

**No. L-7/25(5)/2003-CERC
CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Bhanu Bhushan, Member**
- 2. Shri Rakesh Nath, Member (EO)**

Re: Amendments of the regulations on terms and conditions of tariff regarding unscheduled interchange charges – Statement of Reasons.

In exercise of powers conferred under Section 178 of the Electricity Act, 2003 (the Act), the Commission had proposed amendments to Regulations 24 and 42 of the Central Electricity Regulatory Commission (Terms and Commission of Tariff) Regulations, 2004 (hereinafter “the 2004 regulations”) regarding payment of UI charges. The proposal envisaged rate for UI charges as under:

“Average frequency of time block (Hz)		UI Rate
Below	Not below	(Paise per kWh)
----	50.50	0.0
50.50	50.48	6.0
50.48	50.46	12.0
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49.84	49.82	204.0
49.82	49.80	210.0
49.80	49.78	219.0
49.78	49.76	228.0
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49.54	49.52	336.0
49.52	49.50	345.0
49.50	49.48	361.0
49.48	49.46	377.0
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49.04	49.02	729.0
49.02	-----	745.0

(Each 0.02 Hz step is equivalent to 6.0 paise/kWh in the 50.5-49.8 Hz frequency range, to 9.0 paise/kWh in the 49.8-49.5 Hz frequency range, and to 16.0 paise/kWh in the 49.5-49.0 Hz frequency range.)”

2. The detailed reasons for the proposal were contained in the Commission's order dated April 5, 2007 in Petition No. 15/2007, which takes into account the views of the stakeholders on the original proposal in the petition. It was posted on the website of the Commission on April 7, 2007. The draft regulations were also published on April 7, 2007. Suggestions, comments and objections on the proposal were invited to enable the Commission to take a final view in the matter.

3. In response to the notice, the Commission has received suggestions comments and objections from the following organizations/persons:

1. North-Eastern Regional Power Committee (NERPC) Secretariat
2. West Bengal State Electricity Distribution Company Limited (WBSEDCL)
3. Neyveli Lignite Corporation Limited (NLC)
4. Chhattisgarh State Electricity Board (CSEB)
5. Power Grid Corporation of India Limited (POWERGRID)
6. Andhra Pradesh Power Co-ordination Committee (APPCC)
7. Shri R.P. Satpathy, TCS
8. Maharashtra State Electricity Distribution Co.Ltd. (Mahavitaran)
9. Grid Corporation of Orissa Limited (GRIDCO)
10. Punjab State Electricity Board (PSEB)
11. M.P. Power Transmission Company Ltd.
12. M.P. Power Trading Co. Ltd
13. U.P. Power Corporation Ltd (UPPCL)
14. Gujarat Energy Transmission Corpn Ltd (GETCO)

4. We have carefully considered the comments received from the stakeholders. In a nutshell, WBSEDCL, POWERGRID, Shri R.P. Satpathy and GRIDCO have strongly supported the proposal of the Commission to revise the UI rates below 49.5 Hz to reach a ceiling rate of Rs.7.45 per unit at 49.02 Hz. NERPC Secretariat

and NLC also appear to be supportive of the proposal, as they have raised only some related issues, without specifically commenting on the UI rates proposed.

5. NERPC Secretariat, POWERGRID and GRIDCO have expressed concern over UI payment defaults and have given their suggestions for ensuring prompt settlement of UI dues. We too recognize the need for a payment security mechanism for settlement of UI charges and intend to take up this separately, as already stated in para 45 of our order dated April 5, 2007. POWERGRID has also suggested indexing of UI ceiling rate to diesel price to avoid big jumps. This may also be considered by the Commission in due course.

6. GRIDCO has indicated its amenability for a further raise in UI ceiling rate as it would encourage the States to harness captive generation and undertake bilateral trading on scheduled basis, which would help grid stability.

7. NLC has suggested that there should be no caps of 101% or 105% for the generators during low frequency conditions i.e. below 49.5 Hz. We do not agree with the suggestion. On the other hand, we have observed at para 44 of our order dated April 5, 2007 in Petition No.15/2007 that the concerns of the beneficiaries about generating companies making undue profits through gaming in availability declaration have been taken note of by the Commission, and the same will soon be addressed through separate proceedings. Meanwhile, we expect the generators to sincerely declare their available capacity for day-ahead scheduling, and the RLDCs to keep a close watch on actual injection and take prompt action in case gaming is observed. At this stage, we would like to reiterate our above intent.

8. NLC has also sought changes in notice period for revision of schedule in case of forced outages and setting of under-frequency relays. NLC's suggestion is outside the scope of the proposal presently under consideration. However, it is at liberty to take up such issues at appropriate forum, since we cannot allow ourselves to be distracted from the main issue here, which is revision of UI rate when frequency is below 49.5 Hz. Further, NLC has sought a clarification whether the proposed UI rates would be applicable to intra-State generating stations, such as NLC TPS-I, tariff of which is regulated by the Commission though the station is scheduled by the respective SLDC. The answer is obviously, yes.

9. CSEB, APPCC, Mahavitaran, PSEB, M.P. Power Transmission Co.Ltd, M.P. Power Trading Co. Ltd., UPPCL and GETCO have opposed the proposal of the Commission, generally on the same grounds as taken in their responses in Petition No.15/2007. The fresh issue raised by these utilities have been analysed in the following paragraphs.

10. In the first instance, we consider certain preliminary issues raised by M.P. Power Trading Co. Ltd. It has pointed out that the order dated 5.4.2007 having been passed by only two Members is not proper, since the Commission's proceedings required a quorum of three. M.P. Power Trading Co. Ltd., has further stated that earlier the Commission had proposed to refer the matter of UI ceiling rate increase to the Central Advisory Committee and that the proposal to revise UI rates has not been placed before the Forum of Regulators constituted under Section 166 of the Act.

11. We have to point out that the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 were duly amended in December 2002 through a gazette notification dated 9.12.2002 published in the Gazette of India (Extraordinary) Part III, Section 4 on 10.12.2002, wherein the quorum required for proceedings before the Commission was revised to two (2). M.P. Power Trading Co. Ltd. and its predecessor entity have in the past participated in the proceedings of the Commission with a quorum of two. We have not been able to locate any reference in the Commission's records to support the objection raised by MP Power Trading Co. Ltd for referring the matter to the Central Advisory Committee. In any case, it is not mandatory under any law to refer every proposal of the Commission to the Committee. No reference to Forum of Regulators is necessary either, because the revision being affected is not within the scope of the Forum. Further, the principal regulations themselves provide as follows:

“Note : The above average frequency range and UI rates are subject to change through a separate notification by the Commission.”

12. In its response dated 21.4.2007, UPPCL has mostly reiterated the arguments put forward in its earlier reply dated 19.2.2007 in the proceedings in Petition No.15/2007, which have already been dealt with in our order dated 5.4.2007. Therefore, we do not consider it necessary to repeat them here. UPPCL has further contended that the proposed hike in UI charges is violative of the provisions of the Act, which aims at protecting the interest of the consumer. We have to clarify that as long as the State utilities do not overdraw from the regional grid, its consumers shall have no adverse financial impact on account of UI rate hike. It is only on overdrawal in a low-frequency situation (which endangers the system) that a State utility has to pay high UI charges, which it should. Further, a measure intended to reduce the risk

of grid collapse is being projected by UPPCL as anti-consumer. We can only refute such views, since price of power is only one aspect of what is in the overall interest of the consumer, the other aspects being steady and uninterrupted supply of power free from any disturbances.

13. Another new argument of UPPCL is that diesel used for commercial generation is LSHS and not HSD, and, therefore, UI rate needs to be linked to price of LSHS. We have to point out that LSHS (Low Sulphur Heavy Stock) is not diesel at all. The commonly used fuel in diesel-generators is HSD (High Speed Diesel) only, and it is the price of HSD which has been used all along for bench-marking the UI ceiling rate.

14. M.P. Power Transmission Co. Ltd has only reiterated and referred to its earlier communication dated 2.3.2007 whereby the proposal of WRPC had been conveyed to the Commission. The same was dealt with comprehensively in our order dated 5.4.2007. There is no new point for fresh deliberation.

15. PSEB has once again raised the issue of non-transparency, particularly referring to non-availability of the SRLDC Petition No. 145/2006. We have to point out that though the present proceedings under Petition No. 15/2007 started during the course of hearing of Petition No. 145/2006, they are based on the comprehensive proposal of Power Grid Corporation of India Ltd dated 21.1.2007, which was made available to all concerned including PSEB under the directions of the Commission. In fact, PSEB sent its detailed responses to the proposal in the proceedings in Petition No.15/2007 on three occasions. It was, therefore, not necessary to circulate the SRLDC petition (No.145/2006). In case PSEB felt that it was necessary for it to study

the petition before making suggestions or comments, it could have approached the Commission for inspection of records or for providing a copy of the petition. It is, however, stated that all relevant details in Petition No.145/2006 have already been covered in the proposal forming subject matter of Petition No.15/2007, on which PSEB responded extensively.

16. PSEB has requested for a public hearing for a broad-based feedback and interaction before taking a final decision. We have to point out that UI rate and various related issues have been debated on a number of occasions at the hearings before the Commission since 1999. We have also received a large number of written responses, in two rounds, in the present proceedings. Surely, the responses in writing have a greater seriousness than oral submissions, when considered views of organizations on a given proposal are to be conveyed. There is also an urgency for a decision in the matter for reasons already given in our order of 5.4.2007. We, therefore, do not find it necessary to have a public hearing in the present case, particularly so when it is not mandated under any law.

17. The other comments now received from PSEB are more or less a repetition of its earlier comments dated 10.2.2007, 15.2.2007 and 26.3.2007, which have already been examined in detail in our order dated 5.4.2007. We see no purpose in discussing the same issues again.

18. APPCC has stated that it is not agreeable to the proposal for the following reasons :

- (i) It would increase the cost of traded power.
- (ii) It would create huge financial burden for the deficit States.

- (iii) It may not control the overdrawal.
- (iv) Previous UI ceiling rate enhancement has not been effective.
- (v) It would increase the profit of generator.
- (vi) Power exchange should be functional before UI rate is increased.
- (vii) Traded power rate should be capped.
- (viii) It may not be possible to harness any significant CPP capacity.

19. All the above issues have been deliberated in detail in our order dated 5.4.2007, under paragraphs 38,39,49,37,44, 44,43 and 35, ad seriatim. It is not clear why they have been raised again.

20. In its response dated 21.4.2007, Mahavitaran has implied that the Commission has raised the UI ceiling rate (mainly) to correspond to the present traded energy price, and thereby remove the perverse incentive for indulging in indisciplined overdrawal. Mahavitrان has in effect argued for continuation of the perverse incentive, on the ground that it has been acting responsibly and purchasing power at 695 paise/kWh (much higher than the present ceiling UI rate of 570 paise per unit). We are unable to agree with the above logic. Mahavitaran should have supported the proposed measure leading to neutralization of such perverse incentive, so that the other utilities also had a perpetual incentive to act responsibly, rather than oppose the proposal and suggest that we depend only on the good sense of the State utilities to emulate the Mahavitrان's example. And what is the guarantee that Mahavitaran itself would continue to act responsibly in the same manner in future also? When the actual experience clearly shows a propensity for indisciplined behaviour in spite of innumerable holy resolutions at RPC fora, we cannot shelve our responsibility because one constituent has not taken advantage of the perverse incentives available in the past.

21. In its response dated 20.4.2007, CSEB has contended that the conclusions drawn by the Commission in its order dated 5.4.2007 suffer from anomalies and contradictions. We do not agree with CSEB's assessment, and do not feel that any useful purpose would be served by trying to reply to the misguided arguments on issues already dealt with in our order dated 5.4.2007. Certain new issues have also been raised by CSEB, which are discussed below.

22. CSEB has stated that "UI price vector in vogue though, simple in application, is unscientific and does not punish the guilty in proportion to their guilt committed. The issue, therefore, needs consideration afresh." It has concluded that "a formula is required to be devised on the basis of the factors constituting frequency, quantum of overdrawal and power number which may do away with the drawback of the present system of UI charging." While CSEB is at liberty to devise and propose such a formula, the present proposal cannot be held up on this account.

23. CSEB has stated that the Commission "has totally ignored the socio economic and socio political texture & scenario in the country", and has opined that the cost of power has to be tailored looking to the paying capacity of the people at large. We can only point out once again that if a State utility does not overdraw from the regional grid, its people shall not have any adverse financial impact on account of enhancement of UI rate.

24. GETCO, in its letter dated 18/21.4.2007, has conveyed its concurrence with the decision in WRPC meeting held on 28.2.2007 and conveyed to the Commission in the letter dated 2.3.2007 of the Chairman, WRPC/CMD, MPPTCL. As this aspect has

been discussed in detail in paragraphs 15,16, 36 and 50 of the order dated 5.4.2007, no further deliberation appears necessary.

25. It is clear from the tone of all responses opposing the proposed amendment of the 2004 regulations that the concerned utilities want to retain a prerogative to overdraw from the regional grid at their will, and at the same time force a low price for such overdrawals even when the grid is facing an acute overall deficit. Their arguments lack objectivity, are misdirected, and cannot be accepted.

26. After careful consideration of all aspects of the matter, the Commission has come to the conclusion that proposed amendments are need of the hour. Therefore, we order that the final notification amending regulations 24 and 42 of the 2004 regulations be issued without any change. The new UI rates shall be effective prospectively, with effect from 00.00 hours of 30th April, 2007.

(RAKESH NATH)
MEMBER

(BHANU BHUSHAN)
MEMBER

New Delhi dated the 26th April 2007