

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Suo-motu Petition No.210/2011

**Dr. Pramod Deo, Chairperson
Shri S.Jayaraman, Member
Shri V.S.Verma, Member
Shri M.Deena Dayalan, Member**

Date of Order: 1.12.2011

In the matter of

Default in opening of Letter of Credit in accordance with Central Electricity Regulatory Commission (Unscheduled Inter change charges and related matters) Regulations, 2009 by the regional entities

And in the matter of

1. .Assam State Electricity Board, Guwahati.
2. Bihar State Electricity Board, Patna
3. Uttar Pradesh Power Corporation Limited, Lucknow
4. Punjab State Power Corporation Limited, Chandigarh
5. Department of Power Development , Government of Jammu & Kashmir, Srinagar
6. Jharkhand State Electricity Board, Ranchi
7. Electricity Department, Government of Goa, Panaji
8. Department of Power, Government of Arunachal Pradesh, Itanagar
9. Department of Power, Government of Manipur, Imphal
10. .Meghalaya Electricity Corporation Limited, Shillong
11. Department of Power, Government of Mizoram, Aizwal
12. Department of Power, Government of Nagaland, Kohima
13. Chhattisgarh State Power Distribution Company Ltd., Raipur
14. Madhya Pradesh Power Transmission Company Limited, Jabalpur
15. Department of Power Daman & Diu, Silvassa
16. Tamil Nadu Generation and Distribution Company Limited, Chennai

...Respondents

17. Northern Regional Load Despatch Centre, New Delhi
18. Southern Regional Load Despatch Centre, Bangalore
19. Western Regional Load Despatch Centre, Mumbai
20. Eastern Regional Load Despatch Centre, Kolkata
21. North Eastern Regional Load Despatch Centre, Shillong

... Proforma Respondents

ORDER

Regulation 10 of the Central Electricity Regulatory Commission (Unscheduled interchange charges and related matters) Regulations, 2009, as amended from time to time (hereinafter referred to as "UI Regulations") provides for the schedule of payment of unscheduled interchange charges and payment security for settlement of UI dues as under:

"10. Schedule of payment of Unscheduled Interchange Charges and Payment Security

- (1) *The payment of UI charges shall have a high priority and the concerned constituent shall pay the indicated amounts within 10 (ten) days of the issue of statement of Unscheduled Interchange charge including Additional Unscheduled Interchange charges by the Secretariat of the respective Regional Power Committee into the "Regional Unscheduled Pool Account Fund" of the concerned region.*
- (2) *If payments against the Unscheduled Interchange charges including Additional Unscheduled Interchange charges are delayed by the more than two days, i.e. beyond twelve (12) days from the date of issue of the statement by the Secretariat of the respective Regional Power Committee, the defaulting constituent shall have to pay simple interest @ 0.04% for each day of delay.*
- (3) *All payments to the entities entitled to receive any amount on account of UI charges shall be made within 2 working days of receipt of the payments in the "Regional Unscheduled Interchange Pool Account Fund" of the concerned region:*

Provided that in case of delay in the UI payment into the respective regional UI Pool Account and interest thereon if any, beyond 12 days from the date of issue of the Statement of UI chares then the regional entities who have to receive UI payment or interest thereon shall be paid from the balance available if any, in the regional UI Pool Account Fund of the region. In case the balance available is not sufficient to meet the payment to the constituents, then the payment from the regional UI Pool Account Fund shall be made on pro rata basis from the balance available in the Fund."

- (4) *All regional entities which had at any time during the previous financial year failed to make payment of Unscheduled Interchange charges including Additional Unscheduled Interchange charges within the time specified in these regulations shall be required to open a Letter of Credit (LC) equal to 110% of its average payable weekly UI liability in the previous financial year, in favour of the concerned RLDC within a fortnight from the date these Regulations come into force.*

Provided that if any regional entity fails to make payment of Unscheduled Interchange Charges including Additional Unscheduled Interchange Charges by the time specified in these regulations during the current financial year, it shall be required to open a Letter of Credit equal to 110% of weekly outstanding liability in favour of respective Regional Load Despatch Centre within a fortnight from the due date of payment.

Provided further that LC amount shall be increased to 110% of the payable weekly UI liability in any week during the year, if it exceeds the previous LC amount by more than 50%.

Illustration: *If the average payable weekly UI liability of a regional entity during 2009-10 is Rs. 20 crore, the regional entity shall open LC for 22 crore in 2010-11. If the weekly payable liability during any week in 2010-11 is Rs. 35 crore which is more than 50% of the previous financial year's average payable weekly liability, the concerned regional entity shall increase the LC amount to Rs. 35 Crore by adding Rs. 13 Crore.*

- (5) *In case of failure to pay into the "UI Pool Account Fund" within the specified time of 12 days from the date of issue of statement of UI*

charges, the RLDC shall be entitled to encash the LC of the concerned constituent to the extent of the default and the concerned constituent shall recoup the LC amount within 3 days."

2. As per clause (4) of Regulation 10 of the UI Regulations, all the regional entities which had any time during the previous financial year failed to make payment of UI charges payment of UI charges are required to open a letter of Credit (LC) equal to 110% of its average payable weekly UI liability in the previous financial year, in favour of the concerned RLDC within a fortnight from the date these regulations came into force. Since, the UI Regulations came into force on 03.05.2010, the regional entities were required to open LC by 17.05.2010. Moreover, the regional entities who had failed to make payment of UI charge including additional UI charge within the stipulated period during 2010-11 were required to open the LC within a fortnight from the due date of payment.

3. A chart showing the status of UI payment by the regional entities during 2009-10, 2010-11 and from 1.4.2011 till 31.10.2011 is enclosed as **Annexure** to this order. It clearly emerges from the chart that the regional entities in the following states which were required to open LC have not complied with the provisions of the UI Regulations.

(a) Punjab
(b) Uttar Pradesh
(c) J&K

(i) Nagaland
(j) Tamil Nadu
(k) Bihar

(d) Arunachal Pradesh
(e) Assam
(f) Manipur
(g) Meghalaya
(h) Mizoram

(l) Jharkhand
(m) Chhattisgarh
(n) Madhya Pradesh
(o) Goa
(p) Daman & Diu

4. The respondents are directed to show cause by 20.12.2011 as to why appropriate actions under section 142 of the Electricity Act, 2003 should not be taken against them for non-compliance of the provisions of 10(4) of the UI Regulations.

5. The matter shall be listed for hearing and further directions on 10.1.2012.

6. Officers-in-charge of the Regional Load Despatch Centres or their representatives shall be present on the date of hearing to assist the Commission in the proceedings.

Sd/-

(M.DEENA DAYALAN)
MEMBER

sd/-

(V.S.VERMA)
MEMBER

sd/-

(S.JAYARAMAN)
MEMBER

sd/-

(Dr. PRAMOD DEO)
CHAIRPERSON

Annexure

Status of LC in respect of defaulting utilities

Name of Defaulting Utility	Average payable UI charges (₹ in lakh)		Maximum payable UI amount in any week	Required LC amount during the year (₹ in lakh)		Status of LC opening (in ₹ lakh)	
	2009-10	2010-11		2011-12	2010-11	2011-12	2010-11
Northern Region							
PSPCL, Punjab	1345	1914	1646	1480	2105	Not opened	Not opened
UPPCL, UP	3912	2568	17326	4303	*19058	Not opened	Not opened
PDD, J&K	737	439	2198	811	2418	Not opened	Not opened
North-East Region							
	2009-10	2010-11	2011-12	2010-11	2011-12	2010-11	2011-12
Arunachal Pradesh	15.43	15.37	190.86	16.97	16.90	Not opened	Not opened
Assam	37.93	4.97	310.07	41.73	5.46	Not opened	Not opened
Manipur	18.56	11.67	51.60	20.42	12.83	Not opened	Not opened
Meghalaya	48.16	38.33	242.34	52.98	42.17	Not opened	Not opened
Mizoram	25.15	22.72	116.13	27.66	25.00	Not opened	Not opened
Nagaland	45.85	43.04	459.82	50.44	47.35	Not opened	Not opened
Southern Region							
Tamil Nadu	Nil	2022	2985	2225	3284	Not opened	Not opened
Eastern Region							
BSEB	328.67	126.74	529.52	361.54	139.42	Not opened	Not opened
JSEB	129.76	56.76	487.53	142.74	62.44	Not opened	Not opened
Western Region							
CSPDCL	729	135	NIL	802	149	Not opened	Not opened
MPPTC	339	733	NIL	2221	807	Not opened	Not opened
GOA	71	140	NIL	354	155	Not opened	Not opened
D&D	125	108	511	288	511	Not opened	Not opened

*LC amount as per default in 2011-12