

**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
Hyderabad**

Dated: 03-01-2005

Present

Sri K. Swaminathan, Chairman
Sri. K.Sreerama Murthy, Member
Sri Surinder Pal, Member

O. P. No. 29 of 2004

Between

M/s South Indian Sugar Mills Association,
Andhra Pradesh rep by its Secretary Petitioner

and

1. The Jt. Managing Director (HRD, Comml. & IT)
APTRANSCO, Vidyut Sooudha, Hyderabad.
2. The Chief Engineer (Comml.),
APTRANSCO, Hyderabad. Respondents

This petition coming on for hearing on 23-12-2004 in the presence of Sri K. Narayana Rao, Vice President, and Sri R.S Bhalerao, Secretary, for the petitioner and Sri. G. V. Nagesh, SE / IPC - I, for the respondents and having stood over for consideration to this day, the Commission delivered the following:

ORDER

Petitioner sought for issue of directions to the respondents (i) to levy demand charges, on the member factories of the petitioner-Association whenever they import power from the respondents, only on the basis of the average demand i.e. energy consumed / No. of hours available in that month and divided by power factor and not based on the recorded demand; (ii) to

recalculate the deductions made by the respondents in respect of levy of demand charges for the previous billing months based on average demand in the month; and (iii) to release the amounts wrongly deducted on account of extra demand charges levied on the member factories of the petitioner-Association.

2. The following are the averments made in the petition in support of the petitioner's claims;

(a) Members of the petitioner-Association have established bagasse based co-generation power plants and entered into separate power purchase agreements (for short, 'PPAs') with the respondents and obtained necessary permissions from the Commission.

(b) On 02.01.2002, the Commission issued a letter in regard to bagasse based co-generation energy developers and other non-conventional energy (NCE) developers having captive consumption regarding charges payable for the energy imported by them, identifying two categories, viz., (i) NCE developers having captive consumption and wishing to avail grid power only for start-up purpose but not for their process plant during the import period; and (ii) NCE developers having captive consumption and wishing to avail grid supply both for start-up purposes and for their process plants during the import period.

(c) Whenever there is a stoppage of co-generation plant for a short while, the member factories import power from the grid and on such

occasions, such import of power is only and exclusively meant and used for start-up of the boiler auxiliaries such as ID fans, FD fans, SA fans, Feed Water pumps and fuel handling system of the co-generation plant, and no amount of imported power is used towards consumption for running the sugar plant. Further, whenever there is a shut-down or break-down in the co-generation plant, member factories would have standby DG set to meet the power requirement of essential equipments to avoid damage of critical / essential equipments like crystalliser, injection pumps, etc.

(d) Thus the import of power from the grid is only and exclusively meant for running the essential equipments of boiler auxiliaries of co-generation plant and no quantum of energy is used to operate the sugar plant. The sugar plant operations are invariably shut down whenever there is a shutdown of the co-generation plant.

(e) In the case of import of power by biomass plants, the respondents are billing the demand charges, based on the average demand arrived at by energy consumed / No. of hours available in that month and divided by power factor. For example, as per the clause 2.5 of the PPAs entered into by Varam Power Projects (P) Ltd., demand charges are charged based on the average demand as evidenced by their recent power bill for the month of August, 2004. In case of other biomass plants also, like Balaji Biomass Power, Cuddapah, and Nagarjuna Green Power Limited, Medak district, the demand charges for import of power are levied based on the average demand and not based on recorded maximum demand.

(f) In the case of member factories of the petitioner-Association, whenever there is an import of energy, it is only and exclusively meant for running of essential auxiliary equipments of the power plant as in the case of biomass plants and the same system of calculations as is done in the case of biomass plants i.e. energy consumed / No. of hours available in that month and divided by power factor has to be adopted as against the present practice of calculating the demand charges based on the recorded demand adopted by the respondents.

3. The respondents disputed the claims and filed counter with the following comments / objections:

(a) Explanations 2 and 3 of Article 2.5 of the PPAs entered into with petitioner-Association's member developers provide for collection of demand charges as per recorded maximum demand, whether or not the developer wishes to draw power from the grid for his processing unit. APTRANSCO is collecting charges from other NCE projects too with captive consumption as per the above approved provision available in the PPAs entered into with such projects and for which the Commission's consent was also obtained.

(b) M/s Varam Power Projects Ltd. and others referred to in the petition are not having captive use of energy in project premises and are supplying the entire power generated by them to the grid. Therefore, there is no comparison between these projects and the NCE projects having captive consumption in project premises.

(c) The respondents had also entered into PPAs with a biomass power project of M/s Sree Rayalaseema Hi-Strength Hypo Limited and an industrial waste based power project of M/s Vensa Biotek Limited, both having captive consumption in the project premises, as per the formats approved by the Commission on 2.1.2002 for such projects and demand charges are being collected from them too every month on the basis of the recorded maximum demand.

(d) The Commission in its order dated 17.7.2004 in O.P.No. 21 of 2004 while adjudicating the point raised by M/s GMR Technologies & Industries Ltd., on levy of demand charges on average demand upheld the action of APTRANSCO on billing the energy drawals by that project based on the actual recorded maximum demand and has noted at para 16 of the order as follows:

“the deduction of amounts made by APTRANSCO from the bills from November 2003 to April 2004 towards energy imported by the petitioner cannot be said to be illegal or unauthorized. Therefore, the petitioner is not entitled to be charged only for the energy actually imported by it as claimed by it.”

(e) The Commission by its order dated 18.11.2004 in R.P.(SR) No.60 of 2004, did not admit the Review Petition filed by M/s GMR Technologies Industries Limited for review of the above directions dated 17.7.2004, observing, inter-alia, in para 7 of its order that:

“since the biomass plants like those of Varam Power Projects Pvt Ltd do not have any captive consumption, the charges paid by such plants have no relevance to the petitioner’s case”

(f) In view of the above orders of the Commission dated 2.1.2002, 17.7.2004 and 18.11.2004, this petition is not justified. The prayer of the petitioner to levy demand charges based on average demand, to recalculate the deduction made in respect of levy of demand charges for the previous billing months based on average demand and to release the amounts billed on recorded maximum demand is against the directions of the Commission and cannot be considered.

4. On the date of hearing, representative of the petitioner-Association contended that whenever power is imported by any member of the Association, the respondents should levy charges based on average demand and not on recorded demand, and requested that the benefit being given to biomass-based power projects be extended to the members of the petitioner-Association also.

5. The representative of the respondents submitted that he had nothing further to add to the written comments / objections already filed.

6. Under these circumstances, the point that arises for consideration by the Commission is: -

“Whether the petitioner is entitled to the reliefs prayed for”

7. **Point:** As is stated in the counter objections filed by the respondents, the Commission had considered identical objections raised by M/s GMR Technologies & Industries Limited, a member-developer of the

petitioner-Association in respect of the payment of demand charges for energy imported by the co-generation plant in O.P.No.21/2004. In case of that petition, the Commission delivered its considered order on 17.07.2004. The Commission upheld in that case the APTRANSCO's right to collect the demand charges for the power imported by M/s GMR Technologies Industries Limited, having a co-generation plant, on the basis of the recorded maximum demand, holding in the case of both the categories of NCE developers mentioned by the petitioner and referred to in para 2(b) above, as follows:

“The minimum charges payable in either case are based on the recorded demand, and that is exactly what has been charged by the APTRANSCO for the energy imported by the petitioner in this case.”

The petitioner-Association has not raised any additional or new points not considered by the Commission at that time.

8. The main contention of the petitioner-Association is that the respondents should collect the demand charges from its members for energy imported by them at the same rate at which APTRANSCO is billing demand charges in the case of import of power by biomass plants. The Commission observes that the petitioner is comparing its members with those biomass plants which do not have captive consumption and not with the biomass plants having captive consumption.

9. The petitioner-Association itself in its petition has mentioned that the Commission has issued orders on 02.01.2002 to the APTRANSCO specifying the manner of billing for the power imported by the petitioner's member units

and other NCE Developers, all having captive consumption. The Commission has not thus made any discrimination amongst the developers who are similarly placed. Further, as pointed out by the respondents and referred to in para 3(c) above, even in the case of the biomass-based and industrial waste-based power projects having captive consumption, the demand charges levied are on the basis of recorded maximum demand.

10. Here, it seems appropriate to clarify that by its communication dated: 02.01.2002, the Commission had directed the APTRANSCO to make certain modifications in the standard PPA formats submitted by the APTRANSCO for approval of the Commission in respect of different types of NCE developers having captive consumption in the premises, including the two categories mentioned by the petitioner-Association and referred to in para 2(b) above. Thereafter, as and when APTRANSCO enters into a PPA with any of the NCE developers, it submits the PPA for consent of the Commission adopting the suitable PPA format.

11. There is however, a distinction between developers having captive consumption and those not having captive consumption. For the latter, a separate PPA format is in operation, and the energy charges, including the demand charges are required to be levied strictly in accordance with the individual PPAs entered into by the developers with the APTRANSCO. It has nowhere been pleaded by the petitioner-Association that the respondents

have been deviating from the provisions of the PPAs entered into by the member developers of the petitioner-Association.

12. Therefore, the Commission finds that no grounds have been made out by the petitioner-Association for the reliefs prayed for. Accordingly, the petitioner is not entitled to any relief.

In the result, the petition is dismissed.

The order is corrected and signed this day the 3rd January, 2005.

Sd/-
(SURINDER PAL)
MEMBER

Sd/-
(K.SREERAMA MURTHY)
MEMBER

Sd/-
(K.SWAMINATHAN)
CHAIRMAN

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