

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Non-compliance of Section 59 read with Section 57 of the Electricity Act, 2003 (Act) and Regulation 5 of the UERC (Standards of Performance) Regulations, 2007 providing for information required to be submitted by the Licensee with respect to Guaranteed and Overall Standards of Performance.

Coram

V J Talwar	Chairman
Anand Kumar	Member

Date of Order: December 23, 2008

ORDER

This Order relates to the proceedings in the matter of non-compliance of Section 59 read with Section 57 of the Act and Regulation 5 of the UERC (Standards of Performance) Regulations, 2007 providing for information required to be submitted by the Licensee with respect to Guaranteed and Overall Standards of Performance.

1. Section 57 of the Act provides for laying down of Standards of Performance of the licensee by the Commission and the same is reproduced below:

“Consumer protection:

57. Standards of performance

(1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under subsection(1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.

2. Sub-section (1) of Section 59 of Act provides that every licensee shall, within the period specified by the Commission, furnish to the Commission information with respect to levels of performance. The relevant provision is reproduced below:

59. Information with respect to levels of performance.

(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-

(a) the level of performance achieved under sub-section (1) of the section 57;

(b) the number of cases in which compensation was made under subsection (2) of section 57 and the aggregate amount of the compensation.

(2) The Appropriate Commission shall at least once in every year arrange for the publication, in such form and manner as it considers appropriate, of such of the information furnished to it under sub-section (1).”

3. And sub-section (2) of Section 59 of the Act require that the Commission shall at least once in every year arrange for the publication such information as furnished to it by the licensee under Section 59 of the Act.

4. In exercise of powers conferred under Section 181 read with Section 57 of the Act, the UERC (Standards of Performance) Regulations, 2007 were notified by the Commission vide its Order No. F-9(15)/RG/UERC/2007 dated 17th April, 2007. These Regulations came into force w.e.f 21.04.2007 after publication in the official Gazette.
5. Regulation 5 of these Regulations provides for the information required to be submitted by the Licensee both under Guaranteed Standards of Performance (as per sub-regulation (1) & (2)) and Overall Standards of Performance (as per regulation (3) & (4)) and the same is reproduced below:

“5 Information on Standards of Performance

- (1) *For Guaranteed Standards, Licensee shall furnish to the Commission, in a report for every month and in a consolidated annual report, the following information:*
 - a) *The levels of performance achieved by the Licensee with reference to the standards specified in Schedule – I to this Regulation;*
 - b) *The number of cases in which compensation were payable under Regulation (4) above, and the aggregate amount of the compensation payable and paid by the Licensee,*
 - c) *The number of claims made by the consumer against the licensee for failure to meet the Guaranteed Standards of Performance and the action taken by the Licensee including the reasons as to delay in payment, or non-payment of compensation for such claims; and*
 - d) *The measures taken by the Licensee to improve performance in the areas covered by Guaranteed Standards and Licensee’s targets of improved performance for the ensuing year.*
- (2) *The monthly reports under sub-regulation (1) shall be furnished to the Commission within 15 days of the close of the month and the annual report under the sub-regulation (1) shall be furnished to the Commission within 30 days of the close of the financial year.*

- (3) *The Licensee shall furnish to the Commissions, in a report for every quarter and in a consolidated annual report for each financial year, the following information as to the **Overall Standards of Performance**:*
- a) The level of performance achieved with reference to those specified in Schedule – II to this regulation; and*
 - b) The measures taken by the licensee to improve performance in the areas covered by Overall Standards and licensee’s targets of improved performance for the ensuing year.*
- (4) *The Quarterly reports under sub-regulation (3) shall be furnished to the Commission within 15 days of the close of the quarter and the annual report under the said sub-regulation (3) shall be furnished to the Commission within 30 days of the close of the financial year.*
- (5) *The Commission shall, at such intervals as it may deem fit and not inconsistent with the provisions of the Act, arrange for the publication of the information furnished by Licensees under this Regulation.”*
6. Notwithstanding the specific provisions with respect to providing of information on guaranteed and overall standard of performance as above and while more than 18 months had elapsed, no reports as required under the Regulation 5 and Section 59 of the Act were submitted by the licensee.
7. In view of the serious lapse on the part of the licensee, a show cause notice under Section 142 was issued to MD, UPCL. Reply to the notice was to be submitted before the Commission by 07.11.2008.
8. However, UPCL requested for grant of extension of time upto 30.11.2008 for submission of the information required under these Regulations, which was agreed by the Commission.
9. No information or reply was submitted by UPCL within the schedule as requested by them and the licensee continued to disobey the provisions of the Regulations. Commission taking a serious view in the matter and holding MD, UPCL

responsible for this lapse issued notice for Personal Hearing to MD, UPCL to appear before the Commission on 19.12.2008 at 3.00 P.M.

10. In the meantime, some information was submitted by UPCL on 17.12.2008 which covered only two service areas namely Restoration of power supply failure, Quality of power supply whereas no information on complaints about Meters, Transfer of consumer's connection and conversion of services, complaints about consumer's Bills and issues relating to disconnection/reconnection of supply was submitted.
11. Before the date of hearing, MD, UPCL requested the Commission to exempt him from attending the hearing and allow Director (operation) and CGM (commercial) to appear before the commission on his behalf on the said date.
12. During the hearing, the Commission expressed its dissatisfaction on the delay in submitting the information as per regulations and wanted to know the reason for continued default on the part of UPCL and also obvious disobedience of the notices served in this regard. The Commission also pointed out that non submission of the information by UPCL is in effect preventing the Commission to comply with the provisions of Section 59(2) of the Act wherein it has been provided that the Commission shall arrange for publication of the information, submitted by the licensee, in such form and manner as it considers appropriate.
13. No satisfactory reply was given by UPCL. The Commission further pointed out that even the information submitted by UPCL so far is not complete and service areas namely complaints about Meters, Transfer of consumer's connection and conversion of services, complaints about consumer's Bills and issues relating to disconnection/reconnection of supply have not been covered. CGM (commercial), UPCL, however, submitted some information during the course of hearing pertaining to these issues, which on examination were found to be incomplete. On enquiry from the Commission, CGM (commercial) could not give any satisfactory reply and requested for some time.

14. Taking cognisance of the information submitted on 17.12.2008, the Commission wanted to know whether UPCL's format showing compensation as claimed by consumers is consistent with the Act or not. Section 57 and Section 59 of the Act were read before the Commission and the same are again reproduced below:

"Consumer protection:

57. Standards of performance

(1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under subsection(1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.

59. Information with respect to levels of performance.

(1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:-

(a) the level of performance achieved under sub-section (1) of the section 57;

(b) the number of cases in which compensation was made under subsection (2) of section 57 and the aggregate amount of the compensation.

(2) The Appropriate Commission shall at least once in every year arrange for the publication, in such form and manner as it considers appropriate, of such of the information furnished to it under sub-section (1)."

15. Commission was satisfied that Act unambiguously provide that if licensee fails to meet the standards of performance specified by the Commission, he shall be liable to pay compensation to affected consumers in accordance with the provisions of

the regulations. It was, therefore, agreed upon that information submitted by the licensee is inconsistent with the Act and **UPCL was directed to accordingly revise the formats and clearly indicate the number of cases in which compensation is due, number of cases in which compensation is made to the affected consumers and must also separately indicate the aggregate amount of compensation due and already made in each of these cases.**

16. It was brought to the notice of the Commission that Regulation 5, inter alia, provide for submission of measures taken by the licensee to improve performance in the areas covered by guaranteed standards and licensee's targets of improved performance for the ensuing year. Commission stressed the need to have this aspects covered and **directed UPCL to include measures taken by it to improve performance in the areas covered by guaranteed standards and its targets of improved performance for the ensuing year.**
17. In the light of the above, the **Commission directs UPCL to resubmit, the complete information, by 09.01.2009, on Guaranteed as well as Overall Standards of Performance as discussed above.** Since the matter is important the Commission also directs that MD, UPCL, Director (operation), UPCL and CGM (Commercial), UPCL should appear before the Commission for Personal Hearing in the matter on 16.01.2009.

(Anand Kumar)
Member

(V.J. Talwar)
Chairman