

**ODISHA ELECTRICITY REGULATORY COMMISSION  
PLOT NO. 4, CHUNUKOLI, SAILESHREE VIHAR,  
CHANDRASEKHARPUR,  
BHUBANESWAR-751023**

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**Case No. 8/2016**

M/s. GRIDCO Ltd	.....	Petitioner
Vrs.		
M/s. SMC Power Generation Ltd.	.....	Respondent

**In the matter of:**      **An application under S.94 (1) (f) of the Electricity Act, 2003 read with Regulation 70(1) of the OERC Conduct of Business Regulations, 2004 and O.47R-1© of the CPC, 1908 for review of Order dated 29.12.2015 of the OERC in Case No.26 of 2015.**

**For Petitioner:**      Shri U. N. Mishra, CGM (PP), GRIDCO Ltd., Shri Siba Sankar Nayak, GM (PP-II), GRIDCO Ltd.

**For Respondents:**      Shri S. K. Panda along with Shri R. P. Mohapatra, the authorized representative of M/s. SMC Power Generation Ltd.

**Date of Hearing: 31.05.2016**

**Date of Order: 19.07.2016**

**ORDER**

The petitioner M/s GRIDCO Ltd. has filed the present application for review of the Commission's order dt.29.12.2015 passed in Case No.26 of 2015.

2.      The representative of the petitioner GRIDCO Limited stated that:-

a.      The Commission at Para-10 of the impugned order dated 29.12.2015 have observed as given below:-

*"The Commission observed that at Para 34 (2) of its order dated 29.08.2011 passed in Case No. 22/2011, it is clearly mentioned that any injection by the CGPs/Co-generation plants over 105% of the implemented schedule but within the operating frequency band of 49.50 Hz to 50.18 Hz shall be treated as inadvertent power or infirm power and shall be paid at the pooled cost of hydro power of the State. Therefore, flow of power beyond the 'zero' schedule by SLDC but within the above frequency band, qualifies to be treated as injection of inadvertent power as per the Commission's order and will be paid accordingly i.e. at pooled cost of hydro power. We agree with the contention of the petitioner on this issue. On the other hand, GRIDCO has not placed any instant case before us to establish the fact that the payment of penalty, if any, on account of deviation settlement is due to injection of power by CGPs at high frequency and under efficient implementations of schedules. Therefore, we do not offer our opinion on this. However, we make it clear that any injection beyond 50.18Hz by CGPs shall be at zero cost."*

b.      The upper limit of the operating frequency as observed by the Commission is 50.18 Hz as per OERC order dated 23.11.2010 passed in case No.117 and 118 of 2010 which was based on the amendment notification dated 28.04.2010 to the CERC (Unscheduled Interchange Charges and Related Matters)

Regulations, 2009. But after implementation of the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2014 w.e.f 17.02.2014, the aforesaid UI Regulations, 2009 stood repealed. Clause 14 of the CERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2014 stipulated as under:

*“14. Repeal and Savings*

- (1) On commencement of these Regulations, Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulation, 2009 shall stand repealed.*
- (2) On commencement of these Regulations, any reference to the Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 in any of the Regulations, Standards, Codes or Procedures of the Central Electricity Regulatory Commission shall be deemed to be replaced by Central Electricity Regulatory Commission (Deviation Settlement Mechanism and related matters) Regulations, 2014.”*

- c. As per the Regulation-5 of the aforesaid CERC DSM Regulations, 2014, the upper limit of the operating frequency has been specified as 50.05 Hz. Further, as per Regulation 4-III (v) of OERC Intra-state ABT Regulations, 2007, the UI rates and threshold frequencies as determined from time to time by CERC in its Tariff Regulations shall be applicable to the users of the intra-state grid for each 15 minutes block linked to frequency.
  - d. In view of the above, GRIDCO prayed the Commission for review of its order dtd.29.12.2015 passed in Case No.26 of 2015 and to pass order considering the upper limit of operating frequency as 50.05 Hz instead of 50.18 Hz and also to direct CGPs to pay additional charges (penalty) for over injection during high frequency of 50.10 Hz and above in accordance with the prevailing DSM Regulations, 2014 of CERC.
3. The representative of the respondent M/s. SMC Power Generation Limited submitted that:-
- a. The implementation of OERC Intra-State ABT Regulation, 2007 has not yet been extended to the State Generators and CGPs in accordance with the Para-14 of the order dated 23.04.2013 of the Commission passed in Case No. 54 of 2012, which is reproduced below:-  
  
*“Though, the Intra State ABT Regulation has been framed by the Commission since 2007 but its 1<sup>st</sup> Phase has been operationalized since April, 2012 confining it to only four DISCOMs of the State. The embedded State Generators and CGPs including the Petitioner shall be covered in the 2<sup>nd</sup> Phase of implementation of Intra-State ABT Regulation.”*
  - b. Further, Clause 14(2) of the CERC DSM Regulations, 2014, as referred by GRIDCO is not applicable in this case, as the said Clause 14 (2) is relevant only for the other relevant CERC Regulations and does not automatically replace the OERC Regulations.

- c. The prayer of GRIDCO Limited to direct CGPs to pay additional Charges (penalty) for over injection during high frequency in accordance with the prevailing CERC DSM Regulations is not justified, since, GRIDCO has not made any submission for receivable by CGPs in the event of injection of power during low frequency or under injection during high frequency.
  - d. Further, the Commission vide its order dated 23.11.2010 passed in Case Nos. 117 & 118 of 2010 and order dated 29.08.2011 passed in Case No. 22 of 2011 have specifically maintained that the CGPs are 'must run' units. The representative of M/s. SMC Power Generation Ltd. Submitted that the injection of power by the CGPs, without schedule is not intentional, but is due to their 'must run' operation and also resulting in heavy loss for injection of such power at the pooled cost hydro power which is very less.
  - e. The said CERC, DSM Regulations, 2014 is not applicable to the generators and CGPs, as end phase of the OERC Intra-State ABT Regulations, 2007 has not yet been implemented. Therefore, the operating frequency band as indicated in the impugned order dated 29.12.2015 of the Commission should be continued and no penalty be imposed on CGPs for injection of power even at the frequency of 50.20 Hz or above.
  - f. In view of the above, the representation of M/s. SMC Power Generation Limited stated that the prayer of GRIDCO Ltd. is not tenable and hence prayed the Commission to dismiss the present review petition filed by GRIDCO Ltd.
4. Heard both the parties and their written submissions are taken into records. The Commission observed that the submissions made by GRIDCO Ltd. in the present review petition is basically on application of CERC DSM Regulations, 2014, with respect to operating frequency band while drawing power from the Generators/CGPs and imposition of penalty on CGPs for injection of power beyond the operating frequency band. The Commission found that the matter had already been raised by GRIDCO Limited in its submission in Case No. 26 of 2015 and the Commission was aware of the matter and has passed the order dated 29.12.2015 with due diligence. Hence it is not a new matter or evidence relating to the said case. Further, GRIDCO Ltd. has not established any mistake or error apparent on the face of record. Hence, there is no ground for the Commission to review of its order dated 29.12.2015 passed in Case No. 26 of 2015. Hence, the present review petition filed by GRIDCO Ltd. is dismissed.
5. Accordingly, the case is disposed of.

**Sd/-**  
**(A. K. Das)**  
**Member**

**Sd/-**  
**(S. P. Swain)**  
**Member**

**Sd/-**  
**(S. P. Nanda)**  
**Chairperson**