



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

**4<sup>th</sup> & 5<sup>th</sup> Floors, Singareni Bhavan, Red Hills, Hyderabad 500 004**

O.P. (SR) No.68 of 2012

Dated 22.04.2013

*Present*

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

Between:

M/s. GMR Vemagiri Power Generation Ltd (GVPGGL)  
6-3-866 / 1 / G 1, Greenlands,  
Begumpet, Hyderabad - 500016

... Petitioner

AND

1. Transmission Corporation of Andhra Pradesh Ltd (APTRANSCO)  
Vidyut Soudha, Khairathabad, Hyderabad.
2. Andhra Pradesh Power Coordination Committee (APPCC)  
Vidyut Soudha, Khairathabad, Hyderabad.
3. Central Power Distribution Company of A.P. Ltd  
Corp. Office, Mint Compound, Hyderabad
4. Southern Power Distribution Company of A.P. Ltd  
Back side Srinivasa Kalyana Mandapam,  
Kesavanayanagunta, Tirupati - 517 501.
5. Northern Power Distribution Company of A.P. Ltd  
H. No. 1-1-503 & 504, OPP: NIT Petrol Pump, Chatainyapuri,  
Hanamkonda, Warangal - 506 004.
6. Eastern Power Distribution Company of A.P. Ltd  
P & T Colony, Seethammadhara, Visakhapatnam

...Respondents

This petition has come up for hearing on 03.04.2013 in the presence of Sri Avinash Desai and Sri Niranjan Reddy, Advocates for the petitioner and Sri P.Shiva Rao, Advocate for the respondents, the Commission passed the following:

## ORDER

This is a petition filed by the petitioner u/s 86 (1) (f) of Electricity Act, 2003 for adjudication of disputes under the Power Purchase Agreement (PPA) dated 31.03.1997 (as amended on 18.06.2003 and 02.05.2007).

2. The material averments of the petition are briefly as follows:

- i) The petitioner is a company incorporated under the Companies Act, 1956 and is a "generating company" as defined in Section 2 (28) of the Electricity Act, 2003. The petitioner company is one among the Independent Power Producers (IPPs) in the State of A.P. and has established and is running a 370 MW Power Plant which operates on natural gas and is located in Vemagiri Village in District of East Godavari in Andhra Pradesh. The petitioner company entered into PPA dated 31.03.1997 with the erstwhile Andhra Pradesh State Electricity Board (APSEB) and all the power generated by the petitioner is supplied exclusively to the Respondents No. 2 to 6 herein.
- ii) In line with the policy of Government of India (GoI) and GoAP, the then APSEB invited competitive bids in June, 1995 from prospective private promoters to set up a Naptha / Gas / LSHS / Furnace Oil based short gestation power projects at various locations in A.P. APSEB finally selected 6 projects, including that of the petitioner, through competitive bidding route under two part tariff.
- iii) The petitioner entered into a PPA with APSEB on 31.03.1997 for supply of 468 MW power with naptha, gas, LSHS or furnace oil and the like, that is intended to be used as primary fuel. Subsequently, the project capacity was reduced to 370 MW based on allocation of Natural Gas. As per the terms of PPA, the petitioner agreed to build, own, operate the power

plant and sell the entire capacity to the Respondent Nos. 2 to 6. The PPA was amended from time to time.

- iv) The respondent's stand in the rejection letter seems to be that RLNG and natural gas are different and since the PPA mentions only Natural Gas, RLNG usage cannot be approved.
- v) The definition of Fuel under the Petroleum and Natural Gas Regulatory Board Act, 2006;

*Section 2 (zu)*

*"Natural Gas" means gas obtained from bore-holes and consisting primarily of hydrocarbons and **includes.***

*(i) gas in liquid state, namely, liquefied Natural Gas and **regasified liquefied Natural gas***

*xxxx"*

The above definition of RLNG provided in a valid statute speaks for itself and calls for no further material to overrule the rejection letter of the respondents.

- 3. The petitioner, has prayed that the Commission may be pleased to:
  - a) Declare that Natural Gas includes RLNG for the definition of "Fuel" in the PPA.
  - b) Permit the petitioner to declare Plant Availability using RLNG as fuel;
  - c) Pass such other orders as this Commission may deem fit and proper in the facts and circumstances of the case.

4. Now, the point for consideration is, "Whether the petition is entertainable for adjudication?"

5. The petitioner has filed the above said petition for declaration that Natural gas includes RLNG and is well within the definition of "Fuel" defined in the PPA and has also requested to permit the petitioner to declare plant for plant availability using RLNG as fuel. This petition is opposed by the other side on the ground that RLNG and Natural gas are different and the PPA mentions only Natural gas and usage of RLNG gas

cannot be approved by the Commission and the petition has to be rejected at the threshold.

6. The petitioner has come up with a request to declare that Natural gas also includes RLNG within the definition of fuel and has claimed support from Section 2 (zu) of Petroleum and Natural Gas Regulatory Board Act, 2006. In these circumstances, this is in the nature of a dispute which can be adjudicated only after hearing both sides in a full fledged enquiry and it is not a fit case to reject the request made by the petitioner at the threshold.

7. Hence, we are of the considered opinion that the issue involved is to be adjudicated by the Commission by conducting a regular enquiry and the Registry is directed to number the petition by giving a date for filing counter by the other side.

This order is corrected and signed on this 22<sup>nd</sup> day of April, 2013.

**Sd/-**  
**(R.Ashoka Chari)**  
**Member**

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

**Sd/-**  
**(A.Raghotham Rao)**  
**Chairman**