

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

- 1. Shri R.Krishnamoorthy, Member**
- 2. Shri S.Jayaraman, Member**
- 3. 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**

1. Madhya Pradesh Power Trading Corporation Limited, Jabalpur.
2. Shri P.K.Vaishya, Managing Director, Madhya Pradesh Power Trading Corporation Limited, Jabalpur.

.... **Respondents**

**The following were present:**

1. Shri P.K. Vaishya, MPPTCL
2. Shri. Umesh Mathur, MPPTCL

**ORDER  
(DATE OF HEARING: 12.5.2009)**

Western Regional Load Despatch Centre (WRLDC), vide its letter dated 13.2.2009, reported that an amount of Rs. 142.09 crore was outstanding against respondent No 1, as on 31.1.2009 towards UI charges. 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 respondent No 1, 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 Indian Electricity Grid Code (Grid Code) regarding timely payments of UI charges.

2. Respondent No. 1 submitted its reply to the show cause notice vide its affidavit dated 24.3.2009. On consideration of the submissions made in the reply affidavit and the oral submissions by the representative of respondent No. 1 during the hearing dated 26.3.2009, the Commission vide its order dated 2.4.2009 held it guilty of willful contravention of and non-compliance with the provisions of the Grid Code. Accordingly, the Commission imposed penalty of Rs. one lakh on respondent No. 1.

3. Respondent No. 1 was further directed, vide the above order, to pay by 15.5.2009, the entire outstanding arrears of UI charges amounting to Rs. 142.09 crore (inadvertently indicated as Rs. 142.09 lakh). WRPC was also directed, vide the above order, to calculate the amount of interest payable by respondent No. 1 for of late payment of UI charges and communicate to respondent No. 1. Thereafter, respondent No. 1 was to deposit the interest with the WRLDC by 31.5.2009.

4. Notice was issued to Shri P.K. Vaishya, Managing Director of respondent No. 1 under sub-section (1) of section 149 of the Act to show cause, as to why, as person in charge of and responsible for conduct of its business, he should not be held guilty and punished accordingly. Thus Shri Vaishya was added as respondent No. 2 by the order dated 2.4.2009.

5. Respondent No. 2 replied to the show cause notice vide his affidavit dated 28.4.2009 which was supplemented by his subsequent affidavit dated 9.5.2009.

6. At the outset, we take note of the fact that the penalty of Rs. one lakh imposed on respondent No. 1 vide the Commission's order dated 2.4.2009, has been remitted on 16.4.2009.

7. As regards the settlement of the pending dues, the representative of respondent No 1 confirmed during the hearing, that the entire outstanding dues amounting to Rs. 142 crore had been cleared by it. He also undertook to pay the interest as computed and conveyed by WRPC. The subsequent report of WRPC dated 26.5.2009 reveals that as per the UI accounting up to 10.5.2009, a sum of Rs. 20.45 crore was receivable by respondent No. 1. In this manner, the subsequent directions of the Commission stand complied with.

8. The only question left for decision is on the notice issued to respondent No. 2. Respondent No 2 has attributed over-drawal to increase in demand during the rabi season and has sought to justify the action of respondent No. 1 as being unintentional. Besides, reliance has also been placed on the financial constraints. He has also cited that neither of the three Discoms in the State nor the SLDC was under his administrative control.

9. We are not impressed by any of the submissions of respondent No. 2. At this stage we are not concerned with the reasons for over-drawal. The charge against respondent No. 1 was of non-compliance of the provisions of the Grid Code which mandate timely payment of UI charges. Respondent No. 1 was found guilty of willful contravention of and non-compliance with the provisions of the Grid Code. Accordingly, penalty of Rs. one lakh was imposed on it. Under these circumstances, the second respondent is also deemed to be guilty unless, in terms of the proviso to sub-section (1) of section 149 of the Act, he is able to show either that the non-compliance was committed without his knowledge or that he had exercised all due diligence to prevent the commission of non-compliance. In the submissions made by respondent No. 2 in response to the show cause notice, there is no averment on either of the two counts. We also notice that respondent No. 2, in his reply, has not

disputed the correctness of findings of the Commission in regard to guilt of respondent No. 1. Under these circumstances, by applying the fiction of law created by sub-section (1) of section 149 of the Act, we have no hesitation in arriving at the conclusion that respondent No. 2 is deemed to be guilty of contravention of and non-compliance with the provision of the Grid Code.

10. Having regard to the facts and circumstances of the present case, we impose a token penalty of Rs. 10,000/= (Rs. Ten thousand only) on respondent No. 2.

11. The amount shall be deposited by respondent NO. 2 by 15.7.2009.

**Sd/=**  
**(V.S.VERMA)**  
**MEMBER**

**Sd/=**  
**(S.JAYARAMAN)**  
**MEMBER**

**Sd/=**  
**(KRISHNAMOORTHY)**  
**MEMBER**

**New Delhi dated the 30<sup>th</sup> June 2009**