

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 74/2007**

**Coram**

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

**DATE OF HEARING: 3.12.2009**

**DATE OF ORDER: 29.1.2010**

**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**

**The following were present:**

None was present

**ORDER**

This case pertains to the penal proceedings against respondent for default in timely payment of licence fee in respect of the category 'C' licence granted on 23.8.2007 and subsequently reclassified to category 'III' on notification Central Electricity Regulatory Commission (Procedure, Terms and Conditions for grant of trading licence and other related matters) Regulations, 2009 (the trading licence regulations).

2. As per clause 4 of Regulation 4 of the Central Electricity Regulatory Commission (Payment of Fees) Regulations, 2008, (payment of fees regulations), respondent was required to pay licence fee by 30.4.2009. However, the same was not paid despite reminders. Accordingly, notice was issued vide order

dated 24.9.2009 directing the respondent to show cause as to why penalty under Section 142 of the Electricity Act, 2003, be not imposed on it for non-compliance of the provisions of the payment of fees regulations.

3. The respondent vide its letter dated 26.10.2009 forwarded demand draft dated 27.10.2009 for Rs. 2,51,458/-. The above amount did not meet the dues from the respondent towards the licence fee amounting to Rs. 2.5 lakhs and the late payment surcharge as per clause 6 of the payment of fees regulations. The Commission vide its order dated 13.11.2009 imposed a penalty of Rs. 50,000/- payable by 30.11.2009. By the same order, the respondent was also directed to show cause as to why its trading licence be not revoked.

4. When the case was taken up for hearing on 3.12.2009, none appeared on behalf of the respondent, however, the respondent vide its letter dated 2.12.2009, received in the Commission on 7.12.2009, had proposed to surrender its trading licence stating the following reasons:

- (a) The power trading market is highly competitive.
- (b) There is lot of uncertainty prevailing in the market after the Appellate Tribunal for Electricity (APTEL) passed an order restricting the profit margin of the surplus power supplier to a maximum of Rs. 0.04/- per unit above the base price set by the respective State Electricity Regulatory Commissions.
- (c) The rate of traded power has been rising steadily with the latest rates having crossed Rs. 8 per unit.

5. The respondent, vide the same letter, also submitted demand draft dated 25.11.2009 for Rs. 1042/- purportedly towards the balance of surcharge. In addition, the respondent also requested review of the penalty of Rs. 50,000/- imposed on it.

6. In view of the foregoing, the following three issues arise for our consideration:

- (a) Payment of surcharge towards delayed payment of the licence fee
- (b) Request for review of the penalty amounting to Rs. 50,000/- imposed on the respondent
- (c) Request for surrender of trading licence

7. Regulation 6 of the Payment of Fees Regulations, extracted hereunder, provides that late payment surcharge is required to be paid @ 1% rounded to the nearest 100 rupees for delay of each month or part thereof:

*'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'*

8. In the instant case, the licence fee payable by 30.4.2009 has been paid only in the month of October, 2009. Thus, there has been a delay of 6 months in remitting the licence fee. Late payment surcharge @ 1% of Rs. 2.5 lakhs works out to Rs. 2500/- per month. Accordingly, the late payment surcharge payable by the respondent for the delay of 6 months is 15,000/-. It is seen that the respondent has so far paid only Rs. 2500/- towards late payment surcharge. The respondent is directed to remit immediately, the balance of late payment surcharge amounting to Rs. 12,500/-.

9. As regards waiving of the penalty imposed on the respondent for the delay in payment of the licence fee, at the outset we observe that the request has been made in the form of a letter which is not in order. Notwithstanding this, we also notice that no reason has been adduced by the respondent in support

of its request seeking review of the penalty. At any rate we are convinced that the conduct of the respondent does not deserve waiving of the penalty already imposed on it. We observe that the licence fee payable on 30.4.2009 was not paid despite reminders dated 21.5.2009 and 20.8.2009 even after the initiation of the penal proceedings vide the Commission's order dated 24.9.2009. The respondent had paid only a part of the late payment surcharge vide demand drafts dated 27.10.2009 and 25.11.2009. Under the above circumstances, we do not find any justification for waiving the penalty imposed on the respondent. The respondent is directed to deposit the penalty amount without any further delay.

10. As regards the request for surrender of trading licence, the respondent is directed to file an affidavit confirming that it does not owe any liability to any party on account of the transactions carried out by it in inter-State trading of electricity.

11. List the case for further direction on 16.3.2010.

sd/-  
**(V.S. VERMA)**  
**MEMBER**

sd/-  
**(Dr. PRAMOD DEO)**  
**CHAIRPERSON**