



**UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Suo - Motu Case No. 06 of 2013

**SUO MOTU DETERMINATION OF ANNUAL REVENUE REQUIREMENT (ARR)
AND TARIFF FOR FY 2013 – 14
FOR
KANPUR ELECTRICITY SUPPLY COMPANY LIMITED**

ORDER UNDER SECTION 64 OF
THE ELECTRICITY ACT, 2003

31st May, 2013



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Before

UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Suo - Motu Case No. 06 of 2013

IN THE MATTER OF:

Suo-motu Determination of Aggregate Revenue Requirement and Tariff for FY 2013-14 of Kanpur Electricity Supply Company Limited (Kesco)

ORDER

The Commission having initiated suo-motu proceedings for determination of Aggregate Revenue Requirement (ARR) and Determination of Tariff for FY 2013-14 and having considered the views / comments / suggestions / objections / representations received from the stakeholders during the course of the above proceedings and also in the public hearings held, in exercise of power vested under Sections 61, 62, 64 and 86 of the Electricity Act, 2003 (hereinafter referred to as 'the Act'), hereby pass this Order signed, dated and issued on 31st May, 2013. The Licensee, in accordance with Section 139 of the Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2004, shall publish the approved tariffs within three days from the date of this Order. The tariffs so published shall become the notified tariffs and shall come into force after seven days from the date of such publication of the tariffs, and unless amended or revoked, shall continue to be in force till issuance of the next Tariff Order.



1. BACKGROUND AND BRIEF HISTORY

1.1 BACKGROUND:

1.1.1 The Uttar Pradesh Electricity Regulatory Commission (UPERC) was formed under U.P. Electricity Reform Act, 1999 by Government of Uttar Pradesh (GoUP) in one of the first steps of reforms & restructuring process of the power sector in the State. Thereafter, in pursuance of the reforms & restructuring process, the erstwhile Uttar Pradesh State Electricity Board (UPSEB) was unbundled into the following three separate entities through the first reforms Transfer Scheme dated 14th January, 2000:

- Uttar Pradesh Power Corporation Limited (UPPCL): vested with the function of Transmission and Distribution within the State.
- Uttar Pradesh Rajya Vidyut Utpadan Nigam Limited (UPRVUNL): vested with the function of Thermal Generation within the State
- Uttar Pradesh Jal Vidyut Nigam Limited (UPJVNL): vested with the function of Hydro Generation within the State.

1.1.2 Through another Transfer Scheme dated 15th January, 2000, assets, liabilities and personnel of Kanpur Electricity Supply Authority (KESA) under UPSEB were transferred to Kanpur Electricity Supply Company Limited (KESCO), a company registered under the Companies Act, 1956.

1.1.3 After the enactment of the Electricity Act, 2003 (EA 2003) the need was felt for further unbundling of UPPCL (responsible for both Transmission and Distribution functions) along functional lines. Therefore, the following four new distribution companies (hereinafter collectively referred to as 'Discoms') were created vide Uttar Pradesh Transfer of Distribution Undertaking Scheme, 2003 dated 12th August, 2003 to undertake distribution and supply of electricity in the areas under their respective zones specified in the scheme:

- Dakshinanchal Vidyut Vitran Nigam Limited (Agra Discom or DVVNL)
- Madhyanchal Vidyut Vitran Nigam Limited (Lucknow Discom or MVVNL)
- Paschimanchal Vidyut Vitran Nigam Limited (Meerut Discom or PVVNL)
- Purvanchal Vidyut Vitran Nigam Limited (Varanasi Discom or PuVVNL)



- 1.1.4 Under this scheme, the role of UPPCL was specified as “Bulk Supply Licensee” as per the license granted by this Commission and as “State Transmission Utility” under sub-section (1) of Section 27-B of the Indian Electricity Act, 1910 as notified by the State Government.
- 1.1.5 Subsequently, the Uttar Pradesh Power Transmission Corporation Limited (UPPTCL), a Transmission Company (Transco), was incorporated under the Companies Act, 1956 by an amendment in the ‘Object and Name’ clause of the Uttar Pradesh Vidyut Vyapar Nigam Limited. The Transco is entrusted with the business of transmission of electrical energy to various utilities within the State of Uttar Pradesh. This function was earlier vested with UPPCL. Further, Government of Uttar Pradesh (GoUP), in exercise of power under the Section 30 of the EA 2003, vide notification No. 122/U.N.N.P/24-07 dated 18th July, 2007 notified Uttar Pradesh Power Transmission Corporation Limited as the “State Transmission Utility” of Uttar Pradesh. Subsequently, on 23rd December 2010, the Government of Uttar Pradesh notified the Uttar Pradesh Electricity Reforms (Transfer of Transmission and Related Activities Including the Assets, Liabilities and Related Proceedings) Scheme, 2010 which provided for the transfer of assets and liabilities from UPPCL to UPPTCL with effect from 1st April, 2007.
- 1.1.6 Thereafter, on 21st January, 2010, as the successor distribution companies of UPPCL (a deemed Licensee), the Discoms which were created through the notification of the UP Power Sector Reforms (Transfer of Distribution Undertakings) Scheme, 2003 and were issued fresh distribution licenses which replaced the UP Power Corporation Ltd (UPPCL) Distribution, Retail & Bulk Supply License, 2000.

1.2 DISTRIBUTION& TRANSMISSION TARIFF REGULATIONS:

- 1.2.1 Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2006 (hereinafter referred to as the “Distribution Tariff Regulations”) were notified on 6th October, 2006. These Regulations are applicable for the purposes of ARR filing and Tariff determination to all the Distribution Licensees within the State of Uttar Pradesh from FY 2007-08 onwards.



- 1.2.2 Similarly, the Uttar Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2006 (hereinafter referred to as the “Transmission Tariff Regulations”) were notified on 6th October, 2006. These Regulations are applicable for the purposes of ARR filing and Tariff determination of the Transmission Licensees within the State of Uttar Pradesh from FY 2007-08 onwards.
- 1.2.3 The Distribution Tariff Regulations and Transmission Tariff Regulations have been collectively referred to as ‘Tariff Regulations’ in this Order.



2. PROCEDURAL HISTORY

2.1 ARR & TARIFF PETITION FILING BY THE LICENSEES

- 2.1.1 As per the provisions of the UPERC (Terms and Conditions for Determination of Distribution Tariff) Regulations, 2006, the Distribution Licensees' are required to file their ARR / Tariff Petitions before the Commission latest by 30th November each year so that the tariff can be determined and be made applicable from the 1st of April of the subsequent financial year.
- 2.1.2 The ARR / Tariff Petition for FY 2013-14 was filed by Kesco (hereinafter referred to as the 'Licensee' or the 'Petitioner') under Section 64 of the Electricity Act, 2003 on 3rd December, 2012 (Petition No. 860 / 2012).
- 2.1.3 The Commission observed that the Licensee had submitted the provisional accounts for FY 2011-12 along with the calculations of revenue gap for FY 2013-14 and the projected revenue for FY 2013-14 based on current tariff in their ARR Petitions. However, the ARR Petitions did not contain a proposal to bridge the revenue gap through tariff hike or through any other mechanism.

2.2 PRELIMINARY SCRUTINY OF THE PETITIONS:

- 2.2.1 A preliminary analysis of the Petition was conducted by the Commission wherein it was observed that the audited accounts for the period (i.e., FY 2010-11) as stipulated by the Regulations, were not submitted by the Licensee. The matter of submission of audited accounts was also reaffirmed in the Hon'ble Appellate Tribunal for Electricity (hereinafter referred to as the 'Hon'ble APTEL') judgment dated 21st October, 2011 in Appeal No. 121 of 2010 in the Licensee's case.
- 2.2.2 The ARR Petition did not propose any mechanism to bridge the revenue gap which was in contravention to the stipulation of Regulations 2.1.4 of the Distribution Tariff Regulations.
- 2.2.3 In this regard, a deficiency note was issued by the Commission on 27th December, 2012 directing the Licensee to submit their proposal for bridging the revenue gap. Such deficiency note also sought clarifications on other



issues in regard to the ARR Petition filed. The Commission had granted a time of 2 weeks to respond on the deficiency note i.e., by 10th January, 2013.

2.2.4 Thereafter, the Licensee requested for a time extension by two weeks vide a letter dated 17th January, 2013 to respond on the deficiency note.

2.2.5 Vide the judgement dated 11th November, 2011 in the matter OP No. 1 of 2011, the Hon'ble APTEL has directed the State Commissions that *"In the event of delay in filing of the ARR, truing-up and Annual Performance Review, one month beyond the scheduled date of submission of the petition, the State Commission must initiate suo-moto proceedings for tariff determination in accordance with Section 64 of the Act read with clause 8.1 (7) of the Tariff Policy."*

2.2.6 Considering the directives of the Hon'ble APTEL, the Commission issued a notice dated 16th January, 2013 intimating the Licensee to remain present on 28th January, 2013 and explain the reasons to the Commission for non submission of audited accounts of relevant years as required by the Regulations, lack of proposal for bridging the revenue gap and as to why suo-motu proceedings for determination of ARR and Tariff not be initiated in the Licensees' case.

2.2.7 During the hearings held on 28th January, 2013, the following oral submissions were made by the Licensee:

- **On the issue of Audited Accounts for FY 2010-11** – The Licensee submitted that the statutory audited accounts for FY 2010-11 would be submitted by 28th February, 2013. The Licensee informed that the statutory auditor in its case is an independent chartered accountant firm appointed by the Comptroller and Auditor General of India (CAG), New Delhi.
- **On the issue of Supplementary Audit Report of the Accountant General of Uttar Pradesh for FY 2010-11** - The Licensee submitted that the supplementary audit report of the Accountant General of Uttar Pradesh (AGUP) would take further time as the office of the AGUP being a constitutional body is not under any control of the Licensee



and hence the Licensee is not in a position to expedite the process of their audit.

- **On the issue of Preparation of Fixed Asset Registers:** The Licensee stated that the fixed assets registers up to FY 2009-10 have already been submitted to the Commission vide Letter dated 24th January, 2013.
- **On the issue of Tariff Proposal** – The Licensee stated that the Tariff Proposal has been prepared and is pending approval by higher authorities.

2.2.8 The Commission observed that the Licensee was not in a position to remove the deficiency in its ARR filings in respect of submission of audited accounts, supplementary audit report of the AGUP and tariff proposal. In this background, the Commission informed the Licensee that it would be constrained to initiate suo-motu proceedings for tariff determination if there is continuing failure of the Licensee to remove the deficiency in its ARR filings. In this regard, the Petitioner stated that the Commission may proceed further with suo-motu proceedings, as it was not possible for it to ensure submission of supplementary audit report of the AGUP within the time frame indicated by the Commission.

2.2.9 The oral submissions made in the hearing held on 28th January, 2013 were reaffirmed on affidavit by the Licensee on 4th February, 2013 on the directions of the Commission.

2.2.10 Subsequently, on 24th January, 2013, the Licensee submitted the response to the Deficiency Note. Thereafter, on 8th March, 2013, the Licensee filed the Proposal for Revision of Tariff for FY 2013-14 along with a proposal for bridging the revenue gap.

2.2.11 The statutory audited accounts along with supplementary audit report of the AGUP for FY 2008-09 and 2009-10 were submitted by the Licensee vide Letter No. 44/Kesco/Acct./A.O.(A)/ERC on 15th January, 2013. The statutory audited accounts for FY 2010-11 were submitted on 16th February, 2013 and for FY 2011-12 were submitted vide Letter No. 960/Kesco/Acctt./A.O.(A)/ERC on 2nd



May, 2013. The supplementary audit report of the AGUP for FY 2010-11 and 2011-12 have not been submitted by the Licensee.

- 2.2.12 The role of the Commission in timely and regular tariff approval is paramount and has been fairly established in law. The same has also been reaffirmed in OP No. 1 of 2011 issued by the Hon'ble APTEL on 11th November, 2011. The Commission could not have waited beyond a point of time for the Licensees to remove the deficiency in the ARR filings and delay the tariff determination process endlessly. At the same time, the Licensee needs to be discouraged from delaying the tariff determination process on the pretext of unavailability of supplementary audit report of the AGUP and fixed asset registers.
- 2.2.13 As the ARR filings were not accompanied by the audited accounts as stipulated by the Tariff Regulations, the Commission, in pursuance with the directions of the Hon'ble APTEL, powers conferred under Section 64 of the Electricity Act, 2003 and the Regulation 2.1.12 of the Distribution Tariff Regulations, initiated suo-motu proceedings for determination of ARR and Tariff for FY 2013-14.
- 2.2.14 The Commission even under suo-motu proceedings would require necessary data to assess the revenue requirement and fix the tariff. In this respect, it would place reliance on the audited accounts, provisional accounts and other submissions of the Licensee. The Licensee had made a detailed ARR / Tariff Petition as per the terms and conditions of the Tariff Regulations. The Commission found that the ARR / Tariff filings for FY 2013-14 and the statutory audited accounts for FY 2010-11 and 2011-12 submitted thereafter were the most reliable data available with it for estimation of revenue requirement of the Licensee.
- 2.2.15 Considering this, the Commission through Orders dated 11th and 12th March, 2013, directed the Licensee to publish the salient features of the ARR / Tariff Petition, in at least two daily newspapers (one English and one Hindi) for two successive days, and on its websites for inviting views / comments / suggestions / objections / representations by all stakeholders and public at large with a view to ensure wide publicity of the decision of the Commission to initiate suo-motu proceedings for tariff determination. The Commission also directed the Licensee to upload the submitted petitions along with the



response to the deficiency note and all subsequent submissions made in respect of these proceedings on their & UPPCL's website for the same purpose. This was done to ensure that the suo-motu proceedings are initiated with greater transparency and wide participation of the stakeholders.

2.3 PUBLICITY OF THE PETITION

2.3.1 The Public Notice detailing the salient features of the ARR petitions were made by UPPCL on behalf of the Licensee and they appeared in daily newspapers as detailed below inviting objections from the public at large and all stakeholders:

- Times of India (English) : 22nd March, 2013; 23rd March, 2013
- Hindustan Times (English) : 22nd March, 2013; 23rd March, 2013
- Dainik Jagran (Hindi) : 22nd March, 2013; 23rd March, 2013
- Amar Ujala (Hindi) : 22nd March, 2013; 23rd March, 2013
- Rashtriya Sahara (Urdu) : 22nd March, 2013; 23rd March, 2013
- Rashtriya Sahara (Hindi) : 22nd March, 2013; 23rd March, 2013
- HIndustan (Hindi), Bareilly Edition : 22nd March, 2013; 23rd March, 2013



3. PUBLIC HEARING PROCESS

3.1 OBJECTIVE

- 3.1.1 The Commission, in order to achieve the twin objective i.e. to observe transparency in its proceedings and functions and to protect interest of consumers has always attached importance to the views / comments / suggestions / objections / representations of the public on the ARR / Tariff determination process. The process gains significant importance in a “cost plus regime”, where the entire cost allowed to the Licensee gets transferred to the consumer.
- 3.1.2 The comments of the consumers play an important role in the determination of tariff and the design of the rate schedule. Factors such as quality of electricity supply and the service levels need to be considered while determining the tariff. The Commission takes into consideration the submissions of the consumers before it embarks upon the exercise of determining the tariff.
- 3.1.3 The Commission, by holding public hearings, has provided the various stakeholders as well as the public at large, a platform where they were able to share their views / comments / suggestions / objections / representations for determination of the retail tariff for FY 2013 - 14. This process also enables the Commission to adopt a transparent and participative approach in the process of tariff determination

3.2 PUBLIC HEARING:

- 3.2.1 To provide an opportunity to all sections of the population in the State to air their views and to also obtain feedback from them, combined public hearings were held by the Commission at various places in the State. The public hearings were conducted from 15th April, 2013 to 22nd April, 2013 as per details given below.



Table 3-1: SCHEDULE OF PUBLIC HEARING AT VARIOUS LOCATIONS OF THE STATE

S.No	Date	Place of Hearing	Hearings in the matter of
1.	15.04.2013	Kanpur	UPPTCL, DVVNL, MVVNL, PVVNL, PuVVNL and UPPTCL
2.	17.04.2013	Lucknow	UPPTCL, DVVNL, MVVNL, PVVNL, PuVVNL and UPPTCL
3.	22.04.2013	Greater Noida	NPCL
4.	22.04.2013	Noida	UPPTCL, DVVNL, MVVNL, PVVNL, PuVVNL and UPPTCL

3.2.2 Consumer representatives, industry associations as well as several individual consumers participated actively in the public hearing process.

3.2.3 The views / suggestions / comments / objections / representations received from the stakeholders and public at large were forwarded to the Licensee for their comments / response. The Commission considers these submissions of the consumers and the response of the Licensee before it embarks upon the exercise of determining the tariff for FY 2013-14.

3.2.4 Besides this, the Commission, while determining the ARR / Tariff for FY 2013-14, has also taken into consideration the oral and written views / comments / suggestions / objections / representations received from various stakeholders during the public hearings or through post or by e-mail.

3.2.5 The Commission has taken note of the views and suggestions submitted by the various stakeholders which provided useful feedback on various issues and the Commission appreciates their keen participation in the entire process.

3.3 VIEWS / COMMENTS / SUGGESTIONS / OBJECTIONS / REPRESENTATIONS ON ARR / TARIFF

3.3.1 The Commission has taken note of the various views / comments / suggestions / objections / representations made by the stakeholders and



would like to make specific mention of the following stakeholders for their valuable inputs:

- Mr. Awadhesh Kumar Verma, Chairman, Uttar Pradesh Rajya Vidyut Upbokta Parishad (UPRVUP)
- Mr. Rama Shankar Awasthi, Lucknow

3.3.2 The list of the consumers, who have submitted their views / comments / suggestions / objections / representations, is appended at the end of this chapter at Annexure 10.5. The major issues raised therein, the replies given by the Licensee¹ and the views of the Commission have been summarised² as detailed below.

3.4 SUO MOTU DETERMINATION OF TARIFF

A) *Comments / Suggestions of the Public*

3.4.1 The comments / suggestions submitted by Mr. Rama Shanker Awasthi, Lucknow, are stated below:

3.4.2 The stakeholder has stated that the Commission by initiating suo-motu proceedings for determination of tariff has adopted a novel method to circumvent the statutory regulations and the order passed by the Hon'ble APTEL in OP No. 1 of 2011. The stakeholder has suggested that the Commission instead of initiating suo-moto proceedings for tariff determination should have directed the Distribution Licensees to remove the deficiencies in the ARR / Tariff proposal.

¹ The views / comments / suggestions / objections / representations of the stakeholders were towards the consolidated distribution companies and not specifically to the KESCO as such. UPPCL, being the holding company, had submitted the replies on stakeholder representations on behalf of all the state distribution companies.

² As the stakeholder representations and the responses thereupon, were received at overall consolidated Discoms level, the Commission has discussed the same in this Order from the viewpoint of Consolidated Discoms.



- 3.4.3 The stakeholder has cited the Hon'ble APTEL judgment in Appeal No. 204 of 2011 dated 11th August, 2011 wherein the Hon'ble APTEL held, that the State Commission can initiate suo-motu proceeding and determine tariff in the absence of the proposal by the utilities. Further, the stakeholder has stated that a State Commission can initiate suo-motu proceedings only in the absence of ARR Petition / Tariff proposal and not as in the current case, where the Commission has initiated suo-motu proceedings due to deficiency in the ARR filings of the Licensees. The stakeholder has purported that under the terms of Regulation 2.1.12 of the Distribution Tariff Regulations, the Commission can initiate suo-motu proceedings only in case the Licensees fail to file an ARR / Tariff Petition.
- 3.4.4 The stakeholder has stated that the Licensees have themselves requested the Commission to proceed with suo-motu tariff determination and that the Commission has merely accepted the request of the Licensees.
- 3.4.5 The stakeholder has alleged that the tariff petitions of the Licensees are still pending and the same have not been rejected by the Commission. The stakeholder has objected to the publication of the Tariff proposal and salient features of the ARR in newspapers and websites of the Licensees. The stakeholder has purported, that this goes to show that neither the Commission has rejected the tariff petition of the Licensees, nor initiated suo-motu proceedings for determination of tariff.
- 3.4.6 Considering all of the above, the stakeholder has requested the Commission to reject the entire proceedings of determination of tariff.
- 3.4.7 In addition to the above, the stakeholder has objected that all the documents and information regarding determination of distribution tariff are being issued and supplied by Chief Engineer (Regulatory Affairs Unit), UPPCL and not the functional heads of the Licensees. The stakeholder has questioned the role of UPPCL in the entire tariff determination exercise.

B) *The Licensee's response:*



- 3.4.8 The Licensee clarified that the Hon'ble Commission had issued a notice on 16th January, 2013, directing the Licensees to remain present on 28th January, 2013 and explain the reasons to the Commission for non-submission of audited accounts of relevant years as required by the Regulations, lack of proposal for bridging the revenue gap and as to why suo-motu proceedings for determination of ARR and Tariff not be initiated.
- 3.4.9 During the hearing, the Licensees explained to the Hon'ble Commission that the supplementary audit report by the AGUP would take time to complete and that the office of the AGUP being a constitutional body, the Licensees are not in a position to expedite their audit. The Discoms had agreed to submit the audited accounts for FY 2010-11 (without supplementary audit report of the AGUP) by 28th February, 2013. Further, the Licensees (except KESCO) conveyed their inability to prepare the fixed asset registers as the asset wise opening balances were not available as the Transfer Scheme had not been finalised. Considering that the Licensees were unable to remove the deficiency in its ARR filings, the Hon'ble Commission informed the Licensees during the hearing, that in such a circumstance, it would proceed further with suo-motu proceedings for tariff determination. At this moment, the Licensee stated that the Commission may proceed further with suo-motu proceedings as it was not possible for it to ensure submission of supplementary audit report of the AGUP and fixed asset registers within the time frame indicated by the Commission. Hence, there was no request from the Licensee's side to initiate suo-motu proceedings for tariff determination.
- 3.4.10 The salient features of the ARR Petition and Tariff Proposal were published in newspapers and on the websites of the Licensees based on the directives contained in Orders of the Hon'ble Commission dated 11th and 12th March, 2013.
- 3.4.11 The Licensee clarified that the Regulatory Affairs Unit (RAU) plays a coordinating role between the distribution companies and the Hon'ble Commission. The affidavits are filed by the respective functional heads of the Licensees or their authorised representatives. However since the RAU cell is located in Lucknow, it plays an interface between the Discoms and the Commission.



C) The Commission's view:

- 3.4.12 The Commission was constrained to initiate suo-motu proceedings for tariff determination considering the continuing failure of the Licensees in furnishing audited accounts for the periods as stipulated by the Tariff Regulations. The sequence of events from the filing of the ARR Petitions by the Licensees up to the public hearings in respect of suo-motu proceedings for determination of tariff have been detailed in the foregoing sections. The same are not repeated here for the sake of brevity.
- 3.4.13 The allegations of the stakeholder that the decision of the Commission to initiate suo-motu proceedings is to circumvent the statutory regulations and the order passed by the APTEL in OP No. 1 of 2011 is baseless and devoid of facts. On the contrary, the Hon'ble APTEL in OP No. 1 of 2011 has stated that it should be the endeavour of every State Commission to ensure that the tariff for the financial year is decided before 1st April of the financial year. The Commission could not have waited beyond a point of time for the Licensees to remove the deficiency in the ARR filings and delay the tariff determination process endlessly. The role of the Commission in timely and regular tariff approval is paramount and has been fairly established in law.
- 3.4.14 As the ARR filings were not accompanied by the audited accounts as stipulated by the Tariff Regulations, the Commission initiated suo-motu proceedings for determination of ARR and Tariff for FY 2013-14. As the irregular filings were never admitted by the Commission, it cannot be said that there were any valid ARR Petitions filed by the Licensees. The suo-motu proceedings were initiated to discourage the Licensees from delaying the tariff determination process on the pretext of unavailability of supplementary audit report of the AGUP and fixed asset registers.
- 3.4.15 The Commission had initiated the suo-motu proceedings after issuing a notice to the Licensees. It gave adequate time and opportunity to the Licensees to remove the deficiency in their ARR filings. On expiry of the time frame provided to the Licensee and upon its failure to remove the deficiency, the Commission initiated suo-motu proceedings. The contention of the



stakeholder in stating that the Commission initiated the suo-motu proceeding on the request of the Licensees is misplaced.

- 3.4.16 The Commission even under suo-motu proceedings would require necessary data to assess the revenue requirement and associated costs such as power purchase expenses, O&M expenses, interest on loan, depreciation, etc. and fix the tariff. In this respect, it would place reliance on the audited accounts, provisional accounts and other submissions of the Licensee. The Licensees had made a detailed ARR / Tariff Petition as per the terms and conditions of the Tariff Regulations. The Commission has found that the ARR / Tariff filings for FY 2013-14 along with the audited accounts for FY 2010-11 and 2011-12 submitted thereafter were the most reliable data available with it for revenue requirement estimation and associated costs such as power purchase expenses, O&M expenses, interest on loan, depreciation, etc. Considering this, the Commission had directed the Licensees to publish the salient features of the ARR / Tariff Petitions in various newspapers and on their websites with a view to ensure wide publicity of the decision of the Commission to initiate suo-motu proceedings for tariff determination. This was done to ensure that the suo-motu proceedings are initiated with greater transparency and wide participation of the stakeholders. In this backdrop, the Commission also held Public Hearing at 4 cities of Uttar Pradesh to encourage active participation of the stakeholders and the public at large to obtain their views and suggestions.
- 3.4.17 On the issue of the role of the RAU wing, the Commission clarifies that in the process of suo-motu proceedings, the distribution companies only play a passive role. The Commission has received the data required by it, from the Licensees, directly sometimes from RAU wing and sometimes through the distribution companies. Nevertheless, it has been ensured that the rights of the consumers have not been prejudiced due to the coordinating role played by the RAU wing.
- 3.4.18 The scheme of the Act requires the Licensee to work with complete functional autonomy and independence. The Commission, with a view to ensure functional autonomy, independence, transparency and regulatory discipline, and considering the suggestions of the stakeholder, hereby direct, that in case of all future ARR submissions, each Distribution Licensee shall file independent ARR petitions, rate schedule, response to deficiency notes, additional



submissions, response to stakeholder queries, etc directly before the Commission and not through its holding company namely UPPCL.

3.5 PROPOSAL FOR SUPPLY HOURS LINKED TARIFF FOR LMV-1 CONSUMERS

A) Comments / Suggestions of the Public:

- 3.5.1 The comments / objections submitted by Mr. Awadhesh Kumar Verma, Chairman, U.P. Rajya Vidyut Upbhokta Parishad, Mr. Rama Shanker Awasthi, Lucknow and Mr. Vijay Kumar Agarwal, Upbhokta Jan Kalyan Samiti are as under:
- 3.5.2 The stakeholders stated that the distribution companies have proposed to link tariff for LMV-1 category consumers based on the hours of supply. In case of Ghaziabad, Lucknow and Noida, where electricity is being supplied purportedly for 24 hours, the tariff has been proposed at the highest level. The claim of the distribution companies that electricity is being supplied to Ghaziabad, Lucknow and Noida for 24 hours itself has been contested by the stakeholders. The stakeholders have expressed their fears that such a proposal has been made only as a back door entry for higher tariff revision.
- 3.5.3 The stakeholders have alleged that there are other cities / districts such as Etawah, Mainpuri, Kannauj, Rae Bareli, Amethi, Sambhal, Deoband Nagar, Auraiya, etc which are getting 24 hours supply, but the same being VVIP areas have been kept aloof from the proposed hourly linked tariff for LMV-1 consumers. The stakeholders have stated that this is discriminatory and is contrary to the spirit and provisions of the Electricity Act, 2003 and in particular to Section 62 (3) of the Act which states that *“Appropriate Commission shall not while determining the tariff under this Act, show undue preference to any consumer of electricity, but may differentiate according to the consumer’s load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which supply is required”*.



- 3.5.4 The stakeholders expressed their concern over how the distribution companies would implement such a proposal if approved as there is no preparedness within the distribution companies.
- 3.5.5 The stakeholders have suggested that the hours of supply to all areas should be similar and no discrimination may be done for power supply to different areas.
- 3.5.6 The stakeholders have stated that the proposal of the distribution companies to reduce the first slab of LMV-1 consumers from 0-200 units to 0-100 units may be rejected by the Commission. Instead the stakeholders have suggested that such slab may be increased to 0-250 units or retained at the existing level.

B) The Licensee's response:

- 3.5.7 The Licensee has submitted that the hourly linked tariff proposal made by it, is to ensure that the consumers pay tariff which is commensurate with the hours of supply ensured to such consumers. There is a considerable demand supply gap in the state. In such a case, there is scheduled rostering across the state except in few major cities. The intention of the Licensee in proposing such a tariff structure was to ensure that tariff for LMV-1 consumers is fixed at a level where best supply is provided i.e., in major cities where electricity is being supplied for 24 hours and for consumers of other areas provide a tariff linked with the hours of supply thereby giving a discounted rate for areas getting less than 24 hours of supply.
- 3.5.8 The Licensee has submitted that reduction in the slab proposed for LMV-1 category (metered consumers) is in line with the slabs of the neighbouring states for domestic category consumers. Hence, the same may be considered by the Commission in final rate schedule which it may approve.

C) The Commission's views:

- 3.5.9 The Licensees have not detailed the rationale and justifications towards the proposed hourly linked tariff rates for LMV-1 consumers. The Commission is also not satisfied regarding the preparedness of the Licensees in terms of



metering, billing, etc., to implement such a graded tariff structure, if approved. The Commission feels that the time is not ripe for approving such a tariff structure in this suo-motu proceeding. The Commission would need to be satisfied regarding the maintainability, acceptability and practicality of such a graded tariff structure for LMV-1 consumers before its consideration in the rate schedule.

3.6 SUPPLY RELATED ISSUES

A) Comments / Suggestions of the Public:

- 3.6.1 The comments / suggestions submitted by Mr. Ram Dutt Sharma, Mr. Arvind Kumar Sharma, Mr. R.K. Jain, Secretary, Western UP Chamber of Commerce & Industry, Meerut, Mr. Chotebhai Naronha, Convenor, Kanpur Nagrik Manch, Mr. Kanhaiyalal Gupta 'Salil', Secretary, Kanpur Nagrik Manch, Mr. Awadhesh Kumar Verma, Chairman, U.P. Rajya Vidyut Upbhokta Parishad and Mr. S.B. Agarwal, Secy. Gen., Associated Chambers Of Commerce And Industry of UP are as under:
- 3.6.2 The stakeholders stated that there is unscheduled rostering in Taj Trapezium area to the extent of 4 hours daily. The stakeholders also alleged that they are exploited by the distribution companies on the issue of connected load.
- 3.6.3 The stakeholders have expressed their concern over the turnaround time of the distribution companies for restoration of supply in case of outages due to technical faults in the line, transformers, feeders, etc.
- 3.6.4 The stakeholders have expressed their concern over the growing demand-supply gap in the state.

B) The Licensee's response:

- 3.6.5 The Licensee submitted that the hours of supply is normally as per schedule, however sometimes it may be less than that of schedule hours due to emergency rostering which is beyond the control of the Licensee.



- 3.6.6 The Licensee stated that complaints of quality of supply, turnaround time for fault repair, etc. are not related to present tariff Petition. However it assured that these issues will be dealt by the concerned local officers of the Discoms.
- 3.6.7 Regarding, the demand supply gap, the Licensee has stated that it is endeavouring to reduce the distribution losses. Capacity augmentation is being planned by the State Government. The growth in the capacity addition has been outnumbered by the growth in the demand.

C) The Commission's views:

- 3.6.8 The Commission has considered the views of the stakeholders while approving the tariff.

3.7 TRANSMISSION & DISTRIBUTION LOSSES

A) Comments / Suggestions of the Public:

- 3.7.1 The comments / suggestions submitted by Mr. R. K. Jain, Secretary, Western UP Chamber of Commerce & Industry, Mr. Rakesh Goyal, Secretary, State Committee, Akhil Bhartiya Matadhikari Sangh, Mr. Umang Agarwal, Facilitation of Industries and Traders Association, Kanpur, Mr. Chotebhai Naronha, Convenor, Kanpur Nagrik Manch, Mr. Kanhaiyalal Gupta 'Salil', Secretary, Kanpur Nagrik Manch, Mr. D.S Verma. Executive Director, Indian Industries Association, Mr. Vishnu Bhagwan Agarwal, Chairman, National Chamber of Industries and Commerce, U.P., Mr. N.P. Singh, Federation of Noida Residents Welfare Associations, Mr. Rama Shanker Awasthi, Lucknow, Mr. S.B. Agarwal, Secy. General, Associated Chambers of Commerce & Industry, Lucknow and Mr. Shashi Bhushan Mishra, Sachiv, Upbhokta Sanrakshan Evam Kalyan Samiti, Mathura are as under:
- 3.7.2 The stakeholders have stated that there is no prudent and sound basis of information available in respect of T&D losses and other physical parameters.



- 3.7.3 The stakeholders suggested that the line losses should be reduced to 15%. One of the stakeholder submitted that the actual line losses are to the tune of 40% and this has led to huge revenue gap of the distribution companies. The stakeholders have stated that the burden of inefficiency of distribution companies should not be passed on to the consumers.
- 3.7.4 One of the stakeholders has stated that the T&D loss reduction projections of the distribution companies lack credibility.
- 3.7.5 The stakeholders raised the issue that UPPCL is not reducing the losses to the desired level as per the directions of UPERC. Some serious efforts are required to reduce the huge T&D losses.
- 3.7.6 One of the stakeholders has stated that the distribution companies are not depicting segregated technical and commercial losses.
- 3.7.7 The stakeholders have stated that as per Clause 3.2.2 and 3.2.3 of the Distribution Tariff Regulations, the Commission with a view to set the base line of distribution loss estimate, may either require the Licensee to carry out proper loss estimation studies for assessment of technical and commercial losses under its supervision, or initiate a study itself. The study shall segregate voltage-wise distribution losses into technical loss (i.e. Ohmic / Core loss in the lines, substations and equipment) and commercial loss (i.e. unaccounted energy due to metering inaccuracies / inadequacies, pilferage of energy, improper billing, no billing, unrealized revenues etc). The stakeholder has stated that the Commission has failed to initiate technical and commercial loss assessment studies as mandated by its own Regulations. In this background, the verification of actual technical and commercial losses is not possible.

B) The Licensee's response:

- 3.7.8 The Licensee submitted that they have planned and proposed a gradual reduction in distribution losses up to FY 2022-23 under the Financial Restructuring Plan.
- 3.7.9 The Licensee submitted that all efforts are being made to reduce the losses as the same is beneficial to the utility as well. Tariff revision exercise is done on



the basis of assumption of loss level. It may be noted that when losses are assumed on lower side then tariff will automatically be lesser. Hence loss level projection is not against the interest of the consumers.

3.7.10 The Licensee informed that the infrastructure is sufficient to cater for supply to all consumers. However to cater for future growth, action is being taken for addition of matching infrastructure.

3.7.11 The Commission has already issued directions to the Licensees to initiate base line loss estimation studies for assessment of technical and commercial losses. The distribution companies would be appointing consulting firms for undertaking the said studies.

C) The Commission's views:

3.7.12 The Commission recognises the fact that the Licensee has been taking measures to reduce T&D losses by implementing schemes such as laying Aerial Bunch Conductors (ABC), APDRP, R-APDRP, etc., but these efforts are yet to yield satisfactory results. On the aspect of T&D losses, the Licensee should undertake necessary strengthening and R&M of the distribution networks to reduce losses which would result in higher availability of power for sale to consumers.

3.7.13 The Hon'ble APTEL vide its Order dated 15th February, 2013 have given directions to the State Commissions to frame the Multi Year Tariff (MYT) Regulations in accordance with Section 61 of the Act. The Hon'ble APTEL has directed the State Commissions to frame the MYT Regulations immediately so that the MYT framework be implemented at least w.e.f 1st April, 2014.

3.7.14 In this regard, the Commission has issued fresh directives vide Letter No. UPERC/Secy./D(Tariff)/13-074 dated 11th April, 2013 to the Licensee for conducting the base line loss estimation studies for assessment of technical and commercial losses. The Commission stresses that the Discoms may act speedily upon these directives and report the status on a regular fortnightly basis to the Commission.



3.8 NON-AVAILABILITY OF AUDITED FIGURES AND ORDER ON TRUE-UP PETITIONS

A) Comments / Suggestions of the Public:

- 3.8.1 The comments / suggestions submitted by Mr. R.K.Jain, Secretary, Western UP Chamber Of Commerce & Industry, Mr. Rakesh Goyal, Secretary, State Committee, Akhil Bhartiya Matadhikari Sangh, Mr. Shashi Bhushan Mishra, Sachiv, Upbhokta Sanrakshan Evam Kalyan Samiti, Mathura, Mr. D.S Verma. Executive Director, Indian Industries Association, Mr. Vishnu Bhagwan Agarwal, Chairman, National Chamber of Industries and Commerce, U.P., Mr. Awadhesh Kumar Verma, Chairman, U.P. Rajya Vidyut Upbhokta Parishad, Mr. S.B. Agarwal, Secy. Gen., Associated Chambers Of Commerce and Industry of UP and Mr. Rama Shanker Awasthi, Lucknow are as under:
- 3.8.2 The stakeholders have stated that the prudent and sound information relating to finance / books of accounts are not available. Another stakeholder suggested that the Commission should reject the proposal for tariff revision till the satisfactory audited accounts are submitted by the Licensee.
- 3.8.3 The stakeholders have submitted that ARR proposal for FY 2013-14 should be rejected by the Commission as the audited accounts and CAG report has not been submitted by the Licensee.
- 3.8.4 One of the stakeholders has purported that the accounts of the distribution companies have not been audited since 2008.
- 3.8.5 One consumer representative organisation stated that since the Commission is suo-motu determining the ARR / Tariff for FY 2013-14, it should approve the ARR / Tariff based on the audited accounts up to FY 2007-08 after issuing the order on the true up petitions filed by the distribution companies.

B) The Licensee's response:

- 3.8.6 The Licensee has submitted that it has already submitted the accounts duly audited by the statutory auditors up to FY 2010-11 to the Hon'ble



Commission. Further, the provisional balance sheet for FY 2011-12 duly verified by an independent chartered accountant firm has also been submitted along with the ARR Petition for FY 2013-14. The audited balance sheets and provisional balance sheets have been published on the websites of all the Licensees and that of the UPPCL.

- 3.8.7 All clarification sought / deficiency notes issued by the Commission have been duly replied by the Licensees and the same have also been published by the Licensees.
- 3.8.8 The Licensee clarified on the issue of supplementary audit report by the AGUP that the process of their audit and the time frame for its completion is not under its control as the office of the AGUP is a constitution body not under the influence and control of the Licensee.
- 3.8.9 The Licensee submitted that the backlog in respect of audit of accounts was created due to the delay in the notification of the Transmission Transfer Scheme. Subsequent to its notification on 23rd December, 2010, the process of finalisation of audit was undertaken at a fast pace with the result that as of today, the audit of accounts up to FY 2010-11 has been completed. The audit of accounts for FY 2011-12 is expected to be completed by 30th June, 2013. In fact, in the case of KESCO, the audit for FY 2011-12 has been completed and true up petition for the financial years 2008-09 to 2011-12 has been filed before the Hon'ble Commission. In the case of the other state Discoms, the true up petitions for the period FY 2008-09 to 2010-11 have been filed before the Hon'ble Commission. Thus, it has been demonstrated that the issue of timely audit of accounts has been addressed by the Licensees.
- 3.8.10 The tariff is determined based on the principles enshrined in the Tariff Regulations. The major elements of the ARR such as power purchase cost, O&M expenses, capital expenditure, interest on loan, depreciation, etc. are based on projections for the ensuing year and only reference to past years results are relevant for estimation point of view. The audited accounts for the years up to FY 2010-11 and provisional accounts for FY 2011-12 would provide the required data for such an estimation analysis.

C) The Commission's views:



- 3.8.11 The Commission has issued orders on 21st May, 2013 in Petition No. 809 / 2012 and Petition No. 813 / 2012 in respect of final truing up for the financial years 2000-01 to 2007-08 in respect of DVVNL, MVVNL, PVVNL, PuVVNL, UPPCL, UPPTCL and KESCO respectively.
- 3.8.12 UPPTCL has filed the true up petition along with statutory audited accounts for FY 2008-09 on 19th November, 2012 (Petition No. 849 / 2012). The supplementary audit report of the AGUP for FY 2008-09 has also been submitted by the Licensee. Further, the true up petition for FY 2009-10 and 2010-11 along with statutory audited accounts have been filed by the UPPTCL on 29th April, 2013 (Petition No. 883 / 2013). However, the supplementary audit report of the AGUP for FY 2009-10 and 2010-11 has not been filed by the Transmission Licensee till date. Both the aforementioned Petitions were admitted by the Commission on 6th May, 2013 and directions were issued to the Licensee to publish the salient features of the true up petitions in newspapers and on its websites. A public hearing in these matters was conducted by the Commission on 22nd May, 2013 in Lucknow. The Commission while determining the ARR / Tariff of the Transmission Licensee for FY 2013-14 has adjusted the revenue gap / (surplus) for the years up to FY 2010-11 along with a directive to the Transmission Licensee to submit the supplementary audit report of the AGUP immediately upon its finalisation. Appropriate adjustment, if any, arising out of the supplementary audit report of the AGUP would be passed by the Commission upon its submission.
- 3.8.13 The Hon'ble APTEL in its judgment dated 9th April, 2013 in Appeal No. 242 of 2012, had directed the Commission to carry out the true up of the accounts up to FY 2009-10 on priority and adjust the surplus / deficit in the ARR of the transmission tariff for FY 2013-14. Accordingly, in compliance with the directives of the Hon'ble APTEL, the Commission has conducted a final truing up of UPPTCL for the financial years up to 2010-11 and have adjusted the surplus in the ARR of the transmission tariff for FY 2013-14.
- 3.8.14 The DVVNL, MVVNL and PVVNL have filed the true up petitions for FY 2008-09 to 2010-11 along with statutory audited accounts before the Commission on 13th May, 2013 (Petition No. 887, 885 and 886 / 2013) and PuVVNL has filed its true up petition for FY 2008-09 to 2010-11 along with statutory audited accounts before the Commission on 14th May, 2013 (Petition No. 888 / 2013).



The supplementary audit report of the AGUP for FY 2008-09 has also been submitted by the Licensee. However, the supplementary audit report of the AGUP for FY 2009-10 and 2010-11 has not been filed by the Distribution Licensee till date. In the true up petitions filed, the Licensees have proposed a revenue gap of Rs. 4,450.84 crores, Rs. 3,184.38 crores, Rs. 3,429.61 crores and Rs. 4,403.56 crores in case of DVVNL, MVVNL, PVVNL and PuVVNL respectively. The Licensees have prayed for adjustment of the net gap pursuant to the truing up for the years 2008-09 to 2010-11 in the revenue gap of FY 2013-14 so that the Licensees may recover the amounts so trued up.

- 3.8.15 The KESCO has filed the true up petitions for FY 2008-09 to 2011-12 along with statutory audited accounts before the Commission on 14th May, 2013 (Petition No. 889 / 2013). The supplementary audit report of the AGUP for FY 2008-09 and 2009-10 has also been submitted by the Licensee. However, the supplementary audit report of the AGUP for FY 2010-11 and 2011-12 has not been filed by the Distribution Licensee till date. In the true up petition filed, KESCO has proposed a revenue gap of Rs. 796.16 crores. The KESCO has prayed for adjustment of the net gap pursuant to the truing up for the years 2008-09 to 2011-12 in the revenue gap of FY 2013-14 so that it may recover the amounts so trued up.
- 3.8.16 The Commission had already proceeded with the finalisation of the revenue requirement for the Licensees for FY 2013-14 by the time the distribution Licensees filed the true up petitions. As the technical validation of the petitions, public consultation process, etc would take substantive time, the Commission has proceeded with the tariff determination for FY 2013-14 without approving the truing up for the FY 2008-09 to 2010-11 (up to FY 2011-12 in case of KESCO). This has been done to avoid further delay in approval of tariff for FY 2013-14. However, the past trends in respect of O&M costs and yearly flow of Gross Fixed Asset (GFA) balances, Capital Work in Progress (CWIP) balances, capital investments, loan balances, consumer contributions, etc have been considered from the audited accounts for years up to FY 2010-11 (FY 2011-12 in case of KESCO) so as to arrive at realistic levels of expenses being approved for FY 2013-14.
- 3.8.17 The amount of net recoverable gap / surplus subsequent to final truing up for FY 2008-09 to 2010-11 (FY 2011-12 in case of KESCO) would be adjusted with



the amount of the ARR of the distribution companies namely DVVNL, MVVNL, PVVNL, PuVVNL and KESCO for the year 2014-15 or that for any other ensuing year or through a separate order, as may be decided by the Commission.

3.9 POWER PROCUREMENT COST

A) Comments / Suggestions of the Public:

- 3.9.1 The comments / suggestions submitted by Mr. Rama Shanker Awasthi, Lucknow, are as under:
- 3.9.2 The stakeholder has stated that the power procurement cost would be reduced substantially if the distribution Licensees are permitted to purchase the electricity independently and not through UPPCL.

B) The Licensee's response:

- 3.9.3 The Licensee clarified that currently UPPCL procures power centrally and then the distribution companies are supplied power by UPPCL. However, UPPCL does not charge any trading margin on the power supplied by it. Hence, there is no additional financial implication on the distribution companies under the current arrangement.

C) The Commission's views:

- 3.9.4 The Commission has always advocated providing complete autonomy to the distribution companies including allocation of PPAs. However from the point of view of the concern of the stakeholders, it is clarified that no margin has been allowed to UPPCL for supplying to the distribution companies.

3.10 OTHER INCOMES / REVENUE ASSESSMENT



A) Comments / Suggestions of the Public:

- 3.10.1 The comments / suggestions submitted by Mr. Vishnu Bhagwan Agarwal, Chairman, National Chamber of Industries and Commerce, U.P., are as under:
- 3.10.2 The stakeholder has stated that the distribution companies are not including the revenue on account of late payment surcharge, 'shaman shulk', assessment on theft cases, etc in their ARR.

B) The Licensee's response:

- 3.10.3 The Licensee stated that the late payment surcharge is treated as part of revenue for the ensuing year. In the case of previous year, the late payment surcharge has been depicted as part of other incomes. Even in the case of true up petitions, the Licensees have claimed credit of late payment surcharge. The 'shaman shulk' is remitted to the revenue authorities and is not the income of the Licensee. The assessment on theft cases is also considered as part of the revenue assessment.

C) The Commission's view:

- 3.10.4 The Commission has ensured that the late payment surcharge and assessment on theft cases has been appropriately accounted for in the ARR Petitions of the Licensee. Further, the Commission has ensured that late payment surcharge has been duly accounted for under the revenue side trueing up in the True up Orders. The Commission agrees with the replies of the Licensee on the issue of 'shaman shulk'.

3.11 UNIFORM DISTRIBUTION TARIFF ACROSS THE STATE

A) Comments / Suggestions of the Public:



- 3.11.1 The comments / suggestions submitted by Mr. J.L. Bajaj, Former Chairman, UPERC and Mr. N.P. Singh, Federation of Noida Residents Welfare Association are as under:
- 3.11.2 The stakeholders suggested that the Commission should not allow uniform tariff for all Discoms with different consumer mix, AT&C losses, recovery and gaps between requirements and expenses.

B) The Licensee's response:

- 3.11.3 The Licensee clarified that the Retail Tariff within the State has been kept uniform as per guidelines provided in the Sec 8.4 (2) of the National Tariff Policy issued by Ministry of Power, Government of India.

C) The Commission's views:

- 3.11.4 The current tariff of consumers justifies the rationalization policy of the Commission and is totally in line with the National Tariff Policy.

3.12 CAPITAL EXPENDITURE

A) Comments / Suggestions of the Public:

- 3.12.1 The comments / suggestions submitted by Mr. J.L. Bajaj, Former Chairman, UPERC, Mr. D.S. Verma, Executive Director, Indian Industries Association, are as under:
- 3.12.2 The distribution loss reduction trajectory is ambitious but plan for its implementation is not indicated in the Petition.
- 3.12.3 The stakeholders submitted that the distribution Licensee spends crores of rupees in procuring materials such as transformers, cables, conductors, meters etc. but due to poor quality of materials procured, crores of rupees are lost. To recover this loss from consumers is not appropriate.



- 3.12.4 The stakeholders have submitted that right since inception of the reforms, the distribution companies have been getting enormous funds for 100% metering, system improvement, APDP, APDRP, R-APDRP, RGGVY, etc, but they have not shown any improvement and progress in terms of operational efficiency.

B) The Licensee's response:

- 3.12.5 The Licensee clarified that they have planned a number of schemes to reduce line losses such as installation of ABC in theft prone areas, feeder separation program, special drive for checking consumer ledger and R-APDRP program.
- 3.12.6 The Licensee submitted that electronic meters are being purchased to cater to the requirement of theft prevention.
- 3.12.7 The Licensee clarified that all materials are purchased from reputed firms through open tender and in every Discom, there is a Committee for checking the quality of material. If it is found that a particular firm has supplied poor quality material, then appropriate action is taken against that firm. At a further level, there is also an equipment Quality Control Committee formed by the Commission which examines the quality of material from time to time.
- 3.12.8 The Licensee submitted that over the years it has been able to reduce the technical and commercial losses, although not up to the expectations of the Commission. However, it is taking all possible steps to curb theft which is highly prevalent across the state. Theft prevention would be a significant measure to bring down commercial losses.

C) The Commission views:

- 3.12.9 Though the Discoms have standard procedures for material procurement, yet, with no control mechanism, it is always questionable, as to whether the procedures were strictly followed. Periodical and timely audit of books of accounts and records is one of several control mechanisms that could be adopted. The Commission has time and again directed the Licensee to expedite the process of finalization and auditing of accounts as it would render sanctity to the procurement processes.



- 3.12.10 The Commission is also aware of the large scale theft which is prevalent in the State and consequent commercial losses. However, a large part of the blame is to be shouldered by the Licensees themselves for their failure to curb theft.

3.13 TARIFF FOR TELECOM TOWERS

A) Comments / Suggestions of the Public:

- 3.13.1 The comments / objections submitted by M/s Viom Networks Limited and Mr. Awadhesh Kumar Verma, Chairman, U.P. Rajya Vidyut Upbhokta Parishad are as under:
- 3.13.2 The stakeholder has requested that tariff for mobile towers be specified as essential services maintenance category and its tariff may be fixed in such a manner that it is less than Non-domestic and Industrial category looking at the public interest and importance of these services as these are essential infrastructure services.
- 3.13.3 In support of their contention, the stakeholder has cited some judgments including the APTEL judgment in Appeal No. 195 of 2009 in the matter of Mumbai International Airport Pvt. Ltd Vs Hon'ble MERC and Reliance Infrastructure Limited. The stakeholder has stated that unlike commercial and non domestic sector, telecom is a regulated sector and its tariffs are set by Telecom Regulatory Authority of India (TRAI) and it cannot be compared with commercial sector.
- 3.13.4 One of the stakeholders has stated that the proposed new category would complicate the tariff determination for such category of consumers.

B) The Licensee's response:

- 3.13.5 The Licensee clarified that the activity of consumers under this category is commercial in nature and so the category and tariff proposed for this category is justified and hence request of the stakeholder need not be considered.



C) Views of the Commission:

- 3.13.6 The Commission does not agree with the contention of the stakeholder that telecom cannot be compared with commercial sector merely on the pretext that its tariffs are regulated. The Commission understands that the telecom companies are allowed to pass over the burden of legitimate costs through increase in tariffs to consumers. The judgment cited by the stakeholder also does not apply in the current case.
- 3.13.7 The Commission does not agree with the proposal to create a separate category for mobile tower in this Tariff Order.

3.14 ACCOUNTING FOR FIXED ASSETS

A) Comments / Suggestions of the Public:

- 3.14.1 The comments / objections submitted by Mr. Rama Shanker Awasthi, Lucknow are as under:
- 3.14.2 The stakeholder has stated that all the Distribution Licensees except KESCO have failed to provide any detail regarding fixed assets, inventories, depreciation, etc and this has been expressed by the auditors as well, in their report annexed with the audited accounts.
- 3.14.3 The stakeholder has stated that the Commission should reject the amount of capitalisation claimed by the Licensees as Clause 4.5.8 of the Distribution Tariff Regulations provide that the Commission will not accept any capitalisation that does not have work completion certificate and work is put to beneficial use of consumers.

B) The Licensee's response:

- 3.14.4 The Licensee clarified the fixed asset registers could not be prepared as the Transfer Scheme is yet to be finalised. Considering this, the asset wise opening



balances are yet to be finalised. Further, the Licensee stated that the broad level opening balances have been adopted from the Transfer Scheme approved by the GoUP. Further, year wise capitalisations, as provided in the audited financial statements, have been considered for tariff purposes. The same have been approved by the independent statutory auditor as well as by the CAG. The growth in the distribution network and growth in consumer base is also a testimony of the large capital investment undertaken by the Licensee in the state. Hence it cannot be denied that the capital investment has not been put to beneficial use.

- 3.14.5 The Licensee submitted that the accounting policy in relation to fixed assets is provided as part of the audited accounts. The fixed assets are shown at the value transferred as per the second Transfer Scheme as opening balance. All costs relating to the acquisition and installation of fixed assets till the date of their commissioning are capitalised in the accounts. Based on this policy, the capitalisations have been accounted for in each year's audited accounts. The statutory auditors have expressed their confidence in this policy and have given their true and fair view to the overall balance sheet of the Licensees. Even the supplementary audit report of the AGUP has not found any discrepancy in this policy

C) The Commission's views:

- 3.14.6 The Commission has already expressed its displeasure on the non-availability of fixed asset registers of the State Distribution Licensees except KESCO. However, the Commission has initiated suo-motu proceedings for tariff determination based on its best judgment of the actual capital investments and capitalisation in the distribution segment by various Licensees.
- 3.14.7 As a first step towards reprimanding the Licensees over the issue of non-preparation of fixed asset registers, the Commission has withheld 20% of the allowable depreciation for FY 2013-14 for all State Distribution Licensees except KESCO. The same would be released for recovery through tariff, upon submission of fixed assets registers up to the current year i.e., FY 2012-13 by 30th November, 2013. The Commission is also not satisfied with the explanation provided that the fixed asset registers could not be prepared as



the Transfer Scheme finalisation is pending. The responsibility of the Transfer Scheme finalisation also rests with the Licensee. The Licensee needs to pursue with the GoUP to get the Transfer Scheme finalised. Nevertheless, it cannot be argued, that fixed asset registers capturing at least the yearly capitalisations could always have been prepared. The Commission directs the Licensee to prepare the fixed asset registers duly accounting for the yearly capitalisations from FY 2012-13 onwards. The capitalisations for the period before that may be shown on gross level basis. Upon finalisation of the Transfer Scheme, the Licensees may update the fixed asset registers appropriate by passing necessary adjustments.

- 3.14.8 The Commission while approving the past years capitalisation in true up orders have relied on the gross fixed asset balances as per audited accounts. While approving the investment for the FY 2013-14, the Commission has disallowed 30% of the investment proposed in the ARR Petitions.

3.15 CONSUMPTION OF UNMETERED CATEGORY CONSUMERS

A) Comments / Suggestions of the Public:

- 3.15.1 The comments / objections submitted by Mr. Rama Shanker Awasthi, Lucknow are as under:
- 3.15.2 The stakeholder has stated the Commission should not proceed with tariff determination without strict compliance with the Clause 3.1.3 of the Distribution Tariff Regulations which provide that metering shall be completed by March 2007 and in case where exemption towards metering obligations is sought by the Licensee for any consumer category, it must provide the Commission with fresh revised norms, based on fresh studies, for assessment of consumption for the unmetered categories. The sales forecasts for such unmetered categories shall be validated with norms approved by the Commission on the basis of above studies carried out by the Licensee.



B) The Licensee's response:

3.15.3 The Licensee clarified that it has already adequately detailed its methodology for estimation of consumption of unmetered category under the sections titled "Load Forecast and Revenue Assessment" in its ARR / Tariff Petition.

C) The Commission's views:

3.15.4 The Commission has noted the points raised by the stakeholder. It is a matter of concern and the Licensee must take up this issue very seriously. It should draw up a plan of 2 years with quarterly milestones to achieve 100% metering and submit the same within 2 months of this Order. However, based on the ground realities, if the Distribution Licensee seeks exemption towards its metering obligation for any particular category of consumers, it must provide the Commission revised norms, based on fresh studies, for assessment of consumption for these categories. Sales forecast for such un-metered categories shall be validated with norms approved by the Commission on the basis of above study carried out by the Licensee.

3.16 REGULATORY ASSETS

A) Comments / Suggestions of the Public:

3.16.1 The comments / objections submitted by Mr. Rama Shanker Awasthi, Lucknow are as under:

3.16.2 The stakeholder has stated that as per Clause 6.12 of the Distribution Tariff Regulations, the Commission should reject amount of such regulatory assets exceeding three years immediately following the year in which it is created.

B) The Licensee's response:

3.16.3 The Licensee submitted that the stakeholder has interpreted the regulation wrongly. The intent of the regulations is that the regulatory assets have to be



amortised over a maximum period of 3 (three) years from the date of their creation.

C) The Commission's views:

3.16.4 The Commission does not agree with the interpretation of the stakeholder. The intent of the regulations is that the regulatory assets have to be amortised over a maximum period of 3 (three) years from the date of their creation.

3.17 INTEREST AND FINANCE CHARGES

A) Comments / Suggestions of the Public:

3.17.1 The comments / objections submitted by Mr. Rama Shanker Awasthi, Lucknow are as under:

3.17.2 The stakeholder has stated that interest on loans for R-APDRP projects should not be allowed in tariff as the scheme formulated by the Central Government provides that the R-APDRP loans would be converted into grant in case the distribution companies achieve the target efficiency levels fixed.

3.17.3 The stakeholder has stated that the Licensee has failed to comply with Clause 4.8(c) of the Distribution Tariff Regulations because Licensee has not filed any document related to project approval granted by the Commission.

B) The Licensee's response:

3.17.4 The Licensee clarified that it has not claimed any interest on R-APDRP loans proposed in the ARR Petitions filed by it. The Licensee clarified that there is automatic approval of investments up to a threshold limit of Rs. 1 crores in terms of Proviso to Clause 4.5 (2) of the Distribution Tariff Regulations.

C) The Commission's views:



- 3.17.5 The Commission is aware of the features and administration of the funds for R-APDRP scheme. The Commission has not allowed any interest on R-APDRP related loans in the ARR.
- 3.17.6 As per Proviso to Clause 4.5 (2) of the Distribution Tariff Regulations, prior approval of the Commission in respect of capital investment towards projects / works below Rs. 1 crores is not required.
- 3.17.7 While approving the investment for the FY 2013-14, the Commission has disallowed 30% of the investment proposed in the ARR Petitions.

3.18 SYSTEM LOADING CHARGES

A) Comments / Suggestions of the Public:

- 3.18.1 The comments / objections submitted by Mr. Rama Shanker Awasthi, Lucknow are as under:
- 3.18.2 The stakeholder has stated that the Licensee has not shown the amounts realised towards system loading charges. The stakeholder has requested the Commission to ensure avoidance of double counting of the capital expenses carried out from system loading charges for the purpose of returns to the Licensee in compliance of APTEL judgment in Appeal No. 121 of 2010.

B) The Licensee's response:

- 3.18.3 The Licensee clarified that it has already elaborated during the proceedings for determination of ARR / Tariff for FY 2012-13 that the system loading charges are accounted for as part of consumer contributions under Accounting Group Code 55 (AG-55).
- 3.18.4 The Licensee for the purpose of claiming depreciation for FY 2013-14 has excluded the projected capital investment through consumer contributions.



C) The Commission's views:

- 3.18.5 The Commission, in the proceedings for determination of ARR / Tariff for FY 2012-13, had gone into the detailed procedure for accounting of system loading charges. The Commission had observed that the system loading charges were accounted for by the Licensee as part of consumer contributions under Accounting Group Code 55 (AG-55).
- 3.18.6 The Commission while truing up the interest on long term loan has considered a normative tariff approach with a gearing of 70:30. In this approach, 70% of the capital expenditure undertaken in any year has been considered to be financed through loan and balance 30% has been considered to be funded through equity contributions. The portion of capital expenditure financed through consumer contributions (including system loading charges), capital subsidies and grants has been separated as the depreciation and interest thereon would not be charged to the consumers. Allowable depreciation for the year has been considered as normative loan repayment. The actual weighted average rate as per audited accounts has been considered for computing the interest. The approved interest capitalisation has been considered at a rate equivalent to the rate as per audited accounts.
- 3.18.7 The same philosophy has been extended while determining the ARR / Tariff for FY 2013-14.
- 3.18.8 This has ensured that no charges in respect of assets created out of consumer contributions (including system loading charges), capital subsidies and grants are imposed on the consumers' beginning from FY 2000-01 to FY 2013-14.

3.19 BAD AND DOUBTFUL DEBTS

A) Comments / Suggestions of the Public:

- 3.19.1 The comments / objections submitted by Mr. Rama Shanker Awasthi, Lucknow are as under:



3.19.2 The stakeholder has stated that the provision for bad and doubtful debts may be disallowed to the Licensee as they have failed to frame a policy for identification of arrears and their writing off.

B) The Licensee's response:

3.19.3 The Licensee has submitted that such expenses are legitimate business expenses and are an accepted accounting principle even in sector like Banking where the provisioning of un-collectable dues is considered as a normal commercial practice.

3.19.4 The Licensee has submitted that it has claimed such expenses in line with the stipulations of the Distribution Tariff Regulations.

C) The Commission's views:

3.19.5 The Commission in the Tariff Order has disallowed the claims towards provision for bad and doubtful debts due to the absence of a clear policy and procedure for identifying and writing off receivables. Any provisioning towards bad and doubtful debts needs to be backed up with processes to identify consumers who are not paying up and then making adequate attempts to collect from such consumers. In the absence of proper policy in place for identifying and writing off receivables, the Commission has disallowed the claims towards provision for bad and doubtful debts.

3.20 INTER UNIT ADJUSTMENTS

A) Comments / Suggestions of the Public:

3.20.1 The comments / objections submitted by Mr. Rama Shanker Awasthi, Lucknow are as under:

3.20.2 The stakeholder has expressed concerns over the increasing trend in the balance of inter-unit adjustments as per the audited accounts of the Licensee.



B) The Licensee's response:

3.20.3 The Licensee clarified the inter-unit adjustments are within the subsidiary companies on accounting of various accounting entries on both capital and revenue side. However, since the ARR is determined as per the principles enshrined in the Tariff Regulations, the Licensee doesn't see any merit in the stakeholder's objections on this issue.

C) The Commission's views:

3.20.4 The Commission has determined the tariff of the Licensees as per the principles stipulated in the Tariff Regulations. However in order to rationalise the un-reconciled inter unit balances within the subsidiary distribution companies, directions are being issued to the Licensee to take steps to reconcile the inter unit balances either itself or through independent chartered accountant firms.

3.21 REQUEST FOR SPECIAL TARIFF FOR COLD STORAGE

A) Comments / Suggestions of the Public:

3.21.1 The comments / objections submitted by Mr. Mahendra Swarup, President, Cold Storage Association, Lucknow, are as under:

3.21.2 The stakeholder has requested the Commission to frame a new concessional tariff for Cold Storages on the lines of the tariff scheme framed by Maharashtra State Electricity Distribution Co. Limited (MSEDCL) which puts cold storage at par with Agricultural Tariff. The stakeholders have stated that cold storage is an agro based industry and is solely for the benefit of agriculturists. The stakeholder has stated that cold storages in Uttar Pradesh are incurring heavy losses because of high rates of electricity. The stakeholder has estimated that if the scheme proposed by them is adopted, then UPPCL would incur a loss of Rs. 125 crores on this account.



B) The Licensee's response:

- 3.21.3 The Licensee has submitted that private cold storages run with commercial motives. The cold storages pass the incidence of their cost on to their consumers in terms of hike in the charges of their services.
- 3.21.4 Any move to reduce the tariff of such consumers would hurt the Licensee who are already reeling under severe financial crisis.
- 3.21.5 No subsidy is being received from the State Government towards such cold storage consumers. Hence, any reduction in their tariffs would be uncovered gap for the Licensee.

C) The Commission's views:

- 3.21.6 The proposal for reduction in tariff to put it at par with agricultural tariff needs to be backed by subsidy provision by the State Government. The Commission does not see any merit in separating the tariff for cold storage from the current scheme of rate schedule.

3.22 RECOVERY OF ARREARS

A) Comments / Suggestions of the Public

- 3.22.1 The comments / suggestions submitted by Mr. R.K. Jain, Secretary, Western UP Chamber of Commerce & Industry, Mr. Shashi Bhushan Mishra, Sachiv, Upbhokta Sanrakshan Evam Kalyan Samiti, Mathura, Mr. Jag Mohan Lal Vaish, Mr. S.B. Agarwal, Secy. Gen., Associated Chambers Of Commerce and Industry of UP, Mr. Vishnu Bhagwan Agarwal, Chairman, National Chamber of Industries and Commerce, U.P., Mr. Awadhesh Kumar Verma, Chairman, UPRVUP and Mr. Rama Shanker Awasthi, Lucknow, are as under:
- 3.22.2 The stakeholders have expressed concern over the large arrears towards receivable from sale of power as the Licensee has failed to realise the dues from the consumers.



- 3.22.3 The stakeholders have purported that the Licensee has not declared the position of arrears in the ARR filing.
- 3.22.4 One consumer representative organisation stated that the arrears of the distribution companies as on January, 2013 were to the tune of Rs. 27,750 crores, out of which the Government dues were about Rs. 9,000 crores.
- 3.22.5 The stakeholders have alleged that the amount of arrears exceeds the claims made by the Licensee in the ARR Petition to such an extent, such that, if all arrears are recovered, then there would be no need for passing any recoverable amounts in the ARR for FY 2013-14 as they would be in surplus.

B) The Licensee's response:

- 3.22.6 The Licensee submitted that arrear in the books of accounts include a huge amount against the consumers whose permanent disconnection are pending for final settlement. Further in the past, One Time Settlement schemes were launched, wherein old arrears were settled; but in some cases the arrears are still shown in commercial records. Further true-up petitions up to FY 2010-11 (FY 2011-12 in case of KESCO) have already been filed on the basis of audited accounts, so every concern of the consumers would be taken care of in yearly calculation which will depict the correct picture of the revenue and expenditure. The Tariff and True-up Petitions have been filed in accordance with the Tariff Regulations. The burden of arrears and the recovery thereof, if any, would have no impact of the allowable True-up and ARR of any year.
- 3.22.7 Further, the ARR / Tariff for FY 2013-14 would be determined by the Commission backed by audited accounts which reflect true and fair view of the financial transaction. Further this exercise will be carried on yearly basis which will take care of the concern of the stakeholders.

C) The Commission's view:

- 3.22.8 The tariff of the Distribution Licensee is determined on accrual basis. The past dues cannot be treated as income of the Distribution Licensee. Thus, it will have no effect on determination of tariff. The electricity charges are



recognised as income once the bills are raised on accrual basis. Hence they cannot be recognised as income source when arrears are collected. The Commission fixes the tariff on accrual basis and not on the cash basis.

- 3.22.9 Treating the realization of arrears as income would amount to double counting of income. Therefore, it cannot be treated as income again on realization. This issue has been fairly established by the Hon'ble APTEL in its judgment in Appeal No. 15 of 2012 and Appeal No. 152 of 2011.
- 3.22.10 The Commission has ensured that true up and tariff determination has been done in accordance with the philosophies and principles laid in the past Tariff Orders and Tariff Regulations framed by the Commission. In the True up Orders passed by the Commission in Petition No. 809/2012 and 813/2012, it has also conducted a revenue side true up, which has ensured that the burden of poor collection efficiency and consequent larger arrears is not passed on to the consumers.
- 3.22.11 The Commission in the Order on Petition No. 809/2012 and 813/2012 has already directed the Distribution Licensee to formulate a policy for identifying and writing off fictitious arrears within a period of 6 months from the date of Order and submit a copy of such report before the Commission.

3.23 INTEREST ON CONSUMER SECURITY DEPOSIT

A) Comments / Suggestions of the Public:

- 3.23.1 The comments / suggestions submitted by Mr. Mahendra Swaroop, President, Cold Storage Association, Lucknow and Mr. Rama Shanker Awasthi, Lucknow are as under:
- 3.23.2 President, Cold Storage Association, Lucknow has alleged that the cold storages are not getting credit of interest on consumer security deposits in their bills. Similar concern has been expressed by other stakeholders.



3.23.3 The stakeholders have stated that the distribution companies have claimed interest on consumer security deposit at the rate of 6% instead of the bank rate published by the Reserve Bank of India which is higher than 6%.

B) The Licensee's response:

3.23.4 The Licensee clarified that interest on consumer security deposit is being given to consumer as per Orders of the Hon'ble Commission.

C) The Commission's views:

3.23.5 The provisions related to security deposit and the interest payable on the same are amply clear and are dealt with in detail in the Distribution Tariff Regulations. It needs to be followed in the same spirit by both, the Licensee as well as the consumers.

3.23.6 The Reserve Bank of India vide circular no. RBI/2012-13/492 dated 3rd May, 2013 has revised the bank rate from 8.50% to 8.25% w.e.f 3rd May, 2013. The Commission in this Order has approved a rate of 8.50% on interest on consumer security deposit for the period 1st April, 2013 to 2nd May, 2013 and a rate of 8.25% from 3rd May, 2013 to 31st March, 2014.

3.24 RELATIONSHIP BETWEEN HOLDING COMPANY UPPCL AND ITS SUBSIDIARY DISTRIBUTION COMPANIES

A) Comments / Suggestions of the Public:

3.24.1 The comments / objections submitted by Mr. B.B. Jindal, Lucknow are as under:

3.24.2 The stakeholder has expressed his concern over the governance issues and the relationship between the holding company, namely UPPCL and its subsidiary distribution companies. The stakeholder has alleged that all policy, manpower, financial, legal and accounting matters continue to be de-facto controlled by



UPPCL. The stakeholder has stated that there is lack of a well defined and documented understanding or MoU between UPPCL and its subsidiaries. The stakeholder has further suggested that the Licensee should enter into a comprehensive agreement which may provide a transparent charter of working, sharing of accountability and coordination between the holding company and the subsidiary distribution companies, preferably on the lines of the agreement done by Madhya Pradesh Power Management Company Limited.

B) The Licensee's response:

3.24.3 The Licensee has submitted that the matter raised by the stakeholder does not pertain to the issue of tariff determination. Further, it has stated that the working between the distribution companies and the holding company UPPCL has been very seamless.

C) The Commission's views:

3.24.4 The Commission has considered the views of the stakeholders.

3.25 INCENTIVE TO CONSUMERS IN LOW LOSS AREAS

A) Comments / Suggestions of the Public:

3.25.1 The comments / objections submitted by Mr. J.L. Bajaj, Former Chairman, UPERC, Mr. N.P. Singh, Federation of Noida Residents Welfare Association, are as under:

3.25.2 Many stakeholders have requested that the Licensee should take cognizance of the fact that the loss level in their region such as NOIDA, etc. is very low, compared to that in the rest of the State and therefore they should be given discount in their electricity bills or a separate tariff category should be fixed for such areas. Also they should be supplied power for more as compared to areas with higher losses.