

## **Before**

### **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

#### **In the matter of:**

Minutes of Meeting dated 24.08.2012

#### **In the matter of:**

Order dated 01.01.2013 of the Commission on non-compliance of the Commission's directions issued to UPCL.

Respondent No. 1 - Sh. Anil Kumar, ED (Commercial), UPCL

Respondent No. 2 - Sh. S.K. Tamta, Chief Engineer (Commercial), UPCL

#### **Coram**

**Sh. J.M. Lal**

**Chairman**

**Shri C.S. Sharma**

**Member**

**Date of Order: February 01, 2013**

1. The Commission initiated suo-moto proceedings in the matter of non-compliance by UPCL of various Commission's directions issued to licensee.
2. A meeting was held on 24.08.2012 with the officers of UPCL in the office of the Commission to review the progress made on various directions of the Commission on the pending issues. During the meeting, discussions were held and the minutes of the meeting (MoM) were recorded on 12 issues. The issues

were either consumer related or of compliance of directions given in the Tariff Order.

3. These MoM dated 24.08.2012 were circulated vide Commission's letter No. 851 dated 07.09.2012. Specific timelines, on each pending issues, were agreed by UPCL for submission of action taken report/compliance of the directions of the Commission pertaining to each issue.
4. Except on two issues namely item No. 1 & 4 of MoM, UPCL did not respond. No action taken report/compliance report as agreed in the said meeting were submitted by UPCL. Consequently, the Commission issued a reminder to UPCL vide its letter No. 930 dated 25.09.2012 asking the licensee to submit, by 10.10.2012, its action taken report/compliance report on each of the issues contained in the MoM.
5. Despite the above opportunity, UPCL failed to submit any action taken report /compliance report in the matter. Taking a serious view over lackadaisical approach of the licensee, the Commission issued a Notice No. 1176 dated 04.12.2012 to MD, UPCL to show cause and explain as to why appropriate action be not taken against him in accordance with the provisions of section 142 read with section 146 of the Electricity Act, 2003 for non-compliance of the Commission's Orders/directions. MD, UPCL was also directed to appear before the Commission alongwith his reply to the aforesaid notice on 19.12.2012. MD, UPCL vide letter No. 1223 dated 14.12.2012 requested the Commission for extension of time for filing of reply by 26.12.2012 and also requested therein for adjournment of the above scheduled hearing in the matter to any other convenient date after 25.12.2012. The Commission accepted UPCL's request and allowed time extension for filing of reply by 26.12.2012 and postponed the above date of hearing and decided to hold the hearing on 31.12.2012.
6. On 24.12.2012, UPCL submitted issue-wise reply in lieu of the Action taken report/compliance required of him and thereafter, on 26.12.2012 submitted its reply to the show cause notice wherein the licensee again made reference to its aforesaid reply in the matter.

7. On the very scheduled date of hearing, a letter was received at about 11:00 hrs. from MD, UPCL seeking adjournment of the hearing and its reschedulement on a date after 07.01.2013 and the plea given by MD, UPCL for the postponement reads as "... it is to apprise the Hon'ble Commission that the undersigned is busy in pre-fixed works on 31-12-2012 and therefore cannot appear before the Hon'ble Commission on such date".
8. The Commission considers this as an unacceptable behavior, an attempted contempt of the judicial proceedings and a deliberate non-compliance of the directives issued by the Commission from time to time. The Commission fails to understand and is inconceivable that any "pre-fixed" work has come to the notice of MD only an hour before the scheduled time of hearing. In the absence of any justifiable reasons, the Commission declined the licensee's request of adjournment of hearing and decided to continue the proceedings ex-parte and issued an Order on 01.01.2013. The relevant extract of the Order are reproduced below:

*"8 ... On perusal of the replies, it has been observed that the submissions of UPCL on Point No. 7 & Point No. 8 are not in accordance with the directions of the Commission. Besides this, on some of the issues viz. Sh. Ranjit Singh & Others (Point No. 10), compliance of the directives issued in the Tariff Order (Point No. 12), UPCL was required to submit the periodical progress reports since the date of Order/directions. These periodical reports are still not being submitted by UPCL even after issuance of repeated reminders, MoM and Notice. The replies do not constitute satisfactory compliance. "*

....

*"11 On perusal of replies submitted by the licensee, the Commission has come to the conclusion that there has been violation of the directions and the concerned officers have failed to meet the timelines, agreed to by them, in the minutes of meeting, for doing the acts required as per MoM. Even now on some of the issues either compliances are not proper or are partial. The Commission holds that this is a fit case for imposing penalty, as per section 142 of the Electricity Act, 2003 on officers, who failed to comply with the directions of the Commission and also failed to give reasons for non-compliance.*

*Now, therefore, the Commission decides to provisionally impose a penalty of ₹5000.00 on each of the following officers, who were present in the meeting, holding them responsible for non-compliance:*

1. *Sh. Anil Kumar, Executive Director (Commercial), UPCL*
2. *Sh. S.K. Tamta, Chief Engineer (Commercial)*

*These officers are given time till 08.01.2013 to make their submission as to why this provisional penalty be not confirmed. A final hearing in the matter will be held on 11.01.2013 at 12.30 hrs."*

9. The licensee's officers namely Sh. Anil Kumar, Executive Director (Commercial) and Sh. S.K. Tamta, Chief Engineer (Commercial) submitted separate replies under affidavit No. 78 and 79 dated 08.01.2013 respectively. Same replies were submitted by both the officers on issues namely, item no. 7, 8, 10 & 12. Taking cognisance of these replies, the Commission has observed that both the officers have apologised for delay in submission of Action taken report/compliances and forwarded the reason which reads as "*compliance report was submitted immediately after receipt of the report from the field offices*".
10. During the proceedings both the Respondents namely Sh. Anil Kumar and Sh. S.K. Tamta, who were directed to appear before the Commission, were present. Sh. Anil Kumar reiterated his written submission dated 08.01.2013 earlier, submitted, before the Commission that he was not instructed by Managing Director to attend the hearing scheduled on 31.12.2012. Further, Sh. Kumar submitted that reply on each of the issues discussed in MoM dated 24.08.2012 have been complied with and the reply has already been submitted before the Commission on 24.12.2012 to which the Commission pointed out that the present hearing is being held in accordance with the Order dated 01.01.2013 in the matter of confirmation of penalty on the Respondents and held that the need for these proceedings occurred on account of failure on the part of licensee in reporting compliance in the manner as directed on 12 issues. The Commission expressed dissatisfaction on the behavior of the licensee for not reporting compliances in the matter even by the extended time lines allowed by the Commission and more so within the timeframe agreed by the Respondent

present in the meeting dated 24.08.2012. Licensee continued to default in complying with the directions and submitted its reply after a delay of more than 4 months.

11. On the submission of the Respondent Sh. Anil Kumar that even after number of issues having been complied by UPCL, he failed to report compliance before the Commission.
12. The Commission in particular enquired about the status of compliance of the directions given in the Tariff Orders and expressed its disappointment that the licensee failed to submit monthly status/progress report towards compliance of directives issued by the Commission. The Commission takes strong exception to inability of licensee to comply with Commission's directives given in Tariff Orders when number of these directions have been repeatedly given in previous year's Tariff Orders. The Commission cited the issues like Prepaid metering, meter reading, progress in metering of un-metered consumers, replacement of mechanical meters, assessment made by UPCL regarding the consumption of energy by departmental consumers, accounting of energy consumed by departmental consumers etc. The Respondents submitted before the Commission that there has been no willful or deliberate non-compliance of the directions and a sample report on consumption of the departmental consumers is being submitted with the Commission. The Respondent further submitted that an energy audit project is currently under progress of which 30% of the work has been completed to which the Commission expressed its concern that the entire activity of energy audit is meaningless unless all the consumers installations, T-off sections including DTs are correctly metered with correct meters specified in accordance within CEA Regulation on installation & operation of meters. The Commission asked the Respondent to introspect that with more than 24% of provisional billing namely IDF/RDF/ADF/NA/NR cases existing in licensee's operations, authenticity of audit results will be far-fetched and not to say the least-unreliable. The Commission also asked about the status of implementation of directions on pre-paid metering issued in the Tariff Order for FY 2012-13 and since 8 months have elapsed since the issuance of the Tariff Order desired to know as to why no progress is seen on the

ground. Taking a serious view with regard to implementation of directions on pre-paid metering, the Commission during the hearing sought timelines on the compliance of the directives in connection with the pre-paid metering issued by the Commission.

13. The Respondent Sh. Anil Kumar submitted that the matter of prepaid metering was put up before the Board of Directors (BoD) Meeting and as stated by the Respondent, since BoD having not been able to pass a resolution for implementation of pre-paid metering citing the reasons that it would adversely affect the already strained financial health of UPCL. The Respondent submitted before the Commission during the hearing that the proposal of pre-paid metering will again be put before the Board of Directors in the next meeting.
14. The Commission now discusses the submissions of UPCL on four of the issues which were highlighted by the Commission in its earlier Order dated 01.01.2013 in the matter in the following paragraphs. The Respondents in their written submissions as well as during the hearing have accepted that no time extension were sought by the licensee for submission of its reply as directed by the Commission, however, both the Respondents vehemently apologised for their misdemeanor and pledged that in future the same shall not be repeated and all the compliances, as far as possible, will be done within the stipulated timeframe as directed by the Commission. However, the Respondent submitted that if compliance of any directives is expected to be delayed beyond the stipulated time frame, the licensee would seek prior approval of the Commission for allowing extension of time period in compliance of such cases/ directives.
  - 1) Point No. 7: Shri Virendra Kumar Sharma, Pramukh Mahamantri, HEEU, Uttarakhand Pradesh, Bazpur, Kashipur  
UPCL vide letter no. 2719 dated 24.12.2012 informed that SE, EDC (Kashipur) issued a warning letter to EE, Kashipur vide reference no. 2232 EDC (Ka) dated 30.11.2012 for wrong reporting, before the Commission, in the matter. UPCL, further submitted that Superintending Engineers (Distribution) were directed to do sample checking and during such checking, no anomaly was found, therefore, the matter of conducting investigation through independent agency was not proceeded further.

While the Commission had issued the following directions vide its letter no. 1274 dated 26.12.2011 and the same is reproduced below:

- “1. Take appropriate action on the errant officers/officials immediately.
2. Submit up-to-date revised reports on the prescribed format of “Assessment of Penalty due to delay in release of New Connections under UERC (Release of New LT Connections, Enhancement & Reduction of Loads) Regulations, 2007”.
3. Conduct a similar investigation through an independent agency with regard to the Regulation 5(13) UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulations, 2007 in all the EDDs , to start with the Divisions having high distribution losses.”

**Commission’s view:**

UPCL was directed to take action against the concerned Executive Engineer and get the New connection reports of Kumaon Zone analysed by an independent agency and submit the action taken report within 1½ months. Although, UPCL complied with the first directive, it has not submitted any compliance report on the other directive rather the licensee has submitted that: “कारपोरेशन द्वारा माननीय आयोग के निर्देशानुसार इनर्जी ऑडिट प्रारम्भ करा दिया गया है। ऑडिट रिपोर्ट के परिणाम प्राप्त होने पर तदानुसार सुधारात्मक कार्यवाही सुनिश्चित की जायेगी।”. While UPCL was directed to conduct the investigation of new connection reports of Kumaon zone to start with the divisions having distribution losses through an independent agency. Notwithstanding the above direction, UPCL based on some sample checking of reports, internally, has conclusively decided not to conduct investigation by an independent Agency. The Commission takes strong exception to this act of licensee wherein it did not bother to apprise the Commission about such sample checking and was only brought to the notice of the Commission on issuance of show cause notice to the licensee. Such unanimous decisions taken by UPCL not to implement Commission’s directions amounts to violation of the directions/orders of the Commission and therefore, making licensee liable for appropriate action against it under the Act and Licence Conditions.

Based on the above, the Commission is of the view that licensee has misinterpreted its directions and therefore, reiterates its decision and **directs**

**MD, UPCL and the Respondents to conduct investigation of LT New connection reports, of past one year, through an Independent Agency for the divisions in Kumaon Zone having high distribution losses.**

**2) Point No. 8. Superintending Engineer, System Control, Virbhadra, Rishikesh**

UPCL vide letter no. 2713 dated 24.12.2012 informed that Automatic Load Management Plan for load shedding needs proper SCADA system in the entire State and this position has already been clarified before the Commission earlier. UPCL has further submitted that under R-APDRP scheme, SCADA has been sanctioned only for Dehradun town only and has submitted that at present automatic load management plan can be implemented in Dehradun town only.

In the MoM dated 24.08.2012, UPCL had agreed to submit its comments alongwith factual position on letter No. 319/SLDC(R)/UPCL dated 04.07.2012 of SE, SLDC pertaining to quick action contingency plan being developed by SLDC in accordance with directions issued by NRLDC under IEGC. While UPCL vide letter no. 2713 dated 24.12.2012 simply informed that : *“Automatic Load Management Plan for Load Shedding needs proper SCADA System in the entire State. In the R-APDRP Scheme, SCADA is sanctioned only for Dehradun Town. At present only Dehradun Town can be covered under Automatic Load Management Plan.”*

Consequent to issuance of show cause notice to MD, UPCL and Commission’s Order dated 01.01.2013 in the matter, the Respondent filed their replies on 08.01.2013 in the matter and the same are reproduced below:

*“As regards submission of Automatic Load Management Plan for load shedding in accordance with the contingency plan prepared by SLDC under IEGC clause 5.4.2(a) and 5.4.2(b), it is submitted that UPCL shall take all possible steps required by it for managing the demand. For the same it has been decided that an internal committee in UPCL shall be formed, which shall look into the possibility of implementation of this scheme and develop an action plan for the same.*



*However after an initial reading of this proposal it can be inferred that this proposal in its existing form cannot be directly implemented. This is because bifurcation of secondary substations in terms of type of load connected and grouping them for priority load disconnection and enlisting the feeders emanating from primary substations which can be made to open without affecting critical/emergency services would be open without affecting critical/emergency services would be only possible after a detailed consumer indexing is carried out. This shall also require real time load monitoring details which call field surveys and subsequently further time for analysis. Thus bringing the submitted proposal into effect shall not be possible at the existing stage. The proposal can be implemented in the true sense only after all the aforesaid issues are sorted out.*

*It is submitted that consumer indexing, bifurcation of load and enlisting of feeders forms a part of RAPDRP (Part A and B) and SCADA schemes, which are in implementation stage in UPCL and shall be completed under these schemes. Currently SCADA is sanctioned for Dehradun town only. SCADA also needs to be carried out at primary substations and all the feeders directly under the control of PTCUL, since load monitoring and management at all such substations shall also be mandatorily required.*

*The advantage of implementing the submitted proposal after such schemes are completed is that it shall result in minimization of human intervention for load disconnection and thereby help in saving precious time in emergency situations. The completion of these schemes however shall take some time. In lieu of UPCL's commitment for managing the demand till such time a rostering schedule is being implemented, which is modified on daily basis, depending upon the availability and requirement of energy.*

*The table below gives a detail of the effective load and the average rostering duration, for maintain GRID frequency, category wise.*

<i>Area</i>	<i>Effective Load (in MW)</i>	<i>Rostering Duration (in Hrs.)</i>
<i>Rural</i>	150	4:00
<i>Small Towns</i>	93	2:00
<i>Other Towns</i>	180	1:00
<i>State Capital &amp; Tourist Places</i>	120	Nil
<i>Hills</i>	70	1:00
<i>Steel Furnaces</i>	100	6:00
<i>Non-Continuous Ind.</i>	150	Nil

*It is hereby submitted that the aforesaid rostering schedule is currently being able to give the much needed relief and helping UPCL to maintain drawal of power from the Grid as per schedule.*

#### **Commission's View**

The Commission is dissatisfied by the equivocal submission made by the Respondent on this issue. The Respondents on one hand have submitted that an internal committee is being setup within the Corporation for implementation of automatic load management plan and to develop an action plan for the same. Notwithstanding their own aforesaid submission, both the Respondents then proceed on to submitting their objections on implementation of automatic load management scheme under the "quick action contingency plan" to be developed by SLDC in accordance with directions issued by NRLDC under IEGC. The Commission feels it pertinent to discuss that even CERC in the matter of Petition No. 249/MP/2012 filed by NRLDC has issued notices to various SLDCs including Uttarakhand SLDC for adherence to the various provisions of IEGC including scheduling and load management system similar to the above issue raised by this Commission and discussed above.

Reiterating its earlier decision in the matter and taking cognizance of SLDC letter no. 319/SLDC(R)/UPCL dated 04.07.2012, **the Commission directs MD, UPCL and the Respondents to submit priority plan/list to SLDC with regard to disconnection of feeders during grid contingency vis-à-vis load (in MW) estimated to be shed within 15 days of issuance of this Order.**

### 3) Point No. 10: Sh. Ranjit Singh & Others

On 01.10.2010, the Commission issued an Order in the matter and the following directives were given: *“In the interest of justice and to avoid discrimination, the Commission hereby directs MD, UPCL and MD, UPPCL to sit together for deciding the transfer of consumers in their respective areas in totality and to ensure that after 31.03.2011 all the consumers should be transfer to UPPCL.”* No compliance reported by UPCL, the Commission on 13.07.2011 issued a show cause notice to MD, UPCL under section 142 for non-compliance of the above Order in the matter. In reply to the show cause notice, MD, UPCL has submitted that it has yet not been able to identify the consumers residing in Uttar Pradesh (UP) and getting supply from the licensee (UPCL). Taking strong exception to the above submission of UPCL, the Commission made the following observations in its letter No. 723 dated 19.08.2011 issued to MD, UPCL:

*“ ... it has been observed by the Commission that more than 10 months have been elapsed and UPCL has not been able to identify the consumers residing in UP and getting supply from UPCL. Further, it has been noted that the Commission in its Order dated 01.10.2010 has stipulated a time frame for the transfer of consumers to Uttar Pradesh in totality by 31<sup>st</sup> March’ 2011. Since then, more than 04 months have passed and the same has not been complied with. The Commission has taken a serious view on such lackadaisical approach of UPCL and directed that:*

- 1. Submit the explanation (with facts and figures) for undue delay in identifying the consumers residing in UP and getting supply from UPCL.*
- 2. Submit a “Road Map” for completing the process including transfer of consumers to UP by December’ 2011 in compliance with the Commission’s Order dated 01.10.2010.”*

No reply being submitted by UPCL in connection with the above directions, the Commission on 09.09.2011 issued 1<sup>st</sup> reminder to UPCL for submitting its reply to the above directives. Thereupon MD, UPCL submitted its reply on 19.09.2011:

*“1. ... we identified 598 such consumers so far. A statement showing the division-wise and category-wise details of such consumers is enclosed herewith at*

*Annexure-A. The process of identification of remaining such consumers is continued and we have targeted to identify such consumers by the end of December, 2011. Thereafter, the matter of transfer of such consumers from the Distribution System of UPCL to the system of Uttar Pradesh shall be decided with the Managing Director of U.P. Power Corporation and it is expected that such consumers shall finally be transferred to Uttar Pradesh by June, 2012.*

- 2. The reasons for delay in identification of such consumers are that these consumers are residing outside the boundary of Uttarakhand in various locations and therefore search of each and every consumer is the extra activity for the field officers/officials of UPCL in addition to their routine work."*

Taking cognizance of the above submission of UPCL that identification of consumers residing in UP and drawing power from UPCL is in progress and shall be completed by December, 2011 and thereafter, these consumers, as submitted by UPCL, shall finally be transferred to UP by June, 2012, the Commission on 26.09.2011 directed UPCL to submit fortnightly report on the progress made in identification of such consumers residing in UP. However, UPCL did not submit any fortnightly report and the Commission issued directives on 09.08.2012 for submission of current status alongwith factual position in the matter.

Further, in the meeting dated 24.08.2012, UPCL submitted that in order to resolve the matter, it will coordinate with the Executive Engineers of the adjacent divisions of UP and publish public notices for disconnection of such consumers, giving them opportunity to get connections from UPPCL within a definite time frame.

UPCL vide letter no. 2718 dated 24.12.2012 submitted that the following:

*"1. EE, EDD (Kotdwar) has communicated to EE, EDD, Najibabad, (UP) regarding the disconnection of power supply of the consumers of Uttar Pradesh. In response to this, MD, PVVNL, Meerut has written to MD, UPCL vide its letter no. 1432 dated 16.09.2012 that 33/11 kV Substation Badhiya has been constructed and after commissioning of the substation, the load of such consumers will be transferred within two months and requested UPCL to continue the supply till that time.*

*Further, Superintending Engineer of the Zonal Office, Dehradun has spoken to SE, EDC (PVVNL), Bijnor on telephone. SE, Bijnor informed him that the consumers, who are being supplied by Kotdwar division at present, will be transferred to the newly constructed Substation Badhiya by February, 2013.*

2. *EEs of EDD, Kashipur, Bazpur and Rudrapur have published public notices for such consumers informing them to get connected from the UPPCL system within the given time, as the supply will be disconnected by UPCL within a month. However, distribution company of UP has not released connection to such consumers and they are still being supplied from the nearby divisions of UPCL.*
3. *UPCL is making its efforts for transfer of such connections."*

### **Commission's Views**

UPCL in its submission dated 19.09.2011 had submitted that identification process of such consumers would be completed by December 2011 and transfer of such consumers to UP shall be completed by June 2012. Now in its submission dated 24.12.2012 UPCL has submitted that consumers getting supply from Kotdwar division of UPCL shall be transferred to UP by February 2013. However, for consumers residing in UP and getting supply from other divisions like Kashipur, Bazpur and Rudrapur, UPCL has not submitted any time frame for transfer of such consumers to Uttar Pradesh. Further, as directed by the Commission, UPCL is not submitting the fortnightly progress report in the matter. The Commission is of the view that UPCL has again deviated from its earlier submission in the matter and the licensee now submits fresh time frame for transfer of consumers to UP, in case of Kotdwar division, whereas for other divisions of UPCL having such consumers, UPCL does not give any time frame. **The Commission, therefore, directs MD, UPCL and the Respondents to submit Action Plan within 30 days of the Order for transfer of such consumers to Uttar Pradesh in totality.**

#### **4) Point No. 12: Compliance of Directives issued in the Tariff Order**

The Respondents submitted in their written replies as well as during the hearing that required monthly progress/status report towards compliance of

the directives issued by the Commission in the Tariff Order dated 11.4.2012 for FY 2012-13 could not be submitted (except for one report submitted in the month of September 2012). However, the Respondent, on behalf of the licensee, agreed to submit such periodical reports from now on a regular basis.

### **Commission's View**

UPCL was required to submit month wise progress report on the compliances within 7 days of completion of each month. However, this direction of the Commission were not complied with by the licensee. Reiterating its earlier decision, **the Commission directs MD, UPCL and the Respondents to submit monthly progress report on the status of compliance of the directions issued by the Commission in Tariff Order dated 11.04.2012 regularly within the stipulated time frame from now onwards.**

The Commission hereby directs the Respondents to submit a comprehensive report of action taken on the directions issued in this Order within 30 days of issuance of this Order. The decision on confirmation of the penalty against the Respondents or otherwise will be taken on receipt of this report.

(C.S. Sharma)  
Member

(J.M. Lal)  
Chairman