

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 670/10

IN THE MATTER OF: Amendment of Appendix – II (Depreciation Schedule)
of UPERC (Terms and Conditions of Generation
Tariff), Regulations, 2009.

AND

Petitioner:

UP Rajya Vidyut Utpadan Nigam Limited, 14th Floor, Shakti Bhawan Ext.,
14, Ashok Marg, Lucknow

Respondents:

1. The Chairman and Managing Director, U.P. Power Corporation Ltd., 7th Floor, Shakti Bhawan, 14, Ashok Marg, Lucknow
2. The Managing Director, Purvanchal Vidyut Vitran Nigam Ltd., 132KV Substation, Bhikari Vidyut Nagar, Varanasi.
3. The Managing Director, Pachimanchal Vidyut Vitran Nigam Ltd., Victoria Park Meerut.
4. The Managing Director, Madhyanchal Vidyut Vitran Nigam Ltd., Prag Narain Road, Lucknow.
5. The Managing Director, Dakchinanchal Vidyut Vitran Nigam Ltd., Gailana Road, Agra.
6. The Managing Director, KESCO, Kesa House, Kanpur
7. The CEO, Noida Power Company Limited, H Block, Alpha II, Greater Noida.

The following were present:

1. Sri Rajiv Goel, UPRVUNL.
2. Sri Jayant Verma, UPPCL.

ORDER

(Date of hearing 11.06.2010)

1. The Petitioner has filed this petition for amendment in Appendix – II (Depreciation Schedule) of UPERC (Terms and Conditions of Generation Tariff), Regulations, 2009 (herein after referred as Regulations, 2009) so as to allow depreciation on the assets classified under the head 'Computers and peripherals' at the rate of 18% per annum with effect from the date the Regulations, 2009 have come in to effect. The rate of

depreciation provided in the Appendix – II for office equipments is 6% based on useful life of 15 years of the asset. The Petitioner has raised the issue of useful life of 'Computers and peripherals' with the contention that in no case it could be close to 15 years and therefore has requested to consider it under separate head. The Petitioner has also requested to allow depreciation at the rate of 18% per annum considering a maximum useful life of 5 years for the purpose of determination of tariff. In support of its argument the Petitioner has referred the Companies Act, 1956 and Income Tax Act, 1961.

2. The Respondent has submitted that the rates of depreciation under the Regulations, 2009 are exclusive and have nothing to do with either the Companies Act, 1956 or Income Tax Act, 1961. It has been stated that there is no logical or statutory basis for the comparison of rates of depreciation derived under these Acts and the Regulations since depreciation rates are neither equal nor interchangeable.
3. In the hearing, Sri Rajiv Goel, UPRVUNL stated that it is well known that the IT equipments do not have longer life than 3-5 years and therefore, recovery of costs based on assumption of 15 years useful life is not reasonable. He asserted that generally CERC decided depreciation rates are considered in the States which is 15%. He further requested to the Commission to consider their prayer so that they could recover their costs on IT equipments within reasonable period of useful life. The representative of the Respondent, Sri Jayant Verma, UPPCL made no additions to their written submissions.
4. Regarding effect of the Companies Act, 1956 or Income Tax Act, 1961 on the Regulations, it is to reiterate that the Regulations have been made as per the provisions of the Electricity Act, 2003 (the Act) and thereby have sacrosanct status. The position has been secured under Section 173 and 174 of the Act which makes Regulations exclusive from the effect of the Companies Act, 1956 and Income Tax Act, 1961. However, it becomes essential to provide for recovery of cost in justified period of useful life of the asset in the 'cost plus' based approach for determination of tariff. The useful life of 'IT equipments' are different from other office equipments and thereby should be treated in different category. The 'IT equipments' have shorter useful life and deserve to be provided with higher rate of

depreciation so that the costs may be recovered in the life of the equipments. In light of this, the Commission believes that there should be separate provision for the depreciation rate of 'IT equipments' in the Appendix-II of the Regulations, 2009.

5. The Commission is guided by the principles and methodologies specified by Central Commission for determination of tariff applicable to generating companies as provided under Section-61 of the Electricity Act, 2003. As there is no State specific issue in this matter, the Commission considers it appropriate to allow the depreciation rate for IT equipments as provided by CERC under CERC (Terms and Conditions of Tariff) Regulations, 2009. Therefore, the Commission decides to allow the depreciation rate for IT equipments as 15% per annum based on useful life of 6 years. This would be reckoned to have come in to force from the date, the Regulations, 2009 have come in to effect. The necessary amendment would be made in the UPERC (Terms and Conditions of Generation Tariff), Regulations, 2009 accordingly.
6. The petition is disposed of.

(Rajesh Awasthi)
Chairman

Lucknow; Dated: 3rd August, 2010