

Case No. 08/2010

Order No.1

11.05.2010

Sri Arjun Charan Mahal - the Petitioner and Mrs. Niharika Pattanayak, Dy. Manager (Legal), NESCO are present. The reply filed by NESCO and rejoinder to the Counter of NESCO filed by the Petitioner are taken into record.

2. Heard the parties on question of admission.
3. Sri Mahal stated that the licensee-NESCO has not implemented the Order of the GRF Jajpur and also the Order of the Ombudsman-II regarding shifting of the re-routed 11KV line which is passing by the site of his residential house after diversion without following the safety rules. For the above reasons he had filed a petition before the Commission under S.142 of the Electricity Act,2003 which was registered as Case No.30/2009. The said case was disposed of by the Commission vide its Order dated 13.07.2009 with following observations at para-8 of the said Order which is reproduced below:

“The CEO, NESCO is, however, directed to enquire the matter about routing of the 11KV line as to whether the shifting was done at the economic cost and whether safety norms were observed. The correctness and justification of the estimate, deposit of the money by M/s Tata Tele Services Ltd. the accounting thereof and the certification of Electrical Inspector before charging of the re-routed 11KV line, if any, be enquired into. CEO should also take expeditious action for shifting of the re-routed lines, if necessary, observing the prescribed procedure for the purpose. The report of the compliance be submitted to the Commission on or before 20.08.2009.

According the matter is disposed of ”.

4. He also stated that as per direction of the Commission he has deposited the arrear amounts but the above direction has not been complied by the licensee till today. The CEO, NESCO has not submitted the compliance report and also not diverted the re-routed 11KV line as per the direction of the Commission. According to the order of the GRF, Jajpur for shifting of the 11KV line which is passing very close to his residential house and causing threat to life, no where the GRF has mentioned that the petitioner

would have to apply and deposit the cost of the estimate for shifting of the re-routed 11KV line. He further stated that as the above order has not been complied with by the licensee, he has filed this petition under S.142 of the Electricity Act, 2003 for imposing penalty as the licensee has violated the direction of the Commission. With his petition he has attached a sketch map (copy attached) showing pre & post diversion position of the 11KV line, Tata Tele Service Tower has taken connection in Feb, 2007 but the diversion of the subject 11KV line was done during the period last & first week of March, 2007 before the diversion of the existing 11KV line, it was passing 120-130 feet away from the Tata Tele Service tower on the Southern side and after diversion it is also passing 70-80 feet away from the said Tower on the Western side. So the diversion causes no difference for the Tata Tele Service Tower rather the 11KV line became more closer to its tower. The Tata Tele Service has taken a very small part of land i.e, 60'x60' feet of the larger size plot of Mrs. Saraswati Panda on the Northern side 120'-130' feet away from the existing 11KV line. The existing 11KV line has not yet been shifted but has been disconnected exactly before the plot of Mr. Bhagaban Biswal, the departmental contractor. A span of the original 11KV line from one pole is still passing alive over the plot of Mrs. S.Panda. Only one additional pole has been used for giving service connection to the Tata Tele Service Tower, whereas 12nos. of additional poles have been used for diversion of the 11KV line. It is, therefore, not correct that the diversion of 11 KV line was to give power connection to M/s. Tata Tele Service, but only to give pecuniary advantage to Mr.Biswal- the departmental contractor, as well as to harass the petitioner causing threat to his life. The department (CEO-NESCO) in his enquiry report has not addressed the pertinent direction of the Commission. So he prayed the Commission to enquire the pre & post diversion position of the existing 11KV line and the Tata Tele Service Tower by deputing officers of OERC and also of the Licensee for spot verification and adjudicate the matter as deemed fit and proper basing on the enquiry report.

5. Mrs. Pattanayak representative of NESCO stated that the case is limited to the compliance of order dated 13.07.2009 of the Commission passed in

Case No. 30/2009. The Commission vide its interim order dated 27.04.2009 has directed the petitioner to apply for shifting of the existing 11KV line as per prescribed procedure but till today the petitioner has not done so. Again the Commission after hearing both the parties had passed the final order on 13.07.2009 stating that as there is no sufficient reason to proceed further in the matter u/s. 142 of the Electricity Act, 2003, had dropped the proceeding. As per the order dated 13.07.2009 of the Commission, enquiry was to be conducted about the routing of 11KV line as to whether shifting was done at the economic cost and whether safety norms were observed, the correctness and justification of the estimate, deposit of the money by M/s Tata Tele Service Ltd., accounting thereof and the certification of the Electrical Inspector before charging re-routed 11KV line, if any.

6. Mrs. Pattnayak also stated that on allegation, verification of the line was made with regard to the position of the 11KV line and it is found that the line is passing on the public road by the side of the house of the petitioner and it is not passing on the plot of the petitioner. The horizontal clearance between the existing 11KV line and the house of the petitioner was about 4' feet. The said line has been charged after due inspection made by the Dy. Electrical Inspector, Jajpur Road. In case of further shifting of the re-routed line is required by the petitioner, then as per the provisions of the OERC Distribution (Conditions of Supply) Code, 2004, the petitioner is required to make an application to that effect to the competent authority for such shifting. After the application is made, the estimate is to be made and on deposit of the estimate cost steps shall be taken up for such shifting within the time framed as per Regn.13 of OERC Distribution (Conditions of Supply) Code, 2004. In the present case till date no application has been filed by the petitioner for shifting of the re-routed 11KV line as per rules. With regard to the shifting of 11KV line proper estimate was made at the cost of M/s Tata Tele Service and the work was done by a departmental contractor which was duly supervised by NESCO.
7. The representative of NESCO also prayed the Commission to condone the delay to file the enquiry report as it was not been done within the time given, because the person dealing with the case at the Division level was

retired from service on superannuation and all the files were handed over to a new person who has taken some time to study the case. It took some time to put up the matter for making an enquiry in line with the order dated 13.09.2009 of the Commission passed in Case No. 30/2009. Enquiry is made and since matters pertain to searching of records and documents it took sometime which causes delay in submitting the enquiry report within the stipulated time which may kindly be condoned. She also further prayed the Commission to allow 15 days more time to NESCO to file reply regarding the queries made by the Commission during hearing which are as follows:

- i) Whether original re-routing has been done at economic cost or not”?
- ii) Whether safety measures have been taken or not?
- iii) What is the length of pre and post 11KV line?
- iv) Whether the drawing submitted by the petitioner is correct or not and, if so, what was the necessity of crossing the Jajpur-Keonjhar Road NH-215, at 2 places and Dighisahi colony road at one place tangentially to make the re-routed 11KV line very near to the petitioner’s residential house?
- v) Whether re-routing of only 2 spans 11 KV line passing over the plot of Mr. Bhagaban Biswal-the departmental contractor, erection of 12 spans of 11KV line was required, without even any application and deposit of cost of re-routing by Mr. Biswal?

8. Though the enquiry report reveals that safety norms have not been violated, money deposited by Tata Tele Service Ltd. has been accounted for, the petitioner vehemently questions the correctness of the enquiry report and holds that undue favour has been shown to the departmental Electrical Contractor Mr. Bhagban Biswal at the cost of avoidable inconvenience to the petitioner. On examination of single line diagram (copy enclosed) submitted by the petitioner. We find that there is some element of truth in the submission made by the petitioner. Hence, we direct Director (Engg), OERC and the authorized representative of CEO, NESCO to visit the field and examine whether the shifting of the 11KV line has been done as per rules and Regulation made under the Electricity

Act, 2003 and submit their report on or before 30.06.2010 specifically replying to the queries indicated in para-7 above. The Respondents are also directed to file their reply regarding to the queries made during hearing before the said date.

9. Put up the matter after the above compliance for hearing.
Encl: copy of single line diagram.

Sd/
Member (M)

Sd/
Member (B)