

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 30 of 2020 & Petition No. 20 of 2020

In the Matter of:

Payment of Penalty as per sub-section 3 of Section 43 of the Electricity Act, 2003 and sub-Regulation 12 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007/sub-Regulation 14 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013, Commission's directions issued vide Order dated 05.07.2016, 09.05.2017 and Commission's directions issued vide Order dated 17.01.2018.

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In the Matter of:

Petition to relax/waive or vary 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 F.Y. 2008-09 to F.Y. 2018-19 and upto Aug-2019. [Petition No. 30 of 2020]

And

In the Matter of:

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. [Petition No. 20 of 2020]

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In the Matter of:

Suo-moto proceedings initiated by the Commission in the matter of non-compliance of the Commission's directions issued vide letter dated 01.11.2021 pertaining to submission of Periodical Reports as per provisions of the Regulations.

And

In the Matter of:

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

...Petitioner

Coram

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

Shri M.K. Jain Member (Technical)

Date of Order: July 06, 2022

ORDER

Background

Sub-section 3 of Section 43 of the Electricity Act, 2003 provides that the Distribution licensee (hereinafter referred as 'UPCL') shall be liable to pay a penalty if it fails to supply electricity to the new connection applicant within the period specified by the Commission. Accordingly, appropriate provisions have been included in Regulation 5(12) & 5(13) of UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulation, 2007 and 5(14) & 5(15) of UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulations, 2013 (hereinafter referred to as "Regulations").

2. In this context, the Commission vide its Order dated **10.04.2019** in the matter of '*Payment of Penalty as per sub-section 3 of Section 43 of the Electricity Act, 2003 and sub-Regulation 12 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007/sub-Regulation 14 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013, Commission's directions issued vide Order dated 05.07.2016, 09.05.2017 and Commission's directions issued vide Order dated 17.01.2018*' had taken a serious view on the lackadaisical approach of the licensee towards timely release of new LT connections and had observed that during last few years ample opportunities had been given to UPCL for reforming its internal mechanism w.r.t. timely release of new LT connections. However, the situation remained unaltered and the same had also been confirmed from the various reports of UPCL summarised in the Table-1 below: -

Table-1*(Amount in Rupees)*

Sl. No.	Financial Year	Penalty Amount	No. of Delayed Connections Released during the Period	Penalty Deposited	Penalty Due
1	FY 2009 to FY 2010-11	91,37,875		74,96,797 (July 2009 to March 2015)	5,76,92,748
2	2011-12	1,09,55,550			
3	2012-13	1,73,58,960	11,442		
4	2013-14	1,28,80,240	3,928		
5	2014-15	1,48,56,920	4,757		
6	2015-16	3,64,02,478	9,454	36,40,247	3,27,62,231
7	2016-17	4,43,37,553	9,166	--	4,43,37,553
8	2017-18	3,50,60,990	5,680	--	3,50,60,990
9	2018-19	1,83,74,750	3,151	--	1,83,74,750
Total		19,93,65,316	47,578	1,11,37,044	18,82,28,272

Further, the Commission in its aforesaid Order dated 10.04.2019 had a view that "... UPCL has been defaulting in releasing the new connections within the time period specified in the Regulations and despite specific provisions in the Regulations that the licensee shall deposit requisite penalty amount as provided in the Act/Regulations on monthly basis, UPCL has failed to adhere to the same.

This is by all means a blatant contravention of the provisions of the Act/Regulations by the licensee and hence the Commission has decided not to waive off the accrued penalty. However, taking a lenient view, the Commission has decided to allow UPCL to deposit the due penalty amount of Rs. 18,82,28,272/- as on March, 2019 on quarterly basis starting from FY 2019-20 to be recovered in 6 years i.e. by end of FY 2024-25. Accordingly, the schedule of recovery of the amount of Rs. 18,82,28,272/- has been detailed in the Table-5 given below:

Table-5

Sl. No.	Financial Year	Instalment	Amount	Last date of deposition
1	2019-20	1 st	78,42,845.00	30.06.2019
		2 nd	78,42,845.00	30.09.2019
		3 rd	78,42,845.00	31.12.2019
		4 th	78,42,845.00	31.03.2020
2	2020-21	1 st	78,42,845.00	30.06.2020
		2 nd	78,42,845.00	30.09.2020
		3 rd	78,42,845.00	31.12.2020
		4 th	78,42,845.00	31.03.2021
3	2021-22	1 st	78,42,845.00	30.06.2021
		2 nd	78,42,845.00	30.09.2021
		3 rd	78,42,845.00	31.12.2021
		4 th	78,42,845.00	31.03.2022

Sl. No.	Financial Year	Instalment	Amount	Last date of deposition
4	2022-23	1 st	78,42,845.00	30.06.2022
		2 nd	78,42,845.00	30.09.2022
		3 rd	78,42,845.00	31.12.2022
		4 th	78,42,845.00	31.03.2023
5	2023-24	1 st	78,42,845.00	30.06.2023
		2 nd	78,42,845.00	30.09.2023
		3 rd	78,42,845.00	31.12.2023
		4 th	78,42,845.00	31.03.2024
6	2024-25	1 st	78,42,845.00	30.06.2024
		2 nd	78,42,845.00	30.09.2024
		3 rd	78,42,845.00	31.12.2024
		4 th	78,42,837.00	31.03.2025
Total			18,82,28,272.00	

3. Accordingly, the Commission in its Order dated **10.04.2019** had directed that:

“

(i) UPCL shall strictly adhere to the schedule of payment of penalty amount as mentioned in Table-5 above.

(ii) From April 2019 onwards, UPCL shall ensure to compute penalty for delay in release of new LT connections as per the provisions of UERC (Release of New LT Connection, Enhancement and Reduction of Loads) Regulations, 2013 as amended from time to time and shall also ensure to deposit the penalty amount alongwith the monthly reports of delay in release of new LT connections.

(iii) Any non-compliance of the directions issued at S. No. (i) & (ii) above, shall be liable for action under Act/Regulations against the licensee.”

4. Thereafter, UPCL vide its letter No. 3108 dated **30.09.2019** submitted its ‘Petition to relax/waive or vary 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 F.Y. 2008-09 to F.Y. 2018-19 and upto Aug-2019’ and requested the Commission to “...Relax/waive or vary the provisions of Regulation 5(12) of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007 and 5(13) of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013, and consequently reconsider/modify order dated 10.04.2019 passed in the matter. So as to reduce/waive the penalty amount of Rs 20,79,30,236/- required to be deposited by the petitioner as per the provision of the Regulation and refund of amount of Rs 1,22,01,524/- already deposited vide letter dated 03.06.2016 and 05.09.2017.”

5. The aforesaid Petition of UPCL was admitted by the Commission as Petition No. 30 of 2020 and after due process of hearing, considering UPCL’s request with regard

to delays due to *force-majeure* events and other occurrences beyond its control, the Commission issued an Order dated **07.01.2020** directing UPCL to:-

"5 In light of the above, it is ordered that:

- (a) UPCL is allowed a period of six months for substantiating its claim by revalidating the calculated penalty of past period i.e. upto March, 2019 w.r.t. the delays caused due to force-majeure events or other occurrences beyond its control, subject to prudence check. Further, UPCL is also directed to complete the above exercise by 30.06.2020 till then the operation of the Commission's Order dated 10.04.2019 shall be stayed. ..."*

6. Subsequent to the above Order dated **07.01.2020**, UPCL vide its letter No. 2072 dated **05.08.2020** filed a Petition as '*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.*'

7. UPCL in its aforesaid Petition (20 of 2020) dated **05.08.2020** under 'Relief Sought' requested the Commission to:-

"

- (ii) Extend the time upto 31.3.2021 for complying with the directions given vide order dated 07/01/2020 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 F.Y. 2008-09 to F.Y. 2018-19 and upto Aug-2019.*

- (iii) To suspend the operation of the Commission's order dated 10.04.2019 passed in the matter of Payment of Penalty as per sub-section 3 of Section 43 of the Electricity Act, 2003 and sub-Regulation 12 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007/sub-Regulation 14 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013, till fresh directions/ orders are given by the Hon'ble Commission in this regard subsequent to the disposal of the petition filed by the petitioner.*

..."

8. Further, UPCL vide its letter dated **30.03.2021** in the matter of Petition No. 20 of 2020 furnished an additional submission in the matter citing various reasons including issues arisen due to Covid-19 pandemic and prayed following reliefs: -

“

Extend the time upto 30.09.2021 for complying with the directions given at 5 (a) vide order dated 07/01/2020 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 F.Y. 2008-09 to F.Y. 2018-19 and upto Aug-2019.

And

(2) To suspend the operation of the Commission's order dated 10.04.2019 passed in the matter of Payment of Penalty as per sub-section 3 of Section 43 of the Electricity Act, 2003 and sub-Regulation 12 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2007/sub-Regulation 14 of Regulation 5 of UERC (Release of New LT Connections, Enhancement and Reduction of Loads) Regulations, 2013, till fresh directions/orders are given by the Hon'ble Commission in this regard subsequent to the disposal of the petition filed by the petitioner. ”

9. Meanwhile, understanding the fact that issues raised by UPCL in Petition No. 20 of 2020 and Petition No. 30 of 2020 were based on the pleadings on same issues/grounds, hence, the Commission decided to club the two Petitions.
10. With regard to UPCL's additional submission dated **30.03.2021**, the Commission vide its letter dated **28.06.2021** allowed time extension for submission of compliance in the matter upto **30.09.2021**.
11. However, by the aforesaid date UPCL did not ensure the compliance rather requested the Commission vide its letter dated **30.09.2021** for allowing further four months additional time for compliance w.r.t. 'substantiating its claim by revalidating the calculated penalty of past period i.e. upto March, 2019' citing the reasons of no online mechanism in initial years for release of new LT connections, retirement of associated staff and difficulty in revalidation of records of last 12 years.
12. The aforesaid request of UPCL was allowed by the Commission vide its letter dated **01.11.2021** and was directed to ensure its compliance latest by **29.01.2022**.
13. In the meantime, the Commission observed that UPCL is not submitting the periodical reports including LT penalty reports as required under various

Regulations issued by the Commission and therefore initiated a *suo-moto* proceeding and issued a Show-Cause notice vide its letter dated **30.11.2021**.

14. Taking cognizance of the submission made by UPCL on the above Show-Cause Notice, the Commission decided to hear the matter and issued a Notice for Hearing vide its letter dated **17.01.2022** and subsequently issued an Order dated **10.03.2022** in the matter of "*suo-moto proceedings initiated by the Commission against UPCL in the matter of 'non-compliance of the Commission's directions issued vide letter dated 01.11.2021 pertaining to submission of Periodical Reports as per provisions of the Regulations ' and ' 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"* wherein the Commission decided:-

- (1) To dispose-off the *suo-moto* proceedings in the matter and directed UPCL to make all efforts for removing the bottlenecks and ensure development of robust regulatory compliance reporting mechanism including effective monitoring at its end.
- (2) To allow 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 on account of situation arisen due to Covid-19 pandemic. However, from 01.09.2021 onwards, the distribution licensee was made liable for compliance of Regulations with regard to SoPs and requirements of submission of periodical reports including penalty for delay in release of new connections, if any.
- (3) To keep the issues of Petition No. 20 of 2020 mentioned at Para 7 of this Order under consideration till further order in this regard.

15. On examination of the Petitions before the Commission and submission made in the matters, it has been observed that UPCL vide its Petition dated **30.09.2019** (Petition No. 30 of 2020) had requested for relaxing/waiving the deposition of LT penalty imposed as per Commission's Order **10.04.2019**. On which the Commission vide its Order dated **07.01.2020** had allowed a time extension upto **30.06.2020** for 'substantiating its claim by revalidating the calculated penalty of past period i.e. upto March, 2019 w.r.t. the delays due to uncontrollable reasons' and had also stayed the operation of the Commission's Order dated 10.04.2019 upto **30.06.2020**.

Further, UPCL vide its Petition dated **05.08.2020** (Petition No. 20 of 2020), requested the Commission for time extension upto **31.03.2021** for the same. However, by the said date UPCL did not submit any compliance and rather vide its submission dated **30.03.2021** requested the Commission for further time extension upto **30.09.2021** citing various reasons including issues arisen due to Covid-19 pandemic.

Taking a considerate view due to situation arisen out of Covid-19 pandemic, the Commission vide its letter dated 28.06.2021 allowed the desired time extension upto **30.09.2021**.

Thereafter, UPCL vide its letter dated 30.09.2021 again requested for allowing further **four months** time extension for compliance w.r.t. 'substantiating its claim by revalidating the calculated penalty of past period i.e. upto March, 2019'. Again the Commission took a considerate view on it and allowed the desired time extension upto **29.01.2022**.

However, even after an elapse of more than 05 months, UPCL is indifferent about its responsibility w.r.t. compliance of the directions of the Commission and is adopting a lackadaisical approach in the matter and has also not utilized the opportunities in the form of benefit of several time extensions allowed to it in this regard.

16. It is observed that the general tendency of UPCL is to linger on issues and repeatedly seek time extensions/waiver/relaxations and file Petitions/Review Petitions. UPCL frequently goes into the state of hibernation in the matters pertaining to release of new LT connections and awakes from slumber only, when a reminder/show cause notice is served to it. This act of distribution licensee is

highly unwarranted and uncalled for in these testing times when stakes are gradually rising high in the Discom Sector.

17. The Commission has shown a very considerate view towards the distribution licensee and has given ample opportunities for revalidating the calculated penalty upto March, 2019 w.r.t. delay in release of New LT connections. Infact, the Commission had already taken a very lenient view in its Order dated **10.04.2019** towards the distribution licensee in spite of its continued non-compliance of the provisions of the Act/Regulations pertaining to the universal service obligation. Over and above, the Commission till date has allowed 3 time-extensions after the time period for initial compliance i.e. **30.06.2020**.
18. The Commission is of the view that the time extensions bestowed to UPCL for LT penalty for the period upto March, 2019 can not be allowed for perpetuity and accordingly, the stay granted to UPCL vide Order dated **07.01.2020** on operation of Commission's Order dated **10.04.2019** can not be further extended.
19. **In light of the above, the Commission directs that: -**
 - (a) The stay on the operation of the Commission's Order dated **10.04.2019** is vacated and the licensee shall deposit the total penalty in the manner and time schedule as stipulated in the aforesaid Order and any non-compliance in this regard shall be liable for strict action under Act/Regulations.
 - (b) UPCL shall not approach the Commission for further time extension/review /relaxation/waiver of LT penalty for the period prior to **31.03.2019**.
 - (c) Except for the LT penalty issue for the period April, 2019 to February, 2020, Petition No. 20 of 2020 and Petition No. 30 of 2020 are hereby disposed-off. A separate Order for LT penalty issue for the period April, 2019 to February, 2020 shall be issued.

Ordered accordingly.

(M.K. Jain)
Member (Technical)

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