

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. 48/2014

M/s. OPTCL	Petitioner
- Vrs. -		
DoE, GoO & Others	Respondents

IN THE MATTER OF: **An application under Sec. 94 (1) of the Electricity Act, 2003 read with Regulation 70 (1) of the OERC (Conduct of Business) Regulations, 2004 for review of the order dated 22.03.2014 passed in Case No. 82/2013**

For Petitioner: Shri M. R. Mohanty, Sr. GM (PS), SLDC (OPTCL).

For Respondents: Shri Bibhu Charan Swain authorized representative of M/s Power Tech Consultants, M/s. Visa Steel Ltd., M/s Adhunik Metaliks Ltd. & M/s Facor Power Ltd.
 Shri R. P. Mahapatra for self
 Shri A K Bohra, CEO, CSO (WESCO, NESCO & SOUTHCO),
 Shri M K Das, AVP (PT), CSO (WESCO, NESCO & SOUTHCO) and
 Ms. Niharika Pattnaik, Asst. Law Officer, DoE, GoO.

Nobody is present on behalf of National Institute of Indian Labour (Odisha), Sambalpur District Consumers Federation, Sambalpur, State Public Interest Protection Council, Cuttack.

ORDER

Date of Hearing: 09.09.2014

Date of Order: 18.09.2014

1. The present petition has been filed by OPTCL to review the order on SLDC charges for FY 2014-15 in Case No. 82/2013. OPTCL has sought for review of the said order on two grounds as follows:

(a) Correction of some typographical error

(b) M/s. GMR Kamalanga Energy Limited (GKEL), the IPP embedded in the State system in the above mentioned order has been transferred to CTU's system with a separate control area w.e.f. 31.03.2014; Due to which OPTCL (SLDC) is not entitled to bill and collect SOC & MOC charges from the said IPP. In effect, during 2014-15 there will be less realisation of SLDC charges by Rs. 28.831 Lakhs than that provided in the ARR.

2. Respondent Mr. R. P. Mahapatra submitted that the Commission may issue orders correcting the typographical errors in Table 15 & 16 of the Order dated 22.03.2014. Even though the Commission has accepted the installed capacity of all generators and CGPs as assessed by OPTCL as 4782.50 MW, it does not indicate whether M/s. GMR, Kamalanga is a part of it. The claim to review of SOC and MOC charges due to this is not tenable since these are subject to truing up at the end of the financial year as per SLDC (Fees and Charges) Regulation, 2010. Therefore, the review petition should be dismissed.
3. The representative of M/s Visa Steel Limited, M/s Adhunik Metaliks Limited, M/s Facor Power Limited and M/s Power Tech Consultants supported the review petition and stated that SLDC has been facing difficulty in collecting the SLDC charges due to non-scheduling of power from some IPP.
4. (a) During hearing Mr. Swain representing on behalf of M/s Power Tech Consultants raised the issue of delay in obtaining transmission access by generators for transmission of power from SLDC/GRIDCO for sale of power to outside buyers. He submitted that such delay results in hardship to generators on financial commitments and legal issues. They have already completed the procedural formalities and submitted the Bank guarantee with OPTCL/GRIDCO.
(b) SLDC submitted that they need clearance from GRIDCO because of line capacity control & constraints available.
(c) Commission observed that OPTCL/GRIDCO/SLDC shall consider the request of the respondents. In case there is still any issue, the same can be raised separately, since this is not linked to present petition.
5. Mr. A. K. Bohra, CEO, CSO (WESCO, NESCO & SOUTHCO) submitted that the present review petition is not maintainable on two grounds. Firstly the said petition does not meet the conditions stipulated under Order 47, Rule 1 of the CPC. Secondly the said petition seeks for retrospective review of the tariff order passed by this Commission which is barred by law and the same has also been acknowledged by the Commission. He has further submitted that any under recovery/surplus amount for the ensuing year can always be trued up after prudence check before finalisation of SLDC fees and charges for the FY 2015-16. Thus the review application is liable to be dismissed.
6. Heard the parties at length. Review under the Code of Civil Procedure is permissible as per Order 47, Rule 1 on the following grounds:

- a. Discovery of new and important matter or evidence which after exercise of due diligence was not in the knowledge of the applicant and could not be produced by him at the time when the decree or order was passed.
 - b. Some mistake or error apparent on the face of the record and
 - c. For any other sufficient reason.
7. Therefore, we direct that the typographical error be corrected immediately. Regarding review of SOC and MOC charges we find no justification to review the same since it does not meet the criteria specified in Civil Procedure Code. Effect of departure of M/s. GMR, Kamalanga can be very well taken into account in the next truing up exercise to be undertaken by the Commission. Therefore, the review petition is partly allowed as far as correction of typographical error is concerned.
8. Accordingly, the case is disposed of.

Sd/-
(A .K. Das)
Member

Sd/-
(S.P.Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson