



**THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION**

**LUCKNOW**

**Petition No. 2028 of 2023**

**QUORUM**

Hon'ble Shri Arvind Kumar, Chairman

Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

Hon'ble Shri Sanjay Kumar Singh, Member

**IN THE MATTER OF**

An application under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 51 of the UPERC (Conduct of Business) Regulations, 2019 for review of the order dated 16.06.2023 passed in Petition No. 1527 of 2019 and 1931 of 2022 in the matter of Truing-up of Multi Year Tariff and ARR for 3x210 MW Anpara A TPS for FY 2019-20 to FY 2023-24.

**AND**

**IN THE MATTER OF**

**U.P Power Corporation Ltd. (UPPCL),**

14<sup>th</sup> floor, Shakti Bhawan Extension, 14-Ashok Marg,

Lucknow-226001

... Review Petitioner

**VERSUS**

**U.P. Rajya Vidyut Utpadan Nigam Ltd. (UPRVUNL)**

14<sup>th</sup> floor, Shakti Bhawan Extension, 14-Ashok Marg,

Lucknow-226001

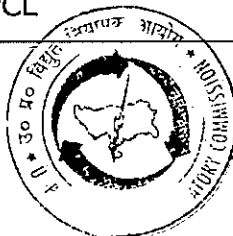
..... Respondent

**FOLLOWING WERE PRESENT**

1. Shri Divyanshu Bhatt, Advocate, UPPCL
2. Shri Shashwat Singh, Advocate, UPPCL
3. Shri Savyasachi Saumitra, Advocate, UPPCL

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4. Shri Sanjay Kumar, SE, UPPCL
5. Shri Gajendra Singh, EE, UPPCL
6. Shri Shubham Srivastava, A.E, UPPCL
7. Shri Raj Kumar Verma, A.E(Commercial), UPRVUNL
8. Shri Rajiv Srivastava, Advocate, UPRVUNL
9. Shri Shailendra Tewari, Consultant, UPRVUNL
10. Shri Hari Shyam, S.E(Commercial), UPRVUNL

**ORDER**

**(DATE OF HEARING: 21.03.2024)**

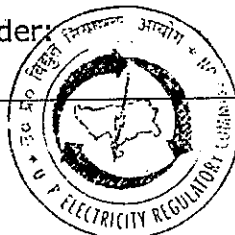
1. The Petitioner (UPPCL) has filed this Review Petition seeking review of the Order, dated 16.06.2023, passed by this Commission in Petition Nos. 1527/2019 and 1931/2022 in matter of MYT and ARR for 3X210 MW Anpara A TPS for FY 2019-2020 to FY 2023-24
2. The Petitioner has prayed as follows:
  - (a) Allow the present Review Petition in terms of the limited grounds and submissions made hereinabove;
  - (b) Condone the delay of 35 days which has occurred in filing the accompanying Review Petition by the Petitioner, Uttar Pradesh Power Corporation Limited.
  - (c) Revise and recalculate variable charges in the impugned Order dated 16.06.2023 by considering the auxiliary energy consumption at 8.5% in terms of Regulation 26(v)(a) of the UPERC Tariff Regulations 2019.
  - (d) Pass any other further order(s) that this Hon'ble Commission may deem fit in the interest of justice.

**Brief Facts of the Case as per Petitioner:**

3. The Petitioner has mainly submitted as under:

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- i. The Commission vide the said Order has inadvertently allowed auxiliary energy consumption for Anpara A 210 MW thermal power plants at 9% and therefore, variable charges was affected. The relevant portion of the Order is being reproduced below:

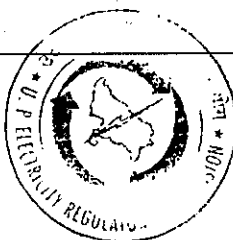
**"1.7.11 Variable Charges**

*1.7.11.1 Based on the operation norms provided in the UPERC Generation Tariff Regulations, 2019 and the Commission's decisions in the foregoing paragraphs, the representative variable charge per unit of generation for the MYT period of FY 2014-15 to F 2018-19 is as given in the following table.*

<b>Description</b>	<b>Unit</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>	<b>2023-24</b>
Capacity	MW	630	630	630	630	630
PLF	%	85%	85%	85%	85%	85%
Gross Station Heat Rate	Kcal/kWh	2430	2430	2430	2430	2430
Auxiliary Energy Consumption	%	<b>9.00%</b>	<b>9.00%</b>	<b>9.00%</b>	<b>9.00%</b>	<b>9.00%</b>
Energy Generation-Gross	MU	4,703.83	4,690.98	4,690.98	4,690.98	4,703.83
Auxiliary Energy Consumption	MU	423.34	422.19	422.19	422.19	423.34
Ex-bus Energy Sent Out	MU	4,280.49	4,268.79	4,268.79	4,268.79	4,280.49
Specific Oil Consumption	ml/kWh	0.50	0.50	0.50	0.50	0.50
Wt. Avg. GCV of Oil	KCal/Lt	9,626.72	9,626.72	9,626.72	9,626.72	9,626.72
Price of Oil	Rs./KL	51,782.61	51,782.61	51,782.61	51,782.61	51,782.61
Wt. Avg. GCV of Coal	kCal/kg	3525.33	3525.33	3525.33	3525.33	3525.33
GCV of Primary Fuel (Coal) less 85 Kcal/Kg on account of variation during storage	kCal/kg	3440.33	3440.33	3440.33	3440.33	3440.33
Price of Coal	Rs./MT	2,320.40	2,320.40	2,320.40	2,320.40	2,320.40

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Heat Contribution from SFO	Kcal/kWh	4.81	4.81	4.81	4.81	4.81
Oil Consumption	KL	2351.92	2345.49	2345.49	2345.49	2351.92
Heat Contribution from Coal	Kcal/kWh	2425.19	2425.19	2425.19	2425.19	2425.19
Specific Coal Consumption	kg/kWh	0.70	0.70	0.70	0.70	0.70
Coal Consumption	MMT	3.32	3.31	3.31	3.31	3.32
Total Cost of Oil	Rs Cr	12.18	12.15	12.15	12.15	12.18
Total Cost of Coal	Rs Cr	769.41	767.31	767.31	767.31	769.41
Total Fuel Cost	Rs Cr	781.59	779.46	779.46	779.46	781.59
Rate of Energy Charge from Secondary Fuel Oil ex-bus	Paise/kWh	2.85	2.84	2.84	2.84	2.85
Rate of Energy Charge from Coal ex-bus	Paise/kWh	179.75	179.26	179.26	179.26	179.75
<b>Rate of Energy Charge ex-bus</b>	<b>Paise/kWh</b>	<b>182.59</b>	<b>182.09</b>	<b>182.09</b>	<b>182.09</b>	<b>182.59</b>

- ii. As per Regulation 26(v)(a) of the UPERC Tariff Regulations 2019, the auxiliary energy consumption should be taken at 8.5% to compute the rate of energy charges ex-bus per kWh for the tariff period FY 2019-24 for plants upto and including 200 MW series, which includes Anpara A thermal power plant.
- iii. The Respondent (UPRVUNL) itself submitted, before this Commission, the auxiliary energy consumption at 8.5% in the revised MYT and ARR Petition (No. 1931/2022) for FY 2019-20 to FY 2023-24 for Anpara A. The relevant part of the Petition is reproduced below:

*"Table 4 Calculation of Energy charges projected by the petitioner"*

Description	Unit	2019-20	2020-21	2021-22	2022-23	2023-24
Capacity	MW	630	630	630	630	630

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PLF	%	85%	85%	85%	85%	85%
Gross Station Heat Rate	Kcal/kWh	2430	2430	2430	2430	2430
<b>Auxiliary Energy Consumption</b>	%	<b>8.50%</b>	<b>8.50%</b>	<b>8.50%</b>	<b>8.50%</b>	<b>8.50%</b>

iv. As per Regulation 51 of the UPERC (Conduct of Business) Regulations, 2019, the prescribed period of limitation of 90 days (from the date of the Order 16.06.2023) for filing a Review Petition before this Commission had expired on 14.09.2023. The delay of 35 days was caused due to various reasons beyond the control of the Petitioner. In view thereof, it is prayed to condone the delay of 35 days in filing the Review Petition.

**Records of Proceedings:**

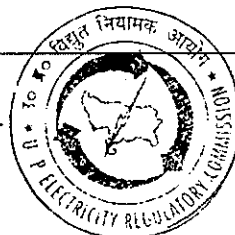
4. During the hearing on 19.12.2023, the Commission directed UPPCL to file an application for condonation of delay in 2 weeks. The Commission also directed UPRVUNL to file its reply on maintainability and merit in 4 weeks and UPPCL to file rejoinder in 3 weeks thereafter. UPPCL filed an application for delay condonation on 28.12.2023. UPRVUNL and UPPCL submitted reply and rejoinder dated 08.01.2024 and 12.02.2024 respectively.
5. The matter was again listed on 07.03.2024. The Commission directed UPRVUNL to submit the details of Boiler Feed Pumps/ Cooling Towers/ Coal Mills installed in the project and basis of claimed auxiliary power consumption in the MYT Petition within the contours of UPERC (Terms & Conditions of Generation Tariff) Regulations, 2019.
6. The matter was again heard on 21.03.2024. During the hearing, Counsel of UPRVUNL submitted that Anpara A TPS is a vintage plant and auxiliary power consumption in the last five years was in the range from 9.16% to 10.55%. Therefore, the Commission may reject the review sought by UPPCL.

**UPRVUNL's Reply:**

7. On 08.01.2024, UPRVUNL filed its reply and has mainly submitted asunder:

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- a) The prescribed period of limitation of 90 days for filing Review Petition, as specified in the UPERC (Conduct of business) Regulations, 2019 has already expired. A delay of 35 days in filing Review Petition may not be allowed by the Commission.
- b) Anpara A TPS is vintage plant having hereditary technical/ systemic constraints inevitably causing underperformance viz-a-viz Regulatory norms despite best efforts.
- c) Past few years' actuals performance of Auxiliary Consumption shown in table below:
- | FY 2018-19 | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 |
|------------|------------|------------|------------|------------|
| 9.16%      | 9.58%      | 10.55%     | 10.46%     | 10.19%     |
- d) Auxiliary Consumption in the last five years was around 9.16% to 10.55% range based on the actual performance, which is not only higher than what is provided in Regulations, but it is also higher than what is granted in MYT Order.
- e) Therefore, the Commission may not consider the UPPCL's submission.

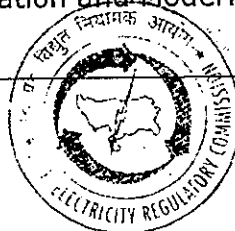
**UPPCL's Rejoinder:**

8. On 12.02.2024, UPPCL filed its rejoinder and has mainly submitted as under:

- a) The APTEL in the Order dated 15.12.2023 in the matter of *West Bengal State Electricity Transmission Company Ltd. Vs. Central Electricity Regulatory Commission & Others Appeal No.97 of 2019*, condoned a delay of 53 days in filing of the Review Petition but also held that the primary function of the courts/tribunals is to do justice and they must endeavor to decide the matters on merit while adopting a liberal approach towards condoning the delay on sufficient cause.
- b) UPRVUNL, itself in the Petition asked the auxiliary energy consumption for 210 MW thermal power plants at the rate of 8.5%.
- c) UPRVUNL is now raising new issue and trying to gain a special allowance as per Regulation 20(4) of the Tariff Regulations 2019 as compensation for meeting requirement of expenses including Renovation and Modernization beyond the useful life,

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which it failed to agitate during the original proceedings and contradicts the submissions made by them in the original proceedings.

d) As per Regulation 26(v)(a) of Tariff Regulations 2019, provides that auxiliary energy consumption should be taken at 8.5% to compute the rate of energy charges ex-bus per kWh for the tariff period FY 2019-24 for plants upto and including 200 MW series, which includes Anpara A TPS. The Commission made an inadvertent typographical error which has crept in while passing of the Order, which is the consideration of auxiliary energy consumption for 210 MW thermal power plants at 9% instead of 8.5%.

**Additional Information submitted by UPRVUNL:**

9. UPRVUNL, vide affidavit dated 14.03.2024, submitted following additional information regarding Anpara-A TPS:

Type of Boiler Feed Pumps	Electrically driven Boiler Feed Pumps
Type of Cooling Towers	Not installed. Hot water coming out from Condenser is directly flown to the Reservoir at distant place.
Type of Coal Mill	Bowl Mill

**Commission's Analysis and Decision:**

10. The Commission in its Order dated 16.06.2023 in Petition No. 1527 of 2019 and 1931 of 2022 had allowed auxiliary energy consumption for 3x210 MW Anpara A TPS at the rate of 9% for the tariff period 2019-24.

11. Regulation 26(v)(a) of the UPERC (Terms and Conditions of Generation Tariff) Regulations 2019, provides as under:

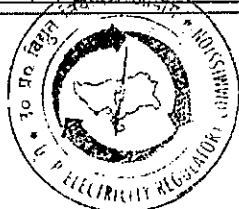
**"26. Norms of operation for Thermal generating stations**

**(V) Auxiliary Energy Consumption (AUX)**

*(a) Coal-based generating stations except those covered under clause (b):*

Sl. NO.	Generating station	With Draft tower or without cooling tower	Natural cooling tower
(i)	<b>Upto and including 200 MW series</b>		

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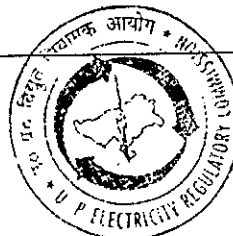
	Steam driven boiler feed pumps	8.5 %
	Electrically driven boiler feed pumps	
(ii)	<b>300/330/350 MW series</b>	
	Steam driven boiler feed pumps	5.75%
	Electrically driven boiler feed pumps	8.0%
(iii)	<b>500 MW and above series</b>	
	Steam driven boiler feed pumps	5.75%
	Electrically driven boiler feed pumps	8.0%

*Provided further that for thermal generating stations with induced draft cooling towers and where tube type coal mill is used, the norms shall be further increased by 0.5% and 0.8% respectively"*

12. The Commission, in its Order dated 16.06.2023, worked out an auxiliary energy consumption of 9% based on the information submitted by the UPRVUNL in the MYT Petition No. 1931 of 2022, i.e. by considering additional normative auxiliary energy consumption for induced draft cooling towers, as submitted by UPRVUNL.
13. UPPCL, on 28.12.2023, filed its application for condonation of delay wherein it submitted that due to the nature of dispute, continuous technical assistance was required from the officials of the Review Petitioner and its financial consultants including factual and technical inputs. The Petitioner was also exploring ways to resolve this dispute amicably. Further, various documents were required to be made available from different departments, which in turn, caused a delay of 35 days in filing the accompanying Review Petition.
14. The Commission, though expressing its displeasure on the delayed filing of the review petition, condones the delay as sought by review applicant. It is also relevant to point out that the Commission, vide ROP for hearing dated 07.03.2024, sought clarification from UPRVUNL regarding type of Boiler Feed Pumps/ Cooling Towers/ Coal Mill installed in the Anpara A TPS. **Considering the aforesaid information submitted by the UPRVUNL, the auxiliary energy consumption without cooling tower in Anpara A TPS would be 8.5%.**
15. In view of the above, **the Rate of Energy Charge ex-bus in the Order dated 16.06.2023 by considering the auxiliary energy consumption at 8.5% in terms of Regulation 26(v)(a) of the UPERC Tariff Regulations 2019 are revised as follows:**

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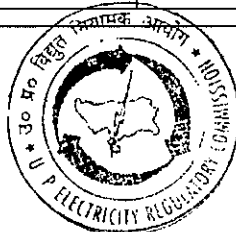


**Revised Variable Charges**

Particulars	Unit	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
	Approved	Approved	Approved	Approved	Approved	Approved
Capacity	MW	630.00	630.00	630.00	630.00	630.00
PLF	%	85%	85%	85%	85%	85%
Gross Station Heat Rate	Kcal/kWh	2430.00	2430.00	2430.00	2430.00	2430.00
Auxiliary Energy Consumption	%	8.50%	8.50%	8.50%	8.50%	8.50%
Gross Generation	MU	4703.83	4690.98	4690.98	4690.98	4703.83
Auxiliary Energy Consumption	MU	399.83	398.73	398.73	398.73	399.83
Ex-Bus Energy sent out	MU	4304.01	4292.25	4292.25	4292.25	4304.01
Specific oil Consumption	ml/kWh	0.50	0.50	0.50	0.50	0.50
Wt. Avg. GCV of Oil	Kcal/Lt	9626.72	9626.72	9626.72	9626.72	9626.72
Price of Oil	Rs./KL	51782.61	51782.61	51782.61	51782.61	51782.61
Wt. Avg. GCV of Coal	kCal/kg	3525.33	3525.33	3525.33	3525.33	3525.33
GCV of Primary Fuel less 85 Kcal/Kg on account of variation during storage	kCal/kg	3440.33	3440.33	3440.33	3440.33	3440.33
Price of Coal	Rs./MT	2320.40	2320.40	2320.40	2320.40	2320.40
Heat Contribution from SFO	Kcal/kWh	4.81	4.81	4.81	4.81	4.81
Oil Consumption	KL	2351.92	2345.49	2345.49	2345.49	2351.92

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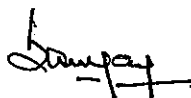



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Heat Contribution from Coal	Kcal/kWh	2425.19	2425.19	2425.19	2425.19	2425.19
Specific Coal Consumption	kg/kWh	0.70	0.70	0.70	0.70	0.70
Coal Consumption	MMT	3.32	3.31	3.31	3.31	3.32
Total Oil Cost	Rs. Cr	12.18	12.15	12.15	12.15	12.18
Total Cost of Coal	Rs. Cr	769.41	767.31	767.31	767.31	769.41
Total Fuel Cost	Rs. Cr	781.59	779.45	779.45	779.45	781.59
Rate of Energy Charge from Secondary Fuel Oil ex-bus	Paise/kWh	2.83	2.83	2.83	2.83	2.83
Rate of Energy Charge from Coal ex-Bus	Paise/kWh	178.77	178.77	178.77	178.77	178.77
<b>Rate of Energy Charge exbus</b>	<b>Paise/kWh</b>	<b>181.60</b>	<b>181.60</b>	<b>181.60</b>	<b>181.60</b>	<b>181.60</b>

The Review Petition is disposed of in terms of the above.

  
(Sanjay Kumar Singh)  
Member

  
(Vinod Kumar Srivastava)  
Member (Law)

  
(Arvind Kumar)  
Chairman

Place: Lucknow

Dated: 16.04.2024

