



Uttar Pradesh Electricity Regulatory Commission

UTTAR PRADESH ELECTRICITY REGULATORY COMMISSION

Vidhut Niyamak Bhawan, Vibhuti Khand, Gomti Nagar, Lucknow-226010.

Quorum

Shri Raj Pratap Singh, Chairman

Shri Kaushal Kishore Sharma, Member

Shri Vinod Kumar Srivastava, Member (Law)

In the matter of:

Failure of electricity supply to consumers having smart meters installed in the premises in violation of the UPERC Electricity Supply Code, 2005, Standards of Performance Regulations and non-compliance of the Conditions of the Distribution License

1. Managing Director, Uttar Pradesh Power Corporation Ltd., 14, Ashok Marg, Shakti Bhawan, Lucknow.
2. Managing Director, Madhyanchal Vidyut Vitran Nigam Ltd., 4 Gokhale Marg, Lucknow
3. Managing Director, Poorvanchal Vidyut Vitran Nigam Ltd., Purvanchal Vidyut Bhawan, P.O. Vidyut Nagar, DLW, Varanasi.
4. Managing Director, Paschimanchal Vidyut Vitran Nigam Ltd., Victoria Park, Meerut.
5. Managing Director, Dakshinanchal Vidyut Vitran Nigam Ltd., Urja Bhawan 220, K.V. Up-Sansthan Bypass Road Agra – 282007
6. Managing Director, Kanpur Electricity Supply Co. Ltd., 14/71, Civil Lines, KESA House, Kanpur.



ORDER

1. In regard to widespread failure of electricity supply that occurred on 12th August, 2020 thereby adversely affecting those consumers, who have smart meters installed in the premises, the Commission vide its show-cause notice no. UPERC/Secy/Petition (VCA)/2020-186 dated 13th August, 2020 had directed to make submission on following account:-

1. Detailed status report of the incidents in terms of root cause analysis of the event along with number of consumers whose supply was interrupted on this account and the time taken for restoration of supply. You must also underscore the persons/institutions responsible for this lapse along with the remedial measures which would be taken to ensure that such incidence is not repeated in future.
2. So as to why action under Section 142 of the Electricity Act, 2003 read with UP Electricity Reforms Act, 1999 should not be initiated against you for violation of provisions of UPERC Electricity Supply Code, 2005, license conditions and other Orders of the Commission.
2. UPPCL and Discoms, vide its reply dated 17th August 2020, requested further time for furnishing the proper response citing different reasons. The Commission vide its order dated 19.08.2020 expressed its categorical dissatisfaction on the response however granted time to the licensees as well as UPPCL up to 23rd August, 2020 and directed them to make detailed submission in the matter as mentioned in the show-cause notice no. UPERC/Secy/Petition (VCA)/2020-186 dated 13th August, 2020.
3. In response to Commission's order dated 19th August 2020, UPPCL and Discoms submitted their response vide letters dated 23.08.2020. The details of the responses are as below:



a. The table providing the details of reconnection period is as follows:

Meters reconnected in hrs	0-4 Hrs	4-6 Hrs	7-12 Hrs	12-24 Hrs	>24 Hrs	Yet to Resolve*	Grand Total
Licensees							
DVVNL	10368	5652	317	215	71		16623
MVVNL	38854	22119	1642	901	323		63839
PuVVNL	30159	14363	1354	1079	258	1	47214
PVVNL	20225	10011	460	248	83		31027
Total	99606	52145	3773	2443	735	1	158703
% of Total	62.76%	32.86%	2.38%	1.54%	0.46%	0.00%	100.00%

*Yet to Resolve is 'Door Lock' case.

Based on above information it is submitted that disconnection of smart meter consumers and reconnection was achieved within 6 hrs. which is within the time limits specified in schedule II of SOP Regulations, 2019.

- b. There is no statutory and Regulatory framework provisions related to the period of restoration of supply in case of disconnection of smart meters.
- c. There is no provision in UP Electricity Regulatory Commission (General Conditions of Distribution License) Regulation, 2004 related to period for restoration of supply in case of disconnection of smart meters.



4. Based on above, it has been submitted that the matter related to period for restoration of supply in case of disconnection of smart meters is not covered in the above documents mentioned in the Commission's order.

Commission's Analysis

5. The response of the UPPCL/Licensees not only shows its total apathy towards the consumers, but it also goes on to demonstrate the grave callousness with which UPPCL/Licensees are handling the issue at hand as well as the regulatory directions. After putting more than 1.58 lakh hapless consumers at severe distress, the submitted response only shows the false placed audacity of UPPCL/Licensees to aver that their act is not covered under statutory and regulatory scheme of things. It is time that senior management should own the responsibility rather than abdicating the responsibility on their vendors/suppliers/private parties. The smart meter roll-out along with its entire planning and coordination is the responsibility of UPPCL as the holding company was the chief contracting party in the contract with EESL for supply of Smart Meters. In this context, the Commission expresses its deep displeasure that Managing Director UPPCL preferred not to respond to the notice of the Commission as the response on behalf of UPPCL has been submitted by Director (Commercial) UPPCL, while the notice was expressly served to Managing Director UPPCL and Managing Directors of Discoms. This clearly shows that Managing Director UPPCL is neither sensitive towards the issue at hand nor serious about regulatory directives. If Managing Director UPPCL believes that such an act on his part can absolve him of the responsibility associated with this event, his thinking is completely misplaced. Senior management including Managing Director UPPCL should also be concerned about the lack of institutional knowledge regarding statutory/regulatory framework and ought to recalibrate their responses, which is not only cavalier but is also oblivious of facts and is not



acceptable. It is also reiterated that the next response in the matter should necessarily be filed by Managing Director UPPCL, on behalf of UPPCL.

6. UPPCL/Licensees have also submitted that this is an incident of disruption of supply at a massive scale. However, it needs to be clarified at the outset that the incident cannot be termed as disruption of supply rather it is disconnection of consumer from distribution network as the supply was existing in the distribution network and only consumers got disconnected due to snag in smart meters or its related infrastructure. By stating that it is a case of disruption of supply, UPPCL/Licensees cannot wish away from or brush aside their duties and obligations. Further, there is no mention about the likely grid security issues in the responses of UPPCL/Licensees; though it was one of the major concerns of the Commission envisaging that the sudden throw-off of huge demand is likely to disturb the grid security. It is pertinent to mention that while approving the smart meter roll out plan, vide its order dated 15th November 2018 the Commission had directed that personal data privacy of the consumers must be ensured. This incident is a clear breach of privacy of data of the consumers, which goes against the grain of Commission's aforesaid order.
7. Now discussing the violation of statutory/regulatory framework as committed by UPPCL/Licensees, let us begin with Electricity Act, 2003. The Act under Section 56 clearly provides the mechanism of disconnection of supply in default of payment –

*“(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, **after giving not less than fifteen clear days’ notice in writing, to such person** and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or*



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wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

*Provided that the supply of electricity **shall not be cut off if such person deposits, under protest, -***

- a. An amount equal to the sum claimed from him, or*
- b. The electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,*

Whichever is less, pending disposal of any dispute between him and the licensee”

It is abundantly clear from the above that no disconnection can be effected without giving a clear 15 days' notice to the consumer, even if he is under dues. In the present case, the supply of more than 1.58 lakh consumers of the State was disconnected despite their payment status being healthy, which is flagrant violation of Section 56 of the Electricity Act 2003. Regulation 28 of the UP Electricity Regulatory Commission (General Conditions of Distribution License) Regulation, 2004 also has identical dispensation therefore, the act is categorical violation of license conditions also. Further, clause 4.36 of Supply Code also necessitates requirement of 15 days' notice in case of temporary disconnection hence it is violative of UP Electricity Supply Code also.

8. Further, Regulation 26 of UP Electricity Regulatory Commission (General Conditions of Distribution License) Regulation, 2004 also merits consideration. Accordingly, the said regulation is reproduced below –

“26.1 The Licensee shall take all reasonable steps to ensure that all Consumers connected to the Licensee's Distribution System receive a safe, economical and reliable Supply of electricity as provided in the Performance Standards and other guidelines issued by the Commission in accordance with the provisions of the applicable legal framework, Rules and Regulations issued there under except UPERC – General Conditions of Distribution Licence 34 where: (a) the Licensee



discontinues Supply to certain Consumers in accordance with the Electricity Supply Code; or (b) the Licensee is obliged to regulate the Supply, distribution, consumption or use of electricity as is directed by the Commission from time to time."

It is clear that the event at hand is also in contravention of aforesaid regulation of the Distribution License Regulation. Having substantially proved that the act of the licensees in present case was a gross violation of the parent statute i.e. Electricity Act 2003 and its subordinate legislations i.e. UP Electricity Regulatory Commission (General Conditions of Distribution License) Regulation, 2004 and UP Electricity Supply Code, it is also in order to justify that the act of the licensees is also violative of Standards of Performance Regulations 2019.

9. However, before embarking upon UPERC (Standards of Performance Regulations) 2019, it is pertinent refer to section 57 of Electricity Act 2003, which is also identically captured under Regulation 17 of UP Electricity Regulatory Commission (General Conditions of Distribution License) Regulation, 2004, which deals with Standards of Performance and compensation. Section 57 of Electricity Act 2003 is reproduced below –

(1) The Appropriate Commission may, after consultation with the licensee and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under sub-section(1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.



10. The Commission has framed UPERC (Standards of Performance Regulations) 2019 in due consultation with the licensees as per requirement of Section 57 (1) above. Regulation 16.11.1 clearly stipulates that –

“The Licensee shall restore power supply to a consumer, whose supply has been disconnected due to non- payment of electricity bills as per the provisions of section 4.39 of the UPERC Electricity Supply Code.

Provided that in case prepaid meters have been installed at the premises of the consumers, the power shall be restored by the Licensee within 2 hours of recharge of the prepaid meters by the consumers.”

Hence, Standards of Performance Regulations clearly provide that in case of prepaid meters, the power supply will be restored within 2 hours of recharge. Having clearly established that the Standards of Performance Regulations mandate the licensee to restore the power supply subsequent to his payment status being healthy, it is upon the Commission to determine the amount of compensation, under Section 57 (2) of the Act, without prejudice to any penalty which may be imposed or prosecution be initiated. UPERC Standards of Performance Regulations 18 Schedule–III, which deals with compensation, provides that reconnection (on temporary disconnection) after removal of cause of disconnection will attract a compensation of Rs. 50 per day in case of each fault. However, this dispensation is made for the cases when reconnection is done subsequent to removal of cause of disconnection. Whereas, in the present case, there is absolutely no cause of disconnection on account of consumer but it is wholly mismanagement of licensee therefore, the Commission under powers conferred by Section 57 (2) of the Act as well as its inherent power is proposing a compensation of Rs 100 to all the affected consumers, whose supply has been restored within 24 hours with an additional compensation of Rs. 50 per day beyond restoration time of 24 hours. However, as per the principle of “*Audi alteram partem*” and in accordance with proviso of Section 57 (2), the Commission provides an



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opportunity to the UPPCL/licensee to be heard in the matter on 3rd September 2020 at 12:00 hrs to show cause so as to why such compensation should not be paid to the consumers.

11. The action under section 142 shall be dealt separately, without any prejudice to the matter of the compensation, after submission of the enquiry report by the licensee / UPPCL.

(Vinod Kumar Srivastava)
Member

(Kaushal Kishore Sharma)
Member

(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 25.08.2020

