

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.41/2012 (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: 19.3.2012

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 Ltd.

And

In the matter of

1. Uttar Pradesh Power Corporation Ltd., Lucknow
2. Chairman-cum-Managing Director, Uttar Pradesh Power Corporation Ltd., 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. Northern Regional Load Despatch Centre has reported that net outstanding UI charges as on 30.11.2011 against UP was ₹ 895.22 crore as per the UI Regulations.

4. Northern Regional Load Despatch Centre has submitted that in compliance with the directions of the Hon`ble High Court of Allahabad., the bills for the following amounts were not raised against UPPCL:-

- (i) The differential amount of ₹ 160.39 crore from 7.4.2008 to 31.3.2009 due to the different UI ceiling rate (₹ 10.00 vis-a-vis ₹ 7.45) as per UI Regulations effective from 7.1.2008 and interim order of the Hon`ble High Court of Allahabad;
- (ii) The additional UI charges amounting to ₹ 68.07 crore from 30th to 5th weeks of financial years of 2009-10 and 2010-11 due to additional 40% of UI charges corresponding to frequency below 49.2 Hz as per UI Regulations effective from 1.4.2009; and
- (iii) In line with order dated 12.1.2010 in Petition No. 21/2010, the additional UI charges equivalent to ₹ 139.38 crore (Approximately) with effect from 1st week to 29th week of financial year 2009-10.

5. After excluding the above amount which is covered under the interim directions of the Hon`ble High Court of Allahabad, an amount of ₹ 527.47 crore on account of UI is outstanding against UPPCL as on 30.11.2011. Hon`ble High Court of Allahabad vide its interim order dated 12.11.2009 in Writ Petition No. 10169(M/B) of 2009 directed as under:

"We have considered the aforesaid arguments and find that works 'effected persons' used in Sub clause 1 rule 3 of the Electricity (Procedure for Provisions

Publication) Rules, 2005 would necessarily include not only the person, who are the beneficiaries of UI Charges and of the penal provision with respect to the additional charge, may be 40% over and above of the fixed charge, but also those who are to pay the charges in case of violation of the grid code and discipline.

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

6. From the above facts, it emerges that the respondents have not complied with the provisions of the UI Regulations. The respondents are directed to show cause, latest by 30.3.2012, as to why action under Section 142 of the Electricity Act, 2003 should not be taken against them for non-compliance of the provisions of the UI Regulations in regard to timely payment of UI charges.

7. The matter shall be listed on 12.4.2012 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