

**ODISHA ELECTRICITY REGULATORY COMMISSION  
BIDYUT NIYAMAK BHAVAN  
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. 35/2023**

GRIDCO Ltd.	.....	Petitioner
Vrs.		
OHPC & others	.....	Respondents

**In the matter of:**      **Application under Sections 86(1)(f) & 94(2) of the Electricity Act, 2003 read with Regulation 70(1) of the OERC (Conduct of Business) Regulations, 2004 seeking direction of the Commission regarding settlement of securitized dues of OHPC Ltd.**

**For Petitioner:**      Shri L.K. Mishra, DGM (Finance), GRIDCO Ltd.

**For Respondents:**      Shri D. Mohanty, CGM (Finance) & Shri G.B. Moharana, SGM (Fin.), OHPC Ltd. and Ms. Sonali Pattnaik, Manager (Legal), DoE, GoO.

**ORDER**

**Date of Hearing: 04.07.2023**

**Date of Order: 11.07.2023**

The Petitioner-M/s. GRIDCO Ltd has filed the present application seeking direction of the Commission regarding settlement of securitised dues of OHPC with the following prayer:

- a) To fix rate of interest and number of instalments with suitable payment mechanism along with appropriate directives for settlement of the securitised dues of OHPC for allowance of the same in the ARR of GRIDCO in subsequent years.
  - b) Considering the financial cost on the OHPC securitised dues would have a neutralised effect, the Commission may decide for settlement of outstanding dues without any interest as moratorium in five financial years starting from FY 2024-25.
2. For convenience, background of the petition is concisely stated as hereunder:
- a) Due to poor performance and default in timely payment of BSP bills by the erstwhile DISCOMs, the Petitioner-GRIDCO was constraint in making full payments of power purchase bills of OHPC. Thus, the outstanding dues of OHPC kept on piling over the years and subsequently, such dues amounting to Rs.619 crore till 31.03.2013 was securitised. The proposal of OHPC to securitise this amount was approved by the Board of Directors (BoD) of GRIDCO in their 155<sup>th</sup> meeting held

on 25.09.2014. Accordingly, an agreement was signed on 23.02.2015 for repayment of the amount over a period of 10 years (including moratorium of 3 years) with interest @8% per annum.

- b) In the ARR application for the FY 2015-16, GRIDCO had claimed Rs.99.04 crore pertaining to the interest on such securitised dues. However, the Commission in its order had not allowed this claim of GRIDCO with the observation that GRIDCO may discharge the liability of OHPC through collection of arrears of DISCOMs and revenue from trading of surplus power. But it did not yield considerable result even after GRIDCO's efforts for realisation of arrear dues from erstwhile DISCOMs and trading revenue. GRIDCO was able to repay only interest dues from 01.04.2014 to 31.03.2017 and principal obligation of Rs.41.02 crore during FY 2017-18 & 2018-19, which was subsequently adjusted by OHPC against interest dues.
- c) After several deliberation with OHPC on this matter, finally in the meeting between GRIDCO and OHPC held on 28.10.2022, it was deliberated that the interest cost needs to be approved in the ARR of GRIDCO by the Commission so as to settle the issue of this old outstanding dues. Accordingly, GRIDCO in its ARR application for FY 2023-24 had requested for allowing interest of Rs.265.25 crore which was not addressed by the Commission in its order. Due to the aforesaid disallowances, GRIDCO is quite vulnerable to the uncertainties in meeting the contractual debt obligations in absence of any recovery mechanism and lack of any reserve/ surplus in its books to meet the debt obligations.
- d) The finance cost on OHPC securitised dues would have a neutralised effect on the tariff as the interest income of OHPC may be considered as other/miscellaneous income in its ARR, matched with equivalent amount of expenses for GRIDCO.

3. Stand of the OHPC is precisely stated as hereunder:

- a) GRIDCO has defaulted in making payment of power purchase dues of OHPC to the extent of Rs.630.97 crore for the period from 1996-97 to 2012-13. To settle the outstanding dues, a debt securitisation agreement was executed between OHPC and GRIDCO for converting outstanding dues of Rs.619 crore to 8% interest bearing loan w.e.f. 01.04.2014 out of the total dues of Rs.630.97 crore. Accordingly, GRIDCO has paid the interest dues from 01.04.2014 to 31.03.2017 in time as per the said agreement and Rs.45.15 crore in different dates during the period from FY 2017-18 to 2018-19 which was accounted for as interest repayment in terms of the agreement. Several meetings have been made between GRIDCO and OHPC for

settlement of this outstanding dues. Though GRIDCO has never disputed the debt amount of Rs.619 crore, it did not pay the amount as decided along with interest and DPS.

- b) The Commission in its ARR order of GRIDCO for FY 2015-16 has disallowed the interest liability of Rs.99.04 crore claimed by GRIDCO against securitisation of OHPC outstanding dues and has advised GRIDCO to discharge the liabilities of OHPC through collection of arrears of DISCOMs and revenue from trading of surplus power. OHPC should not suffered for non-collection of BSP dues by GRIDCO from the DISCOMs.
- c) OHPC is not agreeable with the submission of GRIDCO that the finance cost on the OHPC securitised dues would have a neutralised effect on the tariff as the interest income of OHPC may be considered as other /miscellaneous income in its ARR, matched with equivalent amount of expenses for the Petitioner-GRIDCO. The Commission vide its order dated 05.09.2022 passed in Case No.65 of 2021, has clarified that the non-tariff income of different power stations of OHPC shall be deducted as per the Regulation 41 of OERC (Terms and Conditions of Determination of Generation Tariff) Regulations, 2020, which is in line with the provisions of Regulation 42 of the CERC Tariff Regulations, 2019. As per the provisions in the aforesaid Regulations, the non-tariff income in case of generating station “rent from land or buildings, sale of scrap and advertisements” shall be shared between the beneficiary (in this case GRIDCO) and the generating company (in this case OHPC) in the ratio 50:50. Accordingly the ARR of OHPC for FY 2021-22 and onwards have been approved by the Commission. Hence, the other non-tariff income including interest income are non-deductible as these are earned against investment of different funds accumulated out of RoE fund, Depreciation reserve fund etc. to meet the future requirement of replacement of assets and R M & U of power generating stations including capital maintenance of old plants and setting up of new projects.
- d) In view of the above, OHPC has prayed the Commission:
- To reject the submission of GRIDCO to consider the interest income of OHPC as other /miscellaneous income while determining the ARR of OHPC, in view of the extant provisions in the Regulations.

- To direct GRIDCO to honour the letter dated 26.10.2021 of Department of Energy, Government of Odisha to repay the principal of Rs.619 crore to OHPC with interest dues till date in line with the terms as set out by DoE.
  - To direct GRIDCO to pay the DPS as applicable for FY 2017-18 & onwards as per the debt securitisation agreement.
  - To direct GRIDCO to pay the outstanding dues of Rs.6.22 crore as decided by the Commission and Appellate Tribunal vide their orders dated 01.11.2008 and 22.02.2011 respectively in Case No.40 of 2008 and Appeal No.159 of 2009 along with interest as applicable till date.
4. Be it stated here that as both the parties are Government Undertakings and the subject outstanding dues relates to the past periods, the Commission vide its interim order dated 23.05.2023 had directed both the Petitioner-GRIDCO and the Respondent-OHPC to take up the matter with the Department of Energy, Government of Odisha for an amicable resolution of the matter and the outcome of such resolution be placed before the Commission. As per the above direction of the Commission, both the parties have appeared before the Additional Chief Secretary, Energy Department, Government of Odisha on 26.06.2023 for settlement of the dispute and a settlement was arrived at between the parties. The Commission in the interim order dated 04.07.2023 had directed both the parties to file a joint petition in in this regard along with the MoM of the aforesaid meeting held on 26.06.2023 for consideration of the Commission. Accordingly, a joint petition signed by Chief Finance Officer, GRIDCO Ltd. and Director (Finance) in charge OHPC Ltd. was filed before this Commission praying for acceptance and approval of the terms of settlement as agreed upon in the meeting held on 26.06.2023 in the Conference Hall of Energy Department, Govt. of Odisha under the Chairmanship of Additional Chief Secretary, Department of Energy.
5. The details of the amicable settlement, as agreed upon by both the parties in the aforesaid meeting held on 26.06.2023, are on the following terms:

*“In view of Interim Order of OERC dated 23.05.2023 in Petition No.35/2023 filed by GRIDCO in the matter of seeking direction of the Commission regarding settlement of securitised dues of OHPC Ltd., a meeting was held on 26.06.2023.*

*It was apprised that, based on the decision in the meeting held on 27.07.2020 under the Chairmanship of Chief Secretary, Govt. of Odisha a meeting was convened on 28<sup>th</sup> September’2021, wherein following broad agreements have been arrived at for settlement of securitised dues of OHPC Ltd.*

- *The outstanding securitised dues up to 31.3.2021 stands at Rs.771.93 Crore which comprises principal of Rs.619 Crore and interest of Rs.152.93 Cr.*
- *The outstanding principal amount of Rs.619 Crore shall carry interest @ SBI FD rate plus 1% w.e.f. 01.04.2021 as agreed by OHPC.*
- *The principal amount of Rs.619 Crore along with interest accrued w.e.f. 01.04.2021 shall be re-paid in equated monthly instalments over a period of 6 years from the date of the order.*
- *The interest amount of Rs.152.93 Crore outstanding up to 31.3.2021 shall be paid in 12-18 equated monthly instalments without any further interest.*

*Based on the above agreements communicated by DoE, Govt. of Odisha, two joint meetings were held between OHPC and GRIDCO on 28.10.2022 and 20.12.2022 to arrive at an amicable settlement of securitised dues of OHPC. Both the parties agreed to file petition before OERC for settlement of dues. GRIDCO filed the Petition No.35/2023 before OERC. In the interim order dated 23.05.2023, OERC directed Energy department for amicable resolution of the matter prior to next date of hearing. It was presented that the SBI FD rate has gone up by about three percentage points in the meanwhile.*

*After detail deliberation, the following was agreed upon.*

- 1. The outstanding interest up to 31.3.2021 amounting to Rs.152.93 Crore to remain unaltered.*
- 2. The principal amount of Rs.619 Crore shall carry simple interest @ 6% per annum w.e.f. 01.04.2021.*
- 3. Total outstanding interest up to June'23 amounting to Rs.236.50 Crore (i.e. Rs.152.93 Crore up to 31.03.2021 and Rs.83.57 Crore from 01.04.2021 to 30.06.2023 @ 6% p.a.) shall be paid by GRIDCO in 18 equated monthly instalment w.e.f. July'2023.*
- 4. The principal amount of Rs.619 Crore along with interest shall be paid by GRIDCO in 72 equated monthly instalments from July'2023.*
- 5. GRIDCO shall claim the amount paid to OHPC in its BSP application, the Commission would be requested to consider it favourably."*
6. After hearing the parties and going through the aforesaid MoM held on 26.06.2023, we observe that the terms of settlement between both the Petitioner-GRIDCO and the Respondent-OHPC are arrived at after due deliberation in presence of top-level officials of both GRIDCO and OHPC as well as Energy Department and Finance Department of Government of Odisha. Since, both GRIDCO and OHPC are Government of Odisha Undertaking Organisations, the Commission is of opinion that the above terms of settlement shall be binding on the parties and for settlement of the dues, they shall adhere to those terms without making deviation.
7. The petition stands disposed of accordingly.

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

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

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