

For perusal
24/1/17
Secretary
Member/T
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Chairman
24/1/17
24/1/17

Statement of suggestions and objections on the filings of TS Genco for determination of generation tariff for its 14 projects supply of power to distribution licensees for the control period 2014-19 in O.P.No.26 of 2016

1. Name & full address of objector :

M. Venugopala Rao
Senior Journalist &
Convener, Centre for Power Studies
H.No.7-1-408 to 413, F 203
Sri Sai Darsan Residency
Balkampet Road, Ameerpet
Hyderabad - 500 016

2. Brief details of objections and suggestions :

Objections : For determination of interim tariffs; for not filing PPAs, details of capital cost with all relevant information and clarifications in time and project-wise and seeking determination of interim tariffs by TS Genco; holding public hearing without providing required information and without determining long-term load forecast, resources plan and procurement plan; projection of higher capital costs of projects, higher rates of interest on loans.

Suggestions : To direct TS Genco to submit project-wise PPAs, details of capital costs with all relevant information relating to procedures adopted for competitive bidding, purchases and giving contracts for execution of projects, delays, if any, in implementation of projects, cost escalation due to such delays and make the same available to interested public to study the same and make detailed submissions; to examine audited accounts, reports of the Comptroller and Auditor General of India, etc., as a part and parcel of prudence check of the expenditures of the projects of TS Genco; to direct TS Discoms to submit long-term load forecast, resources plan and procurement plan and hold public hearing on the same before issuing the Commission's order; determine need for addition of installed capacities periodically and PPAs with projects for meeting demand growth periodically in consonance with determined long-term load forecast; permitting various parameters of performance of generating projects, their expenditures and tariffs in accordance with applicable regulations and terms and conditions.

3. Whether copy of objections enclosed : Yes

4. Whether the objector wants to be heard in person: Yes

MEMBER (T) PESHI
No : 71
DATE : 24/1/17

CHAIRMAN PESHI
No : 85
DATE : 24/1/17

M. Venugopala Rao
M. Venugopala Rao

TSERC, HYDERABAD
INWARD
23 JAN 2017
No. 102 Signature

The Secretary
Telangana State Electricity Regulatory Commission
11-4-660, 5th floor
Singareni Bhavan, Red Hills
Hyderabad - 500 004

January 23, 2017

Respected Sir,

Sub : Submission of objections and suggestions on the proposals of Telangana State Power Generation Corporation Limited for determination of generation tariff for supply of electricity to distribution licensees from its 14 projects for the third control period of 2014-15 to 2018-19 in O.P.No.26 of 2016

With reference to the public notice dated 27.12.2016, inviting objections and suggestions on the subject proposals, I am submitting the following points for the consideration of the Hon'ble Commission:

1. In its filings, TS Genco has sought determination of generation tariff for 14 projects for the third control period 2014-19 out of which three projects are new ones. Determining tariff, interim or final, without determining permissible capital cost and consent to PPAs of projects concerned, is not a desirable practice. PPAs, capital cost and application for determination of tariff should be submitted project-wise by the parties to the PPAs for the consideration of the Hon'ble Commission, as terms and conditions in PPAs and capital cost have inherent impact on tariff to be determined. In order to uphold the principles of transparency, public participation and accountability, public hearings should be held on the same by the Hon'ble Commission before issuing orders. The way TS Genco has submitted its applications for determination of tariffs of the projects concerned, without PPAs and details pertaining to capital cost incurred in all its respects, with procedures adopted for bidding processes and giving orders for purchases and implementation of the projects, fails to meet regulatory requirements of the Commission. If public hearings are to be meaningful and purposeful, all such details should be submitted to the Commission and made available to interested public to study the same and make constructive submissions. Submitting the subject application the way in which TS Genco has done, that, too, at the time of ARR submissions being made by the Discoms for the next financial year, seems to have been done with a mischievous intent to rush through the regulatory process, without adequate time available to the interested public to get and study all relevant information and documents related thereto, as if the regulatory process and holding public hearings were a formality. When Genco is taking three to four years for implementation of projects, there is absolutely no justification in not signing PPAs with the Discoms and submitting the same for the consideration of the Hon'ble Commission well in time, preferably at the time of starting implementation of the projects. The PPAs submitted by TS Discoms and generators concerned relating to power purchase from Chattisgarh Discom and projects of NTPC and SCCL have been pending before the Hon'ble Commission for several months, despite the fact that documents

submitted by them, especially by SCCL, run into hundreds of pages. This position shows how meticulously the relevant details need to be examined and further information required need to be sought and submitted. In this connection, it is to be noted that no public hearing has been held either by the erstwhile APERC in the undivided Andhra Pradesh or by the Hon'ble TSERC on PPAs of any one of the subject projects for which TS Genco is seeking tariff determination.

2. A power purchase agreement (PPA) should be judged fundamentally from three angles: (a) need for purchasing power from the project concerned for the period specified to meet demand growth, (b) cost effectiveness and various options available to get power at the lowest possible or competitive tariff in given circumstances, various options available for selecting generator/supplier of power and the legality and propriety of the procedure adopted for the same and (c) propriety and legality of provisions in the PPA and their adverse impact on tariffs to be paid by the consumers. Even for projects selected through the process of competitive bidding, all these requirements need to be met. It is all the more imperative in the subject case, because power from the TS Genco's projects is being purchased by the Discoms straight away entering into PPAs, without adopting any competitive bidding for selecting the same. The subject application of TS Genco does not meet these requirements. Before seeking objections and suggestions on the subject PPA, the Hon'ble Commission should have directed the Discoms and TS Genco to submit all relevant documents and made the same public, both for prudence check by itself and for making the proposed public hearing meaningful and purposeful. This is necessary to uphold the regulatory principles of transparency and accountability. Therefore, I request the Hon'ble Commission to direct TS Genco and the Discoms to submit PPAs, details of capital cost, procedures adopted for purchases and giving contracts for implementation of the projects, delays, if any, in implementation of projects and resultant cost escalation, etc., project-wise and make the same available to the interested public and hold public hearings on the same separately, especially in the case of new power projects of KTHP II, lower Jurala HES and Pulichintala HES and other ongoing projects like Bhadradi and Yadadi as well.
3. The TS Discoms, in their ARR submissions, have projected requirement of energy of 54756 mu and availability of a surplus of 11,320 mu for year 2017-18. The surplus works out to 20.67% against the projected requirement. Moreover, availability of 807.31 MW as the share of TS Discoms (53.89%) from the four new IPPs (GVK extension, GMR Vemagiri, Konaseema and Gauthami with a total installed capacity of 1499 MW) is not considered by them in their ARR projections for the year 2017-18 on the ground that natural gas will continue to be unavailable to these projects. As and when supply of natural gas is recommenced to these projects, TS Discoms will get additional 5657.62 mu as their share from these projects with a PLF of 80%. In other words, in such an eventuality, the available surplus will be 16,977 mu or 31% of projected requirement for the year 2017-18. What will the Discoms do with such a huge surplus and how much of it would be backed down is not explained by the Discoms in their ARR proposals. It is reported that Oil and Natural Gas

Corporation plans to increase output of natural gas at its Vashishta gas field, located in KG basin, from 1.1 million metric standard cubic meters per day (MMSCMD) to 5 MMSCMD by July this year. The scope for availability of a surplus of 16,977 mu or 31% of projected requirement for both the Discoms for the year 2017-18 confirms that the resource plan submitted by them till the end of 2018-19 has gone awry. Such abnormal surplus would lead to disastrous consequences, resulting in backing down, with installed capacities created remaining stranded proportionately and payment of fixed charges for non-generation under backing down, inability of the Discoms to compete and sell surplus power in the market and ultimately imposing huge and avoidable burdens of consumers of power. Therefore, I once again request the Hon'ble Commission to understand the seriousness of the situation and to direct the Discoms to submit long-term load forecast, resources plan and procurement plan, hold public hearings on the same and give its orders appropriately for orderly development of power sector in terms of purchase of power by the Discoms and ensuring competitive tariffs to consumers. Based on such a determination of requirement of power periodically, approvals for procurement of power from new projects, addition of new installed capacity periodically in consonance with requirement of demand growth determined should be given.

4. As per the ARR filings of TS Discoms for the year 2017-18, the total cost of power purchase of 54,756 mu, based on availability and requirement, is Rs.24,421 crore. The cost for purchasing 15,810 mu from TS Genco and AP Genco is projected as Rs.8802 crore. For purchasing 15,810 mu (28.87% of total purchases), TS Discoms have to pay Rs.8802 crore (36.04% of total power purchase cost). It indicates that the cost of power purchase includes costs of backing down which is not specified in the filings of ARR of TS Discoms. Even then, the higher cost for purchasing power from both the Gencos underlines the need for examining thoroughly all the components, including fixed and variable costs, that go into the tariffs proposed station-wise by TS Genco, in addition to higher capital costs of its projects.
5. PPAs should contain, inter alia, schedule of CODs, clauses for penalty for delay in implementation of projects, etc. After financial closure, increase in interest during construction (IDC), financing charges (FC) and increase in other costs like overheads and price escalation after scheduled COD are invariably linked with delay in implementation of the project concerned. As such, such impermissible cost escalation should be determined and disallowed. The very purpose of agreeing to scheduled CoDs in PPAs is to ensure that the projects are commissioned accordingly so that the benefit of running them by generating and supplying power to the Discoms, which means their consumers, materialises in time and cost escalation due to delay is avoided. If CoDs are delayed, it automatically increases IDC, and project cannot be commissioned, thereby depriving the procurers of supply of power with attendant problems. That is the reason why it is generally treated that time is the essence of an agreement. Therefore, the generating companies are obligated to adhere to agreed CoDs and are not entitled to claim IDC, FC and increase in other costs like overheads and price escalation for the periods of delay. For the failures of commission and omission of Genco, consumers of power should not be penalised.

6. Article 10.8 of Regulation No.1 of 2008 of the Commission says, inter alia, that “the Capital Cost as determined above, shall also include further capital expenditure incurred if any up to the first financial year closing one year after the date of commercial operation of the last unit of the project, its stage or the unit, as the case may be, is admitted by the Commission.” TS Genco has shown capital expenditures of some of the projects incurred after a long period of their commissioning. The details of the purposes for which such additional expenditures were incurred, during which periods and their justification should be furnished by the Genco.
7. Capital costs of some of the projects of Genco are very high and impermissible. They should be subjected to prudence check and their permissibility determined as per applicable regulations and terms and conditions. There is every need to examine the audited accounts, reports of the Comptroller and Auditor General of India, etc. relating to implementation of projects of TS Genco and take the same into consideration as a part and parcel of prudence check by the Hon’ble Commission. Impermissible expenditures should be determined, disallowed and deducted from capital costs by the Commission, as has been the standard practice. For example, in its order dated 6.5.2015, CERC has reduced the capital cost from Rs.7774.88 crore claimed by Indira Gandhi Super Thermal Power Project (three units of 500 MW each of Aravali Power Company Pvt. Ltd. at Jhajjar in Haryana) claimed by the Company to Rs.7322 crore (Rs.4.88 crore per MW). The actual CoDs of the three units of the projects were delayed by a few months. In its order dated 6.7.2015, CERC has reduced the capital cost from Rs.3852.45 crore claimed by Koderma Thermal Power Station (unit I of 500 MW of Damodar Valley Corporation in Jharkhand) to Rs.2327 crore (Rs.4.65 crore per MW). CoD of the unit was delayed by 37.5 months. In its order dated 8.2.2016, CERC has reduced the capital cost from Rs.5623.19 crore claimed by Vallur Thermal Power Project (two units of 500 MW each of NTPC Tamil Nadu Energy Company Ltd. at Vallur) to Rs.5533.48 crore (Rs.5.53 crore per MW). CoDs of the units were delayed by 21.63 months and 24.5 months respectively.
8. TS Genco has maintained that “this Hon’ble Commission may be pleased to consider and adopt the methodology of the CERC 2014 Regulation with respect to O&M expenses and year-on-year escalation thereof, and allow such expenses on such basis.” In this connection, we would like to submit that Genco should be directed to confine its actual O&M expenses, including pay and allowances, within the normative values specified in applicable regulations. Similarly, if and when regulations of CERC are adopted by the Hon’ble Commission, they should be made applicable in all respects. In line with that, the threshold level of PLF of plants of TS Genco should be determined as 85% for payment of full fixed charges, especially for its relatively new power plants. Incentive should be permitted for generation and supply above 85% PLF.
9. The interest rate of 12.5% on loans taken by Genco is on the higher side and there is every scope for negotiating with the banks and financial institutions who sanctioned

those loans to the projects of Genco to reduce the same. So is the case with interest rate of 14% on working capital which is unwarranted. TS Genco may explore the possibility of swapping loans to get benefit of relatively lower interest rates, especially in the light of demonetization of currency notes of higher denomination by the GoI and the resultant flushing of banks and financial institutions with enormous funds and the trend of their reducing interest rates on different kinds of loans.

10. TS Genco is seeking additional interest on estimate basis on pension bonds and contribution to P&G Trust, as explained in its filing, as pass through. While approving the first transfer scheme, the then APERC in the undivided A.P. had permitted revaluation of the assets of AP Genco to provide for pension reserve funds which the erstwhile APSEB had not provided and maintained. The Commission had been liberal in allowing additional interest on a year to year basis in the tariff orders dated 24.3.2003 and 4.7.2013. Pension funds are supposed to be provided by the contributions of employees and managements and interest thereon earned periodically. As such, it is not fair to continue to impose such interest burdens on the consumers by allowing them as pass through periodically. The erstwhile APSEB failed in discharging its responsibility. In the transfer schemes, while unbundling the erstwhile APSEB, additional burdens in terms of pension liabilities had been imposed on AP Genco. Moreover, in the initial three-year period after unbundling, AP Genco was denied, as a matter of policy by the Government of A.P., about Rs.1800 crore @ Rs.600 crore per annum, from the permissible tariffs to it, thereby forcing it to cross-subsidize the consumers and reducing the subsidy to be provided by the Government. As the Hon'ble Commission is aware, the TS Government has been taking over 75% liabilities of TS Discoms under Uday Discom Assurance Yojana introduced by the Government of India. In view of the above explained submissions, I request the Hon'ble Commission to give a piece of advice to the Government of TS to take over the pension liabilities of TS Genco and settle the issue permanently. TS Genco, as a public sector utility of the State Government, deserves to be strengthened in all respects, encouraging it to take up and implement in efficient and exemplary manner ongoing and new projects and generate and supply power at prudent costs to meet growing demand for power in the State. TS Genco needs to be provided budgetary allocations for meeting its equity requirements considerably, given priority in providing infrastructural facilities and allocation of fuels required for its power plants. Protecting and strengthening the interests of TS Genco means protecting the interests of the State and its people.
11. Since the term of PPAs of some of the projects of TS Genco is confined to relatively shorter periods ranging from five to 10 years and as there is no provision for buy-out in the PPAs, with the Genco and TS Discoms being the utilities of the Government of TS, the term of PPAs of all projects of TS Genco should be determined as 35 years, as is the case already with some of the projects.

12. Since Discoms of TS and AP are parties to PPAs with TS Genco and as they have the responsibility of protecting larger interest of their consumers, they should not remain as disinterested entities without filing their objections and suggestions on the subject proposals of TS Genco. Therefore, I request the Hon'ble Commission to direct all the four Discoms, as respondents in the petition, to file their responses to the subject proposals of TS Genco, if they have not already done so.
13. I request the Hon'ble Commission to direct TS Genco to send its responses to our objections and suggestions, along with relevant information sought above, in time to enable us to study the same and make further submissions during the public hearing proposed to be held on 6.2.2017 on the subject proposals. In view of complexity of the issues involved and further detailed information and clarifications required, as explained in the above submissions, among others, even if TS Genco sends its replies in time, adequate time and subsequent hearings will be required to study the same and make further detailed, meaningful and purposeful submissions in larger consumer interest. I request the Hon'ble Commission to provide me an opportunity to make further submissions in person during the scheduled public hearing.

Thanking you,

Yours sincerely,



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