

**Before**  
**UTTARAKHAND ELECTRICITY REGULATORY COMMISSION**

**Petition No. 11 of 2022**

**In the Matter of:**

**Suo-moto proceedings initiated by the Commission in the matter of Non-compliance of the sub-Regulations 3.3.3(15), 3.3.3(16), 3.4.3(10) & 3.4.3(11) of the UERC (The Electricity Supply Code, Release of New Connections and Related matters) Regulations, 2020 in the matter of 'Availability of Three Phase Energy Meters'.**

**And**

**In the Matter of:**

Uttarakhand Power Corporation Ltd.,  
VCV Gabar Singh Urja Bhawan, Kanwali Road,  
Dehradun

**...Petitioner**

**Coram**

**Shri D.P. Gairola      Member (Law)/Chairman (I/c)**  
**Shri M.K.Jain        Member (Technical)**

**Date of Order:      March 10, 2022**

**ORDER**

This Order relates to the *suo-moto* proceedings initiated by the Commission against Uttarakhand Power Corporation Ltd. (hereinafter referred to as "the Respondent" or "UPCL" or "distribution Licensee") in the matter of Show Cause Notice issued vide letter dated 30.11.2021 and in the matter of non-compliance of the sub-regulations 3.3.3 (15), 3.3.3 (16), 3.4.3 (10) & 3.4.3 (11) of the UERC (The Electricity Supply Code, Release of New Connections and Related matters) Regulations, 2020 in the matter of 'Availability of Three Phase Energy Meters'.

**Background**

2. The Commission vide its letter dated 01.11.2021 in the matter of 'Availability of Three Phase Energy Meters' highlighted the issue of non-availability of three

phase energy meters at field levels causing undue delay in release of new service connections and enhancement of loads and accordingly, directed the distribution licensee to arrange sufficient number of three phase energy meters at field level at the earliest and inquire about the reasons of such lapses.

3. Taking cognizance of the non-availability of three phase meters in UPCL's network, which is causing undue delay in release of new service connections and enhancement of loads, the Commission decided to initiate *suo-moto* proceeding under Section 142 read with Section 146 and Section 149 of the Electricity Act, 2003 and accordingly the Commission vide its letter dated 30.11.2021 issued a Show Cause Notice and directed distribution licensee to submit its reply under affidavit before the Commission latest by 15.12.2021.
4. The Commission in its aforesaid Show Cause Notice categorically highlighted that non-availability of three phase energy meters at field level has been confirmed through the messages being sent by the distribution licensee to its consumers, who have applied for load enhancement/new service connections above 4 kW. Further, the Commission highlighted that the distribution licensee had failed to furnish its compliance w.r.t. Commission's letter dated 01.11.2021 pertaining to submission of status of 'Circle-wise Availability of Three Phase Energy Meters' in the prescribed format latest by 18.11.2021. Furthermore, the Commission in its aforesaid Show Cause Notice highlighted that: -

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...

*Whereas, understanding the need and relevance w.r.t. prompt services to the consumers for new connections and load enhancement, the Commission in past vide its letter dated 25.05.2017 and 15.01.2018 had issued prescribed formats for furnishing Availability/Procurement Plan of Distribution Transformers and **Energy Meters** and also, from time to time, the Commission has been reminding/reviewing the Availability/Procurement Plan of Energy Meters, so that the Distribution licensee could introspect and review its shortcomings w.r.t. availability of inventory of 3 phase energy meters in its stores/stocks/network.*

*Whereas, not releasing the three phase connection to the applicant and not enhancing the load of the consumers within the specified time lines, amounts to contravention of the provisions of Section 43 of the Electricity Act, 2003 and violation of provisions of the sub-Regulations 3.3.3(15), 3.3.3(16), 3.4.3(10) & 3.4.3(11) of the UERC*

*(The Electricity Supply Code, Release of New Connections and Related matters) Regulations, 2020.* [Emphases added]

5. In compliance to directions issued in the Show Cause Notice dated 30.11.2021, UPCL vide its letter dated 15.12.2021 submitted its reply:-

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...

*UPCL maintains its inventory of essential equipments like Meters with future visibility of minimum six months as Meters are required to be sample tested based upon the specifications and the IS requirements. UPCL took services of reputed NABL Labs like ERDA, CPRI etc. for testing of meters and for material testing of meters reports from CIPET are generally sought. Generally these reputed labs take 2-3 months time for submitting the reports and accordingly a cushion of six months of meter inventory is considered by the Corporation.*

*As Hon'ble Commission is aware that on account of COVID Pandemic Nation wide Lock Down was imposed in March, 2020 and only from May onwards the process of Un-locking was started, UPCL despite having a cushion of almost a year from 01.06.2020 i.e. having inventory of 13,325 three phase meters against the average annual consumption/requirement of 15,500 three phase meters, has initiated the procurement process in June, 2020 itself considering that some unavoidable delay may occur in supplies because of pandemic as the businesses were not normalized at that time and future course of event was also not clear. A tender for supply of 30,000 three phase whole current meters was published on 08.06.2020 bearing e-tender specification no. CCP-II/8/2020-21 and the same was initially scheduled for opening on 08.07.2020 but due to less participation and repeated extensions and a pre-bid meeting, the part-I of tender was finally opened on 11.11.2020 in which total 5 firms had participated. The sample meters submitted by these firms were sent for testing to CPRI, Bengaluru on 9.12.2020. However, inspite of repeated persuasion with the testing lab the test reports were received only on 24.06.2021 i.e. almost after six and half months, as the working of CPRI was significantly affected due to COVID pandemic. In the mean time as the test reports were inordinately got delayed an additional order of 10,000 meters was placed to M/s Genus Innovation Limited, Jaipur as maximum possible variation against their earlier order for supply of 20,000 meters.*

*As per the test report, four out of five samples failed and moreover only M/s Schneider Electric India Pvt. Ltd. qualified in part-I evaluation. Since the period of validity of rates submitted by the successful bidder got expired during the process, bidder was requested to extend the same but citing the inflation bidder had refused to extend the same and UPCL had no option but to scrap the tender.*

*Considering the urgent requirement of meters UPCL had even modified the terms of the tender requiring mandatory prior NABL accredited lab testing and had allowed the inhouse testing for finalizing the tender and a provision for post award testing through Lab had also been incorporated. Accordingly a tender was invited on 21.8.2021 for supply*

*of 50,000 meters and the LOI against the same was placed on 27.10.2021. Further UPCL preferred to award the tender to two bidders (L1 & L2) in 70:30 ratio to keep the preference of LI bidder unaffected and considering that the supplies won't get affected even if sample of any of the two suppliers do not qualify the ERDA/CPRI testing. UPCL has ensured that sufficient meters shall be available by 25.01.2021.*

*The above facts and explanation clearly shows that UPCL had been taking all proactive decision to keep the stock availability as per requirement and as is evident UPCL had 13,325 meters as on 1.6.2020 and had added 10,000 more meters in between but during the period the consumption was unexpectedly higher than usual 15,500 and inspite of all proactive actions there happens to be a situation that the scarcity in availability of meters has occurred, the situation was unprecedented and could not have been anticipated, all efforts were made to counter the situation however inspite of due diligence and timey efforts the situation could not be avoided as due to pandemic and its consequential effects UPCL was forced to scrap the earlier tender, the fact that in record time UPCL has managed to award the new one and the material will soon become available from 25.12.2021 onwards, clearly demonstrate the proactive efforts made by the Corporation. UPCL at all times endeavours and tries to ensures that new applicants and the existing consumers get best of the services and only because of the unprecedented situation as has been mentioned above such delay in availability of meters has occurred and it was practically beyond the control of UPCL."*

6. Thereafter, the Commission issued Notice for Personal Hearing to MD, UPCL vide its letter no. **1074** dated **17.01.2022** taking cognizance of the distribution licensee's submission dated 15.12.2021 that "...sufficient number of energy meters would be available w.e.f. 25.12.2021" do not hold true as the issue of non-availability of three phase meters in distribution licensee's network was persisting which was leading to non-compliance of the provisions of Act/Regulations and directions of the Commission from time to time. Moreover, the Commission took cognizance of the issue of shortage of three phase energy meters vociferously highlighted in newspapers viz. 'Hindi daily newspaper Amar Ujala dated **19.12.2021** and **13.01.2022**. Accordingly, the Commission in its aforesaid Notice for Personal Hearing to MD, UPCL directed to explain why action under Section 142 read with Section 146 and Section 149 of the Electricity Act, 2003, be not taken against you for non-compliance of the provisions of prevailing Regulations and Commission's directions from time to time. Further, MD, UPCL was directed to furnish its reply before the Commission latest by **25.01.2022** and appear in person before the Commission on **03.02.2022** at **11:30** Hrs.

7. Incompliance to the aforesaid Notice dated 17.01.2022, UPCL furnished reply under affidavit vide its submission dated **02.02.2022** stating that:-

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2. *That UPCL had submitted its reply in the matter before the Hon'ble Commission vide letter no. 4557 dated 15.12.2021. In the said reply the true and correct causes and reasons for delay in procurement of the three phase meters were informed to the Hon'ble Commission. UPCL on the basis of delivery schedule given to the suppliers in the letter of Intent, duly accepted by the suppliers, has informed the Hon'ble Commission that the material would be available from 25.12.2021 onwards, as the submissions were made on 15.12.2021 the Hon'ble Commission could not be informed about the subsequent events because of which Hon'ble Commission in its notice has concluded that the contentions made by UPCL in this regard do not hold true and the non-availability of the three phase meters still persists. This has been held by the Hon'ble Commission to be non compliance of the Act/Regulations and directions of the Commission from time to time.*
3. *That in this regard and in furtherance of the earlier submissions it is humbly submitted that the delay in supplying the meters occurred on part of the suppliers and when the intimation for supply as per the letter of intent was not confirmed by the suppliers then UPCL immediately vide letter no. 494 & 495 dated 24.12.2021 served show cause notices to both the successful bidders stating why action should not be taken against them as per terms of agreement due to non-supply of meters in time.*
4. *That in reply to aforementioned show cause notices the replies were submitted by the bidders M/s Genus Power Infrastructures Ltd. and M/s Avon Meters Pvt. Ltd, vide their letters dated 27.12.2021 & 29.12.2021 respectively wherein they had informed that due to global shortages of semiconductors, ICs. Micro Chips etc. they were facing heavy difficulties in getting the input raw material and also the delivery lead time of the components/raw material were higher than earlier because of which they were unable to meet the delivery time lines. M/s Avon Meters also requested to consider the impact of COVID pandemic and acute scarcity of electronic components as force majeure condition. They have also submitted letter dated 19.08.2021 of IEEMA which also expressed the same intention.*
5. *That the Avon Meters requested for the inspection call on 5.1.2022 and the delivery instructions were issued on the very same day and pursuance to which 7000 meters have already been received between 8<sup>th</sup> Jan to 15<sup>th</sup> Jan, 2022, they have made request for further inspection which is scheduled on 3.2.2022 for another 7500 meters. Whereas M/s Genus has called for the inspection of 3000 meters on 10.2.2022 and will soon start the supply thereafter.*

6. *That from the aforesaid facts it is apparent that UPCL had made contentions before the Hon'ble Commission according to the existing facts on that day when the submissions were made and did not deliberately hide or misrepresent any fact, the event leading to delay in supply in meters have occurred subsequent to the submission made by UPCL vide their reply dated 15.12.2021.*
7. *That there has been deliberate non-compliance of the provisions of the Electricity Act/Regulations or the directions of the Hon'ble Commission, as is evident from the facts stated above the delay in supply was beyond the control of UPCL, the matter was contractual and the only remedy which UPCL could explore was only possible as per the terms of the contract, it was not possible for UPCL in the facts and circumstances to manage the supply of meters otherwise. UPCL has already made submissions in its reply dated 15.12.2021 about the justified cause due to which the delay in procurement of meters was caused and also intimated to the Hon'ble Commission about its efforts to mitigate the situation, the causes subsequent have been mentioned above.*
- ...
9. *In light of above Hon'ble Commission is humbly requested to take a sympathetic view in the matter and not to invoke the provisions of section 142, 146 & 149 of the Electricity Act, 2003 as UPCL in the matter has remained proactive in arranging the meters has taken all necessary steps to ensure the availability of meters to the consumers, the situation which had lead to the delay was neither deliberate nor within the control of UPCL."*
8. Further, UPCL vide its letter dated **03.02.2022** submitted that due to some health issues MD, UPCL would not be able to attend the hearing in person and requested the Commission to exempt MD, UPCL from personal appearance or extend the hearing for two weeks.
9. Thereafter, the Commission vide its letter dated **07.02.2022** issued a notice for personal hearing to MD, UPCL and directed to appear in person for the hearing on **23.02.2022**.
10. Hearing in the matter was held on the scheduled date & time. The Respondent MD, UPCL appeared in person and reiterated its submissions dated **15.12.2021** and **02.02.2022** before the Commission.

**Commission's Observations, Views & Directions: -**

11. During the hearing, the Commission emphasized that metering, billing & collection are the activities which encompasses the entire distribution business

revenue cycle and amongst them metering is the most important activity. Therefore, the distribution licensee is expected to lay emphasis on prompt metering of its consumers. However, non-availability of meters and associated materials required for release of connections/enhancement of load/other consumer services is actually a default on distribution licensee's part for non-compliance of its universal service obligation under provisions of the Electricity Act, 2003.

12. On examination of the submissions of the distribution licensee in the matter, the Commission observed that there has been an unprecedented increase in demand for energy meters in a post Covid scenario, whereas, the energy meters availability in UPCL's stocks/stores were insufficient to meet such demands. Further, due to the situation arisen out of the Covid pandemic, the meters sent for testing at CPRI, Bengaluru got delayed followed by re-bidding of the tenders (due to bid validity) resulting in a delay of more than one and half years in supply of energy meters.
13. The Commission opines that there has been an exceptional delay in meeting the demands for energy meters primarily due to the external reasons (Covid pandemic/delay due to meter testing at NABL lab), however, the same do not fully absolve the distribution licensee from its responsibility under the Act/Regulations. Therefore, the distribution licensee is expected to take pro-active action for ensuring the availability of energy meters and associated material in its stores/stocks by planning their availability on annual basis. Infact, the Commission had foresighted the issue before hand and accordingly, has been monitoring the issue of availability of energy meters and distribution transformers for past couple of years and has been directing UPCL to furnish a plan for 'availability of energy meters and distribution transformers' for the ensuing year.
14. With regard to the situation arisen due to Covid pandemic, the Commission had taken a considerate view in this regard and accordingly vide its letter dated **28.07.2021** in the matter '*Petition for extension of time for compliance of directions given by Hon'ble Commission vide order dated 07.01.2020 passed in the matter of relaxing/waiving or varying the provisions of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007 and UERC (Release of New LT*

*Connections, Enhancement and Reduction of Loads) Regulations, 2013 whereby the penalty was imposed in the matter of delay in release of new LT service connections for the period of FY 2008-09 to FY 2018-19 and upto Aug-2019 and for suspension of Standards of Performance during the Covid-19 pandemic period and accordingly waive the requirement of submitting various periodical reports' had directed the distribution licensee that:-*

*"...the Commission had taken a considerate view on your request [referred at para 9 (iv) & 9 (v) of your Petition dated 05.08.2020] pertaining to suspension of SOPs and waiver of requirement of submission of all periodical reports w.e.f. February, 2020 uptill now. As the situation arisen due to Covid-19 pandemic has improved now to a larger extent. Hence, compliance of Regulations with regard to SOPs and requirements of submission of periodical reports should be resumed w.e.f. 01.09.2021.*

*Therefore, you are directed to ensure the compliance accordingly."*

Thus, the Commission has already taken a considerate and accommodating view w.r.t. situation arisen due to Covid pandemic for the period **01.03.2020 to 31.08.2021** i.e. one and half years.

15. The Commission is of the view that energy meters are the most important component for the electricity distribution business which is not only important for ensuring the availability of the electricity to the consumers but also has a direct impact on the revenue of the distribution licensee, therefore, ensuring the sufficient availability of energy meters in distribution network is of paramount importance for the distribution licensee. Further, Section 55 (1) of the Electricity Act, 2003 provides that: -

*"No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with regulations to be made in this behalf by the Authority."*

Hence, the need of the hour is to proactively plan and ensure availability of energy meters in advance so that the vital services to the electricity consumers can be ensured.

16. The Commission cautions the distribution licensee that default in services to the consumers due to non-availability of meters and materials required for release of connections/enhancement of loads/various consumers services shall not be considered in future. However, under the circumstances stated, as an exceptional case the Commission has decided to take a considerate view towards distribution licensee and its Managing Director.
17. In light of the above, the Commission directs that: -
- (1) Managing Director, UPCL shall take proactive action/measures for advance planning of availability of energy meters and associated materials for the ensuing years essential for various consumer services and shall monitor the availability periodically.
  - (2) The distribution licensee is allowed a period from **01.03.2020 to 31.08.2021** as the period of exemption from the services of Standards of Performance and delay in release of new connections including the impact of unavailability of the three phase energy meters on account of situation arisen due to Covid pandemic. However, as discussed at para 14 of this Order, from **01.09.2021 onwards**, the distribution licensee is liable for ensuring the compliance of Regulations with regard to SoP and submission of periodical reports including penalty for delay in release of connections, if any.

The matter w.r.t. personal hearing of MD, UPCL, stands disposed off.

Ordered accordingly.

**(M.K. Jain)**  
**Member (Technical)**

**(D.P. Gairola)**  
**Member (Law)/Chairman (I/c)**