

**Before**

**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Excessive delay in release of connection of Bajpur Co-operative Sugar Factory Ltd.,  
Bajpur, Distt.- Udham Singh Nagar (Uttarakhand).

**Coram**

**Shri V.J. Talwar                      Chairman**

**Shri Anand Kumar                  Member**

**Date of Order: 05<sup>th</sup> October 2010**

**ORDER**

Pradhan Prabandhak, The Bajpur Co-operative Sugar Factory Ltd. (in short the Mill) vide letter No. विधि/10-11/716 dated 12.07.2010 has represented that they had applied for grant of a new connection for a load of 600 kVA on 23.06.2005 and had deposited requisite charges on 20.1.2007. However, the connection has not been released/energized till date.

2. Brief facts of the case, which have not been disputed, are as follows:
- a) On 23.09.2005 the Mill applied for a new electricity connection of 600 kVA with all requisite documents to Executive Engineer, EDD, Kashipur, UPCL.
  - b) On 03.10.2005, GM, Haldwani directed XEN, Kashipur to take necessary action for sanction of load after getting the necessary formalities completed by the Mill.

- c) The Mill submitted the requisite documents vide its letter dated 07.02.2006, which were received by XEN, Kashipur on 14.02.2006 and were forwarded on the same day to DGM, Rudrapur.
- d) DGM, Rudrapur sanctioned the applied load of 600 kVA to the Mill on 02.11.2006 vide its OM no. 7110.
- e) XEN, Bazpur vide its letter no. 1611 dated 21.12.2006 informed the Mill to deposit Rs. 25,24,270/- (Rs. 21,04,270/- as SC charges and Rs. 4,20,000/- as security) and the following documents within a period of 6 months:
- (i) NOC of Electrical Inspector
  - (ii) B&L Form
  - (iii) अनुबन्ध 100/- के स्टाम्प पेपर पर
  - (iv) रिजॉल्यूशन
  - (v) NOC of Pollution Control Board
- f) The requisite charges of Rs. 25,24,270/- were deposited by the Mill on 20.01.2007.
- g) The Mill sent several reminders thereafter to UPCL and the connection is still pending.
- h) The Mill has claimed that inspite of depositing the requisite charges of Rs. 25,24,270/- on 20.1.2007, due to delay in release of connection by UPCL, it had to manage its affairs with DG set on which it has spent about Rs. 1.8 Crore and also had to bear the interest loss of Rs. 12, 38,892/- on the deposited money.
- i) The Mill stated that it has also incurred Rs. 9.33 lakh on equipment purchased on 25.11.2008 and Rs. 5 lakh for construction of building. The guarantee period of the above equipment has also expired and any malfunctioning in the same shall now be rectified at Mill's cost.
3. Prima-facie, the above inordinate delay in release of connection was far in excess of the time limits specified in Regulation 5 of UERC (Release of new HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008. This Regulation specifies the time within which the distribution licensee is required to complete installation of HT/EHT works for different voltage levels from the

date of deposition of amount by the applicant, in case supply of electricity to premises applied for does not require commissioning of new substation/bay. Relevant extract of this Regulation is reproduced below:

**"5. Processing of an Application and Execution of work by the Distribution Licensee**

- (1) *On receipt of estimated amount of works charges, the distribution licensee shall begin executing the works.*
- (2) *In cases, where supply of electricity to premises applied for does not require commissioning of new substation /bay, the distribution licensee shall complete installation of HT/EHT works within the time specified below for different voltage levels from the date of deposition of amount by the applicant:*

<b>S.No.</b>	<b>Description</b>	<b>No. of days</b>
(i)	11 kV works including line;	
	(a) not involving independent feeder	60 days
	(b) involving independent feeder	90 days
(ii)	33 kV works including line	120 days
(iii)	132 kV and above works including line	180 days

- (3) *In cases, where supply of electricity to premises applied for requires commissioning of a new sub-station/bay, the distribution licensee shall take up the work on the new substation/bay at its own cost and complete the work within the additional time specified below for different sub-stations:*

<b>S.No.</b>	<b>Description</b>	<b>Number of days</b>
(i)	New 33/11 kV substation	180 days
(ii)	Augmentation of existing 33/11 kV substation	120 days
(iii)	Extension of bay at 33/11kV substation	45 days
(iv)	132 kV and above substation	18 months
(v)	Extension of bay at 132 kV and above substation	90 days

4. The applied connection was to be released on 11 kV for which the maximum time limit is 90 days after the date of receipt of the estimated amount of works charges (which is 20.1.2007 in this case) subject of course to completion of other formalities by consumer such as completion of HT works of his premises and Electrical Inspector's clearance thereon, as per the procedure specified in the Regulations. As the period of delay was much beyond the stipulated period of 90 days, even after issuance of the Regulations in 2008, the Managing Director and Director (Operations), UPCL were issued notices under section 142 of Electricity Act, 2003 for non-compliance of UERC (Release of new HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008 vide

letter No. 882/उवि०नि०आ०/10-11 dated 04.08.2010 to appear on 10.08.2010 at 03:00 PM before the Commission alongwith concerned General Manager, Deputy General Manager and Executive Engineers who have been posted in the division w.e.f. the date of implementation of the above Regulations and further, to show cause as to why action under section 142 of the Electricity Act, 2003 for violation of above regulation be not initiated. The said hearing was postponed and was held on 19.08.2010 at 11:00 AM.

5. In the hearing on 19.08.2010, MD, UPCL alongwith General Manager (Kumaon Zone), Deputy General Manager, Electricity Distribution Circle- Rudrapur, present Executive Engineer, Electricity Distribution Division- Bazpur Shri Anil Verma and one of his predecessors Shri Shishir Srivastava appeared before the Commission. On behalf of the complainant, Shri Abhishek, Deputy Chief Engineer duly authorized by Pradhan Prabandhak, The Bazpur Co-Operative Sugar Factory Ltd. was present. Director (Operations), UPCL was not present during the hearing.
6. During the hearing, MD, UPCL informed that the applicant has not submitted the following documents, which were requested vide UPCL letter No. 1611 dated 21.12.2006:
  - (i) NOC of Electrical Inspector
  - (ii) B&L Form
  - (iii) अनुबन्ध 100/- के स्टाम्प पेपर पर
  - (iv) रिजॉल्यूशन
  - (v) NOC of Pollution Control Board

MD, UPCL also submitted that after deposition of requisite charges by the applicant, UPCL had started construction of 11 kV line in 2007 and had completed construction of line upto a length of 4 kilometers out of total required length of 5.46 kilometers. However, the work could not be carried forward/completed due to objection of villagers/local politicians. MD further submitted that in case of the non-completion of the above line, as an alternative,

the applied load may be released by tapping 11 kV Cheema feeder, if the applicant completes the above requisite formalities.

7. A common written reply dated 19.08.10 was also submitted during the hearing by concerned officers of UPCL viz. GM, Haldwani, DGM, Rudrapur and XEN, Bazpur, which apart from the above submissions made by MD, UPCL that UPCL is not solely responsible for delay due to opposition of local residents, which stopped their way as natural calamity, stated as follows:

“उपरोक्त विन्दुवार आख्या को दृष्टिगत रखते हुए उपरोक्त उपभोक्ता को अभी तक संयोजन अवमुक्त न होने के कारण तथा अन्य उपभोक्ता को अन्य Route से लाईन निर्माण कर विद्युत भार अवमुक्त करने हेतु विकल्प निम्न प्रकार प्रस्तुत किये जा रहे हैं:-

1. **कारण:-** विद्युत अधिनियम 2003 की धारा 142 जिसके क्रियान्वयन हेतु माननीय उत्तराखण्ड विद्युत नियामक आयोग देहरादून ने HT/EHT Regulation 2008 ( नये EHT एवं HT संयोजनों का जारी करना, भार में वृद्धि व कमी) अधिनियम 2008 के विनियम 5 के अन्तर्गत उपरोक्त संयोजन अवमुक्त करने में हो रही देरी को विनियम का उल्लंघन मानना उचित नहीं होगा क्योंकि उपरोक्त संयोजन सितम्बर 2005 की अवधि का है तथा उपभोक्ता द्वारा जमा की गई धनराशि भी उस समय के लागू नियमों के अनुसार थी जबकि HT/EHT Regulation 2008 दिसम्बर 2008 से लागू हुआ है एवं उपभोक्ता ने इस अधिनियम के तहत विद्युत भार हेतु आवेदन नहीं किया है। इसलिए इस विभाग को संयोजन अवमुक्त करने में हो रही देरी के लिए ₹0 1000/- प्रत्येक दिवस हेतु दण्ड का उत्तरदायी ठहराना उचित नहीं है क्योंकि वर्ष 2005 में लागू नियमों के अनुसार HT/EHT संयोजन अवमुक्त करने हेतु कोई समय सीमा निर्धारित नहीं की थी और न दण्ड ही निर्धारित था। फिर भी विभाग ने जनवरी 2007 में उपभोक्ता द्वारा लाईन निर्माण की धनराशि जमा करने के उपरान्त निविदा संबंधित औपचारिकताएँ पूर्ण कर ठेकेदार द्वारा लाईन निर्माण यथासमय प्रारम्भ करा दिया था परन्तु ग्रामवासियों एवं जन प्रतिनिधियों के विरोध को देखते हुए लाईन निर्माण अधूरा रह गया। विभाग की नियत संयोजन अवमुक्त करने हेतु ही थी।

उपरोक्त के अतिरिक्त उपभोक्ता द्वारा इस कार्यालय के पत्रांक 1611 दिनांक 21.12.2008 के द्वारा वांछित निम्न औपचारिकताएँ 06 माह के अन्दर पूर्ण करने हेतु आदेशित करने के बावजूद भी अभी तक पूर्ण नहीं की गई हैं जिसके परिणामस्वरूप विधिक रूप से उपरोक्त शिकायतकार्ता अभी तक इस विभाग का उपभोक्ता नहीं बन पाया है:-

- 1- NOC of Electrical Inspector.
- 2- B&L Form
- 3- अनुबन्ध 100/- के स्टाम्प पेपर पर।
- 4- रिजाल्यूशन।
- 5- NOC of Pollution Control Board

अतः माननीय उत्तराखण्ड विद्युत नियामक आयोग से अनुरोध है कि उपरोक्त सभी कारणों को दृष्टिगत रखते हुए इस विभाग को उपरोक्त विनियम के उल्लंघन करने के आरोप से मुक्त करने की कृपा करें, साथ ही यह भी अनुरोध है कि उपरोक्त उपभोक्ता को वांछित शेष उपरोक्त औपचारिकताएँ अविलम्ब पूर्ण कर विभाग से अनुबन्ध सम्पादित करने हेतु आदेशित करने का कष्ट करें ताकि उनको वांछित विद्युत भार शीघ्रातिशीघ्र अन्य Route से लाईन बनाकर अवमुक्त करने की कार्यवाही की जा सके।

2- **भार अवमुक्त करने हेतु अन्य विकल्प :**

पूर्व में उपभोक्ता को विद्युत भार 11 के0वी0 शुगर फ़ैक्ट्री फीडर द्वारा अवमुक्त किया जाना था परन्तु लाईन निर्माण में बाधक जनआक्रोश: को मद्देनजर रखते हुए विकल्प के तौर पर यह विद्युत भार 11 के0वी0 चीमा फीडर को टेप कर अवमुक्त किया जायेगा बशर्ते कि उपभोक्ता वांछित औपचारिकताएँ अविलम्ब पूर्ण करा दें।”

8. Shri Abhishek from Bajpur Co-operative Sugar Factory Ltd. submitted that they have been regularly following up with UPCL and in fact have written several letters to UPCL after deposition of requisite charges. He stated that their electrical installation is complete and they have already sent the requisite documents to Electrical Inspector, Government of Uttarakhand on 23.04.2007 in response to his letter no. 5713(ii)/ वि0नि0उ0/ एच0टी0अधि0/2006-2007 dated 09.03.2007, a copy of which was also endorsed to XEN, Bazpur, UPCL. However, both the parties denied of having received any further communication from Electrical Inspector.
9. The Commission notes that while documentation for sanction of the connection was completed by the Mill on 14.2.2006, only grant of sanction by UPCL took above 10 months, which was accorded on 21.12.2006, and the onus of depositing charges and submitting the documents was transferred to Mill giving it only 6 months' time. The Mill deposited the charges within one month, i.e. on

20.1.2007, and since then has been requesting UPCL for release of connection through a series of letters. While UPCL has contended that, although the Mill deposited requisite charges, other necessary documents have not been submitted by it till date, UPCL has failed to place on record any formal reply to numerous letters written by the Mill, which have pointed out this deficiency. On the contrary, the Mill has asserted that there have been directions from DGM, Rudrapur to XEN, Bazpur for taking necessary action for release of the said connection and to intimate the reasons for the delay so as to avoid loss to the Mill and UPCL.

10. The Commission does not find any merit in the justification given by UPCL, that the work of completion of line was started in 2007 itself, but could not be completed due to resistance from locals, for two reasons. Firstly, the supporting documents for such resistance enclosed in the reply dated 19.08.2010 clearly state that there is an existing 11 kV line, which requires changes of conductors, and the same has been requested to be shifted at some other place for safety reasons. They do not talk about any new line, which has been stated to be left incomplete by UPCL. Secondly, the responsibility of ensuring proper corridor for giving new connection was to be ensured by UPCL before taking charges for the line etc. from the Mill. In fact, UPCL has failed to give any satisfactory evidence, such as Work Order etc., in support of its claim that the work of the line started in 2007 and from which date. It has also not given any reliable proof that the said line was being constructed for the Mill. The letter from Contractor is undated and does not have any Agreement Number.
11. One objection raised by UPCL during the hearing was that as per consumer the requisite internal HT works were completed only in December 2008 and it had also not submitted Electrical Inspector's clearance, while it had applied to it. UPCL submitted that although these requirements were initially intimated to the consumer while sanctioning the load, the deficiencies still remaining pending. The Mill could have taken action for installation of equipment earlier

had it been told to complete the same as a pre-requisite prior to release of connection.

12. The contention of UPCL that penalty for delay in release of new connection as specified in the Regulations cannot be applied as the case relates to an application made prior to coming into force of these Regulations is also totally misplaced. Although it has stated that the said Regulations were not in force at that time, it has not given copy of any rule that existed prior to these Regulations coming into force. There would obviously have been such Rules as UPCL would have sanctioned the connection and sought charges/documents under the said Rules only whereby a time limit of 6 months for consumer was defined. The Rules may also have specified time limit within which UPCL should have released the connection or at least when there have been repeated directions to concerned XEN by higher officers. In any case, after coming into force of the Regulations in December 2008, the connection should have been energised atleast within the time of 90 days specified for fresh cases in these Regulations. As the Regulations have only prospective effect without specifying it applicability for old or new cases, the time limits would apply to old cases also at least from the date of coming into force of these Regulations. There is no point in specifying time limits for new applications and leaving the pending cases to the mercy of licensee. UPCL cannot have an interpretation of the Regulations that allows it inferior treatment to old applicants. The standards of performance, if any, should be applied to all consumers/persons equally unless the specific circumstances of the case warrant doing otherwise. Deviation is obviously not warranted in the present case.

#### **Order**

The Commission, after hearing the parties and going through the records finds that delay in connection is not only due to the licensee but also on the part of the applicant in submitting the required clearances of the Electrical Inspector as per IE Rules 1956. The Commission is of the view that penalty specified in the Regulations shall only be applicable if connection is not released

within required time frame provided all formalities as required under IE Rules 1956 and regulations are completed by the applicant. However in this particular case the Commission shows its displeasure on lackadaisical approach of the licensee's officers for not responding to applicant's numerous reminders and for not advising him properly.

The applicant is advised to obtain the required clearances from Electrical Inspector as per rules and approach to the concerned XEN of Uttaranchal Power Corporation Limited along with other requisite documents for energizing the connection. The Executive Engineer of UPCL shall energize the connection within 10 days thereafter.

The Commission has noted that Director (Operations) was also required to appear before the Commission as per notice issued under section 142 of the Electricity Act, 2003. However, he has neither appeared before the Commission nor submitted any genuine reasons for the same. The Commission hereby directs that on notices for personal hearing, the concerned officers of UPCL should ensure personal appearance unless specifically exempted by the Commission.

-Sd-

(Anand Kumar)  
Member

-Sd-

(V.J. Talwar)  
Chairman