

instances when the respondent overdrew power during the months of February, March and up to 15th April, 2004. It is averred that the applicant's directions to the respondent to contain its overdrawals have not been heeded. Hence, this application has been filed to seek directions as noted above.

3. The respondent in its reply has not controverted the allegation of its drawing power from the regional grid beyond the scheduled drawal/entitlement, though it has, through its own statistics, attempted to show that the intensity of overdrawals has not been as serious as projected by the petitioner.

4. We have heard Shri Alok Roy on behalf of the petitioner and Shri D.D. Chopra, Advocate for the respondent. He was assisted by Shri Anil Kumar, DGM, UPPCL

5. At the hearing, learned counsel for the respondent conceded that the respondent has been drawing electricity from the regional grid beyond its scheduled drawal/entitlement. He sought to explain that the overdrawals were on account of respondent's social obligation to supply power to the consumers within the State of Uttar Pradesh. It was submitted that the requirement of power exceeded the availability in the State, and for that reason the respondent had no alternative but to draw power from the grid to meet its needs, even if it means drawal beyond the schedule prepared by the petitioner. Learned counsel for respondent undertook that every effort shall be made by the respondent to contain overdrawals in future.

6. At the hearing, the representative of the petitioner brought out that an amount of Rs.165 crore was outstanding against the respondent for the excess power drawn by

it, the power which was legitimately falling to the share of other constituents of Northern Region. It was urged that the other constituents in the region have not only been deprived of their share of electricity from the central generating stations, but they are being denied their dues by the respondent by withholding payments for the power drawn. Learned counsel for the respondent undertook that an amount of Rs.75 crore would be paid in a short while and the balance amount shall also be paid in due course of time.

7. Before we get into specifics, it is made clear to the respondent that grid cannot become an unlimited source of power as electricity consumption has to match generation in real time. By reckless overdrawing, the respondent is threatening the security of grid which will lead to serious consequences.

8. In accordance with the provisions of Electricity Act, 2003, the respondent is bound by the directions issued by the petitioner and defiance of these directions entails a penalty of Rs.15 lakh for each violation. Further, the scheme prepared by the Commission on payment of charges in the event of overdrawal by a beneficiary envisages that the payments needed to be settled within ten (10) days. The respondent has violated directions of the petitioner and the policy guidelines framed by the Commission. On both these counts, it has made itself liable for penal action in accordance with provisions of the Electricity Act. The Commission cannot be a mute spectator to these violations by the respondent and its acts of omission and commission. Therefore, the Commission may not be left with any alternative, but to invoke penal provisions of the Act in case the respondent continues with its recalcitrant behaviour. Before actually initiating the penal proceedings, we propose to

give some more time to the respondent to show improvements and watch the respondent's behaviour for some time to come. In case we do not find any significant improvement in the state of affairs existing today, the penal provisions shall be invoked and we say so clearly and loudly.

9. In the context of certain submissions by the respondent regarding increased power cuts in its State, we clarify that the Commission does not appreciate, approve or give any credit for such measures. Load-shedding should have to be resorted to only as an emergency measure, to save the system from collapsing in a contingency. Daily shedding of large segments of consumers on a routine basis is indicative of a lack of advance planning and timely action for augmenting the power supply, and insensitivity in discharging a utility's responsibilities towards its consumers. Why should hapless consumers suffer for such lapses on part of a utility? In other words, we want the respondent (and the other State utilities in a similar situation) to undertake the necessary measures for adequate augmentation of power supply. These measures could be

- (i) Increasing the generation availability at its own existing stations, and setting up additional generating capacity
- (ii) Harnessing Captive and Co-generation, and removing hurdles in setting up of new capacity.
- (iii) Contracting with Central PSUs and IPPs to set up new generating capacity to serve the State.
- (iv) Entering into short-term/long-term bilateral agreements for purchase of additional power from other SEBs/STUs etc.
- (v) Curtailing power theft, T&D losses, misuse and wastage of electricity.
- (vi) Taking up with Government of India for increasing the State's allocation from Central generating stations.

10. Duly appreciating that the present situation has gradually developed over the years, and may be practically impossible to be set right overnight, the Availability Based Tariff scheme and Indian Electricity Grid Code (IEGC) approved by CERC already provide one more avenue to the SEBs/STUs for reducing load-shedding: over-drawal from the regional grid. While this is allowed, and even encouraged through concessional pricing during surplus conditions in the larger grid, it is subject to two (2) strict conditions: (i) the over-drawal shall not endanger the grid, and (ii) the over-drawal must be paid for as per applicable UI rate, promptly, as specified in the Grid Code. We have noted that the respondent has failed to comply with both these conditions. It, therefore, no longer has the moral right to use this facility of over-drawal.

11. We, therefore, direct that the respondent shall abide by the drawal schedule prepared by the petitioner and shall also make every effort to contain overdrawals and liquidate all the arrears on account of Unsheduled Interchange charges payable by it on account of overdrawal from the regional grid, as stated by learned counsel at the hearing before us. An affidavit showing the up-to-date position in regard to overdrawals and payment of UI charges shall be filed by the respondent before the next date of hearing.

12. List this petition on 29.6.2004 for further directions.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K. N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi, dated the 17th June,2004