

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 91/MP/2013

Subject : Petition under sections 79 (1) (c) (k) read with section 29 (5) and section 142 of the Electricity Act, 2003

Date of hearing : 11.7.2013

Coram : Shri V.S.Verma, Member
Shri M. Deena Dayalan, Member

Petitioner : Chhattisgarh State Power Distribution Co. Limited

Respondents : Gujarat Urja Vikas Nigam Limited and others

Parties present : Ms. Suparna Srivastava, Advocate for the petitioner
Shri A. Bhatnagar, CSPDCL

Record of Proceedings

Learned counsel for the petitioner submitted as under:

(a) For ensuring grid discipline, the mechanism of FLEE (Frequency Linked Energy Exchange) scheme was introduced in the Western Region from 1.6.1992.

(b) Subsequently, it was realized that there were outstanding FLEE receivable/payables as between the constituents in the Western Region. Accordingly, Respondent No. 2, MSEDCL filed petition No. 43/2005 before CERC for a direction to MPSEB to pay a sum of ₹ 111.84 crore as on 30.11.2004. The Commission vide its order dated 2.8.2005 referred the matter to one-Member Bench to decide the issue. One-Member Bench vide its order dated 2.8.2005 imposed a grossly erroneous FLEE liability on CSEB on net basis with regard to charges payable by other Boards when no amount was due and payable by CSEB to the other Boards.

(c) Aggrieved by the decision of one-Member Bench, CSEB filed appeal No. 21/2006 before Appellate Tribunal for Electricity (ATE). ATE vide its judgment dated 14.11.2006 directed MPSEB to make payment within eight weeks of the amounts outstanding. Subsequently, ATE vide its order dated

17.5.2007 directed WREB to recalculate the FLEE charges in accordance with the judgment dated 14.11.2006. Aggrieved by the ATE order, CSEB filed an appeal before Hon`ble Supreme Court and Supreme Court vide its order dated 15.4.2010 dismissed the appeal filed by CSEB.

(d) The amount were paid by the GUVNL and MSEDCL under the Execution Petition filed by CSEB before ATE for execution of judgment dated 14.11.2006. Both respondents are liable to pay interest on the delayed payment made to the petitioner towards discharge of their respective FLEE liability. As CERC had prescribed a uniform surcharge @ 0.04% per day of delay in making the payment of various legitimate claim, the petitioner billed to each respondent for interest/surcharge for delay in payment FLEE charges beyond the period of eight weeks. As per settled law of restitution as embodied in the Interest Act, 1978, each respondent are liable to pay interest @ 0.04% per day till payment thereof is made to the petitioner.

2. In response to Commission's query that the recommendations of the one-member Bench dated 13.9.2005 allowing interest @ 1 % per month on the principle amount was approved by the Commission in its order dated 8.12.2005 and the respondents should pay interest accordingly, learned counsel for the petitioner submitted that she would check the record and make a submission.

3. After hearing the learned counsel of the petitioner, the Commission directed to admit the petition and issue notice to the respondents.

4. The Commission directed the petitioner to serve copy of the petition to the respondents by 19.7.2013 who may file their responses by 2.8.2013 with an advance copy to the petitioner. The petitioner may file its rejoinder, if any, on or before 20.8.2013.

5. The petition shall be listed for hearing on 27.8.2013.

By order of the Commission,

SD/-
(T. Rout)
Joint Chief (Law)

