

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Non-compliance of Commission's directions in the matter of Energy loss report of furnace feeders in the State.

And

Managing Director,

Uttarakhand Power Corporation Ltd., Dehradun

Respondent

Coram

Shri J.M. Lal **Chairman**

Shri C.S. Sharma **Member**

Shri K.P. Singh **Member**

Date of Order: 7th May, 2013

1. To analyse the losses of furnace feeders in the State, the Commission vide its letter dated 08.01.2013 directed UPCL to submit Feeder-wise energy loss report of each feeder either independent or mixed feeder, supplying power to furnaces, for each month for the period April 2012 to Dec 2012 latest by 05.02.2013.
2. UPCL failed to submit the desired reports/information within the stipulated time period and requested the Commission for time extension vide its letter dated 04.02.2013 for submission of the same. The Commission accepted the request and extended the time period till 28.02.2013.
3. Notwithstanding the directions to submit report of only those feeders supplying to furnaces, UPCL submitted the Energy loss report of all

independent and mixed feeders for EDC Haridwar, Roorkee, Srinagar and Haldwani vide its letter dated 02.03.2013, which was returned back to UPCL in original. UPCL was informed that the reply is not in accordance with the direction of the Commission and UPCL was again directed to submit “*the relevant information by 20.03.2013 failing which appropriate action may be initiated against UPCL for violation of the Commission’s directions under the Act*”.

4. Since UPCL did not submit the report/information as directed by the Commission and, therefore, the Commission initiated suo-moto proceeding in the matter and issued a notice on 12.04.2013, under Section 142 of the Electricity Act, 2003, directing Managing Director, UPCL to show cause and explain as to why appropriate action should not be taken against him for non-compliance of the Commission’s direction latest by 25.04.2013. Managing Director, UPCL was also required to appear personally before the Commission on 07.05.2013 at 12.00 Hrs.
5. In reply to the Commission’s directive as per Para 3 above, Director (Commercial), UPCL has submitted a report dated 29.04.2013 received on 30.04.2013.
6. Thereafter, Managing Director, UPCL submitted its reply to the above Show Cause Notice on 06.05.2013. The relevant portion of reply of Managing Director, UPCL has been reproduced below:

“2.1 On receipt of the direction from Hon’ble Commission vide its letter No.-UERC/5/Tech/97/2012-13/1382, dated 08.-01-2013, the Corporate Office vide its letter dated 29-01-2013 directed the Chief Engineers (Distribution) and Superintending Engineers (Distribution) to submit the desired information at Corporate Office for onward submission of the same to the Hon’ble Commission but they could not provide the desired information at Corporate Office upto 2nd week of February, 2013, i.e. as per direction of the Hon’ble Commission.

2.2 On receipt of the desired information from the field units, the said information was submitted to the Hon’ble Commission vide Corporate Office’s letter dated 02-03-2013 but the Hon’ble Commission vide its letter dated 12-03-2013 informed that the information was not in accordance with the direction of the Commission and returned the same with the direction to the

petitioner company to submit the relevant information by 20-03-2013.

2.3 Thereafter, the petitioner company started to prepare the information at Corporate Office on the basis of information received from field offices. The preparation of the information was huge exercise and therefore could not be submitted to the Hon'ble Commission by 20-03-2013. On preparation of the information, the same was submitted to the Hon'ble Commission vide UPCL's letter dated 29-04-2013.

2.4 It is also informed before the Hon'ble Commission that the show cause notice dated 12-04-2013 was misplaced in the office and therefore the reply of the said notice could not be submitted in time as per the direction of the Hon'ble Commission. It is worthwhile to mention here that a copy of the said notice was sought from the office of the Hon'ble Commission through e-mail on 29-04-2013."

7. The Commission is dissatisfied with the reply of Managing Director, UPCL that *"Since the preparation of information was huge exercise and therefore could not be submitted to the Hon'ble Commission by 20-03-2013."* The Commission has no reasons to believe that the licensee could not compile the report, that too of past period and which is an important report from the point of view of internal energy audit of UPCL, in a period of more than three months since the initial directions were given to Managing Director, UPCL on 08.01.2013.
8. As scheduled, hearing in the matter was held on 07.05.2013 at 12.00 Hrs. Managing Director, UPCL did not appear before the Commission personally. One Chief Engineer (Commercial), Shri S.K. Tamta and an Advocate were present in the Court Room, who submitted before the Commission that they are representing Managing Director, UPCL.
9. The Commission asked the advocate to read out Section 142 of the Act. It is pertinent to reproduce Section 142 of the Act which reads as:

"142. Punishment for non-compliance of directions by Appropriate Commission

In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any

direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty, which he may be liable under this Act, such person, shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.

Further, the Commission also refers to Regulation 17(1) of UERC (Conduct of Business) Regulations, 2004 (CBR) which reads as:

“17. Hearing of the matter

(1) The Commission may determine the stages, manner, the place and the time of the hearing of the matter as the Commission considers appropriate, consistent with the provisions of the Act.”

Further, the Commission refers to the relevant Para of the Show Cause Notice dated 12.04.2013 which reads as under:

*“The Commission has decided to file a suo-moto petition in the matter and has directed you to show cause and explain as to why appropriate action be not taken against you in accordance with the provision of section 142 of the Electricity Act, 2003 for non-compliance of the Commission’s direction. The reply to this show cause notice should be submitted on affidavit before the Commission latest by 25.04.2013. **Thereafter, you are required to appear personally before the Commission on 07.05.2013 at 12.00 Hrs.**”*

It is noted:-

- a) As per directions in the show cause notice, you failed to appear before the Commission to explain your conduct thus far for which purpose this notice was served to you.
- b) That the notice requires you to personally appear before the Commission. Neither an exemption was sought for personal appearance nor a request was received that you wish to be represented through an advocate.
- c) As mentioned earlier, the text of Section 142 of the Electricity Act, 2003 is explicit that the provisions thereof apply to a person.

- d) The intent of the whole exercise was to sensitise you to be more vigilant about the consumptions being recorded of these high load factor consumers. The Commission in the past has also been instructing you in this regard. The information as sought by the Commission should have been with you and under your close monitoring. Undue delay in furnishing this information has not been satisfactorily explained.

Now, therefore the Commission considers your failure to appear before the Commission on the date and time of hearing as non-appearance and decides to proceed against you ex-parte. For the reasons elaborated in foregoing para, the Commission adjudges you as having contravened the directions of the Commission. The Commission gave you an opportunity of being heard which has not been availed by you. Now, therefore the Commission considers this to be a fit case for imposition of penalty under section 142. This being the first case, taking a lenient view, the Commission decides to impose a penalty of Rs. 10,000/- on you. This penalty is being imposed on Shri A.K. Johri in his personal capacity and will, therefore, not be paid or reimbursed to him by the licensee.

(K.P. Singh)
Member

(C.S. Sharma)
Member

(Jag Mohan Lal)
Chairman