



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

Hyderabad

Dated: 29-03-2010

Present:

Sri A.Raghotham Rao, Chairman

Sri R.Radhakishen, Member

Sri C.R.Sekhar Reddy, Member

R.P. (SR) No.35 of 2009

in

**O.P.No.6 of 2009 (limited to Wind Projects only) and
O.P.No.7 of 2009**

Indian Wind Energy Association
Regd Office: PHD House, 3rd floor,
Opp. Asian Games Village,
August Kranti Marg,
NEW DELHI - 110016

.... Petitioner

And

1. Transmission Corporation of Andhra Pradesh Limited, (AP TRANSCO)

Vidyutsoudha, Somajiguda, Hyderabad.

2. Central Power Distribution Company of Andhra Pradesh Limited, (APCPDCL)
3rd Corporate Office, Mint Compound, Hyderabad.
3. Eastern Power Distribution Company of Andhra Pradesh Limited, (APEPDCL)
P&T Colony, Seethammadhara, Visakhapatnam - 500 013.
4. Northern Power Distribution Company of Andhra Pradesh Limited, (APNPDCL)
H.No.1-1-503&504, Opp.NIT Petrol Pump, Chaitanyapuri,
Hanmakonda, Warangal - 506 004.
5. Southern Power Distribution Company of Andhra Pradesh Limited, (APSPDCL)
Backside Srinivasa Kalyana Mandapam, Kesavayanagunta,
Tirupati - 517 501.

..... Respondents

In the matter of petition filed by Indian Wind Energy Association (InWEA) seeking review of the Order dated 01-05-2009 determining the tariff in respect of New Wind Power Projects.

1. Government of Andhra Pradesh has formulated a “New Wind Power Policy” vide G.O. Ms.No.48, dated 11-04-2008. The important features of this policy, relevant for the purpose of this order, include (a) Discoms being permitted to offer Rs. 3.10 per unit for the power being generated from Wind Power Projects for a period of 10 years subject to consent of the APERC and in case any eligible developer offers less than this tariff such developer to be given preference in allotment of Government land

(b) the eligible developer to bear the entire cost of power evacuation facilities for interconnecting the wind farms with the grid and delivery of power (c) the eligible developer to abide by the orders, rules, regulations and terms and conditions as approved by the Commission from time to time for operation of wind farms, power evacuation, transmission and wheeling of energy. The above said policy was amended by G.O. Ms.No.99, dated 09-09-2008 based on the proposals submitted by the Committee constituted at the behest of Indian Wind Turbine Manufacturers Association (IWTMA) - an umbrella body of the Wind energy sector in India, representing and espousing the cause of the Wind Turbine manufacturers, developers and investors of India, consisting of Joint Managing Director (HRD, Coml; IPC)/ AP Transco as Chairman and CMDs of APCPDCL and APNPDCL, VC & MD, Non Conventional Energy Development Corporation of Andhra Pradesh (NEDCAP), other concerned officers and representatives of the IWTMA, as members. The important features of this amendment, relevant for the purpose of this order, include (a) the tariff for the up coming wind power projects set up under the policy shall be firm at Rs.3.50/unit and it will be applicable for a period of 10 (ten) years from Commercial Operation Date (COD), subject to approval of the Commission (b) the tariff for the period from 11th year to 20th year shall be as fixed by APERC. As can be seen from the above, the provisions on power evacuation facilities indicated in the original policy did not undergo any

change in the amendments, evidencing that the provisions on evacuation are acceptable to IWTMA.

2. Pursuant to the above policy initiatives of the Govt. of Andhra Pradesh and as per the provisions of the Electricity Act 2003, the APER Commission initiated proceedings in O.P.No.6 of 2009 (suo-motu) towards the fixation of tariff / power purchase price by giving a public notice and also by drawing attention to the consultative paper placed in the official website of the Commission and invited tariff proposals, views, comments, suggestions etc. The Wind policy announced by the Government was also a part of the above consultative process. In response to the above said public notice, IWTMA requested the Commission to adopt the policy directions issued by the Government of Andhra Pradesh, thereby, inter-alia, conveying their acceptance of the provisions on evacuation facilities included in the above said policy. The Indian Wind Energy Association [InWEA] filed a petition for determination of tariff for future wind energy projects, which was taken on record by the Commission with OP.No.7 of 2009 and it was decided to tag this petition to the proceedings initiated by the Commission for tariff determination / fixation of purchase price through the above said consultative process. Finally, Commission issued its orders in case of OP.No.6 of 2009 (limited to Wind Projects only) and OP.No.7 of 2009 on 01-05-2009. The important features of the above said order, relevant

for this purpose of this order, include (a) fixing a single part tariff for the first ten years at Rs. 3.50 / unit [this is 7 paise more over and above the tariff of Rs.3.43 worked out based on cost plus approach based on a capital cost of Rs. 4.70 Crs. / MW (including evacuation cost)] (b) the eligible developer shall bear the entire cost of power evacuation facilities for interconnecting the wind farms with the grid and delivery of power.

3. Against the above back drop, Indian Wind Energy Association filed a review petition essentially requesting that the Commission should clarify that concerned licensee (transmission licensee/distribution licensee) shall be responsible for development or strengthening of the transmission system and/or distribution system, as the case may be, beyond the inter-connection point and in the absence of which it would be difficult in making investment decision as lenders/investors perceive it as a major risk while evaluating the project and ascertaining project returns at the approved tariff rate by the Commission.

4. Pursuant to the above petition, a notice was issued to the Indian Wind Energy Association on 28-08-2009 that the matter will be heard on 15-09-2009 on maintainability of the petition. Subsequently, the matter was

heard on 15-09-2009 and InWEA had once again re-iterated the submissions made by them in their petition seeking the review of the order dated 01-05-2009.

5. The matter has been examined by the Commission. As can be seen from the oral and written submissions of InWEA, the principal request is that the provision on evacuation cost, indicated in the order dated 01-05-2009, that *the eligible developer shall bear the entire cost (emphasis supplied) of power evacuation facilities for interconnecting the wind farm with the grid and delivery of power* needs to be amended such that the entire responsibility including cost sharing for development and strengthening of the transmission system and or distribution system beyond the interconnection point should lie with the concerned licensees. Infact, this issue had already been raised by InWEA during the proceedings in O.P.No.6 of 2009 (limited to Wind Power Projects only) and O.P.No.7 of 2009 as indicated in para 6(h) of the order dated 01-05-2009. However, at the time of passing the impugned order, the Commission having recognized that (a) the existing provision on evacuation is incorporated into the GoAP policy which was evolved in consultation with Licensees, NEDCAP and IWTMA as indicated in para '1' supra (b) IWTMA had requested the Commission to adopt the policy directions issued by the Government of Andhra Pradesh as indicated in

para 6 (c) of the impugned order, thereby, inter-alia, conveying their acceptance of the provisions on evacuation facilities included in the above said policy (c) the tariff worked out on cost plus approach, based on a capital cost of Rs.4.70 Crs/MW (*including evacuation cost-emphasis supplied*) comes to Rs.3.43 / unit and that an additional amount of 7 paise is provided as an encouragement to promote Wind Projects as indicated at the end of para '7' of the impugned order, had decided to retain the same provisions on evacuation in the impugned order dated 01-05-2009 also in line with the GoAP policy. In view of the above, the provisions on evacuation contained in the impugned order constitute a conscious policy decision of the Commission but not a mistake or error apparent on record which warrant a review of the impugned order. It is a settled law that judicial or quasi-judicial authorities, including this Commission can undertake a review of an order passed by them only when there is a mistake or error and if they are apparent from the records. In the absence of a mistake or error apparent from the records and in as much as InWEA had failed to adduce evidence to the above effect, the review petition filed by the petitioner is devoid of merits and is liable to be dismissed as not maintainable.

6. Before parting with the matter, it has to be mentioned that, contrary to the apprehension of InWEA as indicated in para '3' supra that

investments would not be forthcoming based on the existing provisions on evacuation 16 PPAs totaling to a capacity of 16.8 MW have been filed before the Commission seeking consent on the basis of self-same provisions on evacuation. This indicates that this apprehension expressed by InWEA is unfounded and this can not be a ground for seeking a review of the impugned order.

7. In view of the discussions contained in the above paras, the review petition seeking review of the order dated 01-05-2009 in O.P.No.6 of 2009 and O.P.No.7 of 2009 is hereby dismissed as not maintainable.

This order is signed by the Andhra Pradesh Electricity Regulatory

Commission on this 29th day of March 2010.

**Sd/-
C.R.Sekhar Reddy
Member**

**Sd/-
R.Radhakishen,
Member**

**Sd/-
A.Raghotham Rao,
Chairman**

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