

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 171/SM/2013

Coram:

Shri Gireesh B. Pradhan, Chairperson

Shri V.S. Verma, Member

Shri M. Deena Dayalan, Member

Shri A.K. Singhal, Member

Date of Hearing: 31.10.2013

Date of Order : 28.01.2014

In the matter of

Default in payment of Unscheduled Interchanges (UI) charges for the energy drawn in excess of the drawl schedule by Uttar Pradesh Power Corporation Limited.

And

in the matter of

1. Uttar Pradesh Power Corporation Limited,
10th Floor, Shakti Bhawan Extn.,
14- Ashok Marg,
Lucknow-226 001

2. Chairman cum Managing Director,
Uttar Pradesh Power Corporation Limited,
Shakti Bhawan,
Lucknow-226 001

.Respondents

Following were present:

Shri Rajiv Srivastava, Advocate, UPPCL
Shri S.K. Agarwal, Director (Finance), UPPCL
Shri Rajiv Porwal, NRLDC
Shri D.K. Jain, NRLDC
Ms. Supriya Singh, NRLDC
Shri Sunil Kakkar, BYPL
Shri Sunil Kumar, BYPL



ORDER

As per Regulation 10 of the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 as amended from time to time (hereinafter referred to as '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

2. From the report submitted by Northern Regional Load Despatch Centre (NRLDC) on payment status of UI charges in the NR UI pool account as on 8.8.2013, it was noticed that an amount of ₹ 2201.56 crore was outstanding against the Uttar Pradesh Power Corporation Limited (UPPCL) on account of UI drawal. After excluding the amount of ₹ 371.24 crore which was covered under the interim direction of the Hon`ble High Court of Allahabad, an amount of ₹ 1944.56 crore including surcharge of ₹ 114.24 crore was outstanding against UPPCL as on 8.8.2013.

3. The Commission in its order dated 9.9.2013 directed UPPCL as under:

"7. From the above facts, it emerges that the respondents have not complied with the provisions of the UI Regulations and directions 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."



4. The respondent, UPPCL vide affidavit dated 4.10.2013, has submitted that payment of outstanding UI charges could not be made due to shortage of funds during the last 2 years. Considering the grave financial situations of the distribution companies, Ministry of Power, Government of India issued the Financial Restructuring Scheme on 4.10.2012. Uttar Pradesh was one of the focus States which was to implement the Financial Restructuring Scheme. UPPCL has submitted that it would get the funds under the Financial Restructuring Scheme against the subscription of bonds for meeting the outstanding power purchase liability including UI charges. UPPCL has assured to make the payment of 50% of UI charges after getting the funds.

5. As regards the letter of credit, UPPCL has submitted that since UPPCL is not withdrawing power from the grid during last six months and its UI charges are in the negative, there should not be any need of opening of letter of credit for UI charges. UPPCL has further submitted that it would comply with the requirement of opening of letter of credit if so directed by the Commission.

6. During the hearing on 31.10.2013, Shri S.K.Agarwal, Director (Finance), UPPCL submitted that pursuant to the Financial Restructuring Scheme, UPPCL has arranged loans from the banks and has made payment for 50% of the outstanding UI charges. He further submitted that the outstanding UI charges included surcharge for an amount of ₹ 114 crore. As per the Commission's direction dated 12.9.2013 in Petition No. 143/MP/2013, a meeting was held with NRPC with the constituents of Northern Region for waiver of late payment surcharge. However, none of the recipient constituents

agreed to waive the interest on late payment of UI charges. Shri Agarwal requested for waiver of the surcharge of ₹ 114 crore in exercise of power of relaxation by the Commission under Regulation 12 of the UI Regulations.

7. It was clarified by the Commission during the hearing that the interest on UI which has accrued to the petitioner on account of non-payment of outstanding dues cannot be waived as the constituents to whom the UI dues are payable have not agreed to waive the interest. Moreover, waiver of interest in case of the petitioner will be not only against the express provisions of the regulations, It will also set a precedent for others to approach the Commission with similar request. Therefore, interest on the UI charges cannot be waived.

8. During the hearing, we had also directed UPPCL to submit a payment plan of outstanding UI charges including interest thereon. UPPCL vide its affidavit dated 6.1.2014 has submitted its payment plan of outstanding UI charges including interest. UPPCL has proposed to make payment of ₹ 100 crore every month starting from the month of December 2013. UPPCL has submitted that for the months of December 2013 and January 2014, ₹ 100 crore each has already been paid on 24.12.2013 and 1.1.2014. As on 6.1.2014, an amount of ₹ 1028 crore is outstanding which UPPCL has proposed to pay in ₹ 100 crore equal installments.

9. We have considered the submissions of the respondents and the affidavit filed pursuant to our direction. The respondents have explained the grave financial situation



of UPPCL as the main reason for their failure to clear the UI dues in time. The respondents have now arranged the fund under the Financial Restructuring Scheme. In the payment plan submitted vide affidavit dated 6.1.2014, the respondents have proposed to liquidate outstanding UI charges @ ₹ 100 crore per month starting from December 2013. The respondents have submitted that they have already paid ₹ 200 crore for the month of December, 2013 and January, 2014 on 24.12.2013 and 1.1.2014, respectively. The respondents have further submitted that as on 6.1.2014, an amount of ₹ 1028 crore is outstanding against UPPCL and have proposed to liquidate the same in ₹ 100 crore equal installments.

10. It is noted that during the hearing on 31.10.2013, Shri S.K. Agarwal, Director (Finance), UPPCL had assured the Commission that all outstanding dues would be liquidated in equal monthly installments by 31.3.2014. However, learned counsel for UPPCL during the hearing of Petition No. 143/MP/2013 (Tata Power Delhi Distribution Limited Vs. National Load Despatch Centre and others) submitted that UPPCL be allowed to make payment @ ₹ 100 crore per month starting February 2014. We express our disappointment on the failure of UPPCL to know its commitment to liquidate the outstanding dues by 31.3.2014 which was assured by Director (Finance) of UPPCL during the hearing on 31.10.2014. It may be noted that further delay in liquidation of the outstanding UI dues will put extra burden on UPPCL in the form of late payment surcharge apart from causing hardship to the entities to whom the UI charges are payable. Accordingly, we had directed UPPCL during the hearing on 7.1.2014 to make a payment of at least ₹ 600 crore by 31.3.2014 which was conveyed vide Record

of Proceedings dated 7.1.2014 in Petition No. 143/MP/2013. We confirm our direction issued in Petition No. 143/MP/2013 and direct UPPCL to liquidate of ₹ 600 crore by 31.3.2014 and the balance outstanding amount including current amount, if any, should be liquidated in equal monthly installments by 31.7.2014. Such payments shall be made before the last day of the month. The Commission also allows flexibility to UPPCL to make the payment on different dates within the same month.

11. As regards the respondent submission regarding opening of LC which has been noted in para 5 of this order, it is clarified that the respondent shall comply with the provisions of Regulation 10 (4) of the UI Regulations.

12. NRLDC is directed to apprise the Commission in the first week of every month starting from March 2013 about the UI payment status of UPPCL.

13. In view of the above, the notices are discharged against the respondents and the petition is disposed of accordingly.

Sd/-
(A.K.Singhal)
Member

sd/-
(M Deena Dayalan)
Member

sd/-
(V.S.Verma)
Member

sd/-
(Gireesh B.Pradhan)
Chairperson