

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Non-compliance of Commission's Regulations and Licence Conditions by Uttarakhand Power Corporation Limited (UPCL) with regard to complaint filed by Superintending Engineer (E), Bharat Sanchar Nigam Limited (BSNL), Dehradun in the matter of inordinate delay in releasing new connections.

Coram

Shri Jag Mohan Lal

Chairman

Shri C.S. Sharma

Member

Date of Hearing: 27.02.2013

Date of Order: 2nd April, 2013

Superintending Engineer (E), Bharat Sanchar Nigam Limited (BSNL), Electrical Circle, Room No. 333, Windlass Complex, Rajpur Road, Dehradun submitted a complaint before the Commission vide his letter No. USO-14/CE/E/BSNL/12-13/22 dated 14.01.2013 stating that UPCL is not releasing new connections required for its Mobile Towers at following locations in Uttarakhand inspite of submitting the duly filled applications and depositing the requisite amounts in the year 2008.

Sl. No.	Name of Site	Name of UPCL Division	Demand Note No. & Date	Amount deposited & Date of deposition
1.	Kandey (Jaiti)	Almora	1774 dt. 19.06.2008	₹34000.00 dt. 23.06.2008
2.	Gananath		2498 dt. 01.09.2008	₹34000.00 dt. 05.09.2008
3.	Morepaturi		1774 dt. 19.06.2008	₹34000.00 dt. 23.06.2008
4.	Suinoli		1143 dt. 26.03.2009	₹34000.00 dt. 28.03.2009
5.	Nagarjun Tumari	Ranikhet	64 dt. 09.04.2008	₹34000.00 dt. 16.04.2008
6.	Kosajali		64 dt. 09.04.2008	₹34000.00 dt. 09.04.2008
7.	Tansalisen		64 dt. 09.04.2008	₹34000.00 dt. 09.04.2008
8.	Bera	Pithoragarh	780 dt. 18.06.2008	₹34000.00 dt. 23.06.2008
9.	Anneki Hetampur	Haridwar	-	₹19000.00 Year: 2008

2. Taking cognisance of this alleged violation of the provisions of the Act, Regulations and Licence Conditions, the Commission initiated suo-moto proceedings in the matter and issued a Notice to Managing Director of the licensee, vide letter no. 1534 dated 12.02.2013, directing him to show cause and to explain as to why appropriate action be not taken against him in accordance with the provisions of section 142 of the Electricity Act, 2003 and submit the reply by 26.02.2013. Managing Director of the licensee was also directed to appear before the Commission on 27.02.2013 at 12:00 hrs. Despite the above directions, Managing Director of the licensee did not submit reply to the above Notice by the stipulated date i.e. by 26.02.2013.

3. As scheduled, hearing was held in the matter, Managing Director, Chief Engineer (Commercial) & other Field Engineers of licensee appeared before the Commission. During the hearing proceedings, Managing Director of the licensee submitted a written reply (Reference no. 549 dated 27.02.2013) before the Commission, stating that -

“2.1 **बैड़ा, पिथौरागढ़** के विद्युत संयोजन निर्गत न करने के सम्बन्ध में अवगत कराना है कि उक्त कनेक्शन निर्गत करने हेतु 11 के0वी0 लाईन एवं परिवर्तक माह सितम्बर, 2008 में स्थापित कर दिया गया था। लेकिन भूमि विवाद के कारण संयोजन को ऊर्जीकृत नहीं किया जा सका। इस सम्बन्ध में उपखण्ड अधिकारी, पिथौरागढ़ एवं अधिशासी अभियन्ता, पिथौरागढ़ द्वारा भारत संचार निगम लि0 के अधिकारियों को माह मई, 2010 एवं अगस्त, 2010 में सूचित कर दिया गया था। (संलग्नक-अ)। भूमि विवाद के संबंध में श्री शेर सिंह पुत्र श्री देव सिंह, ग्राम-बेड़ा द्वारा सूचना के अधिकार के अधिनियम, 2005 के तहत भी खण्ड कार्यालय से भी सूचना मांगी गई है तथा उनके द्वारा ऐडवाकेट के माध्यम से खण्ड कार्यालय को संयोजन निर्गत न करने सम्बन्धी दिया गया है। (संलग्नक-ब)

2.2 **नागाअर्जुन तुमडी, कोशाजाली एवं तनसालीसेन (मटखानी)** नामक साइटों पर विद्युत संयोजन निर्गत न करने के सम्बन्ध में अवगत कराना है कि भारत संचार निगम लि0 के द्वारा माह मई, 2008 में संयोजन प्राप्त करने हेतु संयोजन चार्जज की धनराशि विद्युत वितरण खण्ड, रानीखेत में जमा करायी गयी थी। समस्त संयोजनों की वास्तविक सर्वे किये जाने के दौरान संज्ञान में आया कि उक्त तीनों संयोजनों की लाईन का निर्माण वन क्षेत्र में पड़ने के कारण वन विभाग की अनुमति आवश्यक है। अतः अधिशासी अभियन्ता, विद्युत वितरण खण्ड, रानीखेत के कार्यालय पत्र दिनांक 16-11-2009 (संलग्नक-स) द्वारा जिला वन अधिकारी से अभी तक यह अनुमति प्राप्त नहीं हुई है। इसके अतिरिक्त खण्ड कार्यालय के पत्र दिनांक 10.12.2009 एवं 21-02-2013 (संलग्नक-द) द्वारा भारत संचार निगम लि0 के अधिकारियों को वस्तु-स्थिति से अवगत करा दिया गया था। अतः वन विभाग की अनुमति प्राप्त न होने के कारण उक्त संयोजन निर्गत नहीं किये जा सके।

2.3 **काण्डे जैती, सुनौली, गणानाथ एवं मोरपतूरी** नामक साइटों पर विद्युत संयोजन निर्गत न करने के सम्बन्ध में अवगत कराना है कि **काण्डे जैती** में कार्य प्रगति पर है तथा 28.02.2013 तक

पूर्ण होना अनुमानित है। **सुनौली** साईट में दिनांक 02.02.2013 को मीटर स्थापित कर संयोजन निर्गत कर दिया गया है। **गणानाथ** में कार्य प्रगति पर है तथा 15 मार्च, 2013 तक पूर्ण होना अनुमानित है। **मोरपतुरी** साईट में ग्राम पंचायत का वन क्षेत्र होने के कारण कार्यवाही प्रारम्भ नहीं की जा सकी तथा राजीव गांधी ग्रामीण विद्युतीकरण योजना के अंतर्गत उक्त ग्राम के विद्युतीकरण का कार्य उरेडा को सौंपा गया है। इस तथ्य से भारत संचार निगम लि० के अधिकारियों को भी अवगत करा दिया गया है। **काण्डे जैती सुनौली तथा गणानाथ** साईटों पर संयोजन निर्गत करने में विलम्ब हुआ है। इस विलम्ब के लिये उत्तरदायी अधिकारियों को चिन्हित किया जा रहा है, जिनके विरुद्ध कारपोरेशन नियमानुसार कार्यवाही की जायेगी।

2.4 **आन्नेकी हेतमपुर** नामक साईट पर विद्युत संयोजन निर्गत न करने के सम्बन्ध में अवगत करना है कि उपभोक्ता के परिसर पर विद्युत लाईन बिछाने के दौरान भू-स्वामी द्वारा विरोध किये जाने के कारण कार्य पूर्ण नहीं हो पाया तथा विद्युत संयोजन निर्गत नहीं किया जा सका। खण्ड कार्यालय द्वारा भारत संचार निगम लि० के अधिकारियों को वस्तु स्थिति से अवगत करा दिया गया।

2.5 खण्ड कार्यालयों द्वारा लम्बित विद्युत संयोजनों की गलत रिपोर्टिंग के सम्बन्ध में सूचनीय है कि इस सम्बन्ध में दोषी अधिकारियों/कर्मचारियों को चिन्हित किया जा रहा है, जिनके विरुद्ध कारपोरेशन नियमानुसार कार्यवाही की जायेगी।

2.6 माननीय आयोग के समक्ष यह आवेदन करना है कि प्रतिवादी द्वारा उक्त विनियमों की अवहेलना जानबूझकर नहीं की गई है एवं भविष्य में माननीय आयोग के निर्देशों तथा विनियमों का अनुपालन ससमय सुनिश्चित किया जायेगा।

3- उपर्युक्त वर्णित तथ्यों के आधार पर माननीय आयोग से अनुरोध है कि वे विद्युत अधिनियम, 2003 की धारा-142 के अंतर्गत प्रतिवादी एवं प्रतिवादी कम्पनी के अधिकारियों के विरुद्ध कोई दण्डात्मक कार्यवाही न करें।”

4. During the hearing proceeding, Chief Engineer (Commercial) of the licensee reiterated the above submission and apprised the factual position on all 9 pending connections to the Commission.

- (i) With regard to connection at Bera in **Pithoragarh division**, he informed that 11 KV line and transformer required for release of connection were installed in the year 2008, however, connection could not be released due to land dispute.
- (ii) 03 connections namely Nagarjun, Kosajali & Tansalisain of **Ranikhet division** could not be released due to non-receipt of 'No Objection Certificate' from Forest Department.

- (iii) Delay in release of connections at three locations of **Almora Division** namely Kandey, Suinoli, Gananath occurred due to negligence of its field officers. Works related to release of connection to Morepaturi in **Almora Division** could not be started as the Village Morepaturi was electrified under RGGVY Scheme and works of RGGVY were being carried out by UREDA. At present, the connection of Suinoli (Jaiti) has been released and works of Kandey & Gananath are in progress.
- (iv) With regard to Anneki Hetampur site in Haridwar division, the works for releasing the connection could not be started because of the resistance shown by the land owners in premises of consumer (BSNL).

Taking cognisance of the fact that these pending connections were not shown by the licensee in its monthly report on release of new LT connections and which amounts to wrong reporting before the Commission and asked the licensee for the explanation to which, Chief Engineer (Commercial) of the licensee submitted during the hearing that the mistake has been done at the level of the Field officers of the licensee and the Corporate Office of the licensee was unaware of any such blunders being committed by its field officers. He further submitted that the matter came to the notice of licensee's Corporate Office only after receipt of the Notice from the Commission.

5. Taking a serious view over lapse on the part of the licensee to submit reply within the stipulated timeframe, the Commission expressed that 26.02.2013 was the last date, licensee should be proactive enough to submit its replies much before the last date. The Commission asked Managing Director of the licensee to explain the reasons for such default and why appropriate action may not be taken against him and Chief Engineer (Commercial) of the licensee for these violations of the Commission's directions. The Commission further asked Managing Director of the licensee that why this has become a practice that licensee submits its reply only on issuance of notice. The Commission has taken a view that in this particular instance, licensee has failed to discharge its duties towards the compliance of the directions/regulations of the Commission.

6. Regarding the connection of Bera in Pithoragarh, the Commission observed that licensee did not release the connection within timeframe specified in the Regulations and is now trying to cover up its inefficiencies by forwarding frivolous reasons and one officer of the licensee is casting aspersions on the other officers which is totally

unacceptable state of affairs of the licensee and such act of the licensee during the hearing proceedings is highly reprehensible. Similarly, three connections in Almora division remained pending due to negligence of the licensee's field officers. On licensee's submission that connection in Ranikhet division could not be released due to non-receipt of no objection from the forest department, the Commission wanted to know as to why the amounts against the connections of Ranikhet division were deposited without surveying the sites.

7. Chief Engineer (Commercial) of the licensee accepted the mistake and submitted before the Commission that the amounts were deposited without doing line surveys and it was the basic fault at field level. The Commission asked both the Managing Director and Chief Engineer (Commercial) of the licensee as to why penal action be not taken against them to which Chief Engineer (Commercial) of the licensee reiterated his submission that if the case would have brought to the notice of licensee's Corporate Office, they would have taken necessary action for compliance of Commission's Regulations. Managing Director of the licensee also submitted before the Commission that this matter came to the notice of the Corporate Office only after receipt of Notice from the Commission. He reiterated that departmental enquiry will be conducted in the matter and action shall be taken against the errant officials. The Commission does not accept the submission of Chief Engineer (Commercial) of the licensee that delay in release of these connections or these new connection applications remained pending was not brought to the notice of the officers in Head Quarter of the licensee by its field officers and the Head Quarter was kept in dark. The Commission is of the view that these inactions on the part of the licensee reflect on lack of monitoring of its field units by licensee's Head Quarter. The Commission countermands the explanation forwarded by Chief Engineer (Commercial) of the licensee disowning the lapse in complying with the Regulations besides seeking vindication of its position/act in the whole matter. Taking a serious view on such explanations/submission made by officers sitting in Head Quarter of the licensee, the Commission expressed that this proceeding is not departmental enquiry being conducted in licensee's department where field officers and officers sitting in Head Quarter of the licensee cast aspersions and blame on each other. The Commission would want Managing Director and Chief Engineer (Commercial) of the licensee to take note of the spirit of the Act and Licence conditions that an individual officer of the licensee may be responsible for any action while carrying out his duties

under the Act/ Licence while the UPCL, a distribution licensee will always be responsible in discharging its duties under the Act/licence. The Commission considers wrong reporting before the Commission as very severe lapse/violation of the provisions of the regulation by the licensee even of much higher order than delay in release of new connections. The Commission asked Managing Director, UPCL as to why action has been not taken against the errant officials for wrong reporting of information, required under regulation 5 (13) of UERC (Release of New LT Connections, Enhancement and Reduction of Loads), Regulations, 2007.

8. UPCL sought condonation for their actions. Managing Director, UPCL submitted that total 20 connections were applied by BSNL out of these 17 connections have been released while 3 connections are yet to be released as forest clearance is pending.

Commission's View

9. Regulation 5(11) and 6(1) of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007 specify the timelines for releasing a new connection by the licensee and the same are reproduced below:

"5(11) The Licensee shall be under obligation to energise the connection through a correct meter with in 30 days from the:

(a) date of application if no defects or outstanding dues are found.

(b) date of intimation of removal of defects or liquidation of outstanding dues which ever is later.

6 (1) *If a new connection is required in a Left out Pocket which requires the licensee to extend its distribution mains or to lay new distribution mains or to commission a new sub-station, then the licensee shall inform such applicant the time required to give the supply and the same shall not exceed:*

(a) 60 days, if only extension of distribution mains is required.

(b) 90 days, if commissioning of a new sub-station is also required.

(c) 180 days, if commissioning of new 33/11 kV sub-station is required."

10. The Commission has taken cognisance of the fact that reports being submitted by licensee under Regulation 5(13) of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007 for these distribution divisions have never shown any pending connections since the date of applications for new connection were made by M/s BSNL. The Commission holds that the licensee has been continuously submitting wrong reports before it, atleast for these divisions for as many as more than 4 years.

11. The Commission does not consider violation of its regulation and submission of wrong information before it continuously for more than 4 years in any matter as a minor lapse on the part of the licensee who has become habitual of such misdemeanors while discharging its duties under the Act/Licence. Such behavior of the licensee cannot be condoned.

12. On the wrong reporting by the licensee, the Commission feels it pertinent to refer to its Order dated 01.02.2013 in another matter wherein the licensee was directed to conduct investigation, through an independent agency, of the reports submitted before the Commission under Regulation 5(13) of UERC (Release of New LT Connections, Enhancement and Reduction of Loads), Regulations, 2007. The Commission would like to delve on the issue of wrong reporting by the licensee. In the initial years after these Regulations were notified, cases of wrong reporting by the licensee in the matter of division-wise status report on release of new connection, were brought to the notice of the Commission. The Commission then had directed UPCL to ensure compliance of these regulations and to submit correct information before the Commission. Thereupon, the licensee then submitted before the Commission the mechanism laid down by the licensee so as to ensure that no new connection gets delayed due to any material constraint and also correct division-wise status report in the formats prescribed by the Commission is submitted in respect of the new connections. The licensee then had issued OM No. 1378/D(O)/UPCL/M-20 dated 27.05.2008 & OM No. 1382/D(O)/UPCL/I-7 dated 27.05.2008 to its Zonal heads of both the Zones namely Garhwal & Kumaon Zones through representatives at various hierarchical levels of the licensee were fixed/laid down by the Head Quarter of the licensee. Very recently last year, a complaint was received by the Commission from Jaspur with regard to irregularity in release of connections in unauthorised manner, in which the Commission had directed UPCL, inter-alia, to *“Conduct a similar investigation through an independent agency with regard to the Regulation 5(13) of UERC(Release of New LT Connections,Enhancement and Reduction of loads) Regulations, 2007 in all EDDs, to start with the Divisions having high distribution losses.*” The need of such examination by independent Agency was then felt by the Commission since the concerned division status report on new connection were reporting ‘Nil’ pendency on release of new connection. However, taking cognisance of the aforesaid complaint, the Commission had a doubt on the veracity of these reports. On these directions, the licensee submitted that the sample reports have been got examined

by DGM/SE level officers Committee and have been found to be in order. Disbelieving such submission and taking a strong exception to the frivolous submission of the licensee on compliance of the specific directions to it, the Commission had to reiterate the direction to conduct investigation/examination by independent Agency in its subsequent Order dated 01.02.2013.

13. The Commission took a strong view on the wrong reporting done by UPCL in the reports containing details of new connections that were not energized within the specified period as stipulated in the Regulations. On sample checking of the reports submitted for past two years in the Commission's office, it has been found that the reports do not show any pending application for new connection of any consumer in Almora, Ranikhet, Pithoragarh & Hardwar/Roorkee divisions. The Commission cautions the licensee that in future it should submit the information before the Commission only after being sure of its veracity. Considering these violations of the provisions of the Act/Regulation/Licence of serious nature, the Commission would warn licensee of the repercussions and nature of proceedings, the licensee can be subjected to and the relevant provisions of the Act and UERC (Conduct of Business) Regulations, 2004 are reproduced below:

Section 95 of the Electricity Act, 2003

"95. All proceedings before the Appropriate Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Appropriate Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973."

13(5) of UERC (Conduct of Business) Regulations, 2004:

"In accordance with section 193 of Penal Code, 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates evidence for the purpose of being used in any of the proceedings shall be punished with imprisonment for a term, which may extend to seven years and shall also be liable to fine."

14. **In the light of the above, the Commission hereby orders that:**

1. Managing Director, UPCL shall submit an explanation for not submitting the reply of the Notice within the stipulated time.
2. Since UPCL has failed to provide connections to the consumer within the time frame of 90 days required for releasing the connection under provisions of

regulation 6(1)(b) of UERC (Release of new LT Connections, Enhancement and Reduction of Loads) Regulations, 2007, and has been furnishing wrong information before the Commission for more than four years and these contravention of the provisions of the Act /Regulation/Licence conditions in the Commission's view is a serious offence on the part of the licensee. The Commission therefore decides to impose a penalty of Rs. 23,81,150.00 under section 43 (3) of the Electricity Act, 2003. Detailed working of the penalty is enclosed at **Annexure I**. The Commission directs UPCL to deposit the above penalty of Rs. 23,81,150.00 latest by 30.04.2013.

3. The above penalty does not include four sites namely Morepaturi (Almora) and Nagarjun, Kosajali and Tansalisain of Ranikhet division, where forest clearance was required for starting the works. The Commission taking a lenient view exempts UPCL from imposition of penalty against delay in release of connections at aforesaid sites. However, the Commission cautions the licensee not to obtain deposits for works before conducting surveys and obtaining clearances, if required.
 4. UPCL is required to take appropriate action against the errant officials for delay in connection and wrong reporting. Outcome be reported.
 5. UPCL is required to conduct investigation through an independent agency with regard to the Regulation 5(13) of UERC (Release of new LT Connections, Enhancement and Reduction of Loads), Regulations, 2007 and Regulation 5(15) of UERC (Release of New LT Connections, Enhancement and Reduction of Loads), Regulations, 2013 in all the distribution divisions within 90 days from the date of issuance of this order and submit the report before the Commission by 07.07.2013.
15. The compliance report of above directions from S.No. 1 to 4 is required to be submitted before the Commission latest by 30.04.2013.

(C.S. Sharma)
Member

(J.M. Lal)
Chairman

Penalty for the delays in release of new connections in the matter of BSNL's complaint dated 14.01.2013.

S.No.	Name of site	Division/District	Date of Application	Date of release	No. of days of delay	Amount deposited	Penalty*** Rs. per day	Total Penalty
1	Suinoli	Almora	28.03.2009	02.02.2013	1316	34000	340	447440.00
2	Kandey		23.06.2008	Not released till the date of hearing i.e. upto 27.02.2013	1620*	34000	340	550800.00
3	Gananath		05.09.2008		1546*	34000	340	525640.00
4	Bera	Pithoragarh	23.06.2008		1620*	34000	340	550800.00
5	Anneki Hetampur	Haridwar	2008**		1613*	19000	190	306470.00
						Total	1550	23,81,150.00

* Computed upto 27.02.2013

** The date of application assumed for Anneki Hetampur site as 01.07.2008, as the complainant has only mentioned the year in his complaint and UPCL has also not mentioned the date of application in its reply

*** The rate of penalty has been taken in accordance with the provision of regulation 5(12) of UERC (Release of new LT Connections, Enhancement and Reduction of Loads) Regulations, 2007.