

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

Hyderabad - 500 004

November 23, 202

Respected Sir,

Sub : Submission of objections and suggestions in O.P.No.57 of 2018 filed by Gayatri Power Pvt. Ltd. seeking determination of tariff for its hydel power plant with a capacity of 2.2 MW established at Vemuluruvagu in Suryapet district

With reference to the public notice dated 6.11.2020 issued by Gayatri Power Pvt. Ltd., not by the Hon'ble Commission, but appearing in the web site of the Commission, we are submitting the following preliminary objections/points for the consideration of the Hon'ble Commission:

- 1. It is contrary to the standard practice that a public notice issued by the Managing Director of a private company, here, Gayatri Power Pvt. Ltd., seeking determination of tariff for its power plant by the Hon'ble Commission is appearing in the web site of the Commission. Except for determination of ARR and tariff proposals of the Discoms, public notices are being issued by the Hon'ble Commission on petitions filed before it or proposals taken up suo motu, inviting suggestions, objections and views from interested stakeholders and the public. Since it is the Hon'ble Commission which is hearing the petitions, it should invite suggestions, objections and views from interested public.**
- 2. The subject issue is not a question of determination of generic tariff which is also objectionable in view of need for following competitive bidding for selection of a developer/supplier for purchase of power by the Discoms to ensure competitiveness of tariffs and protecting larger consumer interest.**
- 3. A private generator of power is not a licensee of the Commission. Discoms are licensees of the Commission. Unless and until the Discom/Discoms concerned approach the Hon'ble Commission with a proper petition seeking its approval for purchase of power through a power purchase agreement and determination of permissible tariff for specific period, the question of the Hon'ble Commission initiating its regulatory process does not arise. Even if such a PPA is entered into between the Discom and developer of the project concerned and submitted to the Hon'ble Commission by the developer, the Discom must invariably be the respondent. The subject petition does not fulfill these fundamental prerequisites of the regulatory process of the Commission. As objectors from the public side, we**

support or question the stand of the Discoms depending on how it benefits the consumers or affects their interest, as the case may be.

4. It is for the Discoms to establish need for purchasing power from a power plant, not for developers of the project concerned or other agencies like the erstwhile NEDCAP or the present NREDCAP. Since the subject plant is a mini hydel power plant, it is for the Discom concerned to establish whether it should enter into a PPA with that plant to meet its obligations under renewable power purchase obligation order in force. The way in which the subject petition is being taken up by the Hon'ble Commission gives scope for the Discom concerned to escape from its primary responsibility of establishing need for purchasing power from the subject project.
5. Without establishing need for purchasing power from a power plant/supplier by the Discoms and without entering into a PPA between the parties concerned, determination of capital cost and tariff for a power project, that, too, based on a petition filed by the developer of the project concerned, would be an infructuous exercise. It is like putting the cart before the horse.
6. The petitioner, in his letter dated 28.6.2018 addressed to the Hon'ble Commission, informed that "the respondents have issued a letter to the petitioner confirming that the PPA will be concluded only after the tariff is determined by the Hon'ble Commission." If TSSPDCL was the respondent, it should have filed its counter in the subject petition, explaining its stand on the need for purchasing power from the subject power plant and its responses to the capital cost and tariffs claimed by the petitioner in the subject petition. The documents uploaded in the web site of the Commission do not contain a copy of counter, if any, filed by the respondent. Though a lot of correspondence went on between the petitioner and the Hon'ble Commission, as the papers uploaded in the latter's web site show, no correspondence between the Commission and TSSPDCL seems to have been taken place. When the Hon'ble Commission had decided to take up the subject petition for hearing, it should have directed the respondent Discom to file its counter and uploaded the same in its web site. It gives scope for the unwarranted impression that, apart from the petitioner, it is the Hon'ble Commission, not the Discom concerned, which is interested in the subject issue. The opinion of the Discom, as quoted by the petitioner, that PPA will be concluded only after the tariff is determined by the Hon'ble Commission shows that the Discom is arrogating to itself the authority to decide the regulatory course the Hon'ble Commission should adopt in the subject matter.
7. If the Hon'ble Commission has not directed the respondent Discom to file its counter in the subject petition, it gives scope for the Discom to shirk its responsibility of establishing need for purchasing power from the subject power

plant, and evade its responses to the submissions made by the petitioner in the subject petition relating to capital cost of the power plant, term of PPA, tariff, etc., on the one hand, and shift onus on to the Hon'ble Commission, on the other. The Hon'ble Commission is not expected to provide such an escape route to the respondent Discom to give a go-by to its responsibility and accountability to the Commission and the consumers of power at large.

8. The installed capacity of the subject plant may be small, but it is not a question of quantum; it is a question of principle in terms of meeting regulatory requirements.
9. The submissions of the petitioner make it clear that they are seeking determination of tariff for their plant by the Hon'ble Commission with a view to entering into a PPA with the respondent Discom. PPA, as approved by the Hon'ble Commission, is or should be the basis for the Discom to purchase power from the power plant concerned. Here, in the subject petition, it is upside down.
10. The petitioner Company, in their letter dated 28.6.2018, submitted to the Hon'ble Commission, maintained that, "if the Hon'ble Commission opines that the draft PPA is necessary for adjudication of the present petition, the Hon'ble Commission may direct the respondent for the production of draft PPA at the time of hearing." Without the Discom and the subject developer signing a PPA, with mutually agreed terms and conditions, production of so-called draft PPA at the time of hearing the subject petition would not meet regulatory requirements. Signing of PPA by the Discom with the subject company will imply that that power from the power plant is required to meet demand or the Discom's obligations under RPPO in force. Even then, the Discom has to substantiate and justify need for power from the subject plant in clear cut terms. Moreover, the Hon'ble Commission, which has not directed the respondent Discom to file counter in the subject petition, is not expected or empowered to direct the Discom to produce draft PPA, unless the latter is willing to respond to the submissions made by the petitioner in the subject petition. When the Discom has not approached the Hon'ble Commission seeking its approval for purchasing power from the subject plant, the question of the Hon'ble Commission directing the Discom unilaterally to submit draft PPA does not arise.
11. The submission of the petitioner that, "if the Hon'ble Commission opines that the draft PPA is necessary for adjudication of the present petition, the Hon'ble Commission may direct the respondent for the production of draft PPA at the time of hearing," is questionable. It is the responsibility of the petitioner to enter into a PPA with the Discom for selling power from its subject project, submit the same to the Commission for its consideration and approval and determination of capital cost and tariff. Having failed to meet such regulatory requirements, the petitioner is trying to shift their responsibility to the Hon'ble Commission, as if it were the responsibility of the Commission to direct the Discom to submit the draft PPA

claimed to have been entered into with the petitioner. Though the petitioner has claimed that the said letter issued by the 2nd respondent is already submitted to the Hon'ble Commission along with letter dated 28.5.2020, the same do not figure in chronological and running index submitted by the petitioner. When the draft PPA was entered into and what it contains are thus hidden from the public gaze in the regulatory process.

12. In the above-mentioned letter, the petitioner submitted that "O.P.No.2 of 2017 was filed before this Hon'ble Commission for determination of tariff without filing draft PPA and the same has been entertained by the Hon'ble Commission and the same is reserved for orders. Therefore, petitioner cannot file the PPA as required by the receiving officer." The submissions of the petitioner make it clear that the Discom is reluctant to sign PPA, and that the petitioner Company is unable to enter into any agreement with the Discom for sale of power from its plant or even to convince the Discom to enter into a PPA to meet regulatory requirements in the subject petition. Though the petitioner pointed out that orders of the Commission in O.P.No.2 of 2017 were reserved, obviously, no order has been issued by the Commission so far. Whether the Hon'ble Commission would issue its order in the said O.P. is also doubtful.
13. The petitioner has submitted that their subject plant was commissioned on 22.10.2014. Filing of O.P.No.2 of 2017 and the subject petition for determination of tariff, without a valid PPA signed between the petitioner Company and the Discom concerned, even after six years after commissioning the subject plant, shows lack of seriousness on the part of the petitioner to sell power and on the part of the Discom to purchase power therefrom.
14. Claiming a levelised tariff of Rs.4.878 per unit for a period of 25 years or a levelised tariff of Rs.4.967 per unit for a period of 35 years, the expectations of the subject developer that the Hon'ble Commission would/should determine the tariff claimed and that the Discom would/should purchase power from their plant at that rate are unrealistic. When tariffs for solar power are being discovered to be much less than Rs.2.50 per unit through competitive biddings in the country, there is no justification in going in for purchase of hydel power from the subject plant at almost double that price, that, too, on a long-term basis.
15. Power from a mini hydel plant can be generated only when adequate water is available which happens normally during rainy season. If there are good rains, demand for power comes down. The petitioner has submitted that "though the petitioner's project was operated during the period from October, 2014 to March, 2015 & 2015-16 to till now, because of various factors such as low availability of water, regulatory constraints concerning open access and the Transmission charges, open access charges and UI charges etc., as power is being sold to Exchange, it could

not successfully run the plant as per the projections.” Giving actual capacity utilisation of the plant during the above-mentioned period, which are ranging from a CUF of 25.25% to 4.15% against the CUF of 30% projected by the developer based on certain assumptions, the petitioner has submitted that full capacity of the project can be utilized during rainy season, i.e, for 3 months. For the remaining 4 months, utilization of capacity of the project depends on water released by the department of irrigation to the fields and recycled water released from the fields, the petitioner has submitted. Apart from such factors of uncertainty coming into play hindering generation of power by the plant, the proposed levelised tariff plus royalty to usage of water and other taxes and charges applicable would make tariff of the subject project prohibitively higher and unjustified.

16. I request the Hon’ble Commission to direct the respondent Discom to file its counter in the subject petition, if at all it has need for that power and justifiability of the likely tariff, and get the same uploaded in the web site of the Commission and then allow interested public to make their further submissions on the same.
17. If the respondent Discom is reluctant to respond to the subject petition, and if the Hon’ble Commission does not want to direct the Discom to file its counter, I request the Hon’ble Commission to close the subject petition.
18. I request the Hon’ble Commission to permit me to make further submissions in person, if it decides to proceed with its regulatory process relating to the subject petition.

Thanking you,

Yours sincerely,

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