

**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.137/2009 (*Suo motu*)

And in the matter of

Maintenance of Grid-Discipline, Non-compliance of provisions of IEGC by UPPCL during June 2009

And in the matter of

Uttar Pradesh Power Corporation Ltd., Lucknow ... Respondent

The following were present :

1. Shri D.D. Chopra, Advocate, UPPCL
2. Shri Y.P Singh, UPPCL
3. Shri R.K Johar, UPPCL
4. Shri V.P. Trivedi, UPPCL
5. Shri V. K. Agrawal, NRLDC
6. Ms. Jyoti Prasad, NRLDC

ORDER

(Date of hearing: 13.8.2009)

It was reported by the Northern Regional Load Despatch Centre (NRLDC) that for the period 11.6.2009 to 19.6.2009 the respondent over-drew huge quantum of electricity from the regional grid during as many as 472 time-blocks, at frequency below 49.2 Hz, the specified threshold limit, in contravention of the provisions of the Indian Electricity Grid Code (the Grid Code) and the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009, despite repeated messages and advice from NRLDC to curtail over-drawls or to increase own

generation. On receipt of the information, the Commission by its order dated 14.7.2009 while annexing the details of the over-drawls, directed the respondent to show cause as to why it should not be held guilty of the contraventions reported and punished under Section 142 of the Electricity Act, 2003 (the Act) for over-drawl during each of 472 time-blocks.

2. The respondent filed its reply under its affidavit dated 10.8.2009, supplemented by another affidavit dated 12.8.2009. In the reply-affidavits the respondent did not dispute either the correctness of the charge of over-drawl of electricity or the prevailing frequency, the details of which were conveyed in the order dated 14.7.2009. However, the respondent sought to justify the over-drawls by attributing the following reasons, namely –

- (a) Excess of demand over availability,
- (b) Increase in demand in the State,
- (c) Failure of bilateral agreements, and
- (d) Non-establishment of the Load Despatch Centre.

3. When the case was heard on 13.9.2009 learned counsel for the respondent supplemented the above grounds by stating that the authorities in the State were pressurizing the respondent to ensure uninterrupted power supply and this, according to learned counsel, was contributing to over-drawls by the respondent. Under the circumstances, learned counsel expressed helplessness to curtail over-drawls by

stating that the respondent was subjected to control of the State Government, even though it was a corporate entity, but promoted by the State Government. As such, learned counsel stated, the respondent was amenable to the State Government's pressure and could not afford to defy that Government's orders. He also submitted that one of the District Judges had threatened to initiate contempt proceedings against the respondent if supply of power was disrupted to the Civil Court complex. Learned counsel further submitted that the Chief Engineer in charge of the system operations and assigned the responsibility of preparing schedule and ensuring compliance with the Grid Code, had very limited powers to restrict over-drawls as he had to act in accordance with the oral directions of the authorities in the State Government and also his own superiors. Learned counsel repeatedly insisted that the State Government should also be made a party in the proceedings so that the views of the State Government were available to the Commission.

4. The suggestion made by learned counsel at the hearing when Shri V.P. Trivedi, Chief Engineer, and other senior officers of the respondent were also present, was tantamount to abetment of offence of contravention and non-compliance of the provisions of the Grid Code by the State Government. Therefore, learned counsel was informed that it was not possible to take notice of the submission unless stated so on affidavit sworn by the person duly authorized by the respondent. At the conclusion of the hearing, learned counsel sought time to persuade the officials of the respondent to file the affidavit in support of the submission made, attributing to the State Government the role in the over-drawls. He was granted time for the purpose. However, no affidavit

has been filed. Accordingly, we proceed to dispose of the matter based on the reply-affidavits, without taking note of the additional submissions made at the hearing

5. According to the respondent, the demand of electricity in the State far exceeded the availability from its own generation and allocation made to the State from the central sector generating stations. To overcome the shortage situation, the State had proposed to augment the sources of supply. For this purpose, three private sector generating stations with capacity of 2130 MW were stated to be under implementation in the State, of which the first unit of 300 MW capacity was scheduled to be commissioned in March 2010. Besides, it was explained, power purchase agreements were entered into with several co-generation plants to procure 1022 MW of electricity, of which 911 MW was already commissioned. The State Government was also said to have undertaken expansion of two existing generating stations by adding two units, each with capacity of 250 MW, likely to be commissioned by 2010. Hot weather conditions, coupled with failure of monsoon resulted in increase in demand of electricity, the respondent urged. For this reason, the demand during June 2009 was said to be significantly higher than demand for the corresponding period in 2008. The State Government was said to have declared more than half of the State to be drought hit and sought central assistance. The third reason given by the respondent to justify over-drawl was the lower availability from the electricity traders. The respondent reportedly entered into agreements with a number of electricity traders and State utilities at a considerably high cost to meet its demand for electricity. However, they failed to supply the committed quantum of power. Because of this failure, the respondent was stated to have been forced to over-draw

from the regional grid. Lastly, non-establishment of the Load Despatch Centre by State Government is also stated to be another contributory factor towards over-drawl. The respondent has submitted that although it had been performing the functions of the State Load Despatch Centre, it had not been able to ensure the integrated operation of power system in the State.

6. The respondent submitted the details of the actions taken by it on receipt of messages from the RLDC as well as some newspaper clippings in support of its contention that public resorted to mob violence in response to power cuts.

7. Shri V P Trivedi, Chief Engineer responsible for load despatch functions informed at the hearing that the respondent had opened bids for purchase of 1500 MW of power, but wanted to be assured whether CTU could permit use of the corridor for transfer of power. He stated that CTU had the problem of bottleneck as it could not provide corridor in the past.

8. General Manager, NRLDC submitted that the respondent was habitually overdrawing from the regional grid and on a number of occasions the extent of over-drawl was in the range of 1500-2000 MW. He pointed out that the respondent had over-drawn 1762 MW at one point of time. He brought out that average over-drawl for each time block by the respondent at frequency below 49.2 Hz in June 2009 was around 673 MW. He further informed that for July 2009, the average over-drawl for each time block was to the extent of 871 MW. He stated that the other States in the region were tempted to over-draw emulating the respondent. As regards the plea of non-availability of

corridor raised by the representative of the respondent, General Manager, NRLDC intimated that there was not much problem as regards intra-regional corridor. He submitted that if corridor was needed, the same should be booked in advance. He pointed out that the respondent had not entered into any bilateral contract for purchase of power as was done by Punjab State Electricity Board to overcome the shortage situation, though the States of Jammu & Kashmir and Himachal Pradesh within the region itself were having surplus power. He also observed that the respondent was not procuring power through the Power Exchange either. He submitted that June and July being high demand months in Northern Region, the respondent should have initiated action in April itself for booking corridors. To a pointed question as to whether the respondent was ever denied transmission corridor in the past, the representative of NRLDC replied that some time the respondent might have been given open access and sometimes it might have been refused.

9. In the light of above claims and counter-claims; we examine the pleas raised by the respondent in its defence.

10. We are not at all impressed by any of the justification given by the respondent in support of its over-drawls. There is general shortage of power in the country though there are occasional surpluses. Therefore, like the respondent, other States have also been facing the shortage situations. The climatic conditions prevalent in other States, barring the States of Jammu & Kashmir and Himachal Pradesh, in Northern Region were no different from those in the State of Uttar Pradesh. The States in the region were

facing hot weather conditions. Similarly, they were equally affected by failure of monsoons. The demand of electricity of agriculture sector in the neighboring States or the States whose allocations were misappropriated by the respondent was no less pressing. The increased demand in the State and inability of the respondent to meet the demand do not provide any justification for over-drawl in blatant violation of the statutory provisions. Drawl of power not allocated to the respondent and allocated to other States constitutes an offence. Such drawl at a frequency when the grid operates at a level below threshold limit aggravates the offence; as such over-drawls could lead to grid collapse. The attitude of the respondent is found to be callous – to say the least - when viewed in the light of the continuous over-drawls of huge quantum at low frequency. As pointed out by the representative of NRLDC, the respondent did not take any steps to procure power from the States of Jammu & Kashmir and Himachal Pradesh who were having temporary seasonal surpluses. Because of the intra-regional nature of the transactions, availability of transmission corridor would not have posed any difficulty in case of procurement of electricity from these States. For import of electricity from other regions, it was expected of the respondent to take advance timely action. Non-establishment of the Load Despatch Centre by the State Government though a matter of serious concern does not absolve the respondent of its responsibility to comply with the Grid Code. On the other hand, for the reason that the respondent itself was performing the load despatch functions, it was in a better position to control and coordinate efforts towards ensuring grid discipline by sticking to the provisions of the Grid Code. The extenuating circumstances on which reliance has been placed by the respondent were not such that the respondent could not control its drawl pattern.

11. The respondent has submitted some details of action taken by it in response to the messages received from NRLDC. The respondent is reported to have either opened certain lines or instructed the generating stations to increase generation. Under the above circumstances, the short question for our consideration is whether the action were adequate to meet demands of the situations.

12. The relevant parts of the Grid Code whose violation, contravention and non-compliance form the foundation for the show cause notice dated 14.7.2009 are extracted hereunder for ease of reference:

“5.4.2 Manual Demand Disconnection

(a) As mentioned elsewhere, the constituents shall endeavor to restrict their net drawl from the grid to within their respective drawl schedules whenever the system frequency is below 49.5 Hz. When the frequency falls below 49.2 Hz, requisite load shedding (manual) shall be carried out in the concerned State to curtail the over-drawl.”

6.4 Demarcation of responsibilities

4. Provided that the States, through their SLDCs, shall always endeavor to restrict their net drawl from the grid to within their respective drawl schedules, whenever the system frequency is below 49.5 Hz. When the frequency falls below 49.2 Hz, requisite load shedding shall be carried out in the concerned State(s) to curtail the over-drawl.” (Emphasis supplied)

13. The word “requisite” is significant. It implies that the quantum of manual load-shedding must be such as to facilitate rise in frequency to the level of 49.2 Hz and above. An over-drawing utility can be considered to have complied with the provisions

of the Grid Code only if the load-shedding results in either the complete elimination of over-drawls or to rise of frequency at or above 49.2 Hz. Based on this criteria, the respondent cannot be said to have taken adequate steps to meet the situations. Even after receipt of advice and messages from NRLDC, over-drawls continued when grid was operating at frequency below 49.2 Hz. Against 472 instances of over-drawl by the respondent during the period under consideration, there was some respite on 10 occasions only, the details of which are indicated in the table given below.

S.No	Time of action by respondent	Date and time of over-drawal in the preceding instance	Date and time of over-drawal after action
1	11.6.2009:15.43	11.6.2009:15.45	11.6.2009:19.15
2	11.6.2009:22.47	11.6.2009:22.25	11.6.2009:23.05
3	12.6.2009:14:18	12.6.2009:14.20	12.6.2009:15.10
4	12.6.2009:23.18	12.6.2009:23.10	13.6.2009:00.05
5	13.6.2009:00.35	13.6.2009:00.30	13.6.2009:13.55
6	13.6.2009:23.08	13.6.2009:23.10	14.6.2009:00.05
7	17.6.2009:00.40	17.6.2009:00.35	17.6.2009:05.15
8	17.6.2009:20.36	17.6.2009:20.40	17.6.2009:21.05
9	18.6.2009:00.36	18.6.2009:00.35	18.6.2009:01.15
10	18.6.2009:11.11	18.6.2009:11.15	18.6.2009:12.05

14. Therefore, it cannot be said that the respondent resorted to 'requisite' load-shedding manually to help the grid to restore the frequency to the threshold level. Under the circumstances, the respondent cannot be exonerated of the charge of non-compliance with the provisions of the Grid Code. Accordingly, we hold the respondent guilty of contravention of the provisions of the Grid Code for the reason of reckless over-drawl at frequency below the specified limit of 49.2 Hz.

15. This takes us to the question of penalty. In the past on many occasions the respondent has been found guilty of violation of the provisions of the Grid Code. This fact was emphatically urged by the representative of NRLDC at the hearing. For example, it was brought to the Commission's notice that the respondent was held guilty of contravention of the provisions of the Grid Code in *suo motu* proceedings in Petition No. 105/2008. We are, therefore, of the view that the respondent does not deserve any indulgence or mercy in the matter of penalty. We are convinced that imposition of maximum penalty of Rs one lakh prescribed under Section 142 of the Act is necessary to meet the ends of justice. Accordingly, we direct that penalty of Rs. four crore and sixty two lakh at the rate of Rs. one lakh for each contravention, 462 in all, (472-10 =462) be imposed. The amount of penalty shall be deposited latest by 15.11.2009.

Sd/-
(V.S.VERMA)
MEMBER

Sd/-
(S.JAYARAMAN)
MEMBER

Sd/-
(R.KRISHNAMOORTHY)
MEMBER

Sd/-
(DR.PRAMOD DEO)
CHAIRPERSON

New Delhi dated the 30th October 2009