

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.40/2008

South Electricity Supply Company of Orissa Ltd. **Petitioner**

Vrs.

1) Orissa Hydro Power Corporation Ltd.
2) Grid Corporation of Orissa Limited **Respondents**

In the matter of : Non payment of energy charges and non certification of energy charges consumed by OHPC in respect of OHPC colony at Balimela of Malkangiri.

ORDER

Date of Hearing: 06.08.2008

Date of Order: 01/11/2008

Mr. A.K. Bhora, CEO, SOUTHCO for the petitioner, Mr. Jagannath Padhi, Director (O), OHPC on behalf of Respondent-1 and Mr. L. Mahapatra, AGM, GRIDCO on behalf of Respondent No. 2 are present. The filings made by the parties are taken into record.

2. Heard.

3. Mr. A. K. Bhora , CEO, SOUTHCO stated that pursuant to Orissa Electricity Reform (Transfer of assets, liabilities, proceedings and personnel of GRIDCO to distribution companies) Rule, 1998, the Govt. of Orissa transferred the distribution assets and properties alongwith personnel of GRIDCO to the four DISTCOs w.e.f. 26.11.1998. These four DISTCOs namely CESCO, WESCO, NESCO & SOUTHCO continued to function as affiliates of GRIDCO upto 31.03.1999 and thereafter functioned as independent DISTCOs by obtaining distribution and retail supply license from OERC. SOUTHCO being the distribution licensee engaged in distribution of electricity in the Southern part of Orissa issued the energy bills on consumption of energy by OHPC Colony at Balimela Power House with C.D. of 450KVA bearing consumer No. 2GP on monthly basis commencing from 01.04.1999. He also submitted that SOUTHCO

issued the bills to the consumers of Balimela P.H. colony on the basis of recorded consumption in the meter of 11KV Balimela Feeders-I & II by apportioning 75% allocation to colony consumption and 25% to E.E., Poterru Irrigation Division bearing consumer No. 1GP having C.D. of 150KVA on the basis of contract demand.

4. Further, CEO, SOUTHCO stated that the energy charges bills issued to the consumer of Balimela P.H. colony was being adjusted against the BST bills of GRIDCO as non-cash adjustment like other consumers of OHPC. GRIDCO vide letter dtd. 12.07.2007 intimated SOUTHCO that the energy bills of OHPC stations would not be adjusted against BST bill of SOUTHCO from July, 2000 onwards. The same might be collected from OHPC by the petitioner and the bills upto June, 2000 should be taken into account subject to joint reconciliation statement to be prepared along with PP Branch of GRIDCO. In view of the above, the petitioner informed the same to the OHPC authorities, but they did not make payment on the monthly basis, so petitioner was making the payment of BST to GRIDCO duly adjusting energy charges of OHPC consumers i.e. GP-2, GP-24 and GP-5. After so many persuasion made by the petitioner, the OHPC authorities accepted the bills of the GP-5 of Nawarngapur Division and GP-24 of Jeypore Division except GP of Malkanagiri Division i.e. Balimela P.H. colony. The Balimela colony consumption bills had not been accepted by the OHPC stating the reason that the energy consumed by the colony consumers was not being billed to GRIDCO and the said consumption was also not being billed to SOUTHCO by GRIDCO.
5. The CEO, SOUTHCO also stated that SOUTHCO represented in many meetings held between OHPC, GRIDCO and SOUTHCO that SOUTHCO should issue the bills to the consumers in its distribution area and late OHPC bill to GRIDCO and GRIDCO in turn bill to SOUTHCO. However, the energy bills amounting to Rs. 11,92,74,512/- from 1999 to 2005 is payable by OHPC to SOUTHCO towards colony consumption of Balimela Power house which is not certified by OHPC and for this reason, GRIDCO is not accepting the bills of GP-2 since 1999 for the securitization purpose. He also stated that SOUTHCO had adjusted an amount of Rs. 8,39,80,704/- in the BST bill of GRIDCO towards non-cash adjustment till January, 2004 i.e., date of opening L.C. SOUTHCO is making payment after opening of LC and GRIDCO is making non-cash adjustment on the basis of certification obtained from OHPC relating GP-5 (Upper Indravati P.H.) and GP-24 (Upper Kolab PH, Jeypore). Accordingly CEO, SOUTHCO prayed to the Commission to direct OHPC to accept the bills of SOUTHCO for the period from 01.04.1999 to 07.06.2005 and also direct GRIDCO to accept the amount of GP-2 (Balimela PH colony) consumer as non cash adjustment in the BST bill of GRIDCO on monthly basis since April-1999 and calculate the arrear BST outstanding dues as on 31.03.2005 for Securitization purpose taking the same into account.
6. Mr. Jagannath Padhi, Director (O), OHPC stated that prior to formation of OHPC, Balimela Power House and the concerned local distribution system was under the control of erstwhile OSEB. The power was being fed to this local distribution

system (Power House Colony, Water Resources Dept. concerns and 78 nos. of private consumers) through 2 nos. of 11 KV feeders emerging from power house auxiliary system and billing and collections was carried out by the erstwhile OSEB. After formation of GRIDCO and OHPC in 1996-97 GRIDCO was requested by OHPC for taking over the said local distribution system along with the personnel engaged for the purpose. But then GRIDCO was unwilling to take over the said distribution system and personnel. The minutes of the meeting between OHPC and GRIDCO held on 24.12.1998, it was agreed that in Rengali and Balimela Power House where power supply to the colony is from power house, the colony consumption would be computed on net exchange basis. In case of Balimela, neither the power nor the colony distribution system belongs to SOUTHCO and the maintenance work of the system is being carried out by OHPC. Hence, billing on such power of OHPC by SOUTHCO is not justified.

7. Mr. Padhi also stated that as per the MoM held on 22.05.2006 between the parties, it was decided that OHPC network at Balimela would be separated from its non-OHPC network and non OHPC load should be catered by SOUTHCO sources. All the existing system shall be taken over by SOUTHCO for catering non-OHPC and OHPC load, so SOUTHCO shall create an independent system of 11 KV line and single phase substation. This should be worked out by SOUTHCO within 15 days and the segregation work shall be completed within 6 months and SOUTHCO shall raise bills on OHPC for colony consumption at BHEP. He also further stated that as per the GoI Notification dtd.08.06.2005, the generating company can supply power to its colony or township of its operating staff without having a distribution license. In connection with local distribution system at UKHEP it was decided that necessary modification should be done by SOUTHCO on or before 1st Oct, 2006 to segregate OHPC and non OHPC load.
8. Further, Mr. Padhi stated that the meeting held on 05.09.2006 between OHPC, GRIDCO, SOUTHCO, CEI of Poterru Irrigation Project Authority, the following issues have been resolved and agreed by the parties as follows:
 - (i) For April, 96 to March, 99 GRIDCO agreed to refund/adjust the revenue collected/adjusted towards OHPC colony, WR Dept. and 78 nos. of private consumers. Regarding energy consumption and revenue collection from 78 nos. consumers, S.E., Electrical, JED, SOUTHCO had agreed to verify the old records and find out the actual figures. As the actual figures for certain period is not available the average monthly consumption of 15177 Kwh shall be considered for 78 nos. private consumers at generation tariff for the relevant period.
 - (ii) For 04/99 onwards SOUTHCO proposed that the OHPC will raise bill to GRIDCO on energy consumption of WR colony and 78 nos. private consumers except OHPC colony consumption as per the generation tariff and GRIDCO in term will be the same to SOUTHCO as per BST tariff from 04/1999 onwards till segregation OHPC and non- OHPC load as per MoM dtd. 22.05.2006. The energy consumption at OHPC colony shall be worked out based on 75% of total energy transmitted in 2nos. of 11KV

feeders less the consumption of 78nos. of private consumers and this OHPC colony consumption shall not be billed to GRIDCO.

9. In view of the above, Mr. Padhi stated that the contention of SOUTHCO that energy bills amounting to Rs.11,92,74,512 during the period from 1999 to 2004-05 raised by it should be payable by OHPC was totally unjustified because the said energy belongs to OHPC and maintenance of system was also carried out by OHPC. Rather SOUTHCO has earned extra revenue by collecting energy charges from the WR Dept. and 78 nos. private consumers which it should return to OHPC.
10. Stating the above fact, Director (O), OHPC prayed to the Commission to reject the claim of SOUTHCO and direct SOUTHCO not to raise bill on OHPC in respect of OHPC colony consumption at Balimela as the power does not belongs to them and also direct OHPC to take necessary steps for segregation of non-OHPC loads and catering power from their sources in a specific time period.
11. Mr. L.N. Mohapatra, AGM, GRIDCO stated that prior to formation of OHPC, Balimela Power House Colony and the local distribution system was under the control of OSEB. The power was supplied by OHPC to power house colony, water resource colony and 78 nos. of private consumers through 2 nos. of 11 KV feeders emerging from its power house. Billing and collection thereof was carried out by OSEB. After the meeting was held between GRIDCO and OHPC on 24.12.1998, it was decided that in Rengali and Balimela PH where power supply to PH colony is from power house itself, the colony consumption would be dealt on net exchange basis. Accordingly, the energy consumed by the colony of PH was not billed to GRIDCO by OHPC. So, also GRIDCO did not bill for colony consumption to SOUTHCO. Therefore, SOUTHCO should not raise any bill for the same nor collect charges from WR department and 78 nos. of private consumers. But SOUTHCO raised energy bills to OHPC based on the meter reading of 2 nos. of 11 KV feeders at PH premises. It is worth mentioning here that the colony distribution system of PH is under the control of PH authorities and the maintenance of the same is carried out by PH.
12. He also further stated that SOUTHCO so far had not taken over the colony distribution network of 11 KV but continued raising bills on OHPC towards Balimela PH colony consumption which appeared to be unethical and unjustified as the same was decided in the meeting held on 30.05.2005. He also stated that GRIDCO would accept the colony consumption bill for adjustment after the same was duly certified by OHPC.
13. After hearing the parties and perusal of the case records, we observe that prior to formation of OHPC, Balimela Power House Colony and local distribution system was under the control of OHPC. The power was being supplied to power house colony, Water Resources colony and other local 78 nos. of private consumers through two nos. of 11 KV feeders emerging from power house auxiliary system and billing and collection was carried out by the erstwhile OSEB. In a meeting

between OHPC and GRIDCO it was agreed that where the power is being fed from the power house system it would be computed on net exchange basis retrospectively from 01.04.1996. Since the colony consumption is dealt on net exchange basis and also not loaded to SOUTHCO, SOUTHCO should not raise any bill for the same. Further, Gazette Notification on the electricity (Removal of Difficulty) Order 2005 dtd. 8th June, 2005 stated that the supply of electricity by a generating company to the housing colonies, or townships housing, the operating staff of its generating station will be deemed to be an integral part of its activity of generating electricity and the generating company shall not be required to obtain license under this Act for such supply of electricity. Based on the above OHPC could supply power to their colony at Balimela Power House.

14. The OHPC has relied on the Govt. of India Notification dt.08.06.05 titled as Electricity [Removal of Difficulty] (Fourth) Order 2005 regarding supply of electricity by the generating companies to the housing colonies of its operating staff.

“The supply of electricity by a generating company to the housing colonies of, or townships housing, the operating staff of its generating station will be deemed to be an integral part of its activity of generating electricity and the generating company shall not be required to obtain licence under this Act for such supply of electricity.”

15. According to the Electricity Rule, a generating company shall not be required to obtain licence under the Act for such supply implying that they have rights and obligations as a licensee for supply of power. The supply of electricity to the township housing the operating staff of generating station is to be treated as a part of generating activity.
16. The rule does not stipulate that they shall be supplied power at the cost of generation. In respect of generating station like OHPC have entered into PPA with GRIDCO, the Bulk Supplier of electricity to the distribution companies for 100% power generated out of the plant less auxiliary consumption. This is so because the entire capacity cost of power plant is paid by GRIDCO on behalf of the consumers of the state. A limit has been fixed on the level of auxiliary consumption of power station in accordance with the CERC Regulation for determination of tariff for generating stations which is a guiding factor for the state Commission for determination of generation tariff.
17. Therefore, any consumption in excess of the auxiliary consumption will have to be paid for at a rate and the amount credited to generators revenue which could reduce the cost of generating tariff. With this concept in mind and keeping in view the Removal Difficulties Rules notified by the Govt. of India as stated earlier the total utilization of power by OHPC both for generation of power as well as for supply of power to the colonies housing their operating staff shall be limited to the normative level of auxiliary consumption as allowed by the Commission. Any consumption in excess of that, if any, (which may be due to the

supply of power to the housing colonies of the operating staff) shall be treated as supply in excess over auxiliary consumption.

18. For this excess consumption, OHPC can give a credit to itself at a rate equal to the retail supply tariff for supply in bulk housing colonies as applicable to the consumers of SOUTHCO. This reduces the revenue requirement of OHPC. SOUTHCO does not stand to loose any manner as the revenue deemed to have been collected by OHPC will not be appearing as a part of their revenue receipt. As far as GRIDCO is concerned due to reduction in revenue requirement they do not stand to loose any way. There are the consumers other than the housing of the generating companies who shall be treated as the consumers of SOUTHCO, the licensee for the area for which separate meter has to be done.
19. Further, in the minutes of the meeting between OHPC, SOUTHCO, GRIDCO, and Potteru Irrigation Project authority held on 22.05.2006 it was decided that OHPC and non OHPC load would be separated. The process of segregation work shall be completed by SOUTHCO within six months time. So, SOUTHCO should take immediate steps for segregation of non-OHPC load and supply power to the local consumers excluding OHPC consumers from SOUTHCO sources.
20. At this stage the Commission would not like the case to be reopened in view of the minutes agreed on 22.05.2006. However, from 01.11.2008 onwards the method of billing shall be as indicated in para 18 of the order.
21. Accordingly, the case is disposed of.

Sd/-
(K.C. Badu)
Member

Sd/-
(S.K. Jena)
Member