

BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF:

Review for the order dated 10.02.2020 in OP 68 of 2019 and OP 69 of 2019 with respect to Retail Supply Tariff Order for APEPDCL and APSPDCL for FY21 (R.P No.2 of 2020)

Submissions of Prayas (Energy Group)

3rd November 2020

1 Approach and Context

The DISCOMs in their tariff petition did not consider availability from RE sources for energy procurement and power purchase cost calculations. The DISCOMs claimed that the variable and infirm nature of RE generation would make it difficult to plan for and thus, power procurement from these sources should not be allowed. Further, the DISCOMs also claimed a 'Must Run Incentive' Subsidy to address the adequacy, balancing and grid integration costs due to RE.

Prayas (Energy Group)'s submission to be APERC highlighted that:

- Scheduling, forecasting of RE should take place in compliance with the [APERC Forecasting, Scheduling and Deviation Settlement of solar and wind generation regulations](#)
- ARR approvals should consider all possible prudent expenses to ensure adequate revenue recovery and estimation of revenue gap. Without such a process, the impact of carrying cost due to unaccounted costs and increase in future tariffs would be significant. **Such a treatment would adversely impact consumers.**
- Past trends show that actual variation in procurement from thermal generators on an annual basis vis-à-vis Commission approved estimates is higher than the variation for RE power. Given this it would be difficult to project thermal power procurement costs along with RE. However, it must be undertaken.
- The methodology used to estimate costs due to RE needs to be re-evaluated to ensure that adequacy costs account only for backing down of thermal capacity attributable to must-run RE

generation at that time, **balancing cost are addressed by compensation to coal plants for part loading as specified in the IEGC** and grid integration cost is determined only after detailed load flow studies.

- Given methodological issues and implementation issues, regulatory approval for MRI subsidy is not appropriate. As subsidy is to be announced and implemented by the state government, **DISCOMs can approach the state government for appropriate action.**

Similar concerns were raised by other stakeholders as well.

Based on representations in the public consultation process and considering the economic viability, policy importance and cost relevance of RE in the ARR, APERC included availability and cost estimates for wind and solar for FY21. Further, APERC also rejected the proposal for MRI subsidy stating that such a requirement is not clearly stated in the bilateral agreement between the procurer and the developer and as such subsidy should anyway have to be determined and provided by the State Government.

On 9th March 2020, the DISCOMs filed a review petition on the decision regarding RE cost approval and MRI subsidy before APERC. PEG's submission questions the grounds for review for many of the claims by the APDISCOMs before the Commission.

Since the Commission's order, the APTRANSCO filed a petition before the Commission to amend Regulation 4 of 2017 which was met with significant opposition from RE generators and consumer groups¹. Further, DISCOMs have filed petitions for approval of short-term power procurement from certain sources and implementation of fuel adjustment charges. Many of the claims before the Commission are best dealt with in these proceedings and other separate proceedings rather than as part of this review process.

2 Review petition as per the scope specified under the Civil Procedure Code

As per APERC (Conduct of Business Regulations), Section 94(1)(f) of the Electricity Act, 2003 and Section 114 and Order 47 of the CPC, the grounds for review are as follows:

- discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time;
- error apparent on the face of the record;

¹ <https://mercomindia.com/andhras-draft-deviation-settlement-regulation/>

- for any other sufficient reason.

The DISCOMs submitted that the scope of the review should not be restricted to Section 114 and Order 47 of the CPC by stating the treatment in Supreme Court Judgement in Civil Appeal 1110 of 2007 dated 03.03.2009 as precedent. The observations of the apex court in this matter was based on the interpretation of the Conduct of Business Regulations, 1999 of the CERC and provisions of the Electricity Regulatory Commissions Act of 1998. It is not clear if such an interpretation is applicable on Regulation 49 of the APERC (Conduct of Business) Regulations and the Electricity Act, 2003.

Further, most of the claims of the DISCOMs have been discussed and highlighted in the FY21 tariff petition, on which the Commission has taken decisions, taking cognizance of the tariff and cost impacts of the proposal.

Therefore, it is our submission that the Commission evaluate the grounds for review based on reading of its own regulations and the CPC. If the DISCOMs feel aggrieved by the decision of the Commission it should appeal against the decision under Section 111 of the Electricity Act, 2003.

It is our submission that many of the claims of the DISCOMs fall under the category of 'appeal disguised as review' as they deal with the merits of the Commissions decisions rather than highlight grounds for review.

3 Matters raised by the DISCOMs which do not qualify for review

3.1 Percentage variation in RE is more than -6% to 3% as considered by APERC

APERC calculations for -3% to 6% variation in RE procurement is the variation between energy in MUs approved by the Commission for purchase in the tariff order in a year vis-à-vis the actual purchase in the year by the DISCOMs. These numbers are based on the DISCOMs filings. Thus, it is not 'error apparent on the face of record'. The commission has considered annual estimates for projections as such an estimation is necessary for approval of ARR. Many of the instances cited by the DISCOMs are the result of daily/seasonal variations which could have some impact system operation but do not change the annual aggregates. Additional information on daily and seasonal variation was provided at the time of the petition as well. Thus, the DISCOM is going in to merits of the APERC decision with this claim.

Having said that, seasonal and daily variations impact costs not only when it comes to RE but also other important issues. In this context, it would be useful, in public interest, if the DISCOMs report monthly data on the following to help correctly assess cost impact:

- Block-wise information on wind and solar availability and dispatch for RE power contracted by the DISCOM;
- Monthly data on revenue billed and collected along with collection of arrears to assess change in DISCOM receivables;
- Payment schedule to generators for each contract along with date of actual payment to assess delays in payment of generators;
- Schedule of payment and date of actual payment of subsidy to assess delay in subsidy receipt and interest cost impact of the same;
- Monthly change in outstanding working capital borrowing of the DISCOM along with interest payments.

Such information would also provide a comprehensive and timely sense of DISCOMs' financial health due to RE and other factors thus enabling policy makers and the regulator to take prompt action.

3.2 Omission or rectification of Commissions statements

In many matters, the DISCOM has called for omission or rectification of Commissions statements in the order on various issues (RE curtailment, Availability of Wind and Solar², MNRE's statement on RE curtailment, subsidy for must run incentive³ etc.). These claims go into the merit of the matter, do not present any new information or point out error apparent on face of record. Thus, they do not qualify for review.

²The Commission's decision to include RE availability and procurement projections makes the ARR estimation closer to reality thus saving the consumers the undue burden of carrying cost. This is especially the case when RE purchase accounted for 20% of the total power procurement in FY19.

³ While AP Wind and Solar Power Polices mention the Must Run Status under the GoAP incentives section, there is no mention of subsidies due to must-run status. The clauses merely state that must run injection from solar and wind sources should be deemed as scheduled as per the prevailing regulations and grid code. These clauses support the must run status to protect RE developers from curtailment and do not advocate for any subsidy due to the must run status. The Commission in its order, merely states that the must run subsidy as proposed by the DISCOMs is not explicitly part of existing contracts or policies and that if the state government decides to provide such a subsidy it can do so without the APERC's approval.

3.3 Estimation of fixed and variable costs of thermal generating sources

The DISCOMs state that the fixed and variable cost estimations of the Commission may not consider changes in costs due to uncontrollable factors (increase in coal price, transport cost, procurement via e-auction etc.). Non-recovery of these costs in time will strain working capital requirements and potentially impede the DISCOMs' ability to procure power.

As most of these costs are uncontrollable, estimation of such costs is challenging. Further, variation in costs due to these reasons and other prudent expenses are reconciled during the true-up process. As APERC has approved costs keeping such recurring uncontrollable factors in mind, the DISCOM's petition goes into the merits of the matter and is not sufficient grounds for review.

Even so, recovery of fait accompli costs in a time-bound manner is of paramount importance. To avoid working capital strain on DISCOMs and carrying cost burden on consumers the Commission should implement levy of fuel adjustment charge without further delay. The DISCOMs have proposed the levy of quarterly fuel adjustment charges in OP No.33 of 2020 and OP No. 35 of 2020. While we reserve the right to comment on the specifics of the petition in the proceedings on that matter, we urge the Commission and the DISCOMs to adopt quarterly fuel adjustment charges going forward. In addition, the Commission should complete the true-up process for past years soon.

3.4 Accounting for revenue from sale of REC

APERC approved revenue from REC, expecting DISCOMs to sell RECs based on comments from stakeholders and after considering the matter in the tariff proceedings. The treatment is similar to other incidental non-tariff sources of revenue such as revenue from cross-subsidy surcharge (especially if open access reduces with levy of high CSS) and revenue from sale of surplus. The claims of the DISCOMs are not sufficient grounds for review.

3.5 Procurement of power from LANCO and SPECTRUM

The Commission does not consider purchase from LANCO and SPECTRUM on a short-term basis in the tariff order. However, the Commission also clarifies that future approvals of PPAs from these companies will be considered. Given the short-term duration of procurement and as procurement should necessarily be cost competitive, approval of short-term sources in the ARR is not appropriate.

However, shortly after issuing the order, despite the fact that the procurers were not selected on the basis of competitive bidding, the Commission provided conditional approval for short-term power

procurement from LANCO and SPECTRUM on 27th March 2020 given the short-term availability of APM gas. As such, the need for approval of procurement from such sources is not a ground for review.

Approval for short-term power procurement should be sought through a separate process and the matter should be decided upon by the Commission in a timely manner to avoid regulatory uncertainty. Any additional expenses due to variation in price and cost should be recovered via the fuel adjustment charge mechanism if deemed prudent by the Commission.

4 Areas where urgent actions are required by the Commission

While the DISCOMs do not have sufficient grounds for review in many matters, it is also a fact that they are facing financial distress and find managing RE challenging. In this context, the Commission should ensure prompt and prudent action to provide clarity and ensure mechanisms are in place to enable recovery prudent costs in a timely manner and to facilitate adequate compensation for risks undertaken and grid services provided.

Therefore, the Commission should:

- Ensure amendment to forecasting and scheduling regulations take place after wide public consultation keeping in mind RE investment and development in the state.
- Track status of newly instituted REMC in APSLDC to aid forecasting and scheduling of RE.
- Seek periodic reports from the SLDC to track progress of implementation of Regulation 4 of 2017.
- Institute levy of quarterly fuel adjustment charges such that prudent costs are periodically recovered from consumers while avoiding undue tariff shock.
- Revise appropriate state regulations in accordance with Regulation 6.3B of the IEGC and CERC Tariff Regulations, 2019 to compensate generators for heat rate degradation and increase in auxiliary consumption due to part load operation.
- Provide timely approval for short-term power procurement from various sources with adequate prudence checks.
- Conduct detailed true-up processes which includes:
 - scrutiny of station-wise availability and dispatch, fixed and variable costs for all sources,
 - month-wise details of backing down, loss of generation due to coal/ water shortage etc.,
 - reconciliation of income due to sale of RECs,
 - contract-wise details of sale of surplus and purchase of short-term power,

- assessment of methodology for estimation of unmetered agricultural sales,
- estimation of revenue impact due to sales migration
- review of efforts by the DISCOM to reduce cost of supply and their impact
- Significant solar capacity addition is proposed to meet day time agriculture load. Since this is likely to introduce further complexities, Commission should proactively take steps to review the plans and if required, provide appropriate policy advice to the government.

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