

BEFORE
THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW

Petition No. 213/2004

Present:

1. Shri Vijoy Kumar
2. Shri P.N. Pathak, Member
3. Shri R.D. Gupta, Member

In the matter of:

Review petition against the Tariff Order dated 10.11.2004.

And

In the matter of:

M/s Jagannath Steels Pvt. Ltd., Rajaganj, Phoolpur, Azamgarh

---Petitioner

And

U.P. Power Corporation Limited, Shakti Bhawan, 14 Ashok Marg, Lucknow
through its Chairman and Managing Director.

----Respondents

ORDER

Jagannath Steels Private Limited Vs. UPPCL

1. M/s Jagannath Steels Pvt. Ltd., Rajaganj, Phoolpur, Azamgarh has filed a review petition against the tariff order for FY 04-05, wherein it has been prayed that the Commission may modify the tariff order under HV-2 category schedule clause by incorporating

“Industries which are located above than 11 kV in rural areas will also be entitled to get electricity supply as per urban area Industrial supply schedule.”

2. The petition has been filed mainly on the ground that since the commission, in its tariff order 2004-05 has treated Rural Industries at par with Urban Industries at 33 kV and above voltages, then on the principle of equity, conditions should be imposed on UPPCL and other licensees to supply power as per Urban Schedule.

3. Subsequent to the filing of petition, the petitioner has also filed an application for interim relief on 4th January, 2005, in connection with the aforesaid review petition, in accordance with the Hon'ble High Court Order dated 23rd December, 2004, the relevant portion of which is reproduced below:

“The petitioner has already approached the Regulatory Commission and we have been informed by Sri I.B. Singh that 7-1-2005 is fixed in the matter. Keeping in view peculiar circumstances of the case, earnest efforts shall be made by the Regulatory Commission to decide the matter expeditiously. In case an interim relief application is made in accordance with law, we are confident that the same will be considered and disposed of at an early date.”

4. At the hearing today, counsel for the respondents raised the issue of maintainability of the review petition whereas, the learned counsel for the petitioner Shri Vishal Dixit stressed that the review is maintainable and also the language of the tariff order related to the aforesaid clause is erroneous.

5. The Commission considered the submissions. We are firmly of the view that the review petition is not maintainable as no new facts/matter or evidence was brought before the Commission, which could throw a different light on the matter

nor there has been an error on the face of record. The review petition, therefore, on the face of it is not maintainable.

6. However, since the tariff order is an order affecting millions of consumers therefore, the Commission, even after deciding that the petition ought to be dismissed on the ground of maintainability alone, went into the language of its tariff order with specific reference to the impugned clause. In this context the relevant portion of the tariff order is reproduced:

(A) Urban Schedule

	For supply at 11kV	For supply above 11kV and up to & including 66kV	For supply above 66kV and up to & including 132kV	For supply above 132kV
BASE RATE				
Demand Charges	Rs.180/kVA	Rs.170/kVA	Rs.165/kVA	Rs.160/kVA
Energy Charges	Rs.3.50/kVAh	Rs.3.35/kVAh	Rs.3.25/kVAh	Rs.3.15/kVAh
Minimum Charges	Rs.425/kVA/month	Rs.425/kVA/month	Rs.425/kVA/month	Rs.425/kVA/month
TOD RATE				
22 hrs – 06 hrs	(-) 5%	(-) 5%	(-) 5%	(-) 5%
06 hrs – 17 hrs	0	0	0	0
17 hrs – 22 hrs	(+) 20%	(+) 20%	(+) 20%	(+) 20%

(B) Rural Schedule

This schedule shall be applicable only to consumers getting supply at 11 kV as per 'Rural Schedule'. The consumer under this category shall be entitled to a rebate of 10% on 'Rate of Charge' including minimum charges as given for 11 kV consumers under urban schedule.

7. An inspection of the above language of the tariff order makes it very clear that the applicability of rural schedule is restricted to only 11 kV voltage level and not above it. For voltage levels 33 kV & above, the only schedule that has found mention for the purposes of current tariff order is Urban Schedule. The language therefore, calls for no modification.
8. The review petition is therefore, dismissed on the ground of maintainability. Further, the language of the tariff order is unambiguously clear. However, since the petition is also linked with the availability of supply as per applicable schedule, the petitioner may choose to agitate his grievance before the licensee/consumer forum.

(R.D. Gupta)
Member

(P.N. Pathak)
Member

(Vijoy Kumar)
Chairman

Dated: Lucknow 7th January 2005