

CENTRAL ELECTRICITY REGULATORY COMMISSION

Record of Proceedings

PETITION NO.10/2000

Subject: Fixation of wheeling charges for the period 1.1.1998 onwards.

Date of hearing: 12.8.2008

Petitioner Madhya Pradesh State Electricity Board, Jabalpur

Respondent Grid Corporation of Orissa Limited, Bhubaneswar

Coram: Dr. Pramod Deo, Chairperson
Shri Bhanu Bhushan, Member, and
Shri R.Krishnamoorthy, Member

Party present:

1. Shri Sakesh Kumar, Advocate, MPSEB
2. Shri Deepak Srivastava, MPSEB
3. Shri V.R.Reddy, Senior Advocate, GRIDCO
4. Shri R.K.Mehta, Advocate, GRIDCO
5. Shri Premjit, Advocate, GRIDCO
6. Shri Abhay Yadav, Advocate, GRIDCO
7. Shri Sunil Murarka, Advocate, GRIDCO

The Commission by its order dated 23.10.2000 had directed that the wheeling charges for conveyance of electricity through the transmission system owned by the respondent were payable by the petitioner @ 10 paise/kWh w.e.f. 1.1.1998, as decided by CEA. The respondent filed an appeal before the Hon`ble Orissa High Court against the said order dated 23.10.2000. The Hon`ble High Court by its order dated 6.12.2007 set aside the Commission's order dated 23.10.2000 and has remitted the matter to the Commission for the purpose of reconsideration of the dispute, to the extent whether the wheeling charges are to remain to 10 paise/kWh or be enhanced upto 17.5 paise/kWh.

2. The respondent and petitioner filed their sets of documents. The learned counsel for the petitioner had made his submissions at the hearing on 8.7.2008. During the hearing on that date the learned counsel for the respondent had pointed out that the documents filed by the petitioner on 7.7.2008 had not been served. On his request adjournment was granted.

3. During the hearing, the learned counsel for the respondent filed a written submission and a summary of the list of dates and events which were directed to be taken on record. The learned senior counsel for the respondent submitted that the contentions of the petitioner that the "decision of CEA" on the question of payment of wheeling charges not having been challenged by the respondent before any forum had become final and that the petitioner filed the petition before the Commission for execution of the order of CEA on the ground that it did not have any execution power, was wholly misconceived. The learned senior counsel further stated that as CEA had no statutory power or jurisdiction under the Electricity (Supply) Act, 1948 or any other law, to determine the wheeling charges, the question of execution of CEA's decision should not arise.

4. The learned senior counsel brought out that the petitioner through its fax message dated 4.4.1997 had offered to pay the wheeling charges @ 17.5 paise/kWh as were fixed for APSEB. However, the respondent by its letter dated 9.4.1997 informed the petitioner that Orissa Electricity Regulatory Commission (OERC) had fixed wheeling charges of 40 paise/kWh + 7.5% transmission charges towards loss of energy in its transmission system.

Therefore, the wheeling charges for use of its transmission system should be payable accordingly. The petitioner through its fax message dated 5.5.1997 requested for transmission of power with wheeling charges of 17.5 paise/kWh. It was submitted by the learned senior counsel that the respondent through its letter dated 6.5.1997 allowed the petitioner the use of its network, but with the condition "final decision of CEA/Ministry of Power will be acceptable to GRIDCO". The learned senior counsel argued that the letter dated 6.5.1997 was addressed in the course of continuing exchange of correspondence between the parties but did not result in a binding agreement. Thus, the learned senior counsel refuted existence of any contract between the parties. He prayed for fresh consideration of the matter, as directed by the Hon`ble High Court, without being influenced by the observations made in order dated 23.10.2000 since set aside and sought dismissal of the petition. The learned senior counsel took the Commission through the written submissions filed on behalf of the respondent.. He urged that the petition was devoid of merit. When enquired whether any new evidence which was not considered by the Commission in its order dated 23.10.2000, has been submitted the learned senior counsel replied in negative.

5. The learned counsel for the petitioner stated that the Commission after detailed examination of the correspondence exchanged between the parties had concluded in its order dated 23.10.2000 that wheeling charges were payable @ 10 paise/kWh. According to him, the Hon`ble High Court remanded the matter to the Commission for fresh adjudication and the adjudication was to the extent if any new facts were brought to the notice of the Commission. But no new material

fact had been brought by the respondent on record and, therefore, respondent's arguments lacked merit. The learned counsel requested for two weeks time to file reply to written submissions filed by the respondent during the hearing. Request made by the learned counsel was allowed. The petitioner was granted time to file its reply to the written submissions.

6. Subject to above, order of the Commission has been reserved.

Sd/-
(K.S.Dhingra)
Chief (Legal)