

## **Before**

### **UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**In the matter of:**

Notice under Section 142 of the Electricity Act, 2003 in the matter of Non-compliance of Commission's Directions.

**And**

**In the matter of:**

Non-compliance of the Orders of Consumer Grievance Redressal Forums (CGRF)

**In the matter of:**

Uttarakhand Power Corporation Limited (UPCL), Urja Bhawan, Kanwali Road, Dehradun

### **Coram**

<b>Shri J.M. Lal</b>	<b>Chairman</b>
<b>Shri C.S. Sharma</b>	<b>Member</b>
<b>Shri K.P. Singh</b>	<b>Member</b>

**Date of Hearing: January 24, 2014**

**Date of Order: March 10, 2014**

The Commission took cognizance of violation of Regulation 3(24) and 3(27) of UERC (Guidelines for Appointment of Members and Procedure to be Followed the Forum for Redressal of Grievances of the Consumers) Regulations, 2007 and initiated a suo-moto proceeding against UPCL under section 142 of the Electricity Act, 2003 in the matter of complaint of non-compliance of CGRF (Kumaon Zone)'s Order dated 05.10.2012 with regard to the billing dispute of

Sh. Chaan Singh Jeena. Subsequently, the Commission issued an Order dated 14.06.2013 directing UPCL that:

*“Managing Director, UPCL shall review the compliances of all the cases, on which Forum has issued the orders and ensure the compliances pending at different levels in UPCL. The compliance report on the above shall be submitted to the Commission within 30 days of issuance of this Order.”*

2. Instead of complying with the direction of the said Order in 30 days, i.e. by 13.07.2013, UPCL vide its letter No.1559 dated 11.07.2013, sought time extension upto August 2013 for submitting detailed report. However, UPCL failed to submit the compliance report in the matter even after the above time extension. A reminder vide reference No. 809 dated 05.09.2013 was issued to UPCL directing it to submit the compliance report latest by 16.09.2013.
3. Meanwhile, UPCL submitted its reply vide letter No. 1909 dated 02.09.2013. On examination of UPCL’s submission, it was observed that *prima-facie* there had been violation of Regulations/directions of the Commission in ensuring the compliances. The observations of the Commission were forwarded to UPCL vide letter No. 892 dated 19.09.2013 directing it to ensure compliance of the CGRF Orders, Commission’s Order dated 14.06.2013 as well as relevant provisions of the Regulations and submit the final compliance report in the matter latest by 19.10.2013. The Commission’s observations, in the matter were as follows:-

*“ 1. UPCL has submitted the status of compliances from 01.01.2013 onwards, however, status about the compliances on the forums’ Orders issued before 01.01.2013 has not been reported. While, the Commission in its above Order had clearly directed to review the compliances of all the pending cases and submit the compliance report.*

2. *Compliances on 35 cases in Garhwal Zone and 15 cases in Kumaon Zone are pending beyond the period specified for the compliances in the Regulations.*
3. *In addition to the above pending cases, 14 more cases have not been complied with by UPCL stating the reason that compliance/appeal period is not over. Kindly state the compliance/appeal period for each pending compliance.*
4. *In one case namely-Sh. Gopal Dutt Joshi, status has not been submitted."*
5. However, UPCL, failed to submit the compliance report in the matter by the stipulated date, i.e. 19.10.2013, hence, the Commission issued a Reminder vide reference No. 1039 dated 25.10.2013 directing UPCL to submit the compliance report latest by 15.11.2013.
6. In the meantime, the Commission received a letter no. 635 dated 19.11.2013 (Regarding: Case no. 530/2012 , Sh. Gopal Dutt Joshi, Khanchand Market, Haldwani) & letter no. 640 dated 22.11.2013 (Regarding : Case no. 376/2012 , M/s KLA Food, Kiccha Road, Haldwani) from Member (Judicial), CGRF (Kumaon Zone) submitting that Divisional Offices of UPCL were neither complying with the direction of the Forum nor submitting the compliance report to the Forum despite filing the Miscellaneous Petition for compliance. In its letter, Member (Judicial) also submitted that the non-compliance of the Forum's Orders were continued even after informing Managing Director, UPCL.
7. Besides the above cases, it had also come to the notice of the Commission through various letters/complaints that UPCL was not complying with the Orders of the Forum issued in the following cases:
  - (i) Case No.-383/2012 (Sh. Govind Singh Bisht, Haldwani)
  - (ii) Case No.-491/2012 (Smt. Jaswinder Kaur, Kashipur)
  - (iii) Case No.-11/2013 (Sh. Jagdish Chandra Jatav)
  - (iv) Case No.-20/2013 (Sh. Kishan Ram, Haldwani)

Regarding the above cases the Commission vide its letter No. 590 dated 16.07.2013 & letter No. 622 dated 22.07.2013 forwarded the complaints to UPCL for submitting its comments and factual position in the matters latest by 05.08.2013.

8. However, UPCL again failed to submit the comments/factual position in the matter by the stipulated date, therefore, the Commission initiated *suo-moto* proceedings under Section 142 of The Electricity Act, 2003 for continued non-compliance in the matter and issued a Show Cause Notice to UPCL vide reference No. 999 dated 15.10.2013 directing it to submit the reply under affidavit, latest by 30.10.2013.
9. In response, UPCL sought time extension upto 15.11.2013 vide letter No. 2370/CE(Com)/UERC dated 29.10.2013 for submission of reply against the Show Cause Notice dated 15.10.2013 stating the reason that the information in the matters was awaited from the field units.
10. In the meantime, in response to the Commission's letter No. 590 dated 16.07.2013 & 622 dated 22.07.2013, UPCL had submitted its replies vide its letter no. 2721 & 2726 both dated 14.11.2013 on the cases stated in para 7 above. However, UPCL neither submitted the reply to the Show Cause Notice dated 15.10.2013 nor sought any time extension by the stipulated date i.e. 15.11.2013.
11. Further, on 03.12.2013, i.e. after a lapse of 18 days, UPCL had replied to the Show Cause Notice vide letter no. 2814 dated 03.12.2013, submitting that:

“ ...

14. *That from the aforesaid it is apparent that in the cases either the compliance was done by the concerned division or in the alternative, remedy in the higher court was sought by challenging the Order of the CGRF, but as the information could not reach the Corporate office in time, the report as per the directions of the Hon'ble Commission could*

*not be submitted in the Hon'ble Commission in time, the official of UPCL kept on sending the reminders to obtain the desired information and bonafidely believed that as and when the information would arrive the same would be sent to the Hon'ble Commission. That the Corporation is serious regarding these issue and to curb such future occurrence has already initiated step as has been mentioned above.*

15. *...The Circumstances leading to delay in compliance is beyond the control of the Company but the Company is to the best of its ability is trying to comply with the directions in time. The delay caused in compliance is most bonafide and genuine and is liable to be condoned, it is further requested to the Hon'ble Commission to consider the difficulties of the UPCL most sympathetically."*
12. However, the Commission did not find the above submissions of UPCL satisfactory and observed that despite giving ample opportunity, the licensee had neither complied with directions issued in the Order dated 14.06.2013 nor had taken any steps towards the compliance of the CGRF Orders and relevant provisions of UERC (Guidelines for appointment of Members and Procedure to be followed by the Forum for Redressal of Grievances of the consumers) Regulation, 2007 with amendments issued from time to time.
13. Thus, the Commission took cognizance of this of act of licensee as non-compliance of the Commission's Order and violation of relevant provisions of the Act/Regulations and had decided to initiate *suo-moto* proceeding in the matter and issued a Show Cause Notice to MD, UPCL vide letter No. 1285 dated 20.12.2013, directing it 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 for non-compliance of the Commission's direction. MD, UPCL was required to submit the reply to this show cause notice under affidavit

- before the Commission latest by 10.01.2014 and was directed to appear before the Commission on 24.01.2014 at 12:00 Hrs.
14. Meanwhile, Chief Engineer (Commercial), UPCL vide its letter No. 3004/UPCL/COMM/UERC dated 30.12.2013 submitted compliance status in the matter discussed in the Commission's letter No. 892 dated 19.09.2013 with regard to compliance status of the direction issued by the Commission in its Order dated 14.06.2013.
  15. Further, UPCL sought time extension for submission of the reply to the Show Cause Notice upto 20.01.2014, which was allowed by the Commission and communicated to UPCL vide Commission's letter No. 1393 dated 16.01.2014. Thereafter, MD, UPCL submitted its reply to the Show Cause Notice vide letter No. 95/UPCL/RM/D-47 dated 21.01.2014.
  16. The hearing was held on the scheduled date and time. During the hearing Chief Engineer (Commercial), UPCL represented MD, UPCL and reiterated the submission dated 21.01.2014 of UPCL. Further Chief Engineer (Commercial), UPCL also submitted that UPCL had put in place a system to review the compliance of all cases on which CGRFs have issued Orders and compliance of case no. 530/2012, 376/2012, 383/2012, 491/2012, 11/2013 & 20/2013 had already been submitted to the Commission.
  17. To this, the Commission enquired about the time limit allowed to UPCL for compliance of the Orders of CGRFs. In response, Chief Engineer (Commercial), UPCL submitted that normally the compliance is to be ensured within 30 days of the CGRFs order, however, the Forums may direct the time limit for compliance on case to case basis.
  18. Further, during the hearing, the Commission pointed out that the compliance report submitted by UPCL was not containing the information pertaining to date of compliance. In response, Senior Law Officer Shri Mahendra Kumar assured

the Commission that in future all the Orders of the Forums would be complied within the time limit stipulated in the Regulations/Forums' Orders and henceforth the compliance report would be submitted before the Commission with the date of compliance.

**Commission's View:**

19. From the submission of UPCL, the Commission has observed that:
- (1) UPCL has not complied with the directions issued in the Order dated 14.06.2013 in totality as it has submitted the information only from 01.01.2013 to 23.08.2013 and not even commented on the compliances of Forums' Order pending before 01.01.2013.
  - (2) UPCL has not submitted the information whether the compliance reports submitted to the respective Forums in accordance with the provision of Regulation 3(25) of UERC (Guidelines for Appointment of Members and Procedure to be followed by the Forums for Redressal of Grievances of Consumers) Regulations, 2007 and subsequent amendments from time to time, with regard to case No 530/2012, 376/2012, 383/2012 and 491/2012 of Kumaon Zone. The Regulation 3(25) mentioned above provides that:

*"The Forum shall specify the period for compliance by Distribution Licensee or the consumer as the case may be. Normally this period should be 30 days. In case, compliance of the Order involves major work/scope to be done, this period of 30 days may be extended with the reasons to be recorded in writing. The Distribution Licensee and the applicant shall comply with the order diligently and within the timeframe as specified in the Order and report compliance to Forum within 7 days of the implementation of the order. In case of delay in compliance beyond the time limit stipulated by the Forum in its order, the applicant or the Distribution Licensee as the case*

*may be, shall file the reasons for delay on its part within 7 days of the stipulated date and give the likely date by which compliance shall be made."*

- (3) UPCL has mentioned that 'date of judgment' of the Forum in the compliance status, however, it has not mentioned the 'date of compliance' in the same due to which the actual time taken by the licensee in complying the Orders cannot be ascertained.
- (4) UPCL has mentioned the status of compliance as 'under process in 3 cases in the compliance report, while the date of judgments were 30.01.2013, 24.06.2013 and 06.10.2013. From the report, it is not clear that what time frames have been allowed by the Forum to comply with the Order. As per Regulation 3(25), the compliance period is 30 days in general.
- (5) The Commission has observed that UPCL is neither complying the Forums Order within the stipulated time frame nor submitting the compliance report to the respective Forums even after implementation of the Orders, while, the Regulation 3(25) above clearly provides that the compliance of the Forums Order has to be reported to the Forums within 7 days of the implementation of the Order.
- (6) Further, the Commission expressed its deep displeasure towards licensee's lackadaisical approach in compliance of the Commission's directions, for which the Commission has been condemning the licensee in past.

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

- (1) UPCL is required to comply with the Forums' Orders within 30 days from the date of the Orders, unless specified in the Orders, and submit the compliance of implementation of the Orders to the respective Forums within 7 days from the date of compliance.



- (2) Managing Director, UPCL shall review the compliances of all the cases on which Forums have issued the orders during FY 2011-12, FY 2012-13 and FY 2013-14, and ensure the compliances pending at different levels in UPCL. The compliance report on the above shall be submitted to the Commission within 30 days of issuance of this Order.
- (3) Shri Mahendra Kumar, Sr. Law Officer, UPCL shall personally monitor the progress of compliances of the Orders of the Forums and shall incorporate the date of compliance of each case in future correspondences/compliance reports. Failing which he shall be held responsible personally for any punitive action under the provisions of Regulations/Act.

**(K.P. Singh)**  
Member

**(C.S. Sharma)**  
Member

**(Jag Mohan Lal)**  
Chairman