

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri Bhanu Bhushan, Member**
- 3. Shri R.Krishnamoorthy, Member**
- 4. Shri S.Jayaraman, Member**

Petition No. 15/2006

In the matter of

Seeking direction to Grid Corporation of Orissa Ltd., not to charge trading margin exceeding 4 paise/kWh, notified by the Commission.

And in the matter of

Shri Gajendra Haldea **Petitioner**

Vs

Grid Corporation of Orissa Ltd **Respondent**

ORDER

The petitioner had filed this petition seeking directions to the respondent, Grid Corporation of Orissa Ltd not to charge trading margin exceeding 4 paise/kWh, notified by this Commission and applicable to inter-State electricity traders, when the sale is effected by the respondent through the process of bids or otherwise. In addition, the petitioner prayed for a direction to the respondent to file appropriate returns in the forms prescribed by this Commission for all purchase and sale transactions undertaken by the respondent.

2. On completion of pleadings and after hearing the parties, the Commission vide its order dated 1.5.2006 held that although the respondent was charging heavy trading margin, the Commission did not have power to limit its profits on sale of electricity because it was deemed to be an intra-

State electricity trader. Relevant part of the Commission's order is extracted hereunder:

33. It is obvious that GRIDCO has charged very heavy trading margins for sale of surplus power. In view of our finding that GRIDCO is deemed to be an intra-State electricity trader, we have not given any direction to GRIDCO to limit its profits on sale of electricity for consumption outside the State. We only hope that the concerned Commission will consider this aspect and pass an appropriate order for fixing the trading margin for the power traded by GRIDCO.

3. Aggrieved by the above order, the petitioner moved the Appellate Tribunal for Electricity ("the Appellate Tribunal") vide Appeal No. 81 of 2006. The Appellate Tribunal vide its judgment dated 16.11.2008 held that sale of power by the respondent and further sale of power by PTC outside the State of Orissa was of the nature of inter-State trading, attracting the application of trading margin notified by the Commission. The matter was remitted to the Commission for computing the amount which the respondent had charged over and above the trading margin notified by the Commission. The Appellate Tribunal had also held that the principle laid down in the above judgment shall apply to all transactions of identical nature.

4. In pursuance of the directions of the Appellate Tribunal in the above mentioned judgment, the Commission, vide its order dated 1.12.2006 directed the respondent to place on record the details relating to its transactions since 27.1.2006, the date on which the trading margin specified by the Commission became effective. Further, PTC (India) Limited, Adani Enterprises Limited, Lanco Electric Utility Limited and NTPC Vidyut Vyapar Nigam Limited (all inter-State traders) who were understood to have purchased electricity from

the respondent were also directed to place on record the details in regard to volume of electricity purchased since 27.1.2006 and sold to the utilities outside the State of Orissa.

5. When the matter came up for hearing on 28.12.2006, the Commission was informed that the judgment of the Appellate Tribunal dated 16.11.2006 was stayed by the Hon'ble Supreme Court by its order dated 15.12.2006 in Civil Appeal No. 5722/2006 (Grid Corporation of Orissa Limited Vs. Gajendra Haldea & Others) Accordingly, the proceedings revived vide the Commission's order dated 1.12.2006 were held in abeyance pending decision of the Hon'ble Supreme Court in the above noted appeal.

6. The Hon'ble Supreme Court vide its judgment dated 13.8.2008 has set aside the order of the Appellate Tribunal. Consequently, nothing subsists in the matter. We accordingly direct that the proceedings initiated vide the Commission's order dated 1.12.2006 be closed and the file be consigned to records.

Sd/=	Sd/=	Sd/=	Sd/=
(S.JAYARAMAN)	(R.KRISHNAMOORTHY)	(BHANU BHUSHAN)	(DR. PRAMOD DEO)
MEMBER	MEMBER	MEMBER	CHAIRPERSON

New Delhi dated the 24th November 2008