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- a) in the bills submitted by the members of the Petitioner the settlement of the unutilized banked energy from 2018-19 to 2019-20 shall be settled as per CRE Regulations, 2014.
- b) the energy banked from April 2019 to November 2019 shall be settled as per CRE 2014 as no TOD system was in place to bank the energy in TOD basis as per CRE 2019.
- c) the bills for energy withdrawn from UPPCL shall be adjusted from the bills of energy sold to UPPCL.
- d) the DSM mechanism shall keep in abeyance for at least 18 months from the date of publication of CRE Regulations, 2019 in view of the non-availability of the relevant software by SLDC till November 2019 and in view of global pandemic of Covid -19 situation.
- (ii) the Hon'ble Commission may issue any other further order or directions in favor of the Petitioner as it may be deem fit and proper under the facts and circumstances of the case.

7. Sh. B.K. Saxena, learned Counsel of UPPCL submitted that it has filed a short reply dated 11.09.2020 before the Commission, which details out the preliminary issues. He further submitted that the Petitioner has challenged the CRE Regulations, 2019 before the Hon'ble High Court Lucknow in a Writ Petition no. 29124 (MB) of 2019 on 18.10.2019 on the following grounds: -

- a. The manner in which tariff is determined by the commission.





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- b. The Regulations has been made applicable from retrospective effect.
  - c. The enforcement of Deviation Settlement Mechanism in accordance with CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2014, as amended from time to time.
  - d. The financial settlement at the rate of Rs. 2.00 per unit or PPA rate whichever is lower, after deducting 12% banking charges of unutilized banked energy.

Therefore, in view of the above, the Commission may note that the Petitioner has challenged the CRE Regulations 2019 before the Hon'ble High Court on same grounds, which are being raised by the Petitioner in the present petition.

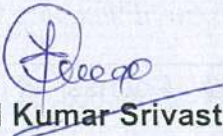
8. Further. Sh. B.K. Saxena, learned Counsel of UPPCL argued that the Petitioner in its petition has not pointed out difficulties experienced by him in implementation of the provisions of banking in CRE Regulations 2019 or implementation of ABT or DSM. Further, he submitted that the Petitioner has also not assailed the applicability of ABT or DSM in its Petition. It is either the Petitioner or UPSLDC, which can furnish the details about difficulties faced in implementation of provisions of DSM. Therefore, the Counsel of UPPCL requested the Commission to:

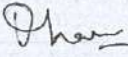
- a. direct the Petitioner to enumerate the difficulties in implementation of the scheme of banking.






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- b. direct the Petitioner to implead UPSLDC.
- c. allow the Respondent to submit its counter after the Petitioner enumerates on difficulties and UPSLDC files its counter in the matter.
9. The Counsel of the Petitioner sought permission from the Commission to revise his Petition and implead UPSLDC as party in the matter within two weeks.
10. The Commission, after hearing the parties at length, was of the view that UPSLDC also needs to be heard in the matter for taking into account any practical difficulties being faced by the Petitioner. Therefore, the Commission directed the Petitioner to revise his petition after impleading UPSLDC as party and serve the notice to the Respondents within one week. Thereafter, Respondents are directed to file their counter within two weeks and Petitioner to file Rejoinder within one week.
- 11. The matter is listed next for the hearing on 28<sup>th</sup> October, 2020.**

  
(Vinod Kumar Srivastava)  
Member (Law)

  
(Kaushal Kishore Sharma)  
Member

  
(Raj Pratap Singh)  
Chairman

Place: Lucknow

Date: 12. 10.2020

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