

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Suo- motu Petition No. 210/2011

Coram

- 1. Shri S.Jayaraman, Member**
- 2. Shri V.S.Verma, Member**
- 3. Shri M.Deena Dayalan, Member**

DATE OF HEARING: 10.1.2012

DATE OF ORDER: 30.8.2012

In the matter of

Default in opening of Letter of Credit in accordance with Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009.

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. Deptt. of Power Development, Govt. J & K, Srinagar
 6. Jharkhand State Electricity Board, Ranchi
 7. Electricity Department, Government of Goa, Panaji
 8. Department of Power, Govt. 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

Following were present:

Shri S.K.Sonee, NLDC
Shri V.K.Agarwal, NRLDC
Shri V.V.Sharma, NRLDC
Shri Rajiv Porwal, NLDC
Shri S.R.Narasimhan, NLDC
Shri Neeraj Kumar, NRLDC
Shri S.S.Barpanda, NLDC
Shri G.Mitra, ERLDC
Miss S.Usha, WRLDC
Shri Kharshing, MeECL
Shri Rahul Srivastava, Advocate , SLDC, UP
Shri Mukesh Kumar Gupta, UPPTCL
Shri Manoj Dubey, Advocate, MPPTCL
Shri Deepak Srivaastava, MPPTCL
Shri T.P.S.Bawa, PSPCL
Shri M.L.Batra, PXIL
Shri M.K.Adhikari, APDCL
Shri S.Vallinayagam, Advocate, TAGEDCO
Shri R. B. Sharma, Advocate, BSEB, JSEB & BSES
Shri Swarna Srivastava, Advocate, CSPDCL

ORDER

The Commission vide its order dated 1.12.2011 had observed as under:

"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 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 | (i) Nagaland |
| (b) Uttar Pradesh | (j) Tamil Nadu |
| (c) J&K | (k) Bihar |
| (d) Arunachal Pradesh | (l) Jharkhand |
| (e) Assam | (m) Chhattisgarh |
| (f) Manipur | (n) Madhya Pradesh |
| (g) Meghalaya | (o) Goa |
| (h) Mizoram | (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."

2. Reply to the show cause notice has been filed by the Assam Power Distribution Co. Ltd., Uttar Pradesh Power Corporation Limited, MP Power Trading Co. Ltd., Punjab State Power Corporation Ltd., Power and Electricity Department, Government of Mizoram, Electricity Department, Government of Manipur, Chhattisgarh State Power Distribution Company Limited, Tamil Nadu Generation and Distribution Corporation Ltd. and Meghalaya Energy Corporation Limited.

3. Assam Power Distribution Co. Ltd. (APDCL) in its reply dated 20.12.2011 has submitted that despite fund constraints, the steps for opening of LC of required quantum has been initiated. APDCL has requested to exonerate for unintentional delay in opening of LC for payment of UI charges.

4. Uttar Pradesh Power Corporation Limited in its reply has submitted that said order dated 1.12.2011 issuing show cause notice has been challenged before Hon`ble High Court of judicature at Allahabad, Lucknow Bench to



praying to stay of the implementation of said order. UPPCL has requested to defer the petition till appeal is decided by Hon`ble High Court.

5. MP Power Trading Company Limited (MPPTCL) in its reply dated 10.12.2011 has submitted that due to financial constraints, required LC could not be opened and all efforts are being taken to improve the financial position and as soon as the same is met with, the required LC shall be opened with priority. MPPTCL has requested to condone the default, if any, in opening the LC.

6. Punjab State Power Corporation Ltd. (PSPCL) in its reply dated 20.12.2011 has tendered unconditional apology for delay in compliance of Regulation 10 (4) of the UI Regulations. It has been submitted that PSPCL is fully committed to grid discipline and subscribes to all the Regulations issued by the Commission from time to time. PSPCL has submitted that although due to severe financial constraints, all efforts are being made to liquidate pending UI payments which occurred with some delay and in terms of UI Regulations, LC has been opened. PSPCL has requested to condone the delay in opening of LC.

7. Power and Electricity Department, Government of Mizoram in its reply has submitted that a proposal for opening LC is being submitted to the State Government and Department shall execute compliance action on receipt of approval from Government.



8. Electricity Department, Government of Manipur has submitted that matter is actively pursued with the State Government and the LC will be opened after approval of the Government.

9. Chhattisgarh State Power Distribution Company Limited (CSPDCL) in its reply affidavit dated 9.1.2012 submitted that it has complied with the provisions of Regulation 10 (4) of the UI Regulations. CSPDCL has submitted that as per Regulation 10 (4) of the UI Regulations, the liability to open an LC arises if there is a default in payment of weekly UI bills within the stipulated date and accordingly all weekly UI bills has been paid within the prescribed due date. Therefore, CSPDCL is not liable to open the LC as required in Regulation 10 (4) of the UI Regulations. CSPDCL has also submitted that LC has already been opened as desired by WRLDC.

10. Tamil Nadu Generation and Distribution Corporation Ltd. in its reply dated 7.1.2012 has requested that considering the stabilizing financial position and compliance of the assurance already given to the Commission to reduce UI, permit it to open an LC for ₹ 5 crore by relaxing the provisions of Regulation 10 (4) of the UI Regulations.

11. Meghalaya Energy Corporation Limited (MeECL) in its reply dated 4.1.2012 has submitted that all efforts are being made to open appropriate

LC for UI after receiving the revised terms and conditions from NERLDC for which the matter will be taken up with any Nationalized Bank for opening the LC tentatively by one month. MeECL has requested to condone the delay in opening of LC for the corresponding UI charges.

12. During the course of hearing on 10.1.2012, learned counsels for the MPPTCL, TANGEDCO submitted that due to financial constraints, MPPTCL and TANGEDCO could not open the required LC. Learned counsel for the BSEB and JSEB submitted that Bihar would open the LC shortly and JSEB is in the process of opening the LC.

13. The respondents J & K, Nagaland, Goa and Daman and Diu neither have filed any reply nor have entered appearance in person or through advocate. We deprecate the attitude of the respondents towards the order of the Commission in the matter.

14. We have considered the submission of the respondents. Opening of the LC is a statutory requirement as a payment security mechanism for the energy drawn under the UI. Non-opening of LCs has resulted in accumulation of arrears of UI dues and consequent accumulation of payables to the generators and the distribution companies. This has created hurdles in the smooth operation of the UI mechanism. As regards the submission of UPPCL, it is observed that UPPCL has filed Interlocutory Application before Hon`ble High Court of judicature at Allahabad, Lucknow Bench for stay of our order

dated 1.12.2011. In the absence of any stay, action on show cause notice cannot be deferred till the disposal of the writ petition as prayed by UPPCL.

15. As per information received from Regional Load Despatch Centres, Jharkhand, Assam, Chhattisgarh, Goa and Daman and Diu have opened a Letter of Credit in terms of Regulation 10 (4) of the UI Regulations. However, Punjab and Tamil Nadu have opened LCs for insufficient amount. The respondents Uttar Pradesh, J & K, Arunachal Pradesh, Nagaland, Bihar, Jharkhand, Manipur, Meghalaya, Mizoram and Madhya Pradesh have not opened the LC. In our view, respondents, who have opened the LC for insufficient amount and who have not opened the LCs have clearly violated the provisions of Regulation 10 (4) of the UI regulations and the order dated 1.12.2011. Accordingly, we impose a penalty of ₹ one lakh each on the Uttar Pradesh, J & K, Arunachal Pradesh, Nagaland, Bihar, Jharkhand, Manipur, Meghalaya, Mizoram, Madhya Pradesh and ₹ 90,000/- each on Punjab and Tamil Nadu under Section 142 of the Act. The penalties shall be deposited within 15 days from the date of issue of this order.

16. The petition is disposed of with the above directions.

Sd/-
(M.DEENA DAYALAN)
MEMBER

sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

