

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Shri Ashok Basu, Chairman**
- 2. Shri G.S. Rajamani, Member**
- 3. Shri K.N. Sinha, Member**

**Review Petition No.84/2002
In
Petition No.109/2000**

In the matter of

Review of Commission's order dated 22.3.2002 in Petition No.109/2000

And in the matter of

Power Grid Corporation of India Ltd.

....Petitioner

Vs

1. Himachal Pradesh State Electricity Board, Shimla
2. Uttar Pradesh Power Corporation Ltd., Lucknow
3. Power Development Department, Govt. of J&K, Srinagar
4. Delhi Vidyut Board, New Delhi
5. Rajasthan Rajya Vidyut Prasaran Nigam Ltd, Jaipur
6. Punjab State Electricity Board, Patiala
7. Chandigarh Administration, Chief Engineer and Secretary, Chandigarh
8. Haryana Vidyut Prasaran Nigam Ltd, Panchkula
9. Bihar State Electricity Board, Patna
10. Damodar Valley Corporation, Calcutta
11. West Bengal State Electricity Board, Calcutta
12. Grid Corporation of Orissa Ltd., Bhubaneshwar
13. Power Deptt., Govt. of Sikkim, Gangtok
14. Madhya Pradesh State Electricity Board, Jabalpur
15. Maharashtra State Electricity Board, Mumbai
16. Gujarat Electricity Board, Vadodara
17. Goa Electricity Department, Panaji, Goa
18. Collector, Union Territory of Dadra and Nagar Haveli, Silvassa
19. Electricity Department, Admn. Of Daman & Diu, Daman
20. Andhra Pradesh Transmission Corporation Ltd., Hyderabad
21. Karnataka Power Transmission Corporation Ltd., Bangalore
22. Kerala State Electricity Board, Trivandrum
23. Tamil Nadu State Electricity Board, Chennai
24. Electricity Department, Govt. of Pondicherry, Pondicherry
25. Assam State Electricity Board, Guwahati
26. Meghalya State Electricity Board, Shillong
27. Electricity Deptt., Govt. of Manipur, Imphal

28. Deptt. of Power, Govt. of Mizoram, Aizwal
 29. Electricity Deptt., Govt. of Nagaland, Kohima
 30. Electricity Deptt., Govt. of Tripura, Agartala
 31. Deptt. of Power, Govt. of Arunachal Pradesh, Itanagar
 32. Jharkand State Electricity Board, Jharkhand
 33. Chhatisgarh State Electricity Board, Chhatisgarh
 34. Uttranchal State Electricity Board, Dehradun
-Respondents

The following were present:

1. Shri R.G. Yadav, PGCIL
 2. Shri V. Mittal, PGCIL
 3. Dr A.K. De bhoumik, PGCIL
 4. Shri T.S.P. Rao, PGCIL
 5. Shri R.P. Chowdhary, PGCIL
 6. Shri V.K. Dayal, PGCIL
 7. Shri D.D. Chopra, UPPCL
 8. Shri M. Kumar, EE, UPPCL
 9. Shri K.K. Mittal, XEN (ISP), RVPNL
 10. Shri S.K. Soonee, SRLDC
 11. Shri T.P.S. Bawa, SE, PSEB
 12. Shri K. Jha, Controller, KPTCL
 13. Shri Abdul Azeez, KPTCL
 14. Shri V.K. Sukhija, AO, HVPNL
-Respondents

**ORDER
(DATE OF HEARING 8.11.2002)**

The petitioner PGCIL has filed this application for review of the Commission's order dated 22.3.2002 passed in petition No.109/2000. It has also been prayed that the petitioner be allowed reimbursement of actual expenditure claimed under various heads as per petition No.109/2000 to operate RLDCs on "no profit no loss basis".

2. The Commission in its order dated 22.3.2002 in petition No.109/2000, in exercise of its powers under sub-section (10) of section 55 of the Electricity (Supply) Act, 1948 had specified the fees and charges payable by the beneficiaries to RLDCs for undertaking load dispatch functions entrusted to them. It has been submitted that the Commission in its earlier order dated 03.01.2001 in petition No.109/2000 had observed that the RLDCs should function on "no profit no loss basis". According to

the petitioner, it should logically follow that the actual expenses incurred during operation of RLDCs should be reimbursed so that the petitioner does not suffer any loss on that account. At the hearing before us it was pointed out on behalf of the petitioner that PIB Memo of 1982 copy which has also been produced, had recommended manpower strength of 382 for O&M activities of ERLDC alone. Against this, CEA, before transfer of RLDC functions to the petitioner company had deployed manpower of 218. However, the Commission in its order dated 22.3.2002 has approved the manpower strength of 67 for ERLDC, which includes 31 executives and 36 non-executives. The representative of the petitioner submitted that the evidence in regard to recommendation of PIB regarding manpower for ERLDC could not be produced before the Commission at the time of hearing of original petition since it was not within its knowledge at that time. He submitted that since then the work load of RLDCs has increased manifold, which justifies increased manpower. He also submitted that Auditor's Certificate on actual expenses for the year 2000-2001 could not be produced as it was also not available.

3. Shri V. Mittal, Addl. GM appearing on behalf of the petitioner has further submitted that the Commission had allowed rebate of 2.5% on LC payment, based on the general norms prescribed by the Commission. He pointed out that as per the general tariff norms, two months receivables are provided as an element of working capital. However, the Commission in its order dated 22.3.2002 in petition No.109/2000 had provided only one month's receivable as an element of the working capital. Under these circumstances, it was argued that the Commission fell in error in allowing rebate of 2.5% on LC payment. According to the representative of the petitioner, this was an error apparent on the face of record in the order dated

22.3.2002, which needs to be corrected through review of the said order dated 22.3.2002.

4. The representative of the petitioner also pointed out that the Commission in the order dated 22.3.2002 had rejected the claim of the petitioner for charges on account of TA on the ground that the need for travel by RLDC staff outside should be limited since most of the meetings to be attended by them took place at the headquarters only. The representative of the petitioner orally submitted that RLDC staff was required to visit different places outside headquarters at the request of state utilities for discussions and he quoted many instances of SRLDC staff visiting places outside Bangalore in connection with their load dispatch functions. On the question of sharing of corporate expenses, the representative of the petitioner submitted that full justice had not been done by the Commission as some of the factors had not been taken into account while ordering sharing of expenses.

5. The replies to the application for review have been filed on behalf of West Bengal State Electricity Board, Rajasthan Vidyut Prasaran Nigam Ltd., Uttar Pradesh Power Corporation Ltd., (UPPCL), Tamil Nadu Electricity Board, Karnataka Power Transmission Corporation Ltd., Haryana Vidyut Prasaran Nigam Ltd., Bihar State Electricity Board. However, except UPPCL, no other state utility has raised any point on maintainability of the application for review.

6. Shri D.D. Chopra, Advocate appearing on behalf of the UPPCL had argued that the points raised on behalf of the petitioner in the application for review do not fall within the prescription of Order 47, Rule 1, CPC. According to him, all the aspects

presently being agitated by the petitioner were considered by the Commission in the order dated 22.3.2002 and for this purpose he has taken us through the contents of the said order. The representative of RRVPNL submitted that alleged discrepancy pointed out by the petitioner on employee strength relates only to Eastern Region and, therefore, there should be no justification for re-opening the issue so far as other RLDCs are concerned. The representative of PSEB supported the contentions made on behalf RRVPNL. At this stage of hearing counsel appearing for UPPCL submitted that under "TA" head in Northern Region, the Commission may allow additional expenditure as a special case in case it exceeded the expenditure allowed by the Commission.

7. We have duly considered the rival submissions. As provided under Order 47 Rule 1, CPC, a review of the order is permissible on any of the following grounds :

- (a) Discovery of new and important matter or evidence which, after exercise of due diligence was not within the knowledge of the person seeking review or could not be produced by him at the time when order was made, or
- (b) On account of some mistake or error apparent on face of record, or
- (c) For any other sufficient reason.

8. On consideration of the submissions made on behalf of the petitioner, we are satisfied that the conditions laid down under Order 47, Rule 1, CPC above are satisfied on some of the issues decided by the Commission in its order dated 22.3.2002 and raised by the petitioner in the application for review. The evidence in regard to recommendation made by PIB on manpower for ERLDC is material evidence which was not within the knowledge of the petitioner or could not be

produced by it after exercise of due diligence in view of the submission made by the representative of the petitioner that it did not form part of record of the petitioner company. Similarly, on the question of rebate, it appears that the Commission in its order dated 22.3.2002 did not consider the matter in the light of facts and circumstances now submitted by the petitioner. Similarly, on the question of Commission's direction regarding charges on account of travelling allowance, certain vital aspects had escaped the attention of the Commission while passing the said order dated 22.3.2002. On careful consideration of the matter, we are satisfied that the review sought by the petitioner is within the four walls of the statutory provisions prescribed under law. We, therefore, allow the application for review of order dated 22.3.2002 limited to Clause (a) of the prayer and restore the petition No.109/2000.

9. In view of the complexities of the matter, in exercise of powers under Section 50 of Electricity Regulatory Commissions Act, 1998, we delegate the function of sifting and analysis of evidence by one of us (Shri G.S. Rajamani, Member) who will place his report before the Commission for its consideration and final view. The One member Bench constituted by us shall submit its report to the Commission latest by 31.12.2002. The parties are directed to appear before the one member bench on 11.12.2002 at 10.30 A.M.

10. Tamil Nadu Electricity Board in its reply to the petition had stated that it has already filed an appeal before Madras High Court against the Commission's order dated 22.3.2002 in petition No.109/2000 but the appeal had not been listed for hearing. This was also stated by Shri S Somyanarayanan, who had appeared on behalf of TNEB at the previous hearing. Today no one is present on behalf of TNEB.

Shri TSP Rao, Addl. GM (Law) who is present on behalf of the petitioner company, has stated that so far the petitioner had not received any notice from Madras High Court on the appeal stated to have been filed by TNEB. We have passed the above order and allowed the review petition on the consideration of facts placed before us that there is no stay against the said order dated 22.3.2002 by any of the superior courts.

11. With this order Review Petition No.84/2002 in Petition No.109/2000 stands disposed of.

**Sd/-
(K.N. SINHA)
MEMBER**

**Sd/-
(G.S. RAJAMANI)
MEMBER**

**Sd/-
(ASHOK BASU)
CHAIRMAN**

New Delhi dated the 18th November 2002