

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 22 of 2024

In the Matter of:

***Suo-moto* proceeding initiated by the Commission for non-compliance of Regulation 3.4.3 (11) of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 pertaining 33 kV Bay for M/s Metro Decorative Pvt. Ltd Kataiya, Kashipur Dis-Udhamsingh Nagar.**

And

In the Matter of:

Managing Director,
Uttarakhand Power Corporation Ltd.,
Victoria Cross Vijeta Gabar Singh Urja Bhawan,
Kanwali Road,
Dehradun.

&

Managing Director,
Power Transmission Corporation of Uttarakhand Ltd.,
Vidyut Bhawan, Majra,
Dehradun.

&

M/s Metro Decorative Pvt. Ltd.,
Khasra No.-89 Bankhera Mahua Khera Ganj Road,
Dis-Udham Singh Nagar.

...Respondents

Coram

Shri M.L. Prasad

Member (Technical)/Chairman (I/c)

Date of Order: June 21, 2024

ORDER

This Order relates to the *suo-moto* proceeding initiated by the Commission for non-compliance of Regulation 3.4.3 (11) of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 pertaining 33 kV Bay for M/s Metro Decorative Pvt. Ltd Kataiya, Kashipur Dis-Udhamsingh Nagar.

Background

2. Earlier, the Commission had received a letter dated 25.10.2023 from M/s Metro Decorative Pvt. Ltd. (M/s MDPL), Kashipur wherein M/s MDPL had submitted that:

“... अधिशासी अभियन्ता उत्तराखण्ड पावर का0लि0 काशीपुर ने अपने पत्रांक संख्या 4652 दिनांक 26.08.2023 के द्वारा अधिशासी अभियन्ता (परि एवं अनु) के पत्रांक संख्या 561 दिनांक 25.08.2023 का संदर्भ देते हुये धनराशि **67,78,358.00 रुपये 33 के.वी.वे उपलब्ध कराने हेतु जमा कराने को कहा गया है।** (पत्र की छाया प्रति संलग्न)

उक्त संदर्भ में आपको अवगत कराना है कि प्रार्थी के द्वारा **7500000.00 लाख रुपये रजिस्ट्रेशन एवं प्रोसेसिंग एवं प्राक्कलन की राशि उत्तराखण्ड पावर का0लि0 में जमा की जा चुकी है** जिसकी छाया प्रति संलग्न की जा रही है।

उक्त के सन्दर्भ में आपसे निवेदन करना है कि उत्तराखण्ड सरकार द्वारा प्रकाशित सरकारी गजट उत्तराखण्ड प्रकाशन दिनांक 28.11.2020 (सप्लाइ कोड के क्लाज संख्या – 3.4.3 में वर्णित टेबल 3.10 (वर्क्स चार्ज फोर एचटी/ईएचटी कनेक्शन) एवं 3.4.3 के सब क्लाज 27 के अनुसार रजिस्ट्रेशन एवं प्रोसेसिंग शुल्क के अतिरिक्त अन्य किसी प्रकार का चार्ज प्रार्थी द्वारा देय नहीं है। इस आशय हेतु एक प्रार्थना पत्र दिनांक 25.09.2023 को अधिशासी अभियन्ता उत्तराखण्ड पावर का0लि0 काशीपुर को उचित कार्यवाही करने हेतु दिया गया। परन्तु उसमें कोई भी कार्यवाही नहीं हुयी है। पत्र की छाया प्रति संलग्न है।

आपके संज्ञान में यह भी लाना है कि पिटकुल को उसके उपकेन्द्र का टैरिफ मा0 नियामक आयोग उत्तराखण्ड द्वारा पूर्व में ही दिया जा चुका है। जिसको राज्य के निवासियों की विद्युत दरों में समायोजित किया जा चुका है। विद्युत कनेक्शन निर्गत ना होने के कारण हमें फ़ैक्ट्री के संचालन में अत्यधिक देरी हो रही है।

अतः निवेदन है कि कृपया कर उक्त का संज्ञान लेते हुए हमारी फ़ैक्ट्री को अति शीघ्र विद्युत कनेक्शन निर्गत करवाने की कृपा करें।”

3. The Commission taking cognizance of the lackadaisical and indifferent approach of the distribution and transmission licensee in the matter towards understanding and compliance of the provisions of the UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 decided to initiate a *suo-moto* proceeding in the matter. Accordingly, the Commission issued Show Cause Notices dated 02.11.2023 to distribution licensee (UPCL) and transmission licensee (PTCUL) directing them to explain why appropriate action

under Section 142 & Section 146 of the Electricity Act, 2003 be not taken against them for non-compliance of the provisions of the prevailing Regulations.

4. In compliance of the Commission's Show Cause Notices dated 02.11.2023, PTCUL through its reply dated 17.11.2023 made following submissions:-

“

1. *Executive Engineer, Distribution, UPCL, Kashipur has requested for estimation of 02 Nos. 33 kV Bays at 220 kV Sub-station, Mahuakheraganj for M/s Metro Decorative Pvt. Ltd. Kataiya, Kashipur, Distt. Udham Singh Nagar and M/s Usha Aluminum, Kashipur vide his office letter 3970 dated 10.08.2023 and no. 4172 dated 16.08.2023 respectively. (Annexure-1)*
2. *As per prevailing practice, the estimation of both 33 kV bays were submitted to Executive Engineer, Distribution, UPCL, Kashipur vide Executive Engineer (O&M), PTCUL, 220 kV Substation Mahukheraganj letter no. 561 dated 25.08.2023. (Annexure-2)*
3. *Executive Engineer, Distribution, UPCL, Kashipur submitted Demand Draft of amounting of Rs. 67.78 Lacs against providing 01 No. 33 kV Bay for M/s Usha Aluminum, Kashipur vide his letter no. 5494 dated 04.10.2023. (Annexure-3)*
4. *All the correspondence regarding above matter has been carried through UPCL. Further, UPCL neither intimated PTCUL about depositing of Rs. 20.00 lacs as per prevailing UERC Regulation nor denied about taking Rs. 67.78 Lacs from other similar case of M/s Usha Aluminum, Kashipur.*
5. *As per current feasibility status, 2 Nos. 33 kV Bays are available and ready to use at 220 kV Substation Mahuakheraganj. Thus there is no dispute with respect to providing 33 kV Bay to M/s Metro Decorative Pvt. Ltd. Kataiya, Kashipur Distt. Udham Singh Nagar.*
6. *Due to ignorance of concern field officials, PTCUL field officials failed to take necessary step as per UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020.*
7. *In the above circumstance, the Hon'ble Commission may discharge the notice under Section 142 as PTCUL has not disobeyed any direction of the Commission knowingly or willingly.*
8. *Considering the fact that PTCUL has always keeping highest reverence for the Hon'ble Commission and has always complied with the directions issued in past time to time, Hon'ble Commission may be pleased to not proceed with further action in this regard.*

Therefore, it is prayed before the Hon'ble Commission that:-

1. *No action may be taken against PTCUL & its concern field officials under Section 142 & 146 of the Electricity Act, 2003 for violating the provision of Supply Code 2020.”*

5. UPCL through its letter dated 18.11.2023 requested the Commission for additional one month time extension for submitting its compliance in the matter, which was allowed by the Commission through its letter dated 28.11.2023. Further, UPCL was directed to furnish *"... the details of HT/EHT consumers (including copy of demand note & dated of deposition) who have deposited charges for new bay/sub-station against release of new HT/EHT connection post applicability of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 i.e. from 28.11.2020 till date before the Commission latest by 20.12.2023."*
6. The Commission through its letter dated 21.11.2023 to PTCUL emphasized that obvious laxity on part of transmission licensee towards compliance of the provisions of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 pertaining to release of new HT/EHT connections was evident in the matter. Further, the Commission observed that the practice of issuing demand note to UPCL for construction of new bay/sub-stations for releasing new HT/EHT connections is widespread within PTCUL. Furthermore, the Commission through its aforesaid letter directed PTCUL to furnish upon affidavit *"... the details of HT/EHT consumers (including amount & date of deposition) who have deposited charges for new bay/sub-station against release of new HT/EHT connection post applicability of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 i.e. from 28.11.2020 till date before the Commission latest by 20.12.2023."*
7. Thereafter, in compliance to the Commission's Show Cause Notice dated 02.11.2023, UPCL through its submission dated 29.11.2023 submitted that *"... the undersigned has directed Superintending Engineer, EDC, Kashipur for inquiry and providing explanation in the matter. Superintending Engineer (EDC), Kashipur has submitted that Executive Engineer (EDD), Kashipur has raised the said demand note inadvertently without taking due consideration of Regulation. Further, the said demand note has been recalled and canceled. It is also submitted that 33 kV electricity line is ready to be charged for release of connection at UPCL end and the connection shall be released after Bay for the same is provided by PTCUL. Further, strict warning and directions have been issued to EE (EDD), Kashipur for the laxity in the matter and all the field units were also directed to ensure that such instances should not happen in future and all the works*

relating to release of new connections should be in line with the Regulations issued by Hon'ble UERC from time to time."

8. Thereafter, a letter dated 30.11.2023 was received to the Commission from M/s USHA Aluminium Pvt. Ltd., Kashipur wherein the similar issue of 33 kV Bay charges was raised by the prospective consumer.
9. PTCUL through its letter dated 20.12.2023 submitted its compliance w.r.t. Commission's letter dated 21.11.2023 wherein following information w.r.t. O&M Kumaon Zone, Haldwani was submitted:-

" ...

2. In compliance, the required details of HT/EHT consumers who have deposited charges for new bay/substation against release of new HT/EHT connection under O&M Kumaon Zone, Haldwani from 28.11.2020 to till date are as under: -

S. No.	Name of Substation	Name of Consumer	Demand of estimation for new bay by Distribution Licensee	Deposit amount	Date of Deposition	Remark
1	220 kV S/s Mahuakheraganj	M/s USHA Aluminium Pvt. Ltd., Kashipur	EE (UPCL) Kashipur letter 3970 dated 10/08/2023 for estimation for 33 kV bay at 220 kV substation Mahuakheraganj	67.78 lacs	04.10.2023	Bay/line associated to M/s USHA Aluminium Pvt. Ltd. at 220 kV S/s Mahuakheraganj, have been charged on dated 30.11.2023.
2	132 kV S/s ELDECO Sitarganj	M/s Archid Panel Industries Pvt. Ltd., Sitarganj	EE (UPCL) Sitarganj letter 1813 dated 23/08/2023 for estimation for 33 kV bay at 132 kV substation ELDECO Sitarganj	20.00 lacs	30.11.2023	01 No. 33 kV Bay will be constructed at 132 kV S/s, ELDECO, Sitarganj M/s Archid Panel Industries Pvt. Ltd.
3	132 kV Substation Kashipur	UPCL	EE (UPCL) Kashipur letter 5220 dated 11/10/2022 for estimation for 33 kV IIE Escort Farm, IIM kashipur	36.024	15.02.2023	EE UPCL has requested to provide 01 No. 33 kV Bay for developer for newly under construction 33 kV IIE S/s Kundeshwari Road Kashipur

10. Thereafter, UPCL through its letter dated 07.03.2024 again requested for time extension of 01 month for submitting its compliance of Commission's letter dated 28.11.2023, same was allowed by the Commission in its letter dated 15.03.2024.

Again, UPCL through its letter dated 26.03.2024 requested for one month time extension for submitting its complete compliance in the matter.

11. The Commission decided to hold a hearing in the matter on 17.05.2024 and accordingly issued notices for hearing to PTCUL, UPCL & M/s Metro Decorative Pvt. Ltd. through its letter dated 26.04.2024.
12. PTCUL through its letter dated 15.05.2024 submitted the consolidated information in the prescribed format before the Commission in compliance of the Commission's letter dated 26.04.2024. PTCUL in its aforesaid letter stated the details of connections on 33 kV Bay that were constructed and amount paid by the consumer which is as mentioned below:

Details of Consumer	Description of Bay/Sub-station	Amount paid by the Consumer	Date of deposition of amount	Remarks
IIM, Kashipur	33 kV Bay at 132 kV Sub-station Kashipur	36.02 Lakh	15.02.2023	Tender could not be finalized, due to higher rates found in tendering. Fund amounting to Rs. 36,02,138 dt. 15.02.2023 is received from UPCL as deposit work to develop IIM industrial area.
M/s Usha Aluminium Pvt. Ltd.	33 kV Bay at 220 kV Sub-station Mahuakheraganj	67.78 Lakh	04.10.2023	Bay/line associated to M/s Usha Aluminium Pvt. Ltd. at 220 kV S/s Mahuakherganj, have been charged on dated 30.11.2023 as per request of EE (UPCL), Kashipur. Further, Rs. 57.44 Lakhs (Excluding GST) refunded to M/s Usha Aluminium Pvt. Ltd. vide cheque No. 372219 dt. 21.03.2024 with request to claim (input credit) of GST amount i.e. Rs. 10.34 Lakhs on GST portal.
33 kV S/s Kuriyya (UPCL)	33 kV Bay at 132 kV Sub-station, Kichha	69.28 Lakh	18.11.2023	UPCL has constructed a New 33 kV S/s at Kuriyya, EE (UPCL), Kichha has requested PTCUL to submit an estimate for construction of 01 no. 33 kV Bay at 132 kV S/s, Kichha. As per estimate submitted by PTCUL, UPCL has deposited Rs. 69,27,566 on dt. 18.11.2023.
M/s Archid Panel Industries Pvt. Ltd., Sitarganj	33 kV Bay at 132 kV Sub-station, ELDECO Sitarganj	20.00 Lakh	30.11.2023	Agreement has been made with M/s Karan Supertech, Meerut on 08/03/2024. Date of completion of the work is 180 day from date of agreement.

Details of Consumer	Description of Bay/Sub-station	Amount paid by the Consumer	Date of deposition of amount	Remarks
M/s Metro Decorative Pvt. Ltd., Kashipur	33 kV Bay at 220 kV Sub-station Mahuakheraganj	Nil	Nil	Bay/line associated to M/s Metro Decorative Pvt. Ltd., Kashipur at 220 kV S/s Mahuakheraganj have been charged on dated 02.02.2024 as per request of EE (UPCL), Kashipur.

13. Further, UPCL through its reply dated 16.05.2024 submitted its compliance w.r.t. the Show Cause Notice dated 02.11.2023 and attempted to submit a consolidated information on the Bay/Sub-station charges deposited against release of new HT/EHT connection post applicability of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 i.e. from 28.11.2020 onwards. UPCL in its submission has submitted following details: -

Details of Consumer	Description of Bay/Sub-station	Amount paid by the Consumer	Date of deposition of amount	Remarks
M/s Usha Aluminium Pvt. Ltd.	33 kV Bay at 220 kV Sub-station Mahuakheraganj	67.78 Lakh	03.10.2023	Bay cost as per demand note of PTCUL.
M/s Metro Decorative Pvt. Ltd., Kashipur	33 kV Bay at 220 kV Sub-station Mahuakheraganj	67.78 Lakh	Not deposited	Bay cost as per demand note of PTCUL.
M/s Fresh Pet P. Ltd.	33 kV Bay at 220 kV Sub-station SIDCUL	91.95 Lakh	29.07.2022	Bay cost as per demand note of PTCUL was Rs. 82.19 Lakh.

14. Hearing in the matter was held on 17.05.2024, after hearing the Respondents, the matter was reserved for judgment by the Commission.

Commission's Observations, Views & Directions: -

15. Based on the examination of the submissions of the Respondents received in the matter before the Commission, the observations, views and directions of the Commission are mentioned hereunder: -

- (1) UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 was notified in the official gazette on 28.11.2020 wherein at Regulation 3.4.3 (11) it is categorically mentioned that: -

*“(11) In cases, where supply of electricity to premise applied for requires commissioning of new substation/bay, the distribution/transmission Licensee shall ensure completion of the works on the new substation/bay. However, **the cost of the works pertaining to new substation/bay shall be borne by the respective Licensee** (distribution or transmission) and complete the work within the additional time specified below for different substations:” [Emphasis Added]*

The aforesaid Regulation clearly mentions that the cost of works pertaining to substation/bay shall be borne by the respective Licensee under whose jurisdiction the said works are carried out. Whereas, in the instant matter, from the letter of M/s Metro Decorative Pvt. Ltd. dated 25.10.2023, it is amply clear that the charges against construction of 33 kV bay were being demanded from the consumer which was not inline with the provisions of the aforesaid Regulations. Accordingly, the Commission issued the show cause notices to the Distribution & Transmission Licensee and directed them to furnish their replies in the matter.

- (2) From the response of the Transmission Licensee dated 17.11.2023 and Distribution Licensee dated 29.11.2023, it was apparently clear that the field staff of the Licensees are not well versed with the provisions of the Regulations due to which the consumers are being charged beyond the normative amount prescribed in the Regulations. This is not only against the provisions of the Regulations but also the same is adversely affecting the consumers of the State as the consumers are not liable to pay the amount demanded by the licensees. Further, on non-receipt of complete information and mismatch in the data furnished from the Licensees' end, the Commission decided to hear the matter.
- (3) During the hearing, the Commission highlighted that the Transmission Licensee is not the front end for the consumers of the State and therefore, it is not entitled to collect any charges/monies for the works directly from the consumers. The interface for consumers in the State is Distribution Licensee which shall give demand note to the consumer for the works which may or may not require works at Transmission Licensee end in accordance with the prevailing Regulations. Thus, Transmission Licensee is

not entitled to either give any demand note to the consumer or collect any charges/monies in this regard directly from the consumer, it is the Distribution Licensee which shall raise demand note and collect requisite charges from the consumers based on the estimates prepared by the Transmission Licensee, if required under the prevailing Regulations.

- (4) With regard to the normative charges to be paid by the consumer seeking new HT/EHT electricity connection, the said charges are already clearly prescribed at Table 3.10 of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020. The Distribution Licensee is not entitled to demand higher charges from the consumer other than the normative 'work charges for HT/EHT connections' provided in the above-mentioned Table 3.10. **However, in the instant matter, the Commission has observed that the consumers are being demanded work charges exceeding the normative charges on the pretext of Bay charges. Instead, the Commission has clearly highlighted in the aforesaid Table the charges to be paid by the consumer against construction of 'Line and Terminal Equipment'.**
- (5) The Distribution licensee raised the contention regarding the ambiguity with respect to the items in construction of Bay at Substations, however, the submission of Distribution licensee does not appear to be correct as the Commission in its aforesaid Regulations has categorically specified that the consumer are required to pay for terminal equipment and further at Regulation 3.4.3 (11) of the aforesaid Regulations has specified that the cost of the works pertaining to new Substation/Bay shall be borne by the respective licensee (Distribution or Transmission). However, understanding the issue of different interpretations amongst the field staff of the licensees, the Commission clarifies that the consumer shall pay for terminal equipment charges as specified in Table 3.10 'work charges for HT/EHT connections' of the aforesaid Regulations and no other charges in lieu of the Bay/Substation shall be charged from the consumer by the distribution licensee.

- (6) The Commission has observed that no uniformity exists in understanding the provisions of the Regulations amongst the field staff of licensees. Therefore, even after initiation of proceedings in the instant matter, M/s Metro Decorative Pvt. Ltd. has not been charged against terminal equipment charges for 33 kV connection as provided at Table 3.10 of the aforesaid Regulations. Moreover, different consumers are being charged differently viz. M/s Usha Aluminium Pvt. Ltd., Kashipur was demanded Rs. 67.78 Lakh which was paid by them and later refunded. Further, M/s Fresh Pet Pvt. Ltd. was demanded Rs. 90.95 Lakh which was paid by them.

In the instant matter a very callous approach of the licensees has been observed not only in compliance of the Regulations but also while submitting their submissions upon affidavit during judicial proceedings in the instant matter. Infact, EE- EDD (Bhagwanpur), UPCL and EE- EDD (Rudrapur-II), UPCL in their submissions dated 16.03.2024 and 19.03.2024 have stated that Rs 3.80 Crore and Rs. 17.91 Crore have been borne by consumers for construction of Bay/sub-station respectively. Whereas, the said information did not correlate/match with submission of PTCUL upon affidavit. It is pertinent to highlight that *suo-moto* proceedings/hearing process are judicial proceedings and any person intentionally giving false evidence in any of the proceedings of the Commission or fabricates evidence for purpose of being used in any of the proceedings shall be liable for punishment as per law under the provisions of Section 193 of Indian Penal Code.

Therefore, the Commission cautions the licensees against making frivolous/callous/false/fabricated information before the Commission upon affidavit to avoid any action under the provisions of Section 193 of Indian Penal Code.

- (7) With regard to the issue of different consumers being charged differently on the pretext of providing connectivity at HT level, the Commission is of the view that the same is against the norms set in the Regulations. The intention of the Regulations is that the consumer be charged with uniform normative charges for the terminal equipment and the balance amount

whatsoever may be required for releasing the connection whether from 33/11 kV S/s or 33 kV switching station or T-off as per prevailing technical standards from 33 kV line or directly from 132/33 kV S/s or 220/33 kV S/s shall be borne by the respective licensee and the same be claimable in their ARR.

Further, the Commission opines that the only exception where the assets created are in the premise of other entity is for cases where directly the 33 kV connection is released from 132/33 kV S/s or 220/33 kV S/s. In such cases the switchgear, isolator and LA are installed at PTCUL's premise for which the expenses are to be claimed in its ARR. As far as CT, PT and Meter installed at 33 kV bay of 132/33 kV S/s or 220/33 kV S/s is concerned, the same is the property of UPCL installed at PTCUL's premise which is subject to Joint Meter Reading by both the departments.

As of now, the Commission is of the view to let UPCL keep the amount received from the consumers against the terminal equipment for 33 kV connection prescribed in the Regulations and PTCUL shall claim its expenses incurred on this account in its ARR.

Furthermore, with regard to the EHT connection, the said Regulations provides for demanding terminal equipment charges based on the estimate prepared by the transmission licensee, this might result in demanding different consumers different charges, due to difference in computation of terminal equipment charges by the individual field units of the transmission licensee. Thus, the Commission opines that the EHT terminal equipment charges be also defined in the Regulations so that it helps in maintaining uniformity of normative charges being demanded from the EHT consumers. **Therefore, the Commission directs its staff to look into the issue in detail while preparing the upcoming amendment in the UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 after following the consultative process of seeking comments from all the Stakeholders.**

16. Based on the observations and views as discussed above, the Commission directs that: -

- (1) The distribution licensee shall refund the excess demand charges recovered from the consumers at 33 kV/66 kV/132 kV/220 kV (without any interest implication and excluding taxes & duties) against the terminal equipment/Bay charges post notification of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020 till date and submit a compliance report in this regard before the Commission latest by **30.09.2024**.
- (2) The distribution licensee within 02 weeks of the Order shall ensure that demand note be issued to the consumers viz. M/s Metro Decorative Pvt. Ltd. and M/s Usha Aluminium Pvt. Ltd. whose 33 kV connections have been released without charging the normative charges for the terminal equipment as per Table 3.10 of the UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020. Further, M/s Metro Decorative Pvt. Ltd., M/s Usha Aluminium Pvt. Ltd. and other such consumers (if any) are directed to deposit within 30 days the requisite amount as per demand note of UPCL.
- (3) The transmission licensee shall ensure that under the provisions of UERC (The Electricity Supply Code, release of New Connections and Related Matters) Regulations, 2020, no direct demand from the consumers be made by PTCUL for work charges and its demand be routed through distribution licensee (UPCL) only.

Ordered accordingly.

(M.L. Prasad)
Member (Technical) /Chairman (I/c)