

**ODISHA ELECTRICITY REGULATORY COMMISSION
BIDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNAKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751 021

**Present: Shri S. P. Nanda, Chairperson
Shri A. K. Das, Member**

Case No. 22/2016

M/s. Seven Star Steels Ltd.	Petitioner
Vrs.		
WESCO Utility & another	Respondents

In the matter of: An application under Sec. 86 (1) (f) of the Electricity Act, 2003 for adjudication of disputes between the petitioner and WESCO Utility for renewal of PPA for export of surplus power.

For Petitioner: K. Annapurneswara Rao, Plant Head of M/s. Seven Star Steels Ltd., Shri Bibhu Charan Swain, the authorized representative of the Petitioner.

For Respondent: Shri K. C. Nanda, DGM (Fin.), WESCO Utility and Ms. Shaswati Mohapatra, DM (El.), PP, GRIDCO Ltd.

Order

Date of hearing: 05.08.2016

Date of order: 04.10.2016

The petitioner M/s. Seven Star Steels Limited (M/s. SSSL) submitted that it is having a CGP of 8 MW capacity in its plant premises and connected with WESCO Utility system at 33 kV voltage level. Its average requirements are about 6 MW and balance 2 MW is available for supply to WESCO Utility system. Further, depending upon the actual operating condition, M/s. SSSL is able to supply surplus power upto 5 MW to WESCO Utility system. It has also an existing emergency power supply agreement with WESCO Utility for availing emergency start up power upto 1112 kVA through 33 kV Industrial-1 feeders emanating from Budhipadar Grid Sub-station.

2. M/s. SSSL had entered into an agreement with WESCO Utility on 21.09.2013 for supply of its surplus power @ 2.00/kWH from 23.09.2013 to 31.03.2014, which was subsequently renewed on 29.04.2014 for supply power @ 1.95/kWH from 01.04.2014 to 31.03.2015 and retrospectively on 05.12.2015 for supply power @ 1.95/kWH from 01.04.2015 to 31.05.2015. Thereafter, WESCO Utility is un-willing to sign the new agreement for purchase of surplus power from M/s. SSSL w.e.f. 01.06.2015 in spite of several request from M/s. SSSL. However, in the mean time M/s. SSSL has supplied

around 1258.989 MWH of surplus power to WESCO Utility during the period from June, 2015 to April, 2016 amounting to Rs. 57, 96, 276/-, but WESCO Utility has not signed the joint meter reading statement and has not also released any payment towards such surplus power supplied by the petitioner.

3. M/s. SSSL has further submitted that the Commission vide its order dated 02.11.2010 has directed WESCO Utility to harness surplus power from the CGPs connected with its distribution network as it will benefit WESCO Utility commercially and reduce tariff burden on the general consumers in its area of supply. Based on the said order WESCO Utility had signed the power purchase agreement with M/s. SSSL and also renewed the agreement retrospectively on 05.12.2015 for purchase of power for the period from 01.04.2015 to 31.05.2015. M/s. SSSL submitted that the Commission vide its BSP order for FY 2016-17 has approved BSP of WESCO Utility @ Rs. 2.96/kWH and the landed tariff for WESCO Utility would be Rs. 3.21/kWH including the transmission charge of Rs. 0.25/kWH. However, in purchasing surplus power of M/s. SSSL the power purchase price is only Rs. 1.95/kWH, which will help for reduction of tariff for the general consumers.
4. In reply to the objections of WESCO Utility M/s. SSSL has submitted that it has signed a long term agreement with M/s. Bhagabati Steel Pvt. Ltd., a sister concern of M/s. SSSL, for sale of its surplus power, after taking approval and signing of Long Term Open Access (LTOA) agreement with WESCO Utility on 17.10.2014. Hence, this issue has no relevance to the present case and as a matter of fact M/s. SSSL has earlier supplied the required power to M/s. Bhagabati Steel Pvt. Ltd. and balance surplus power to WESCO Utility and WESCO Utility has also paid the energy bill of M/s. SSSL without any commercial and technical issues.
5. With the above submission the petitioner M/s. SSSL prayed the Commission to direct WESCO Utility for renewing the PPA w.e.f. 01.06.2015 onwards for supply of surplus power from its CGPs to WESCO Utility system and to sign the joint meter reading statement and to make payment of pay the energy charges for the energy supplied for the period from 01.06.2015 onwards.
6. The Respondent –WESCO Utility submitted that the PPAs were executed with M/s. SSSL for supply of infirm power from its CGP in order to meet the additional requirement of WESCO Utility. After elapse of the tenure of last agreement on 31.05.2015, the Utility did not express its willingness for further extension of the agreement, taking into account the availability of power from GRIDCO Ltd. The

same was also communicated to the petitioner company vide letter dated 20.06.2015. As per the Bulk Supply Agreement with GRIDCO Ltd., the Utility is sourcing its entire power from GRIDCO Ltd. which is vested with the responsibility of purchasing power from various generating sources and selling it to the distribution utilities. However, as an exception to the above, the Commission had allowed the utilities to make direct purchase of power from the CGPs below 15 MW in exigency.

7. Further, in the present case, the petitioner is selling its surplus power to M/s. Bhagabati Steel Pvt. Ltd. under LTOA since October, 2014 for which LTOA agreement has been executed by M/s. Bhagabati Steel Pvt. Ltd. with the WESCO Utility and the petitioner has given its consent for this. Now the petitioner is forcing the Utility to sell its infirm surplus power in addition to supply of power to M/s. Bhagabati Steel Pvt. Ltd. through LTOA, which may not be permissible. Because after selling its surplus power to M/s. Bhagabati Steel Pvt. Ltd. through LTOA, hardly any power left with the petitioner company M/s. SSSL to sell to the WESCO Utility. Therefore, the petitioner company has pushed power to the WESCO system inadvertently without any schedule. Hence, it should not be binding upon the utility to purchase inadvertent injection of power from CGP of the petitioner company. The petitioner M/s. SSSL should agree for supply of its entire surplus firm power to WESCO Utility with negotiable rate for which the petitioner company has to cancel the LTOA agreement executed with M/s. Bhagabati Steel Pvt. Ltd. and enter into an agreement with WESCO Utility. However, there should not be any precondition on the utility to pay for the infirm surplus power which the petitioner company has pushed into the system in the past after expiry of the agreement i.e. w.e.f. 01.06.2015.
8. The Commission in its RST Order for FY 2014-15 had directed the Utilities to advise CGPs to give their day ahead schedule drawal for emergency supply in 15 minutes time block and the CGPs should restrict their drawal within a reasonable margin of their schedule (say +/- 10%) failing which they are liable for disconnection. The petitioner company was advised for providing its day ahead schedule but till date it is not responding.
9. Heard the parties at length and perused their written submissions. It is observed that the State Government has vested the responsibility with GRIDCO Ltd. to purchase power from various generating sources and sell it to the distribution utilities in our State. Since some CGPs are not directly connected to the STU network and willing to sale their surplus power, the Commission vide its order dated 02.11.2010 passed in

Case No. 34/2010 have accorded in-principle approval to WESCO Utility for purchase of surplus power upto 15 MW from such CGPs at a mutually agreed price within the Bulk Supply Price (BSP) fixed by the Commission from time to time for WESCO Utility. Scheduling was not an issue at that point of time. After implementation of Intra-State ABT, it is has become necessary for scheduling of power supplied to the system, obtained from distribution utility in their day ahead requisition by the system operator for its requirement of power and also making provisions of penalty for its violation. This is one of the point argued by the respondent. Therefore, in the present case, the Commission is of the view that WESCO Utility should purchase the surplus power from the CGP of the Petitioner as it is cheap, lower than the BSP of WESCO and beneficial to the State consumers as recorded by the Commission in its order in Case No. 34/2010. At the same time M/s. SSSL should give day ahead schedule to WESCO Utility/SLDC for supply of its surplus power to the system for grid stability and operational planning. This is in line with the principle applicable to other CGPs selling power to GRIDCO Ltd.

10. Therefore, the Commission allow WESCO Utility to enter into an agreement with the petitioner M/s. SSSL to purchase surplus power from its CGP effective from the date of signing of agreement by both the Parties with the following principles as prescribed for other CGPs in our order in Case No. 22/2011:-
 - i. M/s. SSSL shall furnish the day ahead schedule for injection of power at least of 1 MW and above to the system from its CGP. Any power scheduled or injected below 1 MW average (i.e. 24 MWh/day) shall be treated as non-firm/inadvertent power and shall be paid at the pool cost of hydro power of the State for the respective year.
 - ii. Under injection upto 80% of the schedule and over injection upto 105% of the schedule shall be treated as firm power and paid at the mutually agreed price.
 - iii. Any injection above 105% of the schedule shall be treated as inadvertent/non-firm power and paid as per pooled cost of hydro power of the State.
 - iv. For any under injection below 80% and upto 60% of the schedule, the mutually agreed price shall be reduced by 10% subject to the limit of the pooled cost of hydro power of the State approved by the Commission for the respective year.

- v. Any injection below 60% of the schedule shall be treated as inadvertent injection/non-firm power and paid accordingly.
 - vi. Any injection at the Grid frequency of 50.20 Hz and above shall be at zero cost.
11. The Petitioner raised the issue of non payment of dues of Rs.57.96 lakhs by WESCO Utility arising out of power injected into the grid. Respondent WESCO submitted that the injection of power, even after denial, does not cast any obligation on WESCO Utility to pay for it. The Respondent further argued that the Petitioner has LTOA agreement with one M/s. Bhagawati Steel and the surplus power, after meeting captive load and LTOA demand, will not be sufficient to be injected into WESCO Utility system. However, Respondent could not clarify, if that be the case, how the Petitioner has claimed to have injected so much power to WESCO Utility system in the past.
 12. We observe that power has been injected into the WESCO Utility system without any formal agreement as per the claim of the Petitioner. The meter reading has been taken by Petitioner only without any corroboration by the Respondent. Therefore, some amount is outstanding for the injected power as per the claim of the Petitioner.
 13. We refer to our direction in Case No. 22/2011 at 34.1

“34.1. This issue has been dealt in by the Commission in para 30(d) of the order dated 23.11.2010 in Case No.117 & 118 of 2010. It has been clarified therein that all the power that can be scheduled from Captive/Co-generation plants based under day ahead schedule, shall be treated as Firm Power and accordingly they should be paid for. Power injected by Captive/Co-generation Plants before its commercial operation i.e. infirm power, power injected by CGPs/Co-generation plants without giving day ahead schedule and any power injection over the implemented schedule during the Operating Frequency Band of 49.50 HZ to 50.18 HZ shall be treated as Inadvertent power and should be paid at the pooled cost of the hydro power of the State approved by the Commission i.e. 62.51 paise/KWh during FY 2010-11 and 65.96 paise during 2011-12. Hence, it is hereby clarified that power injected by the CGPs/Co-generating plants shall be paid as per the rate and terms and conditions stipulated in para 33 and 34 of the order dated 23.11.2011 in case No.117 & 118 of 2010. Non-firm power (power injected by CGPs/Co-generating plants before its commercial operation) Infirm (power injected without giving day ahead schedule) as well as the Inadvertent power (power injected by CGPs/Co-generating Plants over the implemented schedule) within the Operating Frequency Band of 49.50 HZ to 50.18 HZ shall be paid at the pooled cost of the hydro power of the State i.e. 62.51 paise/Kwh for 2010-11 and 65.96 paise during 2011-12 as approved by the Commission in tariff order of respective years. The day ahead schedule given by any CGP shall be at least 1 MW and above. Any power scheduled or injected below 1 MW

average (i.e.24 MWH/day) shall be treated as Non-firm power and shall be paid at the pooled cost of the hydro power. Hence, for all practical purposes the injection of infirm power and inadvertent power would be treated under the same commercial principle i.e. the rate as approved by the Commission i.e. at the pooled cost of the hydro power of the State for the respective years.”

In Case No. 117 & 118/2010 we had also directed as follows:

“33.(e)The Captive/Co-generation Plants who would supply inadvertent power/ infirm power within the Operating Frequency Band of 49.50 to 50.18 HZ would be paid at the pooled cost of State hydel power which is 62.51 Paise/KWh for FY 2010-11 as approved by the Commission and any inadvertent injection at a frequency of 50.20 Hz and above shall be considered as “Free Power” to the State Grid. Any injection over the implemented schedule at a frequency within the Operating Frequency Band of 49.50 to 50.18 HZ should also be paid at 62.51 Paise/KWh during FY 2010-11 (from 10.11.2010 to 31.03.2011).

34. (e) The Captive/Co-generation Plants who would supply inadvertent power/ infirm power within the Operating Frequency Band of 49.50 to 50.18 HZ would be paid at the pooled cost of State hydel power which is 62.51 Paise/KWh for FY 2010-11 as approved by the Commission and any inadvertent injection at a frequency of 50.20 Hz and above shall be considered as “Free Power” to the State Grid. Any injection over the implemented schedule at a frequency within the Operating Frequency Band of 49.50 to 50.18 HZ should also be paid at 62.51 Paise/KWh during FY 2010-11 (from 10.11.2010 to 31.03.2011).”

Therefore, since the Petitioner neither has given any day ahead schedule nor there is a valid agreement and the Petitioner at the same time has injected power which has been utilised by Respondent WESCO Utility, the Commission considers the same as inadvertent power in line with above directions within frequency band of 49.50 Hz to 50.18 Hz. However, no reconciled energy accounts has been placed before us from either side to ascertain the financial implications on both and arrive at a logical conclusion. Therefore, we direct both the parties to reconcile such transactions in line with the principle mentioned above. If any issue survives after such reconciliation the Petitioner is at liberty to approach the Commission separately impleading all such parties for adjudication of the matter.

14. In the changed circumstances, when the power situations has improved over the years, and the directions of Government under Section 11 is no longer applicable the respondent is at liberty to approach the Commission with appropriate justification and suggestions for a better pricing policy to harness surplus power from CGPs. The Commission has recently floated a consultative paper in this regard.

15. Regarding the demand of WESCO Utility for cancellation of LTOA agreement with M/s. Bhagabati Steel Pvt. Ltd. as a precondition for supply of power by the petitioner M/s. SSSL, the Commission is not inclined to make an opinion on the matter. It is upto the petitioner M/s. SSSL whether it wants to supply power to M/s. Bhagabati Steel Pvt. Ltd. or discontinue the same due to our above order.
16. Accordingly, the case is disposed of.

Sd/-
(A. K. Das)
Member

Sd/-
(S. P. Nanda)
Chairperson