

Before

UTTARANCHAL ELECTRICITY REGULATORY COMMISSION

Petitions No. 2 of 2003.

M/s Ace Glass & Containers Pvt. Ltd.

Vs.

Uttaranchal Power Corporation Ltd.

In the matter of:

Levy and realization of independent feeder charges by Uttaranchal Power Corporation Ltd from M/S Ace Glass Containers Pvt. Ltd ,the petitioner.

Coram

Sri Divakar Dev

Chairman

Date of Order 27th January 2004

ORDER

This is a petition filed by M/s Ace Glass Containers Ltd., a unit manufacturing glass containers in its plant at Rishikesh. The petition has been filed to challenge 15% independent feeder surcharge levied on the petitioner with effect from 09.08.2000.

2. Brief facts of the case are as given below:

- a) The petitioner set up a unit for manufacturing glass containers at village Virbhadra at Rishikesh and was sanctioned a load of 3000 kVA which was fed through 11 kV feeder. In 1997, the petitioner applied for increase in the contracted load and the same was approved. Accordingly his load was increased from 3000 kVA to 3750 kVA. However while sanctioning this additional load, a condition was imposed that the supply will be made on a 33 kV independent feeder, the cost of which was to be borne by the petitioner. The petitioner paid full cost of the independent feeder adding up to Rs. 30,65,383.00.
- b) In August 2000, UP Power Corporation Ltd. (UPPCL) notified the tariff approved by UPERC and the same became effective from 09.08.2000. This new tariff provided for 15% surcharge for supplies made on independent feeders. The petitioner has been paying this surcharge since then.
- c) The State of Uttaranchal was carved out of the undivided UP State on 08.11.2000. However, UPPCL continued to supply and distribute electricity in the entire area of erstwhile UP till Government of India issued an order under section 63(3) of UP Re-organization Act, 2000 dividing assets, rights and liabilities of UPPCL between it and the newly formed Uttaranchal Power Corporation Ltd. (UPCL). This order under section 63(3) became effective from 09.11.2001.
- d) In the meantime, on 01.09.2001 UPERC revised and fixed the tariffs for UPPCL and the same became effective from 16.09.2001. In this new tariff determined by UPERC, the 15% surcharge imposed on supply through independent feeders in the tariff of 2000 was done away with.
- e) On 01.01.2002, Uttaranchal (Uttar Pradesh Electricity Reforms Act) Adaptation and Modification Order, 2001 Adaptation Order was notified and under this Uttaranchal Power Corporation Ltd (UPCL) became the provisional licensee for transmission, distribution and supply of electricity within the State.
- f) On 11.02.2002, UPCL, the new licensee issued retail tariffs for consumers in Uttaranchal effective from 01.01.2002. Regulatory Commission's approval on these tariffs was not sought or obtained. Under this tariff 15%

independent feeder surcharge, which had been done away with in the UPERC's tariff effective from 16.09.2001, was re-imposed and the same is being currently collected from the petitioner.

- g) The petitioner's grievance is that since the entire cost of the independent feeder was paid by him, levy of 15% surcharge on him in the tariff dated 09.08.2000 was arbitrary and without justification. UPERC accepting this logic dispensed with this surcharge in their tariff order 2001 which became effective on 16.09.2001. However, UPCL through the tariff introduced by it with effect from 01.01.2002 undid that and again introduced this surcharge, which has no justification or basis. Further the tariff fixed by UPCL with effect from 01.01.2002 is bad in law as UPCL has no legal authority to alter the tariff fixed by the Regulatory Commission. The petitioner has therefore prayed that 15% independent feeder surcharge levied on him from 09.08.2000 should be done away with and the amount already realized should be got refunded to him.

3. The petition was admitted for hearing by the Commission on 02.12.2002 and a copy of the same was sent to UPCL, the respondent. Para-wise comments on the petition were received and a copy of the same was made available to the petitioner. Rejoinder to the same was filed by the petitioner, a copy of which was given to UPCL. On the basis of submissions made by the two parties and after hearing them, with agreement of both parties three major points for decision were identified on 28.01.2003. These were to be considered for the periods 08.11.2000 to 16.09.2001, 16.09.2001 to 09.11.2001, 09.11.2001 to 01.01.2002 and 01.01.2002 to 05.09.2002. These issues are:

- a) Electricity laws applicable to the state
- b) Status of the licensee in the state.
- c) The applicable tariff in the state.

4. Both the parties were required to file their submissions and supporting evidence, if any, with respect to each of the above issues. UPCL's submissions were

filed on 27.02.2003 and those of the petitioner on 28.04.2003. Further submissions were made on behalf of UPCL on 06.06.2003 and on behalf of the petitioner on 27.06.2003.

Arguments were heard on behalf of the parties on 19.05.2003. Both parties sought further time for filing further evidence on specific questions that cropped up during the arguments and the same was allowed. These questions were:

- a) Whether the tariff fixed by UPERC in 2001 was applicable to Uttaranchal State or not
- b) Whether the UPCL had the legal authority to fix its own tariffs, which it did on 11.02.2002

5. Further submissions were accordingly made on behalf of UPCL by their advocate Sri S.M. Jain on 06.06.2003. UPCL was asked to file a copy of the orders issued by UPPCL the then licensee to its field officers with regard to the tariff of 2001. Similarly they were also asked to file a copy of the State Governments orders referred to in the tariffs fixed by UPCL on 11.02.2002. Additional submissions were made on behalf of the petitioner on 27.06.2003. Arguments of both the parties were heard on 08.07.2003 and finally on 06.10.2003.

6. For deciding the grievance raised by the petitioner with respect to levy of this 15% surcharge, the three issues identified above need to be examined and clearly understood. These are:

I. Applicable laws

7. The first point to be examined is that apart from the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 what were the other laws applicable to the suppliers and consumers of electricity in the State at different point of time since its formation.

8. Both parties agree that from 08.11.2000 when the separate State of Uttaranchal was carved out from Uttar Pradesh to 16.09.2001 the Electricity Regulatory Commissions Act, 1998 (Central Act) and Uttar Pradesh Electricity Reforms Act, 1999 (Reforms Act) continued to be applicable in the newly formed State; as per Government of India's Order under section 63(3) of the Uttar Pradesh Re-organization Act, 2000, UPCL acquired the business of transmission, distribution and supply of electricity in the State from UPPCL on 09.11.2001; and UPERCs tariffs for the year 2001-02 became effective from 16.09.2001.

9. It is also agreed that the Central Act and the Reforms Act continued to be in force in the State till 1.1.2002 when the Reforms Act, 1999 was adopted for the new State of Uttaranchal in terms of the UP Re-organization Act, 2000. Therefore between 09.11.2001 when the responsibility for distribution and supply of electricity in the State was given to UPCL and 01.01.2002 when Uttaranchal (Uttar Pradesh Electricity Reforms Act) Adaptation and Modification Order, 2001 (Adaptation Order) was notified the relevant laws applicable to the licensee continued to be the Central Act and the Reforms Act. From 01.01.2002 when Adaptation Order was notified the applicable laws for the Power Sector in the State were the Central Act and the Adaptation Order and the Reforms Act in its original form ceased to be applicable. The Electricity Act, 2003 became effective from 10.06.2003

10. Actions of various concerned parties at different points of time are to be examined according to the laws pertaining to the Power Sector prevailing in the state at that point of time.

II. Status of the licensee

11. It is not disputed that between 08.11.2000 and 16.09.2001, as well as between 16.09.2000 and 09.11.2001 UPPCL continued to be the licensee for transmission, distribution and supply of electricity in the newly formed State of Uttaranchal. Government of India's Order under section 63(3) of UP Re-organization Act, 2000 dated 05.11.2001 divided the assets, rights and liabilities of

erstwhile UPPCL between it and UPCL w.e.f. 09.11.2001. UPCL's position with respect to licence for the business taken over from UPPCL does not seem to have been clearly spelt out and this position continued till 01.01.2002 when the Adaptation Order was notified. Under section 13(3)(a) of this order, UPCL for the first time became the provisional licensee until grant of a regular licence by this Commission on 20th June 2003.

III. Applicable Tariff

12. The tariff applicable in the State is determined at different points of time, under the laws applicable to the power sector in the State, by the authority empowered therein for this purpose and in accordance with the procedure laid down under these laws. On 09.11.2000 when the State was formed UPPCL was the licensee for distribution and supply of Electricity in the states of UP and Uttaranchal. The tariff determined by UPERC on 07.08.2000 was the applicable tariff and this provided for levy of 15% surcharge on consumers getting supply on independent feeders. The petitioner's contention in this connection is that imposition of this surcharge on consumers like him, who had met the entire cost of construction of the independent feeder, was arbitrary and without sufficient justification. Be that as it may, if UPERC had erred in imposition of the surcharge on the petitioner the relief lay either in seeking review of the same from UPERC itself or in challenging UPERC's order before the appellate authority. Agitating this point before this Commission at this stage does not help the petitioner in any way. This Commission is neither authorized to, nor inclined to examine merits and propriety of UPERC's tariff order of 2000. The Commission is therefore unable to accept petitioner's request in this regard as imposition and collection of surcharge from him by the then licensee was under the tariff laid down by UPERC and therefore legally correct. However this position continued till 16.09.2001 when UPERC's tariffs for the year 2001-02 became effective and this surcharge was removed. The impact of this new tariff on the petitioner now needs to be seen

13. It is accepted by both the parties that in the UPERC's tariff of 2001, this 15% surcharge on consumers getting supply on independent feeders, which had been imposed in the tariff for the year 2000 was done away with. However, levy and realization of this surcharge from the petitioner continued. In this connection it has been argued on behalf of UPCL that though on 16.09.2001 UPPCL continued to be the licensee in the Uttaranchal State, since the new State had already been created, UPERC's tariff 2001 was applicable only in UP and not in Uttaranchal even though on that date Uttaranchal State was being served by the same licensee as UP, namely UPPCL and the state was very much a part of UPPCL's area of supply. In support of this contention following arguments have been given.

- a) Tariffs determined by UPERC's tariff order 2001 were made applicable by the licensee i.e. UPPCL only to the residual State of Uttar Pradesh and the same is reflected in their order no. 950/HC/UPPCL/v-1974-1204-c/2001 dated 10.09.2001.
- b) UPERC determined the tariffs only for the new UP State and not for Uttaranchal. In this connection clause 1.3 of Chapter 1 and clause 4.1 of Chapter 4 of the UPERC's tariff order have been quoted. Similarly it has been argued that clause 5.1 of Chapter 5 of the tariff order lists out the places where public hearing was done by the Commission and this does not include any place in Uttaranchal. Further Annexure of Chapter 5, which is a list of objections received by the Commission, does not contain any objection from Uttaranchal. UPCL's counsel has argued that the above portions of the tariff order reflect UPERC's intention of not fixing tariff for Uttaranchal even though the new State continued to be part of UPPCL's area of supply and UPERC continued to have jurisdiction in Uttaranchal as per the UP Re-organization Act, 2000.

14. The petitioner's counsel has argued that references to Uttaranchal at different places in the tariff order and indeed various calculations and tables clearly show that UPERC had considered both revenue and expenditure of UPPCL not only

for the UP area but also for Uttaranchal as well as for the undivided UP. In this connection following portions of the order have been specifically quoted:

- (a) Para 3 of clause 4.1 of Chapter 4
- (b) Tables 4.1, 4.2 & 4.11 relating to total expenses, annual revenue requirement and power purchase cost giving figures with respect to undivided UP, Uttaranchal and UP.
- (c) Tables 4.12, 4.13, 4.14 & 4.15 pertaining to employee cost, bad and doubtful debts interest and financing cost and depreciation again for undivided UP, Uttaranchal and UP.
- (d) Tables 4.16, 4.17 and 4.18 pertaining to revenue from sale of power, capital base and other income
- (e) Table 4.20 showing the revenue short fall again for undivided UP, Uttaranchal and UP.
- (f) Para 5.2 of Chapter 5 stating that copies of ARR, filed by UPPCL, were sent to the Government of Uttaranchal but no comments have been received by the Commission from them.
- (g) Para 6.48 which clearly approves the total expenditure for the undivided UP.
- (h) Table 6.18 in para 6.73 gives the projected revenue again for UPPCL, Uttaranchal and total.
- (i) Para 7.147 stating that the revised retail tariff will apply to areas served by UPPCL, KESCO and NPCL. Since Uttaranchal continued to be served by UPPCL till 09.11.01, as per this portion of the order the retail tariff approved therein was applicable to the entire area of supply of UPPCL, including the Uttaranchal State.

15. The Commission has heard arguments of the both the sides and has also gone through the record. The Commission has specifically looked into those portions of UPERC's tariff order 2001 which have been referred to by the petitioner and by UPCL in support of their respective positions. While some portions in the order seem to suggest that the ARR scrutiny and tariff determination exercise were

limited to the new UP area, this impression is belied by numerous other portions where revenue and expenditure for both the States including the revenue shortfalls have been calculated and shown. Para 4.1 seems to suggest that UPERC's exercise was limited to the new UP State but in that case there was no need to invite comments, suggestions and objections from the Uttaranchal Government as has been stated in para 5.2. Similarly, para 7.147 unequivocally states that "the revised retail tariff will apply to areas served by UPPCL, KESCO and NPCL". In view of varying positions reflected in different portions of the order, UPERC's real intentions can only be speculated upon. However the relevant issue is not what might have been in UPERC's mind but what their order actually stipulates. As has been said earlier the operative portion of the order categorically states that the order will apply to areas served by UPPCL, KESCO and NPCL. It does not say anything about excluding Uttaranchal area from UPPCL's area of supply and any suggestion to this effect amounts to putting words in UPERC's mouth. Further notification No. 950/HC/UPPCL/V-1974-1204-C/2001 dated 10.09.2001 issued in pursuance of this order under section 24 of the UP Reforms Act, 1999 and which is a statutory notification issued by the licensee itself, categorically makes these rates applicable throughout the area of supply of UPPCL, without any exception. On the date of notification i.e. 10.09.2001 UPPCL continued to hold the licence for distribution and supply of electricity in Uttaranchal State and UPCL became the provisional licensee for distribution and supply of electricity under section 13 of the Adaptation Order, only on 01.01.2002. A combined reading of all these clearly shows that on 09.11.2001 UPPCL was undoubtedly the licensee for distribution and retail supply of electricity in the new State of Uttaranchal and it would therefore follow that Uttaranchal State formed a part of UPPCL's area of supply on that date. In absence of any qualifying provision in UPERC's Tariff order, its operative portion read with the notification issued by UPPCL itself leaves no doubt that the UPERC's tariffs that became effective from 16.09.2001 were applicable to the entire area served by UPPCL as it was on that date. In this connection the notification issued under signatures of the Chairman and Managing Director of UPPCL in exercise of statutory powers u/s 24 of the UP Electricity Reforms Act 1999 is crucial and can not be wished away or ignored. If this notification was not in conformity with UPERC's order the same

should have been challenged and got suitably modified by UPPCL itself or under instructions from UPERC. The factual position is that neither UPPCL nor UPERC have found any reason to interfere with the notification and the same continues to hold good. It is no use agitating before this Commission that the notification issued by UPPCL is defective and should have excluded Uttaranchal areas from its application. If indeed this was the case, UPPCL or UPERC would have been approached for appropriate remedial action, which has not been done. There is therefore no reason to conclude that in face of this notification issued in exercise of statutory powers, the tariff notified therein was not applicable to the Uttaranchal state even though it was part of UPPCL's area of supply. Such conclusion would be not only without basis but would be contrary to unambiguous documentary evidence in shape of this statutory notification.

16. It is not disputed that UPCL itself issued an order on 11.02.2002 laying down new retail tariffs for consumers in the State. This order has been issued not under any statutory provision, but merely after taking approval of the State Government conveyed in their letters dated 26.12.2001 and 11.02.2002 referred to in the said order. A reading of the two letters of the State Government shows that proposals for revising the retail tariffs were prepared by UPCL and sent to the state Government for approval. Government's approval to these was conveyed on 26.01.2001 followed by another letter dated 11.02.2002 directing UPCL that the rates approved in their earlier letter be put before the Regulatory Commission for approval. These approvals do not seem to have been issued in exercise of any statutory powers and were perhaps given by Government in their capacity as owners of UPCL. UPCL completely ignoring Government's directions dated 11.02.2002 went ahead and announced the new retail tariffs on its own instead of taking Regulatory Commission's approval. Under section 63 (1) of the UP Reorganization Act, 2000, UPERC continued to have jurisdiction over the newly formed State of Uttaranchal and this continued till 05.09.2002 when this Commission was constituted. There was thus no regulatory vacuum in the state. Bypassing regulatory scrutiny and determining and fixing tariffs on their own, and that too in spite of Government's categorical directions was a conscious and deliberate

overstepping of its legal authority by the licensee, in deliberate contravention of law. The order issued by UPCL on 11.02.2002 claims that it has been issued in compliance of the State Government's orders dated 26.12.2001 and 11.02.2002. But as has been seen above Government's order dated 26.12.2001 was not a direction issued at Government's initiative but on the contrary was only approval of certain proposals made to them by UPCL itself. The directions that were actually given by Government were contained in their letter dated 11.02.2002 which were totally ignored by UPCL. Hence, claiming that UPCL's order dated 11.02.2002 has been issued in compliance of Government's orders referred to therein is factually wrong and misleading.

17. As stated earlier, on 11.02.2002 the relevant applicable laws for the state were the Adaptation Order and the Central act. Section 24 of Adaptation Order deals with the question of tariffs and it clearly provides for the same to be determined by the Regulatory Commission. Similarly Section 29 of the Central Act also clearly provides for tariff to be determined only by the Regulatory Commission. Neither the Central Act nor the Adaptation Order envisages determination of tariff by the licensee itself or for that matter by the state government in any situation. UP Re-organization Act, 2000 also does not contain any provision, which empowers the licensee or the State Government to assume this role, even temporarily, during the transitional phase or in any other situation. On the contrary, the re-organization Act categorically stipulates that UPERC will continue to exercise jurisdiction over the new State till such time that a separate Commission for Uttaranchal is constituted. The State Government was aware of this position and had therefore rightly directed UPCL to submit the tariff proposal to the Commission for approval. UPCL instead decided to assume this power, in complete violation of law, in spite of State Government's clear directions and fixed the new retail tariff for the state. This action of UPCL, who was merely the provisional licensee, is clearly a wilful and deliberate violation of relevant provisions Adaptation Order and the Central Act and cannot be legally recognised. Section 24(7) (c) of Adaptation Order requires that the tariff shall be in accordance with all other relevant provisions of Adaptation Order, which tariff dated 11.02.2002 certainly does not do and therefore suffers from grave legal

infirmity. Section 45(2) of the Electricity Act 2003 clearly requires the licensee to fix charges in accordance with the methods and principles as may be specified by the concerned State Commission, which clearly has not been done.

18. Further section 24(8) of Adaptation Order also provides that “Tariff shall not be determined more than once in every two financial years.....” As has been stated earlier UPERC had fixed the tariffs only in September 2001, which UPPCL had notified on 10.09.2001. Even if UPERC’s tariff of 2001 is to be ignored, the tariff prevailing in the state would be of 2000 which had been fixed in the financial year 2000-01. Therefore according to this particular provision of Adaptation Order, Tariff could not be revised for at least one more financial year, that is not before 2002-03. Notwithstanding this, Tariff was revised by UPCL on 11.02.2002 itself, that is in the financial year 2001-02 in clear violation of this provision also. This further aggravates the legal flaws of this Tariff.

19. By assuming the power to fix its own tariff, UPCL has struck at the very root of the reform process launched in the country by the Central Act in 1998 and in the State under UP Reforms Act followed by the Adaptation Order. Legal validity of this action of UPCL and its impact on consumers in the State needs now to be seen. It has been contended on behalf of UPCL that above actions were taken as UPERC had informed them in their letter dated 05.02.2002 that:

“In view of the fact that Govt. of Uttaranchal has set up Electricity Regulatory Commission of Uttaranchal (ERCU) with effect from 1st January, 2002, draft PPAs of two hydro projects namely Rajwakti and Hanuman Ganga sent to this Commission vide your letter No. 1894/CMD/UPCL/P-4 dated 26th December, 2001 for approval are being returned herewith as this Commission no longer has jurisdiction to adjudicate upon these PPAs”

And in view of the above Govt. of Uttaranchal assumed powers under section 28 of the Indian Electricity Act, 1910 and section 78 (a) of the Electricity (Supply) Act, 1948. This contention is again seriously flawed for following reasons:

- (a) The position intimated by UPERC was based on incorrect assumption that Uttaranchal Electricity Regulatory Commission has been set up w.e.f. 01.01.2002. Factual position is that this Commission was constituted only on 05.09.2002 and as per provisions of law, till that date UPERC's jurisdiction over Uttaranchal State continued. Instead of bringing the factual position to UPERC's notice, UPCL found in the above communication, a convenient way of by passing regulatory discipline.
- (b) Provisions of law passed by the legislature can not be altered by a mere communication of the kind referred to above and this basic fact was totally ignored and an imaginary regulatory vacuum was assumed.
- (c) UPCL's contention that as the result of the above communication UPERC's powers stood transferred to the Government of Uttaranchal under section 28 of the Indian Electricity Act, 1910 and 78 (A) of The Electricity (Supply) Act, 1948 is equally fallacious and without any legal basis. Neither the two provisions quoted in this connection nor provisions of the Central Act or the UP Re-organization Act, 2000 or the Reforms Act or even State's own legislation on the subject namely Adaptation Order stipulate any such conferment of such powers on the State Government.

For reasons given above it is clear that UPERC's communication dated 05.02.2002 referred to by UPCL's counsel does not in any way change the legal position and does not empower UPCL to determine and fix its own retail tariff, which it did on 11.02.2002.

20. Even if one was to take a generous view and accept UPCL's contention that UPERC's above communication led them to genuinely believe that its jurisdiction over Uttaranchal had ceased, the question that arises is that even in such situation how did they conclude that the powers to fix their own Tariffs stood conferred on them, particularly when the state government had categorically directed them to approach the Commission in this connection. Another issue that

remains is that as stated earlier as per provisions of the Adaptation Order revision of Tariff was not due before two financial years i.e. before 2002-03, even if UPERC's Tariff of 2001 was to be ignored, for which there is no reason. Such being the case, why did the licensee have to rush through and revise the tariffs fixed by the UP Commission throwing to wind specific legal provisions and also the state government's clear directions. Even after constitution of this Commission there has been no attempt on UPCL's part to get this tariff unilaterally fixed by them regularized through ratification. The Commission is therefore unable to accept that the licensee had issued its order for revising the Tariffs under the mistaken belief that UPERC's jurisdiction had ceased, and their plea to this effect is nothing but an afterthought to cover up their action.

21. It is clear from what has been stated above that the tariffs for Uttaranchal State determined by Uttaranchal Power Corporation Ltd. vide their order No. 873/v0, dated 11.02.2002 have been fixed by the licensee itself in complete violation of various provisions of the Central Act and of the Adaptation Order referred to in the preceding para. Charges based on the same cannot be recognized as charges legally payable by consumers in the State. Charging such arbitrary rates, fixed unilaterally by the licensee itself, is not permissible under law. UPCL's action in altering the legally determined tariff prevailing in the state and charging the so altered tariff from consumers amounts to deliberately violating laws and attracts punitive action under Adaptation Order and also under the Electricity Act, 2003 which may be considered separately.

22. The rates fixed by UPCL with effect from 01.01.2002 have no legal basis and cannot be deemed to be legally payable charges. The question that now arises is what then were the rates actually payable by consumers in the State. In this connection it may be recalled that UPERC's tariff of 2000 was undisputedly prevailing at the time of formation of Uttaranchal State. Since this tariff was fixed by UPERC in accordance with the prevailing law, the same could be altered only by another order of the Regulatory Commission. UPERC's next tariff was issued on 01-09-2001. As has been stated earlier this new tariff of 2001 was notified for the

entire area of supply of UPPCL, the then licensee for UP and Uttaranchal States. UPCL's action of substituting this tariff by the tariff order dated 11.02.2002 has no legal validity and deserves to be ignored. The next tariff fixed in accordance with provisions of law is the one announced by this Commission in its tariff order dated 08.09.2003, which came into effect on 20.09.2003. Till that date charges that can be legally realized from the consumers are the charges as fixed by UPERC and notified by UPPCL on 10.09.2001. UPCL, the present licensee cannot realize from any consumer charges higher than those fixed by the Regulatory Commission and doing so whether in the form of independent feeder charges or in any other form is without any legal basis. The consumer is legally not obliged to pay to the licensee such unauthorized charges. Accordingly the licensee is hereby directed to refrain from levying on the petitioner or for that matter any other consumer any charge other than the charges fixed by UPERC earlier and by this Commission w.e.f. 20.09.2003. If such unauthorized excess charges have been levied on any consumer, the same have to be dealt with in accordance with provisions of section 62(6) of the Electricity Act 2003, which is reproduced below:

“If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.”

23. The licensee is accordingly directed to charge from Consumers in his area of supply only the legally determined Tariff and excess charges realized from any consumer should be immediately refunded in accordance with the above provision of section 62(6) of the Electricity Act 2003.

(DIVAKAR DEV)
CHAIRMAN