

**Before**

**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**Petition No. 30 of 2014**

**In the matter of:**

Suo-moto proceedings initiated by the Commission for non-issuance of NOC by UPCL for Open Access.

**AND**

**In the matter of:**

Petition filed by M/s Kashi Vishwanath Steel Ltd, Narain Nagar Industrial Estate, Kashipur with regard to removal of difficulty under Regulation 58 of UERC (Terms and Condition of Intra-State Open Access) Regulations, 2010.

...Petitioner

**And**

Uttarakhand Power Corporation Ltd. (UPCL).

...Respondent

**CORAM**

Shri Subhash Kumar	Chairman
Shri C.S. Sharma	Member
Shri K.P. Singh	Member

**Date of Hearing: November 27, 2014**

**Date of Order: November 28, 2014**

This Order relates to suo-moto proceedings started by the Commission on the complaint dated 05.06.2014 received from M/s BST Textile Pvt. Ltd. regarding delay in issue of consent by Respondent (herein after referred as UPCL) for purchase of power under open access for the month of June 2014 and Petition filed by M/s Kashi Vishwanath Steel Ltd. alleging delay in issuance of no objection certificate (NOC) by the Respondent for availing open access.

## 1. Background

- 1.1. M/s BST Textile Mills Pvt. Ltd. vide their letter dated 05.06.2014 informed the Commission about the delay in issuance of NOC by UPCL for the month of June 2014.
- 1.2. The Commission vide its letter dated 03.07.2014 forwarded the complaint to MD, UPCL for submitting his comments along with factual position by 15.07.2014.
- 1.3. In response to the stated letter of the Commission, UPCL vide its letter dated 11.07.2014 gave a very cursory reply stating that ;

*"...In this regard, it is to inform that, due to non availability of sanctioning authority during last week of May-14, the NOC could not be issued in due time."*

- 1.4. The Commission received number of complaints, in the month of August 2014 from the consumers, desirous of seeking power under open access, stating that UPCL has once again delayed issuance of consent, for the purpose of open access for the month of August 2014, despite their depositing the requisite fee and required documents before 15 July 2014.
- 1.5. UPCL was directed to submit its comments alongwith factual position by 29.08.2014 as to why it has again defaulted in issuing consent to the consumers desirous of seeking open access.
- 1.6. In compliance of the directives of the Commission, as above, UPCL vide letter No. 823 CE (Comm.) UPCL/Open Access dated 27.08.2014 stated that due to wide variation in State's generation and due to overloading of 400 kV Kashipur-Moradabad and 400 kV Puhana-Muzaffarnagar lines open access for the months of July & August 2014 was denied to the interested consumers.
- 1.7. Regulation 17(1) of UERC(Terms and Conditions of Intra-State Open Access)Regulations, 2010 stipulates that:

*" ...*

*In case of applicant connected to the distribution licensee, the said distribution licensee shall convey its consent or otherwise within 3 days of receipt of the request of the applicant."*

- 1.8. A show cause was issued to MD, UPCL to appear before the Commission on 12.09.2014 at 11:30 AM to show cause and explain as to why appropriate action be not taken against him in accordance with the provisions section 142 of Electricity Act, 2003 for non-compliance of the aforesaid Regulations.
- 1.9. Meanwhile, Commission received a Petition filed under Regulation 58 of UERC (Terms and Conditions of Intra-State Open Access) Regulations, 2010 by M/s Kashi Vishwanath Steel Limited alleging delay in issuance of consent/No objection Certificate for availing the power purchase through open access by the Respondent for the months of April, May, June, July, August & September 2014.
- 1.10. The Commission vide its letter dated 09.09.2014 decided to club the hearing for admissibility of the petition filed by M/s Kashi Vishwanath Steel Limited with the hearing proposed to be held on 12.09.2014 at 11:30 AM.
- 1.11. The hearing in the matter was held on the stipulated date and time and in the daily Order passed by the Commission it was order that:
- (i) The Petitioner should submit in tabular form month wise, for the period April 2014 to September 2014, date of submission of Applications seeking NOC for open access in the office of the Respondent i.e. UPCL by 19.09.2014.*
- (ii) Secretary, UERC to summon from the Respondent, month wise records for the period from April 2014 to September 2014, connected with processing of Applications seeking NOC under UERC (Terms and Conditions for Intra-State Open Access) Regulations, 2010, from UPCL, by 19.09.2014. After examination of the records, notices may be issued to officers responsible for delay in issue of NOC and/or non-issue of NOC u/s 142 of the Electricity Act, 2003.*
- 1.12. In compliance of the said Order the Respondent submitted month wise original records for the period from April 2014 to September 2014, connected with processing of applications seeking NOC under UERC (Terms and Conditions for Intra-State Open Access) Regulations, 2010. From the records made available by UPCL it was evident that the main cause in delay of issuance of consent for open access by UPCL

was the inordinate delay in initiation of note for seeking the approval of MD, UPCL by the concerned officials of UPCL.

- 1.13. Notices were issued to the concerned officers of UPCL who were given an opportunity of making written submission in their defence by 10.11.2014 and the matter was posted for hearing on 27.11.2014.
- 1.14. All the officers who were issued notices made their written submission stating reasons leading to delay in issuance of consent/NOC for the open access.
- 1.15. Hearing was held on the schedule date and time. The Commission heard the concerned officers of the Respondent.

## **2. Commission's Views & Decision.**

- 2.1 The replies submitted by the concerned officers of the Respondent were found not tenable. All the officers cited official holidays and Assistant Engineer, from whom the note for seeking consent for MD, UPCL was to be initiated, being on long leave as the main reasons for delay in issuance of consent/NOC for open access. Further, the overloading of 400 kV Kashipur Moradabad line and 400 kVA Puhana Muzaffar Nagar line were cited as the reason for non-issuance of consent/NOC in the month of August 2014. These lines are inter-State lines, the real time load management of which is done by NRLDC, UPCL cannot deny open access to the consumers contending overloading or congestion in these lines. The Commission takes a serious note of high handedness of UPCL's officers as shown by their not even informing the applicants the reasons for non-issuance/delay of consent for open access in gross violations of Regulations 17(1) of UERC (Terms and Conditions for Intra-State Open Access) Regulations, 2010.
- 2.2 The Commission holds that reason for delay in issuance of NOC for open access was on account of faulty procedure adopted by the Respondent by involving too many officers in the chain for issuance of consent/NOC for open access and also to lack of will in licensee to abide by the prevailing regulations. The Commission directs UPCL management to fashion its working methodology consistent with requirements of

relevant regulations so that Commission is not forced to take punitive actions. An action plan for simplification of its procedures and to ensure speedy disposal/decision for whole gamut of Consumer services need to be drawn and implemented. Thereafter Commission be apprised of the action taken in the 1<sup>st</sup> week of February 2015.

- 2.3 Since this is the 1<sup>st</sup> instance of non-compliance by the officers of the Respondent in issuance of consent/NOC for open access, the Commission taking a lenient view allows them to escape with a warning. They are cautioned that any repetition shall render them liable for appropriate punitive action as per the provisions of the Electricity Act, 2003.

Ordered accordingly.

(K.P. Singh)  
Member

(C.S. Sharma)  
Member

(Subhash Kumar)  
Chairman