



UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION  
LUCKNOW

Petition No 1712/2021

**Quorum:**

Hon'ble Shri Raj Pratap Singh, Chairman  
Hon'ble Shri Kaushal Kishore Sharma, Member  
Hon'ble Shri Vinod Kumar Srivastava, Member (Law)

**In the matter of:**

Petition under Regulation 37 (Power to amend) of UPERC Open Access Regulations 2019 and Sections 9, 86(1)(e), 181(1) r/w 181(2)(p), 2(47) of the Electricity Act, 2003, imploring this Hon'ble Commission that in exercise of its regulatory power under the Act, allow the Petitioner to avail open access under captive mode for its facilities, having contract demand less than 1 MW (of around 8-10 kW) at different locations in Uttar Pradesh, to source electricity from its captive renewable (solar) plant of around 400 MW to be set up in the same State and also to allow the Petitioner to use Smart meters at consumer end for the purpose of Open Access.

**And**

**In the matter of:**

Amend/ relax Regulation 7.1 (Eligibility and Conditions of Open Access) and Regulation 29.1 (requirement of special energy meters) of the UPERC Open Access Regulations 2019, for the purpose of allowing the renewable energy captive power plants to carry power to their own captive facilities having contracted demand of less than 1 MW, through open access and allow use of smart meters by open access consumers.

The Associated Chambers of Commerce and Industry of U.P. (ASSOCHAMUP)

..... Petitioner

**Versus**

1. Uttar Pradesh Power Transmission Corporation Limited, Shakti Bhawan, 14 Ashok Marg, Lucknow-226001.
2. Uttar Pradesh Power Corporation Limited, Shakti Bhawan, 14 Ashok Marg, Lucknow-226001.
3. Dakshinanchal Vidyut Vitaran Nigam Limited (Agra Discom), Urja Bhawan, Agra - Delhi, Bypass Road, Sikandra, Agra-282007.
4. Madhyanchal Vidyut Vitaran Nigam Limited (Lucknow Discom), 4A Gokhale Marg, Block I, Gokhale Vihar, Butler Colony, Lucknow-226001.





5. Paschimanchal Vidyut Vitaran Nigam Limited (Meerut Discom), Urja Bhawan, Victoria Park, Meerut-250001.
6. Purvanchal Vidyut Vitaran Nigam Limited (Varanasi Discom), DLW Bhikharipur, Varanasi-221004.
7. Noida Power Corporation Limited (NPCL), Electric Sub-Station, Knowledge Park-IV, Greater Noida-201310 (District Gautam Buddha Nagar).

..... Respondents

The following were present:

1. Sh. Sanjay Sen, Sr. Advocate, Petitioner
2. Sh. Ganeshan Umpathy, Advocate, UPPCL
3. Sh. Puneet Chandra, Advocate, UPPTCL
4. Sh. Vishal Gupta, Advocate, NPCL
5. Sh. R. S Mathur, SE, UPPCL
6. CE, Commercial
7. Sh. Pankaj Saxena, UPPTCL
8. Sh. Anurag Verma
9. Sh. Sanket Srivastava
10. Sh. Siddhesh Hande
11. Sh. Lakshya Bagawal
12. Ms. Neha Dabrial
13. Ms. Debolina Roy
14. Ms. Supriya Rastogi
15. Sh. Mukesh Rathod
16. Sh. Harshit Singh
17. Sh. Rakesh Mohan
18. Sh. Virushabh Ganatra
19. Sh. Alok Sharma
20. Sh. Yuvraj Puri
21. Sh. Roberta Elwin

### ORDER

(Date of Hearing: 31.08.2021)

1. The instant Petition is filed by the Associated Chambers of Commerce and Industry of U.P. ('ASSOCHAMUP'), who is a state level, premier Chamber of Trade, Commerce and Industry, representing large, medium and small units in private, co-operative and public sectors, including telecom industry. The Prayers of the Petitioner are as below:
  - a) Initiate steps to amend/ relax Regulation 7.1 (Eligibility and Conditions of Open Access) of the UPERC Open Access Regulation 2019, for the purpose of allowing the





- renewable/ solar energy based captive power plants to carry power to their own captive facilities/ load centres scattered at various locations across the State, having a load of less than 1 MW, and connected at LT voltage levels, through open access;
- b) Initiate steps to amend/ relax Regulation 29.1 (use of meters) of the UPERC Open Access Regulation 2019 for the purpose of allowing use of Smart Meters as interface meters, instead of the ABT compliance Special energy meters, in line with the recent clarification issued by CEA.
- c) pass any other Order as may be appropriate under the circumstances.
2. The Commission vide its Order dated 02.08.2021 directed the Petitioner to serve the copy of the petition along with supporting documents through affidavit to the Respondents within one week. Respondents to file their replies in hard and soft copy within two weeks.
3. Sh. Sanjay Sen, learned Senior Counsel, appeared on behalf of the Petitioner submitted that the Petitioner has served the copy of Petition to all the opposite parties and the record of service has been submitted on affidavit before the Commission. He further added that the Petitioner has filed an application seeking Amendment of the Petition for addition of a prayer.
4. In regard of filing an application for amendment of Petition, the Commission enquired from the Petitioner whether any new fact has been emerged subsequently which was not in the knowledge of the Petitioner at the stage of filing the Petition.
5. On the query raised by the Commission, Sh. Sanjay Sen, learned Senior Counsel submitted that new fact has not been emerged however, in the interest of the justice, the Commission may consider the amendment in the Petition as otherwise he would have to file a separate Petition.
6. Sh. Vishal Gupta, Counsel appeared on behalf of NPCL argued that the Petition is not maintainable before the Commission. The Petitioner in Petition has prayed to amend / relax Regulations 7.1 and 29.1 of the UPERC Open Access Regulation 2019. The Petitioner has sought to invoke adjudicatory powers of the Commission however, the relief regarding amendment of Regulations is in the nature of legislative powers of the Commission. He further requested the Commission to first decide the maintainability of the Petition before adjudication on the merit of the case.
7. Sh. Vishal Gupta, further added that the Petitioner has sought to amend the Regulations which were framed by the Commission after following the due process of law i.e. inviting suggestions and comments on draft Regulations. The Petitioner by means of instant Petition is seeking review of the Regulations. However, the review of Regulations is not permitted as held by Hon'ble Supreme Court including Hon'ble Appellate Tribunal. Further, he requested two weeks to file its short reply showing the existing law laid down by the Hon'ble Supreme Court on this issue of the maintainability of the Petition.





8. Sh. Ganeshan Umpathy, Counsel appeared on behalf of UPPCL sought two weeks of time to file its reply.
9. The Commission heard the parties and granted two weeks to respondents to file their reply with a copy to all concerned. The Petitioner to file its reply within two weeks thereafter. The Commission will take a view whether the Commission has to decide maintainability first and then the merit or both together. The Commission will also therewith decide upon the application of the Petitioner to amend the Petition.
10. The matter is listed for next hearing on 21<sup>st</sup> October, 2021.

(Vinod Kumar Srivastava)  
Member (Law)

(Kaushal Kishore Sharma)  
Member

(Raj Pratap Singh)  
Chairman

Place: Lucknow

Dated: 07.09.2021

