

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/KS/PP/2020-21/9761]

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

U. P. Power Corporation Limited
(Address: Shakti Bhavan, 14 – Ashok Marg,
Lucknow – 226001)
PAN: AAACU5088M

In the matter of U. P. Power Corporation Limited

BACKGROUND

1. Securities and Exchange Board of India (in short **SEBI**) carried out an examination to ascertain compliance status of U. P. Power Corporation Limited (**UPPCL**) with relevant provisions of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (in short **LODR Regulations**), whose non-convertible debentures (**NCDs**) are listed on Bombay Stock Exchange (BSE). During the examination, OD observed that the UPPCL did not make requisite disclosures under the provisions of Regulations 7(3), 9, 13(3), 13(4), 50(1), 50(2), 50(3), 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 53, 54(2), 57(1), 57(2), 60(2) & 62 of LODR Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

2. As regards alleged non-compliances by UPPCL, OD initiated adjudication proceedings against UPPCL (hereinafter referred to as '**Noticee**'). The competent authority prima facie being of the view that there are grounds to adjudicate upon the alleged violations, the undersigned has been appointed as Adjudicating Officer (in short **AO**) vide communique dated June 09, 2020, under Section 15-I of The Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **the SEBI Act**) r/w rule 3 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (in short **Adjudication Rules**) to inquire into and adjudge under Sections 15A(b) and 15HB of the SEBI Act, the alleged violations of provisions of LODR Regulations by UPPCL as detailed in subsequent paras.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

3. Show cause notice ref no. SEBI/HO/A&E/EAD-8/KS/AA/11912/1/ 2020 dated July 16, 2020 (**SCN**) was issued to UPPCL under rule 4 of the Adjudication Rules advising them to show cause as to why an inquiry should not be held against it why penalty under Sections 15A(b) and 15HB of the SEBI Act be not imposed on them for the violations alleged and specified in the said SCN. The SCN was sent through digitally signed electronic mail (email) dated July 17, 2020. Copy of email is available on record.

4. The allegations in the SCN are given below in brief:

1. *It is observed that UPPCL was incorporated on November 30, 1999 and is registered with RoC Kanpur and is primarily involved in the activity of supply of electricity in the state of Uttar Pradesh. From the information provided by BSE, it is observed that all NCDs issues by UPPCL are privately placed and listed on BSE. UPPCL has 32 different ISINs listed at BSE as on January 23, 2020. From analysis of the compliance status from BSE, comments of UPPCL and Beacon Trusteeship Ltd., SEBI observed the following non-compliances of LODR Regulations by UPPCL:*

Sl. No.	Regulation	Comments from UPPCL	Compliance Status based on information received from BSE/ Beacon Trusteeship Ltd./ UPPCL
1	Regulation 7(3) Submission of compliance certificate signed by the Compliance Officer and representative of the share transfer agent within one month of end of each half of financial year regarding maintenance of all activities in relation to both physical and electronic share transfer facility either in house or by Registrar to an issue and share transfer agent registered with the Board.	For half year ended March 31, 2019, UPPCL has provided a copy of the certificate.	BSE vide email dated September 04, 2019 has informed that the company has not complied for 05 half years, i.e. half years ended on September 30, 2017, March 31, 2018, September 30, 2018, March 31, 2019 For half year ended March 31, 2019, BSE vide email dated October 10, 2019 has submitted that the same has not been received by them. Status- Not Complied
2	Regulation 9 The listed entity shall have a policy for preservation of documents, approved by its board of directors.	The company is maintaining all the documents related to issue of listed bonds those are permanent in nature and for the period prescribed. The company is also maintaining accounts related to routine transactions for the debt servicing.	The company has neither confirmed that it is in compliance with provisions of Regulation 9, nor it has provided copy of any approved policy. Status- Not Complied
3	Regulation 13(3) Submission of the statement on shareholder' complaints on quarterly basis within 21 days of end of quarter	For quarter ended June 30, 2019, UPPCL has provided a copy of the statement.	BSE vide email dated September 04, 2019 has informed that the company has not complied for 09 quarters, i.e. quarters ended on June 30, 2017, September 30, 2017, December 31, 2017, March 31, 2018, June 30, 2018, September 30, 2018, December 31, 2018, March 31, 2019, June 30, 2019 For quarter ended June 30, 2019, BSE vide email dated October 10, 2019 has submitted that the same has not been received by them. Status- Not Complied
4	Regulation 13(4) The statement as specified in Regulation 13 (3) shall be placed, on quarterly basis, before the board of directors of the listed entity.	No comments w.r.t. compliance with provisions of Regulation 13(4) has been provided by the company.	The company has not confirmed about compliance with provisions of Regulation 13(4). Status- Not Complied
5	Regulation 50(1) Prior intimation to the stock exchange(s) at least eleven working	UPPCL is sending intimation regarding description of securities,	BSE vide email dated September 04, 2019 has informed that out of the 32

	<i>days before the date on and from which the interest on debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable</i>	<i>redemption & interest payment date & record date</i>	<i>ISINs, UPPCL has not complied for the following 7 ISINs for Regulation 50(1): INE540P07285, INE540P07293, INE540P07301, INE540P07327, INE540P07335, INE540P07343, INE540P07350 for the FYs 2018- 19 and 2019-20 (Up till September 04, 2019) Status- Not Complied</i>
6	<i>Regulation 50(2) Prior intimation regarding intention to raise funds through new NCDs/ NCRPS</i>	<i>No comments w.r.t. compliance with provisions of Regulation 50(2) has been provided by the company.</i>	<i>BSE vide email dated September 04, 2019 has informed that the company has not complied with provisions of this Regulation. Status- Not Complied</i>
7	<i>Regulation 50(3) Intimation in advance regarding the meeting of board of directors at which recommendation or declaration of issue of NCDs or matter affecting the rights or interests of holders</i>	<i>UPPCL will give intimation regarding board meeting affecting the rights or interest of holders of NCDs/NCRPS.</i>	<i>BSE vide email dated September 04, 2019 has informed that the company has not complied with provisions of this Regulation. Further, the company has submitted that in future, it will give intimation regarding board meetings. Status- Not Complied</i>
8	<i>Regulation 52(1) Submission of un-audited or audited financial results on a half yearly basis within forty five days from the end of the half year</i>	<i>UPPCL will start preparing half yearly financial accounts from financial year 2020-21</i>	<i>In terms of submissions of UPPCL, it is currently not preparing financial results on half yearly basis. Further, BSE vide email dated September 04, 2019 has informed that the annual financial results have also not been disclosed with exchange. Accordingly, UPPCL has not submitted financial results for half years ended on September 30, 2017, March 31, 2018, September 30, 2018, March 31, 2019. Further, it has not prepared financial results for half years ended September 30, 2017 and September 30, 2018. Also certificate in terms of Regulation 52(5) has not been submitted by the company Status- Not Complied</i>
9	<i>Regulation 52(2) Submission of un-audited half- yearly financial results along with limited review report</i>		
10	<i>Regulation 52(4) Disclosure of line items prescribed under Regulation 52(4) along with the half yearly / annual financial results)</i>		
11	<i>Regulation 52(5) Submission of a Certificate signed by the Debenture Trustee taking note of the contents prescribed under Regulation 52(4).</i>		
12	<i>Regulation 52(7) Submission of a statement indicating material deviations, if any, in the use of proceeds along with the half yearly financial results.</i>	<i>UPPCL has issued NCDs for the purpose of meeting operating expenditure and has submitted complete utilization certificate of</i>	<i>BSE vide email dated September 04, 2019 has informed that it is not in receipt of any submission under Regulation 52(7).</i>

		issue proceeds after issuance of NCDs.	Status- Not Complied
13	Regulation 52(8) The listed entity shall, within two calendar days of the conclusion of the meeting of the board of directors, publish the financial results and statement referred to in Regulation 52 (4), in at least one English national daily newspaper circulating in the whole or substantially the whole of India.	The company has started process for the same.	The company has neither confirmed about compliance with provisions of Regulation 52(8), nor has submitted any proof for the same. Status- Not Complied
14	Regulation 53 Annual report of the listed entity shall include audited financial statements, cash flow statement, auditors report, director's report, details of debenture trustees, related party disclosures.	Annual Report for the financial year 2017-18 contains all the information as required under Regulation 53 except the name of Debenture Trustee. We note to include the Debenture Trustee names since our Annual Report for the financial year 2018-19.	Annual report of the company does not contain the details of debenture trustees. Status- Not Complied
15	Regulation 54 (2) Disclosure of extent and nature of security created and maintained with respect to secured listed NCDs in the financial statements.	UPPCL is preparing Security Cover Ratio certificate on quarterly basis and made available to the all stake holders on demand and regularly submit with the quarterly compliance report to the respective Debenture Trustee.	UPPCL has not made disclosures in terms of Regulation 54(2) Status- Not Complied
16	Regulation 57 (1)/(2) Disclosure of information related to payment obligations, undertaking of submission of all documents and intimations to Debenture Trustees within the timeline stipulated under this Regulation	UPPCL is providing information to Exchange & Trustee according to the Regulation 57 and has provided certificate dated July 19, 2019.	BSE vide email dated September 04, 2019 has informed that they have not received certificate dated July 19, 2019 with respect to payment due on July 19, 2019 Status- Not Complied
17	Regulation 60 (2) Submission of notice of record date in advance of at least seven working days for the purpose of payment of interest or redemption amount	UPPCL is providing information to Exchange & Trustee according to the Regulation 60 and has provided intimation dated June 19, 2019 with respect to record date.	BSE vide email dated October 10, 2019 has informed that they have not received intimation dated June 19, 2019 with respect to record date. Status- Not Complied
18	Regulation 62 Requirement of maintenance of functional website which shall contain the details of financial information, handling of investor grievances, debenture trustees, report, notices, call letters etc.	UPPCL has maintained the functional website www.upenergy.in and they have noted to include information as per Regulation 62.	Details in respect of its financial information (Reg. 62(1)(b)) designated officials for handling investor grievances (Reg. 62(1)(c)), email address for grievance redressal (Reg. 62(1)(d)), details of debenture

			trustees (Reg. 62(1)(e)), report, notices, call letters etc. (Reg. 62(1)(f)), all information and reports filed (Reg. 62(1)(g)) are not available. Status- Not Complied
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2. In view of the above observations, it is alleged that UPPCL has violated the provisions of Regulations 7(3), 9, 13(3), 13(4), 50(1), 50(2), 50(3), 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 53, 54(2), 57(1), 57(2), 60(2) & 62 LODR Regulations. The text of the said provisions is provided below:

LODR Regulations

Share Transfer Agent.

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7(3) The listed entity shall submit a compliance certificate to the exchange, duly signed by both the compliance officer of the listed entity and the authorised representative of the share transfer agent, wherever applicable, within one month of end of each half of the financial year, certifying compliance with the requirements of sub-Regulation (2).

Preservation of documents.

9. The listed entity shall have a policy for preservation of documents, approved by its board of directors, classifying them in at least two categories as follows-
(a) documents whose preservation shall be permanent in nature;
(b) documents with preservation period of not less than eight years after completion of the relevant transactions:

Provided that the listed entity may keep documents specified in clauses (a) and (b) in electronic mode.

Grievance Redressal Mechanism.

13(3) The listed entity shall file with the recognized stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter, disposed of during the quarter and those remaining unresolved at the end of the quarter.

(4) The statement as specified in sub-Regulation (3) shall be placed, on quarterly basis, before the board of directors of the listed entity.

Intimation to stock exchange(s).

50.(1) The listed entity shall give prior intimation to the stock exchange(s) at least eleven working days before the date on and from which the interest on debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable.

(2) The listed entity shall intimate the stock exchange(s), its intention to raise funds through new non-convertible debt securities or non-convertible redeemable preference shares it proposes to

list either through a public issue or on private placement basis, prior to issuance of such securities:

Provided that the above intimation may be given prior to the meeting of board of directors wherein the proposal to raise funds through new non convertible debt securities or non-convertible redeemable preference shares shall be considered.

(3) The listed entity shall intimate to the stock exchange(s), at least two working days in advance, excluding the date of the intimation and date of the meeting, regarding the meeting of its board of directors, at which the recommendation or declaration of issue of non convertible debt securities or any other matter affecting the rights or interests of holders of non convertible debt securities or non convertible redeemable preference shares is proposed to be considered.

Financial Results.

52.(1) The listed entity shall prepare and submit un-audited or audited financial results on a half yearly basis in the format as specified by the Board within forty five days from the end of the half year to the recognised stock exchange(s).

Provided that in case of entities which have listed their equity shares and debt securities, a copy of the financial results submitted to stock exchanges shall be provided to Debenture Trustees on the same day the information is submitted to stock exchanges.

(2) The listed entity shall comply with following requirements with respect to preparation, approval, authentication and publication of annual and half-yearly financial results:

(a) Un-audited financial results shall be accompanied by limited review report prepared by the statutory auditors of the listed entity or in case of public sector undertakings, by any practising Chartered Accountant, in the format as specified by the Board:

Provided that if the listed entity intimates in advance to the stock exchange(s) that it shall submit to the stock exchange(s) its annual audited results within sixty days from the end of the financial year, un-audited financial results for the last half year accompanied by limited review report by the auditors need not be submitted to stock exchange(s).

(b) Half-yearly results shall be taken on record by the board of directors and signed by the managing director / executive director.

(c) The audited results for the year shall be submitted to the recognised stock exchange(s) in the same format as is applicable for half-yearly financial results.

(d) If the listed entity opts to submit un-audited financial results for the last half year accompanied by limited review report by the auditors, it shall also submit audited financial results for the entire financial year, as soon as they are approved by the board of directors.

(e) Modified opinion(s) in audit reports that have a bearing on the interest payment/ dividend payment pertaining to non-convertible redeemable debentures/ redemption or principal repayment capacity of the listed entity shall be appropriately and adequately addressed by the board of directors while publishing the accounts for the said period.

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(4) The listed entity, while submitting half yearly / annual financial results, shall disclose the following line items along with the financial results:

(a) credit rating and change in credit rating (if any);

(b) asset cover available, in case of non convertible debt securities;

- (c) debt-equity ratio;
- (d) previous due date for the payment of interest/ dividend for non-convertible redeemable preference shares/ repayment of principal of non-convertible preference shares / non convertible debt securities and whether the same has been paid or not; and,
- (e) next due date for the payment of interest/ dividend of non-convertible preference shares /principal along with the amount of interest/ dividend of non-convertible preference shares payable and the redemption amount;
- (f) debt service coverage ratio;
- (g) interest service coverage ratio;
- (h) outstanding redeemable preference shares (quantity and value);
- (i) capital redemption reserve/debenture redemption reserve;
- (j) net worth;
- (k) net profit after tax;
- (l) earnings per share:

Provided that the requirement of disclosures of debt service coverage ratio, asset cover and interest service coverage ratio shall not be applicable for banks or non banking financial companies registered with the Reserve Bank of India.

Provided further that the requirement of this sub-Regulation shall not be applicable in case of unsecured debt instruments issued by regulated financial sector entities eligible for meeting capital requirements as specified by respective regulators.

(5) *The listed entity shall, within seven working days from the date of submission of the information required under sub-Regulation (4), submit to stock exchange(s), a certificate signed by debenture trustee that it has taken note of the contents.*

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(7) *The listed entity shall submit to the stock exchange on a half yearly basis along with the half yearly financial results, a statement indicating material deviations, if any, in the use of proceeds of issue of non convertible debt securities and non-convertible redeemable preference shares from the objects stated in the offer document.*

(8) *The listed entity shall, within two calendar days of the conclusion of the meeting of the board of directors, publish the financial results and statement referred to in sub-Regulation (4), in at least one English national daily newspaper circulating in the whole or substantially the whole of India.*

Annual Report.

53. *The annual report of the listed entity shall contain disclosures as specified in Companies Act, 2013 along with the following:*

- (a) *audited financial statements i.e. balance sheets, profit and loss accounts etc, and Statement on Impact of Audit Qualifications as stipulated in Regulation 52(3)(a), if applicable;*
- (b) *cash flow statement presented only under the indirect method as prescribed in Accounting Standard-3/ Indian Accounting Standard 7, mandated under Section 133 of the Companies Act, 2013 read with relevant rules framed thereunder or by the Institute of Chartered Accountants of India, whichever is applicable;*
- (c) *auditors report;*
- (d) *directors report;*
- (e) *name of the debenture trustees with full contact details ;*

(f) related party disclosures as specified in Para A of Schedule V.

Asset Cover.

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54 (2) The listed entity shall disclose to the stock exchange in quarterly, half-yearly, year-to-date and annual financial statements, as applicable, the extent and nature of security created and maintained with respect to its secured listed non-convertible debt securities.

Other submissions to stock exchange(s).

57.(1) The listed entity shall submit a certificate to the stock exchange within two days of the interest or principal or both becoming due that it has made timely payment of interests or principal obligations or both in respect of the non convertible debt securities.

(2) The listed entity shall provide an undertaking to the stock exchange(s) on annual basis stating that all documents and intimations required to be submitted to Debenture Trustees in terms of Trust Deed and Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 have been complied with.

Record Date

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60(2) The listed entity shall give notice in advance of at least seven working days (excluding the date of intimation and the record date) to the recognised stock exchange(s) of the record date or of as many days as the stock exchange(s) may agree to or require specifying the purpose of the record date.

Website.

62.(1) The listed entity shall maintain a functional website containing the following information about the listed entity:-

- (a) details of its business;*
 - (b) financial information including complete copy of the annual report including balance sheet, profit and loss account, directors report etc;*
 - (c) contact information of the designated officials of the listed entity who are responsible for assisting and handling investor grievances;*
 - (d) email address for grievance redressal and other relevant details;*
 - (e) name of the debenture trustees with full contact details;*
 - (f) the information, report, notices, call letters, circulars, proceedings, etc concerning non-convertible redeemable preference shares or non convertible debt securities;*
 - (g) all information and reports including compliance reports filed by the listed entity; (h) information with respect to the following events:*
 - (i) default by issuer to pay interest on or redemption amount;*
 - (ii) failure to create a charge on the assets;*
 - (iii) revision of rating assigned to the non convertible debt securities;*
- (2) The listed entity may also issue a press release with respect to the events specified in sub-Regulation (1).*
- (3) The listed entity shall ensure that the contents of the website are correct and updated at any given point of time.*

3. The above mentioned alleged violations of Regulations 7(3), 13(3), 13(4), 50(1), 50(2), 50(3), 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 54(2), 57(1) & 60(2) of LODR Regulations, if proved, make UPPCL liable for monetary penalty under the provisions of Section 15HB of the SEBI Act. Further, the above mentioned alleged violations of Regulations 9, 53, 57(2) & 62 of LODR Regulations, if proved, makes UPPCL liable for monetary penalty under the provisions of Section 15A(b) of the SEBI Act**. The text of Sections 15A(b) and 15HB of the SEBI Act are as below:

SEBI Act

Penalty for failure to furnish information, return, etc.

15A. If any person, who is required under this Act or any rules or Regulations made thereunder,—

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(b) to file any return or furnish any information, books or other documents within the time specified therefor in the Regulations, fails to file return or furnish the same within the time specified therefor in the Regulations, he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;

Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the Regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

*(** Vide email dated November 03, 2020 Noticee was informed (about the typographical error) that the penal provisions for the above said alleged violations be read as (i) Section 15A(b) for alleged violation of Regulations 7(3), 13(3), 13(4), 50(1), 50(2), 50(3), 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 54(2), 57(1) & 60(2) of SEBI (LODR Regulations), 2015; and (ii) Section 15HB for Regulations 9, 53, 57(2) & 62 of SEBI (LODR Regulations), 2015. The charges remains the same.)*

5. Noticee vide letter dated July 31, 2020 replied to the SCN. Submissions made in the said reply are summarized as under:-

- (i) We are Uttar Pradesh State Government Undertaking incorporated on 14.01.2002 pursuant to power sector reforms and restructuring in Uttar Pradesh ("UP") which is the focal point of the Power Sector, responsible for planning and managing the sector through its transmission, distribution and supply of electricity.*
- (ii) The Company has issued Bonds under Government scheme titled as "Uday (Ujwal Discom Assurance Yojana) Scheme for Operational and Financial Turnaround of Power Distribution Companies (DISCOMs)" which are 100% secured by State Government of Uttar Pradesh. Copy of office memorandum enclosed as **Annexure-1**.*
- (iii) Further the details of the notices issued by BSE on the subject matter are as under-*

Sr. No.	Date	Notice No.	Subject
1	07.03.2017	20170307-13	<i>With effect from 08.03.2017, new securities issued on private placement basis by UPPCL are admitted to dealing on BSE in the list of securities of F GROUP - DEBT INSTRUMENTS</i>

2	12.04.2017	20170412-35	With effect from 13.04.2017, new securities issued on private placement basis by UPPCL are admitted to dealing on BSE in the list of securities of F GROUP - DEBT INSTRUMENTS
3	14.12.2017	20171214-16	With effect from 15.12.2017, new securities issued on private placement basis by UPPCL shall be listed and admitted to dealings on BSE in the list of F GROUP - DEBT INSTRUMENTS
4	30.12.2019	20191230-3	UPPCL informed BSE that they have fixed "Record Date" as 06.01.2020 for the purpose of partial redemption of Bonds and payment of interest on Bonds.
5	23.04.2020	20200423-9	UPPCL informed BSE that they have fixed "Record Date" as 30.04.2020 for the purpose of partial redemption of Bonds and payment of interest on Bonds.
6	22.05.2020	20200522-14	UPPCL informed BSE that they have fixed "Record Date" as 01.06.2020 for the purpose of partial redemption of Bonds and payment of interest on Bonds.
7	30.06.2020	20200630-11	UPPCL informed BSE that they have fixed "Record Date" as 06.07.2020 for the purpose of partial redemption of Bonds and payment of interest on Bonds.
8	20.07.2020	20200720-11	UPPCL informed BSE that they have fixed "Record Date" as 30.07.2020 for the purpose of partial redemption of Bonds and payment of interest on Bonds.

On perusal of the same, we state that the payment of interest and partial redemption of Bonds as per terms of issuance of Bonds is carried out by us in timely manner. For your ready references, aforesaid notices issued by BSE are enclosed hereto consolidated marked as **Annexure - 2**.

- (iv) Further we state that the necessary corporate announcement as and where required are made by us from time to time and the same are disseminated on BSE's website. For ready references, a copy of corporate announcement disseminated by BSE on their website are enclosed hereto marked as **Annexure - 3**.
- (v) With regard to the alleged non compliances as observed during the cause of examination conducted by SEBI, which are mentioned under the SCN we furnish the status of compliance as on date by us as under-

Sr. no.	Regulation	Comments from UPPCL	SEBI Observation: Compliance as on date status based on information received from BSE/Beacon Trusteeship Ltd. / UPPCL	Compliance as on date
1	Regulation 7(3)	For half year ended 31.03.2019	BSE vide email dated 04.09.2019	We issued our first Rated, Listed Bond on 17.02.2017

	<p>Submission of compliance certificate signed by the compliance Officer and representative of the share Transfer Agent within one month of end of each half of Financial year regarding maintenance of all activity in relation to both physical & Electronic share transfer facility either in house or by Registrar to an issue and share transfer agent registered with the Board</p>	<p>UPPCL has provided a copy of the certificate.</p>	<p>has informed that the company has not complied for 05 half years i.e. half years ended on 30.09.2017, 31.03.2018, 30.09.2018, 31.03.2019. For half year ended 31.03.2019 BSE vide email dated 10.10.2019 has not been received by them. Status- Not Complied</p>	<p>and we have started submitting Compliance certificate under Regulation 7(3) from half year ended 31.03.2019. A copy of Compliance certificate for 31st March, 2019 and September, 2019 which were sent to BSE email ids- corp.relations@bseindia.com, rakesh.parekh@bseindia.com are enclosed as 'Appendix A', for ready reference.</p>
2	<p>Regulation 9 The listed entity shall have a policy for preservation of document, approved by its Board of Directors</p>	<p>The company is maintaining all the documents related to issue of listed bonds those are permanent in nature and for the period prescribed. The company is also maintaining accounts related to routine transactions for the debt servicing.</p>	<p>The Company has neither confirmed that it is in compliance in provisions of Regulation 9 nor it has provided copy of any approved policy. Status - Not Complied</p>	<p>The Company is Government Company. Therefore, all records, documents are reserved permanently since inception of the Company. However, in line with the Regulation 9 of the SEBI (LODR), Regulation, a policy of the preservation policy is under consideration and same shall be put in ensuing Board Meeting. A draft policy is enclosed as 'Appendix C'</p>
3	<p>Regulation 13(3) Submission of the statement on share Holders complaints on quarterly basis</p>	<p>For quarter ended 30.06.2019 UPPCL has provided a copy of the statement.</p>	<p>BSE vide email dated 04.09.2019 has informed that the company has not complied for 09 quarters, i.e. quarters</p>	<p>We have started submitting statement on Bond Holders w.e.f. quarter ended 30.06.2019 and</p>

	<i>within 21 days of end of the quarter.</i>		<p>Ended on for the quarter ended 30.06.2017, 30.09.2017, 31.12.2017, 31.03.2018, 30.06.2018, 30.09.2018, 31.12.2018, 31.03.2019 30.06.2019.</p> <p>For quarter ended 30.06.2019. BSE vide email dated 10.10.2019 has submitted that the same has not been received by them. Status - Not Complied.</p>	<p>for the quarter ended 30.06.2020, the statement has been sent by E-mail on email ID-corp.relations@bseindia.com ; rakesh.parekh@bseindia.com and uploaded on the BSE Listing Center. As desired statement on Bond Holders complaints for quarters ended on 30.06.2017, 30.09.2017, 31.12.2017, 31.03.2018 30.06.2018, 30.09.2018, 31.12.2018, 31.03.2019 30.06.2019. are enclosed as 'Appendix D'</p>
4	<p>Regulation 13(4) The statement as specified in Regulation 13(3) shall be placed on quarterly basis, before the board of directors of the listed entity.</p>	<p>No comments w.r.f. compliance with provisions of Regulation 13(4) has been provided by the company.</p>	<p>The company has not confirmed about compliance with provisions of Regulation 13(4). Status - Not Complied.</p>	<p>Noted. The statement on Investors complaints for quarter ended June, 2020 shall be placed before the next meeting of Board of Directors. A copy of the same is enclosed as 'Appendix E'</p>
5	<p>Regulation 50(1) Prior intimation to the stock exchange(s) at least eleven working days before the date on and from which the Interest on</p>	<p>UPPCL is sending information regarding description of securities,</p>	<p>BSE vide email dated 04.09.2019 has informed that out of the 32 ISINs, UPPCL has not complied for the followings 7 ISINfor</p>	<p>We are sending intimation to Stock Exchange 30 days before the date on and from which the interest on debentures and bonds, and redemption amount of debentures and bonds are</p>

	debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable.	redemption and interest payment date & record date	Regulation 50(1) INE540P07285, INE540P07293, INE540P07301, INE540P07327, INE540P07335, INE540P07343, INE540P07350 for the FYs 2018 - 19 and 2019 - 20 (Up till 04.09.2019) Status – Not Complied	payable and also uploading the same at BSE Listing Center w.e.f. September 2019. It is to mention that we have already submitted the information in respect of the following seven ISINs to the exchange :- INE540P07285, INE540P07293, INE540P07301, INE540P07327, INE540P07335, INE540P07343, INE540P07350 for the FYs 2018- 19 and 2019-20 (Up till September 04 2019) Copies of the above are enclosed as ' Appendix F '. We have sent all the above papers on the following E-mail ID- corp.relations@bseindia.com
6	Regulation 50(2) Prior intimation regarding intention to raise funds through new NCDs/ NCRPS	No comments w.r.t. compliance with provisions of Regulation 50(2) has been provided by the company.	BSE vide email dated 04.09.2019 has informed that company has not complied with provisions of this Regulation. Status – Not complied	Noted for future compliances in case of fresh issues if any. However we have to mention that these bonds were issued pursuant to Ministry of Power, Govt, of India scheme of UDAY dated 20.11.2015.
7	Regulation 50(3) Intimation in Advance regarding the meeting of board of directors at which recommendation or declaration of issue of NCDs or matter affecting the rights or interests of holders.	UPPCL will give intimation regarding board meeting affecting the rights or interest of holders of NCDs/ NCRPS.	BSE vide email dated 04.09.2019 has informed that company has not complied with provisions of this Regulation. Further, the company has submitted that in future, it will give intimation regarding board meetings. Status - Not Complied.	Noted for future compliances. However we have to mention that these bonds were issued pursuant to Ministry of Power, Govt, of India scheme of UDAY dated 20.11.2015.

8	<p>Regulation 52(1) Submission of un-audited financial results on a half yearly basis within forty five days from the end of the half year</p>	<p>UPPCL will start preparing half yearly financial accounts from financial year 2020-21.</p>	<p>In terms of submissions of UPPCL, it is currently not preparing financial results on half yearly basis. Further, BSE vide email dated 04.09.2019 has informed that the annual financial results have also not been disclosed with exchange. Accordingly, UPPCL has not submitted financial results for half years ended on 30.09.2017, 31.03,2018, 30.09.2018, 31.03.2018, 31.03.2019</p> <p>Further, it has not prepared financial results for half years ended 30.09.2017 and 30.09.2018. Also certificate in terms of Regulation 52(5) has not been submitted by the company. Status – Not complied</p>	<p>UP Power Corporation Ltd. is a Government Company. The Statutory Auditor is appointed by Comptroller and Auditor General of India (C&AG). As per section 139, C&AG may carried out the supplementary audit. The office of C&AG carries out the supplementary audit after receiving the report of Statutory Auditor. The Annual Audited Accounts alongwith comments of Statutory Auditor and C&AG. On basis of Audited Annual Financial Statements, the balances are carried forwarded. Till date, C&AG comments are received only till Financial year 2016-17. Further, the Company is going to adopt ERP system for preparation of Half yearly / Annual Accounts. This system is under implementation. From FY 2021-22 U P Power Corporation Limited will be able to submit half yearly financial accounts. However, the financial data are prepared monthly basis for payment of interest on Borrowing, Loan, Bonds etc.</p>
9	<p>Regulation 52(2) Submission of un-audited half yearly Financial results along with limited review report</p>			<p>Already replied in para8 hereinabove. Necessary review report will be annexed from half yearly financial accounts of FY 2021-22</p>
10	<p>Regulation 52(4) Disclosure of line items prescribed</p>			<p>Already replied in para 8 hereinabove. Necessary disclosure will be made from</p>

	<i>under Regulation 52(4) along with the halfyearly/ annual financial results.</i>			<i>half yearly financial accounts of FY 2021-22</i>
11	Regulation 52(5) <i>Submission of a certificate signed by the Debenture Trustee taking note of the contents prescribed under Regulation 52(4).</i>			<i>Already replied in para 8 hereinabove. Necessary certificate of debenture trustee will be annexed from the half yearly financial accounts of FY 2021-22</i>
12	Regulation 52(7) <i>Submission of a statement indicating material deviations, if any, in the use of proceeds along with the half yearly financial results.</i>	<i>UPPCL has issued NCDs for the purpose of meeting operating expenditure and has submitted complete utilization certificate of issue proceeds after issuance of NCDs.</i>	<i>BSE vide email dated 04.09.2019 has informed that it is not receipt of any submission under Regulation 52(7). Status - Not</i>	<i>Already replied in para 8 hereinabove. U P Power Corporation Ltd. had issued NCDs under UDAY scheme of Ministry of Power, Govt, of India for the purpose of meeting of operational funding and the same has been utilized for the purpose for which it was issued. There was no deviation in the use of proceeds of the issue. Since there was no system for preparation of Half yearly Financial results hence this provisions could not be complied. However copies of Utilization Certificate are enclosed as 'Appendix G'.</i>
13	Regulation 52(8) <i>The listed entity shall, within two calendar days of the conclusion of the meeting of the board of directors, publish the financial results and statement referred to in Regulation 52(4) in at least one English national daily newspaper circulating</i>	<i>The company has started process for the same.</i>	<i>The Company has neither confirmed about compliance with provisions of Regulation 52(8), nor has submitted any proof for the same. Status - Not Complied</i>	<i>Already replied in para 8 hereinabove. We assure you of compliance in future.</i>

	<i>in the whole or substantially the whole of India.</i>			
14	Regulation 53 <i>Annual report of the listed entity shall include audited financial statements, cash flow statement auditors report, director's report, details of debenture trustees, related party disclosures.</i>	<i>Annual Report for the financial year 2017-18 contains all the information as required under Regulation 53 except the name of Debenture Trustee. We note to include the Debenture Trustee names since our Annual Report for the financial Report for the financial year 2018-19.</i>	<i>Annual report of the company does not contain the details Debenture trustees. Status- Not Complied</i>	<i>The details of Debenture Trustee shall be included in the Audited Financial Statement of FY 2018-19 onwards. Also refer our replied in para 8 hereinabove.</i>
15	Regulation 54(2) <i>Disclosure of extent and nature of security created and maintained with respect to secured listed NCDs in the financial statement.</i>	<i>UPPCL is preparing Security Cover Ratio certificate on quarter basis and made available to the all stake holders on demand and regularly submit with the quarterly compliance report to the respective Debenture Trustee.</i>	<i>UPPCL has not made disclosures in terms of necessary disclosures in terms of Regulation 54(2). Status – Not complied</i>	<i>In terms of Regulation the necessary disclosure in respect of nature of security created and maintain with respect to secured listed NCDs has been made in the financial statement (Copy of Annexure to note 16 of Audited Balance sheet 2017 is enclosed as 'Appendix H)</i>
16	Regulation 57(1) / (2) <i>Disclosure of information related to payment obligations, undertaking of submission of all documents and intimations to Debenture Trustees</i>	<i>UPPCL is providing information to Exchange and Trustee according to the Regulation 57 and has provided</i>	<i>BSE vide email dated 04.09.2019 has informed that they have not received certificate dated 19.07.2019 with respect to payment due on</i>	<i>The certificate with respect to payment due on July 19, 2019 which was already sent to BSE through email at corp. relations@bseindia.com and debt.listing@bseindia.com on 19- 7-2019 is enclosed as 'Appendix I'. These</i>

	<i>within the timeline stipulated under this Regulation.</i>	<i>certificate dated 19.07.2019</i>	<i>19.07.2019. Status - Not Complied</i>	<i>documents are also uploaded at the BSE Listing Center.</i>
17	Regulation 60(2) <i>Submission of notice of record date in advance of at least seven working days for the purpose of payment of interest or redemption amount.</i>	<i>UPPCL is providing information to Exchange & Trustee according to the Regulation 60 and has provided intimation dated 19.06.2019 with respect to record date.</i>	<i>BSE vide email dated 10.10.2019 has informed that they not received intimation dated 19.06.2019 with respect to record date. Status - Not Complied</i>	<i>The notice of record date with respect to payment due on July 19, 2019 which was already sent to BSE on 19-06-2019 is enclosed as 'Appendix J'.</i>
18	Regulation 62 <i>Requirement of maintenance of functional website which shall contain the details of financial information handing of investor grievances, debenture trustees, report, notices, call letters etc.</i>	<i>UPPCL has maintained the functional website www.upenergy.in and they have noted to include information as per Regulation 62</i>	<i>Details in respect of its financial information (Reg.62(l)(b)) Designated officials for handling investor Grievances (Reg. 62 (1) (c)) email address for grievance redressal (Reg 62(l)(d), details of debenture trustee (Reg. 62(l)(e)), report notices, call letters etc. (Reg. 62(l)(f), all information and reports filed (Reg. 62(l)(g)) are not available. Status - Not Complied</i>	<i>UPPCL has maintained the official functional website www.uppcl.org in which the details of financial information, reports and notices are available.</i>

On perusal of the same, we submit that all remedial and correction steps have been taken by us in timely manner. We respectfully submit that there is no default in payment to Debenture Holders till date.

- (vi) We had no intention to contravene any provisions of applicable laws. Further we state that we will comply all the requirements of the provisions of the Act as applicable to us and submit our compliance report to your kindness. In this regard, we would like to mention that keeping the Covid 19 Pandemic situation and circumstances due to lacking of the staff; time period upto 31.03.2021 may please be given for pending compliances.*

- (vii) *We had not appointed any whole time Company Secretary as Compliance Officer. The Company Secretary and Compliance Officer are appointed w.e.f. 18.03.2020 by Board of Directors in the Board Meeting held on 05.03.2020. Copy annexed at **Annexure 4**.*
- (viii) *The Judgement dated 09.07.2018 passed by Hon'ble High Court of Delhi wherein it is mentioned that "34. As noticed above, a Whole Time Member has been delegated the power for appointing an Adjudicating Officer and, therefore, before such appointment is made, the Whole Time Member is required to form an opinion that there are grounds for adjudging under the provisions of Chapter VIA of the Act.....". We may be provided with a note containing an opinion of the Ld. Whole Time Member containing grounds for initiating Adjudication proceeding under provision of chapter VIA of the SEBI Act, 1992 against us. Copy of judgment annexed at **Annexure 5**.*
- (ix) *kindly take into consideration our aforesaid submissions and taking totality view of the facts and circumstances of the case and more particularly our commitment to ensure that henceforth all compliances shall be adhered to by us in timely manner, we seek your kind cooperation by not initiating any further steps in the matter and the SCN issued to us may please be disposed of without issuing any directions against us.*

6. Noticee was granted hearing on September 01, 2020 vide email and letter both dated August 18, 2020. Noticee vide letter dated August 28, 2020 *inter alia* submitted as under –

- a. *we have submitted preliminary submissions by letter dated 31.07.2020. We have requested for note containing an opinion of the Ld. Whole Time Member containing grounds for initiating Adjudication proceeding under provision of chapter VIA of the SEBI Act, 1992 against us. However the same has not been furnished to us till date.*
- b. *we are in strict compliance to our contractual agreement made with the Investors in all respect including the Payment of Interest and Redemption. Further we state that we are in the process of fulfilling statutory requirements of the Listing Agreement executed with the Stock Exchange and shall complete the filing of Documents with BSE at the earliest.*
- c. *few of our Staff members who were attending the Office suffered from "COVID-19", hence there has been interruption in functioning of our office. In view thereof, the completion of Compliance requirement as aforesaid got delayed.*
- d. *we request your Kind self to kindly adjourn the personal hearing fixed on 01.09.2020 and reschedule the same in the month of October.*

7. Noticee was informed vide letter dated September 02, 2020 that all the documents that have been relied upon in respect of the allegation made against it vide the SCN have already been provided as Annexures enclosed therein. Further in the said letter, reference was made to the observations of Hon'ble Securities Appellate Tribunal in its order dated February 12, 2020, in the matter of Shruti Vora vs. SEBI and order dated July 17, 2020, in the matter of Anant R. Sathe vs. SEBI, whereby it was mentioned that all the documents that have been relied upon in respect of

the allegation made against Noticee vide the SCN have already been provided to Noticee as Annexures enclosed therein. A final opportunity to submit any additional reply by September 25, 2020 and an opportunity of hearing on October 1, 2020 at Securities and Exchange Board of India, Lucknow Local Office, 3rd Floor, Eldeco Corporate Chambers-11, Vibhuti Khand, Gomti Nagar, Lucknow- 226 010, Uttar Pradesh was granted. The Authorised representative (AR) on behalf of the Noticee attended the hearing on the October 01, 2020 and reiterated the submissions made vide their earlier replies. The AR was advised to submit the details of compliance officer in charge of the compliance with SEBI Regulations including LODR Regulations during the period of the alleged violations in the instant proceedings. The AR was advised to submit the along with the documentary evidence including Board Resolution, if any, in that regard. Noticee vide its letter and email both dated October 01, 2020, brought to the notice of undersigned that *“Pradeep Soni (Noticee), company secretary of UPRVUNL was entrusted with additional charge to look after the conducting of Board meeting related work of the UPPCL till March 05, 2020. The Board of Directors in its meeting held on March 05, 2020 appointed Company Secretary as Compliance Officer. Copy of Board Resolution is enclosed with the reply. During the period under enquiry, the post of company secretary as well as compliance officer was vacant. Thus, there was no dedicated Compliance Officer under SEBI Laws which resulted in some delay in compliance”*.

8. After taking into account, the allegations levelled in the SCN, reply to SCN and other material available on record, I hereby proceed to decide the case on merit.

CONSIDERATION OF ISSUES, EVIDENCES AND FINDINGS

9. The issues arising for consideration in the instant proceedings before me are:-

Issue a. Whether the Noticee has violated the provisions of Regulation 7(3), 9, 13(3), 13(4), 50(1), 50(2), 50(3), 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 53, 54(2), 57(1), 57(2), 60(2) & 62 of LODR Regulations?

Issue b. Do the violations, if any, on the part of the Noticee attracts monetary penalty under Section 15A(b) and 15HB of the SEBI Act for the alleged violations by the Noticee?

Issue c. If yes, then what would be the monetary penalty that can be imposed upon the Noticee, taking into consideration the factors mentioned in Section 15J of the SEBI Act r/w rule 5(2) of the Adjudication Rules?

10. Before proceeding further, I refer to the relevant provisions of LODR Regulations, which are already mentioned above.

FINDINGS:

11. On perusal of the material available on record and giving regard to the facts and circumstances of the case, I hereby record my findings as under.

12. With regard to Noticee's reliance on Judgment dated July 09, 2018 (W.P. (c) 8394/2014) passed by Hon'ble High Court of Delhi in the matter of Amit Jain order passed by the Hon'ble Division Bench of Delhi HC, I note that Hon'ble High Court of Delhi vide its order dated July 31, 2018 in the matter of SEBI vs. Amit Jain has stayed the operation of the impugned judgment dated July 09, 2018.

Issue (a): Whether the Noticee has violated the provisions of Regulation 7(3), 9, 13(3), 13(4), 50(1), 50(2), 50(3), 52(1), 52(2), 52(4), 52(5), 52(7), 52(8), 53, 54(2), 57(1), 57(2), 60(2) & 62 of LODR Regulations?

13. It is observed that NCDs issued by UPPCL are privately placed and are listed on BSE. As per Regulation 3 of LODR Regulations, LODR Regulations are applicable to the listed entity that has listed any of the designated securities as specified under Regulation 3. Non-convertible debt securities are one such securities covered under Regulation 3 of LODR Regulations. Hence the department of SEBI has ascertained non-compliance by UPPCL with certain post issue and continuous listing obligations as provided under Chapter III and V of LODR Regulations.

14. Chapter III of LODR Regulations enumerates obligations which are common to all listed entities. These include general obligation of compliance of listed entity, appointment of common compliance officer, filings on electronic platform, mandatory registration on SCORES, etc.

15. As per Regulation 7(3) of LODR Regulations a listed entity is required to submit compliance certificate to Stock Exchanges duly signed by the compliance officer of the listed entity and the authorised representative of the share transfer agent, wherever applicable, within one month of end of each half of the financial year, certifying compliance with the requirements of Regulation 7(2) of LODR Regulations with respect to all the activities in relation to both physical and electronic share transfer facility maintained either in house or by Registrar to an issue and share transfer agent registered with the Board. In this regard, it is alleged in the SCN that BSE vide email dated September 04, 2019 has confirmed that the

Noticee has not complied for half years ended on September 30, 2017, March 31, 2018, September 30, 2018 and March 31, 2019. Noticee vide its reply dated July 31, 2020 has submitted that they have started submitting compliance certificate under Regulation 7(3) from half year ended March 31, 2019 and reference is made to Appendix A to the reply. From the perusal of 'Appendix A' to the Noticee's reply I note that the attached document is the copy of Noticee's email dated September 17, 2019 submitted to SEBI. Further, from a perusal of Annexure 1 and 2 of the said email I note that the Noticee has appointed Registrar and Transfer Agent viz. RCMC Share Registry Pvt. Ltd. (RCMC) vide letter dated January 04, 2017; and Beetal Financial and Computer Services Pvt. Ltd. (Beetal) vide letter dated September 09, 2017. In this regard, the certificates as annexed at Appendix B of the reply and detailed in the table below are signed and stamped by RCMC confirming that as per Regulation 7(2) all activities in relation to "electronic" share/bond transfer facility are maintained by Registrar and share transfer agent for the following period:

UPPCL Bond series	For half year ended	Date of certificate
III/2016-17; IV/2016-17	March 31, 2019	September 16, 2019
I/2017-18; II/2017-18	March 31, 2019	September 16, 2019
III/2016-17; IV/2016-17	September 30, 2019	October 05, 2019
I/2017-18; II/2017-18	September 30, 2019	October 05, 2019
III/2016-17; IV/2016-17	September 30, 2017	July 24, 2020
III/2016-17; IV/2016-17	March 31, 2018	July 24, 2020
I/2017-18; II/2017-18	March 31, 2018	July 24, 2020
III/2016-17; IV/2016-17	September 30, 2018	July 24, 2020
I/2017-18; II/2017-18	September 30, 2018	July 24, 2020

I note that the Noticee had issued bonds under various series in electronic form only. In this regard, I rely upon the email communication received from Shri. A. K. Gupta, Executive Director (F&A) of the Noticee dated December 02, 2020, confirming issuance of bond series in demat form. Therefore, the question of

“common agency” does not arise. Nevertheless, in view of the fact that the principal of common agency is not applicable to the Noticee, I am inclined to drop this allegation.

16. Regulation 9 of LODR Regulations mandates a listed entity to have a policy for preservation of documents duly approved by its Board, classifying them as the documents to be preserved permanently and the documents to be preserved for less than 8 years. Documents may also be kept electronically. The Noticee was under an obligation to have a policy for preservation of documents, approved by its board of directors. In this regard, Noticee has submitted that the company is a Government company and has cited reference to the Public Records Act, 1993 whereby all records, documents are preserved permanently since inception of the company. Further, it submitted that in line with Regulation 9 of LODR Regulations a policy for preservation of records is under consideration and a draft policy is enclosed with the reply. Thus, in view of the above submissions of the Noticee where it has confirmed maintenance of the records as per a specific statute governing *inter alia* public sector undertakings, confirmation of maintenance of all records permanently as per the said statutes and that a specific policy for retention of records under LODR Regulations has also been drawn, I am inclined to take a lenient view in this regard and drop the charge alleging non-compliance of Regulation 9 of LODR Regulations.

17. (a) As per Regulations 13(3) and 13(4) of LODR regulations a listed entity shall file with the recognised stock exchange(s) on a quarterly basis, within twenty one days from the end of each quarter, a statement giving the number of investor complaints pending at the beginning of the quarter, those received during the quarter,

disposed of during the quarter and those remaining unresolved at the end of the quarter. The said statement shall be placed before its board on quarterly basis. It is alleged that the Noticee has not complied with Regulations 13(3) and 13(4) for nine quarters ended on June 30, 2017, September 30, 2017, December 31, 2017, March 31, 2018, June 30, 2018, September 30, 2018, December 31, 2018, March 31, 2019 and June 30, 2019.

(b) In this regard from the Appendix D to the Noticee's reply, I note letters addressed to BSE stating 'Nil report' on breakup of complaint for the below mentioned period-

Quarterly Investor Complaints Status Report	Pertaining to the Quarter	Due date for compliance	Date of letter by which quarterly reports submitted
April 01, 2017 to June 30, 2017	June 30, 2017	July 21, 2017	July 24, 2020
July 01, 2017 to September 30, 2017	September 30, 2017	October 21, 2017	July 24, 2020
October 01, 2017 to December 31, 2017	December 31, 2017	January 21, 2018	July 24, 2020
January 01, 2018 to March 31, 2018	March 31, 2018	April 21, 2018	July 24, 2020
April 01, 2018 to June 30, 2018	June 30, 2018	July 21, 2018	July 24, 2020
July 01, 2018 to September 30, 2018	September 30, 2018	October 21, 2018	July 24, 2020
October 01, 2018 to December 31, 2018	December 31, 2018	January 21, 2019	July 24, 2020
January 01, 2019 to March 31, 2019	March 31, 2019	April 21, 2019	No information submitted
April 01, 2019 to June 30, 2019	June 30, 2019	July 21, 2019	September 16, 2019

From the letters in above table, I note that the reports were not filed within 21 days from the end of respective quarters. I also note that Noticee has failed to produce evidence in its support that the letters were received/acknowledged/ stamped by BSE. Also, BSE vide its email dated December 03, 2020 specifically confirmed non-receipt of said letters dated July 24, 2020. Further, Noticee in its reply "Noted" non-compliance of Regulation 13(4) and has enclosed the statement on investors

complaints for quarter ended June, 2020. Thus, Noticee has admittedly delayed in compliance with Regulations 13(3) and 13(4) during the abovementioned period.

18. As per sub clause (1) of Regulation 50 of LODR Regulations, listed entities have to give prior intimation to the stock exchange(s) at least eleven working days before the date on and from which the interest on debentures and bonds, and redemption amount of redeemable shares or of debentures and bonds shall be payable. In this regard, I note from available records that Annexure F to the Noticees' reply are letters dated September 22, 2018, December 21, 2018, March 19, 2019, June 19, 2019, September 18, 2019 and December 20, 2019 for ISIN INE540P07285, INE540P07293, INE540P07301, INE540P07327, INE540P07335, INE540P07343 and INE540P07350 for the financial years 2018-19 and 2019-20. From the letters I find that they pertain to intimation of record dates and interest due dates. I further find from the Noticee's email dated September 17, 2019 wherein it has stated that "*In compliance of Regulation 50(1) and 60 we are sending intimation regarding description of securities, redemption and interest payment date and record date. We note to give intimation regarding board meeting affecting the rights or interest of holders of NCDs/NCRPS.*".

19. Further, I note that as per Regulation 60(2) of LODR Regulations a listed entity is required to give notice of Record date for purposes of payment of interest, dividend and payment of redemption or repayment amount or for such other purposes as specified by the stock exchange at least 7 working days (excluding the date of intimation and the record date) to the recognized stock exchange(s). In this regard, it is alleged in the SCN that BSE has not received intimation dated June 19, 2019 with respect to record date. However, BSE vide its email dated December 03, 2020 specifically confirmed the receipt of said letters dated December 21, 2018, March

19, 2019, June 19, 2019, September 18, 2019 and December 20, 2019 which were submitted by the Noticee as Appendix F of its reply regarding “Intimation as required under Regulations 50(1) and 60 of LODR Regulations. From the abovesaid I note that the Noticee has complied with Regulation 50(1) and Regulation 60 of LODR Regulations.

20. I note that Noticee has additionally submitted as following:

Particulars of corporate announcement	Exchange Received time	Exchange disseminated time
Fixes record date for payment of interest for NCD	-	April 18, 2017
Payment of interest	-	May 18, 2017
Fixes record date for payment of interest for NCD	-	July 15, 2017
Payment of interest	-	August 16, 2017
Fixes record date for payment of interest for Bonds	-	October 17, 2017
Payment of interest	-	November 16, 2017
Fixes record date for payment of interest for NCD	-	January 16, 2018
Statement of debt securities / NCDs	-	January 16, 2018
Payment of interest	-	February 16, 2018
Fixes record date for payment of interest for Bonds		April 17, 2018
Statement of debt securities / NCDs	-	April 28, 2018
Payment of interest	-	May 16, 2018
Fixes record date for payment of interest for Bonds	-	July 18, 2018
Payment of interest	-	August 16, 2018
Fixes record date for payment of interest for Bonds	-	October 16, 2018
Statement of debt securities / NCDs for period ended September 2018	-	October 24, 2018
Payment of interest	-	November 15, 2018
Fixes record date for payment of interest for Bonds	-	January 16, 2019
Payment of interest	-	February 15, 2019
Statement of debt securities / NCDs	-	April 09, 2019

Updates on statement of debt securities / NCDs for period ended March	-	April 11, 2019
payment of interest	-	May 16, 2019
Fixes record date for payment of interest for bonds	-	July 17, 2019
Payment of interest for bonds	-	August 16, 2019
Regulation 7(3)- compliance certificate (RTA and Compliance officer)	October 9, 2019	October 9, 2019
Half yearly communication-Debt instruments	October 09, 2019	October 09, 2019
Statement of investor complaints for the quarter ended September	October 09, 2019	October 09, 2019
Regulation 50(1)- Prior intimation for interest payment/ redemption	October 16, 2019	October 16, 2019
Payment of interest	-	November 15, 2019
Regulation 57(1) – certificate of interest payment/ principal in case of NCD, exchange	November 16, 2019	November 16, 2019
Regulation 50(1) – prior intimation for interest payment/ Redemption	January 18, 2020	January 18, 2020
Statement of investor complaints for the quarter ended December	January 20, 2020	January 20, 2020
Regulation 57(1)-certificate of interest payment/ principal in case of NCD	February 18, 2020	February 18, 2020

21. I note that Regulation 50(3) of LODR Regulations prescribes intimation to exchanges regarding certain board meetings that affect the interest or rights of holders of NCDs or with respect to issuance of NCDs. From the reply of the Noticee I note that the Noticee has tacitly admitted to the violation to the extent confirming that it would intimate the dates of board meeting in future. From the replies I note that the Noticee has admittedly violated Regulation 50(3) of LODR Regulations.

22. I further note that Regulation 50(2) of LODR Regulations mandates intimation to stock exchanges prior to board meetings that deal with issuance of certain

securities to raise funds. In this regard I note from records that there is a general observation in the examination report alleging non-compliance with Regulation 50(2) of LODR Regulations. I also note from the examination report stating that the Noticee had failed to give prior intimation regarding intention to raise funds through new NCDs/NCRPS. However, upon perusal of the BSE email dated October 10, 2019 BSE has confirmed non-receipt of intimation under Regulation 50 submitted by the Noticee in its "Annexure 5". Upon further perusal of Annexure 5 of reply of the Noticee to SEBI, I note that the said annexure pertains to intimation to BSE of record dates and interest payment dates. Thus, I note that the observation by SEBI that BSE has informed non-compliance of Regulation 50(2) is not supported by available records. Therefore, I note that in the absence of specific details or evidences I find it difficult to confirm non-compliance with respect to Regulation 50(2) of LODR Regulations.

23. Regulation 52 of LODR Regulations deals with financial results of the listed entity. As per Regulation 52(1) and (2) of LODR Regulations the listed entity shall prepare and submit un-audited limited review report or audited financial results along with audit report on a half yearly basis in the format as specified by the Board within forty five days from the end of the half year to the recognised stock exchange(s). Further, Regulation 52(4) provides for disclosure of certain line items along with the half yearly/ annual financial results, while Regulation 52(5) provides for submission of a Certificate signed by the Debenture Trustee taking note of the contents prescribed under Regulation 52(4) and as per Regulation 52(8) listed entity within two calendar days of the conclusion of the meeting of the board of directors, publish the financial results and statement referred to in Regulation

52(4), in at least one English national daily newspaper circulating in the whole or substantially the whole of India. In this regard, I note from the reply that Noticee has submitted as under “*The Statutory Auditor is appointed by Comptroller and Auditor General of India (C&AG). As per section 139, C&AG may carried out the supplementary audit. The office of C&AG carries out the supplementary audit after receiving the report of Statutory Auditor. The Annual Audited Accounts along with comments of Statutory Auditor and C&AG. On basis of Audited Annual Financial Statements, the balances are carried forwarded. Till date, C&AG comments are received only till Financial year 2016-17. Further, the Company is going to adopt ERP system for preparation of Half yearly / Annual Accounts. This system is under implementation. From FY 2021-22 U P Power Corporation Limited will be able to submit half yearly financial accounts. However, the financial data are prepared monthly basis for payment of interest on Borrowing, Loan, Bonds etc. Review report will be annexed from half financial year accounts of FY 2021-22. Necessary disclosures will be made from half yearly financial accounts of FY 2021-22. Necessary certificate of debenture trustee will be annexed from the half yearly financial accounts of FY 2021-22. There was no deviation in the use of proceeds of the issue. Since there was no system for preparation of Half Yearly Financial results hence this provisions could not be complied.*”

From the above, I note that the Noticee had not been preparing half yearly results at all and therefore admittedly has violated Regulation 52 (1), (2), (4), (5) and (8) of LODR Regulations.

24. Further, as per Regulation 52(7) of LODR Regulations a listed entity is required to include a statement in its half-yearly results indicating material deviation, if any, in the use of proceeds of non-convertible debentures from the objects stated in the

offer document. In this regard, I note that the Annexure G to the Noticee's reply are CA Certificates dated May 16, 2018 and January 30, 2020 certifying that U P Power Corporation Ltd. has utilized proceeds raised through issue of NCDs for fulfilling funding requirements and diversifying funding sources of the company as mentioned in the information memorandum dated 17.02.2017; 27.03.2017; 24.11.2017 and 26.03.2018. I note that the requirement of the provision alleged to have been violated calls for a statement on deviation as mentioned above. However, in the absence of specific observation of material deviation in utilization of proceeds, it is difficult to arrive at any conclusion. Also, I note that the Noticee has produced certificates of Chartered Accountants confirming utilization of funds as per information memorandum. Therefore, I am inclined to drop the charge of non-compliance with respect to Regulation 52(7) of LODR Regulations.

25. As per Regulation 53 of LODR Regulations a listed entity is required to make certain disclosures as prescribed. It is alleged that the Annual Report of the Noticee did not contain details of Debenture Trustees. In this regard, I note that the Noticee has admitted the violation and further confirmed it included the details in the Audited Financial Statement from Financial Year 2018-19 onwards. In view of the same, the violation of non-compliance with Regulation 53 of LODR Regulations is admittedly established against the Noticee.

26. As per Regulation 54(2) of LODR Regulations a listed entity shall disclose to the stock exchange in quarterly, half-yearly, year-to-date and annual financial statements, as applicable, the extent and nature of security created and maintained with respect to its secured listed NCD's. In this regard, I note from the

Annexure to note 16 of Audited Balance sheet 2017 enclosed as Appendix H of Noticee's reply is 'Disclosure of borrowings'. However, upon perusal of the said disclosure in the annual report of the Noticee I understand that the disclosures are in relation to "Discoms" of the Noticee and apparently do not pertain to compliance with respect to Regulation 54(2) of LODR Regulations. Thus I hold the Noticee liable for non-compliance with regulation 54(2) of LODR Regulations.

27. As per Regulation 57(1) of LODR Regulations a listed entity shall submit a certificate to the stock exchange within two days of the interest or principal or both becoming due that it has made timely payment of interests or principal obligations or both in respect of the non-convertible debt securities. Also, the listed entity shall provide an undertaking to the stock exchange(s) on annual basis stating that all documents and intimations required to be submitted to Debenture Trustees in terms of Trust Deed and SEBI (Issue and Listing of Debt Securities) Regulations, 2008 have been complied with as per Regulation 57(2) of LODR Regulations. In this regard, I note Noticee has submitted that the certificate for timely payment with respect to payment due on July 19, 2019 in respect of Bond series I and II/2017-18 was already submitted to BSE through email on July 19, 2019. Further, Noticee has submitted the copy of email sent to BSE at Appendix I of its reply. Further, BSE vide its email dated December 03, 2020 confirmed the receipt of said letters dated July 19, 2019 on July 19, 2019 which were submitted by the Noticee as Appendix I of its reply as required under Regulations 57(1) of LODR Regulations. From the abovesaid I note that the Noticee has complied with Regulation 57(1) of LODR Regulations. However, I note that for want of proof of compliance of Regulation 57(2) of LODR Regulations I hold the Noticee liable.

28. Further, a listed entity is required to maintain functional website containing certain information as prescribed under Regulation 62 of the LODR Regulations. In this regard, I note Noticee has replied and confirmed maintenance of functional website in the name and style of “www.upenergy.in” and it has noted to include information as per Regulation 62 of LODR Regulations. Upon perusal of the said website I find the Noticee has dedicated a page under the title “Disclosure of information as required under Regulation 62 of SEBI LODR Circular 2015”. Thus I note the Noticee has drawn my attention to its compliance of Regulation 62 of LODR Regulations. Therefore, I am inclined to drop the charge of non-compliance of Regulation 62 of LODR Regulations by the Noticee.

29. I note that timely disclosure of relevant information by listed companies is essential for maintaining transparency about the affairs of the Company which helps in eliminating information asymmetry. Moreover, correct and timely disclosures play an essential role in the proper functioning of the securities market and failure to do so results in depriving the investors from taking well informed investment decision.

30. Noticee has further contended that it had no intention to contravene the applicable laws. In this regard I place reliance on Hon’ble SAT’s judgement dated October 14, 2014 in the matter of Virendrakumar Jayantilal Patel vs. SEBI (Appeal No. 299 of 2014), Hon’ble SAT observed that “..... *obligation to make disclosures within the stipulated time is a mandatory obligation and penalty is imposed for not complying with the mandatory obligation. Similarly argument that the failure to make disclosures within the stipulated time, was unintentional, technical or inadvertent and that no gain or unfair advantage has accrued to the appellant, is*

also without any merit, because, all these factors are mitigating factors and these factors do not obliterate the obligation to make disclosures.” (Emphasis supplied).

31. While determining the quantum of penalty under Sections 15A(b) and 15HB of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which reads as under:

Factors to be taken into account by the adjudicating officer.

Section 15J - *While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

32. In view of the charges as established, the facts and circumstances of the case, the quantum of penalty would depend on the factors referred in Section 15-J of the SEBI Act stated as above. No quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss, if any, to the investors on account of default by the Noticee. I note that corrective actions wherever taken by the Noticee have been considered and discussed at the appropriate sections.

33. At this juncture, it is noteworthy to quote the observations of the Hon'ble Supreme Court of India in the matter of SEBI Vs. Shriram Mutual Fund [2006] 68 SCL 216(SC) that "In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the

Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant....".

ORDER

34. After taking into consideration the facts and circumstances of the case, material/facts on record, the reply submitted by the Noticee and also the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I, hereby impose penalty as under-

Violations	Penal Provision	Penalty
Regulations 13(3), 13(4), 50(3), 52(1), (2), (4), (5) & (8) and 54(2) of LODR Regulations	Section 15A(b) of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)
Regulations 53 and 57(2) of LODR Regulations	Section 15HB of SEBI Act	Rs. 1,00,000/- (Rupees One Lakh Only)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

35. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW.

36. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

37. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Place: Mumbai

Date: December 04, 2020

**K SARAVANAN
CHIEF GENERAL MANAGER &
ADJUDICATING OFFICER**