

BEFORE THE HONOURABLE ANDHRA PRADESH ELECTRICITY  
REGULATORY COMMISSION  
AT ITS OFFICE AT V<sup>th</sup> FLOOR, SINGARENI BHAVAN, RED HILLS,  
HYDERABAD

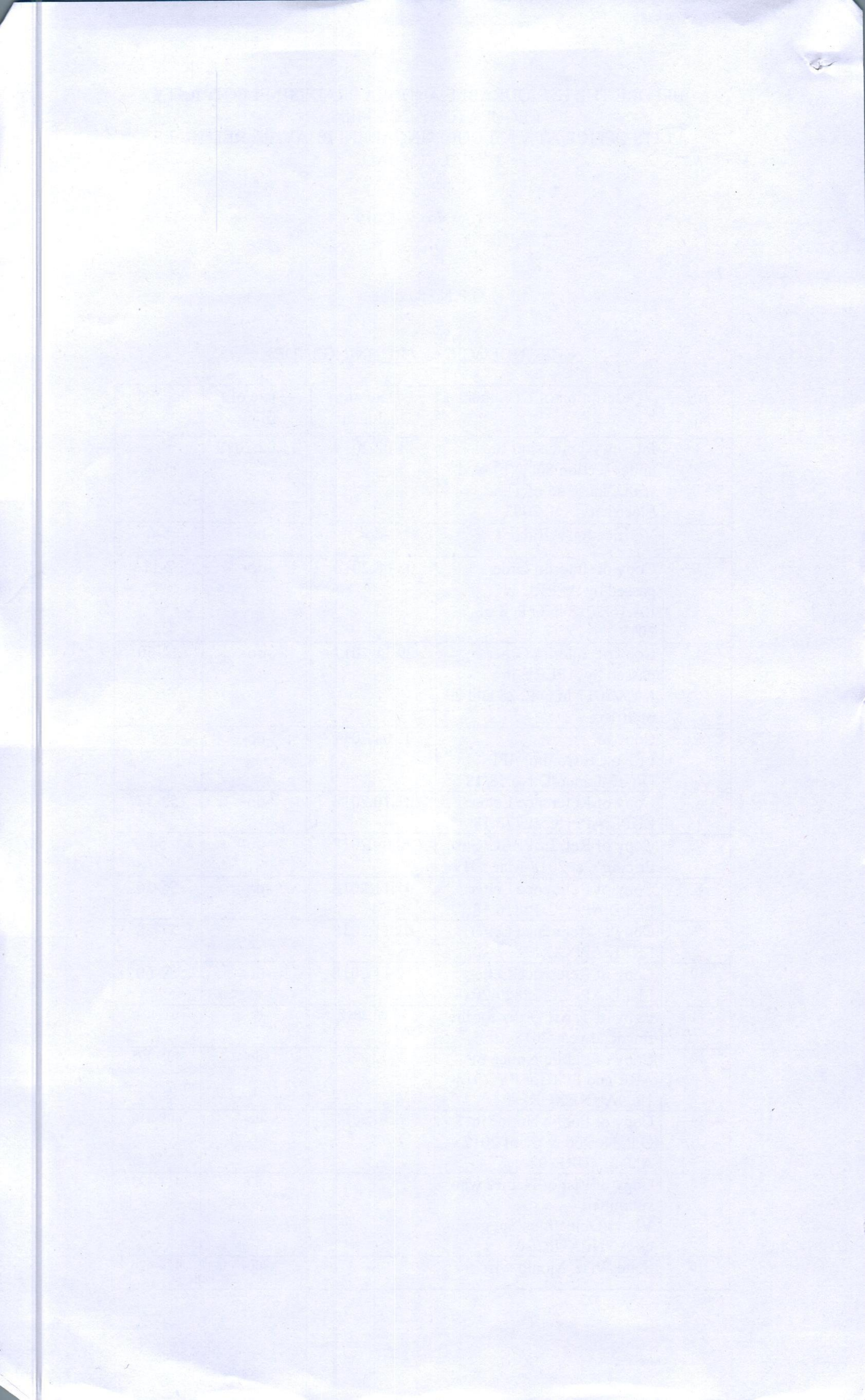
I.A. No. 3 /2019

in

O.P.No 8 /2018

CHRONOLOGICAL / RUNNING INDEX

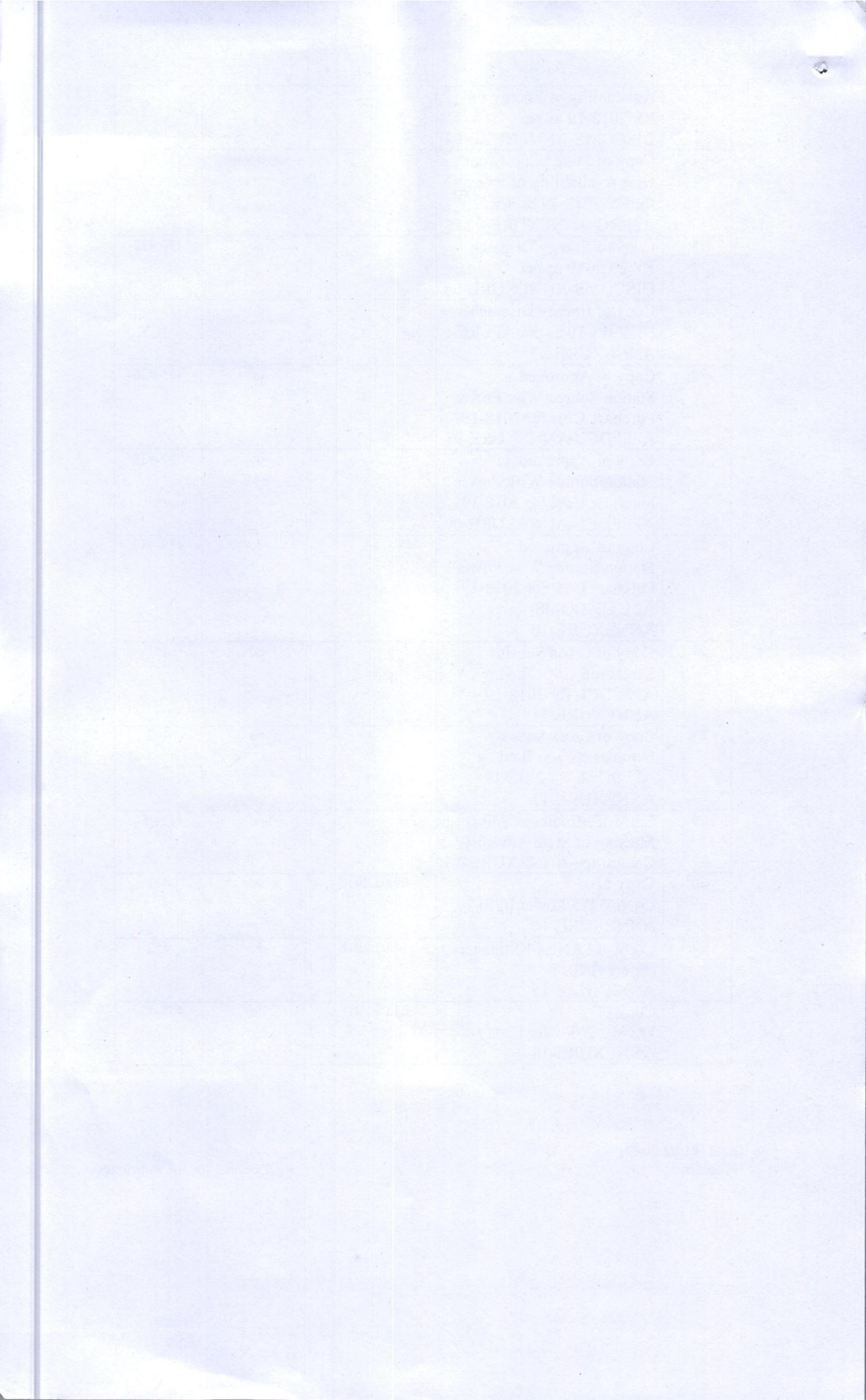
Sl. No.	Description of Document	Date of Document	Date of filing	Page No
1	Interim Application filed under section 86(1)(b) read with Clause 55 of The Electricity Act, 2003	11.02.2019	11.02.2019	1-4
2.	Verification Affidavit	-do-	-do-	5-6
3.	Copy of Interim Order passed by APERC in I.A.16/2018 in O.P. 8 of 2018	08.08.2018	-do-	7-11
4.	Copy of Interim Order passed by APERC in I.A.8/2017 in O.P. 28 and 29 of 2016	29.11.2017	-do-	12-50
5.	Copy of Lr.No.CE/Comml./IPP-Div./F-Lanco/D.No.58/18	01.04.2017	-do-	51
6.	Copy of Reference Letter: LKPL:APPCC:12778:18	01.10.2018	-do-	52-53
7.	Copy of Ref. Lr.PPAC/Gas Pricing/Oct 2018-Mar 2019	28.09.2018	-do-	54
8.	Copy of Reference Letter: LKPL:APPCC:12816:18	01.11.2018	-do-	55-56
9.	Copy of Reference Letter: LKPL:APPCC:12817:18	01.11.2018	-do-	57-58
10.	Copy of Reference Letter: LKPL:APPCC:12829:2018	12.11.2018	-do-	59-60
11.	Copy of Tariff Order for the financial year 2018-19	27.03.2018	-do-	61-404
12.	Copy of Public Notice of ARR and FPT for FY 2018-19 – ANNEXURE-01	04.12.2017	-do-	405-408
14.	Copy of Public Notice in O.P. Nos.60 & 61 of 2017 – ANNEXURE-02	12.01.2018	-do-	409-410
15.	Copy of List of Names who submitted Views/Objections/Suggestions-ANNEXURE-03	--	-do-	411-423
16.	State Wise, Month wise	--	-do-	424-426



	Availability of Energy for FY 2018-19 as per DISCOMS-ANNEXURE-04			
17.	Copy of State Wise, Month wise Availability of Energy for FY 2018-19 as per APERC-ANNEXURE-05	--	-do-	427-429
18.	Copy of Energy Dispatch FY 2018-19 as per DISCOMS-ANNEXURE-06	--	-do-	430-432
19.	Copy of Energy Dispatch FY 2018-19 as per APERC-ANNEXURE-07	--	-do-	433-434
20.	Copy of Approved Station/Source Wise Power Purchase Cost for 2018-19-APSPDCL-ANNEXURE-08	--	-do-	435-436
21.	Copy of Approved Station/Source Wise Power Purchase Cost for 2018-19-APEPDCL-ANNEXURE-09	--	-do-	437-438
22.	Copy of Approved Station/Source Wise Power Purchase Cost for 2018-19-ALL DISCOMS-ANNEXURE-10	--	-do-	439-440
23.	Copy of Cross Subsidy Surcharge(CSS) filed by APSPDCL for 2018-19-ANNEXURE-11	--	-do-	441
24.	Copy of Cross Subsidy Surcharge(CSS) filed by APEPDCL for 2018-19-ANNEXURE-12	--	-do-	442
25.	Copy of Minutes of Joint Meeting of State Advisory Committee-ANNEXURE-13	--	-do-	443-450
26.	Copy of Lr.No.3275/Power.I/2017-ANNEXURE-14	09.03.2018	-do-	451
27.	Copy of Lr.No.14/Minister (Energy)/2018-ANNEXURE-15	14.03.2018	-do-	452
28.	Copy of Lr.No.289/Power.I/2017-ANNEXURE-16	23.03.2018	-do-	453-457

Date: 11.02.2019  
Hyderabad

Counsel for the Petitioners



BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY  
COMMISSION: AT HYDERABAD

IA No. \_\_\_\_\_ of 2019  
In

OP No. 8 of 2018

In the matter of : Procurement of power from M/s Lanco Kondapalli Power  
Ltd on short term basis – Reg.

Between:

M/s Lanco Kondapalli Power Ltd  
Plot No. 4, Software Units Layout, HITEC City  
Madhapur, Hyderabad – 500 081

.....PETITIONER / RESPONDENT

AND

1) Southern Power Distribution Company of AP Ltd  
D.No.19-13-65/A, Tiruchanoor Road  
Tirupati, Chittoor District, Andhra Pradesh

2) Eastern Power Distribution Company of AP Ltd  
Corporate Office: P&T Colony, Seethammadhara  
Visakhapatnam

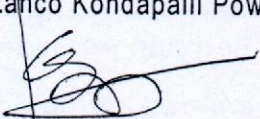
.....RESPONDENTS/PETITIONERS

Application filed U/Sec.86(1) (b) of Electricity Act-2003 read with Clause (55)  
of APERC conduct of Business Regulations

The Petitioner respectfully submits as under:

1. The petitioner herein and the erstwhile APSEB had entered into a Power Purchase Agreement (hereinafter referred to as the "Expired PPA") on 31.03.1997 in respect of Petitioner's generating station of 355 MW (ISO) located at Kondapalli, Ibrahimpatnam Mandal, Krishna District, Andhra Pradesh, which expired on 01.01.2016. Prior to expiry of the said Expired PPA, the Petitioner and the Respondents have discussed about the renewal of the term of the Expired PPA and agreed that the same will be renewed for a period of 10 years. The Petitioner and the Respondents have negotiated the terms of Power Purchase Agreement and executed the same on 28.04.2017

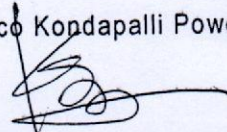
For Lanco Kondapalli Power Limited

  
K Satyanarayana  
Whole Time Director &  
Company Secretary

(hereinafter referred to as "Renewed PPA") incorporating the said negotiated terms.

2. The Petitioner respectfully submits that the Respondents herein have filed OP No.8 of 2018 praying this Hon'ble Commission to grant approval of the Renewed PPA dated 28.04.2017 including tariff. The said main OP is pending before this Hon'ble Commission for consideration. It is agreed in the said Renewed PPA that the Respondents will purchase entire capacity of Petitioner's generating station during the pendency of approval of this Hon'ble Commission.
3. It is humbly submitted that the Respondents herein have filed IA No. 16 of 2018 in OP No. 8 of 2018 praying this Hon'ble Commission to issue an interim order admitting them to continue to procure power from the Petitioner's project at the tariff approved by this Hon'ble Commission vide its order dated 29.11.2017 under short term purchase with Fixed Cost at Rs.0.96/Kwhr and Variable Cost at Rs.2.33/Kwhr (pass through based on gas price) during the 1<sup>st</sup> quarter of FY-2019. This Hon'ble Commission after considering the said application permitted the Respondents to procure power from the Petitioner at a Fixed Cost of Rs.0.96/Kwhr and Variable Cost of Rs.2.33/Kwhr making a total of Rs.3.29/Kwhr. Further, this Hon'ble Commission in its Order on Tariff for Retail Sale of Electricity during 2018-19 pleased to consider the same tariff for procurement of power from the petitioner's generating station by the respondents during FY 2018-19 also.
4. It is respectfully submitted that the Variable Cost of Rs.2.33/Kwhr was arrived at basing on the then prevailing gas price that is being supplied by M/s GAIL (India) Ltd (hereinafter referred to as "GAIL") to the Petitioner herein. Subsequently, GAIL has increased the gas price basing on the revision made by the Ministry of Petroleum & Natural Gas, Government of India from US \$ 2.89/MMBTU to US \$ 3.06/MMBTU

For Lanco Kondapalli Power Limited

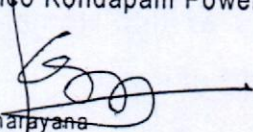


K Satyanarayana  
Whole Time Director &  
Company Secretary

for the period from 01.04.2018 to 30.09.2018 and further increase of gas price to US \$ 3.36/MMBTU from 01.10.2018 to 31.03.2019.

5. The Petitioner humbly submits that the said fact was brought to the notice of the Respondents herein vide letters dated 01.11.2018 and 12.11.2018 and requested them to pay the Variable Cost basing on the increased gas price. However, Andhra Pradesh Power Coordination Committee representing the Respondents herein vide its letter dated 05.11.2018 that the DISCOMs have been paying the tariff as per the orders of this Hon'ble Commission dated 08.08.2018 and the Tariff Order for the FY 2018-19 and they cannot pay anything more.
6. The Petitioner humbly submits that the parties have intended that the Variable Cost is a pass through so as to enable the Petitioner to operate the plant. Further, the Petitioner is also required to pay the fuel charges to GAIL on fortnightly basis and whereas the Respondents are paying tariff bills on monthly basis availing credit period and also a rebate of 2.5% on the entire bill including the Variable Cost. Further, the respondents have been considering the heat rate of the generating station as provided in the Expired PPA for reimbursement of variable cost.
7. The Petitioner respectfully submits that the Petitioner is required to pay the fuel cost in full to GAIL in addition to meet other expenditure such as salaries of employees, operation & maintenance cost and other incidental expenditure to operate the generating station. If the fuel cost is not paid in its entirety, the Petitioner put to suffer irreparable loss as it has to incur additional financial burden to operate the plant without even recovering cost of production. It is further respectfully submitted that even if the variable cost is paid with the increased cost of fuel, the total unit price remains well below Rs.4.04, the average procurement cost fixed by this Hon'ble Commission for procurement of power by the respondents during FY 2018-19 and further with the

For Lanco Kondapalli Power Limited

  
K Satyanarayana  
Whole Time Director &  
Company Secretary

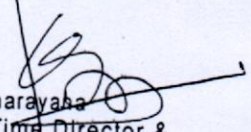
overall tariff with the increased cost of fuel also the generating station of the petitioner herein remains in the merit order dispatch.

- 8. As a matter of fact, the Respondents have revised the variable cost during the period from 01.04.2017 to 30.09.2017 and 01.10.2017 to 31.03.2018, corresponding to the cost of fuel. It is submitted that although this Hon'ble Commission has fixed Variable Cost of Rs.2.33/Kwhr, basing on the then prevailing gas price at US \$ 2.89/MMBTU, the Respondents have arrived at Variable Cost of Rs.2.25/Kwhr in view of reduction of cost of fuel due to reduction in gas transmission charges. The Respondents have informed such reduction vide their letter dated 17.02.2018. Therefore, it is abundantly clear that the Respondents reduced the variable cost during the reduction in cost of fuel. It is further humbly submitted that the respondents in their petition for Aggregate Revenue Requirement and Tariff Proposal for the Retail Supply Business for FY 2018-19 and 2019-20 have stated that variable cost is pass through as gas price is subject to revision for every six months.
- 9. In the aforesaid circumstances, the Petitioner having no other option filed the present application praying this Hon'ble Commission to direct the Respondents to pay Variable Cost as a pass through corresponding to the increase/decrease in cost of fuel from time to time. This Petition has been filed for the limited purpose as prayed herein.

For the reasons stated above, the Petitioner humbly prays that this Hon'ble Commission may be pleased to direct the Respondents to pay Variable Cost on pass through basis corresponding to the increase/decrease in cost of fuel from time to time for the exported units from the generating station of the petitioner and pass such other order or orders as this Hon'ble Commission may deem fit and proper in the interest of justice.

Place: Hyderabad  
Date: 11.02.2019

For Lanco Kondapalli Power Limited

  
K Satyanarayana  
Whole Time Director &  
Company Secretary

PETITIONER



BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY  
COMMISSION: AT HYDERABAD

IA No. \_\_\_\_\_ of 2019

In

OP No. 8 of 2018

In the matter of : Procurement of power from M/s Lanco Kondapalli Power  
Ltd on short term basis – Reg.

Between:

M/s Lanco Kondapalli Power Ltd  
Plot No. 4, Software Units Layout, HITEC City  
Madhapur, Hyderabad – 500 081

.....PETITIONER / RESPONDENT

AND

- 1) Southern Power Distribution Company of AP Ltd  
D.No.19-13-65/A, Tiruchanoor Road  
Tirupati, Chittoor District, Andhra Pradesh
- 2) Eastern Power Distribution Company of AP Ltd  
Corporate Office: P&T Colony, Seethammadhara  
Visakhapatnam

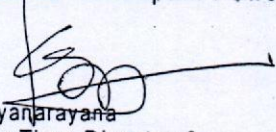
.....RESPONDENTS/PETITIONERS

VERIFICATION AFFIDAVIT

I, K Satyanarayana, S/o Sri (Late) Ramachandra Rao, aged about 61 years,  
resident of Hyderabad, Wholetime Director & Company Secretary of the  
Petitioner generating company do hereby solemnly affirm and state as  
follows:

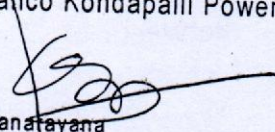
1. I am the Wholetime Director & Company Secretary of the Petitioner  
generating company and competent to affirm, swear, execute and file  
the present Petition.

For Lanco Kondapalli Power Limited

  
K Satyanarayana  
Whole Time Director &  
Company Secretary

2. I have read and understood the contents of the accompanying Petition which has been drafted pursuant to my instructions. The statements made therein are true to the best of my knowledge and the same has been derived from the official records made available to me and are based on information and advise received which I believe to be true and correct.

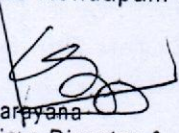
For Lanco Kondapalli Power Limited

  
K Satyanarayana  
Whole Time Director &  
Company Secretary DEPONENT

VERIFICATION

The above named Deponent solemnly affirm at Hyderabad on this 11<sup>th</sup> day of 2019 that the contents of the above affidavit are true to my knowledge and information, no part of it is false and nothing material has been concealed therefrom.

For Lanco Kondapalli Power Limited

  
K Satyanarayana  
Whole Time Director &  
Company Secretary DEPONENT

Hyderabad  
11.02.2019



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**  
4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

WEDNESDAY, THE EIGHT DAY OF AUGUST TWO THOUSAND EIGHTEEN

:Present:  
**Justice G. Bhavani Prasad, Chairman**  
**Dr. P. Raghu, Member**

**I.A.No.16 of 2018 in O.P.No.8 of 2018**

**Between:**

1. Southern Power Distribution Company of A.P. Limited
2. Eastern Power Distribution Company of A.P. Limited ... **Petitioners/Applicants**

**A N D**

M/s. Lanco Kondapalli Power Limited ... **Respondent/Respondent**

This Interlocutory Application has come up for hearing finally on 01-08-2018, in the presence of Sri P. Shiva Rao, learned Standing Counsel for the petitioners and Sri N. Phani & Sri M. Sridhar, learned counsel representing Sri Challa Gunaranjan, learned counsel for the respondent. After carefully considering the material available on record and after hearing the arguments of the learned counsel for both parties, the Commission passed the following:

**ORDER**

I.A.No.16 of 2018 in O.P.No.8 of 2018 is an Interlocutory Application under Section 62 (1) and Section 86 (1) (b) of the Electricity Act, 2003 read with Clause 55 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for an interim direction to the applicants to continue to procure power from the respondent at the tariff approved by the Commission vide its order dated 29-11-2017 for short term purchase with a fixed cost of Rs.0.96 / kWhr and variable cost of Rs.2.33 / kWhr (pass through based on gas price) during the first quarter of FY 2018-19.

8

2. The case of the applicants is that the Power Purchase Agreement between them and the respondent expired on 01-01-2016 and with the approval of the State Government, Distribution Companies of Andhra Pradesh Limited filed a draft Power Purchase Agreement dated 28-04-2017 before the Commission to accord approval, which is pending. The applicants estimated the levellized fixed and variable costs at Rs.0.71 / kWhr and at Rs.2.41 / kWhr at a threshold PLF of 80%. The applicants are procuring power from the respondent as short term purchase for FY 2017-18 as per orders dated 29-11-2017 in I.A.No.8 of 2017 in O.P.Nos.28 & 29 of 2016. In the ARR of FY 2018-19, the applicants proposed to purchase power from the respondent expecting the renewal of the Power Purchase Agreement. They estimated the availability from the project at 1230 MU with a fixed cost of Rs.1.06 / kWhr and variable cost of Rs.2.26 / kWhr. Hence, the application.

3. A public notice was given inviting views / objections / suggestions of interested persons / stakeholders. Sri M. Venugopala Rao, Senior Journalist & Convener, Centre for Power Studies, Sri Ch. Narasingrao, State Secretariat Member, Communist Party of India (Marxist) and Sri Penumalli Madhu, State Secretary, Communist Party of India (Marxist) filed separate but identical objections dated 24/25-04-2018. These three, in their objections dated 24/25-04-2018 stated that the scope for bargaining might be a reason to take a decision to permit procurement of power from the respondent on priority. Notwithstanding the objections of these objectors, the Commission in the tariff order for FY 2018-19 approved a purchase of 1230.12 MU from Lanco Kondapalli with a tariff of Rs.3.29 ps / kWh consisting of Rs.0.96 ps fixed cost and Rs.2.33 ps variable cost, which is questionable and detrimental to larger consumer interest. The reasons for the objections were reiterated and the chronological events were repeated in detail. The

objectors stated that in spite of the approval by the Commission in the tariff order, the applicants again requested for permission to purchase, though respondent sought for a fixed cost of Rs.0.71 ps per kWh for such short term purchase, the fixed cost suggested by them earlier was Rs.0.96 ps. There was no proof of further capital expenditure and when the level of PLF is much lower than threshold level PLF of 80%, the fixed cost worked out becomes much less and the contentions of the objectors in I.A.No.8 of 2017 may also be taken into account.

4. The APSEB Assistant Engineers' Association desired the Commission not to allow procurement of power from the respondent, so as to favour the consumers.
5. The APSEB Engineers' Association also questioned the permission for procurement of power granted in I.A.No.8 of 2017 and when surplus power is available under the existing Power Purchase Agreements and HNPCL with a capacity of 1040 MW being available for supply and the gas allotment being transferable to M/s. GMR Vemagiri, no purchase from the respondent be considered.
6. Sri M. Thimma Reddy, Convenor, People's Monitoring Group on Electricity Regulation administered a note of caution on availability and supply of natural gas. The supply of natural gas to the respondent has adverse consequences to the distribution companies and a decision has to be taken on all the issues involved. The State Government should take the issues to their logical conclusion.
7. The applicants gave detailed response to the views and objections of the objectors and the questions in controversy between the parties in the main Original Petition cannot be pre-determined in this interlocutory inquiry, except to the extent necessary for determination of the Interlocutory Application.

8. The objectors reiterated their objections in detail again, most of which need to be dealt with in the main Petition. The consideration herein should be confined only to an interlocutory adjudication of the question of the limited procurement of power during the first quarter of FY 2018-19 only.

9. The point for consideration is thus whether the applicants have to be permitted to procure power from the respondent during the first quarter of FY 2018-19 ?

10. In the order on Tariff for Retail Sale of Electricity during FY 2018-19, the Commission considered the availability of electricity from this plant also, as filed by the licensees restricting it to the then existing cheaper tariff. The Commission considered the unit rate at Rs.2.99 including a fixed cost of Rs.0.79 ps and variable cost of Rs.2.20 ps, as permitted in the orders in I.A.No.8 of 2017 in O.P.Nos.28 & 29 of 2016. The power purchase cost at that level is undoubtedly more economical than many other tariffs of supply of power. The question of procurement of power from this plant was considered in good detail in the orders of I.A.No.8 of 2017 and procurement of power from this source was considered to be cheaper even if any liability arises towards persons having Power Purchase Agreements in force. Accordingly, the power purchase at a fixed cost of Rs.0.96 ps and variable cost of Rs.2.33 ps making a total of Rs.3.29 ps per unit was permitted, subject of-course to the principle of Merit Order Dispatch and the other specified conditions including obligation of the distribution licensees to show that these short term purchases did not impose any additional burden on them or the consumers.

11. The present Interlocutory Application is limited to the first quarter of FY 2018-19 and the Commission in the Retail Supply Tariff Order for FY 2018-19

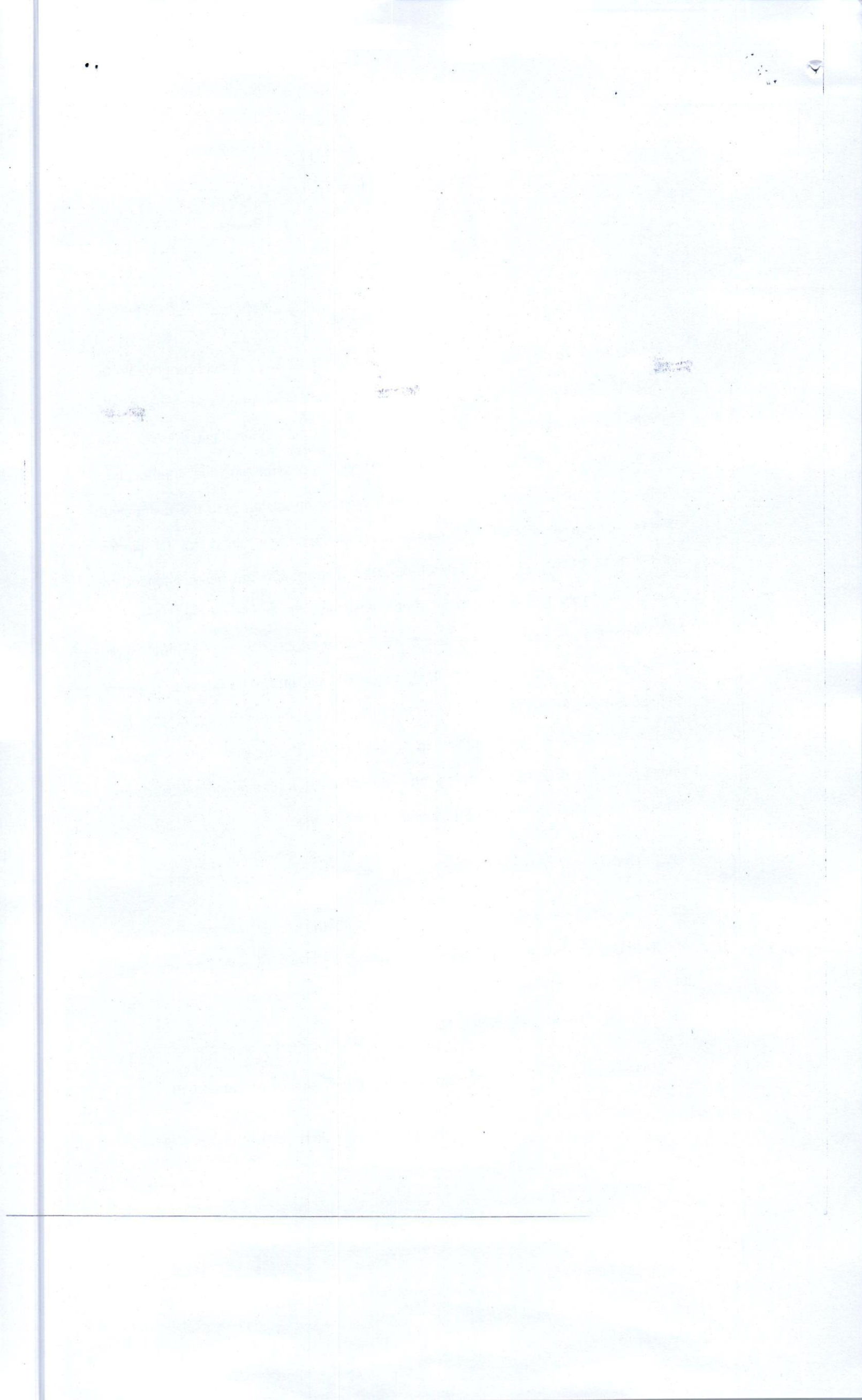
had already directed that the same price paid in FY 2017-18 should be payable for FY 2018-19 also, thus not accepting the projections shown at a higher level by the distribution companies. No authenticated material has been placed before the Commission to consider any deviation from the same in this Interlocutory Application. Another factor staring at the Commission is that both the distribution licensees have already procured power from the respondent during the first quarter of FY 2018-19, which expired by 30-06-2018. The respondent never intended to supply electricity to the applicants gratuitously and the applicants are bound to reimburse the respondent of the cost of such power supply and even on that count, the interlocutory prayer may have to be accepted. Similar orders passed on merits in accordance with law in greater detail in I.A.No.14 of 2018 and I.A.No.15 of 2018 in O.P.Nos.61 & 62 of 2017 relating to Godavari Gas Power Plant and Spectrum Power Generation Limited granting an identical relief also may be perused, the reasoning in which applies to the fact situation herein also.

12. Under the circumstances, the Interlocutory Application has to be ordered.
13. Therefore, the applicants are permitted to procure power from the respondent at a fixed cost of Rs.0.96 ps / kWhr and variable cost of Rs.2.33 ps / kWhr, making a total of Rs.3.29 ps / kWhr during the first quarter of FY 2018-19 and the Interlocutory Application is allowed accordingly. No costs.

This order is corrected and signed on this the 8<sup>th</sup> day of August, 2018.

Sd/-  
Dr. P. Raghu  
Member

Sd/-  
Justice G. Bhavani Prasad  
Chairman







**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**  
4<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad 500 004

I.A.No.8 of 2017  
in  
O.P.Nos. 28 & 29 of 2016

Dated: 29-11-2017

Present  
**Sri Justice G. Bhavani Prasad, Chairman**  
**Dr. P. Raghu, Member**  
**Sri P. Rama Mohan, Member**

**Between:**

1. Southern Power Distribution Company of Andhra Pradesh Ltd.
  2. Eastern Power Distribution Company of Andhra Pradesh Ltd.
- ... Applicants/Petitioners

A N D

1. M/s. Lanco Kondapalli Power Pvt. Ltd.
2. M/s. Spectrum Power Generation Ltd.

... Respondents/Respondents

The Interlocutory Application has come up for hearing finally on 28-10-2017 in the presence of Sri P. Shiva Rao, learned Standing Counsel for the petitioners, Sri Challa Gunaranjan & Sri K. Gopal Choudary representing M/s. Lanco Kondapalli Power Pvt. Ltd., M/s. Ch. Pushyam Kiran and Sri M. Naga Deepak, learned counsel representing M/s. Spectrum Power Generation Ltd., Sri M. Venugopala Rao, Sr. Journalist & Convenor, Centre for Power Studies, Dr. S. Chandra Mouli representing APSEB Engineers Association and Sri S. Prathap representing APSEB Assistant Engineers' Association, learned objectors. After carefully considering the material available on record and after hearing the arguments of the learned Standing Counsel for the applicants/petitioners, learned counsel for the respondents and the learned objectors, the Commission passed the following:

ORDER

A petition under sections 62 (4) and 86 (1) (b) of the Electricity Act, 2003 read with Regulation 55 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 for grant of approval for procurement of power from 1<sup>st</sup> and 2<sup>nd</sup> respondents and M/s. Godavari Gas Power Plant owned by the petitioners during 2017-18 and other appropriate orders.

2. The petitioners stated that the erstwhile Andhra Pradesh State Electricity Board entered into a Power Purchase Agreement dated 31-03-1997 with the 1<sup>st</sup> respondent for fifteen years from the Commercial Operation Date expiring on 01-01-2016. Even after the bifurcation of the State of Andhra Pradesh, the four distribution companies availed the power from the 1<sup>st</sup> respondent and after the expiry of the Power Purchase Agreement, the petitioners proposed to extend the Power Purchase Agreement with the 1<sup>st</sup> respondent located in the State of Andhra Pradesh for another ten years without exercising the option of buying out the project. The petitioners continued to purchase power from the 1<sup>st</sup> respondent upto 07-04-2017 and there were mutual negotiations between the 1<sup>st</sup> respondent and the petitioners agreeing for fixed cost tariff at Rs.180 crores per year and other modified terms, subject to the approval of the State Electricity Regulatory Commission. The Government of Andhra Pradesh by a letter dated 26-04-2017 permitted the petitioners to approach the Commission for renewal of the Power Purchase Agreement and the petitioners submitted a letter dated 03-05-2017 to approve procurement of power from the 1<sup>st</sup> respondent. It was not considered in the Retail Supply Tariff Order of 2017-18. The draft Power Purchase Agreement was also submitted, which is pending with the Commission. M/s. GAIL (India) Limited agreed to renew natural gas supply to the 1<sup>st</sup> respondent and it issued a notice dated

01-05-2017 on the consequences of non drawal of gas. The cost of power per unit from the 1<sup>st</sup> respondent worked out at Rs.3.577 for FY 2016-17, which is lower than other suppliers of power. The petitioners gave the details of the actual costs paid to the 1<sup>st</sup> respondent in that year and claimed that in the Aggregate Revenue Requirement for 2017-18, incorrect numbers relating to the cost of generation crept in, in respect of the 1<sup>st</sup> respondent reflecting a price of Rs.4.36 per kWh due to which the Commission did not agree for dispatch from it. In fact, the variable tariff per kWh comes to Rs.2.30. The cost of power as per the proposed Power Purchase Agreement for 2017-18 will be Rs.3.55 with a PLF of 40%. The power of the 1<sup>st</sup> respondent falls within the merit order and hence, the applicants/petitioners seek permission to procure cheaper power.

3. In respect of the 2<sup>nd</sup> respondent, the Power Purchase Agreement expired on 18-04-2016 and the petitioners decided to renew the Power Purchase Agreement for fifteen years. The Commission permitted dispatches from the 2<sup>nd</sup> respondent in the Tariff Order 2016-17 upto 711.67 MU in that year, though the Power Purchase Agreement has lapsed. In 2017-18, the 2<sup>nd</sup> respondent was not considered for dispatches, as the cost of generation was much more than the approved cost and in the Aggregate Revenue Requirement for 2017-18, incorrect numbers of cost of generation crept in, in reflecting the price of power at Rs.4.51 per kWh due to which the Commission did not permit procurement of power from the 2<sup>nd</sup> respondent. However, the higher values then projected yielded place to lesser variable cost and as per the present gas availability, the cost to be paid at 55% PLF will be Rs.1.13 fixed cost and Rs.2.10 variable cost, making total cost per unit Rs.3.23 ps. The 2<sup>nd</sup> respondent also will fall within the merit order dispatch and supply cheaper power. The petitioners have to suffer procurement of higher cost power from other sources if

power from the 2<sup>nd</sup> respondent is refused to them and they will approach the Commission for renewal of the Power Purchase Agreement and for tariff after getting approval of the State Government. The Gas Authority of India Limited had to schedule the allocated gas to Andhra Pradesh Gas Power Corporation Limited, which is scheduling additional quantum of power to their industrial consumers, who are using that cheaper energy than availing energy from the petitioners, who are losing revenue to that extent. In case of exigencies, the petitioners are forced to bid in the exchanges for maintaining uninterrupted power supply, the price of which is higher. Hence, the petitioners sought for approval to procure power from the 2<sup>nd</sup> respondent on adhoc basis, de hors the question of renewal of the Power Purchase Agreement, fixing an adhoc single part tariff in terms of the existing Power Purchase Agreement.

4. After expiry of the Power Purchase Agreement with M/s. GVK Industries Limited dated 19-04-1996 on 20-06-2015, the petitioners exercised buyout option in respect of 216 MW gas based power project. The Government of Andhra Pradesh approved the issuance of buyout notice dated 19-06-2015 by the petitioners and the petitioners took over the plant on 22-04-2016 for a buyout amount of Rs.333.32 crores under an Agreement. The petitioners are operating the power plant since 22-04-2016 and the buyout process is not yet complete. The power from M/s. GVK Industries Limited was not considered in the Tariff Order 2017-18. But this being the own project of the distribution companies, generation and supply were confirmed. Though higher values were projected towards fixed cost and variable cost in the Aggregate Revenue Requirement for 2017-18, the various factors projected by the petitioners may be considered to revise the variable cost at Rs.2.20 per kWh and fixed cost at Rs.0.79 per kWh for merit order dispatch until GT's C-Inspection

expenditure is undertaken spread over to future years; hence, the application for a revision of tariff and for approval for procurement of power in respect of the three projects.

5. The Commission decided to place the subject matter in public domain and issued a public notice inviting views/objections/suggestions of any interested person/stakeholder.

6. Earlier, the Chief Engineer (Commercial), Andhra Pradesh Power Coordination Committee addressed a letter dated 03-05-2017 to the Commission about the petitioners proposing to renew the original Power Purchase Agreement for a period of ten years with a negotiated tariff including a fixed cost tariff @ Rs.180 crores per year and variable energy charges, the draft Power Purchase Agreement dated 28-04-2017 being enclosed for the purpose of approval of the State Government. The proposed fixed charge per unit at Rs.0.71 per kWh with a threshold PLF of 80% and variable cost at present gas price of Rs.2.09 at the accepted station heat rate with Naphtha as the alternate fuel may be approved for procurement of power and after such approval, the Power Purchase Agreement will be submitted for approval and approval of tariff. The petitioners again addressed a letter dated 20-05-2017 stating that per unit cost of energy generated by the 1st respondent will be only Rs.3.55 which is less than the cost of other sources and hence they may be approved to procure power from the 1<sup>st</sup> respondent de hors the renewal of the Power Purchase Agreement with an adhoc single part tariff in terms of the existing Power Purchase Agreement, subject to later adjustment.

7. Similarly, petitioners addressed a letter dated 20-05-2017 to the Commission about the decision for renewing the Power Purchase Agreement with the 2nd

respondent for fifteen years and stating that the power unit cost of energy is only Rs.3.54 and not the cost shown in the Aggregate Revenue Requirement. Procurement from the 2<sup>nd</sup> respondent is cheaper and hence the petitioners requested for approval for procurement of power fixing an adhoc single part tariff in terms of the existing Power Purchase Agreement, subject to a later adjustment.

8. However, later the petitioners addressed letters dated 22-05-2017 withdrawing the earlier letters and intimating about their decision to file a separate petition.

9. Similarly, in respect of the Godavari Gas Power Plant, the first letter dated 18-05-2017 from the petitioners was narrating the sequence of events and stating that no Power Purchase Agreement is required, as the power plant is fully owned by the petitioners and requested that only the revised variable cost of Rs.2.20 per kWh as single part tariff may be considered for merit order dispatch, ratifying the action of the petitioners in continuing the generation and allow payment of lower fixed cost on monthly basis at Rs.0.79 per kWh till GT's C-Inspection expenditure is undertaken. This letter was also required to be withdrawn by a letter dated 20-05-2017 intimating that a separate petition will be filed. The Commission permitted the withdrawal of the proposals with a liberty to file a petition as sought by the petitioners.

10. Sri M. Venugopala Rao, Senior Journalist & Convenor, Centre for Power Studies, Sri Ch. Narasinga Rao, State Secretariat Member, CPI (M), Andhra Pradesh, Sri A. Punna Rao, Sri Penumalli Madhu, State Secretary, CPI (M) and Sri B. Tulasidas placed identical objections before the Commission. The A.P. Spinning Mills Association (APSMA), the APSEB Engineers' Association, The Federation of Farmers' Associations, Andhra Pradesh and the APSEB Assistant Engineers' Association also sent their objections. The petitioners gave their para-wise replies

and Sri M. Venugopala Rao made further submissions dated 18-08-2017, 07-10-2017, 21-10-2017, 28-10-2017 and 03-11-2017. The APSEB Engineers' Association gave further written submissions dated 21-10-2017, 28-10-2017 and 15-11-2017. The APSEB Assistant Engineers' Association filed further written submissions dated 21-10-2017. The petitioners filed their reply to the objections of Sri M. Venugopala Rao dated 21-10-2017.

11. Sri Challa Gunaranjan, learned counsel for the 1<sup>st</sup> respondent during hearing on 01-07-2017 stated that the 1<sup>st</sup> respondent consents to the grant of reliefs prayed for in the petition. The 2<sup>nd</sup> respondent filed a Memo dated 21-10-2017 stating among other things that the Goods & Services Tax (GST) on gas transportation charges was reduced from 18% to 5% reducing consequently the variable cost and the total cost per unit to Rs.3.47, as opposed to Rs.3.52 mentioned in the memo of the petitioners dated 13-10-2017. The petitioners are also availing rebate at Rs.2.5% which is equal to Rs.0.09 per unit. The procurement of power from the 2<sup>nd</sup> respondent, hence would be at Rs.3.38 per unit. Even the purchases by the petitioners from the exchanges from April to August, 2017 were for Rs.3.76, Rs.3.64, Rs.3.44, Rs.3.49 and Rs.4.04 averaging at Rs.3.67 in respect of 579.93 MU purchased. Hence, the 2<sup>nd</sup> respondent prayed for approval of the procurement of power from it by the petitioners. The 2<sup>nd</sup> respondent again filed a Memo on 25-10-2017 stating that during the course of proceedings on 21-10-2017, it offered to reduce the power unit cost and it will reduce the cost to Rs.3.31 ps at which rate procurement of power from it may be approved.

12. During the hearing on 07-10-2017, the petitioners and the 1<sup>st</sup> respondent were requested to furnish verifiable material to substantiate the claim that payment of fixed and variable cost to these three generators will be less than the variable cost

payable to any other generators, who are permitted in the merit order dispatch as per the Tariff Order, thereby making even the payment of fixed cost to those generators not an additional burden to the distribution companies. The petitioners filed a Memo on 13-10-2017 giving particulars of comparable fixed cost and variable cost. During the hearing on 28-10-2017, learned Standing Counsel for the petitioners stated that any further information sought for by Sri M. Venugopala Rao in his objections cannot and is not being furnished.

13. The first set of identical objections from Sri M. Venugopala Rao and others contended that a single petition for purchasing power from three generators was improper and illegal. Making the letter from Andhra Pradesh Power Coordination Committee dated 03-05-2017 and the draft Power Purchase Agreement enclosed to it as part of the proceedings is improper. The expired Power Purchase Agreements of the three projects have no legal sanctity or relevance and were without any consent from the Commission. The permission requested concerning 1<sup>st</sup> and 2<sup>nd</sup> respondents cannot be sought, without transparent and competitive bidding for selection and approval by the Commission of the need to purchase power. Revision of tariff or modification of terms cannot arise when there are no legally tenable Power Purchase Agreements. The consent of the Commission after a public hearing was not sought in respect of the buyout of GVK plant though Rs.289.55 crores were paid by the distribution companies to bail out the owners of GVK. Godavari Gas Power Plant in tune with the dual role of the distribution companies. The petition shows undue preference to private generators for extraneous considerations and the agreement for renewal of gas supply and transport agreement for five years for the first respondent shows the undue priority to private generators. The extension of Power Purchase Agreement proposed for ten years is improper when GST with



GAIL (India) Limited was agreed for five years and when cases are pending in the High Court and APERC, renewing the Power Purchase Agreement is unhealthy. The generation of energy by the 1<sup>st</sup> respondent should have been confined to 55% PLF and a piecemeal proposal for procurement of power unrelated to long term load forecast and procurement plan subverts the regulatory process damaging larger consumer interest when substantial surplus power is available. The CB CID reports submitted to the State Government in respect of the three plants were kept in cold storage without any action. Supply of natural gas should have been ensured for the new four gas based power projects having long term Power Purchase Agreements and in claiming the cost of power to be cheap, the new four gas based power projects were not compared in respect of the cost of energy or fixed charges. The distribution companies which withdrew the forty one Power Purchase Agreements they had with Non-Conventional Energy generators due to having a surplus of 12013.95 million units as per the Tariff Order of 2017-18 are irresponsible in proposing to procure power from the 1<sup>st</sup> and 2<sup>nd</sup> respondents. The distribution companies had to pay Rs.2102.44 crores for backing down surplus power and such avoidable burden will increase if further power is procured from the 1<sup>st</sup> and 2<sup>nd</sup> respondents. Quoting the data from "Indian Electricity Market Data Analysis" made by the Power System Operation Corporation Limited, the objectors contended that the distribution companies have to purchase power from the existing Power Purchase Agreement holders irrespective of cost and if further surplus power is purchased, fixed charges have to be paid by the consumers for backing down additional surplus power. When long term load forecast, resources and procurement plans and State Electricity plan are pending before the Commission, irresponsible decisions adversely affecting larger public interest cannot be taken. The distribution

companies have no binding obligation to continue to procure power from the three projects and the three projects have to be dealt with on case by case basis. Therefore, the objectors desired all the details and data regarding buyout of GVK plant, renewal of Power Purchase Agreements and proposed tariffs to be provided to the public at large and to consider the requests only after a final view is taken on long term load forecast plans of Transmission Corporation of Andhra Pradesh Limited and the distribution companies.

14. A.P. Spinning Mills Association in their objection while requiring the Power Purchase Agreements etc., to be produced stated that the gas supply agreement is a fait-accomplis and it has to be examined whether the proposed power procurement will add to the problem of plenty and the attendant fixed cost burden for the backed out generation. The distribution companies cannot lament against supply of cheaper power to industries by Andhra Pradesh Gas Power Corporation Limited. The purchase of GVK plant is also a fait-accomplis. The objector desired the cost benefit analysis to the consumer be made.

15. The APSEB Engineers' Association in its objection dated 01-07-2017 stated that apart from the surplus energy estimated in the Tariff Order of 2017-18, the Andhra Pradesh Generation Corporation Limited (APGENCO) decided to stop allocation of power to Telangana State and Telangana State Power Generation Corporation Limited (TSGENCO) decided not to schedule power from their plants to Andhra Pradesh, leaving a net off power of 459 MW to Andhra Pradesh. Thus, 2173 MW power due to stoppage of power allocation to Telangana State further aggravated the situation. Andhra Pradesh State Load Dispatch Centre (APSLDC) is issuing backing down instructions to Andhra Pradesh Generation Corporation Limited (APGENCO) based on merit order dispatch but Andhra Pradesh distribution

companies are liable to pay fixed charges for the shut down units. That apart, the Transmission Corporation of Andhra Pradesh Limited (APTRANSCO) entered into Power Purchase Agreements with wind and solar power developers, who have must run status, of a capacity of 5517 MW. With supply becoming much higher, renewal of Power Purchase Agreement with the 1<sup>st</sup> respondent for ten years will increase the liabilities of the distribution companies and the gas availability is only 40% of the capacity of the gas based stations and the fixed cost varying between Rs.0.71 to Rs.0.90 per kWh from years 1 to 10. The availability of fuel and health of the machine were not stated in the Power Purchase Agreement and 100% capacity was declared by the 1<sup>st</sup> respondent without taking into account the availability of fuel. The fixed cost component then will be around Rs.1.40 to Rs.1.80. Power purchase cost due to payment of fixed charges to thermal stations will increase for ten years more and even regarding the variable cost, the distribution companies will be liable to pay the minimum fuel charges and positive imbalance charges in case of backing down. The variable cost will increase significantly if the distribution companies have to pay penalties for non-consumption of available gas, though a 06-11-1995 notification by the Government of India exempts the State Electricity Board from any fuel risk. Hence, they desired and sought for non-grant of approval to the renewed Power Purchase Agreement between the distribution companies and the 1<sup>st</sup> respondent.

16. APSEB Assistant Engineers' Association in their objections dated 01-07-2017 stated that 80% of the tariff component is due to power purchase cost only and due to addition of 2500 MW capacity of wind and solar power, the State Load Dispatch Centre (SLDC) has to issue backing down instructions to APGENCO stations for which fixed charges have to be paid. The power purchase cost will increase in case

of the Power Purchase Agreement with the 2<sup>nd</sup> respondent and the penalties payable by the distribution companies are significant. In any emergency, power is available in open market at lower cost through competitive bids, without paying the fixed cost.

17. Federation of Farmers Associations, Andhra Pradesh, Guntupalli in their representation dated 29-06-2017 stated about the violation of rights of the people, who are threatened against expressing their opinions even during the public hearings.

18. The petitioners in their response to the first set of objections of Sri M. Venugopala Rao and four others again reiterated that a single petition was filed as an error committed in the Aggregate Revenue Requirement inadvertently in the tariff calculations was common to the three projects. As negotiation and finalization of the Power Purchase Agreement is a long drawn process, the distribution companies seek to extend the expired Power Purchase Agreements on adhoc basis on the same terms and conditions. The distribution companies took a decision to procure power which is cheaper and lower than the ceiling price fixed by the Commission and in the Aggregate Revenue Requirement of 2016-17 also, power was availed from these stations, though the Power Purchase Agreements expired by then. Consequential procedures on expiry of Power Purchase Agreements were initiated before their expiry under intimation to the Commission and the revision of tariff was sought only for 2017-18 but not for long term purchases. The tariff was reduced to the extent possible through negotiations on payment of Rs.180 crores. Fixed charges were avoided by acquiring GVK plant on 22-04-2016 and the project was purchased at 50% of the cost. The project is on Ac.211.73 % cents. GVK will pay lease amount towards utilization of common facilities for which an agreement

was already entered into. No tariff is decided for the power generated by the distribution company projects. The Gas Supply Agreements are renewed for ten years as per the Government of India policy. The capacity of 1<sup>st</sup> respondent plant is the subject of the pending cases before the Hon'ble High Court. The complaints by the Transmission Corporation of Andhra Pradesh Limited against the 2<sup>nd</sup> respondent on capital cost failed before the police and the Commission. The four new gas based plants have agreements with the Reliance Gas while the three plants have Gas Supply Agreements with ONGC gas. As dispatches from renewable energy are highly unpredictable, generation from gas based stations will effectively maintain the grid discipline due to quick response time. The prices and availability in exchanges are volatile and the prices go up when the distribution companies seek to purchase power. The process of renewal/buyout in respect of the three stations started six months before the expiry of the Power Purchase Agreements and the solar power produced is only 20 to 30% PLF of installed capacity and vagaries of weather make huge dependence on renewable sources not viable.

19. The petitioners in their response to the objections of Engineers' Association and the AP Spinning Mills Association stated that the emphasis is on pure merit order dispatch including the State owned generators. The utilities are searching for cheaper sources of energy and to avoid any damage to grid stability due to sudden variation in renewable energy, gas stations have to be in the energy portfolio. The capacity declaration clause is incorporated in Schedule "B" of the draft Power Purchase Agreement. The Power Purchase Agreements are available on the websites of Transmission Corporation of Andhra Pradesh Limited and the Commission.

20. Sri M. Venugopala Rao in his submissions on 18-08-2017 stated that the so called apparent common error claimed to have been made inadvertently by the distribution companies in tariff calculations of the three projects is irrelevant. Why buyout is not economically viable in case of 1<sup>st</sup> and 2<sup>nd</sup> respondents is not explained. The question of revision of tariff does not arise and no power is needed to be purchased from any plants with which the distribution companies have no legally binding obligations to purchase power. The claim that the power from these three stations is cheaper is not correct and without data. For new IPPs, the variable cost worked out to Rs.1.90 per unit and fixed cost is Rs.1.08 ps per unit whereas it is Rs.2.05 and Rs.1.42 for the 1<sup>st</sup> respondent and Rs.2.15 and Rs.1.45 for the 2<sup>nd</sup> respondent. The total charges worked out to Rs.2.98 per unit for the new IPPs and Rs.3.47 per unit for 1<sup>st</sup> respondent and Rs.3.60 per unit for the 2<sup>nd</sup> respondent. Whether 1<sup>st</sup> respondent agreed to reduce the tariff in negotiations was not stated and when litigation on installed capacity is pending, why should power be purchased from the 1<sup>st</sup> respondent? Distribution companies may be directed to state whether GVK cleared the loan dues to the banks for this plant and what are the conditions of lease agreement for use of the land. These aspects of buyout price and lease amount have to be determined after public hearing for assessing the tariff and efforts have to be made to get the gas allocation to Godavari Gas Power Plant, if not scheduled to 1<sup>st</sup> and 2<sup>nd</sup> respondents. The replies of the distribution companies are to the detriment of the larger consumer interest and entering into long term Power Purchase Agreements to purchase high cost Non-Conventional Energy power is irrational, more so, exceeding the Renewable Power Purchase Obligation. The arguments of the distribution companies against the danger of buying high cost power is against their own long term Power Purchase Agreements for buying high

cost power without any imperative need and even very low PLF will not absolve the distribution companies of paying full fixed charges. These plants were not included in the long term load forecast and plans. While the scope for manipulation in exchanges cannot be ruled out the power from central generating stations was not fully drawn and the Southern States came to an understanding to purchase power from one another depending on availability and requirement linked to power exchange prices.

21. Sri M. Venugopala Rao in his further submissions dated 07-10-2017 stated that the distribution companies have to pay Rs.62 crores and Rs.45 crores more per annum to the 1<sup>st</sup> and 2<sup>nd</sup> respondents than what they have to pay to new IPPs if power is purchased as proposed. So it will be prudent to get gas allocated to the new IPPs and purchase power from them and get the reduction of tariff by Rs.1295 crores during the proposed periods of Power Purchase Agreements. Vemagiri project should be given priority in the allocation of natural gas and the distribution companies have eliminated these plants from their revised long term load forecast.
22. In his further submissions dated 21-10-2017, Sri M. Venugopala Rao stated that information relating to non-generation and supply of power from coal based thermal power stations has to be furnished to know the severe coal supply constraints. The thermal power, stopped supply to Telangana State distribution companies from June, is available additionally for an installed capacity of 1514 MW. The quantum of thermal power available to Andhra Pradesh distribution companies under bundled power from NTPC should be specified and the implementation of backing down of thermal power stations should be as per merit order dispatch. This information has to be furnished. The distribution companies are silent about the new

gas based private power projects and recent heavy rains lowered the demand for power and increased the generation of hydel power. The information relating to backing down power by SLDC should be examined to confirm whether the principles of merit order dispatch are adhered to. But the distribution companies did not submit any information about Godavari Gas Power Plant to show its variable cost to be less plus the fixed cost payable to the other generators for backing down. The learned objector gave calculations to show that the purchase of power from 1<sup>st</sup> and 2<sup>nd</sup> respondents by backing down the other units as per the merit order dispatch would impose avoidable burden on the distribution companies and the consumers. The 1<sup>st</sup> and 2<sup>nd</sup> respondents stand at 17<sup>th</sup> and 15<sup>th</sup> places in that merit order. The burden of purchasing 432 MU for six months from 1<sup>st</sup> and 2<sup>nd</sup> respondents as proposed will not be there for purchase for short periods in case of urgent need.

23. Sri M. Venugopala Rao in his further submissions dated 28-10-2017 stated about the principles of merit order dispatch as evidenced by the information referred to by him which shows avoidable burden of Rs.0.531 per kWh on the consumers. If PGCIL charges are included, the avoidable burden will be more and even the offer by the 2<sup>nd</sup> respondent to reduce its tariff to Rs.3.31 ps per kWh cannot justify the purchase. The distribution companies showed the variable cost of NLC wrongly. There is no documentary evidence to show the anticipated and severe coal supply constraints for next six months. The learned objector claimed that the information sought for by him was not provided by the distribution companies.

24. Sri M. Venugopala Rao ultimately in his final submissions dated 03-11-2017 stated that the way the public hearing has been conducted and the "Commission responded to their request has been found wanting in ensuring the regulatory



process in a meaningful and purposeful way". Though the learned counsel for the petitioners bluntly refused to furnish any required information, the "Commission expressed its helplessness to get the relevant information", though it has the power of Civil Court. The Chairman of the Commission expressed the view during public hearings that no surplus power is available even without any relevant information to substantiate such a claim. The ever changing and quickly fading stand of the distribution companies about the revised methodology of merit order dispatch or inadvertent errors in the Aggregate Revenue Requirements or inflated cost of NLC etc., confirm that the petitioners are under strong pressure. Still it is strange that the Commission is harping on the representatives of the Engineers Associations being expected to know these things. The Commission and the distribution companies expecting the learned objector to believe that there is no surplus power negates the spirit of regulatory process and the public hearings. If the Commission has such relevant information, it should have been made the public to establish transparency and accountability. It is difficult to understand the silence and unresponsiveness of the Commission and its reluctance to exercise its legitimate authority. Six months in the financial year have been passed without purchasing power from 1<sup>st</sup> and 2<sup>nd</sup> respondents without any problem. What is the basis for presumed availability of power through exchanges or competitive bidding at higher rates only? How can the Commission give consent on the mutual understanding between the petitioners and the respondents without any due process or Power Purchase Agreement? Still as suggested by the Chairman of the Commission to suggest what conditions should be imposed for purchase of such power, the learned objector is making suggestions in academic interest only that the distribution companies may be directed to go through exchanges or competitive bidding for additional power where required,

should ensure competitive tariffs and the 1<sup>st</sup> and 2<sup>nd</sup> respondents have freedom to come through the same. If the petitioners are intending to purchase power from 1<sup>st</sup> and 2<sup>nd</sup> respondents, it may direct them to purchase power at the fixed charges that were applicable at the time of expiry of the Power Purchase Agreements by working out the same per unit based on 80% PLF. In other words, there should be no payment of fixed charges for deemed generation and no reworking out of fixed charges based on actual generation. There is nothing on record that 1<sup>st</sup> and 2<sup>nd</sup> respondents have incurred additional capital expenditure. Fixed and variable charges for both should be firm and any purchase should be strictly following merit order dispatch, without any obligation for the distribution companies to pay fixed charges or penalties. Fixed charges and transmission charges to be paid to the backed down projects should also be taken into account. The Commission should respond in its order to all the relevant issues and points raised by the learned objector.

25. APSEB Engineers' Association in its letter dated 15-11-2017 pointed out that the petitioners worked out the levelized fixed charges and variable charges for the 1<sup>st</sup> and 2<sup>nd</sup> respondents at 40% and 55% PLF respectively. But, as per the APERC Regulations, IPPs must operate at 80% PLF to get full fixed charges. So the operating norms to be followed and penalty clause should be incorporated in the renewal of the Power Purchase Agreement. Hence, no short term purchases or Power Purchase Agreements may be permitted.

26. APSEB Engineers' Association in its earlier letter dated 21-10-2017 contended that RTPP, SDSTPS and Dr. NTPPS are in running condition except for backing down instructions by SLDC. The 1<sup>st</sup> respondent gets more profit if it goes to the exchange and in approaching the distribution companies, it kept an eye on the

fixed charges. The distribution companies sustained loss due to gas allocation from Andhra Pradesh Gas Power Corporation Limited for the reasons stated by the objector. The distribution companies did not submit the information relating to implementation of backing down as per the merit order dispatch and the total surplus power from the tariff order, any scheduled net off power and allocated power from NTPC is 2598 MW. This is apart from the generation of hydel power after rains. The State Public Sector undertaking APGENCO becomes a waste if private purchases are so allowed and the 1<sup>st</sup> respondent should also be subjected to a buyout.

27. APSEB Engineers' Association in its further submissions dated 28-10-2017 stated that the installed capacity is almost 200% to the peak demand and in fact APSLDC is curtailing the units of APGENCO in order to maintain grid stability. Huge public money is wasted if public sector units are thus backed down and it is better to buy out the plants of both the 1<sup>st</sup> and 2<sup>nd</sup> respondents. Hence it requested that renewal of the Power Purchase Agreements may not be approved.

28. APSEB Assistant Engineers' Association in its letter dated 21-10-2017 gave the calculations showing that unit cost is around Rs.5.7 for the respondents while the unit cost on the average for purchase from the exchanges in 2017 is Rs.3.66. There is no need to procure power from the 1<sup>st</sup> and 2<sup>nd</sup> respondents in the power surplus scenario.

29. The petitioners in a Memo filed on 13-10-2017, calculated the unit cost in different contingencies, actual cost in 2016-17, the effect of revision of natural gas price from 01-10-2017, the variable cost of NLC Stages 1 & 2 and the average cost on energy purchases from exchanges from April to August, 2017. The petitioners

stated about the allocation of excess gas not scheduled to the 1<sup>st</sup> and 2<sup>nd</sup> respondents to be resulting in supply of cheaper energy to industrial consumers by APGPCL resulting in loss to the distribution companies. The distribution companies should be permitted to avail cheaper generation to the extent of 432 MU more so due to anticipated severe coal constraints for next six months, for the grid availability and stability and due to decision of the State Government, the distribution companies shall be allowed to purchase power from these three plants.

30. The point for consideration is whether the procurement of power from the 1<sup>st</sup> and 2<sup>nd</sup> respondents and Godavari Gas Power Plant by the petitioners should be approved for the year 2017-18 as prayed for.

31. The Interlocutory Application herein is only seeking the relief of approval for procurement of power from respondents 1 and 2 and Godavari Gas Power Plant during the year 2017-18, while the Power Purchase Agreement with the 1<sup>st</sup> respondent admittedly expired on 01-01-2016. The proposal to renew the Power Purchase Agreement for ten years on mutually agreed tariff is not the subject matter of the present Application, while the petitioners claimed the procurement of power from the 1<sup>st</sup> respondent to have been stopped since 07-04-2017. The letter dated 03-05-2017 along with the draft Power Purchase Agreement for approval for procurement of power from the 1<sup>st</sup> respondent was stated to be pending with the Commission. Similarly, the Power Purchase Agreement between the petitioners and the 2<sup>nd</sup> respondent also expired on 18-04-2016 and it was stated that the petitioners submitted proposal of renewal of the Power Purchase Agreement with the 2<sup>nd</sup> respondent to the State Government. After receiving it, they will approach the Commission for renewal and fixation of tariff. The petitioners therefore requested for approval for procurement of power from the respondents 1 and 2 de hors the

approval of renewed Power Purchase Agreements. They also requested for fixation of an adhoc single part tariff in terms of the existing Power Purchase Agreement subject to adjustment later on approval of renewal of the Power Purchase Agreement and fixation of tariff. In so far as Godavari Gas Power Plant is concerned, the petitioners themselves exercised buyout option and took over the power plant with the approval of the State Government. They claimed that the power plant continued generation and supply being the own project of the petitioners and requested for revising the fixed and variable cost in the manner presented by them.

32. While the petitioners did not place any information before the Commission so far about any final decision on the ownership of Godavari Gas Power Plant, it is only after completion of the total buyout process that the position will be clear about the appropriate future course of action regarding the manner of procurement of power from the said plant or its price.

33. As already stated, the letters addressed on behalf of the petitioners on 03-05-2017 and 20-05-2017 with proposals for purchasing power from the respondents 1 and 2 respectively were withdrawn by the letters dated 22-05-2017 and the petitions said to be in the process of filing on the subject matter were not yet filed before the Commission. Therefore, the request for approval of procurement of power from the respondents 1 and 2 under any Power Purchase Agreements in renewal or fixation of any tariff there-under are not under consideration of the Commission in this Interlocutory Application or otherwise as of now. Similar is the case of Godavari Gas Power Plant in respect of which original request was made by a letter dated 18-05-2017 for revising the variable cost, paying lower fixed cost and ratifying the continued generation of power from that plant, which was withdrawn by

a letter dated 20-05-2017 and in the case of this plant also, any petition proposed to be filed, was not filed so far. As already stated, the letter dated 05-06-2017 from the Commission informed about the acceptance of the request for withdrawal of the proposals with liberty to file petitions. In view of the proposal of the petitioners to file appropriate petitions regarding the subject matter of their earlier letters extracted in detail above, the subject matter of those letters or the proposed petitions except to the extent of any of their contents overlapping the contents of the present Interlocutory Application, may not be open for examination and consideration on merits herein as the same may result in prejudging the issues that may arise for consideration in such petitions on the material that may be placed before the Commission by the petitioners or other stakeholders in such petitions. Under the circumstances, the Commission is compelled to tread carefully a narrow and restricted path to confine its consideration only to the relevant questions involved in the Interlocutory Application.

34. The present Interlocutory Application has been filed under section 62 (4) and section 86 (1) (b) of the Electricity Act, 2003 and Regulation 55 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999. Section 62 (4) provides that no tariff or part of any tariff may ordinarily be amended more than once in any financial year, except any changes under fuel surcharge formula. Section 86 (1) (b) makes it a function of the Commission to regulate electricity purchase and procurement process of distribution licensees including its price through agreements for purchase of power for distribution and supply within the State. Regulation 55 of the Business Regulations saves the inherent powers of the Commission. Regarding inherent powers, the Commission is bound to confine itself to the limits laid down by the Hon'ble Supreme Court in its

latest decision in Gujarat Urja Vikas Nigam Limited Vs. Solar Semiconductor Power Company, C.A.No.6399 of 2016 decided on 25-10-2017. Referring extensively to the provisions of the Electricity Act, 2003, the Hon'ble Supreme Court noted that an amendment to tariff by the Regulatory Commission is permitted under section 62 (4) read with 64 (6) and section 86 (1) (a) clothes the Commission with the power to determine the tariff and under section 86 (1) (b), it is for the Commission to regulate the price at which the electricity is to be procured from the generating companies. Noting that there cannot be any quarrel with regard to the power conferred on the Commission with regard to fixation of tariff for the electricity procured from the generating companies or amendment thereof in the given circumstances, the Hon'ble Supreme Court held that the inherent power of the Commission is available to it for exercise only in those areas where the Act or Rules are silent and there cannot be any exercise of the inherent power for dealing with any matter which is otherwise specifically provided under the Act. The interests of the consumers are to be safeguarded in determination of tariff with notice to the public after considering all the suggestions and objections received or the amendments thereof. The Commission being a creature of a statute cannot assume itself any powers which are not otherwise conferred on it.

35. The Electricity Act, 2003, a consolidating legislation was intended among other things for protecting interest of the consumers and rationalization of electricity tariff. The State Commission shall ensure transparency while exercising the powers and discharging its functions as per section 86 (3). The Conduct of Business Regulations, 1999 and the specified powers of a Civil Court enumerated in section 94 guide the Commission in its proceedings.

36. With this background it should be noted that any of the stakeholders also did not question the jurisdiction of the Commission to consider and decide the Interlocutory Application on merits.

37. In the identical objections of Sri M. Venugopala Rao and others first filed, buyout of the plant from GVK and various questions relating to the same including the absence of any registered Sale Deed so far was questioned in detail but those issues may be the relevant subjects for consideration, if the Commission is approached for any relief relating to buyout or transfer of ownership or fixation of any tariff. The questions raised in that regard may be of some significance but if Godavari Gas Power Plant is fully owned by the petitioners as claimed, whether the same legal persons being the owners of the generating companies and the distribution licensees will obviate the necessity of a Power Purchase Agreement is not crucial for avoiding any arbitrariness or detriment to larger consumer interest in fixing the tariff for such power. As the transfer of ownership and registration of a Sale Deed are still awaited, it will be appropriate not to express any opinion on the same.

38. The objections of A.P. Spinning Mills Association dated 30-06-2017 sought for the copies of the Power Purchase Agreements of all the three generators but as already stated, any Power Purchase Agreements are not the subject matter of the present consideration. The advice of the State Government due to which power was purchased from the 1<sup>st</sup> respondent upto 07-04-2017 is not provided with this proceeding to confirm or deny whether such advice has been placed before this Commission and whether any orders are passed by this Commission in that regard. While the gas supply agreement has of course become a fait-accompli as pleaded by the Discoms, the same in no way fetters this Commission from discharging its



functions relating to any arrangement or agreement between the petitioners and the 1<sup>st</sup> respondent. The A.P. Spinning Mills Association rightly cautioned against adding to the problem of plenty and burdening the consumers with fixed costs for backing down already approved sources but the petitioners claimed such burden to be less than the burden of paying fixed cost to the backed down generators and there is no clear proof that such a claim is false or inaccurate. While supply of cheaper power by the APGPCL to its industrial consumers cannot be a matter of complaint for the petitioners, the manner of allocation of gas by GAIL is not a relevant factor to consider reasonableness or acceptability of procurement of power from the 2<sup>nd</sup> respondent by the petitioners. While the plans of procurement of power need to be revised in tune with the proposed procurement, the petitioners claimed to have made a cost benefit analysis on any questionable terms in respect of the consumers according to their replies.

39. The APSEB Engineers' Association was mainly referring to the fixed and variable cost and penalties etc., to contradict the petitioners. In its objections dated 01-07-2017 the estimated surplus energy for tariff year FY 2017-18, the addition of unallocated power to Telangana from APGENCO and stoppage of power allocation to Telangana State were claimed to aggravate to 2173 MW and if the mission of the State Government were to reduce the tariff from the next year, the increase in the fixed and variable cost is contrary to it. These contingencies were conceived by the association with reference to renewal of the Power Purchase Agreement with the 1<sup>st</sup> respondent for a further period of ten years while the present Application is confined to short term purchases for this financial year claimed to have been necessitated for the reasons claimed by the petitioners.

40. The APSEB Engineers' Association in its further objections dated 21-10-2017 suggested that the buyout option in respect of the 1<sup>st</sup> respondent will be beneficial to the State Government and the consumers but the same is a decision to be taken by the petitioners in accordance with their contractual rights on merits on which this Commission cannot express any advance opinion before any such decision is taken and placed before it for consideration. The Association considered it more profitable for the 1<sup>st</sup> respondent if it sells its power through power exchange than eying the fixed charges from the petitioners. But the consideration herein is not what is profitable to the 1<sup>st</sup> respondent but to the petitioners and the consumers. Similarly, the anticipation of severe coal shortage for six more months by the petitioners and contrary expectations of the objectors are contingent on future circumstances not susceptible to any mathematical assessment by the Commission. Similarly the circumstances relating to new IPPs i.e., GMR, Gautami, Konaseema and GVK extension or the running of APGENCO plants, RTTP, STSPPS and Dr. NTPPS may be relevant to assess any long term impact which may not be necessarily true of short term purchases. The Association also referred to the absence of comparison of variable cost of all the generators, implementation of backing down instructions, increase in transmission losses, dropping voltage profile, increase in hydel generation in addition to the surplus of 2598 MW etc., which aspects may require a deeper study in the overall planning of the power sector and sacrificing public sector units of APGENCO having a hidden but a strong social impact is undoubtedly a strong circumstance requiring a delicate balancing of interests of public and private generators.

41. In their further objections dated 28-10-2017, the Association again canvassed about protecting public sector units and huge public money and the advisability of

buying out the plants of the 1<sup>st</sup> and 2<sup>nd</sup> respondents as done in the case of Godavari Gas Power Plant. As already stated, these are issues on which a decision cannot be arrived at within the scope of this Interlocutory Application.

42. In the last of their representations dated 15-11-2017 with reference to the query by the Commission during the public hearing as to what would be the appropriate conditions to be imposed in case such procurement of power were to be accepted, the Association suggested that as per the Regulation of the Commission, the operating norm should be 80% PLF to get full fixed charges with penalties for under generation and as the AP DISCOMS did not substantiate their decision with relevant data when the PLF of APGENCO is more than 80% and not 37% as projected by AP DISCOMS. Hence, they sought for rejection of the request to protect the interests of the consumers and this suggestion to clarify the operating norms to be followed has to be kept in view, while it is true that the data produced by the AP DISCOMS is not exhaustive but is random.

43. The APSEB Assistant Engineers' Association raised similar objection on 01-07-2017 about possible increase of power purchase cost by entering into any agreement with the 2<sup>nd</sup> respondent and the availability of emergency power at lower cost in open market through competitive bids without paying fixed charges. But the objection was against the proposed renewal of the PPA with the 2<sup>nd</sup> respondent. In their further objections dated 21-10-2017, the Association gave its calculations to suggest the unit cost of the respondents to be about Rs.5.70. It is contrary to the calculations given by the petitioners. The Association reiterated that AP DISCOMS can buyout the two units but not procure power from them levying excess burden on the consumers. The statistical data of the Association and the petitioners are at

absolute variance and a statement from the public utility may deserve preference in case of such divergence.

44. The Federation of Farmers' Association has not touched upon any of the questions directly in issue herein.

45. This leaves the different objections of Sri M. Venugopala Rao (and other identical objectors) from 16-06-2017 to 03-11-2017 and the responses of the petitioners to some of the objections of the stakeholders.

46. A single petition for purchase of power from three generators was opined to be improper and illegal, but no specific provision of law or precedent to that effect is placed before the Commission to be relied on in this Interlocutory Application. APPCC's letter or draft Power Purchase Agreement are not under consideration herein, hence making any inquiry into the legal sanctity of APPCC not required here. While the Power Purchase Agreements of those generators which expired due to efflux of time have no relevance for the present consideration except forming part of the chronology of events, as already stated, the terms of any proposed renewal Power Purchase Agreement are also not the subject of the consideration herein and any questionability in terms of propriety therefore does not arise. That competitive bidding is the only route for even short term purchase of power is not shown to be mandatory under any provision or principle and revision and review of or mutual negotiations for tariff or modified terms of the Power Purchase Agreement etc., may not be meticulous expressions but the request of the petitioners plainly and simply understood is for procurement of short term power from the three generators at the price indicated by them for the financial year 2017-18. The buyout of GVK plant and the various issues raised surrounding GVK are beyond the scope of the present

Interlocutory Application and whether the same legal entity can enter into a Power Purchase Agreement with itself is a moot question, a research into which is not indispensable herein. The motives behind the proposal for procurement of power herein, the reasons for renewal of gas supply and transport agreement of the 1<sup>st</sup> respondent, the pendency of W.P.No.7838 of 2004 and connected matters etc., were suggested to be indicative of undue preference to Lanco (1<sup>st</sup> respondent) but they can have no direct impact in considering the reasonableness of procurement of power sought for herein. It is true that a long term load forecast and procurement plan etc., are the subject of a pending public hearing but the conclusion of the same is likely consume some more time while the present request is for a short term power supply for the present financial year. An inquiry by CBCID is claimed to have been ordered by the State Government into the various alleged manipulations of three generators and the consequential reports are claimed to have been kept in cold storage about which aspects, there is no material before the Commission in this inquiry. While the four gas based power projects which ought to have been preferred for supply of gas according to the objectors are also private players, the learned objectors have raised issues of comparability of the fixed charges and variable charges of different generators and the Discoms claimed such comparison to be in favour of the three generators herein. Purchase of this power in spite of surplus is claimed to be highly irresponsible but the Discoms claimed that surplus in calculation did not turn out to be surplus in reality. The calculation of the additional financial burden on the consumers due to the liability for payment of fixed cost at Rs.2102.44 crores is not admitted by the Discoms and the considerations for award of additional surcharge from open access consumers are not relevant considerations for the present consideration. The objectors relied on the Indian Electricity Market

41

Data Analysis by an enterprise of the Government of India to refute the claim of this power being cheaper but such intraday/contingency market depends on the vagaries of the market conditions and forces and may not offer a safe basis for stable planning. The very strong criticism of the "powers that be" and their ways cannot be the subject of determination herein. The objectors ultimately sought for full data (more data than furnished) and the learned Standing Counsel for the petitioners submitted that any further information cannot and is not being furnished.

47. In his further objections dated 18-08-2017, Sri M. Venugopala Rao claimed that so called apparent common error claimed to have been made inadvertently by the Discoms in the tariff calculations of three projects is irrelevant and the subject common petition is uncommon in the annals of the Commission. While the petitioners have not traced the manner in which such an "error" has crept in. If it were such an error as would materially affect the fixation of merit order dispatch by the Commission, the same may not be lightly brushed away as irrelevant. As rules of procedure are intended to be hand maids of justice, the form of the petition making a common prayer in respect of the three generators in an Interlocutory Application should not lead to any denial of civil or substantive rights, if the parties are otherwise entitled to the same. The learned objector worked out the total tariffs for new IPPs and these three plants at Rs.2.98, Rs.3.47 and Rs.3.60 per unit, which the Discoms do not admit. While the various issues about the GVK buyout, gas supply agreement, CBCID inquiry etc., are not the core issues to be considered herein, similar are the questions relating to high cost NCE, RPPO, the inclusion or exclusion of respondents 1 and 2 in the long term power procurement plan, possible manipulations relating to power exchanges etc.

51. In the final submissions dated 03-11-2017, Sri M. Venugopala Rao complained about the way in which the public hearing is conducted and the Commission responded to their requests, but the Commission can only say that it is acting to the best of its ability, knowledge and judgment in conducting the proceedings including the public hearings or responding to the requests of various parties or stakeholders. When the learned Standing Counsel for the Discoms stated about not producing any further information, it was made clear by the Commission that the necessary inferences about non-production of any information will be drawn if any such information is considered to be vital to the issue and available with the Discoms and suppressed from the Commission and it is for the Commission to arrive at any such conclusion and not for a party or a stakeholder to presume helplessness on the part of the Commission. It should be made clear at this stage that in any judicial proceedings (the proceedings before the Commission having been deemed to be judicial proceedings under section 95 of the Electricity Act, 2003), the court/judge actively participates in the hearing and such interventions are with a view to elicit information or to have a question of law or fact clarified or to stimulate a discussion on conceivable alternative courses of action to do justice.

52. In the objections dated 16-06-2017, the observations of the Chairman of the Commission during some other hearing, about the legal sanctity of APPCC and accusing it of executive arrogance were referred to. The observations of the Commission through its Chairman were neither conclusions nor accusations but were queries to elicit the legal sanctity of APPCC and if it has no legal sanctity, whether its actions amount to executive arrogance. Similar is the observation in the objections about the present public hearing being without a precedent but it is humbly sought to be brought to the notice of all concerned that it is only with a view

to ensure more transparency and accountability that matters which were earlier considered and decided purely as administrative matters within the secrecy of the office of the Commission are now brought to the realm of the public hearing whenever public interest is considered by the Commission to be involved and it is only hoped that mere disagreement of the Commission with the views or perceptions of a stakeholder or a party may not be construed as *per se* indicating any lack of *bona fides* on the part of the Commission.

53. Similar observations of the Chairman during the public hearing that no surplus power is available is not an expression of opinion or view that no surplus power is available but to know about the acceptability of the proposed procurement of power vis-à-vis availability or non-availability of surplus power. If the representatives of Engineers' and Assistant Engineers' Associations were asked as to whether they are expected to know the details of realities as part of the organizations, it is because they came up with facts and figures and not with a view to draw any conclusion from their answers. A hope was expressed that the Commission would respond to all the relevant issues and points raised by the objector and it would be the endeavour of the Commission in all matters including the present one to respond to and decide all the relevant issues and points raised in any proceedings before it. It may not be a word to word, line to line reply but in no case, the Commission failed to deal with and answer any questions which it felt relevant to the inquiry before it. The Commission only wishes to place on record that all its actions and orders or expressions are in *bona fide*, honest and neutral belief of their correctness, reasonableness and justification in fact and law and hopefully the credibility of the Commission on that count is not in doubt. The Commission might have gone wrong in its conclusions and its actions but never knowingly or designedly. However, the Commission does



not claim to be infallible and will continue to make every effort to improve itself without giving any scope for repetition of its mistakes, if any.

54. Be that as it may, the objections dated 03-11-2017 about the silence and unresponsiveness of the Commission and its reluctance to exercise its legitimate authority are noted with pain and anguish and any such impressions or insinuations are left to the good sense of the concerned.

55. Learned objector while sticking to the stand that available surplus power excludes any necessity for the proposed procurement, made suggestions in academic interest as desired by the Commission. He suggested that Discoms may be directed to go through power exchanges or competitive bidding when required and if purchase of power from respondents 1 and 2 is permitted, it may be at the fixed charges applicable at the time of expiry of their Power Purchase Agreements working it out at 80% PLF. In other words, there should be no fixed charges for deemed generation and no reworking of fixed charges on actual generation more so when no additional capital expenditure is incurred. The fixed and variable charges of the respondents 1 and 2 should be firm as in the case of purchase of power from power exchange and the purchase should be strictly following the merit order dispatch without any obligation to the Discoms to pay fixed charges or penalties after taking into account the fixed charges and transmission charges to be paid by the Discoms to those projects which will be backing down in order to purchase this power. The suggestions of Sri M. Venugopala Rao and the Engineers' Associations have to be kept in view accordingly.

56. In their application and their responses, the petitioners have clearly stated about an 'accidental' error in the numbers inadvertently made in the tariff calculation

of these three projects in the filing of Aggregate Revenue Requirement by the distribution companies for the financial year 2017-18. The error described as apparent by the petitioners themselves is difficult, if not impossible, to be believed as inadvertent or innocent. In filing such a crucial document like Aggregate Revenue Requirement, a thorough check at every stage should be indispensable and if the error alone led to the Commission not taking these developers into consideration for the merit order dispatch, it is a very serious consequence that fell upon these three generators for no fault of theirs. Therefore irrespective of the result of this Interlocutory Application, the Discoms should be directed to inquire into the circumstances and persons responsible for such an error and take appropriate corrective measures to prevent recurrence of any such situations in future.

57. The petitioners have stated that the power has been availed in these circumstances even after expiry of the Power Purchase Agreements and that the original Power Purchase Agreement with the 1<sup>st</sup> respondent was entered into on the basis of international competitive bidding process.

58. The detailed response of the petitioners to the various objections in effect and substance attempted to state that the exclusion of these power producers from consideration in the tariff order of 2017-18 was due to an incorrect statement of the tariff payable based on mistaken numbers and that permitting as short term purchases for this financial year would be beneficial to the Discoms and the consumers. Even in the application, the actual cost of these three generators is projected and the second respondent pointed out that the purchases from the exchanges by the AP Discoms from April, 2017 to August, 2017 was for Rs.3.44 to Rs.4.04 ps per unit making an average of Rs.3.67 ps. The Memo by the petitioners

dated 13-10-2017 also projected the same figures and these circumstances may disclose not only the non-availability of estimated power from the approved stations in these months but also the price of power from exchanges being not less than the cost of power now projected by the three generators. In the Memo dated 25-10-2017, the 2<sup>nd</sup> respondent offered its power with a further concession at Rs.3.31 ps per kWh/unit and in the Memo of the petitioners dated 13-10-2017 it was clearly stated that if the prices are arrived with a PLF of 80% and a fixed price of 0.4776 kWh being the fixed price paid at the time of expiry of the Power Purchase Agreements, then the effective prices will be Rs.3.23 and Rs.3.09 with 55% and 40% PLF respectively for the 2<sup>nd</sup> and 1<sup>st</sup> respondents, which more or less tallies with the suggestions made in academic interest by Sri M. Venugopala Rao. However, as the concerned Ministry of Government of India has revised the price of natural gas with effect from 01-10-2017, the increase in gas price is stated to increase the power per unit cost to Rs.3.52 and Rs.3.29 respectively for the 2<sup>nd</sup> and 1<sup>st</sup> respondents. While the other reasons relied on by the petitioners to claim that what was offered by the respondents is less than the cost of procurement of power from other generators are not admitted by the objectors / stakeholders, the claims of the petitioners that the cost of power from respondents 1 and 2 or Godavari Gas Power Plant will be less than procurement from other sources in the merit order dispatch even if other generators were to be paid fixed cost will be open to factual and physical verification at the end of the financial year and if it were to be found that the petitioners misled the Commission, the legal consequences under the provisions of the Electricity Act, 2003 should ensue. If procurement of power from respondents 1 and 2 were to be thus cheaper to the petitioners notwithstanding any liabilities towards persons having Power Purchase Agreements with them, the same exfacie is beneficial both to the

49

distribution companies and the consumers. The cost of power from the Godavari Gas Power Plant is stated to be much less and if appropriate conditions are imposed, the procurement of power for this financial year from these three generators can be permitted accordingly. While leaving open various questions raised outside the scope of the present Interlocutory Application to be determined in appropriate proceedings, this Interlocutory Application has to be ordered on such lines.

59. Therefore,--

- (a) the Applicants/Petitioners shall cause the circumstances and persons responsible for presenting an incorrect picture relating to respondents 1 and 2 and Godavari Gas Power Plant in the Aggregate Revenue Requirement (ARR) of FY 2017-18 duly identified in accordance with the prescribed procedure and take necessary corrective measures to prevent recurrence of any such events in future;
- (b) the Applicants/Petitioners are permitted to procure power from the 1<sup>st</sup> respondent at a fixed cost of Rs.0.96 ps and variable cost of Rs.2.33 ps making a total of Rs.3.29 ps per unit during the FY 2017-18;
- (c) the Applicants/Petitioners are permitted to procure power from the 2<sup>nd</sup> respondent at a single part tariff of Rs.3.31 ps per unit during the FY 2017-18.
- (d) the Applicants/Petitioners are permitted to procure power from Godavari Gas Power Plant at a fixed cost of Rs.0.79 ps and a variable cost of Rs.2.20 ps per unit during the FY 2017-18;
- (e) the above short term purchase of power shall be strictly following the principle of merit order dispatch and the Applicants/Petitioners shall not be

- liable for any obligations to pay any fixed charges or penalty or otherwise if they do not purchase power from these three plants;
- (f) there shall be no payment of fixed charges for deemed generation and no reworking of fixed charges based on actual generation in respect of these short term purchases;
- (g) the consideration and conclusions herein are purely confined only to the short term purchases for FY 2017-18 and no other issue or matter;
- (h) within two months, on expiry of financial year 2017-18, the Applicants/Petitioners shall place before the Commission material to substantiate that these short term purchases did not impose any additional burden on the distribution companies or the consumers due to any payment to any generators permitted in the merit order dispatch, due to these short term purchases.
60. The Interlocutory Application is ordered accordingly, without costs.

This order is corrected and signed on this the 29<sup>th</sup> day of November, 2017.

Sd/-  
P. Rama Mohan  
Member

Sd/-  
Dr. P. Raghu  
Member

Sd/-  
Justice G. Bhavani Prasad  
Chairman

02

## ANDHRA PRADESH POWER CO-ORDINATION COMMITTEE

From  
Chief Engineer,  
Commercial/APPCC,  
Vidyut Soudha,  
Hyderabad-82.

To  
M/s LancoKondapalli Power Ltd.,  
Plot No.4, Software Units Layout,  
HITEC City, Madhapur,  
Hyderabad - 500 081

Lr. No.CE/Comml./IPP - Div./F-Lanco/D.No. 58 /18, Dt: 17.02.2018

Sir,

Sub:- APPCC/APDISCOMs - Purchase of Power from M/s. Lanco Kondapalli Power Limited for the period from 01.04.2017 to 31.03.2018 - Lol - Issued - Reg.

Ref: - APERC order dated 29.11.2017.

\*\*\*

The Hon'ble APERC vide its order dated 29.11.2017 has permitted APDISCOMs to procure power from M/s.Lanco Kondapalli Power Limited and M/s. Spectrum Power Generation Limited, on short term basis for the Tariff Year, 2017-18.

Accordingly, the consolidated LOI is Issued for Procuring power from M/s.Lanco Kondapalli Power Limited for the period from 01.04.2017 to 31.03.2018 as follows:

S.No.	Period	Cost Rs./Kwh
1	01.04.17 to 30.09.17 (Gas Cost at 2.48\$/MMBtu)	0.96+2.13 = 3.09
2	01.10.17 to 31.03.18 (Gas Cost at 2.89\$/MMBtu & GST Reduced on Gas Transmission Charges)	0.96+2.25 = 3.21
3	17.10.2017 to 18.10.2017 and 03.11.2017 to 04.11.2017 (with Naphtha Generation)	0.96+ Naphtha Cost Pass through

This Lol is Issued to process the Invoices/bills raised by M/s. Lanco Kondapalli Power Ltd., for the supplied energy for the period from 01.04.2017 to 31.03.2018.

Please acknowledge the receipt of this Lol.

Yours faithfully

*Sonu*  
19/12/18 (FAC)

Chief Engineer/Comml./APPCC

Copy to GM (PP&S) /APPCC /VS/Vijayawada

2



52

**LANCO**  
Always Inspiring

Ref.: LKPL:APPCC:12778 :18

October 01, 2018

**The Chief Engineer (Commercial)**  
APPCC  
Vidyut Soudha  
Hyderabad- 500 082



Dear Sir

We submit that in respect of power supplied from our Plant at Kondapalli, APDISCOMs are paying a total tariff of Rs.3.29 / Kwh comprising of Fixed Cost @ Rs.0.96 and Variable Cost @ Rs.2.33 at a Station Heat Rate of 1995 kcl / kwh basing on the APERC Order dated 8-8-2018.

We were informed by GAIL that the APM Gas price (Basic) has been increased from \$ 2.89 / MMBTU to \$ 3.36 / MMBTU(Copy enclosed). This increase in Basic Gas Price is resulting in an increase of total tariff from Rs.3.29 / Kwh to Rs.3.77 / Kwh as detailed below:

Particulars		Gas Price	Gas Price	
		wef Oct,17	wef Oct,18	
		APM	APM	
<b>Calculation of Variable Cost (VC)</b>				
Gas Cost Base Rate / MMBTU	USD	2.89	3.36	
Ex.Rate	Rs.	66.00	73.00	
Gas Cost Base Rate	Rs.	190.74	245.28	
Marketing Margin	Rs.	5.04	5.04	
Transport	Rs.	53.48	50.76	
Total	Rs.	249.26	301.08	
VAT @ 14.5%	Rs.	36.14	43.66	
Total Gas Cost / MMBTU	Rs.	285.40	344.73	21%
Units export per MMBTU @ 1995 SHR	Kwh	122.53	122.53	
VC / Kwh	Rs.	2.33	2.81	21%
FC / Kwh	Rs.	0.96	0.96	0%
Total Tariff / Kwh	Rs.	3.29	3.77	15%

**Lanco Kondapalli Power Limited**

Registered Office: Lanco House, Plot No. 4, Software Units Layout,HITEC City, Madhapur, Hyderabad-500 081, India.  
T: +91 40 4009 0400 F: +91 40 2311 8444 E: lkpl@lancogroup.com

Plant Office: IDA, Kondapalli, Ibrahimpatnam Mandal - 521 228, Krishna District, A.P., India.  
T: +91 866 287 2804 F: +91 866 287 2801  
www.lancogroup.com

Corporate Identity Number: U40101TG1995PLC021459





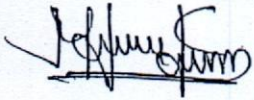
53

**LANCO**  
Always Inspiring

In view of the above, we request APPCC / AP Discoms to settle the bills that will be submitted in respect of power supplied upto 30<sup>th</sup> Sep,2018 @ Rs.3.29/Kwh and from 1st October, 2018 onwards @ Rs.3.77/Kwh.

Thanking you,

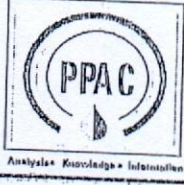
Very truly yours,  
for Lanco Kondapalli Power Limited



Suresh Kumar Medikonda  
President







54

पेट्रोलियम योजना एवं विश्लेषण प्रकोष्ठ  
पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत सरकार  
**Petroleum Planning & Analysis Cell**  
Ministry of Petroleum & Natural Gas, Government of India

Ref: No. PPAC/Gas Pricing/ Oct 2018 - March 2019

Dated: 28.09.2018

To,  
Chairman & Managing Director, ONGC  
Chairman & Managing Director, OIL  
Director General of Hydrocarbons

**Sub: Domestic Natural Gas Price for the period October 2018 – March 2019.**

In accordance with Para 8 of the "New Domestic Natural Gas Pricing Guidelines, 2014" issued by Ministry of Petroleum and Natural Gas, Govt. of India, the price of domestic natural gas for the period 1<sup>st</sup> October, 2018 to 31<sup>st</sup> March, 2019 is US \$ 3.36/MMBTU on Gross Calorific Value (GCV) basis.

*Atreyee Das*  
(Atreyee Das) 28/9/18  
Director General

CC to:

- i) Secretary, MoP&NG
- ii) Principal Advisor, MoP&NG
- iii) Joint Secretary (Exploration), MoP&NG
- iv) Joint Secretary (GP), MoP&NG
- v) PS to Hon'ble Minister of P&NG and Skill Development & Entrepreneurship



Ref.: LKPL:APPCC:12816 :18

November 01, 2018

**The Chief Engineer (Commercial)**  
APPCC  
Vidyut Soudha  
Hyderabad- 500 082



Dear Sir

We submit that in respect of power supplied from our Plant at Kondapalli, APDISCOMs are paying a total tariff of Rs.3.29 / Kwh comprising of Fixed Cost @ Rs.0.96 and Variable Cost @ Rs.2.33 at a Station Heat Rate of 1995 kcl / kwh basing on the APERC Order dated 29-11-2017 (Copy enclosed). 8-8-2018

GAIL has increased APM Gas Price from \$ 2.89 / MMBTU to \$ 3.06 / MMBTU w.e.f. 1<sup>st</sup> April, 2018 (Copy enclosed). The increase in Basic Price has resulted in increase in Variable Cost per Kwh from Rs.2.33 /Kwh to Rs.2.58/ Kwh considering the cost of gas supplied by Ravva and Ravva Satellite fields also. Though there is an increase in gas price inadvertently we have billed w.e.f. 1<sup>st</sup> April, 2018 at old price of gas and the same has resulted in short billing by about Rs.20.42 Crores. The details of the revised tariff is as under :

Particulars		Average Gas Price April, 2018 to Sep, 2018
<b>Calculation of Variable Cost (VC)</b>		
Average Gas Cost Base Rate / MMBTU	USD	3.17
Exchange Rate	Rs.	69.00
Gas Cost Base Rate	Rs.	218.81
Marketing Margin	Rs.	6.83
Transport	Rs.	50.76
Total	Rs.	276.40
VAT @ 14.5%	Rs.	40.08
Total Gas Cost / MMBTU	Rs.	316.47
Units export per MMBTU @ 1995 SHR	Kwh	122.53
VC / Kwh	Rs.	2.58
FC / Kwh	Rs.	0.96
Total Tariff / Kwh	Rs.	3.54

**Lanco Kondapalli Power Limited**

Registered Office: Lanco House, Plot No. 4, Software Units Layout, HITEC City, Madhapur, Hyderabad - 500 081, India.  
T: +91 40 4009 0400 F: +91 40 2311 8444 E: lkpl@lancogroup.com

Plant Office: IDA, Kondapalli, Ibrahimpatnam Mandal - 521 228, Krishna District, A.P., India.  
T: +91 866 287 2804 F: +91 866 287 2801

www.lancogroup.com

Corporate Identity Number: U40101TG1995PLC021459



*Prabhu*

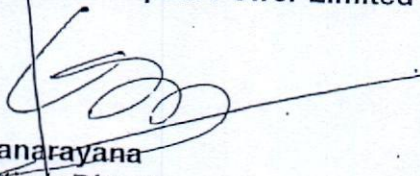
56.

**LANCO**  
Always Inspiring

In view of the above, we request you to consider the above revised tariff and to process and pay the amount of Rs.20.42 Crores for the increase in Gas Price during the period April 01, 2018 to September 30, 2018.

Thanking you,

Very truly yours,  
for Lanco Kondapalli Power Limited



K.Satyanarayana  
Whole-time Director



Ref.: LKPL:APPCC:12817 :18

November 01, 2018

**The Chief Engineer (Commercial)**  
 APPCC  
 Vidyut Soudha  
 Hyderabad- 500 082

Dear Sir

We invite a reference to our letter No.LKPL:APPCC:12778:18 dated October 01, 2018 (copy enclosed) wherein we submitted our request for revision in tariff payable in view of increase in Basic Gas price to \$ 3.36 / MMBTU w.e.f. 1<sup>st</sup> Oct, 2018. However, while submitting our request inadvertently we missed to consider the cost of gas supplied by Ravva and Ravva Satellite fields. We submit hereunder the average cost of Gas Price (considering Ravva and Ravva Satellite field supplies also) and the revised tariff for the same.

Particulars		Average Gas Price w.e.f. October,2018
<b>Calculation of Variable Cost (VC)</b>		
Average Gas Cost Base Rate / MMBTU	USD	3.44
Exchange Rate	Rs.	73.00
Gas Cost Base Rate	Rs.	251.35
Marketing Margin	Rs.	6.83
Transport	Rs.	50.76
Total	Rs.	308.94
VAT @ 14.5%	Rs.	44.80
Total Gas Cost / MMBTU	Rs.	353.74
Units export per MMBTU @ 1995 SHR	Kwh	122.53
VC / Kwh	Rs.	2.89
FC / Kwh	Rs.	0.96
Total Tariff / Kwh	Rs.	3.85

In view of the above, we request you to consider the above tariff and to pay the bills accordingly w.e.f. 1<sup>st</sup> October, 2018 at Rs.3.85 / Kwh.

Thanking you,

Very truly yours,  
 for Lanco Kondapalli Power Limited

**K.Satyanarayana**  
 Whole-time Director

**Lanco Kondapalli Power Limited**  
 Registered Office: Lanco House, Plot No. 4, Software Units Layout, HITEC City, Madhapur, Hyderabad-500 081, India.

T: +91 40 4009 0400 F: +91 40 2311 8444 E: lkpl@lancogroup.com

Plant Office: IDA, Kondapalli, Ibrahimpatnam Mandal - 521 228, Krishna District, A.P., India.

T: +91 866 287 2804 F: +91 866 287 2801

www.lancogroup.com

Corporate Identity Number: U40101TG1995PLC021459



prokash

58

**ANDHRA PRADESH POWER CO-ORDINATION COMMITTEE**

From  
Chief Engineer  
Commercial / APPCC  
Vidyut Soudha  
Hyderabad – 500 082  
Fax: 040-23317634

To  
✓ M/s.Lanco Kondapalli Power Ltd.,  
Plot No.4, Software Units Layout,  
Hitech City, Madhapur,  
Hyderabad – 500 081.

Lr.No.CE/Comml./APPCC/DE-IPP/F.Lanco/D.No. 81 /18, dt.05.11.2018

Sir,

**Sub:** APPCC – DISCOMs – Procurement of Power from M/s.Lanco Kondapalli Power Ltd., for the FY 2018 -19 –Your request for increase in Variable rate – Reg.

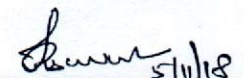
**Ref:** 1. Tariff Order for the FY 2018 – 19  
2. APERC Order dt. 08.08.2018  
3. Lr. No. LKPL : APPCC :12778/18 dt.01.10.2018.

\*\*\*\*

This is with reference to your letter cited under ref (3), wherein it was requested to increase the variable cost for the power being supplied from your plant at Kondapalli, due to the increase in Basic Gas Price as notified by PPAC.

In this regard, it may please be noted that DISCOMs have been paying a total tariff of Rs.3.29/Kwh (F.C. @ Rs.0.96 and V.C. @ Rs.2.33) as per the APERC Order dated 08.08.2018 and the Tariff Order for the FY 2018-19. Therefore, DISCOMs cannot pay anything more than what is ordered by APERC. If you are aggrieved of the orders of APERC, you are at liberty to approach the Hon'ble APERC and get the earlier orders modified so as to effect the Variable Cost in commensurate with the increase in gas price.

Yours faithfully,

  
CHIEF ENGINEER (COMMERCIAL)

Ref.: LKPL:APPCC:12829 :2018

Date: November 12, 2018

To  
The Jt. Managing Director (Fin., Comml., IPC, HRD & IT)  
Andhra Pradesh Power Coordination Committee (APPCC)  
Vidyut Soudha  
Gunadala  
Vijayawada – 520 004  
Andhra Pradesh

Dear Sir,

- Ref: 1) APPCC Letter No. CE/Comml./APPCC/DE-IPP/F.Lanco/D.No.81/18 dated 05.11.2018  
2) Our Letter No. LKPL:APPCC:12778/18 dated 01.10.2018  
3) Our Letter No. LKPL:APPCC:12816 :18 dated November 01, 2018  
4) Our Letter No. LKPL:APPCC:12817 :18 dated November 01, 2018

\*\*\*  
This has reference to your letter dated 05.11.2018 vide first reference cited above issued in response to our letter dated October 1, 2018.

In our letters dated 01.10.2018 and 01.11.2018, we have brought to your kind notice that there is an increase in basic price of gas from USD 2.89/MMBTU to USD 3.06/MMBTU for the period from 1<sup>st</sup> April, 2018 to 30<sup>th</sup> September, 2018 as per MoPNG notification dated 28.03.2018 and further increase of the same to USD 3.36/MMBTU for the period from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> March, 2019 as per MoPNG notification dated 28.09.2018.

Accordingly, the total variable cost including the cost of gas supplies from Ravva&Ravva Satellite fields has increased to Rs.2.58/kWhr from 1<sup>st</sup> April, 2018 to 30<sup>th</sup> September, 2018 and Rs.2.89/kWhr from 1<sup>st</sup> October, 2018 to 31<sup>st</sup> March 2019. We have also informed APPCC on the increase of gas price and submitted the communication that we have received from M/s GAIL India Ltd from time to time.

It has been our understanding that the variable cost is pass through based on the current gas price indicated by MoPNG from time to time. As a matter of fact, the petitions filed by AP DISCOMS in I.A. No. 8 of 2017 in O.P Nos. 28 & 29 of 2016 and I.A. No. 16 of 2018 in O.P. No. 8 of 2018, It was clearly mentioned that the variable cost arrived therein is based on the then prevailing gas price and it will be pass through.

Cont..2..

**Lanco Kondapalli Power Limited**

Registered Office: Lanco House, Plot No. 4, Software Units Layout,HITEC City, Madhapur, Hyderabad -500 081, India.

T: +91 40 4009 0400 F: +91 40 2311 8444 E: lkpl@lancogroup.com

Plant Office: IDA, Kondapalli, Ibrahimpatnam Mandal - 521 228, Krishna District, A.P., India.

T: +91 866 287 2804 F: +91 866 287 2801

www.lancogroup.com

Corporate Identity Number: U40101TG1995PLC021459



60

: 2 :

We have been complying with the dispatch instructions and are supplying power reliably to AP DISCOMS. Further, the cost of power is still cheaper in spite of increase in fuel cost, when compared to average procurement cost of Rs.4.04/kWhr as stated in the Tariff Order approved by Hon'ble APERC for FY 2018-19. In view of the same, we have requested you to pay variable cost considering the increase in gas price.

However, vide letter dated 05.11.2018, AP DISCOMS have expressed that total tariff of Rs.3.29/kWhr (FC @ 0.96 ps. and VC @ Rs.2.33) is being paid as per the APERC order dated 08.08.2018 and the tariff order for the Financial Year 2018-19.

We would like to bring to your notice that the arrangement for procurement of power is clearly with an understanding that the variable cost is on pass through basis and the DISCOMS have agreed for the same and also stated so in their petitions before the Hon'ble APERC. We would like to submit that, in the event of variable cost not paid by AP DISCOMS as per the prevailing gas price, it will be really difficult to meet the operational expenses and other overheads and will result in affecting our operations.

In view of the above, we sincerely request you to consider and pay variable cost as pass through taking into account of the increase in gas price by MoPNG. If it is required to file any application with Hon'ble APERC to accommodate the revised gas price as pass through, we humbly request you to kindly consider and get the same filed by AP DISCOMS at the earliest possible.

We request for your support and early action in this regard.

Thanking you,

Very truly yours,  
FOR LANCO KONDAPALLI POWER LTD



Suresh Kumar Medikonda  
President