

**ODISHA ELECTRICITY REGULATORY COMMISSION
BUDYUT NIYAMAK BHAWAN
PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR
BHUBANESWAR - 751021**

**Present: Shri S. C. Mahapatra, Chairperson
Shri G. Mohapatra, Member
Shri S. K. Ray Mohapatra, Member**

Case No. 52/2020

M/s. OPTCL Petitioner

Vrs

M/s. CCPPO & Others Respondents

In the matter of: An Application for determination and approval for levy of Grid Support Charges (GSC) for industries having Captive Generating/ Cogeneration Plants and running in parallel with the Grid of Odisha Power Transmission Limited.

For Petitioner: Shri Kulamani Biswal, Advocate and Shri B. K. Das, GM (RT&C) along with Ms. Banishree Pradhan of OPTCL,

For Respondent: Shri R. P. Mahapatra, the authorized representative of CCPPO along with Shri H. R. Das, CCPPO, Shri Sanjay Sen, Sr. Advocate & Shri Lakshya Bagdwal, Advocate on behalf of M/s. Vedanta Limited, Shri V. Wagle of M/s. TPCODL, Shri Bibhu Charan Swain, the authorized representative of M/s. UCCI, M/s. Visa Steel Limited and M/s. FACOR Limited, Shri M. K. Rajguru, Advocate on behalf of M/s. NALCO, Shri S. Satyakam, Advocate on behalf of M/s. Aarati Steel Limited, Shri P. P. Mohanty, Advocate on behalf of M/s. Tata Steel Limited and M/s. Bhubaneswar Power Plant, Shri S. K. Padhy, Sr. Advocate on behalf of IMFA, Ms. Mandakini Ghosh, Advocate on behalf of M/s. Tata Steel BSL Ltd. Nobody is present on behalf of M/s. Grinity Power Tech Pvt. Ltd.

ORDER

Date of Hearing: 30.11.2021

Date of Order: 19.10.2023

This order arises on the Application of the Petitioner Odisha Power Transmission Corporation Limited (OPTCL) praying for levy of Grid Support Charges (GSC) @ Rs.30.41/KVA/Month on the Captive Generating Plants of Odisha which are running in parallel with the Grid of the OPTCL.

2. During pendency of this proceeding, Respondent M/s. Vedanta Limited and Others filed a batch of Writ Petitions in W. P. (C) No.2220 of 2021, W. P. (C) No.16513 of 2021 & W. P. (C) No.38361 of 2021 before the Hon'ble High Court of Orissa challenging the order dated 17.11.2020 and the other orders passed by this Commission on the ground of res judicata in as much as the Petitioner –M/s. OPTCL had filed similar petition before this Commission in Case No. 46 of 2012 where all the captive generating plants along with the confederation of captive power plants Odisha were made parties as the Respondents. In the said petition also, the Petitioner had claimed for fixation of Grid Support Charges in lieu of its services extended for grid stability and care. The Respondents therein challenged the validity of the proceeding on the ground that there was no provision to impose and recover the Grid Support Charges under the frame work of the Electricity Act, 2003 and the Rules & Regulations made thereunder. By the order dated 31.03.2014 in Case No. 46 of 2012, this Commission had rejected the petition filed by the Petitioner-M/s. OPTCL herein. While rejecting such prayer, this Commission had observed that no State-wide study has been made basing on which Grid Support Charges can be determined. In the said order dated 31.03.2014, the Commission had observed as follows:

“ 15. We heard the parties at length and also perused the technical report submitted by OPTCL. The present installed capacity of the CGPs in the State as submitted by OPTCL is 5173 MW which is more than or equal to the capacity of other generators connected to Odisha Grid including Odisha share of power from Central Generation Stations. We agree with the contention of CCPPO that the pollutants of the Grid like fluctuations in frequency and voltage, negative phase sequence, distortion due to harmonics etc. are the resultant effect of all synchronous machines like generators and motors of the Grid system. These pollutants are injected into the Grid not only by CGPs but also by other independent generators and machines like motors and arc furnaces of the consumers. Holding industry having CGPs only responsible for that is not correct.

16. After going through the submission of various stake holders of the grid system we conclude that the behaviour of industries having CGPs and also without CGP varies case to case basis. There are ample provisions in the Odisha Grid Code to regulate the behaviour of entities connected to the OPTCL system. Hence, a generic method of calculation of Grid Support Charges for all industries may not be proper. The Petitioner has failed to submit a State-wide study before us basing on which a decision could have been taken. One solution fits all can't be applicable here. So implementation of a model of another State in our State will not be proper.

17. There are enough provisions in Odisha Grid Code, 2006 to maintain qualitative supply in the grid system. Regulation 4.7 of Odisha Grid Code discuss elaborately the ideal behaviour of constituent of the Grid. OPTCL

should play the role of watchdog and analyse the pollutant injected by various constituents of the grid system. CGPs and industries injecting pollution should be directed to take up remedial measures like installation of capacitors, filters for harmonics etc. so that grid pollution will be minimised. The non-compliance by any industry or industry having CGP of the Grid Code should be dealt as per Regulation 1.18 of OGC, 2006. Therefore, the prayer of OPTCL for levy of Grid Support Charges is not acceptable.”

3. Upon hearing the parties the Hon’ble High Court in their order dated 06.07.2023 in W.P. (C) No.2220 of 2021, W.P. (C) No.16513 of 2021 & W.P. (C) No.38361 of 2021 disposed of the aforementioned Writ petitions wherein it has been observed as under:

“As the cumulative effect of all these observations as made above, we set aside the proceeding being the OERC Case No.52 of 2020 by declaring that the orders passed in that proceeding as ultra vires, void ab initio and without any effect whatsoever on the charge. It is our duty to observe that if the Opposite Party No-2 filed a separate application urging the Opposite Party No-1 for examining whether the levy of GSC/POC is justifiable and if found justifiable, to frame the appropriate regulation in exercise of the powers conferred upon the Opposite Party No-1 in that event, the Opposite Party No-1 shall examine the matter, not initiating a proceeding, but by invoking its powers as provided under section 181 of the Electricity Act.”

4. In view of the aforesaid authoritative pronouncements of the Hon’ble High Court of Orissa, there survives no litigation to be addressed by this Commission.
5. Accordingly, the case stands closed.

Sd/-
(S. K. Ray Mohapatra)
Member

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. C. Mahapatra)
Chairperson