

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairman**
- 2. Shri K.N. Sinha, Member**
- 3. Shri Bhanu Bhushan, Member**

Petition No. 29/2004

In the matter of

Non-payment of Unscheduled Interchange (UI) Charges and Reactive Energy (RE) charges by Power Development Department, Jammu and Kashmir

And in the matter of

Northern Regional Load Despatch Centre	Petitioner
Vs		
Power Development Department, Govt. of Jammu & Kashmir, Jammu	Respondent

The following were present:

1. Shri S.K. Soonee, ED, NRLDC
2. Shri P.K. Aggarwal, CM, NRLDC
3. Shri Sunil Agrawal, PGCIL
4. Shri L.K. Kanungo, PGCIL
5. Shri Anis Suhrawardi, PDD, J&K
6. Shri G.M. Wadoo, CE, PDD, J&K
7. Shri N.A. Thakur, PDD, J&K

**ORDER
(DATE OF HEARING: 09.12.2004)**

The dispute raised in the present petition is regarding non-payment of UI charges by the respondent, State Government of Jammu & Kashmir, on account of power overdrawn from the Northern regional grid. When matter was heard on 16.9.2004, Shri G.M. Wadoo, Chief Engineer (He was present today also) appeared on behalf of the respondent. Shri Wadoo had admitted that at least a sum of Rs.232 crore was payable by that date by the Sate Government on account of overdrawals. He, however, could not make any firm commitment in

regard to liquidation of the arrears as also for curtailment of overdrawals. After hearing him, the Commission was satisfied that it was necessary to summon the Principal Secretary, Finance Department and Secretary, Power Development Department, Govt. of J&K to appear before the Commission for an appropriate response on these issues. Accordingly, directions for their personal appearance on 26.10.2004 were issued. Considering their status, the summons for their personal appearance were issued through normal letters. The letter meant for Principal Secretary, Finance Department was addressed to Shri M.I. Khandey and that meant for Secretary, Power Development Department, to Shri B.A. Dhar.

2. On 26.10.2004, Shri B.A. Shah, Financial Advisor appeared and prayed for exemption from personal appearance of the two officers on that date as they were stated to be preoccupied with other pressing official commitments. Shri Shah had pleaded for adjournment of the petition in the second week of December 2004, when, he submitted, the concerned officers would appear personally before the Commission. In view of the request made, the petition was again taken up for hearing today.

3. Shri Anis Suhrawardi, Advocate, assisted by Shri G.M. Wadoo was present for the respondent. We have heard both of them. We also heard Shri S.K. Soonee, ED, for the petitioner.

4. It was submitted by Shri S.K. Soonee, that the respondent had been overdrawing power in the range of 4 to 5 MUs per day and of late, it has touched

6 MUs per day. According to him, the overdrawals range from 200-300 MW even at a frequency as low as 48.5 Hz. He urged that the overdrawals by the respondent is a source of serious concern as the security of the entire Northern regional grid is at stake. He informed that as a last resort the petitioner had to instruct opening of 220 kV feeders, feeding Udampur area. He submitted that during the month of November 2004, there had been 6 such instances when the petitioner had to resort to the extreme steps of opening of feeders. Shri Soonee expressed apprehensions that with the onset of the winter season, the drawals by the respondent are likely to go up further. He emphasised to discipline the respondent in the interest of grid security.

5. On the question of payment of outstanding dues, it was submitted that so far the respondent has made payment in two instalments. Firstly, an amount of Rs.24.96 crore was paid in the last week of October, 2003 and second instalment of Rs.29.99 crore was paid on 7th December 2004. However, the outstanding amounts have mounted further and an amount of about Rs.310 crore is outstanding as on date, for the account week ending 14th November, 2004. He pointed out that with the increased over-drawals in the prevailing low frequency situations, the weekly UI charges of the respondent are going above Rs.4.0 crore.

6. Shri Suhrawardi pleaded for exemption of personal appearance of the officers summoned, on the ground that His Excellency, Hon'ble President of India was visiting the State of Jammu & Kashmir and the presence of the senior functionaries summoned by the Commission in the state was necessary. So far as the appearance of Shri Khandey is concerned, learned counsel, on instructions

from Shri Wadoo, further stated that Shri Khandey is Principal Secretary, Planning Department, and is not in any manner concerned with release of funds for payment of UI charges. We are surprised that this fact was not brought to the notice of the Commission by Shri B.A. Shah when he appeared before the Commission on 26.10.2004. It is still surprising that Shri Wadoo, at the hearing today did not tell us the name of Principal Secretary, Finance Department despite our asking for it. His reticence may either be deliberate or on account of ignorance. In either case, this does not augur well. We express our concern and strong displeasure at the attitude adopted by the concerned officers of the State Government. With this kind of attitude, the officers detailed by the State Government are of no assistance to the Commission in taking an appropriate view which compels us to summon the senior functionaries. Their visit is nothing but waste of resources. We direct that this be brought to the notice of Chief Secretary to the State Government for such action as he considers appropriate.

7. Under the circumstances stated by the learned counsel, we dispense with personal appearance of Shri M.I. Khandey, Principal Secretary, Planning Department. We direct that Principal Secretary, Finance Department and Financial Commissioner, Government of Jammu & Kashmir shall appear before the Commission on the next date of hearing. We have condoned non-appearance of Shri B.A. Dhar, Secretary, Power Development Department, Govt. of Jammu & Kashmir for reason stated by the learned counsel. He is also directed to appear before the Commission on the next date of hearing.

8. Objections to the claim made by the petitioner have been filed on behalf of the respondent. It is, *inter alia*, stated that the basic reason for overdrawal is on account of the prevalent disturbed situation, the presence of large number of security personnel, and constant use of power in heavy defence equipment by the said security forces. Therefore, the learned counsel urged that in view of the special facts and circumstances as prevalent in the State, it cannot be put on the same pedestal as other States who draw excess power for their personal needs. In response to our query, the learned counsel submitted that approximately 60% of the power is consumed by the security forces in the State, though later on he submitted that the necessary details in this regard shall be placed on record. When asked to indicate the amount of recoveries made from the security forces for use of power, the learned counsel and Shri Wadoo expressed their inability to give any specific details. Shri Wadoo submitted that as a junior officer who is looking after the work of a Division not concerned with recoveries, he is unable to furnish the details. On account of the inability of Shri Wadoo to satisfy us on the issues raised by the respondent, we are insisting on personal appearance of its senior officers.

9. It is, however, undertaken that the necessary details will be filed before the Commission on affidavit. Let the affidavit be filed by the respondent, Power Development Department, State Government latest by 7.1.2005 with an advance copy to the petitioner. The affidavit should indicate the arrears, if any, payable by the security forces for consumption of power. The petition be listed for further directions on 13.1.2005.

10. Learned counsel further submitted that an amount of Rs.30.00 crore has been paid during the first week of the current month. In our opinion, this amount is insignificant against the background of huge arrears of about Rs.310 crore, indicated by the petitioner. Shri Wadoo on 18.9.2004 had undertaken that an amount of Rs.25-30 crore would be released during that month and further at the rate of Rs.5 crore per month. Even by that standard, a sum of Rs.45-50 crore ought to have been paid by now.

11. In consideration of the above facts, we direct to issue fresh notices for personal appearance of Principal Secretary, Finance Department & Financial Commissioner and Shri B.A. Dhar, Secretary, Power Development Department, J&K on 13.1.2005. In case any one of them fails to appear on the date fixed, we will be constrained to take appropriate steps available under the law to us to enforce their personal appearance. We only hope that there would not be a need to have resort to these steps. Notices be also served through the Chief Secretary to the State Government.

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 9th December, 2004