

Case Nos. 26/2014 & 01/2017

Date of hearing: 05.09.2017

Date of order: 20.09.2017

Shri Neelesh Nema, ED, Head Power Sales, Shri Manish Tyagi, Asst. Manager on behalf of M/s. JITPL, Shri Sanjay Sen, Sr. Advocate and Shri Matrugupta Mishra, Advocate on behalf of M/s. JITPL petitioner in Case No. 26/2014 & Respondent No-1 in Case No. 01/2017, Shri Shiba Shankar Nayak, GM (PP), GRIDCO Limited, Shri Sukanta Panda, DGM (Elect.), GRIDCO Limited-Respondent No-1 in Case No. 26/2014 and petitioner in Case No. 01/2017, Shri P. K. Mishra, GM, SLDC and Ms. Sonali Pattnaik, Dy. Manager (Legal), DoE, GoO are present. The consolidated rejoinder of the petitioner to the reply of GRIDCO Ltd. dated 19.05.2015 and 11.01.2017 filed by the petitioner is taken on record.

2. The Sr. Counsel Shri Sen appearing on behalf of the petitioner M/s. JITPL submitted that the present rejoinder is a consolidated response to both the replies dated 19.05.2015 and 11.01.2017 of GRIDCO Ltd. Apart from the issues raised in both the replies, the petitioner would make para wise submissions to the subsequent reply filed by GRIDCO Ltd. The Commission vide their order dated 03.06.2017 and 29.07.2017 respectively had directed the petitioner to furnish the details of coal linkage available to its unit post commissioning of its Unit-I of 600 MW and also to file rejoinder for determination of Energy Charge Rate after commissioning of Unit-II along with the variable cost jointly for Unit-I & II and coal available to the plant since the commissioning of the Unit-I. The counsel further submitted that the Unit-I of 600 MW has achieved COD on 19.04.2015 and the Unit-II of 600 MW on 12.02.2015. Accordingly, PPA had been executed with GRIDCO Ltd for supply of 12% of total sent out power at variable cost which shall be determined by OERC. The said PPA dated 05.01.2011 was executed pursuant to MoU executed with the state on 26.09.2006 and subsequent amendment thereof. The petitioner was always conceived as an Interstate Generating Station (IPP) to supply power to consumers both within and outside the state of Odisha. Accordingly, the petitioner has tied up various PPAs with distribution licensees in the state of Kerala, Bihar and with the Indian Railways which is falling within the expression “composite scheme” as referred u/S. 79 (1) (b) of the Electricity Act, 2003.
3. The Petitioner further submitted that the appropriate Commission for determination of tariff in this case is CERC. The issue is no more *res Integra*. The Hon’ble Supreme

Court of India has clarified the above proposition of law in case of Energy Watchdog Vs. CERC & Ors., 2017 SC-378.

4. The learned counsel of the petitioner has also submitted that M/s. JITPL has filed another application u/Ss. 62, 86 (1) (b) and 86 (1) (f) of the Electricity Act, 2003 seeking direction of the Commission for amendment of the PPA dated 05.01.2011 and Supplementary PPA dated 23.07.2013 executed between GRIDCO Ltd. and the petitioner. Therefore, he prayed the Commission to take up the above petition along with these matters for analogous hearing.
5. The representative appearing on behalf of GRIDCO Ltd. submitted that though the Units of the petitioner were commissioned in the year 2015 the supplementary PPA of 2015 has not yet been signed by the petitioner and a meeting was held for this purpose but on some points there was no consensus.
6. The representative of GRIDCO Ltd. has also submitted that M/s. JITPL has served its Consolidated Rejoinder on 04.09.2017 to the submissions of GRIDCO Ltd. which needs some time to be examined by GRIDCO Ltd. Therefore, the Commission may allow 15 days time for filing of reply on the consolidated rejoinder of M/s. JITPL.
7. Prayer of GRIDCO Ltd. is allowed. Both M/s. JITPL and GRIDCO Ltd. are directed to sign the Minutes of the Meeting stating both the agreed points/disagreed points and submit their views through affidavit within 15 days from date of this order. GRIDCO Ltd. is also further directed to file its reply on the consolidated rejoinder of M/s. JITPL within 15 days of this order serving copy on the petitioner.
8. List both the cases on 10.10.2017 for further hearing. No further notice will be issued in this regard to the parties concerned.

Sd/-
Member (P)

Sd/-
Member (D)

Sd/-
Chairperson