

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

**Petition No. 54/2008
(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 Bihar State Electricity Board.

And in the matter of

1. Bihar State Electricity Board, Patna
 2. Shri Swapan Mukherjee, Chairman, Bihar State Electricity Board, Patna
- ..Respondents**

ORDER

Based on the report from the Executive Director (SO&NRLDC), PGCIL it was noticed that an amount of Rs. 122 crore was outstanding against the first respondent on account arrears of UI drawal as on 24.3.2008. The Commission in its order dated 6.5.2008 had directed the first respondent to show cause as to why action under appropriate provisions of the Electricity Act, 2003 (the Act) should not be initiated against it for recovery of outstanding UI dues along with interest. Subsequently, based on the submissions made by the first respondent, the Commission vide its order dated 4.6.2008 directed the first respondent to take steps to liquidate the entire amount of outstanding UI dues as on 24.3.2008 by paying not less than Rs. 20 crore per month starting from the month of June 2008, till all dues including interest were liquidated, in addition to timely payment to current UI dues. In accordance with these directions, the entire amount of arrears along with interest for late payment was to be liquidated by 31.12.2008, in addition to payment of the current dues.

2. ERLDC by its letter dated 7/8.1.2009 has informed the status of payment of current UI charges by the first respondent as follows:

Current dues as on 31.10.2008 (Rs.)	Payment made during the month of October 2008 (Rs.)	Current dues as on 28.11.2008 (Rs.)	Payment made during the month of November 2008 (Rs.)	Current dues as on 2.1.2009 (Rs.)	Payment made during the month of December 2008 (Rs.)	Total amount overdue as on 2.1.2009 (Rs.)
16,16,48,920	Nil	22,26,06,842	Nil	30,63,42,842	Nil	30,63,42,842

3. From the report of ERLDC, it follows that the first respondent has not made payment of current dues during the months of October, November and December 2008 and also interest for late payment, till 31.12.2008, in terms of the Commission's order dated 4.6.2008. Under these circumstances, it is noted that *prima facie* the first respondent has not complied with the directions of the Commission as per the order dated 4.6.2008. Accordingly, we direct the first respondent to show cause, latest by 10.2.2009, as to why a penalty under Section 142 of the Act 2003 be not imposed on it.

4. Under Section 149 of the Act, the person incharge of and responsible for the conduct of business of the company guilty, as well as the company, are deemed to be guilty of having committed the offence and the person incharge of and responsible for conduct of business of the company, is also liable to be proceeded against and punished accordingly. Therefore, in exercise of power under Section 149 of the Act, we direct the second respondent, as Chairman of the first respondent and responsible for the conduct of first respondent's business to show cause as to why he should also not be held guilty of offence of non-compliance of the Commission's directions, along with the first respondent, and punished accordingly. His reply should be received latest by 10.2.2009.

5. Officer-in-charge of ERLDC and the Member-Secretary, ERPC or their representatives shall be present at the hearing to assist the Commission in adjudication of matter.

6. List for further directions on 26.2.2009.

sd/-
(S.JAYARAMAN)
MEMBER

sd/-
(R.KRISHNAMOORTHY)
MEMBER

sd/-
(DR. PRAMOD DEO)
CHAIRPERSON

New Delhi dated the 21st January 2009