

**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. 74/2007

In the matter of

Non-compliance of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2008.

And in the matter of

Patni Project Private Limited, Mumbai

Respondent

Following were present:

None was present.

**ORDER
(DATE OF HEARING: 27.10.2009)**

Patni Project Private Limited (hereinafter "the licensee") was granted Category "C" licence on 23.8.2007, for undertaking inter-State trading in electricity which, at the request of the licensee, was downgraded to Category "A" vide order dated 11.2.2009. Consequent to the notification of the Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009, the licence stands re-classified to Category-`III`.

2. Under clause (4) of Regulation 4 of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2008 (hereinafter "the payment of fees regulations") the licensees are required to pay licence fee within thirty days of the date of grant of licence and thereafter annually by 30th April each year.

3. It was noticed that the licensee had not paid the licence fee for the year 2009-10, which was payable by 30.4.2009, despite issue of reminders dated 21.5.2009 and 20.8.2009. Accordingly, by order dated 24.9.2009, the licensee was directed to show cause as to why penalty under Section 142 of the Electricity Act, 2003 (the Act) be not imposed on it for non-compliance of the provisions of the payment of fees regulations. Licensee was further directed to explain as to why, for the same reason, Category `III` licence for inter-State trading in electricity granted to it be not revoked.

4. The licensee was afforded time up to 16.10.2009 for showing cause. The matter was posted for hearing on 27.10.2009.

5. On the date fixed for hearing, none appeared on behalf of the licensee, nor had any reply been filed. However, the licensee under its letter dated 26.10.2009 received through fax on 28.10.2009, submitted that the fees with surcharge had been sent to the Commission's office. The letter dated 26.10.2009, together with the DD dated 27.10.2009 for 2,51,458/= was received in the Commission's office on 31.10.2009.

6. At the outset, we regret to note that the conduct of the licensee leaves much to be desired. It has not even cared to explain, much less apologise for the delay in payment of licence fee. Besides, the surcharge has not been paid in accordance with regulation 6 of the payment of fees regulations, extracted hereunder for ease of reference:

6. Late Payment Surcharge

Without prejudice to any other action that may be considered appropriate for noncompliance of these regulations, late payment surcharge at the rate of one per centum (1%) rounded to the nearest one hundred rupees, shall be paid on the outstanding amount for each month or part thereof for the period fee remains unpaid shall be paid

7. It may be seen from the above that late payment surcharge is to be paid on the entire outstanding amount of Rs. 2.50 lakh which was payable on 30.4.2009. The licensee seems to have calculated the surcharge on the pro-rata licence fee up to the period up to 31.10.2009 which is patently illegal. Further, the licensee has not even cared to round off the surcharge to the nearest one hundred rupees.

8. From the foregoing, it is established that the licensee has failed to comply with the provisions of the payment of fees regulations which mandate payment of licence fee by 30th April of each year. The contravention of the licensee is further compounded by the fact the default has persisted despite two reminders. This conduct of the licensee warrants strict action against it. However, in view of the partial payment of surcharge and the entire amount of licence fee, we are inclined to take lenient view. Accordingly, we direct that a penalty of Rs. 50,000/= (Rs. Fifty Thousand) only be imposed on the licensee for non-compliance of the provisions of the payment of fees regulations. Incidentally, we also observe that the licensee has also rendered itself liable for proceedings under section 142 of the Act by not filing its reply by 16.10.2009, as required vide the show cause notice dated 24.9.2009. However, for the present, we refrain from proceeding against the licensee for this contravention.

9. The licensee is directed to remit the penalty as also the balance of surcharge before 30.11.2009.

8. As stated in para 3 herein above, the licensee was also directed vide Commission's order dated 24.9.2009 to "explain as to why for the same reason, Category 'A' (since re-classified as Category 'III') licence for inter-State trading in electricity be not revoked". The licensee has not shown any reason in this regard. However, in the interest of justice, we propose to give one more opportunity to the licensee. Accordingly, we direct that the case be notified for hearing on 3.12.2009 for taking a view on the issue of revocation of its trading licence.

Sd/=
(V.S.VERMA)
MEMBER

Sd/=
(S. JAYARAMAN)
MEMBER

Sd/=
(R. KRISHNAMOORTHY)
MEMBER

Sd/=
(Dr. PRAMOD DEO)
CHAIRPERSON

New Delhi, dated the 13th November 2009