

Before

# UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 27 of 2019

**In the matter of:**

Petition for review of the Commission's Order dated 27.02.2019 on True up for FY 2017-18, Annual Performance Review for FY 2018-19 and Annual Revenue Requirement for FY 2019-20.

**In the matter of:**

Uttarakhand Power Corporation Ltd.

...Petitioner

CORAM

**Shri D. P. Gairola**            **Member-Chairman**

**Shri M. K. Jain**            **Member**

**Date of Order: October 25, 2019**

Uttarakhand Power Corporation Ltd. (herein after referred to as "UPCL" or "the Petitioner") has filed a Petition for review of Commission's Order dated 27.02.2019 on True up of FY 2017-18, APR for FY 2018- 19 and ARR for FY 2019-20 under Section 94(1)(f) of the Electricity Act, 2003 (herein after referred to as "the Act"), Regulation 54(1) of the Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014 (herein after referred to as "UERC CBR") and under Section 114 and Order XLVII of the Code of Civil Procedure 1908.

## **1 Background**

1.1 The Commission had notified Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2018 (hereinafter referred to as "UERC Tariff Regulations, 2018") for the third Control Period from FY 2019-20 to FY 2021-22 specifying therein terms, conditions and norms of operation for licensees, generating companies and SLDC. The Commission had issued the Multi Year Tariff (MYT) Order dated February 27, 2019 for the Control Period FY 2019-20 to FY 2021-22. In accordance with the provisions of the UERC Tariff Regulations, 2015, the Commission had carried out Annual Performance Review for FY 2018-19 and truing up for FY 2017-18 vide its Order dated

27.02.2019.

The Petitioner filed a Review Petition dated 22.07.2019 on the grounds that there were certain errors apparent on the conclusions drawn on certain issues by the Commission in its Tariff Order dated 27.02.2019. The Review Petition as per Regulation 54(1) of the UERC (Conduct of Business) Regulations, 2014 was required to be filed by 28.04.2019. Further, as per Regulation 10 of the said Regulations, resolution of the Board of Directors is required to be annexed with the Review Petition. As the meeting of the Board of Directors of the Petitioner company could not be scheduled during 27.02.2019 to 19.06.2019, the Petitioner submitted that this Review Petition could not be filed within due date, i.e. by 28.04.2019. The Petitioner requested the Commission to condone the delay in submission of the Petition.

- 1.2 The Commission in order to provide transparency to the process of tariff determination and give all the stakeholders an opportunity to submit their objections/suggestions/comments on the proposals of the Distribution Licensee, directed UPCL to publish the salient points of its proposals in the leading newspapers. The salient points of the proposal were published by the Petitioner in the following newspapers:

**Table 0.1: Publication of Notice**

S. No.	Newspaper Name	Date of Publication (Notice related to Review Petition dated 22.07.2019)
1.	Amar Ujala	01.08.2019
2.	Dainik Jagran	01.08.2019
3.	Hindustan (Hindi)	01.08.2019
4.	Indian Express	02.08.2019
5.	Times of India	02.08.2019
6.	Hindustan Times	02.08.2019

Through above notice, the stakeholders were requested to submit their objections/suggestions/comments latest by 19.08.2019 on the Review Petition filed by UPCL (copy of the notice is enclosed as Annexure I). The Commission received in all 4 objections/suggestions/comments in writing on the Review Petition filed by UPCL.

- 1.3 The issues raised by the Petitioner in the Petition as well as in the additional submissions made, comments of the Stakeholders and Petitioner's response on the same, alongwith the analysis of the Commission are dealt in the subsequent Section.

## **2 Stakeholders' Objections/Suggestions, Petitioner's Responses and Commission's Views**

The Commission has received suggestions and objections on UPCL's Petition for review of Tariff Order dated 27.02.2019 on True-up for FY 2017-18, Annual Performance Review of FY

2018-19 and Determination of Annual Revenue Requirement for FY 2019-20. The Commission also held a public hearing in the matter on 21.08.2019. The Commission also obtained responses from UPCL on the comments received from the stakeholders.

Since, several issues are common and have been raised by more than one Respondent, all suggestions/responses/comments have been clubbed issue-wise and summarized below.

## **2.1 General**

### **2.1.1 Stakeholder's Comments**

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that the present review petition filed by UPCL for revising existing tariff for the FY 2019-20 is not acceptable, since it is not only unjustified but also it is against the statute, i.e. Electricity Act 2003, National Tariff Policy 2016 and UERC Regulations. Shri Siddiqui also submitted that the Tariff hike proposed by UPCL is not maintainable as the Electricity Act, 2003 clearly states that tariff may be amended only once a year, which has already been done, and the only change that is permissible is FCA which is being charged by UPCL since April 2019.

M/s Asahi India Glass Ltd. submitted that these unexpected Petitions for increasing power rate by UPCL has created a feeling of strong resentment amongst manufacturing units as they are already struggling with different issues like market slump, challenges from competitors, increase in raw material cost etc. Further, from industry point of view, it is very difficult to survive if power tariffs are projected to be escalated by repeated Petitions, and therefore, there should not be any Tariff hike.

M/s India Glycols Limited and Shri P.K. Rajput from Alps Industries Ltd. submitted that UPCL regularly charges FCA which impacts all the consumers of the State throughout the year. Further, the tariff has already been increased vide Commission's Order dated 27.02.2019 which has been fixed for the entire FY 2019-20, and any further increase in tariff will have a negative impact on industries of Uttarakhand. It was also submitted that UPCL has done a few agreements at very high cost, i.e. @ 8.76, 7.35, 9.07, 6.10, 6.33, 5.83, 7.74, 5.93, 5.64/unit in the past which has resulted in the high average power purchase cost, thus affecting all the consumers of Uttarakhand. It was further submitted that earlier also UPCL had increased their tariff twice in a year, once from 01.04.2017 and then 26 paise per unit as additional energy charge from 01.07.2017 to 31.03.2018. It was submitted that this practice of tariff increase twice in a year should not be entertained by the Commission.

M/s IGL further submitted that they are already paying very high demand charges as compared to other neighbouring States, which should also be taken into account.

Shri P.K. Rajput from Alps Industries Ltd. submitted that the electricity tariff should not be revised this year, particularly for Textile Sector, and rather UERC should consider extending some concessions for smooth working of the Spinning Units in the State. Shri Rajput also submitted that as per Government of Uttarakhand Order, a rebate of Rs. 1 p.u. has to be allowed to textile industries with 100% exemption in electricity duty.

### **2.1.2 Petitioner's Reply**

In this regard, the Petitioner submitted that UPCL is a commercial organization and is required to meet its Annual Revenue Requirement out of the revenue realized from the consumers through electricity tariffs. UPCL submitted that against the proposed tariff hike of 13.71% for FY 2019-20, the Commission approved only 3.47% increase in tariff. UPCL further submitted that justification has been provided for additional claim of Rs. 440.11 Crore in the review Petition, in respect of each claim. The Petitioner also submitted that in case the recovery of the expenditure is not allowed to UPCL, the quality of supply to the consumers will be affected.

The Petitioner, with respect to objections regarding hike in Tariff more than once in a financial year, submitted that the Commission has made various mistakes/left genuine facts which have considerable impact on tariff, the situation has become extra ordinary and, therefore, the recovery of legitimate expenses has to be made by amending the tariff as approved by the Commission vide its Tariff Order dated 27.02.2019.

The Petitioner further submitted that Section 62(4) of the Electricity Act, 2003 and Regulation 83 of UERC Tariff Regulations, 2015 mandates the imposition of Fuel Charge Adjustment for recovery of additional power purchase cost over and above the approved power purchase cost, and accordingly, FCA is being charged by the Petitioner only when the actual power purchase cost in any quarter is more than the approved/considered power purchase cost for that quarter in the Tariff Order.

The Petitioner further with respect to high demand charges submitted that Section 45(3) of the Electricity Act, 2003 mandates for imposition of fixed charge in addition to the energy charge for electricity supplied. UPCL is required to be ready to supply energy according to the contracted capacity of the consumer, irrespective of the actual consumption of energy, and to cater to the same, a certain amount of expenditure is

necessarily required to be incurred by UPCL, which is not related to energy consumed, rather relates to the contracted load of the Consumer, and the recovery of this amount is done through demand/fixed charge whether or not the consumer consumes electricity. Further, the other costs incurred by UPCL apart from power purchase cost are around 10% to 15% of total cost and are fixed in nature, which is required to be recovered through fixed/demand charges. UPCL submitted that in the absence of fixed charge, the burden of expenditure incurred for creation of infrastructure pertaining to the consumers not using their electricity connections, shall be shifted to the consumers who use their electricity connections.

The Petitioner further submitted that all efforts are being made for regular reduction in power purchase cost, and as compared to other States, UPCL's power purchase cost is on lower side. UPCL also submitted that as per section 3 of Uttar Pradesh Electricity (Duty) Act (Uttarakhand adaptation and modification) order 2001, the State Government is empowered to fix the rates of Electricity Duty to be charged from various categories of consumers. Government of Uttarakhand vide its notification no. 79/I/2016-01(3)/01/2003, dated 25-01-2016 has fixed these rates applicable w.e.f. 01.01.2016, and UPCL is charging electricity duty as per Government orders. The Electricity duty charged from consumers is payable by UPCL to GoU, and therefore, the issue related to exemption of electricity duty and rebate may be taken up with GoU.

## **2.2 Maintainability of the Petition**

### **2.2.1 Stakeholder's Comments**

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that the current Review Petition filed by UPCL is not maintainable as the prescribed period of 60 days, as per Regulation 54(1) of the UERC (Conduct of Business) Regulations, 2014, to review the Order issued by the Commission has already lapsed on 27.04.2019.

### **2.2.2 Petitioner's reply**

UPCL submitted that as the Tariff Order was issued by the Commission on 27.02.2019, this review Petition, as per Regulation 54(1) of the UERC (Conduct of Business) Regulations, 2014, was required to be filed by 28.04.2019. Further, as per Regulation 10 of the said Regulations, resolution of the Board of Directors is required to be annexed with the review Petition. UPCL submitted that, as the meeting of the Board of Directors of the Petitioner company could not be scheduled during 27.02.2019 to 19.06.2019, this review Petition could

not be filed within due date, i.e. 28.04.2019, and accordingly, the Commission was requested to condone the delay in submission of the review Petition.

## **2.3 Distribution Loss Reduction trajectory**

### **2.3.1 Stakeholder's Comments**

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that the distribution losses have been a matter of concern for HT consumers. In the absence of voltage wise, category wise losses, HT consumers being 58.09% energy consumers of UPCL are being punished with 14.25% losses whereas in actual there is hardly 2% distribution loss in supplying energy by UPCL to HT consumers.

M/s Asahi India Glass Ltd. and M/s IGL submitted that UPCL's contention regarding adoption of erroneous methodology for computing Average Billing Rate by UERC is not tenable.

M/s IGL and Shri P.K. Rajput from Alps Industries Limited submitted that UPCL has not been able to reduce the distribution losses since last three years as mentioned by UERC and their board should take suitable action for reducing the distribution losses and theft as this is one of the reasons for less revenue collection.

### **2.3.2 Petitioner's Reply**

In this regard, the Petitioner submitted that the Regulation 91 of the UERC Tariff Regulations, 2018 provides that pending the availability of information that reasonably establishes the category wise/voltage wise cost to supply, average cost of supply shall be used as the benchmark for determining tariffs, and therefore, the proposal of UPCL in the matter is as per the provisions of Regulations.

The Petitioner also submitted that the methodology adopted by the Commission is erroneous as the tariff in case of domestic consumers is applicable based on per connection/consumer rather than per kW basis, and therefore, the computation of normative ABR using the benchmark of consumption per kW in the respective division is incorrect. Further, the normative ABR calculated using the aforementioned methodology of the Commission is also not comparable to actual ABR of other categories due to impact of other parameters such as voltage rebate, kVAh based billing, TOD tariff, surcharges, effect of seasonal consumption etc. in the tariff of FY 2017-18. UPCL further submitted that, various new divisions were formed in the mid of FY 2017-18 by transfer from the existing divisions, for

example, EDD (Rural), Dehradun was divided in the mid of the year into two divisions named as EDD (Rural), Dehradun and EDD, Mohanpur. The consumers and load was shifted to the newly formed division Mohanpur but the billed energy and revenue was not transferred before the period of creation of this division and therefore correct billed energy per kW and correct ABR cannot be computed from this data which has been used by the Commission in its computation.

The Petitioner also submitted that for reduction of distribution losses vigilance raids are being conducted and cases are being registered under Section 126 and 135 of Electricity Act, 2003. Legal proceedings are being initiated against the person(s) who is found indulging in theft of electricity. Further, mechanical meters are being replaced by electronic meters, defective Meters are being replaced, LT ABC is being laid in theft prone areas, automatic meter reading is being done of high value consumers, and android based billing has been introduced for improvement in billing efficiency. UPCL submitted that as a result of the above measures, reduction in distribution losses have been achieved as follows:

Year	Distribution Loss	Reduction in distribution loss
2013-14	19.18%	1.32%
2014-15	18.53%	0.65%
2015-16	18.01%	0.53%
2016-17	16.68%	1.32%
2017-18	15.17%	1.51%
2018-19	14.32%	0.85%

## 2.4 Capitalization, Interest on Loan, Return on Equity & Depreciation

### 2.4.1 Stakeholder's Comments

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that since the certificates of Electrical Inspector have not been submitted in respect of HT/EHT assets by UPCL, the capitalization should not be allowed.

M/s Asahi India Glass Ltd., Roorkee submitted that out of the net capitalization for FY 2016-17 amounting to Rs. 238.29 Crore, the Commission has approved only Rs. 142.15 Crore. M/s Asahi India Glass Ltd. submitted that how such a huge escalated cost was arrived without fulfillment of legal obligations, as it is clear from the Petition that UPCL has not submitted Electrical Inspector report in respect of energization of HT Works.

M/s Asahi India Glass Ltd., Roorkee and M/s IGL submitted that the calculations shown in review petition for REC Loan, Grant/Deposits and Interest resources for 2016-17

and 2017-18 seems to have much higher interest rates. Likewise interest on Loan and Return on Equity calculations seems to be irrational with very high interest rates like 11.04% and 16.50%. It was submitted that it is a matter of great concern for industries that how such commercial aspects are indirectly influenced to increase electricity unit rates due to which growth of business establishments setup in the State is hampered.

Shri P.K. Rajput from Alps Industries Limited submitted that depreciation need not to be claimed as an expense by UPCL.

#### **2.4.2 Petitioner's Reply**

In this regard, the Petitioner submitted that it has incurred capital expenditure for giving continuous and quality supply to the consumers of the State and in the absence of recovery of this expenditure alongwith eligible return on the same, the Petitioner shall face severe financial crisis and, therefore, recovery of this expenditure alongwith financing cost of the same has been claimed in the review Petition.

Further, the Petitioner also submitted that it is in the process of collecting the certificates of the Electrical Inspector in respect of all the balance HT assets capitalized during the FY 2016-17 and FY 2017-18 and the same shall be provided to the Commission by 30.09.2019.

### **2.5 Repair & Maintenance expenses**

#### **2.5.1 Stakeholder's Comments**

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that UPCL has considered the capital expenses which have not been considered by the Commission amounting to Rs. 96.14 Crore and Rs. 391.02 Crore for claiming the R&M expenses in this review Petition, which should not be allowed.

M/s Asahi India Glass Ltd., Roorkee submitted that UERC must have taken all aspects in mind before approving capitalization amount of 6.53 Crore for FY 2017-18 and it is totally imaginary how the Petitioner has claimed an expense to the tune of Rs. 397.55 Crore under this head in the same financial year.

#### **2.5.2 Petitioner's Reply**

In this regard, the Petitioner submitted that R&M Expenses are based on the gross fixed assets but the assets for which certificates of Electrical Inspector could not be provided have not been considered by the Commission for computation of such expenses, and accordingly,

R&M Expenses have been claimed in the review Petition.

## **2.6 Administrative & General Expenses**

### **2.6.1 Stakeholder's Comments**

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that the Commission has already explained the reasoning for not considering the expenses of new nature, still UPCL has tried to raise the issue again, and therefore, UPCL's claim of Rs. 26.43 Crore towards administrative and general expenses should not be allowed by the Commission.

### **2.6.2 Petitioner's Reply**

In this regard, the Petitioner submitted that the Commission in the Tariff Order for FY 2019-20 has considered the capitalization rate of A&G Expenses @ 59.50% but the detailed computation has not been provided in the order. The Petitioner submitted that they had provided a detailed computation of such capitalization rate in its review Petition which comes out to 33.69%, and accordingly, revision in A&G Expenses has been claimed in the review Petition.

## **2.7 Interest on Working Capital**

### **2.7.1 Stakeholder's Comments**

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that the calculations are made and allowed by the Commission as per Regulations prevailing in Uttarakhand, and UPCL in its own interest is comparing the Commission's Regulations with that of Delhi and Odisha, hence, claim of Rs. 28.10 Crore on this account should not be allowed to UPCL towards non-tariff income.

M/s Asahi India Glass Ltd., Roorkee also opposed the claim of UPCL regarding Interest on Working Capital.

### **2.7.2 Petitioner's Reply**

In this regard, the Petitioner submitted that UPCL accepts security deposits from the consumers against credit supply of electricity to them. The interest on these security deposits is paid to the consumers by UPCL which is allowed by the Commission in the ARR. The Commission also allows UPCL to use the amount of security deposits as working capital and, accordingly, the working capital requirement and interest on working capital is reduced by the Commission. With a view to maximise use of resources (amount of security

deposits) and to maintain the liquidity for refund to the consumers in case of permanent disconnection of their supply, UPCL keeps the amount of this security deposits with banks in term deposits and the bank overdraft is availed for working capital requirement against such deposits. UERC considers the entire amount of interest earned on these term deposits as income of UPCL and passes on the same to the consumers resulting in reduction in tariff. However, only 1/3<sup>rd</sup> of the interest paid on bank overdraft availed against the term deposits is allowed to UPCL which results in loss of 2/3<sup>rd</sup> amount of interest paid on bank overdraft to UPCL. In case UPCL uses the amount of security deposits to fulfill its working capital requirement, no interest on bank overdraft will be paid and no interest on term deposits will be earned. In this situation, there will be no loss to UPCL due to no disallowance of interest on working capital but there will be substantial loss to the consumers of the State because no interest will be earned on term deposits which is passed on to the consumers and it will be much higher than interest paid on bank overdraft. The said position for FY 2017-18 is explained in the following table:

<b>Cost</b>	<b>Income / benefit</b>
Interest paid on the amount of security deposits to the consumers (Rs. 41.16 Cr.) : Allowed by UERC	Working capital requirement of UPCL is reduced by UERC for usage of amount of security deposits (Rs. 727.40 Cr.) : Benefit of interest on this security deposits is passed on to the consumers
To meet its working capital requirement, UPCL avails bank overdraft against the term deposits but UERC only allows 1/3 <sup>rd</sup> of such interest to UPCL (1/3 <sup>rd</sup> of Rs. 32.53 Cr. = Rs. 10.84 Cr.) : Only 1/3 <sup>rd</sup> interest is allowed by UERC	The amount of security deposits is not directly used by UPCL to meet its working capital requirement and the same is kept with banks in term deposits. Interest on all term deposits (including amount received as security deposits) is passed on to the consumers by UERC (Rs. 61.70 Cr.) : Benefit of interest on security deposits is again (twice) passed on to the consumers by UERC
There is direct loss of 2/3 <sup>rd</sup> amount of interest paid on bank overdraft (Rs. 2/3 <sup>rd</sup> of Rs. 32.53 Cr. = Rs. 21.69 Cr.)	

## **2.8 Deferment of past recovery on account of true up for FY 2017-18**

### **2.8.1 Stakeholder's Comments**

Shri Shakeel A. Siddiqui from M/s Kashi Vishwanath Textile Mill (P) Limited submitted that the Commission has as per prevailing accounting principles considered the revenue surplus of Rs. 305.31 Crore in a single year. Hence, no claim of Rs. 205.54 Crore, need to be allowed to UPCL towards 2/3<sup>rd</sup> of revenue surplus in FY 2017-18. Further, M/s India Glycols Ltd. submitted that previous year's adjustment should not be made as it amounts to penalizing present consumers.

## **2.8.2 Petitioner's Reply**

In this regard, the Petitioner submitted that the Commission while determining the ARR for FY 2019-20 reduced the previous period revenue surplus amounting to Rs. 305.31 Crore. Such a heavy reduction in the ARR of a single year has resulted in the Petitioner company facing difficulty in managing its expenses for FY 2019-20 and, therefore, request has been made to recover the said revenue surplus in three equal installments starting from FY 2019-20.

## **3 Petitioner's submission, and Commission's Analysis and Ruling**

### **3.1 Powers of the Commission and Grounds for Review**

**3.1.1** Before going into the merits of the Petition filed by UPCL on various issues, the Commission first looks into the powers vested in it to review its Orders for taking a view on maintainability of the Petition. 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 exercises such powers under section 114 and Order XLVII of the Code of Civil Procedure, 1908 (CPC). The powers available to the Commission in this connection have been defined in Section 114 and Order 47 of the CPC. Under the said provisions, review of the Order is permitted on three specific grounds only, namely:

- a. 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.
- b. Mistake or error apparent on the face of the record; or
- c. Any other sufficient reasons.

**3.1.2** The application for review has to be considered with great caution to necessarily fulfil one of the above requirements to be maintainable under law. On the discovery of new evidence, the application should conclusively demonstrate that (1) such evidence was available and is of undoubted character; (2) that it was so material that its absence might cause miscarriage of justice; (3) that it could not be even with reasonable care and diligence brought forward at the time of proceedings/passing of Order. It is well settled principle that new evidence discovered, if any, must be one, relevant, and second, of such character that had it been given during earlier proceedings, it might possibly have altered the Judgment.

**3.1.3** It is a well-settled law that a review of the Orders of the Court/Commission should be used sparingly after examining the facts placed before the Court. An erroneous view or erroneous Judgment is not a ground for review, but if the Judgment or Order completely ignores a positive rule of law and the error is so patent that it admits of no doubt or dispute, such an error must be corrected in the review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for a patent error. A review can only lie if one of the grounds listed above is made out.

**3.1.4** With this background on legal provisions related to Review Petition, the Commission has examined the issues raised by the Petitioner to assess whether all or any of the issues raised by the Petitioner qualify for review.

## **3.2 Distribution Losses**

### **Petitioner's Submissions**

**3.2.1** The Petitioner in the Review Petition submitted that the Commission in its Order dated 27.02.2019 had disallowed energy sales of 138.95 MUs in FY 2017-18 on account for low Average Billing Rate (ABR) across consumer categories in various divisions.

**3.2.2** The Petitioner submitted that the Commission in the impugned Order dated 27.02.2019 has re-casted energy sales for each division based on a normative ABR and energy consumption per kW per month for each consumer category. This methodology is erroneous due to the following reasons:

- (i) The tariff in case of domestic consumers is applicable based on per connection/ consumer rather than per kW basis and, therefore, the computation of normative ABR using the benchmark of consumption per kW in the respective division, as used by the Commission is incorrect. For instance the computation of normative ABR in respect of Domestic Category of EDD, Nainital (at table 4.3 of the impugned Order dated 27.02.2019) may be shown as follows:

S. No.	Particular	Values
1	Consumers (No.)	38947
2	Contracted Load (kW)	58008
3	Billed Energy (MU)	36.48
4	Revenue booked (Rs. lakh)	1126.49
5	Actual ABR (Rs.) (4/3)	3.09
<b>Commission's approach for computation of normative ABR</b>		
6	Consumption / kW/month (units) (3/2)	52.40
7	Energy charge as per Tariff Order (Rs. /unit)	2.55
8	Additional Energy Charge as per Tariff Order applicable for 9 months i.e. from July, 2017 to March, 2018 (0.20 / 12x9) (Rs. /unit)	0.15
9	Fixed Charge (Rs. /unit) (Rs. 45/52.40)	0.86
10	Normative ABR as per UERC (Rs. /unit) (7+8+9)	3.56
11	Normative Billed Energy (MU) (4/10)	31.65
12	Excess Billed Energy disallowed by UERC (MU) (3-11)	4.83
<b>Correct approach as per Petitioner for computation of normative ABR</b>		
13	Consumption/ consumer / month (units) (3/1)	78.05
14	Energy charge as per Tariff Order (Rs. /unit)	2.55
15	Additional Energy Charge as per Tariff Order for applicable 9 months i.e. from July, 2017 to March, 2018 (0.20 / 12x9) (Rs. /unit)	0.15
16	Fixed Charge (Rs. /unit) (Rs. 45/78.05)	0.58
17	Normative ABR (Rs./unit) (14+15+16)	3.28

- (ii) The Petitioner submitted that from the above computation it is clear that the approach for computation of normative ABR and normative Billed Energy by the Commission is not correct.
- (iii) Normative ABR calculated using the aforementioned methodology of the Commission is also not comparable to actual ABR of other categories due to impact of other parameters such as voltage rebate, KVAh based billing, TOD tariff, surcharges, effect of seasonal consumption etc. in the tariff of FY 2017-18.
- (iv) Further, various new divisions were formed in the mid of FY 2017-18 by transfer from the existing divisions. For example, Electricity Distribution Division (Rural), Dehradun was divided in the mid of the year into two divisions named as Electricity Distribution Division (Rural) Dehradun and Electricity Distribution Division, Mohanpur. The consumers and load were shifted to the newly formed division Mohanpur but the billed energy and revenue was not transferred before the period of creation of this division, and therefore correct billed energy per kW and correct ABR cannot be computed from this data which has been used by the Commission in its computation.
- (v) Further, when the actual billed energy is available in the record of the Petitioner, the computation of normative billed energy is not required and the Commission erred by doing the same in the Tariff Order.

**3.2.3** The Petitioner submitted that the Commission vide its Order dated 05.04.2016 had approved the Business Plan and Multi-year Tariff of the Petitioner Company for the second control period from FY 2016-17 to FY 2018-19, in which the distribution loss for FY 2017-18 was fixed at 14.75%. Against this, the Petitioner has achieved a loss level of 15.17% through consistent loss reduction measures.

**3.2.4** The Petitioner submitted that by recasting the energy sales for FY 2017-18, the Commission has estimated distribution loss of 16.22% and considered excess revenue of Rs. 64.16 Crore against Rs. 18.15 Crore proposed by the Petitioner while truing-up the revenue for FY 2017-18. The Petitioner, in this regard has claimed an amount of Rs. 55.98 Crore including carrying cost towards FY 2017-18.

**3.2.5** The Petitioner submitted that, the Petitioner has been requesting the Commission over the past years to revise the distribution loss trajectory since the trajectory for the second Control Period was not fixed on any study of distribution losses. The Petitioner had also appointed an independent consultant to conduct an energy audit for FY 2015-16 at the behest of the Commission. The findings of this energy audit for FY 2015-16 were as follows:

S. No.	Particulars	As per energy audit report	As per Commercial Diary
1.	Billing Efficiency	81.67%	81.99%
2.	Distribution Loss	18.33%	18.01%
3.	Collection Efficiency	106.60%	106.29%
4.	AT&C Loss	12.94%	12.85%

Although the results of the study were found very near to the actuals recorded by the Petitioner in its commercial diary, the Commission has not revised the distribution loss trajectory for the subsequent Control Period in the impugned Order dated 27.02.2019.

**3.2.6** The Petitioner further submitted that as per directions of the Commission, the Petitioner vide its letter no. 1712/UPCL/CE/CCP-II/23/2018-19(Feedback), dated 08.03.2019 appointed M/s. Feedback Infra Pvt. Ltd. for concurrent energy audit for billing parameters for two financial years (2019-20 & 2020-21) in respect of 16 high losses divisions. Additionally, the Commission in the impugned Order dated 27.02.2019 has also supported the Petitioner's claim that reduction of losses beyond 14.50% will be gradual.

**3.2.7** The Petitioner requested the Commission to set a realistic distribution loss trajectory for the third Control Period from FY 2019-20 to FY 2021-22. The Petitioner had claimed distribution losses for FY 2019-20, FY 2020-21 and FY 2021-22 as 14.67%, 14.42% and 14.17% respectively based on the actual distribution losses of the base year.

3.2.8 The Petitioner submitted a claim of Rs. 32.30 Crore towards the proposed distribution loss of 14.67% against the distribution loss of 14.25% approved by the Commission for FY 2019-20.

3.2.9 The Petitioner submitted that the Petitioner Company incurred a loss of Rs. 1448.98 Crore from FY 2003-04 to FY 2017-18 on account of recasting of billed energy and fixation of unrealistic distribution loss reduction trajectory.

### **Commission's Analysis and Ruling**

3.2.10 The Commission has been examining this issue of low Average Billing Rate for certain category of consumers in some divisions over past several years and have been continuously issuing the directions to the Petitioner to submit the reasons for actual Average Billing Rate (ABR) being lower than the approved ABR.

3.2.11 The Commission in its Tariff Order dated March 29, 2017 had analysed division wise commercial statement for FY 2015-16 and observed that like previous years, the average billing rate (ABR) of certain categories of consumers in some divisions were even less than the energy charge approved for that category and had directed the Petitioner as follows:

*"The Commission re-iterates its direction and provides final opportunity to UPCL to rectify such errors and, accordingly, directs UPCL to rectify such anomalies else the Commission would examine the matter and if required necessary corrections to this extent would be made in the subsequent years. Further, the Zonal Chiefs, the Circle Chiefs and the concerned Executive Engineers are hereby directed to examine the data with reference to their Divisions for FY 2014-15 and for FY 2015-16 and submit the justification to the Commission within 45 days of the date of Order on the above discrepancies failing which action may be initiated against them individually by the Commission under Section 142 of the Electricity Act, 2003 and also against the Directors of the Petitioner Company.*

*The Commission further directs UPCL to submit the findings of the study being carried out on sales, average load factor, average billing rate for FY 2015-16 within six months from the date of this Order along with the detailed action plan to rectify such errors."*

3.2.12 The Commission again in its Order dated March 21, 2018 while analysing the ABR of various consumer categories observed that the ABR of PTW consumer category was Rs. 1.41/kWh which was substantially lower than the approved Energy charge of Rs. 1.55/kWh. The Commission, therefore, directed the Petitioner to submit necessary justification for such anomaly. The Petitioner in response submitted that the same was on

account of withdrawal of previous billing without carrying out appropriate adjustment in sales. The Commission in the above Order directed the Petitioner as follows:

*“However, the Petitioner is directed to instruct its field officers to carry out the corresponding corrections in sales also in cases where billing is withdrawn. In future if such instances comes to the knowledge of the Commission, punitive action under Section 142 of the Electricity Act, 2003 may be taken against the errant officers of UPCL.”*

**3.2.13** The Commission during the proceedings of Tariff Order dated 27.02.2019 also sought the commercial diary of UPCL for FY 2017-18 to check division wise sales and revenue data. The Petitioner in its reply submitted the same. The Commission while analysing the same found that the ABR of almost all the categories for some of the divisions were abnormally low as compared to the ABR approved by the Commission. The Commission taking serious note of the same and the Petitioner’s continued non-compliance of the repeated directions of the Commission to rectify such data distortion decided to re-cast category wise sales of those divisions that have abnormally low ABR.

**3.2.14** The approach adopted by the Commission in re-casting the sales while carrying out the truing up for FY 2017-18 is detailed in the impugned Order dated 27.02.2019 which is consistent with the approach adopted not only by the Commission in its previous tariff orders but also by the Petitioner in re-casting of sales in previous tariff proceedings. The Petitioner itself in the previous proceedings used to recast the sales of unmetered categories based on the load factor of the metered consumers of the category which was based on the total load of the consumers in that category. The Petitioner in its Review Petition has submitted that the approach adopted by the Commission for re-casting the sales is not correct. In this regard, the Commission would like to highlight that the Commission in its previous Tariff Orders has also been re-casting the sales for unmetered categories/sales booked on assessed consumption based on the load factor of metered consumers which was nothing but consumption divided by load. Hence, this is not the first time that the Commission has re-casted the sales of UPCL. The Commission from time to time has issued several directions to UPCL for correcting these anomalies but the Petitioner had failed to take any concrete action on the same. The re-casting of energy sales done by the Commission in previous Tariff Orders have attained finality. The Commission continuing with the practice adopted in previous Tariff Orders has re-casted the sales of UPCL for FY 2017-18 as well.

**3.2.15** The Petitioner submitted that the approach adopted by the Commission for re-casting the

sales for domestic consumers based on normative ABR and energy consumption per kW per month for domestic consumers is not a correct approach as the tariff in case of domestic consumer is applicable based on per connection rather than per kW basis. Further, the Petitioner in Review Petition has also suggested the alternative approach for computing the normative ABR for domestic category to be used for re-casting the sales. Hence, the Petitioner itself is admitting that the actual ABR is not correct and the same needs to be corrected for deriving the re-casted sales. Therefore, the argument of the Petitioner that when the actual billed energy is available in the record of the Petitioner, the computation of normative billed energy is not required and the Commission has erred by doing the same in Tariff Order is contradictory to the Petitioner's own submission of re-casting the energy sales using the approach of consumption per consumer instead of consumption per kW.

**3.2.16** As regards the approach adopted by the Commission it is clarified that the tariff in case of domestic consumers is not applicable on per connection basis. Fixed charges of only BPL consumers are based on per connection and fixed charges for other domestic consumers are related to the consumption of electricity. However, even assuming the Petitioner's contention to be correct, it does not imply that consumption of all the domestic consumers will be more or less same as the consumer with small house will consume less and the consumer with bigger house will consume more energy per month. In order to adopt certain scientific method for re-casting the sales, the Commission has adopted the approach of consumption per kW of connected load. The consumption of any consumer depends upon the rating of appliances used in its premises based on which the connected load is derived and hence it is more realistic approach to consider the consumption per kW benchmark.

**3.2.17** Some of the other reasons mentioned by UPCL for actual ABR being lower than the normative ABR for other categories is due to impact of other parameters such as voltage rebate, kVAh based billing, TOD tariff, surcharges, effect of seasonal consumption, etc. In this regard, it is important to note that most of these aspects are duly considered while computing the revenue as part of Tariff Order and hence, Average Billing Rate.

UPCL has also submitted that some new divisions were formed in the mid of FY 2017-18 and has given the example of new division Mohanpur. It is important to note that marginal correction to the excess sales have been made in Dehradun (R) Division and Mohanpur Division under RTS-4 category where the total sales disallowed in those

divisions is about 0.01 MU which does not have a significant impact even if UPCL's contention is upheld, although the ABR of both the division taken together still remains lower than the approved ABR of PTW category. Further, UPCL has not furnished any reason as to why the actual ABR of PTW category where only energy charges are applicable is less than the approved energy charge for that category.

**3.2.18** Further, it is also incomprehensible to understand as to how the average billing rate of industrial consumers in the divisions having load factor ranging from 13% to 41% can be below the average cost of supply, with EDD Rudrapur showing the ABR as Rs. 4.88/kWh.

**3.2.19** The Petitioner had also relied upon the report of an independent consultant appointed by it to conduct an energy audit for FY 2015-16. In this regard, the Commission at Para 4.1.4.3 of the impugned order has already held as under:

*"...Reference in this regard can be made to the energy audit assignment conducted by M/s Feedback Ventures (P) Ltd. which was nothing but a billing audit which did not yield effective results. Hence, UPCL is directed to refrain from carrying out such ineffective consultancies which merely increases its expenditure..."*

**3.2.20** Based on above, it is clear that there is no error apparent on the face of record in the approach adopted by the Commission and UPCL is trying to mislead the Commission with the arguments which are factually not correct instead of carrying out the analysis and finding out the reasons for actual ABR being lower than normative ABR.

**3.2.21** The other issue raised by UPCL is about revised trajectory of Distribution Losses for the third Control Period from FY 2019-20 to FY 2021-22. The submissions made by UPCL for approval of revised loss trajectory are the same which were raised by UPCL in its petition. The Commission after carefully analyzing the submissions made by UPCL has deliberated on this issue in the Tariff Order dated 27.02.2019, the relevant portion of which is being reproduced hereunder:

*"As regards the Petitioner's contention of opening gap in approved distribution loss trajectory of UPCL, the Commission in its MYT Order dated April 05, 2016 for the previous Control Period has already dealt with the issue and stated that to review and revise the loss reduction trajectory, it has been repeatedly directing the Petitioner, in its previous Tariff Orders, to carry out the energy audit study to ascertain actual losses in the system. However, the Petitioner has so far not made any substantial progress in this regard and observed that the Petitioner has consistently failed to address the issues of replacement of defective meters and meter reading in each billing cycle. The Commission,*

*in view of the above and rationale provided in earlier orders has already opined that the under-achievement of losses by UPCL was not due to the stringent targets fixed by the Commission but due to its own inefficiency and callous approach which in no way can be passed on to the consumers.*

*However, in this regard the Commission would like to point out towards the loss reduction initiatives proposed by UPCL. UPCL has been proposing the same initiatives over the years whose results should have started accruing by now. However, from the submissions of the Petitioner as given in the Table below it emerges that there are again 7 distribution divisions of UPCL which have the distribution losses in excess of 30% which also includes EDD (U), Roorkee which is unacceptable considering the fact that it is an urban division covered under R-APDRP Scheme.*

*Table 0.2: High Distribution Loss divisions in FY 2017-18*

<i>S. No.</i>	<i>Distribution Division</i>	<i>Loss (%)</i>
<i>1.</i>	<i>EDD, Narayanbagar</i>	<i>54.72%</i>
<i>2.</i>	<i>EDD, Tehri</i>	<i>31.45%</i>
<i>3.</i>	<i>EDD (U), Roorkee</i>	<i>30.96%</i>
<i>4.</i>	<i>EDD, Gopeshwar</i>	<i>31.97%</i>
<i>5.</i>	<i>EDD Vikasnagar</i>	<i>31.46%</i>
<i>6.</i>	<i>EDD, Uttarkashi</i>	<i>40.13%</i>
<i>7.</i>	<i>EDD, Dharchula</i>	<i>31.90%</i>

*The Commission in its Order dated March 29, 2017 and March 21, 2018 had also observed that there were seven divisions which had a loss level of more than 30% in FY 2015-16 and FY 2016-17 respectively. As is evident from above, still there are seven divisions where the losses are still above 30%. The only inference that could be drawn here is that the Petitioner has not made any serious and focussed efforts in reducing division wise losses despite the same being pointed out by the Commission in its previous orders.*

*As has been held by the Commission in its Tariff Order dated March 29, 2017, losses in other categories of consumers (excluding HT Consumers) as on March 31, 2016 were about 30.90%. Moreover, the Commission in the said Order had also held that for past 3 years virtually there had been no reduction in losses of other category of consumers which clearly suggests that the Petitioner did not put in serious efforts in reducing the losses for other categories, thereby, failing to bring these losses within acceptable limits. Further, to reduce the distribution losses at LT level and to achieve loss level within acceptable limits, the Petitioner was required to take up certain works, like replacement of all mechanical meters in a time-bound manner in all the divisions, removal of all ghost/fictitious/non-existent consumers from its billing database, ensuring that all the meters of the consumers are read and their bills prepared and distributed within time and also that no provisional bills namely NA/NR are issued for more than two billing cycles in accordance with the provision of Electricity Supply Code Regulation, 2007, etc. However, UPCL is yet to achieve its target in ensuring compliances.*

...

Accordingly, the Commission decides to retain the distribution loss for FY 2018-19 at 14.50%. The Commission, however, agrees with the Petitioner's contention that reduction of losses beyond 14.50% will be gradual and, therefore, has set the target of marginal loss reduction to the extent of 0.25% for each year of the third Control Period. The distribution loss trajectory proposed by the Petitioner and that approved by the Commission for the third Control Period from FY 2019-20 to FY 2021-22 is shown in the Table below:

Table 0.3: Distribution Losses for FY 2019-20 to FY 2021-22

Particulars	FY 2018-19	FY 2019-20		FY 2020-21		FY 2021-22	
	Approved	Proposed	Approved	Proposed	Approved	Proposed	Approved
Distribution Losses	14.50%	14.67%	14.25%	14.42%	14.00%	14.17%	13.75%

“

**3.2.22** As can be seen from above discussion, the Commission has already dealt with this issue in detail after considering all the submissions made by UPCL and as such no new fact or information has been brought on record by UPCL in the current Review Petition which can be termed as a legitimate ground for review. UPCL has again re-iterated the submissions made earlier in its original Petition for Tariff determination of FY 2019-20, on which the Commission has already given its detailed views, and accordingly, the aforesaid claim of UPCL cannot be allowed for being frivolous and without any basis.

**3.2.23** There is no error apparent on the face of record and there is no new evidence which can be considered and hence this issue does not qualify for review.

### **3.3 Capitalization, Interest on Loan, Return on Equity & Depreciation**

#### **Petitioner's Submissions**

**3.3.1** The Petitioner in its Review Petition submitted that in the ARR and Tariff Petition for FY 2018-19 they had submitted the net capitalization for FY 2016-17 amounting to Rs. 238.29 Crore on the basis of figures shown in audited accounts but due to non-submission of certificate of electrical inspector in respect of energization of HT works, the Commission considered capitalization of Rs. 142.15 Crore only for FY 2016-17. The Petitioner submitted that as Return on Equity, Depreciation and Interest on Loan is allowed by the Commission on opening balance, this has resulted in lower opening GFA, loan an equity balance for the Petitioner in FY 2017-18. The Petitioner claimed an amount of Rs. 15.95 Crore in this regard along with the carrying cost on the same for FY 2017-18.

**3.3.2** The Petitioner submitted that similarly in the ARR and Tariff Petition for FY 2019-20 they

had submitted the net capitalization for FY 2017-18 amounting to Rs. 397.55 Crore on the basis of figures shown in audited accounts against which the Commission has allowed capitalization of Rs. 6.53 Crore based on the aforementioned reason. The Petitioner has claimed an amount of Rs. 58.54 Crore in this regard.

**3.3.3** The Petitioner further submitted that it had incurred this capital expenditure for giving continuous and quality supply to the consumers of the State and in the absence of recovery of this expenditure along with eligible return on the same, the Petitioner shall face severe financial crisis. The Petitioner submitted that they are in the process of collecting the certificates of the electrical inspector in respect of all the balance HT assets capitalized during the financial year 2016-17 and FY 2017-18 and the same shall be provided to the Commission by 30.09.2019.

### **Commission's Analysis and Ruling**

**3.3.4** As detailed out in the Tariff Order, the Commission in its previous tariff orders have been approving capital expenditure and capitalisation of HT Works only when the works have received clearances from the Electrical Inspector. Hence, the Commission in this Tariff Order as well has decided to not allow the capitalization of HT works for which the Electrical Inspector clearances Certificates have not been received.

**3.3.5** As a Distribution Licensee, UPCL is required to follow all the Rules and Regulations. It is surprising to note that the Petitioner is commissioning and capitalising all HT works without getting them inspected and approved by the Electrical Inspector which is in gross violation of the Electricity Rules and Regulations issued by CEA in this regard.

**3.3.6** The Commission in its previous Orders has allowed the capital expenditure for the past period once the electrical inspector certificates are submitted by the Petitioner. The relevant portion of Tariff Order for FY 2009-10 is reproduced hereunder:

*"The Petitioner for the current year's tariff exercise has submitted the details of actual asset capitalization for FY 2007-08 and FY 2008-09. The Commission in Para 4.4 of the Order dated 18.03.2008 had mentioned as under:*

*"The Petitioner was asked to certify that mandatory clearance of Electrical Inspector has been obtained for HT & EHT works claimed for capitalization before putting these assets to use. No such certificate has been submitted by the Petitioner. The Commission has, therefore, considered the actual asset capitalisation from 2005-06 to 2006-07 for estimating the capital related expenses for 2007-08 on provisional basis. The Petitioner is directed to submit certificates, in prescribed formats forwarded to*

*Petitioner earlier that such clearances had been obtained along with next filing.”*

*The Commission has since then advising the Petitioner to obtain the clearances of the Electrical Inspector. The Commission also during technical validation sessions pointed out to the Petitioner that all the HT works energized during 2007-08 and 2008-09 without the clearance of the Electrical Inspector would not be allowed. However, inspite of all the advisories and directives by the Commission, the Petitioner failed to submit the mandatory certificate of Electrical Inspector for capitalised HT works. The Commission would like to highlight that the certificate of Electrical Inspector before energising the HT works is a mandatory requirement in the Electricity Rules, 1956 from the safety perspective and no HT work can be energised without obtaining the certificate from Electrical Inspector. The Commission in its previous Tariff Order has considered the assets capitalised during FY 2007-08 subject to condition that the Petitioner will obtain the certificate from the Electrical Inspector for all the schemes capitalised till FY 2007-08 and FY 2008-09 and submit the same before the tariff filing for FY 2009-10. The Petitioner has failed to comply with such an important direction of the Commission. The Commission once again directs the Petitioner to obtain the Electrical Inspector certificate for all the HT works capitalised since inception till FY 2008-09 and submit the copy of the same to the Commission within 3 months from the date of issue of this Order. The Commission further directs the Petitioner that for all the schemes to be capitalised for future works, the Petitioner must obtain clearance from the Electrical Inspector before energizing the same. As discussed in Chapter 4 of this Order, the Commission has considered the actual asset capitalisation for FY 2007-08 and FY 2008-09 for all LT schemes and only those HT schemes for which the Electrical Inspector's certificate has been obtained and submitted to the Commission. The Commission at this stage has not reduced the actual asset capitalization for the previous years from FY 2001-02 to FY 2006-07 corresponding to the schemes for which certificate from Electrical Inspector has not been submitted by the Petitioner. However, the same may be written back if above directive is not complied with by the Petitioner. The Commission also sought details of the works capitalized by the Petitioner during 2007-08 and 2008-09. The Petitioner submitted the details of works carried out by it under APDRP, RGGVY, Deposit works and also of the works carried out by it through its internal resources. However, majority of the works were HT works which did not have the clearances of the Electrical Inspector and, hence, are not being allowed by the Commission. Some of the LT works carried out by the Petitioner under APDRP scheme and also additions to furniture, Office Equipment and office buildings which did not require the clearance of the Electrical Inspector have been allowed by the Commission which totalled to Rs. 5.83 Crore for 2007-08 and Rs. 6.06 Crore for 2008-09 against the Petitioner's total claim of Rs. 368.70 Crore for 2007-08 and Rs. 310.40 Crore for 2008-09. The Commission would during the truing up exercise in the next tariff proceedings, consider the capitalisation of the schemes not considered by it in this Order provided the Petitioner is able to furnish the details of the works carried out alongwith the mandatory clearances by the Electrical*

*Inspector.”*

- 3.3.7** As can be seen from above, the disallowance of capitalization in the absence of electrical inspector certificate is being carried out by the Commission since long back, and still the Petitioner instead of complying with the aforesaid requirements is requesting the Commission again and again to allow the expenditures against the applicable Rules and Regulations according to which the licensee cannot charge any HT works without obtaining approval from the Electrical Inspector leave aside capitalizing it. The issue has already been dealt in detail in the Impugned Order dated 27.02.2019 and no new facts or documents have been brought on record by the Petitioner that warrants the maintainability of review on this ground.
- 3.3.8** It is also worth mentioning here that, even at the time of filing of Review Petition dated 22.07.2019 against the Impugned Order of the Commission, the Petitioner has not been able to submit the electrical inspector certificates for the works carried out way back in FY 2016-17 & FY 2017-18, and rather on the contrary is seeking additional time for submission of the same till 30.09.2019. Such a lackadaisical approach of the Petitioner in obtaining the electrical inspector certificate, and moresoever in energizing those lines without obtaining clearance from electrical inspector, is a matter of grave concern and requires immediate attention from the top management of the Corporation to ensure safe installations and reliable supply of power to the consumers of the State.
- 3.3.9** The Petitioner in its Review Petition has submitted that the electrical inspector certificate in respect of all the balance HT assets capitalized during the financial year 2016-17 and FY 2017-18 shall be provided to the Commission by 30.09.2019. In this regard, the Commission is of the view that once these certificates are provided by the Petitioner, the Commission will consider the same, and accordingly, take a view on allowability of the capitalisation, for such schemes, in the next tariff proceedings.
- 3.3.10** Further, with respect to claim related to Interest on Loan, Return on Equity and Depreciation on these capital expenditure, the Commission is of the view that these factors are directly dependent upon the amount of capitalization approved by the Commission, and, accordingly, shall be dealt with, once the capitalization for these schemes is allowed by the Commission.
- 3.3.11** **In view of the above discussion, there is no error apparent on the face of record and there is no new evidence which can be considered and hence this issue does not qualify for**

review.

### 3.4 Operation & Maintenance Expenses

3.4.1 The Petitioner submitted that the Commission has approved lower O&M expenses as claimed by the Petitioner in the tariff Petition. A detailed analysis on account of each head has been provided below:

#### A. R&M Expense

3.4.2 The Petitioner in its Review Petition has submitted that as per UERC Tariff Regulations, 2018 the R&M expenses is computed considering the GFA of the previous year (GFAn-1) and as the Commission has approved lower capitalization (difference of Rs. 96.15 Crore in net asset addition) in FY 2016-17 the same has led to lower opening GFAn-1 in FY 2017-18.

3.4.3 The Petitioner submitted that although the Commission has adjusted the cost of Rs. 2.42 Crore of AMC of Hardware against the actual R&M expense in FY 2017-18, the same amount has not been added to the normative R&M expense. Since this is a new expense head, the Commission has erred in its computation and, therefore, this is an error on the face of record. The Petitioner claimed an amount of Rs. 4.31 Crore in this regard along with the carrying cost on the same.

3.4.4 The Petitioner further submitted that the total capitalization disallowed for FY 2016-17 (Rs. 96.14 Crore) and FY 2017-18 (Rs. 391.02 Crore) is Rs. 487.16 Crore and, hence, the R&M expenses for FY 2019-20 has reduced. The Petitioner has claimed an amount of Rs. 14.97 Crore in this regard, as per the methodology given in the UERC Tariff Regulations, 2018, and after considering the capitalization figures as submitted by the Petitioner.

#### Commission's Analysis and Ruling

3.4.5 The Commission would like to clarify that the issue of opening GFA to be considered for FY 2017-18 for working out the R&M expenses is already deliberated in the Commission's Order dated 27.02.2019. The relevant extract of the Order is given below:

*"The Commission in its MYT Order had considered the 'K' factor of 2.67% for computation of the normative R&M expenses for FY 2016-17 in accordance with the UERC Tariff Regulations, 2015. The Commission while carrying out the true up of FY 2016-17 had already provided enough opportunity to the Petitioner for submission of Electrical Inspector Certificate for assets capitalized during FY 2016-17. Further, the Petitioner has not submitted the Certificates even during the current proceedings. The Commission has, therefore, not considered capitalization of Rs. 96.14 Crore disallowed in true up of FY*

2016-17 for computation of R&M Expenses.

*The Commission for truing up of FY 2017-18 has considered the same K factor and has reworked the R&M expenses considering the Opening GFA for FY 2017-18."*

- 3.4.6** The Commission after addressing the issue of dis-allowed capitalization for FY 2016-17 due to non submission of Electrical Inspector Certificates by the Petitioner has approved the R&M expenses for FY 2017-18 based on opening GFA allowed by the Commission for FY 2017-18. The Commission for the purpose of allowing all related components of ARR such as Depreciation, Interest on Loan, Return on Equity and R&M expenses has uniformly considered the opening GFA approved by the Commission for FY 2017-18. The Commission cannot consider the separate values of opening GFA for allowing R&M expenses and other elements of ARR as suggested by the Petitioner as the same will not be in accordance with Regulatory Principles.
- 3.4.7** The Commission in the previous Tariff Orders also have been approving R&M expenses by applying the "K" Factor on opening GFA allowed by the Commission.
- 3.4.8** The other issue raised by Petitioner towards AMC expenses of Rs 2.41 Crore is also considered in the Tariff Order as follows:

*"The Commission further observed that the Petitioner had booked certain Annual Maintenance Contract (AMC) expenses amounting to Rs. 2.41 Crore in A&G Expenses. As these expenses are of the nature of R&M Expenses, the same has been considered as a part of actual R&M Expenses."*

- 3.4.9** As it can be observed from above para, the Petitioner had wrongly booked AMC expenses in A&G expenses which has been considered by the Commission as part of actual R&M expenses for comparing the actual R&M expenses with normative R&M expenses. The normative R&M expenses should ideally cover the entire R&M expenses for the existing asset base and hence all the actual R&M expenses are to be compared with normative R&M expenses as per the provisions of Regulations. In case for any asset if the actual R&M expenses are higher than the normative expenses allowed, then the same reflects towards the exorbitant cost in maintaining such asset as in such case, its maintenance to a larger extent might exceed the benefits such asset would render. Hence, if the Petitioner's suggestion of adding actual expenses of AMC Contract to normative R&M expenses is considered for sharing of gains and losses, it would tantamount to deviations from the normative R&M expenses as per the Regulations which have been so envisaged to enable the utility to maintain the level of efficiency in its operations. This view has already been

held by the Commission in one of its Order dated September 28, 2017 on investment approval of the project for implementing Integrated Automatic Meter Reading (IAMR) System for 12000 nos. of consumers wherein the Commission has held as under:

*"...however, the Commission cautions the Petitioner that before introducing/adopting the newer technologies, it should carefully examine and analyse the same holistically. Further, the Commission strongly believes that any new technology solution should not only be sustainable but should also generate enough financial benefits which would be sufficient to recover the investment incurred in a project. Further, the Commission is of the view that any technological up-gradation should also result in minimization of O&M expenses..."*

*(4) With regard to O&M expenses of `25.20 Crore for a period of 5 years for the IAMR System as mentioned in Petitioner's submissions dated 05.07.2017 & 01.08.2017, the Commission does not agree with the same and is of the view that these O&M expenses are exorbitantly high. Keeping in view of higher O&M expenses, the licensee should revisit the scope of O&M works specified for the said project and prepare a mechanism for inhouse data analysis and preparation of report by licensee's officers/staff, as this would not only reduce the proposed O&M expenses but also be beneficial for the licensee in developing its in-house capability as well as reducing its over dependency on the external agencies."*

**3.4.10** Thus, as discussed in above paras, there is no error apparent on the face of record and hence, this issue of error in R&M expenses does not qualify for review.

## **B. A&G Expense**

### **(a) Capitalization Rate**

**3.4.11** The Petitioner in its Review Petition submitted that the Commission's Order dated 27.02.2019 has not provided a detailed working and considered a capitalization rate of 59.50% while approving the A&G Expenses for the third Control period from FY 2019-20 to FY 2021-22.

**3.4.12** The Petitioner submitted that the rate of 59.50% is an error on the face of record and much higher than the capitalization rate of actual A&G expenses (adjusted for provisions and as approved by the Commission in the impugned Order) for FY 2017-18. Further, in the absence of any detailed working, the rate cannot be reconciled with the actual A&G expenses based on audited accounts for FY 2017-18. The Petitioner submitted that the capitalization rate as per audited accounts is 33.69% and requested the Commission to approve the A&G expenses considering the capitalisation rate of 33.69%. The Petitioner claimed an amount of Rs. 6.36 Crore in this regard along with the carrying cost on the same.

**(b) Base A&G Expense for third Control Period**

**3.4.13** The Petitioner in its Review Petition submitted that despite the Petitioner's request, the Commission has not provided a detailed working of the A&G expense approved for FY 2017-18 in the impugned Order. The Petitioner submitted that based on the observations and approved cost in the impugned Order, the Petitioner has computed the opening gross A&Gn-1 considered for FY 2017-18 by the Commission and observed that the amount so determined by the Commission for opening A&G expenses of each year prima facie, is on the lower side when compared with actual expenditure being incurred by the Petitioner each year and excludes the cost of data centre approved for each year.

**3.4.14** The Petitioner submitted that the methodology of the Commission while approving the normative A&G expense is erroneous since the cost of data centre is being approved each year as a one-time cost rather than being incorporated as a recurring cost (as revised base for the next year).

**3.4.15** The Petitioner submitted that it had clarified in Para 3.254 of the Tariff Petition dated 30.11.2018 that the claim of Rs. 19.36 Crore, Rs. 21.69 Crore and Rs. 24.34 Crore in FY 2019-20, FY2020-21 and FY2021-22 respectively are of new nature and over-and-above the expenditure on bandwidth and software licence renewal charges already incurred in previous years, on which normal WPI inflation should be provided.

**3.4.16** The Petitioner requested the Commission to revise the opening A&Gn-1 based on actual Gross A&G expense incurred in FY 2017-18 as per audited accounts rather than the historical considered by the Commission while approving the same. The Petitioner claimed an amount of Rs. 20.07 Crore towards additional A&G expenses for FY 2019-20 on the account of revised base cost and lower capitalization rate.

**Commission's Analysis and Ruling**

**3.4.17** Regarding the Capitalisation rate considered by the Commission as 59.50% against 33.69% claimed by it, the Commission had reworked the capitalisation rate after excluding the penalty amount as the same cannot be allowed as pass through in tariffs. Besides, the Commission now makes adjustment in A&G expenses for the license fee paid for FY 2017-18, as it has no relation with creation of new assets but is related to the revenue assessed for FY 2016-17. Also the Data centre costs has now been adjusted as data centre has already been created in past years and any costs incurred subsequently towards maintaining the same has no co-relation to the expenses being capitalized. However, it has been observed

that the Commission erred as these adjustments were made from net expenses and not the gross A&G expenses. The necessary correction to this effect is as under:

S. No.	Particulars	Amount (Rs. Crore)
1.	Gross A&G expenses	58.71
Less:		
2.	License Fees	2.52
3.	Data Centre and Q next costs	13.30
4.	Penalty	6.29
5.	Adjusted Gross A&G Expenses	36.60

An amount of Rs. 16.00 Crore has been capitalized by the Petitioner in FY 2017-18 towards A&G expenses. Thus, the ratio works out to 43.72% against 59.50% considered by the Commission in the impugned Tariff Order. Hence, the normative A&G expenses works out to Rs. 29.46 Crore against Rs. 24.95 Crore approved by the Commission.

**3.4.18** The detailed working of the A&G expenses approved for FY 2017-18 vis-à-vis amount claimed by UPCL and amount now considered by the Commission is as follows:

**A&G Expenses for FY 2017-18 (Rs. Crore)**

Particulars	FY 2017-18		
	Claimed by UPCL	Approved in truing up	Considered now
A&Gn-1	30.54	28.52	28.52
WPIinflation	1.73%	0.00%	0.00%
<b>Gross A&amp;Gn = A&amp;Gn-1 x (1+WPIinflation) + Provision</b>	<b>31.07</b>	<b>28.52</b>	<b>28.52</b>
Capitalisation rate	30.52%	59.50%	43.72%
Less: A&G expenses Capitalised	9.48	16.97	12.47
<b>Net A&amp;G expenses</b>	<b>21.58</b>	<b>11.55</b>	<b>16.05</b>
Cost against Data Centre	10.78	8.36	8.36
License Fee	2.50	2.52	2.52
Consultancy for data forecasting	2.54	2.54	2.54
<b>Total A&amp;G expenses</b>	<b>37.40</b>	<b>24.95</b>	<b>29.46</b>

Thus, the additional O&M expenses allowable to the Petitioner on account of review of truing up of A&G expenses for FY 2017-18 will be Rs. 3.01 Crore, i.e. 2/3<sup>rd</sup> of Rs. (29.46-24.95) Crore and with carrying cost the same works out to Rs. 3.66 Crore.

**3.4.19** The Commission in the Impugned Order dated 27.02.2019 has explained in detail the methodology adopted for deriving the A&G expenses for third Control Period. The relevant portion of the Tariff Order is reproduced below:

*“The Commission has considered the normative gross A&G expenses approved in the true up of FY 2017-18 as the gross base A&G expenses. This normative opening gross A&G expenses have been escalated by the WPI inflation of 0.33% to arrive at A&G expenses for FY 2018-19. The gross A&G expenses so arrived at have been considered as the gross A&G expenses (A&Gn-1) for FY*

2018-19. From FY 2019-20 onwards, the Commission has computed the normative A&G expenses in accordance with the Regulation 84(3) considering the WPI inflation of 0.33%. Further, the Commission has considered the actual capitalisation rate of A&G expenses for FY 2017-18 to be the capitalisation rate for each year of the third Control Period. In addition, the Commission has considered the license fee as Rs. 3.00 Crore for FY 2019-20, Rs. 3.25 Crore for FY 2020-21 and Rs. 3.50 Crore for FY 2021-22.

*As regards the additional provisioning toward the new expenses proposed during each year of the control period towards the data centre, the Commission agrees with the Petitioner that these expenses were not there in previous Control Period and hence, provisioning of these expenses needs to be allowed in addition to the A&G expenses approved based on previous years A&G expenses. Accordingly, the Commission has considered the provisioning of additional A&G expenses for data centre as claimed by the Petitioner for each year of the third Control Period. However, the Commission would like to clarify that the actual expenses towards provisioning of such costs shall be considered upon truing up subject to prudence check and any expense found unreasonable or unwarranted may be disallowed and any savings in provisioning of these costs shall not be considered towards sharing of gains. Moreover, the Petitioner is directed to properly account for these provisions in appropriate heads of accounts."*

**3.4.20** As can be seen from above, the Commission has already deliberated on the issue raised by UPCL with respect to data centre cost, and UPCL is trying to reopen the entire matter again in the disguise of review on the basis of facts and figures that have already been examined and concluded by the Commission in the Tariff Order. Further, these expenses are subject to truing up based on the actual expenses incurred subject to prudence check.

**3.4.21** Infact, the Petitioner has considered the actual expenses for FY 2017-18 and has escalated it to arrive at the opening normative A&G expenses for FY 2019-20 and has then added data centre cost of Rs. 19.36 Crore to it. However, it conveniently chose to ignore that actual A&G expenses for FY 2017-18 also includes the data centre costs of Rs. 10.78 Crore which has been escalated by the Petitioner to reach at FY 2019-20 levels and the same has been added back again which is an error in the submissions of the Petitioner.

**3.4.22** Accordingly, as discussed in above paras, there is only one error related to A&G expenses capitalized and consequently the A&G expenses for FY 2019-20 is re-determined hereunder:

### A&G Expenses for FY 2019-20 (Rs. Crore)

Particulars	FY 2019-20		
	Claimed	Approved in the Tariff Order	Considered now
A&Gn-1	53.65	28.61	28.61
WPIinflation	2.33%	0.33%	0.33%
Gross A&G expenses	54.90	28.71	28.71
Capitalisation rate	30.52%	59.50%	43.72%
Less: A&G expenses capitalised	16.76	17.08	12.55
<b>Net A&amp;G expenses</b>	<b>38.15</b>	<b>11.63</b>	<b>16.16</b>
Provision	19.36	22.36	22.36
<b>A&amp;Gn = A&amp;Gn-1 x (1+WPIinflation) + Provision</b>	<b>57.51</b>	<b>33.99</b>	<b>38.52</b>

Thus, additional increase on A&G expenses after truing up works out to Rs. 4.53 Crore.

**3.4.23** On other issues raised by UPCL, no error is apparent on the face of record and hence this issue of error in A&G expenses does not qualify for review.

### 3.5 Interest on Working Capital

**3.5.1** The Petitioner in its Review Petition has submitted that vide its letter no. 164/UPCL/RM/B-20, dated 18-01-2019, it had requested the Commission to consider that interest on term deposits of security amount and interest paid on bank overdraft is on account of working capital management. These two items should not be considered while computing the ARR. The difference of interest earned on term deposits of security amount and interest paid on bank overdraft for working capital may be compared with the normative value of interest on working capital and the resulting loss/gain may be shared with the consumers as per the provisions of the Regulations. However, the Commission in the impugned Order dated 27.02.2019 rejected the request of the Petitioner saying that the claim of the Petitioner is not as per the Regulations. The Petitioner submitted that the view taken by the Commission in the matter in the Impugned Order dated 27.02.2019 is against the financial principles/provisions of Regulations due to the following reasons:

- (i) UPCL accepts security deposits from the consumers against credit supply of electricity to them.
- (ii) The interest on these security deposits is paid to the consumers by UPCL which is allowed by the Commission in the ARR.
- (iii) The Commission also allows UPCL to use the amount of security deposits as working capital and accordingly the working capital requirement and interest on working capital is reduced by the Commission.

- (iv) With a view to maximum usage of resources (amount of security deposits) and to maintain the liquidity for refund to the consumers in case of permanent disconnection of their supply, UPCL keeps the amount of this security deposits with banks in term deposits and the bank overdraft is availed for working capital requirement against such deposits.
- (v) The Commission considers the entire amount of interest earned on these term deposits as income of UPCL and pass on the same to the consumers resulting in reduction in tariff but only 1/3<sup>rd</sup> of the interest paid on bank overdraft availed against the term deposits is allowed to UPCL which results in loss of 2/3<sup>rd</sup> amount of interest paid on bank overdraft to UPCL.
- (vi) In case UPCL uses the amount of security deposits to fulfil its working capital requirement, no interest on bank overdraft will be paid and no interest on term deposits will be earned. In this situation, there will be no loss to UPCL due to no disallowance of interest on working capital but there will be loss to the consumers of the State because no interest will be earned on term deposits which is passed on to the consumers and is much higher than interest paid on bank overdraft. The said position for FY 2017-18 may be explained in the following table:

Cost	Income / benefit
Interest paid on the amount of security deposits to the consumers (Rs. 41.16 Cr.) : <b>Allowed by the Commission</b>	Working capital requirement of UPCL is reduced by UERC for usage of amount of security deposits (Rs. 727.40 Cr.) : <b>Benefit of interest on this security deposits is passed on to the consumers.</b>
To meet its working capital requirement, UPCL avails bank overdraft against the term deposits but UERC only allows 1/3 <sup>rd</sup> of such interest to UPCL (1/3 <sup>rd</sup> of Rs. 32.53 Cr. = Rs. 10.84 Cr.): <b>Only 1/3<sup>rd</sup> interest is allowed by the Commission</b>	The amount of security deposits is not directly used by UPCL to meet its working capital requirement and the same is kept with banks in term deposits. Interest on all term deposits (including amount received as security deposits) is passed on to the consumers by UERC (Rs. 61.70 Cr.): <b>Benefit of interest on security deposits is again (twice) passed on to the consumers by the Commission.</b>
There is direct loss of 2/3 <sup>rd</sup> amount of interest paid on bank overdraft (Rs. 2/3 <sup>rd</sup> of Rs. 32.53 Cr. = Rs. 21.69 Cr.)	

- (vii) UPCL further submitted that the indicative list of non-tariff income as mentioned at Regulation 85 of UERC Tariff Regulations, 2018 also does not include the item – income from investment of consumer security deposit. This list includes an item – miscellaneous receipts. In this connection, it is submitted that the receipts having very low value (say Rs. 10 to 20 lakh per receipt) need not be shown under a separate head and are shown under the head - miscellaneous receipts as the interest

on term deposits of security amount, i.e. Rs. 61.70 Crore cannot be treated as miscellaneous receipts. Further, the said list includes another item named as income from statutory investments. As these security deposits have not been mandated under any law to be invested, interest received on investment of these deposits in banks cannot be treated as income from statutory investments. With a view to maintain the liquidity for refund to the consumers in case of permanent disconnection of their supply and reduction in their required security amount, UPCL keeps the amount of this security deposits with bank in term deposits and avails overdraft from bank against these deposits for working capital requirement.

(viii) As regards actual costs on managing working capital, it is submitted that no actual cost has been incurred by UPCL on account of managing its working capital for FY 2017-18. The security deposits received from the consumers were kept in bank and earned an interest of Rs. 61.70 Crore from the same. As against these term deposits, bank overdraft was availed and incurred cost (interest) of Rs. 32.53 Crore on the same. As such, UPCL earned net interest of Rs. 61.70 Crore minus Rs. 32.53 Crore = Rs. 29.17 Crore through managing its working capital in efficient manner. These earnings will result in reduction in the tariff of the consumers.

(ix) As an illustration to the Petitioner's stance, the Petitioner also conducted a comparative review of the Tariff Regulations in some other States such as Delhi, Odisha, etc. The summarized position of various SERCs is shown in the table below:

State/UT	Provision in Regulations
Delhi	<ul style="list-style-type: none"> <li>• Security deposits from the consumers are not reduced for computation of the working capital.</li> <li>• Interest paid on consumer security deposits is allowed in the ARR</li> <li>• Income arising from investment of consumer security deposit is treated as non-tariff income.</li> </ul>
Odisha	<ul style="list-style-type: none"> <li>• Security deposits from the consumers are not reduced for computation of the working capital.</li> <li>• Interest paid on consumer security deposits is allowed in the ARR.</li> <li>• Income arising from investment of consumer security deposit, if any, is treated as non-tariff income.</li> </ul>

(x) The Petitioner requested the Commission to review this issue and approve the additional claim of Rs. 28.10 Crore for FY 2017-18 along with carrying cost.

### **Commission's Analysis and Ruling**

3.5.2 The Commission would like to clarify that the same issues related to working capital were

raised by the Petitioner in its Tariff Petition and the Commission has clearly given its ruling that the Commission has allowed the Interest on Working Capital in accordance with the provision of UERC Tariff Regulations, 2015. The relevant extract of the Tariff Order is reproduced below:

*“With regard to the Petitioner’s submission regarding provisions in the Regulations of other States regarding computation of working capital, the Commission is bound by its own Regulations till the time they are amended or modified. While framing the draft Regulations, the Commission sought comments on the same from all the stakeholders including UPCL, however, this issue was never agitated by UPCL. In its comments, UPCL submitted that it avails overdraft facilities from the banks to meet its power purchase liabilities and the timely payment rebate should be adjusted by the interest cost incurred for making early payment of power purchase bills which had been dealt by the Commission in its SoR. As per the norms specified in the Regulations the Petitioner would not require any working capital if it would have carried out its operations efficiently. The requirement of overdraft arose as the Petitioner could not recover its dues from the consumers on time. This is evident from the Chart no. 16 in Chapter 7 of the Order. Moreover, UPCL is also not making timely payment to the State Government of its legitimate dues as is evident from the details of outstanding liabilities submitted by UPCL itself wherein as on 31.12.2018, Rs. 2066.55 Crore were payable to the State Government, towards cost of free power, water tax, Cess and Royalty, electricity duty, etc. This merely suggests that either the collections of dues from consumers are not made efficiently and promptly, but also reflects towards the fact that the revenues from electricity dues realised from consumers and expenses withheld are diverted towards its inefficiencies or also invested in capital expenditure which is evident from the fact that UPCL claims to have invested an amount of about Rs. 533.37 Crore as internal resources for creation of assets, however, its net worth is negative as on 31.03.2018. Hence, the purpose of availing bank overdraft is not ascertainable as on one hand UPCL has substantial liability to pay to the Government, its collection efficiency is not within the norms specified and, hence, the need of overdraft. Besides, the same can also be to create new assets which UPCL claims to have created out of its internal resources on which RoE is being allowed to it.*

*Accordingly, based on the above discussions, the Commission does not find it prudent to deviate from its past practice and has, thus, computed the working capital requirement as per UERC Tariff Regulations, 2015.”*

**3.5.3** From the submissions made by the Petitioner, it appears that the Petitioner is trying to reopen the entire matter again for reconsideration of the Commission, and actually requesting the Commission to amend UERC Tariff Regulations, 2015, which is not

permissible through the Review Petition. If the Petitioner wants the Commission to amend the Regulations, it has to approach the Commission through a separate Petition and cannot do through this review Petition.

3.5.4 Hence, there is no error apparent as regards to Interest on Working Capital is concerned and hence this issue does not qualify for review.

### 3.6 Deferment of past recovery on account of true-up for FY 2017-18

#### Petitioners' Submissions

3.6.1 The Petitioner in its Review Petition has requested the Commission recover the revenue surplus of Rs. 305.31 Crore in three equal instalments starting from FY 2019-20, as the adjustment of this in the ARR of a single year (i.e. FY 2019-20) is leading to a decline in the ARR of a single year, i.e. FY 2019-20 and the Petitioner will face difficulty in managing its expenses for FY 2019-20.

#### Commission's Analysis and Ruling

3.6.2 The Commission upon truing up of expenses and revenue for FY 2017-18 worked out the revenue surplus of Rs. 305.31 Crore and the same has been adjusted from ARR of FY 2019-20.

3.6.3 Regulation 12(10) of UERC Tariff Regulations, 2015 stipulates as follows:

*“(10) Upon completion of the Annual Performance Review, the Commission shall pass on an order recording-*

*a) The approved aggregate gain or loss to the Applicant on account of uncontrollable factors and the mechanism by which the Applicant shall be allowed such gains or losses in accordance with Regulation 13;*

*b) The approved aggregate gain or loss to the Applicant on account of controllable factors and sharing of such gains or such losses that may be shared in accordance with Regulation 14;*

*c) The approved modifications to the forecast of the Applicant for the ensuing year, if any;*

*The surplus/deficit determined by the Commission in accordance with these Regulations on account of truing up of the ARR of the Applicant shall be carried forward to the ensuing financial year.”*

3.6.4 The Commission has adjusted the surplus of FY 2017-18 from the ARR of FY 2019-20 in accordance with the applicable Regulations and hence the request made by the Petitioner in

this regard cannot be considered in the Review Petition. Hence, this issue does not qualify for review.

**3.6.5** In view of above discussion, the Commission is of the view that the current Review Petition filed by UPCL is devoid of merits as far as the scope of review of an Order issued by the Commission is concerned, and the only exception being capitalisation of A&G expenses, on which account the impact works out to Rs. 8.19 Crore (Rs. 3.66 Crore for FY 2017-18 and Rs. 4.53 Crore for FY 2019-20) and since the Commission has already left a surplus of Rs. 43.13 Crore in the impugned Tariff Order, accordingly, the same does not warrant any change in the views taken in the Impugned Order dated 27.02.2019 issued by the Commission and also in the tariffs approved by the Commission for FY 2019-20. The relevant portion of the Tariff Order dated 27.02.2019 is reproduced hereunder:

*“The estimated revenue for FY 2019-20 at approved tariffs works out to Rs. 6592.52 Crore, as against the net ARR of Rs. 6549.39 Crore worked out after adjusting trued-up surplus/gaps of previous years leaving a surplus of Rs. 43.13 Crore with UPCL. The Commission has left some surplus while designing the tariffs as the exact impact of all the tariff rationalisation measures approved by the Commission cannot be estimated at this stage. The Commission will consider the actual sales and revenue while carrying out the truing up for FY 2019-20.”*

**3.6.6** Therefore, the instant Review Petition filed by UPCL for review of the Tariff Order dated 27.02.2019 is hereby disposed off as rejected except on the limited ground of capitalisation of A&G expenses.

**3.6.7** Ordered Accordingly.

**(M.K. Jain)**  
**Member (Technical)**

**(D.P. Gairola)**  
**Member (Law)**



## UTTARAKHAND POWER CORPORATION LIMITED

(A Govt. of Uttarakhand Undertaking) Corporate Identity No. U40109UP2001SGC025067/2358

Victoria Cross Vijeta Gabar Singli Bhawan, Kanwali Road, Dehradun 248001

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### PUBLIC NOTICE

**Inviting Comments on the petition for review of Commission's Tariff Order dated 27.02.2019 on the MYT for third control period from FY 2019-20 to FY 2021-22 alongwith tariff determination for FY 2019-20, true up for FY 2017-18 and APR of FY 2018-19 filed by Uttarakhand Power Corporation Limited (UPCL) before the Uttarakhand Electricity Regulatory Commission**

#### Salient Points of the Review Petition

1. Uttarakhand Power Corporation Limited (UPCL), the sole Distribution and Retail Supply Licensee in the state, has filed a Review Petition before Uttarakhand Electricity Regulatory Commission (UERC or Commission) for review of the Commission's Tariff Order dated 27.02.2019 on the Annual Revenue Requirement & Multi Year Tariff Petition for third control period from FY 2019-20 to FY 2021-22.
2. Through the above Petition, UPCL has made an additional claim of ARR amounting to Rs. 440.11 Crore as Summarized below

S.No.	Particulars of Claim	Rs. Crore
1.	Distribution Loss	88.28
2.	Interest on Loan, Return on Equity & Depreciation	74.49
3.	O&M Expenses	
a.	- R&M Expenses	19.27
b.	- A&G Expenses	26.43
4.	Non-Tariff Income	28.10
5.	Deferment of past recovery (2/3 <sup>rd</sup> of Revenue Surplus of FY 2017-18)	203.54
Total		440.11

3. UPCL has proposed to recover the additional revenue gap of Rs.440.11 Crore through increase in tariffs to be made effective from 01.04.2019. UPCL has, accordingly, proposed an average tariff hike of 6.68% in the existing tariffs as approved in the Tariff order of the Commission.
4. Responses / suggestions, if any, are sought from consumers and other stakeholders on the Petition. Responses may be sent to the Secretary, Uttarakhand Electricity Regulatory Commission, either in person, or by post at ' Vidyut Niyamak Bhawan', Near ISBT, PO-Majra, Dehradun-248171 or through E-Mail to [secy.uerc@gov.in](mailto:secy.uerc@gov.in) by 19.08.2019.
5. The Commission has also decided to hold a public hearing in the matter on 21.08.2019 at 11:00 AM in the Commission's office. Any person, who wishes to put his views on the subject before the commission, is invited to appear before the commission and make the submission in the above public hearing.
6. Detailed Petition can be seen free of cost on any working day at the commission's office or at the offices of Chief Engineer (Commercial) at Victoria Cross Vijeta Gabar Singh Urja Bhawan, Kanwali Road, Dehradun/ Chief Engineer (Distribution), Garhwal Zone, UPCL, 120-Haridwar Road, Dehradun/ Chief Engineer (Distribution), Kumaon Zone, UPCL, 132-KV Substation, Kathgodam, Haldwani/ Chief Engineer (Distribution), Haridwar Zone, UPCL, Roshnabad, Haridwar/ Chief Engineer (Distribution), Udham Singh Nagar Zone, UPCL, 33KV Sub-Station, Sector-2, SIDCUL, Pantnagar, Rudrapur-263153. Relevant extracts can also be obtained from the above mentioned offices of the Petitioner.
7. The Petition is also available at the website of the Commission ([www.uerc.gov.in](http://www.uerc.gov.in)) and at the Petitioner's website ([www.upcl.org](http://www.upcl.org))

(B.C.K. Mishra)

No:-396/2/EE(CM)/UPCL/A-2 Date 31.07.2019 Managing Director

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