

Before

UTTARANCHAL ELECTRICITY REGULATORY COMMISSION

Petition No. :6 of 2005

In the matter of:

1. Non compliance by UPCL of provisions of Section 55 of the Electricity Act, 2003.
2. UPCL's Application under Section 55 of the Electricity Act, 2003 dated 26.05.2005.

Coram

Sri Divakar Dev Chairman

Date of Order 11th August 2005

ORDER

1. Uttaranchal Power Corporation Ltd. (UPCL), the sole licensee for distribution and supply of electricity in the State has given this petition under the second proviso of section 55 of the Electricity Act, 2003. The said section stipulates that:

No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the authority:

2. The said period of two years expired on 9th June 2005 and the present petition seeks extension of this period in accordance with second proviso of this section which empowers the State Commission to extend this period for a class or classes of persons or for such areas as may be notified by the Commission. The present petition seeks extension of this period up to 31.03.2006, but for all categories of consumers and in all areas of the State. The reasons given for seeking this sweeping extension are:

- i) Opposition by consumers having un-metered connections
- ii) Delay on account of emerging new technologies and type testing etc. of electronic meters.

3. Before coming to the merits of UPCL's request for taking a view on it, one needs to evaluate the efforts that have been made in this connection so far. When the Commission passed the first tariff order on 08.09.2003, it had been stated that as on February 2003 of a total of 8,65,191 consumers of electricity in the State 7,65,569 consumers were already metered and only 99,622 consumers remained un-metered. In tune with the requirements of the Electricity Act, 2003, the Commission had directed that:

The Commission, therefore, directs the Petitioner to energise new connections only with meters and to complete metering of all un-metered connections of Domestic, Commercial and Public Lighting categories in urban areas and those of Departmental Employees, State Tubewells, Public Institutions and Government Bodies in all areas within 31st December 2003. The Commission also directs the petitioner to furnish a plan by 31st December 2003 for metering rest of the categories by the end of March 2005 giving targets/milestones for critical activities.

4. UPCL did not furnish any report on compliance of the above directions or for that matter submit any plan for completion of metering of other categories of consumers by March 2005, as directed above. In the context of the present petition, UPCL was required to furnish updated position of metering of consumers in the state. The position of un-metered connections now reported by UPCL is disappointing and does not reflect any serious attempt to implement the Commission's directives or what is worse even to meet the time schedule prescribed for this purpose under the Electricity Act, 2003. Of the 99,622 (plus 8153 Departmental Employees) un-metered connections reported in February 2003, as many as 77,253 still remain. While issuing the directives on time bound metering of remaining consumers, the Commission had adopted a selective approach and given priority to such consumers whose connections could be metered with reasonable effort and were also likely to yield substantial benefits to UPCL as they were major consumers of electricity. All consumers so prioritised by the Commission were to be metered by 31.12.2003 and these were:

- i) In urban areas Domestic consumers, Commercial consumers and Public Lamps.
- ii) All Government Bodies, Public Institutions, State Tube wells and Departmental Employees.

5. For remaining consumers namely Private Tube wells, Domestic and Commercial consumers in rural areas, UPCL was required to submit a proper metering plan, which was not done. The up to date position of un-metered connections in the state now reported by UPCL is given below. Since these figures have been filed before the Commission by the Chairman & Managing Director of UPCL on oath, the Commission is accepting the same, notwithstanding wide variations in the aggregate figures filed before the Commission from time to time and between the positions being reported for individual divisions, giving rise to some doubts about their correctness. The position that these figures reveal is disturbing to say the least.

Un-metered Consumers in the State

Category	Number of Un-Metered consumers		
	September-2003	June-2005	No. metered since Sep-03
Domestic (Urban)	19153	1880	17273
Commercial (Urban)	2588	1115	1473
Public Lamps(Urban)	69	47	22
Departmental Employees	8153	8153	
STWs	579	337	242
Public Inst./Government Bodies	96	96	
Total(A)	30638	11628	19010
Domestic(Rural)	64742	50609	14133
Commercial (Rural)	150	36	114
Public Lamps(Rural)	29	0	29
Private Tubewells	16901	15061	1840
Total(B)	81822	65706	16116
Grand total (A+B)	112460*	77334	35126

** including 8153 Departmental Employees*

6. The above figures show that since September 2003, the total number of un-metered consumers in the State has come down by 35126. This reduction is almost entirely on account of metering of 31,406 Domestic connections of which as many as 14,133 are in rural areas. Another 1,840 connections that have been metered are of private tubewells. Against this, the reduction in un-metered connections of other consumer categories like Commercial, Public Lamps, Government Bodies, Public Institutions and Departmental Employees, which had been prioritised by the Commission, has been either nil or at the best negligible. There has been no reduction, whatsoever, in number of un-metered connections given to Government Bodies, Public Institutions and Departmental Employees. Clearly UPCL's focus has been on Domestic consumers, including those in rural areas, and Private Tubewells. For reasons not known major consumers like Commercial consumers in urban areas, Government Bodies, Public Institutions and Departmental Employees have been left out. This is in total violation of the Commission's directions which had placed emphasis on and given priority to metering of un-metered connections given to major consumers like Government Bodies, Public Institutions, State Tubewells, Departmental Employees and Commercial consumers in urban areas. One fails to see any logic for distorting this transparently logical priority, and that

too in spite of Commission's categorical directions.

7. The upto date data submitted by UPCL also reveals that:
- i) Now only 1,880 Domestic consumers in urban areas remain to be metered and all such consumers are **only one division, that is Tehri Division.**
 - ii) No effort, whatsoever, has been made for metering un-metered Commercial consumers in **Dehradun North and South, Srinagar, Kotdwar, Tehri, and Gopeshwar** divisions.
 - iii) Of the 1,115 un-metered Commercial connections in urban areas as many as 964 are only in **Roorkee and Hardwar** divisions.
 - iv) There has been **no progress at all** anywhere in the State in metering connections of Departmental Employees
 - v) Unacceptably large numbers of State Tubewells continue to be un-metered and they are mainly in **Rudrapur, Roorkee and Dehradun** circles.
 - vi) There has been no effort, whatsoever, to meter un-metered connections given to Public Institutions and Government Bodies and all such un-metered connections are in **Haldwani, Rudrapur and Ranikhet** circles only.

8. It is clear from above that UPCL's efforts in metering of un-metered consumers so far have been halfhearted, utterly inadequate and have been focused on Domestic and Agricultural consumers while major consumers like Commercial consumers, Departmental Employees, Government Bodies etc. have remained untouched. This is in spite of clear cut prioritisation done by the Commission and unambiguous requirement of law. UPCL's above lopsided priority and non serious approach so is relevant for taking a view on the request made for further extension of time u/s 55 of the Electricity Act, 2003.

9. As already stated, section 55 of the Electricity Act, 2003 stipulates that after expiry of two years from the appointed date the licensee shall not supply electricity to any consumer without proper meters. This period of two years can be extended by the Commission for such areas or class of persons as may be notified. UPCL's request is that this period should be extended for all categories of consumers in all areas of the State on account of:

- i) Opposition of the consumers to installation of meters.
- ii) Due to emerging new technologies and type testing etc. for electronic meters.

10. Resentment or opposition from consumers enjoying the fruits of un-metered supply is not something that was unexpected. If there was no opposition to metering of such supplies, there was no reason for the Electricity Act to allow two years time for this purpose. Interestingly such resentment notwithstanding UPCL has been able to meter almost all Domestic consumers including a large number in rural areas, but has not been able to make any progress with more aware and lesser number of consumers like Government Bodies, Public Institutions, and Commercial consumers in urban areas etc. It is difficult to accept that though UPCL did make sincere efforts, metering could not be completed only on account of resistance from these consumers. And if such was indeed the case, it is difficult to appreciate that this resentment is now going to disappear suddenly so as to enable UPCL to complete this work by 31.03.2006, as projected in the petition. While some reasonable difficulties in installing meters for small Domestic and Commercial consumers in far flung and remote areas could be appreciated, the profile of metering done by UPCL so far suggests that the problem is not so much about metering of consumers in far flung inaccessible areas but in metering of influential consumers like Government Bodies, State Tubewells, Commercial consumers and UPCL's own employees who have remained untouched so far. The fact that other suppliers of goods and services like the oil and gas companies, telephone companies and now the Mobile telephone companies etc are able to successfully deal with same

consumers and recover their charges shows that the problem lies not so much with these consumer groups but with UPCL's own priorities, work culture and approach. The real reason for inadequate progress made so far would appear to be lack of resolve and will on part of UPCL, compounded by illogical and distorted priorities. This reality can not be hidden behind any exaggerated claims of consumer resistance.

11. The second reason given by UPCL is even stranger. UPCL does not claim non availability of meters but attributes the delay to emerging new technologies. UPCL of course has not elaborated on "revolutionary changes in technology" of a simple device like electricity meters which are coming in the way of UPCL safeguarding its own interests and also meeting the requirements of law. Interestingly UPCL had made a written submission to the Commission in 2003 stating that tenders had been invited by it for purchase of as many as 4,00,000 single phase meters and 19,000 three phase electronic meters and the same were already under finalization. Another 20,000 single phase and 14,500 three phase meters had already been received by UPCL and were to be installed. The Commission took note of this claim and recorded it in para 5.5.1.5 of the Tariff Order dated 08.09.2003. This action had been taken by UPCL as recently as end of 2003, notwithstanding the "Emerging Technologies" which are now claimed to be coming in UPCL's way. Clearly this reason put forth by UPCL for delay in metering is flippant, devoid of any merit and also unduly pompous

12. The Commission after considering UPCL's request and all relevant facts hereby orders that:

- i) UPCL is allowed time up to 31.03.2006 for conversion of un-metered connections into metered connections for all existing **Domestic and Commercial consumers in rural areas and for all connections given to private tubewells**. Necessary notification to this effect may be issued u/s 55 of the Electricity Act, 2003.

- ii) For all other consumers, UPCL has not been able to give any reasonable and convincing reason for its failure to meet the requirements of section 55 of the Electricity Act, 2003 and therefore no further extension of time can be given for this purpose.

13. The Commission finds that UPCL has ignored and blatantly flouted unambiguous provisions of section 55 of The Electricity Act and has not been able to give any convincing explanation for the same. UPCL is thus guilty of deliberate contravention of provisions of the Electricity Act, 2003. Further UPCL has also not complied with Commission's directions for time bound metering of un-metered consumers. UPCL by consciously flouting provisions of law has become liable to be punished in terms of sections 142 and 146 of the Electricity Act, 2003. A show cause notice was accordingly issued on 30th May, 2005 reply to which was to be filed within 30 days. After seeking number of extensions in time, UPCL has finally filed its reply to the show cause notice on 30.07.2005. In this reply it has merely been stated that UPCL has already filed a petition for extension of time before the Commission. UPCL has not put forth any reason, whatsoever, as to why penal action should not be taken against it under the Electricity Act, 2003.

14. UPCL being clearly guilty of deliberate violation of The Electricity Act, 2003, the issue before the Commission now is of the gravity and seriousness of UPCL's delinquency. The facts brought out in the preceding portions of this order leave no doubt that the efforts made by UPCL have not at all been adequate. Little effort that has been made has also been misdirected and not designed to maximise the returns either by way of checking pilferage and theft of electricity or by way of enhancing UPCL's own revenue. Due to lopsided priorities of UPCL, metering of more than 14,000 Domestic consumers in rural areas accounting for only modest consumption has been done but no worthwhile effort has been made to meter major consumers like State Tubewells, Government Bodies, Public Institutions and Commercial consumers even in urban areas though metering such consumers would have been comparatively easier and would have given handsome returns

The inescapable impression that one gets is that only some non serious and marginal effort has been made not with a view to bringing about any worthwhile change in the prevailing situation but merely to show some performance in statistics without disturbing in any way the prevailing environment breeding large scale theft and pilferage of electricity and in turn corruption and malpractices.

15. Steady reduction in unacceptably high levels of T&D losses through proper energy accounting is one of the key objectives of the power sector reforms. Universal metering of consumers is an important component of the same. It is for this reason that Government and the Commission have been time and again laying emphasis on this programme. It is understood that sum of around Rs. 50 Crore (Cost of about five lac meters) is already available to UPCL under the APDRP programme for metering of un-metered consumers. In spite of all this, by slow pedaling or misdirecting the programme, UPCL itself is thwarting all such initiatives. Therefore, inadequate and indifferent efforts made by UPCL should not be seen as mere technical violations of law but their gravity should be judged in terms of their impact on the very process of reforms in this sector

16. Viewed in the above context, the large scale contraventions of the Electricity Act, 2003 and blatant violations of the directives can not be overlooked or condoned. On the contrary a clear message needs to be given that any action or inaction that sabotages or derails the reforms process would invite consequences that may not be palatable to UPCL or its officers. Accordingly, without prejudice to any other penalty which UPCL may be liable to under the Electricity Act, 2003, the Commission in exercise of powers conferred u/s 142 of the Electricity Act, 2003 hereby orders that:

- i) UPCL shall pay a consolidated penalty of Rs. 1 lac for contraventions of Electricity Act, 2003 pertaining to supply of electricity without meters and of Commission's related directions.
- ii) Till such time that supply to all consumers numbering 11628 (other

than the existing Domestic and Commercial consumers in rural areas and Private Tubewells for whom the time for completion of metering has been extended in this order) are metered, UPCL shall pay additional penalty at the rate of Rs. 5000.00 per day.

- iii) UPCL shall file before the Commission the progress made in metering of such consumers, along with the penalty accrued for continued default calculated as above, within 30 days of close of each month.

17. Since these penalties are being imposed on account of serious default on UPCL's part, the expenditure so incurred will not be passed on to consumers through tariff. Whether this expenditure is to be borne by the Petitioner Company or whole or any part of it is to be recovered from officers and employees responsible for this, is a matter on which the company's Board of Directors should take a view and informs the Commission.

18. As stated earlier the above penalties are being imposed without prejudice to any other action that may be taken under the Act. A copy of this order may accordingly be sent to all Directors of the petitioner company's Board. Further since large number of unmetered consumers are Government Bodies, a copy of this order may also be sent to the Chief Secretary, Uttaranchal Government for information and necessary action. A copy may also be sent to all members of the advisory committee for their information and for information of their constituents.

(Divakar Dev)
Chairman