

**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-50/2011

M/s Nava Bharat Ventures Ltd.

..... Petitioner

Vrs.

GRIDCO

..... Respondent

In the matter of: Under Sec. 86(1) (f) of the Electricity Act, 2003 read with Chapter II, Regulation 8, 9 & 10 of OERC (Conduct of Business), Regulations, 2004.

For the Petitioner: Shri P. P. Mohanty, Advocate,
A. K. Parida, representative of M/s. NBVL.

For the Respondent: Shri S. K. Mohanty, AGM (Elect.), GRIDCO Ltd.

Date of Hearing: 20.05.2014

Date of Order: 26.07.2014

ORDER

1. The Petitioner M/s. Nava Bharat Ventures Limited is a public limited company having a captive power plant of (1X30 MW and 1X64 MW) capacity. When the State faced acute shortage of power in the year 2009 and on the petition of GRIDCO, the Commission issued order fixing price of procurement of surplus power from CGPs in its order dated 28.02.2009 in Case Nos. 6-20/2009. In another application of GRIDCO to reduce the price of procurement of surplus power the Commission revised the said tariff in Case No. 117/2010 dated 23.11.2010. Aggrieved by the non-implementation of order in Case No. 117/2010 M/s.CCPPO filed an application before us which was registered as Case No. 22/2011 and was disposed of reiterating the finding in Case No. 117/2010 dated 23.11.2010. However, on the issue of rebate and DPS the Commission held that the *captive generating plants should forego delayed payment surcharge on amounts due until August, 2011 as a onetime settlement if all outstanding bills are paid by 31.10.2011.*

However, in respect of payment of bills starting from the month of September, 2011 onwards, the rebate and delayed payment surcharge stipulated by the State Commission in order dated 27.06.2009 in Case No. 59 of 2009 would be strictly enforced.

2. GRIDCO without complying with the aforesaid order sought review of the same before the Commission. The Commission while finally disposing of the matter in Case No. 86/2011 reiterated its finding on price fixation in Case No. 117/2010 and additionally on the issue of payment of delayed payment surcharge, ordered that the captive generating plants forego the same for dues up to 31.03.2012. However, if outstanding dues up to 31.03.2012 remain unpaid by 15.11.2012, then delayed payment surcharge be made payable on all unpaid amount. Being aggrieved by the said order of the Commission the Petitioner has moved Hon'ble ATE in Appeal No. 256/2012.
3. During the present hearing the Petitioner submitted that in spite of the order of the Commission GRIDCO has not released 50% dues for the power injected to the GRID for FY2009-10. However due to interim order of the Commission dated 8.09.2011 in the present case GRIDCO has paid partly the dues of the Petitioner for the year FY 2009-10 and still Rs.56,23,553/- is outstanding towards energy bills for the period 2009-10 along with DPS and interest on the same.
4. The Respondent-GRIDCO submitted that they are not agreeing to the figure of Rs.56,23,553/- as outstanding energy bill including DPS for the disputed period. Though there was a reconciliation of dues for the period March, 2009 to November, 2011 signed by both M/s. NBVL and GRIDCO on 10.05.2012, the Petitioner can't dispute the same now after lapse of around two years. They further pointed out that the Petitioner has preferred an appeal bearing Appeal No.256 of 2012 before Hon'ble ATE against the order dated 01.10.2012 of the Commission passed in Case No. 86/2011 wherein not only issue of DPS has been raised but it has extended to the issues of incremental rates as well as the rebate as ordered by the Commission. The Petitioner has also apprised Hon'ble ATE that they have filed relevant Petition in OERC regarding its claim towards outstanding dues on GRIDCO. GRIDCO further pointed out that due to the above reasons final settlement has not been reached between them and the Petitioner and that can't be ascribed to any financial crunch faced by them.

5. Heard the parties at length. After perusal of the appeal memo of the Petitioner before Hon'ble ATE in Appeal No. 256/2012 we find that the issue of outstanding dues of the Petitioner as on 31.03.2012 for supply of power without imposing DPS, the issue of rebate and the issue of incremental rate to the Petitioner are subject matters of dispute pending before the Honble Tribunal for Electricity, New Delhi. Therefore, once the matter is decided by Hon'ble ATE that will be applicable to both the disputing parties and they would settle the account as per that order.
6. Accordingly the case is disposed of as dismissed.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson