
Shri B.K. Misra, Member

Case Nos. 117 & 118 of 2010

Implementation of directives of OERC Order dtd. 14.03.2008 regarding Comprehensive Pricing Policy for self/procurement of surplus power from Captive Generating Plants.

- **Petitioners**

Vrs.

- ## Respondents

Shri A C Mallick, Director (Com.), Shri J K Dash, Sr. GM (PP)
on behalf of GRIDCO- the Petitioner in Case No. 117/2010 and
Shri R P Mahapatra the authorized representative on behalf of
SMFAPL – the petitioner in Case No. 118/2010

Shri S C Mohanty, Legal Consultant, DoE, GoO, Shri L R Padhi on behalf of CESU, Shri Sanjeev Das, Secretary on behalf of CCPPO, Shri Tulsi D Bhayana on behalf of PSAL, Shri B R Misra, GM for SLDC, Shri M K Das GM(PT), CSO on behalf of WESCO. NESCO & SOUTHCO.

Date of Hearing: 09.11.2010

Date of Order: 23.11.2010

ORDER

1. As per the Commission's interim order dtd.28.08.2010, both the cases 117/2010 & 118/2010 were clubbed together on the prayer of GRIDCO as these are similar in

nature and also SLDC was impleaded as a party to the proceedings in Case No.117/2010.

2. GRIDCO in its application dtd. 03.07.2010 had stated that the Commission in their Interim Order dated 28.02.2009 in Case No. 6/09 to 20/09 have stipulated that CGPs having Co-generating Status may be allowed a marginal hike in prices as compared to that of the CGPs without Co-generation facilities so as to encourage Co-generating Plants under the mandate of the Electricity Act, 2003. Accordingly, Commission had fixed the price @ Rs. 3.10 per kWh and Rs.3.00 per kWh for procurement of surplus power from Co-generating Plants and CGPs respectively. As per the direction of the Commission in their Order dated 27.06.09 in Case No. 59/2009, GRIDCO had classified 15 Nos. of CGPs as Co-generation Plants in accordance with the Report of the Chief Electrical Inspector (CEI) dated 23.09.09 based on the Govt. of India Notification dated 06.11.1996.
3. GRIDCO further submitted that the Commission in its Interim Order dated 28.10.2009 in Case Nos. 06/09 to 20/09 had revised CGP price to Rs. 3.10 / 3.40 / 3.70 / 4.05 / Unit for different slabs of quantum of power supply (incremental rate) w.e.f. 1st November, 2009 until further order and in the same order the price for Co-generation plants had been revised to Rs. 3.20 / 3.40 / 3.70 / 4.05 / Unit (incremental rate) w.e.f. 1st November, 2009 until further order for different slabs of quantum of power supply.
4. GRIDCO submitted that the Commission has kept a revenue gap of Rs.1010.11 cr (including loan and interest on payment of Rs.203.95 cr) in the ARR for the petitioner GRIDCO for FY 2010-11, to be accommodated through trading/UI, which in the present of power scenario, seems to be a difficult proposition to be implemented in the ground. The aforesaid revenue gap will further widen due to availing of loan during FY 2010-11 to meet the revenue gap of FY 2009-10 and procurement of additional power to meet the ever increasing demand of the State. This will seriously affect the liquidity of GRIDCO to meet its current obligations including payment to CGPs.
5. GRIDCO, therefore, submitted before the Commission in their application dtd. 03.07.2010 to consider the following prayers and to pass such other order/s as may be deemed just and proper in the facts and circumstances of the case.
 - (i) To reduce the price/rate of procurement of surplus power by GRIDCO from CGPs/ Co-generation plants.

- (ii) To fix the price/rate of “Firm” & “Non-Firm” surplus power from CGPs based on quantum of supply in a month.
 - (iii) To fix an alternative rate/price in case CGPs fail to maintain their CGP status as per Electricity Rule, 2005.
 - (iv) To fix a minimum threshold quantum in MW for acceptance of schedule of CGPs.
 - (v) To direct these CGPs to submit schedule to SLDC who are supplying power to GRIDCO at 33 KV/11 KV through shared feeders of DISCOMs.
 - (vi) To consider the injection of surplus power at high frequency to be “free power” to grid.
6. Both the cases No. 117 & 118 of 2010 came up before hearing in the Commission on 05.10.2010. During hearing CCPPO requested the Commission to allow two weeks time as the Secretary, CCPPO was out of station due to some urgent official works. The representative of M/s. Patnaik Steels and Alloys Ltd. requested the Commission to be impleaded in both the cases as an intervener, since it is an affected party. GRIDCO submitted that GRIDCO has no objection if M/s Patnaik Steels and Alloys Ltd. is impleaded as a respondent and further submitted that GRIDCO has not received the copy of submissions of M/s Patnaik Steels and Alloys Ltd.. The Commission allowed the prayer of CCPPO and M/s Patnaik Steels and Alloys Ltd. and directed all the parties to file their submission, if any, within seven days each serving a copy to the petitioner. The Commission, further, directed to put up the matter on 09.11.2010 for hearing.
7. Accordingly, both Case Nos. 117 & 118 of 2010 were heard on 09.11.2010. Shri A.C. Mallick, Director (Com.), and J.K. Dash, Sr. GM (PP) on behalf of GRIDCO - the petitioner in Case No. 117/2010 and Shri R.P. Mohapatra, the authorized representative of M/s. Mahavir Ferro Alloys (P) Ltd. the petitioner in Case No.118/2010, Sri Sanjeev Das, Secretary on behalf of CCPPO, Shri L.R. Padhi for CESU and Shri M K Das, GM (CSO) on behalf of WESCO, NESCO and SOUTHCO in Case No.117 of 2010, Shri Tulsi D Bhayana, as an intervener on behalf of M/s. Patnaik Steels and Alloys Ltd. and Shri S K Mohanty on behalf of Govt. of Orissa, DoE were present on behalf of Respondents during the hearing.
8. Shri J K Dash, Sr. GM (PP) on behalf of Petitioner GRIDCO submitted during the hearing as under:
- (i) GRIDCO in its main application dtd. 03.07.2010 submitted that the price of firm surplus power from CGPs may be considered to be limited to Rs.2.50 per unit and that of non-firm power to Rs.2.00 per unit.

- (ii) In view of good hydro condition and availability of cheaper power through UI arrangement, GRIDCO had directed all CGPs supplying their surplus power to back down their injection /export to GRIDCO w.e.f. 19.09.2010.
- (iii) Subsequently a meeting was held with all members of CCPPO wherein issues like backing down by CGPs/Co-generation plants, strategies to be followed for procuring surplus power from CGPs and to evolve different options to utilize balance surplus power were discussed at length so as to arrive at WIN – WIN scenario for both GRIDCO and CGPs of the State.
- (iv) GRIDCO, therefore, proposes the revised incremental tariff structure for the period from 1st April, 2010 to 31st March, 2011 for the injection of CGP/Co-generation power considering the minimum price based on the weighted average cost of NTPC stations (both State and Central Sector).

Incremental Tariff Structure proposed for procurement of surplus power of CGP/Co-generation for FY 2010-11

Sl No.	Quantum of Power Supply in a month (in MW)	Rate for supplying 100% surplus power (Paise/Unit)	Rate for supplying 60% surplus power (Paise/Unit)
1.	Avg 10 MW & Below	275	275
2.	50 MW and below upto 10 MW	310	300
3.	Above 50 MW	325	320

- (v) GRIDCO further submitted during hearing that CGP power has become the costliest power amongst all sources of power procured by GRIDCO during FY 2010-11 and every month there is a shortfall of Rs.100 crore on an average for making payment of energy dues to various Generators including CGPs. GRIDCO submitted that till October, 2010 GRIDCO has already taken loan of Rs.737 crore for making payment of energy dues.

In view of the aforesaid submission, GRIDCO prayed before the Commission during hearing as under:

- i. To disallow the prayer of CCPPO for consideration of CGPs as “Must Run” Plants.
- ii. To reduce the price/rate of procurement of surplus power by GRIDCO from CGPs /Co-generation Plants approved in Commission’s Order dtd. 28.02.2009 to the rate/rates proposed now.
- iii. To kindly consider to issue/pass a retrospective order with effect from beginning of financial year i.e. from April, 2010, as the petitioner had prayed for reduction of CGP price for FY 2010-11 in its main petition/application dtd. 03.07.2010.
- iv. To fix the price/rate of “Firm” & “Non-firm” surplus power from CGPs based on quantum of supply in a month and as per the provisions of CGP pricing Policy dtd. 14.03.2008.
- v. To direct an appropriate Authority for determination of CGP status.
- vi. To fix an alternative rate/price in case CGPs fail to maintain their CGP status as per Electricity Rule, 2005.

- vii. To consider injection of surplus power at high frequency to be “free power’ to grid.
 - viii. To give direction in line with CERC norms and regulations regarding commercial terms and conditions to be followed towards procurement of surplus power from CGPs.
9. Shri Sanjeeb Das, Secretary on behalf of CCPPO submitted during the hearing as under:
- (i) There was a meeting of the CGPs on 24.09.2010 with GRIDCO in the presence of Secretary, Dept. of Energy, Govt. of Orissa as well as Managing Director of GRIDCO and OPTCL wherein the entire gamut of issues pertaining to schedule of power from CGPs were discussed. It was informed that in view of high hydro situation, GRIDCO is compromising low cost UI power and it is forced to buy high cost power from CGPs even during high frequency.
 - (ii) In the said meeting, it was also informed that GRIDCO has already exceeded the total quantum of power proposed to be procured from the CGPs as per the ARR approved by the Commission and hence GRIDCO has proposed for curtailment of schedule of CGP power injected to the Grid.
 - (iii) It was further discussed that GRIDCO is not in a position to allow complete open access to all the CGPs although selectively it can do so, as the power situation and seasonal impact is highly unpredictable.
 - (iv) In the said meeting GRIDCO has volunteered to source the entire quantum of power (100%) from CGPs or alternatively source 60% surplus power allowing 40% surplus power to CGPs to be marketed through open access with three different slabs under two different options as under:

Sl No.	Quantum of Power Supply in a month (in MW)	Rate for supplying 100% surplus power to GRIDCO (Paise/Unit)	Rate for supplying 60% surplus power to GRIDCO (Paise/Unit)
1.	Avg 10 MW & Below	275	275
2.	50 MW and below upto 10 MW	310	300
3.	Above 50 MW	325	320

- (v) The Member Companies having CGPs are now facing much difficulties in the procurement of coal through e-auction and the prices have gone up to Rs.2300/Tonne from the existing level of Rs.1200/Tonne. Even some companies have to resort to import of coal and the combination in fuel mix is now either 70-30 or 80-20. He further submitted that the transportation cost has gone up by 70% in view of shortage of trucks as linkage coal is being moved first. He submitted that in the meantime Water Resources Dept., Govt. of Orissa has issued Notification enhancing the Water Cess by 225%. Considering the impact of all above, the variable cost of CGP power at present works out to be 320 paise per unit on an average basis.

In view of the above and the urgency for scheduling of surplus power of CGPs, he submitted on behalf of CCPPO that the Commission may appropriately decide the

pricing of surplus power of CGPs keeping in view the interest of Confederation and as well as that of the Bulk Supply Licensee – GRIDCO.

10. During the hearing, the representative of CESU submitted as under:

- (i) The captive cost of generating plant is always recovered in main product line, say steel, aluminium etc. so the surplus power should be provided only at the variable cost.
- (ii) As most of the CGPs in the State are given land, water supply and similar other benefits for infrastructure development and they have entered into MoU with State Govt. to supply surplus power to State Designated Entity at OERC determined price as a reciprocation to State.
- (iii) Authenticity of cost data of CGP power can't be ascertained accurately and is always a point of dispute. So in order to avoid this, cost of generation of NTPC plant located in Orissa may be considered as reference for pricing.
- (iv) The firm power from CGPs should be paid at the bid price determined through competitive bidding route within a ceiling price.
- (v) All the infirm power of CGPs should be paid through UI mechanism with a ceiling price which may be based on the average cost of generation per KWh at NTPC, Kaniha.
- (vi) The inadvertent injection of power from CGPs should be discouraged treating this as free power.
- (vii) GRIDCO should explore avenue for its term procurement of electricity through Case-I and Case-II bidding as per guidelines issued by MOP on 19th January, 2005 and such procurement will be at reasonable price. The long term power is usually available at a price below Rs.2/-.

11. SLDC submitted during the hearing as under:

- (i) The role of SLDC is to issue despatch instruction (schedule) to all the State Generators and CGPs on day-ahead basis considering their respective injection schedule received by SLDC, PPA with GRIDCO and power requirement for the State. Presently, despatch instruction is being issued to the CGPs connected with OPTCL system at 132 kV / 220 kV voltage level and CGPs connected through 33 kV dedicated feeders due to the reason that at least the injection can be monitored through the grid sub-stations, they are connected to in absence of data communication facility.
- (ii) SLDC has to monitor the compliance of despatch schedule by the CGPs on real time basis, which is not possible due to non-availability of data communication system from the CGPs except from a handful of CGPs. It is further submitted that the most of the CGPs are not complying with their respective despatch schedule, which could not be monitored by SLDC on real time basis in absence of data communication facility.
- (iii) SLDC is preparing the DISCOMs drawal schedule considering the generation availability from all the sources including CGP injection. Under injection by the CGPs is causing overdrawal from the grid even under adverse frequency conditions compromising the grid security.

In view of the above, SLDC prayed that CGPs may be directed not to furnish the inflated schedule, rather they may be directed to furnish realistic injection schedule as per their capability with clear understanding of imposition of penalty for deviation.

12. The representative of M/s Patnaik Steels and Alloys Ltd. (PSAL) submitted during the hearing as under:

- (i) Considering the high cost of fuel and the higher fixed cost per Kwh incurred by CGPs, the rate for procurement of Power by GRIDCO from the CGP should be fixed at Rs.4.00 per Kwh irrespective of the quantum of supply. Slab rates should be done away with.
- (ii) The present slab rate of pricing of surplus power of CGPs favours the bigger CGPs.
- (iii) GRIDCO shall not deduct 3% out of the units supplied on account of so called supply at a higher frequency and pay the deducted amount within a time frame.
- (iv) GRIDCO may be directed to make payment to the Petitioner at the rates prescribed for Co-generation units and the Commission may determine that the maximum period within which GRIDCO shall pay the Energy Bill to the CGPs which shall not exceed 60 days from the date of submission of bills by CGPs.
- (v) The day ahead schedule should continue to remain unchanged.

13. Shri R P Mohapatra authorized representative of Shri Mahavir Ferro Alloys Pvt. Ltd. (SMFAPL) during hearing submitted as under:

- (i) GRIDCO has not submitted any justification to reduce the tariff for surplus power sourced from the CGPs, the mere fact that it is unable to manage its finances, is not a ground for seeking such reduction.
- (ii) The petitioner GRIDCO who is the bulk supplier of power to the DISCOMs, is unable to forecast the availability of energy from the hydro and Thermal Power Stations including the Central Generating Stations. That it is not seeking orders from the Commission for Load Regulation in time and is even not implementing the orders of the Commission in this regard, by being guided by the instructions of the State Government.
- (iii) The Commission has accepted that the Cost of Power along with suitable incentive should be allowed for maximizing the generation of the CGPs.
- (iv) The cost of coal to the smaller CGPs, like that of the intervener, is very high, as they do not have any linkage and have to depend solely on the e-auction process and even source coal from the open market. The cost of coal has risen sharply and the intervener company has to bear a landed cost of Rs.2200.00 per tonne for F grade coal. That the fuel cost itself works out to more than Rs.2.50 per Kwh.
- (v) Therefore, taking into account the fixed cost incurred, the tariff for supply of power from the CGP of the Intervener would be atleast Rs.4.00 per Kwh. Further the concept of firm/non-firm/inadvertent power should not be made applicable. The supply of power by a CGP giving a day ahead schedule should be treated as “firm power”.

- (vi) There should be no restriction on the quantum of power injected or the minimum scheduled quantity as the smaller CGPs can inject only smaller quantity of power after meeting captive requirements. These CGPs are connected to the Grid at 33 KV either through dedicated feeders or through “tie lines” using the 33 KV feeders of the distribution system. Such injection of power benefits the system by reduction of “transmission” and “distribution” losses.
- (vii) The graded /incremental tariff for supply of surplus power of CGPs is not in conformity with the provisions of Electricity Act, 2003 and the price should be uniform for all CGPs irrespective of quantum of surplus power injected.
- (viii) SMFAPL is neither a member of CCPPO nor has it authorized CCPPO to take decision on its behalf.
- (ix) As regards to the status of CGP during any financial year, SMFAPL submitted that it is the responsibility of the CGPs to ensure that it maintains its CGP status in accordance with Rule 3(b)(2) of the Electricity Rules, 2005 dtd. 08.06.2005 notified by the Government of India which reads as follows:

“It shall be the obligation of the captive users to ensure that consumption by the captive users at the percentage mentioned in Sub-Clause – (a) & (b) of Sub-rule-1 above is maintained and in case the minimum percentage of captive use is not complied within any year, the electricity generated shall be treated as if it is a supply of electricity by a Generating Company.”
- (x) SMFAPL also submitted that the submissions made by the Department of Energy, Government of Orissa that incentives were given to the industries of the CGPs in the past by way of allotment of land, water etc. and exemption of Electricity Duty should be considered while determining the tariff, does not merit consideration. No where it is a condition that surplus power shall be supplied at a cheaper rate when these incentives were extended.

In view of the aforesaid submissions, Shri R P Mohapatra on behalf of SMFAPL prayed before the Commission as under

- a. There should no restriction on the quantum of power to be injected or the minimum scheduled quantity in MW as the smaller CGPs can inject only smaller quantity of power after meeting the captive requirement.
 - b. The injection of power by a CGP is automatically billed as sale to the DISCOM and, therefore, there is no loss to GRIDCO.
 - c. The smaller CGPs do not contribute adversely during the unscheduled interchange in high frequency regime. Therefore, they must be allowed to operate as “MUST RUN” power plants.
 - d. Any restriction on generation during high frequency regime should be on larger CGPs having capacity of 50 MW or more.
14. The Govt. of Orissa, Dept. of Energy vide affidavit dtd. 27.08.2010 had filed before the Commission its reply as a respondent. The salient features of the of affidavit of Gvot. are as under:
- (i) GRIDCO as the State Designated Entity is procuring surplus power from CGPs at different voltage levels and payment is being effected at tariff fixed by the Commission as per their various interim orders from time to time.

- (ii) In the BSP Order 20.03.2010, the Commission have also mentioned that the approved quantum shall not be a limiting factor for GRIDCO for drawal of power from CGPs and Co-generation Plant to meet the demand of the State and GRIDCO shall inform the Commission for drawl of excess of the power than approved by the Commission.
- (iii) At present GRIDCO is procuring surplus power to the tune of 400 to 500 MW from the CGPs. Also, some of the CGPs have also been allowed Open Access by the GRIDCO to sell their surplus power outside the State as due to financial constraints, the GRIDCO is not at all in a position to procure high cost CGP power in comparison to the power available at cheaper rates in the various instantaneous markets like Power Exchange etc.
- (iv) The Commission have kept a gap of Rs.1010.11 crores (including loan repayment of Rs.203.95 crores) in the ARR for GRIDCO for FY 2010-11, to be accommodated through trading/UI. But bridging of this gap through trading/UI is now extremely difficult. The above gap will further increase due to availing of loan during FY 2010-11 for procurement of additional power to meet the demand of the State as hardly there is any other source available to procure power. This will seriously affect the liquidity to GRIDCO to meet its current obligations including payment to CGPs.
- (v) The Captive Power Plants are availing enormous incentive on various aspects under IPRs of State Government. One such incentive is exemption for payment of Electricity duty which would otherwise have come to the State Exchequer. Some of the CGPs are also availing incentive under IPR by establishing units under different IPRs. The intention behind extending such benefit at the cost of the State Exchequer is two fold the first is to encourage establishment of CGPs and the second is to get the surplus power at a reasonably cheap rate for consumption within the State which will also go to keep the electricity tariff stable and within the affordable capacity of the consumer.
- (vi) The rate now fixed by the Commission appears to have no nexus with the cost of production and the same has been allowed without going into the aspects that the CGPs owe an obligation to the State to equitably reciprocate for availing facilities like land, water, coal communication system and maintenance of law and order etc. for smooth operation of their plants and are being exempted for paying electricity duty for five years under the various IPRs.
- (vii) The rate fixed by the Commission is extremely on the higher side and appears to be unreasonable. The CGPs are reaping double benefits by way of exemption from payment of ED and selling the power (surplus) power at a high and exorbitant rate. The GRIDCO is ultimately paying through its nose and this extra burden is adding to the already enormous accumulated loss incurred by GRIDCO to procure costly power to avoid power regulation in the State.
- (viii) The high price of CGPs power is ultimately being loaded on to the consumers of the State by enhancement of tariff.
- (ix) Some of the CGPs who are selling power to the distribution companies are at a rate which is half the rate fixed by the Commission. This clearly shows that the rate fixed by the Commission is much higher than the actual cost of production of power of the CGps.

- (x) The CGPs should reciprocate the incentives given to them by the State Government and quote a just and fair rate for scrutiny and approval by the Commission.
- (xi) In view of the facts stated above, the petition of GRIDCO is a fit case to be admitted by the Commission for hearing so as to arrive at a just and fair price of the surplus power of CGPs which will not be burdensome to GRIDCO and ultimately to the consumers of the State. The prayer of GRIDCO may also be allowed in toto.

In view of the above facts the Commission may consider to reduce the tariff of surplus power of CGP/Co-generation plant for FY 2010-11 and allow the prayer made by GRIDCO.

Shri S K Mohanty on behalf of Govt. of Orissa, Dept. of Energy submitted during the hearing that a number of incentives/concessions have been given by the Govt. to the Principal Industries having the CGPs. Exemption in Electricity Duty has also been given by the State Govt. in IPR. He, therefore, submitted that the pricing of surplus power may be determined by the Commission considering various issues /points raised by the Govt. in its affidavit dtd. 27.08.2010 so that the consumers of Orissa at large should not be burdened with additional cost on account of procurement of CGP power by GRIDCO during FY 2010-11.

15. CEO (Com) of NESCO, WESCO and SOUTHCO vide affidavit dtd. 06.08.2010 submitted as under:

- (i) According to the year end adjustment bill submitted by GRIDCO to the DISCOMs for the year 2009-10, GRIDCO has purchased 3122.78 MU with a cost of 988.28 crore at an average rate of Rs.3.17. GRIDCO should have explored the purchase of power from other sources like Power Exchanges when the power was available during September, 09 to February, 2010 at very lesser rate than CGP minimum purchase price of Rs.3.10/unit. In FY 2010-11 open access has been allowed to the CGPs and GRIDCO is not bound to purchase power from CGPs at higher rate when power is available in Exchanges at lesser rate.
- (ii) In approved ARR of GRIDCO for FY 2010-11 the Commission has allowed GRIDCO to bridge the gap through trading/UI. As per information data of ERLDC/ERPC, GRIDCO has already earned approximately Rs.220 crore during April and May, 2010 through UI. Besides that GRIDCO has also traded around 300 MW power through Bilateral and Power Exchanges during June, 2010. GRIDCO is likely to trade more power in future too depending upon the power supply position in the State of Orissa. Licensees further submit that in Case No. 06/09 to 20/09 for fixing of price for purchase of surplus power from CGPs by GRIDCO, Licensees were not a party to the case and the views of Licensees were not asked for. GRIDCO has not obtained any approval of the Commission before availing loan and views of stake holders have also not been asked for. In views of Licensees, GRIDCO should not take any loan for

purchase of power without approval of the Commission through public hearing as it will ultimately be passed on to the consumer of the State.

- (iii) In present scenario when GRIDCO has already made more than Rs.900 crore loans and there is around Rs.300 crore outstanding against CGPs and after creating a huge debt burden to the consumers/licensees, GRIDCO has come forward and approached the Commission to derive a mechanism, to enable GRIDCO to reduce the cost of procurement of power from CGPs. Licensees submits that if GRIDCO would have taken such step earlier for FY 2009-10 and would have asked the views of public as well as licensees then such a huge loan burden would have not been created for consumers.
- (iv) The licensees agree with the views of GRIDCO that there should be minimum threshold quantity in MW specified for acceptance of schedule from CGPs. Regarding Scheduling by Generators Para-6.5 (1) of Orissa Grid Code Regulation – 2006 stipulates as follows:

“Generation Scheduling: All Generators shall provide the 15 minutes block Mw/MVAr availability (00.00 to 24.00 hours) of all generating units to SLDC in day ahead basis.”

As per above regulation CGPs connected through shared feeder of DISCOMs supplying power to GRIDCO should give their day ahead schedule to SLDC directly. DISCOMs are not responsible for submission of generator day ahead schedule.

Shri M K Das, GM (CSO) on behalf of NESCO, WESCO and SOUTHCO submitted during the hearing that the pricing of surplus power may be determined by the Commission considering various issues /points raised by CEO (Com.) in its affidavit dtd. 06.08.2010 so that the consumers of Orissa at large should not be burdened with additional cost on account of procurement of CGP power by GRIDCO during FY 2010-11. He further submitted that they have no objection for reduction in tariff of sourcing surplus power from CGPs but it should not be more than the highest BSP rate allowed to DISCOMs during FY 2010-11 i.e. 195 Paise/Kwh.

Observation and Directions of the Commission

- 16. As the State was facing serious deficit in power availability due to low hydro condition in all hydel reservoirs of the State during FY 2009-10 and the cost of power procured through UI mechanism or through Power Exchanges was more than Rs.4 per KWh on an average basis, the Commission decided to incentivize the generation from Captive/Co-generation Plants by exploiting the existing capacity to ensure supply of about 400/500 MW surplus power from CGPs to State Grid to tide over the power deficit being faced by the State. Accordingly the Commission vide Order dtd. 28.10.2009 approved the following graded/incremental tariff w.e.f. 01.11.2009.

- (i) *The price of supply of energy upto 3.6 MU/month (~ 5 MW Avg.) would be Rs.3.10/KWH.*
 - (ii) *The price for supply of incremental energy above 3.6 MU/month upto 36 MU/month (~ 50 MW Avg.) would be Rs.3.40 per Kwh.*
 - (iii) *In respect of supply of incremental energy above 36 MU/month upto 72 MU/month (~ 100 MW Avg.), the price would be Rs.3.70 /Kwh.*
 - (iv) *In respect of supply of incremental energy beyond 72 MU/month, the incremental energy would be priced at Rs.4.05/Kwh.*
 - (v) *As regards the pricing of power supply by the co-generating plants Rs.3.20 per unit would be paid up to 3.6 MU/month and for injection beyond 3.6 MU the additional unit will qualify for payment at the same rate as that of (ii), (iii) & (iv) above.*
17. GRIDCO filed an application on dtd. 03.07.2010 before the Commission and prayed before the Commission to (a) to reduce the price/rate of procurement of surplus power by GRIDCO from CGPs/ Co-generation plants. (b) to fix an alternative rate/price in case CGPs fail to maintain their CGP status as per Electricity Rule, 2005. (c) to fix a minimum threshold quantum in MW for acceptance of schedule of CGPs. and (d) to consider injection of surplus power at high frequency to be “free power” to grid.
18. The Commission heard the matter on 09.11.2010 and have carefully gone through the submissions, both oral and written made by GRIDCO, CCPPO, Govt. of Orissa, Dept. of Energy, CESU, NESCO, WESCO & SOUTHCO, M/s. Patnaik Steels and Alloys Ltd. (PSAL) and M/s Shri Mahavir Ferro Alloys Pvt. Ltd. (SMFAPL). During hearing GRIDCO submitted that in view of good hydro condition and availability of cheaper power through UI arrangement, GRIDCO had directed all Captive and Co-generation Plants to back down their injection/export to grid w.e.f. 19.09.2010 as CGP power has become the costliest power amongst all sources of power procured by GRIDCO as the bulk power supplier during FY 2010-11 and GRIDCO is now facing a shortfall of about Rs.100 crore per month on an average for payment of power procurement dues of State and Central Generators including CGPs. GRIDCO submitted that already an amount of Rs.737 crore has been taken as loan till October 2010 for making the payment against the procurement of power. GRIDCO, therefore, prayed before the Commission to reduce the price/rate of procurement of surplus power from Captive /Co-generation plants and suggested the following incremental tariff structure for FY 2010-11.

Incremental Tariff Structure proposed for procurement of surplus power of CGP/Co-generation for FY 2010-11

Sl No.	Quantum of Power Supply in a month (in MW)	Rate for supplying 100% surplus power (Paise/Unit)	Rate for supplying 60% surplus power (Paise/Unit)
1.	Avg 10 MW & Below	275	275
2.	Above 10 MW and upto 50 MW	310	300
3.	Above 50 MW	325	320

19. CCPPO submitted during hearing that GRIDCO has directed the Member Companies having CGPs for curtailment of injection of their surplus power to the State Grid as GRIDCO has already exceeded the total quantum of power to be procured from the Captive and Co-generation plants approved by the Commission for FY 2010-11. CCPPO further submitted that several rounds of meeting with GRIDCO and State Govt. have been made from which it is observed that GRIDCO is not in position to allow complete open access to all CGPs and selectively GRIDCO may allow open access upto 40% of surplus power of Captive/ Co-generation plants to be marketed through Open Access. CCPPO submitted that due to the procurement of coal through e-auction, rise in transportation cost and enhancement of water cess by Govt. of Orissa, the variable cost of CGP power at present works out to 320 Paise/Unit. CCPPO, therefore, prayed that the Commission may appropriately decide the pricing of surplus power of CGPs keeping in view the interest of the Confederation as well as that of the Bulk Supply Licensee – GRIDCO for FY 2010-11.
20. The Commission also perused the submissions of other respondents and that of the State Govt. in this matter. Both M/s Patnaik Steel and M/s Sree Mahavir Ferro Alloys have submitted before the Commission to allow a rate of Rs.4/KWh for supply of surplus power from CGPs. M/s Sree Mahavir Ferro Alloys submitted that their variable fuel cost works out to Rs.2.50/KWh whereas CCPPO states that the same works out to Rs.3.20/KWh. NESCO, WESCO and SOUTHCO during hearing agreed for reduction of rate of surplus power of CGPs but opined that it should not be more than 195 Paise/KWh – the highest BSP allowed to DISCOMs by the Commission for FY 2010-11. The State Govt. have opined that as the industries having CGPs have been enjoying various concessions/incentives in terms of land, water linkage, coal linkage, infrastructure linkage and exemption of ED under IPR, the rate of surplus power of Captive/Co-generation Plants should be reduced substantially at par with some CGPs injecting power to DISCOMs. The State Govt. has fully endorsed the

petition of GRIDCO for reduction of pricing of surplus power of CGPs for FY 2010-11. It is to be noted that Para 20.2 of Orissa Industrial Policy- 2007 states that new industrial unit setting up captive power plant shall be exempted from the payment of 50% of Electricity Duty for captive power plant for a period of 5 years for self-consumption only from the date of its commissioning.

21. The Commission has observed a completely different power scenario in the country after implementation of the New UI Schedule w.e.f. 03.05.2010 with severe dose of penalty for those stakeholders drawing power from NEW GRID below 49.50 Hz and even 100% penalty for drawl below 49.20 hz. The Operating Frequency Band is only 0.7 Hz from 50.20 Hz to 49.50 Hz w.e.f. 03.07.2010. The Frequency Profile vis-à-vis the corresponding UI price, the short-term trading price in IEX as well as CGP ceiling price fixed by the Commission for FY 2009-10 and for FY 2010-11 (upto October, 2010) is analyzed in table below:

	2009-10				2010-11			
	Avg. Frequency in HZ	UI Price Rs/Kwh)	IEX Unconstrained Market Clearing Price (Rs/Kwh)	OERC Approved CGP Price (Rs/Kwh)	Avg. Frequency	UI Price Rs/Kwh)	IEX Unconstrained Market Clearing Price (Rs/Kwh)	OERC Approved CGP Price (Rs/Kwh)
April	49.50	4.80 *	10.79	3.00 / 3.10 for CGPs/ Co-gen Plant respectively w.e.f. 01.03.2009	49.27	6.84 *	7.92	3.10/340/3.70/4.05 for CGPs & 3.20/3.40/ 3.70/4.05 for Co-Gen (Incremental rate)
May	49.70	3.60	6.30		49.73	3.72	4.57	
June	49.52	4.68 *	6.49		49.85	2.79	3.44	
July	49.71	3.60	4.63		49.86	2.64	3.46	
August	49.47	5.14 *	7.23		49.86	2.64	3.37	
September	49.60	4.20 *	4.08		49.98	1.71	2.35	
October	49.67	3.84	4.55		49.97	1.86	2.67	
November	49.90	2.40	3.14	3.10/340/3.70/4.05 for CGPs & 3.20/ 3.40/ 3.70/ 4.05 for Co-Gen (Incremental rate) w.e.f. 01.11..2009				
December	49.78	3.12	2.79					
January	49.71	3.60	3.24					
February	49.83	2.88	3.24					
March	49.58	4.32 *	5.77					

NB: Source CEA & IEX

* For generator the price is capped at Rs.4.08/Kwh

22. The Commission has further observed that GRIDCO – the Bulk Supply Licensee has already exceeded the quantum of power to be procured from Captive and Co-generation plants approved in ARR for FY 2010-11. The status is analyzed below:

Procurement of Captive/Co-generation Power during FY 2010-11 (Till 31.10.2010)

Source of Surplus Power	Approved for procurement by OERC (in MU)	Purchased by GRIDCO from 01.04.2010 to 31.10.2010 (in MU)
Captive Generating Plants	1051	1571.22
Co-generation Plants	529	435.62
Total	1580.00	2006.84

23. The Commission has also analyzed the possibility of availability of hydel power in FY 2010-11 based on the Reservoir Level on 15.11.2010 published in OHPC website.

The status is analyzed as under:

Reservoir Levels for Hydel Power Stations under OHPC

Name of the Hydel Stations	Unit	On 15.11.2010	On 15.11.2009	Remarks
Burla	Ft.	629.54	624.69	Level is Good. Compared to last year.
Rengali	Mt.	118.63	120.05	FRL – 123.50 Mt. The level is worse than last year.
Upper Kolab	Mt.	856.18	849.40	FRL – 858 Mt. The level is better than last year but still less of 1.82 Mt. to touch MDDL
Indravati	Mt.	639.60	637.05	FRL – 642 Mt. the level is better than last year but still 2.40 Mt. less to touch MDDL.
Balimela	Ft.	1507.90	1469.00	FRL – 1516 ft. The level is better than last year and live storage is very good.
Machhakund	Ft.	2748.50	2733.80	FRL – 2750 ft. The level is better than last year and live storage is good. This will supplement Balimela generation.

As per the Report compiled by IMD, the rainfall during June 1 to September 30, 2010 Odisha experienced (-)15% rainfall during the period compared to the normal rainfall in the State.

The status of live storage conditions in different Hydel Reservoirs of the State is not very much satisfactory and OHPC may generate the design energy projected in ARR for FY 2010-11 but additional power will not be expected from OHPC stations to meet the increase in demand expected during FY 2010-11.

24. CEA in its Load Generation Balance Report (LGBR) for FY 2010-11 published in May 2010 has assessed the gross generation of energy from power plants in operation and expected to be commissioned during FY 2010-11 where the following figure for the State of Orissa has been mentioned.
- | | | | |
|---|---------------------|---|-----------------|
| ➤ | Energy requirement | - | 24795 MU |
| ➤ | Energy availability | - | <u>22970 MU</u> |
| | Shortfall in energy | - | 1825 MU |
25. In view of the above analysis of the power scenario and to meet the increase in demand due to industrialization and massive Rural Electrification undertaken by State Govt. under RGGVY and BGJY, the Commission feels that the State should harness the total surplus power available from the Captive/Co-generation Plants during FY 2010-11 as an assured source instead of depending on unpredictable sources.
26. The State was facing acute power shortage during 2009-10 because of low generation from hydro sources. After availing the full quota from the Central generating stations as well as maximizing the generation from the available hydro and thermal sources belonging to the State, the balance requirement was to be met either through UI mechanism from grid or through power exchange or from the captive generating stations. The UI rate during 2009-10 was varying from Rs.5.14 at average frequency of 49.47 HZ during August, 2009 to Rs.2.40 at average frequency 49.90Hz in the month of November, 2009, the 12 months average being Rs.3.84 KWh at the average frequency of 49.66 HZ. During FY 2010-11 till end of October, 2010 the UI rate varied from Rs.6.84/KWh (April, 2010) at the average frequency of 49.27 HZ to Rs.1.71/KWh (in September, 2010) at the average frequency of 49.98 HZ, the seven monthly average being Rs.3.26/KWh at the average frequency of 49.79 HZ.
27. Similarly, the rate (unconstrained market clearing price) at the Indian Energy Exchange (IEX) was varying from Rs.10.79 /KWh (April, 2009) to Rs.2.79/KWh (In December, 2009). The 12 monthly average for FY 2009-10 works out to Rs.5.18/KWh. During FY 2010-11 till end of October, 2010, the unconstrained market clearing price at the IEX was varying from Rs.7.92/KWh (in April, 2010) to Rs.2.35/KWh (September, 2010), the seven monthly average being Rs.3.97/KWh.
28. On the other hand, the Commission had fixed the ceiling price of surplus power of CGPs supply to GRIDCO for consumption in the State at Rs.3.00/KWh and for Co-gen plant at Rs.3.10/KWh w.e.f. 01.03.2009 to 31.10.2009 and w.e.f. 01.11.2010 the graded rate of Rs.3.10/KWh (upto 3.6 MU /month average 5 MW), Rs.3.40/KWh

(above 3.6 MU/month to 36 MU/month, average 50 MW), Rs.3.70/KWh (above 36 MU/month to 72 MU/month, average 100 MW) and Rs.4.05/KWh (beyond 72 MU/month, above average 100 MW) was implemented. In case of Co-Gen Plant the corresponding rate was Rs.3.20/3.40/3.70/4.05 per KWh respectively.

29. As the billing price of surplus power supplied by CGPs being lower than the rate/rates of power being available through UI or Power Exchanges, the price of surplus power supplied by different CGPs to GRIDCO during 2009-10 decided by the Commission in their order dt.28.02.2009 read with order dt.28.10.2009 in case Nos.6/2009 to 20/2009 would be applicable in respect of quantum of surplus power injected to the grid for procurement by GRIDCO for consumption in the State. Similarly, the price fixed by the Commission in respect of surplus power of the CGPs during 2010-11 till 09.11.2010 would be governed in accordance with the stipulations and directions of the Commission vide para 384 of the BSP order dt.20.02.2010 for GRIDCO. This has also been made clear by the Commission vide their order dt.31.05.2010 in case No.48/10 vide para 27(ii) which is extracted below for ready reference.

“Pending the decision of the Commission on the various issues raised, GRIDCO shall pay the power purchase cost of power procured from various CGPs/co-generating plants during 2009-10 and will continue to do so in respect of procurement of such power from the CGPs during the current financial years in accordance with the rate fixed in the order dated 28.02.09 read with the review order dtd.30.6.09 and 28.10.09 and BSP order dtd.20.3.10 for 2010-11. The payment due to the CGPs/Co-generating plants as per order dtd.28.02.09 read with the order dtd.28.10.09 and 20.3.10 (BSP order of GRIDCO) should be released for the year 2009-10 and should not be withheld on technical grounds that the concerned CGPs have supplied more than 49% of their total generation to GRIDCO for which State Govt. and GRIDCO have been requesting the CGP to maximize their generation and supply to the State to meet the power deficit situation. However, in case of M/s Jindal Stainless Ltd., the payment is to be regulated as per the order dated 05.5.2010 of Honourable High Court of Orissa in Case No.WP©4454 of 2009.”

30. GRIDCO in his prayer requested to fix the price/rate of ‘Firm’ and ‘Non-Firm’ surplus power from CGPs based on quantum of supply in a month and as per the provisions of CGP Pricing Policy dtd. 14.03.2008. It is clarified as under:

- (a) The Commission in its Order dtd. 14.03.2008 at Para 12 stated that those Captive Generators who give a commitment for supply of power for a period of more than three months and upto one year shall be considered as supply of Firm Power and those Captive Generators who are capable of giving day ahead schedule but are not in a position to give supply continuously for a period upto three months shall be treated as ‘Non-Firm’ Power. Other than

‘Firm’ and ‘Non-Firm’ Power, any injection of power from CGPs to the State Grid shall be treated inadvertent injection of power to the Grid and such inadvertent power would be priced equal to the pooled cost of the hydro power of the State.

- (b) The Commission has further stated that the Principle/Policy mentioned in the Order dtd. 14.03.2008 would be reviewed as and when necessary based on the feedback from the different stakeholders.
 - (c) The Commission in its Order dtd. 28.02.2009 under Para 16 (ii) stated that power that can be scheduled on a day ahead basis and that can be absorbed in the system and can be programmed for full procurement by GRIDCO and those CGPs /Co-Generating plants who are capable of giving day ahead schedule should be, for the time being, treated as supplier of Firm Powers. Power injected by CGPs/Co-generating plants without giving day ahead schedule would be treated as the injectors of inadvertent power.
 - (d) As the generation scenario of the State has not been changed thereafter and the present hydro condition in the State hydel Reservoirs are not that much encouraging even in Water Year – 2010-11, the Commission is not inclined to accept the suggestion of GRIDCO to fix the price of surplus power of Captive/Co-Generation plants on the basis of ‘Firm’ and ‘Non-Firm’ power as based on Order dtd. 14.03.2008 and all the power that can be scheduled from Captive/Co-generation plants based under day ahead schedule, shall be treated as Firm Power and accordingly they should be paid for. Power injected by Captive/Co-generation Plants before its commercial operation i.e. infirm power, power injected by CGPs/Co-generation plants without giving day ahead schedule and any power injection over the implemented schedule during the Operating Frequency Band of 49.50 HZ to 50.18 HZ shall be treated as Inadvertent power and should be paid at the pooled cost of the hydro power of the State as indicated in Para 33 and 34.
31. The State of Orissa being a constituent of Eastern Region is operating in synchronism with all the constituents at one frequency under NEW GRID. The installed capacity of NEW GRID is 121522 MW as on 31.10.2010. Any change over 2400 MW under NEW GRID may now result in a frequency rise of 0.02 HZ. The Captive/Co-generation Plants contribution is not that much to the State Grid under NEW GRID which will affect adversely during unscheduled interchange in high frequency regime.

Therefore, the Commission feels that the Captive/Co-generation Plants of the State would be allowed to operate as 'MUST RUN' power plants and, therefore, the suggestions of GRIDCO to disallow Captive/Co-generation Plants as 'MUST RUN' plants is not acceptable to the Commission. However, the Commission accepts GRIDCO's contention that any power injected by CGPs/Co-generation plants to the State Grid at 50.20 Hz and above, determined on the basis of actual meter reading shall be priced at "Zero" cost. It is expected that any captive generator shall back down its generation upto its captive consumption including open access allowed if any at higher frequency at 50.20 Hz and above.

32. The Commission has also examined the request of GRIDCO for fixing a minimum threshold quantity in MW specified for acceptance of Schedule from CGPs by SLDC. The Commission observed that Regulation 6.5(1) of Orissa Grid Code Regulation-2006 regarding Generation Scheduling which stipulates as under:

"All Generators shall provide the fifteen minutes block Mw/MVAr availability (00.00 – 24.00 hours) of all Generating Units, to SLDC on the day ahead basis by 10.00 hours. CGPs shall provide the fifteen minutes block import/export figures on the day ahead basis by 10.00 hours. xxxxxxxx"

As the request of GRIDCO to fix a threshold quantity in MW specified for acceptance of Schedule from CGPs by SLDC is not in conformity with the OGC, the Commission is not inclined to accept the suggestion of GRIDCO.

33. Due to emerging new power scenario in India post 3rd May, 2010 after implementation New UI Schedule and the crash of UI price as well as the short-term trading price in Power Exchanges, GRIDCO have suggested the rate of surplus power of Captive/Co-generation Plants as indicated in Para 18 above. During course of hearing, the Commission wanted to know from the representatives of CCPPO if they concurred to such rates suggested by GRIDCO. The representative of CCPPO stated that during the time of difficulties they have helped the State Govt. and it is upto the State Govt. to look to their problems. To a specific query of the Commission the representative of CCPPO, however, said that keeping in view the difficulties of GRIDCO as well as the genuine problems faced by the CGPs in the procurement of coal through e-auction, rise in transportation cost and enhancement of water cess by Govt. of Orissa etc., the Commission may take an appropriate decision in the matter. Thus after considering the present price of power through UI and the Power Exchange along with the difficulties of GRIDCO and the Captive/Co-generating Plants, the Commission directs and stipulates the rates for Captive/Co-generation Plants supplying their 100% surplus Firm Power to GRIDCO as under:

- (a) The price of supply upto 7.3 MU per month (~ 10 MW Avg. and below) would be Rs.2.75 per KWh.

- (b) The price for supply of incremental energy above 7.3 MU/month and upto 36 MU/month (~ above 10 MW and upto Avg. 50 MW) would be Rs.3.10 per KWh.
 - (c) In respect of supply of incremental energy beyond 36 MU/month (above ~ 50 MW) the incremental energy would be priced at Rs.3.25 per Kwh.
 - (d) The Captive/Co-generation Plants should operate on “Must Run” condition and any injection over the implemented schedule at a frequency of 50.20 Hz and above shall be considered as “Free Power” to the State Grid.
 - (e) The Captive/Co-generation Plants who would supply inadvertent power/ infirm power within the Operating Frequency Band of 49.50 to 50.18 HZ would be paid at the pooled cost of State hydel power which is 62.51 Paise/KWh for FY 2010-11 as approved by the Commission and any inadvertent injection at a frequency of 50.20 Hz and above shall be considered as “Free Power” to the State Grid. Any injection over the implemented schedule at a frequency within the Operating Frequency Band of 49.50 to 50.18 HZ should also be paid at 62.51 Paise/KWh during FY 2010-11 (from 10.11.2010 to 31.03.2011).
34. The Commission further directs and stipulates the rates for Captive/Co-generation Plants supplying their 60% and above but below 100% of surplus Firm Power to GRIDCO after availing open access upto 40% as under:
- (a) The price of supply upto 7.3 MU per month (~ 10 MW Avg. and below) would be Rs.2.75 per KWh.
 - (b) The price for supply of incremental energy above 7.3 MU/month and upto 36 MU/month (above ~ 10 MW and upto Avg. 50 MW) would be Rs.3.00 per KWh.
 - (c) In respect of supply of incremental energy beyond 36 MU/month (above average 50 MW), the incremental energy would be priced at Rs.3.20 per Kwh.
 - (d) The Captive/Co-generation Plants should operate on “Must Run” condition and any injection over the implemented schedule at a frequency of 50.20 Hz and above shall be considered as “Free Power” to the State Grid.
 - (e) The Captive/Co-generation Plants who would supply inadvertent power/ infirm power within the Operating Frequency Band of 49.50 to 50.18 HZ would be paid at the pooled cost of State hydel power which is 62.51 Paise/KWh for FY 2010-11 as approved by the Commission and any inadvertent injection at a frequency of 50.20 Hz and above shall be considered as “Free Power” to the State Grid. Any injection over the implemented schedule at a frequency within the Operating Frequency Band of 49.50 to 50.18 HZ should also be paid at 62.51 Paise/KWh during FY 2010-11 (from 10.11.2010 to 31.03.2011).
35. As regards the appropriate authority to determine the status of CGPs, it is the State Electricity Regulatory Commission as clarified and decided by the Appellate Tribunal

of Electricity (ATE) in their Order dtd. 18.05.2010 in Appeal No. 116 of 2009 and IA No. 218 and 219 of 2009 in case of Chhatisgarh State Power Distribution Company Ltd. Verses Hira Ferro Alloys Ltd. and Chhatisgarh State Electricity Regulatory Commission.

As per the provision of Electricity Rule, 2005, the question of CGP status of a Captive Generating Plant would be decided only after the end of the relevant financial year after ascertaining the total quantum of power generated in such plant and consumed by the principal industry for its captive use determined on an annual basis. While the payment of surplus power of Captive/Co-generation Plants would continue during the year as per the ceiling rate indicated in Para 33 and 34 above on provisional basis, if at the end of the financial year, it is ascertained that the Captive Generating Plant has lost its captive status, the payment would be readjusted in the subsequent financial year by linking the rate of such surplus power of CGPs/Co-generation Plants losing the captive status to the weighted average cost of supply by the NTPC Power Stations of Eastern Region to GRIDCO during the said financial year. If the weighted average cost of supply by ERNTPC Power Stations to GRIDCO during the said financial year is more than the ceiling price approved by the Commission in Para 33 and 34, there would be no occasion for adjustment and the ceiling price fixed by the Commission in Para 33 and 34 would be applicable.

36. It has been raised during hearing that higher rate allowed by OERC for incremental injection of surplus power by Captive/Co-generation plants is meant to help the big CGPs and the rate should be same irrespective of the quantum of injection of surplus power. It may be noted that the industries have installed captive generating plants primarily for their own use. Keeping the quantum of own use coal linkages are allowed. The industries having CGPs of higher capacity run the particular unit/units keeping the other unit as standby. If the full capacity is to be utilised higher amount of coal is to be arranged through e-auction/open procurement at a higher price over and above the coal normally made available through coal linkage which is the last priority for the Coal Companies. Since Captive/Co-generating plants having higher capacity have to purchase a considerable amount of coal/fuel through e-auction etc. at a higher price, it is felt justified to allow incremental price for the incremental injection of surplus power of those CGPs who have larger capacity, otherwise they would not like to generate substantially higher amount beyond their requirement.

However, the Commission directs those Captive/Co-generation Plants not willing to supply their surplus power to GRIDCO at the ceiling price under two different scenarios under Para 33 and 34 above may opt for Open Access.

37. The revised tariff for surplus power from Captive/Co-generation Plants mentioned in Para 33 and 34 is applicable w.e.f. 10.11.2010 and will continue till 31.03.2011.
38. Accordingly, Case Nos. 117 & 118/2010 are disposed of.

39. We direct that the copy of this order may be sent to the State Govt., Petitioner GRIDCO and to all the respondents and may be posted in the OERC website for the information of all concerned.

Sd/-
(B.K. Misra)
Member

Sd/-
(K.C.Badu)
Member

Sd/-
(B.K. Das)
Chairperson