

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Application seeking approval for investment on the project for implementing Integrated Automatic Meter Reading (IAMR) System.

And

In the matter of:

Uttarakhand Power Corporation Ltd. (UPCL),

Urja Bhawan, Kanwali Road, Dehradun

... Petitioner

Coram

Shri J.M. Lal

Chairman

Shri C.S. Sharma

Member

Shri K.P. Singh

Member

Date of Hearing: January 24, 2014

Date of Order: February 28, 2014

The Commission received an application on 27.09.2013 from UPCL (distribution licensee) bearing No. 7695 dated 26.09.2013 seeking investment approval for the project of implementation of Integrated Automatic Meter Reading System for 11000 nos. consumers having load of 5 KW & above in Industrial Category and 10 KW and above in Commercial Category.

2. On preliminary examination of the aforesaid application for admissibility, the Commission observed certain anomalies/deficiencies and vide Commission's letter No. 989 dated 14.10.2013 directed the licensee to submit justifications/clarifications on the observations made, specifically on execution of bidding process, i.e. e-tender invited on 13.08.2012, financial bid of the same opened on 03.05.2013 and application seeking investment approval filed before the Commission on 27.09.2013. UPCL was also directed to explain why prior approval of the Commission for the proposed investment in accordance with Regulation 53 of UERC (Conduct of Business) Regulations, 2004 and clause 11 of the Licence conditions was not sought.

3. In response to the above, the licensee in its reply dated 13.11.2013 submitted that:

"...Investment approval was sent to Hon'ble UERC after finalization of expenditure amount for implementing Integrated Automatic Meter Reading System on 11000 nos Consumers, so that investment approval of actual expenditure may be obtained."

4. The Commission found the reply forwarded by the licensee as not tenable and the Commission was of the view that the reasons including action thereof undertaken by the licensee amounts to non-adherence to the provisions of Regulation/Act. Therefore, the Commission vide letter No. 1263 dated 16.12.2013 again directed the licensee to submit reply for such contravention of the provisions of Regulations and Licence conditions in the matter.

5. In response to the above, the distribution licensee vide its letter no. 3033 dated 03.01.2014 submitted that:

"UPCL has proposed the work of implementation of AMR in FY 2013-14, 2014-15, 2015-16 estimating Rs. 9.79 Crore at item no A- 9 "Capital Expenditure" of Business Plan, approved by Hon'ble commission for Rs. 360.47 crore for each year of the control period. Further Hon'ble commission also directed to submit detail project report of this work for investment approval, which was submitted by UPCL to Hon'ble commission vide letter no. 7695/UPCL/IAMR-12-13 dated 26/09/2013."

In anticipation of approval and to expedite the tender process UPCL invited tender for AMR implementation before getting investment approval as per license condition. Hence UPCL request for relaxation in this case and assure that all the provisions of CBR shall be strictly complied in future."

6. The Commission was not satisfied with the above submission of the licensee and reminded that with regard to the approval of the schemes proposed in the Business Plan, it had already issued direction in UPCL's Tariff Order dated 06.05.2013, which stipulates that:

"The Commission directs the Petitioner to submit the Detailed Project Reports (DPRs) for the Capital Expenditure Schemes proposed during the Control Period by June 30, 2013."

7. Further, on admissibility of the aforesaid application, the Commission decided to hear UPCL in the matter under the provision of Regulation 14(9) of the UERC (Conduct of Business) Regulations, 2004 and fixed the date of hearing on 24.01.2014 at 12:30 hrs.
8. On the scheduled date of hearing, Director (Finance), UPCL, Chief Engineer (Commercial), UPCL alongwith other officers were present.
9. The Commission heard the representative of licensee i.e. Chief Engineer (Commercial), UPCL in the matter and asked him to submit if any other reasons were there in addition to the submissions already made before the Commission. Chief Engineer (Commercial) submitted that the bidding process was initiated prior to the approval of the Commission in order to save the time in execution and timely completion of the project.

Commission's View

10. The Commission was not convinced with the submission of Chief Engineer (Commercial), the licensee's representative and reminded him the status of provision of the Regulations and Licence conditions. Further, the Commission was of the view that filing of the application after more than a year from the date of inviting E-Tender and after more than 04 months from the date of opening of the financial bid for seeking approval for the investment by the

licensee, is a clear contravention of the Regulations and Licence Conditions narrated hereunder:-

- (i) Regulation 17(7) of UERC (Terms and Conditions for Determination of Tariff) Regulations, 2011 specifies as under:

“The Transmission Licensee or Distribution Licensees or SLDC are required to file petition for ‘in-principle’ approval of all projects/schemes whose capital cost is more than Rs. 2.5 Crs in a manner specified in Regulation 23:

Provided that where the Commission has given an ‘in-principle’ acceptance to the estimated capital cost and financing plan, it shall act as a guiding factor for applying prudence check on the actual capital expenditure.”

Further, Regulation 23(2) UERC (Terms and Conditions for Determination of Tariff) Regulations, 2011 provides that:

“Any licensee intending to establish, operate and maintain or augment capacity of a transmission system or distribution system or SLDC shall file an application/petition under affidavit to the Commission in accordance with UERC (Conduct of Business) Regulations, 2004 for ‘in principle’ approval of the project capital cost and financing plan before taking up a project. ...”

Accordingly, as per above referred Regulations, UPCL was required to file a separate petition for seeking investment approval.

- (ii) Regulation 53(1) of UERC (Conduct of Business) Regulations, 2004 clearly stipulates that *“Unless otherwise directed by the Commission, every licensee shall obtain **prior approval of the Commission** for making investment in the licensed business if such investment is above the limits laid down by the Commission in the Licence Conditions.”*
- (iii) Clause 11.3 of the Licence condition stipulates that *“The Licensee shall make an application to the Commission for obtaining **prior approval of the Commission** for schemes involving major investments as per the procedure which the Commission may specify from time to time and demonstrate to the satisfaction of the Commission...”*

The reason advanced for not adhering to these provisions of assessing actual cost is not valid and cannot be accepted for any relaxation in these binding and statutory provisions. The Commission therefore, holds that this petition is not maintainable and, accordingly, decides to close this petition.

Ordered accordingly.

(K.P. Singh)
Member

(C.S. Sharma)
Member

(Jag Mohan Lal)
Chairman