

Before
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No.: 10 of 2022

In the Matter of:

***Suo-moto* proceedings initiated by the Commission in the matter of Show Cause Notice issued vide letter dated 27.01.2022 and in the matter of non-compliance of the Commission's directions issued during the meeting held on 21.08.2020 in the Commission's office for reviewing the status of construction of Bill Collection Centres.**

And

In the Matter of:

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

...Respondent

Coram

Shri D.P. Gairola

Member (Law)/Chairman(I/c)

Shri M.K. Jain

Member (Technical)

Date of Hearing: February 08, 2022

Date of Order: February 11, 2022

ORDER

The 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 "The Licensee") in the matter of Show Cause Notice issued vide letter dated 27.01.2022 and in the matter of non-compliance of Commission's directions issued during the meeting held on 21.08.2020 in the Commission's office for reviewing the status of construction of Bill Collection Centres.

Background

2. In the matter relating to improving the condition of the Bill Collection Centres (BCCs) at UPCL, the Commission, since 2004 has been directing the Respondent to

take action in this regard. Infact, on observing a very bleak and negligent response to the directions issued in the matter, the Commission in September 2005 had imposed penalty on Respondent. Since then, multiple correspondences, directions, orders have been issued by the Commission and the Respondent has been submitting justification for the fragmentary progress in the matter.

3. However, it was only in the year 2017 when the Respondent filed a petition before the Commission seeking approval of an investment proposal of Rs. 11.20 Crore for construction of Bill Collection Centre across the State within a period of one year. The said approval was accorded by the Commission vide its Order dated 15.05.2017 subject to fulfilment of certain conditions. Relevant para of the said Order is reproduced hereunder:

"9. The present Investment Approval Petition is an attempt in line with what the Commission has repeatedly been directing the Petitioner since 2004 onwards. Since, the proposed investment by the Petitioner is an endeavor to achieve the intent of the Commission reflected in its various Orders hence, the Commission grants in-principle approval to the Petitioner subject to the fulfillment of following conditions:

- (1) The infrastructure of the Bill Collection Centre including facilities thereof should be scientifically planned strictly as per the requirement of the area where the Bill Collection Centre are situated including no. of consumers catered by the Centre.*
- (2) The Petitioner should also formulate a concrete plan for the upkeep/maintenance of the infrastructure in future.*
- (3) The Petitioner shall submit a quarterly progress report before the Commission of the works allowed under the investment Petition.*
- (4) The Petitioner shall ensure timely completion of the Billing Centers and after completion of the Works, the Petitioner shall submit the detailed report on completed works.*
- (5) After completion of the aforesaid works, the Petitioner shall submit the completed cost and financing of the project.*

- (6) *The cost of servicing the project cost shall be allowed in the Annual Revenue Requirement of the Petitioner after the assets are capitalized and subject to prudence check of cost incurred."*
4. Subsequently, the Commission considering progressive attempts of Respondent, viz., making available cash counters, Mobile bill payment, Bill payment at PNB counters, Online payment, integration of CSCs etc., took a lenient view and vide its Order dated 10.04.2019, withdrew the daily penalty of Rs. 2500/- imposed on UPCL vide the aforesaid Order dated 01.09.2005.
5. Pursuant to this, a review meeting was held at the Commission Office on 21.08.2020 wherein, UPCL submitted that construction of Bill Collection Centre at Garhwal and Kumaon Zone would be completed within one month and six months respectively. The Commission took a view and extended the time limit for Kumaon Zone to March, 2021 and accordingly issued direction to UPCL through the record note of meeting dated 21.08.2020, "*... to complete construction of Bill Collection Centers in Garhwal Zone and Kumaun Zone latest by September, 2020 and March, 2021 respectively and cautioned that in absence of non-compliance of the aforesaid directions, action under Act/Rules/Regulations may be initiated*".
6. Thereafter, UPCL vide its letter dated 21.12.2020 submitted the status of construction of BCCs as on 31.10.2020 stating that 50% work has been completed at 9 nos. BCCs and at 28 nos. BCCs work is yet to start. From the same, it was evident that even after an elapse of more than 02 months, the status of construction of BCCs in Kumaun Zone remained stagnant.
7. Accordingly, in the above, the Commission took cognizance of non-compliance of the Commission's directions issued in record note of meeting dated 21.08.2020, and decided to initiate a suo-moto proceeding in the matter in accordance with the provisions of Section 142 of the Electricity Act, 2003, issued a Show Cause Notice to UPCL vide its letter dated 11.01.2021 with direction to furnish its reply by 29.01.2021. UPCL vide its letter dated 28.01.2021 sought time extension upto 28.02.2021 for furnishing its reply to the show cause notice dated 11.01.2021 which was allowed by the Commission. Further, UPCL vide its reply dated 24.02.2021 requested the Commission to allow a further time extension upto 31.03.2021 for completion of construction of Bill Collection Centres. Furthermore, UPCL again

vide its letter dated 22.03.2021 requested for time extension upto 30.04.2021, which was allowed by the Commission vide letter dated 30.03.2021. Thereafter, UPCL vide its letter dated 15.07.2021, citing reasons of Covid-19 pandemic again requested for time extension upto 31.12.2021 for completing the work of Bill Collection Centres under Kumaun Zone.

8. Taking a considerate view on the unprecedented situation arisen due to Covid Pandemic, the Commission allowed time extension upto 31.12.2021 for completion of balance work of construction of Bill Collection Centres vide its letter dated 12.08.2021.
9. However, in response to the Commission's earlier letter dated 30.03.2021, regarding submission of status of Bill Collection Centres, UPCL vide its letter dated 17.01.2022 furnished that in Kumaun Zone, work at 07 nos. Bill Collection Centres is under progress and at 21 Nos. Bill Collection Centres the progress is 'Nil'.
10. On being informed that progress at 21 Nos. Bill Collection Centres is 'Nil', despite being given many opportunities and relaxations the Commission again issued Show Cause Notice to the Respondent vide letter date 27.01.2022 seeking explanation for non-compliance of Commission's directions and why the daily penalty should not be imposed on the Respondent w.e.f. 01.01.2022 till completion of construction of all the proposed 157 Bill Collection Centres. The Respondent was directed to submit its reply 04.02.2022 and was informed that hearing in the matter shall be conducted on 08.02.2022.

Submission by Respondent:

11. UPCL vide its letter dated 07.02.2022, submitted its reply wherein it has stated that:
 - (i) construction of the Bill Collection Centres under Kumaon Zone was on turn-key basis accorded to M/s National Construction, Rudrapur vide agreement dated 17.10.2017 and LOA dated 07.10.2017 and as per the terms of the agreement, the contractor was required to complete the work within six month from the date of LOA i.e. by 06.04.2018;
 - (ii) on observing lackadaisical approach of the contractor towards completion of works, notice was issued by UPCL to the contractor vide letter dated

27.12.2021 for expediting the works and completing the remaining sites immediately;

- (iii) the contractor did not reply to the said notice of UPCL and it was informed by Chief Engineer (Civil), Dehradun vide letter dated 12.01.2022 that the contractor is not taking any interest in completing the works. Pursuant to this, UPCL vide letter dated 05.02.2022, terminated the contract with the contractor, debarring contractor firm for three years and further, security cum performance guarantee deposited by the contractor is also forfeited by UPCL;
- (iv) construction of nineteen sites is remaining where work has not been started and works at nine sites are pending.

12. On the date of hearing i.e. on dated 08.02.2022, the Commission heard the Respondent in detail who reiterated its earlier submissions, however, the Chief Engineer (Civil) requested the Commission and assured that the remaining works shall be completed by 31.07.2022.

Commission's Observations, Views & Directions: -

13. During the hearing, the Commission enquired the Respondent about the reasons for such prolonged delay and neglect in timely completion of works by it. To this, the Respondent reiterated its earlier submissions made before the Commission vide reply dated 07.02.2022, emphasizing that the contractor employed by it for completion of construction works was inefficient in completing the works and was unresponsive to the correspondence made to him in the matter, and hence, it has vide order dated 05.02.2022, terminated the aforesaid contract.
14. In this regard, the Commission expresses its displeasure as the timing/date of termination of the contract which is just three days before the date of hearing at the Commission does not appear to be a coincidence. UPCL had engaged the contractor for the aforesaid works since 2017 and had entered into an agreement with it on dated 17.10.2017. Since then, it has been a period of more than 4 years that UPCL was sleeping over the matter and woke up only with the jolt of Commission's Show

Cause Notice that sought explanation from UPCL for non-compliance of directions and imposition of penalty on it.

15. Further, it is observed that UPCL had realized long ago about the incompetence of the contractor in executing time-bound completion of work, still it was seeking time extension from the Commission for completion of works instead of pulling up the contractor and putting real picture before the Commission. Ordinarily, in circumstances such as these, it is expected of any organization with commercial objectives such as UPCL, to have taken immediate steps and whip things into shape as was needed. However, UPCL acting casual and irresponsible was sitting over the matter timelessly until the Commission had to issue a reminder for completing the works. It is a matter of disappointment and embarrassment that Commission has to repeatedly reprimand the licensee for such matters which are only for its benefit and will enhance UPCL's image in public as a service provider.
16. Much to the dismay of the Commission, as last and final opportunity in the matter, the Commission accepts the request of the Respondent that it shall complete the work by end of 31st July 2022 and further directs it to furnish monthly progress report before the Commission till completion of the said work.

Ordered accordingly.

(M.K. Jain)
Member (Technical)

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