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

Present : **Shri S.P Nanda, Chairperson**
Shri B.K. Misra, Member
Shri S.P.Swain, Member

Case No.3 of 2012

M/s GRIDCO. Ltd., ….. Petitioner

Vrs.

M/s. Orissa Power Consortium Ltd. & Others …… Respondents

For the Petitioner: Sri P. K. Mohanty, Advocate on behalf of GRIDCO.

For the Respondents: Sri R.P.Mohapatra, the authorised representative of M/s. OPCL & M/s.Meenakshi Power Ltd., Ms.Niharika Pattanaik, Asst.Law Officer, DoE,GoO, Sri Biswonath Samantray, M/s.OPCL and Sri P.K.Patro M/s.Meenakshi Power Ltd.

In the matter of: An Application under S.94(f) of the Electricity Act,2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations, 2004 for review of order dated 19.05.2011 passed in case Nos.17 & 24 of 2011 by the Commission.

Date of hearing: 16.04.2012 Date of Order:30.04.2012

ORDER

This is an application of GRIDCO for review of Order passed by this Commission dtd. 19.05.2011 in Case Nos. 17/2011 and 24/2011. The review petition has been filed under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations, 2004.The time limit of 90 days as stipulated in the OERC (Conduct of Business) Regulations,2004 for filing of review petition, has been expired on 15.08.2011. The present review petition has been filed by GRIDCO on 13.01.2012 with a delay of 149 days.

2. GRIDCO has prayed for condonation of delay for filing the petition. The petitioner has cited various reasons such as misplacement of the file and the procedural delay in getting approval from the competent authorities for the delay. The respondents in their

oral submission and also in the written submissions have contested the claim of GRIDCO and have contended that the petitioner has to justify each day of delay. GRIDCO during the hearing and also through written submission has prayed that the Commission instead of taking a mechanical view of the matter should condone the delay by considering the totality of the circumstances and also the importance of the matter.

3. After hearing the parties and going through the written submissions, it is found that there is no evidence of misplacing such an important record as contended by GRIDCO as no action seems to have been taken against the officials responsible for this negligence. Even if the contention is true the file was available by 1st week of October, 2011, whereas the review petition has been filed on 13.01.2012 which is almost after 3 months of tracing the missing records. The reasons for delay cited by the petitioner are too vague and general and cannot be accepted. It is said that there is no justifiable reason for this inordinate delay and therefore the review petition is rejected on the ground of limitation.

4. Coming to the merit of the petition it is found that GRIDCO has prayed for consideration of the following matters:

(a) Allow the rate of Rs.3.20/Kwh for the entire power or Rs.3.64/Kwh for 88% power.

(b) Re-assess the tariff considering the benefits availed by the SHEPs through CDM.

(c) Implement the Order dtd. 19.05.2011 from the date of Order i.e. from May, 2011 onwards.

(d) Consider the trading margin of Rs.0.04/Kwh on 88% of energy.

It is a settled position of law that orders of statutory authorities can be reviewed only in case of mistakes apparent from records and this mistake can be mistakes of fact or law. The prayer made by GRIDCO in its review petition calls for fresh adjudication on new matters which cannot be considered in a review petition.

5. GRIDCO has cited financial stringently for not adhering to the payment schedule as prescribed in our earlier order dtd. 01.02.2012. It has prayed for extension of time to

liquidate the arrears to M/s. PTC. Considering the liquidity crunch faced by GRIDCO we order that the arrears upto January, 2012 payable to M/s. PTC on account of M/s. Meenakshi Power Ltd. and M/s. OPCL should be liquidated in six monthly instalments starting from May, 2012

6. The present review petition of GRIDCO is accordingly disposed of.

Sd/-	Sd/-	Sd/-
(S.P.Swain)	(B.K.Misra)	(S.P.Nanda)
Member	**Member**	**Chairperson**