

# **ODISHA ELECTRICITY REGULATORY COMMISSION**

**BIDYUT NIYAMAK BHAWAN  
UNIT-VIII, BHUBANESWAR - 751 012**

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Present: Shri K.C. Badu, Member  
Shri B.K. Misra, Member

## **Case No.112/2009**

M/s WESCO

.... **Petitioner**

**Vrs.**

M/S OPGC & others

.... **Respondents**

**In the matter of:** An Application of WESCO as per Order dated 14.07.2009 of the Hon'ble ATE passed in Appeal No.21 of 2009 arising out of order passed in case no.49 of 2007 of the Commission.

**For the Petitioner:** Shri Suresh Tripathy, Advocate on behalf of the petitioner-WESCO, Shri G.C.Mohanty, DGM,WESCO,Sri Prsanta Kumar Sahoo, SE(RA), WESCO, Shri D.Ekka,WESCO.

**For the Respondents:** Sri Dhaneswar Mohanty, Advocate on behalf of M/s.OPGC Ltd.  
Shri J.K.Dash, Sr.GM(PP),GRIDCO,  
Shri S.K.Puri,AGM(O&M),OPTCL,  
Nobody was appeared on behalf of Dept. of Energy, Govt. of Odisha

**Date of Hearing: 22.12.2010**

**Date of Order: 15.03.2012**

## **ORDER**

The brief fact of the case is that OPGC (the respondent herein in the present case) had earlier filed a case before the Commission bearing Case No.49 of 2007 impleading WESCO as respondent in that case. The OPGC 's contention was that, it has constructed 26 KM, 33 KV line at its own cost from Remja (Brajarajnagar) 132/33 KV Grid S/S to its power plant premises for availing construction power since the time of project execution. Presently, the line is being used for emergency power.

Thus, the line remains in idle charged mode. The line may need to be utilized in near future for the extension of the existing plant of OPGC. WESCO has tapped this line to provide power supply to M/s Global Coals and Mining Pvt. Ltd., on temporary basis. WESCO is insisting to draw power from the same line for supply of power to other consumers in the area adjoining the line. Though the line was constructed and is being maintained by the Respondent OPGC, WESCO is insisting to maintain the line and claiming to be its own line. Further to substantiate the matter, OPGC submitted that M/s Hari Electrical Works, Rajgangpur executed the construction of 33 kV line vide its Work Order No. 2136 dated 09.10.1987. The cost of the said 33 kV line and the necessary switch gear was capitalized and taken into the assets of the OPGC at different times. OPGC filed the copies of the agreement executed between erstwhile Orissa State Electricity Board (OSEB) and itself for supply of 33 kV power as per agreement dated 06.11.1989 and subsequently with WESCO the successor of to OSEB/GRIDCO vide agreement dated 05.06.2000. The above 33 kV line constructed operated and maintained by OPGC was never taken over by the OSEB and not transferred subsequently to WESCO. But WESCO is disputing the said line as its own asset.

2. The matter was heard in presence of both the OPGC and WESCO. The Commission by order dated 22.12.2007 disposed of the said case with the following observation:

*“The Commission heard both the parties and perused the record made available. WESCO have not been able to submit any document in support of their contention that the 33 KV line from Remja grid s/s to the OPGC premises is a part of their asset. On the other hand, OPGC has produced evidence regarding placing of work order for construction of the said line by OPGC.*

*OPGC has submitted copies of their work order for day to day maintenance of electrical installation of residential, non residential buildings at ITPS Township and day-to-day maintenance of LT/HT line/substations/street light/AC/geyser etc. vide their order 23.05.06 which also includes break down inside and outside of 33 KV line from ITPS to Ramja line, Banarpali village and recycling the plant etc. (vide annexure 1 page-32). OPGC has also submitted letter no.332 dt.28.02.07 of Chief Engineer (Projects-cum-Chief-Electrical-Inspector) (Generation) a statutory authority regarding arrear annual fee of ITPS. The Item 21 of page 39 also shows a charge of 1640 for a stretch of 52.8 KM of HT line.*

*OPGC has also quoted the minutes dt.25.08.06 as quoted below which has not been refuted by WESCO.*

*“That in the minutes of meeting held on 25.08.06 at Ib Thermal Power Station, in which the Chief Executive Officer, WESCO and the Director (Operation), OPGC participated, it has been record as follows :*

*“5. OPGC is having its own 33 KV line connected to Brajarajnagar Remja grid from IbTPS. This line of apprx. 26 KM was erected and commissioned during late 80s by OPGC for the construction work of Ib TPS and is being maintained by OPGC till today. This line is now kept idle charged as a standby supply for our colony and Ash re-cycling plant. OPGC in its part is paying the bills to WESCO for this 33 KV line after deducting the cost of energy charges of the two villages @ Rs.3.10 per unit. This arrangement has been going on till today.”*

*“10. It was also suggested by WESCO that OPGC need to hand over the 33 KV infrastructures to them as per the provisions of the Electricity Act, 2003. OPGC did not agree to their suggestion and instead requested them to find ways under which the 33 KV line can be retained by OPGC for assured power supply to the plant & colony in case of emergency. At present OPGC have allowed M/s. Global Coal and Mining to draw power from its 33 KV line for their coal washery plant near Bandhabahal with the knowledge of WESCO.”*

*“The request of M/s. Global was considered by the petitioner as a special case anticipating future use of coal for generation purpose.”*

*Permission was accorded to Global Coal and Mining Pvt. Ltd. for drawing power supply temporarily from the nearest tapping point of 33 KV OPGC feeders till the completion of 33 KV /11 KV Bandhabahal s/s. (WESCO letter no.63 (3) dt.10<sup>th</sup> January, 2006).*

*From the available records specifically the minute drawn up between OPGC and WESCO, it is obvious that this 33 KV line from Remja to ITPS is a line owned by Orissa Power Generation Corporation.*

*From the WESCO letter no.63 dt.10.01.06 addressed to EE, Jharsuguda . it is observed that a tapping has been permitted to M/s. Global Coal and Mining*

*Pvt. Ltd. for temporary drawl of power till the completion of 33/11 KV Bandhabahal s/s.*

*Since, this 33 KV line is intended for meeting the emergency drawl of OPGC power plant it is desirable that this tapping should be quickly removed and connected to Bandhbahal 33 /11 KV s/s with proper protection arrangement so as not to interrupt power supply in times of necessity.*

*In future also WESCO should not arrange to give power supply to any prospective consumer to maintain this as a dedicated feeder for meeting emergency supply in case of any exigencies. In the matter of availing shut down from Remja gird s/s only OPGC is competent to avail a shut down from this s/s. as they are the owners of the line. In case of necessity WESCO may make mutual arrangement for availing shut down with OPGC.*

*It will be desirable if the Bandhabahal 33/11 KV s/s is connected from some independent source of power from WESCO 33 KV network.*

*This disposes off the petition filed by OPGC.”*

3. WESCO the petitioner herein (in the present case) filed a review petition for review of the above order dated 22.12.2007 passed in case No 49/2007 under Regulation 70 of OERC (Conduct of Business) Regulations, 2004 The Commission registered the said review case as Case No. 12/2008 and after hearing both the OPGC and WESCO, disposed of the above Case No.12/2008 on 05.11.2008 as follows:-

*“14. After hearing the parties and perusal of the case records we observe that the review petition under consideration does not satisfy any of the ground for review i.e. (i) discovery of new and important matter or evidence (ii) mistake or error apparent on the face of the record in the earlier proceeding in Case No.49/2007 or (iii) any other sufficient reason under order 47, Rule-1 of CPC, 1908 and therefore rejects the review petition filed by WESCO without cost.”*

4. Being aggrieved by the above review Order dated 05.11.2008, the petitioner herein WESCO had filed an Appeal before the Hon’ble Appellate Tribunal for Electricity (ATE) challenging the both the Order dated 22.12.2007 passed in the Case No. 49/2007 as well as the Order dated 05.11.2008 passed in Review Case No. 12/2008 of the Commission . The said appeal was registered as Appeal No. 21/2009 and was disposed of on 14.07.2009 by the Hon’ble ATE with the following observation:-

*“14. In this case, admittedly , the documents which were produced before the State Commission were not considered at all, with reference*

*to their relevancy or their sufficiency. On the other hand, the review has been simply dismissed on the ground that the Appellant has not satisfied the Commission with any ingredient required for review of the order. This in our view is not the correct reasoning.*

*15. We are of the opinion that the State Commission should have considered those documents in order to decide the issue with reference to the ownership of the kV line on the strength of those documents and this was not done. Hence, we deem it fit to remand this matter to the State Commission.*

*16. Accordingly, both the orders dated 22.12.2007 and 05.11.2008 passed by the State Commission is set-aside and the matter is remanded. We direct the State Commission to consider the new documents produced by the Appellant WESCO and give opportunity to both the parties to find out the relevancy of the documents and decide the matter with regard to the ownership in accordance with law. It is however, made clear that we are not expressing any opinion either with reference to the said documents or with reference to the issue. The State Commission can decide the issue afresh on the basis of the materials/documents produced by both and on the basis of the submissions made by both the parties.....”*

5. According to the above Order of the Hon'ble ATE passed in Appeal No. 21/2009, the petitioner herein-WESCO has filed the present case before the Commission which has been registered as Case No. 112/2009 for further consideration by the Commission annexing the following documents:-
  - i. Notes of the discussion between OSEB and OPGC officials held on 12.02.1986.
  - ii. Letter of MD (OPGC) to CEO & Member TDC, OSEB, Bhubaneswar dated 27.02.1986 and
  - iii. Letter from MD, OPGC to SE, EC, Burla dated 03.07.1986.
6. In the present Case No. 112/2009 and the Commission vide its order dated 07.12.2010 has impleaded GRIDCO, OPTCL and Dept. of Energy, Govt. of Odisha ( DoE GoO) as respondents in the above proceeding to come to a decision as to whether the alleged 33 kV line was constructed by OPGC with the funding provided by the State

Govt. As per direction of the Commission the copy of the Petition of WESCO and the reply filed by OPGC have been served on the impleaded respondents along with the Order dated 07.12.2010 for filing of their reply on or before 20.12.2010 and the Case was posted on 22.12.2010 for hearing. During the hearing on 22.12.2010 all the parties except DoE, GoO were present, and the Commission passed the following order:-

“Both WESCO and OPGC are directed to maintain the status quo till disposal of the case by the Commission and file their written note of arguments serving copy to each other and also to the DoE,GoO on or before 31<sup>st</sup> Dec, 2010. It was submitted to the Commission that the subject 33KV line (26Km line from 132/33KV Brajarajnagar S/s (Remja) of OPTCL to Ib-TPS of OPGC) was constructed with the funding from State Government with the knowledge and consent of the then OSEB (now GRIDCO/OPTCL). Accordingly the DoE, GoO is directed to file its reply to confirm whether its funding of the line was for asset creation of the then OSEB, the transmission, distribution organization or for OPGC- the generating company as grant M/s OPTCL/GRIDCO (the then OSEB) and OPGC, through affidavit may also confirm whether the 33KV line was a part of their total asset or not and may file copy of the relevant portion of their asset register, if any. All the above submission should be made on or before 15<sup>th</sup> Jan, 2011”

7. As per order of the Commission except DoE, GoO all the parties have submitted their written submissions. After several reminders issued by the Commission to the parties for filing of their written submission, if any, on or before 21.01.2012 positively by way of affidavit failing which the Commission will dispose the matter on the basis of the documents available in the case record, no submission has been filed by the DoE, GoO till today.
8. WESCO, in its written submission has submitted that the Respondent herein OPGC in the present proceeding claims ownership of 33 kV line from Remja Grid to Banharpali (OPGC) on the basis of a Work Order purported to have been issued in favour of one M/s Hari Electrical. The said Work order inspires no confidence as it appears to be fictitious and its legal validity can be judged only by way of cross examination and assuming that the said work order was issued, the same can not confer the ownership of the line on the OPGC. The notes of discussion held on 12.02.1986 followed by the letter dated 03.07.1986 make it abundantly clear that the line in question was taken up as a deposit work by the then OSEB. Since the line in

question did belong to OSEB, by virtue of operation of the Transfer Scheme, the said 33 kV line belongs to the DISTCOM-WESCO petitioner herein. It would be appropriate to quote the relevant para of the note of discussion dated 12.2.1986 and the letter dated 3.7.1986 which is as follows:-

*“x x x Managing Director/OPGC requested for 5 MW of construction power, Member (TDC), OSEB indicated that it may be possible to supply construction power to OPGC to the extent of 5 MW from Brajarajnagar Sub-station at 33 kV. OPGC may send requisition for the same for construction of 33 kV line from Brajarajnagar as a deposit work, OPGC may procure the material and entrust the works to OSEB to take up as a deposit work for the installation portion. OSEB will arrange 2 nos. of 12.5 MVA, 132/33 kV Transformer and install at Brajarajnagar within six months.....”*

*“.....In this connection as indicated in our letter, a meeting was held with the Chief Engineer Member (TDC) OSEB, in which it was agreed that OSEB should take up construction of the above 33 kV line as a deposit work for which all the materials required shall be procured by OPGC and given to OSEB Drawing No.1, dated 01.11.1985.....”.*

From the above notes of discussion dated 12.2.86 and letter dated 03.07.1986 it is quite clear that the line was taken up as a deposit work by the OSEB would belong to the Petitioner herein-WESCO and OPGC does not deny the existence of these two documents.

9. WESCO has further relying on Regulation 27 of the OERC (Condition of Supply) Code, 2004 as an alternative to support its plea submitted that the line in question belongs to it and not to OPGC. The said Regulation 27 of the Supply Code is reproduced below:-

*“ 27. The entire service line, not with standing that whole or portion thereof has been paid for by the Consumer, shall be the property of the licensee and shall be maintained by the licensee who shall always have the right to use it for the supply of energy to any other person unless the line has been provided for the exclusive use of the consumer through any arrangement agreed in writing.”*

WESCO has submitted that it is not the case of OPGC that there was any agreement so as to confirm exclusiveness on it. Rather the above Regulation comes as an aid to the aid of WESCO to claim ownership on the disputed 33 kV line.

In support of its claim WESCO has cited the judgment dated 09.01.2008 of the Hon'ble ATE passed in Appeal Nos. 278/2006 and 89 of 2007 in cases of Hind Metals & Industries Private Ltd. Vrs. M/S Navabharat Ferro Alloys Private Ltd. and Others wherein, the Hon'ble ATE has, reiterated the provision quoted in Regulation 27 of OERC Supply Code, 2004 and has observed the circumstances under which the entire service line though whole or portion paid by the consumer shall be the property of the Licensee-WESCO, the Petitioner herein.

10. In its written submission WESCO also cited the Order dated 03.07.2002 passed in Case No. 20/2002 ( M/S OPGC Vrs. WESCO) of this Commission in support of its argument, which is as follows:-

“ 21.....Since the supply of electricity to this area is to be carried out by WESCO, OPGC should avail bulk supply for the colony, consumption and may be classified under appropriate category in accordance with Regulation 80 of the OERC Distribution (Condition of Supply) Code, 1998.....”

In its written submission the Respondent- OPGC submitted that on 17.12.84 Govt. of Odisha in Irrigation & Power Department Resolution decided to set up “The Orissa Power Generation Corporation Ltd.,” in short known as OPGC Ltd., for generation of power by a separate body other than Orissa State Electricity Board which was sole agency / authority for transmission and distribution of power in the State of Orissa under the provisions of the Electricity Supply Act. 1948. The main object of the Generating Company, as provided in the resolution, was to establish, operate and maintain such electric power generating stations and tie-line, sub-station and main transmission line connected therewith as may be required to be established by the Govt. in relation to the Company. At the same time the said resolution also provided that OSEB shall co-ordinate the work in the most efficient and economical manner, the generating stations, tie-lines etc. The Govt. resolution further provided for constitution of a Board of Directors for the said Generating Company, in which Chairman of the erstwhile OSEB was a member. Hence, all activities of Generating Company right from the date of its creation i.e., 17.12.84 including the execution of 33 KV feeder line from Brajarajnagar to Ib thermal constructed by M/s. Hari Electricals on behalf of OPGC being funded by the State Govt. was within the



knowledge and consent of OSEB. At no point of time the OSEB or GRIDCO made any contribution for construction or maintenance and / or claimed any rights over the aforesaid feeder.

11. OPGC further submitted that the petitioner has admitted that the scheme for ITPS has been approved by the CEA. Different approved works have been executed by different contractors, out of which this 33 KV dedicated transmission line has been constructed by M/s Hari Electricals. It may be noted here that there was discussion and proposal for execution of the said work by OSEB for generating company out of the sanctioned funds. As OSEB failed to take up the work, it was executed by open tender as per decision of the Board of Generating Company in presence of the Chairman of OSEB, who was a member of the Board then. Hence the execution of work by OPGC is not to include or construed as if a supply line for supply of energy to public by the distribution licensee. On 10.02.90 construction work of the said line was completed by the contractor and a test report was prepared in presence of OSEB on 20.07.90(Annexure P-10), in which it was categorically admitted that the ownership of the aforesaid 33 KV line belong to OPGC.
12. On 15.02.90 the Electrical inspector in his letter No. 144, dtd. 15.02.90(**Annexure P-7**) authorized the Executive Engineer (Electrical) Jharsuguda Electrical Division of OSEB to inspect the 33 KV line for energization. Accordingly on 26.03.90(**Annexure P-9**) inspection was done by the Executive Engineer in the presence of SDO & JE of OSEB, Manager & Asst. Manager of OPGC and also Contractor. In their Inspection Report it is clearly written that “**Electrical Installation of OPGC**” and Inspection of “**system of supply voltage 33 KV AC**”. Hence, it is the own admission of OSEB that the aforesaid line belongs to OPGC. In this connection another evidence may be taken into consideration, that is a letter issued by Executive Engineer, Jharsuguda Electrical Division vide TS No. 110 / 1759 dtd. 10.07.89 (**Annexure P-6**) in which OSEB has also admitted that the 33 KV line has been constructed by OPGC from 132 / 33 KV Grid Sub-station Brajarajnagar to ITPS. In view of above it can be safely concluded that, the said 33 KV line from Remja to ITPS has been constructed, owned and maintained by OPGC. Neither OSEB or GRIDCO nor the petitioner-WESCO has any right over the same under the law in any manner whatsoever.
13. In support of the above claim regarding ownership of the disputed 33 kV line the Respondent-OPGC relies the following documents which are submitted in its reply:-
  - i). Resolution of Govt. dtd. 17.12.1984. - (Annexure-P1)

- ii). Notification in Irrigation and power Deptt.  
Dtd. 10.01.86. - (Annexure-P2)
  - iii). Work Order in favour of M/s. Hari Electricals  
dtd. 09.10.87 - (Annexure-P3)
  - iv). A certificate in favour of M/s. Hari Electricals. - (Annexure-P4)
  - v). A letter of South Eastern Railway dtd. 06.01.89. - (Annexure- P5)
  - vi). Letter of OSEB dtd. 10.07.89. - (Annexure-P6)
  - vii). Electrical Inspector letter dtd. 15.02.90 - (Annexure-P7)
  - viii). OPGC compliance report dtd.28.06.90 - (Annexure-P8)
  - ix). Inspection Report dtd. 12.06.90 - (Annexure-P9)
  - x). Test Report dtd. 20.07.90 - (Annexure-P10)
  - xi). WESCO letter No. 4807, dtd. 31.07.99 - (Annexure-P11)  
admitting power supply on net exchange  
basis to OPGC.
  - xii). Records of discussion with WESCO - (Annexure-P12)
  - xiii). Relevant portion of PPA dtd. 1.1.95 - (Annexure-P13)
  - xiv). Letter of Inspection dtd. 28.02.2007  
of equipments of the entire generating  
station, which includes 33 KV line at Sl.21. - (Annexure-P14)
  - xv). Payment of fees for annual inspection  
of Electrical installation from 2002 to 2007  
Rs.38,69,415.00 vide Treasury Challan  
Dtd. 21.04.2007. - (Annexure-P15)
14. OPGC submitted that from the date of planning of generating station till its completion, all the way OSEB and after it GRIDCO participated and coordinated in execution of work, admitting the title, ownership and right of OPGC over the present 33 KV line and therefore WESCO now can not claim the same being a licensee as successor of GRIDCO.
15. OPGC further submitted that the objection raised by WESCO as to the lack of jurisdiction of this Commission to adjudicate the present dispute is also not sustainable in view of the reported judgment of the Hon'ble AP High Court reported in AIR 2006 Andhra Pradesh Page-12. The dispute between Generating Company and Licensee is very much within the jurisdiction of Hon'ble State Commission u/S. 86 (i)(f) of the Electricity Act. 2003.

16. M/s OPTCL in its written submission has submitted that prior to transfer of transmission undertaking of GRIDCO to OPTCL by virtue of the Transfer Scheme, 2005, the distribution assets comprising sub-stations, associated lines and equipments of 33 kV voltage level and below were taken over by DISCOMs during 1999. After thoroughly enquiry of the available records by OPTCL it is confirmed that the Asset Register of erstwhile OSEB and that of GRIDCO is not available with it. However, the 33 KV line in question i.e. 33 kV line from 132/33 kV Remja (Brajarajnagar) grid S/S of OPTCL to Ib Thermal Power Station of OPGC at Banharpalli (if was a part of OSEB/GRIDCO asset) must have been taken by the petitioner-WESCO during 1999. Hence, WESCO would clarify on this issue by examining its Asset Register.
17. GRIDCO in its written submission has submitted that the 33 KV line in question [26 KM line from 132/33 kV Remja (Brajarajnagar) S/S of OPTCL to Ib TPS of OPGC] is utilized by OPGC for drawing power, as a consumer of WESCO. GRIDCO is in no way concerned regarding the ownership of the said 33 KV line and interest of GRIDCO remains unaltered in case of the ownership of the said line is vested in either of the parties and whatsoever decision is taken by the Commission shall be acceptable to GRIDCO.
18. The Deptt. of Energy , Govt. of Odisha was impleaded as respondent to this proceeding, but it has not appeared on 22.12.2010 on the date of hearing of the Case before the Commission and also not submitted its written submissions after several reminders were issued by the Commission regarding the funding of the line (33 kV line 26 KM from 132/33 kV Brajarajanagar S/S (Remja) of OPTCL to Ib-TPS of OPGC) for asset creation of the then OSEB, the transmission, distribution, organization or for OPGC the generation company as grant.

**Commission's observation**

19. After hearing the parties and perusal of the documents, the Commission hold that in view of observation of their lordship of the Andhra Pradesh High Court made at Para-37 reported in AIR 2006 Andhra Pradesh Page-12, it has jurisdiction to adjudicate the present dispute and the objection of WESCO regarding jurisdiction of the Commission for adjudication of the matter is not sustainable.
20. The Commission holds that two documents under Annexure - 4 & 5 filed by the petitioner-WESCO in Case No. 112 / 2009 do not establish a case in favour of distribution licensee-WESCO . Whatever provided under Annexure – 4 & 5 are nothing but mere discussion, proposal and request for construction of dedicated transmission line which forms a part of composite infrastructure of a Generating

station. Besides, these two documents also do not provide anything that OSEB and then GRIDCO had been maintaining the line as owner thereof. Hence, both the aforesaid two documents under Annexure - 4 & 5 are without any credible materials to take a different view which was earlier taken by this Commission.

21. It is pertinent to mention here that Section 15 (A) of the Electricity Supply Act, 1948 (since repealed) gave jurisdiction to a generating company for establishment, operation and maintenance of generating station and tie-lines, sub-station and main transmission line connected there with for which a licensee is not required u/s 26A of Electricity Supply Act, 1948. Similarly Sec.18(b) of the said Electricity Supply Act, 1948 (since repealed) also provides for authority to operate and maintain in the most efficient and economical manner the generating stations, tie-lines, sub-stations, main transmission lines assigned to it by the competent authority or the State Govt. in coordination with Board having control over the power station in the State. Thus, the role of erstwhile OSEB relating to establishment of a generating station at ITPS and 33 KV dedicated line connecting to its supply system of at Remja grid is confined to work of coordination and supply of power to a generating company.
22. The documents from Sl.(i) to (iv) mentioned in para 5 above do not establish a case in favour of OSEB as against the fact of execution of work by M/s. Hari Electricals on behalf of OPGC out of fund provided by the State Govt. It is pertinent to mention here that the Petitioner is a Govt. Generating Company while OSEB was a statutory body constituted under the Supply Act. 1948. WESCO is not able to substantiate by the documents mentioned at para 5 above that, they are the owner of the alleged 33 KV lines .WESCO has not filed any document to the effect that, the above 33 KV lines belonged to the erstwhile OSEB and after reform took place in the year 1995, as per the Orissa Electricity Reform( Transfer of Undertakings, Assets, Liabilities, Proceeding and Personnel) Scheme Rules,1996 this has been transferred from OSEB to GRIDCO and there after as per the Orissa Electricity Reform (Transfer of Assets, Liabilities, Proceeding and Personnel of Gridco to Distribution Companies) Rules, 1998, the assets in question have been transferred to WESCO.
23. Further M/s OPTCL in its written submission has submitted that prior to transfer of transmission undertaking of GRIDCO to OPTCL by virtue of the Transfer Scheme, 2005, the distribution assets comprising sub-stations, associated lines and equipments of 33 kV voltage level and below were taken over by DISCOMs during 1999. However, the 33 KV line in question i.e. 33 kV line from 132/33 kV Remja (Brajarajnagar) grid S/S of OPTCL to Ib Thermal Power Station of OPGC at

Banharpalli (if was a part of OSEB/GRIDCO asset) must have been taken by the petitioner-WESCO during 1999. Hence, WESCO would clarify on this issue by examining its Asset Register. But WESCO has not filed any such Register to substantiate its claim. The Commission had also impleaded the DoE GoO as respondent in the case. But no reply has been filed by the DoE GoO to sustain the claim of ownership of WESCO on the above 33 KV line.

24. With the above observations we are not inclined to allow the claim of the petitioner-WESCO as the owner of the 33 kV line in question. The said line exclusively belongs to OPGC Ltd. We advise that M/s. WESCO may draw its own 33 kV line from Remja Grid S/s of M/s. OPTCL to give permanent power supply to M/s. Global Coals and Minings (P) Ltd. and other consumers of the adjoining area. M/s. OPTCL may assist DISCOM for sparing and/or extending 33 kV Baysin Remja Grid S/s for drawing 33 kV feeder by DISCOM. In case there is any technical difficulties in providing necessary bays for DISCOM to extend separate feeder, M/s. OPTCL and DISCOM may in consultation with M/s. OPGC may arrive an agreed commercial and metering situation for effective utilization of the said 33 kV line from Remja Grid S/s to M/s. OPGC generating S/s, in order to avoid idle charging, thus saving the technical loss in line. We are, in opinion that the Grid S/s of TRANSCO is basically meant for use of DISCOM to draw the power and DISCOM has the first right to draw power Transco's S/s then any other user having dedicated feeder. Thus, till such time new separate feeder is constructed the "status quo" shall be maintained. A copy of this order be marked to M/s. OPTCL.
25. Accordingly the case is disposed of.

**Sd/-**  
**(B.K. Misra)**  
**Member**

**Sd/-**  
**(K.C. Badu)**  
**Member**