

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

Case No. 24/2013

M/s Swarnajyoti Agro & Exports Ltd. Petitioner
Vrs.
GRIDCO Respondent

In the matter of: An Application u/S. 86 (1) (f) of the Electricity Act, 2003 for resolution of dispute between the petitioner and GRIDCO regarding opening of Letter of Credit by entering into a separate agreement for financial assistant from REC.

For the petitioner: Shri Dhaneswar Mohanty, Advocate.

For the respondent: Shri P K Pradhan, Director (Commerce), GRIDCO

Date of hearing:-12.11.2013

Date of order:13.11.2013

Shri Dhaneswar Mohanty, Advocate appeared on behalf of M/s Swarnajyoti Agro Expert Ltd. (Octant Industries) submitted that the petitioner is on the process of setting up of a 10 MW bio mass plant at Sambalpur and accordingly has signed a Power Purchase Agreement (PPA) with GRIDCO. They have also approached Rural Electrification Corporation Ltd. (REC) for project financing. But the said financier requires the above mentioned PPA to contain a clause which ensures that the GRIDCO maintains an irrevocable and un-conditional revolving Letter of Credit (LC) in favour of the petitioner for the projected payment of three months to the petitioner by GRIDCO. Therefore they submit before us to direct GRIDCO as per clause -16.1 of the PPA signed with GRIDCO which authorizes Commission for adjudication to accept the said condition of the financier by incorporating the same in the PPA.

2. GRIDCO in its reply submitted that though it has signed the PPA with the petitioner but the said PPA does not have any clause on issue of LC to the

petitioner. As matter of practice it can not issue such letter of credit before commercial operation of the generating station.

3. After hearing the parties and perusal of the case records, we opine that the PPA signed between the GRIDCO and the petitioner- company has not been vetted by the Commission. Moreover, the petitioner is yet to become a Generating company in terms of 2 (28) of the Electricity Act dispute of which with the licensee as per Sec. 86(1) (f) of the Electricity Act, 2003 can be adjudicated by this Commission. As the petitioner fails to attract jurisdiction of this Commission we are not inclined to admit the case.
4. Accordingly the petition is disposed of.

Sd/-

Member(S)

Sd/-

Member (M)