

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

1. **Shri Ashok Basu, Chairman**
2. **Shri K.N. Sinha, Member**
3. **Shri Bhanu Bhushan, Member**
4. **Shri A.H. Jung, Member**

**Petition No.27/2005**

**In the matter of**

Prayer for issue of direction regarding refund/adjustment of development surcharge collected by Powergrid during 2003-04 from the state utilities and deployed alongwith its interest thereon.

**And in the matter of**

Power Grid Corporation of India Ltd.

....**Petitioner**

Vs

Gujarat Electricity Board, Vadodara

....**Respondent**

**ORDER**

An application (No.88/2004) was made by Gujarat Electricity Board to seek clarifications on exemption from payment of development surcharge after 1.4.2004 and further directions for refund of development surcharge already collected during the period from 1.4.2001 to 31.3.2004 based on the Commission's notification dated 26.3.2004, since levy of development surcharge was discontinued with effect from 1.4.2004. The Central Power Sector Utilities and the state utilities were heard on this application. NTPC had stated that the amount collected was invested in debt/security instruments. NHPC had not utilised the amount collected on account of development surcharge. The present petitioner, Power Grid Corporation of India Limited (PGCIL) had, however, opposed the prayer made by Gujarat Electricity Board on the ground that the amount collected together with interest thereon (Rs.195.22 crore) had been

deployed during the year 2003-04 towards capacity addition. The state utilities, namely, RRVPL, MSEB, BSEB and MPSEB, who filed their responses to the application made by Gujarat Electricity Board, generally supported the contention raised therein that the development surcharge already collected should be refunded in case the amount could not be utilised for capacity addition.

2. After hearing, the Commission in its order dated 9.11.2004 had directed that the amount invested by NTPC in debt/security instruments together with interest be transferred in the name of contributing utility at such utility's expense. NHPC was directed to adjust the amount collected together with interest thereon against the future dues payable by the concerned state utilities.

3. In so far as PGCIL is concerned, in view of the facts projected by PGCIL, in the order dated 9.11.2004 it was directed that the development surcharge collected and invested should be considered against equity contribution by the state utilities in the transmission assets on which it was invested and the state utilities who paid the development surcharge would be entitled to return @ 14% or at such rate as may be specified by the Commission from time to time in proportion of the contribution of the respective state utility as development surcharge. It was further directed that development surcharge collected but not deployed would be adjusted by PGCIL against future dues payable by the concerned state utilities up to March 2005.

4. PGCIL in the present application has brought on record certain practical difficulties in implementing the part of the order according to which state utilities are made entitled to return on equity on the amount of development surcharge invested for

construction of transmission assets. The issues raised primarily relate to ownership of the assets and identification of the state utilities entitled to return on equity consequent to unbundling of the present utilities, particularly when the private companies are entering the electricity sector in place of public sector ones. PGCIL has in the present petition prayed that the Commission may pass an order regarding refund/adjustment of the development surcharge amounting to Rs.195.22 crore along with interest thereon.

5. We have noted the concerns expressed by PGCIL in the present petition. We also take notice of the fact that the state utilities had favoured refund/adjustment of development surcharge collected during the period 1.4.2001 to 31.3.2004 by the Central Power Sector Utilities based on the Commission's directions noted above as contained in the notification dated 26.3.2001. Under these circumstances, we feel that the prayer made in the present petition deserves to be granted. Accordingly, we direct that total amount of development surcharge of Rs.195.22 crore invested by PGCIL on different transmission assets along with interest, shall be adjusted against the future dues of the state utilities. The adjustment shall be carried out latest by 1.6.2005.

6. A copy of the order be sent to all the utilities impleaded in Petition No.88/2004.

7. With the above directions, the petition stands disposed of.

**Sd/-  
(A.H. JUNG)  
MEMBER**

**Sd/-  
(BHANU BHUSHAN)  
MEMBER**

**Sd/-  
(K.N. SINHA)  
MEMBER**

**Sd/-  
(ASHOK BASU)  
CHAIRMAN**

**New Delhi dated the 7<sup>th</sup> April, 2005**