

**ODISHA ELECTRICITY REGULATORY COMMISSION
BUDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SAILASHREE VIHAR
BHUBANESWAR - 751021**

Present: **Shri U. N. Behera, Chairperson**
 Shri S. K. Parhi, Member
 Shri G. Mohapatra, Member

Case No. 79/2021

M/s. GRIDCO Ltd.	Petitioner
Vrs.		
M/s. Power Grid Corporation of India Ltd. & Others	Respondents

In the matter of: **Application under S.94 (1) (f) of the Electricity Act, 2003 read with Regulation 70(1) of the OERC (Conduct of Business) Regulations, 2004 and the provisions of Order 47 Rule -1 of the Code of Civil Procedure, 1908 for review of Order dated 12.08.2021 of the Commission passed in Case No.57 of 2020 regarding payment towards auxiliary consumption for running and operation of Sub-station and energy charges as per actual consumption.**

For Petitioner: Shri Manoj Kumar Das, Sr. GM, GRIDCO Ltd.

For Respondent: Shri Aditya Das, Advocate on behalf of PGCIL, Shri V. Wagle, TPCODL, Shri K. C. Nanda, DGM (Fin.), TPWODL, Shri Binod Nayak, AGM(Comm.), TPSODL, Ms. Malancha Ghose, RA, TPNODL, Shri B. K. Das, Sr. GM (RT&C), OPTCL and the representative of SLDC.

ORDER

Date of Hearing: 05.10.2021

Date of Order: 26.10.2021

The present petition has been filed by GRIDCO Ltd. seeking review of the Commission's Order dated 12.08.2021 passed in case no. 57 of 2020 in the matter of payment towards auxiliary consumption for operation and maintenance of the sub-station of M/s. Power Grid Corporation of India Ltd (in short Powergrid) in Odisha.

2. The Commission in its order dated 12.08.2021 had disposed the Case No. 57 of 2020 filed by the PGCIL with the following observation;

"18. In view of the above statutory provisions, we opine that the provisions in the OERC Distribution (Conditions of Supply) Code, 2019 should be applicable mutatis mutandis to Power grid like any other consumer of the state. Even, the consumer under special category also pays those charges. Therefore, exemption from Supply Code cannot be granted to Powergrid, since it uniformly applies to all categories of consumers. The development of infrastructure inside the substation premises by Powergrid has no relevance in this case, since security deposit, demand charges are

collected to secure the DISCOMs against non-payment of bill and reservation of capacity in the power station which is built in the BSP.

19. Power grid is therefore directed to complete necessary formalities as a consumer, pursuant to Supply Code and deposit the amounts with the DISCOMs as per the said code. The petitioner is technically liable to pay all the charges with effect from the date it actually availed power from the tertiary winding of the transformer as a consumer. However, since the matter was first raised by the DISCOMs/GRIDCO on 02.08.2017, we direct the charges be paid by the petitioner w.e.f 02.08.2017. The petitioner is not required to pay any interest on the arrear amount till date since the matter was in a discussion stage before it was referred to the Commission.

20. Energy drawn by Power grid towards auxiliary consumption in their substations during a month should be considered as drawl by respective DISCOMs from GRIDCO. GRIDCO should have back to back commercial arrangement with DISCOMs for the energy consumed by Power grid from the tertiary winding for auxiliary consumption. Similarly, DISCOM shall recover the charges from Powergrid as a consumer. GRIDCO and OPTCL shall be entitled to get the BSP charge as applicable to each DISCOM and the Transmission charge from the DISCOMs. Further, since the energy is sourced from the Powergrid, GRIDCO will be required to pay the power purchase cost to Powergrid and that will be at the rate of state hydel pooled cost.”

21. Since SLDC is responsible for energy accounting of the state, we direct SLDC to provide station wise auxiliary energy consumption data of the Power grid substations to GRIDCO for the past period.

22. The retail tariff determined by the Commission has a built in component of transmission charges of OPTCL. Therefore, while transmission charge will be paid by the DISCOMs, no transmission charge is payable by Powergrid.”

3. Being aggrieved with the aforesaid order dated 12.08.2021 in case no. 57 of 2020 , GRIDCO has filed the present application for review of the said order on the following grounds:

- a) The Commission in its order dated 12.08.2021 in Case No. 57 of 2020 has directed to pay the charges with effect from Dt. 02.08.2017 for the power availed by Powergrid from the tertiary winding of the transformer in its substations.
- b) In this regard, GRIDCO has submitted that ERPC in its 35th Commercial Committee meeting held on 02-08-2017 had taken the in-principle decision for commercial treatment of auxiliary consumption of Powergrid substations. However, the matter had been firmed up in the subsequent special meeting held on 10-07-2018 and it was decided that the commercial settlement should commence from 23-10-2017. Therefore, it may be proper on the part of the DISCOMs to claim charges towards auxiliary consumption of Powergrid's substations from 23-10-2017 instead of 02.08.2017. Accordingly, Powergrid may be directed to pay the charges towards the auxiliary power consumption by

its Sub-stations to DISCOMs from 23.10.2017 onwards and also DISCOMs may be directed to pay applicable BSP dues to GRIDCO from the same date onwards.

- c) Further, the Commission at para-20 of the impugned order has directed that “xxxxxx.

Further, since the energy is sourced from the Powergrid, GRIDCO will be required to pay the power purchase cost to Powergrid and that will be at the rate of state hydel pooled cost.”

In this regard, GRIDCO has submitted that Powergrid only facilitates transfer of power from the State Grid to National Grid & vice versa. During the process it is tapping certain quantum of power for auxiliary consumption in its substations. Since the interstate settlement towards transaction of power is being based on the metering arrangement installed on the H.V side of the PGCIL substations, the referred energy drawn by Powergrid through tertiary winding of transformers is owned by GRIDCO only. Further, as per the relevance of the matter in the present case, Powergrid functions as the CTU, and it is not allowed to trade and generate electricity as mandated at Proviso-1 of Section 38 of the Electricity Act, 2003. Hence, the Commission’s direction in the impugned order that GRIDCO will be required to pay the power purchase cost to Powergrid is an error apparent on the face of the record. In view of the above, the impugned order dated 12.08.2021 passed in Case No. 57/2020 needs review and appropriate modification by the Commission.

4. In view of the facts and circumstances stated above, the petitioner has prayed the Commission to:

- (i) Review the impugned order dated 12.08.2021 by exercising the power under Regulation 70(1) of the OERC (Conduct of Business) Regulations, 2004 read with Section 94 (1) (f) of the Electricity Act, 2003;
- (ii) Direct Powergrid to pay the charges towards the auxiliary consumption by its Sub-stations to DISCOMs with effect from dt. 23.10.2017.
- (iii) Direct the DISCOMs to pay the charges to GRIDCO with effect from dt. 23.10.2017.
- (iv) Modify Para-20 of the impugned order by considering facts stated in previous paragraph.

5. The authorised representative of Powergrid in its oral submission during the hearing has stated that they are not having any objection for shifting the effective date from 02.08.2017 to 23.10.2017, since the same has been decided in the ERPC meeting. Later, Powergrid in its written submission dated 18.10.2021 has submitted that the issue may be settled in line with decision as agreed in MoM dt.10.07.2018.
6. The representatives of DISCOMs in their oral submission during the hearing have stated that they are not having any objections/views on the matter raised by GRIDCO.
7. Heard the parties and their written submissions are taken on record. The Commission observed that as per Section 94 (1) (f) of the Electricity Act, 2003, this Commission has the same power as are vested with the Civil Court under the Code of Civil Procedure, 1908 in respect of reviewing its decisions, directions and orders among others. As per Order 47 Rule 1 of the Civil Procedure Code, review of an order can be made on the following grounds:
 - (a) Error apparent on the face of the record;
 - (b) New and important matter or evidence which is relevant for the purpose was discovered which could not be produced after exercise of due diligence or if there appears to be some mistake;
 - (c) Any other sufficient reason.
8. In the impugned order dtd. 12.08.2021, the Commission has considered the effective date as 02.08.2017 since the matter was raised in the 35th Commercial Sub-Committee Meeting of ERPC held on 02.08.2017. However, in the instant review petition, GRIDCO has submitted that the matter was discussed time and again in different meetings of ERPC/OCC thereafter and finally the decision was firmed up in the special meeting held on 10.07.2018 to have the commercial settlement on auxiliary consumption with effect from 23.10.2017. The minutes have been drawn and all the stakeholders have agreed accordingly for commercial settlement. The respondents, Powergrid and DISCOMs are of the same view. We, therefore agree to modify the effective date as 23.10.2017 instead of 02.08.2017 for commercial settlement of the charges towards auxiliary consumption by Powergrid.
9. Further, on the issue of payment of power purchase cost to Powergrid by GRIDCO at the rate of state hydel pooled cost, GRIDCO has submitted that Powergrid only facilitates transfer of power from the State Grid to National Grid & vice versa and during the process it is tapping certain quantum of power for auxiliary consumption in

its substations. Since the interstate settlement towards transaction of power is being based on the metering arrangement installed at the H.V side of the PGCIL substations, the referred energy drawn by Powergrid through tertiary winding of transformers is owned by GRIDCO only. Therefore, there is an error apparent on the face of the record in the impugned order which states as under:

“Further, since the energy is sourced from the Powergrid, GRIDCO will be required to pay the power purchase cost to Powergrid and that will be at the rate of state hydel pooled cost.”

10. The Commission taking into account the metering arrangement installed at the H.V. side of Powergrid substations accept that the energy drawn for auxiliary consumption in their substations is sourced from GRIDCO’s account instead of Powergrid. Hence, GRIDCO is not required to pay any charges on this account to Powergrid.
11. In view of the above, we decide to bring the following modifications to our order dated 12.08.2021 keeping all other observations, terms and conditions unaltered.
 - (i) Powergrid to pay the charges towards the auxiliary consumption by its Substations in Odisha to the concerned DISCOMs with effect from 23rd October 2017.
 - (ii) GRIDCO will not pay for the energy drawn by Powergrid through tertiary winding of ICTs in their substations since the settlement towards transaction of power is based on the metering arrangement installed on the H.V. side of the Powergrid Substations.
12. Accordingly, the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson