

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram**

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

**Petition No. 38/2008**

**In the matter of**

Petition for apportionment of UCPTT rate of 35 paise per KWh of North Eastern Region for the period 1.2.2000 to 31.3.2007 in view of the judgment dated 4.1.2008 in Appeal No. 98 of 2007 of the Appellate Tribunal for Electricity.

**And in the matter of**

Power Grid Corporation of India Ltd., Gurgaon

**.... Petitioner**

**Vs**

1. North Eastern Regional Power Committee, Shillong
2. Assam State Electricity Board, Guwahati
3. Meghalaya State Electricity Board, Shillong
4. Government of Arunachal Pradesh, Itanagar
5. Power and Electricity Department, Govt. of Mizoram, Aizwal
6. Electricity Department, Govt. of Manipur, Imphal
7. Department of Power, Govt. of Nagaland , Kohima
8. Department of Power, Govt. of Tripura, Agartala

**Respondents**

**The following was present:**

Shri M.G.Ramachandran, Advocate, PGCIL  
Shri U.K.Tyagi, PGCIL  
Shri B.C.Pant, PGCIL  
Shri A.K.Nagpal, PGCIL  
Shri M.M.Mondal, PGCIL  
Shri K.Goswami, ASEB  
Shri Manish Goswami, Advocate, ASEB  
Shri R.Kapoor, ASEB  
Shri A.K.Bora, ASEB  
Shri H.M.Sharma, ASEB  
Shri Sunil Murarka, Advocate, TSECL  
Shri A.Das, TSECL  
Ms. Seema Sharma, Advocate, consumer  
Ms. Preeti Saikia , Advocate, consumer

**ORDER**  
**(Date of Hearing: 18.9.2008)**

The petitioner, Power Grid Corporation of India Limited seeks re-apportionment of UCPTT of 35 paise/kwh, based on the judgment dated 4.1.2008 of the Appellate Tribunal for Electricity (the Tribunal) in Appeal No.98/2007.

**Background of the case**

2. The transmission charges in North Eastern Region (NER) were charged at Uniform Common Pool Transmission Tariff (UCPTT) rate, which was in terms of paise per kWh, operational since 1992. The UCPTT rate of 35 paise/ kWh was effective from 1.4.1998.

3. Based on the report of Member-Secretary, NERPC, the Commission in its order dated 9.5.2006 in Petition No.3/2005, decided to apportion UCPTT of 35 paise/ kWh in the following manner:

Constituent	(Paise/kWh)			
	February 2000 to December 2002	January 2003 to May 2004	June 2004 to December 2004	January 2005 and onwards
POWERGRID	33.877564	33.995626	33.864863	33.668547
ASEB	0.734394	0.657148	0.784769	0.768377
MeSEB	0.110869	0.099207	0.099207	0.097135
Nagaland	0.077787	0.069605	0.069605	0.271047
Tripura	0.116269	0.104039	0.124676	0.122072
Manipur	0.083117	0.074375	0.074375	0.072821
<b>Total</b>	35.000000	35.000000	35.017496	35.000000

4. Subsequently, Member-Secretary, NERPC by its letter dated 6.8.2006 recommended the revised UCPTT sharing formula as given below:

(Paise/kWh)							
Constituent	2/2000-12/2000	1/2001-9/2001	10/2001-12/2002	1/2003-3/2004	4/2004-5/2004	6/2004-12/2004	1/2005-7/2005
POWERGRID	33.680532	33.704037	33.712086	33.841119	33.853696	33.690816	33.465764
ASEB	0.863309	0.847930	0.842664	0.758240	0.750010	0.891357	0.885403
MeSEB	0.130331	0.128009	0.127214	0.114469	0.113227	0.112682	0.111929
Nagaland	0.091441	0.089812	0.089255	0.080313	0.079441	0.079059	0.312328
Tripura	0.136679	0.134244	0.133410	0.120044	0.118741	0.141610	0.140664
Manipur	0.097708	0.095967	0.095371	0.085816	0.084885	0.084476	0.083912
Total	35.000000	35.000000	35.000000	35.000000	35.000000	35.000000	35.000000

5. When the revised recommendations of the Member-Secretary, NERPC were yet to be considered, Assam State Electricity Board (ASEB) and Tripura State Electricity Corporation Limited (TSECL) filed review petitions Nos. 62/2006 and 72/2006 respectively for review of the Commission's order dated 9.5.2006 in Petition No. 3/2005 on various grounds. It is not necessary for us to refer to those grounds for the purpose of this order. The Commission allowed the review and by order dated 27.12.2006 directed to implement the revised sharing formula for the period 1.4.2004 to 31.3.2007, as under, taking into consideration the recommendation made by Member-Secretary, NERPC through its letter dated 6.8.2006:

(Paise/kWh)			
Constituent	4/2004-5/2004	6/2004-12/2004	1/2005-3/2007
Power Grid	33.853696	33.690816	33.465764
ASEB	0.750010	0.891357	0.885403
MeSEB	0.113227	0.112682	0.111929
Nagaland	0.079441	0.079059	0.312328
Tripura	0.118741	0.141610	0.140664
Manipur	0.084885	0.084476	0.083912
Total	35.000000	35.000000	35.000000

6. The Commission further directed that arrears for the period 1.4.2004 to 30.11.2006 were to be paid in eight equal quarterly installments commencing on 31.3.2007, to be liquidated by 31.12.2008, but without any liability of the respondents to pay interest as long as payments were released as per the schedule decided by the Commission in the said order dated 27.12.2006.

7. The petitioner filed an appeal (Appeal No. 98/2007) before the Appellate Tribunal for Electricity against the said order dated 27.12.2006. The Tribunal vide its judgment dated 4.1.2008 held as under:

“29. In view of the above, we allow the appeal and set aside the impugned order (dated 27.12.2006) and dismiss the two review petitions No.72/06 and 3/06. The appellant will be entitled to the cost of the present appeal from the two review petitioners namely, Tripura State Electricity Corporation Ltd., and Assam Electricity Board.”

8. Consequent to the above judgment of the Tribunal, the petitioner has sought re-apportionment of UCPTT of 35 paise/kWh w.e.f. 1.2.2000 based on the capital expenditure communicated by the Member-Secretary, NERPC vide its letter dated 6.8.2006. The petitioner has sought further direction to the Member-Secretary, NERPC to issue details of net amounts payable/receivable by different constituents, based on the re-apportioned UCPTT.

9. The Commission in its order dated 4.6.2008 had directed the petitioner to file a comparative statement of the capital cost of its assets in NER, forwarded by it to the Member-Secretary, NERPC for computation of revised apportionment formula of UCPTT and the capital cost approved by the Commission while allowing regular tariff for the period 1.4.2007 to 31.3.2009 for its assets in NER. The petitioner by its affidavit dated 7.7.2008 has submitted

the requisite information. This information reveals that the cost of the petitioner's assets in NER considered by the Member-Secretary in its letter dated 6.8.2006, is within the capital cost allowed by the Commission for computation of tariff for the period 1.4.2007 to 31.3.2009. Therefore, we have accepted the capital cost considered by the Member-Secretary, NERPC in its letter dated 6.8.2006.

10. The respondents have opposed the petition. ASEB is stated to have filed further appeal before the Hon`ble Supreme Court against the Tribunal's judgment dated 4.1.2008. Learned counsel for ASEB sought the matter to be adjourned as the appeal was pending before the Hon`ble Supreme Court, or at least till such time the appeal was listed for admission. The respondents have urged that there is no justification for retrospective re-apportionment of UCPTT w.e.f. 1.2.2000. According to them, re-apportionment at this stage will defeat the provisions of Section 61 of the Electricity Act, 2003 which enjoins upon the Commission to safeguard the consumers' interest. Ms. Mallika Sharma Bazbaruah, who has intervened as a consumer, has urged that Member-Secretary, NERPC`s letter dated 6.8.2006 cannot be acted upon since all the constituents of the region were not consulted.

### **Findings and Conclusions**

11. We have very carefully considered the objections of the respondents. The Tribunal has directed apportionment of UCPTT w.e.f. 1.2.2000. The Tribunal's judgment is to be implemented, unless stayed by the Hon`ble Supreme Court. The order has been made after due opportunity to the respondents. Therefore, it is not possible to keep the petition pending. We do not find any force in the

argument that the Member-Secretary's letter cannot be given effect on the ground that the constituents of the Region were not consulted. The contention is not supported by any provision of law. Further, re-apportionment allowed by the Commission by its order dated 27.12.2006, for the period from 1.4.2004 which has been accepted by the respondents, was itself based on the letter dated 6.8.2006. The Tribunal has set aside the Commission's order dated 27.12.2006 in Review Petitions Nos. 62/2006 and 72/2006 and has dismissed the review petitions. As a natural corollary, the Commission's earlier order dated 9.5.2006 which originally decided to implement re-apportionment of UCPTT at the rate of 35 paise/kWh effective from 1.2.2000, gets revived. However, subsequent to the Commission's order dated 9.5.2006, Member-Secretary, NERPC has recommended the revised UCPTT sharing formula as per the details given in Table of para 4 above, because of certain discrepancies in the capital cost earlier considered in the order dated 9.5.2006. The revision is to the advantage of the respondents as the petitioner's share as a result of fresh re-apportionment gets reduced. Therefore, the order dated 9.5.2006 is not being implemented, particularly when there was a small obvious discrepancy in the re-apportionment for the period June 2004 to December 2004, inasmuch as the total UCPTT exceeded 35 Paise/kWh. Therefore, we are revising apportionment based on Member-Secretary NERPC's letter dated 6.8.2006.

12. From 1.4.2007 onwards, UCPTT has been replaced by the normal tariff in NER. Therefore, the revised sharing will be applicable for the period 1.2.2000 to 31.3.2007. Based on the finally revised sharing of UCPTT as recommended by Member-Secretary, NERPC vide its letter dated 6.8.2006, the following UCPTT apportionment shall be made effective:

(Paise/kWh)

Constituent	2/2000- 12/2000	1/2001- 9/2001	10/2001- 12/2002	1/2003- 3/2004	4/2004- 5/2004	6/2004- 12/2004	1/2005- 3/2007
PGCIL	33.680532	33.704037	33.712086	33.841119	33.853696	33.690816	33.465764
ASEB	0.863309	0.847930	0.842664	0.758240	0.750010	0.891357	0.885403
Manipur	0.097708	0.095967	0.095371	0.085816	0.084885	0.084476	0.083912
MeSEB	0.130331	0.128009	0.127214	0.114469	0.113227	0.112682	0.111929
Nagaland	0.091441	0.089812	0.089255	0.080313	0.079441	0.079059	0.312328
Tripura	0.136679	0.134244	0.133410	0.120044	0.118741	0.141610	0.140664
Total	35.000000	35.000000	35.000000	35.000000	35.000000	35.000000	35.000000

13. The respondents based on the Commission's order dated 27.12.2006 have been making payments for the period 1.4.2004 to 30.11.2006 in quarterly installments. The last installment for the arrear payments is to be paid by 31.12.2008. Keeping in view the progress which has already been made, the last installment shall be paid by 31.12.2008, as already directed. Then, the issue remains about payments of arrears for the period 1.2.2000 to 31.3.2004.

14. The arrears for the period from 1.2.2000 to 31.3.2004 shall be paid in eight equal quarterly installments commencing on 31.3.2009 and shall be liquidated by 31.12.2010. No interest shall be charged as long as payments are released as per the schedule decided herein. Member-Secretary, NERPC shall issue details of net amounts payable/receivable by different agencies based on sharing formula specified above latest by 31.12.2008.

15. With the above order, the petition stands disposed of.

**Sd/-**  
**(S.JAYARAMAN)**  
**MEMBER**

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

**sd/-**  
**(DR.PRAMOD DEO)**  
**CHAIRPERSON**

**New Delhi dated the 30<sup>th</sup> September 2008**