

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Show cause Notice-cum-Notice for Personal Hearing issued to MD, UPCL in the matter of Non-compliance of sub-Regulation 14 of Regulation 5 & sub-Regulation 15 of Regulation 5 of UERC (Release of new LT Connections, Enhancement and Reduction of Loads) Regulations, 2013

And

In the matter of:

Managing Director, Uttarakhand Power Corporation of Ltd. (UPCL)

...Respondent

Coram

Shri Subhash Kumar Chairman

Date of Hearing: January 02, 2018

Date of Order: January 17, 2018

ORDER

This Order relates to the suo-moto proceedings initiated by the Commission for non-compliance of the Regulation 5(14) & 5(15) of the UERC (Release of new LT Connections, Enhancement and Reduction of Loads) Regulations, 2013 and directions issued by the Commission therein, by Managing Director, Uttarakhand Power Corporation Ltd. (hereinafter referred to as "MD, UPCL" or "Respondent").

Background & Respondent's Submissions

2. Regulation 5(14) & 5 (15) of the UERC (Release of new LT Connections, Enhancement and Reduction of Loads) Regulations, 2013 provides for deposition of penalty by the licensee if it fails to provide connection to an applicant within the period specified and submission of monthly division-wise report containing details of number of connections that were not energised within specified period respectively.

The said Regulations reads as:

“(14) If the licensee fails to provide connection to an Applicant within the period specified above, he shall be liable to pay penalty @ Rs.10 per Rs 1000 (or part thereof) of the amount deposited by the Applicant subject to a maximum of Rs. 1000 for each day of default.

(15) Licensee shall submit to the Commission monthly division-wise report containing details of number of connections that were not energised within specified period and shall also deposit with it the penalty accrued on account of such defaults”

3. Despite the above provisions of the Regulations, Uttarakhand Power Corporation Ltd. (UPCL/licensee) has failed to submit the reports and the requisite penalty accrued thereof, since April 2017 onwards. Hence, the Commission took cognizance of the same and decided to initiate a *suo-moto* proceeding against MD, UPCL, under section 142 & 146 read with section 149 of the Electricity Act, 2003 and issued a Show Cause Notice-cum-Notice for Personal Hearing, dated 06.12.2017 to MD, UPCL. Relevant extract of the said Notice is reproduced hereunder:

“...you have failed to submit the reports on the delay in release of new LT Connections since April 2017 onwards even after an elapse of more than seven months and the requisite penalty for the FY 2017-18 accrued thereof, which is a clear violation of the Commission’s Regulations/Orders and therefore, you are liable for penalty under the provisions of Section 142 and 146 read with Section 149 of The Electricity Act, 2003.

Taking cognizance of the above, the Commission has decided to initiate suo-moto proceeding in the matter and hereby directs you to explain as to why appropriate action be not taken against you in accordance with the provisions of section 142 read with section 146 & 149 of the Electricity Act, 2003 for not complying with the Regulations/Orders & directions of the Commission. The reply to this show cause notice should be submitted under affidavit before the Commission latest by 20.12.2017.

Further, the Commission directs you to personally appear before the Commission on 02.01.2018 at 11:00AM.”

4. In response to the Show Cause Notice-cum-Personal Hearing Notice, dated 06.12.2017, two separate letters were received by the Commission from Chief Engineer, Commercial, (Level-1) UPCL on 20.12.2017 & 27.12.2017. In the

aforesaid letters, reports on delay in release of new LT connections, from April 2017 to November 2017 were annexed. Through the letter dated 20.12.2017, the aforesaid had requested that:

"...the matter regarding reports against release of LT Connections pertains to field units and all Chief Engineer (Distribution) zones have been requested to provide the same alongwith the explanation as why such delay has occurred in submission of reports. In response, the reports from CE(distribution) Garhwal zone have been received and hereby enclosed for your kind consideration. However, the reports from other zones received partially. Therefore, it is humbly requested to Hon'ble Commission to kindly allow additional 7 days for submission of reports alongwith reply to show cause notice."

Further, through letter dated 27.12.2017 the pending reports for Kumaon Zone, Rudrapur Zone & Haridwar Zone were submitted.

5. Thereafter, reply of the Respondent dated 28.12.2017, was received at the Commission's office on 01.01.2018, stating that:

"3...

(a) That report against Release of New LT Connections, Enhancement & Reduction of loads for the month of April 2017 to November 2017 have already been submitted to Hon'ble UERC vide letter no. 5081 dated 20.12.2017 and 5138 dated 27.12.2017 with request to kindly consider the reason for delay and waive off penalty, if any."

(b) That UPCL has previously also submitted from time to time to the Hon'ble Commission regarding the reasons on account of which, the reports of New LT connections, Enhancement & Reduction of loads could not be submitted in time. It was also brought to the notice of the Hon'ble Commission that many times entering the information regarding sealing certificates in the billing software creates difficulties, due to which the report of same month if generated at different times have variations in penalty details. Accordingly, all field officers have been directed many times to submit the report in specified time but due t above stated reasons of variations, problem remained persisting therefore, field officers could not submit the reports in time.

(c) the Hon'ble Commission itself had also noticed that there are discrepancies in the system generated reports submitted earlier due to which the Hon'ble Commission vide its Order dated 09.05.2017 had directed UPCL to work out a lock-in-period for entering the information of sealing certificates in the software applications. "

(d) That pursuant to the directions of the Hon'ble UERC, UPCL has allowed the lock-in period of 7 days for entering the sealing certificates in the billing system from Feb-2018. It was essential to grant some time to field officers to clear the backlog, hence, it was not possible to implement the same immediately. However, from Feb 2018 the ambiguity in the reports will not be visible.

(e) That as pursuant to the above stated arrangement, the reports available with the Division Offices and the reports available online would not have any variance from Feb 2018 hence it is hoped and assured that system generated reports shall be submitted to the Hon'ble UERC in specified time.

(f) Further, that the reports are collected at Division level after confirmation of reasons of delay at sub-division level and it takes time thus this confirmation also contributes some delay in submission of reports. In online billing system there is a provision of filling reasons of delay but concerned official generally overlook to fill the fields despite instructions issued to them from time to time. As the penalty is to be recovered from the concerned officials responsible for the delay therefore, mention of reasons of delay is necessary to submit before the Hon'ble Commission for consideration to waive off the penalty.

6. Besides above, the Respondent at para 4 of his submission dated 28.12.2017 submitted that, there is a tremendous pressure on the field officers for visiting different sites at different location in the divisions to resolve various type of consumers complaints within certain time frame, to maintain uninterrupted supply conditions all the time under normal/abnormal circumstances, to provide sustained power supply to the consumers.

Furthermore, the Respondent in its reply has requested the Commission to grant another opportunity in the matter for improving the system for submission of report within time frame and condone the delay in submitting the reports and not to take any action under the aforesaid sections of the Act.

7. On the scheduled date of hearing i.e. 02.01.2018, the Commission heard the Respondent in the matter. Besides reiterating his earlier submissions, the Respondent submitted that, due to acute shortage of manpower, the connections could not be released in time. He further, requested the Commission to lay off the penalty accrued out of the said delay in releasing connection.

Commission's Observation/View & Decision

8. At the very outset, it is imperative to clarify that the scope of the present proceeding is strictly limited to non-compliance of the provisions of the UERC (Release of new LT Connections, Enhancement and Reduction of Loads) Regulations, 2013, with regard to non-submission of new connection reports since April 2017 onwards by the Respondent.

9. While examining the submission of the Respondent, it is pertinent to reproduce the provisions of law determining the obligations of the licensee. Accordingly, Section 43(3) of The Electricity Act, 2003 which provides for the penalty to be deposited by the licensee in case of failure to release connection within stipulated time is reproduced below which reads as:-

"(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default. "

In *peri materia* to the above, Regulation 5(14) & 5 (15) of the UERC (Release of new LT Connections, Enhancement and Reduction of Loads) Regulations, 2013 has been specified by the Commission which provides for submission of monthly division-wise report containing details of number of connections that were not energised within specified time frame and deposition of penalty accrued on such defaults by the licensee. The said Regulations reads as:

"(14) If the licensee fails to provide connection to an Applicant within the period specified above, he shall be liable to pay penalty @ Rs.10 per Rs 1000 (or part thereof) of the amount deposited by the Applicant subject to a maximum of Rs. 1000 for each day of default.

(15) Licensee shall submit to the Commission monthly division-wise report containing details of number of connections that were not energised within specified period and shall also deposit with it the penalty accrued on account of such defaults"

10. Despite the above provisions of Act/Regulations, the licensee has resorted to lackadaisical approach and continued its act of non-compliance towards the above provisions of the Act/Regulations for more than 8 months now. Hence,

the Commission initiated the present proceeding against the Managing Director of the company for the perpetual non compliance and indifference shown towards the provisions of Act/Regulations.

11. With regard to the letter dated 20.12.2017 & 27.12.2017 of Chief Engineer (Commercial) Level-1, UPCL, wherein, the said officer of the licensee had requested the Commission for time extension for submission of reply by MD, UPCL, the same is out of place and not tenable as the Show Cause Notice was sent to MD, UPCL in his personal capacity and a response/reply to the same was expected from the Respondent and not from Chief Engineer (Commercial), Level-1, UPCL. Therefore, the aforesaid letters of Chief Engineer (Commercial) Level-1, UPCL are not being considered for the purpose of this *suo-moto* proceeding. Moreover, it has been observed that the reports enclosed with the aforesaid letters are not even verified/authenticated/counter-signed by the concerned authorities. Such infirmities are appalling and reflects nothing but non-seriousness of the Respondent towards the judicial proceedings conducted under the Act.
12. With regard to Respondent's submission about the difficulties faced by its staff in entering the information in its billing software w.r.t sealing certificates as per para 3 (b) of its reply dated 28.12.2017, it is surprising that in the era of advance computing systems and also when this plea of the Respondent has earlier been rejected by the Commission vide its Order dated 09.05.2017, the Respondent has again come up with the same redundant rhetoric which is not tenable.
13. With regard to the submission of Respondent that it has allowed the lock-in period of 7 days to its field divisions for entering information of sealing certificate in the billing system from February 2018 onwards. Further, the Respondent has submitted that on account of above instructions it is essential to grant some time to its field officers to clear the backlog hence immediate submission of reports is not possible. The Commission is of the view that such submission of the Respondent reflects licensee's own inefficiency in two counts first its failure to identify the discrepancies within the organization in the initial stage when the Regulations were notified and second licensee not being able to rectify the same even after an elapse of more than 7 months after issuance of the

Commission's Order dated 09.05.2017. It is now only after issuance of show cause notice to Respondent that the licensee has woken up to the cause and seriousness of the matter. Notwithstanding the above, the reply to the show cause notice filed by the Respondent is such that it is very likely that its claims to resolve the issues even after February, 2018 seem unachievable.

14. On the submission of Respondent that the reports are collected at Division level after confirmation of the reasons for delay in releasing connection at sub-division level and thereafter incorporating the same in the online billing system. Thus, this process takes time rendering delay in submission of reports. The Commission is of the view that the Regulations are in place since 2007 and nothing new has been introduced in this regard since then, except that the Respondent has introduced online/digital system process starting from submission of Application by the Applicant of new connection to release of new connection including generation of periodical reports which should make the process more consumer friendly and swifter with minimum human intervention. Therefore, such excuses put forth by the Respondent are highly unacceptable at this stage.
15. Further, with regard to the issue of acute shortages of manpower in licensee's organization as submitted by the Respondent, the same was examined and rejected by the Commission vide its Order dated 09.05.2017. Relevant extract of the said Order is reproduced below:

"Submission of the Petitioner that due to inadequate manpower, it is unable to comply with the provisions of the Regulations with respect to timely release of new connections cannot be accepted since the Petitioner is a commercial organisation which has to plan in advance the required manpower and take all necessary actions for recruitment in the right earnest."

Further, the Commission in its various Tariff Orders since 2012 onwards has been reminding the licensee to expedite its recruitment process. Moreover, in its Tariff Order dated 05.04.2016, the Commission directed the licensee:

"... to expedite the recruitment process and also submit a quarterly status report to the Commission detailing the steps taken by it in this regard and also the status of the recruitments planned."

Therefore, the Respondent cannot place these reasons before the Commission and escape from its obligations and duties under the Act/Regulations.

16. Based on the above submissions and observations, the Commission is of the view that none of the submissions/justification put forth by the Respondent absolves the licensee in complying with the provisions of the Act/Regulations. However, taking a lenient view in the matter, the Commission directs the Respondent to ensure submission of duly signed reports alongwith the accrued penalty against the defaults for the period April 2017 to January 2018 by 28th February 2018 and ensure compliance of the Regulations henceforth in letter & spirit, failing which appropriate penal action shall be taken against the Respondent under the Act.

Ordered accordingly.

(Subhash Kumar)
Chairman