

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

1. Dr. Pramod Deo, Chairperson
2. Shri R.Krishnamoorthy, Member
3. Shri S.Jayaraman, Member
4. Shri V.S.Verma, Member

**Petition No. 34/2009
(Suo-motu)**

In the matter of

Default in payment of Unscheduled Interchanges (UI) charges for the energy drawn in excess of the drawal schedule by the Madhya Pradesh Power Trading Corporation Limited.

And in the matter of

Madhya Pradesh Power Trading Corporation Limited, Jabalpur **Respondent**

The following were present:

1. Shri Umesh Mathur, MPPTCL
2. Ms. Pushpa, WRLDC

**ORDER
(DATE OF HEARING: 26.3.2009)**

It was reported by Western Regional Load Despatch Centre (WRLDC) that an amount of Rs. 142.09 crore was outstanding against the respondent, as on 31.1.2009. The outstanding amount steadily arose from the month of November 2008 onwards as per the details given hereunder:

S. No.	Month	Outstanding UI charges on the last date of month (Rs. in crore)
(a)	November 2008	37.93
(b)	December 2008	109.19
(c)	January 2009	142.09

2. Finding that payment of UI charges was delayed and that accumulation of arrears was on the increase, the Commission by its order dated 25.2.2009 directed the respondent, to show cause as to why action under Section 142 of the Electricity

Act, 2003 (the Act) should not be taken against it for non-compliance of the provisions of IEGC regarding timely payments of UI charges.

3. The respondent vide its affidavit dated 24.3.2009 has shown cause and has submitted that because of scanty rains during the monsoon season of 2008, the availability of power from hydel power stations suffered a setback during the Rabi season of 2008-09. It has been stated that the economy of the State is predominantly agriculture-based and because of irrigation requirements the power demand shot up sizably. As a result, it has been submitted, the State was facing acute power shortage which compelled the respondent to overdraw, besides resorting to heavy load-shedding to contain the power demand in the State. The respondent has further stated that in order to cater to the needs of farmers during the Rabi season, approximately 437 MUs of power was arranged by it during October 2008 to January 2009. This is said to have cost the respondent an amount to Rs. 335 crore. The respondent has further submitted that due to severe liquidity problem, it had not been able to pay the UI charges on schedule. The respondent has further informed that in accordance with undertaking given in Petition No. 55/2008, it had liquidated the outstanding liabilities of UI charges amounting to Rs. 333.98 crore as on 29.5.2008 by October 2008. The respondent has submitted that Madhya Pradesh State Load Despatch Centre has already been advised to restrict the drawal of power from the central sector to schedule, so that UI charges do not build up further. The respondent has proposed to under-draw its share from Central Sector generating stations to reduce the burden of UI charges to the maximum possible extent. The respondent has further stated that default in timely payment of UI charges is also for the fact that UPPCL who was to pay Rs. 147 crore as per the Commission's order, has been permitted by the Appellate Tribunal to make

payments in instalments starting from April 2009. The respondent has undertaken to liquidate the outstanding UI charges including surcharge by August 2009 and has sought the Commission's approval for that.

4. Heard representative of the respondent. He reiterated the submissions made in the reply-affidavit.

5. We have carefully considered the submissions of the respondent. The respondent has admitted to over-drawal of electricity. The respondent has further admitted that it could not pay UI charges as per schedule. Based on these admissions, the offence of contravention of and non-compliance with the provisions of IEGC stands established.

6. However, it is necessary to consider the extenuating circumstances relied upon by the respondent. The respondent has submitted that over-drawal of electricity was to meet the demand of farmers in the State, during Rabi season. This cannot be an appropriate reason for usurping the share of other States who too would have faced the similar situation. Having drawn their share, the respondent was under an obligation to pay UI charges for over-drawal in accordance with provisions of IEGC. The financial crisis reportedly being faced by the respondent is no ground for delaying the payment, nor the withholding of payment of UPPCL.

7. IEGC, specified by the Commission in exercise of its power under clause (h) of sub-section (1) of Section 79 of the Electricity Act, 2003, provides that payment on account of UI charges are to be made within 10 days of issue of statement by the Regional Power Committee. In the present case, the arrears have been carried forward from the previous months, that is, for the month of November 2008 and onwards. Having already considered the submission of the respondent we feel that

there is no satisfactory explanation for delay in making payment. UI charges which became payable as the respondent overdrew the share of other States and which otherwise deserved high priority in settlement as provided in IEGC. Earlier also, the respondent had been defaulting in making payments of UI charges for which proceedings under Section 142 of the Act were taken in Petition No. 55/2008. In those proceedings also the respondent was found guilty. It appears that the offence of contravention of and non-compliance with the provisions of IEGC by the respondent is of recurring nature. For this reason also, the respondent does not deserve, the Commission's indulgence. Under these circumstances, we are satisfied that the respondent is guilty of willful contravention of and non-compliance with the provisions of IEGC, referred to in the order dated 25.2.2009.

8. Accordingly, in exercise of power under Section 142 of the Act, we impose penalty of Rs. one lakh on the respondent, to be deposited latest by 17.4.2009.

9. Imposition of penalty for contravention of and non-compliance with the provisions of IEGC, does not absolve the respondent of the responsibility of making payment of UI charges. We direct that the entire arrears of Rs. 142.09 crore pertaining to the month of January 2009 shall be paid by 15.5.2009.

10. Western Regional Power Committee Secretariat is directed to calculate the amount of interest payable by the respondent on account of late payment, and communicate the amount to the respondent latest by 20.5.2009. Thereafter, the respondent shall deposit the interest with the WRLDC latest by 31.5.2009.

11. We further direct that notice be issued to Shri P.K. Vaishya, Managing Director of the respondent under sub-section (1) of Section 149 of the Act to show cause as to why, as in-charge of and responsible to the respondent for conduct of its

business, he should also not held guilty and punished accordingly. His reply should be received latest by 30.4.2009.

12. The petition be listed for further direction on 12.5.2009.

sd/-	sd/-	sd/-	sd/-
(V.S.VERMA)	(S.JAYARAMAN)	(KRISHNAMOORTHY)	(DR.PRAMOD DEO)
MEMBER	MEMBER	MEMBER	CHAIRPERSON

New Delhi dated the 2nd April 2009