

**ODISHA ELECTRICITY REGULATORY COMMISSION
BUDYUT NIYAMAK BHAWAN
PLOT NO.4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751021

**Present : Shri G. Mohapatra, Officiating Chairperson
Shri S. K. Ray Mohapatra, Member**

Case No. 122/2021

TPCODL &ors. Vrs. GRIDCO & others	Petitioner Respondents
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In the matter of: Application under Regulations, 154, 199 and 204 of the OERC Distribution (Condition of Supply) Code, 2019 for approval of One Time settlement (OTS) Scheme for waiver of long outstanding arrears of Government consumers (including public Sector Undertakings, Autonomous Organizations, Local Bodies (ULBs & PRIs).

AND

In the matter of: Application under Regulations, 154, 199 and 204 of the OERC Distribution (Condition of Supply) Code, 2019 for approval of One Time settlement (OTS) Scheme for waiver of long outstanding arrears of other than Government consumers (including public Sector Undertakings, Autonomous Organizations, Local Bodies (ULBs & PRIs).

For the Petitioner: Shri Puneet Munjal, Chief-Regulatory & Government Affairs, TPCODL on behalf of all the DISCOMs along with Shri V. Wagle, Head Regulatory Affairs, TPSODL, Shri K. C. Nanda, GM (RA& Strategy), TPWODL, Ms. Malancha Ghose, DGM (RA), TPNODL.

For the Respondents: Shri Lalit Mishra, DGM (Finance), GRIDCO Ltd., Shri S. K. Panda, Sr. GM (RT&C), OPTCL, Shri Bibhu Charan Swain, Power Tech Consultants, Ms. Sonali Patnaik, ALO I/c., DoE, GoO, and Shri R. P. Mahapatra.

Nobody represents on behalf of Shri Pravakar Dora.

ORDER

Date of Hearing: 15.11.2022

Date of Order: 22.12.2022

The Petitioner, TP Central Odisha Distribution Limited (TPCODL), a distribution licensee, in this case has filed the present petition on 02.12.2021 for approval of One Time Settlement (OTS) Scheme for waiver of long outstanding arrears pending against Government consumers, including Government Departments, State Public Sector Undertaking (SPSUs), Autonomous organizations and Local Bodies (ULBs & PRIs) and co-operatives. The petition was registered as Case No.122 of 2021. Subsequently, during the pendency of the matter under consideration by the Commission, TPCODL again filed another similar petition on 03.01.2022 for implementation of OTS Scheme for the consumers other than Government Consumers (Government Departments, SPSUs,

Autonomous bodies, local bodies) in order to ensure that all consumers of the DISCOMs are provided with similar opportunity to clear up their past dues. Both the petitions were filed under Regulation 154, 199 read with Regulation, 204 of the OERC Distribution (Conditions of Supply) Code, 2019. Both the Petitioners were heard in Case No.122 of 2021. The petitioner-TPCODL has submitted the following:

- (a) Earlier the erstwhile Distribution Licensees namely WESCO (now TPWODL), NESCO (now TPNODL) and SOUTHCO (now TPSODL) had approached the Commission in the year 2009 for approval of OTS scheme for waiver of long outstanding dues pending with various categories of consumers. The Commission in its order dated 20.7.2011 in Case No.4, 5, & 6 of 2010 had approved the scheme with broad principles and guidelines. The Commission had also mentioned in the order that no separate approval would be required for CESU (now TPCODL), if it desired to implement OTS in its area of operation.
- (b) The aforesaid distribution licensees were subsequently privatized through disinvestment of 51% of equity in the new SPV created for the purpose. The Tata Power Company Limited (TPCL) was selected as the successful Bidder by the Commission through a transparent competitive bidding process to carry out the Distribution operation in the State. Accordingly, CESU has been vested with the new utility TPCODL on 01.06.2020, WESCO utility with TPWODL & SOUTHCO utility with TPSODL on 01.01.2021 and NESCO utility with TPNODL on 01.04.2021.
- (c) The Government of Odisha, Finance Department, vide its notification dated 21.12.2020 has stated that the Electricity charges of Government offices excluding PSUs, Autonomous bodies and Local bodies as on 31.03.2020 is to be adjusted on back to back basis against the receivables of the State Government from GRIDCO. The State Government has further stated that adjustment of Rs.250.14 crores (including Rs.29.31 crore of Delayed Payment Surcharge) would be made against the above provision.
- (d) Other DISCOMs of the State namely TPWODL, TPNODL and TPSODL have supported the submission of TPCODL and had prayed during the course of hearing to extend the scheme for realization of long outstanding arrears pending against the consumers in their area of operation.
- (e) The total outstanding dues against Government consumers and other than Government consumers as on 30.09.2022 are Rs.178.3 Cr. and Rs.9478.71 Cr. respectively. The details are given in following two tables.

Table 1: Total Outstanding as on 30.09.2022 – Government Consumers

Sl. No.	Name of the DISCOM	Voltage (LT/HT/EHT)	Balance as on 30.09.2022 (Rs. In Cr.)	No. of consumers against which the arrears is outstanding as on September, 2022
1	TPWODL	EHT/HT	2.8	-
2	TPSODL	HT	0.1	16
3	TPNODL	EHT/HT	0.6	15
4	TPCODL	HT	1.9	71
TOTAL (EHT/HT)			5.5	102

1	TPWODL	LT	49.4	-
2	TPSODL	LT	28.5	9102
3	TPNODL	LT	23.8	10547
4	TPCODL	LT	71.1	16350
TOTAL (LT)			172.8	35999

1	TPWODL	Total (EHT/HT+LT)	52.3	0
2	TPSODL		28.6	9118
3	TPNODL		24.4	10562
4	TPCODL		73.0	16421
TOTAL			178.3	36101

Table 2: Total Outstanding as on 30.09.2022 – Other than Government Consumers

Sl. No.	Name of the DISCOM	Voltage (LT/HT/EHT)	Balance as on 30.09.2022 (Rs. In Cr.)	No of consumers against whom the arrears is outstanding as on Sept'22	Ageing of Balance arrears (Rs. in crore) as on 30.09.2022			
					<365 days	>=365<730 days (2 yr)	>=730<1095 days (3 yr)	>=1095 days (>3 yr)
1	TPWODL	EHT/HT	66.43					
2	TPSODL	HT	4.41	23	0.00	0.00	0.00	4.41
3	TPNODL	EHT/HT	749.56	153	0.00	15.27	88.31	645.98
4	TPCODL	HT	20.33	164	9.80	0.30	0.35	9.88
TOTAL (EHT/HT)			840.733516	340	9.80	15.57	88.66	660.27
1	TPWODL	LT	3377.74					
2	TPSODL	LT	1069.85	1133965	0.00	30.61	158.66	880.58
3	TPNODL	LT	1897.84	1143897	0.00	201.75	112.56	1583.53
4	TPCODL	LT	2292.55	2125773	641	44	39	1565
TOTAL (LT)			8637.98	4403635	640.82	275.94	310.49	4029.05
1	TPWODL	Total (EHT/HT+LT)	3444.17	0	0.00	0.00	0.00	0.00
2	TPSODL		1074.26	1133988	0.00	30.61	158.66	884.99
3	TPNODL		2647.40	1144050	0.00	217.02	200.87	2229.51
4	TPCODL		2312.88	2125937	650.62	43.89	39.62	1574.81
TOTAL			9478.71	4403975	650.62	291.52	399.14	4689.32

- (f) All the DISCOMs have made extensive efforts to realize those outstanding dues and have taken various actions starting from individual approach to high value consumers for out-of-Court settlements to establishment of Standard Operating Procedure for settlement old dues with involvement of GRIDCO nominees for high value settlements. DISCOMs have appointed independent Auditors for evaluating high value disputed cases and to recommend their findings. DISCOMs

have also taken up pro-active measures to mitigate further accumulation of Consumer dues, including implementation of State-of-Art Billing Engines (SAP ISU by TPCODL and Fluent grid by other three DISCOMs), establishment of automated Bill Quality Checks and have also undertaken efforts to minimize provisional billing with the objective of reduction of arrears. Further, DISCOMs have stopped issuance of manual receipts to avoid any discrepancies/malpractices in providing accurate credit to consumers.

- (g) Since remarkable success could not be achieved to liquidate the past dues specifically with reference to those that existed on the date of respective take overs, i.e. 31.05.2020 for CESU, 31.12.2020 for SOUTHCO & WESCO and 31.03.2021 for NESCO, it is proposed to introduce One Time Settlement (OTS) Scheme for clearance of Consumer dues. TPCODL has submitted that the proposed scheme is in line with the principles and guidelines stipulated in the OTS order dated 20.7.2011 of OERC.

2. The salient features of the proposed OTS Scheme are indicated below:

- (i) **Applicability** – All categories of Consumers
- (ii) **Applicability period** – 120 days from the date notified by the DISCOMs based on the Commission's approval of the Scheme.
- (iii) **Eligible Amount** – Arrears outstanding as on the respective Effective Dates of Take over of DISCOMs with no payment since take over (i.e. Arrears outstanding on 31.05.2020 for CESU (now TPCODL), 31.12.2020 for SOUTHCO (now TPSODL) & WESCO (now TPWODL) and 31.3.2021 for NESCO (now TPNODL).
- (iv) **Proposed Quantum of Rebate**

Type of Consumers	Quantum of Rebate
Group A i.e. all LT Category of Consumers	<p>(i) Delayed Payment Surcharge (DPS) in full + 15% of the eligible amount, if payment is made in three monthly instalments within the scheme period i.e. 50% +25%+25%</p> <p>(ii) DPS in full + 20% of the eligible amount, if payment is made in two equal monthly instalments within the scheme period i.e. 50% +50%</p> <p>(iii) DPS in full + 25% of the eligible amount if payment is made at a time (i.e. in one instalment) within the scheme period.</p>
Group 'B' Consumers i.e. all HT & EHT	<p>(i) 40% of DPS, if payment is made in three monthly instalments within the scheme period i.e. 50% +25%+25%</p> <p>(ii) 50% of DPS, if payment is made in two equal monthly</p>

Consumers	instalments within the scheme period (iii) Full waiver of DPS, if payment is made in full within scheme period in one instalment.
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(v) **Other terms and conditions:**

- a) If disputed bill has been revised by the erstwhile or current Licensee and such revised amount is included in the arrear amount outstanding as on the effective date, such revised bill amount shall be excluded from such arrear and the balance arrear outstanding as on the date of filing application for OTS would be eligible for OTS as indicated at Sl. (iv) above.
- b) A consumer shall be eligible to the benefit of the OTS as indicated above only if he has paid all the current bills in full raised during the period commencing from respective Effective Dates of DISCOMS before the date of filing the application for availing the benefit under OTS Scheme. However, a consumer who has not paid the current bill fully as mentioned will be eligible to avail benefit under OTS scheme provided he pays at least 50% of the current bill as stated above at the time of application and gives an undertaking to clear up the balance amount in instalments as approved by the DISCOM before the OTS benefit is sanctioned.
- c) The Consumer shall be entitled to either avail benefit under the OTS Scheme or opt for revision of bills under the existing prescribed normal procedure. If a consumer opts for revision of bill, he cannot avail the benefit under the OTS Scheme.
- d) Any waiver of electricity charges under the OTS shall also include proportionate waiver of electricity duty payable to Government of Odisha on such waived amount.
- e) The OTS scheme would also be applicable to those Consumers whose case is pending with different Court of law, GRF / Ombudsman subject to withdrawal of the case from such Court of law/ Forum/Ombudsman by the consumer and by submission of a notarised affidavit in prescribed format confirming about already withdrawn or to be withdrawn within a time frame before their case is taken up for consideration under OTS Scheme.
- f) Consumers whose bills have already been revised through settlement/ through Court of Law/ GRF / Ombudsman or through normal grievance

handling procedure shall not be eligible to get the benefit under OTS Scheme.

- g) The DISCOMS shall be entitled to receive incentive on recovery of Arrears under the OTS Scheme as per the rates and conditions prescribed in Para 46 (b), Para 47(b), Para 43 (b) and Para 43 (b) of the Vesting Orders for TPCODL, TPSODL, TPWODL and TPNODL respectively.
- h) The DISCOMS shall maintain a separate account of realisation made against the Arrears under the OTS Scheme, which, after retaining the incentive as per the entitlement as mentioned above, shall be utilised by the DISCOMS as per provisions of the respective DISCOMS Vesting Orders.

- 3. The Petitioner has also prayed for relaxation of Regulation 157 of OERC Distribution (Conditions of Supply) Code, 2019 for all consumers including the approval of OTS scheme for ensuring maximum liquidation of past arrears, since more than 55% of the arrears related to a period more than 2 years. Therefore, the capping of two years may be relaxed.
- 4. The Commission after hearing the parties on 18.01.2022 and decided to dispose of the matter through a public hearing since the proposed scheme shall impact the revenue of GRIDCO Ltd., as per the vesting orders and may affect the consumers of the State. Accordingly, a public notice in this matter was issued on 25.01.2022 for submission of objections/suggestions by the interested persons/organizations etc.
- 5. The public respondent Sri R. C. Satpathy has submitted that all the consumers of the State may be allowed to settle their dues through OTS Scheme instead of restricting its applicability to only Government consumers.
- 6. The Other public respondent Sri Prabhakar Dora in this case has submitted the following:-
 - (i) Regulation 154 deals with public demand under OPDR Act-1962 but the arrears of DISCOMs do not constitute 'Public Demand', hence it is non-existent. Further, Regulation 152 says arrears of more than two years are not subjected to revision and Regulation -199 is not applicable as it only refers to the Commissions overall jurisdiction to issue orders with regard to the implementation of the Supply Code.
 - (ii) The licensee (DISCOMs) with a view to get short-term gains have proposed this proposal to give discount on arrears lying outstanding against consumes without

any basis. The licensees have failed to meet their contractual obligations and have prayed to give relaxations on the amount payable by the consumers. Sri Dora further has stated that the licensee is giving a wrong signal by allowing this discount on long pending dues in which the defaulters in payment will be rewarded by shifting the burden to the genuine consumers those have been paying their electricity dues regularly. This type waiver on the outstanding amount will not only reduce the receipt of public money but also create dissatisfaction among the paying consumers. This is a dangerous trend and will encourage the consumers to wait for some time for introduction of another scheme at a later date without the payment of dues.

- (iii) Such type scheme should not be approved by Regulator which is against the provision/ models/ modalities approved by the Commission for collection of arrears. This type of OTS can be made applicable on case to case basis where the chances of recovery are remote and litigations have been continuing for a long time instead of allowing discount en-masse.
- (iv) The Electricity Duty (State Revenue) is being charged on energy charges and any arbitrary relaxation on energy charges will have the effect on State revenue. So, there should not be any relaxation on electricity duty unless it is approved by the Government.
- (v) A Committee including the member from the Government duly approved by the Commission may be constituted for the purpose. There is every possibility of claim by the regularly paying consumers for waiver of dues comparing them with similarly placed defaulting consumers, which may bring unending future litigations. Further, the arrear payable by a consumer has already been shown in the ARR of the licensees and reflected in the financial position of the licensees.
- (vi) The Commission may ask the licensees to justify their actions taken for realization of arrears and until such time OTS may not be allowed. This type of OTS for consumers at a predetermined rate without justification and irrational discounts on receivables should not be allowed.
- (vii) The licensee should approach for OTS only after achievement of different parameters of Standards of Performance as specified in the relevant regulations of OERC. Further, the licensee's proposal for revisions of arrears beyond two years is violating the existing provision of the Regulation.

- (viii) The Commission had earlier allowed OTS considering the arrears outstanding against different consumers' upto the year 2009. Therefore, the licensees should submit whether the arrears outstanding prior to 2009 will again be considered in the proposed OTS or not.
- (ix) There are innumerable cases pending in various Courts for decades together involving huge amount of money. The licensees have never addressed those cases in the last OTS. DISCOMs have approached the Hon'ble High Court of Orissa in some cases and had obtained stay on the orders of GRF and Ombudsman instead of implementing the same in respect of the rightful claims of the consumers. The licensee should review those cases in order to reduce the litigation costs.
- (x) Licensee should explain the reason of increasing trend in accumulation of arrear when Regulation 171 & 172 of Supply Code clearly provides for the steps required to be undertaken by DISCOMs.
- (xi) Such type of relaxation/settlements should not be approved as it will discriminate amongst the consumers which violates the fundamental principles of law. The percentage of relaxation, if any, given by the licensee as OTS should be treated as negative collection in the ARR. Further, the proposed OTS, if approved, will make the Chapter- XII of Regulation defunct.

7. Respondent OPTCL has submitted the following:-

- (i) As per the vesting order, CESU and SOUTHCO need to pay the unrealized outstanding arrear on transmission charges to OPTCL. Therefore, OPTCL has a stake in the past arrears to be recovered from the consumers of erstwhile DISCOMs i.e. CESU & SOUTHCO for such period.
- (ii) DISCOMs are committed for recovery of past arrears of Rs.1000.00 crores during the 1st five years of its operation in a phase wise manner (1st year – Rs.110.00 crore, 2nd year – Rs.350.00 crore, 3rd year – Rs.230.00 crore, 4th year - Rs.200.00 crore and 5th year -Rs.110.00 crore).
- (iii) OPTCL has not agreed to the statement of the petitioner that “Commission have already clarified that the Petitioners have no obligation to OPTCL towards any liabilities of erstwhile DISCOMs to OPTCL”.
- (iv) This petition appears to be the review of the vesting order since the scheme is in contravention to the provisions of vesting order.

8. Respondent GRIDCO has submitted the following:

- (i) The outstanding amount of all Government departments and PSU's accumulated till effective date may be paid directly to GRIDCO towards settlement of dues receivable from erstwhile DISCOMs and to be kept under residual DISCOMs.
 - (ii) State Government vide its Notification dated 21.12.2020 has settled the arrear electricity dues against the Government Departments up to 31st March, 2020 amounting to Rs.250.14 crore which includes arrear Electricity Charges of Rs.220.87 crore and DPS of RS.29.23 crore. Therefore, the arrears pending w.e.f. 01.04.2020 may be considered for OTS since the bills prior to that has already been settled. Further, the waiver may be allowed on DPS only.
 - (iii) Government has considered the DPS @10.41% in line with weighted average rate of interest charged by the State Government on loans extended to GRIDCO and DISCOMs. So the balance DPS in respect of Government Consumers is required to be withdrawn from consumer ledgers and the balance outstanding in respect of Government as on 01.04.2020 needs to be stated as nil.
 - (iv) Accumulation of Rs.287.76 crores towards arrear during the period from 01.04.2020 to 31.10.2021, i.e. in 19 months after settlement of Rs.250.14 crore as on 31.03.2020 may be verified for fair assessment of the claim.
 - (v) As regards the applicability and duration of the Scheme, GRIDCO has not agreed to the proposal of the Petitioner since the Government consumers are now making payment of their electricity dues in regular intervals. The Chief Secretary and the Principal Secretary, Department of Energy, Government of Odisha are also monitoring the matter and issuing appropriate directions to all the departments for clearance of their electricity dues regularly.
 - (vi) The proposed OTS Scheme Submitted by TPCODL for all DISCOMS for waiver of arrear outstanding of energy charges including DPS may not be considered since the Commission had approved the OTS Scheme once in its order dated 20th July, 2011 and therefore the Commission may not approve the OTS Scheme once again.
9. The Respondent, Department of Energy, Government of Odisha has submitted the following:
- (i) Since new DISCOMs are concentrating on ensuring correct billing and collections, past dues of erstwhile CESU, WESCO, SOUTHCO & NESCO could be best liquidated through implementation of OTS Scheme. Therefore,

Department of Energy, Government of Odisha has advised the DISCOMs to file the OTS petition for consideration by the Commission.

- (ii) Applicability – The OTS scheme should be applicable to both the Government and other than Government consumers.
- (iii) DPS – In order to send appropriate signals to the consumers, while allowing for part waiver of principal amounts, the DPS waiver may be approved by the OERC at 80% against the proposed 100% in case of LT consumers and 60% against the proposed 100% in case of HT/EHT consumers who make payment in one instalment. The proposed DPS waiver at 50% and 40% for EHT/HT consumers making payments in 2 & 3 instalments respectively may be retained as proposed by the DISCOMs.
- (iv) Electricity Duty(ED): ED will remain as it is and ED will not be waived even if waiver of dues.

10. TPCODL, in its rejoinder has submitted the following:

- (i) The approval of the proposed OTS scheme has been requested under the provisions of Regulation 154,199 and 204 of the Supply Code, 2019. As per the Orissa Public Demand Recovery Act 1962, “Public Demand means any arrear or money specified in Schedule I, and includes any interest which may, by law, be chargeable thereon up to the date.....”. Further the provision under Schedule I (xi)(c) states,

“(xi)Any money payable to-

*(a) ****

*(b) ****

(c) The Orissa State Electricity Board constituted under the Electricity (Supply) Act, 1948.”

*(d) ****

*(e) ****

*(f) ****

*(g) ***”*

Hence, the reference to the Orissa Public Demand Recovery Act 1962 has been made in this context in Regulation 154 of the OERC Supply Code 2019.

- (ii) As regards revision of bills/arrears of more than two years, the Commission vide its Order dated 25.02.2022 has allowed licensee /GRF/Ombudsman to entertain disputed bills with duration more than 2 years upto 31.01.2023 and resolve by 31.03.2023. However, TPCODL has submitted that the bill revision cases are not covered under OTS.

- (iii) DISCOMs are allowed under Regulation 204 to propose consumer friendly schemes for approval of the Commission. The Commission, under Regulation 199, has the powers to approve such schemes. Hence, the application of Regulations 199 and 204 in this case, are relevant.
- (iv) OTS shall be beneficial to recover past liabilities of erstwhile Utilities including remittance to GRIDCO who is the major beneficiary of the Scheme.
- (v) DISCOMs have made significant efforts to realize past arrears but unable to achieve desired result in spite of their best efforts because of the volume and complexities of disputes, unavailability of complete data, elapse of time, etc. Hence, OTS scheme would be the most appropriate methodology to liquidate the past arrears, which may be more difficult to collect with further passage of time.
- (vi) The Petitioners are taking up various pro-active measures to mitigate further accumulation of Consumer Dues, including implementation of State-of-Art Billing Engines (SAP ISU by TPCODL and Fluent grid by other three DISCOMs), establishment of automated Bill Quality Checks etc.
- (vii) The proposed Scheme is only meant for settlement of the past Arrears accumulated prior to the Effective Dates (i.e. takeover) by the present DISCOMs. The period for which the OTS is proposed belong to the period prior to the effective date for all DISCOMS and does not pertain to any period after takeover.
- (viii) The Arrears pending due to the past performance of the erstwhile Utilities have been retained by the residual entities of CESU, WESCO Utility, SOUTHCO Utility and NESCO Utility. Tata Power managed DISCOMS namely TPCODL, TPWODL, TPSODL and TPNODL will only be responsible for collection of these Receivables on behalf of the Residual Entities/ GRIDCO.
- (ix) The criteria for accepting a case as OTS in brief, is as mentioned below.
 - (a) Applicable to all Consumers
 - (b) Applicability period is 120 days from date notified by the DISCOMS based on the Commission's approval of the Scheme.
 - (c) Eligibility Amount: Arrears outstanding as on the respective Effective Dates of Takeover of DISCOMS with no payment of arrear since takeover (viz. Arrears outstanding as on 31.05.2020 for CESU

(TPCODL), 31.12.2020 for SOUTHCO (TPSODL) & WESCO (TPWODL) and 31.03. 2021 for NESCO (TPNODL).

- (d) If disputed bill has been revised and included in the Arrear as on effective date, then such revised bill will be excluded from Arrear.
- (e) Consumer can either avail benefit under OTS scheme or opt for revision of bills under the existing prescribed normal procedure.
- (x) The proposed OTS Scheme would also be applicable to the consumer whose case is pending with different Court of law subject to withdrawal of such disputes.
- (xi) DISCOMS have made extensive efforts for realization past arrears including taking up the matter with the concerned Government officials in different areas.
- (xii) As per the provisions of the RFP, Vesting Order read with the directions of the Commission, the Petitioners have no obligation to discharge in favour of OPTCL towards any liabilities of erstwhile DISCOMS.
- (xiii) Any DPS in excess of 10.41% as levied to the Government Consumers vide Government of Odisha's Notification dated 21.12.2020 has been reversed in the specified Consumer Ledger Accounts where the balance as on 31.03.2020 has been made Nil.
- (xiv) The adjustments of Rs.250.14 Cr. (including Electricity Dues of Rs.220.87 Crore and Rs.29.23 Cr. towards DPS @ 10.41%) as per the Government of Odisha Notification dated 21.12.2020 excludes outstanding Electricity dues and DPS payable by PSU Autonomous Organizations and Local Bodies which were not adjustable as per the said Notification.
- (xv) GRIDCO's submission on accumulation of Rs.287.76 Cr. of arrears only during 19 months is based on the erroneous assumption that the entire Government dues were adjusted as on 31.03.2020. The adjustments so made have not included Electricity Dues pending against Public Sector Undertakings (PSUs), Autonomous Organizations and Local Bodies (ULBs & PRIs).
- (xvi) The Government dues, despite adjustment of around Rs.250 Cr. as per Government communication of December 2020 was around Rs.130 Cr. for all four DISCOMs as on 31.03.2020 which further increased to Rs.186 Cr. as on respective Effective Dates and to Rs.288 Cr. at the end of Oct. 2021. The

Bulk of these Arrears (Approximately 90%) are contributed by LT Government Consumers which have continued to be in this range since March'20 and also on respective Effective Dates on Aggregate basis for Odisha as a whole. The increase in Arrears during 19 months i.e. from 01.04.2020 to 31.10.2021 works out to be Rs.157 Cr. approximately and not Rs.288 Cr.

(xvii) The amounts realized on implementation of OTS will be settled with the DISCOMS and the payment by DISCOMS to GRIDCO would be done in line with the provision of the Vesting Order.

(xviii) The status of past arrear collection as on 30.09.2022 against the targets mentioned in the Vesting Order is mentioned below:

DISCOMs	Vesting Order Target (Cumulative at the end of 5th year) in Rs. Cr.	Total Cumulative Collection (Rs. Cr.) as on 30.09.2022
TPCODL	200	322
TPSODL	100	119
TPWODL	300	243
TPNODL	400	321
Total	1000	1005

11. Heard the Petitioner and the Respondents through virtual mode and considered their written submissions. The Commission has following observations:

(a) The Commission has examined in detail the petition and gone through the submission of petitioner and respondents for approval of One Time Settlement (OTS) Scheme-2022 as per the provisions of Regulations 154, 199 and 204 of the OERC Distribution (Conditions of Supply) Code, 2019. The OERC Distribution (Conditions of Supply) Code, 2019 permits DISCOMs to formulate any scheme to provide consumer friendly services. The relevant regulations are reproduced below:

“Recovery of Arrears

154. *In addition to other modes of recovery available under the law, engineer shall be entitled to take recourse to proceedings under the Odisha Public Demand Recovery Act, 1962 (Act I of 1963) for realisation of the licensee/supplier's dues if such dues are treated as public demand.*

Issue of Orders and Circulars

199. *Subject to the provisions of the Act, Rules, Regulations, Notifications, Policies and Provisions of this Code, the Commission may, from time to time, issue orders, circulars and Standard Operating Procedure (SOP) in regard to implementation of these provisions of this Code.*

Saving of the Power of the Licensee/supplier relating to its Business of Supplying Electricity

204. *It is open to any licensee/supplier to frame and adopt such provisions, consistent with the provisions of the Act, and other enactment for the time being in force, and the terms and conditions of the licence relating to supply of electricity, at variance with the provisions of this Code with the aim of providing a more consumer-friendly service; Provided that the provisions so framed and adopted shall have effect subject to prior approval of the Commission in writing."*

The Commission observed that as per the submission of petitioner, the total outstanding dues from the consumers is about of about Rs.9657 Cr. as on 30.09.2022 out of which Government consumers have Rs.178 Cr. and other than Government consumers have Rs.9479 Cr. of arrear. The old arrears are piling up and increasing day by day primarily because of increase in DPS. In many cases the chances of recovery of outstanding dues are remote and litigations are continuing for a long time.

- (b) As per Section 21(a) of the Electricity Act, 2003, the erstwhile Utilities (CESU, WESCO, SOUTHCO & NESCO Utilities) have vested with new Distribution Licensees (TPCODL, TPWODL, TPSODL & TPNODL) free from any debt, mortgage and similar obligation of erstwhile Utilities except transfer of certain serviceable liabilities. However, as per vesting order, TPCL has committed recovery of past arrear from live as well as permanently disconnected consumers to the tune of Rs.1000 Cr. (i.e. Rs.200 Cr. by TPCODL, Rs.300 Cr. by TPWODL, Rs.100 Cr. by TPSODL & Rs.400 Cr. by TPNODL) in first five years of operation and the DISCOMS are eligible for an incentive of 10% on past arrears collected from live consumers and 20% on past arrears collected from permanently disconnected consumers. The past arrears recovered after deducting the incentive shall be paid to GRIDCO.
- (c) The Commission observed that Department of Energy (DoE), Government of Odisha (GoO) has advised the DISCOMs to file this petition with an intention to liquidate the past dues of erstwhile utilities namely CESU, WESCO, SOUTHCO & NESCO. Department of Energy, Government of Odisha has also submitted that since the new DISCOMs are concentrating on ensuring correct billing and collections, OTS scheme will be the best option for collection of past arrears. The DoE (GoO) has also suggested for application of OTS Scheme for both Government and other than Government consumers.
- (d) DISCOMs have submitted that in spite of their best efforts to realize past arrears, desired results have not been achieved because of volume and complexity of

disputes, unavailability of complete data, elapse of time etc., it may be more difficult to collect the same with passage of time.

- (e) The arrear outstanding against the consumers are the amounts billed by the erstwhile DISCOMs but payment was not made by the consumers. The relief to be allowed to various categories of consumers on implementation of OTS Scheme-2022 in no way will burden other consumers, rather the amount so collected would be beneficial for meeting past liabilities of erstwhile Utilities and in the process interest burden on GRIDCO will be reduced.
 - (f) The new distribution licensees are taking various proactive steps for strengthening the existing distribution network, resolving consumer complain, timely collection of electricity dues and carrying out proper O&M to provide reliable, affordable and quality power to consumers of the State. It is a fact that, the collection of long outstanding arrears will be more difficult with passage of time. The Commission feels that OTS Scheme will also resolve many billing related issues of existing consumers.
 - (g) The issues raised by OPTCL relating to unrealized outstanding transmission charges on erstwhile CESU & SOUTHCO have already been dealt by the Commission in the respective vesting orders along with carving out the Balance Sheet orders of the respective DISCOMs. Therefore, the recovery of arrears through OTS Scheme has no relationship with any outstanding amount payable by erstwhile Utilities to OPTCL.
12. In view of the above observations & analysis, the Commission approves OTS Scheme-2022 with the following broad guidelines:
- a) The OTS Scheme-2022 shall be applicable to all categories of Consumers (LT, HT, EHT consumers) of the State (Government consumers and other than Government consumers).
 - b) The proposed OTS Scheme is only meant for settlement of the past arrears accumulated prior to the effective dates (i.e. takeover) by present DISCOMs (TPCODL, TPWODL, TPNODL & TPSODL) and does not pertain to period after take over. Arrears outstanding as on the respective Effective Dates of takeover of DISCOMs i.e. arrears outstanding as on 31.05.2020 for Utilities: CESU (now TPCODL), 31.12.2020 for SOUTHCO (now TPSODL) & WESCO (now TPWODL) and 31.3.2021 for NESCO (now TPNODL) shall be considered as Eligible Amount.
 - c) One Time Settlement (OTS) Scheme - 2022 is applicable in respect of the arrear electricity charges outstanding on the effective dates of takeovers by the new

distribution licensees as mentioned at Para(b) above. If some amount has already been paid against those arrears after the effective dates, then said payment will be adjusted against settled amount due for payment and balance amount shall be paid by the consumer within the stipulated time to get the benefit of rebate.

- d) Consumers whose electric connections are disconnected temporarily or permanently on or before the date of notification of the scheme can also avail the OTS facility. The benefit can also be extended to the consumers against whom disconnection notice have been issued on the date of implementation of the Scheme.
- e) All DISCOMs are hereby directed to constitute a committee headed by Chief Executive Officer (CEO) including representation from GRIDCO to formulate a uniform Plan across DISCOMs for implementation of the OTS Scheme-2022 as large percentage of collection of outstanding dues will go to GRIDCO. Support of GRIDCO shall be required to maximize the collections. The plan of DISCOMs shall be in line with the provisions of the Electricity Act, 2003, OERC Distribution (Conditions of Supply) Code, 2019 and the relevant orders passed by the Commission in this regard. Adequate precautions may be taken so that granting of rebate under the scheme shall be just and in terms of the laid down guidelines. CEO of the DISCOMs shall review the progress fortnightly.
- f) The Distribution Licensee shall take adequate steps for wide circulation of the OTS Scheme-2022 and awareness of the consumers through electronic and print media as well as by distributing leaflets through field functionaries. The communication should also include that soon after the expiry of the period of OTS Scheme, the Licensee would launch a special drive for disconnection of power supply to the defaulting consumers as per the OERC Distribution (Conditions of Supply) Code, 2019.
- g) A consumer can either avail the benefit under the OTS Scheme-2022 or can opt for revision of bills under the existing prescribed normal procedure/orders of the Commission in this regard. It is further clarified that both options cannot be availed simultaneously i.e. if a consumer opts for revision of bills, he cannot avail the benefit under the OTS Scheme-2022.
- h) The Commission feels that the revision of disputed bills of more than two years old during the period of implementation of OTS Scheme-2022 will boost the arrear collection in addition to arrear collection through OTS. Therefore, the Commission in exercise of its power under Regulation 201 of OERC Distribution (Conditions of Supply) Code, 2019 hereby orders that the order dated 25.02.2022

of the Commission as regards to revision of bills/arrears of more than two years old shall be continued further and licensee/GRF/Ombudsman will entertain the disputed bills of more than two years upto 28.04.2023 and resolve the same by 30.06.2023.

- i) The OTS Scheme shall be valid for 120 days from the date of issues of this order for all the consumers including Government consumers and other than Government consumers.
- j) The Commission is of the considered view that the arrears under litigation can be settled through OTS Scheme-2022, if the concerned consumer withdraws the case pending in Courts, different judicial Forums, Ombudsman etc., and approach the concerned DISCOMs for availing benefit under OTS Scheme-2022. The OTS Scheme-2022 would also be applicable to consumers whose cases are under litigation in different Courts of law/ GRF / Ombudsman. In such cases, the consumers concerned shall submit an affidavit in prescribed format duly notarised by authorized Notary declaring that their application/appeal would be withdrawn from the relevant Court of law/Forum within validity period of OTS Scheme 2022 to get the benefit of rebate.
- k) The OTS Scheme with the following rebate shall be applicable to different category or class of consumers:

Type of Consumers	Quantum of Rebate
Group 'A' i.e. all LT Category of Consumers	<p>(i) 80% of DPS + 15% of the Eligible Amount. If arrear payment is made in three consecutive monthly instalments i.e. 50% +25%+25%</p> <p>(ii) 80% of DPS + 20% of the Eligible Amount. If arrear payment is made in two equal consecutive monthly instalments i.e. 50% +50%</p> <p>(iii) 80% of DPS + 30% of the Eligible Amount If arrear payment is made in full at a time.</p>
Group 'B' Consumers i.e. all HT & EHT Consumers	<p>(i) 40% of DPS If arrear payment is made in three consecutive monthly instalments i.e. 50% +25%+25%</p> <p>(ii) 50% of DPS If arrear payment is made in two equal consecutive monthly instalments i.e. 50% + 50%.</p> <p>(iii) 60% of DPS If arrear payment to be made in full at a time.</p>

- l) Electricity Duty (ED) levied on the respective Effective Dates of takeover of DISCOMs will remain unchanged and ED will not be waived even after waiver of dues under OTS Scheme. However, the OTS scheme for settlement of arrear ED

pending against Captive Consumers for which Engineer-in-Chief(Electricity)-cum-Principal Chief Electrical Inspector, Odisha is the Nodal agency, shall be in line with the Government of Odisha Resolution No. 11797/En, Bhubaneswar dated 30.11.2022.

- m) The consumers having arrears for more than two years are eligible for settlement under OTS Scheme-2022. However, the actual amount due on the date of takeover by DISCOMs shall be considered as the eligible amount for OTS.
- n) The DISCOMs are directed to take required steps including adoption of State-of-art technology to ensure timely resolution and collection of electricity dues in future to avoid accumulation of consumer dues.
- o) DISCOMs shall maintain a separate head for OTS Scheme and shall be audited by statutory auditor after the closure of the scheme. DISCOMs, after retaining the incentive as per their respective vesting orders, shall transfer the balance amount to GRIDCO towards settlement of old outstanding dues which were receivable from erstwhile distribution licensees. The audit details and amounts remitted to GRIDCO shall be provided to the Commission.
- p) DISCOMs, within one month after closure of the OTS Scheme-2022, shall submit the details of arrears collected from different category of consumers (both Government and other than Government consumers) under this Scheme with type of consumers and the tariff category, DPS, eligible amount, age of arrears, outstanding amounts settled under OTS, instalment schemes availed by the consumers etc., to the Commission.

13. Accordingly, the case is disposed of.

Sd/-

(S. K. Ray Mohapatra)
Member

Sd/-

(G. Mohapatra)
Officiating Chairperson