

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of

Notice issued to MD, UPCL under Section 142 of the Electricity Act, 2003 in the matter of non-compliance of the Commission's Order dated 24.06.2014 on the Review Petition filed by UPCL on Commission's Order dated 05.05.2014 on the application seeking approval of releasing additional 6 MVA load (Total of 20 MVA) on supply voltage of 33 kV to M/s Birla Tyres, Unit-II, Khedimubarakpur, Laksar, Haridwar.

And

In the matter of:

Managing Director, Uttarakhand Power Corporation Limited (UPCL) Respondent

CORAM

Shri C.S. Sharma Member-Chairman

Shri K.P. Singh Member

Date of Hearing: September 02, 2014

Date of Order: September 09, 2014

ORDER

A Show Cause Notice was issued to MD, UPCL under Section 142 of the Electricity Act, 2003 in the matter of non-compliance of the Commission's Order dated 24.06.2014 passed on the Review Petition filed by UPCL against Commission's Order dated 05.05.2014 on the application seeking approval of releasing additional 6 MVA load (Total of 20 MVA) on supply voltage of 33 kV to M/s Birla Tyres, Unit-II, Khedimubarakpur, Laksar, Haridwar.

I. Background

1. A Petition was filed by M/s Birla Tyres seeking approval for release of additional 6 MVA load (Total load of 20 MVA) at 33 kV supply voltage. In its Petition M/s Birla Tyres had submitted that it was having a sanctioned load of 20 MVA and against the same initially a load of 10 MVA was released to it at 33 kV supply voltage as the 132 kV line was under construction. However, considering the delay in construction of 132 kV line, the Commission allowed to release four (4) MVA load on the existing 33 kV line vide Order dated 08.04.2010 as a stop gap arrangement, pending completion of the requisite 132 kV line and associated works. As the erection of 132 kV line could not take place even after a lapse of more than three years, M/s Birla Tyres approached the Commission to direct UPCL to release additional 6 MVA load (Total 20 MVA) on 33 kV supply voltage till 132 kV line is ready.

Infact the Commission in its Order dated 08.07.2014 in this regard had held as under:

"...Regulation 5(2) & 5(3) of UERC (Release of new HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008 specifies 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) from the date of deposition of requisite amount by the consumer. Considering the date of deposit, i.e. 03.06.2009, the Respondent No. 2 (PTCUL) was required to complete the work of installation of 132 kV line and commissioning of a new sub-station/bay by 28.02.2010. However, the work of erection of line and sub-station is still not complete and the Right of Way problem has been cited by Respondent No. 2 (PTCUL) as the reason for its inability to complete the work within the stipulated timeframe."

2. The Commission decided to hear the matter on 23.04.2014, which was further posted to 05.05.2014 on the request of UPCL. The hearing was held on the said date and the Commission issued an Order dated 05.05.2014 directing UPCL to release a load of 4 MVA in addition to the contracted load of 14 MVA. The relevant portion of the Order is reproduced hereunder:

“The Commission allows now release of 4 MVA load in addition to the contracted load of 14 MVA (Now Total 18 MVA) from the existing 33 kV line supplying to the consumer till completion of the pending 132 kV works and directs Respondent No. 1 namely- UPCL to conduct a meeting with the Petitioner within 15 days from the date of this Order and chalk out an Action Plan for carrying out the required modifications in the existing 33 kV line/system for releasing additional load of 02 MVA through this 33 kV line considering the compliances of safety rules and submit a report to the Commission latest by 26.05.2014.”

3. UPCL filed a Review Petition on the Commission’s Order dated 05.05.2014. The Commission decided to hold a hearing for admission of the said review Petition on 24.06.2014. The hearing was held on the scheduled date 24.06.2014 and during the hearing, the representatives of UPCL sought adjournment and it was mentioned that compliance of the Order dated 05.05.2014 was not yet made. The Commission allowed the adjournment and posted the hearing for 01.07.2014. The Commission took cognizance of this non-compliance and issued an Order dated 24.06.2014 directing MD, UPCL to *“...comply with the said order immediately and report compliance of the order on affidavit to the Commission on or before 30.06.2014. Non-compliance of the Order will render the Managing Director of licensee liable for appropriate punitive action under Section 142 of the Electricity Act, 2003.”*
4. Further, the scheduled hearing on review Petition was held on 01.07.2014, the Commission heard the Petitioner & Respondent and issued an Order dated 08.07.2014. Alongwith other directions in the Order, the Commission directed its staff to issue a show cause notice to MD, UPCL under Section 142 of the Electricity Act, 2003 for non-compliance of the Commission’s Order dated 24.06.2014.
5. Accordingly, show cause notice dated 16.07.2014 was issued to MD, UPCL, to submit its reply by 30.07.2014 and thereafter, to personally appear before the Commission on 12.08.2014. Meanwhile, MD, UPCL submitted a reply dated 30.07.2014, vide which adjournment was sought for 30 days. On the scheduled date of hearing i.e. 12.08.2014, MD, UPCL remained absent during the hearing. The Commission issued an Order dated 12.08.2014, in which the Commission did not consider MD, UPCL’s request of adjournment and directed him to indicate any two dates by 19.08.2014 convenient to him for personal appearance before the Commission. The Commission in the said Order

had also specifically held that: "In case MD, UPCL again absents on the scheduled date of hearing, the matter would be decided by the Commission ex-parte."

6. In compliance to the above Order, a reply was received on 20.08.2014 from MD, UPCL, requesting the Commission that he may appear before the Commission on 02.09.2014 or 03.09.2014, in case there are no emergency calls from higher-ups. Accordingly, the Commission fixed the date of hearing as 02.09.2014 and issued Notice to MD, UPCL intimating the date of hearing fixed on 02.09.2014 giving him the second opportunity to explain as to why penalty be not imposed on him for non-compliance of orders of the Commission.
7. Earlier, the Commission vide its Order dated 21.08.2014 in the matter of Notice issued to MD, UPCL under Section 43(3) of the Electricity Act, 2003 for violation of the provisions of Section 43(1) of the Electricity Act, 2003 in pursuance to the Commission's Order dated 08.07.2014 on the review Petition filed by UPCL on Commission's Order dated 05.05.2014 on the Application seeking approval of releasing additional 6 MVA load (Total of 20 MVA) on Supply Voltage of 33 kV to M/s Birla Tyres , Unit-2, Hardwar had directed that:-

"

1. MD, UPCL to ensure release of 4 MVA load in addition to the contracted load of 14 MVA (Total 18 MVA) from the existing 33 kV line supplying to the consumer till completion of the pending 132 kV works w.e.f. May 05, 2014 in accordance with the Commission's order dated May 05, 2014.
 2. MD, UPCL is also directed to ensure release of additional 02 MVA load by 01.11.2014 thereby releasing entire 20 MVA load already sanctioned by UPCL, through this 33 kV line after carrying out the required modifications in the existing 33 kV line/system, if any, and duly considering the compliances of safety rules or by completing construction of the 132 kV line. Non-compliance of the above direction would attract a penalty of Rs. 500/- per day thereafter."
8. The hearing was held on the scheduled date i.e. 02.09.2014, however, despite giving him second opportunity, MD, UPCL did not appear before the Commission.
 9. Meanwhile, two letters bearing reference No. 1908 and 1909 dated 01.09.2014 were received from UPCL to the Commission regarding the request for condone the absence

of MD, UPCL and reporting of compliance of the Commission's Order dated 05.05.2014 in the matter, respectively. UPCL in its letter 1909 dated 01.09.2014 has submitted that: "... UPCL has released 04 MVA load (Total of 18 MVA) from the existing 33 kV line to M/s Birla Tyres, Unit-2 on dated 30.08.2014. Further UPCL is in the process and under discussion with M/s Birla Tyres, Unit-II, Laksar for the release of additional 02 MVA load."

II. Commissions View & Decisions

10. Based on the chronology discussed above, it is clear that inspite of giving sufficient opportunities to the Petitioner to present his case before the Commission and even after fixing date of hearing as suggested by him MD, UPCL repeatedly failed to appear before the Commission to explain as to why action should not be taken against him for non-compliance of the directions of the Commission u/s 142 of the Electricity Act, 2003. The Commission decides to dispose off the matter ex-parte.
11. Further, the Commissions also took cognizance of the compliances as reported by UPCL, discussed in para 9 above and is of the view that the Order dated 05.05.2014 is required to be implemented from the date of the Order and not from any subsequent date. The submission made by UPCL that it has released 4 MVA load (Total 18 MVA) from the existing 33 kV line to M/s Birla Tyres, Unit-2 on 30.08.2014 cannot be taken as compliance of the order as the licensee was to release such additional load w.e.f. 05.05.2014, i.e. date of the said Order. Further, despite several directions in the matter issued to MD, UPCL, as already discussed in the Order, to release additional load to the consumer within the stipulated timeframe, MD, UPCL failed to ensure the compliance of the directions of the Commission and also failed to appear before the Commission. Accordingly, the Commission decides it to be a fit case to impose a token penalty of Rs. 10,000/- on MD, UPCL under Section 142 of the Electricity Act, 2003.
12. Earlier, the Commission in its Order dated 24.06.2014 in the matter had directed MD, UPCL to report the compliance of the Order on affidavit, however, UPCL has simply made a submission through the aforesaid letter, which exhibits the lackadaisical approach of UPCL towards the compliances of the directions/orders of the Commission.

13. In light of the above, it is ordered that:-

- (1) MD, UPCL to deposit the penalty of Rs. 10,000/- imposed on him under Section 142 of the Act within 15 days of the date of order.
- (2) The directions issued by the Commission vide its Order dated 05.05.2014 in the matter are applicable from the date of the said Order i.e. 05.05.2014 and accordingly MD, UPCL is directed to release 4 MVA load (Total 18 MVA) from the existing 33 kV line w.e.f. 05.05.2014.
- (3) The directions issued by the Commission vide its Order dated 21.08.2014 in the matter to release the remaining 2 MVA (Total 20 MVA) by 01.11.2014 shall be complied by MD, UPCL by the stipulated date.
- (4) UPCL shall submit the compliance report alongwith the documentary evidence under affidavit on sub-para (2) above by 15.09.2014 and on sub-para (3) above by 07.11.2014. Failure to do so shall be construed as continued default and shall render him liable for additional penalty of Rs. 500/- per day for each day such default continues.

(K.P. Singh)
Member

(C.S. Sharma)
Member-Chairman