

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

**Present : Shri B. K. Das, Chairperson
Shri S. K. Jena, Member
Shri K. C. Badu, Member**

Dated the 6th day of July, 2007

Case No.52/2005

M/s. NESCO, Balasore	Petitioner
- Vrs. -		
M/s.GRIDCO, Bhubaneswar	Respondent

For the petitioner : Shri S. D. Bhanj, AGM, NESCO
For the respondent : Shri J. N. Choudhury, Dy. Manager, GRIDCO

ORDER

1. The fact of the case is that the OERC vide BST order dtd.19.04.2002 in para 6.54.2 had directed that any excess drawl by any distribution company over the approved quantity for the FY 2002-03 shall be billed by GRIDCO at actual cost of power purchase plus transmission charges and transmission losses incurred by GRIDCO. Such an amount shall be payable as a year end adjustment by a distribution company to GRIDCO.
2. During 2002-03 NESCO was allowed to draw 2291.20 MU from GRIDCO. As against this NESCO has drawn 2395.38 MU during the said year. Thus the excess drawl by NESCO is 104.18 MU. The cost of power payable by WESCO has gone up from 197.04 crore to 206 crore.
3. GRIDCO served a bill on NESCO amounting to Rs.13,25,35,501.05 as a year end adjustment for the excess drawl of 104.18 MU vide their letter No.2508 dtd.04.05.2005.
4. NESCO raised an objection to the said bill. In the objection NESCO stated that the Commission had allowed 11361.13 MU for supply of power to all DISTCOs as against which the actual supply is 11361.61 MU or an excess

of a figure 0.48 MU. For this excess sale, GRIDCO has earned an amount of Rs.1.72 crore over and above the approved revenue realization Rs.1031.81 crore. As such GRIDCO has suffered no loss on account of excess drawl by NESCO which is offset by less drawl by utilities like CESCO and SOUTHCO.

5. GRIDCO, on the other hand, pleaded that during 2002-03 there was a failure of hydrology, GRIDCO could not draw the permitted quantum of hydro power at a cheaper rate from OHPC. It was supplemented by high cost power purchase from Central Thermal Stations. As against the permitted power purchase cost of 1132.29 crore GRIDCO had to spent 1603.97 crore or on excess of 554.84 over and above the approval of OERC.
6. The cost of additional power of NESCO is about 26.239 crore for 104 MU. This expenditure could have been avoided in case NESCO had not drawn the additional quantity over and above the approved quantity of OERC.
7. Besides, as a disciplinary measure every distribution utility must make a realistic demand for purchase of power. NESCO is always in habit of giving an inflated demand which offsets the procurement schedule approved OERC orders provide for year end adjustment for any excess drawl by any utility. As such NESCO must pay the bill raised by GRIDCO which is prepared in accordance with the Commission's order.
8. NESCO submitted that the Commission had allowed a sum of Rs.26.50 crore in the tariff order of 20.8.2006 as against the supplementary claim made by GRIDCO towards cost of power purchase for the previous financial year. The Commission had also advised Govt. of Orissa to provide from the calamity relief fund incurred on hydrological failure.
9. The power purchase dues to the generators to the tune of Rs.2063 crore on account of non payment by the distribution companies to GRICO have been allowed to be securitized. The interest on this amount is being allowed as a pass through by the Commission in the bulk supply tariff. Even the Commission has allowed principal repayment of the securitized amount in the tariff order 06-07 and 07-08.

10. After hearing the parties, the Commission observes that the treatment of excess drawl as pointed out by GRIDCO, in regard to the BST order dt.19.04.2002, the relevant para 6.54.2 was perused by us. The contents of this para is that the treatment of overdrawl charges have to be dealt in accordance with para in 6.29.4 of the tariff order dt.19.01.01. An extract of the said para is given below :

“The Commission analysed the proposal of GRIDCO and DISTCOs. Acceptance of DISTCOs suggestion for allowing the entire expenditure on account of excess consumption over the approved figure could mean that all power purchase cost incurred irrespective of the normative level of power purchase approved by the Commission could be allowed for tariff. GRIDCO being the carrier of this energy should not be unduly burdened due to failures if any, by the DISTCOs in making their projections. The Commission, therefore, approves that any expenditure for excess purchase of power (by GRIDCO) over the approved annual quantum of energy should be reimbursed by the DISTCOs in proportion to their excess consumption. Such excess drawl should be billed by GRIDCO at the actual cost of power purchase plus transmission charges and transmission losses. If any and payable as an year end adjustment. However any additional purchase by the DISTCOs over the approved requirement would be reviewed by the Commission and the expenditure of the DISTCOs shall be limited to the normative level of power purchase approved by the Commission.”

11. During the FY 2002-03 the excess drawl by GRIDCO for supply to the distribution companies was only 0.48 MU. This has not been disputed by GRIDCO during the course of the public hearing. However, GRIDCO may work out the exact quantum of over drawl over the approved figure of power purchase by the Commission and intimate the DISTCOs about the quantum of excess drawl. In accordance with the para quoted above any expenditure for excess purchase of power over the approved annual

quantum of energy should be reimbursed by the DISTCOs in proportion to their excess consumption. Such excess drawl should be billed by GRIDCO at the actual cost of Power purchase plus transmission charges and transmission losses etc.

12. Hence excess drawl as determined by GRIDCO is to be shared by the DISTCOs in proportion to their drawl over the approved figure for FY 02-03. With regard to the question of additional expenditure by GRIDCO due to hydrological failure it has been brought to the notice of the Commission that this additional expenditure forms a part of the securitized amount of 2063 crore. Excess expenditure of Rs.555.84 crore for power purchase due to change in the rate of power purchase cannot be directly attributed to the excess drawl of 0.48 MU alone. This has to be treated separately.
13. The Commission has noted the submission of GRIDCO that the Commission vide its earlier order 17.02.2004 in Case No 3/2003 has permitted GRIDCO to raise the bill on WESCO on any excess drawl over and above the projection of WESCO for drawl by RSP during 2002-03 at the highest cost of NTPC power purchased by GRIDCO. This is a totally separate case to meet an emergent requirement due to breakdown of CPP of RSP due to which WESCO has drawn additional energy through RSP feeders I & II for the period from April 2002 to March 2003 in excess of the projected requirement for the same for the year 2002-03. The matter was referred to an Arbitrator and the Commission in its Order dtd. 17.02.2004 concurred with the findings of the learned Arbitrator in Para 13 that any excess drawl over and above such projection by WESCO shall be billed by GRIDCO at the highest cost of NTPC power purchased by GRIDCO on month to month basis after due reconciliation between GRIDCO and WESCO on the basis of Global Account. The Commission has further opined in the said order that the bills to be raised for drawl of excess power by RSP in accordance with the award is to be treated as an year end adjustment but calculated on monthly basis. This specific order of the Commission on over drawl of WESCO due to over drawl in turn by RSP due to breakdown of CPP in an emergency is not to be followed as a

precedent case in case of over drawl by NESCO, which has not been caused due to over drawl by a single consumer and hence can not be treated on the same footing.

14. The Commission hereby cautions NESCO not to indulge in future in projecting a lower demand it its ARR and in practice drawing more than the projection.
15. Finally the Commission directs that bill of Rs.13.25 crore raised by GRIDCO to NESCO is to be revised in accordance with this order.

Sd/-
(K. C. BADU)
MEMBER

Sd/-
(S. K. JENA)
MEMBER

Sd/-
(B. K. DAS)
CHAIRPERSON