

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

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**Present: Shri U. N. Behera, Chairperson  
Shri A. K. Das, Member  
Shri S. K. Parhi, Member**

**Case No. 62/2017**

Director (Tariff), OERC	.....	Petitioner
Vrs.		
GRIDCO & Others	.....	Respondents

**In the matter of:** **Suo-motu proceeding on the consultative paper on pricing of surplus power from CGPs to be purchased by GRIDCO Ltd.**

**For Petitioner:** Shri Priyabrata Patnaik, Director (RA), OERC, the authorized representative of Director (Tariff), OERC.

**For Respondent:** Shri Anuirdha Sethi, Shri A. K. Samantaray, GM (PP), Shri T. Pattnaik, DGM (PP), Shri U. N. Mishra, CGM (PP), all are of M/s. GRIDCO Ltd., Shri K. C. Nanda, DGM (Fin.), WESCO Utility, Shri H. R. Das alongwith Shri Partha Sarathi Samantara, M/s. IMFA, Shri Sidhartha Kumar Panda, President, M/s. CCPPO, Shri R. P. Mahapatra, the authorized representative of M/s. IMFA & CCPPO, Shri S. Kumar, M/s. NBVL, Shri S. Satyakam, Advocate on behalf of M/s. NBVL & M/s. Vedanta Ltd., Shri Bibhu Charan Swain, the authorized representative of M/s. Visa steel Ltd., M/s. FACOR Power Ltd. & M/s. Adhunik Metaliks Ltd, Shri Alekha Chandra Mallick & Ms. Sonali Pattnaik, Dy. Manager (Legal), DoE, GoO are present. Nobody is present on behalf CESU, NESCO Utility & SOUTHCO Utility.

**ORDER**

**Date of hearing: 31.10.2017**

**Date of order: 09.04.2019**

As per mandate of the Electricity Act, 2003 and Rules made thereunder, Captive Generating Plants (CGPs) are set up by persons/industries primarily for their own use and supply of surplus power, if any, to the grid which shall be regulated in the same manner as the generating stations of a generating company. Further, the National Electricity Policy and National Tariff Policy stipulate that generation from captive power plants (CGPs) should be fully exploited/ utilized to meet the growing demand of power in the country. Accordingly, the Commission had fixed the price for procurement of surplus power from CGPs in the financial year 2010 for the last time as mentioned below w.e.f. 10.11.2010 vide Case Nos. 117 & 118/2010.

<b>Supply Quantum per Month</b>	<b>Supplying 100% surplus Firm Power to GRIDCO</b>	<b>Supplying 60% &amp; above surplus Firm Power to GRIDCO and balance export through Open access.</b>
Supply upto 7.3 MU per month (~ 10 MW Avg. and below)	Rs.2.75 per KWh	Rs.2.75 per KWh
Incremental energy above 7.3 MU/month and upto 36 MU/month (~ above 10 MW and upto Avg. 50 MW)	Rs.3.10 per KWh	Rs.3.00 per KWh
Incremental energy beyond 36 MU/month (above ~ 50 MW)	Rs.3.25 per KWh	Rs.3.20 per KWh
Any injection over the implemented schedule at a frequency of 50.20 Hz and above	Free Power to State Grid	Free Power to State Grid
who would supply inadvertent power/ infirm power within the Operating Frequency Band of 49.50 to 50.18 HZ	paid at the pooled cost of State hydel power	paid at the pooled cost of State hydel power

2. In the mean time 8 years have passed and a lot of changes have occurred in power sector of our state so also in the country. The power cost has been fluctuating in Power Exchanges and in the meantime many IPPs have been established in our state and selling the state's share of power to GRIDCO at a cheaper rate. In this context, there is a need for revision of CGPs pricing which required public hearing. For the purpose, a consultative paper was prepared and floated in OERC website. Notice was widely published in the newspaper seeking suggestions / opinions from the public as well as from different stakeholders of the power sector. In the consultative paper considering the power market situation prevailing in the country and considering GRIDCO's requirement the Commission proposed the following pricing mechanism for procurement of surplus CGP power by GRIDCO.

(A) **FIRM POWER,**

- i) *The pricing of Firm Power could be in single part i.e. paise per unit. This could be based on pooled variable charge of thermal power stations from whom GRIDCO purchases power plus some percentage of the pooled variable charges as an incentive to CGP.*

*Or*

*It can be based on the highest variable cost in the system or the actual variable cost of CGP, whichever is lower, and some percentage of the variable cost as an incentive.*

*Or*

*The Commission shall approve a ceiling price and GRIDCO may purchase power through competitive bidding within the ceiling price for short term power procurement as per the guidelines notified by MoP.*

(B) **INFIRM POWER**

*The Infirm Power could be purchased at pooled Hydro power rate.*

(C) *INADVERTENT POWER*

*The Inadvertent Power can be purchased by GRIDCO at zero price.*

*Henceforth CGPs shall not be treated as “MUST RUN” power plant as far as GRIDCO purchases are concerned.*

3. In response to the consultative paper several stakeholders filed their objections / suggestions. The Commission also heard them through a hearing process. The objection and suggestions can be summarised as follows:

(a) **Confederation of Captive Power Plants, Odisha (CCPPO)**

- The State demand is artificially reduced by DISCOMs through un-announced load shedding in rural areas as well as short duration tripping in urban areas to reduce the sale of power to the cross subsidized category resulting in undue benefit.
- To meet the actual state demand at lower BSP, GRIDCO should purchase maximum cheaper power from CGPs in place of high cost power from central stations.
- Injection of CGP power to the state grid should also be subject to Deviation Settlement Mechanism. SLDC may prepare the Energy account accordingly.
- Surplus power is available with CGPs as they have stand by capacity to take care of reduction in generation due to technical problems. Further, use of only 51% of the generation is required for CGP status, hence spare capacity is available with CGP as firm power which can be scheduled by the CGPs.
- As the industries having CGPs are obligated entities for RPO, the consumption of power by the industries from CGPs will be reduced to that extent. Hence, an equivalent amount of firm power will be available with the CGPs which can also be sourced by GRIDCO.
- The Commission may provide for a quantum of power in the ARR to be sourced by GRIDCO from CGPs.
- In view of the available surplus power with the CGPs due to stand by capacity and RPO as explained above, there should be no denial to open access by the DISCOMs/STU/SLDC on inappropriate reasons, in case GRIDCO does not source power from the CGPs.
- On imposition of Section 11 (1) of Electricity Act, 2003 by the State Government during the year of short fall of power in the State, the

Commission may pass suitable orders u/S. 11 (2) of the Electricity Act, 2003 to offset the adverse financial impact on the CGPs due to such imposition.

- **Firm Power**

- The pricing of firm power should be based on the highest variable cost at which GRIDCO sources power or is entitled to source power or the actual variable cost of CGP, whichever is lower and some percentage of the variable cost as an incentive.
- GRIDCO should procure surplus power for a period of more than 3 months and upto one year, as provided in the CGP policy dated 14.03.2008.
- The procurement of power by GRIDCO may be based on competitive bidding or based on negotiation, at the price determined by the Commission.

- ***Infirm Power:***

- Infirm power has not been defined in the present consultative paper. However, infirm or non-firm power has been defined in the policy dated 14.03.2008 i.e. CGPs who are capable of giving day ahead schedule but not in a position to supply continuously for a period upto three months.
- The proposal for fixing the rate of infirm power at pooled hydro power rate is inequitable, hence may not be adopted. The rate of infirm or non-firm power may be in accordance with the provisions of the policy dated 14.03.2008, which stipulates that the State Utilities may accept this power paying upto a maximum of 75% of the lowest cost of firm power determined through bidding for firm supply.

- ***Inadvertent Power:***

- Since the CGPs are connected to the State grid for drawal of power by the industries, power flows to the grid automatically when generation is higher than the requirement of the industries. Hence, the CGPs should continue to be treated as “MUST RUN” and inadvertent injection of power should be priced equal to the pooled cost of hydro power of the state instead of zero cost as proposed in the consultative paper.

(b) **GRIDCO Ltd.**

- The power situation in the State at present and in near future is expected to be quite comfortable due to existing and up-coming generation capacities (Central & State Sector and IPPs). GRIDCO may require CGP power on short-term basis only in case of exigencies. Hence, commitment to the CGPs for supply of power for more than 3 months to one year and making payment at firm rate for such purchase may create problem for GRIDCO. Hence, the commitment should be limited to the period of contract entered between GRIDCO & CGPs and payment to be made as per the schedule by SLDC during that contractual period.
- In the present power scenario, non-firm type of surplus power from CGPs is not required.
- The power injected by the CGPs against 'zero' schedule/without schedule by SLDC is to be treated as free power.
- There should be no payment for injection of firm power beyond the schedule, above the operating frequency band and also no payment for any other kind of injection at any frequency.
- There is no need to fix any rate for CGP power to be purchased for trading.
- Open Access is to be allowed to CGPs provided there is no invocation of Sec-11 of Electricity Act, 2003.
- Earlier, CGP price was determined based on the power deficit situation in the state. Now, the Commission may determine the CGP price considering the present power situations in the state. Moreover, a new pricing policy may be determined considering the present and future power situations in the state and superseding all the previous orders.

**Pricing**

- Considering the above and the present power situation, GRIDCO has proposed the following Mechanism for Procurement and Pricing of surplus power from the CGPs.
  - Payment will be made to the CGPs only on the basis of scheduling by the SLDC in 15 minutes time block and with the conditions of supply

as per the order of OERC. In no case the declared quantity by the CGPs will be treated as schedule for billing purpose.

- GRIDCO will not have any commercial agreement with any of the CGPs except the subsisting time bound contract already entered between GRIDCO and the CGPs for supply of surplus power to GRIDCO.
- The terms and conditions and rates to be offered to the CGPs in the LoI will be as per the pricing policy of the Commission and the Agreement signed between GRIDCO and the CGPs.
- CGPs shall not be treated as “Must Run” power plant as far as GRIDCO purchases are concerned. The infirm / inadvertent power injected by the CGPs is not to be billed to GRIDCO and penalty is to be imposed for inadvertent injection at high frequency.
- The Commission may decide the conditions of supply and the modalities for determination of rate of the surplus power during normal situation and also during emergent condition.
- The compensation towards over drawal by CGPs for any particular month is to be adjusted from the bills of the CGPs as per the terms and conditions accepted by the CGPs for Open Access transactions (for those CGPs supplying surplus power to GRIDCO and transacting through OA simultaneously).

(c) **CESU**

- Any injection over the implemented schedule at a frequency of 50.20 Hz and above shall be free power.
- Injection of inadvertent power / infirm power within the operating frequency band to be paid at the pooled cost of state hydel power.
- The above two facilities as availed by GRIDCO from the CGPs may be extended at par to the DISCOMs as per their share.

(d) **DISCOM Monitoring Unit (DMU) for NESCO, WESCO SOUTHCO**

- ***Firm Power:*** The Commission should approve the ceiling price and GRIDCO may purchase power through competitive bidding within that ceiling price for short-term power procurement as per the guidelines notified by MoP.

- ***Infirm Power:*** The rate of infirm power should be at pooled hydro power rate.
- ***Inadvertent power:*** There should be 'zero' price for inadvertent injection of power.

(e) **IMFA**

- Mandatory usage of RE (Solar & Non-solar) would lead to idle CGP capacity of around 1100 MW by FY 2018-19. Hence, the CGPs are in a position to make firm commitment.
- The Commission should invite CGPs to intimate their firm commitment on an annual basis and consider the same in the ARR of GRIDCO towards purchase of CGP power.
- If a CGP is connected to the grid, power is injected to the grid automatically in case of low load in the industry, which cannot be regulated. This energy is accounted for by SLDC and the licensees enjoy the benefit for this energy. This should be treated as inadvertent injection.
- In case the licensee is not desirous to procure CGP power, the CGPs should be allowed to sell power to other industries inside the state and the licensee should not raise unnecessary procedural hurdles to allow such transaction.
- The Commission should come out with a road map to gradually bring down the cross subsidy surcharge.
- Firm power, Non-firm power and Inadvertent power may be defined as given below:
  - (i) ***Firm Power:*** means a contracted capacity to be supplied for the contract time of the day basis or on whole day basis (round the clock), which a CGP on the basis of its declared availability is obliged to deliver to the licensee within variation range of +/- 20% of the contracted capacity, for a period of not less than one year.
  - (ii) ***Non-firm Power:*** means the contracted capacity to be supplied, on whole day basis or specified time of day basis, by the CGP to the Licensee for the specified duration of contract period not less than a week (i.e. 7 days) within a permissible variation of  $\pm 50\%$  of contracted capacity but does not fulfill the requirement of firm power supply and which can be stopped by Licensee/CGP at short Notice.

(iii) ***Inadvertent power:*** means unrestricted flow of power from the CGP on account of inevitable mis-match between generation and load and which cannot be stopped by licensee/CGP. Inadvertent supply will however, be unscheduled, non-contractual and uninterruptible.

- **Pricing**

***Firm Power:*** Tariff for firm power should be the normative fixed charges and variable charges as in case of other generating stations. However, variable charges should be weighted average cost of central sector thermal power stations. The tariff should be different for peak and off-peak periods as given below:

- a. For off-peak hours (1.00-17.00 hours and 23.00-24.00 hours) - Full variable charges and no Fixed Charges.
- b. For peak hours (18.00-23.00 hours) - Full variable charges plus 90% of Fixed Charges.

***Non-firm Power:*** Price for non-firm power should be 90% of the price specified for the firm power corresponding to peak and off-peak periods.

***Inadvertent power:*** Pricing for inadvertent injection should be

- Inadvertent power injection beyond 12% of the installed capacity of the CGP shall carry zero cost.
- The Deviation Settlement Mechanism (DSM) rate, as applicable at 50 Hz, should be applicable for inadvertent injection.
- The above cost will be paid for injection within the operating frequency (49.70 – 50.05 Hz)

(f) **M/s. Nava Bharat Ventures Ltd. (NBVL)**

- As per the new Tariff Policy, determination of price for the surplus power of the CGPs should be at par with the other generating stations.
- Any power supplied by the CGPs after giving day-ahead schedule to be treated as “Firm Power” and pricing of this power ought to be determined on a cost plus basis, which includes capacity charges, not limited to variable charges only.
- In the event, it is not possible to determine the exact fixed charges of a CGP; the same may be apportioned to a fraction of the entire project cost.



- Competitive bidding in terms of the MoP guidelines for short-term power procurement do not indicate any ceiling price to be fixed. However, a floor or base price may be fixed by the Commission in accordance with the cost plus method.
- The CGP pricing ought to be revised every year to determine the variable charges.
- In the event power is not procured by GRIDCO from the CGPs, Short-Term Open Access ought to be provided within the time frame without raising procedural hurdles, because there will be surplus power of the CGPs due to usage of renewable energy as per RPO.
- The price for infirm / non-firm power may be considered at 90% of the tariff specified for the firm power.
- The CGPs must be treated as 'must run' power plant and in case of 'inadvertent power' flow; the same may be compensated/penalized in terms of Deviation Settlement Mechanism (DSM). Prior to notification of DSM Regulations, 'inadvertent power' may be priced at the pooled cost of hydro generating stations.
- In past, there are several disputes raised by GRIDCO on payment towards CGP power. Hence, a payment mechanism may be evolved, wherein 75% of the billed amount has to be remitted by GRIDCO in case GRIDCO raised any dispute in the billing.

**(g) FACOR, M/s. Adhunik Metaliks Ltd. & M/s. Visa Steel Ltd.**

- GRIDCO purchases power from mega thermal plants which are pit head and provided with coal block / linkage, hence their variable cost is very low. Therefore, price for firm power from CGPs should not be linked with pooled variable charges of thermal stations from which GRIDCO purchases power.
- CGP price should include a component of fixed cost, variable cost and adequate incentive to compensate the higher investments in CGP of low capacity.
- In case of competitive bidding for procurement of power from CGPs, the CGPs having smaller size shall suffer.

- The Commission should allow CGP power to be purchased by GRIDCO because it is cheaper than the power from central thermal stations and also not associated with transmission / POC charges and transmission losses.
- The concept of firm / non-firm / inadvertent power needs to be properly defined, otherwise it may lead to confusion in later stage. There should be no restriction on injection of any scheduled quantum of firm power by CGPs, which could help the CGPs having lower capacity.
- Based on the DSM Regulations, the infirm / inadvertent power should be properly priced instead of 'zero' cost as proposed in the consultative paper. The licensee should not be unduly benefited at the cost of such CGP power.

- **Definition**

***Firm Power:*** Any power which a CGP can schedule in day-ahead basis should be treated as Firm Power.

***Infirm Power:*** Any power which a CGP supplies to Grid prior to COD should be treated as infirm power.

***Inadvertent Power:*** Any power which a CGP supplies to Grid without any schedule should be treated as inadvertent power.

- **Price**

***Firm Power:*** The pricing of Firm Power should be Rs. 4.00 per unit for FY 2016-17 and GRIDCO should follow the merit order based scheduling for procuring power from all other sources including CGP irrespective of quantum.

***Infirm Power:*** The rate for infirm power should be fixed at Rs. 1.78 P/U in line with CERC Policy

Or

The infirm power should be linked with Deviation Settlement Mechanism. Frequency linked incentive / penalty should be payable by Odisha Deviation Pool Account to CGPs based on their over or under injection.

***Inadvertent Power:*** The inadvertent power should be linked with Deviation Settlement Mechanism. Frequency linked incentive / penalty should be payable by Odisha Deviation Pool Account to CGPs based on their over or under injection.

**(h) Vedanta Ltd.**

- As per Para-6.2 and 6.3 of the National Tariff Policy notified on 28.02.2016, the CGPs shall be treated at par with other generators so far as determination of tariff and injection to the grid is concerned. Hence, the price for CGP power should be determined on cost plus basis and must include a component of capacity charges in addition to variable cost.
- In order to qualify for firm power, the proposed time limit of 3 months should be reduced to one day, as day-ahead scheduling is made for the next day only.
- Price of firm power may be decided in case to case basis as in case of IPPs and if required, fixed cost may be apportioned as a fraction of the entire project cost.
- Infirm power should be considered as defined in CERC Tariff Regulations.
- MoP guidelines for short term power procurement do not indicate any ceiling price to be fixed. It proposes for a floor or base price.
- CGP price ought to be re-visited every year to determine the variable charges with adequate compensation.
- In the event GRIDCO do not purchase CGP Power, SOTA ought to be provided to the CGPs without creating any unnecessary problem and denying OA unlawfully.
- CGPs should be treated as 'Must Run' power plants and any inadvertent injection may be compensated / penalized in terms of DSM Regulations.
- A payment mechanism may be evolved, wherein 75% of the billed amount has to be remitted to CGP in case GRIDCO raises disputes on the bills.

**(i) Shri Alekh Chandra Malik**

- There is surplus power available with GRIDCO and GRIDCO should try to trade the surplus power available from other sources as well as CGP power at optimal rates.
- GRIDCO may purchase power from the CGPs at the price depending on the demand.
- CGPs may offer the rate for firm and non-firm power, such that it will be convenient to GRIDCO for trading with certain profit margin.

- GRIDCO should purchase CGP power in case it fails to purchase ARR approved power to meet the state demand.

**Commission's observations:**

4. The Commission is mandated to determine the procurement price of power of GRIDCO under Section 62 of the Act for use by the state consumers. Generation is a de-licensed activity. Therefore, the Commission is not entrusted under law to determine the selling price of power of generators such as IPPs or CGPs. GRIDCO sources power from various sources such as Central sector and state sector generators, IPPs and others. The power demand of the State is variable due to various reasons such as change in season or sudden spurt in industrial or commercial activities in short run. Long term contracts may not be sufficient to meet the State demand always. There can be breakdown in the power station or transmission system. At that juncture to meet the State demand it is necessary to purchase power from sources such as power exchange, CGPs and others in short term. While determining the procurement price of GRIDCO, the Commission is required to ensure that most economical power is available to GRIDCO, so that the Consumers are not burdened with inefficiency in procurement.
5. The Commission, based on the Electricity Act, 2003, National Electricity Policy, Tariff Policy and suggestion/feedback from various quarters, had released a comprehensive pricing policy on 14.03.2008 for procurement of surplus power from the CGPs by GRIDCO/DISCOMs/State and also determined the ceiling price of such surplus power which was reviewed and re-determined from time to time. Now, MoP, Govt. of India has notified the revised Tariff Policy on 28.01.2016. Para 6.3 of the said revised Tariff Policy stipulates as follows:
 

6.3 *Captive generation is an important means to making competitive power available. Appropriate Commission should create an enabling environment that encourages captive power plants to be connected to the grid.*

*Such captive plants could supply surplus power through grid subject to the same regulation as applicable to generating companies. Firm supplies may be bought from captive plants by distribution licensees using the guidelines issued by the Central Government under section 63 of the Act taking into account second proviso of para 5.2 of this Policy.*
6. Further Para 5.2 of the said policy stipulates as follows;
 

5.2 *All future requirement of power should continue to be procured competitively by distribution licensees except in cases of expansion of existing projects or where there is a company owned or controlled by the State Government as an*

*identified developer and where regulators will need to resort to tariff determination based on norms provided that expansion of generating capacity by private developers for this purpose would be restricted to one time addition of not more than 100% of the existing capacity.*

7. From the submission of the representatives of CCPPO and other CGPs it is understood that a good quantum of surplus power is available with them as standby capacity after meeting their industrial requirement. Further, they are now obligated entities for RPO and expected to purchase renewable power which will replace consumption of equivalent conventional firm power by them. That quantum of conventional firm power generated by their CGP will now be available with them as surplus power. Therefore, they have prayed that the power which they inject to the Grid after meeting their requirement should be priced by the Commission.
8. Simultaneously, we find that GRIDCO Ltd., who is the State Designated Entity to purchase power for the State, is having good quantity of firm surplus power available with them at present and in near future this surplus scenario is likely to continue as per their estimates from the existing and upcoming generation capacities of Central and State Sector power plants and IPPs where Long-Term power purchase agreements have been made. However, they may require CGP power on occasions on short-term basis only in case of exigencies when generation fails or unpredicted rise in State demand.
9. We have also examined the price of the power in the power exchange and find that the price also fluctuates depending upon the demand. The average Price of power traded by IEX during the last three years is given in the table below.

**IEX Price (Rs./ Unit)**

<b>Month</b>	<b>Year-2016</b>	<b>Year-2017</b>	<b>Year-2018</b>
Average (RTC) (Price in 24 Hrs.)	2.25	2.97	3.90
Peak (Price in 18-23 hrs.)	2.57	3.53	4.74
Non Peak (Price in 1-17 & 23-24 Hrs.)	2.15	2.79	3.61
Day (price in 11-17 Hrs)	2.32	3.01	3.75
Night (price in 01-06, 23-s24 Hrs)	2.00	2.57	3.34
Morning (price in 07-10 Hrs.)	2.12	2.78	3.87

10. We have also scrutinized the average variable cost (energy charge rate) of central sector thermal power plant from whom GRIDCO purchases power through long term contract which is given below:

### **Energy Charges Of Thermal Stations**

(Figs in Rs. / Kwh)

	2016-17	2017-18	2018-19 (Upto Sept., 2018)
<b>TSTPS-I</b>	1.66	1.55	1.70
<b>TSTPS-II</b>	1.66	1.56	1.70
<b>FSTPS- I &amp; II</b>	2.51	2.46	2.27
<b>FSTPS- III</b>	2.53	2.52	2.29
<b>KHSTPS-I</b>	2.41	2.38	2.25
<b>KHSTPS-II</b>	2.26	2.28	2.15
<b>Barh -II</b>	2.54	2.21	2.22
<b>TTPS</b>	1.65	1.65	1.69

11. From the above, it is clear that the cost of power purchased through energy exchange in short term is quite volatile. Since GRIDCO has tied up capacity in Central and State Sector power plant as well as in IPPs and the cost of power from these sources is cheaper, such power must be procured first. The State consumer must not be burdened with comparatively high cost power. There is every likelihood of addition of generation capacity in State/Central Sector in near future. Therefore, GRIDCO must exercise prudence and caution while deciding on procurement of short term power from any sources. Short term procurement should be resorted to only when contracted generation capacity fails or when the former is cheaper.
12. The ultimate objective is to make available secure and reliable power supply to all consumers with economically viable tariffs while satisfying Power Supply Planning and Security Standards. At the same time there should not be any un-certainty in payments to the CGPs from whom GRIDCO purchases power. After taking into account the provisions of the Electricity Act, 2003, the National Electricity Policy, Revised Tariff Policy and considering the suggestions/ feedbacks from various stakeholders, the Commission is of the view that for meeting the shortage of power in the State, GRIDCO should purchase power from CGPs on short term basis only when it is necessary. The short-term power procurement shall be for the additional requirement or emergency requirement of power at any time during the year. The short-term power procurement shall be on least cost basis (least financial cost among the similarly placed sources). It shall be through a contract between GRIDCO and CGPs clearly indicating the terms and conditions including scheduling and payment mechanism.
13. The tariff policy mandates that the power purchases should be based on competitive bidding to ensure that the cheapest power is available to the state consumers. From the submissions of CGPs it is found that they have surplus power and they are willing to

sell such surplus power to the State through GRIDCO. They are connected mostly with the State transmission system and have the advantage of incurring lower transmission cost which in turn implies financial benefits to the consumers of the State. We also observe that on occasions, arising out of various reasons, GRIDCO requires power from sources other than the plants with which it has long term PPA to meet its requirements.

14. On this matter Hon'ble APTEL in Appeal No.120 of 2016 & IA No.272 of 2016 of para 10(I)(iv) citing their views expressed in Appeal No.267 of 2014 and 68 of 2014 have observed :

*xxxxxx xxxxxx xxxxxx A generator cannot pump electricity into the grid without having consent/ contractual agreement with the distribution licensee and without the approval/scheduling of the power by the SLDC. Injection of such energy by a generator is not entitled for any payments.*

Therefore, a lot of ambiguities between captive generators and GRIDCO can be avoided through a commercial mechanism which ensures measurable, quantified and agreed injection to the grid. The same will help better grid discipline and visibility / transparency in power sourcing process.

15. In the above circumstances and considering the submission of CGPs and other stakeholders Commission thinks it prudent to allow GRIDCO to purchase power from CGPs observing due competitive bidding process. It shall make efforts to purchase such surplus power from the CGPs if the quoted price of interested CGPs is less than the marginal variable cost of central sector power stations. When power requirement is more than the long term contract of GRIDCO then GRIDCO should ensure that the price of CGP power it intends to purchase is cheaper than the price at power exchange or any other source. At the same time, if CGP power is available at a rate lower than that at the power exchanges, such CGP power at such cost must be purchased rather than getting the same from power exchange at a higher cost. GRIDCO shall follow merit order dispatch principle while drawing such power. While doing so, GRIDCO must ensure that the power procured works out cheaper to the state consumers. CGPs will also have liberty to approach GRIDCO for sale of their surplus firm power with their quoted price. GRIDCO may purchase the same following the above guidelines. GRIDCO can also utilise power sourced from CGPs for trading if it is found economical.
16. GRIDCO should keep a competitive power procurement mechanism from CGP in place at all times. The CGPs who offer competitive price and are willing to sell firm

power through contract shall give day ahead schedule to SLDC. Power injected by CGPs without giving day ahead schedule and without a valid contract shall be treated as the injection of inadvertent power and priced at zero. However, there shall be no payment for any kind of injection of power at the frequency of 50.05 Hz and above or at frequency mentioned in the relevant CERC/ OERC Regulation in force at that time as a matter of grid discipline. Any deviation from the schedule shall be dealt as per the agreement entered between GRIDCO and the CGP following relevant DSM Regulations. The Commission at any time may choose to oversee the process in order to ensure that commercial principles and financial prudence are observed.

17. All the stakeholders, CGPs, GRIDCO, OPTCL, SLDC shall observe relevant rules and procedures in the implementation of above instructions. Power injected by CGPs without schedule and without contract shall be zero cost power to GRIDCO. The parameters / conditions specified by CERC in DSM Regulations or a full-fledged State DSM Regulation when it is notified and the contract entered by GRIDCO as per guideline of this order shall be strictly followed.
18. Invocation of Section 11 by Govt. at any time shall entitle the CGPs with “Must Run” status. All scheduled energy shall be paid by GRIDCO as per rate arrived in competitive bidding and accepted at that time and unscheduled power shall be procured at the pooled hydro cost. This arrangement shall be valid only for the period as specified by Govt. under Section 11 of Electricity Act, 2003 by their appropriate orders. The Commission in its earlier order had conferred ‘Must Run’ status on CGP to tide over power deficit situation arising out of low hydro generation in the State during the year 2009. Situation has undergone lots of changes since then. We feel there is no relevance at present to continue with ‘Must Run’ status of CGP anymore and this status is hereby withdrawn with immediate effect.
19. The Captive Generating Plants are at liberty to sell their surplus power through Open Access as per OERC Regulation observing due formalities if they do not intend to participate in a bidding process or sell their surplus power to GRIDCO.
20. In view of the above discussion the Commission is of the opinion that there is no need for fixation of price for supply of surplus power from CGPs to GRIDCO. The procurement price of power from CGPs by GRIDCO arrived through transparent competitive bidding shall be placed before Commission for its concurrence at appropriate stage. Therefore, earlier orders on ‘CGP pricing’ are accordingly repealed with effect from the date of this order subject to situation mentioned at Para 18 above.



21. The Commission may review this order suo motu as and when necessary basing on the feedback from the stakeholders or on request by affected parties.
22. Accordingly, the case is disposed of.

Sd/-  
**(S. K. Parhi)**  
**Member**

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

Sd/-  
**(U. N. Behera)**  
**Chairperson**