

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the Matter of:

Petition No. 14 of 2012 filed by UPCL regarding waiver and refund of penalty imposed by the Commission vide its Order dated 11.08.2005

AND

In the Matter of:

Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road, Dehradun

.....Petitioner

Coram

Shri Jag Mohan Lal

Chairman

Date of Order: May 25, 2012

ORDER

The Petitioner, UPCL, has filed a Petition requesting the Commission to waive and refund the consolidated penalty of Rs. 1,00,000 and additional penalty of Rs. 5000 per day imposed by the Commission vide its Order dated 11.08.2005 for non-compliance of the provisions of Section 55 of the Electricity Act, 2003 (Act).

2. The Commission in its very first Tariff Order dated 08.09.2003 had prioritized the following category of consumers for completion of metering of unmetered connections by the Petitioner and had accordingly directed the Petitioner to complete metering of these unmetered consumers by 31.12.2003.

- i) All Domestic consumers, Commercial consumers and Public Lamps in urban areas
 - ii) All Government Bodies, Public Institutions, State Tube wells and Departmental Employees.
3. In the aforesaid Tariff Order the petitioner was also directed to furnish a plan by 31.12.2003 for metering rest of the categories by the end of March 2005 giving targets/milestones for critical activities. The Petitioner, however, then did not furnish any such report on compliance of the above directions nor submitted any plan for metering of other categories of the consumers by March 2005.
4. The Section 55 of the Act stipulates

“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:”

“

PROVIDED FURTHER that the State Commission may, by notification, extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.”

The said period of two years expired on 9th June 2005. After expiry of the said period, UPCL on 26.05.2005 filed an application under section 55 of the Act seeking for extension of time for metering of unmetered connections within its licensed area. The Commission initiated proceedings for non-compliance of the directives contained in the aforesaid Tariff Order and provisions of Section 55 of the Act. Therefore, an Order was issued by the Commission on 11.08.2005 in the matter whereby the Commission, interalia, had observed that:

“It is clear from above that UPCL’s efforts in metering of un-metered consumers so far have been half hearted, 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 prioritization 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."

5. Vide the above Order, penalty was imposed on the Petitioner for unmetered connections existing in all Domestic, Commercial & Public Lamps categories in urban areas and in all Government Bodies, Public Institutions, State Tube wells & Departmental Employees as on June 2005. While extension of time upto 31.03.2006 was allowed by the Commission in case of then existing unmetered connections in all Domestic & Commercial categories in rural areas and Private Tubewell connections. After considering UPCL's request and all relevant facts during the course of the proceedings prior to the Order dated 11.08.2005, the Commission then had ordered the following which has been reproduced below:

" 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."

6. In case of other consumers (excluding Domestic and Commercial consumers in rural areas and for all connections given to Private Tubewells), the Commission then had imposed penalty on the UPCL and relevant extract of the Order dated 11.08.2005 are reproduced below:

" 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 area and Private Tube wells 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."

7. The Commission in its Order dated 11.08.2005 had imposed penalty on account of the unmetered connections existing in all Domestic, Commercial & Public Lamps categories in urban areas and in all Government Bodies, Public Institutions, State Tube wells & Departmental Employees, as on June 2005. The number of these connections then worked out to 11628. In this regard, the Petitioner in its present Petition has submitted that it has completed metering of these number of unmetered connections.
8. The Petitioner in its present Petition has further submitted the status of unmetered connections existing as on 31.12.2011 and the same have been presented in the table given below. With regard to metering of these unmetered connections, the Petitioner has stated to have taken all the necessary steps and has submitted that these remaining unmetered connections shall be metered by August 2012.

Table 1: Status of Un-Metered Consumers as on 31.12.2011

Name of Division	Domestic	PTW	Total
EDD (U),Roorkee	3550	217	3767
EDD (R) Roorkee	10300	990	11290
EDD (U),Hardwar	-	27	27
EDD (R) Hardwar	12638	531	13169
EDD, Kashipur	-	172	172
EDD, Rudrapur	-	61	61
Total	26488	1998	28486

9. Taking cognizance of the fact that the Petitioner was imposed with a penalty on account of unmetered connections as discussed in Para 6 & 7 above and that now these connections have been metered. Also taking due cognizance of the submission made by the Petitioner that the metering of remaining unmetered connections numbering 28486 shall be completed by August 2012, the Commission feels that the recurring penalty of Rs. 5000/- per day imposed on the Petitioner can be waived off. Accordingly, the Commission hereby revokes the recurring penalty of Rs. 5000/- per day imposed on the Petitioner, vide Order dated 11.08.2005, w.e.f. 1st April 2011 onwards.

10. With regard to the submission of the Petitioner that the metering of remaining unmetered connections as per Table 1 above shall be completed by August 2012, the Commission has examined the details of the consumers which are still unmetered and has found that out of 28486 consumers only 3550 are Domestic consumers in urban areas while the remaining 24936 consumers belong to Domestic rural and Private Tubewell categories. The Commission in its earlier Order dated 11.08.2005 had restrained from imposing penalty on account of unmetered connections in all Domestic & Commercial consumers in rural areas and Private Tubewells and had allowed time upto 31.03.2006 for conversion of such unmetered connections into metered connections. Reiterating its earlier decision in the matter, the Commission hereby allows time upto 31.08.2012 for conversion of the remaining unmetered connections into metered connections and directs the Petitioner to submit a comprehensive program/plan for metering of these remaining unmetered consumers within 15 days of issue of this Order.
11. With regard to the request of the Petitioner for refund of the entire amount of penalty already deposited by the Petitioner w.e.f. 11.08.2005 till 31.03.2011 in the matter, the Commission, as of now, does not consider it appropriate to accept the request of the Petitioner for refund of the penalty deposited in the matter. However, the Commission may consider and decide refund of the aforesaid amount, if the Petitioner completes metering of remaining unmetered consumers within the time period stipulated in Para 10 above and also submits an undertaking in this regard in the form of affidavit before the Commission.

The Petition stands disposed off accordingly.

(Jag Mohan Lal)
Chairman