

**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 Hearing: 20.11.2012

Date of Order: 5.12.2012

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

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

Following were present:

1. Shri V.V.Sharma, NRLDC
2. Shri H.K.Chawala, NRLDC
3. Miss Joyti Prasad, NRLDC
4. Shri Barpanda, NRLDC

ORDER

In our order dated 17.10.2012, we had directed as under:

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)."

2. The first respondent has neither filed any reply to the show cause notice nor has entered appearance in person or through advocate. It therefore, follows that the first respondent has not complied with directions contained in order dated 19.10.2012.

3. During the course of hearing, the representative of the NRLDC submitted that a sum of ₹ 2574.66 crore is outstanding against Uttar Pradesh Power Corporation Limited towards UI payment as on 19.11.2012.

4. Uttar Pradesh Power Corporation Ltd. in its written submission dated 22.11.2012 has submitted as under:

(a) The distribution utilities in Uttar Pradesh have been incurring huge financial losses due to inadequate tariff, high losses and various other reasons. Ministry of Power and the Planning Commission took note of the financial crises. Based on recommendation of expert group constituted by the Planning

Commission, Ministry of Power, Government of India moved a Cabinet Note to find solution for liquidation of accumulated power purchase liabilities and restructuring of bank loans;

(b) The scheme approved by the Government of India for rehabilitation of distribution companies provided that subject to acceptance of mandatory conditions, funds will be provided by banks and financial institutions to liquidate the outstanding power purchase liability;

(c) The details of outstanding dues have been submitted to Ministry of Power and discussion has been started with Department of Financial Services for funding of power purchase liabilities and restructuring of bank loans;

(d) UPPCL is not able to liquidate the outstanding UI charges as per Commission`s directions as distribution companies of UP are not able to meet their current expenses; and

(e) The UPPCL has sought three months time to liquidate the outstanding UI dues and interest thereon as per rules.

5. We have considered the reasons adduced by the respondents in its written submission. The respondent vide its affidavit 12.4.2012 had sought time to make immediate payment of ₹ 50 crore from the month of May 2012 onwards every month in addition to UI charges which may fall due on weekly basis. The Commission, after considering the request and financial problem of respondent, had allowed UPPCL to

liquidate the outstanding UI amount in six month installments starting from June, 2012. We are constrained to observe that despite the indulgence shown by the Commission, the respondent has not honored its commitment. In our view, no useful purpose shall be served by allowing further time to the respondent to liquidate the outstanding dues.

6. We direct the second respondent to appear before us on the next date of hearing with a firm payment schedule for liquidation of outstanding UI dues and to explain as to why he would not be held personally liable for non-compliance with the order of the Commission dated 19.10.2012.

7. The petition shall be listed on 8.1.2013 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