

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram

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

Petition No.20/2003

In the matter of

Non-payment of Unscheduled Interchange (UI) charges by Power Development Department, Jammu and Kashmir.

And in the matter of

Northern Regional Load Despatch Centre

... **Petitioner**

Vs

Power Development Deptt., Govt of Jammu and Kashmir, Jammu ...**Respondent**

The following were present

1. Shri V.K. Agarwal, AGM, NRLDC
2. Shri P.K. Agarwal, Chief Manager, NRLDC

**ORDER
(DATE OF HEARING 7-11-2003)**

Under the scheme of ABT, a State beneficiary drawing power from the regional grid over the scheduled allocation is liable to pay Unscheduled Interchange (UI) charges. The payments on account of UI charges are being routed through a pool account operated by the petitioner on behalf of Northern Regional Electricity Board (NREB). The weekly UI accounts are issued by NREB Sectt, the payments for which are made to UI pool account. The payments of UI charges are governed by Clauses 12 (a) and 13 of

Annexure I of the Indian Electricity Grid Code, which, for facility of reference, are reproduced below:

"12(a) Weekly bills shall be issued to the constituents for UI charges, as per the UI settlement system. These bills shall have a higher payment priority and the concerned constituents shall pay the billed amounts within 10 (ten) days of the billing date.

13. If payments against the above bills are delayed beyond ten (10) days, the defaulting constituent shall have to pay simple interest @ 0.05% for each day of delay. The interest so collected shall be paid to the constituents/agency who had to receive the amount, payment of which got delayed."

2. The petitioner has submitted that the respondent has been a consistent defaulter in making UI payments. The petitioner has placed on record the status of UI payments due from or receivable by the respondent for the accounts issued up to 16.3.2003, according to which, the respondent was liable to pay a sum of Rs.46,70,51,805/- up to 16.3.2003. Despite the efforts made by the petitioner, respondent has not deposited the amount due. Therefore, the present petition was filed on 4.4.2003 seeking direction to the respondent to clear all the dues of UI charges within the stipulated period of ten days of issue of UI account, along with interest as per Clause 13 of Annexure I to IEGC, till the date of payment. The petitioner has also sought appropriate action/direction against the respondent under Sections 44 and 45 of the Electricity Regulatory Commissions Act, 1998 for its failure to comply with the provisions of IEGC and ABT orders issued by the Commission.

3. The respondent has not filed any reply. Initially, this petition was heard on 20.5.2003 after notice. When none appeared on behalf of the respondent, hearing of the petition was adjourned to 24.6.2003 and further adjourned to 23.9.2003, when Shri Kartar

Chand, XEN J&K PDD appeared before us. The representative of the respondent could not make any commitment in regard to settlement of the outstanding dues as he was not fully aware of the status of payments on account of UI charges. Under these circumstances, we were forced to adjourn hearing of this petition. The matter was brought to the notice of Chief Secretary, State of J&K. However, it is disheartening to notice that none appeared on behalf of the respondent when the matter was taken up for hearing on 7.11.2003. Thus, for all practical purposes, no assistance has become available from the respondent in the adjudication of the dispute raised in the petition.

4. An affidavit sworn on 4.11.2003 was filed on behalf of the petitioner. In this affidavit it is stated that the respondent has paid an amount of Rs.24.96 crore on 22.10.2003 and the petitioner has shown the total outstanding amount of Rs.16.98 crore till the week ending 14.9.2003 as under:

		(in Rs)
(a)	Against UI accounts	31,76,65,874
(b)	Against Reactive Energy account	10,17,72,534
	Total	41,94,38,408
	Payment made on 22.10.2003	24,95,91,055
	Total outstanding as on 14.9.2003	*16,98,47,353

*As per the affidavit, Rs.6.81 crore is on account of UI charges and the balance of Rs.10.18 crore on account of Reactive Energy Charges.

5. The petitioner in its affidavit further stated that after the week starting from 15.9.2003 to 12.10.2003 some additional amount had become due against the respondent. The total outstanding amount as on 12.10.2003 as stated in the affidavit is as under:

(Rs. in crore)

(a)	Against UI account	15,16,11,860
(b)	Against Reactive Energy account	10,92,91,376
(c)	Interest	3,77,73,865
	Total	29,86,77,101

6. Under our directions, a further affidavit sworn on 7.11.2003 has been filed on behalf of the petitioner. In this affidavit the following details of outstanding amount as on 14.9.2003 has been indicated:

(in Rs)

(a)	Against UI account	31,76,65,874
(a)	Against Reactive Energy account	10,17,72,534
	Total	41,94,38,408

7. After adjustment of Rs.24,95,91,055 paid by the respondent on 22.10.2003, the following amount still stated to be due is indicated as under:

(in Rs)

(a)	Against UI account	6,80,74,819
(a)	Against Reactive Energy account	10,17,72,534
	Total	16,98,47,353

8. In the affidavit it is further stated that six more bills for the period from 15.9.2003 to 26.10.2003 have been issued to the respondent on account of UI charges/Reactive Energy Charges. It is submitted that the total outstanding amount against the respondent after adjustment of its receivables, till the week ending 26.10.2003 is as under:

(in Rs)

(a)	Against UI account	28,22,48,908
(a)	Against Reactive Energy account	11,31,30,669
	Total	39,53,79,577

9. In addition, it has been stated in the affidavit that the respondent is liable to pay Rs.3,77,73,865/- on account of interest for delayed payment of UI charges and

Rs.58,66,188/- for interest on late payment of Reactive Energy charges, accrued up to 30.9.2003.

10. The petition was filed on 4.4.2003 for recovery of a sum of Rs.46,70,51,805/- due as on 16.3.2003. At the hearing on 7.11.2003, it was clarified by the representative of the petitioner that this amount included arrears of Reactive Energy charges as well. The details of the outstanding amount on account of Reactive Energy charges were, however, neither submitted in the petition nor orally at the time of hearing. The notice was issued to the respondent on the main petition. Therefore, in the present proceedings recovery of the amount due as on 16.3.2003 needs to be restricted, since the respondent does not have any notice from the Commission on the dues pertaining to subsequent periods which have been placed on record through the affidavits sworn on 4.11.2003 and 7.11.2003. The petitioner has not placed on record anything to even show that the copies of the affidavit were served on the respondent. Therefore, In the present proceedings the petitioner cannot seek recovery of dues for the period subsequent to 16.3.2003 since it does not have the opportunity to meet the demand raised. Therefore, we will confine our examination to the dues up to 16.3.2003, claimed in the petition.

11. The petitioner's claim of Rs.46,70,51,805/- includes certain amount, on account of Reactive Energy charges, the details of which are not on record. We may observe that the proceedings have been initiated for recovery of outstanding UI charges. A reliance has been placed on Clauses 12(a) and 13 of Annexure I to IEGC, which deal with payments arising out of UI. Therefore, even the payment of outstanding dues on account of Reactive Energy charges cannot be enforced through the present petition.

12. In our order dated 23.9.2003, we had directed that the outstanding dues against the respondent would be worked out after making adjustment of UI charges receivable by it. Subsequently, consequent to proceedings on 23.9.2003, a sum of Rs.24,95,91,055 has been paid by the respondent on 22.10.2003. We, therefore, direct the petitioner to work out the liability of the respondent for payment of UI charges as on 16.3.2003 afresh, after deleting the amount due on account of Reactive Energy charges. The fresh demand after adjusting the UI charges receivable by the respondent and a sum of Rs.24,95,91,055 paid on 22.10.2003 and including the interest payable for delay in payment. The sum due will be intimated to the respondent by the petitioner latest by 20.11.2003, along with detailed calculations. These details shall also be filed by the petitioner before the Commission through an appropriate affidavit. The respondent shall pay the outstanding amount indicated by the petitioner latest by 30.11.2003.

13. So far as the outstanding dues pertaining to period subsequent to 16.3.2003 and on account of Reactive Energy charges are concerned, the petitioner is at liberty to file a fresh petition for their recovery in accordance with law, with all necessary details/data since we have not expressed any opinion on merits of the claim.

14. With the above directions, the petition No.20/2003 stands disposed of.

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

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

New Delhi dated the 18th November, 2003