

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

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

Case No. 03/2019

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

In the matter of: An application under Sections 61, 62 & 86 of the Electricity Act, 2003 for approval of capital cost and tariff determination for Units - 3 & 4 (2x660 MW) for anticipated CoD to 31st March, 2019.

For Petitioner: Mr. Sitesh Mukharjee, Advocate and Mr. Arjun Agarwal, Advocate on behalf of OPGC Limited, Shri Ritwik Mishra, GM, OPGC and Shri H. K. Satpathy, OPGC Limited.

For Respondents: Shri S. S. Nayak, CGM (PP), GRIDCO Limited, Shri Biswaranjan Mishra, GM, OPTCL, Shri P. K. Mishra, CLD, SLDC, Shri Nabin Kumar Mishra, Manager (Elect.), CESU, Shri K. C. Nanda, DGM (Fin.), WESCO Utility, Shri P. K. Pradhan, Shri R. P. Mahapatra and Ms. Niharika Pattnayak, ALO, DoE, GoO are present. Nobody is present on behalf of NESCO & SOUTHCO Utilities and Ramesh Chandra Satpathy.

ORDER

Date of hearing: 23.07.2019

Date of order: 16.08.2019

The fact of the case is that OERC had approved a long term PPA for supply of 50% power generated from expansion Units 3 & 4 of OPGC to GRIDCO vide Case No. 113/2011. Later, as per Govt. of Odisha notification dated 20.12.2018, a Supplementary Agreement to the existing PPA has been executed between OPGC & GRIDCO on 24.01.2019 for supply of additional 25% of power from the COD up to 31st March, 2023 and 100% power from 1st April, 2023 onwards for a period of 25 years thereafter. The supplementary PPA is yet to be approved by the Commission. However, OPGC has filed the present petition on 19.01.2019 for approval of the capital cost of the said expansion projects (Unit 3 & 4) and determination of incidental tariff. The learned Advocate for OPGC has submitted that as per the existing PPA, the tariff shall be based on the norms and parameters of CERC Tariff Regulations as amended from time to time. But since GRIDCO is single beneficiary of Unit-3&4, determination of tariff of these units does fall under the jurisdiction of the OERC as per Regulation 1.5 and 1.6 of OERC Generation Tariff Regulations, 2014.

2. The learned Advocate of OPGC further stated that in the meantime the Commercial Operation date (COD) of Unit 3 has been declared w.e.f. 03.07.2019 and the COD of Unit 4 will be declared soon. He stated that OPGC has calculated the provisional tariff of Rs. 3.65 per KWh (Fixed Cost-Rs. 2.08 per KWh + Energy Charge Rate- Rs. 1.57 per KWh) basing on the norms of OERC Generation Tariff Regulations, 2014 and considering the project cost of Rs. 10745.90 Crore (actual expenditure upto 31.08.2019 plus projected expenditure thereafter). OPGC has prayed the Commission to approve the provisional tariff as proposed by it till determination of final tariff by the Commission after prudent check of the capital cost.
3. The representative of GRIDCO stated that initially PPA was made for procurement of 50% of power from the expansion Units 3 & 4 of OPGC. Now, GRIDCO will draw 75% of power as per Govt. notification. The Supplementary PPA is yet to be approved by the Commission. Though they have got information from SLDC regarding COD of Unit 3, OPGC has not yet officially intimated GRIDCO about the COD. Day-ahead declaration of capacity of this expansion project is not being made by OPGC. He further submitted that Unit 4 is designed to be connected with CTU and hence drawal of power from this unit will attract POC Charges. GRIDCO shall not bear such POC charges. He stated that till determination of final tariff of this expansion project of OPGC, the Commission may fix a provisional tariff of Rs. 2.75 per KWh which was the price fixed by the Commission earlier for procurement of CGP power of the State. Alternatively the Commission may allow the tariff as determined by the Commission for the existing plant (Unit 1 & 2) for FY 2019-20, towards procurement of power from the said expansion project (Unit 3 & 4) of OPGC.
4. The respondent Mr. R. P. Mahapatra stated that he has not yet received the copy of rejoinder made by OPGC on the queries of the objectors. He further stated that OPGC has made unusual delay in completion and commissioning of the project resulting in steep escalation of cost, which should not be loaded on the consumers of the State through generation tariff. The capital cost needs to be verified by a committee constituted by the Commission. The supplementary PPA has not yet been submitted by OPGC which is not as per law. He stated that OERC Generation Tariff Regulations, 2014 was in force till 31.03.2019. Hence, the tariff for the Units 3 & 4 of OPGC has to be determined after notification of New Generation Tariff Regulations for the next control period starting from 01.04.2019. Hence, he prayed the Commission to adjourn the hearing till all the compliance are made by OPGC. However, he stated that the

Commission in its Tariff Order of GRIDCO for the FY 2019-20 in Case No. 73/2018 has given a provisional tariff of 150.68 Paisa/Unit for the subject expansion project of OPGC. As an interim measure the same tariff may be allowed to be paid by GRIDCO.

5. The respondent Mr. Pradhan stated that, the COD of the Unit has been declared in July, 2019. But the present petition filed by OPGC is to determine the tariff upto 31st March, 2019. Hence, OPGC should file a fresh petition indicating all the relevant data. He stated that the Commission has directed GRIDCO to purchase power from the central thermal station of FSTPS-III and KHSTPS-I following the principle of merit order dispatch. But Commission has allowed GRIDCO to pay fixed cost of nearly Rs. 200 Crore for above mentioned two stations irrespective of drawal from those two stations. The ECR of these stations is around Rs. 2.30 per KWh. Now, OPGC has got coal mines and they have flexible coal linkage. Hence, he prayed the Commission to allow purchase of power from OPGC expansion project, if the total tariff of OPGC expansion project is within Rs. 2.30 per KWh. In case of higher tariff, the differential cost may be borne by OPGC or the State Government.
6. The respondent Shri Ramesh Chandra Stapathy has submitted that OPGC has filed the present petition for approval of the capital cost and determination of tariff of Unit-3&4 of its expansion projects for the FY 2018-19 without COD of the units. Both OPGC & GRIDCO being Government Company should look into interest of the consumers of the State. The PPA executed between OPGC & GRIDCO should be amended keeping in view the present scenario of the State. OPGC should properly explain the details of the project cost in public hearing and the Commission should properly examine the project cost submitted by OPGC. OPGC has to evacuate the State share of power through OPTCL network only.
7. The representative of the respondent CESU has submitted that the Commission should verify the capital expenditure through an independent agency. The Commission may determine the generation tariff subject to Section 61 (d) of the Electricity Act, 2003 safeguarding the consumer's interest and at the same time allow recovery of the cost of electricity by the generating company in a reasonable manner.
8. The Commission observed that OPGC has filed the present petition for determination of tariff of its expansion project (Unit 3&4) based on the tariff norms of OERC Tariff Regulations, 2014 which was valid till 31.03.2019. The COD of Unit-3 has been declared by OPGC w.e.f. 03.07.2019, but it is yet to be officially intimated to GRIDCO who is the only buyer at present. The Commission is now in the process of formulating

new Generation Tariff Regulations, which will be effective w.e.f. 1st April, 2019. Final tariff for this expansion project of OPGC shall be determined only after notification of the new Generation Tariff Regulations. Further, the capital cost projected by OPGC has to be audited by OPGC and verified by the Commission through an independent agency. It is expected that the COD of both the units will be declared during the current financial year following the due process. As per the existing PPA approved by the Commission, GRIDCO has to purchase 50% of the power from these generating units. GRIDCO is agreeable to pay M/s. OPGC Rs.2.75 per unit of power procured by them provisionally till final tariff is approved by the Commission. Therefore, we approve the Rs.2.75 per unit as provisional tariff to be paid to OPGC for power procured by GRIDCO from Unit-3 & 4 of the generating station after COD subject to existing PPA. This tariff shall apply for only 50% of the power generated by the Units – 3 and 4 of the petitioner's power plant for which PPA has been approved by the Commission. After the Generation Tariff Regulation of OERC is notified by the Commission for the control period starting from 2019-20, OPGC shall file fresh petition for determination of final tariff for the control period as per the said Regulation. The provisional transaction between GRIDCO and OPGC shall be settled on the basis of final tariff approved by the Commission. Since, OPGC shall file fresh petition for determination of tariff as per new Regulation the present petition has lost its relevance and therefore there is no need to keep the present case pending before the Commission. The final tariff shall be determined strictly as per approved PPA of the Commission.

9. With the above observations, the case is disposed of.

Sd/-

(S. K. Parhi)
Member

Sd/-

(U. N. Behera)
Chairperson