

**ORISSA ELECTRICITY REGULATORY COMMISSION**  
**BIDYUT NIYAMAK BHAWAN**  
**UNIT-VIII, BHUBANESWAR - 751 012**

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

**Case No.131/2009**

M/s GRIDCO	....	<b>Petitioner</b>
Vrs.		
CCPPO	....	<b>Respondent</b>

**In the matter of:**      **For review of interim order dtd. 30.06.2009 passed in case Nos. 06 to 20/2009 under Section 94(1)(f) of Electricity Act, 2003 read with Regulation 70 of OERC (Conduct of Business) Regulations, 2004.**

For the petitioner:      Mr. A.K. Mallick, Director (Comm), Mr. J. K. Dash, Sr. GM(PP),  
GRIDCO

For the respondent:      Mr. Sanjiv Das, Secretary, CCPPO

**Date of Hearing: 27.11.2009**

**Date of Order: 30.03.2010**

**ORDER**

The case was first taken up for hearing on question of condonation of delay for filing of this review petition. Heard the petitioner. The petitioner stated that he had received the copy of the order dated 30.06.2009 passed in Case Nos.06 to 20 of 2009 by the Commission on 07.07.2009. Thereafter, he took steps to examine the said order and after careful consideration of all aspects, has filed this petition after delay of 30 days which is not intentional but circumstantial. As the respondent had no objection, the delay was condoned. Heard the parties on question of admission.

2. Mr. J. K. Dash, Sr. GM (PP) stated that GRIDCO has filed the petition for review of Interim order dtd. 30.6.09 passed in case Nos. 6 to 20/2009, as the Commission has not considered the following important contentions which were raised by GRIDCO during hearing on 30.6.2009 of case Nos. 6 to 20/09 which are given below:

- (i) Period of payment of monthly energy bills of CGPs by GRIDCO;
- (ii) Amendment of frequency limit as per CERC notification;
- (iii) Rate of emergency and back up power availed by NALCO & IMFA from the petitioner.

The non-consideration of the above vital contentions by the Commission vide its order dated 30.6.2009 is an error apparent on the face of the record and as such the said order is liable to be reviewed.

3. The petitioner would be seriously prejudiced on account of non-consideration of these important contentions. It has already suffered on implementation of the aforesaid order of the Commission. He also stated that the Commission vide its order dated 27.06.2009 at para 8(iii) has stipulated the time period of 4 working days (except holidays under NI Act) for making payment to the CGPs to avail 2% rebate in place of 10 days as submitted by GRIDCO. He prayed the Commission to allow GRIDCO to make payment to CGPs within 7 working days as per the GRIDCO calendar, as it is difficult to process the bills within 4 working days in absence of bilateral REA (issued by ERPC) for CGP availing Open Access. Again the monthly energy bills needs to be scrutinized properly for effecting payment at applicable rates and which also needs sufficient time for verification as most of the CGPs are Co-generating plants. GRIDCO releases monthly payment to CGPs considering summary of day ahead schedule by SLDC/State Energy Accounting data and the meter data certified by EBC (Energy Billing Cell of GRIDCO) which could be generated after 4<sup>th</sup> day of each month.
4. During hearing on 30.6.2009, GRIDCO submitted that as per CERC notification dated 30.03.2009 the frequency band for payment of U.I. charges has been revised to the range of 49.2 H<sub>z</sub> to 50.3 H<sub>z</sub> w.e.f. 1.4.2009 against the earlier provision i.e. 49.0 H<sub>z</sub> to 50.5 H<sub>z</sub>. So he prayed the Commission to amend the Clause 12.26 of its Pricing Policy dtd 14.03.2008 which is as follows.

*“there shall be no payment for any kind of injection firm, non-firm or in advertent at frequency of 50.2 H<sub>z</sub> or more as a matter of grid discipline.”*

5. Regarding rate of emergency and back up power availed by NALCO and IMFA from GRIDCO, the Petitioner submitted that the subsisting agreement with NALCO has expired on 31.08.2009 and it has to sign a fresh agreement with NALCO as per the terms and conditions stipulated by OERC. Both NALCO and IMFA getting ancillary services from GRIDCO, which covers drawl of emergency power besides the back up supply. They are availing emergency supply at Angul and Choudwar and back up supply at Damanjodi and Theruballi for their sister units by paying 3 times the cost of surplus power as per subsisting bilateral agreements with GRIDCO till February, 2009. The drawl price and the injection price could not be equated with other CGPs as the other CGPs have a definite contract demand and are paying demand charges whenever their drawl exceeds their respective contract demand. According to the order dated 28.02.2009 of the Commission in Case Nos.6 to 20 of 2009, GRIDCO is paying Rs.3.00 per unit for procuring surplus power from NALCO and IMFA w.e.f. from 1.03.2009. Again the Commission vide its order dated 27.06.2009 in Case No. 59/2009 at Clause 8

(ii) has directed to follow the Tariff of emergency power supply by the DISCOMs to the CGPs as follows:

**“ Rate of emergency power supply to CGPs/Generating stations:-**

*Industries owning CGPs/Generating Stations have to enter into an agreement with the concerned DISCOMs subject to technical feasibility and availability of required quantum of power/energy in the system as per the provision under the OERC Distribution (Condition of Supply) Code, 2004. For them, (i) a flat rate of 420 paise/kwh at EHT and 440 paise/kwh at HT would apply (ii) while for others who draw only 25% of capacity of highest unit would pay @ 380 paise/kwh and 400 paise/kwh at EHT and HT respectively. If on verification it is established that SMD of DISCOMs has increased because of overdrawl by the CGP, Demand Charge @ Rs.200/KVA shall be payable over the excess of contract demand for that industry in addition to the energy charges in case of (i) and (ii) above”.*

*This being the position the question of charging three times the rate at which IMFA, NALCO etc., supply surplus power to GRIDCO as per interim order 28.2.2009 does not arise.”*

6. As NALCO and IMFA are not the consumers of DISCOMs rather they are suppliers of power to the grid and individually getting ancillary support from GRIDCO at any point of time, they should pay demand charges as and when their demand exceeds 25% of capacity of the largest unit even if it is not affecting SMD of the DISCOMs. NALCO alone had drawn 175.6 MU (i.e. 120.76 MU and 54.84 MU of emergency power and back up power respectively) during the period of April, 2009 to September, 2009 against 10 MU of emergency and back up power drawl by both NALCO & IMFA as approved by OERC in the ARR for FY 2009-10 of GRIDCO. During the period March,2009 to September, 2009 the emergency power drawl of NALCO and IMFA at Angul and Choudwar and back up drawl at Damonjodi and Theruvalli has not affected the SMD of the concerned DISCOMs. Due to continuous drawl of emergency power and back up power by NALCO, the petitioner has been forced to over draw through U.I under the prevailing power shortage scenario at a rate much higher than the rate of Rs.3.80 p/u or Rs.4.20 p/u only as no demand charge is leviable on NALCO as its demand is not affecting the SMD of concerned DISCOMs. The effort of GRIDCO to harness CGP surplus power is nullified by over drawl of NALCO. Therefore, GRIDCO prays to the Commission to consider the norms of 25% of capacity of the largest unit of the CGPs of NALCO and IMFA in respect of their contract demand for emergency and back up supply availed by them. Consequently as per the Order of the Commission if on verification it is established that SMD of DISCOMs has increased because of overdrawl by the NALCO and IMFA, Demand Charge @ Rs.200/KVA shall be payable over the excess of contract demand for that industry in addition to the energy charges. This will

compensate GRIDCO for drawing high cost power under UI. He also stated that the Commission may consider levy of demand charges retrospectively from March '09 onwards so that GRIDCO shall be able to compensate for procurement of high cost UI power for supporting NALCO during distress. Therefore, the Petitioner prays the Commission to review the aforesaid order dated 30.06.2009 as there are errors apparent on the face of records and on account of sufficient reasons which is in the interest of justice.

7. Mr. Sanjeev Das, Secretary, CCPPO stated that the issues raised by GRIDCO in its review Petition were already heard by the Commission and there is no apparent errors on the face of the records nor there is an additional information which has been missed out by OERC while passing the aforesaid orders dtd.28.10.2009. He prayed the Commission not to admit the review petition of GRIDCO as the issue is being raised by GRIDCO once again.
8. The CCPPO submitted that they had been facing cash crunch situation due to rise in coal prices and enhancement of security deposit by Coal Companies to be paid by the generators for the coal they procure. Sometime the coal is not available under linkage and is being procured from open market or under e-auction. In all such cases payment is being made advance and therefore, the working capital gets blocked, which is a big burden on the CGP unless the payment from GRIDCO is realized at the earliest. He also stated that unless a back to back arrangement between the coal supplier, the CGPs and the utility (GRIDCO) is made, convenience of all the three entities can not be ensured. Therefore, present payment mechanism as directed by the Commission should continue.
9. Regarding amendment of frequency limit as per CERC notification, the respondent stated that the frequency barrier can not be imposed on the CGPs as the Intra-State ABT mechanism is yet to be in operation. In the present scenario as the State needs power, the CGPs should not reduce generation and resort to export, because of high frequency i.e beyond 50.3 Hz. The Pricing Policy dtd. 14.03.2008 of the Commission is not in vogue as per the superseding order of dtd. 28.02.2009 wherein no constraint or barrier was imposed linked to frequency. The penalty and gains under ABT order of CERC should be made applicable only when there is a surplus situation and intra-state ABT is in operation.
10. Regarding rate of emergency and back up power availed by NALCO & IMFA from GRIDCO, the respondent stated that in its own admission GRIDCO has adhered to the order dtd 28.02.2009 of the Commission, therefore, the MoUs and the agreements signed between GRIDCO, IMFA and NALCO cease to exist. According to the order of

OERC, GRIDCO should sign the bilateral agreement both with IMFA and NALCO containing a clause on restriction on import of power/ emergency power. As there is no agreement, the over-drawl of NALCO cannot be legally questioned excepting the commercial mechanism to compensate the loss of GRIDCO, if any, towards this. He prayed the Commission not to admit the case and allow operation of the order dated 28.02.2009 without any modification for a period of another five months i.e. upto March, 2010, following which a fresh analysis can be made on the commitment of CGPs and all the directions of this Commission so far.

11. After hearing the parties and perusal of case records we opine that the issues are relating to billing disputes between the parties. There is no reason why bills can not be cleared on provisional basis within 4 working days. To avail the rebate of 2% GRIDCO must have to put extra effort and not “business as usual” because it is one form of incentive.
12. Amendment of frequency limit as per CERC Notification as prayed by GRIDCO has no relevance to our present order under review.
13. As MRI data of NALCO and IMFA during the period March- Sept’09 has not shown any increase in SMD of DISCOMs due to emergency and backup drawal, therefore, levying demand charge @ Rs.200/KVA is not sustainable as per our Order dtd. 27.06.2009.
14. The argument of GRIDCO that it has been purchasing the costly power under UI for supplying to NALCO and IMFA suffer from factual infirmities as costly power purchased by GRIDCO is shared by all the industries. Although NALCO and IMFA do not pay demand charges unlike the similarly placed other industries, they pay energy charges at a higher rate than them. Now, compelling them to pay demand charges over and above higher energy charges would be completely illogical and discriminatory.
15. Further the Commission is of the opinion that as most of the issues are related to billing disputes between the parties, we direct that the bills should be done on the basis of joint meter reading between CGPs and GRIDCO. The unresolved issues may be resolved through discussion among GRIDCO, CGPs and DISCOMs across the table. Even after that if anything remains unresolved, the parties are at liberty to approach the Commission for appropriate direction.
16. With the above observations we are not inclined to admit this case at this stage.

**Sd/-**  
**(B. K. Misra)**  
**Member**

**Sd/-**  
**(K.C. Badu)**  
**Member**

**Sd/-**  
**(B. K. Das)**  
**Chairperson**