

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 239/SM/2012

Coram:

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

Date of Order: 17.10.2012

In the matter of

Default in payment of Unscheduled interchanges (UI) charges for the energy drawn in excess of the drawn schedule by Uttar Pradesh Power Corporation Limited, Lucknow.

**And
In the matter of**

Uttar Pradesh Power Corporation Limited, Lucknow
Chairman-cum-Managing Director, Uttar Pradesh Power Corporation Limited,
Lucknow **... Respondents**

ORDER

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

“(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 charges including Additional Unscheduled Interchange charges by the Secretariat of the respective Regional Power Committee into the “Regional Unscheduled Interchange Pool Account Fund” of the concerned region.



(2) *If payments against the Unscheduled Interchange charges including Additional Unscheduled Interchange charges are delayed by 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 Fund and interest there on if any, beyond 12 days from the date of issue of the Statement of UI charges 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 Accounts Fund shall be made on pro rata basis from the balance available in the Fund."

2. As per the above provision of the UI Regulations, payment of UI charges which enjoys highest priority shall be made within 10 days of the issue of the UI statement by the Regional Power Committee and for delay beyond 12 days, the defaulting entity shall be liable to pay interest 0.04% per day.

3. The Commission vide its order dated 21.5.2012 in Petition No. 41/2012 (Suo motu) had observed as under:

"8. *It is pertinent to extract the directions to the Hon'ble High Court in its order dated 12.11.2009 in W.P.No.10169(M/A) of 2009:*

"Under the circumstances we direct as an interim measure that the petitioner shall not be compelled to make the payment of 40% of the charges over and above prescribed UI charges which shall be deposited at Rs.7.35/kWh. We were informed that the petitioner has already deposited certain amount towards UI charges. We therefore, direct that the petitioner shall continue to deposit the UI charges but they shall not be compelled to deposit the additional 40% charges of the UI rate any how till the next date of listing."

The Hon'ble High Court has directed the petitioner to continue to deposit the UI charges, while granting interim relief in the matter of additional 40% charges. Non-payment of the UI charges by the petitioner is therefore in violation of the order the Hon'ble High Court, apart from being non-compliance with the provisions of the UI regulations.

9. *We express our disappointment and dissatisfaction at the way the respondent has performed to date in spite of its statement in its reply dated 12.4.2011 that it has all bona-fide intention to pay the UI charges and it shall make best endeavor to liquidate the dues. As per information received from Northern Regional Load Despatch Centre, an amount of ₹ 679.80 crore was outstanding against UPPCL as on 30.4.2012. However, considering the assurances given by the respondent to liquidate the arbitrarily UI dues, we direct the respondent to take necessary action to the deposit the arbitrarily UI amount of ₹ 679.80 crore (subject to adjustment of any payment already made) in six equal monthly installments, starting from the month of June, 2012 onwards. Such payments shall be made before the last day of the month. The Commission also allows a flexibility to make the payment on different dates within same month installments with the condition that the amount of atleast ₹ 113 crore per month is paid before the last day of the particular month. This shall be in addition to the timely payment of current UI dues, if any, as per the weekly UI charge statements issued by NRPC's Secretariat."*

4. Northern Regional Load Despatch Centre (NRLDC) has reported that net outstanding UI charges including surcharge as on 31.8.2012 against UP was ₹ 2561.31 crore as per UI Regulations and ₹ 2209.69 after taking into account the interim directions of the Hon`ble High Court of Allahabad, Lucknow Bench.

5. After taking into account the commitment and assurance given by UPPCL in its affidavit dated 12.4.2012, the Commission had allowed the flexibility to make the payment of at least ₹ 113 crore per month in addition to the current UI dues. However, UPPCL has made payment of meager amount of ₹ 90.27 crore after issue of the order on 22.5.2012 till date. Therefore, UPPCL has failed to comply with the UI Regulations and the directions of the Commission and its commitment to liquidate the outstanding UI dues in installments.

6. UPPCL is directed to liquidate the outstanding UI payable as on 31.8.2012 excluding the installments allowed for October and November 2012 by 31.10.2012. The installment for the month of October 2012 and November 2012 shall be paid the last day of the respective months. CMD, UPPCL is directed to ensure that the

outstanding UI dues are liquidated in the manner indicated above. If the UI dues are not liquidated by 31.10.2012, the respondents are directed to show cause by 9.11.2012 as to why penalty under Section 142 of the Act should not be imposed on them for non-compliance of the provisions of the UI Regulations, directions of the Commission in its order dated 21.5.2012 in Petition No. 41/2012 (Suo-motu).

7. The matter shall be listed on 20.11.2012 for further directions.

8. Officer-in-charge of NRLDC or his representative shall assist the Commission in the proceedings.

Sd/-

sd/-

sd/-

sd/-

(M.Deena Dayalan)
Member

(V.S.Verma)
Member

(S.Jayaraman)
Member

(Dr. Pramod Deo)
Chairperson