

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

Present: Shri U. N. Behera, Chairperson
Shri S. K. Parhi, Member
Shri G. Mohapatra, Member

Case No. 34/2018

M/s. Vedanta Ltd.	Petitioner
Vrs.		
GRIDCO Ltd. & others	Respondents

In the matter of: **An application under Section 42 of the Electricity Act, 2003 read with Rule 3 of the Electricity rules, 2005 and Reg. 9(1) and Reg.76 of the OERC (Conduct of Business) Regulations,2004 and other applicable provisions of the Act, seeking declaration of Unit-II (600 MW) of its thermal power plant of 2400 MW (4x600 MW) as a captive generating plant.**

For Petitioner: Shri S. P. Mishra, Sr. Advocate on behalf of M/s. Vedanta Limited.

For Respondents: Shri L. N. Mahapatra, Advocate, Shri R. K. Meheta, Advocate on behalf of GRIDCO, Shri K. C. Nanda, DGM (Fin.) on behalf of TPWODL, Shri Bhadresh. B. Mehta, CLD, SLDC and Shri P. K. Pradhan.

ORDER

Date of hearing: 04.05.2021

Date of order:05.10.2021

The petitioner M/s. Vedanta Ltd. is a generating company having a thermal power plant of 2400 MW capacity (4 x 600 MW) and also a 1215 MW capacity (9 x 135 MW) Captive Power Plant (Vedanta CPP) in Jharsuguda District of Odisha. It has a 0.5 Million Metric Tonne Per Annum (MMTPA) aluminum smelter unit (Smelter-II) in the licensed area of TPWODL and another 1.1 MMTPA smelter unit (Smelter-I) in Odisha Special Economic Zone. The Commission vide its order dated 27.01.2016 in Case No. 21 of 2015 had allowed conversion of units –I, III and IV of the power plant as captive generating units based on the assurance of M/s. Vedanta Ltd. that in case of low or no generation in Unit-II (the Unit which continues as IPP after conversion of 3 Units as CGP), the petitioner shall meet its commitment in the PPA from the converted CGP units for supplying state entitlement of power to GRIDCO. Now M/s. Vedanta Ltd. has filed the present petition seeking declaration of the IPP-Unit-II as a CGP Unit which will supply power to its Smelter-I & Smelter-II.

2. The petitioner has submitted that it has been fulfilling the obligations as per PPA and directions of the Commission by supplying power from the IPP Unit-II. However, due to shortage and grade slippage of coal the petitioner is able to just maintain the power requirement of its smelter units from CGP units keeping one unit in standby mode so that freezing of pots can be avoided. Now the petitioner has got approval from the State Government for expansion of the smelter from existing 1.6 MMTPA to 1.8 MMTPA. The operation of both the smelter units at optimum capacity, by availing power generated also from IPP-Unit-II, would be in public interest since it will result in economic development of the State.
3. The petitioner has submitted that as per the LGBR of CEA, Odisha has no deficit of power during peak demand hours for FY 2015-16 and 2016-17. Thereafter Odisha is surplus in power. Now, after commissioning of 2 x 660 MW project of OPGC, the availability of power for the state would further improve and being a peat head station it would have much lower energy charge and higher dispatch priority. Further, as per the Notice Inviting Tender (NIT) dated 04.02.2021 issued by GRIDCO it will have surplus power of 1000-1500 MW at least for a period of next 5-6 years for trading. Hence it is expected that there would be a very low schedule of power from Vedanta-IPP resulting in low PLF which would cause burden of annual fixed charges on GRIDCO and thereby on consumers' tariff under the existing PPA dated 19.12.2012. Further, as per Ministry of Environment and Forests (MoEF) emission norms notification dated 07.12.2015, installation of FGD has to be implemented by the thermal power plants before 2022 and the petitioner has submitted the feasibility report to CEA in this regard. After installation of FGD, the cost of power would further increase by approximately Rs.1- 1.25 per kWh in fixed cost. The additional fixed cost burden to the end consumer may be avoided through surrender of power purchase contract with the Vedanta-IPP. Further as per the Commission's order the power supply obligation of the petitioner is limited to the quantum of linkage coal received by it and from the present allocation of linkage coal to Vedanta, it can supply only 340 MW of power. However, GRIDCO has off-taken only 230 MW on an average in last five years without any issue in power evacuation. In view of the above, in the interest of both GRIDCO and M/s. Vedanta Ltd. the IPP unit-II may be declared as CGP by the Commission. The present petition is filed for this purpose.

4. To strengthen its prayer M/s. Vedanta Ltd. has submitted that under Section 42 of the Electricity Act, 2003 read with Rule 3 of the Electricity Rules, 2005, this Commission is empowered to declare an IPP as CGP. Earlier this Commission has allowed the conversion of other three IPP units to CGP units. Further, the inherent powers of this Commission under regulation 76 of OERC (Conduct of Business) Regulations, 2004 it alone would be appropriate authority to decide and monitor the CGP status. In this regard the following judgements of APTEL holding that the State Commission has jurisdiction to declare any IPP as CGP are noteworthy:
- i) Chhattisgarh State Power Distribution Company Ltd. V. Hira Ferro Alloys and Ors. 2010 ELR (APTEL) 0759 at para 28 & 36.
 - ii) CSPDCL V. J P Saboo, Urla Industries Association and Anr. 2011 ELR (APTEL) 0388 at para 32-34.
5. Based on the above, in order to be considered as CGP as per Rule 3 (1)(a) of Electricity Rules, 2005, the power plant is required to satisfy the following:
- a) Not less than 26% of the ownership must be held by the captive user(s), and
 - b) Not less than 51% of the aggregate total electricity generated in the plant, determined on an annual basis, is consumed for the captive use.

M/s. Vedanta has submitted that the power from IPP-Unit-II shall be consumed by the petitioner itself to qualify under Rule 3 demonstrating more than 51% of consumption of power. Since the petitioner owns the entire plant and the smelter units, the entire power generated from Unit-II would be consumed by its smelters. Therefore, the consumption of power from Unit-II would satisfy both the criteria for captive consumption.

6. During pendency of present petition the petitioner has filed an application before this Commission seeking interim directions in the present case. The petitioner has stated that they have got in-principle approval from IPICOL, Government of Odisha to provide 300 KTPA molten metal from its smelters units to downstream industries in the newly set up Aluminium Park at Jharsuguda. The progress on the same is being reviewed by the Chief Secretary through IDCO. The said park and expansion of its aluminium smelter unit would provide economic value addition to the State as well as provide livelihood opportunities to more than four lakh people which would also add in the 'Make in Odisha' initiative. The issue of conversion of IPP Unit-II to CGP unit was

also discussed in the review meeting chaired by the Chief Secretary of Odisha on 18.02.2021 wherein M/s. Vedanta Ltd. apprised that such conversion will enable the petitioner to utilise cheaper power from CGP for the smelter.

7. In view of the above, the petitioner has prayed the Commission to declare IPP Unit-II (600 MW) of its power plant as a CGP unit and also to declare that there is no obligation of the petitioner to supply power under the PPA dated 19.12.2012 and the terms of PPA comes to an end.
8. The respondent-GRIDCO has submitted that the consolidated PPA dated 19.12.2012 executed between GRIDCO and M/s. Vedanta Ltd. has already been approved by the Commission vide its order dated 12.06.2013. Since Unit II of the IPP was the first Unit to be commissioned and connected to the state grid, the entire power generated from this unit is to be supplied to GRIDCO as per PPA. Further, this Unit II has an assured/guaranteed coal supply for its power generation since it is dedicated to the State consumers. The petitioner had filed an application under Section 42 and Section 86(1)(f) read with Rule 3 of the Electricity Rule 2005 before this Commission which was admitted as Case No. 21 of 2015, wherein the petitioner had prayed for declaring all the four Units of the IPP as CGP and inter alia solemnly affirmed that, *“Notwithstanding the conversion of CGP, the petitioner will comply with the requirement of the supplying power to GRIDCO under the terms of the PPA dated 19.12.2012.”* However, the Commission in its order 27.01.2016 in Case No. 21 of 2015, allowing Units I, III and IV as CGP Units, has pronounced as under:
 - a) *Unit – II of the 4 x 600 MW power plant of Vedanta Ltd. will continue to remain as IPP and connected to the State Grid.*
 - b) *Quantum of power supply to GRIDCO towards State entitlement should be 25% (at full cost) and 7% / 5% (at variable cost) of total energy sent out from the power station (4 x 600 MW) as per the PPA in force. The Unit-II must remain connected to STU as State dedicated unit and accordingly supply to GRIDCO must be 25%+7%/5% of total energy sent out from the power station or total ex-bus generation from Unit-II whichever is higher. Such quantum of power supply should not be disturbed at any point of time.*
 - c) *Unit – I, III & IV of the same power plant are converted to CGP w.e.f. 01.04.2015. The above conversion is based on the assurance of the Petitioner that in case of low or no generation in Unit-II the Petitioner shall meet its commitment in the PPA from the CGP units and its pricing shall be as per the relevant IPP Regulations of the Commission.*
 - d) *The coal used for generating power for State entitlement shall be linkage coal / captive mines allocated to the Petitioner for State use.*

- e) *The pricing of power of State entitlement shall be based on IPP pricing Regulation of the Commission.*
- f) *The above decisions are made on the basis of assurance of the Petitioner that it shall honour all the conditions as stipulated in the existing PPA in spite of conversion of some IPP units to CGP.*
- g) *We direct the Petitioner and GRIDCO to bring about necessary changes in the PPA as per the present order and place the same for the approval of the Commission within 15 days. OPTCL is also directed to bring about necessary changes in the connectivity agreement as stated by them in Para-15.*

9. GRIDCO has submitted that there is no cause of action for the petitioner to move the present petition before this Commission on the face of the above order dated 27.01.2016. In this order the Commission has emphatically directed that the quantum of power supply to GRIDCO towards state entitlement should not be disturbed at any point of time. Therefore the rights of GRIDCO as state designated entity to avail power from petitioner's thermal power plant ought not be compromised at the cost of the benefits to the state consumers. The petitioner's contention to avail more power in future for expansion of aluminium smelter unit has no place to be considered here. Further in spite of the aforesaid specific directions of the Commission, there has been consistently short supply of power by the petitioner. Moreover the petitioner's contention regarding receipt of bad quality of coal for its CGP units to meet the smelter load is not liable to be considered in the present case of conversion of state dedicated IPP-unit II to a CGP unit. Further, the petitioner's contention that ash pond issue is a constraint for generation at full ex-bus capacity is not acceptable.
10. GRIDCO further submitted that the contention of the petitioner that the cost of power of its IPP is the costliest power among the IPPs in Odisha is not correct. The provisional per unit rate fixed by the Commission for this IPP unit of the petitioner is less in comparison to the per unit rate of power from other IPPs under cost plus tariff. Had the rate of power from petitioner's IPP been the costliest; the Commission would not have directed GRIDCO in various orders to procure full entitlement of power from the petitioner. Further regarding increase in cost of its power due to installation of FGD system by 2022 as per notification of MoEF, GRIDCO has submitted that not only the petitioner, it would be applicable for all thermal stations and this inevitable cost will have universal implications. Therefore the contention of the petitioner is not tenable. Moreover, being green field projects, the upcoming thermal stations in the state will have higher fixed cost per unit. However, the cost and/or availability of power from upcoming projects cannot be presumed by the petitioner to go out of its contract to

supply the state share of power from its IPP-Unit-II. Regarding surplus availability as per LGBR of CEA, GRIDCO has stated that LGBR is nothing but an estimation of availability and demand of power which cannot be said to be real time power availability/requirement in absolute manner. The availability of power to meet the state demand gets affected substantially when there is non-supply of power by the petitioner in compliance to the Commission's order dated 27.01.2016. The petitioner being a generator and bound by its promises to supply the state share of power has no reason to cite the coming up of OPGC Units-III & IV and to assess the surplus/deficit of power in the state.

11. GRIDCO has further stated that as per the projection/estimation by them there will be some surplus power for a couple of years from now and then there will be deficit in the power availability from FY 2024-25 mainly due to phasing out of old thermal power stations on account of completion of their useful life. The uncertainty of operationalisation of upcoming power projects coupled with aggressive intervention of RE in the energy mix may not cater to the peak demand of the state in future. GRIDCO has submitted that in the above projection they have considered entire power procured from Vedanta shall be utilised only to meet the state demand as per MOD principle. Now GRIDCO endeavours to sell surplus power (i.e. high variable cost power) through DAM, TAM and RTN to optimise fixed cost burden on account of high cost power from certain power plants.
12. Therefore, conversion of IPP-Unit-II to CGP would seriously affect the availability of power in the state and hence GRIDCO does not agree for surrendering the power from the IPP-Unit-II of the petitioner. Further, GRIDCO has executed PPA with the petitioner based on the MoU executed between the petitioner and the Govt. of Odisha and the PPA has already been approved by the Commission. The PPA is valid for 25 years and mandated the petitioner to supply state entitlement power to GRIDCO. Therefore, GRIDCO has prayed the Commission to reject the present application filed by the petitioner-M/s. Vedanta Ltd. and direct the petitioner to comply the Commission's order dated 27.01.2016 by supplying state entitlement of power to GRIDCO and also to comply with the clause 14.1(d) of the Fuel Supply Agreement and make payment of all the outstanding dues to GRIDCO.
13. The respondent-WESCO has submitted that earlier the petitioner in Case No.21 of 2015 had prayed for conversion of all the four units from IPP to CGP. However the

Commission in its order dated 27.01.2016 in Case No. 21 of 2015 has allowed conversion of Units-I, III and IV to CGP and Unit-II has remained as IPP which is dedicated to the State in terms of MoU between State Govt. and Vedanta Ltd. and PPA with GRIDCO. Since the matter has been settled and attained finality, raising the same by the petitioner in the present petition is not maintainable in the eyes of law.

14. WESCO has further submitted that Govt. of India, Ministry of Power has suggested certain amendments in Electricity Rules 2005. The amended provisions under Rule 5 have set out restrictions on declaration of IPP as CGP as quoted below:

“Rule 5:

Any Generating station set up as an Independent Power Project (IPP) shall not be considered for benefits of a Captive Generating Plant on or after the commencement of Electricity (Amendment) Rules, 2018.

Provided that any generating station, set up as an IPP, have been taken over by the lenders or its consortium due to non-performance and likely to be declared as a Non-Performing Asset (NPA) may be considered for benefits as a Captive Generating Plant, if it is applied for, by the developer.

Provided further that if an IPP have not availing any benefit as an IPP (e.g. allocation of linkage coal etc.) and does not have a PPA, may be considered for benefits as a Captive Generating Plant if it satisfies the criteria for being a CPP as per the Electricity (Amendment) Rules, 2018. Such conversion of status shall be allowed only once.

Provided further that Appropriate Commission based on the recommendations of distribution licensee(s) (where generating plant is located) accord the approval for a generating station to be considered as a Captive Generating Plant if it satisfies the criteria for being a CPP as per the Electricity (Amendment) Rules, 2018.”

Therefore, aforesaid proposed Rule 5 puts general bar on the existing IPP to be declared as CGP.

15. WESCO has submitted that an IPP is established and operated in the State for providing certain benefits to the State's power requirement. In turn, the IPP also gets certain benefits in terms of land, water, coal linkage etc. After exploiting such benefits, trying for conversion of IPP to CGP is contravention of the primary objective and intent of establishment of IPP. The legislature has felt the necessity for express provision regarding restriction on conversion of IPP to CGP and therefore, intend for inclusion of the same. In the instant case, the provisions of MoU between the Petitioner and Govt of Odisha enabled the petitioner to get basic facilities in respect of land, water, coal, construction power, environment clearance etc. The petitioner has also got certain incentives and concessions in terms of relevant IPR of the State Govt. Further, the

petitioner has also entered into PPA with GRIDCO for 25 years, wherein no enabling clause has been inserted to terminate the PPA prior to end of 25 years by virtue of conversion of said IPP as CGP. Therefore the prayer of the petitioner for conversion of Unit II to CGP is legally unsustainable.

16. WESCO has further submitted that the availability of power in the State has always remained in volatile and fluctuating position. However, the quantum of power purchase is the prerogative of GRIDCO, the nodal agency of the State.
17. The DoE, Government of Odisha has submitted that the petitioner M/s. Vedanta Ltd. has established its IPP (4x600 MW) as per the MoU with Government of Odisha with a rider to supply 25% of the installed capacity to the state at OERC determined tariff. Further, as per state thermal policy the state entitlement is 25% (at full cost) and 7% or 5% at variable cost based on the allocation of coal block. Accordingly the petitioner has signed a long term consolidated PPA with GRIDCO on 19.12.2012 which is valid for 25 years and has been approved by the Commission. However, the Commission vide its order dated 27.01.2016 in Case No. 21 of 2015 have pronounced conversion of Units-I, III & IV as CGPs and Unit-II will continue to remain as IPP and connected to the state grid and the quantum of power supply to GRIDCO towards state entitlement as per PPA could not be disturbed at any point of time. Therefore, the rights of the State for availing power from the petitioner's thermal power plant ought not to be compromised at the cost of the state consumers.
18. The respondent SLDC has stated that the Commission vide its order dated 27.01.2016 has allowed conversion of Unit-I, III and IV to CGP units and Unit-II will remain as IPP and M/s. Vedanta shall supply state share of power as per the PPA with GRIDCO. Since it is the cheaper power within the state the prayer of the petitioner for conversion of IPP Unit-II to CGP unit may not be considered by the Commission and hence the present petition may be rejected.
19. The respondent OPTCL has submitted that in the context of Commission's order dated 27.01.2016, the petitioner has no locus to seek any modification to the direction of the Commission that Unit-II will continue to remain as the state dedicated IPP and remain connected to the state grid. The Unit-II was the first unit commissioned on 10.08.2010 and is the only existing IPP which has been supplying power to GRIDCO since then, being connected to the OPTCL system. This unit has a coal linkage for 80% annual contracted quantity based on the PPA with GRIDCO and an assured/guaranteed coal

supply for its power generation. OPTCL submitted that the petitioner by virtue of the present application is in fact seeking review of the order dated 27.01.2016 of the Commission passed in Case No. 21 of 2015, which is not maintainable and liable to be rejected.

20. The respondent Shri P. K. Pradhan has submitted that the Commission vide its order dated 27.01.2016 in Case No. 21 of 2015 has allowed conversion of Units-I, III & IV of the petitioner's thermal power plant based on the assurance of the petitioner that in case of low or no generation from Unit-II, the petitioner shall meet its commitment in the PPA from the CGP units so that the interest of the state consumers is no way affected. M/s. Vedanta Ltd. neither has gone for review nor for appeal against the above order of the Commission. But now after three years filing a separate petition for conversion of IPP-Unit-II to CGP unit, is not maintainable and hence liable to be dismissed. If M/s. Vedanta Ltd. is not able to fulfil its commitment for any reason whatsoever may be, then GRIDCO should file a separate petition for rolling back of the converted CGP Units I, II & IV to IPP Units.
21. Regarding the contentions of the petitioner that GRIDCO does not require power any more from the petitioner as the State is much surplus in power, Shri Pradhan has submitted that the Commission in its various BSP orders has approved the procurement of state entitlement of power from the petitioner's IPP without allowing procurement of costly power from Farraka and Kahalgaon super thermal power stations of NTPC. But, GRIDCO had to procure costly power from different NTPC stations because of failure/inability of the petitioner to supply state entitlement of power to GRIDCO, which has resulted in huge loss to GRIDCO and finally to the consumers of the state.
22. Heard the arguments and counter arguments of parties and their written note of submissions are taken into record. One of the functions of the State Commission under Section 86 (b) of the Electricity Act is to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State. The approval of Power Purchase Agreement (PPA) between M/s. Vedanta and GRIDCO comes under this provision. While doing so the Commission is to ensure that such procurement of power is based on sound economic and commercial principle.

Unnecessary and avoidable cost should not be passed on to the consumers. The whole episode of power purchase from M/s. Vedanta should be scrutinised from this angle.

23. It was observed that the Commission vide its order dated 27.01.2016 in Case No. 21 of 2015 had allowed conversion of IPP Units-I, III & IV of the petitioner's thermal generating station to CGP units and had directed that Unit-II (600 MW) would continue to remain as IPP and connected to the State grid.
24. Let us examine the State entitlement of power from this IPP. As per our order and subsisting PPA the quantum of power supply to GRIDCO towards state entitlement should be 25% at full cost and 7% / 5% (depending upon the allotment of coal block within the state) at variable cost of the total energy sent out of the power station. Accordingly, the State share of energy from the thermal power plant of M/s. Vedanta Limited has been computed at 5009.97 MU, considering PLF of 85% and auxiliary consumption of 6.55% as per the OERC Tariff Regulations, 2020. However, basing on the submission of GRIDCO and M/s. Vedanta during ARR proceeding for FY 2021-22, the Commission had approved only 3003.48 MU to be purchased by GRIDCO from the IPP of M/s. Vedanta Limited for State consumption as against GRIDCO share of 5009.97MU.
25. In the last Tariff Order of IPP of M/s. Vedanta for the FY 2018-19, the Commission had determined Annual Capacity Charge of Rs.1597.73 Crore for the entire 2400 MW capacity of the power station, out of which GRIDCO share is Rs.399.42 Crore for the dedicated Unit-II of 600 MW capacity. The revised tariff application for M/s. Vedanta under new Regulation for the control period FY2019-24 is under the consideration of the Commission. Therefore, the Commission has allowed an interim provisional tariff to the IPP which is 251.99 P/U (fixed charge component of 95.67 P/U, energy charge of 152.46 P/U and other cost 3.86P/U) towards procurement of power by GRIDCO from the said IPP for FY 2021-22. Since the Commission had approved a drawal of 3003.48 MU basing on the proposal of GRIDCO and M/s. Vedanta the fixed cost component (annual capacity charge) comes to Rs.287.35 Crore against total fixed cost of Rs.399.42 Crore for full share of power.
26. Let us analyse commercial and economic impact if there is no drawal from IPP of M/s. Vedanta as prayed for by them. It is to be mentioned here that there has been no drawal from another IPP M/s. JITPL for last several years. Therefore, we analyse the state

availability of power from different sources excluding drawal from M/s. Vedanta and another IPP (JITPL) in the table below:

Generating Stations	Capacity MW	Odisha Share %	Energy available MU (Considering normative availability of 85% for thermal stations & 3.59% CTU loss)	Energy available excluding Vedanta & JITPL (MU)	DISCOMs drawal based on Merit order (MU) excluding Vedanta & JITPL
State Hydro	2,088	100%	5,881.74	5,881.74	5,881.74
IBTPS Stage-I	420	100%	2,830.22	2,830.22	2,830.22
IBTPS Stage-II	1,320	75%	6,910.82	6,910.82	6,910.82
State IPPs					
M/s. Sterlite Energy	2,400	30%	5,009.97		
M/s. JITPL	1,200	12%	1,005.21		
M/s. GMR	1,050	25%	2,155.78	2,155.78	2,155.78
Total IPP			8,170.96	2,155.78	2,155.78
Renewable					
Small Hydro	109		458.35	458.35	458.35
Biomass Energy	20		80.00	80.00	80.00
Wind	350		685.00	685.00	685.00
Solar Energy	995		1,479.00	1,479.00	1,479.00
Total Renewable			2,702.35	2,702.35	2,702.35
State Total			26,496.09	20,480.91	20,480.91
Central Hydro					-
Chukha	270	15.19%	255.43	255.43	255.43
Tala	1,020	4.25%	124.69	124.69	124.69
Mangdechhu HEP	720	10.97%	342.26	342.26	342.26
Teesta	510	20.59%	504.57	504.57	504.57
Total Central Hydro			1,226.94	1,226.94	1,226.94
Central Thermal					-
TSTPS - I	1,000	32.34%	2,157.92	2,157.92	
TSTPS - II	2,000	10.00%	1,346.00	1,346.00	750.00
FSTPS III	500	17.15%	577.10	577.10	
KHSTPS - II	1,500	2.62%	264.49	264.49	
DSTPP Stage -I	800	58.82%	3,166.88	3,166.88	3,166.88
DSTPP Stage -II	800	58.82%	3,166.88	3,166.88	3,166.88
Total Central Thermal			10,679.27	10,679.27	7,083.76
Total			38,402.29	32,387.12	28,791.61

27. From the above table we find that the State availability of power is around 38,402.29 MU whereas the State requires 28791.61 MU to meet its demand as per approved ARR of GRIDCO for FY 2021-22. If GRIDCO does not draw power from M/s. Vedanta the availability shall be 32,387.12 MU which is 3500 MU more than the State requirement. GRIDCO is required to draw the State requirement as per the merit order principle. It is

observed that even after surrendering the power from M/s. Vedanta IPP, GRIDCO requires no drawal of power from TSTPS-I, FSTPS-III, KhSTPS-II and partial drawal of power of 750MU only out of GRIDCO share of 1346 MU from TSTPS-II for state consumption. In addition to that GRIDCO may not require this partial drawal also from TSTPS-II since another 2300MU shall be available from IBTPS stage-II when 100% of its generation will be available to GRIDCO after 01.04.2023.

28. Even if GRIDCO does not draw power from the above mentioned power stations at margin, still GRIDCO has to pay full fixed cost to the NTPC stations as per existing PPAs. In future, if GRIDCO needs more power than the present estimated State requirement, then it may draw the unscheduled power from those power stations, which are presently beyond the merit order, i.e., TSTPS-II(partially), KHSTPS-II, FSTPS-III. For these central stations, fixed costs are to be paid irrespective of drawal from them. However, if GRIDCO surrenders M/s Vedanta power, they won't have to pay the fixed cost of Rs. 399.42 crores at 85% of availability. We are giving a comparative table to show the benefit of drawing power from these power stations without drawing power from M/s Vedanta.

Power Station	Availability in MU	Incremental Drawal in MU beyond the present drawl	Variable Charge in paise/unit	Total Cost of drawing incremental power(Rs. Cr)	Vedanta Cost (Rs. Cr) including fixed cost for same power per Annum	Saving (Rs.Cr) for not drawing from M/s Vedanta per Annum
TSTPS-II	1346.00	596.00	205.49	122.47	617.93 (399.42 +143.75X1.52)	277.70
KHSTPS-II	264.99	264.49	220.59	58.34		
FSTPS-III	577.10	577.10	276.22	159.41		
Total	2188.09	1437.59		340.22		

In the extreme situation, if GRIDCO purchases further 1400 MU from the market beyond the availability of above power at a price of 350 paise per unit, GRIDCO would still save Rs.1.15 Crores (277.70-(3.50X1400-1.525X1400)).

29. In addition, GRIDCO has tied up with cheaper renewable power sources to procure power in near future. Therefore, if GRIDCO has flexibility to surrender its entitlement as proposed by M/s. Vedanta it will have more economical and commercial sense. However, GRIDCO has a long term PPA with M/s. Vedanta. The future power demand cannot be forecast so much in advance. Hence, it will be prudent if GRIDCO has flexibility in operating its PPA depending upon its power requirement. This will be

helpful to GRIDCO because it will give sufficient latitude to GRIDCO to play around the sources to optimise its power purchase cost.

30. Accordingly, considering the submission of parties and basing on the above analysis we allow GRIDCO to operate its PPA without losing its entitlement under the same.

- (a) The Unit-II of M/s. Vedanta shall normally operate as CGP. If in any quarter, GRIDCO requires power from M/s. Vedanta for State consumption they can avail the same giving three months prior notice to M/s. Vedanta and avail the same for a period of at least three months. During that period the CGP will operate as IPP and GRIDCO will be required to pay fixed cost for the said period in addition to energy charge and other charges.
- (b) During IPP mode of operation, Quantum of power supply to GRIDCO towards State entitlement should be 25% (at full cost) and 7% / 5% (at variable cost) of total energy sent out from the power station (4 x 600 MW) as per the PPA in force. The Unit-II must remain connected to STU as State dedicated unit and accordingly supply to GRIDCO must be 25%+7%/5% of total energy sent out from the power station or total ex-bus generation from Unit-II whichever is higher. Such quantum of power supply should not be disturbed at any point of time.
- (c) During IPP mode of operation, the coal used for generating power for State entitlement shall be linkage coal / captive mines allocated to the Petitioner for State use.
- (d) If M/s. Vedanta fails to supply power after requisition by GRIDCO within the stipulated period, M/s. Vedanta will compensate GRIDCO by paying the differential cost incurred by GRIDCO for such drawal at margin over and above the cost of normal power purchase from M/s. Vedanta IPP Unit-II.
- (e) If at any time it is found that M/s. Vedanta has failed to supply IPP power after requisition by GRIDCO and is trading the same, M/s. Vedanta will have to pay, in compensation, two times the differential cost incurred by GRIDCO at margin over and above the IPP power cost from M/s. Vedanta.
- (f) In order to prevent dislocation in the current supply of power, the Unit-II will continue as IPP for the current quarter. GRIDCO has to exercise its option to avail IPP power from M/s. Vedanta for the next quarter within one month of this

order failing which the IPP Unit –II of M/s. Vedanta shall operate as CGP with effect from the 1st of January, 2022. Thereafter, as stated in sub-para (a) above, GRIDCO will have to give three months prior notice for availing power in any quarter.

- (g) The option of GRIDCO to avail IPP power shall be prudently exercised in order to minimise the total power purchase cost and shall be scrutinised by the Commission at any time.

31. Accordingly, the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson