

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

**Petition No. 237/2009
(Suo-Motu)**

Coram

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri V. S. Verma, Member**

DATE OF HEARING: 3.12.2009

DATE OF ORDER: 26.2.2010

In the matter of

Default in payment of Unscheduled Interchanges (UI) charges for the energy drawn in excess of the drawal schedule by Haryana Vidyut Parasaran Nigam Limited

And in the matter of

Haryana Vidyut Prasaran Nigam Limited

.....Respondent

The following were present:

1. Sh. Somara Lakra, NRLDC
2. Sh. Gurcharan Singh, HPPC
3. Sh. Pawan Jaswal, HPM

ORDER

It was observed form the report of NRLDC, that following amounts were outstanding against the respondent towards UI charges at the end of each month from June to September 2009:

(Rs. in lakh)

Amount outstanding at the end of the month				
	Out of arrears	Out of Current Charges	Out of surcharge	TOTAL
JUN 2009				-136.89280
JUL 2009	-136.89	729.29	3.64	596.03054
AUG 2009	596.03	1521.41	-134.21	1983.22733
SEP 2009	1983.23	361.13	10.79	2355.14852

2. As it transpired from the above data that the respondent had, since July 2009 consistently defaulted in making payments and settling UI account, proceedings under Section 142 were initiated against the respondent vide order dated 30.10.2009 for delay in payment of UI charges.

3. HVPNL, to whom the notice was issued, submitted vide its letter dated 24.11.2009 that the Govt. of Haryana had transferred entire allocations of Haryana in Central Sector Generating Stations (CSGSs) from HVPNL to Haryana Power Generation Corporation Ltd (HPGCL) in June, 2005. Further, in April, 2008 the allocations from CSGSs had been transferred from HPGCL to the distribution companies of Haryana i.e. Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL) and Dakshin Haryana Bijli Vitran Nigam Limited (DHBVNL). It was requested that the ultimate beneficiaries of Haryana i.e. UHBVNL and DHBVNL who are responsible for payment of UI charges may be directed to reply the order dated 30.10.2009 by the Commission as they are the necessary parties in this case and not HVPNL.

4. Haryana Power Purchase Centre (HPPC) on behalf of the distribution Companies ,UHBVNL and DHBVNL submitted reply on 1st Dec, 2009. In the reply it was submitted that Haryana Govt. had transferred the work of trading business and procurement of power from HPGCL with effect from 15th April, 2008. Now, the matter of payment and receipt of UI charges of Haryana in the NREB – UI Pool Account is being looked into by HPPC on behalf of UHBVNL and DHBVNL with effect from April, 2008 instead of HVPNL. Accordingly HPPC has made the submission on the petition as respondent instead of HVPNL.

5. According to HPCC, all payment due on account of UI charges had been released and nothing was outstanding as payable by it. HPPC had further, submitted that the outstanding balance towards UI account ending 30.9. 2009 indicted in the Commission's order dated 25.11.2009 also included the amount which was due for payment on 29.09.2009. The cheques were delivered on 29.09.2009 for its credit but the same were shown as outstanding in the order.

6. The representative of HPPC submitted that outstanding amount was paid vide cheque on 29.9.2009 but the dues were shown outstanding against the respondent. He also cited the decision in NRPC meeting, permitting payment up to the last date of the prescribed period of 10 days and the date of delivery of cheque would be considered as the date of payment. He was directed vide Record of Proceedings dated 3.12.2009 to submit a copy of the decision in the NRPC forum. The respondent has vide its letter dated

18.12.2009 filed the same with a copy to the petitioner. Accordingly we proceed to dispose of the matter vide this order.

7. During the hearing on 3.12.2009 representative of HPPC reiterated that Distribution Companies are responsible for UI payment. He admitted that there was some delay in UI payments during the period mentioned in the order. However, all the payments were made subsequently and there was no UI outstanding towards them. On the other hand, representative of NRLDC submitted that the cheques were deposited on the last due date and NRLDC had considered the date of credit of the cheques in the UI account as the date of payment, whereas HPPC was claiming the date of delivery of cheque as date of payment.

8. In reply to the above submission, HPPC representative pointed out that there was a decision in NRPC commercial committee meeting that payment could be made up to the last date of the prescribed period of 10 days and the date on which cheque is delivered would be considered as payment date. The Commission directed HPPC to submit the copy of the decision taken in the NRPC forum.

9. HPPC, vide its letter dated 18.12.2009, submitted copy of extracts of minutes of the 132nd TCC and 135th NREB meeting held on 29th and 30th October, 2004. Extracts of para B.6 of the Summary record of discussions, relating to calculation of interest on delayed payment of UI charges by the constituents is reproduced hereunder:

“ After discussions, the TCC decided that the date of deposit of cheque to a bank within the banking hours shall be taken as the date of payment of UI charges by a constituent into the UI pool account and interest calculations would be made accordingly”

“After some discussions, the Board agreed to the recommendations made by the TCC on the issue for further implementation”

10. We would not like to go into the question of appropriateness or otherwise of the decision to treat the date of depositing the cheque as the date of payment. We are of the view that in the instant case, HPPC has made payments in good faith in terms of the above stated decision in the NRPC forum. We also observe from the reconciliation statement filed by HPPC, annexed as annexure I to the reply dated 25.11.2009 that the State discoms were making payment by cheque generally on the due date with a few exceptions. Accordingly we consider it appropriate to warn the State constituent that hence forth any instance of default in timely payment of UI charges to the Unscheduled Interchange Pool Account Fund, shall make them liable for appropriate action under law. In this regard, we draw the attention of the State constituent to the following provisions of Regulation 10 of the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009:

“10. Schedule of Payment of Unscheduled Interchange Charges

(1) All payments for Unscheduled Interchange charges including the Additional Unscheduled Interchange Charge shall be made to the “Unscheduled Interchange Pool Account Fund” within 10 days of issue of Unscheduled Interchange account statement by the Regional Power Committee.

(2) If any payments for the Unscheduled Interchange charges on the Additional Unscheduled Interchange Charge are delayed by more than two days, that is to say, payments are made beyond a period of 12 days of issue of the statement

by the Regional Power Committee, simple interest @0.04% for each day of delay shall be payable.

(3) All payments from the Unscheduled Interchange Pool Account Fund to the entities entitled to receive any amount shall be made within 5 days of crediting of the amount to "Unscheduled Interchange Pool Account Fund"

11. Before parting, we would observe that for settling UI charges, NRPC may also consider to evolve consensus among the constituents for introduction of new procedures such as National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) for ensuring timely payments.

12. With this petition No. 237/2009 stands disposed of.

Sd/=

(V.S. VERMA)
MEMBER

Sd/=

(Dr. PRAMOD DEO)
CHAIRPERSON