

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. 34/2015

M/s. Vedanta Limited	Petitioner
Vrs.		
WESCO Utility & others	Respondents

In the matter of: **An application under Ss.42(2) and 86 (1) (f) of the Electricity Act,2003 read with Regulation 9(1) of the OERC (Conduct of Business) Regulations,2004 for adjudication of dispute between GRIDCO Ltd., WESCO Utility and the petitioner for consideration of the incident of grid tripping disturbance on 13.04.2013 & 12.10.2013 to 13.10.2013 due to heavy wind and cyclonic storms as a force Majeure and for the said reason waiver of demand charges and also for stay of the disconnection notice issued by the WESCO Utility.**

For Petitioner: Mr. Amit Kapur, Advocate, Ms. Poonam Verma, Advocate, Mr. Akshat Jain, Advocate and Shri S.K.Nanda, Advocate appeared on behalf of M/s. Vedanta Limited.

For Respondent: Shri K.C.Nanda, DGM (Fin.), WESCO Utility, Shri P.K.Pradhan, Director (Com.), GRIDCO Ltd., Shri U.N.Mishra, CGM (PP), GRIDCO Ltd., Ms. Susmita Mohanty, Manager (Elect.), GRIDCO Ltd., Shri B.P.Mishra, CGM (RT&C), OPTCL, Shri L.Nayak, GM (O&M), OPTCL, Shri S.K.Puri, GM (RT&C), OPTCL and Shri P.K.Mishra, GM, SLDC.

ORDER

Date of Hearing: 03.11.2015

Date of Order:01.01.2016

The present Petitioner M/s. Vedanta Limited has a 0.5 MMTPA aluminium smelter (called Smelter-I) and an associated CGP of 1215 MW capacity in WESCO Utility area. They have also an IPP of 2400 MW having PPA with GRIDCO.

2. Now M/s. Vedanta Ltd. has filed this application for adjudication of disputes between itself and WESCO Utility / GRIDCO for consideration of incident of 'Grid disturbance' on 13.04.2013 and from 12.10.2013 to 13.10.2013 stated to be arising due to heavy wind and cyclonic storm. This had caused tripping of all the CGP units of the Petitioner and consequent drawl of power from Vedanta IPP to its Smelter-I as per the petitioner.
3. In an earlier occasion in Case No. 39/2013 the Petitioner had come before us on the same issue and the Commission in order dated 31.07.2013 and directed as follows:

“14. The third issue involves the additional submission of M/s. VAL on occurrence of the force majeure incident (Grid disturbance) on 13.04.2013. It is a exceptional situation and can’t be generalized. However, the Commission directs that it should be resolved amicably between the concerned parties. Moreover, as the subject issue is not part of the original order, no review is applicable.”

4. Accordingly, a meeting was held between the parties on 16.12.2014 under the Chairmanship of CMD, GRIDCO where it was resolved as follows:

“Finally, it was amicably proposed that under such exceptional situation.

- 1) Over drawal penalty may not be levied by WESCO on VAL-I. However, normal demand charges as applicable on demand recorded shall be paid by VAL-I.*
- 2) No over drawal penalty beyond the approved demand will be levied by GRIDCO to WESCO due to such over drawal by M/s. VAL-I.*
- 3) Simultaneous ABT penalty may also not be levied by SLDC on WESCO.*
- 4) The above is subject to approval of the Hon’ble OERC and recognition of the revenue earned by WESCO from such transaction to be considered by the Commission as such.*

VAL, SSL & WESCO are requested to take up the matter before the Commission for final decision in view of aforementioned observations.”

5. Now, the Petitioner submits as follows:

- i. Allow full waiver of bill for excess demand charges served by WESCO Utility, during the period for non-supply of power by WESCO Utility during heavy wind and cyclonic storms on 13.04.2013 and 12.10.2013 to 13.10.2013.
- ii. Direct WESCO Utility to treat the power flow from Vedanta-IPP to Smelter-II during the Force Majeure Condition under Open Access Mechanism as mentioned at Para 11 (d) of this Commission order dated 14.12.2012 in Case No. 28/2011.
- iii. Set aside the Disconnection Notices served by WESCO Utility, during the period of non-supply of power by WESCO during heavy wind and cyclonic storms on 13.04.2013 and 12.10.2013 to 13.10.2013.

6. The Respondent WESCO Utility submits that the present application is not maintainable as the same being barred by the constructive *res judicata* since this matter is already been settled by the Commission in Case No. 28/2011 dated 14.12.2012 and subsequent

clarification in Letter No. 4580 dated 20.12.2012 and Letter No. 4708 dated 15.01.2013. As per the direction vide Para 11 (e) of the above order the Petitioner is liable to pay for the drawal made from IPP as per RST rate.

7. Soon after the direction of the Commission to resolve the issues amicably by the concerned parties a final meeting was held on 16.12.2014 where it was decided to levy normal demand charges instead of overdrawal penalty which was subject to approval of the Commission. There is every possibility to use power of IPP (Unit-II which is dedicated to State Agency) by the Petitioner when there is low generation or no generation of its CGP since the IPP has a split bus system which separates other units from the State dedicated unit. The Respondent WESCO Utility has also brought to our attention to our earlier order in Case No. 28/2011 dated 14.12.2012 where the treatment of power drawal by VAL-I in case of low generation of its CGP has been specified which is as follows:

“11.(e)The treatment of power generated by Unit-II (600MW) of SEL on split bus arrangement after its COD :-

The entire power generated by Unit-II of SEL of 600 MW is stepped down to 220 KV and is fed to 220 KV DC line to Budhipadar 220 KV S/s of OPTCL through VAL-I. Meters are available at the 400/220 KV ICT secondaries (SEL end) as well as Budhipadar S/s (OPTCL end). From both the meter reading data, the injection of any surplus of VAL-I CGP to GRIDCO or drawl by VAL-I due to less generation of its CGP from SEL can be accounted for and quantified. M/s GRIDCO claims that due to its established status in single buyer model for the State of Odisha the power injected at M/s. SEL end should be treated as if procured by GRIDCO and supplied to DISCOM at M/s VAL-I end as a deemed supply to WESCO. WESCO, however, claims that any power drawl by VAL-I due to low generation of its CGP from SEL should be treated as open access arrangement and cross subsidy surcharge is payable to it. As long as there is surplus generation by M/s VAL-I and it supplies power to GRIDCO and all the power generated by Unit-II of SEL and the surplus of VAL-I CGP are fed to Budhipadar Grid, then the total power shall be treated as Power purchases by GRIDCO. Out of the total power, the purchases of GRIDCO attributable to M/s SEL-IPP and CGP of VAL-I are to be separately quantified and shall be paid at respective OERC approved rates. There is no differences of opinion on this matter by any party. Therefore, the issue remains to be resolved is the case of power drawn by VAL-I at the time of low generation of its CGP. As ABT compliant meters are available at all interface points, the quantification of energy drawl by VAL-I will not pose any problem. We desire that such energy should be quantified. We agree with the contentions of GRIDCO and

reject the claim of WESCO Utility on payment of cross subsidy surcharge. GRIDCO shall bill to WESCO at BSP rate for such quantum of energy and DISCOM, in turn, shall bill to VAL-I at RST.”

8. The Respondent WESCO Utility further submitted that there are many large industries having CGP in the vicinity of the CGP of the Petitioner. The islanding of their CGP is perfectly working and there is no such complaint from similarly placed industries like Hindalco Ltd., Aditya Aluminium Ltd. etc. It is the responsibility of the Petitioner who is running with huge CGP capacity of 1215 MW to be equipped with its proven islanding system to face such unforeseen incident. The Petitioner has made agreement for contract demand of only 60 MW and the Respondent is obliged to make available power to the tune of contracted capacity only and not for instantaneous requirement of more than 400 MW.
9. We have heard the parties in detail and perused the case record. The situation described is an isolated case. As per our direction dated 31.07.2013 in Case No. 39/2013, there had been conciliation between the parties under the aegis of GRIDCO on 16.12.2014, where M/s. WESCO Utility was also present. Therefore, we approve the same. We are not inclined for unsettling an issue which has been settled through conciliation. All the parties are directed to strictly adhere to the decision taken on 16.12.2014 in conciliation process. The WESCO Utility is directed to bill the Petitioner accordingly and the Petitioner shall make payment for the same immediately. The compliance report by WESCO Utility shall reach the Commission within 15 days of issue of this Order.
10. Accordingly, the case is disposed of.

Sd/-
(A .K. Das)
Member

Sd/-
(S. P. Swain)
Member

Sd/-
(S. P. Nanda)
Chairperson

