

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

CASE NO.32 OF 2008

M/s. East Coast Railway **Petitioner**
- Vrs. -
CEO, SOUTHCO & Others **Respondents**

For the petitioner : Mr. Prdeep Jain, Chief Electrical
Distribution Engineer, E.C. Railway

Date of Hearing : 18.07.2008
Date of Order : .08.2008

ORDER

Application for review of a judgment under the Code of Civil Procedure under order XLVII can be taken up after discovery of new and important matters or facts which after exercise of due diligence was not within the knowledge of or could not be produced by the petitioner at the time of hearing. Review can be also be made on account of some misinterpretation or error on the face of record. Besides, if any, other sufficient reason could be adduced by the petitioner then the review of the order can be taken up. In the light of observation let us examine the issues raised by the Railways in the review petition.

2. The railways have requested to review and reduce the traction tariff approved for the FY 2008-09 on the ground that other SERCs like APERC and CSERC, where East Coast Railway is availing traction supply have implemented the National Tariff Policy and they have been reducing tariff every year. They have prayed that they are unable to achieve the actual consumption ratio to enable them to avail the benefits of incentive

tariff. They have also questioned the Commission's observation that the level of cross subsidy is within the target of $\pm 20\%$ of the average cost of supply, as not right and a correct interpretation would have been to their advantage.

3. Their next prayer is that OERC should pass the benefit of 10 paise rebate for non peak hour energy consumption like other HT and EHT consumers as conditions of supply are similar to any other EHT consumers. Their plea was that DISTCOs have been allowing benefit to 3 phase consumers and railways are being denied of that facility as they are availing power supply at 2 phase. Railways traction may be treated as a special category and special consideration needs to be given while fixing the tariff.

4. Their next prayer is that different procedures are being followed by different DISTCOs for the same objective. Certain issues like irregular billing, excess billing, frequent interruption etc. by DISTCOs are requested to be addressed in the review petition. Fixation of loss target by the Commission has been requested for a review. They have requested that the Commission to give a clear orders to DISTCOs with regard to off peak hour rebate on energy and to ignore the rise in maximum demand during feed extensions in case of shutdowns/grid maintenance etc.

5. Their next prayer is to allow single part tariff for railway traction at least for the year 2009-2010. They are requested to examine the issue of SMD billing at least DISTCOs wise for Railway Traction from the year 2008-09 and arrange to get the extra payment made to DISTCOs refunded.

6. Railways have thanked the Commission for considering the Railways request of ignoring rise in maximum demand during the feed extension in case of supply interruption/grid maintenance and shut downs by the supply authorities. Railways have requested to arrange a meeting between DISTCOs and Railways and OPTCL to resolve the modalities of billing during feed extension.

7. Railways have further requested to impose delayed payment surcharge to DISTCOs in similar manner as the DISTCOs collecting from the consumers to improve the efficiency/performance of the distribution companies.

8. The petitioner have not been able to point out any new fact or evidence which was not within the knowledge of the Commission at the time of public hearing and the petitioner have not pointed out any error in the order passed by the Commission. The Commission has given a reasoned and speaking order with regard to the decisions arrived on each of the issue of the tariff order.

9. Railways have very specifically raised an issue regarding allowing a rebate of 10 paise per unit during non peak hour by all DISTCOs which is now being allowed to all 3 phase consumers. They are claiming parity with other EHT and HT consumers. There are no two opinions and they are being treated at par with HT and EHT consumers. But, according to the orders of the Commission this facility is being extended only to the consumers who are availing power supply at 3 phases. In fact, railways are availing power supply at two phases. Therefore, the implementation of this provision of the tariff order cannot be applied to the railways at the present form. The facility to allow the benefit to 3 phases consumers was done solely with the objective to exclude most of the single phase and two phase loads who burden the power system during the peak load hour.

10. Railways are valuable consumers of the state. Now, there is indication of growth of railway loads in Orissa. They do not come within the class of 3 phase consumers. Their cases can be considered if they come up with this prayer during the tariff hearing of 2009-10 underlying the point that they are to be treated as different from other single phase and 2 phase consumers.

11. All the points raised by the railways do not come within the scope of review as stipulated under the Code of Civil Procedures. It need not be mentioned that attending the meeting or settlement of billing dispute is to be taken by the railways and can not be

considered as a part of the review but should have to be sorted out as directed in the order.

12. Thus, after perusal of the review petition and pleadings made as explained in the preceding paragraphs, the issues raised by the petitioner are not within the ambit of review. There is no apparent error on the face of the record nor has the petitioner adduced any new and important matter or evidence. So also there are no sufficient reasons to relook into the matter. Hence, we are not inclined to admit this review petition.

13. Accordingly, the matter is disposed of.

Sd/-
MEMBER (B)

Sd/-
MEMBER (SK)

Sd/-
CHAIRPERSON