

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

O.P.No.19 of 2014
Date: 05-06-2015

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

Between:

1. Central Power Distribution Company of Andhra Pradesh Limited Rep. by its Chairman & Managing Director, Corporate Office Mint Compound, Hyderabad
2. Southern Power Distribution Company of Andhra Pradesh Limited Rep. by its Chairman & Managing Director, Beside Srinivas Kalyana Mandapam Tiruchanoor Road, Tirupathi – 517 501
3. Northern Power Distribution Company of Andhra Pradesh Limited, Rep. by its Chairman & Managing Director H.No.1-1-503 & 504, Opp. "NIT" Petrol Pump Chaitanyapuri, Hanamkonda, Warangal – 506 004
4. Eastern Power Distribution Company of Andhra Pradesh Limited, Rep. by its Chairman & Managing Director, P & T Colony Seetammadhara Visakhapatnam – 530 020 ... Petitioner
(Petitioners in O.P.No.19 of 2014)

A N D

-NIL- ... Respondent
(Respondent in O.P.No.19 of 2014)

The petition has come up for hearing finally on 05-06-2015 in the presence of Sri P. Shiva Rao, learned Standing Counsel for the petitioners. After carefully considering the material available on record and after hearing the arguments of all the persons present, the Commission passed the following:

ORDER

Heard Sri P. Shiva Rao, learned Standing Counsel for the petitioners in I.A.No.12 of 2015 and petitioners 2 and 4 in the main petition O.P.No.19 of 2014.

1. I.A.No.12 of 2015 is for permitting the original petitioners 2 and 4 alone to pursue the original petition while deleting original petitioners 1 and 3 in view of the re-organization of the State and the provisions of A.P. Reorganization Act, 2014. While there is no approach from the original petitioners 1 and 3 to this Commission so far, in view of the circumstances stated in the amendment petition, the same has to be allowed and is allowed. Consequently, O.P.No.19 of 2014 is now restricted to original petitioners 2 and 4 only as petitioners.

2. None appeared for any intervener/objector and the request of the petitioners is in effect and substance for amendment of the provisions of the Regulation 1 of 2012 made by this Commission by taking the non-conventional energy generation for the FY 2012-13 as the base year with 0.5% increase per annum for the control period and for consequential reduction in the limit of percentage of energy to be procured from Non-Conventional Energy sources etc., including deferring the penal provision for non-fulfilling the obligation as prescribed under the Regulation for 3 years. The primary ground on which such an amendment is sought is the capacity for which power purchase agreements were entered into by the time by the petitioner, the quantities being inadequate to meet the prescribed NCE purchase obligation.

3. Much water has flown under the bridge since the filing of the petition on 04-02-2013 and it is pointed out by the objector/Indian Wind Turbine Manufacturers Association that Regulations of the Central Electricity Regulatory Commission and this Commission were violated with impugntly and the reliefs sought for herein are against the deliberations and the decision of the Forum of Regulators, National Action Plan on Climate Change, national level targets for renewable purchase obligations and wind and solar policies of the Government of Andhra Pradesh. Similarly, the Green Energy Association also pointed out that renewable power purchase obligations, if interfered with, will adversely affect all the renewable energy generators and will be contrary to the various orders of the Appellate Tribunal for Electricity like the order in Appeal No.24 of 2013 dated 25-04-2014. The Association also referred to the orders of Madhya Pradesh Electricity Regulatory Commission and Himachal Pradesh Electricity Regulatory Commission in this regard. Renewable Energy (REC) Stakeholders Forum in their objection voiced similar concerns and complaints and not to purchase the renewable energy certificates to meet the

required purchase obligations will kill the basic objectives of REC mechanism and will be contrary to the importance given for a uniform renewable power purchase obligation throughout the country by the National Tariff Policy as amended on 20-01-2011. The Forum also referred to ARR filing of the petitioner for FY 2015-16 which projected that both the distribution companies can easily meet their renewable purchase obligations for that and earlier financial year by purchasing the same Renewable Energy Certificates from the market without much financial burden as RPO compliance for the two years is 2.39% and 4.82% only of the energy required projections. Similarly, the Indian Wind Turbine Manufacturers Association in their submissions have pointed out that the distribution companies are falling short of their targets in this regard which should be a minimum of 5% per annum to be increased annually but not to be reduced. Inox Wind Limited in their communication have stated that the proposals of Andhra Pradesh distribution companies are unjust and more than 11 million REC inventory is lying unsold and the circumstances required a Dynamic Minimum Renewable Purchase Standard (DMRPS). Similarly Indian Wind Energy Association stated that this will impact renewable energy sector in Andhra Pradesh and the investors, who already invested or are ready to invest. The non-compliance with the renewable energy purchase obligations creates a national hurdle and the association supported by various statistical details mentioned in their objection, have referred to rulings of the other State Electricity Regulatory Commissions. Dynamic action on the New and Renewable Energy by the Forum of Regulators apart from mandate of Section 86 (1) (e) of the Electricity Act, 2003 to promote co-generation and generation of electricity from renewable sources of energy and National Electricity Policy etc., also were referred to in seeking directions to the obligated entities to fulfill the requirements of the purchase obligation as prescribed completely. The Association also enclosed copies of relevant papers in this regard.

4. It should be stated that in fact the Government of Andhra Pradesh in replacement of its earlier policies have declared their wind and solar power polices 2015 for the next 5 years by G.O.Ms.Nos.9 & 8 of E, I & I Department, dated 13-02-2015 and 12-02-2015 the contents of which run counter to the request made by the petitioners herein, while the reasons for proposing the amendment to Regulation 1 of 2012 for reducing the renewable power purchase obligation waiving

the penalties for non-compliance thereof do not appear convincing or strong enough to over ride or ignore the statutory mandate of Section 86 (1) (e) or the National Policy or National Plan of Action or decisions of Forum of Regulators and Ministry of Government of India concerned or decisions of Appellate Tribunal for Electricity. Prevailing public opinion and public policy uniformly through out the nation is for encouragement of production of electricity from Renewable Energy Sources both as an anti pollutant measure protecting environment and as a safe and secure manner of production of energy and the request of the petitioner to the contrary does not appear to deserve acceptance. There is no reason to override the persuasive decisions of the other State Electricity Regulatory Commissions or the binding views of the Appellate Tribunal for Electricity in this regard. Consequently the reliefs sought for cannot be granted.

5. A brighter side of the issue has been presented by Sri P. Shiva Rao, learned Standing Counsel, who in all fairness submitted that the position of the petitioners is better by today in complying with the renewable power purchase obligations within a reasonable short time in tune with the regulations in force. Hopefully the compliance with the mandatory regulations will be brought to the notice of the Commission soon and subject to the same, the petitioners should fail. Accordingly, the petition is dismissed. The petitioners shall bear their own costs.

This order is corrected and signed on this **5th day of June, 2015.**

Sd/-
P. Rama Mohan
Member

Sd/-
Dr. P. Raghu
Member

Sd/-
Justice G. Bhavani Prasad
Chairman