

**ORISSA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
UNIT-VIII, BHUBANESWAR-751 012  
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**Present :      Shri D.K.Roy, Chairman  
                     Shri H.S. Sahu, Member**

**Case No.37 of 2001**

Director (Tariff), OERC.	.....	<b>Complainant</b>
- Vrs. -		
Managing Director, CESCO	.....	<b>Respondent</b>

For Complainant	:	Mr. S.K. Jena, Director (Tariff)
For Respondents	:	Mr. L. Pangari, Advocate.

Date of argument :    **18.07.2001**

Date of Order        :    **28.07.2001**

**ORDER UNDER REGULATION 6 (1) OF OERC  
(FINES AND CHARGES) REGULATION, 1999**

1. A proceeding has been initiated by the Commission on 10.07.2001 for violation of Commission's Tariff order dt.19.01.2001 by Central Electricity Supply Company of Orissa Ltd. (CESCO), a licensee for Distribution & Retail Supply.
  
2. It was brought to the notice of the Commission that while preparing electricity bill for the month of February, 2001 in respect of large industry, directions/provisions of Tariff Order dt.19.01.2001 M/s CESCO has not been followed in many respects:
  - (a) Firstly, it was seen that energy charge @ 300 p/u has been applied for entire energy consumption for HT industries without taking into consideration the relief on account of incentive beyond 50% of consumption ratio. As a result of which consumers have been deprived of availing the benefit allowed by the Commission.

- (b) Secondly, rebate of 1% has been calculated on the energy charges only where as the tariff order dt.19.01.2001 provides for rebate of 1% of the amount of the monthly bill (excluding arrears and electricity duty). Thus, the consumers have been deprived of availing the rebate on charges other than energy charge.
  - (c) Thirdly, as per the provision under the tariff order dt.19.01.2001, rebate @ 1% should be allowed if payment is made within 48 hours of presentation of the bill.
  - (d) Fourthly, benefit of waiver of penalty of overdrawal outside the peak hours upto 120% of the contract demand has not been extended to all the consumers availing power supply at HT & EHT.
  - (e) Fifthly, in case of Domestic consumers under Bhubaneswar City Distribution Division, in the bills for the month of January, 2001-February, 2001 the rate for energy charge has been exhibited as Rs.140/unit on the entire consumption i.e. including consumption in January, 2001 which should have been shown Rs.1.20/unit for first 100 units of January, 2001.
3. Further, it was noted that Commission's direction regarding rounding off of the electricity bills to the nearest rupee had not been followed in any of the bills.
4. By a letter dt.24.03.2001, the aforesaid examples as regards violation of Tariff Order dt.19.01.2001 were cited and the licensee was directed to offer parawise compliance to the Commission.
5. CESCO in its reply vide letter No.4784 dt.13.04.2001 submitted, inter alia, that in some cases of large industrial consumers relief on account of incentive beyond 50% of consumption ratio could not be allowed. However, energy bills of these consumers will be subsequently revised against specific complaint.

6. The Commission wrote to CESCO by a letter No.909 dt.04.05.2001 that since as incentive tariff was approved by the Commission for HT and EHT categories of consumers w.e.f. 01.02.2001, all billings should have been done accordingly allowing incentive in appropriate case. The explanation of the licensee that the bills shall be revised as and when specific complaints are received from any consumer is totally undesirable and unwarranted. If any such incorrect billing has been done, then steps should be taken to rectify those bills immediately without waiting for specific complaints and report submitted to the Commission within a fortnight. The licensee was also further directed to ensure that the consumers, who are entitled to get the incentive tariff must not be denied their rights and confirm that billing done according to the tariff approved by the Commission.
7. As the licensee failed to respond to the above letter within the stipulated time, a notice was issued to the licensee in Form-A to OERC (Fines and Charges) Regulations, 1999 to show-cause about non-compliance of the commission's Tariff Order dt.19.01.2001 and letter No.909 dt.04.05.2001 while preparing the electricity bills for the consumers. As an example, defects observed in the consumer bills of two consumers, namely M/s Anand Industries Gases Ltd. and M/s Magnum Fibers Private Ltd., where tariff order dt.19.01.2001 had been violated, were cited. It was indicated to the licensee that as all the bills have been served on computerised format to the industries, all the similarly placed industries would have been affected due to same software. The specific parts of the tariff order containing the directions which appeared to have been violated were contained in the said notice.
8. In response to the aforesaid show-cause notice, the licensee replied in its letter No.9962 dt.17.07.2001 that the disputes relating to M/s Anand Industrial Gases Ltd. and M/s Magnum Fibers Pvt. Ltd. have been resolved. Further necessary correction has been made in the computer software for incorporating all features of the Tariff Order dt.19.01.2001. Beyond this bland statement, no facts regarding any concrete action to remedy the defects pointed out were given nor was any evidence adduced nor supporting affidavit filed.

9. We have heard the arguments of Director (Tariff), who has been impleaded as complainant in the case and of the learned Advocate for CESCO. We are very much concerned about the apparently cavalier manner in which the licensee treats the order of the commission. In the Tariff Order dt.19.01.2001, some concessions have been granted to industries taking supply at Ht & EHT operating at high load factor in the form of lower tariff mainly to boost industrial consumption and attract industries to the State. With present surplus power in the State, it was intended that lower tariff at higher consumption would incentivise the industry to improve their load factor. Besides, rebate of 1% was granted on payment of monthly bill within 48 hours. Further, as the State Grid is experiencing the problems of overfrequency during off-peak hours, waiver of penalty for overdrawal outside the peak hours upto 120% of the contract demand was extended to all the consumers availing power supply at HT & EHT. All these concessions had been prescribed with specific purpose behind them.
10. Instead of extending these benefits to all the consumers, the licensee has only revised the bills of those consumers who have brought the omissions to the notice of the Commission. In its letter dt.13.04.2001, the licensee has reported that energy bills of these consumers will be subsequently revised against specific complaint. The concession granted in the Tariff Order dt.19.01.2001 should have been allowed to all the consumers, irrespective of whether they bring the omission to the knowledge of the licensee. The report of the licensee that energy bills of those consumers will be subsequently revised against specific complaint is totally unacceptable to us. This would lead to the licensee unjustly enriching itself in respect of those consumers who do not complain. Once such incorrect billing has been brought to notice, steps should have been taken to rectify similar bills immediately without waiting for specific complaints. The plea of the licensee in its letter No.9962 dt.17.07.2001 that correction has been made in the billing software for incorporating all features of the Tariff Order dt.19.01.2001 is itself an admission that orders of the Commission dt.19.01.2001 has been violated and they are now being complied after issue of show-cause notice by the Commission.

Moreover, such a statement in the letter has not been supported by an affidavit affirming the statement made in the aforesaid letter. A bald statement of this nature is unacceptable when there is no evidence, documentary or otherwise to show that necessary changes or corrections have been made in the software to ensure compliance with tariff order dt.19.01.2001 on the aforesaid points. It has to be reiterated that no evidence whatsoever has been adduced regarding remedial action to rectify the errors of the type detected and to implement the Tariff order of the Commission fully.

11. There has been a clear violation of tariff order dt.19.01.2001. There has also been violation of the directions of the Commission contained in letter No.600 dt.24.03..2001 and letter No.909 dt.04.05.2001. Therefore we impose a fine of Rs.1 lakh as per Reg.6(1) of OERC (Fines & Charges) Regulations, 1999 read with Part I Sl. No.4 of Schedule of the said Regulation for non-compliance of provisions of Sec. 26 of the Act, payable on or before 10<sup>th</sup> August, 2001. We further direct the licensee to implement fully the Tariff Order of the Commission dt.19.01.2001 and report compliance to the satisfaction by 10<sup>th</sup> August, 2001. The licensee shall also publish an advertisement in the local newspaper (one English & two Oriya with wide circulation at least for two consecutive days), notifying the proposal of such adjustment of excess payments from bills of consumers and submit copies of newspaper announcements to the Commission.

**Sd/-**  
**(H.S. SAHU)**  
**MEMBER**

**Sd/-**  
**(D.K. ROY)**  
**CHAIRMAN**