

**ORISSA ELECTRICITY REGULATORY COMMISSION**  
**BIDYUT NIYAMAK BHAWAN**  
**UNIT-VIII, BHUBANESWAR - 751 012**  
\*\*\*\*\*

**Present : Shri D.C. Sahoo, Chairperson**  
**Shri B.C. Jena, Member**  
**Shri S.K. Jena, Member**

**Case No. 115 of 2004**

**In the matter of :** Approval of Business Plan of WESCO, NESCO,  
SOUTHCO & CESCO

- (1) Western Electricity Supply Company of Orissa Ltd. (WESCO),  
At/P.O. Burla, Dist. Sambalpur
- (2) Southern Electricity Supply Company of Orissa Ltd. (SOUTHCO)  
At/P.O. Courtpetta, Berhampur, Dist. Ganjam
- (3) North-Eastern Electricity Supply Company of Orissa Ltd. (NESCO),  
At/P.O. Januganj, Dist. Balasore
- (4) Central Electricity Supply Company of Orissa Ltd. (CESCO),  
2<sup>nd</sup> Floor, IDCO Towers, Bhubaneswar, Dist. Khurda

.... **Petitioners**

- Vrs. -

- (1) Grid Corporation of Orissa Ltd. (GRIDCO), Janpath, Bhubaneswar.
- (2) Government of Orissa, Deptt. of Energy, Bhubaneswar

.... **Respondents**

For the petitioner No.1	:	Maj. Gen. S.C. Dutta, CEO
For the petitioner No.2	:	Shri N.C. Dash, CEO
For the petitioner No.3	:	Shri R.B. Mishra, CEO
		Shri K.H. Mankad, Director, CSO
For the petitioner No.4	:	Shri S.K. Paikray, CEO
For the respondent No.1	:	Shri R. Misra, Director (Finance)
For the respondent No.2	:	Shri B. Mishra, Jt. Secretary

**Date of argument : 28.10.2004 & 29.10.2004**  
**Date of order : 28.02.2005**

## **ORDER**

The Commission in para 58 of its order dt.4<sup>th</sup> September, 2003 passed in Case Nos.54, 55 & 56 of 2002 directed the three DISTCOs, namely, Western Electricity Supply Company of Orissa Ltd. (WESCO, for short), North-Eastern Electricity Supply Company of Orissa Ltd. (NESCO, for short) & Southern Electricity Supply Company of Orissa Ltd. (SOUTHCO, for short) to submit Business Plan for their effective working consistent with the observations contained in the said order. The DISTCOs were further directed to get the Business Plan discussed and finalised taking into consideration the views of Grid Corporation of Orissa Ltd. (GRIDCO, for short) and the State Government (GOO, for short) before submitting it to the Commission.

2. The Deptt. of Energy, GOO vide its letter No.7186 dt.20.07.2004 intimated the Commission that pursuant to the Commission's order dt.4<sup>th</sup> September, 2003, several round of discussions were held among GOO, GRIDCO & the three Distribution licensees, namely, WESCO, NESCO & SOUTHCO for finalisation of their Business Plan. As no consensus could be reached on the issue of the targeted reduction of AT&C loss over a period of 5 years commencing from the base year 2003-04 and commitment on the part of BSES (Reliance Energy Ltd.) to finance the deficit resulting from shortfall in committed performance, the aforesaid Business Plan could not be finalized and the matter was referred to the Commission vide GOO letter No.7186 dt.20.07.04 for final decision.

3. The Commission in its letter No.1370 dt.12.09.2004 directed WESCO, NESCO & SOUTHCO to submit a realistic Business Plan taking into account the prevalent business environment and future course of action proposed to be taken by them for turning around of the companies. In response to the above, the three DISTCOs submitted their Business Plan on 27/28<sup>th</sup> August, 2004 for approval by the Commission. GRIDCO and GOO represented by the Principal Secretary, Deptt. of Energy were impleaded as respondents in the case.

4. Central Electricity Supply Company of Orissa Ltd. (CESCO, for short), the holder of License "The Orissa Distribution & Retail Supply Licence, 1999 (1/99)" granted by the Commission u/s 15 of the Orissa Electricity Reform Act, 1995 for carrying out the business of distribution & retail supply in its area, also filed a Business Plan on 16.10.2004 for the period from 2003-04 to 2007-08 for approval. On receipt of comments and/or objections on

11.10.04 by the respondents the Commission directed that all these cases relating to the Business Plan of the four DISTCOs, namely, WESCO, NESCO, SOUTHCO & CESCO being analogous in nature, were to be heard combinedly on 28<sup>th</sup> & 29<sup>th</sup> October, 2004.

5. After having heard the petitioners and the respondents, the Commission concluded the hearing on 29.10.04 and reserved its order with a direction to the four DISTCOs to submit the following data:

- (i) AT & C loss calculated combinedly for HT and LT group of consumers showing separately the transmission and distribution loss and the collection efficiency.
- (ii) The revenue calculated on accrual basis from each class of consumers and thereafter determining the cash gap.

These information were to be submitted within a period of 3 days.

6. WESCO, NESCO & SOUTHCO prayed for time till 18.11.04 to comply with the directions given in the order dt.29.10.2004 which was granted, but, the final submission was made on 20.11.04.

7. The aforesaid companies furnished AT&C loss for HT & LT group of consumers showing separately the distribution loss and the collection efficiency for the base year 2003-04 and the target for reduction in distribution loss, improvement in collection efficiency and reduction in AT&C loss on aggregate basis for five years (Annexure-A). Details of revenue deficit and cash flow statement together with a statement of amount billed and collected were given in Annexure-B. CESCO also had submitted its revised Business Plan on 06.11.2004.

8.A. Submissions of DISTCOs on Reduction of AT&C Loss & Restructuring of Existing Liabilities are given below:-

**(AA) Reduction of AT&C Loss:**

- (i)(a) Mr. K.H. Mankad, Director NESCO, WESCO and SOUTHCO made a common presentation and stated that the High Power Committee (Kanungo Committee) appointed by the GOO accepted the overall distribution loss of 42.21% as on 31<sup>st</sup>

March'01 on the basis of submission made by DISTCOs and recommended an annual loss reduction target of 5% over the five year period upto FY 2005-06 and fixed the collection efficiency at 76% in FY 2000-01 to be ascended to 95% in FY 2005-06, which amounts to an average improvement of AT&C Loss by 4% each year. This was accepted in toto by OERC, while passing the tariff order & directing licensees to implement it.

- (i)(b) This aggressive loss reduction target fixed by the Commission could not be achieved due to several factors, such as, slow progress of investments due to delay in receipt of APDRP and World Bank loan, non-relaxation of escrow on timely basis, non-availability of funds for capital investments and maintenance of distribution network, natural calamity, delay in enforcement of anti-theft law, non receipt of payment of energy dues from the Government departments. and undertakings, mismatch in revenue requirement and the revenue realisation due to low tariff hike by OERC.
- (i)(c) The actual loss reduction on an average achieved by the utilities varied between 1 and 3% in a year. In Delhi, the accepted bids for privatisation specified AT&C loss reduction of around 17% in 5 years with an average annual target ranging from 0.5% to 2% for the first two years. The situation in Delhi is in sharp contrast to that prevailing in Orissa where the network is spread far & wide with high level of technical loss due to weak distribution system and general low paying capacity of the population contributing to lower collection.
- (i)(d) During the course of hearing, the GOO and GRIDCO have indicated that they would be willing to consider AT&C loss reduction target of 20% in five years but in view of the aforesaid facts, the AT&C loss reduction target should be fixed at 15% over the next five years considering the year 2003-04 as the base year.
- (i)(e) This 15% AT&C loss reduction over the five years period is linked to fulfillment of certain conditions, like, receipt of funds from APRDP, World Bank, receipt of dues from Government & PSUs, restructuring of past liabilities, law and order support, payment of staff salary, cost reflective tariff etc. The DISTCOs also expect the GOO to set up five police stations and special courts as specified in Electricity Act, 2003 to provide support for anti theft measures undertaken by the DISTCOs.

- (i)(f) The benefit of the reduction of AT&C loss beyond 15% will be utilised for adjustment of the past unpaid/restructured liabilities of NTPC, World Bank and others through amortisation of regulatory asset which would pave the way for faster turn around of Orissa Power Sector.
- (ii) The CESCO submitted the Business Plan to OERC in October, 2004 & later revised and submitted it on 6<sup>th</sup> November, 2004 after taking into consideration the actual performance during the year 03-04 and first six months of the current FY 04-05 to look more realistic. For the purpose of their Business Plan, CESCO have considered FY 02-03 as the base year and proposed 16% AT&C loss reduction over a period of five years starting from the base year by reducing the transmission and distribution loss from the level of 43% to 28% and improving collection efficiency from 71% in FY 01-02 to 85% by FY-08. CESCO has submitted that default on the part of the Govt. & PSUs to the extent of Rs. 205 cr. upto March 2004 has become the major contribution to the low collection efficiency.
- (iii) Further, CESCO submits that for improving collection efficiency, introduction of monthly spot billing since May, 2003, engagement of banks for collection of bills in urban areas, holding of collection camps, monitoring of all disconnections, formation of village committees, micro privatisation etc. have been quite helpful in limiting annual bad debt to 15% of the incremental debtor. However, the projected collection efficiency and reduction in AT & C loss would be achieved subject to the followings:
- (a) The Government and Government PSUs should make payment of their monthly energy bills regularly every month and clear a portion of the arrear dues along with current dues, at least Rs.4-5 crore per month.
- (b) Police Stations should be established at all the districts along with Special Court.
- (c) Adequate support from the government should be made available to CESCO for disconnection of power supply to defaulting consumers.

**(AB) Restructuring of Existing Liabilities:**

The following issues are addressed:

- (i) Outstanding BST dues & DPS
- (ii) Treatment of NTPC dues.

(iii) GRIDCO Loan

(iv) World Bank Loan

(i) **Outstanding BST Dues & DPS:**

(i)(a) WESCO, NESCO and SOUTHCO have proposed reconciliation of outstanding BST dues with GRIDCO and to securitise the reconciled amount after adjustment of the outstanding dues of the Government Departments, Public Sector Undertakings through issuance of bonds at 0% servicing costs. Repayment of current dues of Government Departments and public sector undertakings may be made directly to GRIDCO to liquidate the securitised amount. The amount so paid will be duly recorded in the consumer's ledger & simultaneously corresponding adjustment shall be made against the securitised outstanding power purchase liabilities of DISTCOs.

(i)(b) WESCO, NESCO and SOUTHCO submitted that GRIDCO has availed the benefits of waiver of DPS from the generators in line with the Ahluwalia Committee recommendations. Besides, the actual amount of DPS paid by GRIDCO has been allowed as a pass through in the ARR of GRIDCO. Any additional payment by the Distribution Companies towards the outstanding power purchase liabilities will increase the revenue of GRIDCO thereby leading to reduction in the Bulk Supply Tariff. On the other hand, the same has to be recovered through the Retail Supply Tariff entailing unwarranted accounting entries and objections by the consumers. The DPS to the extent of 60% of the accumulated DPS calculated after considering payments against BST arrears may be waived as GRIDCO had obtained similar waiver from the generators. The DPS amount should carry no servicing costs and will be serviced after all other liabilities are serviced. In case, OERC allows the servicing cost as a pass through in tariff, this will be serviced by the Distribution Companies.

(i)(c) Central Electricity Supply Company in their submission dt.06.11.04 spelt out the outstanding position as on 31<sup>st</sup> March, 2004;

(1) Outstanding BST bill : 633.14 crore \*

(2) World Bank Loan : 228.86 crore

- |     |                          |   |              |
|-----|--------------------------|---|--------------|
| (3) | GRIDCO Loan              | : | 255.46 crore |
| (4) | GRIDCO cap               | : | 174.00 crore |
|     | (including cash support) |   |              |
| (5) | APDRP                    | : | 37.09 crore  |

\* This excludes DPS.

CESCO proposes the following :

- Waiver of DPS by GRIDCO.
- Arrear Government/PSUs dues to be adjusted against BST bill.
- Arrear BST bills as on 31.03.05 to be freezed and will be paid in ten equal annual installments after a moratorium of five years. No interest on DPS to be paid on the arrear BST bill.

**(ii) Treatment of NTPC dues:**

- (ii)(a) WESCO, NESCO and SOUTHCO have submitted that the Commission had allowed securitisation of liabilities as on 28.02.2001 payable to the CPSUs like NTPC and NALCO through issue of new bonds with a direction for servicing of bonds at 8.5% coupon rate in line with recommendations of the Ahluwalia Committee to address the liquidity problem and to facilitate retirement of high cost debt carrying DPS at a rate of 24% per annum. Securitisation of these dues has the advantage of reducing the interest burden to 8.5%. This rate of 8.5% will apply for calculation of interest liability between GRIDCO and DISTCO for the back to back arrangement covering GRIDCO's loans and past bonds.
- (ii)(b) WESCO, NESCO and SOUTHCO have also issued bonds worth Rs.400 crore in favour of GRIDCO which, in turn, has been reassigned to NTPC by GRIDCO. They request that the interest rate in respect of these bonds should be reduced to 8.5% from the original coupon rate of 12.5% as per the tariff order issued by the Hon'ble Commission. They request that the interest of the first three years should be capitalised a minimum moratorium of three years and a minimum moratorium of five years on principal amount of bonds be granted with the provision for repayment of the principals within the minimum period of fifteen years thereafter. These DISTCOs have submitted that while

the issuance of these bonds by the DISTCOs to GRIDCO for further assignment to NTPC in lieu of GRIDCO's outstanding would fetch benefits of securitisation in line with the recommendations of the Ahluwalia Committee, it would ultimately benefit the consumers of the state. Further, the following benefits will emerge out of such assignment :-

- \* Substantial saving on interest cost with reduction in interest rate from 12.5% to 8.5%.
- \* Additional reduction in effective interest rate commensurate with availability of incentive on prompt payment of interest.
- \* Longer tenure for repayment of bonds reducing minimum repayment requirement and consequent revenue gap of DISTCOs.

They have proposed to offer securities to the Government of Orissa for the aforesaid securitisation, as follows.

- \* Recovery through escrow arrangement alongwith GRIDCO BST dues in case of default or
- \* Adjustment of electricity dues payable by Government department to DISTCOs against bonds servicing in case of default.

(ii)(c) These three DISTCOs have filed rejoinder on 11.01.05 stating, inter alia that subsequent to the final hearing on the Business Plan before the Commission on 28<sup>th</sup> and 29<sup>th</sup> of October, 2004, NTPC held discussion with Government of Orissa and GRIDCO regarding restructuring of NTPC bonds. DISTCOs after discussion of the matter with GRIDCO submitted a proposal to GRIDCO which is reproduced in Annexure-C.

(iii) **GRIDCO loan:**

(iii)(a) GRIDCO had transferred PFC/REC loan for creation of assets to the DISTCOs, as PFC/REC were unwilling for assignment of such loans to Distribution Companies. The Distribution Companies are required to service these loans to GRIDCO and GRIDCO in turn, service to PFC/REC. Back to back arrangement was existing between GRIDCO and DISTCO, which was duly, reflected in the tariff orders of the Commission. GRIDCO had



considered the interest on these loans in the ARR for FY 03-04 and the Commission while determining the ARR of GRIDCO and BST for 04-05 has allowed the same as pass through in tariff. The DISTCOs contended that any interest payment to GRIDCO on outstanding loan would increase the revenue of GRIDCO leading to equivalent reduction in BST. DISTCOs propose that this back to back arrangement of interest payment should be dispensed with and recovery of interest from DISTCOs may be effected through the BST. They further propose that PFC/REC loans should be repaid within a period of ten years along with moratorium for a period of three years for the principal to smoothen the effect of stiff tariff hike.

(iii)(b) CESCO submits that interest should be paid @8.5% per annum. The loan should have a moratorium of three years and to be paid in ten years thereafter. No interest is payable during the moratorium period.

(iv) **World Bank Loan:**

(iv)(a) Funds received from the World Bank constitute two components, viz, loan 70% @ 13% interest per annum and 30% grant. The WESCO, NESCO and SOUTHCO request that 30% of the entire loan amount should be considered as grant in conformity with OERC order and State Government notification. There should be minimum moratorium for three years on payment of interest and the interest during the moratorium period should be capitalised. There should be a minimum moratorium of five years on principal amount of the loan with repayment of principal within fifteen years. The DISTCOs propose to retain electricity duty in full for the first two years of the Business Plan i.e.03-04 and 04-05.

(iv)(b) CESCO has submitted that interest on World Bank loan works out to be 9.1% per annum, as 70% being loan component carrying interest @13% per annum and the balance 30% as grant.

**B. GRIDCO's view:**

**(BA) AT&C Loss Reduction:**

(i) The respondent, GRIDCO submitted that 25% AT & C loss reduction over a period of five years starting from FY 03-04 with FY 02-03, as the base year is achievable. It was agreed in the meeting held on 15.01.04 in the Office of the Principal Secretary

Energy, Government of Orissa that as against AT & C loss reduction of 15% assumed over the entire period of five years by DISTCOs, the actual achievement during FY-03 & FY-04 is 6.04% (as per the OERC Review Summary). With that kind of effort, AT & C loss reduction of 25% over a period of five years is easily achievable. Expected addition of a number of heavy industries and Railway traction load within the license area of WESCO will reduce the overall AT & C loss.

- (ii) With collection of outstanding bills along-with current collection, it would be easier to collect close to 100%. AT&C loss reduction recommended by the Kanungo Committee at 7.21% per annum considering 01-02 as the base year is very much feasible with opening of electricity police stations, capital investment through World Bank, APDRP, MNP funds etc coupled with energy audit through 100% feeder and transformer metering.

**(BB) Restructuring of Existing Liabilities:**

**(i) Outstanding BST dues & DPS:**

- (i)(a) The DISTCOs propose to adjust/set off the outstanding dues of Government Departments and state public sector undertakings against power purchase liabilities. GRIDCO did not agree to such a proposal unless the state government acquiesces to pay the amount to GRIDCO on behalf of the DISTCOs.

The proposal to securitise the outstanding BST dues at 0% interest rate repayable in ten years with moratorium of three years for payment of the securitised amount is also not acceptable to GRIDCO as GRIDCO has raised funds carrying interest @ 15-15.25% whereas interest at the rate of 8.5% has been allowed by the OERC. This has left substantial gap on account of interest which has not been passed through in the tariff. However, GRIDCO is agreeable to securitise outstanding BST dues at 10% rate of interest, which was agreed by WESCO, NESCO and SOUTHCO in the meeting dt.15.01.04. GRIDCO is agreeable to waive the DPS, as received by it in proportion to the outstanding BST dues.

- (i)(b) GRIDCO has not been allowed moratorium on repayment of loan taken from the financial institutions for payment of the power purchase liabilities. As the financial institutions have not allowed any moratorium on repayment of loan, GRIDCO is not in a position to allow moratorium on the proposed securitisation of outstanding dues.

**(ii) NTPC dues:**

GRIDCO has submitted that they have no objection to the proposal of rescheduling the NTPC bonds as one time settlement espoused by the Government of India subject to the condition that, the same is acceptable to NTPC as well as the guarantor, the Government of Orissa. Until then, the DISTCOs will be required to service the bonds under the existing terms & conditions unless they provide a guarantee from the owners of the DISTCOs.

**(iii) GRIDCO loan:**

(iii)(a) GRIDCO have submitted that funds for capital expenditure and other expenditures of DISTCOs could be made available against cash credits, private placement of bonds deferring the dues of generators etc. As GRIDCO has been servicing loans raised from different sources, a back to back arrangement has to be accepted by DISTCOs as a sound commercial practice. Charging of interest on the loan taken by DISTCOs from GRIDCO against the GRIDCO's revenue is contrary to the commercial principle and may not be acceptable to various authorities. Therefore, any securitisation may be done at the interest rate of 10% upto seven years tenure without moratorium on payment of interest and one year moratorium on payment of principal.

**(iii)(b) GRIDCO loan (PFC/REC etc.):**

(iii)(b)(i) GRIDCO/OSEB had availed loan from PFC/REC for creation of assets. These loans have been transferred to the Distribution Companies at the time of their transfer. As PFC/REC were unwilling for re-assignment of such loans to distribution companies, GRIDCO has to retain the obligation of serving these loans with a back to back arrangement with the distribution companies for recovery of the loan installments. The loan agreement (s), among other things provide for repayment schedule subject to adjustment after completion of audit of GRIDCO's accounts and the same shall be repaid by the DISTCOs to GRIDCO to enable GRIDCO to repay the loan of REC/PFC.

(iii)(b)(ii) After audit of accounts of GRIDCO upto 31.03.03, GRIDCO has to service the loans outstanding upto 31.03.2003 as per the existing terms. Any waiver/ concessions of such loans have to be taken up with REC/PFC and concessions, if any, shall be passed through the DISTCOs. As against charging of interest at the rate of 15% by

PFC/REC, the Commission has allowed an interest rate 8.5% leading to reduction in revenue requirement of GRIDCO. Therefore, the proposal of waiver of interest on loan is neither acceptable nor it is a sound commercial practice.

**(iv) World Bank loan:**

World Bank loan is required to be passed on 30% as grant and 70% loan at 10.5% interest rate, with an assumption of repayment period of ten year paid half yearly from 2004-05. GRIDCO would have no objection to the proposal of DISTCOs, provided the proposal of DISTCOs is accepted by the Government of Orissa and DISTCOs, loans are transferred from GRIDCO to Government of Orissa account under subsidiary loan agreement. GRIDCO has also objected to shifting stand of the DISTCOs by filing number of Business Plans before the Commission.

**(C) Views of Government of Orissa:**

It was submitted on behalf of the GOO that the Business Plan was discussed at length, with GRIDCO and DISTCOs by the state government on 28.10.03 and 15.01.04. The views of the state government have been reflected in the “Record note of the Meeting of all stakeholders on the Orissa Power Sector Business Plan dt.15.01.04”. The views of the state government in the record note of discussion may be accepted as the comments and objections of the state government for the purpose of the case.

An extract of the aforesaid record note of the meeting relating AT & C is produced below:

**Table - 1**

**(CA) Efficiency parameters**

Sl. No.	Description	DISTCO's Proposal	Agreement/Views/ Comments by Stakeholders
1.	Starting Levels of AT & C Losses for the base year	<ul style="list-style-type: none"> <li>Actual AT &amp; C losses for the FY 02-03 as the starting level in their Business Plan</li> <li>AT&amp;C loss levels used in the Business Plan are 48.2% (WESCO), 51.4% (NESCO), 50.5%(SOUTHCO) and 55.1%(CESCO)</li> </ul>	<ul style="list-style-type: none"> <li>DISTCO's proposal to set FY 03-04 as the Base Year as against DISTCO's Business Plan proposal for accepting FY-03 as Base Year.</li> <li>GOO/GRIDCO for a 25% AT &amp; C loss reduction for five years starting from FY-04, with FY-03 as Base Year.</li> <li>DISTCO's to immediately file before OERC for recovery of past losses for FY-00 and FY-01 on the basis of unrealistic loss levels; this would address substantial amount of the past liabilities.</li> </ul>

2.	AT&C Loss Reduction Path	<ul style="list-style-type: none"> <li>The BSES-owned DISTCOs had committed to a 25% reduction in the AT&amp;C Losses over a 5 year period (from FY-04 to FY-08) in their Business Plan.</li> <li>Annual AT &amp; C Loss Reduction targets of 4.0%, 4.5%, 5.5%, 5.5% and 5.5% in FY-04, FY-05, FY-06, FY-07 and FY-08 respectively.</li> </ul>	<ul style="list-style-type: none"> <li>DISTCO's proposal to fix a benchmark for 25% AT&amp;C loss reduction for a five year period from FY 04-05, comprising 15% as the committed reduction and 10% as reduction against incentives to the DISTCOs.</li> <li>GOO/GRIDCO for a 25% committed AT &amp; C Loss reduction for five years starting from FY-04.</li> </ul>
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**(CB) Restructuring of Existing Liabilities:**

**(i) Outstanding BST dues & DPS:**

- (i)(a) The Government of Orissa, in referring to the record note of discussion on 15.01.04 on the issue of outstanding power purchase payment have expressed the view that 50% of the Government Departments arrears are to be adjusted against the outstanding power purchase dues immediately after reconciliation. This amount can be updated with actual figures after reconciliation between Distribution Companies and the government consumers. The Distribution Companies shall not charge any DPS/interest on the outstanding State Government arrears and as a quid pro quo, GRIDCO will not levy DPS on the BST amount equal to Government Department arrears payable to DISTCOs. Government of Orissa will make good the losses sustained by GRIDCO on these accounts.
- (i)(b) The Government of Orissa concurs with the view that benefits derived from waiver of DPS by GRIDCO should be passed on to the DISTCOs in proportion to their arrear BST dues. DPS has to be calculated as per OERC order dt.4<sup>th</sup> September, 2003. GRIDCO and Distribution Companies shall have to abide by the orders of OERC on the pending application of Distribution Companies.
- (i)(c) It was also agreed that suitable mechanism should be followed/established to monitor and facilitate payment of future government dues and corresponding adjustment be made against State Government dues. Government of Orissa is agreeable to securitisation of the outstanding dues @ 10% which was agreed by the Distribution Companies provided the interest component is allowed as a pass through in tariff by OERC. WESCO, NESCO and SOUTHCO are in the process of auditing the total government arrears which is likely to be completed by February, 2005.

**(ii) NTPC Bonds:**

- (ii)(a) The Government of Orissa is of the view that if the DISTCOs start servicing of these liabilities GRIDCO and the DISTCOs should jointly approach the NTPC for re-securitisation of these bonds. Any benefit available from NTPC should automatically be passed on to the Distribution Companies.
- (ii)(b) The Distribution Companies should service the bonds at the rate of 12.5% and OERC may allow pass through of the actual interest burden.

**(iii) GRIDCO loan:**

In Sl.3 of the record of the meeting of all stakeholders on the Orissa Power Sector Business Plan dated 15.01.2004, it is stipulated that *“agreed by DISTCOs/GRIDCO/Govt GRIDCO loan (REC/PFC) loan to be securitised at 9.5%; any further concession agreed to be passed on to the DISTCOs to be agreed upon by OERC. No moratorium on interest”*.

**(iv) World Bank Loan:**

- (iv)(a) On the issue of World Bank loan, it was submitted that the state government had already communicated officially to Government of India for passing on 30% of the total loans as grant to the company.
- (iv)(b) The state Government also agreed to lend World Bank loans to the DISTCOs as per terms and conditions fixed by GOI approval. Besides, it was agreed that, there would be no moratorium of interest.
- (iv)(c) The said minutes of discussion speak of the following commitment from the DISTCOs/BSES.

*The Agreed Business Plan would be subject to the following:*

- *Proper Security mechanism to meet the shortfall in the agreed annual efficiency improvement targets (reduction in AT&C losses) in full without adding extra cost to the system to the satisfaction of GRIDCO and the State Government*

- *A mechanism to bridge the shortfall would be put in place, in case the regulator allows the interest servicing cost of the loan raised to fund this deficit through tariffs*
- *Induction of new management and professionals at all levels by the DISTCOs*
  - *Agreeable by DISTCOs to induct approx. 50-60 professionals in senior management by end of February 2004.*
- *To arrange for counter-part funding of all capital works -*
  - *Agreeable by DISTCOs provided asset security is made available which can be mortgaged as a first-charge to FIs - GRIDCO has already communicated its no objection to the DISTCOs in respect of un-encumbered immovable assets.*
- *Validity of the shareholders Agreement to be extended for a further period to be mutually agreed between GRIDCO and BSES.*
  - *This issue would be discussed later*

*Since the above package has significant financial implications, it was agreed that this would place before the appropriate forums, including the regulators.*

The record note of discussion submitted by GRIDCO to the Commission vide Case No.115/2004 is placed in Annexure-D.

**(D) Commission's Observations:**

**(DA) General observation on Business Plan**

- (i) The Business Plan of distribution companies deals with several issues having impact on the general tariff of consumers of the State which are best addressed during the course of public hearing on tariff. The Commission has just concluded the tariff hearing for FY 04-05 and FY 05-06 along with host of other issues. In view of this, the Commission decided to throw open the issues relating to Business Plan for discussion and accordingly a presentation was given during the public hearing held in connection with finalisation of ARR for 2004-05 and 2005-06 of all the DISTCOs soliciting the views of all participants. While finalising the annual revenue

requirements and the tariff for the FY 04-05, the Commission has addressed issues like :-

1. **Aggregated Technical and Commercial Loss (AT&C Loss)** that includes (i) fixation of target T&D loss (ii) fixation of collection efficiency.
  2. **Restructuring of financial liabilities** that includes (i) outstanding BST dues and DPS (ii) GRIDCO loan (PFC and REC). (iii) Resecuritisation of 400 crore NTPC bond issue by DISTCOs to GRIDCO.
- (ii) As all the above issues have been discussed in the public hearing on tariff indicated above & order passed in tariff order of 04-05. Extracts of Commission's RST order on the aforesaid issues are taken out from the tariff order for 04-05 in Case Nos.138, 140,142,144 and 146 of 2004 and are as follows :
- (iii) The Commission has perused the written and oral presentations made by the four Distribution Companies as well as the GOO and GRIDCO. All the Distribution Companies, GRIDCO and GOO have different perception about AT & C loss reduction.
- (iv) This composite figure AT&C loss reflects collection efficiency & T&D loss for which the Commission had conducted threadbare analysis of the individual element. However, the Commission agrees with the objectors view expressed in the last public hearing held on 17<sup>th</sup>, 19<sup>th</sup>, 22<sup>nd</sup>, 24<sup>th</sup> and 27<sup>th</sup> January, 2005 as well as with the views of the members of the SAC that the AT & C loss shall serve as an indicator for the purpose of payment of incentive with reference to measurement of performance and levy of penalty and not for the purpose of determination of revenue requirement.
- (v)(a) It is worthwhile to examine the target setforth in various orders & actual achievement with regard to reduction of T& D loss and improvement of collection efficiency of all licensees between FY 98-99 to FY 03-04. The management of WESCO, NESCO and SOUTHCO were handed over to the private companies with effect from 01.04.99 & in case of CESCO it was handed over from 01.09.99.



- (v)(b) The OERC issued the Tariff Order for FY 2002 - 2003 in April 02 and for FY 03-04 in November 03, wherein the target of T&D loss reduction at the rate of 5% and improvement in collection efficiency at 85% for FY 2002 as against 76% recommended by Kanungo Committee was fixed.
- (vi)(a) The T&D loss, collection efficiency reported in the audit report/Management Account and assessed AT & C loss of the DISTCOs during the period from 1999-00 to 2003-04 are given below:

**Table – 2**

	1999-00	2000-01	2001-02	2002-03	2003-04
<b>NESCO</b>					
<b>Distribution Loss (%)</b>	43.35	44.44	51.00	41.38	43.66
<b>Collection Efficiency (%)</b>	79.37	82.12	74.34	81.46	88.11
<b>AT&amp;C Loss (%)</b>	55.04	54.38	63.57	52.25	50.36
<b>WESCO</b>					
<b>Distribution Loss (%)</b>	44.17	43.20	46.44	38.29	39.02
<b>Collection Efficiency (%)</b>	83.36	79.32	79.95	85.40	88.26
<b>AT&amp;C Loss (%)</b>	53.46	54.94	57.18	47.30	46.17
<b>SOUTHCO</b>					
<b>Distribution Loss (%)</b>	41.84	42.52	40.47	39.14	42.44
<b>Collection Efficiency (%)</b>	78.75	83.32	79.29	82.55	84.15
<b>AT&amp;C Loss (%)</b>	54.20	52.10	52.80	49.76	51.56
<b>CESCO</b>					
<b>Distribution Loss (%)</b>	45.68	44.89	48.81	43.03	39.76
<b>Collection Efficiency (%)</b>	70.58	74.93	71.04	78.92	81.18
<b>AT&amp;C Loss (%)</b>	61.66	58.70	63.64	55.04	51.10

- (vi)(b) The achievement by the Distribution Utilities with regard to transmission and loss reduction, improvement in collection efficiency and the resultant of AT & C indicates that the DISTCOs have completely failed to stick to the target set forth by the Commission in spite of scrupulous monitoring and review by the Commission right upto the divisional level. The objectors during the course of tariff hearing without exception have lambasted the DISTCOs for their inefficiency & incapability to carry

out the orders of the Commission. The objectors have strongly refuted the idea of treating AT & C loss determination of revenue requirement except as a measure of performance indicator of the licensees for the purpose of calculation of incentive and penalty at the year end. They hold the view that the concept of transmission and distribution loss should be utilised as an instrument for determination of number of units to be sold to various consumers from year to year and for determination of expected revenue from the charges.

(vi)(c) The DISTCOs, on the other hand, have ascribed a litany of reasons for which they have not been able to attend the parameters set forth by the Commission and Kanungo Committee and prayed that unless the aforesaid parameters are revisited by the Commission it will lead to a state of complete financial bankruptcy as the figures approved by the Commission at the time of setting the tariff order were not based on the audited account but on presumptive calculation of energy purchase and sale which are found to be at variance, necessitating the Commission to have re-examination of the figures based on the available audited figures.

(vi)(d) Some of the members of the SAC in their deliberations in connection with the tariff proposals for 04-05 and 06 were equally vehement in their criticism and stated categorically that the distribution loss, collection efficiency as decided by the Commission during the previous tariff orders should not be revised in order to burden the consumers on account of the inefficiency and mismanagement of the distribution licensees.

(vi)(e)(i) During the course of public hearing on tariff, the CEO, CESCO submitted that inspite of best efforts, arrears against the Government consumers could not be mopped up and it has become an invidious task to disconnect vital installations like water supply in urban areas, hospitals, to cause inconvenience to a large section of the community. Non realisation of Government dues by CESCO has been contributing to a low level of collection efficiency and higher AT & C loss.

(vi)(e)(ii) He also pointed out that the power sector reform in Orissa ushered in cosmetic transformations by handing over assets and liabilities along with all the staff of OSEB/GRIDCO lock, stock, and barrel. It is the mindset of the employees and

officers of such organisation that engender the difficulty in the effective implementation of the reform. Adequate steps have not been taken in the reform era to educate and train these employees for improving consumer services.

- (vi)(f) The Commission takes into consideration the views expressed by the objectors during the course of the tariff hearing, the viewpoints of members of the SAC the observation of the GRIDCO and GOO, the initial projections made by the staff appraisal report of the World Bank in 1996, the recommendation of the Kanungo Committee and its own tariff order from year to year and at the same time the audit reports now available upto the year 02-03 of WESCO, NESCO, SOUTHCO in addition to the loss levels prevalent in various utilities inside the country.
- (vi)(g) The Commission takes into consideration the views of the GOO presented to the Commission of the proceedings of the tripartite meeting dt.15.01.04 accepting the concept of carry over of past losses on account of fixation of unrealistic loss level by the Commission in its previous tariff orders.
- (vi)(h) The staff appraisal report of the World Bank in 1996 envisaged a very high growth of load at EHT in the Orissa system that could have contributed to the deceleration of the overall loss of the power system in Orissa. The projected loss level would have been much higher in the Staff Appraisal Report, had the current level of EHT consumption would have been taken into account.
- (vi)(i) It is also a fact that the analysis of the OSEB T&D loss by the Accountant General, did confirm that the level of T&D loss is far higher than what was being projected by OSEB upto the year 95-96 as the OSEB had the luxury of estimating the unmetered consumption of domestic and other classes of consumers and project a level of loss much lower than the actual. Besides, the GOO provided subvention to OSEB to ensure a minimum return of 3% on its net fixed asset after meeting all expenses on account of operation, maintenance, depreciation, interest as per Section 59 of the Supply Act, 1948, which is totally absent today.
- (vi)(j) The Distribution Companies in the past had failed to produce the audited reports which could have thrown light and helped the Commission in fixing loss target at the

time of determination of tariff. Even, the pilot study for determination of T&D loss took a very long time to be completed. The pilot study is far from satisfactory, from which no definite assessment could be made. The audit report now available with us throws enough light on the status of performance of all these utilities that draws our attention for revisit of the loss figures, collection efficiency etc. which could be compared with figures of other utilities in the country to work out a realistic level of loss and collection efficiency.

(vi)(k) With this observation we proceed for determination of all these parameters. The first step in this direction would be determination of reference year for calculation of AT & C loss.

**(vii) Fixation of Reference Year:**

(vii)(a) In the LTTS order passed by the Commission in Case No.8/03 dt.18.06.03 enunciating the guiding principles for determination of the annual revenue requirement of distribution licensees in the state on a long term basis, it was stipulated that the performance target should meet certain criteria, of which the aggregate technical and commercial loss was to be set at a level that is challenging and yet achievable. This figure of AT & C losses may serve as a benchmark for the purpose of improvement in efficiency in respect of a single licensee over a predetermined period of time. While comparing the performance of the licensees, it may not be very rational unless all the licensees start with a level playing field implying that a non-uniformity in either the level of transmission and distribution loss or collection efficiency fixed in reference year will produce numbers that will lead to nowhere. It is in this context that the setting a reference year assumes significance.

(vii)(b) The Commission in its tariff order dt.19.04.02 approved to set in motion a MYT regime effective from April, 2003 for FY 03-04. In June, 2003, the Commission ordered to treat the first year of the control period FY 03-04 as the transition year. The control period was set to begin from first April, 2003 and end on 31<sup>st</sup> March, 2007, treating the first year of control period FY 03-04 as the transition year.

(vii)(c) The control period set out in the LTTS order should fit into the projected Business Plan period so as to be compatible with measurement of performance parameters like

loss reduction, investment etc. CESCO have proposed to treat the financial 2002-03 as the base year to cover the business for a period of five year thereafter. The Government of Orissa has also toed the similar line and opted for reduction of AT&C during the next five years. As already indicated, fixation of reference year has a lot of significance on the finance of licensees and the consumer tariff, the Commission have to determine the extent of availability of reliable data. WESCO, NESCO, SOUTHCO have proposed to treat the year 03-04 as the base year and to cover business plan for a period for five years beyond 03-04. These companies have submitted their audited accounts upto the FY 02-03, and the tax audit report for FY 03-04, whereas CESCO continue to submit only management accounts.

(vii)(d) The Tax audit report of 03-04 shows a higher level of T&D loss as compared to the year 02-03 in respect of WESCO, NESCO & SOUTHCO. The higher loss is reportedly on account of revision of bills for the previous years which were done on the basis of load factor. No documentary evidence has been supplied by these DISTCOs justifying the extent of upward revision in T&D loss figures. Even if the bills were rectified for a number of years leading to re-estimation of T&D loss, such adjustment should have been carried out in the corresponding years and all accumulated losses should not have been booked to a particular year i.e. 03-04. Therefore, acceptance of the year 03-04 as a reference year will be tantamount to allowing undue advantage to the Distribution Companies for which the Commission considers it appropriate to treat the FY 02-03 as the reference year and accepts the audited figures with regard to distribution loss, collection efficiency for subsequent use.

(vii)(e) The audited figures are available for the FY 2002-03 in respect of WESCO, NESCO & SOUTHCO. They provide authenticated information about T&D loss & collection efficiency which were not available earlier. It will be appropriate to accept 02-03 as the base year to be compatible with our LTTS order and not 03-04 which was supposed be the transitional year in the MYT regime of 03-04 to 06-07 as set out in the Commission's order of June, 2003.

**(viii) Data inconsistency for Estimation of Energy Input:**

- (viii)(a) Data inconsistency by the Distribution Licensees is an endemic disease that exposes lack of Management Information System and incompatibility at the corporate level. WESCO, NESCO and SOUTHCO have submitted their Annual Revenue Requirement for the FY 05-06, anterior to submission of Business Plan. The Business Plan projections cover from 03-04 upto 08-09 whereas Annual Revenue Requirement figures are available upto 05-06. A comparison of 04-05 & 05-06 figures in the Business Plan and Annual Revenue Requirement with regard to energy input presents two different set of figures with wide margins. It is needless to say that in the Business Plan, energy input from 06-07 & 07-08 has been worked out considering the base figures projected for 05-06 by the licensee. Since the Annual Revenue Requirement has been filed at a later date, it would be appropriate to accept the energy figures as appearing in Annual Revenue Requirement to be correct and accordingly, revise the energy input of the Business Plan figures for 05-06.
- (viii)(b) As the Commission has decided to treat the base year 02-03 and cover the Business Plan for a period of five years, all data recasting need to be done only upto the financial year 07-08 and ignore the figures presented by WESCO, NESCO, SOUTHCO for the year 08-09.
- (viii)(c) CESCO has submitted the Business Plan covering the period upto 07-08.
- (viii)(d) Once the energy input for 05-06 in the Business Plan in respect of WESCO, NESCO and SOUTHCO is revised, it will entail consequential revision in the figures of 06-07 & 07-08. To make changes in the figures proposed by these DISTCOs for the FY 06-07 & 07-08, the Commission took into consideration the incremental projection of energy input over the year 05-06 as projected in the Business Plan. This incremental projection was added to the revised 05-06 figure and accordingly, projections were revised for the period from 06-07 & 07-08.
- (viii)(e) The estimated purchase for 04-05 in respect of CESCO is based on the current year's drawl upto the month of December, 2004 and projected for the balance part of the current financial year. CESCO have projected annual rise in purchase @ 60 MU per annum for the succeeding three financial years. Since the figure for 04-05 is expected

to be near the actual, the Commission estimates the requirement of power for the next three financial years, escalating @ 60MU per annum.

(viii)(f) The revised energy input figures calculated in the above manner in respect of four companies for a period of five years is reproduced as under:

**Table - 3**

<b>DEMAND ESTIMATION IN (MU)</b>						
	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
<b>NESCO</b>						
<b>Business Plan</b>		2645.79	2,850.00	2,849.00	2,858.00	2,861.00
<b>ARR</b>	2396.76	2,645.79	2,778.58	3,308.14		
<b>Approved for Business Plan</b>	2396.76	2,645.79	2955.05	3,308.14	3,317.14	3,320.14
<b>WESCO</b>						
<b>Business Plan</b>		3,789.00	3,652.00	3,711.00	3,761.00	3,824.00
<b>ARR</b>	3354.74	3,784.18	4,028.00	4,150.00		
<b>Approved for Business Plan</b>	3354.74	3,784.18	4,028.60	4,150.00	4,200.00	4,263.00
<b>SOUTHCO</b>						
<b>Business Plan</b>		1,607.00	1,638.00	1,698.00	1,754.00	1,818.00
<b>ARR</b>	1556.00	1,607.40	1,630.00	1,800.00		
<b>Approved for Business Plan</b>	1556.00	1,607.40	1,613.31	1,800.00	1,856.00	1,920.00
<b>CESCO</b>						
<b>Business Plan</b>	4056.00	3,900.00	4,140.00	4,200.00	4,260.00	4,320.00
<b>ARR</b>	4055.47	3,899.54	4,140.00	4,200.00		
<b>Approved for Business Plan</b>	4055.47	3,899.54	3,872.88	3930.00	3990.00	4050.00

**(ix) Collection Efficiency for the base year:**

(ix)(a) The Collection Efficiency worked out by the three Distribution Companies and presented to the Commission for the year 03-04 was examined. It is observed that while calculating the collection efficiency for 03-04 except WESCO (in ARR), none of the distribution companies have taken into consideration the billing on account of meter rent, overdrawl penalty, delayed payment surcharge and have not deducted the discount to the consumers on account of rebate as reflected in the Audit Report to arrive at the billed amount. Once this discrepancy is rectified, the collection efficiency for the year 03-04 as projected by WESCO, NESCO and SOUTHCO are required to be revised. However, in case of CESCO, in the absence of audit report, the figures as compiled in the management account have been accepted as 81% for the year 03-04 subject to revision, if required on receipt of audited figures.

(ix)(b)(i) For the purpose of determination of collection efficiency, a few samples were picked up from the recent tariff orders of Karnataka, Uttranchal, Uttar Pradesh, Andhra Pradesh, Jharkhand and Delhi, which shows that the level of collection efficiency has varied between 75% and 100%, an extract of which is given below:

**Table - 4**  
**COLLECTION EFFICIENCY OF OTHER STATES**

	FY-01	FY-02	FY-03	FY-04	All Figures in % Reference
KERC	111.97 (incl.FRP Adjustment)	91.53			Para 3.2 of Tariff Order 2003
UERC		75.23	79.60		Para 1.3.1.3 of Tariff Order 2003-04
UPERC			79.00	82.00	Para 4.17 of Tariff Order 2003-04
APERC	100.00	96.40	98.00		Para 302 of Tariff Order 2003-04
JERC			89.00		Para 4.35 of Tariff Order 2003-04
<u>DERC</u>					
Central East	87.90				Para 4.3.1.2 of Tariff Order 2003-04
South East	90.50				
North West	88.70				



The fixation of collection efficiency has a bearing on the working capital to be permitted to the licensees for carrying out their business which has been highlighted in LTTS order of 18<sup>th</sup> June, 2003(Case No.8/2003, Para 5.6.7), quoted below:

*5.6.7 FINANCING COSTS OF SHORT TERM LOANS/CASH CREDITS FOR WORKING CAPITAL*

*5.6.7.1 "The Commission shall allow interest on approved short-term loans/cash credits based on the forecast for requirements of short-term loans/cash credits to meet working capital requirements.*

*5.6.7.2 Working Capital proposed by the Commission shall cover the shortfall in cash collections beyond the target set for collection efficiency during the control period. This shortfall shall be determined after considering the provisioning for bad and doubtful debt as laid down in para 5.6.3 above. This is a departure from the Sixth Schedule of the Electricity (Supply) Act, 1948, which defines working capital only in terms of cash in bank and stores.*

*5.6.7.3 No adjustments in the Annual Revenue Requirements shall be made for variations in actual and forecast values of interest costs on short-term loans/cash credits."*

*"For the purpose of LTTS network and financing costs and aggregate technical and commercial (AT & C losses are considered as control level)". The Commission also have taken the view while determining the LTTS principles in para 4.2 of the aforesaid order that "any financial loss arising from the performance falling short of the target in these years will, normally, not be recoverable to tariffs. Similarly any financial gain arising from performing better than targets will not be adjusted against revenue requirement, and licensees will retain such gains during the control period."*

(ix)(b)(ii) Determination of collection efficiency of the utilities requires an analysis of the revenue requirement permitted to them from year to year. In accordance with the OERC (Terms & Conditions for Determination of Tariff) Regulation, 2004, the expenditures should cover the following items:

- (i) Cost of Power Purchase
- (ii) Financing Costs
- (iii) Working capital, which will include O & M expenditure for one-month amount equivalent to 1/6<sup>th</sup> approved annual requirement.
- (iv) O&M expenditure.
- (v) Provision for bad debt
- (vi) Depreciation
- (vii) Return on Equity

(ix)(b)(iii) Out of 100% of the revenue requirement as a prudent industrial practice 2.5 % could be excluded towards bad debt leaving 97.5% to include all the cash and non cash expenditures like depreciation as well as return on equity. The Commission in the LTTS order dated 18<sup>th</sup> June, 2003 has specified return on equity to be calculated at 16% of the equity base. In fact, this ROE works out to around 1.2 to 2.1% of the revenue requirement for the FY 03-04 as approved by OERC. Once, we exclude the bad debt 2.5% and the permitted ROE, the balance amount will cover other expenses including depreciation. The following examples illustrate the issue.

**Table - 5**

FY-03-04	NESCO	WESCO	SOUTHCO	CESCO
Bad debt	2.5%	2.5%	2.5%	2.5%
ROE	2.12%	1.15%	1.77%	1.48%
Total	4.63%	3.65%	4.27%	3.98%
Balance	95.37%	96.35%	95.73%	96.02%

(% of Revenue Requirement)

- (ix)(b)(iv) NESCO, if collects 95.37% of the Revenue Requirement, it will be in a position to meet the requirements of the business except the return on equity and bad debt. WESCO with a ROE of 1.15% will be required to attain higher level of collection efficiency of 96.35% to meet all expenses of business including depreciation but excluding ROE.
- (ix)(b)(v) No Company has been able to achieve collection efficiency of 95.4% plus in the past years for which the Commission had approved the concept of carrying charges for financing the gap between the permitted collection efficiency & the collectable revenue excluding bad debt on pragmatic considerations. For example, if the collection efficiency is fixed at 90%, then the shortfall from the revenue Requirement above 90% can be treated as additional working capital to be financed by the licensee to carry out the running of the business. For this investment, the licensee shall be allowed the carrying charges at appropriate bank rate for a period of two years beyond the financial year to which the claim pertains as the Electricity Act gives margin for collection of arrears upto two years. This target is attainable provided the utility collects the entire revenue requirement except the bad debt of 2.5%.
- (ix)(b)(vi) If the utility is efficient enough to collect the revenue beyond the level of 90% there will be reduction in the requirement of additional working capital and the saving in carrying charges comes as an incentive to the investors & gives them an additional return over and above the permitted ROE.
- (ix)(b)(vii) If they collect below 90% the extent of shortfall will be financed by the investors and in the process, they will be loosing return on equity. Utilities collecting in excess of 97.5% earns additional revenue over and above the permitted ROE which should incentivise them to reduce the bad debt.
- (ix)(b)(viii) In-fusion of additional working capital binds the utility down to collection of revenue in excess of the normative collection efficiency fixed so as to get back the principal of the additional working capital early.
- (ix)(b)(ix) Fixation of parameters for collection efficiency will thus have an impact on determining the working capital requirements as well as incentives which could be earned by the licensees for better performance.

- (ix)(b)(x) An understated performance level fixation can deprive the consumers of legitimate benefits. On the contrary an ambitious fixation of target may not be helpful for sound financial running of the business by the licensee. In view of this, it is extremely important that a balance approach has to be adopted allowing reasonable level of comfort both to the consumer as well the licensee in the best interest of power sector in Orissa.
- (ix)(b)(xi) The dismal performance of the distribution licensees can not be a criteria for fixation of lower benchmarks for the future years. In this context, it is interesting to notice that some of the utilities outside Orissa under the state sector have achieved collection efficiency as high as 100% whereas the privatised licensees in Orissa have registered collection efficiency varying between 81% and 88%. This is highly un-satisfactory and it is expected that these distribution licensees shall put in their best efforts to achieve the target set forth by the Commission for which performance is being linked to penalty and incentive.
- (ix)(b)(xii) The break up of the number of consumers, pattern of consumption, is given in the table below:

**Table - 6**

Licensees	No. of consumers as on 01.04.04			% of consumption during April-Sept, 2004		
	LT	HT	EHT	LT	HT	EHT
NESCO	435011	390	8	36.32	18.69	44.99
WESCO	434247	312	14	28.15	23.14	48.72
SOUTHCO	435472	79	12	63.15	20.53	16.32
CESCO	823389	481	10	65.33	18.85	15.82

- (ix)(b)(xiii) As evident and from the table, the scale of high percentage of billing at LT is tilted in favour of CESCO and SOUTHCO, whereas, the percentage of billing at HT and EHT together is the highest in case of WESCO (71.86%) followed by NESCO (63.68%).
- (ix)(b)(xiv) Taking this factor into consideration, the billing efficiency has been fixed in respect of DISTCOs.

- (ix)(c)(i) Verification of records and submission by NESCO indicate a level of collection efficiency at 92% for the current year. Their target for collection is fixed at 93% for FY 05-06 and 94% for the next two years.
- (ix)(c)(ii) As, WESCO has a higher component of EHT load and they have achieved 90.23% collection efficiency upto December, 2004, they should be in a position to reach 94% collection efficiency @2% each year (over 90% rounded) and reach 96% during the year 2007-08.
- (ix)(c)(iii) Collection efficiency of SOUTHCO upto December, 04 in the current year is 89.00%. SOUTHCO like CESCO has predominant LT load. Thus, SOUTHCO should raise its level of collection efficiency @ 2% per annum to attain 91% in 05-06, 93% in 06-07 and 94% in 07-08.
- (ix)(c)(iv) In respect of CESCO, audited figures are not available and based on the management account, the collection efficiency is 81.18% for the year 2003-04. Their collection efficiency can definitely register significant improvement in urban and semi-urban areas coupled with realisation of arrear Govt. dues. Upto December, 04, the collection efficiency is reported to be 82%. CESCO in the ARR filing had proposed 82% collection efficiency for 2004-05. Taking this yardstick, it will not be impossible to achieve 83% collection efficiency in the current year as three months are left to be covered. As such the target for collection efficiency in respect of current year has been pegged up to 83%. CESCO is being assigned the target of collection efficiency of 92% at the rate of 3% per annum by the year 07-08.
- (ix)(c)(v) Collection Efficiency will be calculated on the basis of current year 's billing and current year's collection. This must be exhibited accordingly in the bills.

- (ix)(c)(vi) Based on the above observations, the collection efficiency as approved by the Commission along-with the projections are given in the table below:

**Table - 7**

<b>COLLECTION EFFICIENCY ( % )</b>						
	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
<b>NESCO</b>						
<b>Business Plan</b>		90.00	91.00	92.00	93.00	93.50
<b>ARR</b>		93.69	94.00	93.00		
<b>Approval</b>	81.46	88.11	92.00	93.00	94.00	94.00
<b>WESCO</b>						
<b>Business Plan</b>		85.30	87.30	89.30	90.80	92.30
<b>ARR</b>		88.26	89.29	89.68		
<b>Approval</b>	85.40	88.26	90.00	92.00	94.00	96.00
<b>SOUTHCO</b>						
<b>Business Plan</b>		83.75	85.75	87.75	89.25	90.75
<b>ARR</b>		86.91	88.00	91.72		
<b>Approval</b>	82.55	84.15	89.00	91.00	93.00	94.00
<b>CESCO</b>						
<b>Business Plan</b>	79.00	81.00	82.00	83.00	84.00	85.00
<b>ARR</b>		81.00	82.00	83.00		
<b>Approval</b>	78.92	81.18	83.00	86.00	89.00	92.00

- (ix)(c)(vii) While we fix the level of collection efficiency as stated above, we are conscious of the fact that the distribution licensees have been still complaining about the non- receipt of government funds and dues of the PSUs thereby seriously jeopardizing the level of collection efficiency. We do hope that the government departments and PSUs shall pay the dues of the distribution companies on regular basis so that other consumers are not burdened. This is more relevant in the context of non-payment of any kind of subsidy to the electricity sector by GOO which brings the entire burden of meeting the financial requirements by the consumers alone. The licensees in fulfillment of their license obligations should not discriminate among consumers. It should take appropriate action for recovery of Government dues including timely

disconnection of defaulting Government consumers to reach the target of collection efficiency, as fixed by the Commission.

**(x) Transmission & Distribution Loss:**

(x)(a) Coming to the level of reduction in distribution loss, the Commission had prescribed the reduction of losses at the level of 5% per annum in accordance with the recommendations made by the Kanungo Committee, through public hearing of tariff proceedings.

(x)(b)(i) All the licensees, namely, WESCO, NESCO, SOUTHCO and CESCO have submitted actuals of T & D loss against the target set forth by the Commission and have expressed their inability to reach the target recommended by the Kanungo Committee citing several reasons including their incapacity to make any investment due to lack of surplus revenue as well as the absence of any kind of support from the government like anti theft measures by establishment of special police stations and special courts, as envisaged in the Electricity Act, 2003.

(x)(b)(ii) The Commission has been persistently carrying out the revenue and performance review of the distribution companies on bi-monthly basis including the performance of the divisions for each of the four distribution licensees particularly with regard to the installation of meters at the premises of the consumers, metering of distribution transformers, feeders and energy audit to prevent pilferage of energy, accountability fixed at the appropriate level for billing and collection improvement and loss reduction. During the last review of the Distribution Companies upto September 04, it was noted that meters have been fixed in the premises of the consumers to the extent of more than 90% and 81% in feeders. However, it is observed, that they have not achieved appropriate reduction in the level of distribution loss, primarily because the meters which they reported to be as working are either not working or tampered or bypassed or large scale hooking from bare overhead lines continues. This causes serious concern. They have not yet been able to set up full proof energy audit cell, monitoring input and output at the distribution transformers to assess the loss & fix accountability & responsibility against errant officials. The special courts have not been established about which the DISTCOs are continuously complaining.

Establishment of such institutions with support of the state alone can prevent hooking from direct lines by unscrupulous consumers. The licensees should put in place an effective monitoring mechanism for assessment of loss for supply from each distribution transformer & continue with their efforts for prevention of theft & un-authorised abstraction of power from over headlines.

- (x)(c) The percentage of transmission and distribution loss including energy un-accounted for in the state and union territories (published in the economic survey of 03-04 by Government of India) in the table below depicts loss levels of states in the year 92-93 and 01-02. The figures indicate very unsatisfactory level of loss prevalent throughout the country including Orissa. So much so, there are 16 states with loss percentage varying between 33.83% to 62.35% as on 01-02.

**Percentage Transformation, Transmission & distribution  
Losses (including energy unaccounted for) in states/Uts**

(Per cent)

Rank	State	1992-93	2001-02
1	Daman & Diu	15.67	7.52
2	Lakshadweep	18.72	10.94
3	Pondicherry	15.31	12.00
4	Tamil Nadu	17.3	16.06
5	Meghalaya	11.62	22.66
6	Chandigarh	26.21	24.97
7	Goa	21.85	25.18
8	Himachal Pradesh	19.98	25.55
9	Jharkhand	-	26.39
10	Andhra Pradesh	20.65	26.81
11	Gujarat	22.2	26.87
12	D&N Haveli	17.98	27.22
13	Punjab	19.61	27.70
14	A & N Insland	23.62	29.20
15	West Bengal	17.53	31.67
16	Sikkim	22.55	31.73
17	Kerala	22.77	32.21
18	Uttaranchal	-	32.39
19	Chhattisgarh	-	33.75
All India		21.8	33.98
20	Karnataka	19.62	33.83
21	Maharastra	18.51	37.28
22	Uttar Pradesh	24.68	37.62
23	Haryana	26.78	39.22
24	Tripura	30.64	40.38
25	Assam	21.41	42.78
26	Rajasthan	22.71	43.06



27	Delhi	24.02	43.97
28	Madhya Pradesh	22.52	44.55
29	Orissa	25.87	47.34
30	Jammum & Kashmir	48.13	48.85
31	Mizoram	29.04	49.77
32	Bihar	17.15	51.70
33	Nagaland	27.26	52.32
34	Arunachal Pradesh	32.32	53.58
35	Manipur	22.35	62.35
Source:DMLF Division, CEA (General Review)			

- (x)(d) A comparison of T&D loss between 1992-93 and 2001-02 shows upward mobility of T&D loss figures in at least 16 out of the 35 states where, reform and restructuring of the power sector has been implemented. This is perhaps due to adoption of improved method of loss assessment including installation of meters in the consumer premises, feeders and transformers and withdrawal of subsidy/subvention available to those utilities from the Government which provided them a cushion to report lower level of loss on account of consumption by unmetered consumers.
- (x)(e) Audit reports for the past four years i.e., from 1999-00 to 2002-03 are available in respect of WESCO, NESCO and SOUTHCO (Table 2) which reflect level of loss much higher than what was approved in the tariff orders. During the course of our review, the Commission observe that a good percentage of consumers today have been provided with meters. The Kanungo Committee which was constituted to suggest midcourse correction for power sector reform in Orissa had adopted a loss figure of 42.21% in transmission and distribution only excluding the loss in EHT transmission system. From the year 01-02 onwards, the OERC have been adopting the loss figures recommended by Kanungo Committee, which was based on the submission by the Distribution Companies. It is most unfortunate to observe that the Distribution Companies have miserably failed to live upto their own expectation of reduction of the loss level they projected in the year 01-02 before the Kanungo Committee. Therefore, taking all these factors into consideration, it has now become imperative to fix very firmly the target for reduction of loss to be scrupulously followed by the Distribution Companies.

- (x)(f) It will not be out of place to go through the extract of the National Electricity Policy issued by the Government of India published in February, 2005 on Transmission and Distribution loss is reproduced below:

*“5.8.10 It would have to be clearly recognised that power sector will remain unviable until T&D losses are brought down significantly and rapidly. A large number of states have been reporting losses of over 40% in the recent years. By any standards, these are unsustainable and imply a steady decline of power sector operations. Continuation of the present level of losses would not only pose a threat to the power sector operations but also jeopardize the growth prospects of the economy as a whole. No reforms can succeed in the midst of such large pilferage on a continuing basis.*

*The state governments would prepare a five year plan with annual milestones to bring down these losses expeditiously. Community participation, effective enforcement, incentives for entities, staff and consumers, and technological upgradation should form part of campaign efforts for reducing these losses. The Central Government will provide incentive based assistance to states that are able to reduce losses as per agreed programmes.*

*5.4.6 A time-bound programme should be drawn up by the State Electricity Regulatory Commission (SERC) for segregation of technical and commercial losses through energy audits. Energy accounting and declaration of its results in each defined unit, as determined by SERCs, should be mandatory not later than March 2007. An action plan for reduction of the losses with adequate investments and suitable improvements in governance should be drawn up standards for reliability and quality of supply as well as for loss levels shall also be specified, from time to time, so as to bring these in line with international practices by the year 2012.”*

- (x)(g) The DISTCOs purchase power from the bulk supply and transmission licensee, i.e. GRIDCO. The EHT consumers are directly fed through EHT lines, where as other consumers are served through 33 KV, 11 KV and LT supply. The Energy Billing Centre (EBC) of GRIDCO integrates the total power drawn from a particular grid substation through EHT, 33 KV and 11 KV.
- (x)(h) The Transmission and Distribution network of all the DISTCOs more or less are similar in nature as they have been created out of a single entity i.e. OSEB obviously, there can not be large variation in the level of technical loss. It is the component of EHT load and the commercial losses that differentiates the loss level of various DISTCOs.
- (x)(l) The loss reduction trajectories proposed by the distribution companies are also examined. The DISTCOs have to make up during the coming three financial years i.e. in 05-06, 06-07 and 07-08. Their proposal is given below:

**Table - 8**

	<b>NESCO</b>	<b>WESCO</b>	<b>SOUTHCO</b>	<b>CESCO</b>
Target of reduction during 05-06, 06-07 and 07-08	8%	6.17%	6.42%	10%
Target of loss in 07-08	30.72%	28.03%	30.03%	28%

- (x)(m) The proposal submitted by NESCO, WESCO and SOUTHCO are very conservative for loss reduction. As such, they have to attain higher loss reduction. CESCO has proposed 38% distribution loss in 2004-05, which is found to be more than 39%.
- (x)(n) Therefore for fixation of target for T & D loss levels the Commission have examined transmission and distribution loss level in various electrical utilities throughout the country and also examined the performance of Orissa utilities for the last five years as found from their audit report/management account as indicted in the Table-2. We have considered the loss level under OSEB/GRIDCO in 1996-99 at the time of transfer of assets to GRIDCO/DISTCOs. We have also examined the prevalent loss level of CESCO an undertaking being managed by an administrator appointed by OERC since August, 2001.

(x)(o) After having examined all these facts and figurers, we direct that all the DISTCOs should reduce the transmission and distribution loss each year at least @ 3% per annum in the ensuing three financial years i.e. during 05-06, 06-07 and 07-08. Accordingly, it is directed that the following level of loss shall be attained by the four DISTCOs during the FY 07-08.

NESCO	29%
WESCO	25%
SOUTHCO	30%
CESCO	30%

(x)(p) The targeted T&D loss reduction for the Control period, as proposed by the DISTCOs and as approved by the Commission is given in the table below:

**Table - 9**

<b>DISTRIBUTION LOSS ( % )</b>						
	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
<b>NESCO</b>						
<b>Business Plan</b>		43.63	38.70	36.12	33.59	30.72
<b>ARR</b>		43.66	40.58	36.63		
<b>Approval</b>	41.38	43.66	38.00	35.00	32.00	29.00
<b>WESCO</b>						
<b>Business Plan</b>		39.09	34.20	32.34	30.15	28.03
<b>ARR</b>		39.02	35.96	32.65		
<b>Approval</b>	38.29	39.02	34.00	31.00	28.00	25.00
<b>SOUTHCO</b>						
<b>Business Plan</b>		42.44	36.45	34.45	32.21	30.03
<b>ARR</b>		42.47	39.77	37.30		
<b>Approval</b>	39.14	42.44	39.00	36.00	33.00	30.00
<b>CESCO</b>						
<b>Business Plan</b>	43.03	39.76	38.00	34.00	30.00	28.00
<b>ARR</b>		39.76	38.00	34.00		
<b>Approval</b>	43.03	39.76	39.00	36.00	33.00	30.00

(x)(q) As we have already approved the level of collection efficiency & distribution loss in respect of four DISTCOs, the level of AT&C loss from year to year is presented in a tabular form giving the proposed and approved figures from 04-05 to 07-08.

**Table - 10**

<b>AT&amp;C LOSS ( % )</b>						
	<b>2002-03</b>	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
<b>NESCO</b>						
<b>Business Plan</b>		49.27	44.22	41.23	38.24	35.23
<b>ARR</b>		47.22	44.14	41.06		
<b>Approval</b>	52.25	50.36	42.96	39.55	36.08	33.26
<b>WESCO</b>						
<b>Business Plan</b>		48.04	42.56	39.58	36.58	33.57
<b>ARR</b>		46.18	42.82	39.60		
<b>Approval</b>	47.30	46.18	40.60	36.52	32.32	28.00
<b>SOUTHCO</b>						
<b>Business Plan</b>		51.79	45.50	42.48	39.50	36.50
<b>ARR</b>		50.00	46.99	42.49		
<b>Approval</b>	49.76	51.56	45.71	41.76	37.69	34.20
<b>CESCO</b>						
<b>Business Plan</b>	55.04	51.21	49.16	45.22	41.20	38.80
<b>ARR</b>		51.21	49.18	45.22		
<b>Approval</b>	55.04	51.10	49.37	44.96	40.37	35.60

(xi)(a) The sale at EHT along with total sale has been projected by the various distribution companies. The loss at EHT is considered zero as distribution companies purchases power at EHT bus. Non maturing of EHT loads during the first five years has created havoc in various estimates proposed in the Staff Appraisal Report of World Bank in April, 1996. To be fair to everybody, the Commission directs that any wide fluctuation in EHT consumption will be given due consideration at the time of revenue requirement from year to year while re-estimating, if deemed necessary the AT&C loss levels for performance measurement.

(xi)(b) The AT&C loss shall be the criteria for determining the performance of the distribution companies that provides them the latitude for improvement in either or both in distribution loss and collection efficiency. However, the distribution loss need

to be taken into consideration in assessing sale from year to year while determining the Annual Revenue Requirement.

**(xi)(c) Incentive for improved AT&C loss**

After having determined the AT&C loss from the Business Plan period for the purpose of measurement of performance of different distribution companies we would like to observe that there could be possibilities when the DISTCOs perform better and improve upon than the parameters fixed by the Commission and earn incentives. To allay the apprehension of the consumers about runaway profit earned by the DISTCOs, the Commission would stick to the provisions regarding treatment of profit more than the approved return on account of improved performance in Clause 5, sub-clause 5(H) of OERC (Terms & Conditions for Determination of Tariff) Resolution, 2004 which is quoted hereunder:-

*"Profit Sharing: (a) the licensee will be provided with an approved return at the beginning of the period under review. (b) However, the licensee, if it makes more profit than the approved return on account of improved performance, the Commission shall treat the profit beyond the approved return in the following manner;*

- (i) In case, one-third amount to be declared by the licensee as dividends to the shareholders, is not paid out as dividend, it shall be eligible to be treated as part of equity to that extent and earn returns on the same. Any future declaration of dividend from this shall lead to commensurate decrease in the equity base for the purpose of returns.*
- (ii) One-third amount to be returned back to consumers by way of reduction in the consumer bills as rebate.*

*One-third amount shall be kept as tariff balancing reserve, which shall be used to reduce sharp rise in ARR in future years. The Commission may allow a part of the total reserve to be returned back to the consumers every 3 years by way of reduction in ARR. The amount in*

*tariff balancing reserve shall not be eligible to be treated as part of equity and would not earn any return for the shareholders. Any return earned on this reserve shall be added back to this reserve."*

**(DB). Restructuring of Liabilities:**

**(i) Outstanding BST dues & DPS:**

- (i)(a) The Commission perused the submissions made by the Distribution Companies, GRIDCO and the Government of Orissa. The Commission in its order of 4<sup>th</sup> September, 2003 had suggested that *"the outstanding dues of State Government and PSUs should be paid by the State Government directly to GRIDCO to clear the NTPC arrears dues payable by DISTCOs. The balance amount may be serviced by directly paying GRIDCO, current dues of the State Government and Government Undertakings by the State Government."* After examination of financial liabilities of all licensees, the Commission modifies the aforesaid order to the following extent.

**(i)(b) Action plan for repayment of securitised BST dues:**

- (i)(b)(i) The Commission has given its approval for securitisation of outstanding BST dues from 1.4.99 to 31.3.2003 after adjustment of the arrear government dues payable to the DISTCOs. to be routed through GRIDCO. The comparative position of receivables as projected by the four distribution companies indicate that between 01.04.1999 to 31.3.04 receivables have increased by Rs.1554.16 crore of the four distribution companies taken together. The DISTCOs have proposed 61.59% of gross receivables as bad debt to be written off estimating net receivables to the tune of Rs.923.73 crore.
- (i)(b)(ii) No reason whatsoever has been ascribed to why such a high percentage of receivables have to be struck off the books of accounts. Neither audit of individual consumer bills seems to have been conducted to determine the correctness of the provisions of bad debts proposed by each of the utilities for which the Commission can not accept such a provision towards bad debts without auditing of individual consumer bills and ascertaining the amount which can not be collected with valid reasons.

- (i)(b)(iii) On the other hand, power purchase liabilities of DISTCOs. as projected by GRIDCO for all the four distribution companies taken together as on 31.3.04 without DPS come to 1282.74 crore. GRIDCO has been allowed the interest on power purchase bonds for securitisation of power purchase liabilities to generators totaling to 2063.28 crore. Position of outstanding BST dues, securitisation by GRIDCO, receivables of DISTCOS are given in Annexure-E. The liabilities have occurred because of the failure of the distribution companies mainly to collect money from the consumers and make payment to GRIDCO.
- (i)(b)(iv) On the issue of interest chargeable on the outstanding BST dues payable by DISTCOs, dues, the Director (Finance), GRIDCO objected to such an arrangement stating that it may violate the provision of the Income Tax Act to which WESCO, NESCO and SOUTHCO have submitted that there is no provision under Companies Act and Income Tax Act to collect interest on sales and receivables. Any Income Tax towards DPS will lead to payment of Income Tax by GRIDCO and the same shall become a burden to the consumers. Any recovery of interest will lead to avoidable tax deduction at source by DISTCOs. Therefore, there is no justification for claiming interest on BST dues.
- (i)(b)(v) GRIDCO had also objected to the securitise the outstanding BST bills at 0% interest rate as the company had raised funds at higher rates of interest varying between 15 to 15.25% through private placement of bonds. The recalculated interest of bonds and loan to GRIDCO is being allowed at an average rate of 8.1% for FY 03-04,04-05 and 05-06. Obviously, all the interest on account of securitisation of power purchase bonds has been passed through the tariff of GRIDCO.
- (i)(b)(vi) The Commission would like to observe that the past liabilities have occurred due to failure of the Distribution companies to make timely payment to GRIDCO. These accumulated dues were securitised by issue of bonds by the State Government to GOI with 8.5% interest through a tripartite agreement between GOO, GOI and RBI for recovery of the said amount in line with



recommendations of Alhuwalia Committee . This interest has been allowed by the Commission from time to time to be recovered through BST Tariff of GRIDCO. Therefore, Commission can not permit payment of interest again on the same dues to be recovered from DISTCOs. This will mean passing the interest burden twice to the consumers, once through BST and again through RST. Therefore, the securitisation of BST outstanding dues to GRIDCO payable by individual DISTCOs will be at 0% interest rate. The amount to be securitised for each DISTCOs will be the date preceding when each company started paying 100% BST bills of GRIDCO.

- (i)(b)(vii) The Commission in para 5.35.19 of its BST order dt.28<sup>th</sup> June, 2003 have dealt with issue of GRIDCO bonds that allowed pass through of interest liabilities during 98-99 to 00-01 to cover unpaid power purchase dues to generators as well as to meet other working capital requirements. Since, the very objective of this Business Plan is to restructure the liabilities to bring about financial viability to the power sector as a whole, the Commission considers it appropriate to take a pragmatic approach and agrees with the contention of DISTCOs that the unpaid outstanding liabilities between 01.04.99 to 31.03.03 after adjustment of dues by the State Government and Government Undertakings should be securitised but this amount should be serviced through payments out of collection made by DISTCOs from the arrears outstanding against consumers till 31.3.04. This is a departure from the order dt.04.09.03.
- (i)(b)(viii) GRIDCO has raised a valid concern about the routing of these dues through GRIDCO by the Government of Orissa. Earlier, the Commission advised the GOO that the outstanding arrear Government dues payable to DISTCOs should be paid directly to GRIDCO for setting off against the outstanding BST dues of DISTCOs. in the best interest of the power sector to settle the vexed issue of liquidation of arrear liabilities. However, this did not materialise.
- (i)(b)(ix) The Commission directs that a suitable tripartite mechanism involving the individual DISTCOs, GRIDCO & Government of Orissa may be in place to

monitor the payment made against the Government consumers, PSUs & simultaneous adjustment in the books of accounts of GRIDCO & DISTCOs.

- (i)(b)(x) WESCO, NESCO, SOUTHCO and CESCO had proposed for passing on the waived amount of DPS received by GRIDCO from NTPC. GRIDCO is agreeable to pass on the same actually received by GRIDCO in proportion to the outstanding BST dues. The Commission approves the tripartite agreement reached between the DISTCO, GOO and GRIDCO that the DISTCOs shall not charge any DPS/Interest on the outstanding state Government arrears and as a quid pro quo GRIDCO shall not levy DPS on the BST amount equal to the Government Dept., arrears payable to DISTCOs. Government of Orissa will compensate the loss to GRIDCO on these accounts.

**(i)(c) Treatment of NTPC dues:**

- (i)(c)(i) WESCO, NESCO and SOUTHCO have given adequate justification for reassignment of NTPC bond of Rs.400 crore issued by these companies earlier to GRIDCO at a rate of 12.5% per annum interest. There was stipulation during the reassignment that this amount will be dealt with subsequently as per recommendation of Ahluwalia Committee. The proposed securitisation as per Ahluwalia Committee will permit GRIDCO and DISTCOs receipt of incentives from NTPC by timely clearing the interest dues. It will also provide a longer period for repayment of the amount, and avail the incentives for benefiting power sector in Orissa in terms of one time settlement of NTPC dues recommended by the Ahluwalia Committee. GRIDCO has no objection to the proposal for rescheduling the NTPC bonds provided the same is acceptable to NTPC as well as the guarantor, the Government of Orissa.
- (i)(c)(ii) The reassignment of these bonds to GRIDCO will require the guarantee of the Government of Orissa for which adequate safeguard need to be incorporated to ensure that the public exchequer under no circumstances is put in an embarrassing situation of servicing these liabilities in the event of failure on the part of WESCO, NESCO or SOUTHCO to meet their obligation of repayment of principal along with interest. It is a fact that resecuritisation of these bonds in favour of GRIDCO will become a great boon to the power

sector in Orissa due to reduction in interest rate from 12.5% to 8.5% and associated incentives. These reliefs will directly benefit the consumers in the state.

- (i)(c)(iii)(a) The Commission would advise the Government to accept the proposal to benefit the end-users of electricity on account of the reliefs that would be available if securitisation shall be effected in line with the one time settlement scheme approved by the Government of India to be made effective from 01.10.2001 i.e., the date from which the Government of Orissa allowed securitisation of the outstanding NTPC dues amounting to Rs.1102 crore excluding these bonds worth Rs.400 crore.
- (i)(c)(iii)(b) These bonds will have tenure similar to the NTPC bond of Rs.1102 crore issued by the Government of Orissa effective from 01.10.2001.
- (i)(c)(iii)(c) The sum and substance of the proposal is that GRIDCO/GOO to accept the proposal for restructuring of NTPC bonds with tenure of 15 years including a moratorium period of five years with effect from 01.10.2001 with interest at the rate of 8.5% per annum. The interest incentive to be received by GRIDCO from NTPC should be passed on to the DISTCOs by way of adjusting the same against reconciled outstanding BST dues of DISTCOs.
- (i)(c)(iii)(d) GRIDCO would service the restructured NTPC bonds on half-yearly basis, where as DISTCOs shall make payment on this account on a monthly basis. Moreover, GRIDCO shall be entitled to recover the interest and the principal on such bonds by way of first charge over the revenue collection. There will be a back to back arrangement by which the three DISTCOs will service these bonds to GRIDCO.
- (i)(c)(iii)(e) At any point of time energy dues of DISTCOs are pending with the State Government for payment. This can be used as a fall back arrangement in the worst scenario of DISTCOs failing to clear this portion dues for payment. The priority of payment of current dues by DISTCOs to GRIDCO shall be in the following order:

- (a) Interest payment of Securitisation of NTPC Bonds.
- (b) BST bills
- (c) Salaries etc.

**(i)(c)(iv) GRIDCO loan (PFC/REC, etc.):**

- (iv)(a) At the time of reform and restructuring distribution assets were transferred from GRIDCO to the DISTCOs. Project related loans taken by GRIDCO for the purpose of creation of distribution assets from PFC, REC were also transferred to the DISTCOs. However, GRIDCO continued to serve the lenders for the loans taken for both transmission and distribution assets as the lenders did not agree to transfer the loan to DISTCOs for servicing the same. On the other hand, distribution companies were bound by Subsidiary Loan Agreement to service the transferred loans to GRIDCO through a back to back arrangement.
- (iv)(b) DISTCOs propose that the project related asset loan may be recovered through bulk supply tariff. The revenue requirement of DISTCOs takes into consideration the bulk supply tariff as well as the cost of distribution. Once the project related loan liabilities are not serviced through the back to back agreement, it will have the impact of raising the revenue requirement of GRIDCO. This in turn will raise the bulk supply tariff. With rise in BST, the input cost of DISTCOs will go up but it will be neutralised due to non-service of interest payment by back to back arrangement to GRIDCO for asset loans. The net effect of income and expenditure on DISTCOs remains the same.
- (iv)(c) It has the advantage of up front monthly recovery of these loan elements through BST rate as LC is already in place.
- (iv)(d) The Commission directs for appropriate amendment in the Subsidiary Loan Agreement to incorporate the arrangement as envisaged in Para (iv)(b) & (c) above.. GRIDCO shall continue to service the interest liability to PFC, REC and other institutions for the asset loan taken for TRANSCO and DISTCOS. Earlier, GRIDCO also used to service these loans. It was being reimbursed for the asset created loan of Distribution Companies through the back to back arrangement.
- (iv)(e) Now, GRIDCO will be reimbursed for the interest on DISTCO related loan through BST. Obviously, the net effect on DISTCO in toto for servicing of asset related loan remains unchanged but asset loans are different for different companies. Obviously, with the same rate of interest on project related loan, liabilities will be different from

company to company. With recovery through BST, it is likely that a company with high asset loan may benefit at the expense of other DISTCOs if a uniform BST is in place. This issue will be addressed in differential BST. Naturally, this aspect is to be taken into consideration while designing the tariff.

- (iv)(f) The revenue requirement of GRIDCO for the year 2004-05 will take into consideration the total interest liability on account of asset related loan. In case of DISTCOs, the interest liability of asset related loans will not be taken into consideration for the purpose of revenue requirement calculation.

**(iv) World Bank Loan:**

*The Commission had held in the past orders that the State Government shall on lend the World Bank loans on terms available to them from the Government of India to DISTCOs treating 70% as loan and 30% as grant. Any change in the arrangement will unduly affect the consumers of the state.*

**(DC) Shareholders agreement:**

- (i) The Commission agrees with the views of the Government of Orissa that the shareholders agreement should be extended for a further period to be mutually agreed between GRIDCO and the DISTCOS to ensure continued interest of the investors in this business.
- (ii) As a sequel to such a comprehensive financial restructuring proposal, designed and approved by the Commission, the licensees should take effective measures to infuse necessary funds to rejuvenate the power sector in Orissa by dint of achieving targeted milestones fixed by the Commission. The investors must take appropriate steps for provide requisite financial support in this regard to the companies.
- (iii) DISTCOs should also infuse additional share capital to improve upon the debt equity ratio that will go a long way in instilling confidence about their continued interest in the business.

Finally, the Commission would like to conclude that the principles set forth in this order will be binding on the concerned parties in all respect.

**Sd/-**  
**(S.K. JENA)**  
**MEMBER**

**Sd/-**  
**(B.C. JENA)**  
**MEMBER**

**Sd/-**  
**(D.C. SAHOO)**  
**CHAIRMAN**