

## **Before**

### **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Non-compliance of UERC (Release of New HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008.

**And**

**In the matter of:**

M/s Gold Plus Glass Industry Limited, Thithola (Roorkee) : Petitioner

**Vs**

Uttarakhand Power Corporation Ltd. (UPCL)

Power Transmission Corporation of Uttarakhand Ltd. (PTCUL) : Respondent

### **Coram**

**Shri J.M. Lal**

**Chairman**

**Shri C.S. Sharma**

**Member**

**Shri K.P. Singh**

**Member**

**Date of Hearing : October 11, 2013**

**Date of Order: January 16, 2014**

1. The Commission received a complaint from Sh. Yogesh Tyagi, Manager (Public Relations), M/s Gold Plus Glass Industry Limited, Vill.-Thithola, Tehsil-Roorkee, Distt.- Haridwar stating that it had applied for 10.118 MVA connection from UPCL (distribution licensee) in the year 2008 and had deposited the requisite amount of ₹2,20,00,000.00 and ₹2,97,79,036.00 (total ₹5,17,79,036.00) for construction of 132 kV Manglore-Thithola Transmission line on 02.09.2008 and 15.10.2008 respectively in favour of PTCUL (transmission licensee).

2. The Commission vide its letter No. 120 & 121, both dated 25.04.2013 directed MD, UPCL and MD, PTCUL to submit the report, justifying the undue delay in the matter by 05.05.2013 in accordance with the provisions of the UERC (Release of New HT & EHT Connections, Enhancement and Reduction of Loads), Regulations, 2008.
3. In response to the above, UPCL vide its letter No. 1026 dated 12.06.2013 had forwarded the Commission's letter to MD, PTCUL and endorsed the copy to the Commission for information stating that the matter is related to PTCUL. Further, UPCL vide its another letter No. 1459 dated 25.06.2013 had submitted the point-wise report in the matter as follows:

1. मैसर्स गोल्ड प्लस ग्लास इंडस्ट्री लि०, ग्राम ठिठोला मंगलौर, रुड़की को एक नम्बर, 132 के०वी० बे तथा 132 के०वी० सर्विस लाईन मंगलौर 132 के०वी० उपसंस्थान पर निर्माण हेतु धनराशि रू० 5,17,79,036.00 (रू० 1,28,48,000.00 बे हेतु एवं रू० 3,89,31,036.00— लाईन निर्माण हेतु) उपमहाप्रबन्धक (परियोजना), पिटकुल, देहरादून के पत्र सं० 1834, दिनांक 30.08.2008 (संलग्नक-1) द्वारा प्रबन्ध निदेशक, पिटकुल के पक्ष में जमा करने हेतु पत्र निर्गत किया।
2. मैसर्स गोल्ड प्लस ग्लास इंडस्ट्री लि०, ग्राम ठिठोला मंगलौर, रुड़की द्वारा निम्न विवरण के अनुसार धनराशि पिटकुल में जमा करायी (संलग्नक-2)—  
अ— बैंक ड्राफ्ट संख्या— 681169, दिनांक 02.09.2008, रू० 2,20,00,000/—  
ब— बैंक ड्राफ्ट संख्या— 851146, दिनांक 15.10.2008, रू० 2,97,79,036/—
3. मैसर्स गोल्ड प्लस ग्लास इंडस्ट्री लि०, ग्राम ठिठोला मंगलौर, रुड़की की बे एवं विद्युत लाईन इत्यादि पिटकुल द्वारा निर्मित न कराये जाने के कारण उपभोक्ता मैसर्स गोल्ड प्लस ग्लास इंडस्ट्री लि०, ग्राम ठिठोला मंगलौर, रुड़की द्वारा माननीय उच्च न्यायालय, नैनीताल में याचिका संख्या— 2679/2011 दायर की थी, जिसमें अन्यों के साथ-साथ उत्तराखण्ड पावर कारपोरेशन लि० को भी पक्षकार बनाया गया था। उक्त प्रकरण वर्तमान में भी माननीय उच्च न्यायालय, नैनीताल में विचाराधीन है (संलग्नक-2)।
4. उपरोक्त के अतिरिक्त यह भी सूचनीय है कि वर्णित प्रकरण पावर ट्रांसमिशन कारपोरेशन ऑफ उत्तराखण्ड लि० से सम्बन्धित होने के कारण कारपोरेशन के कार्यालय पत्रांक— 1026/प्र०नि०/उपाकालि, दिनांक 12.06.2013 द्वारा पावर

*ट्रांसमिशन कारपोरेशन ऑफ उत्तराखण्ड लि० को आवश्यक कार्यवाही हेतु अग्रसारित कर दिया गया था। इस पत्र की प्रतिलिपि माननीय आयोग को भी दी गयी थी।"*

While, on non-receipt of the reply from PTCUL, the Commission vide its reminder No. 554 dated 09.07.2013 had directed MD, PTCUL to submit the desired report by 19.07.2013.

4. In response to the Commission's above directions, Chief Engineer (C&R), PTCUL vide its letter No. 628 dated 15.07.2013 had submitted that:

*"...the supply of M/s Gold Plus Glass Industry Ltd. at 132 KV Level was given on dated 10.11.2008 by alternative arrangement and continuing till date. As regards construction of 132 KV line and 132 KV bay, it is to intimate that 132 KV bay at Manglore Substation is complete and ready for energisation. The expenditure on this work till date is Rs. 89.96 Lakhs. It is further to intimate that there is severe right of way problem as the land owners are not allowing construction of this line in their fields. Till date the progress of line is as below:-*

1. *Material received at site Rs. 111.00 Lakhs.*
2. *Physical progress- 10 foundations out of 36 is completed and work is in Progress, M/s Gold Plus have been requested several times in the past to resolve the right of way with department but fruitful result is not coming as their supply is continuing.*

*It is also to intimate that the amount deposited by M/s Gold Plus Glass Industry Ltd. cannot be returned and no interest can be paid."*

5. The Regulations 4(8) & 4(10) of UERC (Release of New HT & EHT Connections, Enhancement and Reduction of Loads), Regulations, 2008 stipulates that:

*"4(8) Distribution licensee shall, within one month from date of receipt of application, study the feasibility of providing such connection including route survey for line and associated works and sanction the load. In case, works related to transmission licensee at 132 kV or 220 kV are required to be executed, the distribution licensee shall immediately intimate the transmission licensee for carrying out such study and take the estimate of*

works charges from it. The distribution licensee shall ensure that it informs the applicant, the estimated amount that is required to be deposited, in accordance with Table 1 given below, and the date by which the said amount is to be deposited within the said period of one month. The distribution licensee shall also indicate in the above communication, the approximate time frame for providing such connection, which shall not be more than that specified in these Regulations or tentative date indicated by consumer in his application, whichever is later.

**4(10)** All 132 kV and 220 kV works shall be executed by transmission licensee. Prior intimation, along with amount of estimated works charges deposited by applicant for such works, to the transmission licensee would be required to be given by the distribution licensee sufficiently in advance so as to meet the overall time frame laid down in these Regulations. For feeders emanating from its 132 kV/220 kV substations, the distribution licensee shall provide an appropriate metering cubicle at such 132 kV/220 kV substation. Transmission Licensee's responsibility shall be limited upto line side isolator of the feeder."

6. With regard to the time of completion of the works, Regulations 5(2) and 5(3) of UERC (Release of New HT & EHT Connections, Enhancement and Reduction of Loads), Regulations, 2008 stipulates that:

**“5(2)** In cases, where supply of electricity to premises applied for does not require commissioning of new substation/bay, the distribution licensee shall complete installation of HT/EHT works within the time specified below for different voltage levels from the date of deposition of amount by the applicant:-

<b>Sl. No.</b>	<b>Description</b>	<b>No. of Days</b>
(i)	11 kV works including line	
	(a) not involving independent feeder	60 days
	(b) involving independent feeder	90 days
(ii)	33 kV works including line	120 days
(iii)	132 kV and above works including line	180 days

**5(3)** *In cases, where supply of electricity to premises applied for requires Commissioning of a new sub-station/bay, the distribution licensee shall take up the work on the new sub-station/bay at its own cost and complete the work within the additional time specified below for different sub-stations:-*

<b>Sl. No.</b>	<b>Description</b>	<b>No. of Days</b>
(i)	<i>New 33/11 kV sub-station</i>	<i>180 days</i>
(ii)	<i>Augmentation of existing 33/11 kV sub-station</i>	<i>120 days</i>
(iii)	<i>Extension of bay at 33/11 kV sub-station</i>	<i>45 days</i>
(iv)	<i>132 kV and above sub-station</i>	<i>18 months</i>
(v)	<i>Extension of bay at 132 kV and above sub-station</i>	<i>90 days</i>

7. Further, the Commission's Regulations do not prohibit the licensee for taking necessary action in so far the right of way is concerned and from the submissions of PTCUL apparently it has been observed that transmission licensee has not acted in accordance with the provisions of 'The Works of Licensee Rules, 2006. The relevant rule 3(b) of these rules provides that:

*"3 (b) ...*

*Provided that in case where the owner or occupier of the building or land raises objections in respect of works to be carried out under this rule, the licensee shall obtain permission in writing from the District Magistrate or the Commissioner of Police or any other officer authorized by the State Government in this behalf, for carrying out the works."*

8. It is clear from the prevailing Regulations that while responsibility of constructing a 132 kV transmission line lies with the transmission licensee as the feasibility study for providing such connection including route survey for line and associated works are in the scope of transmission licensee, UPCL as a distribution licensee has to coordinate with transmission licensee for compliance of the regulation and in no case can absolve itself from its obligation to supply under the provisions of Regulations/Act by merely stating that the delay in the matter is attributable to the transmission licensee.

9. As per para 7 above, *prima facie* both UPCL and PTCUL failed to take necessary action in accordance with the provisions of the rules which has resulted in the abnormal delay in construction of the transmission line.
10. Taking cognizance of the above facts and violation of UERC (Release of new HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008 and non-compliance of the Commission's directions, the Commission initiated suo-moto proceedings for the same and issued a Notice to MD, UPCL to show cause and explain by 10.10.2013 as to why appropriate action be not taken against him in accordance with the section 142 of the Electricity Act, 2003. Another show cause notice was also issued to MD, PTCUL directing him to submit its reply by 10.10.2013 as to why appropriate action be not taken against him in accordance with the provisions of section 142 of Electricity Act, 2003. Further, in the matter, MD, UPCL & MD, PTCUL were directed to appear before the Commission on 11.10.2013 at 12:00 hrs.
11. MD, UPCL and MD, PTCUL had submitted their reply vide letter No. 2241/UPCL/RM/D-51 dated 10.10.2013 and letter No. 2728/MD/PTCUL/UERC dated 10.10.2013 on 10<sup>th</sup> October 2013 and 11<sup>th</sup> October 2013 respectively.

On scheduled date of hearing i.e. on 11.10.2013, Shri Yogesh Tyagi (Petitioner) and MD, UPCL & MD, PTCUL along with their officers (Respondents) were present. The Commission heard the parties and daily order was issued as follows:

*"PTCUL is directed to submit year wise details of expenses incurred out of ₹5.18 crore deposited by the petitioner in September, 2008 and also the manner in which balance amount has been utilized by it within 10 days of the date of Order."*

*"The petitioner is directed to co-ordinate with PTCUL regarding the issue of ROW and apprise the Commission of the discussions held with PTCUL and the future course of action within 10 days of the date of Order."*

12. In compliance with the direction issued in the daily Order dated 11.10.2013, MD, PTCUL vide its letter no. 2864 dated 25.10.2013 submitted year-wise expenditure details starting from 30.11.2008 to 19.10.2013.
13. However, M/s Gold Plus did not comply with the direction issued in the daily Order, for which M/s Gold Plus was directed to show cause and explain as to why appropriate penalty be not imposed on it, under section 142 of The electricity Act, 2003 for non-compliance of the Commission's Order on or before 11.11.2013.
14. In response to the above, M/s Gold Plus complied with the direction issued in the daily Order and apprised the Commission vide its letter dated 07.11.2013 that:
- "... मुख्य अभियन्ता, पिटकुल, रुड़की से पत्राचार व मौखिक रूप से वार्ता हो चुकी है। जिसमें उपभोक्ता द्वारा सभी विवादित ROW की डिटेल्स चाही गयी है जो कि उनके द्वारा आश्वस्त किया जा चुका है कि वह उनके द्वारा उपलब्ध करा दी जाएगी। एवं उपभोक्ता लगातार मुख्य अभियन्ता, पिटकुल, रुड़की से सम्पर्क में है।"*
15. The Commission took cognizance of the submission made by the transmission licensee that amount ₹5.17 crore was deposited by the applicant and out of this amount expenditure to the tune of around ₹2.00 crore had been incurred by the licensee so far, meaning, thereby, balance amount of approx. ₹3.00 crore still remains deposited with the transmission licensee (PTCUL). The Commission is of the view that as a commercial entity, the licensee had no legitimate right to hold the balance amount of ₹3.00 crore for over 5 years without allowing any interest.
16. Further, Regulation 5(2) & 5(3) UERC (Release of New HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2010 stipulates the time frame for complete installation of HT/EHT works & commissioning of a new sub-station/bay which in the present case is 270 days (180+90) in accordance with the Regulations. As per the submissions made before the Commission, an amount of ₹2.20 crore was deposited by the Petitioner on 08.09.2008 & ₹2.98 crore on 18.10.2008. Taking the last date of deposit, i.e. 18.10.2008, PTCUL was required to complete the work of installation of 132 kV line and commissioning of a new sub-station/bay by

15.07.2009. However, the work of erection of line and sub-station is still not completed and the Right of Way problem has been cited by PTCUL as the reason for its inability to complete the work within stipulated timeframe. Having accepted a total amount of ₹5.18 crore from the consumer, PTCUL has so far incurred ₹2.42 crore, thereby sitting over the balance amount of ₹2.76 crore for the past 5 years. This is totally unacceptable.

17. It has been generally observed that both in case of works to be executed by UPCL and PTCUL that without any pre-preparation funds required for these works are being got deposited from the consumers and then Right of Way problem is cited as an excuse for not executing these works for years. The licensees have not only been flouting the relevant provisions of regulation but are also helping themselves to undue financial gains. It is evident that proper route surveys and problems likely to be encountered are neither envisaged nor resolved before getting the funds deposited. In the order dated 02.04.2013 in the matter of inordinate delay in releasing connection to BSNL, the Commission has already directed that funds be got deposited only after proper route surveys and obtaining required clearances. The onus of obtaining required clearances including right of way in on the licensee and on this pretext they cannot delay execution of works for years. The licensees need to develop appropriate strategies on case to case basis and show definite improvement in the pace of work.
18. In light of the above the Commission hereby orders that:
  - (i) PTCUL should take urgent steps to complete this work and furnish quarterly progress report in this regard.
  - (ii) PTCUL shall calculate the interest at the Bank Rate on the amount lying unutilized with it and this interest would be for the period subsequent to the expiry of 270 days from the date of last deposit and upto the completion of the said work. However, the total interest shall be adjusted out of dues of the consumer or added to the refund to be made to the consumer based on the actual expenditure incurred on the completion of the work. The

Commission hereby directs PTCUL to submit compliance report within one month from the date of completion of the work.

(K.P. Singh)  
Member

(C.S. Sharma)  
Member

(J.M. Lal)  
Chairman