

**BEFORE**

**UTTARANCHAL ELECTRICITY REGULATORY COMMISSION**

**In the Matter of:**

Petition No. 7 of 2005 dated 05.07.2005 filed by M/s Poddar Alloys Ltd and 11 others seeking finalization of the tariff provisionally determined vide order dated 24.08.2004

..... Petitioner

**AND**

**In the Matter of:**

Hon'ble High court of Uttaranchal's order dated 25.08.2005 on the Writ Petition No. 877 of 2005 (M/B) filed by M/s Poddar Alloys (Pvt.) Ltd.

**Coram**

Sh. Divakar Dev     Chairman

Date of Order: 04.10.2005

M/s Poddar Alloys Ltd & 11 others have filed this petition seeking finalization of tariff payable by Power Intensive Industrial Units (PIUs) for the period 01.09.2004 to 31.03.2005. Commission vide order dated 24<sup>th</sup> August 2004 had determined the tariff payable by PIUs on provisional basis, assuming the purchase rate of the power supplied to such PIUs as Rs. 2.60 per unit. Since supply to such units takes place at higher voltage the losses in such supply were assumed to be 20%. Since the actual cost of power purchased for these units depended on their total consumption, the order stipulated that based on the actual quantity and cost of power so purchased, this tentative rate will be reviewed and suitably revised after every six months, for

which Uttaranchal Power Corporation Ltd. (UPCL) was to submit details of power purchased for supply to such units. The first such revision became due on 01.04.2005, but UPCL did not file such details or sought finalization of the tentative tariff fixed for the period ending 31.03.2005. Aggrieved by this, the petitioners have filed the present petition. The Petitioners have submitted that UPCL has not incurred any extra cost on power purchased for supply to them. They have, therefore, requested that the tariff fixed for PIUs should be revised and brought at par with that fixed for other industrial consumers in Commission's order dated 08.09.2003.

2. Commission's above order dated 24.08.2004 was challenged before the Hon'ble High Court in a writ filed by one of the PIUs. Since the order itself was being examined by the Hon'ble High Court, it was felt that its outcome may be awaited before deciding the present petition. On 25.08.2005 the Hon'ble High Court dismissed the writ petition challenging the Commission's said order and required that the Commission should dispose off the present petition within a period of six weeks.

3. Accordingly this petition was admitted for hearing on 07.09.2005 and UPCL was directed to file details of the power purchased for supply to PIU consumers for Commission's examination. UPCL filed its response to the petition on 05.09.2005. The response so filed attempts to explain UPCL's failure to file before the Commission the power purchase details as required in the order dated 24.08.2004. Further, UPCL has claimed that consumption of PIU consumers as 243.66 MUs for the period 01-09-2004 to 31-03-2005 and for this consumption the cost of power has been worked out by UPCL as Rs. 102.71 crore. Further that, on this cost the average cost of supply to PIU comes out to Rs. 4.22 per kWh and therefore, the tentative tariff is sought to be replaced by a final tariff of Rs. 4.22 per kWh.

4. Preliminary examination of the details filed by UPCL revealed that the power purchase cost of Rs. 102.71 crore claimed in the submissions had not been worked out in accordance with the Commission's directions contained in the order dated

24.08.2004. UPCL were, therefore, required on 16th September 2005 to compute the power purchase cost in accordance with para 4.2 of Commission's order and further to get these details validated and duly certified by an independent auditor.

5. In compliance of the above direction UPCL filed the details of power purchased for these consumers on 21.09.2005. These details were certified to be in accordance with the Commission's order by M/s Satnam Associates, Chartered Accountants, Dehradun. The details so furnished are summarized below:

<b>S.No.</b>	<b>Details</b>	
1	Energy consumption by PIU's during 01.09.2004 to 31.03.2005 (MUs)	243.67
2	Energy required for supply to PIUs assuming loss level of 20% (MU's)	304.58
3	Total Power Purchase Cost (Rs. in crore)	66.27
4	Cost of supply to PIU's (Rs. per kWh) [3/1]	2.72
5	Average other costs for FY 2004-05 which have been calculated on the basis of the approved ARR as per UERC's order dated 25.04.2005 and Energy sold in FY 2004-05 as per CS-4 statement of UPCL. (Rs. per kWh)	0.37
6	Average cost of supply for PIU's (Rs. per kWh) [4+5]	3.09

6. It is significant that the power purchase cost which was claimed to be Rs. 102.71 crore came down to Rs. 66.27 crore when the Commission asked for validation and certification of relevant figures by an independent auditor. Such huge variation in cost on scrutiny by auditors reflects poorly on integrity of UPCL's submissions on oath. Similarly other costs of Rs. 0.37 per kWh were not claimed in the original petition, but have been added when such certification was required to be done. The Commission hereby cautions the Company against such misdemeanour in future.

7. As requested by the petitioner opportunity for personal hearing was given on 19<sup>th</sup> September 2005 and again on 23.09.2005. The petitioner was represented by Shri M.L. Lahoti, Advocate Supreme Court of India on 19.09.2005. On 23.09.2005 Shri Pawan Agarwal, one of the petitioner was present. On both the occasions UPCL was represented by Shri S.M. Jain, Advocate.

8. It was argued on behalf of the petitioner that since the requirement of the

PIUs has been met within the state's allocation, their Power purchase cost should be determined on the basis of the pooled purchase price and not as done in the Commission's order dated 24.08.04. During the course of the hearing, it was made clear that the present proceedings have a limited scope namely revision and finalization of the tentative tariff fixed in the order dated 24.08.2004 on the basis of the change in actual power purchase cost, if any. The methodology and rationale for computing power purchase cost of PIUs has been adequately dealt with in the order itself and these proceedings are not to be used for going behind that order or revisiting some of the issues settled therein. In the hearing held on 23.09.2005, Shri Pawan Agarwal, one of the petitioners, stated that he had no comments to offer on the details of power purchase cost as certified by the auditor. However, he raised an objection about 37 paisa /kWh shown as PIU consumer's share of UPCL's other cost i.e. the cost other than the power purchase cost. The main objection raised with regard to this was that since this cost has already been accounted for while determining the tariff for other consumers, PIU consumers should not be burdened with the same. On behalf of UPCL it was argued that 37 paisa share of other cost has been calculated based on the PIUs sales in proportion to the total sales and there is no reason why this group of consumers should be exempted from this cost.

9. Since the power purchase cost figures as certified by the auditors have not been objected to by the petitioner, the Commission is accepting the same and not carrying out any independent scrutiny or validation. The Commission is unable to appreciate the argument that PIU consumers should not share UPCL's other cost which have been evenly distributed on all consumers. Accepting petitioner's submission in this regard would amount to showing undue favour to this group of consumers at the cost of others and would indeed amount to the Commission introducing a distorted cross subsidy. The Commission has no intention of doing so. The calculation of other cost as 37 paise/kWh has not been questioned. The Commission is, therefore, accepting the same.

## Order

10. Accordingly, the average cost of supply for PIUs, which needs to be recovered through tariff is Rs. 3.09/kWh that translates to Rs. 2.94/kVAh instead of existing Rs. 3.09/kVAh. This amounts to a reduction of Rs. 0.15/kVAh in the tariff approved for PIUs for the period 01.09.2004 to 31.03.2005.

11. Based on the above, the final tariff for PIUs for the period 01.09.2004 to 31.03.2005 is determined as given below:

Charges	Existing Tariff for PIUs		Tariff for PIUs for the period 01.09.2004 to 31.03.2005	
Demand Charges (Rs./ kVA /month)	350		350	
	Load Factor*	Energy Charges	Load Factor*	Energy Charges
Energy Charges (Rs./kVAh)	0 to 33%	1.90	0 to 33%	1.75
	> 33% & upto 50%	2.20	> 33% & upto 50%	2.05
	Above 50%	2.50	Above 50%	2.35
Minimum Charges (Rs./kVA of the Contracted Demand/month)	600		600	

\* LoadFactor (%)

$$= \frac{\text{Consumption during the Billing Period}}{\text{Maximum Demand or Contracted Demand, whichever is less} \times \text{No. of hours in the Billing Period}} \times 100$$

12. The Commission hereby directs the licensee to correct the billing for the period 01.09.2004 to 31.03.2005 at the above rates and refund/make adjustment for the excess recovery in next 3 months to each such consumer. For the period 01.04.2005 to 30.09.2005 corrections will be got done separately as outlined in para 4.2 of Order dated 24.08.2004.

**(Divakar Dev)**  
**Chairman**