

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Non-compliance by UPCL (Distribution Licensee) of Commission's directions with regard to Commercial Performance Monitoring of the licensee including submission of monthly periodical reports in the prescribed formats in the matter.

Respondents:

- 1 Shri A.K. Johri, Managing Director, UPCL
- 2 Shri Anil Kumar, Executive Director (Commercial), UPCL

Coram

Shri J.M. Lal	Chairman
Shri C.S. Sharma	Member
Shri K.P. Singh	Member

Date of Hearing 11.02.2013

Date of Order: March 04, 2013

In order to monitor the Commercial Performance of distribution licensee, the Commission vide its letter No. 284 dated 17.05.2012 had issued formats pertaining to number of commercial performance parameters and directed UPCL to submit monthly periodical reports in these formats so as to reach Commission's office by 15th of next month. The relevant portion of the Commission's directive is reproduced below:

"... to submit monthly reports on regular basis in the formats enclosed herewith as Annexure-1 to 10. Based on these formats the first report in this regard should be submitted upto the month for which reliable information dully reconciled is available at head-quarter level of the licensee by 08.06.2012. Since format No. 9

“AT&C Losses” requires data on energy sold and assessment for the month factoring the time required for completion of the billing/collection cycle of the licensee, will be available after lapse of atleast two months, therefore, the status of AT&C losses in the first report should have information for March’2011 and March’ 2012 only. Similar time gap must be observed by the licensee in this regard while submitting subsequent report.

UPCL is also hereby directed to submit these reports regularly on monthly basis by 15th of next month.”

2. Failure on the part of the licensee to comply with the above direction of the Commission and having not received monthly report for the month of May 2012, the Commission again directed MD, UPCL to submit the desired information by 20.06.2012 and accordingly issued reminder on 12.06.2012. Responding to the said reminder, distribution licensee on 09.07.2012 submitted some information. Number of deficiencies were found while analysing the information submitted by the licensee and most of the information was not in the prescribed formats. The Commission returned UPCL’s submission on 13.07.2012 with the direction to remove the deficiencies/anomalies pointed out by the Commission. Taking a considerate view since it was the first submission made by UPCL after issuance of formats, the Commission once again directed MD, UPCL to submit the information for May 2012 and June 2012 by 20.07.2012. While returning the submission as discussed above, the Commission had expressed displeasure on the failure of licensee to submit proper information within stipulated time for each month and the licensee was conveyed the following views of the Commission then:

“The Commission has taken strong exception over lackadaisical approach of the licensee in submitting these basic information on its commercial performance and has expressed its view that the licensee, on its own, may not be efficiently monitoring these performance parameters which are key to its business.”

3. Despite communication of the above views of the Commission, UPCL again failed to submit the desired information by the stipulated date. Taking a lenient view, the Commission on its own extended the date of submission and directed MD, UPCL to submit the desired information by 16.08.2012.

4. Despite extension of time period for submission of the desired information, distribution licensee did not submit any reply/information. As no reply was submitted by the licensee even by the extended time period, the Commission issued individual Show Cause Notices to MD, UPCL and ED (Commercial), UPCL under section 142 of the Electricity Act, 2003 both dated 24.08.2012 for non-compliance of the Commission's directions and directed both the Respondents to submit the reply by 03.09.2012. ED (Commercial), UPCL submitted his reply, under affidavit, vide letter No. 1929 dated 03.09.2012 on the stipulated date, while Managing Director, UPCL submitted his reply, vide letter No. 1955 dated 10.09.2012, after a delay of 7 days from the stipulated date. On Examining these replies, the Commission found them to be the same. Analysing the information submitted alongwith these replies, the Commission found them to be incomplete and the deficiencies pointed out therein were sent to both the Respondents namely MD, UPCL and ED (Commercial), UPCL on 20.09.2012 and 21.09.2012 respectively, directing both these officers which reads as:

"The Commission directs UPCL to take necessary action for compliance and removal of above deficiencies in its subsequent monthly reports. The Commission has also directed to inform you that the Commission is primarily interested in the end result attained by the licensee against each of the performance parameters. Failure on the part of the licensee in timely submission of the monthly report within stipulated time will be taken very seriously by the Commission."

5. The licensee even after this continued to default in submission of required information and also failed to putforth any valid reasons for their repeated non-compliance of directions of the Commission.
6. Taking a serious view over the repeated and continued lapse on the part of the licensee, the Commission initiated suo-moto proceedings under section 142 of the Electricity Act, 2003 and again issued Show Cause Notices to both the Respondents on 23.01.2013 asking them to show cause as to why appropriate action should not be taken against them in accordance with the provisions of the Act, for non-compliance of the Commission's directions and directing them to submit their replies by 06.02.2013. Also the Commission decided to hold a hearing, in the matter on 11.02.2013 at 12:30 Hrs and directed both MD, UPCL

and ED (Commercial), UPCL to appear before the Commission on the said date and time.

7. In response to the above show cause notices, both Respondents submitted their replies under affidavit vide reference No. 298 dated 06.02.2013 and No. 297 dated 06.02.2013 respectively. Same replies have been submitted by both the Respondents. Taking cognisance of their replies, the Commission feels that there officers instead of taking proactive actions for compliance of the Commission's directions issued to them almost 10 months back in the matter have attempted to justify the repeated non-compliance by them. The reply submitted by them is reproduced below:

2.2 *The respondent would like to point out that it has also been maintaining most of the information that the Hon'ble Commission has asked for in the commercial monitoring formats but the information is not maintained in the same form as is stipulated by the Hon'ble Commission. The requisite information in available form has been submitted to Hon'ble Commission vide letter reference 1929/UPCL/ RM/D-42 dated September 03, 2012. Further the clarifications after removal of deficiency to the maximum extent possible has been submitted vide letter reference 1955/UPCL/RM/D-42 dated September 10, 2012.*

2.3 *The respondent would also like to bring it to the notice of Hon'ble Commission that since there is change in the formats in compilation of information, significant amount of efforts have been put in to acclimate field teams with the new formats. Further to ensure the compliance to Hon'ble Commission's directives, a circular has been issued mandating all the concerned officers to provide this information by 7th of every month. It has also been mentioned in the circular that failure to provide the information will lead to disciplinary action. The copy of circular 291/UPCL/RM/J-10 dated February 05, 2013 is enclosed as Annexure A for reference. It may be observed that respondent company is making a conscious effort to maintain the performance of the utility in the formats prescribed by the Hon'ble Commission to the extent possible.*

2.4 *The respondent would also like to draw kind attention of Hon'ble Commission to the following facts:*

2.4.1 *Around 1460 employees from various grades of the respondent company have been retired till January 31, 2013. And to fill the vacant posts sufficient recruitment has not happened. The respondent company is*

running the business with in the mandates of Hon'ble Commission with the shortage of manpower.

2.4.2 Respondent Company is committed to improve its commercial performance as per the instructions of Hon'ble Commission. The key initiatives taken by the respondent company to improve commercial performance includes:

2.4.2.1 Respondent company has planned to replace theft prone ACSR conductor with LT AB cable. As per the proposed plan 2616 KMs of LT AB cable shall be laid down across the network of UPCL. Out of the mentioned quantity 1889 KMs of cable shall be provided under R-APDRP and around 727 KMs of cable shall be provided by the company. Till January 24, 2013 around 180 KMs of LT AB cable has already been replaced. Also, the work order has already been placed for procurement and laying of 300 KMs and 250 KMs of LT AB cable for Dehradoun (Rural) and Roorkee (Rural) divisions respectively. Further, procurement of additional 954 KMs of LT AB cable is under consideration. This will reduce the theft of electricity and the ghost consumers in the distribution network of the state

2.4.2.2 Respondent Company has estimated around 1,83,936 IDF meters in its network. The detailed action plan has been prepared to replace these meters. As per the plan around 25000 meters will be replaced per month replacing all the defective meters within a period of eight months.

2.4.2.3 Further, respondent company is planning to replace around 1,03,420 mechanical meters and shifting of approximately 2,42,671 meters outside consumer premises under R-APDRP scheme. The work order has already been placed on M/s Genus Power Infrastructures Ltd. for the mentioned work to be implemented in 16 towns of state of Uttarakhand. These towns are Khatima, Haldwani, Nainital, Ramnagar, Sitragung, Kiccha, Gadarpur, Rudrapur, Roorkee, Manglore, Landhora, Mussoorie, Laksar, Haridwar, Jaspur, Kashipur and Bajpur. Also, written directions has been issued from the office of Director (Projects) to lay LT AB cable, replacement of IDF meters and relocation of meter outside consumer premises shall be carried out on priority.

This will ensure accurate energy accounting and also arrest any pilferage in recoding of energy;

2.4.2.4 *In addition, respondent company has made record raids in FY 2012-13 till January 21, 2013. In FY 2012-13, 11219 consumer premises have been checked and irregularities have been found in 4066 premises. FIR has been lodged against 1880 consumers with a penalty assessment of Rs 1748 lakhs and a realization of Rs 1047.56 Lakhs has made;*

2.4.2.5 *Respondent company has also initiated its efforts for Demand Side Management. Respondent Company is going to implement Bachyat Lamp Yojna in five distribution circles. This will translate into a saving of 180 MU per year and a saving of approximately Rs 61 Crores per year ;*

2.4.2.6 *Respondent company has kept fourteen key focus areas in its business plan for improving the overall performance of company. These fourteen areas are:*

- *Recovery through surcharge wavier scheme;*
- *Write off of fictitious arrears;*
- *Regularisation of Katiya Connection;*
- *Conversing non-domestic consumers being filled in domestic category;*
- *Rostering and bill delivered information to consumer through SMS and web site;*
- *Double metering of high value consumers;*
- *Transfer of energy meters outside consumer premises;*
- *Replacement of defective and mechanical meters;*
- *Implementation AMR across various consumer categories;*
- *Online and offline payment facilities to the consumers;*
- *Energy audit;*
- *Power procurement through case I bidding;*
- *Implementation of DSM initiatives;*
- *Appointment of transaction advisor for PPP in Haridwar and U.S. Nagar district.*

2.4.2.7 *Respondent company would like to place on record its overall efforts for improving the commercial performance. Till January 24, 2013; 96069 IDF meters have been replaced, 82040 meters have*

been relocated outside consumer premises, 59 nos. of HT consumers have been provided with double metering, 8271 nos. of consumers have been brought into metered category from unmetered category, around 52501 katiya connections have been regularized and fictitious assets of Rs 1909.29 lakhs have been written off.

8. The Respondents have submitted that the desired information upto 31st December 2012 will be submitted separately. The Respondents requested the Commission to condone the delay in submission of reply and they will ensure that in future desired information will be submitted to the Commission by 15th of every month. Further, the Respondents have also requested the Commission, that keeping in view the continuous efforts of the licensee for improving its commercial performance and considering the above submission made by them, not to initiate penal action under the provisions of Electricity Act, 2003 against them and licensee.
9. Hearing in the matter was held on the scheduled date and time. The Respondents namely MD, UPCL and ED (Commercial), UPCL were present at the time of hearing. During the hearing both the Respondents reiterated their written submission and assured that in future the desired information/report on the prescribed formats will be submitted to the Commission by 15th of every month. During the hearing Respondents informed the Commission that the information/report pertaining to commercial performance upto 31st December 2012 in the prescribed formats, has been submitted vide letter No. 799 dated 06.02.2013.
10. Taking cognizance of the information/report submitted by the Respondents as above, the Commission expressed concern over licensee's indifference towards replacement of defective meters and provisional billing. In the absence of continuous monitoring by the licensee's management, there is no visible improvement in replacement of defective meters and reduction of provisional billing including mitigation of man and material constraints, if any encountered by the field units. On comparing the relevant data in this regard of last three years, the Commission finds that percentage of defective metering has been increasing and 25% of meters are still defective. The Commission also fails to

understand as to why the claims/ measures submitted by the Respondents are not seemingly translating with any sort of progress in their commercial performance.

11. During the hearing, the Commission expressed dissatisfaction over the increasing AT & C losses. The Commission observed that the cumulative AT & C losses upto September 2012 in FY 2012-13 are about 3% more than the same in the previous year i.e. FY 2011-12 and also about 1% more than that in FY 2010-11. Further, the Commission also desired that UPCL should furnish cumulative AT & C losses data upto the month for which information is being submitted in the prescribed formats.
12. The Commission expressed its concern over virtual absence of energy accounting & internal audit system of licensee. Referring to its earlier direction on submission of loss report of furnace feeders which can be a vital segment of consumers where energy accounting & audit would have significant impact on the energy accounts of UPCL. However, notwithstanding the importance of the above exercise, the Commission fails to understand as to why the information on Loss Reports of furnace feeders have still not been furnished by UPCL. In this regard, Respondent No. 2 submitted that loss reports on all independent feeders are being prepared and loss reports of Furnace feeders will be submitted to the Commission very soon. The Respondents also submitted before the Commission that request for seeking time extension is being filed separately. The Commission further pointed out that in Single Point Bulk Supply consumers categories, where it has conducted sample examination, the Average Billing Rates are below than the Rates approved by the Commission in the Tariff Orders for the respective financial years.

In the light of the above, the Commission decides the following:

13. The Commission is of the view that in any proceeding, the licensee has become habitual of responding to issues/directions only on issuance of show cause notices under the provisions of the Electricity Act, 2003 while ignoring earlier directions issued by the Commission. The lackadaisical approach of the licensee and repetitive inaction on the part of the Respondents cannot be tolerated any longer now. The Commission warns the Respondents to mend their ways. The

Commission cautions the licensee and the Respondents that if in future they do not channelize their efforts and lay down procedures and measures in accordance with the directions/ regulations of the Commission and the Commission finds that the action of the licensee and the Respondents is not directed, towards ensuring compliances of the directions/regulations/ conditions of the licence, the Commission will construe this as willful non-compliance on the part of the licensee and the Respondents and will act according to provisions of the Act/Conditions of the licence.

14. Particularly for the delays in submission of information/ reports desired by the Commission, Head of the Commercial wing will be held responsible and penal action including imposition of fine shall be taken in accordance with the provisions of Electricity Act, 2003 and Condition of the Licence. The Commission directs that from now on, the licensee shall submit the desired information/reports before the Commission regularly within the stipulated date in the prescribed formats.
15. Taking a serious view over the increasing Distribution losses and AT & C losses of UPCL, the Commission directs MD, UPCL to submit a comprehensive Action Plan for reduction of these losses. Action Plan should also include Target Distribution losses as well as AT&C losses for each month and the monthly report/information discussed in the Order should present comparison of these actual losses vis-a-vis the targets laid down by UPCL in the aforesaid Action Plan.
16. The notice for action against Respondents u/s 142 of the Act, at present, is kept on hold and would be disposed off by the Commission after watching compliance by Respondents for 3 months.

(K.P. Singh)
Member

(C.S. Sharma)
Member

(J.M. Lal)
Chairman