

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

APPEAL NO. 124 Of 2009

Dated: 11th February, 2010.

**PRESENT : HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM, CHAIRPERSON
HON'BLE MR. H.L. BAJAJ, TECHNICAL MEMBER**

In the matter of:

Delhi Transco Limited,
State Load Despatch Centre,
SLDC Building, Minto Road, New Delhi-110002. ...Appellant

Versus

1. Central Electricity Regulatory Commission
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi-110 001.
2. Northern Regional Load Despatch Centre,
18-A, Katwaria Sarai,
New Delhi ... Respondents

Counsel for the Appellant(s) : Mr. M.G. Ramachandran
Mr. Anand K. Ganesan,
Ms. Swapna Seshadri
Mr. Sumit Pushkaran

Counsel for the Respondent: Mr. Nikhil Nayyar for CERC.

Per Hon'ble Mr. Justice M. KARPAGA VINAYAGAM,

Chairperson

JUDGMENT

1. Delhi Transco Limited is the Appellant. Aggrieved by the Order dated 08.05.2009, passed by the Central Electricity Regulatory Commission (Central Commission) holding the Appellant guilty of the violation of the directions issued by the Northern Regional Load Despatch Centre under the Indian Electricity Grid Code, the Appellant has filed this appeal.

2. The brief facts are as follows:-

(i). The Appellant is a transmission licensee for the National Capital Territory of Delhi. It is also designated to perform the statutory functions of the State Load Despatch Centre (SLDC). Under the Indian Electricity Grid Code, the Distribution Companies injecting and drawing electricity from the grid have a preliminary duty to act in a manner to protect the grid security.

As such the Distribution Companies are required to follow the directions of both the Northern Regional Load Despatch Centre (RLDC) as well as the SLDC to ensure that the safety of the grid is maintained.

(ii) Under clause 5.4.2. (a) and 6.4.4 of the Grid Code, the State Utilities shall endeavour to restrict their drawl from the grid whenever the grid frequency falls below 49.5 Hz and when the grid frequency falls below 49 Hz the requisite load shedding should be carried out by the SLDC to curtail overdrawal.

(iii). The Regional Load Despatch Centre gave messages and intimation to the Appellant (SLDC) regarding the overdrawl when the frequency fell below 49 Hz by giving the warning messages through B & C Notices on 5 occasions between 01.01.2008 and 14.10.2008. There was no response to this direction issued by the Regional Load Despatch Centre. Therefore, the Regional Load Despatch Centre sent a report on 01.12.2008 to the Central Electricity Regulatory Commission (Central Commission) under section 29 (5) of the Act to take suitable action against the

Appellant as the Appellant did not take any action on its directions to curtail the overdrawl from the regional grid.

(iv) The Central Commission thereupon by the order dated 09.01.2009 directed the Appellant to show cause as to why penalty for non-compliance of the directions issued by the Regional Load Despatch Centre be not imposed on it under Section 29 (6) of the Act.

(v) After receipt of the said show-cause notice, the Appellant filed a reply on 10.02.2009 to the said show-cause notice mainly contending that on receipt of messages and intimation from the Regional Load Despatch Centre, it had immediately passed on the said messages to the Distribution Companies/licensees and also issued necessary advisory notices and that the Appellant straightaway could not switch off the entire power supply to the Distribution Companies as it would affect very large areas in the city where the essential and emergency services are established.

(vi) On consideration of the said reply, the Central Commission appointed one of its member as Adjudicating officer to enquire

into the matter. Accordingly, the Adjudicating Officer representing the Central Commission gave opportunities to the parties for hearing. At the end, the Central Commission through its Adjudicating Officer came to the conclusion that the Appellant was guilty of non-compliance of the directions of the Regional Load Despatch Centre and consequently imposed a penalty of Rs. 50,000/- for each violation, totaling to Rs. 2.5 lakhs. On being aggrieved by this order, the Appellant has filed this Appeal before this Tribunal.

3. The main arguments advanced by the Learned Counsel for the Appellant are as follows:-

- (i) In terms of clause 5.2(M) of the Grid Code, there is a requirement to provide automatic under-frequency load shedding at a particular level when the grid is likely to be collapsed. In accordance with the above provisions, automatic under-frequency load shedding was provided at the level as 48.8 Hz as agreed in the minutes of the meeting of

the constituents of Northern Region Load Despatch Centre held on 11.08.2006. Under clause 5.4.2 of the Grid Code, the constituents shall endeavour to restrict their drawl whenever there is a frequency between 49.5 and 49 Hz and when the frequency falls below 49 Hz requisite load shedding shall be carried out by the SLDC. In accordance with the above, though the ideal frequency was 50 Hz, i.e. between 50 Hz and 49 Hz, the utilities are allowed to draw power with a provision that the same shall be adjusted by commercial mechanism through Unscheduled Inter-changing charges. Therefore, there can be no question of coercive or unilateral action being taken by the SLDC when the frequency level is not below 49 Hz. The role of SLDC to take pro-active action to compel the Distribution Companies would arise only when the frequency falls below 49 Hz. In this case, admittedly there was no violation messages namely B or C when the frequency was at 49 Hz and above. Each of the violation

messages were issued only when the frequency was below 49 Hz or below.

- (ii) As per the impugned order, as soon as the B or C messages were issued and received, the SLDC has no option whatsoever but to cut the feeder by carrying out load shedding and reduce the drawl and this has not been done. This finding is not correct. In the messages sent by the RLDC in the form of B & C messages, RLDC did not so specify that SLDC should proceed to cut feeders under its control. On the other hand, messages were sent only communicating that SLDC should act immediately to increase generation and/carry out the manual load shedding only to restrict the drawl. In terms of the above, the SLDC is required to act in a manner that would lead to decrease in the drawl. This can be affected either by increasing generation or by decreasing the drawl by load shedding. Therefore, the SLDC took steps immediately to contact the generating stations and Distribution Companies and ascertained the

possibility of increasing the generation. If the increasing generation is possible, there is no need to resort to manual load shedding. That is what has been done by the Appellant in the present case.

- (iii) The Appellant (SLDC) could not straightaway switch off the supply of power to the Distribution Companies simpliciter. The moment they received B or C message, if it resorted to switching off the supply of power, it would affect very large areas where lot of sensitive and essential establishments like transportation network, traffic signals, hospitals, day-care centres, Fire Brigade Stations, Police Stations, etc. are functioning. It is only the Distribution Companies which could know on which specific lines load shedding can be carried out so as to avoid the loss to the sensitive establishments and vital networks/institutions. Only for this reason, the automatic load shedding of power in the lines to the distribution lines is done when the frequency reached 48.5 Hz as agreed in the minutes of the meeting. Therefore,

mere failure to resort to load shedding on receipt of B or C messages can not be construed to be failure to follow the Grid Code.

- (iv) In this case, the first bonafide attempt which SLDC is required to make upon receipt of B or C messages is to persuade, threaten, force and make sure that the distribution utilities act and cut the requisite feeders instead of SLDC itself cutting the different sections of the consumers. This has been done in this case.
- (v) In the light of the above situation, the Central Commission should not have proceeded on the basis that upon receiving a B or C message, the SLDC should have cut the feeders forthwith as it is contrary to the scheme envisaged in the Electricity Code. In fact the Central Commission did not consider the steps taken by the SLDC acting with due diligence for implementing the directions received from the NRLDC.

(vi) The Appellant is discharging statutory functions. Therefore, it can not be proceeded against for violation under Section 25 (6) of the Act. The expression “any other person” cannot be interpreted to include SLDC which is a statutory body. The interpretation given by the Central Commission relating to the term “any other person” is wrong.

4. In reply to the above grounds, the Learned Counsel for the Central Commission would make the following submissions:

(1) According to the Appellant, the Regional Load Despatch Centre cannot issue any direction to the SLDC under section 29 (2) of the Act in view of the fact that the expression “any other person” indicate that the operation of power system does include SLDC, which is a statutory body. This contention is wrong. Under section 29 (1) of the Act, the RLDC may give such directions to ensure stability of the grid. Under sub-section (2), every licensee connected with power system shall comply with the directions of the RLDC. As per sub-section (3), all these directions shall be issued through

SLDC to the licensee and the SLDC shall ensure that such directions are duly complied with by the licensee. Under section 32 (2), the SLDC is responsible for carrying out real time operations for grid control and despatch of electricity through the operation of such a grid, apart from being the apex body to ensure the security of the integrated operation of power system. So under section 29(2), SLDC also is a person connected with the operation of power system and as such he has to comply with the directions issued by the RLDC under section 29 (1).

(2) The details of the directions given by the RLDC to the Appellant SLDC would show that the Appellants during the 5 occasions between 01.10.2008 and 14.10.2008 allowed over-drawl by the Distribution Companies. Over-drawl was done at the frequency below 49 Hz. It is contended by the Appellant that on receipt of directions from the NRLDC, the Appellant sent fax messages to the Distribution Companies advising them to reduce over-drawl. This shows that without taking any

further action, the Appellant was satisfied with a mere passing on the messages to the Distribution Companies. These messages were meant for ensuring compliance by the SLDC and not meant for mere passing on to the Licensees. These directions were direct command to the SLDC who is responsible for real time operation of the grid. The Appellant can not escape from the responsibility to ensure the compliance of directions of RLDC by merely stating that it did not resort to switching off the power as it would affect large areas which would include the existence of emergency and essential services. As a matter of fact, the messages which were received by the SLDC in the form of B & C messages are warning notices. These messages for urgent action which were received by the Appellant have remained unanswered. Admittedly, no reply message was sent to the RLDC by SLDC regarding the further action taken by them and further developments taken place to bring it back to 49 Hz.

(3) The Appellant failed to take prompt and preventive action to show that the Appellant had taken adequate steps to curtail overdrawl from the grid as soon as they received B & C messages communicating urgent and emergent situation. In fact, the Central Commission has found that no materials had been produced by the SLDC before the Central Commission to show that those messages were actually faxed and the same were received by the Distribution Companies and to show that further steps were taken by the Appellant to control the situation. Thus it is clear that the Appellant did not take any substantial action on the messages received. Therefore, the order impugned is well reasoned and well justified one. Therefore, it does not warrant any interference.

5. On these points, we have heard the Ld. Counsel for the parties elaborately. We have also given our anxious consideration to these rival contentions. The following issues arise for consideration by this Tribunal:

- (1) Whether in terms of the directions issued by the NRLDC in the form of B & C messages received by the Appellant, the Appellant should have immediately resorted to cutting of the feeders without resorting to any other means in an effort to reduce the over-drawl?;
- (2) Whether the Appellant being the SLDC performed his statutory functions in terms of 31 and 32 of the Electricity Act can be proceeded and imposed with penalty under section 29(6) of the Electricity Act?; and
- (3) Whether in the facts and circumstances of the case, the imposition of penalty on the Appellant is proper and justified?

6. We will consider the issues one by one. Let us now consider the issue with reference to the applicability of the penalty proceedings on the Appellant which is said to be a statutory body.

7. It cannot be disputed that section 312(2) (e) mandates that the SLDC shall be responsible for carrying out real time operation for grid

control. According to section 29(3) of the Act, the RLDC may issue direction to any transmission licensee or any other licensee through the SLDC which may be required for ensuring stability of the grid operation and the SLDC shall ensure that such directions are duly complied with by the Distribution Licensee or generating companies. Under section 29(2) the direction could be given to any other person connected with the operation of power system. The term “power system” has been defined under sub-section 15 of section 2 of the Act. As per this definition, the power system means all aspects of generation, transmission, distribution and supply of electricity and includes among others the load despatch activities. Thus it is clear that all activities performed by the SLDC are included in the power system. It is also mentioned in sub-section 32(1) that the SLDC is apex body to ensure integrated operation of power system. It was contended that the SLDC cannot be construed to be a person within the purview of section 29(2). This is not correct.

8. It is mandatory for every licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system to comply with the directions of RLDCs and failure to comply with such directions shall made them liable for a penalty not exceeding Rs. 15 lakhs. The term 'person' has been defined in sub-section 2(49) of the Act "to include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person." Since SLDC is an artificial juridical person clothed with rights and liabilities under the Act, it shall be construed to be a person being connected with the operation of power system by discharging the load despatch functions and, therefore, SLDC is liable for non-compliance of directions issued by RLDC.

9. Therefore, the SLDC which was established by the State Government for the purpose of exercising the powers and discharging the functions for the Transmission of Electricity as per section 32(1), (2) & (3) of the Act, the SLDC is empowered, as an apex body for operation of the power system and to levy and collect such fee or

charges. Therefore, the SLDC being a statutory body would come under the purview of the definition of 'any person' and as such any violation of a direction given to the SLDC is liable to be proceeded with.

10. Let us now deal with the other issues. The defence of the Appellant is that the moment it received messages from the RLDC, it passed on the same forthwith to the Distribution Companies with advisory messages. The question is whether this act would mean to be a satisfactory discharge of its obligation under section 32(2) (1) of the Act read with various provisions of the Grid Code.?

11. Under clause 5.4 of the Grid Code, the SLDC is entrusted with the responsibility of making provisions for effecting the demand management.

***Section 5.4.1:** This section is concerned with the provisions to be made by SLDC to effect the reduction of demand in the event of insufficient generation capacity and transfer from external inter-connecting if not available to meet demand or in the event of*

breakdown from operating problems, such as frequency, frequency levels or to thermal power loads on any part of the grid.

Thus, under the above provisions, burden is cast on the SLDC to take adequate steps in time of contingency of over-drawl.

12. This obligation is reiterated in Para 2.1, 2.3, and 2.3.1.1 of the Operating Procedure for the Northern Region preferred by the NRLDC as mandated in Para 5.1 (d) of the Grid Code which is reproduced below:

“Each SLDC shall regulate the load/own generation under its control so that it may not draw more³ than its net drawl schedule during low frequency conditions and less than its drawl schedule during high frequency conditions. “

13. The method of controlling the demand by SLDC in case of low/high frequency is elaborated at Para 3.3.3 of the Operating Procedure. The relevant part is reproduced below:

“3.3.3: The main control would have to be exercised under these conditions by the SLDC which could be done by either of the following methods or combination thereof:”

- (a) Manual demand disconnection.*
- (b) Shutting of or reconnecting the bulk power consumers having a special tariff structure linked to number of interruptions in the day.*
- (c) PC based system for rotational load shedding with facilities for central programming and uploading of the disconnection schedule for the day from SLDC/Sub-LDC to the sub stations.”*

14. Thus, under the above provisions, the onus is on the Appellant, SLDC to take necessary steps and to follow the procedures to ensure compliance with the direction of the NRLDC. This also is a statutory obligation under Section 33(3) of the Act.

15. The Clause 6.4.4 of the Grid Code mandate the SLDC to endeavour to restrict their net drawl from the grid when the frequency was below 49.5 Hz. and when the grid frequency falls below 49 Hz requisite load shedding should be carried out by the SLDC in the concerned state to curtail overdrawl. Similarly under clause 5.4.2 the constituents shall endeavour to restrict their drawl when the frequency falls below 49.5 Hz and carry out the requisite load shedding when the frequency falls below 49 Hz. It is noticed that RLDC vide its letter dated 01.12.2008 addressed to the SLDC reminded about the directions given to the Appellant under Para 5.4.2(h) of the Grid Code and 29(2). According to the RLDC the specific directions were issued to the Appellant to restrict overdrawl during the month of October 2008 in the interest of grid security when frequency was below 49 Hz.

16. When the RLDC found that there was overdrawl when frequency was below 49 Hz on 01.10.2008, 03.10.2008 and 14.10.2008, they sent B messages on two occasions and C messages on three occasions. Since there was no action on the messages, the RLDC was constrained to send

a Report to the Central Commission under section 29(5) of the Act to take action against the Appellant which resulted in the issuance of the show Cause Notice.

17. It is mainly contended in the reply by the Appellant that on receipt of intimation, not only it had immediately passed on the messages to the licensee/Distribution Companies but also issued necessary advisory notes. It was also contended that Appellant could not straight away switch off the power supply to Distribution Companies as it would affect very large areas. It is also brought to our notice that the Appellant has also filed a petition before the State Commission against the Distribution Companies who violated the said directions. This plea of defence, in our view, would not absolve the Appellant from its obligations to ensure compliance with the directions given by the RLDC.

18. In fact, section 32(2) (e) of the Act clearly mandates that SLDC shall be responsible for carrying out real time operation under its control. Sending messages to the Distribution Companies or filing

complaint before the State Commission for taking action against them cannot be construed to be the appropriate action for ensuring compliance of the said directions. These actions may at best be in addition to what is required of the SLDC under the provisions of the Grid Code. Certainly, these actions cannot be said to be sufficient to establish the compliance of the directions.

19. The plea that it is not possible for SLDC to effect manual load shedding without affecting actual feeders cannot be sustained. Para 24.1 of the Delhi Grid Code provides that the SLDC has to devise a procedure for load shedding. The Delhi Grid Code itself contains the provision for contingency when the frequency falls below 49 Hz as below:

“24.1 Users shall endeavour to restrict their actual drawl within their respective drawl schedules whenever the system frequency falling below 49.0 Hz.,

Provided that in case of frequency falling below 49.0 Hz the SDLC shall direct the concerned disconnection of the Plant and/or Apparatus of such User or Transmission Licensee.”

20. From the reading of the provisions referred to above, it is clear that SLDC has to devise detailed operating procedures. In these procedures, the SLDC could formulate the procedures to deal with the situation as in the present case. SLDC could make more specified provisions for the Distribution companies to shed load manually or automatically and under extreme cases it may itself direct STU to open feeder of the Distribution Companies who have not complied with the SLDC directions. But admittedly the SLDC (Appellant) has failed to follow this procedure.

21. This can be viewed from yet another angle. The directions and the messages sent by the RLDC to SLDC are a mandatory command to the SLDC who under section 32 of the Act is responsible for the real time operation of the grid to curtail overdrawl so as to ensure the drawl

within the schedule. It is the case of the Respondent RLDC that despite the various kinds of messages, overdrawl had continued at frequency below 49 Hz against the optimum frequency of 50 Hz. No response was given by the SLDC to RLDC to those messages which was expected from the SLDC within a reasonable time in intimating the action taken in the meantime to the RLDC. It also did not inform the RLDC about the status of the grid condition. Admittedly, the directions contained in those B messages and C messages issued by the RLDC remained unanswered. Since there was no action for along time on the part of the SLDC, the RLDC was constrained to issue SOS. Despite that there was no response. The only explanation to this aspect given by the Appellant is that after receipt of these urgent messages it had simply passed on the directions of the RLDC to the Distribution companies for compliance as if it has no further role to play.

22. Under the system of Availability Based Tariff, UI charge is a commercial mechanism for settlement for deviation from schedule at a rate dependent on system conditions. The flexibility through UI is

meant for meeting the system contingencies and optimal utilization of resources.

23. In the Statement of Objects and Reasons to the Central Electricity Regulatory Commission (unscheduled inter-change charges and related matters) Regulation, 2009, the Central Commission has clarified that the “UI pricing mechanism is expected to serve the twin objectives of specifying settlement rate for deviations from schedule in normal operating range” and ensuring ‘grid discipline’ on the one hand while ensuring maximization of generation at optimal cost for grid participants on the other.” It is the statutory responsibility of the Appellant as the SLDC to issue directions to all the generating utilities with the State to maintain the frequency around 49.5 Hz. And to curtail the overdrawl/maximizing injection when the frequency tends to fall below 49 Hz as per the provisions of Para 6.4.4 of the Grid Code.

24. It is contended by the Learned Counsel for the Appellant that the manual disconnection of feeders cannot be instantaneously done by the

SLDC when frequency falls below 49.0 Hz as it would affect large areas. As per provisions of section 32(2)(e) of the Act, the Appellant as the SLDC is responsible for ensuring Real Time Operations for grid control and dispatch of electricity between the state through secure and economic operation of the state grid in accordance with Grid Standards and the State Grid Code.

25. Moreover Section 32(1) of the Act, empowers the Appellant to give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations between the States. As per Section 33(3), the Appellant is bound to comply with the directions of the RLDC. The appellant as SLDC has the facility for affecting manual disconnection of loads remotely from SLDC for regulation the States' net drawal from the regional grid as directed by the RLDC. In this case the Appellant has miserably failed to discharge his statutory obligations and instead allowed over-drawal from the grid in the conditions of the low frequency.

26. The Appellant neither placed any material as to what were the nature of directions issued by the SLDC to the Distribution Companies to ensure the safety of the grid and what was the response and result for those messages of NRLDC from the Distribution Companies. Mere statement that it has passed on the messages to the Distribution Companies would not amount to discharge of functions enjoined. It has only passed the buck to the other party and nothing more.

27. One other important aspect has to be noticed in this context which is as follows:

It is the consistent stand taken by the Appellant that SLDC had through fax message immediately passed on the directions of the RLDC to the distribution licensees. Though it was stated before the Central Commission that the copies of the said fax messages, sent to the companies, were annexed along with the reply sent, the Central Commission found nothing in the annexures. When it was pointed out to the Appellant, the Appellant in their affidavit reiterated the same statement

without any material to show that the messages were really faxed to the Distribution Companies:

28. One other sad feature which was noted by the Central Commission is, Central Commission found out that some of the documents filed before the Central Commission were not genuine. The Central Commission perused those documents and noticed that the message stated to have been sent by the SLDC to the companies contained the endorsement made by the SLDC on the body of the messages received from RLDC. In that fact of situation, the Central Commission gave finding that actually there was no material to show that these messages were immediately sent to the Distribution Companies at what time these messages were sent and at what time these were received at the other end. As indicated above, if it is a case of the Appellant that the copies of the messages were sent to the Distribution Companies, the Appellant must have pursued the matter further to ensure that the directions are complied with either by bringing the frequency back to 49 Hz or by

resorting to load shedding. Actually there is no clear picture about this aspect.

29. The Central Commission also found that there are some doubtful features in those documents. The Appellant had annexed some copies of the messages received from the NRLDC. The 2 messages both dated 30.09.2008 were sent at 2209 hrs and 2237 hours respectively each bearing endorsement dated 29.9.2009. In their message dated 30.9.2008 sent at 0930 hours in the morning bearing the endorsement dated 1.10.2008 of the next day. In 2 other messages both dated 4.10.2008, one was sent at 16.14 hours and another was sent at 18.14 hours. These documents would show that the date of the endorsement had been corrected from 5.10.2008 to 4.10.2008. In the light of these corrections it is all the more necessary for the Appellant to give the details of exact day and time at which the messages were sent to the Distribution Companies by the SLDC. Admittedly these particulars have not been furnished to the Central Commission.

30. As indicated above, the SLDC (Appellant) did not take any further steps to curtail the power drawal either by resorting to load shedding or by resorting to b ringing back to 49 Hz. So, in the absence of any material to show that some bonafide steps were taken by the SLDC (Appellant) to carry out the directions of the RLDC, due to which there was overdrawal it can be safely concluded that the factual findings rendered by the Central Commission that the Appellants are guilty cannot be interfered with that too in the absence of the valid reasons.

31. Therefore, all the contentions of the Learned Counsel for the Appellant urged in this Appeal would fail.

32. Before parting with this case, we would like to express our suggestions for consideration by the Central Commission to maintain the grid frequency variations within limits. It cannot be debated that any deviations in the frequency would damage the generation, transmission and load equipment. This would also result in degradation of quality of electricity and also in collapse of the power system. Therefore, it would

be desirable that the grid frequency should be maintained as close as possible to the normal 50 Hz. However, due to prevailing shortages of power there may be generation and load imbalances which would result in frequency excursions from the normal frequency level.

33. The main endeavour of the Central Commission, as is evident from the Central Electricity Regulatory Commission (Unscheduled Interchange Charges and related matters) Regulation 2009 is to encourage additional generation and discourage overdrawal of electricity during low frequency conditions. Similarly, the Central Commission is to make an endeavour to discourage over generation and underdrawal under high frequency conditions. These regulations provide for UI rates for overdrawal by the buyer and under injunction by the generating station or the seller at the low frequency level. It is noticed that the UI rates at frequency range between 50Hz and 49.5 Hz vary from 180 paise to 480 paise. The tariff for new power plants is in the range of 250 paise to 350 paise per unit. The short-term rates for power are also prevailing in the range of Rs. 5/-. While considering these we feel that the UI rates

are hardly sufficient to discourage overdrawal. Therefore, UI rates below 50 Hz frequency need to be so fixed so as to discourage overdraws. In our view existing UI rates do not achieve this purpose as the frequency is likely to slide down rapidly to dangerous levels due to over-draws, under low frequency levels.

34. During low frequency conditions, the additional generation from all the existing plants including the diesel generation captive units will improve the frequency levels. Therefore, the same needs to be encouraged. We would like to reiterate that the prevailing UI rates may not encourage all the generating stations to inject additional power into grid despite additional UI charges.

35. As per Regulation clause 5, the Central Commission shall review the Unscheduled Inter-change charges including UI cap rate on six-monthly basis or earlier and, if necessary, through separate orders from time to time.

36. Taking cue from the aforesaid clause we would like to impress upon the Central Commission necessity to review the UI rates periodically as this would alone encourage additional generation and discourage overdrawal. The UI rates for overdrawal right from 49.98 downwards should be set or fixed so as to ensure that minimal overdrawal and under injunction occur to curb the slide down of frequency to dangerous levels.

37. Under Clause 7(4) of the Regulations the Central Commission can take appropriate action under Section 142 of the Act despite the payment of UI rates and additional charges. In the light of the said provision, we would like to suggest Central Commission to make it clear that any overdrawal and deliberate under injunction of power below 49.5 Hz shall attract the provisions under Section 142 in case the instructions of RLDC/SLDC are not heeded to by any constituents of the region or state.

38. We hope that these measures, which have been suggested in the earlier paragraphs, would solve the situation.

39. With these observations we dispose of the Appeal. In the result the Appeal filed by the Appellant is dismissed as devoid of merits.

40. No costs.

(H.L. BAJAJ)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated : 11th February, 2010

REPORTABLE / NON-REPORTABLE