

ORDER

FINAL ORDER ON THE TARIFF FOR FY 2002-03

(Pursuant to the Hon'ble High court's Orders dt.03.02.2003 & 14.03.2003)

Brief Recital of the Case

1. The Orissa Electricity Regulatory Commission passed orders on 19.04.2002 with regard to Transmission and Bulk Supply Tariff (BST) and Distribution and Retail Supply tariff (RST) based on the revenue requirement filed through petition by M/s GRIDCO, CESCO, WESCO, NESCO & SOUTHCO.

2. While determining the revenue requirement and tariff for FY 2001-02 and FY 2002-03, the following correctives and assumptions were applied by the Commission.

- i. Although upvaluation of assets of GRIDCO and OHPC perse has not been disturbed but its effects like assigning the additional amount as Loan, Debenture, Zero Coupon Bonds have been kept in abeyance.
- ii. Depreciation after 01.04.2001 has been charged based on plant life at pre-92 norms after adjusting for the accelerated depreciation already charged for the period from 01.4.96 to 31.3.01.
- iii. Securitisation of all liabilities of payables to generators by GRIDCO backed by State Govt. guarantee at a coupon rate of 8.5% as per Ahluwalia Committee recommendations.
- iv. To keep in abeyance payment of principal or interest of State Govt. loan from 01.04.2001 except World Bank loan till sectoral turn around.
- v. IBRD loan to be passed on to GRIDCO/DISTCOs at the same terms and conditions at which State Govt. has received the loan from Govt. of India i.e. 30% grant and 70% loan at an interest rate of 13% p.a.
- vi. Swapping of payables and receivables of dues between State Govt. and GRIDCO.
- vii. Writing off of arrears of OHPC shown as payable by GRIDCO.

- viii. a) DISTCOs to reduce distribution loss @ 5% from an overall level distribution loss of 42.2% in the base year 2001-02.
- b) GRIDCO to reduce transmission loss @ 0.3% from an overall level transmission loss of 4.18% at base year 2001-02.
- ix. The collection efficiency of DISTCOs to be achieved to the extent of 87.5% in 2002-03.
- x. Export of 1400 MU of power by GRIDCO to power deficit neighbouring states.
- xi. State Govt. to release its arrear energy dues payable to DISTCOs amounting to Rs.230 Crore to meet the revenue gap of Rs.268.7 Crore for FY 2002-03.

3. The above correctives and assumptions by and large are in line with Kanungo Committee recommendations with minor modifications and additional correctives as the State Govt. may not be in a position to mobilise the interim financing other than debt a sum of Rs.3240 Crore in 4 years i.e. from 2001-02 to 2004-05.

4. With the above mentioned correctives and assumptions the BST & RST for 2002-03 will be as follows :

(A) Bulk Supply Tariff

| LICENSEE | EXISTING (P/U) | Tariff [A] (With Correctives) up to 31.7.02(P/U) | Tariff [B] (Without Correctives) w.e.f. 1.8.02 to 31.3.03 (P/U) |
|-----------------|---------------------------|---|--|
| CESCO | 99.00 | 92.00 | 142.13 |
| NESCO | 100.00 | 86.00 | 135.25 |
| WESCO | 101.74 | 96.50 | 146.70 |
| SOUTHCO | 90.00 | 84.00 | 135.75 |

- (ii) Demand Charge of Rs.200/KVA/month remains unchanged.
- (iii) Transmission charge changed from 31 paise/unit to 32 paise/unit.
- (iv) Transmission loss approved at 3.88%.

(B) Retail Supply Tariff

There will be no change in retail supply tariff. The existing rates of tariff for all classes of consumers will continue upto 31.7.2002. Revised tariff without correctives was to be effective from 01.08.2002 if Government does not accept any of the correctives as suggested by the Commission.

5. Majority of correctives as mentioned above have to be approved by the State Govt. Although Commission had earlier recommended the correctives particularly in the workshop of 9th January, 2002 organised by Energy Dept. to explore ways and means for strengthening the power sector in Orissa, Commission has advised the State Govt. under Sec.11 of OER Act to approve the correctives by 15.7.2002. The Commission will enforce revised tariff from 01.8.2002 subject to such reductions/adjustments as shall be notified in consequence of the extent of acceptance by the State Government of the correctives recommended by the Commission.

6. It was stated therein that total rejection of correctives will leave a revenue gap of Rs.416 Crore in FY 2002-03 which is to be recovered in a period of 8 months i.e. from 01.8.2002 to 31.3.2003. This will push up the BST by 38.7% and RST by around 40%. Partial acceptance would accordingly reduce the tariff to some extent, but would call for a rise in tariff. If, of course, all correctives are accepted, BST and RST would continue at the same rates as mentioned in para 12(b)(1) & 12(b)(2) above for the period from 01.8.2002 to 31.3.2003.

7. Commission will adopt a multi-year tariff strategy from 01.4.2003 after circulating a conceptual paper, inviting comments and through a process of public hearing.

8. However, the revised tariff Orders were to be implemented subject to orders of the Hon'ble High Court, Orissa as directed by the said Hon'ble Court.

By order dtd. 06.04.2002 in OJC No.6751 of 2001, the Hon'ble High Court restrained the Commission from taking any steps for increase in tariff. The tariff order of the Commission dtd. 19.04.2002 involved no increase of BST and RST upto 31.07.2002 and increase of BST as well as RST thereafter was conditional upon the extent of acceptance of the correctives suggested by Kanungo Committee and the Commission. In as much as, at least upto 31.07.2002, there was no increase in BST and RST, the Hon'ble Court permitted publication of the tariff order of the Commission dtd. 19.04.2002 by their order dtd.26.04.2002 in Misc. Case No.4471 of 2002 arising out of OJC No.6751 of 2001 stating that the tariff shall not be given effect to until further orders of the court. Subsequently, the Hon'ble High Court by their Order dt.13.05.2002 in Misc.

Case No.5471 of 2002, on the basis of the representation by DISTCOs to the effect that BST had been reduced whereas RST had remained unchanged atleast upto 31.07.2002, allowed DISTCOs, to pay BST at the rate fixed in the Tariff Order dated 19.04.2002. Further, by order dtd. 19.07.2002 in OJC 6751 of 2001, the Hon'ble High Court directed stay of any increase in Tariff. The resultant effect of the aforesaid orders of the Hon'ble High Court was that implementation of BST was allowed so far as it involved no increase and the stay order in respect of RST continued. In the circumstances, the increased tariff with effect from 01.08.2002 did not take effect. However, as would appear from paragraph-9, the Govt. of Orissa issued notification No.R&R-I-2/2002/1068 dtd.29.01.2003 accepting recommendations of the Kanungo Committee and the correctives suggested by the Commission. Accordingly, the Hon'ble High Court by order dtd.03.02.2003 and 14.03.2003 has directed the Commission for recalculation tariff, etc., as detailed in paragraph-10.

9. The Commission under clause (a) and (b) of Section 11 of the OER Act, 1995 wrote to the Principal Secretary, Department of energy to accept the correctives suggested by the OERC vide its tariff order dt.19.04.2002 to avoid substantial tariff hike.

The Govt. of Orissa took following decisions vide letter No.10211 dt.23.07.2002 and subsequently notified in the official Gazette vide notification No.R&R-I-2/2002/1068 dt.29.01.2003 on the recommendations of Committee of Independent Experts and correctives, suggested by the Commission as given under :-

- i. The effect of upvaluation of assets of OHPC and GRIDCO indicated in Notification No.5210 dated 01.04.1996 and No.5207 dated 01.04.1996 would be kept in abeyance from the Financial year 2001-02 prospectively till 2005-06 or the sector turns around whichever is earlier to avoid redetermination of tariff for past years and also redetermination of assets of various DISTCOs. For this purpose depreciation would be calculated at pre-1992 norms notified by Govt. of India.
- ii. Moratorium on debt servicing by GRIDCO and OHPC to the State Govt. would be allowed from the financial year 2001-02 till 2005-06 except the amount in respect of loan from the World Bank to the extent the State Govt. required to pay to the Govt. of India.

- iii. The outstanding dues payable to OHPC by GRIDCO till 31.03.2001 on account of power purchase would be securitised through issue of power bond by GRIDCO to OHPC.
- iv. GRIDCO and OHPC shall not be entitled to any Return on Equity (ROE) till the sector become viable on cash basis or 2005-06 whichever is earlier.
- v. Under conditions of normal hydro availability the State becoming surplus in power availability. GRIDCO may take steps for export of power. GRIDCO would take steps to procure cheap power from CPPs like NALCO & ICCL. OHPC & OPGC may be allowed to undertake 3rd party sale outside the State subject to permission from appropriate authorities.
- vi. OERC would consider multi-year tariff schedule, which would help the utility like Generator, GRIDCO and DISTCOs to embark upon long term business plan.
- vii. World Bank loan would be passed on by State Govt. to GRIDCO and DISTCOs as 70% loan @ 13% interest per annum and balance 30% would be as grant.
- viii. Tax-free bonds @ 8.5% interest would be guaranteed by Govt. of Orissa for PFC and REC loan.
- ix. There shall be 5% overall reduction of distribution losses every year from financial year 2002-03 to 2005-06 bench-making the starting distribution loss of 42.21% in financial year 2001-02.
- x. Collection efficiency of revenue to be calculated as 85% for the financial year 2001-02 reaching to 95% in 2005-06.
- xi. Aggressive feeder metering in LV side of distribution transformers should be made within 12-18 months to identify loss prone area. OERC would be requested for compliance from DISTCOs.
- xii. Swapping of Govt. dues from GRIDCO against dues of GRIDCO from Govt. and balance receivables if any be settled.

- xiii. Suitable budgetary provisions be made after actual verification for payment in full of electricity dues of GRIDCO/DISTCOs against various Departments of the State Govt. Such dues could be paid directly to the OHPC Ltd. and the books of accounts of the concerned DISTCOs and GRIDCO adjusted as paid and received.
- xiv. Govt. would exempt water cess on the volume of water used by OHPC for generation of electricity.
- xv. GRIDCO should refrain from purchasing materials, which are not required for minimum utilisation. GRIDCO is also advised not to initiate new contracts unless the position is reviewed by their Board of Directors and approved by Energy Department.
- xvi. GRIDCO should take prompt and effective action for payment of interest towards World Bank loan. In case of default, this should be adjusted out of release of funds to GRIDCO.
- xvii. A year-wise target of reduction of cash loss should be fixed and monitored.

Further, a corrigendum was issued to the Notification which reads as under :-

“The para-IV and para-XIII of the Notification No.R&R-I-2/2002-1068 dated 29.01.2003 may be read as follows :-

- (IV) GRIDCO and OHPC shall not be entitled to any return on Equity (RoE) except in respect of the new projects commissioned after 01.04.1996 till the sector become viable or end of 2005-2006 whichever is earlier.
- (XIII) Suitable budgetary provisions be made after actual verification for payment in full of electricity dues of GRIDCO/DISTCOs against various Departments of State Government. Such dues could be paid directly to O.H.P.C. Ltd. and the books of Accounts of the concerned DISTCOs and GRIDCO adjusted as paid and received. Only the dues of CESCO will be paid to OPGC through Escrow with GRIDCO.”

10. The Hon'ble High Court in case No.OJC 6751 of 2001 (LI Parija –Vrs – State of Orissa and Others) and Case No.7410 and 8953 of 2002 ordered dt.03.02.2003 and 14.03. 2003 as under.

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03.02.2003

In the meantime, the Government of Orissa in Home Department has issued notification No.1068/ZE dated 29.1.2003 from which it appears that the State government after considering the recommendation of the committee of independent experts i.e. Sovan Kanungo Report and the correctives suggested by the OERC, have decided to accept number of correctives, which are enumerated therein. One of them is that the depreciation would be calculated from April, 1992 as notified by the Government of India on the valuation of the assets prior to 1.4.1996 i.e (Rs.1,194.00 crores as on 1.4.1996 not Rs.2,223.00 crores which has been upvalued by the State government). The OERC in its turn would now made necessary calculation taking into consideration the aforesaid Govt. notification including financial implication and burden on the consumer. In this connection, we may refer to the Tariff order of the OERC.

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While considering this matter, the OERC will keep in view clause (v) of the notification of the State Government dated 29.1.2003 with a view to optimize purchase from Captive Power Plants like NALCO, ICCL, OHPC and OPGC in the event they offer lesser price than other sellers of power. The OERC will publish the outcome of the above exercise and after hearing the parties publish the financial effect on the distribution companies and report to this Court. The entire exercise with regard to fixation of tariff shall be completed by 15th of March, 2003. The orders dated 13.5.2002 and 19.7.2002 accordingly stand varied. XXX"

Hon'ble High Court in its order dt.14.03.2003 observed as below :-

"Misc. Case No.414 of 2003 has been filed on behalf of the OERC praying for a declaration that the calculation of tariff for the period from 1.8.2002 till the next tariff takes effect shall be in compliance with the Government Notification dated 29.01.2003.

Misc. Case No.580 of 2003 has been filed on behalf of the GRIDCO praying for modification and/or clarification of our order dated 03.02.2003.

It appears that some typographical errors have crept into our order dated 03.02.2003. Therefore, we clarify that in the first line of paragraph-6 of the order instead of 'Home', it would be read as 'Energy' and in the same paragraph the expression "from April, 1992" should be read as "as per pre-1992 norms" and the words "i.e. Rs.1,194.00 crores as on 01.4.1996 (not Rs.2,223.00 crores which has been up-valued by the State Government)" shall stand deleted.

For the difficulty pointed out by the OERC in this application (Misc. Case No.414 of 2003), the target date 15.03.2003 as indicated in our order dated 3.2.2003 shall stand extended to 15.7.2003.

It is made clear that though the OERC can continue the exercise for determination of tariff, the same shall not be given effect to without leave of this Court .

Both the Misc. cases are disposed of.”

In view of the orders of the Hon'ble High Court, the Commission proceeded to redetermine the Tariff for FY 2002-03. The Commission has made necessary calculation taking into consideration the Govt. notification dated 29.01.2003 so as to find out their financial implication and burden on the consumer. The Commission has also kept in view the need to optimize the power purchase from Captive Power Plants and other cheaper source so as to minimize power purchase cost and issued a **Public Notice** which reads as under :-

“Pursuant to the directions given by the Hon'ble High Court of Orissa in Misc. Case Nos.7410 & 8953 of 2002 arising out of OJC No.6751 of 2001 in the matter of L.I. Parija & Ors. V. State of Orissa & Ors. vide orders dt.03.02.2003 as amended vide order dt.14.03.2003 passed in Misc. Case Nos.414 & 560 of 2003 arising out of the said OJC, the Commission considered the effect of the notification No.1068 dt.29.01.2003 issued by the Government of Orissa on the tariffs determined by the Commission by its order dt.19.04.2002 for the year 2002-03 and the resultant financial implications on the licensees (Grid Corporation of Orissa Ltd. and the four distribution companies) and the consumers. In the order dt.19.04.2002 the Commission, amongst others, had determined the tariff for the period from 01.05.2002 to 31.07.2002 on the assumption that the Government of Orissa will implement the recommendations and corrective measures suggested in the Kanungo Committee report and also some other corrective measures suggested by the Commission in the above order dt.19.04.2002.

The Commission has examined the notification dt.29.01.2003 issued by the Govt. of Orissa to implement the recommendations of the Kanungo Committee and other corrective measures and the Commission is prima facie of the view that the Tariff determined by the Commission for the licensees for the period from 01.05.2002 to 31.07.2002 can be effectively continued for the subsequent period from 01.08.2002 to 31.03.2003 (i.e. for the year 2002-03) without any modification or change as the Govt. of Orissa has accepted the significant part of the recommendations of the Kanungo Committee and corrective measures contained in the Commission's order dt.19.04.2002. It is also relevant to note that under the orders passed by the Hon'ble High Court the tariff determined for the period till 31.07.2002 had continued till 31.03.2003. The Commission's order dt.19.04.2002 had also applied the merit order despatch accounting for the supply from NALCO, ICCL, OHPC & OPGC as stated in Clause (v)

of the notification dt.29.01.2003 issued by the Govt. of Orissa to optimise the power purchases.

In the above circumstances, the Commission is of the prima facie view that the Tariff determined by the Commission and made applicable for the period from 01.05.2002 to 31.07.2002 should be the applicable tariff for the entire period from 01.05.2002 to 31.03.2003. In such a case, there will be no impact on the licensees or the consumers. The Commission will, however, formulate its final views in the matter after hearing the interested parties.

By this public notice, the Commission requests the interested persons including the parties in OJC No.6751 of 2001, the licensees, the State Government and the public to submit their objections and suggestions on the above views of the Commission. Such objections and suggestions are to be submitted in writing within 15 days of the publication of this notice. The Commission will hold a public hearing on 19.05.2003 at 11.00 A.M. in the matter in the Hearing Hall of the Commission's office at Bhubaneswar and thereafter take a final decision after considering the objections/suggestions filed and submissions made during the hearing."

In response to the Public Notice issued by the Commission, the following objectors filed objections as well as participated in the public hearing held in 19th May, 2003.

11. Objections raised and suggestions submitted by the objectors

The Commission has considered all the objections raised by the various objectors. Some of the objections were found to be of general nature, while others were specific to the public notice issued on the April 19, 2003. Based on their nature and type, these objections are categorised into the broad issues as indicated below :-

PERFORMANCE AND EFFICIENCY IMPROVEMENT

Sri R P Mohapatra strongly recommended that the distribution licensees in the state should be directed to reduce their distribution losses by at least 5% annually. He also added that the overall Collection Efficiency levels of the distribution licensees should be assumed at 85% as the Commission has done and not 78% as recommended by Kanungo Committee.

Sri M. V. Rao, Chairman, Power Committee, Utkal Chambers of Commerce and Industries Limited (UCCI) sought clarification with reference to the logic behind increasing level of T&D loss for the year 2001-02 in comparison to the previous years. He pointed out that the Commission had approved distribution loss of 31.4% and transmission loss of 3.7%, while fixing the tariff for FY 2000-01 whereas the same has

increased to 42.21% and 4.7% respectively for FY 2001-02. He also stated that in the present situation of inadequate metering, the data relating to energy auditing and accounting are inadequate to be used for any computation. He further opined that the losses for the LT and HT consumers should be calculated separately as the high EHT consumption would skew the distribution losses.

Sri R C Padhi shared his reservations and concerns about the decision of the Commission to allow a higher T & D losses while approving revenue requirements and fixing tariff for the year 2001-02 and 2002-03 in comparison to previous years. This may have adverse impact on the consumers' confidence and hence, he requested the Commission to review the tariff order dated 19.04.2002

Sri D Mangaraj of Khurda made invaluable and inexpensive suggestions for the licensee in order to reduce theft and control losses.

PERFORMANCE STANDARDS AND QUALITY OF SUPPLY

Akhil Bharatiya Grahak Panchayat, Orissa stated that the standards of performance of the licensees are extremely poor and the customer service standards are far from satisfactorily.

COST OF POWER PURCHASE

Cost of OHPC Power

Sri S K Nanda of the Confederation of Indian Industries (CII), Forest Park, stated that the cost of power from the OHPC stations should be re-examined, since the depreciation had been computed on the basis of pre-1992 Gol notification for depreciation but on the re-valued asset base. He also proposed computation of BST based pre-upvalued asset base, and proposed that on this basis, the Bulk Supply Tariff (BST) and the Retail Supply Tariff (RST) should be reduced by 14 paise and 11 paise per unit respectively.

Sri R P Mohapatra submitted that the Commission, while computing the tariff for the OHPC stations, had allowed a return on equity of 12% on OHPC's investment, which was at variance with the Govt. notification. He also added that OHPC had not submitted its revised PPA for the last two years and has not obtained approval of CEA on the Capital Cost for the purpose of tariff determination as advised by OERC.

In response, OHPC cited the Government of Orissa Department of Energy Corrigendum No. R&R-I-2/02 5302/EN modifying the previous notification No.1096/E dated 29 January 2003, allowing the new projects of OHPC commissioned after 1 April 1996 to earn returns.

REVENUE REQUIREMENT

Fixed Assets & Depreciation

Sri S K Nanda of the CII and Sri K. N. Jena, Orissa Consumers Association, Cuttack, proposed that the Commission should use the Written Down Value (WDV) method instead of the present Single Line Method (SLD) while computing the depreciation, which would be a pass through in tariffs. He further added that since most of these assets are prior to 1 April 1996, these would have been depreciated completely up to 90% of their original value, and the Commission should direct the licensees to write-off these assets. He also stressed the fact that since there is no asset register, there was no record of any assets being written off since the formation of OERC. This proposed methodology was also supported by M/S ICCL, Bhubaneswar and UCCI, Cuttack.

M/S ICCL also stated that for calculation of depreciation for the licensees in the state, the book value of the assets as on 31 March 1996 should be considered, along with the actual cost of the year-wise additions of assets there on to arrive at the asset value on 31 March 2002.

The Commission likes to clarify here that depreciation has to be calculated as per the provisions of Schedule VI of Electricity Supply Act, 1948 wherein it has been categorically mentioned that depreciation shall be calculated on the basis of Straight Line Method. The rate of depreciation changes with the change in method of depreciation. In other words, rate of depreciation for various categories of assets under Straight Line Method and Written Down Value Method can not be same. Sri Nanda has calculated depreciation under Written Down Value Method but applied the same rate as applicable under Straight Line Method..

Interest and Financing Charges

Sri S K Nanda, along with Sri R C Padhy, M/S ICCL, Bhubaneswar, UCCI, Cuttack and Shri K. N. Jena of Orissa Consumers Association, Cuttack strongly opposed the loading on the retail tariffs the cost of securitisation of payables, since these amounts have not been used to build assets nor used for the maintenance or refurbishment of the transmission or distribution lines of the state. He stated that since these are essentially a build-up of the arrears, this cannot be charged again to the consumers, when they had already paid for it in the previous years. Sri R P Mohapatra stated that interest on the various types of bonds should not be loaded on the consumers and therefore is to be excluded from the revenue requirement of the utilities.

GRIDCO prayed that the Commission should allow the cost of securitisation of the dues of OHPC prior to 31 March 2001.

CESCO prayed that, in spite of accepting the corrective of the Commission that the loans from the World Bank / IBRD should be considered as a 70% – 30% loan-grant split, the State Government still continues to charge interest on the entire principal amount at the originally fixed 13.5% rate of interest. CESCO prayed the Commission to consider this extra amount on account of the interest while setting the tariffs for FY 2002-'03.

The reasons for allowing interest on bonds and securitisation of power purchase dues of Central Public Sector Units (CPSU) have already been dealt in para 6.7 of the Bulk Supply Tariff Order dated 19.04.2002. The relevant abstract of the Commission's decision in this regard is reproduced here under:-

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Commission has come to a conscious decision that unless the power purchase liabilities are allowed to be securitised in full, the problem of liquidity cannot be addressed. In any case, this has to be a one time settlement in accordance with the policy followed at the national level where the GOI has very categorically accepted the ground realities and allowed securitisation of power dues as well as other dues payable to the GOI organisations by the SEBs. The case of Orissa is no different except that it has been taken an advance step of reforming its own power sector for which SEB has replaced by the GRIDCO and the DISTCOs. Accordingly, this principle should be applicable mutatis mutandis to GRIDCO which is purchasing bulk power from generators.

6.7.8. This will have the advantage of retiring high cost debts carrying surcharge as high as 24% per annum, (DPS @2% p.m.) for the central generators. Securitisation of these dues will reduce the interest burden to 8.5% as recommended by the Ahluwalia Committee in its report for one time settlement for CPSU dues and accepted by the Government of India. The Commission would further expect that the dues of CPSUs like NALCO and State PSUs like OPGC, OHPC should also be securitised by GRIDCO in a similar manner.”

PAST LOSSES

Cost of Extra Power Purchase

GRIDCO submitted that it had been saddled with extra power purchase costs to an extent of Rs. 554 crore arising out of the hydrology failure in

the state and procurement of costly thermal power to meet the demand and prayed for the full recovery of these costs in the tariff for FY 2003-'04.

Pass through of differential amount of Interest Costs

The representative of Grid Corporation of Orissa Limited (GRIDCO) submitted that, despite its best efforts financial institutions like REC and PFC have not yet accepted till date the reduced rate of interest as suggested by the OERC and as notified by the Government of Orissa. GRIDCO prayed that the extra costs on this account should be allowed prospectively in the tariff for FY 2003-'04.

TARIFFS

Sri R P Mohapatra stated that since the Government had not ruled out interim financing till 2005, he prayed that the Commission should allow the revised tariff for the period 1 August 2002 to 31 March 2003 to be applicable till FY 2004-'05.

Akhil Bharatiya Grahak Panchayat, Orissa cited the Kanungo Committee recommendations to the effect that any changes in the energy charges should be held in abeyance for the next three years and submitted that the tariffs should be held at current levels for the next year also.

M/S. Indian Charge Chrome Limited (ICCL) opined that the transmission tariffs should not be more than 18 paise per unit, in line with the tariffs charged by PGCIL for transmission of power. It also added that since in the case of ICCL sending power to its plants at Theruvalli, there is no actual transmission of power but is being fed purely by the process of displacement, a differential tariff should be allowed for this.

M/S ICCL, Bhubaneswar submitted that the Commission could consider the reduction in the industrial tariffs in the state to help encourage the state industrial environment.

Sri R P Mohapatra proposed that all the Special Tariff Agreements in the state till date should be thoroughly reviewed, since the tariff is less than actual cost of supply.

OTHER GENERAL ISSUES

Swapping of dues between GRIDCO and the State Government

GRIDCO stated that, despite the notification by the State Government, the process of settling the receivables and payables between the State Government and GRIDCO by internal swapping had not been complete.

Multi Year Tariff

Sri R P Mohapatra opined that the state is not ready for the introduction of a multi-year tariff regime. He also cited the Kanungo Committee recommendations that the introduction of the multi-year tariff at this stage was far-fetched.

Power Trading and Third Party Sale

Sri R P Mohapatra strongly dissuaded the Commission from allowing any sale of power by either OHPC or OPGC to third party and also not to allow GRIDCO to export any power. He opined that the allocated shares of the extra costly power should be surrendered by the state and that the state is in no position to afford such costly power.

Capital Investments

Sri R P Mohapatra submitted that the completion targets for all on-going capital works should be specified and strongly enforced by the Commission. The Commission should not allow any Interest during Construction (IDC) to the licensees beyond the specified project completion date.

12. COMMISSION'S OBSERVATIONS AND ANALYSIS

The Commission, while deciding the application for Bulk Supply and Transmission Tariff, had taken into consideration the recommendations of the Kanungo Committee with correctives suggested by it and approved two sets of tariffs conditional upon the acceptance of the Govt. of Orissa. It has also been clarified in the tariff order dtd.19.4.2002, that the tariff applicable from 01.8.2002 shall be subject to such proportionate reduction as may be necessary to the extent the Government accepts the recommendations made by the Commission. The reductions being purely arithmetical in nature shall take effect without any further proceeding for amendment under section 26(6) of the OER Act 1995. For the sake of convenience the abstract of the relevant portion of the order is reproduced below :-

“The Commission have made several recommendations to the Government of Orissa for their implementation w.e.f. 01.04.2001. Accordingly the Commission have determined the Bulk supply Tariff and Transmission Tariff applying all correctives based on its recommendations to the Government. If a decision to the contrary is taken by the Government the revenue requirement for the FY 2002-03 as determined without applying the correctives shall be due for recovery from the

consumers. It will raise the revenue requirement by Rs.387.69 crore on the basis of our present estimate which shall be as follows.

| | | | |
|---------|---------------|---|-------------------|
| CESCO | Demand charge | : | Rs.200/KVA/month |
| | Energy charge | : | 142.13 paise/unit |
| WESCO | Demand charge | : | Rs.200/KVA/month |
| | Energy charge | : | 146.70 paise/unit |
| NESCO | Demand charge | : | Rs.200/KVA/month |
| | Energy charge | : | 135.25 paise/unit |
| SOUTHCO | Demand charge | : | Rs.200/KVA/month |
| | Energy charge | : | 135.75 paise/unit |

This is based on the assumption that the tariff approved in para 6.53.5.3 is effective from 01.05.2002 to 31.07.2002 and the above rate shall be valid from 01.08.2002 to 31.03.2003 provided the recommendation as indicated earlier are not accepted by the Government by 31.07.2002.

This tariff effective from 01.08.2002 shall be subject to such proportionate reduction as may be necessary to the extent the Government accepts the recommendation made by the Commission. The reductions being purely arithmetical in nature shall take effect without any further proceeding for amendment under section 26(6) of the OER Act 1995. However it is made clear that in case of such reduction a fresh notification under section 26(5) of the OER Act will be made by the licensees with the approval of OERC."

It was also mentioned in the Distribution and Retail Supply Tariff Order that in case the recommendation made by the Commission for necessary corrective for determination of revenue requirement are accepted in toto by the Govt. the Retail Supply Tariff as approved by OERC in order dtd.19.1.2001 shall continue unchanged after 31.7.2002.

The retail tariff as approved by OERC in order dtd.19.1.2001 is continuing unchanged till date, despite belated acceptance by the Government of the correctives recommended by the Kanungo Committee and the Commission That is because of the stay orders of the Hon'ble High Court referred in para 8 above.

The Government of Orissa, by and large, accepted all the recommendations and correctives suggested by Commission except that “the Commission had recommended that the outstanding dues payable to OHPC by GRIDCO till 31.03.2001 on account of power purchase would be waived off where as Government of Orissa has agreed to securitise through issue of power bonds by GRIDCO to OHPC.

Hon’ble High Court has interpreted the intention of the Govt. notification in Clause 1 that depreciation would be calculated as per pre-92 norm on the valuation of assets prior to 01.4.96. The Hon’ble High Court has also given stress on Clause 5 of the notification to optimise power purchase from Captive Power Plant like those of NALCO, ICCL, etc., in the event they offer lesser price than other sellers of power.

Keeping in view the deviations arising out of changes in correctives assumed by OERC while calculating revenue requirement for the year 2002-03 vis-à-vis correctives approved by Govt. of Orissa and decisions of the Hon’ble High Court on 03.02.2003 and 14.03.2003 the revenue requirements of GRIDCO and DISTCOs for the year 2002-03 will be as under.

POWER PURCHASE COST

The Commission had assumed that the OHPC dues to GRIDCO upto 31.03.2001 would be waived off but Govt. of Orissa has decided to securitise it through issue of power purchase bonds by GRIDCO to OHPC. In order to avoid the impact of interest on bonds on the tariff, the Commission has decided to treat these bonds as zero coupon bonds vide letter dated 05.06.2003 of the Commission to the State Govt. so that no interest will accrue till sector turns around.

While determining the quantum and cost of power purchase from OHPC for the year 2002-03 the Commission had allowed Rs.38.55 crore to OHPC

towards return on capital employed which comprises Rs.2.71 crore for the old stations and Rs.35.84 crore towards capital invested in Upper Indravati Hydro Electric Project after 01.4.96. In view of the Govt. decision in Clause IV of the notification and subsequent corrigendum No.5302 Dt.06.5.2003 no return on equity would be allowed to GRIDCO and OHPC except for new projects commissioned after 01.4.96, till sector becomes viable or end of 2005-06 whichever is earlier. As such there will not be any change in the revised cost of power from OHPC due to Return on Equity.

OHPC had been allowed depreciation for Rs.44.18 crore for the year 2002-03 which is equivalent to their loan repayment liability of the said year. As per the order of Hon'ble High Court following Govt. notification, the depreciation has been calculated on pre-upvalued assets at pre-92 rate which comes to Rs.41.24 crore thereby reducing power purchase cost to the extent of Rs.2.94 crore.

Pursuant to change in cost of old OHPC stations in consequence of reduction in cost of depreciation, working capital requirement has undergone a change, which works out to reduction in interest on working capital to the extent of Rs.0.11 crore.

For the year 2002-03 the Commission had approved 13312.22 MU of energy with a total cost of Rs.1420.60 crore. In pursuance of the High Court order the power purchase cost has been recalculated taking the correctives as notified by the Govt. of Orissa and the Hon'ble High Court's directives as mentioned above and the same comes to Rs.1417.55 crore, with a resultant decrease of Rs.3.05 crore, the details of which are given in the table below :-

Rs. In Crore

| | OLD OHPC STATION | | UIHEP | |
|---|-------------------------------------|--|-------------------------------------|--|
| Parameters | As per Comm.Order Dt.19.04.02 | As per High Court Order & Govt. Recommendation | As per Comm.Order Dt.19.04.02 | As per High Court Order & Govt. Recommendation |
| O & M | 59.52 | 59.52 | 24.23 | 24.23 |
| Interest on Loan | 14.14 | 14.14 | 29.01 | 29.01 |
| Return on Equity | 2.71 | 2.71 | 35.84 | 35.84 |
| Depreciation | 12.03 | 10.53 | 32.15 | 30.71 |
| Interest on Working Capital | 2.31 | 2.23 | 2.61 | 2.58 |
| TOTAL | 90.71 | 89.13 | 123.84 | 122.37 |
| ED | 0.22 | 0.22 | 0.12 | 0.12 |
| TOTAL FIXED COST | 90.93 | 89.35 | 123.96 | 122.49 |
| Difference | | 1.58 | | 1.47 |
| TOTAL DIFFERENCE IN OHPC | | | | 3.05 |

Calculation of Depreciation

The depreciation was being calculated at post-94 rate as prescribed by Govt. of India on asset base that was revalued on 01.4.96. The Commission, in order to neutralize the impact of revalued cost on the tariff, had directed in the tariff order dtd.19.4.2002 to calculate depreciation at pre-92 rate which is substantially low as compared to post-94 rate linked to the life of the assets. The intention was to balance the interest of the consumers as well as the licensees. This would avoid front loading of the tariff but at the same time would ensure necessary cash flow for the licensee for loan repayment and funds for asset replacement.

The Hon'ble High Court while deciding Misc. Case No. 7410 and 8953 of 2002 directed the Commission to make necessary calculation as per the Govt. Notification and depreciation shall be calculated on the pre-upvalued cost of assets as on 1.04 1996 at pre-92 rate.

The assets of OSEB taken over by the Govt. of Orissa were revalued and vested with OHPC and GRIDCO vide SRO No.256/96 and SRO No.257/96 dtd.01.4.96, respectively. The assets have been vested with the aforesaid PSUs at upvalued cost to which subsequent additions of assets have been made at actual cost basis. The Original cost of the assets before upvaluation as reported in Staff Appraisal Report (SAR) prepared by the World Bank and value of the asset transferred to OHPC and GRIDCO as per Transfer Notification No.5210 dtd.01.04.1996 are presented in the table below :

| | <u>Rs. In crore</u> | | | | |
|-------------------------|----------------------------|---|---------------------------------|-----------------|--|
| | Gross Fixed Asset | Add : Interest and expenses capitalised | Less : Accumulated depreciation | Net fixed asset | Asset Value as per Transfer Notification |
| OSEB assets transferred | 1375.80 | 105.30 | 444.90 | 1036.30 | |
| GRIDCO | 1103.20 | 97.50 | 363.00 | 837.80 | 1957.80 |
| OHPC | 272.60 | 7.80 | 81.90 | 198.50 | |
| Add GoO to OHPC | 199.4 | 0 | 41.30 | 158.10 | |
| Total OHPC Asset | 472.00 | 7.80 | 123.20 | 356.60 | 1196.80 |

The Balance Sheet of OSEB for the Financial Year 1995-96 has been prepared subsequently which shows different values of assets pertaining to Generation, Transmission and Distribution Business as compared to SAR.

Asset Position as per Balance Sheet of OSEB for the Year 1995-96

(As reported by GRIDCO/OHPC)

| | Gross Fixed Assets | Net Fixed Assets |
|-----------------------|--------------------|------------------|
| Generation(OHPC) | 314.00 | 226.87 |
| Transmission(GRIDCO) | 546.66 | 416.24 |
| Distribution(DISTCOs) | 625.90 | 379.74 |
| Total | 1486.56 | 1022.85 |

Assumptions adopted to comply with the orders of the Hon'ble High Court :

Since the Transfer Notification has been made on the basis of the SAR and the value of the assets of OHPC and GRIDCO has not been changed subsequently in accordance with the audited accounts for the year 1995-96 in terms of Section 25(1) and (2) of the OER Act, 1995, the Commission consider it proper to accept the value of the assets mentioned in SAR for the purpose of calculation of depreciation. Moreover, since the upvalued figures were based on costs of the assets as in SAR, it is only but natural to revert to SAR valuation for the pre-upvaluation figures.

GRIDCO, again divested its distribution business to four DISTCOs on 26.11.98 and transferred Distribution Assets to them on aforesaid date. The crux of the problem is that neither OSEB nor GRIDCO had the assets registers for segregating assets created on or before 01.4.1996 i.e. before upvaluation and assets created there after. In the absence of asset registers, it is very difficult to ascertain the shares of GRIDCO and DISTCOs with respect to transmission and distribution assets, which had been acquired prior to 01.4.96 and their corresponding pre-upvaluation cost to be considered for the purpose of depreciation calculation as per the directive of the Hon'ble High Court. Therefore, in order to comply with the directive of the Hon'ble High Court, the Commission considers its logical and reasonable to adopt valuation of SAR (prior to 1996).

SAR also does not contain any statement of desegregation of assets between transmission and distribution businesses, though figures of pre-upvalued cost of the assets allocated to GRIDCO as a whole including both Transmission and Distribution are available. Under these circumstances, pre-upvalued cost of the assets allocated to GRIDCO as per SAR can be bifurcated between Transmission and Distribution Business on the basis of the proportion of the assets as reported in the Balance Sheet of OSEB on 31.03.1996. Similarly, in the absence of proper asset register, the Commission decided to apportion the Distribution Assets between DISTCOs on the basis of their proportion of assets as notified in the Transfer Scheme Notification No.SRO-750/98 dtd.25.11.98.

Apportionment of pre-upvalued cost of the Assets transferred to GRIDCO on 01-04-96, between Transmission and Distribution Business are as below :-

| | Gross Fixed Assets As per Balance Sheet (in Crore) | Pre-Upvalued Cost of the Gross Fixed Assets as per SAR bifurcated (Cr.) |
|---------|--|---|
| GRIDCO | 546.66 | 514.32 |
| DISTCOs | 625.90 | 588.88 |
| Total | 1172.56 | 1103.20 |

Apportionment of pre-upvalued cost of the Assets transferred to Distribution Business on 01-04-96, between DISTCOs is as under :-

| DISTCOs | Gross Fixed Assets transfer to DISTCOs as per Transfer Notification | Amount of Gross Fixed Assets apportioned |
|---------|---|--|
| WESCO | 267.16 | 139.87 |
| NESCO | 263.39 | 137.90 |
| SOUTHCO | 233.82 | 122.41 |
| CESCO | 360.43 | 188.70 |
| TOTAL | 1124.80 | 588.88 |

Accordingly, transmission and distribution assets as on 01.4.96 before upvaluation have been apportioned amongst GRIDCO and DISTCOs and

depreciation has been calculated on the pre-upvalued cost of assets at pre-92 rate as per the order of the Hon'ble High Court. The total depreciation chargeable to Annual Revenue Requirement of GRIDCO and DISTCOs is as follows:-

Depreciation for the Year 2002-03

| NAME OF THE COMPANY | GROSS FIXED ASSET AS ON 1.4.96 | AVERAGE RATE OF DEPRECIATION (PRE-92) (%) | ASSET ADDED FROM 1996-1997 TO 2002 | AVERAGE RATE OF DEPRECIATION (PRE-92) (%) | TOTAL DEPRECIATION FOR THE YEAR 2002-03 | DEPRECIATION AS PER ORDER DATED 19.4.02 | DIFFERENCE |
|---------------------|--------------------------------|---|------------------------------------|---|---|---|------------|
| GRIDCO | 514.32 | 3.13 | 532.35 | 3.13 | 32.76 | 61.80 | 29.04 |
| WESCO | 139.87 | 3.76 | 144.02 | 3.76 | 10.67 | 14.48 | 3.81 |
| NESCO | 137.90 | 3.76 | 132.93 | 3.76 | 10.18 | 13.72 | 3.54 |
| SOUTHCO | 122.41 | 3.76 | 139.72 | 3.76 | 9.86 | 12.74 | 2.88 |
| CESCO | 188.70 | 3.76 | 220.71 | 3.76 | 15.39 | 18.12 | 2.73 |
| TOTAL DISTCOs | 588.88 | | 637.38 | | 46.11 | 59.06 | 12.95 |
| GRAND TOTAL | 1103.20 | | 1169.73 | | 78.87 | 120.86 | 41.99 |

The weighted average rates of depreciation based on pre-92 rates and asset base of the 2002-03 as approved by the Commission have been adopted to find out Depreciation charges of GRIDCO and DISTCOs for the year 2002-03.

Repair and Maintenance Expenses

The Commission, in its order dtd.19.4.2002 has allowed Repair and Maintenance Expenses @ 5.4% on gross fixed assets at the beginning of the year while determining the revenue requirement for the year 2002-03. As a result of change in value of the assets due to the reasons stated above, the R&M expenses would undergo a change. A comparative statement showing the approved R&M expenses of each distribution companies as per earlier decision of the Commission and as per the revised decision of the Commission due to Govt. notification and order of the Hon'ble High Court is given hereunder.

Repair and Maintenance Expenses

(Rs. in Crore)

| Name of the Distcos | As per Commission's order dtd.19.4.2002 | Revised expenses allowed | Difference |
|---------------------|---|--------------------------|--------------|
| NESCO | 19.36 | 14.62 | 4.74 |
| SOUTHCO | 16.82 | 14.16 | 2.66 |
| WESCO | 20.69 | 15.33 | 5.36 |
| CESCO | 26.28 | 22.11 | 4.17 |
| Total | 83.15 | 66.22 | 16.93 |

The revenue requirement of respective distribution companies will undergo a change due to change in R&M expenses.

Reasonable Return

While determining Annual Revenue Requirement for the year 2002-03, the Commission had earlier allowed reasonable return for Rs.16.54 crore. In view of the Govt. Notification dtd.29.01.2003, GRIDCO and OHPC shall not be entitled to any return on equity (RoE) till the sector becomes viable on cash basis or 2005-06 whichever is earlier. Hence, the Commission decides not to allow any return to GRIDCO for the financial year 2002-03.

Special Appropriation to cover a portion of approved Previous Losses Kept in Regulatory Asset

Due to change in depreciation policy and deviation of Govt. notification from the correctives suggested by the Commission, the revenue requirement for the year 2002-03 will undergo downward change. The licensees have been incurring losses every year due to excess power purchase cost as compared to approved power purchase cost by the Commission. As per the audited accounts for the financial year 1999-00, GRIDCO has incurred an expenditure of Rs.1165.60 crore towards power purchase cost as compared to Rs.1051.82 crore approved by the Commission thereby incurred a loss of Rs.103.78 crore. The excess power purchase cost is beyond the control of the licensee and needs to be passed on to tariff unless subsidised by any other means.

Moreover, while approving the Bulk Supply Tariff and revenue requirement for the Year 2000-01 the Commission in their order dated 19.01.2001 had recognised the Revenue gap.

The relevant portion of the Commission's Order is reproduced below.

- “6.27.8.3 The Commission has approved GRIDCO's revenue requirement for the year 2000-01 as Rs.1466.78 crore. GRIDCO is expected to recover the entire revenue requirement at the approved tariffs over a period of 12 months.
- 6.27.8.4 Since the Bulk Supply Tariff approved in this order will be effective from 1st February, 2001 the licensee will be permitted to carry forward the gap between the expected revenue and the approved revenue requirement for 2000-01 within the benchmarks approved by the Commission for adjustment during the future years.”

Now, the Commission decides to pass on a portion of that Regulatory Asset in the Revenue Requirement of 2002-03 under Special Appropriation head. This will alleviate the burden on the consumers at the time of fixing future tariff while keeping the present tariff constant.

Thus, the Commission approves an amount of Rs.78.52 crore under the head Special Appropriation to mitigate a portion of regulatory assets of the licensee recognized earlier.

Rs. in Crore

| Name of the company | Reduction in revenue requirement due to reduction in power purchase cost | Reduction in revenue requirement due to disallowance of reasonable return | Reduction in revenue requirement due to change in depreciation policy | Reduction due to change in R&M expenses | Total amount of special appropriation |
|---------------------|--|---|---|---|---------------------------------------|
| GRIDCO | 3.05 | 16.54 | 29.04 | 0.00 | 48.63 |
| WESCO | | | 3.81 | 5.36 | 9.17 |
| NESCO | | | 3.54 | 4.74 | 8.28 |
| SOUTHCO | | | 2.88 | 2.66 | 5.54 |
| CESCO | | | 2.73 | 4.17 | 6.90 |
| TOTAL | 3.05 | 16.54 | 42.00 | 16.93 | 78.52 |

13. Impact on revenue requirement

In view of the facts mentioned above, the revised Revenue Requirements of the Licensees viz. GRIDCO, WESCO, NESCO, SOUTHCO and CESCO remain unchanged and **it will have no impact on the tariff for the year 2002-03**. However, the calculations in the earlier orders of the Commission dated 19.04.2002 stands modified pursuant to Govt. notification No.1068 dated 29.01.2003 and 5302 dated 06.05.2003 and Hon'ble High Court Orders dated 03.02.2003 and 14.03.2003. The revised revenue requirements of the aforesaid licensees are annexed to this order.

(B.C. Jena)
MEMBER

(H.S. Sahu)
MEMBER

(D.C. Sahoo)
CHAIRMAN