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. 50/2014

OPTCL ……… Petitioner

Vrs.

DoE, GoO & others …....... Respondents

In the matter of: **An application u/S. 94 (1) (f) 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. 83/2013.**

For Petitioner: Shri. B.P. Mohapatra, Dir. (Fin.), OPTCL

For Respondents: Ms. Niharika Pattnayak, ALO, DoE, GoO
Shri R.P.Mohapatra
Shri Bibhu Charan Swain, the authorized representative of M/s. Power Tech Consultants, M/s.FACOR Power Ltd.,M/s. Adhunik Metaliks Ltd. & M/s. VISA Steel Ltd.
Shri M.V.Rao on behalf of M/s.UCCI
Shri Debasish Das, AVP (RA), WESCO, NESCO & SOUTHCO,
Shri Niladri Khadanga, DM, WESCO, NESCO & SOUTHCO.
No body is present on behalf of National Institute of Indian Labour, Odisha and Sambalpur District Consumers Federation, State Public Interest protection Council, Cuttack,

ORDER

Date of Hearing: 26.09.2014 **Date of Order:30.09.2014**

This application is filed by OPTCL for review of order dated 22.03.2014 of the OERC on Annual Revenue Requirement (ARR) and Transmission Tariff of OPTCL for FY 2014-15 in Case No. 83 of 2013 along with an application for condonation of 41 days in filing of the above review petition for consideration of the following points:-

(a) Approval Rs.181.82 Crs. towards R&M expenditure (Rs.146.77Cr. as originally submitted by OPTCLfor FY 2014-15 and excess spent of Rs.35.05 Cr. in FY 2013-14).

(b) Inclusion of Rs.38.52 Crs. towards contingency reserve fund (Rs.17.03Cr. in the ARR as proposed by OPTCL FY 2014-15 and excess spent towards investment of Rs.21.49 Cr. over the approved amount).

(c) Inclusion of surplus amount of Rs.17.29 Cr. towards true-up exercise work sheet for FY 2012-13 instead of surplus amount of Rs.43.63 Cr. finalized for FY 2012-13.

2. Heard the parties on condonation of delay in filing the review application as well as on merit. Delay is condoned as the above order of the OERC is available to the petitioner on 26.04.2014 after completion of the period of code of conduct due to parliament and Assembly elections in Odisha.

3. Shri Bibhu Swain, the Representative of M/s. Power Tech. Consultants, M/s. FACOR Power Ltd., M/s. Adhunik Metaliks Ltd. & M/s. VISA Steel Ltd. responding to the petition of OPTCL submitted that as per Transmission Tariff Order for FY 2014-15 and OPTCL has posted the cumulative surplus Rs.444.18 Crs. He further mentioned that the audited figure is well within approved ARR of OPTCL which implies that the transmission tariff of OPTCL is being approved at a higher value as compared to its logically calculated value. Therefore, the demand for contingency reserve of Rs.14.69 Cr should not be allowed since its violates Tariff Regulations. He also submitted that if there exist sufficient cumulative surplus in the R&M head, then the actual R&M carried out in FY 2013-14 after prudence check may be adjusted during subsequent truing up exercise of ARR of the petitioner. Therefore, the application of OPTCL for review of Transmission Tariff Order dated 22.03.2014 passed in Case No.83 of 2013for FY 2014-15 may not be allowed.

4. Shri G.N.Agrawal, Convenor-cum-Gen.Secretary, Sambalpur District Consumers Federation in his reply has submitted that the order was passed after hearing the public and stake holders and has not been challenged in any higher forum by either party. Therefore, it has reached its finality and it can not be reviewed during the mid of the tariff year. The application for review of the Transmission Order for FY 2014-15 of OPTCL may be rejected.

5. The three DISCOMs namely NESCO, WESCO & SOUTHCO submitted that the review petition does not meet the conditions stipulated under O.47 R1 of the Civil Procedure Code,1908 and also the issues raised by the Petitioner to R&M expenditure, contingency reserve and issue of erroneous calculation of Truing up exercise for FY 2012-13 have already been dealt with by the Commission in Case No.41 of 2013 wherein noted that all the

expenses made by OPTCL above the approved amount is always adjusted in the subsequent truing up exercise in ARR of the petitioner.

6. Shri R.P. Mohapatra submitted that there is no provision for providing any amount in the ARR of a licensee based on the review of the amount provided for the previous year(s). In the financial year 2014-15 is going to be over and at this stage the ARR and consequently the Transmission Tariff can not be amended. The interpretation of para 200 of the Transmission Tariff Order dated 22.03.2014 in Case No.102of 2012 by OPTCL is erroneous one. The provisional accounts are available after completion of the financial year on 31.03.2014, whereas the Tariff filing for FY 2015-16 is scheduled by 30.11.2014. Therefore any excess amount to be allowed will be based only on truing up in the ensuing ARR of OPTCL. OPTCL has never been able to spend the amount allowed towards R&M expenditure as is apparent from records. There is no need in making provisions for contingency reserve and the matter has been addressed by the Commission in Tariff Order for FY 2013-14. Therefore, the petition should be dismissed.
7. Heard the parties at length. Any additional expenditure over the approved amount is always adjusted in the subsequent truing up exercise of ARR of OPTCL. The issue of contingency reserve has been elaborately explained by the Commission in the said Tariff Order. Hence, the question of not considering the R&M expenditure, contingency reserve, true-up exercise etc. does not survive.
8. After hearing the parties and perusal of the case records, we do not see any merit in the review petition as per law and hence it is dismissed.
9. Accordingly, the case is disposed of.

Sd/-	**Sd/-**	**Sd/-**
(A .K. Das)	**(S.P.Swain)**	**(S. P. Nanda)**
Member	**Member**	**Chairperson**