

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the Matter of:

Payment of Penalty as per sub-section 3 of Section 43 of the Electricity Act, 2003 and sub-Regulation 12 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007/sub-Regulation 14 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013, Commission's directions issued vide Order dated 05.07.2016, 09.05.2017 and Commission's directions issued vide Order dated 17.01.2018.

And

In the matter of:

Uttarakhand Power Corporation Ltd. (UPCL), VCV Gabar Singh Urja Bhawan, Kanwali Road, Dehradun.

...Respondent

Coram

Shri Subhash Kumar Chairman

Date of Order: April 10, 2019

ORDER

Sub-section 3 of Section 43 of the Electricity Act, 2003 provides that the Distribution licensee (hereinafter referred as 'UPCL') shall be liable to pay a penalty if it fails to supply electricity to the new connection applicant within the period specified by the Commission. Accordingly, appropriate provisions have been included in Regulation 5(12) & 5(13) of UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulation, 2007 and 5(14) & 5(15) of UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulations, 2013 (hereinafter referred to as "Regulations").

Earlier, the Commission on the basis of monthly reports submitted by the licensee, calculated month-wise penalty due on UPCL for the period from July 2009 to March 2015 in accordance with the Regulations, which worked out to Rs 6,51,89,545/-and UPCL was directed to deposit the same. However, UPCL vide letter dated 03.06.2016 deposited a token

penalty of Rs. 65,18,954/- (10% of the total amount) and requested the Commission to take a lenient view and relax the provisions of Regulations including waiver of the penalty.

Thereafter, the Commission in its Order dated 05.07.2016 took a lenient view and decided to allow UPCL to deposit the penalty in half yearly instalments starting from FY 2017-18 to be recovered in 3 years i.e. by end of FY 2019-20. Accordingly, the schedule of recovery of the balance amount of Rs. 5,86,70,591/- (Rs. 6,51,89,545-Rs. 65,18,954) was made as per Table given below: -

Table- 1

FY	Instalment	Amount	Last date of deposition
2017-18	1 st	9778431.00	30 th April 2017
	2 nd	9778432.00	31 st October 2017
2018-19	3 rd	9778432.00	30 th April 2018
	4 th	9778432.00	31 st October 2018
2019-20	5 th	9778432.00	30 th April 2019
	6 th	9778432.00	31 st October 2019
	Total	58670591.00	

Further, the Commission in its Order dated 05.07.2016 ordered that:-

“

- (i) *With regard to the outstanding penalty upto March 2015, the Commission directs the licensee to deposit the aforesaid instalments in accordance with the schedule given in the Table above.*
- (ii) *The licensee to compute the penalty in accordance with Regulation for the defaults in the matter of release of new LT connections made during FY 2015-16 and deposit the same by 30.09.2016.*
- (iii) *The licensee shall ensure strict compliance with the provision of the UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulations, 2013 as amended from time to time hereafter.”*

UPCL vide its letter no. dated 06.01.2017 submitted a Petition to ‘relax or vary the provisions of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007 and UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013 whereby the penalty was imposed in the matter of delay in release of new LT service connections for the period of FY 2008-09 to FY 2015-16’. In this regard, the Commission vide its Order dated 09.05.2017 held that :-

“
...none of the submissions of UPCL in the Petition absolves it from its obligations under the Act and Regulations. Further, the applicability of the provisions of the Act/Regulations under which the Petition has been filed cannot be attained for the reasons as discussed in the paras above. Moreover, the requirements of the provisions of the Act are further elaborated in the Regulations which cannot be curtailed or obviated for any such reason as submitted by the licensee.
Therefore, the Commission holds the Petition as not maintainable and decides to reject it.”

Thereafter, due to non-deposition of 1st instalment of penalty of Rs. 97,78,431/- by 30.04.2017 as per Commission Order dated 05.07.2016, the Commission vide its letter dated 15.05.2017 directed UPCL to:-

“...to deposit the 1st instalment of the balance amount of penalty of Rs. 97,78,431/- alongwith the penalty amount of Rs. 3,64,02,478/- for FY 2015-16 latest by 30.06.2017 and ensure timely deposition of future instalments.

Besides above, you are also directed to submit Division-wise System Generated Reports for FY 2016-17 pertaining to delay in release of New LT Connections alongwith the penalty amount before the Commission latest by 30.07.2017.”

However, due to non-compliance of aforesaid directions the Commission's issued a notice to UPCL vide letter dated 855 dated 17.08.2017 and decided to give a last opportunity to deposit the due penalty of Rs. 4,61,80,909.00 {97,78,431.00 (1st instalment of balance amount of penalty) + 3,64,02,478.00 (Penalty of FY 2015-16) = 4,61,80,909.00 to the Commission latest by 05.09.2017.

Incompliance to the above, UPCL vide its letter dated 05.09.2017 deposited 10% of the total due penalty of Rs. 4,61,80,909.00 i.e. Rs. 46,18,090/-.

Thereafter, due to non deposition of penalty by UPCL, the Commission initiated a *suo-moto* proceeding for recovery of penalty under Section 170 of the Electricity Act, 2003 and issued notice to UPCL vide its letter dated 06.12.2017 and directed UPCL to deposit a penalty of Rs. 9,56,78,802/- latest by 12.01.2018, failing which the penalty may be recovered in accordance with the provisions of Section 170 the Electricity Act, 2003.

Further, the Commission issued a 'show cause Notice-cum-Notice for Personal Hearing' to MD, UPCL vide its letter dated 06.12.2017 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 directed

it to personally appear before the Commission on 02.01.2018. In this regard, the Commission issued an Order dated 17.01.2018, directing UPCL to ensure submission of duly signed reports alongwith the accrued penalty against the defaults for the period April 2017 to January 2018 by 28.02.2018 and ensure compliance of the Regulations henceforth in letter & spirit, failing which appropriate penal action shall be taken against the Respondent under the Act.

Further, the Commission vide its letter dated 05.04.2018 directed UPCL to furnish month-wise progress reports on delay in release of new LT connections for next 6 months starting from 01.03.2018 onwards. The said monthly reports were required to be submitted to the Commission latest by 5th day of each next month on a regular basis.

UPCL vide its letter dated 26.09.2018 submitted a comparison of number of delay new service connections as follows:-

Table- 2

Period from	Number of delayed connections
Feb-2015 to Aug-2015	4049
Feb-2016 to Aug-2016	4662
Feb-2017 to Aug-2017	3834
Feb-2018 to Aug-2018	1167

Further, UPCL in its aforesaid letter submitted that the percentage of delayed connections in between February, 2018 to August, 2018 has decreased considerably with reference to past years and requested to waive off the penalty and to refund the amount of penalty already deposited by UPCL.

Taking a lenient view, the Commission decided to examine the month-wise progress made by UPCL with regard to delay in release of new LT connections and accordingly issued a format to UPCL for furnishing monthly status of release of new LT connections for last one year i.e. from September, 2017 to August, 2018 vide its letter dated 06.11.2018.

In compliance to the same, UPCL vide its letter dated 07.01.2019 submitted the desired information in the prescribed format before the Commission. On examination of UPCL's aforesaid submission, the following has been observed:-

Table- 3

Month	Percentage of delayed Connections (%)
Sep'17	36.4
Oct'17	41.35
Nov'17	37.96
Dec'17	36.48
Jan'18	9.15
Feb'18	5.37
Mar'18	4.99
Apr'18	9.74
May'18	11.25
Jun'18	17.04
Jul'18	23.61
Aug'18	30.04

From the above Table-3, it is evident that although there was improvement in percentage of delayed connections in the last quarter of FY 2017-18, however, the percentage of delayed connections again showed an upward trend in first and second quarter of FY 2018-19 which *prima-facie* indicated that there has been no systematic change with regard to process of release of new connections no significant progress at UPCL's end.

Based on the above, the Commission has taken a serious view on the lackadaisical approach of the licensee towards timely release of new LT connections and is of the opinion that ample opportunity has been given to UPCL for reforming its internal mechanism w.r.t. timely release of new LT connections. However, still the situation remains the same which is confirmed from the above Table-3 and also from the various reports of UPCL summarised in the Table-4 below with regard to status of delayed connections vis-a-vis accrued penalty thereof under the Electricity Act, 2003 and regulations of the Commission :-

Table- 4*(Amount in Rupees)*

Sl. No.	Financial Year	Penalty Amount	No. of Delayed Connections Released during the Period	Penalty Deposited	Penalty Due
1	FY 2009 to FY 2010-11	91,37,875		74,96,797 (July 2009 to March 2015)	5,76,92,748
2	2011-12	1,09,55,550			
3	2012-13	1,73,58,960	11,442		
4	2013-14	1,28,80,240	3,928		

Sl. No.	Financial Year	Penalty Amount	No. of Delayed Connections Released during the Period	Penalty Deposited	Penalty Due
5	2014-15	1,48,56,920	4,757		
6	2015-16	3,64,02,478	9,454	36,40,247	3,27,62,231
7	2016-17	4,43,37,553	9,166	--	4,43,37,553
8	2017-18	3,50,60,990	5,680	--	3,50,60,990
9	2018-19	1,83,74,750	3,151	--	1,83,74,750
Total		19,93,65,316	47,578	1,11,37,044	18,82,28,272

Based on the above, the Commission is of the view that UPCL has been defaulting in releasing the new connections within the time period specified in the Regulations and despite specific provisions in the Regulations that the licensee shall deposit requisite penalty amount as provided in the Act/Regulations on monthly basis, UPCL has failed to adhere to the same.

This is by all means a blatant contravention of the provisions of the Act/Regulations by the licensee and hence the Commission has decided not to waive off the accrued penalty. However, taking a lenient view, the Commission has decided to allow UPCL to deposit the due penalty amount of **Rs. 18,82,28,272/-** as on March, 2019 on quarterly basis starting from FY 2019-20 to be recovered in 6 years i.e. by end of FY 2024-25. Accordingly, the schedule of recovery of the amount of **Rs. 18,82,28,272/-** has been detailed in the Table-5 given below:

Table-5

S. No.	Financial Year	Instalment	Amount	Last date of deposition
1	2019-20	Ist	78,42,845.00	30.06.2019
		2nd	78,42,845.00	30.09.2019
		3rd	78,42,845.00	31.12.2019
		4th	78,42,845.00	31.03.2020
2	2020-21	Ist	78,42,845.00	30.06.2020
		2nd	78,42,845.00	30.09.2020
		3rd	78,42,845.00	31.12.2020
		4th	78,42,845.00	31.03.2021
3	2021-22	Ist	78,42,845.00	30.06.2021
		2nd	78,42,845.00	30.09.2021
		3rd	78,42,845.00	31.12.2021
		4th	78,42,845.00	31.03.2022
4	2022-23	Ist	78,42,845.00	30.06.2022
		2nd	78,42,845.00	30.09.2022

S. No.	Financial Year	Instalment	Amount	Last date of deposition
		3 rd	78,42,845.00	31.12.2022
		4 th	78,42,845.00	31.03.2023
5	2023-24	I st	78,42,845.00	30.06.2023
		2 nd	78,42,845.00	30.09.2023
		3 rd	78,42,845.00	31.12.2023
		4 th	78,42,845.00	31.03.2024
6	2024-25	I st	78,42,845.00	30.06.2024
		2 nd	78,42,845.00	30.09.2024
		3 rd	78,42,845.00	31.12.2024
		4 th	78,42,837.00	31.03.2025
Total			18,82,28,272.00	

Based on the above, it is ordered that:

- (i) UPCL shall strictly adhere to the schedule of payment of penalty amount as mentioned in Table-5 above.
- (ii) From April 2019 onwards, UPCL shall ensure to compute penalty for delay in release of new LT connections as per the provisions of UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulations, 2013 as amended from time to time and shall also ensure to deposit the penalty amount alongwith the monthly reports of delay in release of new LT connections.
- (iii) Any non-compliance of the directions issued at S. No. (i) & (ii) above, shall be liable for action under Act/Regulations against the licensee.

Ordered accordingly.

(Subhash Kumar)
Chairman