



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th & 5th Floors, Singareni Bhavan, Red Hills, Hyderabad 500 004

O.P. No.11 of 2013

Dated 23.04.2013

Present

Sri A.Raghotham Rao, Chairman
Sri C.R.Sekhar Reddy, Member
Sri R.Ashoka Chari, Member

Between

M/s. Sameera Paper Industry Ltd.,
Regd.Office : 932 / 2, Alumuru Road, Mandapeta, E.G. Dist. Petitioner

AND

1. Chairman & Managing Director,
Eastern Power Distribution Company of A.P. Ltd (APEPDCL)
P & T Colony, Seethammadhara, Visakhapatnam.
2. The Superintending Engineer (Operation), APEPDCL,
Rajahmundry, E.G. Dist.
3. The Divisional Engineer (Operation), APEPDCL,
Ramachandrapuram, E.G.Dist.
4. The Assistant Divisional Engineer (Operation),
APEPDCL, Mandapeta, E.G. Dist.

..... Respondents

This petition has come up for hearing on 11.03.2013 in the presence of Sri P.Narasimha Rao, Advocate for the petitioner and Sri M.Lakshmi Narayana, ADE / Operation / APEPDCL / Mandapeta for the respondents, the Commission passed the following:

ORDER

This is a petition filed by the petitioner requesting to exempt the company from the restrictions imposed in APERC / Secy / 3 / 2012-13 dated 07.09.2012. The facts of the case in brief are as follows: -

- i) The petitioner herein is a registered company having its Registered office at Mandapeta. The petitioner company is engaged in the business of generating power and supplying to the group companies. The petitioner has installed a 4.8 MW capacity (group captive) co-

generation plant at Mandapeta and application was filed to the NREDCAP in proceedings Ref : NREDCAP / SPIL / Biomass Co-gen / 2012, dt. 16.01.2012. In pursuance of the permission granted, the petitioner company has installed the machinery for generation of 4.8 MW Biomass based power plant. For the purpose of backup power, an application was made to the respondents herein and the power supply was released on 19.08.2012 with SC.No. RJY-1030. the power plant is promoted by four companies in various locations and for supplying power to these plants, the company needs synchronization through grid and to take power in open access. In this regard, the company made a application to the 1st respondent herein through the 2nd respondent and the same was received by the 1st respondent on 27.08.2012. The 1st respondent after considering the representation directed the 2nd respondent to provide startup power to the power plant during power holidays as well as in other days until synchronization with the grid duly following the rules in vogue as per power purchased agreement. It is relevant to mention here, the petitioner herein, once operational would be generating about 4.8 MW power and out of which the petitioner has agreed to sell 1.8 MW power to APEPDCL.

- ii) The synchronization with the grid is not yet completed as the trial runs of the unit have commenced recently. While so, the 2nd respondent herein relying on the proceedings issued by this Commission on 07.09.2012 gave the impugned proceedings. It is submitted that the petitioner company is yet to synchronize the power generated by it with the grid and the process of trial run is a continuous process and cannot be stopped at peak hours and also at off peak period.
- iii) The restriction imposed by this Authority dt. 07.09.2012, should not be made applicable to the petitioner industry as the power is required continuously for the purpose of synchronization with the grid. Once the synchronization is successfully completed, the petitioner company would be in a position to supply power the distribution company. In view of the same, it is prayed that the Regulatory Commission may be pleased to exempt the petitioner company from the restrictions imposed in APERC / Secy / 3 / 2012-13 dated 07.09.2012 and pass

such further order or orders as deem fit and proper in the circumstance of the case.

2. The respondents 1 to 3 have not filed any counter. The material objections / comments filed by the Respondent No. 4 are briefly as follows :

- i) As per the request of the consumer considering the representation to provide startup power to the power plant during power holidays as well as in other days until synchronization with the grid is concerned. The consumer has not completed the power plant synchronization process as per the HT agreement. The consumer has failed to synchronize their power plant with the grid due to various technical problems of their power plant. The consumer has exceeded the Contracted Maximum Demand of 70 KVA and utilized excess demand for synchronizing their power plant and unable to synchronize their power plant from the date of release of HT supply due to their technical problems only.
- ii) The petitioner company is availing supply with a CMD of 70 KVA service bearing No. RJY 1030 at 33 KV voltage. It is to submit that in view of the acute power shortage in the State of Andhra Pradesh, APERC issued Proceedings No. APERC / Secy / 16 / 2012-13, Dated 01.11.2012 on Restriction and Control (R & C) measures. According to the APERC proceedings, the petitioner company has been informed vide this office letter No. 1583 / 12 Dt. 10.09.2012 and another officer letter No. 1600 / 12 Dt. 15.09.2012 with complete details of load restrictions and penalties that are to be levied for violations of R & C measures. Further it is to submit that as per "APERC Proceedings No. APERC / Secy / 13 / 2012-13 Dt. 07.09.2012". There is no exemption of this service from R & C measures and this service is to be billed as per "para No. 10" of above proceedings and levy of penalty duly following off peak and peak period restrictions (i.e., off peak 00.00 hrs to 18.30 hrs and 22.30 to 24.00 hrs) and (peak 18.30 to 22.30 hrs). Later revised proceedings has been communicated vide "APERC Proceedings No. APERC / Secy / 14 / 2012-13, Dt. 14.09.2012" regarding consideration of off peak and peak periods vide "para No. 10" i.e., (off peak 00.00 hrs to 18.00 hrs and 22.00 to 24.00 hrs) and

(peak 18.00 hrs to 22.00 hrs). Later on 01.11.2012 APERC has issued revised instructions vide “APERC Proceedings No. APERC / Secy / 16 / 2012-13, Dt. 01.11.2012” vide para 19 (f) “Consumer having Generating plants running in parallel with the Grid are exempted from Permitted Demand Limit (PDL) to the extent of start up power operations. This shall come in force from 07.11.2012”.

- iii) The penalties have been levied for violation of R & C measures for the months from September 2012 to January 2013 as the consumer executed HT agreement to avail supply for the purpose of “start up power” for a maximum load of “not exceeding 70 KVA” and penal charges for violation of above instructions are hereunder submitted :

September' 2012	Rs. 2,24,835.19
October' 2012	Rs. 5,32,220.61
November' 2012	Rs.12,74,251.00
December' 2012	Rs.27,15,529.12
January' 2013	Rs.26,03,169.77

The demand notices for violation of R & C measures have been issued for the above months as per the APERC Proceedings dated 17.09.2012 and 01.11.2012 as the consumer violated the specified load as detailed hereunder.

S. No.	Month	Actual Load (CMD)	RNC limit	Load utilized	Excess over limit (as per R & C)	Amount charged (R & C)	APERC proceedings	
1	Sep-12	70	42	531	489	224835.19	Demand charges for excess over PDL limit charged @ 3 times of normal tariff	Energy charges on excess over PCL limit @ 3 times of normal tariff during
2	Oct-12	70	42	562	520	532220.61		

								off peak and 5 times of tariff during peak
3	Nov-12	70	112	522	410	1274251	Demand charges for excess over PDL limit charged @ 5 times of normal tariff where the demand consumed is less than 5% of PDL and @ 6 times of normal tariff where the demand consumed is greater than 5% of PDL.	Energy charges on excess over PCL limit @ 6 times of normal tariff during off peak and 7 times of normal tariff during peak
4	Dec-12	70	42	463	421	2715529.12		
5	Jan-13	70	42	446	404	2603169.77		
6	Feb-13	70	42	734	692	2211846.3		

Note : At the time of issue of short fall notices for demand charges and energy charges as one time already levied in regular bill balance times of normal tariff levied in shortfall notice

As per instructions of APERC proceedings No. 16 / 2012-13, Dt. 01.11.2013 the PDL limit has been enhanced (60% of CMD plus 70 KVA towards start up operations) and excess billed in the month of Dec/12 and Jan/13 has been revised and withdrawn an amount of Rs.175000/- and Rs.338481/- respectively.

- iv) As per APERC instructions dt. 07.09.2012 & 14.09.2012, the petitioners industry is not exempted from Restriction and Control measures and later from 07.11.2013 onwards as per "APERC Proceedings No. APERC / Secy / 16 / 2012-13, Dt. 01.11.2012" vide

para 19 (f) "Consumer having Generating plants running in parallel with the Grid are exempted from Permitted Demand Limit (PDL) to the extent of start up power operations only and liable for payment of penal charges for violation of PCL limit. However, the privilege given by the APERC to the Generating Power Plants which are running parallel with the grid was already given this HT consumer. Therefore granting exemption to the consumer would not justifiable even as per the orders of this Commission.

3. The petitioner has filed an Interlocutory Application for interim order at the time of hearing of the main petition itself and when he was asked to submit his written submissions in the main OP, he stated that the affidavit submitted by him may be treated as his written arguments. In the said affidavit he has raised the following points:

- (i) They have applied for continuous power supply to their unit upto start up power and the respondent released power supply under HT SC No.RJY 1030 with 73 KVA MD and instructed the respondent no.2 to provide start up power to the power plant during power holidays as well as in other days until synchronisation with the grid, duly following the rules in vogue as per PPA.
- (ii) The respondent no.2 has issued a notice that the R&C measures are applicable to their cogeneration unit, but they have objected for the same and represented seeking exemption from R&C measures and also requested to provide continuous power supply till 31.03.2013.
- (iii) The respondent no.2 continuously issued the current bills by charging penalties under R&C measures from September 2012. They raised objections and represented the matter but the amounts were collected under the threat of disconnection of power supply. They paid the penalties for the months of 9/2012 to 12/2012. In the month of January 2013, they received a bill for an amount of Rs.15,70,669.77ps as penalty under R&C measures. They did not pay the amount as it was illegally levied and previously amounts were collected by using coercive measures.

- (iv) They paid the penalties without any protest in respect of exceeding CMD of 70 KVA and they have no grievance against this item and they paid these heavy amounts.
- (v) The power supply to their unit was disconnected on 27.02.2013 for non-payment of penalty under R&C measures. They require power supply only for 15 days to complete the process of power generated by them is synchronised into the 33 kV lines of the respondents. They sustained irreparable loss and damage due to disconnection affected.
- (vi) Hence, the Commission may please to direct the respondent no.2 to restore power supply and continue the same till 31.03.2013 in the interest of justice.

4. Whereas, the respondents submitted their written objections by narrating the following grounds:

- (i) In view of the acute power shortage in the State of Andhra Pradesh, APERC issued proceedings dated 14.09.2012 and revised proceedings on 01.11.2012 on Restriction and Control (R&C) measures. The petitioner company was also informed about R&C measures.
- (ii) There is no exemption of this service from R&C measures and the service is to be billed as per "para no.10" of the proceedings of the APERC and levy of penalty duly following off peak and peak period instructions as per "para 19(f)". "Consumer having generating plants running in parallel with Grid are exempted from Permitted Demand Limit (PDL) to the extent of start up power operations. This shall come into force from 07.11.2012." The penalties from 9/12 to 01/13 were imposed as per the proceedings of APERC.
- (iii) As per the instructions of the APERC, the petitioner industry is not exempted from R&C measures and later from 07.11.2012 onwards. "Consumer having generating plants running in parallel with Grid are exempted from Permitted Demand Limit (PDL) to the extent of start up power operations only and liable for penal charges for violation of PCL limit. However, the privilege given by the Commission to the generating power plants which are running parallel with the grid was already given to the HT consumer.

- (iv) Hence, the grant of exemption to this consumer would not be justifiable even as per the orders of the Commission. The petition is liable to be dismissed.
5. Now, the point for consideration are
- (i) Whether the petitioner is entitled for exemption of the R&C measures as prayed for?
 - (ii) Whether the petitioner is entitled for restoration of power supply as prayed for?
6. The Commission made the following provision vide para 19(f) in the R & C Order dated 01-11-2012 and the said para reads as follows:
- “19(f). Consumers having Generating plants running in parallel with the Grid are exempted from Permitted Demand Limit (PDL) to the extent of start up power operations.”
7. The Commission has exempted from R & C to the extent of start-up power for those consumers who are running their generating stations in parallel with grid.
8. The Petitioner is not generating power and he is constructing his industry. The petitioner does not come within the definition of “generating station in parallel with grid”.
9. Hence, the petitioner is not eligible for exemption from Restriction and Control measures. He has to pay the penal charges as per the R & C order dated 01-11-2012.
10. Apart from the above, the Petitioner (Consumer) has got approved contracted capacity of 70 kVA only. Against the Contracted demand of 70 kVA, the Petitioner (Consumer) has drawn power to the extent of approximately 6 times (420 kVA) to 10 times 692 kVA). This is highly indisciplined and not good for the system. The metering equipment may also not record the correct energy consumed by the Petitioner (Consumer) properly, as the associated metering equipment is designed for the Contracted Capacity of 70 kVA and it is not designed for 400 kVA to 700 kVA.

11. The Petitioner has consumed the power without proper sanction and it comes under unauthorized use of energy. The Distribution Company has to take action against the petitioner under section 126 of the Electricity Act, 2003 and action has to be initiated for the said lapse.

This order is corrected and signed on this 23rd day of April, 2013.

Sd/-
(R.Ashoka Chari)
Member

Sd/-
(C.R.Sekhar Reddy)
Member

Sd/-
(A.Raghotham Rao)
Chairman