

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.10 of 2012

M/s GRIDCO. Ltd.,	Petitioner
Vrs.		
M/s. Arati Steel Ltd. & others	Respondents

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 13.09.2011 passed in case Nos.28,29,107 & 108 of 2010 of the Commission.

For the Petitioner: Sri D. K. Mohanty, Advocate

For the Respondent: Sri P.K.Mohanty,GM(Liaison),M/s. Arati Steel Ltd.
Sri manas Kumar Das,GM, CSO,WESCO,NESCO & SOUTHCO
Sri Lingaraj Padhi,DGM(CESU)
Shri A.K.Mohanty, GM (RT & C), OPTCL
Ms. Niharika Pattanaik, Asst.Law Officer, DoE, GoO.

Date of hearing: 23.04.2012

Date of Order:14.05.2012

ORDER

The Counsel appeared on behalf of the petitioner stated that GRIDCO has filed this petition seeking review of order dated 13.09.2011 of the Commission passed in Case Nos. 28, 29, 107 and 108 of 2010 with an application for condonation of delay of 77 days for filing of the review petition. The case was taken up on 23.04.2012 for hearing on condonation of delay and also on question of admission.

2. It is found that the review petition has been filed by GRIDCO after a delay of 77 days. GRIDCO has prayed for condonation of delay on the ground that being a Govt. Corporation a lot of formalities have to be completed before taking a decision to file the review petition. The delay also occurred in obtaining legal opinion after which the competent authorities could take a proper decision on the matter. The delay is neither intentional nor deliberate and therefore should be condoned. This was contested by the respondent who contended that GRIDCO should explain each day of delay with satisfactory reason, and as this has not been done, the delay should not be condoned.
3. After going through the rival submissions, the Commission condones the delay in filing the review petition which is considered for admission.
4. With regard to the merit of the review petition it is submitted by GRIDCO that there was a mistake apparent from the record in the order of the Commission dtd.13.09.2011. The Commission has fixed a rate of Rs.3.02/Kwh for power purchase from M/s.Arati Steel Ltd., whereas according to GRIDCO the cost for financial year 2010-11 would come to Rs.2.75/Kwh. Since there is a mistake in calculation, it is prayed that this figure of Rs.2.75/Kwh should be substituted for the earlier figure of Rs.3.02/Kwh and hence this review petition. The respondent M/s. Arati Steel Ltd. has challenged the review petition on the ground that there is no mistake apparent from record and the earlier calculation was based on the figures submitted by GRIDCO and in the review petition fresh facts for adjudication should not be considered.
5. While going through the written and oral submissions of the parties, it is found that M/s. Arati Steel Ltd. has not accepted the earlier order of the Commission dtd.13.09.2011 (subject matter of this review) and has contested the matter before the Hon'ble Appellate Tribunal for Electricity (ATE). GRIDCO has filed as per Order dated 07.02.2012 of the Hon'ble ATE, a compliance memorandum before the Hon'ble ATE which is as follows:-

“ Respondent GRIDCO respectfully submits that the dispute regarding the rate for the power already purchased out of the remaining 88% generation from the 50 MW generating unit of the Appellant, is settled by the Hon'ble OERC vide its order dated 13.09.2011 in Case Nos. 28, 29, 107, 108 of 2010. The directions of the Hon'ble OERC to make payment @ Rs. 3.02 per Kwh to M/s ASL towards

earlier purchase of power till date of order by the OERC will be complied by the respondent-GRIDCO and the payment due to M/s ASL on this account after making calculation will be made by the end of the next month i.e. 31.03.2012.”

6. It is evident therefore that before the ATE GRIDCO has accepted the order of the Commission dtd.13.09.2011 fixing the rate of power purchase at Rs.3.02/Kwh and is contesting the petition of M/s. Arati Steel Ltd. to hike this rate before the Hon'ble Tribunal.
7. Since GRIDCO has already made a submission before the ATE that it would comply with the order of the Commission dtd.13.09.2011, its attempt to seek a review of this order is not legally tenable. The attempt to seek remedy from multiple forums is not justified.
8. In view of this, the review petition filed by GRIDCO is rejected.

Sd/-
(S.P.Swain)
Member

Sd/-
(B.K.Misra)
Member

Sd/-
(S. P. Nanda)
Chairperson