

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAWAN  
PLOT No.4, CHUNOKOLI, SHAILASHREE VIHAR,  
BHUBANESWAR – 751 021**

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

**Case No. 65/2022**

M/s. GRIDCO Ltd. .... Petitioner

Vrs.

M/s. PTC India Ltd.& Others ..... Respondent

**In the matter of:** Application under Sections 86 (1)(b) of the Electricity Act, 2003 read with Section 11(1)(e) & Section 21 of the Orissa Electricity Reform Act, 1995 and other enabling provisions seeking post facto approval of Power Sale Agreement(PSA) executed between M/s. GRIDCO Ltd. and M/s. PTC India Ltd. on 27.9.2006 for purchase of 43.35 MW of power from Tala Hydro Electric Project, Bhutan (6x170 MW=1020 MW).

**For Petitioner:** Sri P.K. Das, CGM (PP) & Ms. Saswati Mohapatra, Manager (PP)

**Respondent:** Shri Puneet Munjal, (Head Regulatory Affairs), TPCODL, Shri K.C. Nanda, GM (RA & Strategy), TPWODL, Ms. Malancha Ghose, DGM(RA), TPNODL, Shri V. Wagle, (Head Regulatory Affairs), TPSODL, Shri Ravi Kishore on behalf of M/s. PTC India Ltd., Ms. Sonali Patnaik, ALO I/c., DoE, GoO and Shri R.P. Mahapatra.

**ORDER**

**Date of hearing: 20.12.2022**

**Date of Order: 21.01.2023**

The Petitioner M/s. GRIDCO Ltd. being a Bulk Supplier and Deemed Licensee for Trading of Electricity has filed the present petition under Section 86 (1)(b) of the Electricity Act, 2003 read with Section 21 of the Orissa Electricity Reform Act, 1995 (OER Act, 1995) including other enabling provisions of the Act and Regulations seeking necessary post facto approval of the Power Sale Agreement(PSA) executed between M/s. GRIDCO Ltd. and M/s. PTC India Ltd. on 27.09.2006 for purchase of 43.35 MW of

power from Tala Hydro Electric Project (THEP), Bhutan (Installed capacity of 6x170 MW=1020 MW) as allocated by the Ministry of Power, Govt. of India.

The Petitioner has prayed to:

*“Accord post facto approval of the PSA of Tala HEP executed between GRIDCO & M/s. PTC India Ltd. for procurement of State’s share of 43.35 MW of power from Tala Hydro Electric Project, Bhutan”.*

**Submissions of the Petitioner:**

2. In support of its prayer, the Petitioner (GRIDCO) has mainly submitted as under:
  - (a) The Ministry of Power, Govt. of India, vide their letter dated 07.7.2006 had allocated 867 MW of Tala Power (i.e. 85% of 1020 MW) to Eastern Region Constituents by withdrawing the equivalent quantum of thermal power of Eastern Region to Northern Region with the pre-condition that the allocation/entitlements offer to Beneficiary States will be subject to entering into suitable Power Purchase Agreement by the States/Union Territories/Entities.
  - (b) CEA, vide its letter dtd. 20.7.2006, has allocated 43.35 MW (i.e. 5% of 867 MW) power of Tala Hydro Electric Project (THEP) to Odisha and reduced the allocation of Odisha from Kahalgaon Thermal Power Station (KhSTPS) from 128 MW to 84.65 MW (i.e. deduction of 43.35 MW from 128 MW). Subsequently, Ministry of Power (MoP), Govt. of India (GoI), vide notification dt.18.07.2008 had revised the GRIDCO’s share reducing the equivalent share of THEP (i.e. 43.5 MW) from KhSTPS-II, which became 31 MW (original allocation was 74 MW) and original allocation of KhSTPS-I remained unchanged (i.e. 128 MW).
  - (c) The Ministry of Power, Govt. Of India, vide letter dated 27.7.2006, had decided that PTC will be designated as the nodal agency for transfer of Tala Power. Accordingly, PTC, vide its letter dated 08.8.2006, had sent a copy of Draft Power Sale Agreement (PSA) to be executed with GRIDCO for sale of Tala Power. PTC also forwarded the Draft PSA to be executed between PTC & ER Constituents for sale of Tala Power to Eastern Region Power Committee (ERPC).

- (d) A meeting was held on 18.9.2006 between PTC & different Eastern Region Constituents to discuss different issues on finalization of PSA. The major decision of the meeting was:
- i. PTC agreed to revise the rate of rebate from 1 paise/kwh to 1.25 paise/kwh against the prevailing trading margin of PTC of 4 paise/kWh.
  - ii. PTC agreed to change the pay by date from the proposed 3 working days to 7 days from the date of presentation of bill.
  - iii. PTC requested to sign the PSA before 27.9.2006 as it had to sign the agreement with Bhutan Govt. by 30.9.2006.
- (e) Accordingly, PTC forwarded the revised draft Power Sale Agreement as per the discussions held on 18.9.2006. GRIDCO placed the matter before the Board of Directors in their 102nd meeting held on 25.9.2006 regarding signing of the PSA with PTC to purchase power from Tala Hydro Electric Project.
- (f) A Protocol to the agreement was signed between the Government of Republic of India & the Royal Government of Bhutan on 28.7.2006. The salient points of the Protocol were:
- i. PTC India Ltd. (PTC) and the Department of Energy (DOE) are the designated nodal agencies in India and Bhutan respectively for inter-country transfer of power.
  - ii. The tariff for both primary and secondary energy shall be Rs.1.80 per unit with effect from the date of commercial operation for Tala Hydroelectric project.
  - iii. The tariff arrived above will be increased by 10% in every five (5) years till the loan is fully repaid and thereafter increase 5% in every five (5) years. However, since the loan liquidation will not necessarily fall in multiples of five (5) years period, it will be accordingly prorated to take into account the different increase rates.

- iv. This protocol and subsequent PPA between the designated nodal agencies, shall be valid for a period of 35 years. The two governments may agree to extend the Agreement by mutual consent for which a new PPA will be negotiated.
  - (g) The COD of Tala Hydro Electric Project was on 31.7.2006. The PSA was signed between PTC & GRIDCO on 27.9.2006 and the validity of the PSA will end on 31.7.2041. GRIDCO is availing power from Tala Hydro Electric Project since August, 2006.
  - (h) The procurement of power from the said Generating Station is being factored by the Commission in the ARR of GRIDCO Ltd. from time to time.
  - (i) At present, GRIDCO is purchasing power from Tala Hydro Electric Project at a rate of Rs.2.27/Unit (including trading Margin of 4 paise/unit of PTC). The per unit cost of TALA Hydro Electric Project also comes in the Merit Order List. Further, purchase of green & environment friendly Hydro power is always preferable in order to maintain a good Hydro-Thermal Mix.
3. The petitioner GRIDCO has further prayed before the Commission to condone the delay in filing of the petition seeking post facto approval of the PSA.

**Reply of the Respondents:**

4. The Respondent-TPWODL, in his reply dated 21.11.2022 has made submissions as under:
- a) The PPA was signed on 27.09.2006, but same has been filed before the Commission for approval on 15.10.2022 after 16 years.
  - b) The Commission has approved 125.80MU energy from Tala HEP at a tariff of 234.82 Paise/Unit in BST order for FY 2022-23. Whereas the petitioner is procuring power @ Rs.2.27/unit (including trading margin of PTC), which is lower than the above approved rate.

- c) As per MoP, GoI order dated 22.7.2022, energy from all Hydro Power Project (HPP) will be considered as part of RPO. Considering the same, procurement power from Tala HEP will contribute to RPO target of the State of Odisha.
  - d) Considering the above aspects, the respondent has requested the Commission to provide suitable direction.
5. The Respondent-TPSODL has made submissions as under:
- a) Based on the “Protocol of Agreement” signed between Government of India & Royal Government of Bhutan, the projected tariff to be Rs.2.70/kWh in FY 2040-41 which is at present Rs.2.35/kWh.
  - b) This tariff over the years are competitive and there is no regulatory oversight for variation in tariff as stipulated in the Protocol of Agreement.
  - c) Considering the above facts, the respondent has no objection for post facto approval of PSA as the petitioner has already been purchasing the power from the above project.
6. The Respondent-TPNODL, in its reply dated 21.12.2022 has made similar observations relating to the approval of the PSA and has no objection for regularization of the PSA proposed by GRIDCO.
7. The Commission heard the Petitioner and Respondents through virtual mode and considered their written submissions & arguments. The Commission observes that
- (a) The CEA had allocated 43.35 MW (5% of 867 MW allocated to Eastern Region Constituents by GoI) of power of Tala Hydro Electric Project (6x170 MW) to Odisha reducing share from KhSTPS-II, which has become 31 MW from original allocation of 74 MW.
  - (b) MoP, GoI, vide letter dated 27.7.2006, has decided PTC as nodal agency for inter-country transfer of Tala Power. The Board of Directors of GRIDCO, in its 102<sup>nd</sup> meeting, had also approved the PSA to be executed between PTC & GRIDCO Ltd. on 25.9.2006. Power Sale Agreement (PSA) was signed between PTC & GRIDCO on 27.9.2006 and validity of PSA will end on 31.7.2041.

- (c) The tariff for both primary & secondary energy shall be Rs.1.8 per kWh w.e.f. CoD of THP (31.7.2006) & will increase as per PPA. At present GRIDCO is purchasing power from THEP at a rate of Rs.2.27/kWh (including trading margin of 4 paise/kWh of PTC) as submitted by the Petitioner.
- (d) GRIDCO is availing the power from THP since August 2006. Considering the demand of the State and requirement of hydro power during peak hours, the Commission has been approving, in the ARR of GRIDCO, for procurement of power from the THP from the FY 2009-10 onwards.
- (e) Moreover, the power from THP is available at a tariff which is the lower than average tariff of central sector hydro power projects (Chukha, Tala, Mangdechhu, Teesta-V) and is also lower than the Average Power Purchase Cost (APPC) of FY 2022-23. The cost of power from the HEP also comes in merit order.
- (f) The availability of Hydro Power (an environmental friendly green power) is always desirable in present scenario to maintain good Hydro-thermal mix and meeting the peak demand.
- (g) TPCODL, the distribution licensee is agreeable to purchase of power by GRIDCO from THP as the Power Procurement Cost (PPC) is lower among Central Hydro Plants and is being factored in ARR of GRIDCO from time to time. Similarly, TPWODL, TPNODL & TPSODL have no objection to post-facto approval of Commission.

8. The salient features of PPA are as follows:

- i. Tala Hydro Electric Project (THP) of Royal Govt. of Bhutan (RGoB) with installed capacity of 1020 MW (6x170 MW) shall sell surplus power to Govt. of India (GoI) as per Agreement dated 05.03.1996. GoI & RGoB through the protocol to the Agreement dated 28.07.2006, having validity for a period of 35 years, have authorised PTC India Ltd. and Department of Energy (DoE) as the designated nodal agencies in India and Bhutan respectively for inter-country transfer of power, to enter into a PPA for sale & purchase of the said surplus power available from THP.
- ii. The Bulk Power Customer(s) in Eastern Region (i.e. BSEB, DVC, GRIDCO, JSEB and WBSEB) shall make efforts to absorb their respective allocated share of THP energy supplied by PTC such that spillage of water is avoided. The Eastern Regional Load Despatch Centre (ERLDC) is entrusted with the responsibility for coordination

of scheduling monitoring and controlling the operation of the power system and its parameters such as voltage, frequency, active and reactive power flows in the Eastern Regional Grid.

- iii. The Indo-Bhutan Border shall be deemed to be the delivery point for the energy to be received by Bulk Power Customer(s) for power flowing on 400 kV Tala-Siliguri (New) D/c lines.
- iv. The required transmission charges for transmission of power from the delivery point(s) up to the point of drawal of power by the Bulk Power Customers(s) shall be settled directly between CTU/Transmission provider and the concerned Bulk Power Customer(s) as per CERC Order(s).
- v. The tariff for both primary and secondary energy shall be Rs.180 per unit with effect from the date of commercial operation of generating unit(s) of THEP as per REA issued by ERPC. Review of the aforementioned tariffs shall be governed under the review to be undertaken between the Govt. of India and Royal Govt. of Bhutan and the review will be carried out as per frequency and on the basis as outlined in Protocol dated 28.07.2006.
- vi. The tariff will be increased by 10% every five (5) years till the loan is fully repaid and thereafter @5% every five (5) years and will be prorated to take into account the different increase rates.
- vii. PTC shall be charging a transaction/trading margin from the Bulk Power Customer(s) as per CERC guidelines issued from time to time. Presently, a transaction margin of 4 paisa/kWh shall be charged by PTC from the Bulk Power customer(s) in addition to the tariff.
- viii. As per allocation order dated 07.7.2006 issued by MoP, GoI, each Bulk Power Customer(s) shall open an irrevocable revolving Letter of Credit (LC) in favour of PTC exclusively for this transaction prior to commencement of power supply.
- ix. Any dispute failing settlement of the same through mutual discussions between PTC and Bulk Power Customer(s) and/or at ERPC forum and in case of disagreement, the dispute is to be decided by Chairman, CEA.
- x. The Agreement shall be deemed to have come into force with effect from the date of execution of this agreement or from the date of commercial operation of first unit of

THP, whichever occurs earlier, and shall remain operative for thirty-five (35) Operation years.

- xi. Regional Energy Accounts so prepared by ERPC is to ensure total accounting of energy sent out of THP at delivery point, and the losses in Transmission System for Tala energy would be shared as per the methodology decided by the ERLDC from time to time.
  - xii. PTC shall present the provisional weekly and monthly adjustment bill for the energy received by Bulk Power Customer(s) as per the details given in energy accounting. The monthly adjustment bill present by PTC for THP energy received by the Bulk Power Customer shall be as per Regional Energy accounts.
9. In view of above observations, the Commission approves the Power Purchase Agreement (PPA) dated 27.09.2006 signed between PTC & GRIDCO for purchase of 43.5 MW (5% of 867 MW allocated to Eastern Region Constituents by GoI) of power of Tala Hydro Electric Project (6x170 MW) to Odisha as allocated by CEA, Ministry of Power, Govt. of India for a period of 35 years from the CoD of 1<sup>st</sup> unit (i.e. 31.07.2006) in order to meet peak demand shortage from 2022-23 onwards. The availability of adequate Hydro Power in Generation mix is desirable considering large scale integration of generation from variable Energy Resources.
10. Needless to say that the petitioner has sought for *post-facto* approval of PSA executed between GRIDCO and M/s. PTC on 27.9.2006, after a gap of more than 16 years, seeking condonation of delay. The Commission is of the view that post-facto approval of PSA is not desirable and should have been avoided by GRIDCO. In this regard, the letter No.114 dated 19.01.2021 of the Commission should be meticulously followed.
11. The case is accordingly disposed of with the observations stated above.

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

**Sd/-**  
**(G. Mohapatra)**  
**Officiating Chairperson**