

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

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

Case No.34/2010

In the matter of: Permission of purchase of power by Western Electricity Supply Company of Orissa (WESCO) from small CGPs connected to distribution network 33 KV and below and fixation of tariff.

AND

In the matter of:

Western Electricity Supply Company of Orissa (WESCO), Burla, Dist- Sambalpur
..... **Petitioner**
Vrs.

(1) GRIDCO Limited, Janpath, Bhubaneswar – 22
(2) Department of Energy, Govt. of Orissa, Bhubaneswar
(3) The Sr. General Manager (Power System), SLDC, Mancheswar, Bhubaneswar - 751017
..... **Respondents**

For Petitioner: Shri P K Sahoo SE (RA), Shri A K Bhora, CEO,CSO, REL Infra,

For Respondents: Shri S K Parida, AGM, GRIDCO, Shri Santosh Kumar Das, GM, SLDC, Shri A K Mohanty, GM, OPTCL, Shri B K Tulsyan, President, Jain Steel and Power Ltd., Shri R P Mohapatra, Authorized representative.

No Representative of Govt. of Orissa, DoE was present.

Date of Hearing: 30.08.2010

Date of Order: 02.11.2010

ORDER

1. In the instant case, WESCO - the distribution licensee has filed a petition for purchase of surplus power from the small CGPs to the extent of 5 to 10 MW on dtd. 31.12.2009. The hearing was conducted on 04.05.2010 with WESCO as petitioner and GRIDCO, OPTCL and SLDC as respondents. WESCO has proactively made efforts to harness surplus power and some of the CGPs connected with the distribution

system have already entered into PPA with WESCO with due approval of the Commission. The Commission has given conditional approval to WESCO for purchasing surplus power from Viraj Steel(Viraj Steel and Power Ltd), Aryan Ispat & Power Ltd. & Scan Steel Ltd. Vide its Order No. 82/09 dtd. 14.08.2009, No. 64/2009 dtd. 29.05.2009 and No. 114/2009 dtd. 21.02.2009. In the mean time Jain Steel and Power Ltd. (JSPL) has also executed PPA with WESCO on 27.07.2010 for sale of surplus power from its CGP of 3.5 MW capacity through 33 KV network of WESCO for an interim period of 6 months. In the mean time CGPs namely M/s VSEL and M/s JSPL have shown interest to sell their surplus CGP power to WESCO. In view of the above, WESCO prays before the Commission to accord in-principle approval to purchase up to 5 MW to 10 MW surplus power available from the CGPs connected with distribution system in order to utilise bottled up power.

2. The petitioner WESCO in its petition has submitted as under:

The proactive action of WESCO in the power shortage scenario will bring “Win-Win” situation for DISCOMs, GRIDCO and the consumers as a whole as follows:

(a) Advantage of DISCOMs:

The small CGPs are load based stations and will supply surplus power at Rs.1.50/kWh which is less than bulk supply purchase price approved by the Commission i.e Rs.1.54/kWh from 2009-10 (Rs.1.94/kWh for 2010-11). The injection of power at 33/11 KV will improve the voltage profile of the local distribution system. Moreover the utilization of power in distribution network will result in saving EHT transmission loss and transmission charges of 20.5 Paise/kWh for 2009-10 (23.50 paise per unit for 2010-11).

(b) Advantage of GRIDCO:

As per the prevailing price of CGP issued by the Commission in its Order No. 6/2009 GRIDCO will have to pay a minimum price by Rs.3.10/kWh. If GRIDCO purchases the surplus power from CGP at the minimum price of Rs.3.10/kWh and supplies to WESCO at Rs.1.54/kWh there will be an under recovery of revenue to the tune of Rs.1.56/kWh. However, if WESCO purchases surplus power from CGPs, GRIDCO would be saved from purchasing high cost CGP power leading to a saving of Rs.1.56/kWh.

(c) Advantage of consumer:

The savings on account of lower power cost, saving in transmission losses and charges will result in lower revenue requirement, less loss/more profit and consequently lower tariff to the consumers.

3. Since these small CGPs are load based stations and connected with 33 KV and below, they are unable to generate firm power based on day ahead schedules. Hence the nature of supply may be treated as infirm in nature.

Also the CGPs have agreed to supply such power at Rs.1.50 /kWh which is just more than their variable cost of the CGPs.

4. WESCO has quoted the Clause 5.2.26 of National Electricity Policy which states that the commercial arrangement between the CGPs and the licensee should be encouraged in the interest of the state as a whole. Further, WESCO is encouraged by the Order No. 72/07 dtd. 14.03.2008 regarding comprehensive pricing policy for sale of surplus power from CGPs where the Commission has agreed in principle for purchase of surplus power, where the cost of sale is carried out with a margin of 10% of cost of generation. Further, WESCO has quoted the order of Commission in Case No. 02.12/2009 where the Commission justifies that the purchase of surplus power from CGPs by WESCO in no way violates any direction or policy resolution of the State Govt.
5. WESCO is entitled to purchase surplus power directly from CGPs as per para 7.1, 26.1 and 2.3 of the General Conditions for Distribution License and more so harness the bottled up surplus power available in present shortage scenario in the state.
6. In the backdrop of above philosophy, the Commission has allowed purchase of surplus power from M/s Viraj Steel and Energy Ltd. (VSEL) which was connected with the 33 KV network of WESCO vide Case No. 81/09 dtd. 14.08.2009 till the connectivity with OPTCL system at 132 KV is established. Now M/s VSEL has got power connectivity through 132 KV system of OPTCL with a load agreement for contract demand of 5000 KVA. They have 28 MW (8 MW + 20MW) co-generation power plant installed in this Sponge Iron Plants to meet their own power requirement. After meeting their own requirement they have got surplus of about 5 MW upto end of April 2010 and about 10 MW surplus power thereafter. Presently M/s VSEL has requested WESCO to execute PPA to export power upto 5 MW till April 2010 and

thereafter 10 MW after synchronization of their generators in 132 KV network of OPTCL.

7. At present WESCO has purchase arrangement with M/s Scan Steel which has been allowed by the Commission vide Case No. 115/2009 dtd. 02.12.2009. Another CGP M/s Jain Steel and Power Ltd. (JSPL) have also requested WESCO for sale of its surplus power around 3-5 MW through 33 KV network of WESCO in Jharsuguda. WESCO prays for purchase of surplus power from JSPL as well as VSEL at Rs.1.50/kWh or any suitable tariff as may be fixed by the Commission.
8. WESCO, further submits that it will avail surplus power from M/s VSEL at 132/33 KV Sambalpur substation through 132 KV LILO line extended upto M/s VSEL switchyard at Bomaloi. The ARR of OPTCL for 2010-11 has already factored the CGP power contribution from various units and power from M/s VSEL being low in quantum, transmission charges can be easily waived off from CGP pricing. Similarly, WESCO also prayed for waiver of transmission charges for purchase of surplus power from M/s JSPL as allowed by the Commission in Case No. 63/2009 for purchase of surplus power from M/s Aryan Ispat and Power Ltd., in Case No. 82/09 for purchase of surplus power from M/s Viraj Steel and Energy Ltd and Case No. 115/09 for purchase of surplus power for M/s Scan Steel Ltd.
9. WESCO submits that even with delay in allowing purchase of power, WESCO could purchase 6444555 kwh of power from CGPs with cost of Rs.9.66 lakh. If WESCO would have purchased it from GRIDCO at the rate of BSP and with 4% loss it would have spent Rs.11.73 lakhs. If GRIDCO had purchased at a minimum CGP price of Rs.3.10/kWh then it would have spent Rs.20.78 lakhs. Thus in the process WESCO has saved 2.07 lakh and GRIDCO has also saved 9.05 lakhs.
10. WESCO finally prays that Escrow may be relaxed by GRIDCO for payment of monthly power purchase bill to CGPs by WESCO from Escrow Account within a stipulated period. The prayer of WESCO is as summarized bellow:
 - (i) WESCO may be accorded in-principle approval to purchase upto 5 MW to 10 MW surplus power available from the CGPs connected with distribution system in order to expedite harnessing of such availability and the cost may be allowed as a pass through in the revenue requirement of WESCO in FY 2010.

- (ii) WESCO may be allowed to purchase such power @ 1.50 /Kwh or any appropriate tariff which may be fixed for such surplus availability of CGPs.
 - (iii) Escrow may be relaxed and WESCO may be allowed to make payment of monthly bills of CGPs from Escrow Account.
 - (iv) Direction to SLDC may be issued to facilitate such process.
11. The ground taken by GRIDCO and State Govt. in their counters is almost same. The objections of Govt. of Orissa are as under:
- Govt. of Orissa has notified GRIDCO as “State Designated Entity” to procure surplus power from all kinds of generating sources including CGPs to meet the demand of the State. This has further been strengthened by the Commission in the ARR of GRIDCO under the ambit of “Single Buyer Model”.
12. GRIDCO has been procuring power from Small CGPs like Aaryan Ispat, SMC, Scraw, Sree Mahabir Ferro Alloys, OCL Iron & Steel etc through dedicated shared 33 KV feeder or 11 KV feeder at the rate as fixed by OERC in its interim orders from time to time. Further, WESCO was allowed to procure surplus power only up to the establishment of 132 KV connectivity with OPTCL network.
13. While DISCOMs are failing badly in their core distribution business in curtailing distribution loss, they are rewarded by OERC by allowing them to procure power from CGPs at 50% of the procurement price of that of GRIDCO. Since GRIDCO is the aggregator of power and buys costly power at the time of need and also agrees to procure surplus power from all small CGP surplus powers, GRIDCO should be allowed to procure power at the rate offered by CGPs to the distribution licensee.
14. Apart from the above common objections, the objections of GRIDCO are as under:
- GRIDCO submits that most of the small CGPs are co-generation plants; they are paid at Rs.3.20/kWh by GRIDCO, whereas similar kind of CGPs are allowed by the Commission to sale their surplus power to the petitioner at almost half the rates which is creating a disparity in procurement price, thereby putting financial burden on GRIDCO. For instance, the CGP of M/s Aryan Ispat and Power Ltd. was supplying surplus power to the petitioner as per the Commission’s Order dtd.14.08.2009 at a rate of Rs.1.50/kwh till 132 KV connectivity was established & after that CGP which is basically a Co-generation plant approached the GRIDCO to sale their surplus power

at a tariff fixed by the Commission at the minimum rate of Rs.3.20/kWh for supply upto 3.6 MU in a months.

15. In view of the above GRIDCO prays before the Commission that if the petitioner is allowed to purchase power from CGPs at almost half the rates, then the tariff fixed by the Commission for GRIDCO to procure surplus power for CGP should also be reduced to that extent to avoid any kind of disparity.
16. GRIDCO submitted that it was fully agreed with the view of the petitioner that such small CGPs were load based stations and are unable to generate firm power based on day ahead schedules. Accordingly, the nature of supply may be treated as infirm. Presently GRIDCO is procuring surplus power from small CGPs through shared feeders of the DISCOMs and paying them at firm rate based on whether their injection is on RTC basis or not as they are not capable of giving day ahead schedule to SLDC. GRIDCO in its various applications in matter of pricing surplus power from CGPs have submitted before the Commission to consider clarifying and fixing separate price for “Firm” and “In Firm” power.
17. The prayer of GRIDCO is summarized as follows:
 - i. Procurement prices from CGPs/cogeneration plants by GRIDCO should be reduced to a level considering the provisions of National Electricity Policy.
 - ii. To define Firm & Non-Firm surplus power from CGPs based on quantum of supply in a month & fix up the price/rate of such power thereof.
 - iii. To fix an alternative rate / price in case CGPs fail to maintain their CGP status as per Electricity Rule, 2005.
 - iv. Small CGPs who are capable of giving small quantum of surplus power upto 5MW at 33KV/11KV & are dependent on shared feeders of Discoms should be directed to supply their surplus power to Discoms only.
 - v. If the Commission allows the Discoms to procure power from small CGPs then the said quantum should be included in their respective ARR approved quantum and to that extent the quantum approved in ARR of GRIDCO for supply to Discoms should be reduced.
 - vi. Discoms should be directed to pay OPTCL the transmission charges on the total quantum procured from such small CGPs.

18. The objections of OPTCL are as follows:

OPTCL submitted that the prayer of petitioner WESCO for in-principle approval of the Commission to purchase available surplus power from all CGPs which are connected with distribution system at 33 KV and below should not be granted due to the followings:

- (a) The 33 KV system of DISCOMs are the integral part of EHT network of OPTCL. The power flow in 33 KV network can't be viewed in isolation of EHT system. Further the CEA (Technical Standards for Connectivity to Grid) Regulation, 2007 vide Regulation 6(6) with reference to inter-connectivity between Grid and distribution system makes load flow analysis mandatory for any sort of extension of the network.
- (b) The connectivity details of all the small CGPs from where WESCO intends to source power have not been indicated by the petitioner. WESCO has not mentioned the name of the grid sub-stations of OPTCL and the emanating 33 KV feeders through which injection are likely to happen. WESCO should submit the single line diagram of its power distribution network vis-à-vis the intended connecting arrangements with each small CGPs along with their system study report for such connections to take a final view on such matter. Hence, WESCO should intimate OPTCL prior to executing agreement with small CGPs for transmission of energy to ensure that the connection with the CGPs do not cause any adverse impact on the transmission system of OPTCL.

19. The prayer of OPTCL can be summarized as follows:

- i) Not to consider the prayer of the petitioner WESCO made in the present application.
- ii) WESCO may be directed to come up with specific proposal for purchasing power from small CGPs for consideration by the Commission on merit and issuing appropriate order after obtaining views of all the parties involved.

Commission's Observations:

20. After going through the submission made by the petitioner WESCO, the respondents namely, State Govt., GRIDCO, OPTCL, M/s JSPL, we feel that the following issues need to be addressed:

- a). Whether by allowing WESCO to procure power from small CGPs between 5 to 10 MW in principle in any way is violating the directives and policies of the State Govt. notifying GRIDCO as “ State Designating Entity” vide resolution no.7997, dtd. 17.08.2006 read with Resolution No. 6603 dated. 03.06.2005 of Energy Department.
 - b). Whether purchasing power by GRIDCO at Rs. 3.20/unit from the same CGP which was selling power to WESCO at Rs. 1.50/unit is the result of some type of manipulation of the loopholes in CGP pricing policy of the Commission.
 - c). If WESCO will be allowed to purchase surplus power then at what price?
 - d). Whether a CGP intending to inject into the Distribution system requires prior permission of the STU.
 - e). Whether WESCO should pay transmission charges for the purchase of surplus power even if it does not require EHT network system of OPTCL.
21. We observe that the instant case is a reflection of previous cases like Case No. 82/2009, 115/2009, 114/2009 & 63/2009 for purchase of surplus power from Viraj Steel & Energy Ltd., Scan Steel Ltd., Deepak Steel and Power Ltd. And Aaryan Ispat and Power Pvt. Ltd., except that in the present case WESCO desires in-principle approval for purchase of surplus power from the small CGPs.
 22. We have already observed in Case No. 82/2009 dtd. 14.08.2009 while approving the purchase of surplus power from M/s Viraj Steel and Energy Ltd, (VSEL) vide para 11(i), (ii) that the proposed sale of surplus power by small CGPs to any DISCOM does not violate the policy of State Govt. in any manner. The above two paras are reproduced below:-

“(i) The State Govt. in Energy Dept. Vide their letter No.4648-4668 dated 22.4.2009 and 7098 dt.04.7.2009 has directed that keeping in view the exigency and extraordinary circumstances, the Govt. do hereby direct all the Captive Generating Plants u/s 11 of the Electricity Act, 2003 to generate power at full exportable capacity by optimizing their power generation and inject power so generated to the State Grid after their captive consumption to enable the State Government to tide over the situation.

(ii) In the instant case, VSEL after utilizing the power from the captive generating plant for its own use has now offered to sell the surplus of 5 MW power to WESCO, which would be utilized for the consumption by the consumers in the State only. The power supplied to WESCO for consumption in the State by VSEL is no way going outside the State and would be utilized within the State only. Hence, when the power is being utilized in the State to

meet the State's requirement, a mere change of the commercial arrangement of supplying power to WESCO directly for consumption of consumers in the State, instead of supplying to GRIDCO, which would again supply to WESCO for consumption in the State, is in no way against the direction of the State Govt. issued u/s 11 of the Act, 2003. The power is not going outside the state consequently the consumers of the state are not deprived of such power. When WESCO would purchase power at a rate of Rs.1.50/unit instead of Rs.1.54/unit (excluding transmission charges of 20.50 p/u) from GRIDCO and there is no change in the rate of tariff payable by the consumers in WESCO area or in the state, the arrangement in no way is against the public interest. Rather WESCO, instead of purchasing power through GRIDCO at Rs.1.54/kWh and again paying transmission charges of 20.50 paise/unit to OPTCL will now purchase 5 MW power at Rs.1.50/unit and, as such, there would be less burden on its financial requirement. As a result it would be in a better position to allocate fund for operation and maintenance of lines and substations, in order to improve the quality of supply. The arrangement will also be beneficial to GRIDCO that it is relived from the burden of power procurement. This will be rather in the better interest of the consumers and not against any public interest."

23. The logical reasoning given in the above case as quoted above is equally applicable in the instance case. Therefore, the Commission feels that it is for the benefit of the consumers of the State to accord in-principle approval for purchase of power by WESCO upto 15 MW only. In case of beyond 15 MW, WESCO is required to approach the Commission for approval of PPA.
24. Regarding price of the CGPs the Commission has observed in the same case no. i.e., 82/2009 dtd. 14.08.2009 vide para 15 (ii) which is reproduced below:

"Thus, it may be seen that the price fixed by the Commission in their interim order 28.02.2009 which has been further extended upto 31.3.2010 in their review Order dated 27.6.2009 in Case No.59 of 2009 is the upper limit upto which the GRIDCO can pay to the CGPs. There is no bar if a CGP is willing to supply at a rate lower than the upper limit of provisional price fixed by the Commission for the year 2009-10."

In the mean time the Commission in their order dated 28.10.2010 has fixed the upper limit of price at which GRIDCO can purchase the surplus power from the CGPs. In the instance case WESCO has suggested to purchase surplus power of CGPs at a rate lower than the rate at which GRIDCO can purchase power from the CGPs as per the order dated 28.10.2010 of the Commission. If the requirement of power by the consumers of the state can be met by purchasing at a lower rate by WESCO, it is beneficial for WESCO and GRIDCO by way of reduction of power cost to the extent of difference in power purchase cost. Thus the concern and contention of Govt of

Orissa as well as GRIDCO that the CGP price as fixed by the Commission causes disparity do not stand to reason in the facts and circumstances of the case.

25. Furthermore, in the fast changing scenario competition should be encouraged for purchase of power in the interest of the consumers keeping in view of Section 66 of the Electricity Act, 2003 for development of the market for power. This view is further enunciated in para 1.6 of the National Electricity Policy which is reproduced below:

“1.6 Electricity Act, 2003 provides an enabling framework for accelerated and more efficient development of the power sector. The Act seeks to encourage competition with appropriate regulatory intervention. Competition is expected to yield efficiency gains and in turn result in availability of quality supply of electricity to consumers at competitive rates.”

26. In view of the mandate of the national electricity policy to encourage competition as quoted above the Commission do not agree with the contention of GRIDCO and State Govt. that GRIDCO being designated as “State Designated Entity” for power procurement have exclusive right that all generators of the State have to sell its surplus power to GRIDCO only. Any generator including CGP at its own discretion may sell power directly to DISCOMs if it is connected to DISCOMs system or to GRIDCO on payment wheeling charges to DISCOMs or to any third party through Open Access. It is the prerogative for generators to examine its logistic of adhering to the condition of GRIDCO for supplying firm power i.e. adhering to the schedule vis-à-vis pricing before taking a decision to supply to GRIDCO or to DISCOMs. We also do not agree with the view of GRIDCO that merely some of the CGPs connected to the DISCOMs system have agreed for a lower rate then the ceiling rate of the CGP price determine by the Commission. In such case the Commission may revise its ceiling rate of CGP after consulting all stake holders in due course if required. GRIDCO has the liberty to negotiate any rate with the generators within the ceiling rate.
27. In view of the above and the very fact that GRIDCO’s prayer for reassessment of CGP pricing on the basis of firm and non-firm power is under active consideration of the Commission vide Case Nos.117 & 118 / 2010, we feel that CGPs may be paid by WESCO at a mutually negotiated price within the ceiling Bulk Supply Price fixed by the Commission.
28. Regarding the contention of the OPTCL on the issue of connectivity we observe the follows:

- (a) The existing Orissa Grid Code (OGC) makes it mandatory for generator to apply for connectivity to the Distribution licensee, if its supply system is embedded in the network system of the DISCOM and is not connected to the transmission system of the State. Para 4.3(1) of the OGC is reproduced hereunder.

“The Connection Conditions apply to all STU/SGSs and any other User/Licensee connected to and involved in developing the State Transmission System. This Connection Code also applies to all Agencies, which are planning to generate/transmit/utilise and/or are generating / transmitting / utilising energy to/from the State Transmission System. The Connection Conditions for Generating Units embedded in the Distribution Systems, and not connected to the Transmission Systems, shall be finalised by the respective Distribution Licensees and Generators. The Generators should ensure to cater the load flow through their switchyards.”

- (b) The recent directive from CERC as per ISGS 2010 is very clear on the connectivity issue. Para 4.3 of the said code is reproduced below:

“The Connection code applies to CTU,STU and all Users connected to or seeking connection to the ISTS, The Connection code does not apply to Generating Units, transmission/distribution systems embedded in the intra-State systems and not connected to the ISTS. However, such entities shall abide by the CEA (Technical Standards for connectivity to the Grid) Regulations, 2007, in order to ensure that the integrated grid is not adversely affected.”

This implies that the intra-state utilities should follow the CEA guideline on connectivity. The para 6(6) of the said Regulation concerning the terms and conditions of connectivity is reproduced bellow:

“For inter connection studies the requester shall make a request for connection in the planning stage to the appropriate transmission utility. In case a requester is seeking inter connection to a distribution system such a request will be made to the distribution licensee. The appropriate transmission utility or distribution licensee shall carry out the inter connection study to determine the point of inter connection, required inter connection facilities and modifications required on the existing grids, if any, to accommodate the inter connection.”

In view of the above, the generators are required to request to the Distribution licensee where the injection is in the 33KV embedded system of the Discom concerned. However, the Discom concerned is required to undertake system study before injection of power into its own system. Similarly, when injection is to be carried out in the EHT network of the STU, the generator concerned will be required to approach the STU i.e., OPTCL.

29. Regarding payment of transmission charges, the issue has been dealt with in detail in Commission's order in Case No. 82/09 while approving the procurement of power from M/s Viraj Steel and Energy Ltd. Vide para 18 of the said order, it has been observed that when the supply of the surplus power by a generator to WESCO is at 33KV network, WESCO need not pay transmission charges to OPTCL since the injection is at doorstep of the licensee. This cannot be a reason for neither injecting the available surplus power at the 33 KV level nor should it be considered in isolation of all the revenues derived by OPTCL. So far it has been observed that the MU for which OPTCL is getting transmission charges used to be more than the approved MU by the Commission. If there is short fall from a particular supplier there may be excess from another. This would be considered in its entirety in the truing up exercise at the end of the year. Therefore, the contention that, OPTCL's revenue may be affected if power is not purchased by GRIDCO and supplied to DISCOM doesn't hold good.

However, when a generator uses EHT system of OPTCL, the purchaser i.e WESCO will be required to pay transmission charges for the OPTCL network system. But since the entire drawl of Discom from OPTCL is being metered at the Discom drawl points, the power drawn by the DISCOM will cover both power drawn from GRIDCO as well as from the CGP . Thus WESCO's purchase from CGPs at EHT network will automatically cover the transmission charges of OPTCL.

Regarding effect of the synchronisation of a generator in the OPTCL system and on the revenue of the OPTCL, we feel that CGPs like M/s Aayan Ispat and Power Ltd., M/s SMC Ltd., M/s Mahavir Ferro Alloys, M/s Rathi Steel have already executed PPA with the Discoms with power flow in the 33KV network system. So far, the power injection agreement has been implemented smoothly and has not caused any prejudice technically, financially or otherwise. Regarding synchronisation with Distribution network the representative of WESCO submitted that, like earlier commitment by WESCO in Case No. 82/09, WESCO would observe all formalities like system studies including load flow analysis after approval for procurement of power from the Commission. Hence, in view of the above, there is no technical difficulties or legal informalities in giving in-principle approval of injection of power at distribution system network.

However, we are of the opinion that when a generator is required to inject power at EHT system of OPTCL it needs clearance and permission from OPTCL before execution of agreement.

30. Regarding the contention of GRIDCO that only small CGPs who are capable of supplying small quantum of surplus power upto 5MW at 33/11KV should be allowed to supply to DISCOM, we opine that as per para 7.1 and 26.1 of the General Conditions for Distribution License, the right of Discoms to purchase power only up to a certain quantum should not be restricted when the purchase price of power is within the BSP fixed by the Commission. The extract of the clause 7.1(a),(b),(c) of General conditions of Distribution License as reproduced bellow.

“7.1 The Distribution Licensee shall be entitled to:

- (a) Purchase, import or otherwise acquire electricity from generating companies, electricity trader(s) and from other persons with whom the Licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission;*
- (b) Purchase or acquire electricity from any Person whose generating unit existing as on date of issue of these Licence conditions, is directly connected to and interfaced with the Distribution System of the Licensee, provided that the Licensee shall intimate the Commission of the existing arrangements for such purchase or acquisition of electrical energy and obtain the general or specific approval of the Commission;*
- (c) Purchase or otherwise acquire electricity from any person or licensee on the tariffs and terms and conditions as approved by the Commission;”*

Hence, GRIDCO should be proactive to find ways and means to purchase any power at this age of cut throat competition. However, in view of the current market scenario and prevailing price of CGP power, we accord in-principle approval for purchase of surplus power up to 15 MW only and agree with the proposal of the GRIDCO that when WESCO will be purchasing power by utilising OPTCL network it should pay transmission charges to OPTCL.

31. After going through the submission made by petitioner-WESCO, the respondent namely State Govt., GRIDCO, OPTCL, SLDC and JSPL and after examining the broad issues analysed in preceding paragraphs we accord in-principle approval of

power purchase up to 15 MW from CGPs willing to sell surplus power to WESCO. The arrangement will be carried out with following terms and conditions:

- (i) Price of power purchased by WESCO should be within the Bulk Supply Price fixed by the Commission from time to time for WESCO.
- (ii) For procurement of power beyond 15 MW from CGPs, WESCO may file separate application for the same before the Commission for approval.
- (iii) As long as injection of power is at 33KV network including the 33 KV Bus of 132/33 KV sub station of OPTCL, WESCO or the generator are not required to pay transmission charges to OPTCL.
- (iv) In case CGP is connected to EHT system of OPTCL including the 132 KV Bus of 132/33 KV sub station, the DISCOM or the generator will be required to pay the transmission charges.
- (v) Moreover before selling power to a Distribution Licensee through EHT system of OPTCL, a generator will be required to get permission and approval from the STU.
- (vi) The generator concerned will raise the bill against WESCO for the amount of energy sold at Rs.1.50 paise/KWh or the agreed price as the case may be. A copy of the bill raised on WESCO shall be simultaneously submitted to GRIDCO which on receipt of the same will authorize WESCO to make payment of the amount to the generator by relaxing the escrow account to that extent.
- (vii) The authorization by GRIDCO for payment by WESCO to the generator from Escrow account will be made after adjustment of Current BST dues in full including current Transmission charges, SLDC charges and license fees payable by the Distribution Companies. Thereafter other payment will follow as per the priority indicated by the Commission vide para-9 of case No-3/2010 dated 12.04.2010 and accordingly the said escrow relaxation order stands modified. This modified para of the order as indicated bellow.

“(A) From Current Revenue

a. Current BST dues, current Transmission charges, SLDC charges and license fees payable by the Distribution Companies, the energy bill of DISCOMs in respect of direct power purchase from CGPs or other agencies if any.

- b. Employees cost as approved by the Commission in this tariff order for FY 2010-11 and for subsequent years.*
- c. Monthly R&M expenditure as approved by the Commission in the tariff order for FY 2010-11 and for subsequent years.*
- d. The monthly obligation for repayment of principal and interest in respect of loan obtained/ to be obtained from the financial institutions for capex program/system improvement.*
- e. Average monthly obligation of the defaulted arrear BST as approved by the Commission in the RST order for 2008-09 and 2009-10 and for the subsequently years, if any.*
- f. The balance amount towards arrear of BSP dues as approved in the securitization order of the Commission dated 01.12.2008.*

(B) From Arrear Revenue

The collection to be made out of the arrear outstanding as on 01.4.2010 / beginning of the relevant financial year would be utilised in order of priority as indicated below:-

(i) 50% of the monthly arrear collection would be utilised towards payment of the balance arrear revised salary worked out up to 31.3.2009.

(ii) Balance 50% of the monthly arrear collection would be utilized towards arrear BST dues as approved in the securitization order dated 01.12.2008”

(viii) It is obvious that while raising bill towards the monthly bulk supply of power by GRIDCO to WESCO, the power supplied by CGPs directly to WESCO shall not be included in such bill.

- 32. The present arrangement is drawn for effective utilisation of idle capacity of CGPs embedded in Discoms network system and would be reviewed as and when required by the Commission.
- 33. Accordingly, the matter is disposed of.

(B.K. Misra)
Member

(K.C. Badu)
Member

(B K Das)
Chairperson