

Case No.303/05

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Present for :HPSEB :Shri Rahul Mahajan,Adv.
:Shri S S Kanwar,Chairman
:Shri J.C.Sharma,M(F&A)
:Shri D N Bansal,M(O)
:Shri R K Punshi,Dir.(SERC)

Consumer Representative: :Shri P N Bhardwaj

Interim Order

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The additional reply to notice by way of MA No.353/05 has been filed by the respondent Board. In this additional reply the Board has submitted that as per the reply of 29-10-2005 also, the licensee is only liable to comply with the Regulations as averred in HPERC (Security Deposit) Regulations, 2005 under Regulation 7(1) and (2) w e f 30-3-2005. Further in the Commission's order of 31-10-2005 it has been clarified that the interest w e f April to June, 2005 has to be paid by 30-6-2005 on the amount of security as on 31-3-2005. Accordingly the HPSEB has issued necessary instructions to all the concerned to credit the interest to the account of the consumers l for 1-4-2005 to 30-6-2005 vide letter dated 5-12-2005 (Annexure A). The additional reply further contains that no wrongful gain or advantage has been derived or loss or advantage caused to any person including the Commission as there has been no violation of HPERC(Security Deposit) Regulations, 2005.

Shri Rahul Mahajan, the learned counsel for the Board submits that there has been some confusion and misinterpretation of the Regulations and that the Board is prepared and shall credit the interest for the year 2004-05 within a period of 3 months from today as the amount of Rs.4.64 crores has already been allowed by the Commission in the ARR for 2005-06.

Shri P N Bhardwaj, the learned consumer representative refers to sub section (4) of section 47 of the Act and opara-2 of the interim order dated 31-10-2005 whereby the interest on the security has to be paid w e f 10-6-2003, the date of coming into force of the Electricity Act, 2003 and it has to be paid by 30-6-2005 on the amount of security as on 431-3-2005 and after the grace period of 30 days with penal interest at double the rate has to be paid.

Shri Mahajan pleads for waiving of the condition of penal interest at double the rate.

Upon hearing, the Commission observes that notwithstanding the date of coming into force of the HPERC (Security Deposit) Regulations, 2005 the provision of sub section (4) of section 47 came into force on 10-6-2003 and the interest has therefore to be paid from 10-6-2003. However, since the provision was kept in the ARR FY 2005-06 only for an amount of Rs.4.64 crores, being the estimated amount of interest for FY 2004-05 only. The Board should try to pay the interest as per Regulations for FY 2004-05 in the next 2 months but not beyond an outer period of 3 months in respect of interest for FY 2003-04 the Board may file additional revenue requirement for FY 2006-07. In regard to the plea of waiving of the penal rate of interest there is no provision in the Regulations. However, licensee may move a separate application under relevant provisions of law, if any. The Commission would supervise the payment of interest and the reports on the progress of payment of interest on monthly basis should be submitted to the Commission until the payments have been made to all the eligible consumers. The first report should be submitted by the 05-1-2006.

List for 07-01-2006 at 11.30 am (or soon after).

Dated:09-12-2005.

(S S Gupta)
Chairman

