

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
PLOT NO.-4, CHUNAKOLI, SHAILASHREE VIHAR  
BHUBANESWAR - 751 021**

\*\*\*\*\*

**Present:      Shri U. N. Behera, Chairperson  
                  Shri A.K.Das, Member  
                  Shri S. K. Parhi, Member**

**Case No. 35/2017**

Odisha Power Generation Corporation (OPGC) Limited ..... Petitioner  
Vrs.

M/s GRIDCO Limited, Bhoinagar, Janpath,  
Bhubaneswar & others ..... Respondents

**In the matter of:      An application under Sections 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 (1) of the OERC (Conduct of Business) Regulations, 2004 and OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2014 for review of Order dated 23.03.2017 passed in Case No. 62 of 2016.**

**For Petitioner:      Shri Alok Mukherjee, Director (Operation), Shri Sukanta Mohapatra, GM (O&M) I/c, Shri Ritwik Mishra, GM (C & RA), Shri Ajit Panda, AGM, OPGC Ltd.**

**For Respondents:      Shri G. N. Agarwal, Shri Ananda Kumar Mohapatra, Shri Ramesh Chandra Satpathy, Shri R.P.Mahapatra, Shri P.K. Pradhan, Shri Sukanta Panda, DGM(El) & Ms. Susmita Mohanty Mgr.(El), from GRIDCO Ltd. and Ms. Niharika Pattnayak, ALO,DoE,GoO are present. Nobody is present on behalf of Shri Aditya Kumar Mishra & M/s. WISE, Pune.**

**ORDER**

**Date of Hearing: 16.08.2017**

**Date of Order: 23.10.2017**

The present petition has been filed by OPGC Ltd. under Section 94 (1) (f) of the Electricity Act, 2003 read with Regulation 70 of the OERC (Conduct of Business) Regulations, 2004 and OERC (Terms and Conditions for Determination of Generation Tariff) Regulations, 2014 for review of Order dated 23.03.2017 passed in Case No. 62 of 2016 regarding approval of generation tariff of OPGC Ltd stations for the FY 2017-18.

2. OPGC submits that the present review petition is filed on the basis of errors apparent on the face of the record and non-consideration of certain facts and figures while determining generation tariff of FY 2017-18 of OPGC.

3. OPGC submits that during determination of working capital requirements and rate of interest on working capital, the Commission has not considered the normative transit and handling losses and transport expenses on one month of coal cost. The Commission has considered less amounts of secondary fuel oil cost and has not considered water charges as a part of normative O& M Expenses. The Commission has similarly not considered actual base rate of SBI.
4. OPGC in its review application has further submitted that against their claim of Rs.13.96 crore towards interest on working capital @ 12.25% the Commission has approved an amount of Rs.12.25 crore considering interest rate at the level of 11% per annum in their tariff order for FY 2017-18.
5. Further OPGC has submitted that, the Commission has considered auxiliary energy consumption @ 8.5% even though the regulations provides @ 9% (8.5% plus 0.5% for induced draft cooling tower).
6. OPGC in its submission prays that the Commission may direct GRIDCO to reimburse the actual electricity duty, tariff petition fees etc.
7. OPGC in its review petition further claims that it has paid Rs. 9.77 crore on 08.02.2017 to Government of Odisha on account of guarantee fees on loan capital and has requested the Commission to consider it similar to interest on loan capital.
8. Responding to the Petition all Respondents who have participated in the hearing submit that the Commission may not admit the case for review in view of the fact that the Commission had already dealt with all the matters without any ambiguity in its tariff order dated 23.03.2017. The Respondent, Shri R.P. Mahapatra, only proposed that the Commission may consider additional auxiliary energy consumption @ 0.5 % towards induced draft cooling tower.
9. Heard the parties. 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.

Error contemplated under the rule must be such which is apparent on the face of the record and not an error which is to be fished out and searched. It must be an error of inadvertence.

We are citing two important decisions here. *“Error apparent on the face of the record” must be such an error which must strike one on mere looking at the record and would not require any long drawn process of reasoning on points where there may conceivably be two opinions.* (AIR 1995 SC 455).

*That no error could be said to be apparent on the face of the record if it was not self-evident and if it required an examination or argument to establish it.* (‘Batuk K. Vyas vrs. Surat Borough Municipality,’ AIR 1953 Bombay 133 (R)).

But no such error has been pointed out by the Petitioner seeking the review of our judgement. The Commission in their tariff order for OPGC for FY 2017-18 have already considered the matter now being prayed and have passed an order. It is found that review applications are filed mechanically as a matter of routine without specifying the specific grounds under the narrow limits of Order 47 Rule 1 of the Code of Civil Procedure, 1908. The present petition appears more to be an appeal than prayer for review of the order. The review petition is therefore rejected.

- 10. Therefore the Commission direct the petitioner, while filing the generation tariff application for FY 2018-19 they may claim the amounts to be borne on accounts of additional auxiliary energy consumption @0.5% for induced draft cooling tower in the current year. The Commission after due scrutiny may consider the same as per Regulation.
- 11. The case is disposed of accordingly

Sd/-  
**(S. K. Parhi)**  
Member

Sd/-  
**(A. K. Das)**  
Member

Sd/-  
**(U. N. Behera)**  
Chairperson