

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

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

Case No. 25/2021

M/s. GRIDCO Ltd.	Petitioner
Vrs.		
DoE, GoO & Others	Respondents

In the matter of: **An application by GRIDCO Limited under Section 86 of the Electricity Act, 2003 read with Section 21 of the Odisha Electricity Reform Act, 1995 and other enabling provisions for seeking approval of the Hon'ble Commission on the Tri-Partite Power Purchase Agreement (TPA) between GRIDCO, OPGC and CESU dt.30.05.2020 for procurement of 1.15 MW power from 650 kW Biribati Mini Hydel Project, Biribati, Cuttack and 500 kW Kendupatana Mini Hydel Project, Kendupatana, Salipur, Cuttack owned by OPGC, executed in compliance to the order passed by Hon'ble Commission dt.05.01.2019 in Case No.35/2018.**

For Petitioner: Ms. Sasmita Pattajoshi, AGM, GRIDCO and Shri L.N.Mohapatra, Advocate on behalf of GRIDCO.

For Respondent: Ms.Sonali Patnaik, ALO, DoE, GoO, the representative of EIC-cum-PCEI, Shri V. Waghle on behalf of TPCODL, Shri K.C. Nanda, DGM (F), the representative of TPNODL and Shri Binod Nayak, Asst.G,M,(Com), TPSODL, Shri P.K.Pradhan and Shri Suvendu Kumar Mohanty, the authorised representatives of OPGC Ltd.

ORDER

Date of Hearing: 13.07.2021

Date of Order:12.08.2021

This petition has been filed by M/s. GRIDCO Ltd under Section 86 of the Electricity Act, 2003 read with Section 21 of the Odisha Electricity Reform Act, 1995 and other enabling provisions for seeking approval of the Commission on the Tri-Partite Power Purchase Agreement (TPA) between GRIDCO, OPGC and CESU dt.30.05.2020 for procurement of 1.15 MW power from 650 kW Biribati Mini Hydel Project, Biribati, Cuttack and 500 kW Kendupatana Mini Hydel Project, Kendupatana, Salipur, Cuttack owned by OPGC, executed in compliance to the order dt.05.01.2019 passed by the Commission in Case No.35/2018.

2. The Petitioner GRIDCO in the present Petition has submitted that OPGC owns and operates 650 kW(2X 325 kW) Biribati Mini Hydel Project on Taladanda Canal, Biribati, Cuttack and 500 kW (2X250 kW) Kendupatana Mini Hydel Project on Kendrapara Canal, Kendupatana, Salipur, Cuttack, connected at 11 kV to TPCODL (erstwhile CESU) network. In compliance to the order passed by the Commission dt.05.01.2019 in Case No.35/2018 and to fulfil the specified Non-solar Renewable Purchase Obligation (RPO), GRIDCO has executed the Tri-Partite Agreement (TPA) with OPGC and CESU on 30.05.2020 to purchase power from the said mini-hydel projects. After receiving the views on the draft TPA from OPGC on 31.10.2019 and from CESU on 31.01.2020, the draft TPA was finalized by GRIDCO.
3. The respondent, OPGC has raised its objection to certain points which was modified after a meeting convened by GRIDCO on 27.05.2020 with members from GRIDCO, OPGC and CESU to finalize the draft TPA. The TPA between GRIDCO, OPGC and CESU was then executed on 30.05.2020 incorporating the directions of the Commission passed vide Order dated 05.01.2019 in case no. 35/2018. Major terms & conditions of the TPA dated 30.05.2020 are as detailed below:
 - i. The Agreement shall remain operative initially from FY 2007-08 up to completion of 35 years from the date of commercial operation, i.e. 23.01.1994 for Kendupatana Mini Hydel Project and 20.02.1994 for Biribati Mini Hydel Project.
 - ii. Tariff for sale of power by OPGC to GRIDCO has been determined by the Commission in Order dated 05.01.2019 in Case No. 35/2018 to be Rs. 3.91/- per kWh for pre-PPA and Post-PPA period.
 - iii. Delivery point of the power shall be the 11 kV Bus of CESU at Biribati MHP & Kendupatana MHP and no wheeling charges shall be applicable to OPGC for import of power from CESU network.
 - iv. Both the plants are to be treated as MUST RUN stations and no daily scheduling will be applicable.
 - v. Energy Accounting shall be done by SLDC/EBC.
 - vi. OPGC shall raise the yearly bill to GRIDCO at the end of each Financial Year on the net export of power during the period from 01 April to 31 March of each year.
 - vii. In case export of power by the projects in a financial year is more than import of power, OPGC shall raise bills on GRIDCO on net export of power at the agreed tariff and in turn GRIDCO shall raise the bills to CESU at BSP for the respective year.

- viii. In case import of power is more than export of power in a financial year, CESU shall raise bills to OPGC at GPS tariff on net import of power for that particular financial year.
 - ix. 2% rebate shall be allowed on payment of bills within 07 business days of GRIDCO excluding the date of presentation of bills. If payments are made beyond 07 business days of GRIDCO but within a period of one month from the date of presentation of bill, a rebate of 1% shall be allowed. Late payment surcharge of 1.25% per month shall be payable on the amount of bill remaining unpaid for delayed payment beyond 60 days from the date of presentation of bill.
4. The petitioner further submitted that just before vesting of CESU on TPCODL with effect from 1st June 2020, this TPA was executed between the parties on 30.05.2020 and should be equally binding on TPCODL as per the vesting order of the OERC. As per the order of OERC dated 05.01.2019, OPGC has submitted the FY-wise invoices to GRIDCO from FY 2007-08 to FY 2019-20 (total 25 nos.) at the applicable tariff of Rs. 3.91/kWh.
5. The respondent - TPCODL submitted that while erstwhile CESU has signed the agreement on 30th May, 2020, i.e. prior to commencement of operation by TPCODL on 1st June, 2020, TPCODL is agreeable for payment of the energy generated from 1st June, 2020 onwards at the applicable BSP. Since, the accounting of this power plant is on annual basis for the billing purpose too, TPCODL further stated that they would pay for the power purchase from these plants from 1st April, 2020 onwards. However, as regards the period prior to 1st April, 2020, TPCODL stated that, in line with the spirit of the vesting order which envisages the commencement of operations on clean slate from 1st June, 2020, the prior period is not liable to be paid by TPCODL. Hence, the billing for the period from FY 2007-08 to FY 2019-20 as raised in the petition is not payable by TPCODL. This stand of TPCODL is also in line with the submission in Case No. 27 of 2021 on truing up of GRIDCO performance for the FY 2019-20 where they have submitted that the amounts due to GRIDCO after approval by the Commission cannot be passed on to TPCODL as it pertains to the liability of the past period. Therefore, the amount of Rs.64.70 lakhs worked out is not payable by TPCODL and also the quantum of 3.01 MUs for computation of AT & C losses for TPCODL should not be considered.

6. Heard the parties. On the instant matter the Commission vide Order dated 05.01.2019 in Case No. 35/2018 directed OPGC, GRIDCO and CESU to enter into a Tripartite PPA and submit the same for approval of Commission. As per the said Order, the transactions of power are to be done on net export basis with effect from FY 2007-08 onwards. Moreover, as agreed between the parties, monthly meter readings are to be taken for transaction of power whereas billing should be done financial year-wise. In case the export of power by the MHPs is more than their import then the MHPs shall raise bills on GRIDCO at the price mentioned in the said Order, i.e. Rs.3.91/- per kWh.
7. The Commission observed that as per the decisions and observations made by the Commission vide Order dated 05.01.2019 in Case No. 35/2018, the TPA has been executed on 30.05.2020 between GRIDCO, OPGC and CESU. Therefore, the Commission accords approval for the Tri-Partite Power Purchase Agreement (TPA) between GRIDCO, OPGC and CESU dated 30.05.2020 for procurement of 1.15 MW power from 650 kW Biribati Mini Hydel Project, Biribati, Cuttack and 500 kW Kendupatana Mini Hydel Project, Kendupatna, Salipur, Cutack owned by OPGC.
8. The Commission observed that TPCODL has agreed to pay for the power purchase from these plants from 1st April, 2020 onwards but not prior to 1st April 2020 as the past period liabilities before the Vesting of CESU into TPCODL should not be passed on to TPCODL. The Commission further observed that as per Clause 54 (b) of the Vesting Order for TPCODL, the utility of CESU must be transferred free from any debt, mortgage or similar obligation, which is in line with Section 21 of Electricity Act, 2003. Therefore, the Commission agrees with the submission of TPCODL that in the instant case the liabilities of CESU prior to 1st April 2020 should not be passed on to TPCODL. Accordingly, the Commission directs TPCODL to clear the dues of GRIDCO w.e.f. 1st April 2020 at applicable BSP rate. Further, GRIDCO is directed to pay the dues of OPGC prior to 1st April 2020 at the rate of Rs. 3.91/kWh which shall be passed on in the ARR of GRIDCO.
9. The case is accordingly disposed off.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. K. Parhi)
Member

Sd/-
(U. N. Behera)
Chairperson