

"Since the basis for fixing different tariff is not made clear either in the order of the Commission or in any of the documents subsequently filed, the matter is required to be re-determined by the Commission".

2. On receipt of the aforesaid Hon'ble Court's order and in view of its above observation, Commission initiated a proceeding and called upon WESCO to produce facts and evidence in respect of its case. As Commission considered that in the process of re-determination of Bulk Supply Tariff, the Bulk Supply Licensee and all the Distribution Licensees were going to be affected, it directed WESCO to file an application arraying GRIDCO and CESCO, SOUTHCO & NESCO as respondents. It also issued notices to all the respondents for appearance and filing of the respective replies.
- 2.1 As per the above direction of the Commission, WESCO filed an application. All the respondents made appearance in this case. The respondents SOUTHCO, NESCO and GRIDCO filed their written submissions which were taken into record. All the parties were heard on the matter at length and written submissions have been taken into consideration.
- 2.2 It is worthwhile to mention here that after conclusion of hearing on 6.6.2001, a petition was filed on behalf of WESCO to re-open the hearing recalling the order dt.6.6.2001 and to allow it for submission of further materials in support of its case on the contention that the parties were heard only of the question of open remand or limited remand and hence it did not have the opportunity to place all its materials on merits of the case. The said petition filed on behalf of the WESCO was disposed of by order dtd.22.12.2000 in which we have held that hearing having been completed in all aspects on 06.6.01 after reasonable opportunity to all affected parties there was no justification to re-open the case.
- 3.0 WESCO has submitted that the energy charges in respect of the power purchased by it in bulk from GRIDCO ought not to be higher than those in respect of other

three distribution companies. It contends that the principle enunciated in Sec.26(5) that the tariff fixed shall not show undue preference to consumers of electricity is to be respected and that the prohibition contained therein that the tariff fixed shall be just and reasonable has to be followed. It further contends that there is no relevant and substantial ground for fixing a higher tariff for one distribution company compared to other DISTCOs.

- 3.1 WESCO has stated that the sale of energy at EHT does not necessarily increase the profit of one distribution company vis-a-vis sale by other distribution companies at EHT and before enhancing the tariff the Commission should have to take into consideration the profit and loss incurred by WESCO. The Commission should not adopt the alleged profitability of one company vis-a-vis others in fixing the purchase price to be paid in respect of bulk purchase which is contrary to Article 14 of the Constitution and otherwise irrational and arbitrary.
- 3.2 Another point urged by WESCO is that the system is capable of bearing the load uniformly for all types of consumers. In that situation the differentiation and fixation of higher tariff on the basis of higher mix of EHT consumers is arbitrary as the EHT tariff is not different from company to company. The rate of energy charged to a particular class of consumers cannot constitute a valid ground for enhancing the BST of one distribution company while reducing the same in respect of other distribution companies.
- 3.3 WESCO further contends that while considering the application of GRIDCO for determination of BST the Commission should have taken into consideration the revenue requirement of GRIDCO for fixation of tariff and not the profit and loss of the distribution companies just as the profit and loss of DISTCOs are not taken into consideration while determining the BST. Uniform BST has been proposed by GRIDCO and hence differential tariff ought not to be approved by the Commission while determining BST only because the profit and loss of the distribution companies should not be taken into consideration by the Commission.

Moreover, in case the Commission felt it necessary to take into consideration the profit and loss of distribution companies for determination of BST the Commission should have to take into consideration the actual profit and loss and other expenditures and not the calculated figures which are not based on ground reality. WESCO apprehends that because of this the Commission may act on unduly high profit based on wrong calculations of profitability of the company. Fixation of higher BST, as has been done prior to the remand order of the Hon'ble High Court, will cost the company an additional burden of Rs.33.5 crores as the company is purchasing around 2450 MU per annum and the increase in BST rate is 13.7 paise/unit as against the share capital of Rs.48 crores. In this way the share capital will be wiped out and the company may not be in a position to run its business.

- 3.4 WESCO says the Commission in adopting a differential tariff should have to take into account the profit and loss account of the appellant company and it would then find that during the last financial year it has sustained a loss of about Rs.39 crores. During 1999-00 as per the audited accounts, WESCO has sustained a loss of Rs.58 crores even calculating BST @ 85.5 paise/unit. If higher tariff is prescribed by OERC the losses incurred by WESCO would have been higher than Rs.58 crores. As such the company is not in a position to bear the burden of differential and higher BST.
- 3.5 Relying on observations of the Hon'ble High Court of Orissa, in para 13 & 14 of the judgement WESCO contends that the assumption of the Commission before the remand that WESCO is making a huge profit appears to be without any base. There could have been a reduction in retail price on the basis of that presumptive high profit. WESCO states that even if the Commission presumes that the applicant company would earn undue profit it is not proper to resort to differential and higher BST for WESCO. Apparent profitability of the company cannot be the guiding factor for determination of any kind of tariff.

- 3.6 WESCO argues that the Commission while increasing the BST should correspondingly raise the retail supply tariff. While the BST rise would be to the tune of Rs.33.5 crores per annum for WESCO the RST increase would be only Rs.10.5 crores per annum which has to be further completely nullified by allowance of certain concessions, rebates and discounts to various retail consumers. The retail tariff rise granted to the consumers is absolutely illusory and the grant of exemption and relief given to different classes of retail consumers of WESCO results in continuation of the loss sustained by WESCO.
- 3.7 WESCO points out that the Commission had taken into consideration the revenue requirement of WESCO based on certain higher consumption of EHT consumers namely Rourkela Steel Plant. As a result of the order of the Commission in case No.7 of 2000 the billing of RST has been reduced by 87 MU i.e. Rs.24.7 crores during 1999-00. The Commission while re-determining the tariff may take this fact into consideration.
- 3.8 WESCO has stated that the Commission while justifying the differential and higher bulk supply tariff has given some technical rational in para 6.37.4 of the earlier BST order which is incorrect and misleading as loads of all categories of consumers namely LT, HT and EHT consumers have to pass through the EHT system. The EHT system experiences the total load of all consumers in the same manner and it is fallacious to state that higher consumption of electricity at EHT puts higher burden on the system. In reality higher EHT consumption for a company will require comparatively lesser number of EHT/HT transformer substation and as such the Grid company should be required to pay lower and not higher BST as the cost of supply is less for such a company.
- 3.9 WESCO in its submission dtd.06.6.01 stated that no differentiation in tariff to different distribution companies is justified as per clause 26(5)(b) of the OER Act, 1995. While determining the BST the composition of consumers of DISTCOs or the financial capability is not to be considered. The basis can only be clause

26(5)(b) of OER Act, 1995. WESCO has also denied that there is a sound technical rationale behind the differential BST but further states that “it is true that not only consumption of electricity at EHT but also consumption of electricity at HT and LT puts a higher demand on the system as a whole and as the tariff has got a separate demand charge it gets accurately reflected in uniform BST. Therefore, a zone having a higher EHT consumption will pay higher amount as demand charge and no differential rate is justified for such distribution company.” The reference to RST while deciding BST is not relevant and is to be ignored.

- 3.10 WESCO does not deny the powers of the Commission under clause 26(4)(b)(ii) of the OER Act, 1995. However, WESCO stands by its averment that the Commission should not have adopted the alleged profitability of one company vis-a-vis others in fixing a higher differential price to be paid in respect of bulk purchase when in actual fact the company was and is continuing to make losses.
- 3.11 WESCO also submits that the Commission is not justified in introducing cross-subsidy in BST in view of clause 26(4)(b) of the OER Act, 1995. Any differential tariff to be adopted could be only on the actual cost of delivery of power to the respective DISTCOs. WESCO states that the objections held by GRIDCO are liable to be rejected and BST be re-determined.
- 3.12 WESCO also submits that the entire BST order has not been set aside and the directions of the Hon'ble High Court of Orissa is for re-determination of the BST of WESCO alone.
- 3.13 WESCO also in its petition dtd. 14.6.01 stated that the matter has not been heard on merit on any occasion and has been heard only on the question of open remand or limited remand and submitted that the petitioner has not placed all the materials to establish the fact that fixation of higher BST in respect of the petitioner is

illegal and arbitrary and the Commission may be pleased to recall the order dtd.06.6.01 and hear the matter on merit.

- 4.0 SOUTHCO in its submission stated that after fixation of BST for GRIDCO, the Commission determined the revenue requirement of SOUTHCO taking into consideration the BST determined for the company @ 80.70 paise/unit as energy charge and demand charge @ Rs.200/KVA. While determining the RST of SOUTHCO there has been a large gap between the revenue accrual on the basis of the new tariff, and the amount of revenue requirement determined by the Hon'ble Commission. In the present situation if there shall be any change in the BST it would be difficult on the part of the company to recover additional charge from existing consumer and the company is not in a position to bear any such additional burden.
- 4.1 SOUTHCO has to purchase power in excess of the quantum of power purchase approved by the Commission and the company is not in a position to make payment of dues of GRIDCO and huge arrear is outstanding as power purchase liability.
- 4.2 It was claimed by SOUTHCO that under the facts and circumstances stated above, the question of fresh determination of BST for the company does not arise and the company may be excluded from the case while determining the tariff.
- 5.0 NESCO has put forth the same logic as propounded by SOUTHCO and has stated that at the approved rate of BST the company has a huge liability on account of power purchase and due to the problem of liquidity the company had offered power bond to the tune of Rs.167 crores to GRIDCO for which the question of fresh determination of BST in respect of NESCO does not arise and they may be excluded from the case while re-determining the tariff.

- 6.0 GRIDCO in its petition before the Commission on 2nd June, 2001 stated that the High Court of Orissa has remitted back the tariff order for 1999-00 of GRIDCO for re-determination. The Hon'ble Commission has directed WESCO to file a fresh application for the purpose of re-determination of tariff. Filing of such fresh application by WESCO is mis-conceived and cannot be maintainable in law for registration as a new case.
- 6.1 OERC by not accepting in toto the revenue requirement proposed by GRIDCO has grossly jeopardized the interest of GRIDCO by reducing charges which has greatly hampered the revenue of GRIDCO.
- 6.2 GRIDCO stated that the Commission has given reasons for fixation of differential tariff for different distribution companies in paragraphs 6.27.3 to 6.27.27 of the BST order dated 31.12.99 in accordance with Section 26(5)(a) which states that “Any tariff implemented under this Section shall not show undue preference to any consumers of electricity but may differentiate according to the consumers load factor or power factor, the consumers total consumption of energy during any specified period or the time at which supply is required.”
- 6.3 The Commission has justified the fixation of higher energy charges for WESCO considering the legacy of better consumer composition with larger number of subsidising category of consumers and much lesser number of LT consumers with attendant handicaps.
- 6.4 GRIDCO also states that there is a sound technical rational behind the differential BST as approved by the Commission as higher consumption of electricity at EHT puts a higher demand on the system as a whole which does not get accurately reflected in a uniform BST. Therefore, a zone having a skewed EHT consumption should pay a higher BST than other zones.

- 6.5 The Commission has determined the RST equal for all DISTCOs. In the case of WESCO the quantum of energy purchased from GRIDCO would be less in comparison with all DISTCOs since the loss in HT and EHT consumption profile is substantially low. Alternatively it may be argued that the RST will be much lower for WESCO than other DISTCOs. But when the RST has been kept uniform in the entire State it is reasonable and justified that determination of higher BST for WESCO is logical, rational, just and reasonable.
- 6.6 Opposing the averment of WESCO that in the absence of any request by GRIDCO for a differential BST the actions of the Commission is not justified in approving a differential BST, GRIDCO states that the provisions of Sec. 26(4)(b)(ii) empowers the Commission to modify or provide an alternative calculation of the expected revenue from charges which the licensee shall accept.
- 6.7 GRIDCO has pointed out that over the years the fixation of tariff was based on the concept of purpose of supply which has built up a degree of cross subsidy into the tariff structure. In the post reform scenario an attempt has been made to reduce the cross subsidy and gradually change over to a cost based tariff to bring in efficiency and economy in the functioning of the licensee. But application of cost based tariff effectively in near future appears remote and, therefore, the proposal of a lower cost for higher quantum of use as suggested by WESCO appears to be irrelevant.
- 6.8 GRIDCO has submitted that while re-fixing the tariff the Commission may take into consideration the provisions of Section 11(1)(e) of the OER Act, 1995 and may take into account the interest of GRIDCO in so far as its financial sustainability is concerned.
- 6.9 In view of the facts and ground stated above, GRIDCO contends that the application filed by WESCO deserves no consideration and liable to be rejected.

- 6.10 Further, GRIDCO stated that on 17.8.99, a rate of 96.49 paise/unit for all the four DISTCOs as against the then prevailing energy charge of 85.5 paise/unit was proposed in their application dtd.17.8.99 in Case No. 12/99 and the demand charge was suggested to be fixed at Rs.348.98/KVA as against the prevailing demand charge of Rs.200/KVA. The transmission charge then prevailing was 35 paise/unit during off-peak hours and 40 paise/unit during peak hours which was proposed to be increased to 50.8 paise/unit for all hours.
- 6.11 OERC allowed only an increase in energy charges to 99.20 paise/unit for WESCO and reduced the same to 80.70 paise/unit for the other three DISTCOs namely M/s. NESCO, M/s. SOUTHCO and M/s. CESCO. The Commission did not allow any increase of demand charges and the same was retained at Rs.200/KVA. The rate of transmission charges was also reduced from the prevailing rate to 28 paise/unit. While fixing the tariff the Hon'ble Commission ignored the contention of GRIDCO in claiming its revenue requirement and did not also take into consideration some other aspects and the provision of law while fixing the tariff for 1999-00.
- 6.12 GRIDCO will suffer irreparable loss due to huge gap between GRIDCO's revenue requirement and revenue realisable. In view of the aforesaid facts and ground and principle of law the refusal to increase the demand charge, energy charge, transmission charge as proposed is bad in law and hence the orders need re-consideration.
- 6.13 GRIDCO, therefore, prayed that the Commission may be pleased to re-determine the tariff on the basis of the proposal already submitted by GRIDCO on 17.8.99 and the documents, papers already filed in the said proposal in Case No. 12/99 for fixation of tariff for the year 1999-00 and be pleased to accept the rate of tariff already proposed in the said tariff application.

7.0 The Commission heard the arguments of the parties at length giving liberty to the parties to file written submission within three days after the hearing was concluded.

7.1 The Commission carefully studied the observations of the Hon'ble High Court of Orissa in Misc. Cases 51/2000, 97/2000, 70/2000, 97/2000 and particularly the observations in para 13 that "Neither in the order of the Regulatory Commission nor in any of the documents furnished by the counsels representing the GRIDCO or the Commission, it has been indicated as to how WESCO was having 'unduly high profit'.

"It is understood that WESCO as well as other distribution companies are running at a loss. It may be that they themselves have contributed to their losses by not streamlining their administration and by not checking unauthorised use of energy, but the assumption that WESCO was likely to have 'unduly high profit' appears to be baseless. This is not to suggest that the tariff for bulk supply of energy to four distribution companies has to be same every year. Depending upon various relevant facts and circumstances, there may be different tariffs for different bulk suppliers. Similarly, depending upon relevant facts and circumstances, the retail tariff may also vary from zone to zone. These matters being technical in nature are to be decided by the Regulatory Commission, but not in the manner in which it has been done in the present case. If the Regulatory Commission was of the view that WESCO was likely to make more profit, such projected huge profit could have been reduced by reducing the retail price, thus passing on the benefit to at least some of the consumers. If, on the other hand, it is necessary that all the retailers throughout the State are to pay at the same rate, the State Govt. may have to provide for subsidies in accordance with Sec.12(3) or make subventions in accordance with Sec.27 of the State Act."

7.2 The Hon'ble High Court of Orissa have also observed in para 14 that " there is no material provided any where justifying such a reasoning. The basic assumptions

seems to be that WESCO is likely to make a huge profit, which appears to be without any basis.”

- 7.3 Further in para 14 the Hon’ble High Court of Orissa have observed that “If the considerations would have been based only on the ground that for providing electricity at EHT it costs more to the GRIDCO and such a thing could be reflected in the differential tariff, that may be reasonable basis for providing a differential tariff to different distribution companies.”
- 7.4 In para 15 the Hon'ble High Court of Orissa have observed that “Merely because one distribution company is likely to make more profit cannot be a consideration. It is no where contemplated either in the State Act or in the Regulations that a company expected to earn more profit either because of its efficiency or may be, even other factors, is required to pay more and others could be required to pay less. The principles envisaged in Sec.26 of the State Act and Sec.57 of the Electricity (Supply) Act, 1948 and Sixth Schedule of the said Act are to be kept in mind.”
- 7.5 The Commission would like to focus on the various issues that necessitates a differential Bulk Supply Tariff.
- 7.6 In the retail tariff application for the year 1999- 2000, in para 5.1, WESCO proposed that there is a need to earn a reasonable return and to insulate the consumers from sudden increase. The OERC in its tariff paper setting forth principles of tariff setting has recognised that different tariff based on cost difference for different zones could be more efficient and is a natural out come. However, the OERC has also noted that the shifting away from uniform retail rate across the regions violates a maxim of good tariff design that existing consumers should not be surprised by sudden and significant discontinuity in their tariffs.

- 7.7 WESCO, therefore, proposed that for maintaining a uniform retail tariff for itself and its sister companies, namely NESCO and SOUTHCO the revenue requirement could be met for the three DISTCOs, with relatively lower tariff increase in NESCO and SOUTHCO and the additional revenue earned by WESCO can be transferred to NESCO and SOUTHCO through a special appropriation under Sec. XVII(c)(vi) of the Sixth Schedule of the Supply Act, 1948 with the permission of OERC. Alternatively the OERC may consider creating the surplus from WESCO as a revenue subsidy to SOUTHCO and NESCO. The exact mechanism for transferring this revenue subsidy can be crystalised at a suitable time.
- 7.8 As pointed out by the Commission in para 6.37.4 of the BST order dtd.30.12.99 (prior to the remand) while determining BST in accordance with provision of law it has also been designed to retain the traditional uniformity in retail supply tariff all over the State. We would like to observe that even though we have fully re-examined the matter in the light of Hon'ble High Court's observation we have come to the conclusion that it is desirable to retain the traditional uniformity in retail tariff for consumers all over the State than to fix uniform BST for the four Distribution companies.
- 7.9 As regards the issue that the BST is designed to check unduly high profit of some of the companies and to provide comfort to some other companies which could have been disadvantaged by the application of uniform retail tariff combined with uniform BST, WESCO has repeatedly brought out in its petition before this Commission that the company as such is running at loss and the question of profit does not arise. It is pertinent to note that a tariff design is an estimate *for a future period* based on certain assumptions of *future* load growth, level of transmission and distribution loss, pattern of consumption by different consumer groups, the probable expenditure to be incurred by various licensees on different elements of work and also the cost of power purchase which is directly linked to the cost of bulk supply tariff and the volume of energy purchased which is again dependent

on consumption and T&D loss in the system. Therefore, the term “profit” used in the tariff order dtd.30.12.99 refers to the clear profit over and above the reasonable return that the company is likely to achieve *based on the normative benchmark approved by the Commission in accordance with the provisions of Sec.26 of the OER Act, 1995 read with Sixth Schedule of the Supply Act, 1948*. The profit as appearing in the said order is not to be confused with the actual profit or loss (i.e. negative profit) of the company after the end of the year which might have occurred due to inefficiency in its functioning, due to non-achievement of the yardsticks for different levels of expenditure or want of control of loss level as approved by the Commission. As such the accounting profit or loss cannot be considered for the purpose of determination of tariff but the profit has to be calculated on the basis of normative parameters as approved by the Commission as envisaged under provisions of the Sixth Schedule of the Supply Act, 1948. A Company may be making a loss in its real-time accounting but the Commission has to consider profit or loss on the basis of normative parameters for the purpose of tariff design.

- 7.10 The Hon'ble High Court of Orissa have upheld the principle that there can be a differential BST provided adequate justification was demonstrable. The justification comes from the fact that uniform BST for GRIDCO combined with uniform RST for all DISTCOs will yield varying revenues for DISTCOs in their respective zones, this variation being not attributable to efficiency or performance of the DISTCOs but to adventitious circumstances. The DISTCO which reaps greater benefits from its geographical situation may justifiably bear the burden of a higher BST rate for the purpose of meeting the revenue requirement of GRIDCO. Inherent differences existing in the consumer mix of the system from utility to utility gives a difference in revenue realisation with adoption of a uniform retail tariff for each class of consumers through out the State. The Commission while allowing the desired revenue requirement to GRIDCO within the permitted parameters of the Commission determined that the demand charge may be fixed at Rs.200/KVA and energy charge of 85.5 paise/unit in the tariff

order dtd.21.11.98 effective from 01.12.98. If the same tariff would have been applied for the four distribution utility then WESCO would have ended up with a clear profit Rs.30.07 crores over the reasonable return whereas all the other three companies would have ended up with different levels of loss as evident in the table below.

	Clear profit in excess of reasonable return (Rs. in Crores)			
	CESCO	WESCO	NESCO	SOUTHCO
Uniform BST	(-)16.08	30.05	(-) 19.83	(-) 32.34

- 7.11 It has been observed by the Hon'ble High Court of Orissa that a projected huge surplus of WESCO like this could have been reduced by reducing retail tariff price thus passing on the benefit to at least some of the consumers. The Hon'ble High Court of Orissa has further observed that on the other hand, if it is necessary that all the retailers through out the State are to pay at the same rate, the State Govt. may have to provide the subsidy in accordance with Sec.12(3) or make subventions in accordance with Sec.27 of the State Act.
- 7.12 The Commission is of the view that the revenue requirement of DISTCOs arising from uniform RST cannot be divorced from the fixation of the BST rate for GRIDCO as requested by WESCO. The Commission under Sec.26(2) of the Reform Act is duty bound to look into the interest of the consumers and have adopted an approach that was necessary for maintaining efficiency, economy in power supply and attain the objectives as enshrined in the Reform Act and in this perspective accepted the concept of uniform RST for all over the State.
- 7.13 The Commission has already clarified about the necessity of having a uniform retail tariff across the zones, an approach which has been endorsed by the different distribution licensee namely, NESCO, WESCO & SOUTHCO and WESCO requesting that the surplus earned by WESCO may be transferred to SOUTHCO & NESCO, as these companies and the consumers in the licenced

areas of these companies as well as the licenced area of CESCO continue to be subsidised by the various EHT and HT consumers through out the State. A reduced retail tariff for WESCO would mean reducing the level of cross-subsidy now available for the consumers for the State as the shortfall in the revenue realization of GRIDCO will have to be met by a general increase of BST rate applicable to all the four DISTCOs, with the result that a corresponding increase would be required in their RST. This would mean a higher RST which is not considered acceptable immediately in the post-reform regime due to the existence of high dose of cross-subsidy.

- 7.14 While setting differential BST the Commission has to fix a higher bulk supply tariff of WESCO in a manner in which WESCO gets the desired level of reasonable return in accordance with the Sixth Schedule of the Supply Act, 1948 if it operates within the benchmark set by the Commission with regard to the T&D loss, the limits of expenditure on the various components of expenditure. However, the excess over “clear profit” is kept at zero.
- 7.15 It is needless to mention here that the Sixth Schedule of the Supply Act, 1948 in para II deals with the manner of dealing with clear profit in excess of the reasonable return. It states that if the clear profit of a licensee in any year of account is in excess of the amount of reasonable return, one third of such excess, not exceeding 5% of the amount of reasonable return shall be at the disposal of the undertaking. Of the balance of the excess one half shall be appropriated to a reserve which shall be called the tariffs and dividends control reserve and the remaining half shall either be distributed in the form of proportional rebate on the amounts collected from the sale of electricity and meter rent or carried forward in the accounts of the licensee for distribution to consumers in future, in such manner as the State Govt. may direct.
- 7.16 With a uniform BST and uniform RST any clear profit in excess of the reasonable return as indicated in para 7.10 would have been dealt in the manner stated above.

7.17 By adopting a differential tariff as per the table given below WESCO would be allowed its reasonable return and on the other hand the estimated loss (or negative profit) comes down both in case of NESCO, SOUTHCO and CESCO respectively as per the details given below.

	Clear profit in excess of reasonable return (Rs. in Crores)			
	CESCO	WESCO	NESCO	SOUTHCO
Uniform BST	(-)16.08	30.05	(-) 19.83	(-) 32.34
Differential BST	(-) 1.48	0.26	(-) 11.08	(-) 25.90

7.18 The inference that can be drawn from the above statements is that by fixing a higher BST the financial interest of WESCO has not been jeopardised in any manner. The detailed calculations are given as an Annex to this order.

7.19 From the above, it is also clear that some amount of cross subsidy through a higher BST of WESCO is available to the consumers of NESCO, SOUTHCO and CESCO to maintain uniform retail tariff through out the State. Part of the clear profit of WESCO which goes to the revenue of GRIDCO by way of higher BST enables a lower cost of power purchase for NESCO, SOUTHCO and CESCO and hence a lower uniform RST for all the four DISTCOs, benefiting the consumers.

7.20 The following facts are noteworthy

a) Zonal variation like difference in load factor, unequal volume of energy consumption, difference in the time of occurrence of the peak demand from utility to utility, wide variation in HT and EHT loads among the four distribution utilities exists in reality in the power system of Orissa as can be seen from the two tables given below.

DISTCOs	Energy Estimated for sale (MU)	Max. Non-Conventional Peak (MVA)	Time of occurrence	Date of occurrence	System Load Factor (incl. EOUs) (%)
CESCO	3832.12	649.674	19.30	12.7.99	74.82
WESCO	2632.63	504.674	19.30	11.8.99	66.17
NESCO	1845.19	368.301	19.30	25.7.99	63.55
SOUTHCO	1459.12	262.755	19.00	19.7.99	70.44

(M.D. recorded during April to August, 99)

DISTCOs consumption profile

DISTCOs	LT		HT		EHT		HT+EHT (%)	TOTAL	
	MU	%	MU	%	MU	%		MU	%
CESCO	1397.97	44.36%	376.25	30.54%	284.45	22.03%	26.18%	2058.67	36.28%
WESCO	620.52	19.69%	346.14	28.10%	506.00	39.19%	33.77%	1472.66	25.95%
NESCO	548.83	17.41%	299.27	24.29%	387.76	30.03%	27.23%	1235.86	21.78%
SOUTHCO	584.37	18.54%	210.37	17.08%	113.06	8.76%	12.82%	907.8	16.00%
TOTAL	3151.69	100.00%	1232.03	100.00%	1291.27	100.00%	100.00%	5674.99	100.00%

- b) Uniform retail tariff for all the utilities should be maintained.
- c) Uniform transmission and distribution loss figure for all the utilities would be accepted.
- d) Higher consumption of electricity at EHT puts a higher demand on the GRIDCO system as a whole ...

Condition 8.2 of the Bulk Supply & Transmission (2/97) as amended by OERC Order dtd.31.3.99 in Case No. 21/98 issued to GRIDCO provides for use of system services to any user on price or other terms which materially differ from those offered to other users, where such differences reflect different circumstances of service including load factor, power factor, the level and timing of peak demand and any other relevant factors.

7.21 The Hon'ble Court have observed that "If the consideration would have been based only on the ground that for providing electricity at EHT it costs more to GRIDCO and such a thing could be reflected in the differential tariff, that may be a reasonable basis for providing a different tariff to the different distribution companies. However, there is no material provided anywhere justifying such a reasoning. The basic assumption seems to be that WESCO is likely to make a huge profit which appears to be without any basis. The Commission has now anxiously examined the basis of the reasons, assumptions, and facts justifying different BST for WESCO.

7.21.1 In this connection certain facts stated by WESCO need consideration. The statement of WESCO that the sale of energy at EHT does not necessarily increase

the profit of one distribution company vis-a-vis sale by other distribution companies at EHT is not correct. This is because the average revenue per unit will be higher when the EHT component of sale of a company is higher as the revenue realised from EHT sale is much higher compared to the revenue realised from equivalent quantum of LT sale due to attendant losses.

7.21.2 WESCO has stated that the EHT system experiences the total load of all consumers in the same manner and it is fallacious to state that higher consumption of electricity at EHT puts higher burden on the system. WESCO also states that any differential tariff to be adopted could be only on the actual cost of delivery of power to the respective DISTCOs and has argued that it is true not only consumption of electricity at EHT but also consumption of electricity at HT and LT puts a higher demand on the system as a whole and as the tariff has got a separate demand charge it gets accurately reflected in the uniform BST. Therefore, a zone having a higher EHT consumption will pay higher amount as demand and no differential rate is justified for such distribution company.

Even going by the argument of WESCO that the EHT system experiences the total load of all consumers (EHT, HT & LT) yet the Commission proposes not to have a difference in the demand charge but keep it uniform for all the companies at Rs.200/KVA and provide better revenue to GRIDCO through higher energy charges to meet the total revenue requirement of GRIDCO. Drawal of a higher system demand means drawal of costly power from the high cost power station at that point of time and investment in the form of transmission line and sub-stations for meeting such high concentrated loads, and this situation is specific to the zone of operation of WESCO.

The revenue requirement for GRIDCO is to be recovered in the form of demand charge and energy charge from the licensees. It is true one option available is to have a demand charge different from company to company with a uniform energy charge or even a difference in energy charge. At present a variable demand is not

technically feasible. As the method of information collection improves and with introduction of Availability Based Tariff and time of use in the system it will be possible to more accurately determine at which point of time which licensee has been utilising the power system, whether it is helping or loading the system, and based on such facts a cost has to be determined and tariff applied. In the absence of such accurate method of information gathering it has been considered prudent to apply a uniform demand charge and the balance requirement of revenue of GRIDCO has been proposed to be realised through a differential energy charge in BST.

In conclusion we have to state that after fresh examination of all facts and circumstances in the light of directions of Hon'ble Orissa High Court, the Bulk Supply Tariff for the Distribution Companies are re-determined at the same figures and stipulations as in Commissions order dated 30.12.99.

(H.S. Sahu)
MEMBER

(D.K. Roy)
CHAIRMAN

**ORISSA ELECTRICITY REGULATORY COMMISSION
BHUBANESWAR**

Case No.10 of 2001

Date of Order : 31.07.2001

IN THE MATTER OF : Re-determination of Bulk Supply Tariff and Transmission Charges for the year 1999-2000 for M/s Grid Corporation of Orissa Ltd.

ORDER OF RECTIFICATION

Since an inadvertent error has appeared in the 7th line of para 2.2 of the order passed today, it be corrected as follows:-

In the 7th line of the paragraph 2.2 the date mentioned as "22.12.2000" be substituted by "26.06.2001".

This will form as part of the original order passed today.

**(H.S. SAHU)
MEMBER**

**(D.K. ROY)
CHAIRMAN**