

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

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

**Case No. 100/2022**

OREDA	.....	Petitioner
Vrs.		
DoE, GoO & others	.....	Respondents

**In the matter of:** Application under Sections 94 (1) (f) & 86 (1) (a) of the Electricity Act, 2003 for review of tariff order dated 2012.2019 passed in Case No.82 of 2018 and for determination of Feed-In-Tariff for sale of Solar power to GRIDCO/ DISCOMs by Farmers/group of farmers/ Co-operatives/ Panchayats/ Farmer producer organizations/ water user associations/other developers who would setup Decentralized Ground Mounted Grid Connected Solar Power Plants of capacities ranging between 0.5-2.0 MW in their barren lands under Pradhan Mantri Kishan Urja Suraksha Evam Utthan Mahabhiyan (PM KUSUM) Component “A” Scheme, launched by Ministry of New and Renewable Energy (MNRE), Govt. of India beyond 2022-23.

**For the Petitioner:** M/s. Sasmita Patjoshi, Jt. Director (Tech)

**For the Respondents:** Ms. Sonali Pattnaik, ALO (I/c), DoE, GoO, Shri Umakant Sahoo, Director (Commerce), GRIDCO along with Ms. Saswati Mohapatra, Manager (RE), Shri B.K. Das, Sr. G.M. (PP), Shri M.K. Sahoo, G.M. (PP), GRIDCO Ltd., Shri K.C. Nanda, G.M. (Finance), TPWODL, Shri Puneet Munjal, Head Regulatory Affairs and GA, TPCODL, Shri V. Wagle, Head Regulatory Affairs, TPSODL, Ms. Malancha Ghosh, DGM (RA), TPNODL.

**ORDER**

**Date of Hearing: 06.06.2023**

**Date of Order: 09.06.2023**

The present petition has been filed for reviewing the order of the Commission in Case No. 82/2018 dated 20.12.2019 by OREDA relating to determination of feed-in tariff for sale of solar power to GRIDCO/DISCOMs from ground mounted grid connected solar power plant of capacities 0.5 – 2.0 MW set up by Farmers/group of farmers/ Co-operatives/ Panchayats/ Farmer producer organizations/ water user associations/other developers under Prime Minister Kisan Urja Suraksha Evam Utthan Mahabhiyan – A Scheme (PM-KUSUM-A) of Government of India. The salient features of the scheme are as follows:

- (i) The solar plants shall be developed by farmers / Co-operatives/ Panchayats/ Farmer producer organizations/ water user associations/Other Developers in their barren lands within 5 km radius of 33/11 KV rural sub-station. The power generated by the solar plants shall be evacuated through the above sub-stations.
  - (ii) The capacities of the solar power plants shall be within 0.5 MW – 2 MW.
  - (iii) The solar power generated from these plants will be purchased by DISCOMs at Feed-In Tariff (FIT) as determined by the State Regulatory Commission.
  - (iv) Government of India will provide Procurement Based Incentive (PBI) to the DISCOMs @ 0.40/kWh or Rs.6.60 lakhs/MW/year whichever is lower for buying solar power under the scheme over a period of five years.
  - (v) OREDA shall implement the scheme in the State.
2. After hearing the DISCOMs, GRIDCO, OREDA and Government of Odisha, the Commission in their order dated 20.12.2019 in Case No. 82/2018 had approved a feed-in tariff of Rs.3.08 per kWh as levelized tariff (feed-in tariff) for 25 years. The Procurement Based Incentive (PBI) if any, received by the procurer shall be passed on to the developer.
  3. Now, OREDA submits that Central Government had sanctioned 500 MW capacity under PM-KUSUM-A scheme to Odisha. The implementing Agency, OREDA had invited bids from the interested developers under the above scheme in May, 2021 and bids were received only from seven developers accepting feed-in tariff of Rs.3.08/kWh. Out of the seven developers five developers with cumulative capacity of 12.75 MW were short listed and were issued Letter Of Award (LOA) in March, 2022. The LOA so issued were accepted by three bidders with cumulative capacity of 8.75 MW. Even those three bidders who accepted the LOA have not submitted the bank guarantee of Rs.1.50 Lakh per MW for signing of PPA with GRIDCO. The reason for the poor responses from the developers is mainly due to the unattractive/ unviable feed-in tariff of Rs.3.08 per kWh for the power to be procured from the solar power plant under PM KUSUM-A scheme.
  4. M/s. OREDA points out that States like Haryana, Chhattisgarh, Kerala and Rajasthan, etc. have allotted better feed-in tariff to solar power developers under KUSUM-A. In the meantime, there have been Policy and tax regime changes by Government of India. The basic custom duty has been revised to 25% and 40% w.e.f. 01.04.2022 for solar

cells and modules respectively. Previously, this duty was exempted for solar cells and modules. The GST has been raised by Government of India from 5% to 12% on renewable energy devices from 01.10.2022. The Government of India has also approved a list of models and its manufacturers (ALMM) for solar cells and modules based in India. Only the models and manufacturers included in this list will be eligible to participate in the project under PM-KUSUM-A Scheme. Since, the manufacturers from China are excluded from the list, the Indian manufacturer whose manufacturing capacity is only around 20 GW cannot meet the demand of the present time. All the above changes in tax regime and Government policy will raise the capital cost to more than of Rs.5 Crore per MW including land cost whether the modules are imported or indigenously procured.

5. Considering the above OREDA states that since the input cost of the project has undergone upward revision it is necessary to review the order of the Commission in Case No. 82/2018 in which the Commission had approved the feed-in tariff of Rs.3.08 per kWh for the power to be procured from the developers under PM-KUSUM-A Scheme. In this connection it proposes a feed-in levelized tariff of Rs.3.33 per kWh for FY 2022-23 onwards such that many prospective beneficiaries of the scheme would show interest to avail it. OREDA has prayed for condonation of 1098 days of delay in filing the review petition.
6. During the hearing of the matter, it was brought to the notice of the Commission that Government of Odisha has declared the DISCOMs of the State as Implementing Agencies in respect of component – A of PM-KUSUM Scheme. Therefore, it would be appropriate on the part of DISCOMs to move the application before the Commission instead of OREDA. In response to that, the Department of Energy in their letter dated 02.06.2023 intimated that by virtue of Notification No. 2093 dated 20.02.2023 of Department of Energy, the four DISCOMs of the State i.e. TPCODL, TPWODL, TPSODL and TPNODL have been declared as the Implementing Agencies for component -A of PM-KUSUM Scheme. The Department of Energy further state that as OREDA has already filed an application in this regard, DISCOMs may not file separate application for the same. In view of this, the Commission in their interim order dated 06.06.2023 directed that since M/s. OREDA has ceased to be Implementing Agency in respect of projects under PM-KUSUM Component A Scheme, all the four DISCOMs

such as TPCODL, TPWODL, TPSODL & TPNODL who were arrayed as Respondents in this case are transposed as Petitioners.

7. The transposed Petitioner TPCODL states that the Commission may verify the basis of the norms adopted by OREDA for computation of levelized tariff of Rs.3.33 per kWh. DISCOMs as Implementing Agency will be providing all required infrastructure for the project. The power will be evacuated through 33/11 KV sub-stations of the DISCOMs. As per order of the Commission, the power generated by the farmers under Component C of PM-KUSUM Scheme will be purchased by DISCOMs. Therefore, DISCOMs may be allowed to purchase all the powers generated by farmers under PM-KUSUM A Component also.
8. Another DISCOM, TPNODL states that the proposed tariff by OREDA is lower than BSP of the Licensee for FY 2023-24. This power will be received at DISCOMs network and hence transmission charge will not be applicable for this quantum of power. The Commission may decide the applicable tariff for sale of power to GRIDCO /DISCOMs by farmers/ group of framers under PM-KUSUM-A.
9. TPWODL submits that since DISCOMs have been declared by Government of Odisha as Implementing Agency for PM-KUSUM-A Scheme, the maintainability application of OREDA is to be decided first. OREDA submits that the PPA is to be entered by GRIDCO with the developer whereas as per MNRE guidelines, the generated power is to be purchased by concerned DISCOMs entirely. Therefore, the DISCOM should purchase power from the developer and renewable attributes of such power should be allowed to GRIDCO for compliance of RPO. Due to change in prices of major raw materials and capital equipments, the cost of modules has increased. There is no subsidy or financial assistance available for project development for PM-KUSUM Component A unlike PM-KUSUM Component C. The tariff suggested by OREDA i.e. Rs.3.33 per kWh is not sufficient on account of lower assumption of lending rate at 8% per annum and lease rent of Rs.10,000/- per acre per annum. Considering the revised lending rate of 10.10% and lease rent of Rs.25,000/- per acre, TPWODL suggests a levelled tariff of Rs.3.60 per kWh.
10. Heard the Petitioner and Respondents in hybrid mode (physical and virtual) and considered their written submissions and arguments during hearing in detail. By virtue of Notification No. 2093 dated 20.02.2023 of Department of Energy, Government of Odisha, the DISCOMs of the State have been declared as the Implementing Agencies

for Component A of PM-KUSUM Scheme now. The Energy Department in their submission has requested the Commission that since OREDA has already moved the application for review of the order of the Commission in Case No.82 of 2018, the DISCOMs need not file any separate application. Considering submission of the Government and DISCOMs, the Commission has transposed the DISCOMs-Respondents in their interim order dated 06.06.2023 as the Petitioners No.2, 3, 4 & 5 along with OREDA as the Petitioner No.1. Accordingly, the DISCOMs who were arrayed as Respondents earlier have become Petitioners. Thus, the Commission proceeded to dispose of the petition accordingly and the prayer for condonation of delay in the matter of filing the petition is allowed.

11. We perused our earlier order dated 20.12.2019 passed in Case No. 82/2018 which has been sought for review. In that order, we had only approved the mutually agreed levellised tariff of Rs.3.08 per kWh for 25 years between OREDA and GRIDCO for PM-KUSUM-A Component. During the hearing in respect of the said case, GRIDCO had contended that since solar power is available at a tariff of around Rs.2.50 per kWh to Rs.3.00 per kWh and they were ready to purchase solar power under PM-KUSUM-A if the Feed-In Tariff is kept around Rs.3.00 per kWh. GRIDCO had also stated that to make the levellised tariff more attractive, they were agreeable to pass on Procurement Based Incentive (PBI) to be received from MNRE @ Rs.0.40/kWh or Rs.6.6 lakh per MW, whichever is less for a period of five years to the developer.
12. Now in the present petition, the stand taken by the Petitioners as far as our earlier order in Case No. 82/2018 is concerned, has completely changed. At present, they state that the prospective developers of PM-KUSUM-A Scheme are reluctant to develop the projects because of unattractive tariff of Rs.3.08 per kWh. They also state that the Procurement Based Incentive is also not available to them. As stated above, the tariff of Rs.3.08 was accepted by the Commission then basing on the mutual agreement between OREDA and GRIDCO. During the hearing at that point of time, GRIDCO was not agreeable to purchase any power under PM-KUSUM-A which was priced higher than the price discovered through the competitive bidding. The situation has also not changed since then. The competitive bid price of solar power is still lower than Rs.3 per kWh for GRIDCO.
13. If the pleadings in the original proceeding are altered, that cannot be a ground for review of the said order as sought for in the present proceeding. This is clear from

provision of Order 47 Rule 1 of the Civil Procedure Code, 1908 which states that review of an order can be made on the following grounds:

- (a) Error apparent on the face of the record;
- (b) New and important matter or evidence which is relevant for the purpose was discovered which could not be produced after exercise of due diligence or if there appears to be some mistake;
- (c) Any other sufficient reason.

Error contemplated under the rule must be such which is apparent on the face of the record and not an error which is to be fished out and searched. It must be an error due to inadvertence.

- 14. But our order which is sought to be reviewed, was purely based on agreement between OREDA and GRIDCO. The competitive bidding price for solar power is still less than Rs.3 per kWh for GRIDCO. In that scenario of power procurement and considering the limited scope of review jurisdiction, we do not find any merit in the present review petition and accordingly it is dismissed.
- 15. With the above, the petition is disposed of.

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

Sd/-  
**(G. Mohapatra)**  
**Member**

Sd/-  
**(S. C. Mahapatra)**  
**Chairperson**