

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

Present: Shri S. P. Nanda, Chairperson
Shri S. P. Swain, Member
Shri A. K. Das, Member

Case No. 30/2010

GRIDCO Limited	Petitioner
Vrs.		
M/s Shyam Metaliks & Energy Ltd. & another.	Respondents
(the then M/s Shyam DRI Power Ltd.)		

In the matter of: For determination of provisional tariff for procurement of power from the proposed 60MW Thermal Power Plant at Rengali.

For Petitioner: Shri P. K. Pradhan, Director (Com.), GRIDCO, Shri U. N. Mishra, CGM(PP), Shri Shiba Sankar Nayak, EA to Dir (Comm.),

For Respondents: Shri S. S. Das, Sr. Advocate, Shri A. N. Das, Advocate, Shri S. S. Pradhan, Advocate, Shri M. K. Prusty, Sr. Executive of M/s SMEL, Shri B. K. Panda, Resident Head, M/s. SMEL, Shri K. C. Nanda, DGM (Fin.), WESCO Utility, Ms. Niharika Pattnaik, ALO, DoE, GoO.

Order

Date of hearing: 22.05.2015

Date of order: 17.06.2015

The present petition had been filed by M/s. GRIDCO for determination of provisional tariff for procurement of power from the proposed 60 MW (2 x 30 MW) thermal power plant (IPP) of M/s. Shyam DRI Power Ltd. presently known as M/s. Shyam Metaliks and Energy Ltd. (in short M/s. Shyam Metaliks) as per the State Thermal Power Policy dated 08.08.2008. The terms and conditions for procurement of power as per State Thermal Policy shall be as follows:

- i) Infirm power shall be available to the State through GRIDCO Ltd. at variable cost and;
- ii) As a nominated agency, authorized by the State Govt. i.e. GRIDCO Ltd. will have the right to purchase 14% of the power sent out from the Thermal Power Plant at variable cost if coal blocks are allocated to the IPP within the State, otherwise it will provide 12% power at variable cost for which the Commission may determine the tariff for such power.

2. In the interim order dated 04.05.2010 the Commission inter alia wanted to ascertain from GRIDCO that on signing PPA with IPP whether GRIDCO has taken note of the requirement that IPP has been legally separated from its parent company. The Commission also directed GRIDCO that it should discuss with M/s. Shyam Metaliks regarding asset transfer between parent company to IPP for approval of the capital cost for the tariff determination of 2 x 30 MW power plant. It was also directed to implead WESCO under whose licence area the power plant is situated as a party to the present proceeding.
3. During the next date of hearing on 17.02.2012, GRIDCO submitted that they had executed PPA with M/s. Shyam Metaliks as an IPP on 23.10.2009 on the direction of the State Government. GRIDCO further submitted that M/s. Shyam Metaliks has not yet intimated the creation of a separate company as an IPP for running its proposed 2 x 30 MW power plant.
4. WESCO in the same hearing submitted as follows:
 - i. *Unauthorized extension of power supply has been made by the respondent from the plant to the residential colony which is outside the boundary wall of the industry (300 meters away from boundary wall) across the Rourkela-Sambalpur High way.*
 - ii. *Unauthorized extension of power supply to intake well which is 6.5 KM away from the premises of the plant of the respondent.*
 - iii. *There are three nos. of generating unit having capacity of 30 MW each by two units each and 33 MW by one unit."*
5. M/s. Shyam Metaliks submitted that they have filed petition before the Commission to declare the 2 x 30 MW power plant as CGP instead of IPP on the ground that the requirement of power for its self consumption has increased to the great extent. Until the same is decided by the Commission it may not take up any further hearing on this matter. The allegation of WESCO Utility is serious in nature and they wanted a copy of the same which the Commission allowed.
6. When the matter stood thus and considering various claims and counter claims of the parties, the Commission constituted an Enquiry Team vide its Lr. No. 4668 dated 05.01.2013 consisting of Officers of the Commission to find out the authenticity of the allegation of WESCO Utility and also the legal status of the IPP for quick completion of the proceeding. But due to non-cooperation of M/s. Shyam Metaliks the Enquiry Team could not conduct the enquiry. Thereafter, the Commission vide its office order No. 249 dated 18.05.2013 constituted an 'Investigating Authority' under Section 128 of the Electricity Act, 2003 to fish out the information for disposal of the case. The Investigating Authority after due notice reached the site of M/s. Shyam Metaliks on 05.06.2013 but were not allowed to enter the factory premises. The Commission again constituted another 'Investigating Authority' vide

office order 1193 dated 26.08.2014 under the Chairmanship Mr. H P Mohapatra, Ex-CEO, OTPCL. The terms of reference of the said Investigating Authority were as follows:

- (a) Status of the new 2 x 30 MW thermal power stations whether to be considered as IPP or CGP;
 - (b) Whether the colony supply is within the 10% of the contract demand as mentioned in the Agreement dtd. 27.05.2006 signed between you and Distribution Company;
 - (c) Whether the Pump House consumption considered as captive consumption or not;
 - (d) Whether the colony supply is to be considered as auxiliary consumption of Captive Plant;
 - (e) The permission of Water Resources Dept. for construction of OH/UG transmission line from premises of M/s. SMEL to the intake well in Hirakud reservoir area.
 - (f) The permission of R&B Dept., Govt. of Odisha to lay underground cable crossing State Highway from factory premises to Colony.
7. The Investigating Authority visited the premises of M/s. Shyam Metaliks on 03.09.2014 and has submitted their report. The important findings of the Investigating Authority is as follows:
- (a) The Power plant holds the status of CGP for the years 2011-12, 2012-13, 2013-14 and has been operating in CGP mode till the day of visit i.e. 03.09.2014.
 - (b) The colony consumption is more than 10% of CD. The colony consumption cannot be considered as auxiliary consumption of the captive generating plant.
 - (c) The pump house consumption can be considered as captive consumption of M/s. Shyam Metaliks.
 - (d) M/s. Shyam Metaliks has failed to provide the evidence of obtaining permission of Water Resources Department for construction of transmission line from their plant premises to the intake well in Hirakud Reservoir area.
 - (e) M/s. Shyam Metaliks has failed to provide evidence of having obtained permission of R&B Department to lay underground cable crossing State Highway from factory premises to colony.
8. After obtaining the report of Investigating Authority the Commission heard the matter on 22.05.2015. During the hearing M/s. Shyam Metaliks submitted that the Investigating Authority has held that the power plant holds the status of CGP for all the year except 2010-

11. But the report of Electrical Inspector vide letter No. 990 dated 13.06.2011 wherein Electrical Inspector has held that the power plant holds the status of CGP for FY 2010-11 was not available to the Investigating Authority. Besides the register containing the names of CGPs and IPPs of Odisha maintained at Chief Engineer (Project)-Cum-Chief Electrical Inspector Office showed that the power plant of the Respondent holds the status of CGP and not the IPP.
9. The Respondent further submitted that under the above circumstances it is amply demonstrated and proved that its power plant holds the status of CGP and not the IPP for which the application for tariff determination be dropped.
10. M/s. WESCO Utility submitted that the findings of Investigating Authority are serious in nature and prayed the Commission to initiate action against the Respondent M/s. Shyam Metaliks and Energy Ltd. for their omission and commission.
11. We heard the parties in detail and perused the case record. Since the status of power plant in dispute has already been decided as CGP and the respondent M/s. Shyam Metaliks has accepted it, the approval of PPA has become redundant. This is so because M/s. GRIDCO has filed petition for approval of PPA signed with M/s. Shyam Metaliks as an IPP. Therefore, on the application of the Respondent M/s. Shyam Metaliks the present proceeding is dropped. The prayer of M/s. WESCO Utility to initiate action against M/s. Shyam Metaliks on the basis of the report of Investigating Authority cannot be considered here since the present proceeding is for determination of tariff and approval of PPA entered with GRIDCO. However, M/s. WESCO Utility is at liberty to proceed against M/s. Shyam Metaliks as per law if there is any lapse on their part.
12. Accordingly, the case is disposed of.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson