

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 259/2009

Coram

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

DATE OF HEARING: 7.1.2010

DATE OF ORDER: 9.3.2010

In the matter of

Default in payment of Unscheduled Interchanges (UI) charges for the energy drawn in excess of the drawal schedule by Jammu and Kashmir (J&K)

And in the matter of

Power Development Department, Govt. of J&K, Srinagar

....Respondent

The following were present:

1. Sh. Somara Lakra, Manager, NRLDC
2. Sh. Vinay Kumar Munshi, PDD, J&K

ORDER

On noticing default in payment of Unscheduled Interchange (UI) charges by the respondent, J&K, the Commission initiated suo - moto proceedings vide order dated 5.11.2007 in Petition No. 132/2007. The respondent was directed to show cause, as to why action under appropriate provisions of the Act be not initiated to recover UI dues, apart from recommending to the Central Govt. for appropriating the outstanding UI dues from the Central Plan Assistance earmarked for the State of J&K.

2 Vide Order dated 13.5.2008 the Commission directed J&K to liquidate the entire principal UI arrears in 6 EMIs @ Rs 111 crore per month, starting from June 2008. This amount was to be in addition to current UI dues. It was also stipulated that if the respondent failed to comply with the above orders, NRLDC was to curtail its supply by opening lines.

3 In the above proceedings, the Commission, vide its order dated 10.12.2008 observed that there had been substantial compliance with the Commission's directions, though belatedly. J&K was directed to liquidate the entire amount of arrears, including the installment payable in November, 2008 and the interest for late payment of UI charges, latest by 31.1.2009. Member Secretary, Northern Regional Power Committee (NRPC) was directed to calculate the amount of interest payable by the respondent on account of delayed payment of UI charges and convey the same to the respondent who was directed to settle the arrears by 31.1.2009. Member Secretary, NRPC vide his letter dated 23.12.2008 intimated that the interest payable by the respondent up to November 2008 was Rs. 317,19,65,977/=

4 On noticing that the outstanding interest on late payment of UI charges was not cleared as directed vide the Commission's order dated 10.12.2008 and that a sum of Rs. 317.20 crore was outstanding against the respondent, the Commission, vide its order dated 16.2.2009 in suo motu proceedings No. 29/20098 directed the respondent to show cause as to why penalty under Section 142 of the Electricity Act, 2003 (the Act) be not imposed on it for default in complying with the directions of the Commission. Suo motu proceedings were concluded vide order dated 11.5.2009 directing the respondent to settle entire amount of interest outstanding latest by 30.9.2009. It was also directed that the respondent would be liable to p[ay further

interest @ 12% per annum with effect from 1.10.2009 on the outstanding amount of interest as on 30.9.2009. Upon noticing that as on 30.9.2009, a sum of Rs. 57.11 crore was outstanding against the respondent towards interest the Commission, vide its order dated 13.11.2009 in the present proceedings issued notice under section 142 of the Act. The respondent vide its reply affidavit dated 4.1.2010 has pleaded financial constraints as the reason for its failure to settle outstanding interest and has prayed for further time for liquidating the arrears of interest. We proceed to dispose of the matter through this order.

5. Interest payable by the respondent upto November 2008 was later modified by NRPC to Rs. 206.42 crore in May 2009 as the against earlier mentioned amount of Rs. 317.19 crore. Against the above amount, no payment was made by the respondent except the adjustment of Rs. 150 crore resulting in outstanding interest of Rs. 57.11 crore as on 30.9..2009. From this amount, Rs. 2.51 crore was again adjusted resulting in Rs. 54.59 crore outstanding towards interest, as on 1.1.2010.

6. The respondent, vide its reply filed under affidavit dated 4.1.2010 has submitted that during 2008-09 it has paid Rs. 384 Crore on account of UI charges and Rs. 150 Cr. was adjusted towards interest on UI charges for the UI receivable by it on account of under-drawal during April to July,09. The respondent has further submitted that it would be very difficult to make payment in the current financial year especially up to the end of Feb, 2010, due to financial problem. The respondent has accordingly prayed for time to liquidate the liability of interest as soon as funds are made available. It has also been stated that as the power allocation from unallocated quota has been increased, the respondent expected to liquidate the UI charges through under-drawal in the ensuing months.

7. With a view to taking a final view in the matter, we direct the respondent to file, latest by 5.4.2010, under an affidavit, a time bound programme as to how it proposes to liquidate its outstanding dues on account of UI Charges. Needless to add that the respondent is bound to clear the current dues towards UI drawals as per the provisions of law.

8. List this case on 13.4.2010 for further directions.

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

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

Sd/= **(Dr. PRAMOD DEO)**
CHAIRPERSON