

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

**Present : Shri B K Das, Chairperson
Shri B.K. Misra, Member**

Case No. 161 of 2010

IN THE MATTER OF : Non-payment of SLDC Charges by M/s Meenakshi Power Ltd.

A N D

IN THE MATTER OF : Non-compliance of the Commission's Order dated 20.03.2010 in Case No. 146 of 2009 in the matter of "An Application of the OPTCL for approval of Annual Revenue Requirement and Fees and Charges for State Load Dispatch Centre (SLDC) for FY 2010-11" by the Respondent M/s Meenakshi Power Ltd.

A N D

IN THE MATTER OF : The Sr. General Manager (Power System), OPTCL, P.O-Mancheswar Railway Colony, Bhubaneswar-751017.

.....Petitioner

- Vrs. -

**M/s Meenakshi Power Limited, Meenakshi House, 8-2-418, Road No. 7, Banjara Hills, Hyderabad-500034.
..... Respondent**

For Petitioner: Mr. S. K. Das, G.M, SLDC

For Respondent: Mr. R. P. Mohapatra, the authorized Representative of M/s Meenakshi Power Ltd, Hyderabad.

Date of Hearing: 28.12.2010

Date of Order:20.01.2011

ORDER

1. Senior General Manager (Power System), OPTCL had filed an application on 01.12.2010 in the matter of non-payment of SLDC Charges by M/s Meenakshi Power, Hyderabad which amounts to non-compliance of the Commission's Order dated 20.03.2010 in Case No. 146 of 2009 in the matter of approving Annual Revenue Requirement and Fees & Charges for SLDC for FY 2010-11. The application was scrutinized and was registered as Case No. 161 of 2010.

2. Sr. GM (Power System) OPTCL in his application dated 30.11.2010 submitted on non-payment of SLDC Charges by M/s Meenakshi Power Ltd. Hyderabad which are briefly stated as under:
- 2.1. M/s Meenakshi Power Limited (herein after referred to as “M/s MPL”) has established two numbers of Hydro Power Stations with capacity 25MW + 12MW =37MW and connected internally to their 132KV sub-station at Tentuliguma.
 - 2.2. M/s MPL is connected to OPTCL network at Jayanagar Grid sub-station through 132KV single circuit. The above generators of M/s MPL are selling power to PTC & PTC, in turn, is selling to GRIDCO.
 - 2.3. The Commission vide Order dated 20.03.2010 in Case No. 146 of 2009 in the matter of “An application of the OPTCL for approval of Annual Revenue Requirement and Fees and Charges for State Load Despatch Centre (SLDC) for FY 2010-11” has approved the Annual Charges of Rs. 7.66 Cr. for SLDC Operations during FY 2010-11 which are to be recovered from the users who use the Intra-State Transmission Network or the associated facilities and services of SLDC.
 - 2.4. The Commission at Para 204 of Order-dated 20.03.2010 has also approved for collection of one time Registration Fee of Rs. 1.00 lakh from all users for deposit in SLDC Development Fund.
 - 2.5. The Commission at Para 209 of Order-dated 20.03.2010 has approved for collection of an amount equivalent to two months monthly SOC & MOC Charges in advance as Security against default in payment of SOC & MOC Charges of SLDC.
 - 2.6. The Commission at Para 210 Order dated 20.03.2010 has also approved for billing of System Operation Charges (SOC) and Market Operation Charges (MOC) considering total contracted/ installed capacity of 4001.50 MW for all generating Stations and Sellers for FY 2010-11, which includes 37 MW installed capacity of M/s MPL.
 - 2.7. Accordingly the monthly bills for SOC & MOC Charges, Security Charges and one time Registration Fee have been raised by SLDC, OPTCL and forwarded to M/s MPL for payment.
 - 2.8. M/s MPL did not pay the billed amount and intimated vide letter dated 20.05.2010 & 01.06.2010 about their metering arrangement problem which has no relevance with the monthly charges. Again they quoted OERC Case No. 6 to 20/2009 and stated that “they have been not only exempted from the provision of PLCC Equipment at their Lower Kolab SHEP but also from the Monthly Charges for SLDC functioning”. They have been intimated that the directions of the Commission vide Interim Order dated 28.02.2009 in Case

No. 6 to 20/2009 are matters related to comprehensive pricing policy for sale of surplus power from Captive Generating Plants. Payment of SLDC Charges has not been exempted in the said Order.

- 2.9. M/s MPL requested to consider only Middle Kolab SHEP for payment of SLDC charges only after separate metering arrangements, which has no relevance with the payment of SLDC Charges.
- 2.10. The monthly bills are being served regularly since May, 2010, but M/s MPL is not responding for payment.

In view of the above submissions, the petitioner prayed before the Commission to direct M/s Meenakshi Power Limited, Hyderabad to pay all the dues raised by SLDC and pass such order/s as may be deemed just and proper.

3. The Commission vide Letter No. 5557 dated 14.12.2010 issued Notice to the petitioner Sr. GM (Power System) SLDC (OPTCL) and the respondent M/s Meenakshi Power Limited, Hyderabad that the case has been fixed to 28.12.2010 on the question of admission and hearing. The respondent was directed to file its reply before the Commission on or before 24.12.2010 serving a copy thereof to the petitioner.
4. M/s Meenakshi Power Limited- the respondent filed their reply before the Commission on 27.12.2010 which are briefly as under:
 - 4.1. The Lower Kolab SHP is connected at 33 KV to the Middle Kolab SHP.
 - 4.2. The connection to Jayanagar Sub-station is through a double circuit 132kV line.
 - 4.3. According to Regulation 24 of the CERC (Fees and Charges of Regional Load Despatch Centre and the other related matters) Regulations, 2009 and Paragraph 204 of the OERC Order dated 20.03.2010 in Case No. 146 of 2009 (Determining the Fees and Charges for SLDC) for the FY 2010-11, the one-time Registration Fee of Rs 1.0 lakh shall be collected from all users, whose Scheduling, Metering & Energy accounting are coordinated by SLDC. That none of these functions are being coordinated by SLDC as detailed below:
 - i. The two SHEPs of the Respondent are classified as “renewable energy sources” vide Regulation 2 (1) (t) & 2 (1) (u) of the CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009.
 - ii. Regulation 11 (1) of CERC (Terms and Conditions of Tariff determination from Renewable Energy Sources) Regulations, 2009 provides that the SHEPs shall be treated as “MUST RUN” power plants and shall not be subjected to “merit order dispatch principles”

- iii. Para 15.3 of the “Statement of Objects & Reasons” on CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009, dated 07.10.2009, is reproduced below.

“15.3 The Commission is of the view that generation from renewable energy sources such as wind, solar, small hydel etc. is critically dependent on vagaries of nature and hence it is termed as non-firm in nature. Further, the same needs to be maximized as and when such resources are available in order to optimally utilize the assets and maximize generation from such assets already installed. Accordingly, generation from such RE projects is proposed to be treated as ‘MUST RUN’ and not subjected to merit order dispatch principles under scheduling and dispatch regime. At the same time, the issue of scheduling of renewable energy projects needs to be analyzed from system operations point of view. With significant increase or reduction in energy injection within the short duration may not be in the interest of safe, smooth and reliable grid operations. The system operator must have fair idea of possible energy injection from such renewable energy sources. However, the Commission opines that the feasibility of imposing forecasting requirements on such RE sources need to be investigated and deliberated further.”

- iv. The share of “renewable energy” compared to the total capacity being handled by the Grid is abysmally low in Orissa and therefore the question of scheduling and dispatching from the system operation of view is not relevant at present.
 - v. In view of the above statement of CERC, the observation of the OERC in the 1st Provision to Para 17 of the OERC Policy on Harnessing of Power from Renewable Energy Sources including Co-generation) finalized in its Order dated 14.09.2010 in Case No. 37 of 2008, needs revision as the SHEPs are critically dependant on vagaries of nature.
 - vi. SLDC is also not performing any function relating to metering and energy accounting.
 - vii. The payment of onetime Registration Fee of Rs 1.0 lakh is not applicable to the Respondent.
- 4.4. “Market Operation Charges” are also not payable by the Respondent as “Scheduling, Despatch, Metering, Data Collection, Energy Accounting and Settlement, etc., are not being carried out by the Petitioner for the Respondent.
 - 4.5. Similarly, “System Operation Charges” are also not payable by the Respondent.
 - 4.6. The Commission has only determined a provisional tariff of Rs. 3.16 receivable by the Respondent from GRIDCO Ltd through PTC Ltd. There are

no Orders of the Commission relating to re-imbursement of SLDC Charges, if any, by GRIDCO Ltd.

- 4.7. That OERC, at Para 152 of its' Order dated 20.03.2010, in Case No. 147 of 2009 has observed that the SLDC Charges payable by OHPC is to be collected by SLDC from OHPC on monthly basis and OHPC has to reimburse the same from GRIDCO.
- 4.8. OERC may kindly determine whether any charges are to be paid towards System Operation and accordingly pass Orders that the Respondent has to reimburse the same from GRIDCO.

In view of the above submission M/s Meenakshi Power Limited, Hyderabad prayed before the Commission as under:

- That one time Registration Fee is not payable by the Respondent.
 - That "MOC" and "SOC" Charges are also not payable by the Respondent.
 - The "SOC" Charges, if so considered as payable, may be separately determined and that such charges paid by the Respondent shall be reimbursed by GRIDCO Ltd.
5. The matter was heard on 28.12.2010. Sri S K Das, GM on behalf of Petitioner SLDC (OPTCL) and Sri R P Mohapatra- the authorized representative of the Respondent of M/s Meenakshi Power Limited during hearing submitted the identical points mentioned in their affidavits filed before the Commission which are already mentioned in Para-3 and 4 above.
 6. **Observations & Directions of the Commission:**
 - 6.1. After coming into force of the Electricity Act, 2003, SLDC with all its assets, rights & interests was transferred to OPTCL under the Orissa Electricity Reform (Transfer of Transmission & Related Activities) Scheme, 2005 framed by the State Govt. under Sec. 131 of the Electricity Act, 2003. By Clause 10(2) of the said Transfer Scheme; the OPTCL was 'notified as State Transmission Utility and was also vested to 'discharge' the State Load Despatch function till further orders of the State Govt.
 - 6.2. The Electricity Act, 2003 has provided for financial independence of SLDC under subsection-3 of Section-32 by way of levy & collection of such Fees & Charges from the generating companies & licensees engaged in intra-State transmission of electricity as specified by the State Commission.
 - 6.3. As SLDC should function as an independent autonomous entity within the ambit of OPTCL-the STU to discharge its statutory functions/ obligations in accordance with the Act, subordinate Regulations under Intra-state Open Access and Intra-state ABT, provisions under Orissa Grid Code as well as based on the Ministry of Power letter dated 04.11.2008 on implementation of

the recommendations of Shri Gireesh B. Pradhan Committee on Manpower Certification and incentives for System Operation and Ring Fencing Load Dispatch Centers and shall collect Annual Fee and Operating Charges for SLDC functions from the various users/stakeholders utilizing the Intra-State Transmission Network of OPTCL w.e.f. 1st April, 2009 onwards; the Commission vide Order dated 20.03.2009 approved Rs. 9.66 Cr. towards ARR of SLDC and the Operating Charges of Rs. 2000/MW/month for collection of the approved ARR amount of Rs. 9.66 Cr. during FY 2009-10.

- 6.4. Similarly, the Commission vide Order dated 20.03.2010 has approved the ARR of Rs. 7.76 Cr. for FY 2010-11 for SLDC functions for collection from different stake holders. The Commission vide Para-200 approved for collection of System Operation Charges (SOC) from generating stations @ Rs. 279.67 lakh per annum or Rs. 23.31 lakh per month. The Commission vide Para- 201 of the Order dated 20.03.2010 has approved the recovery of SOC from the generating stations based on installed capacity of all generators & CGPs as assessed by SLDC (OPTCL) at 4001.50 MW @ Rs. 6989.04/MW/Annum or @ Rs. 582.42 MW/month. The approved installed capacity of 4001.50 MW includes 37 MW of M/s MPL on which SOC Charges are to be collected which is Rs. 21,549.54 per month or Rs. 2,94,594.50/annum.
- 6.5. The Commission vide Para-202 has approved for collection of Market Operation Charges (MOC) from generating stations @ Rs. 77.69 lakh per annum or Rs. 6.47 lakh per month. The Commission vide Para- 203 of the Order dated 20.03.2010 has approved the recovery of MOC from the generating stations based on installed capacity of all generators & CGP as assessed by SLDC (OPTCL) at 4001.50 MW @ Rs. 1941.40/MW/Annum or @ Rs. 161.78 MW/month. The approved installed capacity of 4001.50 MW includes 37 MW of M/s MPL on which MOC Charges are to be collected which is Rs. 5985.86/month or Rs. 71,830.30/annum.

Hence M/s MPL are to pay SLDC Charges (SOC + MOC) @Rs.27,535.40 per month or @ Rs. 3,30,424.80 per annum during FY 2010-11 as per the Commission's Order dated 20.03.2010 which shall be adjusted in the final tariff for M/s.MPL to be approved by the Commission.

- 6.6. CERC vide Notification dated 28.09.2010 has approved the Indian Electricity Grid Code which is in force since 3rd May, 2010. The Part-6 of IEGC refers to Scheduling & Despatch Code and at Para-6.5.23 allowed special dispensation for scheduling of Wind & Solar generation. The Paras-6.5.9 to 13 refer to Scheduling and Dispatch for Hydro Electric Generating Stations which are reproduced below:

- “9. The hydro electric generation stations are expected to respond to grid frequency changes and inflow fluctuations. They would, therefore, be free to deviate from the given schedules as long as they do not cause a grid constraint. As a result, the actual net energy supply by a hydro generating station over a day may differ from schedule energy (ex-bus) for that day. Compensation shall then be made by the concerned load dispatch centre in the day ahead schedule for the 4th day (day plus 3).*
- 10. The declaration of the generating capability by hydro ISGS should include limitation on generation during specific time periods, if any, on account of restriction(S) on water use due to irrigation, drinking water, industrial, environmental considerations etc. The concerned Load Despatch Centre shall periodically check that the generating station is declaring the capacity and energy sincerely, and is not manipulating the declaration with the intent of making undue money through UI.*
- 11. Since variation of generation in run-of-river power stations shall lead to spillage, these shall be treated as must run stations. All renewable energy power plants, except for biomass power plants, and non-fossil fuel based cogeneration plants whose tariff is determined by the CERC shall be treated as ‘MUST RUN’ power plants and shall not be subjected to ‘merit order despatch’ principles.*
- 12. Run-of-river power station with poundage and storage type power stations are designated to operate during peak hours to meet system peak demand. Maximum capacity of the station declared for the day shall be equal to the installed capacity including over load capability, if any, minus auxiliary consumption, corrected for the reservoir level. The Regional Load Despatch Centres shall ensure that generation schedule of such type of stations are prepared and the stations dispatched for the optimum utilization of available hydro energy except in the event of specific system requirements/constraints.*

The schedule finalized by the concerned load dispatch centre for hydro generating station, shall normally be such that the scheduled energy for a day equals the total energy (ex-bus) expected to be available on that day, as declared by the generating station, based on foreseen/planned water availability/release xxxxxxxx”.

Hence, Lower Kolab (12 MW) and Middle Kolab (25 MW) Small Hydro Electric Projects of M/s MPL even though belong to ‘MUST-RUN’ category, should give their day ahead schedule to SLDC as per the aforesaid provisions of IEGC.

6.7. The Commission also perused the relevant Regulations of OERC (Fees and Charges of State Load Dispatch Centre and other related matters) Regulation, 2010 for collection of SOC, MOC and Registration Fee from the users which are reproduced below:

*“2(1)(k) **“Market Operation Function”** includes functions of scheduling, despatch, metering, data collection, energy accounting and settlement, transmission loss calculation, operation of pool account and congestion charge account, administering ancillary services, information dissemination and any other functions assigned to the SLDC by the Electricity Act 2003 or by OERC Regulations, Codes and Orders;*

*2(1)(r) **“System Operation Function”** includes monitoring of grid operations, supervision and control over the Intra-State Transmission System, real-time operations for grid control and despatch, system restoration following grid disturbances, compiling and furnishing data pertaining to system operation, congestion management, black start coordination and any other function(s) assigned to the SLDC by the Electricity Act 2003 or by OERC Regulations, Codes and Orders issued /notified from time to time;*

*2(1)(s) **“User”** means the generating stations including Captive Generating Plants (CGPs), Licensees and open access customers as the case may be who use the intra-state transmission network or the associated facilities and services of SLDC;*

17.(2) SLDC shall be entitled to levy and collect registration fees and charges from the users and power exchanges as specified in these regulations.”

In view of the aforesaid explicit provision in Electricity Act, 2003 as well as in the subordinate Regulations/ Codes framed there under by CERC & OERC, we direct that Lower Kolab (12MW) and Middle Kolab (25MW) Small Hydro Electric Projects of M/s Meenakshi Power Limited, Hyderabad being the users of the Intra-State Transmission network are liable to pay the System Operation Charges (SOC), Market Operation Charges (MOC) and one time Registration Fee to SLDC as approved by us in ARR for SLDC for FY 2010-11. Both the Lower Kolab and Middle Kolab SHEP should give day ahead schedule to SLDC.

7. This disposes the Case No.161/2010.

Sd/-
(B K Misra)
Member

Sd/-
(B K Das)
Chairperson