

**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. 02/2015

M/s. Shalivahan Green Energy Limited	Petitioner
Vrs.		
OPTCL & Other	Respondents

In the matter of: **An application u/S 86 (1) (f) of the Electricity Act, 2003 seeking direction of the Commission to OPTCL Ltd. to reimburse the expenditure incurred towards construction of the Tie Line and extension of 132 KV bays in the Hind Metal Switching Station of OPTCL.**

For Petitioner: Shri R. P. Mahapatra, Authorized Representative, Shri Durga B. Dey

For Respondent: Sasmita Patanjoshi, AM (PP), GRIDCO Ltd., Shri A. K. Samantaray, DGM, GRIDCO Ltd., Shri S. K. Puri, GM (RT&C), OPTCL. Shri L. N. Mohapatra, Advocate on behalf of OPTCL. N. Mohanty, GM (Com.), OPTCL, Rabinarayan Moharana, AM, CESU, Ms. Niharika Pattnaik, ALO, DoE, GoO.

ORDER

Date of Order:02.09.2015

This case has been filed by M/s. Shalivahana Green Energy Ltd (SEGL) to direct OPTCL to reimburse the expenditure incurred by it towards construction of the Tie line and extension of 132 KV bays in the Hind Metal Switching station of OPTCL which is beyond the interconnection point. In its petition SGEL has stated that petitioner has incurred an expenditure of Rs.5,76,14,629.00 (Rupees Five crore seventy six lakh fourteen thousand six hundred twenty nine only) towards construction of said line.

The petitioner has stated that the order dated 14.9.2010 in Case No.37/2008 (Suo Motu) stipulates that Interconnection Point for biomass plants shall be the line isolator on outgoing feeder on HV side of Generator transformer. Responsibility for development of evacuation infrastructure upto inter-connection point shall be entrusted to project developer while appropriate licensee would be responsible for development of evacuation infrastructure beyond interconnection point.

2. The petitioner has also stated that in the said order the capital cost norms include plant and machinery, civil work, erection and commissioning, financing, interest during construction and evacuation infrastructure upto the interconnection point. The cost of evacuation infrastructure beyond the interconnection point is therefore not a part of the capital cost for determination of generic tariff.
3. The petitioner had requested OPTCL to reimburse such amount in its letter dated 11.4.2013 to which OPTCL has not responded.
4. The OPTCL in its reply have stated that order dated 14.9.2010, referred by SGEL, does not explicitly mention that the transmission infrastructure beyond the interconnection point shall be developed by the licensee at its own cost and the licensee will be the owner of this asset.

The OPTCL has further stated that OERC (Renewable and Cogeneration Purchase Obligation & its Compliance) Regulation, 2010 was notified on 30.9.2010 later than the suo motu order of dated 14.9.2010. The regulation has stipulated that 'the delivery point shall be the nearest grid substation having 132 KV/11 KV voltage level. Therefore, this latest regulation shall prevail over the earlier order which indicates that the RE generator shall deliver the power at OPTCL's Grid Sub-station bus. Consequently evacuating line has to be built and owned by the Project Developer. Electricity Act, 2003 at Section 10(1) stipulates that Generating Companies shall establish, operate and maintain Generating Stations, tie lines, substations and dedicated transmission lines connected therewith in accordance with the provisions of the Act or the rules and regulations made there under.

5. The OPTCL also accorded in principle/permission for connectivity to the 20 MW Biomass based power plant vide its letter dated 26.4.2010 to construct 132 KV S/c line on D/C tower from such feeder bay upto SGEL MRSS at own cost. The letter also mentioned that the connection point with OPTCL transmission system shall be the outgoing feeder gantry of the 132 KV switching station near the plant premises of M/s. Hind Metals and Industries Ltd.
6. The OPTCL after completion of all constructional works and associated formation, accorded permission for synchronization of 20 MW Biomass based TG set of M/s. SGEL vide its letter dated 20.9.2011.
7. The OPTCL in view of all these developments has stated that 132 KV S/c line on D/C tower from 132 KV switching station of OPTCL at Kharagprasad upto the switch yard M/s. SGEL was meant to be owned and maintained by Ms SGEL through mutually accepted terms and arrangement. The technical sanction order issued dated 31.8.2010 had no scope for

construction of associated 132 KV evacuating line and no formal request was made by the petitioner to OPTCL for construction of the evacuating line. As regards to the long period of shut down of the plant, OPTCL stated that the same was due to petitioner having failed to restrict the use of fossil fuel within the statutory limit and nonpayment of outstanding arrear dues.

8. The OPTCL has also stated that the said line operates at about 20% of its designated load as such line is redundant/non-remunerative hence constructive/owning such a line by OPTCL will not be a prudent decision.
9. OPTCL has thus requested not to entertain request of the petitioner.
10. The Respondent No.2. GRIDCO Ltd. in its response to the petitioner has stated that PPA signed with M/s. SGEL mentions that Grid connectivity to evacuate power from Biomass Generating station is at nearest substation of OPTCL. PPA also mentions that the duties of a generating company shall be to establish, operate and maintain Generating Stations, tie lines, sub-stations and dedicated transmission lines connected therewith. M/s. SGEL agreed in PPA that interconnection facilities are to be installed and maintained by the project developer.
11. Heard the matters in detail and perused the written submissions of all the parties. The petitioner has filed the application for appropriate direction by the Commission to OPTCL, the state Transmission Utility, to reimburse the expenditure of Rs.5,76.14,629.00 incurred by the petitioner for construction of the evacuation infrastructure, beyond the inter-connection point, upto the Hind Metal Grid Sub-station.
12. The Petitioner had entered into a Power Purchase Agreement (PPA) with GRIDCO dated 30.12.2010 where it has been agreed that Grid connectivity to evacuate power from the Biomass Generating Station is at nearest sub-station of OPTCL. This agreement has been signed well after issuance of our order dated 14.09.2010 as a special case with mutual consent of both the parties. The Commission had also notified a Regulation on 14.12.2010 called OERC (RCPO) Regulations, 2010 wherein the Commission stipulated delivery point for renewable energy project as nearest Grid sub-station having 132 KV/33 KV/ 11 KV voltage level. Therefore, it is clearly established that the Petitioner has consciously entered into the agreement accepting nearest sub-station of OPTCL as delivery point of the power generated by the Biomass plant.
13. The Petitioner had achieved CoD on 19.12.2011 and continued to inject power upto December, 2012 without any objection on the methodology of tariff fixation made by the

Commission basing on its order dated 14.09.2010. The Petitioner had also not agitated the issue of reimbursement of the cost of evacuation infrastructure either in the earlier cases or in Case No. 93/2013 which was disposed of by the Commission. The matter has been settled long ago and closed. The present contention of the Petitioner appears to be an afterthought and therefore, there is no basis to accept the present petition.

14. Accordingly, the case is disposed of.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson