

ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR-751 012

Present : Shri D.C. Sahoo, Chairperson
Shri B.C. Jena, Member
Shri S.K. Jena, Member

Case No.147 of 2004

M/s. North-Eastern Electricity Supply
Company of Orissa Ltd.(NESCO),
Januganj, Balasore **Petitioner**

M/s Grid Corporation of Orissa Ltd.(GRIDCO),
Janapath, Bhubaneswar-751022 **Respondent**

In the matter of: Annual Revenue Requirement and Bulk Supply Tariff Application
for the year 2005-06 made by GRIDCO and Commission's Order
dt.22.03.2005.

Date of argument : **11.04.2005**

Date of Order : **20.04.2005**

O R D E R

This order arises out of a petition filed by M/s North-Eastern Electricity Supply Company of Orissa Ltd. (NESCO), praying for Review of the Bulk Supply Tariff order dt.22.03.2005 for the FY 2005-06 passed by the Commission in Case No.147 of 2004.

2. The Commission had passed the tariff order for BST and Transmission Tariff on 22.03.2005 wherein Para 6.29 and 6.34.6 were meant for rebate, as applicable to DISTCOs making bulk purchase of power and all those using the transmission network of GRIDCO. The provision of rebate as stated in the above order is as follows: " For payment of bills through a letter of credit on presentation/upfront by cash, a rebate of 2% shall be allowed..."
3. NESCO filed a petition with the Commission on 31.03.2005 wherein the licensee prayed for a rebate of 2% if the payment was made within three working days of the presentation of the bill by GRIDCO. Further, for calculation of three working days, the Sundays and other holidays under NI Act might be excluded.

4. NESCO's Submission:

- 4.1 NESCO in its petition submits that some difficulties are being experienced in implementing the above order of the Commission relating to rebate. For instance, if bills are presented on the last hours of a working day and the subsequent two days are holidays, the licensee would not be able to pay the bills in time to avail the rebate. That is why NESCO prays the Commission to approve the rebate of 2% to the licensee for prompt payment of BST bills within three working days excluding Sunday and holidays as per Negotiable Instruments Act from the date of presentation of the BST bills.
- 4.2 NESCO further submits that in the Escrow Agreement executed between NESCO and GRIDCO, it has been provided that NESCO shall be entitled to a rebate of 2% on 100% payment of BST bills, if payment is made by NESCO within 48 hours of the presentation of the bill.
- 4.3 NESCO states that the Commission in its earlier tariff order had allowed the licensee a rebate of 2% on 100% payment of BST bills to GRIDCO, if the payment was made within 48 hours of the presentation of the bill.
- 4.4 Further, NESCO has established Letter of Credit in favour of GRIDCO for payment of BST bills which, inter alia, provides that rebate of 2% would be allowed to NESCO, if the payment was made within 48 hours of the presentation of the bill.
- 4.5 In view of the above, NESCO submits that there exists disparity in allowing time limit for availing rebate in payment of BST bills of GRIDCO. NESCO will be put to severe financial difficulties if it is required to pay the BST bills of GRIDCO immediately on presentation of the bill.

5. GRIDCO's Counter:

GRIDCO filed a counter on 08.04.05 wherein the licensee put forth the following arguments:

- 5.1 GRIDCO has been paying to the generators on their presentation of the bill through LC so as to avail a 2% rebate on the current value of the bill. No time limit has been provided between the submission the bill and the actual payment made on the bill so as to avail the full rebate of 2%.
- 5.2 Furthermore, since the DISTCOs have availed of the LC facility from the Banks, there was no problem in honoring the BST bills of GRIDCO on presentation instead of seeking 48 hours or more time for payment of the bill. The cost of LC and other charges payable to the banks on the above account shall be nominal considering the rebate they would avail by honoring GRIDCO's bill on presentation.
- 5.3 GRIDCO further submits that if the DISTCOs are unable to pay the BST bill on presentation of the same by GRIDCO, they are at liberty to settle the bill within thirty days of its presentation and avail a rebate of 1% as approved by the Commission in the BST order dtd.22.03.2005.

5.4 GRIDCO states that in view of the above factors, the submission of NESCO for allowing a rebate of 2% if the payment is made within three working days of the presentation of the bill by GRIDCO and for calculation of three working days excluding the Sundays and other holidays under NI Act is not acceptable. Otherwise GRIDCO would default in its payment to generators. In such an event, the BST applicable to NESCO has to be increased to compensate for the loss of GRIDCO.

6. **Commission's Observations and Order:**

The Commission has carefully examined the contentions of both the parties and also heard the case on 11.04.2005. The Commission observes and orders as follows:

6.1 In the BST order dtd. 28.06.2003 for the year 2003-04, the Commission had ordered in respect of rebate as follows: " Two percent (2%) of the amount of the monthly bill (excluding arrears), if full payment is made within 48 hours of the presentation of the bill". The Commission observes that this order was based on the Escrow Agreement executed between NESCO and GRIDCO wherein it was provided that as an incentive for early payment of BST bill of GRIDCO, NESCO should be entitled to a rebate of 2% on 100% payment of BST bill, if payment was made by NESCO within 48 hours of the presentation of the bill.

6.2 After the enactment of the Electricity Act, 2003, CERC came up with Terms and Conditions of Tariff Regulations on 26th March 2004 wherein the conditions under which rebate would be availed from a transmission licensee was clearly spelt out in para-61 which is as follows: " For payment of bills of transmission charges through Letter of Credit on presentation, a rebate of 2% shall be allowed".

6.3 The Commission had strictly followed the above CERC regulation while formulating the provision in respect of rebate in the BST order of 2005-06.

6.4 A new fact has been stressed before us that the provision of rebate in the BST order of 2005-06 is not in conformity with the subsisting escrow agreement executed between NESCO and GRIDCO. The Commission agrees with it and calls for a review of its own order. Accordingly, it is directed that paras 6.29 and 6.34.6 of the BST order 2005-06 shall be suitably modified as follows:

"For payment of bills through a letter of credit on presentation/upfront by cash within 48 hours, a rebate of 2% shall be allowed. If the payments are made by a mode other than through a letter of credit but within a period of one month of presentation of bills by the generating company, a rebate of 1% shall be allowed".

6.5 Other changes proposed by NESCO are not within the scope of review of our order and hence are rejected.

(S.K. JENA)
MEMBER

(B.C. JENA)
MEMBER

(D.C. SAHOO)
CHAIRPERSON