

Before  
UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Petition No. 20 of 2020

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.

&

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.

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 ' *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 '.*

### **Background**

2. Earlier, distribution licensee vide its reference no. 2072 dated **05.08.2020** filed a Petition before the Commission seeking extension of time for compliance of directions issued by the Commission vide its Order dated **07.01.2020** pertaining to LT penalty and requested for suspension of Standards of Performance during the Covid-19 pandemic period and accordingly waive the requirement of submitting various periodical reports.
3. Alongwith other requests made at para 9 of the aforesaid Petition, the distribution licensee has prayed before the Commission that: -

#### ***"9. Relief Sought***

*...*

- (iv) To consider Covid-19 situation as Force Majeure condition and accordingly suspend the SOPs from February, 2020 onwards till the time the Country recovers fully from the ongoing COVID-19 pandemic.*
- (v) To waive the requirement of submission of all periodical reports (Commercial Performance Monitoring reports/LT NSC reports/HT reports/SOP reports/Complaint handling procedure reports etc.) to Hon'ble Commission for the months w.e.f. February, 2020 till the resumption of SOPs."*
4. The Commission took a considerate view on the requests of the distribution licensee made at para 9 (iv) and 9 (v) of its Petition dated 05.08.2020 and categorically directed the distribution licensee in the matter vide its letter dated 28.07.2021 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."*

5. On non-receipt of the periodical reports from the distribution licensee's end, the Commission vide its reminder letter dated **01.11.2021** directed that: -

*"...till date no periodical reports from your end w.r.t. Commercial Performance Monitoring, Release of New LT Connections and Enhancement of load, Release of New HT & EHT Connections and Enhancement of load, Standards of Performance, Reliability Indices etc. for the month of September, 2021 and onwards have been received before the Commission.*

*In this connection, I have been directed to inform you to furnish the aforesaid periodical reports at the earliest, else the Commission may initiate proceedings under the provisions of Section 142 & Section 146 of the Electricity Act, 2003 for non-compliance of the Commission's directions."*

6. Despite Commission's categorical directions issued vide letter dated **28.07.2021** and subsequent reminder letter dated **01.11.2021**, the distribution licensee failed to comply with the directions issued by the Commission w.r.t. submission of periodical reports as per provisions of the Regulations for the month of September, 2021 and onwards.
7. Taking cognizance of the non-compliance of the Commission's Regulations/directions the Commission decided to initiate as *suo-moto* proceeding in the matter in accordance with the provisions of 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 Show Cause Notice to the distribution licensee and directed it to furnish its reply under affidavit before the Commission latest by **20.12.2021**.
8. In compliance to the show cause notice dated **30.11.2021**, UPCL vide its letter dated **23.12.2021** submitted its reply as mentioned below:-

*"*

1. *That the Hon'ble Commission has issued a show cause notice under the provisions of Section 142 of the Electricity Act, 2003 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 directed to submit the reply under affidavit latest by 20/12/2021.*

2. *That it is humbly submitted before the Hon'ble Commission that in compliance of directives issued by the Hon'ble UERC, all the field units have been instructed to submit the periodical reports from the month of Sept-21 and onwards. These instructions have been issued through VCs also conducted by Director (Operation) whereby the field units have put forth some practical difficulties that are being faced by them in timely submission of these reports.*
3. *That the field units have informed in the VCs that the damage caused by natural calamity like floods and landslides in some areas of Uttarakhand and the visit of VIPs to Uttarakhand during past months has led to excessive involvement of field officers/official in supply maintenance/ restoration works due to which the compilation of routine reports got delayed.*
4. *That it is humbly submitted before the Hon'ble Commission that due to covid-19 pandemic which had severely affected the routine functioning of field offices, the streamlining of these periodic reports is also taking time.*
5. *That the UPCL has submitted the reports on Commercial Performance Monitoring and Release of new LT Service connections for the month of Sept-21 before the Hon'ble Commission vide letter no 4629 dated 21/12/2021. Further some divisions have already submitted the other periodical reports and remaining divisions have assured the submission of these reports within 30 days.*
6. *From above it can be seen that positive efforts are being made to comply with directives of Hon'ble Commission, and UPCL is trying its best to comply with the directives of Hon'ble Commission. Considering the practical difficulties faced by field units as stated above, Hon'ble Commission is humbly requested to kindly allow 30 days for submission of the periodical reports."*
9. Despite Commission's show cause notice dated 30.11.2021 for furnishing reply by 20.12.2021, the distribution licensee made a delayed submission before the Commission vide its letter dated 23.12.2021. Moreover, the Commission observed that the distribution licensee had cited frivolous justifications for its inability such as VIP movement, natural calamities etc. in furnishing the periodical reports before the Commission as per provisions of regulations/directions from time to time.
10. On further examination of the distribution licensee's submission dated 23.12.2021, the Commission observed that the distribution licensee has been given ample cushion for taking pre-emptive steps for mobilizing its resources for furnishing timely periodical reports before the Commission after assessing that the situation

in ground has considerably improved in July, 2021 with respect to the constraints arisen due to Covid-19 pandemic. Moreover, from the said submission of distribution licensee, it also appeared that the Corporate office has no control over its field offices or there is absence of mechanism within UPCL for getting periodical reports in time from the field offices. Moreover, reasons cited by UPCL such as VIP movement/natural calamity are localized issues and its impact on the submission of periodical reports for other divisions in distribution licensee's network is beyond comprehension and *prima-facie* appears to be as an attempt to make lame excuses w.r.t. non-compliance of its duties and responsibilities.

11. Taking cognizance of the distribution licensee's submission dated **23.12.2021**, the Commission decided to hear the matter on **25.01.2022** and vide its reference dated 17.01.2022 issued notice for hearing directing MD, UPCL to personally appear before the Commission and furnish its reply under affidavit latest by **24.01.2022**.
12. Meanwhile, the Commission vide its letter to dated **24.01.2022** decided to reschedule the scheduled hearing of **25.01.2022** to **03.02.2022** and notice for personal hearing was issued accordingly.
13. In compliance to the show cause notice, distribution licensee vide its submission dated **02.02.2022** furnished its compliance in the matter as mentioned below:-

“

1. *That Hon'ble Commission has issued a show cause notice under the provisions of Section 142 of the Electricity Act, 2003 in the matter of non-compliance of the Commission's directions issued vide letter dated 01/11/2021 pertaining to the submission of periodical reports as per provisions of the Regulations and directed to submit the reply under affidavit latest by 20/12/2021.*
2. *That UPCL vide letter dated 23.12.2021 has submitted its reply in the matter informing certain reasons out of the information in this regard received from the field units regarding delay in submission of reports but Hon'ble Commission has not found them convincing and has directed for personal hearing of Managing Director, UPCL.*
3. *In the matter it is to inform to the Hon'ble Commission that overall UPCL is required to submit LT SOPs report, LT service connection release report, HT service connection release report, 10 points report on monthly basis, complaint handling report and faulty meters & billing report on quarterly basis, all the reports pertains to the distribution field units and respective unit heads (Executive Engineers) submits the same through proper channel and thereafter all the reports*

*are compiled in commercial section at headquarters and are submitted in the office of Hon'ble Commission.*

4. *At present there are 44 Divisional units and the reports are gathered through a dedicated email, many a time discrepancies were observed and the individual divisions were contacted for correction/clarification against the same and also for re-submission, if required. Generally commercial section waited to receive reports of particular month from all the divisions but due to specific localized issues it has been observed that certain divisions failed to send the appropriate reports in time and in the submission made before the commission earlier some of such instances, as informed by the field units at that time were informed. As Hon'ble Commission has observed that the reasons are not generic, in this regard it is to clarify that specific issues were informed without naming the divisions or categorising the issues specific to any particular division and probably that may have been the reason as to they might have appeared vague or not making much sense to the Hon'ble Commission, however the purpose behind such submission was just to apprise the Hon'ble Commission about the associated causes due to which complete reports (all divisions) could not be submitted timely, with the expectation that the Hon'ble Commission would sympathetically analyse such diverse local constraints which at times are not within the control of the officers and ultimately contribute in delay in forwarding of the requisite reports.*
5. *With regard to the mechanism in place in the corporation it is to apprise the Hon'ble Commission that in case of any unreasonable delay from any particular division the Director (Operations) office pursue the same and even Director (Operations) himself monitors the status, however from the instances as being informed, Hon'ble Commission would appreciate that as it is difficult to assume and predict all the probable causes and put it into a straight jacket, it is therefore not at times possible and is equally difficult to devise a fool proof way to cater to such practical problems, however all possible effort are being made to make the process more streamlines and responsive.*
6. *There have been various causes and reasons, some of which are directly contributing in the delay while other indirectly affect the functioning and ultimately add up in the cause. We take the filing of this reply as an opportunity to place before the Hon'ble Commission concisely and precisely some of such diverse causes and hindrance due to which at times the delay occurs in timely submission of the reports. There is no denying that in past months Corona infection has gone down but still the working hasn't been normalized in the divisions as necessary precaution are still required to be taken and official showing any possible symptoms have to contain himself for the safety of other persons and follow the government guidelines in this regard, moreover in previous year the management changes happened frequently which somehow should not affect the routine work but still certain works and systems take centre stage with the advent of every new management and that affects the normal working. The new management takes time*

*to get familiarised with various issues and prioritise the redressal mechanism, the Hon'ble Commission is aware, that not only the managing director, but certain other directors, Chairman, Energy Secretary all have been a new appointment, there have been various HR and new appointment issues, further directives of the government due to election and administrative expediencies number of transfers were made, the election process and nearing of election does put a lot of pressure and field officers get engaged more than usual.*

7. *There are various reasons, some of which are persistent while others crop up randomly. however present Managing Director (MD) who has recently joined the Corporation and has taken the observations of Hon'ble UERC quite seriously and only on his emphasis various past reports were submitted in the months of December, 2021 and January, 2022, however certain reports are still pending and UPCL is trying all out to update the pending status. Further MD has discussed the issue in detail and observed that sometimes delay is caused due to poor communication between the headquarters and the field units and even minor issues like unclear scanned copy uploaded by any division causes exceptional delays. MD at one hand has directed the concerned section to take up the matter with IT wing and develop a tool to aggregate the reports directly on portal rather than to collect them through emails etc. and on the hand has directed Director (Operations) and Chief Engineer (Commercial) to inquire into the causes and advise a suitable mechanism so that such instance if not eliminated fully are atleast majorly curtailed, further he has directed them to jointly supervise the status on weekly basis and take strict actions against the negligent officials.*
8. *The present status as on 02.02.2022 of pending reports is attached as annexure-A.*
9. *On the observation of Hon'ble Commission regarding non-effective control of Corporate Office over field offices and absence of proper mechanism for compilation of reports it is further to submit that new Managing Director has recently joined the Corporation and has already inquired and deliberated upon the issue of non timely submission of reports and accordingly has taken prompt decision to address the same. The initiative taken by the new management will be visible in due course of time and infact the recent submissions are also due to the prompt and serious initiative taken by the recently joined MD.*
10. *That diverse action has already been taken to resolve and cure the cause and the management of UPCL has already initiated his efforts and has shown intent to improve on this front. The remaining reports will be submitted within a month's time and all the efforts will be made to send the reports timely in future."*
14. Further, distribution licensee vide its letter dated **03.02.2022** submitted that due to some health issue Managing Director would not be able to attend the hearing in person. Therefore, requested for exempting him from personal appearance or extend the hearing for two weeks.

15. Thereafter, the Commission vide its reference dated **07.02.2022** issued a Notice for Personal Hearing to MD, UPCL scheduled on **23.02.2022**.

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

16. During the hearing Respondent Managing Director, UPCL personally appeared and the Commission heard the Respondent in the matter. The Respondent reiterated its submission dated 02.02.2022 in the matter.
17. The Commission expressed its displeasure over the legacy approach of the distribution licensee of not furnishing its compliances before the Commission within the stipulated timelines. During the hearing, the Commission reprimanded the distribution licensee that it should refrain from its lackadaisical approach while making compliances before the Commission.

Further, the Commission directed the distribution licensee that in case there are any genuine delays on its part then it should promptly instruct its legal wing to approach the Commission for condonation of delay in compliance. Moreover, the Commission made it clear that from now onwards the Commission would not resort in making reminders for ensuring compliance at the distribution licensee's end and therefore the distribution licensee should be prompt in ensuring the compliances before the Commission.

18. The Commission also cautioned the distribution licensee that negligence on part of distribution licensee may amount to personal penalty on the concerned officers irrespective of the position held in the corporation.
19. During the hearing, the Respondent requested the Commission to take a considerate view towards it and acknowledged the short comings at the distribution licensee's end and assured that he would not keep any stone unturned in further w.r.t. ensuring compliances as per the provisions of the Regulations/direction of the Commission. Further, he submitted that Respondent has taken issue of regulatory compliance monitoring very seriously and is making its utmost efforts for timely compliance of the same. However, Respondent also narrated that they are facing practical difficulties as reports are being prepared at

44 divisions and the same needs to be compiled and checked before formally being submitted before the Commission.

20. The Commission reminded that the regulatory compliance monitoring is an ongoing process which is not only important with respect to the consumer services but also the same is also beneficial for the distribution licensee in identifying the issues/bottlenecks prevailing at its division levels. Therefore, a robust system needs to be created so that maximum errors in reporting are resolved and settled at each division level itself and only critical issues be left at corporate/head office level.
21. With regard to the Commission's query on calculation of LT penalty, distribution licensee during the hearing submitted that penalty calculation is done at division level through software and penalty calculation is auto calculated without taking into account constraints of force-majeure conditions particularly right of way issues. Therefore, due to said constraints true picture is not reflected from the software generated reports hence, compilation of reports takes additional time and also requires extra efforts for segregating the genuine cases of delay from non-genuine cases at the corporate/head office level.
22. The Commission has observed that many periodical reports are being furnished without checking the relevant Regulations and distribution licensee is still referring to old Regulations which indicates the lackadaisical approach of the distribution licensee and its indifferent approach in regulatory compliance monitoring reporting.
23. The Respondent accepted the lacunas prevailing in its regulatory compliance monitoring system and assured the Commission that honest efforts would be taken at its end for fixing responsibility at division level and also addressing the issue of quality and delay in submission of reports of regulatory compliance monitoring.
24. 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.

25. Further, being custodian/guardian of the State's power sector, the Commission cautions the distribution licensee about the possible pitfalls/mistakes occurring in its system from time to time which not only has far reaching consequences on its commercial viability of the distribution business but also has direct impact on 'Availability', 'Affordability', 'Accessibility' and 'Quality of Power Supply' for the consumers of the State.
26. The Commission is also of the view that the Respondent in the matter should understand its duties & responsibility and should take appropriate measures/steps for removing the bottlenecks in the regulatory compliance monitoring reporting.
27. In light of the above, the Commission decides: -
  - (1) To dispose-off the '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' with a caution to the Respondent that it shall

make all efforts for removing the bottlenecks and ensure development of robust regulatory compliance reporting mechanism including effective monitoring at its end.

- (2) With regard to UPCL Petition vide letter No. 2072/UPCL/Comm dt. 05.08.2020 to dispose-off point no. (iv) & (v) of para 9 'Relief Sought' by the distribution licensee in its '*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*' pertaining to consideration of Covid-19 as force-majeure condition and waiver of requirement of submission of periodical reports respectively, which has already been allowed for 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 pandemic.

However, from **01.09.2021 onwards**, the distribution licensee is liable for compliance of Regulations with regard to SoPs and requirements of submission of periodical reports including penalty for delay in release of connections, if any. Any laxity on its part shall be liable for penal action under the provisions of Act/Regulations.

Point no. (ii) and (iii) of para 9 'Relief Sought' of the aforesaid Petition shall continue to be under consideration before the Commission till further order on the same in this regard.

Ordered accordingly

(M.K. Jain)  
Member (Technical)

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