

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

- 1. Shri A.K. Basu, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. Shri A.H. Jung, Member**
- 4. Shri Rakesh Nath, Member (EO)**

**Petition No.25/2006**

**In the matter of**

Protecting the grid from undisciplined overdrawal from the grid.

**And in the matter of**

Northern Regional Load Despatch Centre

**..Petitioner**

Vs

Uttar Pradesh Power Corporation Limited, Lucknow

**...Respondent**

**The following were present:**

1. Shri. S.R. Narasimhan, NRLDC
2. Shri. S.K. Soonee, NRLDC
3. Shri. Sunil Aggarwal, NRLDC
4. Shri. Vivek Pandey, NRLDC
5. Shri. A.K. Sinha, NRLDC
6. Shri. S. K. Garg, NRLDC
7. Shri. P.K Aggarwal, NRLDC
8. Shri. V.S Tata, NRLDC
9. Shri Y.P. Singh, UPPCL
10. Shri. D.P. Singh, UPPCL
11. Shri. S.K Aggarwal, UPPCL
12. Shri. Neeraj Kaul, Sr. Advocate, UPPCL
13. Shri. S.K. Ghosh, Advocate, UPPCL
14. Shri. S.K. Singh, Advocate, UPPCL
15. Shri. Ashish Dhokhia, Advocate, UPPCL
16. Ms. Sudipta Ghosh, Advocate, UPPCL
17. Shri. Shailendra Kumar, Advocate, UPPCL
18. Shri T.P.S. Bawa, PSEB
19. Shri. S.D. Tripathi, NHPC
20. Shri. Prashant Kaul, NHPC
21. Shri. Vivake Kumar, NTPC
22. Shri. Ajay Dua, NTPC

23. Shri. Manoj Saxena, NTPC
24. Shri. V.B.K. Jain, NTPC
25. Shri. P.P. Francis, NTPC
26. Shri. S.D. Jha, NTPC
27. Shri. S.D. Samui, NTPC
28. Shri. A Basu Roy, NTPC
29. Shri. S.K. Khanna, NTPC
30. Shri. A. S. Pandey, NTPC
31. Shri. Sumit Upadhyaya, PTI

**ORDER**  
**(DATE OF HEARING: 9.5.2006)**

This petition has been filed by Northern Regional Load Dispatch Centre (NRLDC) in terms of our order dated 27.4.2006 in Petition No.4/2006, wherein RLDCs were granted liberty to place before the Commission the instances of undisciplined overdrawals by the State Electricity Boards and other State utilities so that the Commission could deal with the situation, wherever warranted, in accordance with law. NRLDC has prayed for penal action against the respondent, Uttar Pradesh Power Corporation Ltd., (UPPCL) under sections 29 and 142 of the Electricity Act, 2003 (the Act).

**Background**

2. NRLDC had filed Petition No.4/2006 on 13.1.2006 praying for rationalisation of Unscheduled Interchange (UI) price vector and establishment of payment security mechanism for UI charges. During the course of the hearing of the above petition, the Commission took note of the prevailing situation of deteriorating frequency, particularly in the Northern Region, and expressed its deep concern and accordingly, the need to ensure grid stability was emphasised. Therefore, the Commission deliberated on measures considered absolutely necessary to protect the grid from collapsing and had issued several directions with this objective. The following

directions in our order dated 27.4.2006 are pertinent in the context of the present proceedings:

“12. Considering the seriousness of the matter of sustained low frequency which is precursor of grid failure leading to collapse of large Power Systems and its disastrous consequences, we issue the following directions:

- (a) Stringent penal action shall be taken against State Electricity Boards/its successors, Distribution Utilities responsible for endangering the grid security by overdrawing, in violation of the Grid Code and disobeying the instructions of the Regional Load Despatch Centres (RLDCs). RLDCs are at liberty to place before the Commission the instances of undisciplined overdrawals so that the Commission could deal with the situation, wherever warranted in accordance with law.

..... “

### **Statutory provisions**

3. Clause 5.2(l) of the Indian Electricity Grid Code (IEGC) specified by the Commission by virtue of its statutory powers requires all the regional constituents to make all possible efforts to ensure that the grid frequency remains within the 49.0–50.5 Hz band, the frequency within which steam turbines conforming to IEC specifications can safely operate continuously.

4. Clause 6.4.5 of the IEGC states,

*“The SLDCs/STUs shall regularly carry out the necessary exercises regarding short term and long term demand estimation for their respective States, to enable them to plan in advance as to how they would meet their load without overdrawing from the grid”.*

5. Clause 6.4.4 of the IEGC states,

*“The States, through their SLDCs, shall always endeavour to restrict their net draws from the grid to within their respective drawal schedules, whenever the system frequency is below 49.5 Hz. When the frequency falls below 49 Hz, requisite load shading shall be carried out in the concerned State(s) to curtail the overdrawals.”*

### **Submission of the Petitioner**

6. NRLDC has submitted that there has been a gradual deterioration in the frequency regime of Northern Region and situation has worsened during the month of April 2006. It has been stated that the frequency remained below 49 Hz for 74.10% of the total time during the month. The minimum frequency observed during the month was as low as 48.01 Hz. It has been reported that the frequency had dipped below 48.6 Hz on 1502 occasions and grid narrowly escaped from total collapse on many occasions.

7. NRLDC has alleged that non-adherence to clauses 6.4.4 and 6.4.5 of the IEGC and overdrawals by the respondent, UPPCL were the basic reasons for sustained low frequency operation. NRLDC has further stated that it had issued directions under section 29 of the Act in real time to the SLDCs to regulate the State drawal to the schedule so that the frequency remains within normal band of 49.0–50.5 Hz. These directions, NRLDC has submitted, have to be complied with by all licensees, generating companies, generating stations, sub-stations and any other person connected with operation of power system. NRLDC has also affirmed that the violations of clauses 6.4.4 and 6.4.5 of the IEGC have been brought to the notice of the Member Secretary, Northern Regional Power Committee, from time to time but the same has not yielded any result.

8. NRLDC has informed that the largest contribution for the prevailing situation has been from UPPCL. In the month of April 2006, UPPCL had overdrawn energy to the tune of 163 MUs when grid was operating at a frequency below 49 Hz. Its average overdrawal and average of maximum overdrawal was 312 MW and 666 MW

respectively during the month. NRLDC has submitted the details of the SOS messages sent through SMS to the mobile telephones of senior officials of UPPCL. The copies of the messages sent from ED, NRLDC, Director (Operations), POWERGRID and CMD, POWERGRID to the senior officials of UPPCL and Ministry of Power have also been annexed to the petition. NRLDC has alleged that despite these actions, adequate response on reduction of overdrawals by UPPCL could not be obtained.

9. During the hearing of petition No.4/2006 on 27.4.2006, in which the representatives of UPPCL were present, the Commission was informed that Chairperson, CEA took a meeting on 26<sup>th</sup> April, 2006 on the issue of sustained low frequency operation of the Northern Grid. According to the petitioner, overdrawals by the respondent was also discussed in this meeting. NRLDC had further informed that even after this meeting, there was no improvement in the situation since UPPCL had continued to overdraw. NRLDC has specifically highlighted the instances of overdrawals by UPPCL after the proceedings held on 27.4.2006.

#### **Submission of the Respondent**

10. UPPCL in its reply has confessed to overdrawal of power at a frequency below 49 Hz, but has also raised a preliminary issue of non-observance of the procedure as laid down under clause 1.5 of the IEGC, reproduced hereinbelow:

*“In case of persistent non-compliance of any of the stipulations of the IEGC by a constituent or an agency (other than RPC and RLDC), the matter shall be reported by the agency/RLDC to the Member Secretary, RPC. The Member Secretary, RPC shall verify and take up the matter with the defaulting agency for expeditors termination of non-compliance. In case of inadequate response to the efforts made by Member Secretary, RPC, the non-compliance shall be reported to the CERC. CERC in turn, after due process may order the defaulting agency for compliance, failing which; the CERC may take*

*appropriate action. RPC shall maintain appropriate records of such violations. In case of non-compliance of any of the stipulations of IEGC by RLDC or RPC, the matter shall be reported to the CERC.”*

11. According to UPPCL the present petition filed before the Commission bypassing the authority of Member-Secretary, is not maintainable on this short ground.

12. The accentuating circumstances narrated by UPPCL are broadly on the following lines:

- (a) Non-availability of around 1500 MW central sector generating capacity in which UP's share was 635 MW, mainly due to forced outage.
- (b) Inequitable allocation of power to the State of Uttar Pradesh from discretionary quota of Central Government in central sector generating stations.
- (c) Its constitutional duty to supply power to the people of the State.
- (d) Law and order problem arising due to power shortages,

13. On merits, UPPCL has contended that overdrawals must not be seen in absolute terms but as a percentage of the total power allocation to the State. It has stated that it was also purchasing liquid fuel based power @ Rs.7.00 per unit from its own allocation as well as the surrendered allocation to some other States, and had imposed heavy load-shedding for many hours every day in some districts of UP. UPPCL has pleaded that it should not be singled out for any penal treatment since other State utilities have also been overdrawing power from the regional grid.

14. UPPCL has further submitted that it would endeavour to achieve reduction in overdrawals in the long run by procuring power from other sources, as:

- (a) Vishnu Prayag Project, expected to commence supply in May-June 2006.
- (b) Tehri Hydroelectric Project, expected to commence generation in June-July 2006.
- (c) Parichha Stage-II, likely to commence generation by the end of May 2006; and
- (d) From re-started central sector generating stations at Rihand and Singrauli.

15. UPPCL has contended that solution to the problems of overdrawal lie in increasing the allocated power and share of the un-allocated power in its favour. It has been brought out that despite repeated attempts, the Central Govt. has, for reasons best known to it, failed to do the needful.

16. UPPCL in its reply has prayed for the following:

- (i) Direct NRLDC to follow the due process of law as envisaged in Clause 1.5 of the IEGC before approaching the Commission.
- (ii) Each of the States that has overdrawn from the regional grid should be made party to the proceedings.
- (iii) Direct NTPC to increase generation and revise the maintenance schedule so as to make available the maximum power during the summer months.
- (iv) Determine a transparent and objective criteria for allocation of power so as to avoid favours to any State;

17. We have heard Shri S.K. Soonee, ED for NRLDC and Shri Neeraj Kaul, Sr. Advocate for UPPCL.

18. Appearing for the petitioner, Shri Soonee, ED, NRLDC clarified that other States in Northern Region had also overdrawn power when grid frequency was low. But their overdrawals were to a much lesser extent and they had responded to the instructions of RLDC and curtailed their overdrawal during very low frequency conditions under instructions from NRLDC. However, UPPCL maintained its heavy overdrawals on continuous basis, and remained mute to precarious frequency conditions of the grid. Shri Soonee emphasized that there was a qualitative difference in the behaviour of UPPCL vis-à-vis other States of the Region, which he sought to establish through the graphic records of real time draws by the various constituents in the Region, including UPPCL.

19. Shri Soonee pointed out that in the past also, the indiscriminate overdrawals by UPPCL had been reported to the Commission. He brought to our notice the Commission's observations in order dated 8.7.2004 in Petition No.38/2004 in the matter of UI payment default and grid indiscipline by UPPCL, as follows:

*"In the first instance, we are inclined to invoke our powers under the Electricity Act, 2003 for imposition of penalty for disobedience of the directions of the petitioner and also the Commission for overdrawing the power at low frequency and not making timely payments of UI charges. However, we were persuaded by the learned counsel for the respondent to defer the decision on imposition of penalty for a week."*

20. In the further order dated 9.8.2004 the Commission observed:

*"During the hearing it came to the notice that the respondent was not only overdrawing but also defaulting in making payments towards UI charges for overdrawal from the regional grid. This compounded the culpability of the*



*respondent....This was an extra-ordinary situation which require extra ordinary remedy.”*

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*“Therefore, we had thought of invoking the powers available to us under the law to enforce discipline and if necessary, by levying penalty or fine. However, after initial dithering, assurances were made on behalf of the respondent to curtail overdrawals from the regional grid and also to settle the UI energy account operated by the petitioner on behalf of NREB. In view of these assurances, we had deferred a decision to invoke the penal provisions.”*

21. Shri Soonee further submitted that the grid indiscipline committed by UPPCL was again the subject matter of Petition No. 99/2005 filed on 8.8.2005, wherein the Commission in its order dated 20.10.2005 had observed,

*“It has been submitted that the first respondent namely, UPPCL has been recklessly overdrawing power from the Northern Regional Grid in violation of the provisions of IEGC and despite the inspection to the contrary from the petitioner. It is alleged that first respondent’s conduct has the tendency to endanger the grid security, and has the propensity to cause irreparable damage.”*

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*“We direct the petitioner to place on record the drawal pattern of all constituents of Northern Region for at least 10 days at low frequency which shall include period prior to when the generating stations, alleged by the first respondent were under forced outage.*

5. The first respondent is also directed to file the following details:

(a) Additional load sanctioned by the first respondent during the year 1996-2005

(b) Year-wise demand forecast for the next ten years commencing from 1.1.2006

(c) Efforts made to meet the present and future demand

(d) Steps taken and to be taken to curtail overdrawals from the regional grid and the specific time frame therefore, and

(e) Time schedule for payment of UI charges presently due as per the petitioner

22. Later, the Commission, in the Order dated 21.12.2005 observed that -

*“We are constrained to note that actions of UPPCL are prejudicial to maintaining grid discipline and power system stability. We are afraid that continuous violation of grid discipline by UPPCL is endangering the security of the power supply through the entire Northern Region.”*

23. During the hearing learned counsel for UPPCL, with Shri S.K. Aggarwal, Director (Finance), UPPCL generally reiterated the submissions made by UPPCL in its reply. In reply to a pointed question, Shri Aggarwal stated that there has been no capacity addition in the State at least during the last 10 years.

#### **Discussion on UPPCL’s contentions**

24. Learned counsel for UPPCL has produced before us a copy of the order dated 8.5.2006 made by the Lucknow Bench of Hon’ble Allahabad High Court in Writ Petition No.2851 (M/B) of 2006. Learned Counsel has stated that the petitioner had filed the writ petition raising a number of issues, including challenging the notice dated 1.5.2006 in Petition No.25/2006 on the ground of non-compliance of Clause 1.5 of the IEGC by NRLDC. The relevant extract from the order made by the Hon’ble High Court is placed below:

“It would be open for the petitioner to raise all such objections including the objection with regard to Clause 1.5 of the Indian Electricity Grid Code before the authority concerned on the date fixed, through their officials, authorized representative or the learned counsel. We do not see any reason that the objections so raised by the petitioner will not be taken into consideration by the authority concerned.

It is clarified that filing of this petition and order passed thereon will not come in the way of the Commission in deciding the preliminary & other objections in accordance with law.

With these observations, the writ petition is finally disposed of.”

25. We have very carefully considered the matter in the light of the observations made by the Hon'ble High Court and proceed to consider the matter on preliminary issues as also the merits.

26. First of all we propose to take up the preliminary issue raised by UPPCL, based on Clause 1.5 of IEGC. In our considered opinion, any reliance by UPPCL on Clause 1.5 of the IEGC is misconceived and misplaced. The intention of reporting persistent non-compliance of the provisions of the IEGC to the Member-Secretary Regional Power Committee is that he would take up the matter with the defaulting agency for "expeditious termination of the default". This is not and cannot be a condition precedent for exercise of powers by the Commission under the Act. The responsibility assigned to the Member-Secretary is akin to the responsibility of a Doctor, that is, to cure the person suffering from a disease to ensure his future healthy living. Whether or not the role of Member-Secretary leads to termination of default, the utility responsible for the default in the past period is not absolved of its past acts, which are contrary to law. We also observe though for sake of record only, that efforts have been made by the Central Electricity Authority (CEA) who is the authority superior to the Member-Secretary of the RPC to resolve the issue as per clause 2.2.1 of IEGC. The Chairman of UPPCL had also participated in the meeting held by the Chairman, CEA. These efforts have not yielded any fruitful results. Further the Commission had directed NRLDC vide its order dated 27.4.2006 to place before the Commission instances of indisciplined overdrawals. Under these circumstances, we over-rule the preliminary objection taken by UPPCL. We now proceed to examine the matter on its own merits.

27. UPPCL has sought to justify overdrawals by referring to forced outages, inequitable allocation, scarcity of power, Constitutional responsibility to provide power to the people, etc. In our opinion, these factors are not germane to the issue before us and cannot be the answers to the indiscipline practised by UPPCL. The Commission in the past, relying on the assurances given on behalf of UPPCL, had been refraining from invoking the penal provisions, as can be seen from the tone and tenor of the extracts from different orders placed above. Power scarcity being what it is, all the States are required to meet their requirement through a variety of means. Certainly overdrawal is not one of the means for overcoming power shortage by one State utility since it adversely affects the interests of the people in other States whose share is misappropriated.

28. We find no merit in the contention of UPPCL that although all the constituents are overdrawing, UPPCL is being singled out. We have satisfied ourselves from the data placed before us that draws by other States were close to their schedules, sometimes more and sometimes less than the schedule prepared by NRLDC, and they were reducing their overdrawals whenever so instructed by NRLDC as the frequency dipped. On the other hand, UPPCL had been consistently overdrawing in spite of low frequency pattern during the period from 27<sup>th</sup> to 30<sup>th</sup> April, when the Commission had forewarned all the State utilities of the stringent penal action for violation of Grid Code or for taking steps which may endanger the grid security.

29. In regard to one of the prayers of UPPCL that NTPC should increase generation and revise the maintenance schedule so as to make available the maximum power during the summer months, Shri V.B.K. Jain, General Manager,

NTPC, who was present in the Court, has informed that NTPC had already been given directions to this effect by the Central Government in Ministry of Power. In our view, nothing more needs to be done at this stage in this regard.

30. While we fully understand the hardships that may be faced by consumers in the State of Uttar Pradesh due to shortage of power, this, however, cannot be a ground for overdrawal from the regional grid and deprive other utilities of their share of power, legitimately allocated to them. This has the propensity to cause the grid to collapse and we cannot be a silent spectator to the imminent danger to the grid stability with its dire and far-reaching consequences on the entire Northern Region. If the tendency of overdrawal to meet the shortage of power is allowed and every State in the Region joins the race, then the grid would be in the imminent danger of collapsing and its consequences would be far more damaging than load-shedding for a specified duration. Any grid collapse may affect the Defence and other sensitive and vital installations. There is no option but to live with the shortages till such time additional generating capacity is installed and as per UPPCL's own admission no generation capacity has been added during the last 10 years.

### **Conclusion**

31. In the view of the above circumstances and considering the admission by UPPCL in its reply of overdrawal in contravention of the provisions of the IEGC, no special finding on guilt of the concerned utility needs to be recorded. Realising our statutory responsibility towards maintenance of grid discipline, we by invoking our powers conferred under the provisions of Section 142 of the Act, impose a penalty of Rupees one lakh on UPPCL for indisciplined overdrawal from the Northern Grid when

frequency was below 49 Hz. The fine shall be deposited with the Office of the Commission through a Bank Draft in the name of Assistant Secretary, Central Electricity Regulatory Commission, within 10 days of this order.

32. Under Section 143 of the Act, non-compliance of instructions of RLDCs are to be inquired into by the Adjudicating Officer to be appointed by the Commission. For this purpose, we appoint one of us, Shri A.H. Jung, Member as the Adjudicating Officer to hold an inquiry into the violation of the provisions of Section 29 of the Act by UPPCL during the month of April 2006, reported by NRLDC in the present petition, in accordance with the "Procedure for Holding Inquiry by Adjudicating Officer Rules, 2004" made by the Central Government. For this purpose, NRLDC shall place before the Adjudicating Officer the complete material within two weeks to enable the Adjudicating Officer to proceed further with the inquiry.

33. Regarding the alleged overdrawal by other States in Northern Region, we again take this opportunity to state that we would come down heavily on any State utility indulging in indisciplined grid behaviour and direct NRLDC along with NRPC to closely monitor the grid behaviour of the all the States of Northern Region. In case any of the constituents has been or is found to be acting in contravention or violation of any of the provisions of the IEGC, these violations shall be brought to the notice of the Commission for appropriate action.

Sd/-  
**(RAKESH NATH)**  
**MEMBER**

Sd/-  
**(A.H. JUNG)**  
**MEMBER**

Sd/-  
**(BHANU BHUSHAN)**  
**MEMBER**

Sd/-  
**(ASHOK BASU)**  
**CHAIRPERSON**

**New Delhi dated the 9<sup>th</sup> May 2006**