

imposed by the Commission vide its Order dated 01.09.2005 for non-compliance of its directions with respect to Bill Collection system.

Background of the Case

2. The Commission earlier on taking cognizance of various complaints received with respect to different aspects of services being provided by the licensee to its consumers initiated a *suo moto* proceeding and vide its Order dated 09.07.2004 directed the licensee to improve the existing bill collection system. However, on non-compliance by the licensee in the matter the Commission vide its Order dated 01.09.2005 imposed a penalty of Rs. 1,00,000/- and an additional penalty of Rs. 2,500/- per day on the licensee.
3. In compliance to the aforesaid Order of the Commission dated 01.09.2005, UPCL deposited the penalty upto 31.03.2011, amounting to Rs. 52,95,000/- to the Commission.
4. Thereafter, UPCL vide its letter dated 09.05.2012 filed a petition before the Commission and filed a subsequent application vide its letter dated 30.01.2013 for relief and waiver of the aforesaid penalty.
5. Subsequently, the Commission conducted a hearing in the matter and issued an Order dated 11.10.2013 directing UPCL to, *"... submit the date since when the compliance on each of the directions issued by the Commission with respect to the Bill Collection System in its Order dated 01.09.2005 had been implemented by UPCL, duly supporting each submission by appropriate documentary evidence."*
6. In compliance to the directions issued by the Commission vide the aforesaid Order, the Petitioner informed the Commission of its agreement with Punjab National Bank for collecting the payment of electricity bills through all the branches of Bank across the State, online billing facility at its web portal www.upcl.org, sufficient number of cash counters in each of its collection centers.
7. For the veracity of the submissions and to know the status with respect to the directives issued by the Commission in its Order dated 01.09.2005, the Commission

constituted a Committee to check the bill collection arrangements in rural and urban divisions of Garhwal and Kumaon Zone, which on the basis of inspection and study, submitted its report on 30.05.2014.

8. The Committee in its report had concluded that:

"...UPCL has failed in its endeavor in fulfilling the directives passed by the Commission in its Order dated 01.09.2005."

9. The Commission vide its letter dated 13.06.2014 forwarded the report submitted by the Committee to UPCL and UPCL submitted the comments on the same vide its letter dated 11.08.2014.

10. Thereafter, the Commission conducted a hearing on 20.01.2015 and issued an Order dated 21.01.2015 directing MD UPCL to: *"...submit, within one and half months, a comprehensive action plan alongwith time lines, for compliance of the directions of the Commission in the matter of bill Collection System issued in its Order dated 01.09.2005 distinctly for Rural and Urban areas across the State."*

11. In response to the direction of the Commission, UPCL simply submitted a sketchy reply with regard to Kumaon Zone vide letter No. 3682 dated 25.07.2015.

12. Taking cognizance of the same, the Commission, decided to hold a meeting with UPCL and directed it to submit some additional information in the prescribed format by 11.09.2015.

13. UPCL vide letter dated 16.09.2015 submitted information, which was further analyzed and found that neither the 'Comprehensive Action Plan' was submitted by UPCL with firm timelines by which the facilities in the Bill Collection Centers would be provided nor the Action Plan contains any details of the facility provided in Rural/Urban areas. Moreover, UPCL did not submit comprehensive Action Plan for Garhwal and Udham Singh Nagar Zones.

14. Further, a Meeting was held on the scheduled date i.e. 28.10.2015. The matter was discussed in the meeting and the Commission concluded that licensee has

summarily failed to comply with the directions/orders of the Commission in the matter of Bill Collection System.

15. Hence, taking cognizance of the report submitted by the committee and the submission of the Petitioner the Commission issued an Order dated 07.01.2016 stating that:

"The request of the Petitioner to waive and refund the consolidated penalty of Rs. 1,00,000/- and additional penalty of Rs. 2,500/- per day imposed by the Commission vide its Order dated 01.09.2005 for non-compliance of its directions with respect to Bill Collection system cannot be accepted as the Petitioner has failed to demonstrate earnestness in moving towards discernible improvement in Bill Collection System.

As a last attempt to induce Petitioner to work in right earnest for meeting the requirement of Order dated 01.09.2005, the recovery of penalty due after 31.03.2011 is kept in abeyance till final disposal of this Petition. A view on waiver or recovery would be taken after assessing performance of the Petitioner on following:

- (a) actions taken to augment and upgrade its prevailing Bill Collection System in order to make it consistent with the Commission's Order dated 01.09.2005 within six months from the date of issuance of this Order. Bimonthly report of action taken to be furnished to the Commission.*
- (b) actions taken to extend the bill collection facility/services integrating all the Common Service Centers (CSC) situated across the State within six months from the date of issuance of this Order and submit monthly progress report with number of CSCs integrated during the month latest by 15th day of the next month.*
- (c) submit comprehensive Action Plan latest by 25.01.2016 including distinct focus/plan for Bill Collection System in rural and urban areas of the State in accordance with the orders/direction by the Commission in this regard for effective implementation of the direction issued at para (a) above."*

16. In the absence of any compliance as was required under the aforesaid Order of the Commission dated 07.01.2016, the Commission issued a show cause notice in the

matter to the Petitioner vide letter dated 18.04.2016 seeking explanation as to why its prayer for refund and waiver of penalty be considered and why appropriate action be not taken against it in accordance with the provisions of Section 142 read with Section 146 of the Electricity Act, 2003.

17. In reply to the aforesaid show cause notice, UPCL submitted its reply which was returned to it as the same was not in accordance with requirements of the provisions of UERC (Conduct of Business) Regulations, 2014. Thereafter, UPCL submitted its reply in accordance with the provisions of the aforesaid Regulations vide its letter dated 02.06.2016 wherein, the Petitioner sought time extension of three months from the Commission to submit its reply and the same was allowed by the Commission vide letter dated 21.06.2016.
18. The Petitioner vide its letter dated 28.10.2016 submitted its reply. The Commission thereafter fixed a hearing in the matter on 15.11.2016 and issued notice for the same to the Petitioner vide letter dated 02.11.2016.

Submissions of the Petitioner

19. The Petitioner vide its letter dated 28.10.2016, submitted that:

“UPCL has completed the detailed and extensive exercise of determining the requirement of consumer facilities at various collection centers across the State. In the said exercise UPCL has considered five basic facilities viz. waiting room, drinking water availability, fan, toilet and proper sitting arrangement as standard and has also prepared the estimates for the same as and where required. Complete facility wise details and expected expenses in most of the billing centers across the State are attached herewith for reference. Further, considering that the total estimated amount for arranging the above mentioned facilities to the consumers at the bill collection centers is Rs. 1120.08 lakhs, an investment approval petition for sanction of the same would be filed before the Hon’ble UERC in due course of time after getting approval from the Board of Directors of UPCL. It is further to submit that a period of one year is expected in completion of all works proposed after the tender formalities but the same can be initiated only after the approval of BoD and Hon’ble UERC.”

20. With regard to the actions taken for extending the bill collection facility/services integrating all the Common Service Centers (CSC), the Petitioner submitted, *“That with respect to the integration of the Common Service Centers (CSC) it is to reiterate that*

UPCL has already completed the integration formalities and any new CSC will automatically be added with UPCL system. Further to inform that out of the expected 2100 VLEs (Village Level Entrepreneurs) as per the initial target given by CSC e-Governance Services India Ltd., the active CSCs engaged in bill collection service or transacted with UPCL from April 2015 to March 2016 are 647 nos. only. UPCL has written numerous times on this issue to CSC for clarifying the reasons for such less nos. of active CSCs and have requested to increase the same on priority basis but in response the justifications and reasons cited by them are not satisfactory."

21. Further, the Petitioner has submitted that apart from the existing online facilities and association with Banks for deposition of bills, UPCL has recently contracted with M/s My Mobile Payments Ltd. for providing online Electricity Bill Payment facility. Moreover, M/s My Mobile Payments Ltd. would arrange 24X7 call center support to the consumers of UPCL. Moreover, the company shall open minimum of 150 counters across the State and there shall mandatorily be atleast one member Cash Collection Counter in town area of each sub-division of UPCL.
22. On the scheduled date of hearing i.e., 15.11.2016 the Commission heard the Petitioner in the matter. During the course of hearing, the Petitioner reiterated its earlier submissions.

Commission's Observations, Views & Directions

23. The Commission in its Order dated 07.01.2016 expressed its views mentioned at para 15 above wherein, the Commission had held that a view on waiver or recovery of penalty would be taken after assessing performance of the licensee w.r.t the directions given in the said Order. Therefore, the Commission in the first instance would analyze the submissions made by the Petitioner w.r.t the directions given by the Commission in the said Order:
 - (1) To augment and upgrade its prevailing Bill Collection System within six months of the issuance of the Order and submission of bimonthly reports of the action taken.

- (2) Action taken to extend bill collection facility/ service integrating all the Common Service Centers within six months from date of issuance of Order. Submission of progress report by 15th day of next month.
- (3) Submit comprehensive action plan by 25.01.2016 including distinct focus/plan for Bill Collection System in rural and urban areas.
24. The aforesaid directions were given by the Commission as a last attempt to induce the Petitioner to work in the direction so as to meet the requirements of the Order dated 09.07.2004, 01.09.2005, 07.01.2016 and various other directions given in this regard. However, despite these Orders/directions, the Petitioner failed to submit the compliance to the Commission and therefore, the Commission issued a show cause notice to the Petitioner wherein, UPCL sought time extension of three months to reply to the same which was allowed by the Commission taking a lenient view in the matter.
25. It is observed that UPCL was required to augment and upgrade its system within six months of the Commission's Order dated 07.01.2016 and to submit bimonthly reports, however, UPCL did not comply with it. Now after being summoned, UPCL has submitted that it intends to seek Investment Approval from the Commission for complying with the directions and also submitted that it will require one year for ensuring compliance in the matter. It has been observed that more than eleven years have passed since the Order dated 01.09.2005 was issued to UPCL and subsequently various Orders/directions have been issued by the Commission in the matter. UPCL now has submitted its report wherein it has informed the Commission of its intention to pursue the matter which may take one year or more for its implementation. It is appalling to take note in the said report that still in most of the Bill collection centers UPCL has failed to provide even the basic conveniences such as drinking water, sitting arrangements, toilets etc despite Commission's repeated Orders/directions in the matter since the year 2004. In addition to this, the Commission has further observed that UPCL has failed to

submit the periodic compliance reports to the Commission as was directed in the aforesaid Order.

26. The Commission in its Order dated 07.01.2016 at para 19 (i) (b) had categorically directed UPCL to take action for extending the Bill Collection Facility/Services integrating all the Common Service Centers (CSCs) situated across the State within six months of issuance of the aforesaid Order and submit monthly progress report with number of CSCs integrated during the month latest by 15th of next month. Whereas, instead of complying with the directions of the Commission, UPCL requested for 3 months time extension which was allowed by the Commission. However, even after a lapse of more than 9 months the submission of UPCL dated 28.10.2016 did not depict substantial progress w.r.t improvement in Bill Collection facility/integration of CSCs.

Moreover, on examination of the compliance reported by UPCL w.r.t the directions issued at para 19 (i) (b) of the aforesaid Order, the Commission has observed that UPCL has failed to furnish monthly progress report with number of CSCs integrated during the month latest by 15th of next month and even after a passage of almost a year since Commission's Order dated 07.01.2016, the total number of CSCs integrated with UPCL's system are only 909 which is not even 50% of the total 2000 number of CSCs situated across the State.

27. With regard to limited number of CSCs, UPCL in its submission dated 28.10.2016 has submitted that various correspondences with the concerned authorities of Common Service Center, e-Governance Services India Limited for clarifying the reasons for less number of active CSCs have been made and requested them to give it priority however, the response of CSCs was not satisfactory and the issue remains unaddressed till date by CSCs. In this regard, the Commission is of the view that UPCL being a distribution licensee and a service provider cannot absolve itself from complying with the directions issued by the Commission. Since, CSC is one of the ways and not the only means to extend the Bill Collection facility to every nook and corner of the State so that consumers do not have to travel long

distances for deposition their electricity bills. Thus, UPCL cannot aver this as a cover from its responsibility of extending the bill collection facilities on the pretext of non-cooperation by Common Service Center, e-Governance Services India Limited.

28. Further, UPCL has informed that it has contracted with M/s My Mobile Payments Ltd. which will provide Online Bill payment facility through Prepaid Cash Cards/ Wallets, Mobile based payments and cash collection agencies. UPCL has submitted that the company will open minimum 150 counters across the state and there will be atleast one number cash collection counter in town area of each sub-division of UPCL. The Commission has observed that this is one of the means which only cater to a section of consumers in the State and does not address to the larger section of the consumers which is of paramount concern to the Commission.
29. On the direction issued at para 19 (i) (c) of the Order dated 07.01.2016 of the Commission, the Petitioner was required to submit a 'Comprehensive Action Plan' to the Commission including distinct focus/plan for Bill Collection System for rural and urban areas of the State in accordance with the earlier Orders/directions of the Commission in this regard. However, the Petitioner in its submission has submitted a common report for urban & rural areas whereas, the Commission in the aforesaid directions has very categorically mentioned that the licensee is required to submit 'Comprehensive Action Plan' including distinct focus/plan for Bill Collection System in rural and urban areas of the State in accordance with the Orders/direction by the Commission. Such lackadaisical approach of the licensee cannot be accepted.
30. Thus, the Commission is of the view that even after a passage of more than 11 years, the efforts made by UPCL are not sufficient and are way behind the directions issued in the Commission's Order dated 09.07.2004 for planning and establishing Bill Collection facilities in such a manner that consumers in Urban areas do not have to travel more than say one kilometer to drop their cheque and consumers in Rural areas do not have to travel unduly long distances.

31. Moreover, licensee's response to the issue so far has been inadequate and routine. The Petitioner has failed to implement the directions of the Commission and bring forth any justifiable reason to waive of the penalty. Therefore, the Commission is of the view that, since, UPCL even after an elapse of more than 11 years has failed to implement the directions of the Commission issued in the matter and has not been able to justify any reason to the Commission for waiver and refund of penalty despite been given several opportunities.

Hence, the Commission decides to reject the request of the Petitioner for waiver and refund of penalty and orders that:

- (i) Outstanding penalty from 01.04.2011 upto 30.11.2016 be deposited within one month from the date of this Order.
- (ii) Till such time that each of the directions as given in the Order dated 09.07.2004 & 01.09.2005 of the Commission has been fully complied with to the satisfaction of this Commission, the Petitioner company shall continue to pay daily penalty of Rs. 2500/- which shall be paid within 30 days of close of each calendar month.

Ordered accordingly.

(Subhash Kumar)
Chairman