

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

1. **Dr. Pramod Deo, Chairperson**
2. **Shri R. Krishnamoorthy, Member**
3. **Shri S. Jayaraman, Member**
4. **Shri V. S. Verma, Member**

Petition No.108/2006

Petition for `in principle` approval of the estimated project cost and financing plan of 1000 MW (gross) power project being set up by Visa Power Ltd. in Orissa.

And in the matter of

Visa Power Limited, Kolkata **Petitioner**

Vs

1. Grid Corporation of Orissa Ltd., Bhubaneswar
 2. Visa Steel Limited, Bhubaneswar
 3. PTC India Ltd., New Delhi
- **Respondents**

The following were present:

Shri J.K.Pahwa, Visa Power Ltd
Shri R.K.Mehta, Advocate, GRIDCO
Shri Mragark Sharma, Advocate, GRIDCO
Shri K.C. Agrawal, PTC (I) Ltd.

**ORDER
(DATE OF HEARING: 26.2.2009)**

The petitioner, through this application made on 29.9.2006 under clause (b) of sub--section (1) Section 79 of the Electricity Act, 2003 (the Act) read with the second proviso to Regulation 17 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2004, as amended, seeks 'in principle' approval of the estimated project cost and financing plan of its 1000 MW (gross) power project to be set up either at Choudwar in District Cuttak or at Bajrakot in

District Angul in the State of Orissa. The generating station is envisaged to come up as a Mega Power Project and the petitioner has proposed to supply power to more than one State as indicated hereunder -

GRIDCO (First respondent)	250 MW
Visa Steel Ltd. (Second respondent)	250 MW
PTC (Third respondent)	250- 400 MW
Delhi Transmission Limited	100- 250 MW

2. The petitioner has submitted in the application that the Power Purchase Agreement (PPA) for supply of power has been tied up for 50% of the capacity and a dialogue is continuing with licensees in other States for sale of the balance power. The petitioner signed PPA on 28.9. 2006 with GRIDCO and Visa Steel Limited for the supply of 250 MW of power to each.

3. The petitioner requires approximately 1100 acres of land for the purpose of setting up the plant and associated facilities (colony, coal transportation system, water transportation system, power evacuation system, ash disposal etc.). The State Government of Orissa through the Memorandum of Understanding has agreed to acquire the required land through Orissa Industrial Infrastructure Development Corporation. The petitioner has agreed to pay the cost of land along with rehabilitation cost and other related charge. The process of acquisition of land was to start once the location of project was decided. When the petition was filed the petitioner was to obtain environmental clearance, forest clearance, power evacuation clearance (open access),stake height clearance from National Airport Authority, railway siding and transportation clearance and Mega Power Project status from the Central Government.

4. The petitioner has stated that it intends to fund the equity component through its parent companies, Visa Minmetal AG, Switzerland (through Foreign Direct Investment) and Visa International Limited, Kolkata, India in the debt- equity ratio of 70:30.

5. The first phase of the generating station (2x250 MW) is scheduled to be commissioned by March 2011 and the second phase (2x250 MW) by March 2012.

6. The 'in principle' approval has been sought for estimated project cost of Rs.4498.20 crore. Break-up of the originally estimated capital cost furnished by the petitioner is as follows:

Sl. No.	Major works	Rs. in crore
1.	Land & Site development	111.00
2.	Plant & Equipment	
2.1	Steam Generator Island	804.4
2.2	Turbine Generator Island	658.2
2.3	BOP Mechanical	528.30
2.4	BOP Electrical	161.90
2.5	C&I package	121.10
2.6	Taxes & Duties	440.40
	Sub-total	2714.4
3.	Initial Spares	65.10
4.	Civil Works	563.40
5.	Construction & Pre-commissioning expenses including start-up fuel	221.50
6.	Overheads including Contingency	158.60
7.	IDC & FC	664.20
8.	Total capital cost	4498.20

7. It has come on record that the estimated project cost is not based on the suppliers' offers for main plant package, etc since the bids for the power project had not been invited, though the petitioner claimed that it had initiated steps for conducting international competitive bidding process for selection of contractors and sought permission to determine the final cost based on the contracts awarded through such international competitive bidding. For this reason, it was not considered

appropriate to consider the estimated project cost for 'in principle' approval, as in the opinion of the Commission, consideration of the estimated project cost could prove counter-productive which could adversely influence the bidding process. The Commission further felt that there was also possibility of wide variation between the estimated project cost for which 'in principle' approval had been sought and the cost to be worked out on the basis of bids actually received. The Commission was of the view that clear picture regarding the project cost was likely to emerge after proper evaluation of the bids to be invited by the petitioner. The Commission, therefore, by its order dated 27.6.2007 directed the petitioner to place on record the project capital cost, emerging after complete evaluation of the bids for the main plant packages.

The relevant portion of the Commission's order is extracted below:

"4. We feel that no useful purpose would be served by considering the estimated project cost for 'in principle' approval in the present case. In our view, consideration of this cost may even prove to be counter-productive, as it may adversely influence the competitive bidding. Further, there could be wide variation between the estimated cost and the cost to be worked out on the basis of offers actually received. A much clearer picture regarding the project cost is likely to emerge after the bids to be invited by the petitioner have been opened. Financial tie-up etc. could also be finalized only when the project capital cost is worked out based on the bids for the main plant packages. The petitioner is, therefore, directed to place on record the project capital cost, emerging after complete evaluation of the bids received for the main plant packages."

8. The Commission further directed the petitioner to furnish the following additional details, namely -:

- (i) Complete list of contract packages;
- (ii) Prices quoted by qualified L-1 bidders;
- (iii) Summary evaluation reports for all main packages;
- (iv) Detailed basis for deriving the project cost;
- (v) Proposed financing plan;
- (vi) Latest status of the power project and clearances;

- (vii) Any special features of the generating station proposed, and their impact on the project cost; and
- (viii) Unit-wise MW rating and the expected date of commercial operation.

9. The petitioner was granted time up to 31.12.2008 by the Commission for filing of the requisite information and the decision was conveyed by letter dated 7.4.2008. However, since the required information had not been submitted, the petition was heard on 26.2.2009.

10. At the hearing it was submitted on behalf of the petitioner that it had acquired 140 acres of land through the State Government of Orissa and was in the process of acquiring some private lands after the notification by the State Government. It was informed that the petitioner had not received any coal linkage or coal block on account of which financial closure and finalization of EPC contract could not be achieved and as a consequence the tendering process with the equipment manufacturer could not be finalized. The petitioner further submitted that orders could not be placed for want of coal linkage and hence data as required by the Commission in its order dated 27.6.2007 could not be submitted. In response to the query of the Commission regarding the status of PPAs and the process of determination of tariff in terms of the relevant provisions of the tariff policy, the representative of the petitioner submitted that it had not signed the PPAs. He, however, did not furnish any clarification as regards the determination of tariff.

11. Learned counsel for the first respondent, GRIDCO submitted that but for execution of PPA between GRIDCO and the petitioner, the project had not taken shape. Learned counsel also submitted that he had no information on the relevant

clauses in the PPA regarding the tariff for purchase of power but pointed out that certain suggestions had been made by it to the petitioner.

12. The Commission, after hearing the parties, directed them to provide all relevant information in writing, including their submission on the maintainability of the petition for determination of tariff in the light of the provisions of the tariff policy notified by the Central Government. The submissions were to be filed within two weeks. The petitioner's prayer for grant of extension of time was to be considered along with the issue of maintainability of the petition. However, the petitioner has submitted its response to Commission's directions passed after the hearing.

13. The petition was filed on 29.9.2006. Even after nearly three years, the petitioner has not firmed up the project cost and financing plan. The petitioner has repeatedly been granted time extension. The information called for has not been supplied so far. The capital cost has not been firmed up. It does not seem to be worthwhile to keep the petition pending.

14. Accordingly, the petition is dismissed for default and non-prosecution. The petitioner is, however, at liberty to approach the Commission for approval of tariff in accordance with law after completion of the power project. We make it clear that we have not expressed any opinion on the maintainability of the application in the context of the tariff policy notified by the Central Government.

Sd/- (V. S. VERMA) MEMBER	Sd/- (S. JAYARAMAN) MEMBER	Sd/- (R. KRISHNAMOORTHY) MEMBER	Sd/- (DR. PRAMOD DEO) CHAIRPERSON
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New Delhi dated the 2nd July 2009