

**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

Dated the 29th day of June, 2006

Case No.16 of 2006

M/s. Orissa Power Transmission
Corporation Limited (OPTCL),
Janpath, Bhubaneswar

..... **Petitioner**

For the petitioner : Shri N.N.Mohapatra
Sr.G.M. (R&T) OPTCL

ORDER

M/s OPTCL had filed an application for review of Annual Revenue Requirement and Transmission tariff order dated 23.03.2006. The application was registered as Case No.16/2006 and heard by the Commission for admission on 09.06.2006.

OPTCL cited the following reasons for review of the order:

2. The CERC norm for determination of Transmission/Generation tariff allows Return on Equity on the investment by the utility. In the approved tariff of 06-07, ROE has not been allowed to OPTCL. On the other hand, OHPC has been allowed 14% on return on equity in line with CERC norms. OPTCL feels discriminated and the action of the Commission is also not in line with the Govt. of Orissa order dated 29.01.2003. OPTCL, therefore request the Commission to allow ROE @ 14% on the share holding of Rs.537.84 crore amounting to Rs.75.3 crore.

3. Govt. of Orissa vide their order No.17491 dated 22.04.2006 has declared the merger of 50% of DA with the basic pay which was subsequently adopted by the OPTCL for its employees. The additional financial impact, due to the above measure works out to Rs.15.23 crore. Therefore, OPTCL has prayed afresh that the additional amount of Rs.15.23 crore may be approved for expenditure in 2006-07.
4. The Commission while considering the ARR and tariff application of OPTCL has allowed Rs.44.68 crore towards terminal benefits for employees during 2006-07 as against the proposed amount of Rs.87.75 crore. OPTCL submits allowance of differential amount of Rs.43.07 crore towards terminal benefit for FY 2006-07.
5. The Commission has approved an amount of Rs.36 crore towards repair and maintenance as against an amount of Rs.116.65 crore, proposed by OPTCL for FY 2006-07. OPTCL has submitted that CERC norm entitles it for recovery of Rs.513.23 crore as O&M cost. It has prayed only for Rs.116.65 crore. Hence, the same amount as prayed for may be allowed.
6. OPTCL has prayed in its original application for allowing it Rs.132.98 crore towards the interest on loans from different agencies. The Commission has disallowed interest on the following heads:
 - i) Interest on zero coupon bond has been disallowed to the tune of Rs.26 crore.
 - ii) Interest on PFC & REC loans has been calculated @8.5%. To that extent, OPTCL is going to lose around Rs.5.30 crore.
 - iii) Interest on short-term loans amounting to Rs.15.51 crore has been fully disallowed.
 - iv) The finance charges of Rs.15 crore claimed by OPTCL have been fully disallowed.

Thus, the Commission in its order has allowed only Rs.68.04 crore leaving an uncovered gap of Rs.64.94 crore to be met by OPTCL. This will have deleterious impact on the finances of OPTCL in the absence of approval by the Commission for recovery through tariff.

7. OPTCL had proposed an amount of Rs.130.13 crore towards depreciation which would have been sufficient to repay the principal amount of Rs.122.92 crore due for FY 2006-07. But, the Commission has approved an amount of Rs.43.51 crore towards depreciation and Rs.48.01 crore towards advance against depreciation aggregating Rs.91.60 crore. This amount is much less than the proposed amount of Rs.122.92 crore. The Commission has not taken into consideration repayment liability of zero coupon bonds and other State Govt. loans, which may create difficult situation to seek further Govt. guarantee in case the OPTCL raises fresh loans. Therefore, OPTCL prays the Commission to allow the differential amount of Rs.31.32 crore (Rs.122.92 - Rs.91.60) under depreciation head and advance against depreciation to meet the annual expenditure in full.
8. After careful consideration, the Commission observes the following:
 - i) There is a well established principle of law that *actus curiae neminem gravibet* (the act of court should not prejudice any one). OPTCL in its tariff filing for the FY 2006-07 has projected an amount of Rs.94.82 crore towards ROE applying a standard rate of 14% on a capital base of Rs.612.94 crore and 0.5% of loan outstanding amounting to Rs.1802.40 crore, as per Sixth Schedule of the Electricity (Supply) Act, 1948. The Commission observes that the provisions of Sixth Schedule of the Supply Act, 1948 are no longer valid consequent upon the enactment of the Electricity Act, 2003. As such, there is no merit in the claim of OPTCL to seek a return of Rs.98.42 crore based on an inapplicable law.

That apart, OPTCL in its filing has submitted a segregated balance sheet of GRIDCO and OPTCL as on 31.3.2005. From the balance sheet, it is revealed that the infusion of equity by OPTCL is zero. Only Rs.60 crore has been shown in the balance sheet as equity which GRIDCO has transferred to OPTCL notionally by assuming the same amount as receivable from Govt. of Orissa. This is only a book adjustment and practically, there is no cash inflow to the system in form of equity contrary to infusion of cash to OHPC for completion of UIHEP. On this score, OPTCL and OHPC do not stand on the same footing as far as equity is concerned.

- ii) It has now been brought to the notice of the Commission that the OPTCL has to bear an additional sum of Rs.15.23 crore on account of wage revision of non-executives and merger of DA of employees w.e.f. 01.04.2006. This was not submitted before Commission during the tariff hearing and hence, it cannot be said to be a new discovery of fact. This is a development after the issue of tariff order and hence, it does not fall within the scope of review and has to be addressed separately during subsequent tariff filing.
- iii) The question of terminal benefit has already been addressed by the Commission in paragraphs 5.2.1.7 & 5.2.1.8 of OPTCL tariff order for 2006-07. The fact that no independent actuary has been appointed cannot be a ground for review of the order as the Commission after considering the cash flow requirement has allowed the terminal benefits of the utility.
- iv) As regards repair and maintenance expenses, the Commission has extensively dealt to the subject in para 5.2.2 of the OPTCL tariff order for 2006-07. In the said order, the Commission has allowed Rs.36 crore for the year 2006-07 which is much more than the amount actually spent by the licensee annually for the past five years. The applicability of CERC norms for fixation of O&M

expenditure can not be made applicable due to the incapacity of the utility to incur the permitted expenditure as allowed in the past.

- v) The Commission in para 5.2.4 of OPTCL tariff order for 2006-07 has extensively dealt the issue of interest on loan to be passed on to the revenue requirement. The Commission does not feel it necessary to give any further clarification in this matter.
 - vi) Regarding repayment of loan, the Commission's order at para 5.4 is itself self-explanatory. The Commission believes that the amount allowed towards advance against depreciation along with the normal depreciation will be sufficient to discharge the repayment liability of the financial institution.
9. In view of the above observations, the Commission does not find any justification to admit the review petition and the review petition stands dismissed.

Sd/-
(S. K. JENA)
MEMBER

Sd/-
(B. C. JENA)
MEMBER

Sd/-
(D. C. SAHOO)
CHAIRPERSON