

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

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

Case No. 72/2023

M/s. GRIDCO Ltd.

..... Petitioner

Vrs.

M/s. NTPC Ltd. & Others

..... Respondent

In the matter of: An application U/S 86(1)(b) of the Electricity Act, 2003 read with Section 11(1)(e) and 21(4)(b) of Orissa Electricity Reform Act, 1995 seeking for in-principle approval for purchase of power from un-allocated quota of Central Generating Stations which were uniformly re-allocated to eastern region beneficiaries by Eastern Region Power Committee (ERPC), Govt. of India (GoI) and buying and selling of power re-allocated through PUSHp scheme of CEA.

For Petitioner: Sri B. K. Das, Sr. GM (PP) & Ms. Madhumita Mishra, DGM (Elect.), GRIDCO Ltd.

Respondent: Shri Girish Chandra Mohapatra & Shri Vijendra Singh on behalf of M/s. NTPC Ltd, Ms. Sonali Pattnaik, Manager (Legal), DoE, GoO, Ms. Banishree Pradhan, DGM(Elect.), OPTCL, Shri Puneet Munjal, Head Regulatory Affairs, TPCODL, Shri K. C. Nanda, GM (RA & Strategy), TPWODL, Ms. Malancha Ghose, DGM(RA), TPNODL and Shri V. Wagle, Chief Regulatory Affairs, TPSODL.

ORDER

Date of hearing: 22.08.2023

Date of Order:16.09.2023

The Petitioner M/s. GRIDCO Ltd. being a Bulk Supplier and Deemed Licensee of Trading of Electricity has filed the present petition under Section 86 (1)(b) of the Electricity Act, 2003 read with 11(1)(e) and 21(4)(b) of the Orissa Electricity Reform Act, 1995 (OER Act, 1995) including other enabling provisions of the Act and Regulations seeking in principle approval for purchase of power from unallocated quota of Central Generating Stations (CGSs) which were uniformly re-allocated to eastern region beneficiaries by Eastern Region Power Committee (ERPC), Government of India (GoI).

2. GRIDCO has prayed before the Commission:

- I. To consider the drawl of un-allocated share of power from all ER stations including those stations without having approved PPA such as KhSTPS-I, FSTPS-I&II, Barh-I&II, Muzaffarpur Thermal Project, Nabinagar STPP-I, Rangit and Kurichhu etc.
 - II. To approve the PPA format that has been submitted by NTPC vide mail dated 24.05.2023 for signing by GRIDCO for additional allocation from un-allocated quota and re-allocation through PUSHp scheme for buying and selling of power as per requirement of GRIDCO.
 - III. To approve the sale and/or purchase of power re-allocated through PUSHp scheme of CEA.
3. The gist of the submissions made by the Petitioner, GRIDCO is as under: -
- (a) The Ministry of Power (MoP), Govt. of India (GoI), vide Notification dated 01.03.2016, has notified that in the absence of any specific allocation of un allocated power of a Central Generating Station by the MoP, the un allocated power of the said station will be added to the un allocated power pool of the concerned region and will be distributed among the existing beneficiaries of the pool in proportion to the approved shares by MoP. MoP, GoI used to allocate the 15% unallocated quota of power from Central Generating Stations (CGSs) in proportion to percentage of beneficiaries firm shares in stations in case no request for additional power is received from interested beneficiaries.
 - (b) Further, Central Electricity Authority, vide letter dated 26.10.2022, has informed the ERPC about the methodology for allocation of un-allocated power to be adopted in region as follows.
 - (i) Uniform allocation of un-allocated power of CGSs in Regional Pool (after accounting for the specific allocations) to various beneficiaries in place of the present time slot-based allocation
and
 - (ii) Re-distribution of un-allocated quota of CGSs in Regional Pool so that all the beneficiaries are assigned un-allocated share from all CGSs, to facilitate availing Un Requisitioned Surplus (URS) power.
 - (c) In accordance with the above directives of MoP, ERPC, vide its letter dated 15.02.2023, has implemented the re-allocation of power of Central Generating Stations of Eastern Region and Bhutan Hydro Power Stations (HPS) for uniform

allocation of unallocated share of power among all the ER beneficiaries from Eastern Region pool. The above implementation also stipulates that the beneficiaries have to sign/extend PPA and enter into commercial arrangements/maintains LC for the power so allocated. The revised allocation has been implemented and energy has been scheduled to GRIDCO with effect from 00:00 Hrs of 17.02.2023.

- (d) Further, after considering the share allocation from the 1st unit of North Karanpura STPS (660 MW) upon its CoD on March 1, 2023, as well as the re-allocation of the 50 MW unallocated quota (previously transferred to Uttarakhand from 11th January to 28th February 2023, according to the MoP Order dated January 11, 2023), ERPC revised the allocation of the beneficiaries of Eastern region vide letter dated February 28, 2023. Additionally, ERPC revised the re-allocation of power from the Central Generating Stations of Eastern Region and Bhutan HPS, vide letter dated April 29, 2023, following the revision of the firm and un-allocated quantum of power for beneficiaries of Rangit and Teesta-V HPS, effective from 00:00 Hrs on May 1, 2023.
- (e) According to ERPC's above allocation, GRIDCO has been allocated a revised unallocated share of 12.056% out of the total unallocated share of 1417.12 MW. Therefore, GRIDCO has 171 MW of unallocated quota, with 145 MW from Thermal Generating Stations and 26 MW from Hydro generating stations. This unallocated share of all Generating Stations in Eastern Region has been redistributed among beneficiary States in the Region based on applicable percentage rates of allocation (for GRIDCO 12.056%). Though GRIDCO does not have any firm share allocation from FSTPS- I&II, KhSPTS-I, Barh STPS-I & II, Muzaffarpur Thermal Project, Nabinagar STPP-I, Rangit HEP, Kurichhu HEP, but it has been allocated 12.056% share of power from unallocated power from these stations without having PPA.
- (f) GRIDCO further submitted that the Commission was informed while submitting its ARR application for FY 2023-24 about the uniform power allocation by ERPC. The Commission has allowed GRIDCO to purchase power from all available sources of central generating stations and has approved the power purchase cost (fixed cost) of all the Central Generating Stations including Stations having no existing PPAs with GRIDCO (Nabinagar, STPP-1, Rangeet & Kurichu) for the FY

2023-24 based on the unallocated percentage share of power allocated by ERPC as per letter dated. 28.02.2023

- (g) Further, on June 3, 2022, the Government of India (GoI) issued a notification outlining the Electricity (Late Payment Surcharge) Rules, 2021. Clause (7) of these rules states that if a distribution licensee fails to pay their dues/bill within two and a half months of receiving it from the generating company, their access to short-term electricity sales and purchases, including those made through the power exchange, will be regulated entirely. If the dues remain unpaid for three and a half months, the regulation of short-term access will continue, and long-term and medium-term access will also be regulated by ten percent. The quantum of reduction in drawl schedule will progressively increase by ten percent each month of default. The Ministry of Power (MoP), GoI strictly monitors the payment of dues by the distribution licensee on a continuous basis through the PRAAPTI Portal. In case of default in payment beyond the trigger date, immediate action will be taken to curtail the schedule of the beneficiaries.
- (h) In the above backdrop, GRIDCO is obligated to comply with the directives of the Central Electricity Authority (CEA) by signing/extending Power Purchase Agreements (PPAs), entering into commercial arrangements, and maintaining Letter of Credit (LC) with the allocated power from the unallocated pool of the region.
- (i) Further, MoP (GoI) vide letter dated 19.11.2022, has approved a scheme for National level Optimization of surplus generation capacity with the development of an online portal (www.nationalsurpluspower.in) at the national level. The scheme aims to provide an additional avenue to the stakeholders for optimal use of surplus power. Temporary allocation of power would be made available amongst beneficiaries through online mode. The said scheme has started operation from 01.04.2023 as “Flexibilisation of PPA for Optimal Utilization of Resources and Reduction on Cost of Power for Consumers” which in short abbreviated as PUSHp scheme. The Scheme envisages paperless working and is subjected to willingness of Seller & Buyer, confirmation of transmission corridor by concerned agencies and confirmation of payment security on portal by the new Buyer/Gencos before scheduling of such power. As per the provisions made in the said scheme, temporary allocation of power would be made available amongst constituents in the country through online portal. The portal is for Generating station whose Tariff is

Regulated tariff, determined by the appropriate Commission under section 62 of the Electricity Act 2003 or Tariff adopted by the appropriate Commission under section 63 of the Electricity Act 2003. The surplus power can be bought or sold block wise for a day and for longer duration (more than one day- e.g. week, fortnight, month, quarter or any period mutually convenient to seller and buyer). The payment security mechanism shall be in place in absence of which no schedule of power shall be possible. Payment settlement will be as per the REAs (Regional Energy Accounts) including revisions thereof, prepared by the concerned RPC. This will be binding on all the buyers of power from CGS. POSOCO is to verify the Payment settlement before actual despatch of power. Payment settlement will be as per the REAs (Regional Energy Accounts) including revisions thereof, prepared by the concerned RPC. This will be binding on all the buyers of power from CGS.

- (j) In view of above, NTPC, vide mail dated 24.05.2023 has submitted a PPA format to be signed by each beneficiary with NTPC/NHPC for additional allocation from un-allocated quota and re-allocation through PUSHP scheme in accordance with the terms and conditions laid down by MoP/ERPC.

4. The gist of the submissions made by the Respondent TPWODL are as under:-

- a) That, Para 36(c) of the Vesting Order states that the Applicant is allowed to sign additional Power Purchase Agreements (PPAs) with the consent of the Respondent DISCOM and approval from the Commission. Therefore, the Applicant must obtain prior approval from the Respondent DISCOM before entering into any PPAs with NTPC for additional allocation from the unallocated quota and re-allocation through the PUSHP scheme.
- b) That, the Commission is requested for conducting proper periodical validation and prudence checks of the power from unallocated share to the Applicant before approving such PPAs. Additionally, the unallocated share from Barh-II should not be assigned to the applicant until the power station is commissioned and approved by the commission.
- c) That, the Commission may consider the upcoming power demand scenario of the State and may accord in-principal approval with a suitable review of the draft Power Purchase Agreements (PPAs) of NTPC submitted by the Applicant.

5. The other Respondent, TPNODL, submitted that considering the interests of the State's consumers, the Commission may approve GRIDCO's purchase of power from the unallocated quota of Central Generating Stations.
6. The other Respondent, TPCODL, submitted that they do not have any objections for in principle approval to GRIDCO for buying power from the unused quota of Central Generating Stations. However, TPCODL has expressed concern that this could have a negative impact on DISCOMs if it is carried out over a prolonged period of time.
7. The other Respondents, Government of Odisha & OPTCL submitted that they do not have any objections on the proposal of GRIDCO in the present petition. The Commission may approve the same with due consideration.
8. The Commission heard the petitioner and respondents through hybrid arrangement (virtual/physical) and also considered their arguments during the hearing. The documents filed by the parties have been referred by the Commission. We observe as under:
 - a) The Ministry of Power (MoP), Government of India (GoI) has issued a notification on March 1, 2016, stating that if there is no specific allocation of unallocated power from a Central Generating Station by MoP, the unallocated power will be added to the unassigned / unallocated power pool of the respective region and distributed among the existing beneficiaries of the pool in proportion to their approved firm shares by MoP. Accordingly, MoP, GoI had allocated the unallocated 15% quota power in proportion to beneficiaries' firm shares in stations in case no request is received from interested beneficiaries.
 - b) The methodology for allocating unallocated power in each region has been informed by the Central Electricity Authority (CEA) through a letter dated 26.10.2022.
 - c) ERPC, vide its letter Dtd. 15.02.2023, has implemented the re-allocation of power of Central Generating Stations of Eastern Region and Bhutan HPS for **uniform allocation** of unallocated share of power among all the ER beneficiaries from Eastern Region pool. The revised allocation has been implemented and energy has been scheduled to GRIDCO with effect from 00:00 Hrs of 17.02.2023.
 - d) Subsequently, ERPC revised the allocation, vide a letter dated February 28, 2023. This was due to the share allocation from the 1st unit of North Karanpura STPS (660 MW) upon its CoD on March 1, 2023, as well as the re-allocation of the 50 MW which was deallocated earlier to Odisha. This 50 MW quota was previously

transferred to Uttarakhand from January 11 to February 28, 2023 according to the MoP Order dated January 11, 2023.

- e) Another revision was made by ERPC on April 29, 2023. This was in response to the revision of the firm and un-allocated quantum of power from beneficiaries of Rangit and Teesta-V HPS. The new allocation came into effect on May 1, 2023, at 00:00 Hrs.
- f) Based on ERPC's above allocation, GRIDCO has 171 MW of unallocated quota. Out of this, 145 MW is from Thermal Generating Stations and 26 MW is from Hydro generating stations. GRIDCO has been granted a revised unallocated share of 12.056% out of the total unallocated share of 1417.12 MW **irrespective of firm share allocation** from Eastern Region stations i.e. even in the absence of any firm allocation or PPAs for availing power from those stations.
- g) If a distribution licensee fails to pay their dues/bill, they will be penalized according to Clause (7) of the Electricity (Late Payment Surcharge) Rules, 2022 issued by the Government of India (GoI) on June 3.
- h) The MoP, GoI has operationalised a scheme at national level under the name "Flexibilisation of PPA for Optimal Utilisation of Resources and Reduction in Cost of Power for Consumers" (PUSHP) scheme for optimum use of surplus generation capacity against the beneficiaries through an online portal www.nationalsurpluspower.in which is operational since April 1, 2023. Without Payment Security Mechanism (PSM) no schedule of power shall be possible.
- i) In the above backdrop, GRIDCO is to comply with the directives of MoP, CEA, and ERPC and accordingly sign/extend PPA with NTPC and enter into commercial arrangement for availing power from the unallocated pool of the region. Accordingly, a PPA format has been submitted by NTPC for signature of GRIDCO for additional allocation from un-allocated quota and re-allocation through PUSHP for buying and selling of power.
- j) The basis of PPA to be executed between NTPC & beneficiary are as follows:
 - I. GRIDCO has been granted a revised unallocated share of 12.056% out of the total unallocated share of 1417.12 MW **irrespective of firm share allocation** from Eastern Region stations i.e. even in the absence of any firm allocation or PPAs for availing power from those stations. GRIDCO shall get 171 MW from unallocated share of eastern region. Out of this 145 MW

is from Thermal Generating Stations and 26 MW is from Hydro generating stations.

- II. For the allocation of power from unallocated quota as directed by MoP, Letter of Credit (LC) equivalent to 105% of estimated monthly billing, as communicated by NTPC, shall be opened promptly. This LC shall be in addition to the LCs already opened for supplies against existing allocations. Alternatively, Advance payment of estimated billing shall be made to NTPC.
 - III. Power declared surplus by a beneficiary/DISCOM from an NTPC station may be re-allocated to another beneficiary/DISCOM (Procurer) online through the PUSHp Portal for such period as may be requisitioned by the Procurer. Such Procurer may not be having prior allocation/ PPA with such NTPC station from which power has been allocated.
 - IV. For the allocation as per PUSHp scheme, Letter of Credit (LC) equivalent to estimated billing, as communicated by NTPC, shall be opened promptly or equivalent advance payment shall be made to NTPC
 - V. The scheduling, metering, energy accounting & billing shall be as per the prevailing methodology and various decisions of the appropriate RPC/ RLDC/ SLDC.
 - VI. The Agreement will be valid for 25 years.
9. All the respondents have no objection and request the Commission to review and approve the draft Power Purchase Agreements (PPAs) with due consideration of concerns of DISCOMs.
 10. In view of the above observations, the Commission decides to accord in principle approval to the draft PPA is to be executed between GRIDCO Ltd. and NTPC Ltd., for purchase of power from un-allocated quota of Central Generating Stations (having / without having any PPA) which were uniformly re-allocated to eastern region beneficiaries by Eastern Region Power Committee (ERPC), Govt. of India (GoI). However, the Commission is to be guided under Section 86 of the Electricity Act, 2003 and Section 21 of the Orissa Electricity Reform Act, 1995 under which the Commission is to regulate the procurement of the electricity by GRIDCO. Therefore, re-allocation through PUSHp for buying and selling of power is within the operational jurisdiction of GRIDCO and the Commission does not express any opinion on this matter. The power purchase and sale situation is very dynamic

in nature and is intricately woven with the economy of the country. GRIDCO is to purchase power basing on merit order dispatch principle. Considering the past experience GRIDCO may take up the issue with NTPC for the possibility of shortening the horizon of PPA for a duration of 5 to 10 years, covering all allocations made during that period.

11. Accordingly, the Commission approves the PPA for availing unallocated share from Eastern Region and consequential utilization.
12. With the above directions and observations, the case is disposed of.

Sd/-
(G. Mohapatra)
Member

Sd/-
(S. C. Mahapatra)
Chairperson