

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No. 62/MP/2016**

**Coram:**

**Shri A.K. Singhal, Member  
Shri A.S. Bakshi, Member  
Dr. M.K. Iyer, Member**

**Date of Hearing : 21.04.2016  
Date of Order : 22.04.2016**

**In the matter of:**

Petition under Section 79(1) and Regulation 111 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999

**And in the matter of:**

Essar Power (MP) Limited (EPMPL),  
Tower-2, 5<sup>th</sup> Floor, Equinox Business Park,  
Off BandraKurla Complex,  
LBS Marg, Kurla (W),  
Mumbai-400 070

.....Petitioner

**Vs**

Western Regional Load Despatch Centre  
F-3, M.I.D.C. Area, Marol,  
Andheri (East),  
Mumbai-400093

.....Respondent

**For petitioner : Shri Alok Shankar, Advocate**

**For respondent : Ms Abiha Zaidi, POSOCO**

**ORDER**

This petition has been filed by Essar Power (MP) Limited with the prayer to direct WRDLC to allow short term open access to EPMPL after payment of Rs.10 crore

towards outstanding UI/DSM liabilities and to consider the request of EPMPL for waiver of recovery of accumulated interest on the UI/DSM liabilities.

2. On account of non-payment of outstanding UI/DSM charges by EPMPL, the Commission had directed for invocation of the provisions of Regulation 25A of the Central Electricity Regulatory Commission (Open Access and inter-State Transmission) Regulations 2008 (Open Access Regulations). In terms of Regulation 25A, the defaulting party is debarred from availing short term open access to inter-State Transmission Systems.

3. The petitioner has submitted that due to closure of its generating station since October, 2014 for reasons beyond its control, EPMPL is not in a position to make payment of the outstanding UI/ DSM charges forthwith and has accordingly sought the permission of the Commission to liquidate outstanding UI/DSM charges in a time bound manner as under:

- (a) EPMPL shall ensure that all weekly UI/DSM liability is cleared as per their respective due dates.
- (b) EPMPL shall provide payment security in form of a letter of credit for an amount computed in terms of the extant CERC Regulations.
- (c) Within two day of receipt of the order passed by this Commission EPMPL shall pay Rs.10 crore towards the outstanding liability of Rs.28 crore.

(d) In addition to clearing any weekly UI/DSM liability, EPMPL shall pay Rs.5 crore at the end of every month towards outstanding liability every Month starting May, 2016

4. The matter was listed for hearing on 19.4.2016. During the hearing, the Commission directed EPMPL to deposit atleast Rs.10 crore to prove its *bonafide* and seriousness and thereafter its proposal for staggered payment would be considered. Learned Counsel for EPMPL informed during the hearing on 21.4.2016 that Rs.10 crore has been paid to UI/DSM account maintained WRLDC which was also confirmed by the representative of POSOCO.

5. We have considered the request of the petitioner. It is noticed that EPMPL has made a payment of Rs.10 crore as directed by the Commission. The petitioner has also committed in the petition to make a payment of Rs. 5 crore at the end of every month towards outstanding liability of UI/DSM charge. In our view, the petitioner needs to be allowed to avail the short term open access so that the petitioner can earn revenues and liquidate the balance UI/DSM liability. However, the petitioner's prayer for waiver of late payment surcharge is rejected.

6. Accordingly, we direct that EPMPL shall pay the outstanding UI/DSM charges at the rate of Rs.5 crore alongwith late payment surcharge and current dues every month till the entire outstanding UI/DSM liability is liquidated. The payment shall be made by 5<sup>th</sup> of every month starting from June, 2016 and WRLDC shall submit a report to the

Commission by 10<sup>th</sup> of every month. In case of failure to pay the installment by 5<sup>th</sup> of every month starting with June, 2016, WRLDC shall invoke the provisions of Regulation 25A of the Open Access Regulations. In our order dated 2.9.2015 in Petition No.142/MP/2012, we had directed that “when Regulation 25A is invoked independent of regulation of power supply, default trigger date for invoking Regulation 25A of Open Access Regulations shall be 90 days from the due date of payment of various charges covered under the respective Regulations”. However, in this case the default period of 90 days will not be applicable since the said period had already been exhausted when WRLDC was directed to invoke Regulation 25A vide order dated 24.11.2015 in IA No.37/2015 in Petition No.116/MP/2015. EPMPL shall also maintain the payment security in the form of letter of credit as per the Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014 as amended from time to time. Subject to the above conditions, we direct WRLDC to allow short term open access to the petitioner with immediate effect.

7. Petition No. 62/MP/2016 is disposed of in terms of the above.

Sd/-  
**(M.K. Iyer)**  
Member

sd/-  
**(A.S. Bakshi)**  
Member

sd/-  
**(A. K. Singhal)**  
Member