

To
The Secretary
A.P. Electricity Regulatory Commission
4th floor, Singareni Bhavan, Red Hills
Hyderabad - 500 004

December 19, 2018

Respected Sir,

Sub : Submission of objections and suggestions on the ARR and tariff proposals of APSPDCL and APEPDCL for their retail supply business for the year 2019-20

Further to our submissions dated 5.12.2018 on the ARR and tariff proposals of the two AP Discoms in O.P.Nos. 26 & 27 of 2018, I am submitting the following additional points for the consideration of the Hon'ble Commission:

- 1. Did the Discoms seek and get consent of the Hon'ble Commission for purchase and sale of swap power for the year 2018-19? What is the arrangement for swapping power? During the second half of 2018-19, the Discoms have shown energy utilised from other utilities under swapping as 3344.71 mu and energy to be returned to other utilities as 252.16 mu? For the year 2019-20, the Discoms have proposed to avail energy of 666.79 mu from other utilities and return 4142.85 mu. During which periods of the financial year the Discoms are procuring/proposing to procure power from other utilities under arrangement of swapping and returning the same and what are the tariffs being paid/collected for the same and the market prices of energy prevailing during the same periods? During the period when the Discoms are procuring energy from others under the arrangement of swapping, are they backing down power from other generating units with whom they had power purchase agreements and paying fixed charges therefor? If power is procured and returned under swapping for the same tariff, what is the interest of, and benefit to, private generators like Sembcorp Gayatri Power Limited (SGPL) in such an arrangement? On what basis the Discoms are claiming that "in order to avoid the short-term procurements and thereby save the costs," they have been purchasing power through swapping?**
- 2. The Discoms have informed that they propose to bridge gap in availability of power "by short term procurement from SGPL (Sembcorp Gayatri Power Limited) and through power exchanges keeping in view that PPA signing with SGPL under DBFOO is under process and the tariff of the same is lower than the average cost of power in the exchanges." On the face of it, it is a manipulation to sign a PPA with SGPL for short-term procurement of power under DBFOO. Did the Discoms submit any proposal to enter into a short-term PPA with SGPL under DBFOO to the Hon'ble Commission, seeking its consent for the same? The attempt of the Discoms to justify entering into a short-term PPA with SGPL by comparing its tariff with "the average cost of power in the exchanges" of a particular period is, on the face of it, manipulative and impermissible. If at all additional power is required on short-term basis, the Discoms should seek the permission of the Commission to**

go in for competitive bidding and then select the developer who quotes the lowest tariff. The way the Discoms have proposed it in their ARR submissions, instead of filing a separate petition before the Hon'ble Commission, seeking its consent for the same, without providing any justification for requirement of power from SGPL and relevant data, and the terms and conditions of the draft PPA, is, obviously, intended to circumvent public scrutiny through public hearing. It is high time the Hon'ble Commission rejected outright such manipulative manoeuvres of the Discoms and gave necessary directions to them to adhere to the regulatory requirements.

3. In response to the criticism against the way in which the Commission had given its consent to the PPA of Vishnu Vidyuth India Limited through a letter, in the tariff order for the year 2018-19, the Commission had maintained that "it is only in consequence to this order (dated 8.9.2016), which also considered the views of Sri M. Venugopala Rao, the leading objector herein also, that the request for consent to the Power Purchase Agreement between the parties to O.P.18 of 2016 was accepted by this Commission which hence did not require a second public hearing, more so when what was adopted was the generic tariff for Biomass plants. Thus, there was nothing secret or sinister about it" (page 75). The fact of the matter is that there was no PPA to be considered in O.P.18 of 2016, and that the issue for consideration of the Commission was whether it should direct the Discom to enter into PPAs with Vishnu and Sammera biomass-based power plants with very high tariffs. Moreover, in the said order dated 8.9.2016, the Commission observed that "the objections/suggestions of Sri M.Venugopala Rao in support of the stand taken by distribution companies also referred to the implications of considering the representations of the two generators like the higher cost of such power, the probable imposition of heavy burden on the consumers, the renewable power purchase obligation having been otherwise met by the Discoms, the availability of surplus in 2016-17 as per the ARRs etc. All these factors may be relevant factors which the Distribution Companies may take into consideration while taking an appropriate decision but as it is the licensees who have to take a decision one way or the other, any expression of opinion by the Commission in this order on such aspects may prematurely prejudice the rights and interests of the parties." In other words, the Commission should have considered the relevant factors by holding a public hearing on the PPA of Vishnu Vidyuth and then decided whether consent was required to be given or not.
4. In the name of encouraging generation and consumption of non-conventional energy, Government of Andhra Pradesh has been directing or permitting its Power Distribution Companies (Discoms) to enter into long-term power purchase agreements (PPAs) with developers of NCE units indiscriminately. APERC has been giving its consents to them, without taking a holistic view of requirement and availability of power and reasonableness of tariffs. Regulation No.1 of 2015 of APERC, relating to determination of generic tariffs for wind power, does not take

into account the factors that contribute to achievement of capacity utilization factor (CUF) higher than what is contained in it., i.e., 24.5%. In a letter dated 3.3.2017, submitted to APERC by the Chief General Manager of the APSPDCL, requesting to permit it to withdraw the 41 numbers of wind power project PPAs pending before the Commission for its consideration and consent, it is pointed out that, *“due to advancement in technology, enhancement of capacity rating of individual WTGs and also increased hub height for latest projects, the Capacity Utilisation Factor (CUF) is being achieved higher than as was considered by Hon’ble Commission (APERC) in the regulation 01 of 2015 and also in the tariff orders issued thereafter.”* Further, it is explained in the said letter that *“out of the aforesaid 38 projects commissioned up to 31.12.2015, 14 no. of projects have achieved PLFs of more than 24.5% and the peak PLF achieved is 31.58%.”* It is further submitted in the letter that *“the Discoms have already reached the target as contemplated under the Wind Power Policy, 2015 as well as requirement specified in the orders of GoAP..... it is observed that Discoms have achieved more than capacity specified in existing RPPO regulation 2012, also considering down trend of wind power generation tariff in the country, it is decided not to purchase power from the wind (power) generators with whom PPAs entered but not got approval of Hon’ble Commission.”* Later, APERC returned the 41 PPAs.

4a. After a representation made by developers of wind power projects relating to the said 41 PPAs to the GoAP, APSPDCL has resubmitted the said PPAs to APERC, seeking its consent, subject to certain conditions as incorporated in their letter dated 4.8.2017, and submitted that *“keeping in view the above facts, the Prl. Secy. Energy in the meeting held on 04.07.2017 at Vidyuth Soudha, Vijayawada, decided (obviously, at the behest of the GoAP) that all the Wind Power PPAs signed, DISCOMs may submit the said PPAs for consent of APERC subject to the condition that the Wind (power) generation is well within the approved quantum of energy mentioned in the APERC Retail Supply Tariff order dated 30.03.2017.”* Later, APERC has given consents to these PPAs, subject to certain conditions. In its order dated 13.7.2018, in O.P.No.5 of 2017, permitting the Discoms to procure wind power through competitive bidding, APERC has maintained that *“the order of the Commission dated 13-12-2017 in the matter of 41 Power Purchase Agreements*

between Southern Power Distribution Company of Andhra Pradesh Limited and various wind power developers and the order of the Commission in O.P.No.15 of 2017 dated 30-3-2017 (tariff order for 2017-18) shall be subject to this order as already stated in the said two orders respectively.”

4b. In seeking consents of the Commission to the said PPAs “subject to the condition that the Wind (power) generation is well within the approved quantum of energy mentioned in the APERC Retail Supply Tariff order dated 30.03.2017,” i.e., for the year 2017-18, the implication is that APERC is determining availability of power even from the projects to whose PPAs consent is not given. If availability of power in a financial year is determined by APERC based on PPAs to which it has given consents, the question of giving consents to new PPAs, subject to the condition that wind power generation is well within the approved quantum of energy determined in the tariff order for the financial year concerned, does not arise. Seeking consent of the Commission to new PPAs in this manner shows the ingenious approach of the GoAP. If APERC has determined availability of power in a financial year, taking into consideration proposals of the Discoms on likely availability of power from wind power projects to whose PPAs it has not given consent, it is a questionable approach. The implied approach of APERC is that since the Discoms proposed availability of power from wind power projects, though no consents were given by it to the PPAs relating to them, it included that power in the availability for the financial year concerned. Since power from those wind power projects was included in the availability of power for the financial year concerned, APERC gave its consents to those PPAs. Consideration of requirement and availability of power to the Discoms, reasonableness of tariff, whether the Discoms already fulfilled or exceeded their obligations under RPPO and scope for getting power, if required, from other sources at relatively cheaper prices are given a go by in this ingenious approach.

4c. With a CUF of 23.5% for a total capacity of 811.4 MW of the 41 PPAs of wind power projects submitted by SPDCL and consents given by APERC, energy available works out to 1670.35 MU per annum. To purchase 1670.35 MU per annum @ Rs.4.84 per kwh, the highest generic tariff determined by the Commission, the

Discoms have to pay Rs.808.28 crore. Even if Rs.3.46 per kwh discovered through the first competitive bidding of Solar Energy Corporation of India (SECI) is taken into account, compared to the generic tariff determined by the Commission, the difference works out to Rs.1.38 per kwh (Rs.4.84 – 3.46). In other words, for purchasing 1670.35 MU per annum, the Discoms have to pay Rs.230.46 crore per annum and Rs.5761.50 crore during the period of 25 years of the PPAs additionally to the wind power generators of the 41 PPAs! Compared to further fall in prices of wind power that has been discovered through competitive bidding in course of time, the additional burden to be borne by the Discoms, i.e., their consumers of power, for purchasing power from the 41 wind power generators would work out to be much more.

5. In view of the higher generic tariffs determined by the Hon'ble Commission for wind power in its orders dated 1.8.2015 and 26.3.2018, the Discoms filed O.P.No.5 of 2017 requesting it in public interest and in the interest of end consumers in the State to get green energy at the lowest possible cost to amend the Regulation No.1 of 2015 curtailing its effect up to 31.3.2017 and allowing them to follow for future period competitive bidding process in consonance with guidelines of the Ministry of Power, Government of India for the valid reasons explained in their petition. The Commission, in its order dated 13.7.2018 permitted the Discoms accordingly, stating that “the petitioners (Discoms) are at liberty to procure power through a transparent process of bidding in accordance with the guidelines for tariff based competitive bidding process for procurement of power from grid connected wind power projects formulated and issued by the Ministry of Power, Government of India, dated 8.12.2017 under Section 63 of the Electricity Act, 2003.” At the same time, the Commission also ordered that “the petitioners are also at liberty to procure power from wind power projects in accordance with Sections 61, 62, 64 and 86(1) (b) of the Electricity Act, 2003 and Sections 21 and 26 of the Andhra Pradesh Electricity Reform Act, 1998 and rules, regulations, practice directions and orders issued thereunder until an appropriate regulation in that behalf is made by this Commission and any Power Purchase Agreement or tariff thereunder for such

procurement shall be guided by the principles contained in the provisions of the Central Electricity Commission (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2017.” When the Discoms were seeking permission of the Commission, in their said petition, to adopt competitive bidding for procurement of wind power, not generic tariffs determined by the Commission, the latter, instead of confining its order to the point for consideration in the said petition, maintained that the Discoms are at liberty to enter into PPAs with wind power projects as per the generic tariffs determined by the CERC in their regulations of 2017 concerned. When the Discoms themselves wanted to adopt competitive bidding to get the benefit of competitive tariffs for procuring wind power, if required, and when they did not want to adopt generic tariffs determined by APERC, it is intriguing that the Commission had given a gratuitous piece of advice to them that they are at liberty to adopt the generic tariffs determined by CERC for procuring wind power. This unsolicited and unwarranted “liberty” would, in practice, would give liberty, as well as an opportunity, to the private developers of wind power projects to manage the powers-that-be in the Government of A.P. to direct the Discoms to enter into long-term PPAs with them for procuring wind power at the generic tariffs determined by the CERC which are higher than the tariffs being discovered through competitive bidding. When the Discoms are permitted by the Commission to adopt competitive bidding process for procurement of wind power under the guidelines of the Ministry of Power, GoI, what is the “appropriate regulation” the Commission wants to make? Is such an “appropriate regulation” required by the Discoms to follow the guidelines of the Ministry of Power, GoI, to adopt competitive bidding? When the Discoms want to adopt competitive bidding, where is the need, as well as justification, to enter into PPAs with wind power projects as per the generic tariffs determined by the CERC?

6. APERC issued its orders dated 1.8.2015 determining tariff for Wind Power Projects @ Rs.4.83 per unit (without AD benefit) and @ Rs.4.25 per unit (with AD benefit), with liability of taxes as pass through to the DISCOMS. While determining these generic tariffs, APERC did not factor Generation Based Incentive (GBI) in to the

tariffs. When AP DISCOMS, through their letter dated 30.10.2015, had brought this error of omission to the notice of APERC, with a request to pass on the benefit of GBI to them, which, in effect, means to their consumers of power, as per clause 20 of Regulation No.1, APERC, in its reply dated 15.2.2016, i.e., after a gap of three and a half months, the Commission maintained that “the amendments sought for in Regulation No.1 of 2015 have been noted in the Commission and as the said regulation was notified only on 31st July 2015, its efficacy or otherwise needs to be observed for a reasonably sufficient period of time and thereafter the Commission may take necessary action as deemed fit.” By implication, APERC refused to consider the reasonable and legally tenable request of the Discoms seeking rectification of the error of omission committed by the Commission. Whatever be the “efficacy” APERC wanted to observe and whatever be the “reasonably sufficient period of time” required for that, the immediate impact of the error of omission in not factoring GBI into the tariffs is that the consumers of power are deprived of reduction of the burden of higher tariffs to be paid for purchasing power from wind power projects and the developers of those projects getting undue benefit of GBI at the cost of consumers of power. Again, in its order dated 26.3.2016, APERC determined tariff for wind power projects @ Rs.4.84 per unit (without AD benefit) and @ Rs.4.25 per unit (with AD benefit), with liability of taxes as pass through to the DISCOMS. In this order also, APERC did not factor GBI into the tariffs. The DISCOMS, in their letter dated 10.12.2016, requested APERC again to pass on the GBI incentive to the distribution licensees, submitting that they would deduct the GBI amount from the bills. With APERC taking no steps on the request of the DISCOMS, the latter filed O.P.No.1 of 2017 on which APERC held a public hearing and issued its order on 28.7.2018, permitting the DISCOMS to deduct GBI from the monthly bills of those wind power projects from the date of filing of O.P.No.1 of 2017, i.e., 14.2.2017. In other words, APERC corrected the error of omission partly by making its order applicable from 14.2.2017, not from the date from which the Regulation No.1 had come into force. It should have made it applicable from the date from which the Regulation had come into force to undo the injustice done to the DISCOMS and their consumers of power. In an appeal filed by

Indian Wind Power Association before the High Court of Hyderabad, challenging the validity of the order of APERC, the issue is pending with a stay order on the order of APERC dated 28.7.2018.

- 7. The way the PPA with Simhapuri project was proposed and allowed to be signed under DBFOO earlier, ignoring offers of other developers of power projects who quoted relatively lower tariffs, turned out to be manipulative. In its order dated 14.8.2018, while giving its consent to the power supply agreement between the Discoms and Simhapuri Energy Limited for supply of 400 MW under DBFOO, the Hon'ble Commission maintained that "such adoption of tariff (by the Commission) will be subject to any reconsideration or review by the Commission, if found required and permissible under the competitive bidding process governing the procurement, mandatory guidelines of the Government of India and the provisions of the Electricity Act, 2003, the Andhra Pradesh Electricity Reform Act, 1998 and the Rules and Regulations made thereunder either suo-motu or on an appropriate application in accordance with law moved before the Commission from time to time." If the Commission had satisfied itself, before giving its order, that its consent to the power supply agreement and the tariff related thereto between the Discoms and Simhapuri was in consonance with the relevant laws and rules and regulations, and mandatory guidelines of the G oI, the question of any reconsideration or review of the same would not arise. The observation of the Commission implies that there may be scope for reconsideration or review. Will the Commission suo motu re-examine its order in the light the said laws, rules and regulations, and mandatory guidelines? If so, when? Since the inception of APERC, during the last two decades, we have never come across any Commission making such observations in any of their orders.**

7a. The said order of the Commission ignored several crucial points of objection raised by us during the course of the public hearings held on the issue of Simhapuri. The need for procurement of power from Simhapuri project, as well as competitiveness of its tariff, was not established conclusively. We had made it clear repeatedly, in our detailed submissions to the Commission, that in view of availability of substantial surplus power from the time of DBFOO in which Simhapuri participated, permission was given by the Commission to the Discoms to procure power from Simhapuri and signing of the PSA, there had been no need for procurement of power from the project. The Commission had considered the order of the Appellate Tribunal for Electricity in appeal Nos.235 and 191 of 2015 dated 2.2.2018 and another order of the Supreme Court in civil appeal Nos.2502-2503 of 2018, civil appeal Nos. 2784-2785 of 2018 and civil appeal Nos.3481-3482 of 2018 dated 25.4.2018, upholding the order of APTEL, while giving its consent to the PSA between Simhapuri and the Discoms. At the same time, the Commission had ignored the crucial objections raised by us relating to non-fulfilment conditions mentioned in the order of APTEL, in the case of Simhapuri.

7b. APTEL, in its said order, observed that “the State Commission is mandated to ensure transparency while exercising its power and discharging its functions under Section 86(3) of the Act. The concept of transparency and principle of natural justice mandates that the State Commission should grant opportunity to other party and take into account their logical concerns before passing any order detrimental to the said party.” In the Simhapuri issue, both the Discoms and Simhapuri stand on the same side of the fence, expressing no conflict of interest. It is obvious that the “other party” in the subject issue, i.e., the party that is going to be affected, if procurement of power from Simhapuri (and other bidders) is approved by the Commission, are the consumers of power at large. No transparency was maintained by the Hon’ble Commission at the time of examining the proposals of the Discoms for going in for bidding under DBFOO for 2400 MW and 1000 MW and load forecast for a period of five years submitted by them and giving its approvals for the same and no public hearing was held. It was only after we had written a letter dated September 28, 2016 to the Commission, explaining the adverse consequences that would arise as a result of the approvals given by it and requesting it to hold a public hearing that the Commission had decided to hold a public hearing. But by then enough damage has been done to larger consumer interest with the Discoms completing the bidding processes and issuing LoI to Simhapuri.

7c. In its letter dated 29.7.2018 to the GoAP, A P Power Coordination Committee explained that after obtaining approval of GoAP to procure power through bidding process, “during the course of time emerged facts are found to be different as much as Demand-Supply position is provided to be at variance. Presently, the projections of Demand-Supply position reflect that there is no need of such procurement of power. As part of the said bidding process, only 600 MW with a fuel of 100% imported coal has been finalized and PSA with M/s Simhapuri Energy Limited has been initialled and submitted to APERC for approval including adoption of tariff which is still pending. As far as bidding process with fuel as domestic coal is concerned there is no approval by APERC for procurement of such power and therefore bidding process though finalized has been deferred. “Considering the aforesaid Demand-Supply position, it is found that there is no necessity of procurement of power through either of the aforesaid methods of bidding process.”

7d. After explaining relevant factors relating to availability of surplus power, APPCC further informed that *“despite the above surplus power position of the state in the ensuing years, if APDISCOMs decide to procure power of 400 MW from M/s Simhapuri Energy Ltd., APDISCOMs (are) bound to pay the fixed charges to the tune of Rs.651 Crs. per annum to M/s Simhapuri Energy Ltd., as per the terms of the PSA without availing any generation. In the light of the huge surplus power position projected in the ensuing years, it is no longer required to procure the said power and would necessarily required to annul the current DBFOO bidding process.”* APPCC requested GoAP to issue necessary instruction to PCC/APDISCOMs “1. to withdraw the Power Supply Agreement (PSA)

initialled with M/s Simhapuri Energy Limited from APERC duly cancelling the 1000 MW bidding process with 100% imported coal. 2. To cancel the bidding process in respect of procurement of 2400 MW power with domestic coal supplemented by imported coal.”

7e. On 22.8.2018 itself, the Principal Secretary, department of Energy, GoAP, in a letter, informed the CMDs of both the AP Discoms, with a copy to the chairman of APPCC, pointing out that “certain developments have taken place in the power sector in the last 3-4 months which include the following: 1. APGENCO has stopped supply of power to TS DISCOMS due to non-payment of their dues. As a result, around 350 MW of power, which was flowing to TS DISCOMS, is now being given to APDISCOMs by APGENCO. 2. As a part of bundling of Thermal Power with Solar Power, NTPC has started supplying around 330 MW of Thermal power along with 1000 MW Solar park commissioned in Kurnool. 3. Lot of renewable energy capacity addition, particularly Wind and Solar has taken place. As a result, the earlier projections and assumption for energy demand and supply will have to be critically analyzed and reviewed before approval of PPA with M/s Simhapuri. 4. Government is taking a holistic view of the entire power demand supply scenario and will be taking a decision at the earliest in the best interest of the State keeping in view the requirement of energy and also the financial viability of purchase of power from these projects. Therefore, till the time Government takes a final decision on the above, DISCOMS are directed to request the Commission not to decide the PPA directing the Discoms to request the Commission not to decide the PPA with M/s Simhapuri till the time a holistic and comprehensive decision is taken by the Government in consultation with AP Genco, AP Transco and Discoms. Therefore, the Discoms are directed to seek time from Hon’ble Commission till October end for taking further action in the above cases.” Obviously, till the end of October last, no decision has been taken by the Government. As pointed out in the letter of the Principal Secretary, department of Energy, whether the GoAP had consultation with AP Genco, AP Transco and the Discoms and had taken a holistic and comprehensive decision is not known. What are the considerations and responses, if any, of GoAP to the points raised in the said two letters of APPCC and of the Principal Secretary, when it conveyed its direction to the Discoms belatedly to purchase power from Simhapuri and seek consent of the Hon’ble Commission? On this aspect also the Hon’ble Commission was silent, without giving any direction to the Discoms to submit the information, if any. The learned counsel for the Discoms informed the Commission orally that they were directed by the Government to seek consent of the Commission to purchase power from Simhapuri.

7f. In the said order of APTEL, it was pointed out that “rejecting all the bids upon finding that bids were not aligned to prevailing market conditions” is one of the conditions. Both the Discoms and the Hon’ble Commission failed to examine this aspect while finalising the bids and giving permission for purchasing power accordingly. That the Discoms ignored the lowest tariff of Rs.4.213 quoted in the bids for 2400 MW and opted for purchasing power from Simhapuri at a higher tariff of Rs.4.439 under bidding for 1000 MW and that the Hon’ble Commission

also gave its permissions accordingly confirm their failure to examine whether the bids under DBFOO for 1000 MW were aligned to the prevailing market conditions.

7g. In its order, APTEL observed that “the Government of India guidelines contain the mandate to safeguard consumer interest as well as to encourage competition, efficiency, economical use of the resources. The stated objectives of the Government of India guidelines are to strike a balance between transparency, fairness, consumer interest and viability” (page 33). Notwithstanding platitudes for consumer interest, the entire thrust and end result in the entire process is that interests of generators/suppliers of power concerned are protected and larger consumer interest simply ignored.

7h. The Hon’ble Commission, in its order on Simhapuri, did not respond to all these relevant objections raised by us, among others. When such is the case, the observation of the Commission on reviewing its order on “an appropriate application in accordance with law moved before the Commission from time to time” looks like a mockery. Should one file an application before the Commission for review of its order on the grounds already raised during the course of public hearings earlier to which it did not respond at all in its order? The course of filing an application for review of the order of the Commission or filing an appeal before the appropriate appellate authority challenging the order of the Commission is always open to any interested party or person and for that no gratuitous advice is required.

8. In the Commission’s order dated 13.7.2018 in O.P.No.5 of 2017, it is observed : “ Even if PPAs were entered into by the DISCOMs with wind generators they are not enforceable under law unless they are specifically approved by the Commission u/s 86(1)(b). As seen from the ARR proposals for FY 2017-18 & 2018-19 submitted by the DISCOMs the State achieved surplus power generation, met and even exceeded the RPPO obligation and unless and until there is a need to purchase power the Commission is not obliged to approve the Power Purchase Agreements.” (para 8.22 and page 42). In the tariff order for 2018-19, the Hon’ble Commission has directed that “*the distribution licensees shall avoid entering into any power purchase agreements which may burden them with unwarranted power*” (page 79). This direction has come in response to the objections raised by us, that, too, after giving consents to the proposals of the Discoms to purchase NCE on a larger scale indiscriminately far exceeding the minimum percentage of NCE the Discoms have to purchase under RPPO and leading to increase in availability of surplus power which is not required. The Commission has also rightly pointed out that “the estimated increase in power purchase cost and average cost of service should be avoided by taking recourse to all possible measures” (page 23). The returning by the Hon’ble Commission, incidentally, for the first time, of the proposal of the Discoms seeking its consent for initiating tender process for purchasing 1000 MW distributed solar power, pointing out, in its letter dated 15.5.2018 addressed to the CMDs of APEPDCL and APSPDCL, that “*justification for need for power purchase is conspicuously missing and it appears as though without regard to any need for*

power purchase, the plants are being sought to be established, which is not in the interest of the State, if plants are established indiscriminately without first establishing the need for power” is in the right direction, eminently justifiable and lends added credibility to our valid objections on this ground raised from time to time in our submissions on various petitions filed by the Discoms, RPPO proposals made by the Hon’ble Commission and in our letters addressed to the latter over the years. It is precisely these eminently justifiable and imperative yardsticks that the Commission failed to apply, while giving its consents to several proposals of the Discoms for purchase of power, as explained above.

9. For purchasing power from Lanco and Spectrum after expiry of their PPAs and from GGPP after taking over the same from GVK, the fixed charges proposed by the Discoms and permitted by the Commission for the current financial year and a part of 2017-18 have been much higher than the fixed charges applicable at the time of expiry of their PPAs and taking over of the plant from GVK, as the case may be. Despite our valid objections, the permissibility of the presumed capital costs and basis for such higher fixed charges ensuring undue benefit to the developers of the plants at the cost of consumers of power was not explained by the Discoms in their proposals and responses and by the Commission in its orders permitting the same.
10. We would like to remind once again that in its order dated 29.11.2017, in I.A.No.8 of 2017 in O.P.Nos.28&29 of 2016, the Hon’ble Commission observed, “the Commission only wishes to place on record that all its actions and orders or expressions are in bona fide, honest and neutral belief of their correctness, reasonableness and justification in fact and law and hopefully the credibility of the Commission, on that count is not in doubt. The Commission might have gone wrong in its conclusions and its actions but never knowingly or designedly. However, the Commission does not claim to be infallible and will continue to make every effort to improve itself without giving any scope for repetition of its mistakes, if any” (para 53). Our hope that the Hon’ble Commission would endeavour in all its earnestness to live up to such graceful and laudable intentions in discharging its regulatory obligations and functions and set an exemplary record in protecting larger consumer interest within the limitations of its jurisdiction is remaining as hoping against hope, as experience has confirmed.
11. The Discoms have projected variable costs of thermal plants for the year 2019-20 with an escalation of 3% over the variable rates approved by the Commission in the tariff order for 2018-19. The Discoms have not explained any reasons for such enhancement of variable charges to justify the same. If any variation takes place in variable charges during 2019-20, after issuance of tariff order by the Commission, the difference can be claimed under true-up or true-down at appropriate time. Therefore, we request the Hon’ble Commission not to allow escalation of variable costs by 3% as proposed by the Discoms.
12. We also request the Commission not to take into account proposals of the Discoms for purchase of power from power plants, without submitting PPAs with them to the

Commission for its consideration, and without holding public hearings on the same and issuing its orders. For the year, the proposals of the Discoms for purchase of power from Lanco, Spectrum, GGPP, Sembcorp, a substantial part of NCE, etc., should not be permitted by the Commission.

- 13. For the last four years, the actual requirement of power has been turned out to be less than what has been projected by the Discoms in their ARR proposals and what has been determined by the Commission in the annual tariff orders. Therefore, we request the Commission to assess availability of power to purchase which the Discoms have binding obligations under PPAs approved by it, demand growth and requirement of power for the year 2019-20 realistically, as also the transmission and distribution capacities required and the expenditure and tariffs related thereto.**
- 14. We request the Hon'ble Commission to provide us an opportunity to make further submissions in person after receiving and studying the responses of the Discoms to the points raised by us during the public hearings on the subject issue.**

Thanking you,

Yours sincerely,

**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**

Copy to :

- 1. Chief General Manager (Planning, PPA & RA)
APEPDCL, 2nd Floor, Near Gurudwar
P&T Colony, Seethammadhara, Visakhapatnam - 530 013.**
- 2. Chief General Manager (RAC)
APSPDCL, D.No. 19-13-65/A Srinivasapuram,
Tiruchanur Road, Tirupathi – 517 503**