

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairman**
- 2. Shri K.N. Sinha, Member**

**IA No.44/2003
in
Petition No.41/2003**

In the matter of

An application for stay of regulating power supply to Grid Corporation of Orissa by National Thermal Power Corporation Ltd.

And in the matter of

Grid Corporation of Orissa Ltd.

... Petitioner

Vs

1. National Thermal Power Corporation Ltd., New Delhi
2. Eastern Region Load Despatch Center
3. Eastern Region Electricity Board

... Respondents

ORDER

This petition has been filed by Grid Corporation of Orissa Ltd. (GRIDCO) with a prayer among others to restrain Respondents No.1 and 2, namely, National Thermal Power Corporation Ltd. and Eastern Regional Load Despatch Center from regulating power supply to GRIDCO, except in terms of the Tripartite Agreement dated 20.3.2002 between the Central Government, the State Government of Orissa and the Reserve Bank of India. IA No.44/2003 has been filed for an ex parte order in terms of following prayers made in the application:

"(a) Stay the final scheme of regulation issued by ERLDC Fax Message dated 10.4.2003.

(b) Restrain NTPC/ERLDC from regulating power supply to GRIDCO, except in terms of the Tripartite Agreement."

2. According to the scheme of securitisation finalised by the Central Government, payment of bills shall not be later than 60 days from the date of billing or within 45 days of their receipt, whichever is later and in the event that payments are not made within the specified period, the supply of electricity shall be reduced forthwith by 5% of the average daily supply for the preceding 90 days. Clause 15.1 of the scheme prescribes that the reduction in supply shall be increased to 10% and 15% after 75 and 90 days of billing, respectively. Clause 15.2 further provides that the payments that remain outstanding after 90 days from the date of billing are to be recovered on behalf of the CPSUs by Ministry of Finance through adjustment against release due to the respective State Governments on account of plan assistance, states share of Central taxes and any other grant or loan.

3. On perusal of the petition we find that a Civil Writ Petition No.4437/2003 was filed before the Hon'ble High Court of Orissa against the proposed regulation of power supply to GRIDCO. The Hon'ble High Court in its order dated 3.7.2003 has stayed regulation of power supply up to 31.8.2003. The Hon'ble High Court has further directed NTPC that arrears payable from 1.10.2002 onwards will be payable by GRIDCO to NTPC out of loan received from PFC and in case NTPC issues any direction to regulate power supply in future it shall keep in view Clause 15.2 of the scheme for securitisation finalised by the Central Government on the basis of Ahluwalia Committee Report (the scheme).

4. We also find that the Hon'ble High Court has constituted a Committee headed by a retired Judge of that court to go into the following aspects and report to it:

- "1. The reason for non-payment of its legal dues by the GRIDCO to its sellers of electricity.
2. Whether the clauses of the agreement, including the price charges for purchase of electricity, entered into by the GRIDCO with its suppliers are sustained in law?
3. Whether the price charges by the CPSU is sustainable in view of the manufacturing cost? In case the Committee comes to a finding that the prices are high and excessive and have been fixed arbitrarily, what are the remedies available for correcting such errors?"

5. The Hon'ble High Court has further directed that the Civil Writ Petition be listed for further orders immediately after submission of the report by the Committee.

6. In view of the fact that the High Court is already seized of the matter, we direct that the petition as also the IA be kept pending. The liberty is, however, given to the petitioner to approach the Commission for hearing of the petition/IA before us after the decision of the Hon'ble High Court in the pending Civil Writ Petition, or otherwise, if so warranted by the circumstances.

7. Copy of this order be sent to all concerned.

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 26th August, 2003