

**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.53/2018**

M/s. Paradeep Phosphates Ltd.,  
Bayan Bhawan, Pt. J. N. Marg,  
Bhubaneswar.

**Petitioner**

Vrs.

The Chief Executive, OREDA  
At-S-59, Mancheswar Industrial Estate,  
Bhubaneswar.

**Respondents**

**In the matter of:      An application under Regulation 9 of the OERC(Conduct of Business) Regulations, 2004 for modification of order dated 04.02.2016 of the Commission passed in Case No.42 of 2015 regarding exemption from the purview of Obligated Entity pursuant to the Memorandum dated 06.12.2017 of the MNRE.**

For Petitioner:      Shri M. K. Rajguru, Advocate, PPL

For Respondents:      Shri A. K. Choudhury, Dy. Director, OREDA

**ORDER**

**Date of hearing: 27.11.2018**

**Date of order:05.02.2019**

- This application has been filed by the petitioner M/s Paradeep Phosphates Ltd. to absolve the applicant from its obligation to meet its RPO for solar and non solar obligation separately and hold that the applicant is not an obligated entity and the RPO regulation is not applicable to it.
2. The present applicant is a manufacturing unit located at Paradeep in the district of Jagatsinghpur and it is engaged in the manufacture of DAP and NPK grade fertilizers catering to the needs of the core sector of agriculture. The petitioner has established the captive power plant to meet its daily routine and emergency situations to handle huge storage of liquid ammonia stored in five atmospheric storage tanks each having capacity

of 10000 MT. The pressure in this storage tanks is maintained by refrigeration of compressor which are run on electrical power available from turbo generator of the PPL run by waste heat recovery boiler. PPL has 1000x2 MT sulphuric acid plant which is a part of production process requirement to produce fertilizers. During the process of making sulphuric acid high pressure steam is generated due to exothermic process and this steam in turn is used to run the turbines to produce power. The CPPs do not use coal, fossil fuel or any similar material for its production. Therefore, the petitioner is not within the purview of the obligated entity.

3. The Commission in order dated 07.08.2015 in Case No. 59/2014 on an application filed by OREDA under section 142 of the Electricity Act, 2003 for non compliance of order regarding OERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010 by obligated entities and co-generating captive power plants in Odisha, held that obligated entities are required to fulfill their RPO obligation and no exception in this matter was allowed.

4. The petitioner aggrieved by the said order of the Commission, filed a petition for review which was registered as case No.42 of 2015. The Commission after hearing the case observed the following:

*“The matter, whether the power produced by exothermic reaction during the production of Sulphuric Acid can be termed as renewable energy has been referred by M/s. OREDA to MNRE, GoI. The Commission is not inclined to classify the same under renewable energy category till the matter is decided by MNRE. Therefore, the Petitioner has to follow the extant law under which it has to comply with RPO Regulation.”*

5. The petitioner thereafter approached OREDA for relief under RPO. The OREDA inspected the site of the petitioner’s plant and referred the case to Ministry of New and Renewable Energy (MNRE), Govt. of India regarding applicability of RPO to power plants using heat from exothermic reaction. In response the MNRE in its office memorandum dt.6<sup>th</sup> December, 2017 clarified the following:

*“4.0 The M/s. Paradeep Phosphates limited has claimed that electricity of 39 MW is generated from exothermic heat generated by the plant. OREDA vide above mentioned letter has informed that plant is generating electricity from exothermic heat and not using fossil fuel for generating power.*

*5.0 In this regard, it is clarified in terms of OERC regulation, the RPOs are applicable only on the power generated from conventional/fossil fuels. The*

*exothermic heat cannot be categorized as energy generated from fossil fuel route. Therefore Prima facie RPO may not be applicable. However, the matter pertaining to applicability of RPO, its monitoring & ensuring compliance is within the purview of SERC's. Accordingly, it is for Hon'ble Odisha Regulatory Commission (OERC) to take a view in the instant case.*

6.0 *OREDA is requested to bring this Ministry's observation as contained in this O.M. to the notice of Hon'ble OERC."*

6. The petitioner accordingly requested OREDA to exclude PPL from the purview of obligated entities under RPO obligation and to drop the proceedings initiated against the appellant company under Section 142 of the Electricity Act. The OREDA after considerable lapse of time did not raise the matter before the OERC and therefore petitioner has filed this petition for modification of OERC order dated 04.02.2016 in Case No. 42/2015.

7. The Commission heard the case on 27.11.2018 and in its interim order dt.14.12.2018 observed the following:

"2. *The case is taken up today for hearing on question of admission as well as on merit. The Counsel appearing on behalf of the petitioner submitted that the applicant filed the above case under Clause 9 of OERC (Conduct of Business) Regulations, 2004 for exemption of the petitioner company from the obligated entity as per OERC (Renewable and Co-generation Purchase Obligation and its Compliance) Regulation, 2010. The petitioner company is a manufacturing unit of DAP and NPK grade fertilizers catering to the needs of core sector of agriculture in the state of Odisha. It has established a CGP to meet its daily routine and emergent situation i.e. to handle huge storage of liquid ammonia in five atmospheric pressure storage tank having capacity of 10,000 MT. The storage of ammonia in tanks is maintained by refrigeration by compressors which are run on electrical power available from turbo generator of the petitioner company run by waste heat recovery boiler. The use of sulphuric acid is a part of production process requirement of fertilizer. During the process of making of sulphuric acid high pressure steam is generated due to exothermic process and this in turn is used to run the turbine to produce power. The petitioner's CGP does not use coal, fossil fuel or any other material of similar nature so as to bring it within the purview of "Obligated entity".*

"3. *The representative of M/s. OREDA submitted that the Commission vide their order passed in Case No. 42/2015 has observed that whether the power produced by exothermic reaction during production of sulphuric acid can be termed as renewable energy has been referred by M/s. OREDA to MNRE, GoI. At that time the Commission was not inclined to classify the same under renewable energy category till the matter was decided by MNRE. The MNRE vide their OM dated*

*06.12.2017 held that exothermic heat cannot be categorised as energy generated from fossil fuel route. Therefore, prima facie RPO may not be applicable.”*

8. The OREDA in its further submissions has referred to the comments of MNRE, Govt. of India dt.06.12.2017 regarding the applicability of RPO to entities consuming power from generating units using exothermic heat as fuel. MNRE has concluded that prime facie RPO may not be applicable to such entities and the Commission may take a view in the instant case.

### **Commission’s Observation**

9. In order to address this issue we must look into the relevant provisions of the Regulations in OERC (Procurement of Energy from Renewable Sources and its Compliance) Regulations, 2015. Regulation 3.1 defines obligated entities in the State of Odisha as any person consuming electricity (a) Generated from conventional captive generating plant having capacity of 1 MW and above for its own use or (b) procured from conventional generation through open access and third party sale. As per Regulation 4.1 every obligated entities shall meet RPO target from its own renewable sources or procurement of power from other developers, licensee or purchase of RECs.
10. The OERC Renewable sources regulation therefore envisages the responsibility of RPO compliance to any conventional captive generating plant. In the present case the petitioner plant is generating electricity of 39 MW from high pressure steam generated during the process of making sulphuric acid. The sulphuric acid is a part of production process requirement to produce fertilizers. On conjoint reading of the Regulation 3.1, it appears to us that RPO is not applicable to the petitioner. Moreover, MNRE in its office memorandum dated 6<sup>th</sup> December, 2017 has clarified that prima facie RPO may not be applicable. MNRE has however, left the matter pertaining to applicability of RPO, its monitoring and ensuring compliance to the purview of the Commission.
11. OREDA in its letter to MNRE while seeking clarification on the applicability of RPO has submitted that the exothermic heat generated by sulphuric acid plant is used for production of steam. MNRE, communicated to them in reply dated 16.12.2017, is of the view that exothermic heat cannot be categorized as energy generated from fossil fuel.

We, therefore, agree that the present petitioner may not be tied with the obligation of RPO since it is not generating electricity from any conventional source of energy.

12. In view of the above, we are inclined to agree with the petition of Paradeep Phosphates Ltd. and exclude the petitioner from any RPO obligation till the heat produced only in the exothermic process is used for generation of power. In the event heat produced otherwise is used, the Petitioner should inform OREDA immediately. OREDA on its part shall annually inspect the plant, if necessary, to satisfy itself that the condition on which relaxation has been granted is not violated.
13. The case is accordingly disposed off.

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

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

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