. Tamta, Chief Engineer (Distribution), Garhwal Zone, UPCL for the inspection of the activity carried out by M/s Flex Foods Ltd. on its electricity connection.
- 1.6 On perusal of the inspection report submitted by UPCL it was observed that no such process is being carried out by the consumer which disallows it to be covered under RTS-4A category. The Commission vide its notice dated 01.03.2017 asked UPCL for submission of the justification as to why the conversion of consumer's billing category was not carried out since the categorization of RTS-4A had already been elaborated w.e.f. 01.04.2015. UPCL was also directed to show-cause for delay in initiation of appropriate action in the matter. UPCL vide its reply dated 09.03.2017 submitted that earlier M/s Flex Foods Ltd. had applied for a load

of 1600 kVA in 1992 and the same was allowed under HV-2 category which was then applicable for large and heavy power, thereafter, by reducing their load to 1000 kVA the Consumer also had applied for continuous supply.

- 1.7 The Respondent further submitted that the consumer vide its letter dated 03.11.2016 first time made a request for revision of bills w.e.f. 01.04.2016 as per rate schedule RTS-4A in place of RTS-7. UPCL submitted that as per Tariff Orders issued by the Commission, RTS-4A shall be applicable for supply of power for use in nurseries growing plants/saplings and also for polyhouses growing flowers/vegetables and fruits which does not involve any kind of processing of product except for storing and preservation. UPCL contended that M/s Flex Foods Ltd. is neither growing plants/saplings in a nursery nor its setup is polyhouse based. UPCL has requested the Commission not to initiate any proceedings under section 142 of the Electricity Act, 2003 and direction given in show-cause notice for converting the connection of M/s Flex Foods Ltd. be modified/reconsidered and UPCL may be exempted from complying with the same.

2. Commission's Views & Decisions

- 2.1 On receipt of representation of various suggestions from stakeholders including Government of Uttarakhand, the Commission had created a new sub-category namely, "Agriculture Allied Activities" w.e.f. 01.04.2015 for consumers engaged in activities similar to that of Agriculture Activities. The Commission in order to avoid any ambiguity in identifying such consumers had defined this sub-category "Agriculture Allied Activities" as follows:

"Agriculture Allied Activities: All Consumers involved in nurseries growing plants/saplings, polyhouses growing flowers/vegetables and fruits which doesn't involve any kind of processing of product except for storing and preservation."

- 2.2 The above referred provision of the RTS-4A has been made applicable w.e.f. the Tariff Order for FY 2015-16 with the intent to cover all the plant/sapling/vegetable/fruit growing activities including and not limited to cultivation of mushrooms which does not involve further processing leading to change in form of the product. Apparently, growing/cultivation of any vegetable/fruit not involving processing (which may consequently change the form of the product) is covered under RTS-4A category. Besides further, storing and preservation of product has been allowed under the said category.
- 2.3 The Commission noted that UPCL's officers in their report itself have clarified that there is

no processing of ready mushroom is being carried out at the Consumer's premises. Relevant extract of the same is reproduced as under:

"Mainly Air Heaters, Blowers, Air-conditioning units are being used by the consumers for maintaining the temperature/humidity required for growing the mushroom in controlled environment.

Therefore, it is evident that M/s Flex Foods Ltd., is involved in growing of fresh Mushroom which does not involve processing of ready Mushroom at this site of connection. The electricity is being used to prepare manure, seeds, growing of mushrooms, lighting and storing. All the mushrooms are grown within this farm/plant and there is no electric plants/unit in the farm which processes the grown-up mushrooms. There are air conditioned store rooms for temporarily storing the ready mushroom before sending these to market."

The Commission noted that on inspection of the Consumer's premises the Respondent has verified and agreed upon the fact that M/s Flex Foods Ltd., is involved in growing of fresh Mushroom which does not involve processing of ready Mushroom at this site of connection. However, only reservation of the Respondent for not converting Consumer's connection from existing RTS-7 category is that the Consumer is neither growing its product in a nursery nor its setup is polyhouse based. Hence, it should not be considered under RTS-4A category.

2.4 In this regard, relevant condition for applicability of RTS-7 (LT and HT Industry) specified in the Tariff Orders issued by the Commission is as follows:

"This schedule shall apply to supply of power to:

- (i) Industries and /or processing or agro- industrial purposes, power loom as well as to Arc/Induction Furnaces, Rolling/Re-rolling Mills, Mini Steel Plants and to other power consumers not covered under any other Rate Schedule*
- (ii) The vegetable, fruits, floriculture & Mushroom integrated units engaged in processing, storing and packaging in addition to farming and those not covered under RTS-4A shall also be covered under this Rate Schedule."*

Hence, power supply to vegetable, fruits, floriculture & Mushroom integrated units would be covered under RTS-7 category if they are engaged in processing of their product in addition to storing, packaging and farming. Further, provisions specified in RTS-4A category allow for storing and preservation in addition to growing plants/saplings/flowers/vegetables and fruits and no further processing.

- 2.5 The above referred provision of the RTS-4A has been made applicable w.e.f. Tariff Order for FY 2015-16 with the intent to cover all the plant/sapling/vegetable/fruit growing activities including and not limited to cultivation of mushrooms which does not involve further processing leading to change in form of the product. Apparently, growing/cultivation of any vegetable/fruit not involving processing (which may consequently change the form of the product) is covered under RTS-4A category. Moreover, as discussed above UPCL has also in its report clarified that no processing of ready mushroom is being carried out at the Consumer's premises. Further, not having nursery or polyhouse based setup does not disqualify a consumer to be covered under RTS-4A category given the very fact that the Consumer is engaged in cultivation of mushroom and its subsequent storing & preservation only, irrespective of the size of the sanctioned load.
- 2.6 **In light of the facts and provisions mentioned in the Tariff Orders issued by the Commission as discussed above, the Respondent is, hereby, directed to convert the consumer's connection from RTS-7 to RTS-4A immediately w.e.f. 01.04.2015 and report compliance within 15 days of the Order.**
- 2.7 Ordered Accordingly.

(Subhash Kumar)
Chairman