

**BEFORE THE HON'BLE TELANGANA STATE ELECTRICITY REGULATORY
COMMISSION:: HYDERABAD**

O.P. No. 57 of 2018

In the matter of:

Petition filed under Sections 62, 86 (1) (b), 86 (1) (e) of the Electricity Act, 2003 read with Regulation No. 2 of 2015 for determination of tariff for the 2.2 MW Mini Hydel Power Plant of the Petitioner

AND

Between:

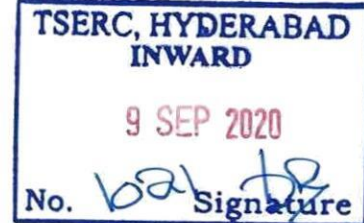
M/s. Gayatri Power Private Limited,

Admin Office: 3-6-521, Flat No. 402,

Gharondamaya, Opp: KFC,

Himayat Nagar, Hyderabad – 500 029 rep by its Managing Director/

Authorized signatory Mr. P. Ramakrishna



..... **Petitioner**

And

Southern Power Distribution Company of Telangana Limited

6-1-50, Corporate Office, Mint Compound,

Hyderabad – 500 063.

..... **Respondent**

Counter Affidavit Filed by the Respondent

I, Sri. P. Krishnaiah, S/o P. Ramulu, and Age 56 years, Occ: Chief General Manager (IPC &RAC), Southern Power Distribution Company of Telangana Limited (TSSPDCL), Mint Compound, Hyderabad do solemnly affirm and state on oath as follows :

I am working as Chief General Manager (IPC &RAC), TSSPDCL, Mint Compound, Hyderabad and hence well acquainted with the facts of case and have been authorized to swear his affidavit.

- 1) It is humbly submitted that the Petitioner has filed the present Petition before Hon'ble TSERC under Sections 62, 86 (1) (b), 86 (1) (e) of the Electricity Act, 2003 read with Regulation No. 2 of 2015 for determination of tariff seeking Prayer as under :


Chief General Manager/IPC & RAC
TSSPDCL, Corporate Office,
Mint Compound, Hyderabad-500 063.

to determine the tariff for the Petitioner's 2.2 MW Mini Hydel Power Project at Rs.5 per unit (Levelized for 25 years) or appropriate tariff.


- 2) It is to submit that M/s Gayatri Power Private Limited 2.2 MW (1x1.5 + 1x0.7) capacity Mini Hydel Power Project on the Vemuluruvagu, near Raghavapuram (V), Huzurnagar (M), Nalgonda District. The Petitioner's project was commissioned and synchronized to grid on 18.09.2014 since then selling the power in Open Access through IEX.
- 3) Further, it is to submit that the then draft PPA with the Petitioner was executed on 31.10.2016 to meet the obligation of licensee to procure a minimum quantity of its consumption of energy from NCE/RE sources of its total consumption of energy. This Hon'ble Commission on 17.10.2017 had accorded its 'in-principle' consent to the draft PPA without determination of tariff for the project.
- 4) Subsequently Respondent has fulfilled the obligation as per Regulation No. 1 of 2014. The following table depicts the RPPO (provisional) compliance by TSSPDCL for FY 2017-18 as per TSERC Regulation No. 1 of 2014

Sl. No.	Particulars	FY 2017-18
1	Total Consumption in MU	42801.22
2	NCE purchase in MU – Solar	2445.19
3	NCE purchase in MU – Non Solar	278.81
4	Total NCE purchases in percent	6.36

- 5) It is therefore relevant to note the provision(s) under Section 62 (Determination of Tariff) of the Electricity Act, 2003

“(1) The Appropriate Commission shall determine the tariff in accordance with provisions of this Act for –

Supply of electricity by a generating company to a distribution licensee:


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TSSPDCL, Corporate Office,
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Provided that the Appropriate Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement entered into between a generating company and a licensee or....."


- 6) Further, it may be relevant to note the provisions of the National Tariff Policy 2016 as notified by the Government of India exercising power u/s 3 of the Act, 2003

"....."


6.4 (2) States shall endeavour to procure power from renewable energy sources through Competitive bidding to keep the tariff low, except from the Waste to Energy plants

....."

- 7) It is to submit that there is no sanctity of Contract as parties have entered into a draft PPA only, which is no way binds on either part and hence there is no need to honor the draft PPA.
- 8) In the light of the above facts, it is to submit that prima facie there exists no Power Purchase Agreement between the Petitioner and the Respondent in nature of a Contract between the Parties. Hence there is no point in determination of tariff for the Petitioner's project.
- 9) Further, it is to submit that pursuant to the provisions of section 86(1)(e) of the Electricity Act 2003, the Appropriate Commission shall fix a minimum percentage for purchase of energy from such sources taking into account availability of such resources in the region and its impact on retail tariffs. Such percentage for purchase of energy should be made applicable for the tariffs to be determined by the SERC. The Electricity Act 2003 u/s 86 (1) (e) empowers the respective SERCs to specify, for purchase of electricity from renewable sources, a percentage of the total consumption of electricity in the area of distribution licensee.


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- 10) In line with the guidelines of the National Tariff Policy 2016, DISCOMs shall procure power from the renewable energy sources through Competitive Bidding only, except from Waste to Energy (WtE) sources.
- 11) It is submitted that the Electricity Act, 2003, which is the governing law for the Power Sector in the Country, mandates the DISCOMs to procure power on least cost principle from cheaper and economical sources for safeguarding the Consumer's interests and the benefit will be passed onto the consumers ultimately. As submitted, the National Tariff Policy, 2016 stipulates that power procurement shall be done under Competitive Bidding process from all Renewable Energy based projects like Solar, Wind, Mini Hydel projects except Waste to Energy based projects.
- 12) Further, this Hon'ble Commission may kindly appreciate that the Respondent cannot be compelled to enter into a Power Purchase Agreement with the Petitioner.
- 13) Without any prejudice to the contentions raised above, TSSPDCL may also be permitted to submit the following :
 - (i) CERC RE Tariff Regulations stipulate for determination of generic tariff for the Mini Hydel Power projects and thereby determination of project specific tariff is not permitted.
 - (ii) Such determination of generic tariff shall be in accordance with provisions under Section 62 read with Section 64 of the Electricity Act, 2003.
 - (iii) As such, the Respondent would submit the detailed objections on various financial and technical parameters post notification of the Generic/Project Specific Tariff Order for Mini Hydel projects by this Hon'ble Commission.
 - (iv) Be that as may be, having declared that project is based on 100% equity, the Petitioner is not permitted for claiming Return on


Chief General Manager/IPC & RAC
TSSPDCL, Corporate Office,
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Equity on 100% Project cost, since the CERC RE tariff Regulations recommends for debt equity ratio of 70:30. Thereby, allowing Return on Equity for 30% Project cost and Interest on loan for 70% debt amount.

- (v) The stipulated ROE by CERC in RE Tariff Order 2014-15 viz., @ 20% per annum for first 10 years & @ 24% per annum from 11th year onwards is inclusive of IT. Hence, IT cannot be permitted to be reimbursed as pass through again which is already included in the RoE.

In the light of the submissions made above, the Hon'ble Commission may be pleased to dismiss the Petition in the light of the submissions of the Respondent, vide para 3 to para 12 and to pass any such order or orders as this Hon'ble Commission may deem fit and proper in the circumstances of the case.



RESPONDENT
Chief General Manager/IPC & RAC
TSSPDCL, Corporate Office,
Mint Compound, Hyderabad-500 063.

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..... **Petitioner**

And

Southern Power Distribution Company of Telangana Limited

6-1-50, Corporate Office, Mint Compound,

Hyderabad – 500 063.

..... **Respondent**

Verification Affidavit

I, P. Krishnaiah, S/o P. Ramulu, age: 56 years Occ: Chief General Manager (IPC & RAC), Southern Power Distribution Company of Telangana Limited (TSSPDCL), residing at Hyderabad do solemnly affirm and say as follows:


1. I am the Chief General Manager, TSSPDCL having its office at Corporate Officer, TSSPDCL, Mint Compound, Hyderabad, and I am competent and duly authorized by TSSPDCL to file this affidavit.
2. I have read and understood the contents of the Counter. The contents of the Counter now shown to me are true to my knowledge derived from the official records made available to me and are based on information on records and believed to be correct on legal advise received, which I believe to be true and correct.


Chief General Manager / IPC & RAC
TSSPDCL, Corporate Office,
Mint Compound, Hyderabad-500 063.

VERIFICATION:

I, solemnly affirm at Hyderabad on this^{9th} day of September, 2020 that the affidavit has been signed in my presence.

ATTESTED


SUPERINTENDING ENGINEER / IPC
TSSPDCL, Corporate Office,
6-1-50, Mint Compound,
HYDERABAD-500 063.