

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 171/SM/2013

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

Date of Order: 9.9.2013

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 8.8.2013 against UPPCL is ` 2201.56 crore as per the UI Regulations. After excluding the amount of ` 371.24 crore which is covered under the interim directions of the Hon`ble High Court of Allahabad, in addition to ` 114.24 crore on account of interest thereon, an amount of ` 1944.56 crore on account of UI is outstanding against UPPCL as on 8.8.2013. 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.

4. During the hearing on 26.4.2012 in Petition No. 41/2012 (Suo motu), UPPCL had proposed a plan for liquidation of its UI liabilities including payment of outstanding UI charges ` 50 crore per month starting from May 2012. Considering the assurances given by the UPPCL, the Commission vide its order dated 21.5.2012 in Petition No. 41/2012 directed UPPCL to deposit the outstanding amount of ` 680 crore in six equal monthly installments in addition to the current dues. Relevant portion of the said order dated 21.5.2012 is extracted as under:

"8.Considering the assurances given by the respondents to liquidate the outstanding UI dues in installments, we allow the respondents to take necessary action to the deposit the outstanding UI dues of ` 680 crore (subject to adjustment of any payment already made) in six equal monthly installments, starting from the month of June 2012 onwards in addition to the current UI dues. Such payments shall be made before the last day of the month. The Commission also allows a flexibility to make the payment on different dates within same month with the condition that the amount of at least ` 113.34 crore per month is paid before the last day of the particular month. This shall be in addition to the timely payment of current UI dues, if any, as per the weekly UI charge statements issued by NRPC's Secretariat.

9. The payment through installments as permitted above will, however, not entail any relaxation in provisions of the Grid Code with regard to computation and payment of interest for the delay in payment of UI charges. It is clarified that this relief has been granted as one time relaxation and should not be quoted as precedent in future."

5. Northern Regional Load Despatch Centre (NRLDC) has submitted that in the month of July, 2013 no payment has been made by UPPCL on account of UI charges and interest thereon.

6. NRLDC has further submitted that UPPCL has also not opened the Letter of Credit (LC) against UI delayed payment in spite of several persuasions.

7. From the above facts, it emerges that the respondents have not complied with the provisions of the UI Regulations and direction contained in the Commission's order dated 21.5.2012. The respondents are directed to show cause, latest by 27.9.2013, 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.

8. The matter shall be listed on 8.10.2013 for further directions.

9. Officer-in-charge of NRLDC or his representative shall assist the Commission in the proceedings.

SD/-
(M. Deena Dayalan)
Member

SD/-
(V.S.Verma)
Member