

**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 No.115/2009

M/s. WESCO **Petitioner**

Vrs.

M/s. GRIDCO, OPTCL, DoE &
M/s.Scan Steels Limited **Respondents**

**In the matter of: Permission for purchase of Surplus Power by WESCO from the CGP
of M/s. Scan Steel Ltd.**

For the Petitioner: Mr. L. Pangari, Advocate for WESCO, Mr. G.C. Mohanty, DGM
(Com), WESCO, Mr. Manas Kumar Das, GM (PT), CSO
(WESCO, NESCO and SOUTHCO).

For the Respondents: Mr. A.C. Mallick, Director (Comm), GRIDCO, Mr. N.R.
Mandhata, GM(R&T), OPTCL, Mr. S.C. Mohanty, Law Officer,
Deptt. of Energy, Govt. of Orissa and Mr. P.K. Patro, GM
(Works), M/s. Scan Steels Ltd.

Date of Hearing: 26.10.2009

Date of Order: 02.12.2009

ORDER

In the instant case, WESCO - the distribution licensee has filed a petition for purchase of surplus power from the CGP of M/s. Scan Steels Ltd. (SSL) situated at Village Budhakanta in the district of Sundargarh.

2. The petitioner – WESCO in its petition has submitted as under:
M/s. Scan Steels Ltd. (SSL) has a Captive Generating Plant (CGP) within the licensed area of WESCO. The SSL consumes a part of the power for its captive requirement and had approached WESCO expressing its desire to sell around 5 MW of surplus power to

WESCO at a competitive rate of Rs.1.50/kwh. WESCO intends to purchase the said surplus power from SSL. It will help to meet a part of its area demand, and in turn, will relieve the state grid and GRIDCO, the bulk supplier to the extent of power injected by M/s. SSL in the power shortage scenario. Accordingly WESCO has made an agreement with M/s. SSL on 22.08.2009 for purchase of 5 MW of power for the period from 01.09.2009 to 31.03.2010 at a mutually agreed price of Rs.1.50/kwh. The period of energy sale may be extended as per mutual agreement between the parties. The delivery point of such power shall be at the interface point at the 33/11 KV S/S of M/s. SSL, where M/s. SSL is connected with the 33 KV system of WESCO. The transmission losses, say a nominal value of 2% shall be accounted for while computing the monthly energy bill by M/s. SSL. Further, such type of arrangement for sale of surplus power by a CGP to the DISCOMs is an integral part of the policy provisions and guidelines, covered under National Electricity Policy and National Tariff Policy.

3. WESCO has further submitted that the following would be the advantages on the said purchase of power from M/s. SSL.
 - i) The agreed rate of Rs.1.50/kWh is less than the bulk supply purchase price approved by the Commission for WESCO for the year 2009-10 i.e. Rs.1.54/kWh excluding transmission charges of 20.5 paise/unit and SLDC charges 0.5 paise/unit approximately.
 - ii) OPTCL transmission charges of 20.5 paise/unit is saved to WESCO for the quantum of power supplied by M/s. SSL to WESCO.
 - iii) In addition to the above, there will be saving in EHT transmission loss on the quantum of power purchased and saving in drawal of power from state power pool.
 - iv) If GRIDCO purchases same quantum of additional power for WESCO with the purchase cost of Rs.3.00/Rs.3.10 per KWh and supply the same to WESCO at Rs.1.54 per KWh, there will be gap of Rs.1.46 per KWh. On the other hand if WESCO purchases the said power, it would have an advantage of saving of 24.50 paise per KWh (4 paise per energy charges and 20.5 paise towards transmission charges) and GRIDCO would not be required to incur a loss of Rs.1.46 paise per KWh.
4. Regarding the payment mechanism by WESCO to M/s. SSL, WESCO has stated that this would be as per the order of the Commission dtd.29.05.2009 and 14.08.2009 in Case No.63/09 and Case No.82/09 respectively. WESCO is allowed to purchase surplus power

from M/s. Aryan Ispat and Power Pvt. Ltd. and M/s. Viraj Steel & Energy Ltd. and Escrow has been relaxed for payment of monthly energy bill to them. The instant case is a similar type of transaction and presently WESCO is meeting its Bulk Supply bills of GRIDCO and transmission charges bills of OPTCL through an escrow mechanism. Hence on similar line, escrow may also be relaxed for payment of monthly bills of M/s. SSL by WESCO from Escrow Account

5. Accordingly, WESCO has made the following prayer:

- (i) To allow WESCO to purchase upto 5 MW surplus power available from the CGP of M/s. SSL and allow the cost as a pass through in the Revenue Requirement of WESCO in FY 2010.
- (ii) To relax Escrow and allow WESCO to make payment of monthly bill raised by M/s. SSL from Escrow Account.
- (iii) To issue direction to SLDC to facilitate such process.

6. The State Govt. in their counter have submitted the following:

- (i) GRIDCO has been notified as the “State Designated Entity” vide Government Resolution dated 18.8.2006 for execution of Power Purchase Agreements with the developers generating energy like hydro power, wind power, power from agriculture waste etc. along with thermal power. The said Resolution of the State Government supports a Single Buyer Model approved by the Commission in their tariff orders issued from time to time. GRIDCO is, therefore, mandated by the Government and OERC to procure power from all sources including CGPs to meet the demand of the State.
- (ii) It is worthwhile to mention that while the functioning of the DISCOM leaves much to be achieved and they are unable to pay adequate attention to the vital aspects of their core business of distribution like reduction of the T&D and AT&C losses, collection efficiency and consumer service, indulging in direct purchase of power against the policy of the State is highly objectionable and not intended to serve the public interest.
- (iii) The Commission is aware of the fact that GRIDCO has to procure costly power from various sources to tide over the power crises prevailing from mid June 2009 till the onset of monsoon and in that process has incurred huge losses because the said costly power has been supplied to the DISCOMs at much lower rate fixed by the Commission in the tariff order. The cheaper power going to be purchased by

WESCO should be made available to GRIDCO in accordance with the policy of the Government. The underlying intention of the Government in the Resolution dt.18.8.2006 is that GRIDCO will purchase both costly and cheap power, so that loss accrued on purchase of costly power can be compensated by purchase of cheap power.

- (iv) The confederation of CGPs has always demanded to increase the rate per KWH generated by the CGPs. Considering the same, the Commission had revised the rate during February, 2009. The circumstance under which this particular CGP is willing to supply power to WESCO at half the rate fixed by the Commission appears to be contradictory to the decision of the Commission. It also appears to be an unholy deal between WESCO and M/s. SSL.
 - (v) In case the price quoted by M/s. SSL to sell power to WESCO is accepted by the Commission, the interim order dated 28.02.2009 of the Commission effective till 30.6.2009 may have to be reviewed and a uniform rate has to be fixed after hearing all the parties for sale of surplus power in the State and the cost should be at par with what has now been offered by M/s. SSL to WESCO.
 - (vi) The application of WESCO for purchase of power from M/s. SSL is against Govt. policy, the interest of the consumers and runs contrary to the price fixed by the Commission after due deliberation.
 - (vii) If WESCO is allowed to procure power from M/s. SSL it will open a floodgate for others to follow suit which will ultimately be detrimental to the interest of GRIDCO and to the interest of the State.
 - (viii) The application of WESCO is devoid of any merit and liable to be dismissed and M/s. SSL may be directed to sell its entire surplus power to GRIDCO as per the policy of the State Govt. issued vide resolutions stated above.
7. GRIDCO has not filed any written submission in this case. However, the oral submission of GRIDCO during the hearing is almost similar to that of the State Govt. The additional oral submissions of GRIDCO which have not been covered under the submissions of the State Govt. are as follows:
- (i) In the Single Buyer Model prevailing in the State of Orissa, GRIDCO is the State Designated Agency to procure all forms of power from different generators and supply it to the DISCOMs. Accordingly the power from Sunei Mini Hydel project is supplied at 11 KV feeder in NESCO area as a deemed sale to GRIDCO.

Similarly some other CGPs are also selling their surplus power to GRIDCO by injecting the same at 33 KV voltage level i.e. at the door step of WESCO for which GRIDCO the deemed buyer is paying the CGPs at the rate of Rs.3.00/kWh as per the interim order of OERC dt.28.02.2009 w.e.f. 01.03.2009. Hence, the connectivity of the CGP of M/s. SSL with OPTCL system is not a hindrance for purchase of power by GRIDCO from M/s SSL.

- (ii) WESCO, while describing the arrangement to be advantageous, has only considered the saving in its power purchase cost, without looking at the whole system. M/s. SSL's entering into an agreement with WESCO for supplying power at a lower rate of Rs.1.50/kWh does not appear to be rational. The agreement between WESCO & M/s. SSL appears to disturb the present set up of arrangement to harness surplus power from CGPs by GRIDCO by giving a very wrong signal to the industries.
- (iii) In view of the proposed selling price of Rs.1.50/kWh in respect of the CGP of M/s SSL, there is a need to review the CGP price fixed by the Commission for procurement of their surplus power.
- (iv) In the ARR of 2009-10, it has already been taken care of regarding the procurement of CGP power beyond State requirement of 19719.38 MU for trading purpose. In case WESCO buys from the said CGP, which is not covered as a source from which power is to be procured, the requirement of WESCO to be drawn from GRIDCO should be reduced to that extent.

8. Accordingly, GRIDCO has prayed as under:

- (a) As GRIDCO is the sole procurer of power under the Single Buyer Model prevalent in the state of Orissa, WESCO may not be allowed to procure power directly from the CGP.
- (b) Thus, the PPA executed by M/s. SSL with WESCO for sale of its surplus power may be rejected.
- (c) M/s. SSL has agreed to sale its surplus power @ Rs.1.50/kWh for the State consumption as per the PPA with WESCO, thus they may be directed to sale its surplus power to GRIDCO at the same rate of Rs.1.50/kWh for State consumption.

9. OPTCL in its rejoinder, among other things, has submitted as under:
- (a) OPTCL has no information regarding existence of one CGP of M/s. SSL and its capacity. The Agreement between WESCO & M/s. SSL for energy transaction should have been executed with prior intimation to OPTCL. As per the agreement, 5 MW power shall be injected from the CGP of M/s. SSL at the interface point of 33/11 KV substation of M/s. SSL where the industries connected with the 33 KV system of WESCO. WESCO may be directed to provide the single line diagram of its power distribution network and the proposed connection agreement with M/s. SSL and also the system study report for such connectivity for further analysis and views. The system study report is mandatory in view of the stipulations in the CEA (Technical Standards for Connectivity to Grid) Regulation, 2007.
 - (b) WESCO has submitted that it would save 20.5 p/u by purchasing power from M/s. SSL as they are not liable to pay transmission charge to OPTCL for the quantum of power supplied by M/s. SSL. OPTCL is of the view that in an integrated system, the surplus power injected by M/s. SSL through WESCO's 33 KV network cannot be viewed in isolation of OPTCL's network and technically also not possible. In case the CGP of M/s. SSL fails to deliver power (whatever may be the reason), an equal quantum of power has to be drawn through OPTCL's network to meet the demand of WESCO for which OPTCL needs to keep adequate capacity in reserve to transmit the additional power. As long as CGP of M/s. SSL continues delivering power, OPTCL's reserve capacity remains stranded. Further, the transmission tariff is not being fixed on the basis of distance and direction of power flow but on postage stamp method. In an integrated complex network, the direction of power flow cannot be ascertained. Hence, WESCO is liable to pay the transmission charge of 20.5 p/u for the quantum of surplus energy purchased from M/s. SSL.
 - (c) WESCO has cited to earlier orders of the Commission allowing them to purchase surplus power and prayed for consideration of the present transaction with M/s. SSL on similar line for relaxation of Escrow for payment of monthly bills of M/s. SSL. OPTCL has prayed the Commission to decide the present case on its merit considering the above views of the OPTCL. OPTCL has further submitted that if the Commission decides in favour of the petitioner, WESCO has to ensure that the

connectivity with the CGP of M/s. SSL does not cause any adverse impact on the transmission network of OPTCL.

(d) Accordingly, OPTCL has prayed that the prayer of the petitioner should not be granted by the Commission.

10. WESCO, the petitioner in its reply on the points raised by the OPTCL has submitted that only after approval of the Commission for procurement of power from M/s. SSL, action will be taken for synchronization of the captive plant with the existing 33 KV network observing all formalities based on the said CEA Regulation, 2007 for connectivity. As regard to saving of transmission charges of 20.5 p/u in the said transaction with M/s. SSL, WESCO is not liable to pay any transmission charges as WESCO network is only utilized and no way OPTCL network is utilized.
11. During the hearing of the case, the Commission wanted to know from M/s SSL that why the supplier has not explored the possibility of supplying the power to GRIDCO at a higher rate? In its reply the representative of M/s SSL said that GRIDCO has not approached to them for procurement of power. Further, they would like to sell their surplus power through the existing infrastructure only as they do not like to make any capital expenditure for addition of any new infrastructure for supplying power to GRIDCO. The representative of GRIDCO said that in this power shortage scenario in the State they have written to all the CGPs to sell their surplus power to GRIDCO. In reply to another query of Commission the representative of M/s SSL said that the present capacity of its CGP is 8 MW out of which they wanted to sale upto 5 MW power to WESCO. The present surplus is only of temporary nature.
12. After going through the submissions made by the petitioner WESCO, the respondents namely, State Govt., GRIDCO, OPTCL and M/s. SSL, the Commission observed that the following issues need to be addressed.
13. **ISSUES:**
 - (a) Whether purchase of power by WESCO at Rs.1.50/unit instead of purchasing power at a rate of Rs.1.54/unit from GRIDCO is violating the directives and policies of the State Govt. notifying GRIDCO as “State Designated Entity” vide Resolution No.7997 dt.17.08.2006 read with Resolution No.6603 dt.03.06.2005 of Energy Department?
 - (b) Whether direct purchase of power by the DISCOMs is highly objectionable and not intended to serve the public interest?

- (c) Whether supply of power by M/s. SSL to WESCO at Rs.1.50/unit in stead of supply to GRIDCO at Rs.3.00/Rs.3.10/unit is going to affect the financial position of GRIDCO?
 - (d) Whether supply of power by M/s. SSL to WESCO at Rs.1.50/unit instead of supplying power at Rs.3.00/Rs.3.10 to GRIDCO is contradictory to the decision of the Commission in their interim order dtd. 28.02.2009 and whether it is an unholy deal between WESCO and M/s. SSL?
 - (e) Some other CGPs are selling their surplus power to GRIDCO by injecting the same at 33 KV voltage level i.e. at the door step of WESCO for which GRIDCO is paying the CGPs at the rate of Rs.3.00/Rs.3.10/kWh. In the instant case, whether the selling of surplus power by M/s. SSL to WESCO at a lower rate of Rs.1.50/unit does not appear to be rational?
 - (f) Whether the agreement dtd. 22.08.2009 between WESCO and M/s. SSL appears to disturb the present set up of arrangement to harness surplus power from CGPs by GRIDCO by giving a very wrong signal to the industries?
 - (g) Whether OPTCL's revenue would be affected by supply of power by M/s.SSL to WESCO in its 33 KV network?
14. We observe that the instant case is similar to that of the Case No. 82/2009 on purchase of surplus power by WESCO from the CGP of M/s Viraj Steel and Energy Ltd. The above mentioned broad issues are adequately discussed and analyzed in para 12 to 18 of our Order dtd. 14.08.2009 in Case No. 82/2009. We feel that in the instant case there is no need to further discuss these issues in details. As discussed and analyzed in the said order dtd. 14.08.2009 we observe in the present case that
- (a) The proposed sale of 5 MW by M/s. SSL to WESCO without being routed through GRIDCO does not in anyway violate the policies of the State Govt.
 - (b) Since, no additional work is involved to be undertaken by WESCO to purchase power from M/s SSL, it is not objectionable and rather it is intended to serve the consumers better.
 - (c) Purchase of power to the tune of 5 MW @ Rs.1.50 per unit from a CGP reduces GRIDCO's demand for additional power to that extent from the marginal sources. This saves GRIDCO's cost instead of harming the bulk supplier financially.
 - (d) Supply of power by M/s. SSL to WESCO at Rs.1.50/unit at its 33 kV line does not violate the decision of the Commission in their interim order dated 28.02.09

on CGP pricing, since this is a bilaterally agreed transaction at a rate lower than that fixed by the Commission.

- (e) The Commission has no difficulty in accepting any commercial arrangement of GRIDCO with M/s. SSL at a rate within the ceiling rate for purchase of power at 33 KV. There is no such proposal at present before the Commission. Since the present transaction is within the ceiling rates fixed by the Commission, the same is not irrational.
 - (f) The arrangement between M/s. SSL and WESCO is not giving any wrong signal to the industries. Commission is of the opinion that all bottled up power in the State, even of temporary and inadvertent nature, should be topped up to full extent, as per the techno-commercial consideration of the supplier and purchaser, having least capital expenditure facilitating such transaction.
 - (g) Such power injection arrangement will not cause any prejudice to OPTCL technically, financially or otherwise.
15. The other submission of OPTCL includes that the agreement between WESCO & M/s.SSL for energy transaction has been executed without prior intimation to OPTCL. The system study report has not been made. WESCO may be directed to provide the single line diagram of its power distribution network and the proposed connection agreement with M/s. SSL and also the system study report for such connectivity for further analysis and views. The system study report is mandatory in view of the stipulations in the CEA (Technical Standards for Connectivity to Grid) Regulation, 2007. In this connection, WESCO has submitted that only after approval of the Commission for procurement of power from M/s.SSL, action will be taken for synchronization of CGP with the existing 33 KV network observing all formalities.
16. Keeping in view the above facts as well as the present power shortage scenario in our State, we approve the prayer of the petitioner WESCO for temporary procurement of power of 5 MW from the CGP of M/s. SSL at Rs.1.50 per unit, since such procurement is technically feasible as there is an existing 33 kV connectivity of the said CGP with WESCO's network.
17. The supply of power by M/s. SSL to WESCO @ Rs.1.50/kWh for consumption inside the state will be guided by the following terms and conditions.
- (i) This arrangement of purchase of surplus power by WESCO from M/s. SSL at 33 kV should be carried out immediately.

- (ii) M/s. SSL will raise the bill against WESCO for the amount of energy sold at Rs.1.50 paise/KWh. A copy of the bill raised on WESCO shall be simultaneously submitted to GRIDCO which on receipt of the same will authorize WESCO to make payment of the amount to M/s. SSL by relaxing the escrow account to that extent.
- (iii) The authorization by GRIDCO for payment by WESCO to M/s. SSL from Escrow account will be made after full adjustment of the transmission charges of OPTCL, and current Bulk supply cost of power (current BSP) of GRIDCO to WESCO. Thereafter other payment will follow as per the priority indicated in para 9 of the letter No. Dir(T)-342/08/995 dated 06.5.2009 of OERC read with order dated 14.10.2009 in Case No.104/2009.
18. The present arrangement is done only to utilize the idle capacity of the CGP of M/s. SSL in the present power shortage scenario in the State and would be reviewed as and when required, even before 31.3.2010.
19. Further, GRIDCO is directed to make the reasonable endeavour to explore the possibility of harnessing power from such type of idle capacities of the CGPs inside the State.
20. Accordingly, the matter is disposed of.

Sd/-
(B.K. Misra)
Member

Sd/-
(K. C. Badu)
Member

Sd/-
(B.K. Das)
Chairperson