

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Application for seeking review/reconsideration on the Commission's Order dated 28.02.2014 issued in the matter of approval of Investment in the project for implementing Integrated Automatic Meter Reading System on 11000 nos. consumers.

And

In the matter of:

MD, Uttarakhand Power Corporation Limited (UPCL), ...Petitioner
Victoria Cross Vijeta Gabar Singh Bhawan, Kanwali Road, Dehradun

Coram

Shri C.S. Sharma	Member-Chairman
Shri K.P. Singh	Member

Date of Hearing: May 15, 2014

Date of Order: May 16, 2014

1. The Commission received an Application from UPCL (Petitioner) in the matter of approval for investment on the project for implementing Integrated Automatic Meter Reading (IAMR) System vide letter No. 806/UPCL/Com/IAMR/MD dated 07.04.2014 seeking review/ reconsideration on the Commission's Order dated 28.02.2014, through which the matter was decided and held that:

"...The Commission therefore, holds that this petition is not maintainable and, accordingly, decides to close this petition."

2. UPCL in its Application has submitted that:

"1. The Petitioner had filed an application bearing reference No. 7695/UPCL dated 26.09.2013 before the Hon'ble Commission seeking approval for Investment on the project for implementing Integrated Automatic Meter Reading System on 11000 nos. consumers."

2. *Hon'ble Commission passed an Order in the matter on 28.02.2014 and held that the prior approval was required in the matter as per regulation but the petitioner filed the application for approval more than four months from the date of opening of financial bid. Hon'ble Commission on this ground hold that the petition is not maintainable and decided to close the petition.*
 3. *Petitioner submitted before Hon'ble Commission that delay was occurred for seeking investment approval in the matter for which petitioner seeks apology and request Hon'ble Commission to condone the delay. Petitioner undertakes that in future all approvals shall be applied within time as per regulations.*
 4. *As the project has already been initiated by Petitioner and REC has sanctioned the loan, the stoppage at this stage of the project will cause financial loss to UPCL. Further, Petitioner shall be deprived of the benefits to be derived from this project of most tested & trusted strategic activity of AT&C loss reduction, which is paying dividends wherein AMR has been done."*
3. UPCL, in the above Application, has requested the Commission for granting the relief as:
- "A) That the Order dated 28.02.2014 be reconsidered/reviewed.*
 - B) That any other or further relief be granted to the applicant which the Hon'ble Commission finds the applicant entitled too. "*
4. On preliminary examination, the Commission decided to hold a motion hearing for admissibility of the application and fixed a date of hearing on 15.05.2014 at 12:00 hrs. and accordingly notice for hearing was issued to MD, UPCL vide letter No. UERC/5/Tech/Misc. Appl. No. 18 of 2014/2014-15/198 dated 29.04.2014 directing it to appear before the Commission on schedule date and time.
 5. The hearing was held on scheduled date i.e. on 15.05.2014. During the hearing, Chief Engineer (Commercial), UPCL represented the licensee on behalf of MD, UPCL and reiterated the submission of UPCL made before the Commission vide letter no. 806 dated 07.04.2014.
 6. The Commission pointed out that the powers for reviewing the decision, directions and orders under Section 94(1)(f) of the Electricity Act, 2003, are same as are vested in a civil court under the Code of Civil Procedure (CPC), 1908 (5 of 1908). Any application for review of judgment has to necessarily fulfill the

requirement of Section 114 and Order XLVII, Rule-1 of CPC. In accordance with the said provisions, the specific ground on which review can be made are:

- (i) If there is a discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge or could not be earlier produced.
 - (ii) If there are mistakes or errors apparent on the face of the record; and
 - (iii) If there exists other sufficient reasons.
7. The Commission enquired from the Petitioner about the grounds of the review/reconsideration and asked to elaborate the same with respect to the grounds for review mentioned above.
 8. The Petitioner accepted that apparently there is no discovery of new and important matter or evidence and mistake or error apparent on the face of record. However, the review of the Order has been sought on the grounds under '*other sufficient reasons*' as the project is a trusted strategic activity for AT&C loss reduction and REC has sanctioned the loan. The Petitioner further submitted that stoppage at this stage of the project will cause financial loss to UPCL and it will be deprived of the benefit to be derived from the project.
 9. The Commission is of the view that the '*other sufficient reasons*' stated in the provisions are supplementary to the grounds stated at 6(i) & 6(ii) above, take colour therefrom and cannot be considered independently.
 10. UPCL accepted that the matter was overlooked at their end due to which, it could not file the application for the investment approval suitably in advance in accordance with the provisions of Regulations.
 11. In light of the above, the Commission observed that the grounds, brought before it for review, are not sufficient and sustainable and hence holds that the review Petition is not maintainable and accordingly decides to reject it.

Ordered accordingly.

(K.P. Singh)
Member

(C.S. Sharma)
Member-Chairman