



**UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION
LUCKNOW**

Petition No. 1498 of 2019

FILED BY

U.P. Jal Vidyut Nigam Limited (UPJVNL)

IN THE MATTER OF:

**Determination of Multi Year Tariff (MYT) and approval of Annual
Revenue Requirement (ARR) for Hydro Power Stations of U.P. Jal Vidyut
Nigam Limited (UPJVNL) for F.Y. 2014-15 to 2018-19**

Rihand & Matatila

Lucknow

Dated: 30.01.2023

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**Multi Year Tariff and ARR for FY 2014-15 to FY 2018-19 for
Rihand and Matatila Hydro Power Station (UPJVNL)**



Petition No. 1498 of 2019

BEFORE

THE UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

LUCKNOW

(Date of Order: 30.01.2023)

PRESENT:

Hon'ble Shri Raj Pratap Singh, Chairman

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

IN THE MATTER OF

Multi Year Tariff Petition for approval of annual revenue requirement and determination of tariff for FY 2014-15 to FY 2018-19 in respect of Hydro Power Stations namely Rihand and Matatila Hydro Power stations.

M/s Uttar Jal Vidyut Nigam Limited

Shakti Bhawan, 14 – Ashok Marg, Lucknow – 226001

..... Petitioner

Versus

1. Uttar Pradesh Power Corporation Limited (UPPCL)

7th Floor, Shakti Bhawan Extn, 14 Ashok Marg, Lucknow – 226001

2. Paschimanchal Vidyut Vitran Nigam Limited (PVVNL)

Urja Bhawan, Victoria Park, Meerut - 250001

3. Madhyanchal Vidyut Vitran Nigam Limited (MVVNL)

4A, Gokhale Marg, Lucknow

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**Multi Year Tariff and ARR for FY 2014-15 to FY 2018-19 for
Rihand and Matatila Hydro Power Station (UPJVNL)**



4. Purvanchal Vidyut Vitran Nigam Limited (PuVVNL)
132 kV Sub-station, Bhikaripur, Vidyut Nagar, Varanasi – 221004
5. Dakshinanchal Vidyut Vitran Nigam Limited (DVVNL)
Urja Bhawan NH-2, Agra – Delhi Bypass Road, Sikandara Road, Agra
6. Madhya Pradesh Power Management Company Limited
Shakti Bhawan, Vidyut Nagar, Jabalpur (MP) – 482008Respondent

The following were present:

1. Shri Avdhesh Kumar Verma, U.P. Rajya Vidyut Upbhokta Parishad
2. Shri Rama Shankar Awasthi, Consumer Representative
3. Shri Mahendra Singh, S.E., UPPCL
4. Shri Divyanshu Bhatt, Advocate, UPPCL
5. Shri Aditya Singh, Advocate, MPPMCL
6. Shri Mahesh Gautam, S.E (Commercial), UPJVNL
7. Shri Lalit Varshney, UPJVNL
8. Shri Maurya, UPJVNL

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ORDER

(Date of Public Hearing – 19.12.2022)

1. Foreword

- 1.1. Rihand Hydro Power Station has capacity of 300 MW (6x50 MW), 5x50 MW was commissioned in 1962 and 6th Unit of 50 MW was commissioned in 1966. Matatila Hydro Project of 3x10.2 MW was commissioned in 1962. Regarding the sharing of power, it was decided during 6th meeting of Central Zonal Council between the Government of Uttar Pradesh ("**Govt. of UP**") and Government of Madhya Pradesh ("**Govt. of MP**"), held at Nainital on 1st and 2nd July 1963, that 15% of energy available at Rihand Hydro Power Station and 1/3rd of energy available at Matatila Hydro Power Station, both located in the state of Uttar Pradesh, shall be made available to the state of Madhya Pradesh at cost price plus 5%. Such cost price would be worked out after hearing the representatives of the states by a Committee headed by Mr. M.R. Sachdeva ("**Sachdeva Committee**").
- 1.2. Subsequently, on 13th and 14th March 1964, the Minutes of the Sachdeva Committee meeting, *inter-alia*, recorded that Govt. of MP is to draw energy from Rihand at 132kV within the limits of 15% of the total energy available in each year after meeting the consumption by the powerhouse auxiliaries etc. and make arrangements to regulate their offtake in a such a manner as to not exceed its share of 15%. On 19.09.1964, the 7th Meeting of the Central Zonal Council was convened, wherein it was recorded that **Govt. of UP had paid compensation for the lands submerged in MP.**
- 1.3. On 18.12.2000, the UPJVNL and UPPCL executed a Power Purchase Agreement *inter-alia* stating that:
- (a) the UPJVNL, with effect from 14.01.2000, owns and operates *inter-alia* the Rihand and Matatila HPS which were commissioned by the UPSEB and which stood transferred and vested to the UPJVNL in terms of Section 23 of the UP-Electricity Reforms Act, 1999 and Section 5 of the UP-Electricity Reforms Transfer Scheme, 2000;
 - (b) The UPJVNL agreed to sell and UPPCL agreed to purchase the entire Net Electrical Output of the hydro power generating stations owned and

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operated by the UPJVNL including Rihand and Matatila.

- (c) Further, the obligation of supply of power to other states, as per the mutual agreement entered into or to be entered into in the future, would be discharged by UPPCL.
- (d) If UPPCL continues to get power from UPJVNL's Hydro Power Generating Stations even after expiry of the agreement without further renewal or formal extension thereof then all the provisions of the agreement would continue to operate till the agreement was formally renewed / extended or replaced.
- 1.4. The Central Commission, vide order dated 12.10.2017 directed UPJVNL to file tariff Petition for 'the generating stations' for 2014-19 in terms of the provisions of CERC Regulations 2014. Thereafter, UPJVNL withdrew the Tariff Petition filed before the Ld. UP Commission qua the Rihand and Matatila HPS. The Commission by way of Order dated 03.07.2018 in Petition 1109 of 2016 records the withdrawal of the tariff application qua Rihand and Matatila by the UPJVNL.
- 1.5. Subsequently, in compliance to directions given by the Hon'ble APTEL in appeal no. 59 of 2014 and IA no. 111 of 2014 and Appeal No. 120 of 2014 on 25-07-2018, filed by MPPMCL, a meeting held on 09-08-2018 between Principal Secretary Energy, GoMP and Principal Secretary, Energy, GoUP at Lucknow. On 14.08.2018, Madhya Pradesh Power Generating Company Limited ("MPGCL") wrote to (with a copy marked to MPPMCL) wherein it was stated that during the discussions, it was accepted by both power utilities that Uttar Pradesh shall continue to file the Tariff Petition for Rihand and Matatila HPS before UPERC as per prevailing practice.
- 1.6. During the hearing on 25.06.20, the Commission observed that the issue at hand is that of jurisdiction before proceeding for tariff determination. The Commission directed UPJVNL to file chronology of events and amend the Memo of Parties in the Petition. The Commission also directed MPPMCL to comply with the directions and present their case on issue of jurisdiction. During the hearing on 17.05.2022, Counsels of both parties made arguments on the issue of Jurisdiction of this Commission.
- 1.7. The Commission vide its Order dated 27.09.2022 decided that in terms of Section 64(5) of Electricity Act'03, it has jurisdiction to determine tariff for the UPJVNL owned and operated Generating Stations namely Rihand and Matatila HPS having

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**Multi Year Tariff and ARR for FY 2014-15 to FY 2018-19 for
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PPA with UPPCL dated 18.12.2000 and UPPCL having obligation to supply other states' share of power.

- 1.8. Subsequently, preliminary analysis of the Petition was conducted, wherein various deficiencies in respect of Annual Fixed Charges, additional capitalisation, R & M expenditure etc., were observed and communicated to the Petitioner vide letters dated 12.10.2022. The Commission held the tariff hearing on 20.10.2022, wherein MPPMCL and UPPCL were allowed to file their submissions, if any.
- 1.9. The Commission vide its admittance order dated 02.11.022 decided to hold public hearing on 09.12.2022 and directed UPJVNL to publish notice in one English and one Hindi daily newspapers having wide circulation in the area, outlining the details of the Petition with ARR and its components proposed, any capex proposed for the Control Period (FY 2014-15 to FY 2018-19) etc., and invite suggestions and objections within 15 days from the date of publication of the Public Notice(s) from the stakeholders and public at large. The Public notice was published in Hindi and English Newspapers (Dainik Jagaran and Indian Express) dated 06.11.2022. Subsequently, the hearing was rescheduled to 19.12.2022 and accordingly Public notice was published in Hindi and English Newspapers (Dainik Jagaran and Indian Express) dated 08.12.2022.
- 1.10. The details of the Public Hearing were also provided on the Commission's website www.uperc.org All the stakeholders who wished to participate in the Public Hearing were to submit their written suggestions and objections in hard copies within seven (7) days of the Public Hearing and be present during the Hearing.
- 1.11. During the Public hearing on 19.12.2022, following comments were received:
- (a) Sh. Avdhesh Kumar Verma submitted that the tariff for the recovery of fixed and variable cost by UPJVNL should be same for MPPMCL as UPPCL.
The Commission has noted the comment and accordingly addressed the same in this Order.
- (b) Sh. Rama Shankar Awasthi submitted that they have already approached Hon'ble Supreme Court regarding jurisdiction of the appropriate Commission in case of multi state projects and is pending. Further, instant MYT Petition for the Tariff of FY 2014-19 is already delayed by three years and therefore the Commission may prudently allow Carrying cost. The Commission enquired Sh. Rama Shankar Awasthi, whether they have approached the Hon'ble Supreme

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Court against the Commission's order in this matter. Sh. Awasthi responded that they have approached against the Commission's order in Dhariwal Infrastructure Ltd. case and not in this matter.

Sh. Awasthi has not appealed against the Commission's order dated 27.09.022 in this matter, therefore, the Commission decides to proceed with tariff determination.

- (c) Sh. Divyanshu Bhatt, Counsel of UPPCL submitted that MYT for FY 2014-2019 should be carried out after the Truing-up of FY 2009-2014. Further, SBI's interest rate for the period of FY 2014-2019 has decreased from 10% to 8.7%, 130 basis points, however, UPJVNL has claimed Interest on Loan (IOL) @upward of 12.25% and no documentary support has been submitted by UPJVNL for the same.

The Commission has noted the comment and accordingly addressed the same in this Order.

- (d) Shri Mahesh Gautam on behalf of UPJVNL submitted that they had filed the Truing-up for FY 2009-14 along with the MYT for 2014-19, however, on scrutiny, this Commission directed to come before the Commission after the finalisation of GFA between UPJVNL and UJVNL. Further, final settlement of GFA is pending due to Central Government decision on the major loan of Rs. 352 Crore from LIC among others. Further, it was clarified that claimed rate of interest for MYT of FY 2014-19 is on normative basis.

The Commission in the order dated 23rd August 2017 in the matter of True-up of FY 2009-2014 and MYT of FY 2014-19 observed the following:

"The Commission observed that the current True up Petition for the period FY 2009-10 to FY 2013-14 is immature due to non-finalization of the GFA between UPJVNL and UJVNL. Also, the process of finalization of GFA should not delay the tariff determination process for the MYT period FY 2014-15 to FY 2018-19. Hence, for the MYT period FY 2014-15 to FY 2018-19, the Commission decides that the tariff will be determined considering the same GFA as considered for the earlier MYT period i.e. FY 2009-10 to FY 2013-14. However, meantime, if UPJVNL concludes the issue of GFA with UJVNL, UPJVNL can put up the same for the consideration of the Commission by way of true-up petition."



Further, the Commission has noted the submission of UPJVNL that final settlement of GFA is pending due to Central Government decision on the major loan of Rs. 352 Crore from LIC among others. Therefore, the Commission has decided to proceed with the MYT for the Period FY 2014-19 for these two projects, considering the same GFA as considered for the earlier MYT Period i.e., FY 2009-14 vide its Order dated 20.10.2011 while determining tariff for hydro Projects of UPJVNL including Rihand and Matatila.

- (e) Sh. Aditya Singh, Counsel of MPPMCL submitted that they have already filed their written submission in the matter. Further, on specific query of the Commission Sh. Singh replied that they haven't filed any Petition/Appeal regarding the jurisdiction of instant Petition.

MPPMCL has not appealed against the Commission's order dated 27.09.022 in this matter, therefore, the Commission decides to proceed with tariff determination.

- 1.12. UPPCL vide its additional submission dated 23.12.2022 has objected that True-up for FY 2009-14 is required to be completed prior to tariff determination. UPPCL has sought audited accounts for FY 2009-14 of the Petitioner. UPPCL has also objected to the claim of higher interest rate and sought details of loans.

The Commission is of the view that UPPCL's concerns are already addressed at para 1.11 (c) above. As regards audited accounts for FY 2009-14, it may be noted that tariff for FY 2009-14 is already decided by the Commission basis the audited accounts submitted by the Petitioner and UPPCL as respondent was already given opportunity at that time.

2. Background

Regulatory Framework

- 2.1. The Uttar Pradesh Electricity Reforms Act, 1999 (UP Act No. 24 of 1999, hereinafter referred to as the Reforms Act) set off the reforms in the power sector of Uttar Pradesh. According to the provisions of sub-sections (1) and (2) of section 23 of the Reforms Act, vide notification No. 149/P-1/2000-24, Lucknow, January 14, 2000, Uttar Pradesh Electricity Reforms Transfer Scheme, 2000 (hereinafter referred to as the Transfer Scheme) was notified. This transfer scheme had reorganized Uttar Pradesh State Electricity Board (UPSEB) by unbundling it into three entities, i.e. Uttar Pradesh Power Corporation Limited (UPPCL), Uttar

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**Multi Year Tariff and ARR for FY 2014-15 to FY 2018-19 for
Rihand and Matatila (UPJVNL)**



Pradesh Rajya Vidyut Utpadan Nigam Limited (UPRVUNL) and Uttar Pradesh Jal Vidyut Nigam Limited (UPJVNL) w.e.f. 14.1.2000. UPPCL was vested with the responsibility of transmission and distribution of electricity, UPJVNL with the responsibility of hydro generation and UPRVUNL, the company already existing prior to the date of reorganization of UPSEB, was vested with the responsibility of thermal generation.

- 2.2. The Electricity Act, 2003 (hereinafter referred to as EA, 2003) came into effect from 10th June, 2003. This Act repealed all the erstwhile Electricity Acts in the country, viz. Indian Electricity Act, 1910 (9 of 1910), The Electricity (Supply) Act, 1948 (54 of 1948) and the Electricity Regulatory Commissions Act, 1998 (14 of 1998). Since the enforcement of this act, the power sector in India has undergone major organizational and functional changes. EA, 2003 has specified in sub-section (3) of section 185 read with the schedule of enactments that the provisions of Uttar Pradesh Electricity Reforms Act, 1999 shall be applicable where it is relevant as far as it is not inconsistent with EA, 2003.
- 2.3. Under section 61 of EA, 03, the State Electricity Regulatory Commissions are required to specify the terms and conditions for determination of tariff and Section 86 of the Act mandates the Electricity Regulatory Commission to determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State.
- 2.4. In exercise of powers conferred under section 181 read with the provisions of section 61 of EA 2003, UPERC notified on 16.12.2014, the UPERC (Terms and Conditions of Generation Tariff) Regulations, 2014 for the period 01.04.2014 to 31.03.2019. Before expiry of these Regulations, the Commission had notified the UPERC (Terms and Conditions of Generation Tariff) Regulations, 2009 (hereinafter referred to as Generation Regulations, 09) w.e.f. 01.04.2009 and is to remain effective till 31.3.2014, unless reviewed earlier or extended by the Commission.
- 2.5. For the regulation of generation of electricity from Captive and Non-Conventional Energy sources in the State, UPERC has separate Regulations recognized as CRE Regulations.

3. Earlier Tariff Orders

- 3.1. ARR and Tariff in respect of hydro power stations for year 2005-06, 2006-07 & 2007-08, was determined and approved by the Commission vide order dated

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March 26, 2007. However, the same was subsequently revised, on filing of the review petition by UPJVNL, as per Commission's Order dated January 15, 2008.

- 3.2. ARR and Tariff in respect of hydro power stations of UPJVNL for FY 2008-09 was determined and approved vide Commission's Order dated April 22, 2009.
- 3.3. Determination of Multi Year Tariff (MYT) and approval of Annual Revenue Requirement (ARR) for Hydro Power Stations of U.P. Jal Vidyut Nigam Limited (UPJVNL) for F.Y. 2009-10 to 2013-14 vide order dated 20th October 2011.
- 3.4. Approval of tariff for Belka (2x1.5 MW) & Babail (2x1.5 MW) small hydro power stations from the dates of Commissioning to financial year 2013-14 vide order dated 05th June 2015.
- 3.5. Determination of Multi Year Tariff for the period from FY 2014-15 to FY 2018-19 in respect of Obra, Khara, Upper Ganga Canal and Sheetla hydro power plants of UPJVNL and Determination of Tariff for Belka and Babail hydro power plants of UPJVNL from CoD to FY 2018-19.

4. Methodology for Tariff Determination

- 4.1. Tariff shall be determined in respect of a generating station under UPERC (Terms and Conditions of Generation Tariff) Regulations, 2014 and in case of the existing generating station, the generating company shall make an application for determination of tariff as per Appendix II of these Regulations.
- 4.2. Tariff for sale of electricity from a hydro power generating station shall comprise of the annual capacity (fixed) charges consist of –
 - (a) Interest on loan capital;
 - (b) Depreciation, including Advance Against Depreciation;
 - (c) Return on equity;
 - (d) Operation and maintenance expenses including insurance;
 - (e) Interest on working capital.

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5. Multi Year Tariff Petition for FY 2014-15 to 2018-19

Existing Capacities

5.1. The details of existing hydro power generating stations of UPJVNL, covered in the instant Petition, are listed in table below:

Table 1 List of Existing Hydro Power Generating Stations of UPJVNL covered in the instant Petition.

S.N.	Hydro Power Station	Unit No.	Installed Capacity (in MW)	Date of Commercial Operational	Age of Plant as on 01.04.2009 (In Yrs.)
1	Rihand Power Station	1	50	1962	47
		2	50	1962	47
		3	50	1962	47
		4	50	1962	47
		5	50	1962	47
		6	50	1966	43
		Total Capacity	300	Average Age	46
2	Matatila Power Station	1	10	26-2-65	44
		2	10	2-6-65	44
		3	10	3-9-65	44
		Total Capacity	30	Average Age	44

ARR and Tariff submitted by UPJVNL

5.2. UPJVNL, in response to the Commission's query dated 12.10.2022, has vide letter ref. no. 174/SE/Comml/Tariff Petition dated 04.11.2022 has submitted that the Petitioner has not considered any additional capitalization during the control period as the same would be later claimed in True-up Petition. Total Fixed Cost (Rs Cr.), Saleable Energy (MU) and Unit Rates (Rs/kWh) of the UPJVNL Hydro power plants for the control period under consideration have been proposed as under:

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**Multi Year Tariff and ARR for FY 2014-15 to FY 2018-19 for
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Table 2 ARR and Tariff Submitted by UPJVNL for FY 2014-15 (in Rs. Crore)

Particulars	Rihand	Matatila
FY 2014-15		
Depreciation	5.58	0.77
Interest on Loan	10.68	0.79
Return on Equity	8.84	0.98
Interest on Working Capital	1.95	0.36
O & M Expenses	24.85	5.51
Total	51.91	8.42
Saleable Energy (MU)	909.00	121.00
Unit Rate (Rs./kWh)	0.57	0.70

Table 3 ARR and Tariff Submitted by UPJVNL for FY 2015-16 (in Rs. Crore)

Particulars	Rihand	Matatila
FY 2015-16		
Depreciation	5.58	0.77
Interest on Loan	10.00	0.69
Return on Equity	8.84	0.98
Interest on Working Capital	2.03	0.38
O & M Expenses	26.50	5.88
Total	52.95	8.71
Saleable Energy (MU)	909.00	121.00
Unit Rate (Rs./kWh)	0.58	0.72

Table 4 ARR and Tariff Submitted by UPJVNL for FY 2016-17 (in Rs. Crore)

Particulars	Rihand	Matatila
FY 2016-17		
Depreciation	5.58	0.77
Interest on Loan	9.32	0.60
Return on Equity	8.84	0.98
Interest on Working Capital	2.11	0.40
O & M Expenses	28.26	6.27

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**Multi Year Tariff and ARR for FY 2014-15 to FY 2018-19 for
Rihand and Matatila (UPJVNL)**



Particulars	Rihand	Matatila
Total	54.10	9.02
Saleable Energy (MU)	909.00	121.00
Unit Rate (Rs./kWh)	0.60	0.75

Table 5 ARR and Tariff Submitted by UPJVNL for FY 2017-18 (in Rs. Crore)

Particulars	Rihand	Matatila
FY 2017-18		
Depreciation	5.58	0.77
Interest on Loan	8.63	0.50
Return on Equity	8.84	0.98
Interest on Working Capital	2.20	0.42
O & M Expenses	30.13	6.69
Total	55.39	9.37
Saleable Energy (MU)	909.00	121.00
Unit Rate (Rs./kWh)	0.61	0.77

Table 6 ARR and Tariff Submitted by UPJVNL for FY 2018-19 (in Rs. Crore)

Particulars	Rihand	Matatila
FY 2018-19		
Depreciation	5.58	0.77
Interest on Loan	7.95	0.41
Return on Equity	8.84	0.98
Interest on Working Capital	2.29	0.44
O & M Expenses	32.13	7.13
Total	56.80	9.74
Saleable Energy (MU)	909.00	121.00
Unit Rate (Rs./kWh)	0.62	0.80

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