

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

In the matter of:

Non-compliance of the Commission's directions by UPCL with regard to MoM dated 24.08.2012

Coram

Shri C.S. Sharma

Member

Shri K.P. Singh

Member

Date of Order: January 01, 2013

1. To review the progress made on various directions of the Commission on the pending issues, a meeting was held on 24.08.2012 with the officers of UPCL in the office of the Commission.
2. In the meeting, discussions were held and the minutes of the meeting was recorded on 12 issues. The issues were either consumer related or of compliance of directions given in the Tariff Order.
3. The MoM dated 24.08.2012 of the meeting was circulated vide Commission's letter No. 851 dated 07.09.2012. As agreed in the meeting, different timelines, on each issue, were given to UPCL for submission of action taken report/compliance of the directions of the Commission.
4. Except on two Points i.e. Point No. 1 & 4, UPCL did not respond within the timelines given in the MoM and failed to report compliance by the agreed dates.

Therefore, a letter vide reference No. 930 dated 25.09.2012 was sent to UPCL for submitting its action taken report/compliance report to the Commission in each of the issues contained in the MoM by 10.10.2012.

5. On giving sufficient opportunity to UPCL for submitting its action taken report/compliances, the Commission issued a Notice vide reference No. 1176 dated 04.12.2012 to MD, UPCL to show cause and explain as to why appropriate action be not taken against him in accordance with the provisions of section 142 read with section 146 of the Electricity Act, 2003 for non-compliance of the Commission's directions. Through the same Notice, MD, UPCL was also directed to appear before the Commission alongwith his reply on 19.12.2012 at 12:00 hrs.
6. In connection to the above Notice dated 04.12.2012, UPCL requested vide letter No. 1223 dated 14.12.2012 for extension of time for filing of its reply upto 26.12.2012 and requested for adjournment of the scheduled hearing of 19.12.2012 and to fix it to any other convenient date after 25.12.2012.
7. The Commission accepted the UPCL's request and allowed time extension for filing of reply upto 26.12.2012 and re-fixed the hearing on 31.12.2012.
8. On 24.12.2012, UPCL submitted the compliances/action taken report on the issues discussed in the MoM dated 24.08.2012 and submitted the reply to the show cause Notice on 26.12.2012 referring to the replies submitted on 24.12.2012. On perusal of the replies, it has been observed that the submissions of UPCL on Point No. 7 & Point No. 8 are not in accordance with the directions of the Commission. Besides this, on some of the issues viz. Sh. Ranjit Singh & Others (Point No. 10), compliance of the directives issued in the Tariff Order (Point No. 12), UPCL was required to submit the periodical progress reports since the date of Order/directions. These periodical reports are still not being submitted by UPCL even after issuance of repeated reminders, MoM and Notice. The replies do not constitute satisfactory compliance.
9. On scheduled date of hearing a letter was received at about 11:00 hrs seeking adjournment of the hearing on a date after 07.01.2013 and the plea given for the postponement is stated as "*... it is to apprise the Hon'ble Commission that the*

undersigned is busy in pre-fixed works on 31-12-2012 and therefore cannot appear before the Hon'ble Commission on such date".

10. The Commission is of the view that this casual behavior of the licensee is a deliberate non-compliance of the directions issued from time to time. It is inconceivable that the "pre-fixed" works come to its notice only one hour before scheduled time of hearing. The Commission hereby declines the licensee's request of adjournment of hearing and has decided to continue the proceedings ex-parte.
11. On perusal of replies submitted by the licensee, the Commission has come to the conclusion that there has been violation of the directions and the concerned officers have failed to meet the timelines, agreed to by them, in the minutes of meeting, for doing the acts required as per MoM. Even now on some of the issues either compliances are not proper or are partial. The Commission holds that this is a fit case for imposing penalty, as per section 142 of the Electricity Act, 2003 on officers, who failed to comply with the directions of the Commission and also failed to give reasons for non-compliance.

Now, therefore, the Commission decides to provisionally impose a penalty of ₹5000.00 on each of the following officers, who were present in the meeting, holding them responsible for non-compliance:

1. Sh. Anil Kumar, Executive Director (Commercial), UPCL
2. Sh. S.K. Tamta, Chief Engineer (Commercial)

These officers are given time till 08.01.2013 to make their submission as to why this provisional penalty be not confirmed. A final hearing in the matter will be held on 11.01.2013 at 12.30 hrs.

(K.P. Singh)
Member

(C.S. Sharma)
Member