

**Issue No.(5) :** Shift in timeline for submission of Variable charges to SLDC by Distribution Licensee.

The Commission has suitably given treatment to issue number 1,2, 3 & 4 in its framed UPERC (Merit Order Despatch and Optimization of Power Purchase) Regulations, 2021 (Removal of Difficulty) First Order, 2021, which is being issued under Section 13 of UPERC MOD Regulations 2021. Aforesaid Section 13 of UPERC MOD Regulations 2021 is reproduced below for easy reference –

*“13. Power to Remove Difficulties – If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.”*

Issue No. (5) has not found favour with the Commission as Regulations cannot be held hostage to inefficiencies crept into the system. The Distribution Licensees/ SLDC should improve efficiency in preparing/ implementing MOD Stack and should exhort the generators to submit their bill at time.

Similarly in issue no. (4) the Commission has not accepted the licensees' proposal to the extent that in absence of submission of order related to change in law, as approved by the appropriate Commission, or revised VC, it may be allowed to claim change in law on best estimate basis. The Commission feels that such a dispensation would introduce arbitrariness in the process, which have a potential of being mishandled. Further, such a loose dispensation defeats the *raison-de-etre* of regulation and is against the grain of regulatory framework, which is expected to remove subjectivity from the process. Accordingly, the Commission has attempted to provide a different treatment to the issue, as is evident from UPERC (MOD) Regulations, 2021 (Removal of Difficulty) First Order, 2021.

As far as issue of inclusion of AC- UBC charges, within the realm of variable charges, as raised by SLDC is concerned, it is to highlight that SLDC is only the implementing agency of MOD stack given by the licensee and it is the licensee or the generators i.e. parties to the contract, which may be aggrieved by such inclusion or non-inclusion of AC- UBC charges though all the licensees, generators and also SLDC have been provided with ample and extensive opportunity of hearing before finalising UPERC



(MOD) Regulations, 2021. SLDC, in the present case, had only limited locus to raise any issue regarding any constraint being faced by it in implementation of MOD. Once the Commission has consciously decided to include AC- UBC charges into variable charge of generator at the State periphery in the MOD Regulations after hearing all the parties then the premise of Regulation cannot be challenged or unsettled while assessing the implementation status. Therefore, the comments of SLDC do not warrant any response.

UPPCL/Licensees are also directed to share a copy of UPERC (MOD) Regulations, 2021 (Removal of Difficulty) First Order, 2021 with all the generators.



(Vinod Kumar Srivastava)

Member (Law)



(Kaushal Kishore Sharma)

Member



(Raj Pratap Singh)

Chairman

Place: Lucknow

Dated: 06.09.2021

