

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

**Present : Shri S. P. Nanda, Chairperson
Shri B. K. Misra, Member
Shri S. P. Swain, Member**

Case No.86/2011

M/s. GRIDCO

.....

Petitioner

Vrs.

M/s. CCPPO

....

Respondent

In the matter of: An Application under Section 94(f) of Electricity Act, 2003 read with Regulation 70 of OERC (Conduct of Business) Regulations, 2004 for review of the Order dated 29.08.2011 of the Commission passed in Case No. 22/2011.

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

For the Respondent: Shri P. K. Mohanty, President, M/s. CCPPO,
Shri Sanjeev Das, Vice President, M/s. CCPPO,
Shri S. K. Panda, Secretary, M/s. CCPPO.

ORDER

Date of Hearing: 31.08.2012

Date of Order:01.10.2012

1. The fact of the case is that the Commission vide its order dated 29.08.2011 in Case No. 22 of 2011 has introduced a One Time Settlement Scheme for GRIDCO which avails power from the CGPs of the State. The Commission in the said Order had directed that if all the outstanding dues of the CGPs up to the month of August, 2011 are paid by GRIDCO within 31.10.2011 as per the rate fixed by the Commission from time to time then GRIDCO would be exempted from paying DPS to CGPs. Consequent upon this Order of the Commission GRIDCO had filed a review petition with a prayer to allow three more months time to GRIDCO for settlement of the outstanding dues of the CGPs without levy of any DPS on the same. GRIDCO has cited that they were going through acute financial constraints due to reduction of earning from trading, and UI. There had been also less flow of revenue from DISCOMs as a result of interim stay order of Hon'ble High Court on the Retail Supply Tariff of DISCOMs for FY 2011-12. The

Commission while allowing the prayer of the GRIDCO directed it to serve a copy of the Petition on M/s. CCPPO and pay the arrear dues of CGPs on or before 31.01.2012. The Respondent M/s. CCPPO was also directed to file its reply by 6th January, 2012.

2. The representative of CCPPO on 13.02.2012 had submitted that the ground advanced by M/s. GRIDCO for non-payment of dues of CGP should not be accepted because it would invite enormous financial hardship for them arising out of escalating cost of fuel and accumulation of interest for the loan incurred by them.
3. GRIDCO, on 28.02.2012, further submitted that in the meantime, there has been little change in its financial condition. As the cash flow to GRIDCO had been very poor it was beyond their means to make payment to CGPs for Power supplied by them. However, they were in the process of availing additional loan and once the loan was available with them they would pay the CGPs as per the ceiling price fixed by the Commission. In its submission GRIDCO further prayed the Commission to allow them to settle the dues of CGPs without consideration of any DPS by extending the last date of settlement date from 31.01.2012 to 31.03.2012 for the power availed by them from 01.03.2009 to 30.11.2011.
4. The case was again heard on 16.04.2012 and during the hearing GRIDCO brought to the notice of the Commission that they have already paid 50% of the dues of 13 nos of CGPs and the dues rest of 14 nos. of CGPs would be paid after reconciliation of payment statement by those CGPs. M/s. CCPPO had submitted that energy meter data like frequency at the time of injection of power, be supplied to them by GRIDCO for signing reconciliation statement. The Commission in its interim order dated 23.04.2012 had directed GRIDCO to make reconciliation with the CGPs within one month and to make payment of dues of CGPs. Thereafter, if any issue remains unresolved the parties are at the liberty to approach the Commission. GRIDCO had further been directed to submit the status report of the CGP payment for the power procured from them. In that order the Commission had indicated that the issue for payment of DPS may be considered in the next hearing.
5. As per the above direction of the Commission, GRIDCO submitted a status report vide its letter No. 4047 dated 29.06.2012 in which it indicated that in the meantime 23 nos. of CGPs out of 29 nos. had received their dues upto Nov., 2011 after signing reconciliation statement. The current dues of CGPs upto March, 2012 also has been released who have signed re-conciliation statement. However, most of the CGPs have

raised their objections regarding certain principles adopted by GRIDCO while calculating dues of CGPs and it was decided that GRIDCO and CGPs would approach the Commission for the principle of finalizing the dues of CGPs.

6. The Case was finally heard on 31.08.2012. The representative of CCPPO submitted that the methodology adopted by GRIDCO for preparing reconciliation statement is contrary to the orders of the Commission and hence is not acceptable by them. They have signed the reconciliation statement subject to the final order of the Commission.
7. After hearing the parties at length and going through the written submission we find that apart the payment of DPS there are two issues over which the GRIDCO and CGPs differ and reconciliation fails. The issues are as follows:
 - (a) Treatment of “Must Run” status of CGPs as per our order dated 23.11.2010 in Case No. 117 & 118 of 2010
 - (b) The applicability of “Zero Cost Power” of CGP as per our above order.

The Commission in Para 33 (d) of the Order dtd. 23.11.2010 in Case No. 117 & 118 of 2010 has directed as follows:

“The Captive/Co-generation Plants should operate on “Must Run” condition and any injection over the implemented schedule at a frequency of 50.20 Hz and above shall be considered as “Free Power” to the State Grid.”

Similarly the Commission in Para 31 of the said Order has stated as follows:

“The State of Orissa being a constituent of Eastern Region is operating in synchronism with all the constituents at one frequency under NEW GRID. The installed capacity of NEW GRID is 121522 MW as on 31.10.2010. Any change over 2400 MW under NEW GRID may now result in a frequency rise of 0.02 HZ. The Captive/Co-generation Plants contribution is not that much to the State Grid under NEW GRID which will affect adversely during unscheduled interchange in high frequency regime. Therefore, the Commission feels that the Captive/Co-generation Plants of the State would be allowed to operate as ‘MUST RUN’ power plants and, therefore, the suggestions of GRIDCO to disallow Captive/Co-generation Plants as ‘MUST RUN’ plants is not acceptable to the Commission. However, the Commission accepts GRIDCO’s contention that any power injected by CGPs/Co-generation plants to the State Grid at 50.20 Hz and above, determined on the basis of actual meter reading shall be priced at “Zero” cost. It is expected that any captive generator shall back down its generation upto its captive consumption including open access allowed if any at higher frequency at 50.20 Hz and above.”

From the harmonious reading of the above two paras of our Order we reiterate that the Captive / Co-generation Plant should be treated as ‘Must Run’ power plant for the

purpose of supplying power to GRIDCO. When the power plant is a 'Must Run' Plant it is within implementable schedule. Therefore, the payment for the power injected beyond the implementable schedule should be treated as Zero-Cost power during the frequency 50.20 Hz and above. There should not be any confusion either in the mind of the GRIDCO or CCPPO that the entire power injected at the frequency level of 50.20 Hz and above irrespective of whether it is within the schedule or not shall be billed at Zero-cost. It is clarified that when the power injected is beyond the schedule at frequency 50.20 Hz and above it shall be treated as Zero-cost power which is also in consonance with ABT principle.

8. **Payment of DPS:** The Commission is very much aware of the problems of both GRIDCO & CGPs. Taking into account the difficulties of both GRIDCO & CGPs, the Commission directs GRIDCO to reconcile energy transactions of all the CGPs within one month time as per the above clarification on zero cost power and also the clarification made in the order dated 29.08.2011 in Case No. 22 of 2011 and pay their outstanding dues within 15 days thereafter as per the price fixed by the Commission in its order dated 23.11.2010 in Case No. 117 & 118 of 2010. The existence of CGP and GRIDCO are symbiotic in nature i.e. one is dependent on other. Therefore, the Commission directs that considering the current financial position of GRIDCO, the CGPs/Co-generation Plants would forego the DPS charges for their dues up to 31.03.2012. If GRIDCO fails to pay the outstanding dues of CGPs as on 31.03.2012 latest by 15.11.2012, GRIDCO has to pay the DPS on the unpaid amount at the applicable rate. No further request for extension of time to GRIDCO for payment of CGP dues will be entertained. It is needless to mention here that, in case of any default on current bills i.e. on the bills from the month of April, 2012 onwards, GRIDCO should pay the DPS to the CGPs on the unpaid amount as applicable.
9. With the above observations and directions the case is disposed of.

Sd/-
(S P Swain)
Member

Sd/-
(B.K. Misra)
Member

Sd/-
(S.P. Nanda)
Chairperson