

ORISSA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
UNIT – VIII, BHUBANESWAR – 751012

Present : Shi B K Das, Chairperson
Sri S K Jena, Member
Sri K C Badu, Member

Case No. 57/2007

Grid Corporation of Orissa Ltd.

... Petitioner

- Vrs -

M/s. Meenakshi Power Ltd.

... Respondent (1)

M/s PTC India Ltd.

Respondent (2)

Commissioner-cum-Secy. DOE, GoO

Respondent (3)

For the petitioner : Mr. M.K. Mishra, Sr. G.M., GRIDCO

For the respondents : Mr. R.P. Mahapatra, Authorised Representative for
M/s. Meenakshi Power Ltd.
Mr. Aditya N. Das, Advocate for PTC India
Mr. S.C. Mohanty, Law Officer, DoE, GoO

Date of Hearing : 14.05.2008

Date of Order : 21.05.2008

ORDER

1. This is an application seeking approval of the proposal of GRIDCO to purchase power from M/s Meenakshi Power Ltd., a small hydro power developer, for the use of consumers of the State.
2. M/s Meenakshi Power Ltd. had signed MoU for development of two small hydro power projects with a capacity of 25 MW (2 x 12.5) Middle Kolab and 12 MW (3 x 4) Lower Kolab on 23.12.1999. After obtaining the STC clearance M/s Meenakshi Power Ltd.,

approached GRIDCO for signing the PPA for sale of power. GRIDCO refused to purchase the power generated from this project as it was having excess availability of power at that time. On refusal by GRIDCO M/s. Meenakshi Power Ltd. entered into a PPA with PTC India Ltd. on 03.11.2004 for sale of entire power generated for a period of 30 years after receiving permission from Govt. of Orissa. In the meantime on 03.06.2005 the Govt. of Orissa came up with a Resolution that 12% free power is to be given to the State in case developer wants to sell power outside the State with retrospective effect from 01.04.2004.

3. On 15.11.2007 GRIDCO came up before this Commission with a prayer that permission might be granted to it for purchase of power of 25 MW (2 x 12.5) MW at Middle Kolab and 12 MW (3 x 4) at Lower Kolab to be developed by M/s Meenakshi Power Ltd. as per terms and conditions to be decided by the Commission. The prayer of GRIDCO was registered as Case No. 57/2007.
4. During hearing on 07.01.2008 the counsel for PTC submitted that a PPA between M/s Meenakshi Power Ltd. and PTC is already existing and there is no need of a separate PPA with GRIDCO. However, PTC was willing to negotiate with GRIDCO for trading of power exclusively for the use of consumers of the State of Orissa. The Commission allowed the parties to discuss and settle the matter and submit the final outcome within two months.
5. Accordingly GRIDCO and PTC submitted their views and the case again came up before this Commission for hearing on 14.05.2008. Representative of GRIDCO submitted that in pursuance to the Commission's directive both GRIDCO and PTC have agreed upon, PTC charging a margin of 4 Paise / kWh from GRIDCO for sale of power from Middle and Lower Kolab SHEP and Samal SHEP. GRIDCO further prayed before the Commission to direct the developer to make available 12% free power to the State Designated Agency i.e. GRIDCO as per the resolution of the Govt. stated earlier. In other words out of 100 units of power to be generated 12% is to be given free of cost to State through its designated agency i.e. GRIDCO and balance 88% is to be sold to PTC India Ltd. provided the power is sold to an agency outside the state. PTC India Ltd. per se is a trader and as such is entitled to get a margin of 4 paise/unit of 88 % of power supplied to the

State. Learned counsel appearing for PTC submitted that now the prayer of GRIDCO tantamounts to annulment of agreement signed between PTC and M/s Meenakshi Power Ltd. for sale of power. He also submitted that the present petition is misconceived and deserved to be dismissed as the petitioner (GRIDCO) being a third party and a non-beneficiary to the contract between PTC and M/s Meenakshi Power Ltd. seeks to interfere with the said contract. Hence it is a different proceeding altogether for supplying 12% free power to the State Designated Agency i.e. GRIDCO.

6. During the hearing Meenakshi Power Ltd. submitted that the negotiation between GRIDCO and PTC was behind their back and they would therefore like to submit the views on the documents / affidavit filed by PTC and GRIDCO within 7 to 10 days and they requested the copies of all documents filed by PTC and GRIDCO after 07.01.2008 be made available except the affidavit on 9th April 2008 of PTC.
7. Meenakshi Power Ltd. in their rejoinder dtd. 4.1.2008 in para 6 had submitted that *“it is upto GRIDCO to negotiate with PTC India Ltd to purchase the power generated by the project either in full or in part.”*
8. In the said rejoinder in para 2 (ii) Meenakshi Power Ltd. has submitted that they have executed a formal PPA on 3.11.2008 for the power generated by the project for a period of 30 years and in para 3 they have further submitted that *“GRIDCO can not ask them to sell to it all the power from the above projects as M/s Meenakshi Power Ltd. had already executed a formal agreement with the PTC India Ltd. a trading licensee.”*
9. After taking all these matters on record the Commission in its interim order dtd.07.01.2008 had directed a negotiation between PTC and GRIDCO for the trading of power exclusively for consumers Orissa. Thus MPL was aware about the negotiation between GRIDCO and PTC and never made a claim to be a party to the negotiation. Hence raising such an issue at this belated stage has no relevance.
10. We agree to the submission of the PTC that the prayer of GRIDCO for approval of PPA with MPL tantamounts to annulment of agreement signed between PTC and MPL. In

view of the subsisting PPA we do not admit the PPA between GRIDCO and Meenakshi for purchase of power. As such the petition in the present form stands dismissed.

11. However, GRIDCO may have to file a fresh PPA with PTC for purchase of power for supply to consumers of Orissa. In the said hearing Meenakshi Power shall be made a party where the issue of free power in accordance with Govt. notification shall be dealt with.
12. The matter is accordingly disposed off.

Sd/-
(K.C. BADU)
MEMBER

Sd/-
(S.K. JENA)
MEMBER

Sd/-
(B.K. DAS)
CHAIRPERSON