

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

Present : Shri S.P. Nanda, Chairperson
Shri K.C. Badu, Member
Shri B.K. Misra, Member

CASE No. 107 of 2011

M/s. WESCO, NESCO & SOUTHCO Ltd., Petitioners

Vrs.

GRIDCO Respondent

In the matter of: An application under S.86 (1) (f) of the Electricity Act, 2003 in regard to Resolution of Power Bond in line with the Order dated 12.05.2011 of the Commission passed in Case No. 35/2005.

For the Petitioner: Sri A.K. Bhora, CEO, CSO for WESCO, NESCO and SOUTHCO
Sri G.B. Swain, General Manager (Finance).

For the Respondents: Sri Bibhu Prasad Mohapatra, Director(Finance) , Sri P.K.Pradhan
Director(Commercial) and Sri N. Sahoo, General Manager (Finance).

ORDER

Date of Hearing : 28.03.2012

Date of Order : 29.03.2012

The DISCOMs namely WESCO, NESCO & SOUTHCO filed petition under Sec.86(1)(f) of Electricity Act, 2003 for resolution of Power Bond dispute of Rs.400.00 cr. in line with the direction of the Commission in Case No.35 of 2005.

2. In this context it is necessary at this stage to recount the background leading to the dispute on settlement of NTPC Bond between GRIDCO and the REL managed three DISCOMs.
 - (i) After privatization of distribution business the four DISCOMs namely WESCO, NESCO, SOUTHCO and CESCO (now CESU) defaulted in payment of bulk supply and loan dues to GRIDCO. Consequently, GRIDCO, due to the eventual cash crunch, was forced to default in payment of the power purchase dues of NTPC and also that of the generators. During July, 2000, NTPC served a Notice on GRIDCO for regulation of power supply because of non-payment of dues towards supply of power. Such a default by GRIDCO was due to in-adequate payment by DISCOMs against the BST billing of GRIDCO.
 - (ii) The matter was taken up amongst the various stakeholders for a definitive solution. As a step towards this, on 24.10.2000 a Minutes of discussion was signed amongst NTPC, GRIDCO, BSES(now Reliance Managed) DISCOMs for securitization of the dues payable by the DISTCOMs to GRIDCO and also the dues payable by GRIDCO to NTPC. Accordingly, the three DISCOMs issued Bonds aggregating Rs.400.00 crore effective from 01.4.2000 to GRIDCO (which were subsequently re-assigned to NTPC) with the following Terms and Conditions:

- (a) Date of Issue - 01.10.2000
- (b) Interest - 12.5% p.a payable semi-annually
(i.e. March and September)
- (c) Tenure - 7 Years (including 5 years Moratorium)
- (d) Security Conditions -
 - (i) The bonds shall be secured by first charge over the receivables of DISCOMSs ranking pari passu basis with GRIDCO.
 - (ii) The bonds shall be secured by way of charge over the assets of the DISCOMS.
 - (iii) DISCOMS have to directly service these bonds.
 - (iv) As a fall back arrangement, NTPC will have the first charge on pari passu basis along with other first charge holders over the receivables of GRIDCO towards payment of interest and repayment of principal.
- (e) Redemption - 30%, 30% and 40% at the end of 5th, 6th and 7th year respectively from the date of allotment. i.e. on 1.10.2005, 01.10.2006 and 01.10.2007 respectively.

(iii)Rs.400.00 crore represents the outstanding amount pertaining to the period from April, 1999 to October, 2000. The various components of Rs.400.00 crore NTPC bond and the DISTCOM-wise is given below:-

Table

(Rs. Cr.)

	WESCO	NESCO	SOUTHCO	Total
BST	59.00	121.33	86.00	266.33
DPS	1.00	5.67	3.50	10.11
Loan with interest	43.00	40.00	40.50	123.50
Total amount of bonds issued	103.00	167.00	130.00	400.00

(iv)As per the original agreement of the NTPC bond the DISTCOMS are to pay interest @ 12.5% per annum payable half yearly on March and September. The principal has to be redeemed in three annual installments i.e. 01.10.2005 (30%), 01.10.2006 (30%), 01.10.2007 (40%). However, in the assessment of the ARR of the DISTCOMS the Commission was allowing interest @8.5% per annum (tax free) on those bonds as per the recommendation of the Alhuwalia Committee which was done to keep the tariff at a lower level compared to what would have happened if the interest 12.5% factored in the ARR. Based on the original agreement of servicing NTPC bond @12.5% per annum the interest amount works out to Rs.325.00 crore up to 31.3.2007, the date on which GRIDCO discharged the NTPC bond liability on behalf of the three distribution companies. Based on interest of 8.5% per annum the interest for the said period works out to Rs.221.00 crore which may be seen from the table given below:-

Table

Interest on the Bonds @ 12.5% per annum				
12.50%	WESCO	NESCO	SOUTHCO	Total
Bond Amount (in Rs.)	103	167	130	400
Bond Commenced wef 1.10.2000				
Interest as on 31.03.2001	6.44	10.44	8.125	25.00
Interest as on 31.03.2002	12.88	20.88	16.25	50.00

Interest as on 31.03.2003	12.88	20.88	16.25	50.00
Interest as on 31.03.2004	12.88	20.88	16.25	50.00
Interest as on 31.03.2005	12.88	20.88	16.25	50.00
Interest as on 31.03.2006	12.88	20.88	16.25	50.00
Interest as on 31.03.2007	12.88	20.88	16.25	50.00
Total Interest Due	83.69	135.69	105.63	325.00

Table

Interest on the Bonds @ 8.5% per annum				
8.50%	WESCO	NESCO	SOUTHCO	Total
Bond Amount (in Rs.)	103	167	130	400
Bond Commenced wef 1.10.2000				
Interest as on 31.03.2001	4.38	7.10	5.525	17.00
Interest as on 31.03.2002	8.76	14.20	11.05	34.00
Interest as on 31.03.2003	8.76	14.20	11.05	34.00
Interest as on 31.03.2004	8.76	14.20	11.05	34.00
Interest as on 31.03.2005	8.76	14.20	11.05	34.00
Interest as on 31.03.2006	8.76	14.20	11.05	34.00
Interest as on 31.03.2007	8.76	14.20	11.05	34.00
Total Interest Due	56.91	92.27	71.83	221.00

- (v) However, since GRIDCO has discharged NTPC bond liability for Rs.603.50 crore against the principal of Rs.400.00 crore the interest actually paid comes to Rs.203.50 crore. WESCO, NESCO & SOUTHCO have directly paid Rs.110.80 crore to NPTC towards interest and besides this, Rs.184.25 crore has been adjusted in the account of GRIDCO towards NTPC Bond liabilities on account of excess BST paid by the distribution companies over and above the current BST bill. Thus, the three distribution companies have paid Rs.295.05 core to NTPC and GRIDCO taken together. After taking into account of Rs.295.05 core, the 3 distribution companies are yet to pay Rs.429.95 crore (Rs.725.00-Rs.295.05) to GRIDCO as per the bond agreement for payment of interest @12.5%. If interest @ 8.5% is taken into account as per the recommendation of Alhuwalia committee the balance amount payable to GRIDCO is Rs.325.95 crore (621.00-295.05). However, based on the actual amount settled by GRIDCO with NTPC the balance amount payable by the three distribution companies works out to Rs.308.45 crore (603.50 – 295.05) as indicated in the Table.

Table
Projected NTPC Bond Dues

(Rs in Crore)					
A	DISTCOs Power Bond-default (a+b)	WESCO	NESCO	SOUTHCO	TOTAL
	Principal	103.00	167.00	130.00	400.00
	Proportionate Interest	52.40	84.96	66.14	203.50
	Sub-total	155.40	251.96	196.14	603.50
B	Direct payment by DISTCOs to NTPC	53.14	33.26	24.40	110.80
C	Balance Bond Liability (A-B)	102.26	218.70	171.74	492.70
D	Excess BSP paid by DISTCOs over OERC approved amounts in tariff Order adjusted against Bond				
	2005-06	78.94	39.72	-	118.66
	2006-07	15.17	18.48	-	33.65
	2007-08	-	16.22	-	16.22
	2008-09	-	15.72	-	15.72
	2009-10	-	-	-	-
	Sub-total	94.11	90.14	-	184.25
H	Balance Bond Liability (C-D)	8.15	128.56	171.74	308.45

(vi) Though, GRIDCO discharged the liabilities on behalf of the three Reliance managed distribution companies; the three distribution companies have not shown any liabilities towards the NTPC bond in their audited account for the year 2006-07 and 2007-08 onwards. Therefore, the dispute has arisen between GRIDCO and the three distribution companies regarding the owning of the liabilities by the three distribution companies and the discharge of the liabilities on account of GRIDCO to NTPC. Therefore, the Commission in their order dated 12.5.2011 in case No.35 of 2005 vide para 64(2) have directed as under:-

“64. In order to allow another opportunity to WESCO, NESCO & SOUTHCO to arrange fund for capital investment, taking effective steps for energy audit, arresting theft of electricity, improve standard of service to the consumers and to take proactive steps for redressal of consumer grievances and settlement of disputes with GRIDCO with regard to NTPC bond and other dues, Commission at present, instead of suspending licenses of the three distribution companies, would like to see on environment of effort on all sides to improve performance in various aspects. In view of the aforesaid discussions and analysis the Commission instead of suspending licenses of WESCO, NESCO & SOUTHCO directs demonstratable action towards performance as follows.

(1) X X X X X X

(2) DISCOMs and GRIDCO should make every effort to settle the issue of servicing Rs.400 crore NTPC bond in a mutually co-operative fashion without waiting for the final judgment of the various courts of law. Satisfactory steps should be demonstrated on or before 30.9.2011.”

3. The Commission heard the parties' viz. DISCOMs & GRIDCO at length on 27.01.2012 and in its interim order dtd.08.02.2012 directed the petitioner WESCO, NESCO & SOUTHCO to complete further negotiation as prayed for and submit written note on or before 20.02.2012 by serving the copy to GRIDCO. Also GRIDCO was directed to submit their response, if any, before 25.02.2012.
4. In pursuance to the direction contained in para 14 of the order dtd.08.02.2012, the DISCOMs (WESCO, NESCO & SOUTHCO) through affidavit filed the points of

negotiation/discussion held with GRIDCO before OERC on 01.03.2012. GRIDCO submitted their response on 07.03.2012.

5. As per the submission of DISCOMs on 01.03.2012, they had several rounds of discussion with GRIDCO, the last meeting having been held on 29.02.2012. In the meeting following issues were discussed:
 - (a) **Principal Amount of Power Bond** : Regarding principal amount of Bond, there is no difference between GRIDCO and DISCOM. The DISCOMs suggested that they will accept the computation made by the Commission at para-9 of the order dtd.08.02.2012 in Case No.107 of 2011 and requested GRIDCO to agree for the same.
 - (b) **Interest Rate on Power Bond for settlement** : DISCOMs agree to OERC observation as rate of interest in various orders. However, as stated by DISCOMs, GRIDCO opined that OERC may decide on the matter which will be acceptable to GRIDCO.
 - (c) **Payment Adjustment** : Regarding payment adjustment, DISCOMs are accepting the adjustment in line with Commission's appropriation in the order dtd.08.02.2012 (Para-9, table-4) and urged GRIDCO to accept the amount as arrived in Commission's order of 08.02.2012.
 - (d) **Opening Balance Issue**: GRIDCO insisted that DISCOMs should withdraw the claims on GRIDCO on the following opening balance (as on 01.04.1999) in their Books of Accounts. DISCOMs stated to separately file this issue with the Commission for creation of Regulatory Asset. However, consensus emerged that the total settlement would be simultaneous and also as a package resolution of the long pending 3 issues.
 - (e) **Immediate Payment**: Out of the Bond liability of Rs.308.45 cr. (arrived in para 9 and tab-4 of the Commission's order dtd.08.02.2012), the DISCOMs agree to pay Rs.100 cr. in two installments i.e.Rs.38.45 cr. (WESCO – Rs.8.15 cr., NESCO – Rs.28.56 cr. & SOUTHCO – Rs.1.74 cr.) as upfront payment before 31.03.2012 and payment of Rs.61.55 cr. (NESCO – Rs.41.00 cr., SOUTHCO – Rs.20.55 cr.) from OTS collection to be appropriated by GRIDCO by 30.04.2012.
 - (f) **Conversion of the balance outstanding amount to new loan** : The DISCOMs suggested to convert the balance outstanding loan of Rs.208.45 cr. (Rs.308.45-100.00 cr.) into a new loan at zero percentage rate of interest with suitable moratorium. But GRIDCO stated that the orders of the Commission shall be accepted to GRIDCO.
 - (g) **Security of New Loan** : The three DISCOMs agree for a hypothecation of assets upto 120% of the new loan which will enable them to arrange loan for CAPEX programme.
6. GRIDCO in response to the reply of DISCOMs dtd.01.03.2012 submitted the following:
 - (a) **Principal amount of Power Bond**: The principal amount of Bond is Rs.400.00 cr. Both GRIDCO and DISCOMs have no dispute.
 - (b) **Interest Rate of Power Bond for Settlement**: GRIDCO submitted that as per original Bond subscription agreement the rate of interest is 12.5% per annum. But

OERC in their various ARR orders allowed interest rate @8.5% per annum for tariff fixation. However, OERC may decide the rate of interest for settlement.

- (c) **Upfront payment towards Bond dues:** GRIDCO and DISCOMs agreed for Up-front payment of Rs.100.00 cr. DISCOMs agreed to pay Rs.38.00 cr. Up-front and payment of Rs.62.00 cr. from OTS collection in installments. But GRIDCO requested them to pay Rs.50.00 cr. in the month of March, 2012 and Rs.50.00 cr. in the month of April, 2012 as Up-front payment.
- (d) **Conversion of the outstanding amount to a New Loan:** GRIDCO proposes that after considering the principal amount, the interest and adjustment the final amount arrived may be considered as a new loan having repayment of period of 10 years @12.5% per annum. The new loan shall be secured by way of hypothecation of existing asset upto 120% of the value of new loan amount. In case of default GRIDCO will have the right to recover through escrow account. However, the decision of OERC is final considering the sectoral interest.
- (e) **Payment adjustment:** GRIDCO did not agree to the request of DISCOMs regarding payment adjustment at such a belated stage.
- (f) **Opening Balance issue :** GRIDCO stated that DISCOMs should withdraw the claims on GRIDCO on the following two opening balance issues in their Books of Accounts as a package resolution.
 - (a) Claim of Rs.314.00 cr. as Terminal liability
 - (b) Doubtful debts of Rs.107.00 cr. both aggregating to total claim of Rs.421.00 cr.REL managed DISCOM representatives have agreed to the same.
- (g) Finally GRIDCO stated that the proposal is subject to outcome of the judgement by the Hon'ble Supreme Court of India, in Case No.CA 759/2007 & the judgement in the pending case before the Learned Company Law Board, ERB, Kolkata on 5th February, 2008.

7. Commission fixed the date of hearing on 28.03.2012 and heard the parties at length. The background regarding settlement of NTPC Bond of Rs.400.00 cr. as submitted by WESCO, NESCO & SOUTHCO has been discussed in the Commission's interim order dtd.08.02.2012 and reiterated in para 2. As indicated therein after taking into account the payment made by the DISCOMs and the adjustment of the excess payment over the current BST dues arising out of retrospective downward revision of BST for 2007-08 and based on the actual amount settled with NTPC for Rs.603.50 cr. by GRIDCO, the balance amount payable by the three DISCOMs have been worked out at Rs.308.45 cr. This is the minimum amount which DISCOMs have to pay to GRIDCO excluding the interest liability for which settlement has to be arrived at.

Directions of the Commission:

8. Commission have carefully gone through both the written and oral submissions of the Reliance Managed Distribution Companies as well as that of GRIDCO. The main submissions of the Reliance Managed Distribution Company WESCO, NESCO & SOUTHCO is that based on the actual amount paid by GRIDCO to NTPC to settle the NPTC bond of Rs.400 crore the balance amount as worked out at Rs.308.45 cr. vide para 2(v) would be paid by the distribution companies to GRIDCO in installments. They would pay Rs.50 crore on or before 31.3.2012 and Rs.50 crore by 30.4.2012. With regards to the balance amount of Rs.208.45 crore, they have submitted that this should be treated as new loan with suitable

moratorium period and at **zero** percent interest. Their logic is that there would be improvement in cash flow after implementation Capex programme as approved by the Hon'ble Commission as well as Govt. of Odisha and then they would be able to service this loan from improved collection. As regards charging 0% of interest on this new loan of Rs.208.45 crore, they have submitted that the Reliance Managed DISCOMs agreed to convert a part of the outstanding loan and defaulted BST due to Bond for Rs.400 crore payable to NTPC but CESU did not agree for conversion of such outstanding dues as bond. They have submitted that the entire outstanding loan and BST dues have been securitized in case of CESU vide order dated 01.12.2008 of the Commission as interest free loan but a part of such loan and defaulted BST dues in case of NESCO, WESCO and SOUTHCO have been converted to interest free loan and balance Rs.400 crore as interest bearing Bond of Rs.400 crore, CESU is getting full benefit of interest and Reliance Managed DISCOMs have been deprived of such benefit. Since servicing of the securitized amount has been taken at 0% rate of interest the same would be applicable to the remaining amount of Rs.208.45 crore out of the NTPC Bond.

9. As per the Bond Agreement, NESCO, WESCO & SOUTHCO were to required to service Rs.400 core Bond at 12.5% interest as back to back arrangement but since State Govt. had allowed servicing of NTPC bond to GRIDCO for Rs.1102.87 crore at 8.5% interest the Commission had allowed interest at 8.5% on NTPC Bond of Rs.400 crore in the ARR of DISTCOMs for the year 2001-02 to 2007-08. After case was filed in the Supreme Court, the Commission have not allowed any interest on NTPC bond from the year 2008-09 to 2011-12 and also in the ARR of 2012-13. Hence, it is not possible on the part of the Commission to re-visit its own order at this belated stage by agreeing servicing balance amount of Rs.208.45 crore of NTPC bond at 0% interest in place of 8.5% earlier allowed upto the year 2007-08.
10. As regards charging of 0% interest on NTPC Bond from 2001-02 to 2007-08, since interest @ 8.5% has been allowed upto 2007-08, there is no need to reopen at this stage for charging 0% interest on outstanding NTPC bond, because this interest component was already factored into retail tariff and consequential BST rate determined for GRIDCO to receive from the DISCOM. However, consistence with the stand taken by the Commission to charge 8.5% up to the year 2007-08, Commission considers it appropriate to allow interest of 8.5% on balance amount of Rs.208.45 crore payable by DISCOMs to GRIDCO after 30.4.2012. Regarding submission of the DISCOMs to charge interest at the rate of 7.83% it is to be noted that against principal amount of the NTPC Bond for Rs.400.00 cr. the total amount paid to NTPC was Rs.603.50 cr. Hence the effective rate of interest paid to NTPC works out to 7.83% per annum. Since the settlement is being limited to Rs.603.50 cr., the DISCOMs are not being charged interest higher than 7.83% in place of 12.5% as per original agreement of the DISCOMs with GRIDCO and NTPC. The present question is at what rate of interest the balance amount Rs.208.45 cr. is to be serviced with effect from 01.05.2012. As already indicated, consistent with the stand taken by the Commission in tariff orders upto 2007-08 the interest at the rate of 8.5% is to be paid by the DISCOMs to GRIDCO on the balance outstanding amount of Rs.208.45 cr. from 01.05.2012 even though market rate is sufficiently higher than 8.5%.
11. Regarding submission of DISCOMs to securitized the balance amount of Rs.208.45 cr. it may be noted that in the past Commission have securitized Rs.1179.96 crore outstanding as on 31.3.2005 vide their order dated 1.12.2008 with the stipulations that the same amount will be paid in 120 equal monthly

installments @ Rs.9.84 crore per month from the year 2006-07. But as against 708.48 crore due to be paid by 31.3.2012 by the 3 distribution companies, they have paid Rs.318.73 crore and, as such, they have defaulted for an amount of Rs.389.75 crore. Further, keeping in view the need to keep the tariff at affordable level Commission had allowed payment of securitized dues for Rs.341.03 crore from the year 2006-07 to 2011-12 against which DISCOMs have paid Rs.216.03 crore i.e. defaulting Rs.125.00 crore against the amount allowed in the ARR of respective years. This may be seen from the table given below:-

(Rs. Cr.)					
SI No	Particulars	WESCO	NESCO	SOUTHCO	REL Total
1	BST				
	OB 01-04-99	46.18	41.66	26.50	114.34
	From 01-04-99 to 31-03-05	118.41	194.83	47.19	360.43
	Sub total	164.59	236.49	73.69	474.77
2	DPS on Above	58.72	87.20	32.02	177.94
3	Loan				
	Principal	138.46	94.64	134.36	367.46
	Interest	60.31	41.05	58.43	159.79
	Sub total	198.77	135.69	192.79	527.25
4	Outstanding as on 31-03-2005 vide OERC Order Dated 01-12-2008 (1+2+3)	422.08	459.38	298.50	1,179.96
5	Average per month	3.52	3.83	2.49	9.84
6	Due from 2006-07 to 2011-12 as per securitisation order				-
	2006-07	42.24	45.96	29.88	118.08
	2007-08	42.24	45.96	29.88	118.08
	2008-09	42.24	45.96	29.88	118.08
	2009-2010	42.24	45.96	29.88	118.08
	2010-11	42.24	45.96	29.88	118.08
	2011-12	42.24	45.96	29.88	118.08
	Total	253.44	275.76	179.28	708.48
7	Due from 2006-07 to 2011-12 as per Tariff order				
	2006-07	36.83	41.36	31.91	110.10
	2007-08			31.91	

		36.83	41.36		110.10
	2008-09	36.83	65.00	-	101.83
	2009-2010	-	-	19.00	19.00
	2010-11	-	-	-	-
	Total	110.49	147.72	82.82	341.03
8	Excess BSP paid by DISTCOs to be adjusted against securitised dues				
A	Downward Revision of BST in 2007-08	88.31	3.32	11.07	102.70
B	Payment by DISCOMS over and above the current				
	2006-07	36.83	41.36	-	78.19
	2007-08	4.40	41.36	9.53	55.29
	2008-09	-	65.00	5.86	70.86
	2009-10	2.00	-	9.69	11.69
	2010-11	-	-	-	-
	2011-12	-	-	-	-
C	Total (A+B)	131.54	151.04	36.15	318.73
9	Short fall (6-8C) as per securitisation order	121.90	124.72	143.13	389.75
10	Short fall (7-8B) as per tariff order	67.26	-	57.74	125.00
9	Balance due(4-8)	290.54	308.34	262.35	861.23

Thus, the order of the Commission allowing payment of the outstanding loans and outstanding BST dues in the shape of securitized amount with 0% interest has not been complied with by the distribution companies. Since in the past despite giving the benefit of 0% interest for payment of the outstanding dues securitized vide their order 01.12.2008, there has been huge default, there is no guarantee that if the balance NTPC bond amounting to Rs.208.45 crore is securitized with 0% interest for payment during a period of 10 years, the same shall be honoured.

12. The Distribution companies have submitted that with implementation of Capex Programme, there would be improvement in their cash flow and they would be able to pay the balance outstanding dues and as such a suitable moratorium period should be allowed. It is difficult on the part of the Commission to buy such an argument. The real problem lies in improvement of management and launching a systematic attack on rampant theft of electricity. The negligence, loath and inefficient functioning of the DISCOMs is evident from the fact that against average tariff of 219.21 paise for 2010-11 and 303.34 paise for 2011-12 for LT consumers as a whole, the per unit input realization in respect of LT consumers for NESCO is 101 paise during 2010-11 and 103 paise during 2011-12 upto

September, 2011. There are some divisions like BSE Bhadrak (S) where per unit realization to input is 56 paise during 2010-11 and this has reduced to 39 paise in 2011-12. In case of WESCO the per unit LT realization during 2010-11 is 78.71 paise and the per unit realization during 2011-12 upto September, 2011 is 89.47 paise. In case of Bargarh(WEST) the per unit realization is 46.2 paise and in case of Sonepur it is as low as 48.7 paise during 2011-12 upto September, 2011. In case of SOUTHCO the per unit realization for 2010-11 is 118.90 paise and this has reduced to 116.00 paise in 2011-12 upto the September, 2011. In case of Aska-II the per unit realization for 2011-12 is only 53 paise and Chatrapur it is 78 paise. Thus performance of NESCO, WESCO, SOUTHCO does not inspire confidence that if moratorium period is allowed they would service the balance amount of 208.45 crore.

13. Further, because of outstanding NTPC bond, the existing assets as well as the future assets have been hypothecated to GRIDCO and the three distribution companies are not able to access loan from the financial institutions. It is, therefore, necessary that the outstanding NTPC bond dues are cleared as expeditiously as possible so that the three distribution companies would be able to arrange fund from the financial institutions not only for their counter part funding for the capex programme but also for system improvement work to improve quality of supply and consequently ensuring better realization. Hence, moratorium on servicing of the balance Rs.208.45 crore is not justified, hence not agreed to.

14. After carefully going through the submissions made by WESCO, NESCO & SOUTHCO and GRIDCO and considering the need of the three DISCOMs to arrange fund for bringing about improvement in quality of supply and to avoid multiplicity of litigation of NTPC Bond matters, Commission, therefore, directs as under:-
 - (i) NESCO, WESCO & SOUTHCO have to reflect the outstanding NTPC bond of Rs. 308.45 crore in their Books of Accounts for the year 2011-12.
 - (ii) The three distribution companies together have to make payment of Rs.50 crore by 31.3.2012 and Rs.50.00 crore by 30.4.2012. The balance amount of 208.05 crore would be paid on or before 31.3.2013 at the latest with the stipulation that from May, 2012, the monthly payment should not be less than Rs.10 crore for the three DISCOMs taken together.
 - (iii) Simple interest @ 8.5% shall be charged on balance outstanding amount of 208.45 crore (on the reduced amount on monthly month basis)
 - (iv) Out of the assets hypothecated to GRIDCO on account of NTPC bond, GRIDCO may retain hypothecated assets limiting to Rs.250 crore and balance hypothecated assets may be released before 31.05.2012 in order to enable NESCO, WESCO & SOUTHCO to approach the financial institutions for loan.
 - (v) Special efforts shall be made by the three distribution companies to maximize the collection of arrear outstanding dues through different mode including One-Time-Settlement (OTS) scheme approved by the Commission for the year 2011-12 which has been extended for the year 2012-13 vide order dated 23.3.2012 vide case No.93, 94, 95 & 96 of 2011 relating to RST orders for 2012-13. Out of the arrear to be collected through different modes including under OTS, 15% would be utilized to clear the arrear dues of employees, 15% for repair and renovation of distribution network and the balance 70% would be utilized towards payment of the outstanding NTPC dues. After NTPC dues have been

cleared the aforesaid 70% of the arrear collection would be adjusted against the outstanding securitized dues.

- (vi) From the date of privatization till date there has been mistrust between the three distribution companies and GRIDCO on different matters relating to payment of outstanding dues to GRIDCO and a number of cases have been filed in different courts of law. In order to bring a change and to work in a spirit of harmony and co-operation, the distribution companies should bring loan from the financial institutions in order to ensure that the outstanding NTPC bond of Rs.208.45 crore is cleared by 31.3.2013 at the latest in case 70% out of the amount collected towards the arrear collection dues are not sufficient to liquidate the outstanding dues of NTPC Bond. In that case, Commission would allow the debt servicing charges on such loans in the ARR of distribution companies in the subsequent years.
 - (vii) All litigations filed by WESCO, NESCO & SOUTHCO relating to NTPC bond shall have to be withdrawn by 30.4.2012.
15. Since resolution of dispute on NTPC Bond as outlined in para 14 has been arrived at after due deliberation with GRIDCO and the three DISCOMs, this should be taken as award on consent of both the parties. In case any of the stipulations / conditionalities outlined in para 14 violated by either GRIDCO or by the three DISCOMs this arrangement worked out on mutual consent would be treated non-est.
16. The Commission would review the progress of implementation of this order before 15.06.2012.
17. With these observations and direction the case is disposed of.

Sd/-
(B.K. Misra)
Member

Sd/-
(K.C. Badu)
Member

Sd/-
(S.P. Nanda)
Chairperson

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

Present : Shri S.P. Nanda, Chairperson
Shri K.C. Badu, Member
Shri B.K. Misra, Member

CASE No. 107 of 2011

M/s. WESCO, NESCO & SOUTHCO Ltd. Petitioners

Vrs.

GRIDCO Respondent

In the matter of: An application under S.86 (1) (f) of the Electricity Act, 2003 in regard to Resolution of Power Bond in line with the Order dated 12.05.2011 of the Commission passed in Case No. 35/2005.

For the Petitioner: Sri A.K. Bhora, CEO, CSO for WESCO, NESCO and SOUTHCO
Sri G.B. Swain, General Manager (Finance).

For the Respondents: Sri Bibhu Prasad Mohapatra, Director (Finance), Sri P.K. Pradhan
Director (Commercial) and Sri N. Sahoo, General Manager (Finance).

Corrigendum to the Order dated 29.3.2012

There has been some typographical and inadvertent errors brought to the notice of the Commission by the Chief Executive Officer, Central Services Office of WESCO, NESCO & SOUTHCO vide their letter dated 30th March, 2012. The Commission have considered the same and issue the present corrigendum with respect to Para 14(i), 14(ii), 14 (v), 14 (vi) and 14(vii) of the Order dated 29.3.2012 as follows:-

1. The existing Para 14(i) may be substituted as follows:-

“NESCO, WESCO & SOUTHCO have to reflect the outstanding of Rs.308.45 crore as settlement amount towards NTPC Bond dues as a New Loan in their Books of Accounts for the year 2011-12. GRIDCO shall also reflect the same amount as receivable from NESCO, WESCO & SOUTHC as New Loan”.

2. The figure of Rs.208.05 crore appearing in third line of Para 14(ii) may be read as Rs.208.45 crore.

3. In Para 14(v) and 14(vi) wherever the word “NTPC Bond/NTPC dues” appears the same shall be read as “New Loan”.

4. The existing Para 14(vii) may be substituted as follows:-

“All litigations filed by WESCO, NESCO, SOUTHCO & GRIDCO relating to NTPC bond shall have to be withdrawn by the respective parties on or before 30.4.2012.

Sd/-

Sd/-

Sd/-

(B.K. Misra)
Member

(K.C. Badu)
Member

(S.P. Nanda)
Chairperson