

## CHAPTER - V

### Sale of Power and Collection of Revenue

#### 5.1 Sale of power

CPSEs enter into Power Purchase Agreement (PPA)/Bulk Power Supply Agreement (BPSA) with each beneficiary for supply of power. As per provisions of BPSA, the payment of bills for supply of power from power stations shall be made by the bulk power customers through a confirmed, revolving, irrevocable Letter of Credit (LC) to be established in favour of CPSEs for an amount equivalent to 105 *per cent* of their average monthly billing of preceding 12 months. The LC shall be kept valid at all the times during the validity of the agreement and the amount of LC shall be reviewed once in three/six months.

Audit reviewed the PPAs/BPSAs, LCs opened by beneficiaries and monthly energy sale bills raised and rebate allowed by CPSEs during the period 2009 to 2014 in respect of all 21 beneficiaries purchasing power from selected power stations and observed as under:

##### 5.1.1 Non-signing/renewal of PPA/BPSA with beneficiaries

NHPC had signed PPAs/BPSAs with Delhi Vidyut Board (DVB) (up to 2002) for supply of power from its power stations. In 2002 DVB was split into two generating companies, a transmission company [Delhi Transco Limited (DTL)] and three distribution companies *viz.*, North Delhi Power Limited (NDPL)-subsequently renamed as Tata Power Delhi Distribution Limited (TPDDL), BSES Yamuna Power Limited (BYPL) and BSES Rajdhani Power Limited (BRPL). Up to 31 March 2007, DTL had PPAs with NHPC and was doing bulk supply of power to distribution companies (Discoms). Therefore, up to 2007, there was no direct contractual relation between NHPC and Delhi Discoms. In April 2007, DERC allocated the capacities in NHPC generating stations directly to Delhi Discoms. As such, from 1 April 2007 Delhi Discoms came into direct contractual relation with NHPC. However, NHPC has not signed PPAs/BPSAs with Delhi Discoms so far (August 2015).

NHPC stated (February/August 2015) that PPA/BPSA with Delhi Discoms had expired in March 2007. Though BPSA signed with Delhi Discoms had expired, agreement had stipulated (clause 12) that *“the provisions of this agreement shall continue to operate till this agreement is formally renewed, extended or replaced.”* As such, all the terms and conditions of expired BPSA were still in force till signing of new BPSA. NHPC further added that they were regularly pursuing with BYPL and TPDDL for early signing of BPSA.

The fact remains that PPAs/BPSAs had been signed with DTL and not directly with Delhi Discoms. Therefore, it would be in the interest of NHPC to sign PPAs/BPSAs with the Delhi Discoms. Verification of NHPC’s reply in relation to SJVN and THDC revealed that THDC executed BPSAs with TPDDL and BRPL in March 2011 and March 2012, respectively.

However, BPSA with BYPL was yet to be executed by THDC. SJVN had not signed PPAs/BPSAs with any of the three Delhi Discoms as yet (August 2015).

### **5.1.2 Implementation of rebate policy and payment security mechanism**

As per rebate policy of NHPC, rebate was to be allowed to beneficiaries only if LC of the required amount (105 per cent of the monthly average bills of preceding 12 months) with a maximum of four revolutions per month was in place before the date of presentation of bill. NHPC, however, did not ensure compliance of above compulsory conditions while allowing rebate to the beneficiaries. Accordingly, rebate of ₹60.48 crore was allowed by NHPC to beneficiaries who were not eligible for rebate as per the rebate policy.

NHPC stated (February 2015) that (i) some of the beneficiaries while calculating the requisite value of LC did not include supplementary bills/arrear bills for the previous period as per their interpretation of relevant clause and (ii) some beneficiaries had opened revolving LC with five revolutions while they made the payment through Real Time Gross Settlement (RTGS). As such LC was not used as a means of payment and kept as a payment security mechanism only.

Reply is to be viewed against the fact that as per rebate policy of NHPC, LC was to be opened for an amount equal to 105 *per cent* of the monthly average bills raised by NHPC during preceding 12 months (whether normal, supplementary or arrear bills). Therefore, exclusion of supplementary and arrear bills from the amount of LC and opening LC with more than four revolutions made the beneficiaries ineligible for rebate as per policy.

Audit also observed that SJVN was not insisting on LC for timely payment of dues. As a result, obtaining LCs as a payment security mechanism was not enforced effectively. This was evident from the fact that LCs were not maintained by BRPL (2011-12), BYPL (2011-12 and 2013-14) and Power Distribution Department (PDD), Jammu and Kashmir (J&K) (2012-14) and dues aggregating ₹187.87 crore were outstanding from these beneficiaries as of March 2014.

SJVN confirmed (August 2015) non-opening of LCs.

MoP also stated (August 2015) that efforts should be made to maintain LC with all State Governments / Utilities.

## **5.2 Collection of revenue**

### **5.2.1 Position of outstanding dues and regulation of power**

The position of outstanding dues of beneficiaries which consistently failed to clear dues of NHPC, SJVN and THDC at the end of years 2009-10 to 2014-15 is indicated in the Table 5.1.

Table 5.1

## Beneficiary-wise position of outstanding dues as at the end of years 2009-10 to 2014-15

(₹ in crore)

Year	Name of Beneficiaries	NHPC	SJVN	THDC	Total
2009-10	BRPL	44.42	9.71	18.66	<b>72.79</b>
	BYPL	38.37	6.07	7.94	<b>52.38</b>
	PDD J&K	87.99	14.50	25.83	<b>128.32</b>
	UPPCL	52.36	Nil	69.28	<b>121.64</b>
	BSEB	22.82	Nil	Nil	<b>22.82</b>
<b>Total</b>		<b>245.96</b>	<b>30.28</b>	<b>121.71</b>	<b>397.95</b>
2010-11	BRPL	14.39	13.72	20.53	<b>48.64</b>
	BYPL	8.99	8.55	12.83	<b>30.37</b>
	PDD J&K	15.00	22.39	11.42	<b>48.81</b>
	UPPCL	Nil	34.85	72.96	<b>107.81</b>
	BSEB	5.22	Nil	Nil	<b>5.22</b>
<b>Total</b>		<b>43.60</b>	<b>79.51</b>	<b>117.74</b>	<b>240.85</b>
2011-12	BRPL	281.02	69.62	68.34	<b>418.98</b>
	BYPL	187.01	39.45	15.75	<b>242.21</b>
	PDD J&K	46.51	27.00	30.07	<b>103.58</b>
	UPPCL	542.06	125.76	464.84	<b>1132.66</b>
	BSEB	147.96	Nil	Nil	<b>147.96</b>
<b>Total</b>		<b>1204.56</b>	<b>261.83</b>	<b>579.00</b>	<b>2045.39</b>
2012-13	BRPL	168.26	53.16	84.14	<b>305.56</b>
	BYPL	61.74	34.76	66.17	<b>162.67</b>
	PDD J&K	504.06	42.35	59.01	<b>605.42</b>
	UPPCL	452.52	139.84	759.09	<b>1351.45</b>
	BSEB	26.69	Nil	Nil	<b>26.69</b>
<b>Total</b>		<b>1213.27</b>	<b>270.11</b>	<b>968.41</b>	<b>2451.79</b>
2013-14	BRPL	34.26	57.81	88.37	<b>180.44</b>
	BYPL	44.78	67.34	116.56	<b>228.68</b>
	PDD J&K	1006.43	62.72	64.76	<b>1133.91</b>
	UPPCL	115.75	64.12	247.93	<b>427.80</b>
	BSEB	19.05	Nil	Nil	<b>19.05</b>
<b>Total</b>		<b>1220.27</b>	<b>251.99</b>	<b>517.62</b>	<b>1989.88</b>
2014 - 15	BRPL	111.64	116.80	196.68	425.12
	BYPL	152.35	90.32	192.04	434.71
	PDD J&K	1376.88	298.77	227.89	1903.54
	UPPCL	161.23	136.56	1032.24	1330.03
	BSEB	19.09	Nil	Nil	19.09
<b>Total</b>		<b>1821.19</b>	<b>642.45</b>	<b>1648.85</b>	<b>4112.49</b>

CERC (Regulation of Power Supply) Regulations, 2010 provided that in case of the outstanding dues beyond 60 days or in case the required LC or any other agreed payment security mechanism was not maintained as per the agreement, the generating company may serve a notice for regulation of power supply on the defaulting entity, for reducing the drawl schedule. PPAs signed between CPSEs and beneficiaries also included provision to the effect that if the bills were not paid by bulk power customer within 60 days from the date of billing, concerned CPSEs would have the option to regulate supply of energy to bulk power customer in accordance with the directives/ guidelines issued by CERC/GOI from time to time.

Audit examination of the implementation of above CERC regulations by CPSEs for defaulting beneficiaries disclosed that :

#### **NHPC**

- (i) Though outstanding dues more than 60 days of BRPL BYPL and UPPCL started increasing since June 2011, NHPC resorted to power regulation for the first time only in February 2012.
- (ii) Though the outstanding dues more than 60 days of PDD, J&K started piling up since June 2012, NHPC went for power regulation in February 2014 and that also lasted only for two days.
- (iii) Regulation of power once started was stopped without complete adjustment of outstanding dues.

Consequently, outstanding dues of ₹1802.10 crore as of March 2015 remained to be realised by NHPC from the above beneficiaries even after regulation of power.

NHPC stated (August 2015) that vigorous follow up for timely realization of payments from beneficiaries was done. In a commercial environment, regulation of power was considered prudent only as a last resort when efforts of all level persuasions get exhausted.

MoP stated (September 2015) that outstanding payment to hydro CPSEs from various states was a matter of concern to this Ministry. Implementation of all provisions for payment security mechanism as laid down in CERC Regulations/PPAs was not always feasible due to opposition of the States and federal nature of our polity. Many a times, follow up and persuasion yielded better results. Nonetheless, CPSEs should always insist for implementation of prescribed safeguards.

The fact remains that due to continuously mounting outstanding dues from ₹43.60 crore as of March 2011 to ₹1821.19 crore in March 2015, NHPC with the assistance of MoP may have to seriously review various possibilities for recovery of dues from regularly defaulting beneficiaries.

## SJVN

BRPL and BYPL had not maintained LC since April 2011 and their outstanding dues had been consistently increasing since May 2011. However, SJVN started regulation of power of BRPL and BYPL from November 2011 and December 2011, respectively when outstanding dues of BRPL and BYPL had increased to ₹35.73 crore and ₹30.70 crore, respectively. Even after regulation of power, the outstanding amount against BRPL and BYPL increased to ₹54.40 crore and ₹32.27 crore respectively in March 2012. SJVN withdrew regulation of power on 27 April 2012 after BSES on behalf of after BYPL and after BRPL submitted the firm liquidation plan vide letter dated 22 March 2012 confirming that 90 per cent dues of SJVN including surcharge would be liquidated in 11 instalments. As BYPL did not honour its commitment, SJVN again started regulation of power of BYPL from September 2013 which was in progress (December 2014). Further, in the case of UPPCL, though the outstanding dues were showing increasing trend since November 2011, SJVN started regulation of power only from April 2012 when the outstanding dues had increased to ₹101 crore.

SJVN stated (August 2015) that for realisation of outstanding dues regular follow up was done and regulation of power was undertaken as a last resort.

The fact remains that SJVN would need to work out a mechanism to liquidate the outstanding dues of ₹642.45 crore as of March 2015 from these parties.

MoP stated (August 2015) that besides efforts made for realization of outstanding dues, the CPSEs might consider issuing notices to the concerned State Governments/Utilities. MoP also stated in the Exit Conference that provisions regarding regulation of power were the important provisions because of which CPSEs were able to recover some outstanding amount.

### ***5.3 Capacity declaration by NHPC power stations without availability of machines for full day***

In 22<sup>nd</sup> meeting of Commercial Sub-Committee of Northern Regional Power Committee (NRPC) held on 13 October 2012, Northern Regional Load Despatch Centre (NRLDC) had clarified that as per Regulations 3(13) and 3(14) of CERC (Terms and Conditions of Tariff) Regulations, 2009, Declared capacity<sup>21</sup> (DC) should be for 00 to 24 hours. Machine declared under shut down should not be considered for availability as the same would not be able to generate power in case of any contingency in the Grid.

<sup>21</sup> Regulation 3 (14) of the CERC (Terms and Conditions of Tariff) Regulations, 2009 defined declared capacity (DC) as the capability to deliver ex-bus electricity in MW declared by generating station in relation to any time block of the day or whole of the day, duly taking into account the availability of fuel or water and subject to further qualification in the relevant regulation. CERC vide Regulation 3 (13) further defined the term 'day' to mean 24 hour period starting from 0000 hour.

A review of capacity declaration by DGPS and TPS revealed that the power stations on various occasions had declared DC (in ex-bus MW) on the basis of availability of machines during peak hours, while the number of machines were not available for full day. Audit observed 53 instances where DC were declared despite the machines not being available for full 24 hours. In other three instances, one unit was under shutdown for the whole day in DGPS on 24 April 2009 and 19 December 2009 and another unit in TPS on 15 July 2011, but 100 *per cent* PAF was claimed by these power stations.

Thus by declaring DC on the machines not available for full day, though the power stations had given priority to their commercial interest, the safety of Grid in the event of any contingency was overlooked. NRLDC had also stressed that in case NHPC considered that regulations provided otherwise, it could take up the matter with CERC for clarification. Audit, however, observed that DGPS continued declaring DC even after reservation of NRLDC as per its own interpretation thereby ignoring the concern for Grid safety.

Further, NHPC had not taken up the matter regarding DC with CERC as suggested by NRLDC in 22<sup>nd</sup> meeting of Commercial Sub-Committee.

NHPC stated (February 2015 and August 2015) that the comment raised in Audit has been noted and in future, DC would be given only based on availability of machines.