

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

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

Petition No.6/2004

In the matter of

Fixation of Wheeling Charges in respect of Transmission System of Grid Corporation of Orissa Ltd. for wheeling of power from NTPC power stations in Eastern Region (ER) through their system to Madhya Pradesh State Electricity Board (MPSEB), Jabalpur with effect from 1.4.2001.

And in the matter of

Madhya Pradesh State Electricity Board	...	Petitioner
Vs		
1. Grid Corporation of Orissa Ltd., Bhubaneswar		
2. Eastern Region Electricity Board, Kolkata	...	Respondents

The following were present:

1. Shri D. Khandelwal, SE, MPSEB
2. Shri Deepak Shrivastava, EE, MPSEB
3. Shri R.K. Mehta, Advocate, GRIDCO
4. Ms. Shruti, Advocate, GRIDCO
5. Shri N.N. Mahapatra, SE, GRIDCO
6. Shri B.M. Das, Sr. GM, GRIDCO
7. Shri R.B. Sharma, Member Secretary, EREB

**ORDER
(DATE OF HEARING: 13.7.2004)**

The petitioner has sought to determine the wheeling charges for transmission of power through the first respondent's system from 1.4.2001 onwards in accordance with the Commission's notification dated 26.3.2001, hereinafter referred to as the notification dated 26.3.2001.

2. The petitioner is presently allocated 300 MW of power from NTPC stations in Eastern Region. The power is transmitted to the petitioner's network through the transmission system owned by the first respondent since 1.1.1998. CEA, sometime in 1998 had decided the rate of wheeling charges for use of the transmission system owned by the first respondent at 10 paise/kWh. The first respondent, however, did not agree to accept wheeling charges at a rate below 17.5 paise/kWh. In a petition filed by the petitioner, the Commission in its order dated 23.10.2000 in Petition No. 10/2000 had decided that the wheeling charges were payable by the petitioner to the first respondent at the rate of 10 paise/kWh with effect from 1.1.1998. However, on an appeal filed by the first respondent before the Hon'ble High Court of Orissa, the Commission's order dated 23.10.2000 is presently stayed.

3. Meanwhile, the Commission notified the terms and conditions of tariff applicable from 1.4.2001 to 31.3.2004 by the notification dated 26.3.2001. In regard to payment of wheeling charges, it is laid down that the importing utility and wheeling utility should mutually agree on the wheeling charges as well as the transmission losses. However, in the event of their inability to agree, the contract path method should be used for calculation of the wheeling charges and the Member Secretary of the Regional Electricity Board of the region wherein the wheeling utility is located is required to calculate the wheeling charges by applying the principles specified by the Commission. The notification dated 26.3.2001 further provides that in case of a disagreement with the decision of Member

Secretary, REB, the Commission be approached for a decision and pending the final order of the Commission, the decision of Member Secretary is to be implemented on provisional basis.

4. From the facts available on record we find that the importing utility and the wheeling utility have not been able to agree on the rate of wheeling charges. Therefore, the wheeling charges are to be calculated by the Member Secretary, EREB (ERPC) by following the contract path method as laid down in the notification dated 26.3.2001. On consideration of these facts, we are satisfied that the case for admission of the petition has been made out. Accordingly, this petition is admitted.

5. We direct that the Member Secretary, EREB (ERPC) (second respondent) shall calculate the wheeling charges in accordance with the principles contained in the notification dated 26.3.2001 for the period 1.4.2001 to 5.2.2004 and thereafter the wheeling charges shall be payable in accordance with CERC (Open Access in Inter-State Transmission) Regulations, 2004. Shri Sharma, Member Secretary, EREB (ERPC), who was present, stated that that he would submit his report to the Commission by 30.9.2004. A copy of the report shall be furnished by the Member Secretary, EREB (ERPC) in advance to the petitioner as also the first respondent who, in the case of disagreement with the calculation of wheeling charges made by the Member Secretary, EREB (ERPC), may file petition before

the Commission latest by 31.10.2004, a copy of which shall be furnished to the opposite party.

6. During the course of hearing, learned counsel for the first respondent filed an affidavit. It is stated therein that the petitioner has not made any payment towards the wheeling charges since October 2000, except for a sum of Rs.10 crore paid under the orders of the Hon'ble High Court of Orissa. It is stated that after adjusting the sum of Rs.10 crore, the amount payable by the petitioner towards wheeling charges @ 17.5 paise/kWh up to 31.5.2004 comes to Rs.135.90 crore. It is further stated that even if the wheeling charges are worked out @ 10 paise/kWh, the arrears add up to Rs.16.78 crore up to 31.5.2004. During the hearing learned counsel emphasised that in view of the stay granted by the Hon'ble High Court of Orissa, petitioner is liable to pay the wheeling charges @ 17.5/kWh as were paid before the order of the Commission dated 23.10.2000. He, therefore, sought a direction to the petitioner to pay arrears on account of the wheeling charges.

7. Shri D. Khandelwal, who represented the petitioner in the proceedings before us, acknowledged that a sum of Rs.16.78 crore was due when the wheeling charges are calculated @ 10 paise/kWh. He undertook to liquidate the arrears in 6 monthly instalments by 31.12.2004; first instalment to be paid in July 2004 itself. He further undertook that the current wheeling charges for use of first respondent's system from June 2004 and onwards shall be paid as and when due

and the arrears on that account will not be allowed to accumulate. He informed us that a proposal for payment of arrears in accordance with the undertaking given by him was already under consideration of the Board of the petitioner. The petitioner shall remain bound by the undertaking given by its representative at the hearing before us. The arrangement will operate purely as an interim measure. The wheeling charges paid by the petitioner as per the undertaking shall be provisional, subject to adjustment and without prejudice to the rights and liabilities of the parties in the appeal pending before the Hon'ble High Court of Orissa and the proceedings in the present petition.

8. List this petition on 25.11.2004

Sd/-
(BHANU BHUSHAN)
MEMBER

Sd/-
(K.N. SINHA)
MEMBER

Sd/-
(ASHOK BASU)
CHAIRMAN

New Delhi dated the 21st July 2004