

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 23/2012 (Suo-motu)**

**Coram**

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member
4. Shri M.Deena Dayalan, Member

**DATE OF ORDER: 22.2.2012**

**In the matter of**

Non-compliance of para 10 of order dated 26.12.2011 in Petition No. 213/MP/2011 by Power Department, Govt. of Sikkim, Gangtok.

**And  
In the matter of**

Power Department, Govt. of Sikkim, Gangtok

**Respondent**

**ORDER**

Regulation 11 of the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2010 as amended from time to time (hereinafter referred to as the "Sharing Regulations") provides as under:

*"(1) The CTU shall be responsible for raising the transmission bills, collection and disbursement of transmission charges to ISTS transmission licensees. Any expenses incurred by CTU on account of this function shall be reimbursed as part of YEARLY TRANSMISSION CHARGE;*



*(2) The bill for the use of the ISTS shall be raised by the CTU on the concerned Designated ISTS Customers. The SEB/STU may recover the transmission charges for the use of the ISTS from the distribution companies, generators and bulk customers connected to the transmission system owned by the SEB/STU/intrastate transmission licensee in a manner approved by the Appropriate Commission.*

*(3) The billing for ISTS charges for all Designated ISTS Customers shall be on the basis of Rs./MW/Month, and shall be raised by the CTU in three parts."*

2. Clause (6) of the Regulation 12 of the Sharing Regulations further provide as under:

*"(6) Every Designated ISTS Customer shall ensure that the charges payable by them are fully discharged within the time-frame specified in the Transmission Service Agreement or the amended Bulk Power Transmission Agreements. Disputes, if any shall be resolved as per the provisions of the Transmission Service Agreement or the amended Bulk Power Transmission Agreements as specified in Chapter 6 of these regulations."*

3. The Commission vide its order dated 29.4.2011 accorded approval for Billing, collection and Disbursement Procedure. Relevant portion is as under:

***"Default in payment beyond sixty days***

*3.7.1 If the payment by a DIC against any Bill raised under Billing, Collection and Disbursement (BCD) procedure is outstanding beyond thirty (30) days after the due date or in case the required Letter of Credit or any other agreed payment security mechanism is not maintained by the DIC, the CTU is empowered to proceed under the provisions of CERC (Regulation of Power Supply) Regulations, 2010 and any Billing, Collection and Disbursement Procedure subsequent amendments there to."*

4. On account of default in payment of the PoC Charges by some of the DICs, Power Grid Corporation of India Limited had filed Petition No.

213/MP/2011 seeking directions to National Load Despatch Centre (NLDC) or Regional Load Despatch Centers (RLDCs) not to grant open access for sale of electricity from entities and associates of such entities who have defaulted in payment of transmission charges till the outstanding dues are cleared.

5. The Commission vide its interim order dated 26.12.2011 in Petition No. 213/MP/2011 had issued the following directions:

*"10. We have considered the submission of the petitioner. Non-payment of transmission charges or partial payment of transmission charges by the DICs for the transmission services availed by them is a matter of grave concern as it will sooner or later cripple the financial viability of the petitioner and other inter-State transmission licensees. It will bring to a standstill the entire regulatory mechanism which has been evolved and put in place in order to supply safe, reliable and quality power to the consumers and will act as a dampener to the investment in the transmission sector which the country needs keeping in view the power requirement in future. This Commission which has been vested with the function to regulate the inter-State transmission of electricity has the mandate of the Parliament to ensure that inter-State transmission is regulated in a smooth and efficient manner and is not crippled on account of non-payment or partial payment of transmission charges. We direct all DICs to make timely payment of transmission charges and other charges to the petitioner in accordance with the bills raised by the CTU. Our direction will not be applicable in the Order in case of Odisha and West Bengal where the High Courts have allowed the DICs in those States to pay at the old rates till the disposal of the writ petitions."*

6. While disposing of Petition No. 213/MP/2011, the Commission vide order dated 25.1.2012 had further directed as under:

*"17. We had directed the DICs in our order dated 26.12.2011 to make timely payment of transmission charges and other charges to the petitioner in accordance with the bills raised by the CTU. Despite our directions, some of the DICs have not made payments to the CTU. Except in cases where the matter regarding the amount due for payment is **sub judice** before the High Courts or Supreme Court or this Commission, we direct the staff to process the case for non-compliance of directions of the Commission by the defaulting DICs on account of non-payment of transmission charges and other charges."*

7. In terms of the order dated 25.1.2012, Power Grid Corporation of India Limited has reported that a sum of ₹ 2.89 crore is outstanding against Power Department, Govt. of Sikkim as on 8.2.2012 in regard to transmission charges beyond 60 days .

8. From the above facts, it emerges that the respondent has not complied with the directions of the Commission contained in order dated 26.12.2011 for payment of transmission charges and other charges. The respondent is directed to show cause, latest by 9.3.2012, as to why action under Section 142 of the Electricity Act, 2003 should not be taken against them for non-compliance of our order dated 26.12.2011 in regard to timely payment of transmission charges and other charges in accordance with the bills raised by the CTU.

9. The matter shall be listed on 15.3.2012 for further directions.

10. The representative of the Power Grid Corporation of India Limited shall assist the Commission in the proceedings.

Sd/-	sd/-	sd/-	sd/-
<b>(M.DEENA DAYALAN)</b> <b>MEMBER</b>	<b>(V.S.VERMA)</b> <b>MEMBER</b>	<b>(S.JAYARAMAN)</b> <b>MEMBER</b>	<b>(Dr. PRAMOD DEO)</b> <b>CHAIRPERSON</b>