

[WITHOUT PREJUDICE]

Ref No: HFE/VUBPL/RAPS/KK/APERC/SEC/FY20/001

2nd March 2020

To,

The Secretary,
Andhra Pradesh Electricity Regulatory Commission,
11-4-660, 4th Floor, Singreni Bhavan, Red Hills,
Hyderabad- 500 004

Sub: Public notice dated 13.02.2020 regarding public hearing to be held on 10.03.2020 in respect of proposed amendment of Regulation 4 of 2017 i.e., APERC (Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation) Regulations, 2017 ("Regulations")

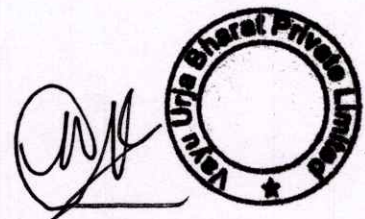
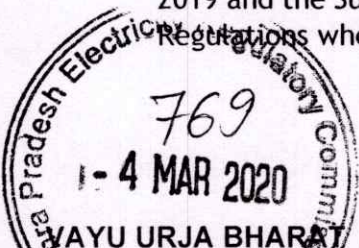
Kind attention: The Secretary, APERC

Dear Sir,

Vayu Urja Bharat Private Limited owns and operates a 120 MW capacity wind power project at Guruvepalli/Marrimakula in Anantapuram District in Andhra Pradesh and is engaged in the business of generating wind energy and sale of the same to the distribution licensee. We have a total operational capacity of 120 MW in Andhra Pradesh, which would be severely affected by proposed amendments of the APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulations, 2017.

With reference to the above subject, we would like to bring to your kind attention that several wind and solar companies across the country have challenged the legal and constitutional validity of Forecasting, Scheduling and DSM Mechanism Regulations passed by respective State Electricity Regulatory Commissions in various High Courts and interim orders have also been passed to the effect that no coercive actions be taken against the renewable energy generating companies.

Similarly, aggrieved by the APERC (Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation) Regulation, 2017 i.e. Regulation No. 4 of 2017, some wind and solar companies have filed certain Writ Petitions before the Hon'ble High Court of Andhra Pradesh (High Court) bearing numbers WP 5706 of 2019, WP 15513 of 2019 and WP 13860 of 2019 and the Supreme Court of India, challenging the legal and constitutional validity of the Regulations whereunder various orders effectively:



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- (i) Order dated 26.04.2019 of the Hon'ble Supreme Court in CA 4404 of 2019;
- (ii) Interim orders dated 30.12.2019, 17.10.2019, 25.06.2019, 17.06.2019, 03.06.2019, 03.06.2019 and 25.04.2019 passed by the Hon'ble High Court in WP No. 5706 of 2019;
- (iii) Interim orders dated 30.12.2019, 17.10.2019, passed by the Hon'ble High Court in WP 15513 of 2019;
- (iv) Interim orders dated 30.12.2019, 17.10.2019 and 19.09.2019, passed by the Hon'ble High Court in WP 13860 of 2019;

From review of the aforesaid orders, it is apparent that the Hon'ble High Court has:

- (i) passed interim orders not to take any coercive steps on bank guarantees;
- (ii) admitted the aforesaid writ petitions and posted for final hearing;
- (iii) directed to continue the interim orders until then.

Further, it is significant to state the Hon'ble Supreme Court in the matter CA No.4404 of 2019, has by its order dated April 26, 2019, remanded the issue of adjudication on the AP Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement Mechanism for Wind and Solar Generation Sources), Regulations, 2017 to the Hon'ble AP High Court, for disposal on merits and the same is sub-judice before the Hon'ble AP High Court.

Therefore, in view of the above, we humbly request that the public notice issued by Hon'ble APERC for holding a public hearing on March 10, 2020, with regard to amendment of the said Regulation No. 4 of 2017, be kept in abeyance until the matter on the constitutional validity of the Regulations is finally decided by the Hon'ble High Court at Andhra Pradesh.

Thanking you,

Yours sincerely

For *Vayu Urja Bharat Private Limited*


(Authorised Signatory)

