

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Non-compliance of Commission's Order dated 02.04.2013 in the matter of delay in release of new connections to BSNL.

And

In the matter of:

Managing Director, Uttarakhand Power Corporation Ltd. (UPCL): Respondent

Coram

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

Date of Hearing : January 08, 2014

Date of Order: January 24, 2014

1. The Commission issued an Order dated 02.04.2013 in the matter of delay in release of new connections to BSNL directing UPCL to comply with the following:-

"14.1 Managing Director, UPCL shall submit an explanation for not submitting the reply of the Notice within the stipulated time.

14.2 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.

14.3 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.

14.4 UPCL is required to take appropriate action against the errant officials for delay in connection and wrong reporting. Outcome be reported.

14.5 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.

In the said Order, the distribution licensee, UPCL was directed to submit the compliance report on the directions mentioned above at para 14.1 to 14.4 of the Order by 30.04.2013 and compliance report on the directions mentioned in para 14.5 of the Order by 07.07.2013.

2. UPCL deposited the penalty and complied with the directions mentioned at para 14.1 to 14.3 of the Order and submitted the compliance report vide letter No. 1005/UPCL/RM/D-45 dated 26.04.2013. However, compliance report on para 14.4 of the Order was not submitted by the licensee by the stipulated date i.e. 30.04.2013.
3. On non-receipt of the compliance report on para 14.4, the Commission vide its letter No. 453 dated 19.06.2013 directed UPCL to submit the same by 01.07.2013. Meanwhile, UPCL vide its letter No. 1469/UPCL/RM/D-45 dated 26.06.2013 requested the Commission for time extension for submission of the compliance report on para 14.4 and 14.5 of the Order, forwarding the reason that UPCL's officers have been deputed for relief/recovery work in the natural calamity hit areas by GoU and, therefore, compliance of the said direction would be possible by 31.07.2013 and accordingly licensee sought extension of time for submission of compliance report.
4. Despite seeking the time extension upto 31.07.2013, UPCL did not submit the compliance report by the said date and further requested the Commission vide its letter No. 1745/UPCL/RM/D-45 dated 07.08.2013 to allow further time extension upto 15.09.2013. However, UPCL did not submit the compliance report even by this date.
5. The Commission has considered this act of licensee as *prima-facie* non-compliance of the Commission's directions and violation of license conditions and decided to initiate *suo-moto* proceedings in the matter and accordingly a show cause notice vide letter no. 972 dated 10.10.2013 was issued to licensee directing 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 of The Electricity Act, 2003 by 25.10.2013.
6. However, instead of submitting the reply by the stipulated date, MD, UPCL requested the Commission vide its letter No 2318 dated 23.10.2013 for time extension upto 20.11.2013. The Commission accepted the request of UPCL and time extension was allowed to MD, UPCL.

7. Thereafter, MD, UPCL submitted its reply under affidavit vide letter No. 2755 dated 20.11.2013 and the same is discussed in the following paragraphs.
8. MD, UPCL has submitted that “no official responsible for delay in release of the connections.” Taking cognizance of the said submission, the Commission has *prima-facie* found that MD, UPCL has vindicated the errant officials from the delay which has occurred in release of the new connections and has also absolved licensee’s field officers from their responsibility of submitting correct reports/information before the Commission. However, no reasons have been submitted by MD, UPCL for absolving its officers from wrong reporting. Infact, it appears that the issue of wrong reporting by the officers has been completely ignored by MD, UPCL.
9. Besides the above, for conducting the investigation through an independent agency in all the distribution divisions 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, the Commission has observed that MD, UPCL has sought almost one year time for completion of investigation. Such request forwarded by MD,UPCL after a gap of eight months from the date of issuance of the Order in this regard has been considered by the Commission as irrational and a ploy to avoid compliance to directions of this Commission. The Commission not being satisfied with the above submission of MD, UPCL decided to hold, a personal hearing of MD, UPCL on 08.01.2014 at 11:30 AM.
10. The hearing was held on the scheduled date and despite specific direction to appear personally before the Commission, MD, UPCL did not appear in person and also failed to seek any prior exemption for personal appearance from the Commission. The Commission expresses its displeasure over this act of MD, UPCL.
11. On behalf of MD, UPCL, Chief Engineer (Commercial), UPCL appeared before the Commission and submitted during the course of hearing that the inordinate

delay in releasing the connections were due to forest clearances/land disputes. Chief Engineer (Commercial) submitted that delay in releasing new connections in Ranikhet & Almora divisions were due to **unavailability of** forest clearances and in Pithoragarh & Haridwar divisions were due to land disputes and these were beyond licensee's control resulting delay in release of connections within the stipulated time frame in accordance with the Act/Regulation.

12. Further, Chief Engineer (Commercial), UPCL reiterated the written submission made by MD, UPCL with regard to investigation from independent agency, that the Expression of Interest (EoI) has already been invited in Garhwal Zone and 17 nos. EoIs have been received and evaluation of the same is under progress. However, he submitted that such investigation work of EDD-Kashipur and EDD-Rudrapur by independent agency has been completed while tendering process for other divisions of Kumaon Zone has been started. He further submitted that it will take almost one year to complete the entire exercise and UPCL will be in a position to submit the report in the matter for both the distribution zones by December 2014.
13. The Commission asked representative of UPCL about the reason for taking such long time in submission of reports and enquired about the time required by UPCL in hiring an independent agency and conducting the exercise of investigation to which Chief Engineer (Commercial), UPCL, replied that previously it had taken 7 to 8 months for conducting such exercise in 2 divisions namely Kashipur & Rudrapur and considering the fact that independent agencies as per para 12 has yet not been finalised which will take another 3 months in the total schedule of 1 year has submitted before the Commission for compliance of the direction in this regard. The Commission would like to point out that the investigation conducted in EDD-Kashipur and Rudrapur was in compliance of the Commission's direction issued in letter dated 26.12.2011 and subsequent Order dated 01.02.2013 [In the matter of Shri Virendra Kumar Sharma (MoM dated 24.08.2012)]. UPCL submission that investigation work of Kashipur & Rudrapur has been conducted under the direction issued vide Commission's Order dated 02.04.2013, the subject matter of these proceedings, is incorrect &

misplaced. Representative of UPCL is trying to circumvent the issues before the Commission by showing the aforesaid compliance as the compliance of the direction in the current proceedings which is actually compliance on the directions issued vide Commission's Order dated 01.02.2013 in some other matter as discussed above.

14. The Commission cautioned the licensee that the results of the two divisions in which investigation was carried out by an independent agency should be an eye opener for UPCL with regard to authenticity of new connection reports and penalty calculation thereof. UPCL must take concrete steps in analyzing/monitoring the new connection reports by the licensee's Headquarter before submitting the same to the Commission. The Commission also observed that UPCL has been adopting a very callous approach after deposition of charges for new connection and delays the release of new connection without justifiable reasons. Chief Engineer (Commercial), UPCL has submitted that instructions have been issued to various divisions that site conditions should be verified before accepting any deposit for new connections.
15. The Commission also enquired about the delay in release of new connection and asked whether any action against errant officers pertaining to this case have been taken by the licensee till now. In response, Chief Engineer (Commercial), UPCL submitted that concerned Superintending Engineers of the Circles have submitted their reports in this regard wherein no official has been found responsible for delay in release of connections and therefore, UPCL is facing difficulty in complying with the aforesaid direction issued by the Commission in the matter and has requested the Commission for exemption from the compliance of this direction.
16. The Commission further enquired about the wrong reporting issue that why the act of wrong reporting by the field officers has been overlooked by the MD, UPCL and why the errant officials are being sheltered by the licensee. In response to this, Chief Engineer (Commercial) accepted that wrong reporting in respect of new connection reports has been done by the field officials and appropriate

action will be taken against these officials responsible for the act. Further, Chief Engineer (Commercial) has assured the Commission that the compliance report in this regard will be submitted by 08.02.2014.

17. The Commission took a strong view on the wrong reporting done by the field officers of UPCL. The Commission is of the view that UPCL should develop a mechanism for initiating action against the defaulting officers in case of such occurrences in future.

18. In the light of above, the Commission hereby orders:

- (1) Managing Director, UPCL shall submit an explanation for not attending the hearing within 10 days of the Order. In absence of convincing reply from MD, UPCL the Commission may take further view for initiating appropriate action in accordance with the relevant provisions of the Act & Regulations.
- (2) UPCL is required to take appropriate action against the errant officials responsible for delay in release of new connection as well as for submitting wrong reports before the Commission in the matter. Licensee is directed to submit compliance report by 08.02.2014 in the matter.
- (3) UPCL is required to submit the 'Action Plan' for carrying out the investigation through an independent agency for the entire Kumaon and Garhwal Zone for FY 2012-13 within 15 days of the Order. UPCL is also required to submit the quarterly progress report within 15 days of the end of each quarter regarding the progress of the investigation.

(K.P. Singh)
Member

(C.S. Sharma)
Member

(Jag Mohan Lal)
Chairman