



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

I.A.No. 14 of 2018

in

O.P.Nos. 60 & 61 of 2017

Date: 30-06-2018

Present

Justice G. Bhavani Prasad, Chairman
Dr. P. Raghu, Member
Sri P. Rama Mohan, Member

Between:

APSPDCL and APEPDCL ... Applicants

A N D

Nil ... Respondent

This Interlocutory Application has come up for hearing finally on 02-06-2018 in the presence of Sri P. Shiva Rao, learned Standing Counsel for the petitioners and Sri M. Venugopala Rao, learned objector. After carefully considering the material available on record and after hearing the arguments of the learned counsel for both parties, the Commission passed the following:

ORDER

An Interlocutory Application by both the distribution companies of the State of Andhra Pradesh for permission from the Commission to procure power from Godavari Gas Power Plant at an interim tariff comprising of Rs.0.79 ps kWhr fixed cost and Rs.2.55 ps kWhr variable cost for the first quarter of FY 2018-19.

2. The applicants claimed that their Power Purchase Agreement with Godavari Gas Power Plant formerly owned by M/s. GVK expired on 20-06-2015 and the

project was acquired by them on 22-04-2016. Their proposal to the State Government for handing over this project to APGENCO is pending with the Government. At present, applicants are procuring power from this project as short term purchase for FY 2017-18 as per the orders of the Commission in I.A.No.8 of 2017 in O.P.Nos.28 and 29 of 2016 dated 29-11-2017. In the Annual Revenue Requirement for FY 2018-19, the applicants proposed to purchase power from this project at a fixed cost of Rs.1.47 kWhr and variable cost of Rs.2.46 kWhr to an extent of 784 MU. The fixed cost projections based on capital cost were made in anticipation of the plant being taken over by APGENCO and the variable cost is based on the prevailing gas price.

3. A public notice was hosted on the website of the Commission inviting views/suggestions/objections from stakeholders / interested persons and Sri M. Venugopala Rao, Senior Journalist & Convener, Centre for Power Studies, Sri Penumalli Madhu, State Secretary, CPI (M) & Sri Ch. Narasinga Rao, State Secretariat Member, CPI (M) forwarded their points for consideration in the matter. No other oral or written objections were received by the Commission in the proceedings.

4. The three objectors stated that it was strange that no decision was taken on APGENCO taking over the plant. The applicants did not give the details of the amounts claimed for acquiring the plant and the manner of working out the fixed charges. There was no public hearing and no consent of the Commission on the same. The objectors stated in detail as to how approval in the tariff order for FY 2018-19 for procuring power from Lanco Kondapalli Power Private Limited, Spectrum Power Generation Limited and Godavari Gas Power Plant is questionable

and detrimental to larger consumer interest. The objectors questioned the request of the applicants to increase the variable cost to Rs.2.55 per kWh from Rs.2.20 per kWh determined by the Commission in the tariff order, as any variations in the cost of power purchase due to uncontrollable factors can only be claimed in the true up after completion of the financial year. Any variation in the variable cost was not brought to the notice of the Commission during the public hearing on ARR proposals and the propriety of the present application is questionable. The proposal will lead to increase in revenue requirement and revenue gap leading to revision of tariff or additional subsidy from the Government. The request for permission to procure power for this quarter only, while projecting the ARR proposals is a blunder and without relevant information already sought for by the objectors, the exercise is not meaningful and fruitful and not in tune with the principles of transparency and accountability. Hence, they requested for an opportunity to make further submissions.

5. In their replies to the objections, the distribution licensees stated that the Government of Andhra Pradesh approved the proposal to handover the plant to APGENCO through their letter dated 04-05-2018. All the details regarding taking over of this plant by the distribution licensees were submitted to the Commission in the ARR filings, which conducted public hearings before issuing the retail tariff order. The Discoms are procuring power from the plant after consent given by the Commission in view of the availability of surplus energy not being uniform. The deficit during peak seasons and hours, maintenance of spinning reserve to meet emergencies and maintenance of uninterrupted power supply are reasons for getting approvals for purchases objected to by the objectors. The lowest price obtained through e-bidding portal of Government of India for short term procurement

is Rs.4.98 kWh, which is substantially more than the unit price of this plant. This plant, Lanco and Spectrum are the cheapest sources of power and operational flexibility of these plants and meeting the problem of renewable energy being intermittent make these gas plants cost affective and beneficial. It is not proposed to pay any fixed charges for deemed generation and the questions raised by the objectors were already dealt with in the tariff order of FY 2018-19. The prices in exchanges vary widely and to ensure planning and grid safety, procurement of power from these plants is beneficial. The power from these plants is required for the entire year.

6. Sri M. Venugopala Rao, learned objector made further points for consideration filed on 02-06-2018, firstly stating that the price discovered through e-portal bidding for short term procurement cannot be the basis for comparison. The relevant information was withheld earlier and the fixed charges were inflated by the Discoms and approved by the Commission without any justification. The fixed charges applicable at the time of expiry of the Power Purchase Agreement should be continued and the same operational flexibility is available with GMR Vemagiri, Konaseema, GVK Extension and Gautami which have long term Power Purchase Agreements continuing in force. Gas based power plants are run as base load plants but not as peak load stations. Recovery of fixed charges at a lower plant load factor than threshold level of 80% to 85% is hypocritical and no fixed charges be paid for deemed generation. The relevant points raised by the objectors were not answered and the Commission did not consider these aspects. Actual details alone will show how market trends vary and the loss or profit in selling surplus power. How much power was backed down and how much amount was paid towards fixed charges under deemed generation is not found and purchasing unwanted power,

the Discoms simply claimed the other aspects or matters to be within the purview of the Commission. There is unpredictability of deficit power also and the Discoms should adopt available prudent options for immediate short term purchases. By virtue of the order of the Hon'ble Appellate Tribunal for Electricity dated 16-03-2018, Hinduja National Power Corporation Limited has to be included for scheduling power from it. Simhapuri Energy Limited matter is pending for more than one year with the Discoms seeking postponement repeatedly. In the matter of long term load forecast and the related proposals, the Commission appointed a Senior Lawyer as *Amicus Curiae* though no legal issues are involved. No interest was shown in getting natural gas being supplied to GMR Vemagiri, the power from which will be much cheaper. Learned objector has also stated the observations of the Commission in the tariff order to be contradictory in this regard. The very purpose of existence of the Commission and its regulatory process is to regulate rationally where imprudent proposals are made by the Discoms. Hence, consent given in the tariff order be modified and the fixed charges be reduced.

7. The point for consideration is whether the applicants have to be permitted to procure power from Godavari Gas Power Plant, which is more beneficial and economical ?

8. The order on the tariff for retail sale of electricity during FY 2018-19 in calculating the power purchase cost under Chapter-V, calculated purchase of 783.6 Million Units from Godavari Gas Power Plant at a fixed cost of Rs.115.39 crores and variable cost of Rs.192.77 crores with the cost per unit coming to Rs.3.93, according to the ARR filings. The Commission considered the availability from this plant also as filed by the licensees, while restricting it to the then existing cheaper tariff. The

Commission considered the unit rate at Rs.2.99 inclusive of a fixed cost of Rs.0.79 ps and variable cost of Rs.2.20 ps as permitted in the orders in I.A.No.8 of 2017 in O.P.Nos.28 and 29 of 2016 dated 29-11-2017. Thus, while the quantum was approved as requested, the power purchase cost was not approved but restricted to Rs.2.99.

9. The Commission, however, directed in the retail supply tariff order that generating stations included in the sources of supply shown in the order without any Power Purchase Agreements or without approval of the Power Purchase Agreements from the Commission or without determination of tariff by the Commission cannot supply power to the licensees without prior intimation to and prior approval of the Commission except in cases where an adhoc tariff fixed by the Commission is already being paid. It is due to this direction that the present Interlocutory Application has been filed.

10. In the orders on I.A.No.8 of 2017 in O.P.Nos.28 and 29 of 2016 dated 29-11-2017, the Commission exhaustively considered the question of procurement of power from this plant also. Ultimately, it was considered that if the procurement of such power were to be cheaper notwithstanding any liabilities towards persons having Power Purchase Agreements, the same ex-facie is beneficial both to the distribution companies and the consumers. Accordingly, procurement of power was permitted in FY 2017-18 at a fixed cost of Rs.0.79 ps per unit and variable cost Rs.2.20 ps per unit, subject to the principle of Merit Order Despatch and subject to the other conditions specified including the obligation placed on the distribution companies to substantiate that these short term purchases did not impose any additional burden on them or the consumers.

11. The present Application is confined to first quarter of FY 2018-19 and the Commission has already dealt with the power purchase cost of this plant for FY 2018-19 in the retail supply tariff order for the year. It has specifically ordered that the same price paid in FY 2017-18 should be payable for FY 2018-19 also, thus not accepting the projections made by the Discoms for a cost of Rs.3.93 per unit inclusive of Rs.1.47 ps fixed cost and Rs.2.46 ps variable cost (claimed to be pass through based on gas price). Again in the application, the applicants claimed variable cost at Rs.2.55 ps per unit, claimed to be based on latest gas price. While no authenticated material has been placed before the Commission to show the latest gas price, there is absolutely no evidence before the Commission to deviate from the conclusions it arrived at in the retail supply tariff order. As the plant is now owned by the distribution licensees themselves, no ulterior motives or reasons can be read into procurement of power from this unit and the various objections / issues raised before the Commission in I.A.No.8 of 2017 cannot be re-agitated herein as the order on merits after considering all such objections has remained unchallenged and has become final. While there is no increase in variable cost, which can be permitted, another factor staring at the Commission is that the applicants already received the power supplied by the plant during the first quarter of FY 2018-19 which is ending today for which period alone permission is sought for from the Commission and any rejection of the request will result in avoidable complications. As the Commission is sticking to the power purchase cost fixed in I.A.No.8 of 2017 and in the retail supply tariff order for FY 2018-19 which fixation was made on merits after taking into account identical objections raised as now and as those two orders have become final, no elaborate reference need be made all over again to the same or similar objections herein. In the objections dated 02-06-2018, learned objector

desired the permission to purchase power to be restricted to the first quarter of FY 2018-19 while reducing the fixed charges to those applicable at the time of expiry of the Power Purchase Agreements. The conclusion of the Commission in sticking to the earlier unit price for the first quarter of the present financial year will lead to the same result. Under the circumstances, the Interlocutory Application has to be ordered accordingly.

12. Therefore, the applicants are permitted to procure power from Godavari Gas Power Plant at a fixed cost of Rs.0.79 ps and variable cost of Rs.2.20 ps, making a total of Rs.2.99 ps per unit during the first quarter of FY 2018-19 and the Interlocutory Application is allowed accordingly. No costs.

This order is corrected and signed on this the **30th day of June, 2018.**

Sd/-
P. Rama Mohan
Member

Sd/-
Dr. P. Raghu
Member

Sd/-
Justice G. Bhavani Prasad
Chairman