

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. Shri R. Krishnamoorthy, Member**

**Petition No. 49/2008**

**In the matter of**

Non-payment of UI charges by the concerned utilities of the States of Uttar Pradesh and Jammu & Kashmir

**And in the matter of**

BSES Yamuna Power Limited (BYPL), New Delhi

**...Petitioner**

Vs

1. Uttar Pradesh Power Corporation Ltd, Lucknow
2. Power Development Department, Jammu

**.... Respondents**

**The following were present**

1. Shri Sunil Kumar, BYPL
2. Shri D.D. Chopra, Advocate, UPPCL

**ORDER  
(DATE OF HEARING: 17.6.2008)**

The petitioner, a company engaged in the business of distribution and retail supply of electricity in the specified areas of Central and East Delhi is aggrieved by the non-payment of UI charges by the respondents. Accordingly, the petitioner has made the following prayers, namely-

- “1. To direct the Respondents to make payment of total dues of UI charges along with interest immediately.
2. To impose restrictions/penalties/strictures in case of the Respondents in order to realize UI charges due, out of its earnings from electricity trading and barter/banking arrangements.

3. To introduce suitable payment security mechanism for UI payment compliance to avoid cash flow problems.
4. Allow common UI accounting for BYPL & BRPL which is part of same group so that they can balance any hardship on account of cash constrain to mitigate any tariff impact on account of such constraint to the end consumer of Delhi.
5. Approve the reimbursement of expenditure by the respondents towards petition filing fee and other expenditure (if any) in relation to the filling of petition.
6. Pass such other relief as Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice.”

2. The petitioner has relied upon the status report of NRPC on the UI dues as on 29.2.2008 which indicates that the first and second respondents owed Rs. 826.80 crore and 636.67 crore respectively to the Regional UI Pool on that date. It is stated that an amount of 573.76 crore was due to Delhi. The petitioner has contended that the delay/non-payment of UI charges by the respondents has resulted in non-realization of its dues and of its sister concern, BRPL, and thereby causing them the financial hardships.

3. The case was listed after notice to the parties. While Shri Sunil Kumar was present for the petitioner, the first respondent was represented by Shri D.D. Chopra, Advocate. None was present for the second respondent.

4. During the hearing, Shri Sunil Kumar, representative of the petitioner highlighted the hardships faced on account of lethargy of the respondents in settling their UI dues. When asked to indicate the specific provision under which the Commission could exercise jurisdiction to grant the reliefs sought, Shri Sunil Kumar

cited Sections 79 and 62 (1) of the Electricity Act, 2003 (hereinafter referred to as “the Act”).

5. Section 79 of the Act lists the various functions of the Commission. The petitioner’s representative is not able to pinpoint the specific provision or provisions under which the reliefs claimed could be granted. Section 62(1) relates to the powers of the Appropriate Commission to determine tariff for various purposes.

6. To a further query, Shri Sunil Kumar stated that SLDC is responsible to make payment to the petitioner from the charges received from the UI Pool. He submitted that he was not authorized either by SLDC or DTL to file the present petition.

7. In view of the fact that the representative of the petitioner was unable to support its case under provisions of the Act and that the responsibility to pay the dues to the petitioner, is of SLDC, Shri Sunil Kumar sought permission to withdraw the petition with liberty to file a fresh petition to seek appropriate remedy in accordance with law. Accordingly, this petition is disposed of as withdrawn. The petitioner is granted liberty to seek remedy in accordance with law, if so advised.

8. The Commission, to ameliorate the situation of non-payment of UI charges has already initiated suo motu proceedings, directing the respondents to make payments of UI dues within a definite time schedule. In the case of the first respondent, the Lucknow Bench of the Hon’ble Allahabad High Court has modified the schedule to an extent, by its order dated 2.5.2008 in Writ Petition (Civil) No.3014/2007.

9. In this context, Shri Chopra, learned counsel clarified that the first respondent had paid Rs 51 crore in April, Rs. 101 crore in May and Rs. 64 crore in June 2008 so far. We are dismayed to observe that these payments by the first respondent are inadequate to meet compliance of the Commission's order dated 29.5.2008 in Petition No.131/2007 (suo motu), issued in the light of the order dated 2.5.2008 by the Hon'ble High Court. Against the dues of Rs.124 crore payable during May, the first respondent has made payment of Rs.101 crore, as per its own showing. The learned counsel undertook to impress upon the first respondent to discharge all its obligations in terms of the order.

10. The petition stands disposed of in terms of para 7 above.

**Sd/-**  
**(R. KRISHNAMOORTHY)**  
**MEMBER**

**Sd/-**  
**(BHANU BHUSHAN)**  
**MEMBER**

**Sd/-**  
**(DR. PRAMOD DEO)**  
**CHAIRPERSON**

**New Delhi dated 23<sup>rd</sup> June 2008**