

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

Present : Shri S. P. Nanda, Chairperson
Shri S. P. Swain, Member
Shri A. K. Das, Member

Case No. 40/2014

GRIDCO Ltd.	Petitioner
Vrs.		
CEO, CESU & Others	Respondents

In the matter of: **An application u/S. 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations, 2004 along with O 47 R 1(c) of CPC, 1908 for review of the order dated 05.04.2014 of the OERC passed in Case No. 40/2013.**

For Petitioner: Shri P. K. Pradhan, Dir (Com.), GRIDCO Ltd.

For Respondents: Shri B.P.Mishra, CGM(RT&C), OPTCL, Shri Sudarshan Nayak, CEO, CESU, Shri P.K.Dash, CGM(Comm.), CESU, Shri T.K.Mohanty, GM(Comm.), CESU, Shri S.K.Harichandan, AGM(Law), CESU, Shri P.K.Padhi, GM(ABT), CESU, Shri A K Bohra, CEO CSO, WESCO, NESCO & SOUTHCO, Shri Manas Kumar Das, AVP(PT), CSO, WESCO, NESCO & SOUTHCO, Shri Subrat Kumar Routray, DMF(Comm.&RA), SOUTHCO, Shri Samir Kumar Swain, AVP, SOUTHCO, Shri Umakanta Sahoo, GM(GO), SLDC and Shri M.R.Mohanty, Sr.GM(PS), SLDC.

ORDER

Date of Hearing: 09.09.2014

Date of Order: 10.10.2014

1. The present petition has been filed by M/s. GRIDCO Ltd. for review of the OERC order dated 05.04.2014 passed in Case No. 40/2013 relating to the billing of energy under UI mechanism by GRIDCO and SLDC.
2. GRIDCO Ltd. submitted that the DISCOMs may take advantage of the Commission's order and resort to 'Gaming' as per OERC Intra-State ABT Regulations, 2007. In fact they have been doing so after the implementation of the said Regulation. Since the Commission have overlooked this matter in the order this is an error apparent on the face of the record attracting review of decision. GRIDCO Ltd. further brought to the notice of the

Commission that Unscheduled Inter Change charges and related matters Regulations, 2009 has been repealed by CERC. The same has been substituted by 'Deviation Settlement Mechanism' and related matters Regulations, 2014 vide notification dated 06.01.2014 and has been effective from 17.02.2014. Therefore, the old method of calculation can not be applicable from 17.02.2014. Thus, the notification of the above new Regulations by CERC and its effectiveness from 17.02.2014 is a new fact and should be taken into consideration.

3. The Respondents namely WESCO, NESCO & SOUTHCO submitted that the present petition for review of the impugned order is not maintainable as it does not satisfy the essential conditions for review as prescribed under the CPC. The points now being raised by GRIDCO and SLDC have already been heard by the Technical Member of the Commission in the meeting convened by the Commission. Accordingly minutes of meeting was prepared and final order was passed by the Commission on 05.04.2014. They submitted further that there was no discovery of new important matter or evidence. The above order of the Commission dated 05.04.2014 has been passed after an amicable settlement of disputes between GRIDCO, SLDC and DISCOMs on the two major issues: 1) Double billing by GRIDCO on overdrawal of energy by DISCOMs above schedule, and 2) unilateral allocation of power by SLDC without considering the requisition of DISCOMs. In view of the above contentions, the present petition for review of the order dated 05.04.2014 is not maintainable.
4. CESU in its counter stated that the contention of GRIDCO on the minutes of meeting dated 01.02.2014 and the directive of the Commission subsequent to the meeting without further hearing tantamount to an error is not at all sustainable. The Commission on the basis of consensus arrived at in the meeting between the parties have passed this order. In view of the above, the plea and ground of GRIDCO on the point of "error apparent on face of record" is not at all sustainable and liable to be rejected. Further, the allegation of Gaming made by GRIDCO is not correct and denied herewith. CESU submitted that it has never done any Gaming on submission of schedule to SLDC. CESU has always paid the cost of overdrawal of energy beyond schedule. In view of the above, CESU submitted that the order dated 05.04.2014 of the Commission passed in Case No. 40/13 need not be reviewed.
5. SLDC submitted that the Commission may allow revision of schedule by SLDC considering the past three days actual drawal for the DISCOMs who are deliberately furnishing less drawal schedule than they actually draw. Further, the total overdrawal

margin of DISCOMs should be limited to 12% of State's ISGS schedule or 150MW whichever is less. The said margin is to be apportioned to their respective share while calculating the deviation charges.

6. Heard the parties at length. As per Section 94(1) (f) of the Electricity Act, 2003, this Commission has the same power as are vested with the Civil Court under the Code of Civil Procedure, 1908 in respect of reviewing its decisions, directions and orders among others. As per Order 47 Rule 1 of the Civil Procedure Code, review of an order can be made on the following grounds:
 - (a) Error apparent on the face of the record;
 - (b) New and important matter or evidence which is relevant for the purpose was discovered which could not be produced after exercise of due diligence or if there appears to be some mistake;
 - (c) Any other sufficient reason.
7. After hearing all the parties and perusal of the case records, the Commission is of the view that there is no error apparent on the face of record as far as the present review petition of GRIDCO Ltd. is concerned since on the plain reading of the order no error can be found out. Also there is no discovery of new and important matter or evidence which is relevant for the purpose of review. This is because the grounds raised now were raised before the Commission during the meeting. A consensus had already been arrived at that meeting which are to be practised by all the parties. Since GRIDCO Ltd. is dissatisfied with the order it seeks review of the order but it is an appeal in disguise which can't be entertained at this stage. Therefore, the review petition is dismissed.
8. Accordingly, the case is disposed of.

Sd/-
(A .K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson