

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**

Petition No.44/2004

In the matter of

Non-payment of UI charges by MPSEB

And in the matter of

Western Regional Load Despatch Centre

.....Petitioner

Vs

1. Madhya Pradesh State Electricity Board, Jabalpur
2. Gujarat Electricity Board, Vadodara
3. Chhattisgarh State Electricity Board, Raipur
4. Maharashtra State Electricity Board, Mumbai
5. National Thermal Power Corporation, New Delhi
6. Goa Electricity Department, Panjim
7. Union Territory of Dadra & Nagar Haveli, Silvassa
8. Daman & Diu Administration, Electricity Department, Daman
9. Member Secretary, WREB, Mumbai

..... Respondent

The following were present.

1. Shri V.V. Sharma, WRLDC
2. Shri P. Pentaya, WRLDC
3. Shri Rohit Singh, Advocate, MPSEB
4. Shri Satish Agnihotri, Advocate, MPSEB
5. Shri D. Khandelwal, SE, MPSEB
6. Shri A.P. Bhairave, ASE, MPSEB
7. Ms Suparna Srivastava, Advocate, CSEB
8. Shri A.K. Shrivastava, Addl CE (O&M), CSEB
9. Shri Pankaj Kolay, EE CSEB
10. Shri S.N. Chauhan, SE (Comml), CSEB
11. Shri Manjit Singh, Member Secretary, WREB
12. Shri S.G. Tenpe, SE, WREB

**ORDER
(DATE OF HEARING. 26.8.2004)**

In the present petition, the petitioner, Western Regional Load Despatch Centre seeks directions to the first respondent for making payments of the total dues on

account of UI charges, together with interest thereon with a further prayer that for the alleged deliberate failure of the first respondent to comply with the Commission's directions, suitable penalty be imposed on it. Certain other prayers are also made in the petition which we do not consider relevant for the purpose of disposal of the present petition.

2. A petition (No.14/2003) was filed by the petitioner wherein directions were sought to the first respondent for payment of UI charges for the period from 1.7.2002, when ABT was introduced in the Western Region. The petition was disposed of by the Commission in terms of its order dated 6.11.2003. The petitioner was directed to calculate the liability of the first respondent to claim/pay UI charges for the period from 1.7.2002 to 31.10.2003. The petitioner worked out that a sum of Rs.68,64,78,240/- on account of UI charges was due. In addition, the first respondent was liable to pay interest of Rs.14,44,72,107/- for late payment. These payments have not been made by the first respondent.

3. The first respondent had filed a writ petition before the Hon'ble High Court of Madhya Pradesh against the Commission's order dated 6.11.2003. Though the Hon'ble High Court had initially stayed the Commission's order but, subsequently the stay order was vacated on 22.4.2004. Thus, the Commission's order dated 6.11.2003 became enforceable and the petitioner has accordingly filed the present petition, seeking directions noted in opening para of this order.

4. Meanwhile, the Central Government in Ministry of Power in its letter dated 11.5.2004 sought to clarify the issue regarding interchange of power between the

States of Madhya Pradesh and Chhattisgarh, which is stated to have been issued under Section 75(2) of Madhya Pradesh Reorganisation Act, 2000. The clarifications contained in the letter dated 11.5.2004 is reproduced for facility of reference:

“3. The issue of non payment of UI charges by Madhya Pradesh has been considered and it has now been decided that with effect from 1st July 2002, the payment of UI charges for drawal of power from the existing Central Generating Power Stations by M.P. and Chhattisgarh would be accounted in the following manner:-

i. On the basis of daily schedule the quantum of power which one State has not drawn from its allocated share will be added to the schedule of other State to the extent of overdrawal by it;

ii. On the basis of daily schedule as indicated in (i) above overdrawal by one State would be further offset from the underdrawal of other State.

iii. The State getting the benefit from (i) & (ii) above will pay capacity and energy charges for enhanced schedule.

4. The above arrangement will be operative for a period of five years after creation of the new States but will be subject to review as considered necessary even during this period.”

5. The clarification as per the letter dated 11.5.2004 takes effect from 1.7.2002.

When given effect, this would necessitate recalculation of entitlement/liability of the first and third respondents to claim or pay the UI charges. At the hearing on 20.7.2004 it was pointed out on behalf of the petitioner that there were certain practical difficulties in giving effect to the decision contained in the letter dated 11.5.2004. In particular, it was pointed out that billing of capacity/energy charges would be difficult unless it was specifically provided by the Central Government that schedule of a central generating station would also get revised based on the underdrawal/overdrawal by the first and third respondents. It was further pointed out on behalf of the petitioner that under the circumstances there was possibility of each state overdrawing its share from the regional grid. In view of these submissions, we had directed the petitioner to file drawal patterns by the first and third respondents

after issue of the letter dated 11.5.2004, duly supported by an affidavit. Accordingly, an affidavit has been filed on 9.8.2004. The preparation of regional energy account is the responsibility of the ninth respondent. However, there was no representation on its behalf. Therefore, we had directed the ninth respondent to file its response and also be present at the hearing on 26.8.2004. The ninth respondent has since filed its reply. Shri Manjit Singh was also present at the hearing on 26.8.2004.

6. We heard the representatives of the parties and the learned counsel appearing for the first and third respondents.

7. It was submitted that the third respondent had filed a writ petition before the Hon'ble High Court of Delhi to impugn the validity of Ministry of Power letter dated 11.5.2004. A Civil Miscellaneous Application was also stated to have been filed on its behalf for ex parte ad interim stay of the clarification contained in the said letter dated 11.5.2004. We were further informed that the Hon'ble High Court had issued notice on the writ petition as well as the Civil Miscellaneous Application, observing that payments made in terms of letter dated 11.5.2004 shall be subject to outcome of the case filed before the Hon'ble High Court. Under these circumstances, there is no embargo on the Commission to proceed further with the matter.

8. The ninth respondent in its response has submitted that the clarifications as contained in Ministry of Power letter dated 11.5.2004 in regard to inter-change of power between the first and third respondents does not in any manner effect the preparation of UI and REA bills in line with ABT procedure and this respondent is preparing weekly UI bills and monthly Regional Energy Accounts as per the applicable

provisions. This respondent has submitted that credit/debit, if any, on account of revision in the light of Ministry of Power letter dated 11.5.2004 may be given through UI pool account being operated by the petitioner on its behalf. The petitioner in its affidavit has indicated the drawal pattern of first and third respondents after 11.5.2004.

9. On perusal of the details placed on record by the petitioner, it is revealed that on certain occasions there were simultaneous overdrawals by the first and third respondents. However, when frequency was below 49 Hz, these respondents took corrective actions necessary for restoration of frequency to optimum level. Therefore, we are not prepared to accept the contention of the petitioner that simultaneous overdrawals by the first and third respondents will cause low frequency operations of the grid consequent to implementation of the clarification contained in Ministry of Power letter dated 11.5.2004.

10. On above considerations we direct the ninth respondent to recalculate the entitlement/liability of the constituents of Western Region for UI charges for the period from 1.7.2002 onwards based on Ministry of Power clarification dated 11.5.2004. This task shall be completed by the ninth respondent latest by 30.9.2004. The accounts shall be settled by all concerned latest by 15.10.2004. This direction is subject to outcome of the writ petition filed before Hon'ble High Court of Delhi by the third respondent.

11. With the above observations, the petition stands disposed of.

**Sd/-
(K. N. SINHA)
MEMBER**

**Sd/-
(ASHOK BASU)
CHAIRMAN**

New Delhi, dated the 31st August, 2004