

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

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

**Case No.125/2010**

M/s CESU

.... Petitioner

**In the matter of: For review of order dtd. 20.03.2010 passed in Case Nos. 41,42 & 43 /2007 & 2008 pertaining to approval of Business Plan for the FY 2008-09 to 2012-13.**

For the petitioner: Shri M. K. Singh, GM(AT&C), CESU.

**Date of Hearing: 14.09.2010**

**Date of Order :14.12.2010**

**ORDER**

The case is taken up today for hearing on the application of condonation of delay for review of Commission's order dtd.20.03.2010.

2. On behalf of the petitioner, Mr. Manoj Kumar Singh, GM (AT&C) pleaded for condonation of delay of 75 days in filing of the review petition and requested the Commission to admit the review petition filed by CESU on 27.08.2010 against the order passed by the Commission in case No.41, 42 & 43 of 2007 and 22 of 2008. He submitted that as it is extremely difficult to achieve the target fixed by the Commission in the foregoing order, CESU Management Board decided that a review petition may be filed with the Commission for review of the order pertaining to approval of Business Plan for FY 2008-09 to FY 2012-13. The Management Board took that decision after a lot of deliberation which caused the delay in filing the review petitions. Hence, delay in filing the present application is neither intentional nor deliberate.

3. Mr. Singh stated that while approving the Business Plan for 2008-09 to 2012-13, the Commission had accepted FY 2007-08 as base year and FY 2008-09 as the reference year of the control period basing on which target for the rest of the years were fixed. The Commission fixed the AT&C loss trajectory for FY 2008-09 at 32.84% against actual audited AT&C loss of 45.23%. He pleaded that the Commission by doing so has reduced the AT&C loss by 13.09% in one year for 2008-09 i.e. from 45.93% in FY 2007-08 to 32.84% in FY 2008-09. This was not in accordance with the recommendation of the Abraham Committee on fixation of the loss reduction trajectory. He submitted that the AT&C loss target should be fixed in a most pragmatic manner. The petitioner then can make all out effort to achieve the loss trajectory fixed by the Commission. He suggested an amended loss projection trajectory as given below for CESU which may be approved by the Commission.

**AT & C Loss Projection by CESU**

Particulars	2007-08	2008-09	2009-2010	2010-11	2011-12	2012-13
Reduction of AT & C Loss%	Base Year	3%	3%	3%	3%	3%
AT & C Loss (proposed)	45.93%	42.93%	39.93%	36.93%	33.93%	30.93%

4. Heard the petitioner on the application for condonation of delay for filing of petition for review of order dated 20.03.2010 passed in Case Nos. 41, 42 & 43 of 2007 and 22/2008. The Commission considered the reason for delay in filing the present review petition and condoned the delay.
5. Following Order 47, R.1 of Code of Civil Procedure, a review petition can be admitted if there has been discovery of new important matter or evidence after order was passed, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason. In the present review case, the petitioner has pointed out that the target AT & C

loss for the first year of control period in Business Plan i.e. 2008-09 should have been taken basing on the actuals of the base year i.e. 2007-08.

6. On the contention of the petitioner i.e. CESU, that the Commission has reduced AT&C loss by 13.09%, it is to clarify that the licensee has not properly appreciated the Commission's order on Business Plan wherein it is clearly stated that the present Business Plan approval in respect of AT&C loss is a continuation of approval of AT&C loss beginning from the First Business Plan. For instance, in the last Business Plan for FY 2007-08, the approval of AT&C loss was at 35.6%. For the year 2008-09, the Commission fixed it at 32.84%. Therefore, there is a reduction of AT&C loss to the extent of 2.76% (i.e. 35.6% minus 32.84%). This reduction is approved by the Commission in the new Business Plan for 2008-09 to 2012-13. It cannot be a hide and seek business where the Licensee will go on increasing the AT&C loss or not achieving the previous target in the previous business plan period and then yearwise reduction from the loss level shown for the terminal year of the previous business plan. This negates the very purpose of a business plan.
7. The 13.09% reduction pointed out by CESU is based on their actual AT&C loss for FY 2007-08 at 45.93% minus the approved figure of AT&C loss for 2008-09 at 32.84% (i.e. 45.93% minus 32.84%). The actual performance of CESU in respect of AT&C loss target set by the Commission during the previous Business Plan period and in the current Business Plan period is much below the target.
8. The actual distribution losses incurred by the DISCOMs were unveiled during FY 2001-02 and the same was accepted both by the licensees as well as by the Commission at 42.21%. Subsequently, the first Business Plan from 2003-04 to 2007-08 was approved with all Orissa distribution loss figure of 40.8% for 2003-04 and all Orissa AT&C loss figure of 49.4%. The corresponding figure for CESU was 39.8% in respect of

distribution loss for 2003-04 and 51.1% in respect of AT&C loss for the same year.

9. The Commission had expressed serious concern in the first Business Plan order vide para 5.6.7.3 (x) (e) as follows:

*“The Kanungo Committee which was constituted to suggest midcourse correction for power sector reform in Orissa had adopted a loss figure of 42.21% in transmission and distribution only excluding the loss in EHT transmission system. From the year 01-02 onwards, the OERC have been adopting the loss figures recommended by Kanungo Committee, which was based on the submission by the Distribution Companies. It is most unfortunate to observe that the Distribution Companies have miserably failed to live upto their own expectation of reduction of the loss level they projected in the year 01-02 before the Kanungo Committee. Therefore, taking all these factors into consideration, it has now become imperative to fix very firmly the target for reduction of loss to be scrupulously followed by the Distribution Companies.”*

10. CESU has not achieved any of the targets set by the Commission in respect of distribution loss and AT&C loss. For instance, the actual distribution loss of CESU was 40.9% in 2001-02 which became 41.5% (actual) in 2007-08. Instead of reducing distribution loss, CESU has increased the same.
11. It may also be observed that Distribution loss as well as AT&C loss being controllable in nature, any variation of actual with the approved quantum don't carry any claim for truing up. It is not binding upon the Commission to consider the figure of distribution loss based on audited accounts of the DISCOMs for the purpose of setting trajectory of Distribution loss and AT&C loss for future years by ignoring or overlooking the abysmal failure of the licensee.
12. Keeping the above facts in view, the Commission in the present Business Plan for 2008-09 to 2012-13 has stated as follows:

*“Para 53. XXXX it is seen that the distribution loss in Orissa is the third highest in India. This distribution loss has created a vicious cycle resulting in poor cash inflow, poor maintenance resulting again in high distribution loss. Therefore, DISCOMs have to launch a determined onslaught on losses in distribution. They are very optimistic in their*

*Business Plan about curbing their present distribution loss level to a acceptable limit by 2012-13. We fully agree with their proposal and do not find any justification to deviate from the trajectory of the last Business Plan and continue to fix target reducing the distribution loss without any interruption.”*

13. In the present review case, the petitioner has not been able to point out any error in the Commission's order basing on the above points. Therefore, the review petition cannot be admitted on the grounds mentioned by the Licensee.
14. Further, in the meantime, State Govt. have decided to provide Rs.1200 crores for upgradation of distribution network by the four Distribution companies with counterpart funding of the same amount by the Distribution companies during a period of 4 years starting from 2010-11 to 2013-14. Out of Rs.2400 crore, CESU's share would be Rs.936 crore (State Govt. Rs.468 crore + CESU's counterpart funding Rs.468 crore) against which investment proposal for Rs. 1092.72 crore has been approved by the Commission in their order dtd. 06.10.2010 in Case No.134 of 2010. With implementation of CAPEX programme envisaged in Govt's. letter No.9230/En. Dt.21.10.2010 and strong anti-theft measures, it is expected that CESU should be able to achieve a substantial reduction in the Distribution loss as well as AT&C loss by end of 2012-13.
15. Accordingly the matter is disposed of.

**(B.K. Misra)**  
**Member**

**(K. C. Badu)**  
**Member**

**(B.K. Das)**  
**Chairperson**