

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Coram:**

- 1. Shri D.P. Sinha, Member**
- 2. Shri G.S. Rajamani, Member**
- 3. Shri K.N. Sinha, Member**

**Review Petition No. 76/2001  
in Petition No. 28/2001**

In the matter of  
Review of Commission's Order dated 4-6-2001 in Petition No. 28/2001

**And in the matter of**

National Thermal Power Corporation Ltd. .... **Petitioner**

**Vs**

Transmission Corporation of Andhra Pradesh and others ..

**Respondents**

**And in the matter of**

Grid Corporation of Orissa Ltd. .... **Review Petitioner**

The following were present:

1. Shri R.K. Mehta, Advocate for GRIDCO

**ORDER (DATE OF HEARING  
4-12-2001)**

In terms of the notification dated 26.3.2001, the utilities were required to file petitions for determination of tariff with effect from 1.4.2001, based on the terms and conditions contained in the said notification. The notification, inter-alia, provides for payment of unscheduled inter-change charges under certain circumstances. Under the notification dated 26.3.2001, the payment of capacity charges is relatable to "availability", though prior to 1.4.2001, the capacity charges were payable on "drawal" basis. The final determination of tariff by the Commission based on the notification dated 26.3.2001 with effect from 1.4.2001 was likely to take some time in view of the interim



orders passed by certain High Courts based on the appeals filed by the utilities. The Commission, therefore, issued a notification dated 4.4.2001, that with effect from 1.4.2001, the billing of charges shall continue to be done on the same basis as on 31.3.2001 for a period of 6 months i.e. up to 30.9.2001 which presently stands extended to 31.12.2001, subject to adjustment in the light of final determination of tariff by the Commission. In other words, drawal of energy is to be the basis for billing of charges.

2. In view of the Commission's notification dated 4.2.2001, in our order dated 4.6.2001 in Petition No. 28/2001, we had directed the Member Secretaries of all the Regional Electricity Boards to prepare Regional Energy Accounts on "drawal" basis. A further direction was given to keep an accurate account of unscheduled inter-change charges to facilitate expeditious settlement and subsequent adjustment which may be necessary on account of difference in charges based on drawal and capacity basis, when the tariff is determined in accordance with the notification dated 26.3.2001.

3. The petitioner Grid Corporation of Orissa Limited filed an application to seek modification of the order dated 4.6.2001 for a direction that Availability Based Tariff (which stands incorporated in the terms and conditions contained in the notification dated 26.3.2001) shall be implemented prospectively and not with retrospective effect since its retrospective implementation would cause a serious prejudice to the petitioner on account of its inability to programme its drawals from the grid. The application has been treated as a review petition. We have heard Shri R.K. Mehta, Advocate on admission.

4. The actual implementation of ABT is presently stayed because of the interim orders of some of the High Courts based on the appeals filed by utilities, though the

Commission has given categorical directions for its implementation in the Eastern Region, of which the present petitioner is a constituent, w.e.f. 1.4.2001. Accordingly, we are not in a position to give any further directions on the issue raised in the present review petition. The date from which ABT is actually implemented will depend upon the orders of the superior courts that are in seisin of the matter in the pending appeals.

5. In view of this, in our opinion the present petition is not maintainable and is accordingly dismissed at admission stage.



**{K.N. SINHA)**  
**MEMBER**

**(G.S. RAJAMAM) :T**  
**MEMBER**

**--MEMBER**

New Delhi dated 4<sup>th</sup> December, 2001

