

ORISSA ELECTRICITY REGULATORY COMMISSION

**BIDYUT NIYAMAK BHAWAN
UNIT-VIII, BHUBANESWAR - 751 012**

Present : Shri B. K. Das, Chairperson
Shri K.C. Badu, Member
Shri B.K. Misra, Member.

Case Nos. 31, 34 to 42 & 44 to 46 of 2006

Case No.31/2006

Grid Corporation of Orissa Ltd.	....	Petitioner
Vrs.		
M/s. Navabharat Power Pvt. Ltd & another	....	Respondents

Case No.34/2006

Grid Corporation of Orissa Ltd.	....	Petitioner
- Vrs. –		
M/s. The Tata Power Company Ltd & another.	....	Respondents

Case No.35/2006

Grid Corporation of Orissa Ltd.	....	Petitioner
- Vrs. –		
M/s. Jindal Photo Ltd. & another	....	Respondents

Case No.36/2006

Grid Corporation of Orissa Ltd.	....	Petitioner
- Vrs. –		
M/s. GMR Energy Ltd. & another	....	Respondents

Case No.37/2006

Grid Corporation of Orissa Ltd.	....	Petitioner
- Vrs. –		
M/s. Essar Power Ltd. & another	....	Respondents

Case No.38/2006

Grid Corporation of Orissa Ltd. - Vrs. –	....	Petitioner
M/s. CESC Ltd., Kolkata & another	....	Respondents

Case No.39/2006

Grid Corporation of Orissa Ltd. - Vrs. –	....	Petitioner
M/s. Visa Power Ltd., Kolkata & another	....	Respondents

Case No.40/2006

Grid Corporation of Orissa Ltd. - Vrs. –	....	Petitioner
M/s. Bhusan Energy (P) Ltd. & another	....	Respondents

Case No.41/2006

Grid Corporation of Orissa Ltd. - Vrs. –	....	Petitioner
M/s. Lanco Group Ltd. & another	....	Respondents

Case No.42/2006

Grid Corporation of Orissa Ltd. - Vrs. –	....	Petitioner
M/s. Mahanadhi Aban Power Co. Ltd.& another	....	Respondents

Case No.44/2006

Grid Corporation of Orissa Ltd. - Vrs. –	....	Petitioner
M/s. Sterlite Energy Ltd. & another	....	Respondents

Case No.45/2006

Grid Corporation of Orissa Ltd. - Vrs. –	....	Petitioner
M/s. Monnet Ispat & Energy Ltd. & another	....	Respondents

Case No.46/2006

Grid Corporation of Orissa Ltd.	....	Petitioner
- Vrs. -		
M/s. KVK Nilachal Power (P) Ltd. & another	.....	Respondents

For Petitioner: Mr A C Mallick, Director(Com.), GRIDCO

For Respondents: Mr. M.T. Srinivas, Vice-President (P) and Mr S Ramesh, General Manager for Navabharat Power Pvt. Ltd., Mr. P K Acharaya, Manager (F) on behalf of Tata Power Company Ltd., Mr. M.S. Parija, Chief Resident Executive for Jindal India Thermal Power Ltd., Mr. K.V.V. Rao, M.D, Mr. B L Prasad General Manager (E) and Mr Jose Varghese, AVP for GMR Kamalanga Energy Ltd., Mr. Sabyasachi Samall, Chief Resident Representative and Mr. G Bajerjee, DGM for CESC Ltd., Mr. N. Purohit, Manager for VISA Power Ltd., Mr. D. Swain, DGM (Projects), Mr D Rath, DGM (Engg.) and Mr. R K Behera, DGM (Projects) for LANCO Group Ltd., Dr. D. Jena, Chief Resident Executive for Mahanadhi Aban Power Co. Ltd., Mr. B N Mohanty, Advocate and Mr. Joyram Mishra, Associate GM for Sterlite Energy Ltd., Mr. A Kumar, CEO and Mr. M Sharan, GM for Monnet Ispat & Energy Ltd., and Mr. L Pangari for KVK Nilachal Power Pvt. Ltd., Mr Ramesh Ch. Satpathy, Nayapalli, Bhubaneswar. Nobody was present on behalf of M/s Bhusan Energy Pvt. Ltd., M/s ESSAR Power Ltd. and DoE, GoO, Orissa.

Date of Hearing: 05.08.2009

Date of Order: 20.08 2009

ORDER

1. Taking into consideration of the submissions made by the developers on GOI, MOP letter dated 28.03.2006 on National Tariff Policy, submission of MOP vide letter dated 17.06.2008 on the issues raised by the Commission and Govt. of Orissa Notification No.8960, dated 08.08.2008 regarding State Thermal Power Policy, the

Commission through an Interim Order on 31.10.2008 decided to admit the applications of GRIDCO for the PPAs of the following IPPs to undertake their projects through the MoU route as the IPPs had executed PPAs with GRIDCO on 28.9.2006 and GRIDCO had filed the applications for approval of PPAs before the Commission before the 30th September, 2006.

- (i) M/s. Navabharat Power (P) Ltd., Hyderabad
- (ii) M/s. Tata Power Company Ltd., Mumbai
- (iii) M/s. Jindal India Thermal Power Ltd., New Delhi
- (iv) M/s. GMR Energy Ltd., Bangalore
- (v) M/s. Essar Power Ltd., Mumbai
- (vi) M/s. CESC Ltd., Kolkata
- (vii) M/s. VISA Power Ltd., Kolkata
- (viii) M/s. Bhusan Energy (P) Ltd., New Delhi
- (ix) M/s. LANCO Group Ltd., Hyderabad
- (x) M/s. Mahanadhi Aban Power Company Ltd., Chennai
- (xi) M/s. Sterlite Energy (P) Ltd., Mumbai
- (xii) M/s. Monnet Ispat & Energy Ltd., Raipur
- (xiii) M/s. KVK Nilachal Power (P) Ltd., Hyderabad

2. The Commission vide letter No.2391, dated 07.11.2008 issued notice to MOP Govt. of India, DOE, Govt. of Orissa, GRIDCO and the 13 Nos. of IPPs who have entered MOU and PPA with GRIDCO (on 28.09.2006) for hearing of the Case on 26.11.2008.
3. Accordingly, the hearing was held on 26.11.2008, Director (Com.) on behalf of GRIDCO and representative of each IPPs present during the hearing submitted before the Commission the upto date status on each project. Shri S.K. Mohanty, Law Officer on behalf of the Govt. of Orissa, Deptt. of Energy submitted that Commission had approved the PPAs of all the 13 IPPs under the MOU route and also directed GRIDCO to file revised PPAs based on the new guidelines mentioned in the Govt. of Orissa, Department of Energy Notification dated 08.08.2008. He requested the Commission kindly to allow one month time to the State Govt. to offer the views as the issue of employment of the local people has also been approved by the Govt. as a State Policy which might have to be incorporated in MOU / PPA of the IPPs developing Thermal Power Plants. He also submitted that as per direction of the Commission, adoption of clean coal technology and super critical technology for zero emission should be insisted upon the IPPs/Developers.
4. The Commission having noted the contents of the PowerPoint presentation made by GRIDCO and additional submission supplemented by the representatives of the IPPs

present during the hearing on 26.11.2008 observed that the progress in the thermal projects has not advanced to the desired level of expectation excepting that of M/s Sterlite Energy Pvt. Ltd. at Jharsuguda. Some of the important observations/directions of the Commission mentioned in the Interim Order dtd. 26.11.2008 are as under:

- 4.1 That the State of Orissa would be requiring a capacity addition of about 4500 MW to cater to the peak demand of 5812 MW in FY 2014-15 as projected by CEA in its 17th Electric Power Survey (EPS). The dismal performance of these IPPs / private developers interested to set up Thermal Power Plants in Orissa has led us to believe that Orissa may face the energy shortage of 2346 MU and peak shortage of the order of 615 MW by end of 2011-12. The power scenario may be far worse in those water years when the monsoon rain fall would be deficient.
- 4.2 The Commission directed the Petitioner – GRIDCO to discuss with all these IPPs interested to set up Thermal Power Projects in Orissa to finally decide the time line for each milestone viz. Land Acquisition, Water Linkage, Coal Linkage, Environmental Clearance, EPC contract, Evacuation of Power including LTOA and BPTA with CTU and STU, financial closure, commissioning schedule and tariff etc. duly impressing upon the IPPs to go for appropriate unit size utilizing appropriate Technology for zero emission and adoption of Clean Coal Technology. The calendar of activities finalized in consultation with GRIDCO shall be submitted with an affidavit to the Commission.
- 4.3 The Commission directed the State Govt. to file their comments and views on our Interim Order dated 31.10.2008 with the new policy if any on R&R and local employment by 15th December, 2008 before the Commission duly serving a copy to GRIDCO and all the IPPs.
- 4.4 The Commission directed that GRIDCO should finalize the revised PPAs incorporating the new guidelines mentioned in Govt. Order dated 08.08.2008 as well as incorporating the new policy on R&R, Employment etc. in consultation with the IPPs and file the PPAs with all the relevant information sought for by this Commission along with PERT net-work for each project

developed by the IPPs and file the same positively by 7th January, 2009 before the Commission.

5. The Government of Orissa, Department of Energy, vide affidavit dated 05.12.2008 submitted that the directions contained in the Order dated 31.10.2008 of the Commission were under examination in the Department of Energy and appropriate action would be taken in consultation with GRIDCO and IPPs.
6. GRIDCO vide an affidavit dtd. 16.01.2009 requested the Commission to allow another one month time upto 16.02.2009 to complete the modification of PPA and file the same before the Commission along with requisite information.
7. The Commission vide Lr. No. 194 dtd. 19.01.2009 intimated GRIDCO and the Government of Orissa, Department of Energy to file the revised PPAs as well as views of the State Government on the directions issued in the Commission's Interim Order dtd. 31.10.2008 and 26.11.2008 by 16.02.2009. Neither the Government submitted their views nor GRIDCO filed the revised PPAs before the Commission by 15th July 2009.
8. The Commission, therefore, issued Notice vide Lr. No. 1593 dtd. 16.07.2009 to GRIDCO, the Government of Orissa, Department of Energy and all IPPs to file the revised/amended PPAs before the Commission by 29.07.2009 incorporating the new provisions of State Thermal Policy vide Energy Department Notification dtd. 08.08.2008 as well as the new norms notified by the State Government in the R&R policy and to attend the hearing on 05.08.2009.
9. Mr. A C Mallick, Director (Com.) on behalf of GRIDCO submitted before the Commission that the discussion with the 13 nos. of IPPs as regards to incorporating the new provision of the State Thermal Policy dtd. 08.08.2008 as well as the new provisions of the State R&R Policy communicated to all the IPPs in Govt. Lr. No. 12421 dtd. 04.11.2008 were going on. Para 4 (b) of Government Notification dtd. 08.08.2008 on State New Thermal Policy stipulates that the PPAs signed earlier with the concerned IPPs by GRIDCO may be modified as per the provision of New Thermal Policy on mutual consent by GRIDCO and IPPs. He submitted that some of the IPPs were interested to stick to the old provisions mentioned in their PPAs with GRIDCO signed in September, 2006. Similarly, some of the IPPs have executed supplementary MoUs with the Govt. of Orissa, Dept. of Energy incorporating a new

clause on 'Employment' in their MoUs signed with the Govt. of Orissa during June and September, 2006. He, therefore, submitted that as per the Notice dtd. 16.07.2009 GRIDCO could not file the revised/amended PPAs on or before 29.07.2009 before the Commission. He, further, submitted before the Commission that GRIDCO would file the revised/amended PPAs of 9 nos. of IPPs within a week and the balance 4 nos. of the amended PPAs would be filed before the Commission by end of August, 2009.

10. The representative of M/s Monnet Ispat & Energy Ltd. and the representative of M/s Tata Power Company Ltd. submitted some of their individual problems like the change of name of the company, change in capacity of the proposed units and difficulties faced in implementation of R&R policy of the State Govt.
11. After having noted the submission of GRIDCO as well as submission of some of the IPPs, we have noted with serious concern and anguish that although we have accorded 'in-principle clearance' to all these proposed 13 nos. of thermal projects to be undertaken under MoU route vide our Interim Order dtd.31.10.2008, little progress has been achieved in the meantime and there is lack of seriousness at different quarters.
 - 11.1. As the State of Orissa would be requiring a minimum capacity addition of about 4500 MW to cater to the peak demand of 5812 MW in FY 2014-15 as projected by CEA in its 17th Electric Power Survey (EPS), the dismal performance of all these IPPs excepting that of M/s Sterlite Energy Ltd. during the last three years has led us to believe that the State of Orissa may have to face the power shortage scenario upto 2014-15 even under normal hydro generation condition if some of these IPPs do not start their green field projects immediately.
 - 11.2. We, therefore, direct GRIDCO and Govt. of Orissa to jointly discuss with the IPPs to solve their specific problems faced during the implementation of the projects so that a good number of green field thermal projects can commence their project work during FY 2009-10 so that the impending power shortage scenario looming over the Sate of Orissa can be avoided to some extent.

- 11.3. We, further, direct GRIDCO to discuss, finalize and submit the amended PPAs incorporating the provisions of the State Thermal Policy and R&R policy before us latest by 15.09.2009 for appropriate decision in the matter.
- 11.4. We hereby direct GRIDCO as well as the IPPs to file their petitions before CERC for approval of the tariff of their respective thermal projects in accordance with Section 79 (1) (b) of Electricity Act, 2003 as all these projects are Inter-State Generating projects.
- 12 The copy of this Order may be sent to the Govt. of Orissa, GRIDCO and all the concerned IPPs for their information. We direct that the copy of this Order may also be posted in the OERC website www.orierc.org for information of all concerned.
- 13 Accordingly, the cases are disposed of and shall not be kept pending on our register. The amended PPAs may be filed as separate applications/ petitions for consideration and disposal accordingly.

Sd/-
(B K Misra)
Member

Sd/-
(K C Badu)
Member

Sd/-
(B K Das)
Chairperson