



4/3/2020  
PPG  
AP  
4/3/2020

Date: 03<sup>rd</sup> March 2020

To,  
The Secretary,  
Andhra Pradesh Electricity Regulatory Commission,  
11-4-660, 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills Road,  
Hyderabad- 500 004

**Subject:** Suggestions / comments on the proposed amendments of Regulation 4 of 2017 i.e., APERC (Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation) Regulations, 2017 ("Regulations")

Dear Sir,


Azure Power is a leading independent solar power producer with a pan-India portfolio of over 5000 MW. We have developed, constructed and operated solar projects of varying sizes since our inception in 2008. We have a total operational capacity of 200 MW in Andhra Pradesh (under various SPVs) which are affected by the Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulations, 2017.

With reference to the above subject, we would like to thank you for the opportunity to raise our key concerns & suggestions. We have enclosed our comments and suggestions on the matters pertaining to the proposed amendments of Regulation 4 of 2017 by AP Transco in the attached document. We are hopeful that our suggestions on the issues described in the attached document will restore sound, strategic market balancing decisions. While thanking you for the opportunity for giving us the platform to address our concerns, we would also like to refer to our letter dated 26.02.2020 for deferment of the public hearing to be held on 10.03.202 until the Hon'ble High Court hears and pronounce its verdict on legal and constitutional validity of the Regulations. (Reattaching the letter for your ready reference).

We express our sincere gratitude that most of the industry grievances in the past have been addressed time to time, which has helped the industry to make significant progress in deployment and scaling up of renewable projects across the state.

Thanking you for your understanding, support and consideration.

With Sincere Regards

  
Samitla Subba  
VP- Policy & Communications  
Azure Power India Pvt. Ltd.



Azure Power India Private Limited  
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4/3/2020





## Suggestions / Comments in Respect of Proposed Amendment of Regulation 4 of 2017

### Amendment 1:

#### Proposed by AP Transco:

Substitute the term 'absolute error' with 'forecast error'.

Substitute the term 'Available Capacity' with 'Scheduled Generation' for calculating Forecast error as per following formula.

$$\text{Forecast Error (\%)} = 100 \times (\text{Schedule Generation} - \text{Actual Injection}) / \text{Scheduled Generation}.$$

#### Current Formula: As per CERC DSM Regulation 2014 & APERC Regulation No. 4 of 2017

$$\text{Absolute Error (\%)} = 100 \times [\text{Actual Injection} - \text{Schedule Generation}] / \text{Available Capacity (AvC)}$$

#### Our Comments:

Change in formula for error would be against the interest of justice and would create serious prejudice against VRE as Renewable energy is only predictable to some extent and its forecasting & scheduling accuracies cannot be treated at par with conventional energy generators. For instance, in case of a wind generating plant an error of 0.5 meter per second in wind speed may result in 15% variation in terms of power generated which is the minimum error achieved worldwide. For day ahead basis, the average error is more than 0.9 meter per second for wind generating plants which ultimately results to an absolute error of approx. 25%. In case of Solar generating plant an error of 50 watt per meter square as GHI results an error of 10% variation in terms of power generation with an average error of 100 watt per meter square as GHI which leads to an absolute error of 20%.

As per CERC DSM Regulation 2014, the Commission has used Available Capacity (AvC) as the denominator for calculating Absolute Error.

Also, as per Forum of Regulators on Model Regulation, the Central Commission, in the Statement of Reasons (SOR) accompanying the Framework on Forecasting, Scheduling and Imbalance Handling for Variable Renewable Energy Sources (Wind and Solar), has noted that the definition of error, calculated w.r.t schedule, does not adequately address instances such as low/no generation cases, such as during low wind season, where close to zero schedules would result in high numerical errors but with no real impact on grid. Additionally, incentives to generators for better forecasting must be aligned with the objective of grid management, which is to minimize actual MW deviations from schedule. As commercial impact on generators is directly proportional to the error percentage, forecasting models will be designed to minimize MW deviations only if the denominator is a constant (and not a variable such as 'schedule'). This will ensure that the error quantity corresponds to the physical MW impact on the grid, and the error definition holds valid in all seasons.

Therefore, considering the present change in formula and other proposed amendments, avoiding penalties for VRE Generators would be inevitable without any fault or role by VRE Generators and entire purpose of the RE Regulation would be defeated.

#### Suggestions:

We request Hon'ble Commission not to deviate from current Regulation No. 4 of 2017 i.e calculate error in absolute terms and not the proposed 'forecast error', keeping it consistent with CERC DSM Regulation, 2014.

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## **Amendment 2:**

### **Proposed by AP Transco:**

Definition of phrase 'Allowable forecast error' in percentage should be considered for inclusion.

'Allowable forecast error' =  $100 \times (\text{diversity factor } 0.7 \text{ in control area in the beginning of financial year}) \times (\text{quantum of deviation limit permitted under CERC's DSM Regulation amended from time to time}) / (\text{quantum of VRE installed capacity})$  or estimated  $\pm 5\%$ .

### **Current Regulation: As per CERC DSM Regulation 2014 & APERC Regulation No. 4 of 2017**

Current absolute error deviation with zero penalty is  $\pm 15\%$

### **Our Comments:**

Assumption taken into consideration by AP Transco may not be correct in every case. In case two VRE Generators deviate in opposite direction, in that case both the VRE Generators end up paying deviation charges despite there being no impact upon state owing to deviation on the part of both the generators.

Treating VRE Generator at par with conventional energy generator was never the intent of Forum of Regulator and the same is evident through methodology adopted by them in the Model for Forecasting and Scheduling Regulation for State by Forum of Regulator, 2015.

As per Forum of Regulators, 2015, the Central Commission, while proposing the DSM amendments for solar & wind regional entities, considered simulations and analytical inputs from agencies engaged in wind forecasting. The Central Commission, in view of simulation studies as well as international research reports on observed mean absolute error (MAE), had put forth the framework for computing deviation charges based on error, with a tolerance band of 15% initially, which shall be tightened over time as the ecosystem gains experience.

If renewable energy generators are treated at par with conventional energy generators that would seriously defeat the very target of Government of India to meet its renewable energy target since VRE Generator has a very narrow scope for mismatch with respect to their revenue requirement. VRE Generators are firmly dependent on weather conditions for accurate projection for the energy generation and revenue cannot be ascertained. In such situations, reducing permissible band for deviation would totally take away the commercial viability of VRE Generators. In this context, it is proposed that no amendment is made to the definition of Absolute Error and its calculations.

### **Suggestions:**

We request commission not to include any diversity factor as it is against the Model Regulations on Forecasting, Scheduling & Deviation Settlement of Wind & Solar Generator by Forum Of Regulators which has suggested to have no penalty  $\pm 15\%$  deviation as in the current CERC DSM, 2014 and APERC DSM Regulation, 2017.



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### **Amendment 3:**

#### **Proposed by AP Transco:**

It is proposed to remove the option of rescheduling of forecast on one and half hourly basis during the day of operation and strictly adhere to scheduling of day ahead basis.

#### **Current Regulation:**

##### **As per Forum of Regulator on Model Regulations 2015**

16 revisions allowed in a particular day. One revision for each time slot of one and half hours starting from 00:00 hours.

##### **As per APERC Regulation NO. 4 of 2017**

9 revisions allowed in a particular day. One revision for each time slot of one and half hours starting from 05:30 hours upto 19:00 hours.

#### **Our Comments:**

As per Forum Of Regulators for Model Regulations on Forecasting, Scheduling & Deviation Settlement of Wind & Solar Generating stations permits 16 revision per day and such revision is permitted owing to nature of infirm power. Accurate prediction of weather conditions on day ahead basis is not technically possible. with available weather prediction technology and models, local weather changes cannot be predicted more than 1 hour in advance to the accuracy of +/- 15% especially the local cloud movements during the monsoon season in case of Solar projects.

Also, as per APERC Regulations 4 of 2017 it allowed solar power generators with 9 revisions with 1 hour ahead rescheduling which is already disadvantageous to the solar and wind generating stations as the RE generators are highly dependent on weather. Removing the revision provision altogether, will ensure that RE generators will end up paying penalty with no control over weather conditions.

State Electricity Commissions while formulating Renewable Energy forecasting and scheduling regulations needs to be guided by Forum Of Regulators framework. The proposed amendment would be in direct conflict with the framework proposed by FOR's model regulation. Removing provisions for revision in schedule and reducing the accuracy band to 5%, would entirely make projects unviable for developers to operate.

#### **Suggestions:**

We request the Hon'ble Commission to allow 16 revision as per Forum Of Regulators framework considering the infirm nature of solar and wind power.

### **Amendment 4**

#### **Proposed by AP Transco:**

Levy and collection of DSM charges should be amended as shown in the table given below:

<b>Absolute Error in the 15-minute time block</b>	<b>Deviation Charges payable to State Pool Account</b>
< Allowable Forecast Error	None
Above allowable forecast error	At Rs. 2.00 per unit for the shortfall or excess injection

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Current Regulation: As per CERC DSM Regulation 2014

Under injection		Over injection	
Absolute error	Deviation charges payable	Absolute error	Deviation charges payable
$\leq 15\%$	At the Fixed Rate for the shortfall energy for absolute error upto 15%	$\leq 15\%$	At the Fixed Rate for excess energy upto 15%
$>15\%$ but $\leq 25\%$	At the Fixed Rate for the shortfall energy for absolute error upto 15% + 110% of the Fixed Rate for balance energy beyond 15% and upto 25%	$>15\%$ but $\leq 25\%$	At the Fixed Rate for excess energy upto 15% + 90% of the Fixed Rate for excess energy beyond 15% and upto 25%
$>25\%$ but $\leq 35\%$	At the Fixed Rate for the shortfall energy for absolute error upto 15% + 110% of the Fixed Rate for balance energy beyond 15% and upto 25% + 120% of the Fixed Rate for balance energy beyond 25% and upto 35%	$>25\%$ but $\leq 35\%$	At the Fixed Rate for excess energy upto 15% + 90% of the Fixed Rate for excess energy beyond 15% and upto 25% + 80% of the Fixed Rate for excess energy beyond 25% and upto 35%
$> 35\%$	At the Fixed Rate for the shortfall energy for absolute error upto 15% + 110% of the Fixed Rate for balance energy beyond 15% and upto 25% + 120% of the Fixed Rate for balance energy beyond 25% and upto 35% + 130% of the Fixed Rate for balance energy beyond 35% .	$> 35\%$	At the Fixed Rate for excess energy upto 15% + 90% of the Fixed Rate for excess energy beyond 15% and upto 25% + 80% of the Fixed Rate for excess energy beyond 25% and upto 35% + 70% of the Fixed Rate for excess energy beyond 35%

#### Our Comments:

It is submitted that in the event of actual wind and solar generation are mostly dependent on climatic conditions and geographical conditions. The power from the renewable energies is not firm and are not predictable. It is further submitted that even the dedicated government departments using best of the forecasting technologies cannot accurately predict the phenomenon of the nature. Thus, it would be completely unfair to penalize wind/solar generator for any inaccurate forecasting, that too at lowest tolerance band of  $\pm 5\%$  and at Rs. 2.0/kWh.

According to CERC DSM Regulations, 2014, the penalty is based on percentage of fixed rate with each error band and not an absolute penalty value as proposed by AP Transco. The proposed absolute penalty of Rs 2 /kWh is extremely harsh and unviable.

Also, as per Forum Of Regulators, 2015, the Central Commission, while proposing the DSM amendments for solar & wind regional entities had considered simulations and analytical inputs from agencies engaged in wind forecasting. The Central Commission, in view of simulation studies as well as international research reports on observed mean absolute error (MAE), had put forth the framework for computing deviation charges based on error, with a tolerance band of 15% with no deviation charge. Penalty will be levied beyond 15% deviation and will be different for different deviation bracket. Also, the penalty should not be in absolute value and should be in percentage of tariff in line with the CERC framework.

#### Suggestions:

We suggest Hon'ble Commission to align DSM charges as per CERC DSM Regulation 2014 with deviation penalty charges in percentage basis of Tariff and with similar error bands.



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#### **Amendment 5:**

#### **Proposed by AP Transco:**

Definition phrase of virtual pooling may be considered to be deleted from definition 2.1 (aa) and also be deleted at clause 6.9 of Regulation 4 of 2017.

#### **Current Regulation: As per Forum of Regulator on Model Regulations 2015 (Section 3.7)**

It mentions that all RE generators to be treated together as a Virtual Pool within the state pool.

#### **Our Comments:**

Having all the RE generators connected to Virtual Pool is advantageous in many fronts. It reduces the number of QCAs sending their schedule to SLDC thus removing multiple data analysis/entries. Further, aggregation of schedule and actual generation on the State level and/or with respect to each distribution licensee would ensure that the deviation from the schedule in generation of renewable power is averaged out. This will enable the SLDC to plan their day ahead schedule more accurately, thus enhancing grid stability and security through more accurate management while parallelly helping RE generators minimize their penalties.

Hon'ble Commission followed the FOR Model Regulations and Karnataka ERC has also allowed such aggregation.

#### **Suggestions:**

We suggest Hon'ble Commission not to remove Virtual Pooling from the regulation as this helps all the stakeholders, for the above mentioned reasons.



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To,  
The Secretary,  
Andhra Pradesh Electricity Regulatory Commission,  
11-4-660, 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills Road,  
Hyderabad- 500 004

26<sup>th</sup> February 2020

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,

Azure Power is a leading independent solar power producer with a pan-India portfolio of over 5000 MW. Azure Power provides reliable solar power solutions to customers throughout India. We have developed, constructed and operated solar projects of varying sizes since our inception in 2008. We have a total operational capacity of 200 MW in Andhra Pradesh (under various SPVs) which is affected by the 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 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. The Hon'ble High Court has admitted these writ petitions, which are now listed for final arguments.

Further, 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

Samir Subba  
VP- Policy & Communications



Azure Power India Private Limited

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IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 4404 OF 2019  
(Arising out of SLP (C) No. 4810/2019)

GREENKO ENERGIES PRIVATE LIMITED & ORS.

Appellant(s)

VERSUS

THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION Respondent(s)

O R D E R

Leave granted.

Nobody appears on behalf of the respondent though served. We are of the view that the impugned judgment passed by the High court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh needs to be set aside as the Writ Petition that was filed before it was to challenge the A.P. Electricity Regulatory Commission (Forecasting, Scheduling and Deviation Settlement Mechanism for Wind and Solar Generation Sources) Regulations, 2017. However, instead of either accepting or rejecting the challenge to the regulations, the High Court has relegated the appellant back to the Commission.

We therefore set aside the impugned judgment and remand the case to the High Court to be disposed of on merits.

The appeal is allowed in the aforesaid terms.

..... J.  
(ROHINTON FALI NARIMAN)

..... J.  
(VINEET SARAN)

Signature Not Verified  
Digitally signed by R  
NATARAJAN  
Date: 2019.04.28  
17:14:35  
Reason: —

New Delhi;  
April 26 2019.



ITEM NO.56

COURT NO.5

SECTION XII-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 4810/2019

(Arising out of impugned final judgment and order dated 22-11-2018 in WP No. 781/2018 passed by the High Court Of Judicature At Hyderabad For The State Of Telangana And The State Of Andhra Pradesh)

GREENKO ENERGIES PRIVATE LIMITED & ORS.

Petitioner(s)

VERSUS

THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION Respondent(s)

IA 27649/2019 - EXEMPTION FROM FILING C/C/ OF THE IMPUGNED JUDGMENT  
IA 56022/2019 - INTERVENTION/IMPLEADMENT  
IA 56051/2019 - PERMISSION TO FILE ADDL. DOCUMENTS  
IA 56050/2019 - STAY APPLICATION

Date : 26-04-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE VINEET SARAN

For Petitioner(s) Mr. S.B. Upadhyay, Sr. Adv.  
Mr. Rana S. Biswas, Adv.  
Mr. Sunil Kr. Sharma, Adv.  
Mr. Nishant Kumar, Adv.  
Ms. Sharmila Upadhyay, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Application for impleadment is dismissed.

Leave granted.

The appeal is allowed in terms of the signed order.

Pending applications stand disposed of.

(R. NATARAJAN)  
COURT MASTER (SH)

(RENU DIWAN)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)



**HIGH COURT OF ANDHRA PRADESH : AMARAVATHI  
(SPECIAL ORIGINAL JURISDICTION)  
MONDAY, THE THIRTIETH DAY OF DECEMBER  
TWO THOUSAND AND NINETEEN  
:PRESENT:**



**THE HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESWARI  
AND  
THE HONOURABLE SRI JUSTICE M. VENKATA RAMANA**

**WRIT PETITION NO: 5706 OF 2019**

**Between:**

Orange Uravakonda Wind Power Private Limited., Having its Registered Office at D-21, Corporate Park, 3rd Floor, Sector - 21, Dwaraka, New Delhi South - 110 077.  
Represented by its Authorized Signatory Mr.J.Ashvin Kumar

**Petitioner**

**AND**

1. The State of Andhra Pradesh, Represented by its Principal Secretary, Electricity Department, Andhra Pradesh Secretariat, Velagapudi, Amaravathi, Guntur District 522 503
2. Andhra Pradesh Electricity Regulatory Commission, Represented by its Secretary, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004.
3. State Load Dispatch Centre, Transmission Corporation of Andhra Pradesh Limited Vidyut Soudha, Gunadala, Eluru Road, Vijayawada, Andhra Pradesh Krishna District - 520 004.

**Respondents**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass an order or orders, direction or writ more particularly one in the nature of Writ of Mandamus

(a) Declaring the impugned regulations, dated 21.08.2017 issued by APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulation, 2017 (Regulation No.4 of 2017) dated 21.08.2017 framed by the Respondent No. 2 as arbitrary, illegal, unconstitutional and also violative of principles of natural justice

(b) Direct the Respondent No.3 not to levy any penalty towards Deviation Settlement.

**IA NO: 1 OF 2019**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the levy of purported deviation charges in pursuant to the impugned regulations, APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulation, 2017 (Regulation No.4 of 2017) dated 21.08.2017 framed by the Respondent No. 2, pending disposal of Writ Petition No.5706 of 2019, on the file of the High Court.

**IA NO: 2 OF 2019**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation and effect of the impugned regulations (APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulation, 2017 (Regulation No.4 of 2017) dated 21.08.2017) issued by the Respondent No. 2 and the Procedure notified thereunder, pending disposal of Writ Petition No.5706 of 2019, on the file of the High Court.



The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 25.04.2019, 03-06-2019, 17-06-2019 & 25-06-2019 made herein and upon hearing the arguments of SRI.P.VIKRAM Advocate for the Petitioner, learned Government Pleader for Energy for Respondent No.1, Sri.P.Srinivasa Rao, learned Counsel for Respondent No.2, and of Sri N.Siva Reddy, learned Counsel for Respondent No.3, and the Court made the following.

**ORDER:**

Rule nisi. Call for records. Notice returnable in four weeks.

List for final hearing in due course.

Interim order passed earlier to continue.

//TRUE COPY//

Sd/- A. Surya Prakash Rao  
DEPUTY REGISTRAR  
SECTION OFFICER

To

1. One CC to SRI.P.VIKRAM, Advocate [OPUC]
2. One CC to SRI.P.SRINIVASA RAO, Advocate [OPUC]
3. One CC to SRI.N.SIVA REDDY, Advocate [OPUC]
4. Two CCs to GP FOR ENERGY, High Court Of Andhra Pradesh. [OUT]
5. Two spare copies

tvr



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HIGH COURT

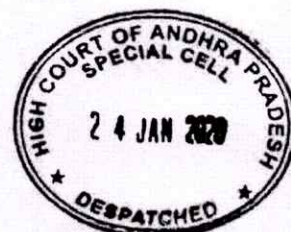
HCJ & MVRJ

DATED:30-12-2019

ORDER

WP.No.5706 of 2019

EXTENSION OF EARLIER DIRECTION





[ 3135 ]

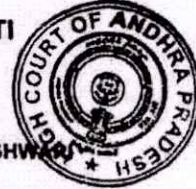
**HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**  
(SPECIAL ORIGINAL JURISDICTION)

MONDAY, THE THIRTIETH DAY OF DECEMBER,  
TWO THOUSAND AND NINETEEN

:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESHWAR  
AND

THE HONOURABLE SRI JUSTICE M. VENKATA RAMANA



WRIT PETITION No. 15513 of 2019

Between :-

1. M/s. Animala Wind Power Private Limited, A company incorporated under the Companies Act, 1956 And having its registered office at Plot No.1366, Road No.45 Jubilee Hills, Hyderabad, Telangana - 500 033 Rep by its Authorized Signatory Mr.Suryanarayana Peri
2. M/s Anantapura Wind Energies Private Limited, A Company incorporated under the Companies Act, 1956 And having its office at Plot No.1071, Road No.44 Jubilee Hills, Hyderabad, Telangana - 500 033 Rep by its Authorized Signatory Mr.Suryanarayana Peri
3. M/s Sandia Wind Project Private Limited, A Company incorporated under the Companies Act, 1956 And having its office at 72, Madhuban, NR, Madlapur Under Bridge, Ellisbridge, Ahmedabad - 380 006 Rep by its Authorized Signatory Mr.Suryanarayana Peri
4. M/s SEI Green Flash Private Limited, A Company incorporated under the Companies Act, 1956 And having its office at 10th Floor, Menon Eternity, Old No.110, New No.165, St.Marys Road, Alwarpet, Chennai - 600 018, Tamilnadu Rep by its Authorized Signatory Mr.Suryanarayana Peri
5. M/s Skeiron Renewable Energy Amidyala Limited, A Company incorporated under the Companies Act, 1956 And having its office at Plot No. Godrej Millennium, 5th Floor, 9, Koregaon Park Road, Pune - 411 001, Maharashtra Rep by its Authorized Signatory Mr.Suryanarayana Peri
6. M/s Orange Anantapur Wind Power Private Limited, A Company incorporated under the Companies Act, 1956 And having its office at F-9, 1st Floor, Manish Plaza, Plot No.7, MLU, Sector - 10, Dwaraka, New Delhi - 110 075 Rep by its Authorized Signatory Mr.Suryanarayana Peri
7. M/s Zuvan Energy Private Limited, A Company incorporated under the Companies Act, 2013 And having its office at Menon Eternity, 10th Floor, New No.165, Old No.110, St.Marys Road, Alwarpet, Chennai - 600 018, Rep by its Authorized Signatory Mr.Suryanarayana Peri
8. M/s Divyesh Power Private Limited, A Company incorporated under the Companies Act, 2013 And having its office at Menon Eternity, 10th Floor, New No.165, Old No.110, St.Marys Road, Alwarpet, Chennai - 600 018, Rep by its Authorized Signatory Mr.Suryanarayana Peri
9. M/s SEI Baskara Power Private Limited, A Company incorporated under the Companies Act, 2013 And having its office at Menon Eternity, 10th Floor, New No.165, Old No.110, St.Marys Road, Alwarpet, Chennai - 600 018. Rep. by its Authorized Signatory Mr.Suryanarayana Peri
10. M/s SEI EnerStar Renewable Energy Private Limited, A Company incorporated under the Companies Act, 2013 And having its office at Menon Eternity, 10<sup>th</sup> Floor, New No.165, Old No.110, St.Marys Road, Alwarpet, Chennai - 600 018 Rep by its Authorized Signatory Mr.Suryanarayana Peri

..Petitioners

AND

1. State of Andhra Pradesh, Department of Energy, Represented by its Principal Secretary, To Energy Infrastructure and Investment, Andhra Pradesh Secretariat, Velagapudi, Amaravathi. Guntur District - 522 503.
2. Andhra Pradesh Electricity Regulatory Commission, 11-4-660, 4<sup>th</sup> Floor, Singareni Bhavan, Red Hills Road, Khairatabad, Hyderabad, Telangana 500004.
3. AP State Load Dispatch Center, Transmission Corporation of Andhra Pradesh Limited, 3<sup>rd</sup> Floor, APSLDC Vidyut Soudha, Gunadala, Vijayawada, AP -520004.

..Respondents.

Contd.2...



Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ in the nature of Mandamus or any other appropriate writ order or direction- a. to declare the Regulation issued by Respondent No.2 i.e., APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulation, 2017 (Regulation No.4 of 2017) dated 21.08.2017 and consequential proceedings issued by Respondent No. 3 i.e., Procedure for implementation of DSM for Wind and Solar generation as per Regulation. 4 of 2017 of Hon'ble APERC, as arbitrary, discriminatory, unreasonable and ultra vires to the Constitution of India and as contrary to the provisions of the Electricity Act, 2003, b. to declare the action of Respondent No.3 in issuing the following Notices i.e., (i) Notice dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.395/2019 to Petitioner No.1, (ii) Notice dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.394/2019 to Petitioner No.2 (iii) Notice dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.468/2019 to Petitioner No.3 (iv) Notice dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.354/2019 to Petitioner No.4 (v) Notice dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.468/2019 to Petitioner No.5 (vi) Notice dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.441/2019 to Petitioner No.6 (vii) Notice dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.361/2019 to Petitioner No.7 (viii) Notice dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.345/2019 to Petitioner No.8 (ix) Notice dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.352/2019 to Petitioner No.9 and (x) Notice dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.353/2019 to Petitioner No.10 as arbitrary, illegal, unconstitutional and also violative of principles of natural justice.

**I.A No. 1 of 2019 :-**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of W.P., the High Court may be pleased to direct the Respondent No. 3 not to take any coercive action against the Petitioners including and not limited to encashment of the Bank Guarantees i.e., (1). BG. No. 0505518BG0003451, dated 04.08.2018 for an amount of Rs. 35,10,000/- furnished by Petitioner No. 1, (2). BG. No. 0505518BG0003449, dated 04.08.2018 for an amount of Rs. 4,50,000/-furnished by Petitioner No.2, (3). BG. No. 0505518BG0003350, dated 31.07.2018 for an amount of Rs. 6,88,500/- furnished by Petitioner No.4- (4) BG. No. 01720BG18015581, dated 13.08.2018 for an amount of Rs. 1,35,00,000/- furnished by Petitioner No.6, (5). BG. No. 0505518BG0003432, dated 03.08.2018 for an amount of Rs. 11,25,000/-furnished by Petitioner No.7, (6). BG. No. 0505518BG0003340, dated 31.07.2018 for an amount, of R\$. 11,25,000/- furnished by Petitioner No.8, (7). BG. No. 0505518BG0003342, dated 31.07.2018 for an amount of Rs. 11,25,000/- furnished by Petitioner - No.9 and (8). BG. No. 0505518BG0003338, dated 31.07.2018 for an amount of Rs. 11,25,000/-furnished by Petitioner No.10 pending disposal of W.P. No. 15513 of 2019, on the file of the High Court.

**I.A No. 2 of 2019 :-**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of W.P., the High Court may be pleased to suspend the operation and effect of Notice(s) issued by the Respondent No.3 i.e., (i) Notice dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE / AO/DSM/F.No.14 / D.No.395 / 2019 to Petitioner No.1; (ii) Notice dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM / F.No.14/D.No.394/2019 to Petitioner No.2; (iii) - Notice dated 28.08.2019 vide Lr.No.ED/ SLDC / SE (EBC)/EE/AO/DSM/F.No.14/D.No.468/2019 to Petitioner No.3; (iv) Notice dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.354/2019 to Petitioner No.4; (v) Notice dated 28.08.2019 vide Lr.No.ED / SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.468/2019 to Petitioner No.5; (vi) Notice' dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO /DSM/F.No.14 / D.No.441 / 2019 to Petitioner No.6; - (vii) Notice dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.361/2019 to Petitioner No.7; (viii) Notice dated 14.08.2019 vide Lr.No.ED / SLDC/SE(EBC)/EE / AO/DSM/F.No.14 / D.No.345 / 2019 to Petitioner No.8; (ix) Notice dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.352/2019 to Petitioner No.9 and (x) . Notice . dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.353/2019 to Petitioner No.10 pending disposal of this writ petition pending disposal of the above writ petition and to pas, pending disposal of WP No. 15513 of 2019, on the file of the High Court.

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- 3 -

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and order of High Court dt. 01-10-2019 & 17-10-2019 and upon hearing the arguments of SRI P. Vikram, Advocate for Petitioner and of the G.P. for Energy on behalf of respondent No.1 and Sri P. Srinivasa Rao, Standing Counsel for Respondent No.2 and Sri Y. Nagi Reddy, Standing Counsel for Respondent No.3, the court made the following

**ORDER**

Rule nisi. Call for records. Notice returnable in four weeks.  
List for final hearing in due course.  
Interim order passed earlier to continue.

//TRUE COPY//

Sd/- K. MURALI  
ASSISTANT REGISTRAR

  
for ASSISTANT REGISTRAR

To

1. Two CCs to the G.P for Energy, High Court of A.P., (OUT)
2. One CC to Sri P. Vikram, Advocate(OPUC)
3. One CC to Sri P. Srinivas Rao, Standing Counsel(OPUC)
4. One CC to Sri Y. Nagi Reddy, Advocate(OPUC)
5. Two spare copies.

tvr



**HIGH COURT**

**HC.J & MVRJ**

**DT. 30.12.2019**

**ORDER**

**W.P.No. 15513 of 2019.**



**EXTENDING THE  
INTERIM ORDER**



**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**  
(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF DECEMBER,  
TWO THOUSAND AND NINETEEN

**:PRESENT:**

**THE HONOURABLE THE CHIEF JUSTICE SRI JITENDRA KUMAR MAHESHWARI**  
AND

**THE HONOURABLE SRI JUSTICE M. VENKATA RAMANA**



**WRIT PETITION No. 13860 of 2019**

**Between :-**

1. M/s.Axis Wind Farms (MPR Dam) Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Plot No.A2, Dwaraka Vilas, Anantapur, Andhra Pradesh - 515 001. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
2. M/s.JED Solar Parks Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at D Block, Flat No.55, Dwaraka Villas, Anantapur, Andhra Pradesh - 515 001. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
3. M/s.Vayuputra Energy Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Plot D-46, Dwaraka Vilas, Anantapur, Andhra Pradesh - 515 001, Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
4. M/s.Rayalaseema Wind Energy Company Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Plot D-46, Dwaraka Villas, Anantapur, Andhra Pradesh - 515 001. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
5. M/s.SEI Sriram Power Pvt. Ltd., A Company incorporated under the Companies Act, 1956 And having its office at Lepakshi, Survey No.251, Kurnool, Andhra Pradesh - 515 331. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
6. M/s.Greenko Solar Power (Dharmavaram) Limited, (Formerly known as Rain Coke Ltd), A Company incorporated under the Companies Act, 2013 And having its office at 450/3E, Dharmavaram Mandal, Anantapur, Andhra Pradesh - 515 671, Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
7. M/s.Guttaseema Wind Energy Company Private Ltd., (Formerly known as Advaita Wind Energy Ventures Private Limited), A company incorporated under the Companies Act, 1956 And having its registered office at Office at Plot No. 1366, Road No. 45, Jubilee Hills, Hyderabad - 500 033. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri
8. M/s.Saipuram Wind Energies Pvt. Ltd., A company incorporated under the Companies Act, 1956 And having its registered office at Office at Plot No. 1366, Road No. 45, Jubilee Hills, Hyderabad - 500 033. Rep.by its Authorized Signatory, Mr.Suryanarayana Peri

**..Petitioners**

**AND**

1. State of Andhra Pradesh, Represented by its Principal Secretary, Electricity Department, Andhra Pradesh Secretariat, Velagapudi, Amaravathi. Guntur District - 522 503.
2. Andhra Pradesh Electricity Regulatory Commission, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills Road, Khairatabad, Hyderabad, Telangana 500004.
3. AP State Load Dispatch Center Transmission Corporation, of Andhra Pradesh Limited 3rd Floor, APSLDC Building, Vidvut Soudha, Gunadala, Vijayawada, AP -520004

**..Respondents.**  
Contd....2...



Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ in the nature of Mandamus or any other appropriate writ order or direction:

- a. to declare the Regulation issued by Respondent No.2 i.e., APERC Forecasting, Scheduling and Deviation Settlement of Solar and Wind Generation Regulation, 2017 (Regulation No.4 of 2017) dated 21.08.2017 and consequential proceedings issued by Respondent No. 3 i.e., Procedure for implementation of DSM for Wind and Solar generation as per Regulation. 4 of 2017 of Honble APERC, as arbitrary, discriminatory, unreasonable and ultra vires to the Constitution of India;
- b. to declare the action of Respondent No.3 in issuing the following Notices i.e.,  
 (1) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EB C)/EE/AO/D SM/F .No.14/D .No.397/2019 to Petitioner No.1(2) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.423/2019 to Petitioner No.2(3) Notice, dated 29.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.488/2019 to Petitioner No.3(4) Notice, dated 28.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.458/2019 to Petitioner No.4(5) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSMIF.No.14/D.No.356/2019 to Petitioner No.5(6) Notice, dated 14.08.2019 vide Lr.No.ED/SLDC/SE(EBC)/EE/AO/DSM/F.No.14/D.No.348/2019 to Petitioner No.6 as arbitrary, illegal, unconstitutional and also violative of principles of natural justice;

**I.A No. 2 of 2019 :-**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent No. 3 not to take any coercive action against the Petitioners including and not limited to encashment of the Bank Guarantees i.e.,  
 (1). BG.No.0505518BG0003450, dated 04.08.2018 for an amount of Rs. 46,80,000/-furnished by Petitioner No. 1; (2).BG.No. 0505518BG0003344, dated 31.07.2018 for an amount of Rs. 10,80,000/- furnished by Petitioner No.2;  
 (3). BG. No. 0505518BG0003448, dated 04.08.2018 for an amount of Rs. 57,82,500/-jointly furnished by Petitioner No. 3 and 7;  
 (4).BG.No.0505518BG0003447, dated 04.08.2018 for an amount of Rs. 4,50,000/- jointly furnished by Petitioner No. 4; (5). BG. No. 0505518BG0003348, dated 31.07.2018 for an amount of Rs.4,14,000/- furnished by Petitioner No. 5;  
 (6).BG.No.0505518BG0003347, dated 31.07.2018 for an amount of Rs. 4,95,000/- jointly furnished by Petitioner No. 6, pending disposal of Writ Petition No.13860 of 2019, on the file of the High Court..

**I.A No. 1 of 2019 :-**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Suspend the operation and effect of Notice(s) issued by the Respondent No.3 i.e., (1) Notice, dated 27.08.2019 vide Lr.No.ED/SLDC/SE(EBC) / EE/AO /DSM / F.No.14 / D.No.397 / 2019 to Petitioner No.1; (2) Notice, dated 27.08.2019 vide Lr.No.ED /SLDC/ SE(EBC)/EE/AO/DSM/F.No.14 / D.No.423 / 2019 to Petitioner No.2; (3) Notice, dated 29.08.2019 vide Lr.No.ED /SLDC/ SE (EBC)/ EE/AO/DSM/F.No.14/ D.No.488/2019 to Petitioner No.3; (4) Notice, dated 28.08.2019 vide Lr.No.ED/SLDC / SE (EBC)/ EE /AO / DSM/F.No.14/D.No.458/2019 to Petitioner No.4; (5) Notice, dated 14.08.2019 vide Lr.No.ED/ SLDC/SE (EBC)/EE/ AO/DSM /F.No.14/ D. No.356/2019 to Petitioner No.5; (6) Notice, dated 14.08.2019 vide Lr. No.ED / SLDC / SE (EBC) / EE/AO /DSM/F.No.14/D.No.348/2019 to Petitioner No.6, pending disposal of Writ Petition No.13860 of 2019, on the file of the High Court.

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The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and order of High Court dt. 19-09-2019, 17-10-2019 made herein and upon hearing the arguments of SRI.P.VIKRAM Advocate for the petitioners, learned GP for ENERGY for Respondent No.1, Sri.P.Srinivasa Rao, learned counsel, takes notice for respondent No.2 and Sri Y.Nagi Reddy, learned counsel, takes notice for respondent No.3, the Court made the following.

**ORDER :-**

Rule nisi. Call for records. Notice returnable in four weeks.  
List for final hearing in due course.  
Interim order passed earlier to continue.

Sd/- A. Surya Prakash Rao  
DEPUTY REGISTRAR  
SECTION OFFICER

//TRUE COPY//

To

1. One CC to SRI.P.VIKRAM, Advocate [OPUC]
2. One CC to SRI.P.SRINIVASA RAO, STANDING COUNSEL (OPUC)
3. One CC to SRI.Y.NAGI REDDY, STANDING COUNSEL (OPUC)
4. Two CCs to GP FOR ENERGY, High Court Of Andhra Pradesh. [OUT]
5. One spare copy

tvv



HIGH COURT

126.

HC.J & MVRJ

DATED:- 30.12.2019.

ORDER

W.P.No.13860 of 2019

EXTENDING THE  
INTERIM ORDER

