

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

Present : Shri S. P. Nanda, Chairperson
Shri K. C. Badu, Member
Shri B. K. Misra, Member

Case No.29 of 2011

In the matter of: An application of GRIDCO Ltd. under Section 86 of the Electricity Act, 2003 read with Section 21 of Odisha Electricity Reform Act, 1995 and other enabling provisions for seeking approval of the Hon'ble Commission to the Power Purchase Agreements (PPAs) executed between GRIDCO and nine numbers of Biomass developers for procurement of power from their proposed power plant to be set up in State of Odisha.

AND

In the matter of : GRIDCO Ltd., Janpath, Bhubaneswar – 751 022 **Petitioner**

Vrs.

M/s.Andhavarapu Power Project Pvt. Ltd., AP

M/s. Satya Biopower (India) Ltd., AP

M/s.Shalivahan Green Energy Ltd., AP

M/s.Rashmee Power Pvt. Ltd., Odisha

M/s.Rake Power Ltd., AP

M/s.Prasad Bio Energy Pvt. Ltd., AP

M/s.AVN Power Projects Pvt. Ltd., AP

M/s.Starlight Energy Ltd., Orissa

M/s.Swarnajothi Agro & Export Ltd., Secunderabad **Respondents**

For the Petitioner: Shri Ranjit Das, Sr. GM (PP), GRIDCO,

For the Respondent: Shri Bibhu Swain, Sr. Consultant, the authorized representative of M/s AVN Power Projects Pvt. Ltd. M/s. Andhavarapu Power Projects Pvt. Ltd, M/s Rashmee Power Pvt. Ltd., M/s Satya Bio-Power Pvt. Ltd. and for M/s. Prasad Bio-Energy (P) Ltd.

Shri R.PMohapatra, the authorized representative of M/s. Shalivahan Green Energy Ltd. Nobody is present on behalf of M/s. Starlight Energy Ltd., M/s. Swarnayothi Agro & Export Ltd., M/s. Rake Power Ltd., and OREDA.

ORDER

Date of Hearing :27.01.2012

Date of Order: 04.04.2012

This case was filed by the petitioner GRIDCO for approval of Power Purchase Agreements (PPAs) signed between GRIDCO and nine number of Biomass developers. GRIDCO stated that OREDA has executed implementation agreement with following nine numbers of Biomass Developers for setting up of biomass based power plants in Odisha.

Sl No.	Name of the Developers	Location/Installed capacity	Date of implementation agreement	Date of signing PPA by GRIDCO
1	M/s.Andhavarapu Power Project Pvt. Ltd., AP	Nawarangpur/10 MW	22.01.2010	30.12.2010
2	M/s. Satya Biopower (India) Ltd., AP	Ganjam/10 MW	10.08.2010	30.12.2010
3	M/s.Shalivahan Green Energy Ltd., AP	Dhenkanal/20 MW	12.10.2010	30.12.2010
4	M/s.Rashmee Power Pvt. Ltd., Odisha	Boudh /10 MW	04.06.2010	23.12.2010
5	M/s.Rake Power Ltd., AP	Sundargarh / 23 MW	07.08.2010	30.12.2010
6	M/s.Prasad Bio Energy Pvt. Ltd., AP	Rayagada /10 MW	22.01.2010	30.12.2010
7	M/s.AVN Power Projects Pvt. Ltd., AP	Kalahandi /10 MW	28.01.2010	30.12.2010
8	M/s.Starlight Energy Ltd., Orissa	Nuapada /15 MW	22.02.2010	04.01.2011
9	M/s.Swarnajothi Agro & Export Ltd., Secunderabad	Sambalpur /10 MW	20.01.2011	21.01.2011

2. GRIDCO Ltd. has been nominated as State Designated Entity vide Govt. of Orissa resolution dtd.17.08.2006 for execution of Power Purchase Agreement with the developers generating energy like Hydro Power, Wind Power, power from agricultural waste etc. along with thermal power. Director (Com.), GRIDCO, duly authorized by the Board of Directors of

GRIDCO, has signed PPA with the authorized representatives of the Developers on the date as indicated above.

3. Commission had earlier heard all the stakeholders including GRIDCO and nine Biomass developers on 10.5.2011. Commission after such hearing in its interim order dated 03.6.2011 observed the following :-

“13. The Commission, noted with dismay that the developers after signing the implementation agreements and PPAs with State Govt. /GRIDCO, under MoU route are not taking adequate interest in establishing the projects. Except one plant, being developed by M/s. Salivahan Green Energy Project, no other project has even progressed and have been held up at the land acquisition stage. All such projects have apparently slipped on the timelines of the implementation agreement. The Commission is not convinced with the plea of the Developers that GRIDCO with support of GoO has not given adequate opportunity for negotiation of the PPA clause before their signing of the Agreement. All the developers through OREDA and Shri R.P. Mohapatra, in personal capacity have participated in the tariff hearing proceedings of the suo-motto petition of the Commission on finalization of Generic tariff issued on 14.09.2010. All the Developers were aware of the Commission’s order of Generic tariff of Biomass project as ceiling tariff for negotiation in the PPA, still, they have signed the implementation agreement with OREDA and PPA with GRIDCO under MoU route, probably to avoid the selection of party under competitive tariff bidding route.

Commission in the said interim order dated 03.06.2011 directed the following to be done in the matter.

“17. *After careful consideration we direct that:*

- i) *OREDA/GRIDCO/Deptt. of Energy, GoO may make a review with the promoters on the status of development of the project as per the timelines agreed to in the implementation agreement, PPA and/or any separate order/communication in this regard exchanged with the Developers. Only the serious developers interested to set up the project may be recommended to the Commission for the approval of their PPAs.*
- ii) *GRIDCO may submit the copy of present petition to all developers, if not yet done so, for detailed reply by the developers.*
- iii) *GRIDCO may examine the suggested amendment of the clause of the PPAs submitted by M/s. Salivahan Green Energy and M/s. Starlight Energy Ltd. and furnish its comments for acceptance or otherwise to the Commission.*
- iv) *Deptt. of Energy, GoO may be impleaded as one of the party to the petition.*

18. *The next date of hearing will be fixed after receipt of inputs from the stakeholders within one month from the date of issue of this order. “*

4. Accordingly notices were served to all the stakeholders and Commission heard the parties on 15.9.2011. Commission in its another interim order dated 15.9.2011 observed the following:-

“2. This case relating to approval of PPAs signed between the nine Bio mass Developers and GRIDCO is taken up today for hearing along with Case Nos.151-155 of 2010. Case Nos.151 to 155 of 2010 are filed by the Bio mass developers for review of the order dated 18.09.2010 passed in Case No.115 of 2010 and also order dated 14.09.2010 passed in Case No.37 of 2008. Shri Mohapatra , the authorized representative of M/s. Shalivahana Green Energy Ltd. stated that the Case No.29 of 2011 is separate from Case nos.151-155 of 2010, as it is for approval of PPAs signed between the nine Bio mass Developers and GRIDCO. Gridco has filed this Case No.29 of 2011 before this Commission for approval of the PPAs impleading the nine Bio mass Developers as respondents, wherein the respondents have filed their counter raising objections on some points for consideration of this Hon,ble Commission. Though the Commission vide its Interim order dated 03 .06.2011, directed to GRIDCO file its rejoinder within one month to the objections made by the developers for amendment of the PPAs signed with them serving copy to the developers, but till today GRIDCO has not filed the same. Therefore the Commission may fix another date for hearing of the case and direct GRIDCO to file its reply to the objections serving copy on the developers.

3. Heard the parties at length. We find that GRIDCO is very casual in complying with the directions of the Commission. This is most unfortunate and this attitude of GRIDCO must be discouraged. We expect GRIDCO to show seriousness in complying with the directions of the Commission. However, GRIDCO is directed to file its reply to the counter filed by the respondents on or before 15th Oct,2011 serving copy to the developers.”

5. The next date of hearing was fixed for 29.10.2011. Commission heard all the parties and hearing was concluded.

6. As per the provision of Section 86(1)(b) of the Electricity Act, 2003 Commission is to regulate the agreement for purchase of electricity which provides for the following:-

“regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.”

7. Commission, therefore, decided to approve the PPA only after hearing the public in general and obtaining opinion/objection/suggestions from them. According a notice was published in newspapers for the general public for submitting their opinion/objection/suggestions on the PPAs signed between GRIDCO and nine developers of Biomass projects. The case was fixed to be heard on 27.1.2012. On 27.01.2012 Commission heard the parties and concluded the hearing.

Commissions observation and direction

8. GRIDCO has filed nine numbers of PPA executed for approval of the Commission executed with nine numbers of Developers of Biomass projects in Odisha.

9. Commission in suomoto case No.37/2008 had approved the generic tariff for biomass plant to be set up in the State with a tariff period of 13 years. However, a review petition was filed by the developers in case no.151-155/2010 for the revision of generic tariff for biomass projects. Commission after reviewing various input parameters particularly with regard to fuel cost revised the generic tariff for the biomass projects in the said case in its order dated 23.9.2011 in the following manner.

Year	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Variable tariff	2.92	3.06	3.21	3.37	3.54	3.72	3.91	4.10	4.31	4.52	4.75	4.99	5.24
Levellised fixed Tariff	1.95	1.95	1.95	1.95	1.95	1.95	1.95	1.95	1.95	1.95	1.95	1.95	1.95
Year Wise Tariff	4.87	5.01	5.16	5.32	5.49	5.67	5.86	6.05	6.26	6.47	6.70	6.94	7.19
Benefit of Accel. Deprn	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21	0.21
Yearwise tariff after Accel Deprn	4.66	4.80	4.95	5.11	5.28	5.46	5.65	5.84	6.05	6.26	6.49	6.73	6.98

10. Commission have also notified the OERC(Renewable and Co-generation Purchase Obligation and its Compliance) Regulations, 2010. This regulation has made it mandatory for all the obligated entities in the State to buy a certain percentage of power from solar, non solar and cogeneration technologies. As per the said regulation the year and source wise renewable purchase obligation is as follows:-

Year-wise target	Minimum quantum of purchase in percentage (in terms of energy consumption in the State in KWH)			
	Renewable		Co-generation	Total
	Solar	Non-solar		
2009-10 (Actual)	-	0.80	3.45	4.25
2010-11	-	1.0	3.50	4.5
2011-12	0.10	1.20	3.70	5.0
2012-13	0.15	1.40	3.95	5.5
2013-14	0.20	1.60	4.20	6.0
2014-15	0.25	1.80	4.45	6.5
2015-16	0.30	2.00	4.70	7.0

11. It is discernible from the above table that non solar obligation could be met mostly from small hydro and biomass sources of energy. For the year 2012-13 the non solar obligation is 1.40% of the total purchase which translates to 323 KWH. It is therefore essential to encourage setting up of biomass projects in Odisha in order to fulfill Renewable Purchase Obligation.

12. Commission has in the meantime reviewed the current status of various Biomass projects proposed to be set up in Odisha. The total capacity of all the biomass projects taken together is about 138 MW for which OREDA executed implementation agreement and the petitioner GRIDCO, as the State Designated Entity executed Power Purchase Agreement with the nine number of Biomass Developers during the period from 30.12.2010 to 21.1.2011. It is ascertained that only one Biomass project of 20 MW developed by M/s Shalivahana Green Energy Limited has already been commissioned on 01.12.2011 at Dehenkanal. It is however discouraging to note that other 8 projects have shown tardy progresses which are languishing at various stages of clearances. The bio-mass developers in their petition of review of the generic tariff has specifically pleaded that the major hurdle for their progress of development is the serious objection of their banker for the financial closure of the project due to inadequacy in tariff. The Commission considering the fuel price (Rice husk) submitted by OREDA has considered the increase of variable tariff of bio-mass project in its order dated 23.9.2011. Six months have since been passed, but none of the eight projects has given details of either its financial closure of the project or any substantial progress of implementation of the project.

13. In such a scenario the existing PPAs which have been executed between the developers and GRIDCO has no relevance as such except in case of M/s Shalivahana Green Energy Limited which has already commissioned its project. It is also noted that many elements of the PPA are of general nature which lack clarity and are bound to create legal tangle between the parties in future. We observe that for each PPAs project specific provisions are to be defined clearly with regard to elements such as capital cost, Inter connection point, delivery point, interconnect facilities, voltage of delivery, energy accounting, billing procedure etc. We also observe that developers have signed PPA with GRIDCO but have objected at the Commission to a large number of agreed points in the PPA. It is, therefore, surprising how PPA could be signed with so many disagreements. Commission therefore cannot approve a PPA having more disagreements compared to number of agreements. It would also be a fallacy for the Commission to get into such minute details of PPA and write down a new PPA for the GRIDCO and Developers.

14. We advise the developers to come to the Commission by end of June 2012 with details of their 'Financial closure', Land acquisition and their roadmap of erection and commissioning of the project. We also advise both the developers and GRIDCO to have project specific PPAs, with incorporation of details as indicated in para 13 above, instead of having PPA is more of generic in nature.

15. We also re-iterate our earlier order that GRIDCO/DOE, GOO/OREDA may make a serious review with the promoters and only the project specific PPAs of the serious developers interested for the project be recommended to the Commission. The MoUs of other projects, who has yet to make any progress on 'Financial Closure', land acquisition, selection of EPC Contract, be cancelled after giving due notice and such projects be put up for competitive tariff bidding.

Sd/-

(B.K. Misra)
Member

Sd/-

(K.C. Badu)
Member

Sd/-

(S. P. Nanda)
Chairperson