



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

FRIDAY, THE NINETEENTH DAY OF APRIL,
TWO THOUSAND AND TWENTY-FOUR
(19.04.2024)

:Present:

Justice C.V. Nagarjuna Reddy, Chairman
Sri Thakur Rama Singh, Member
Sri P.V.R.Reddy, Member

OP Nos.1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16, 22,23,24,25 and 26 of 2019

OP No.1 of 2019:

Between

M/s Axis Wind Farms (Uravakonda) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, Having its office at the 2nd floor,
Plot No.3, H.No.6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.2 of 2019:

Between

M/s Axis Wind Farms (Ahobilam) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, Having its office at the 2nd floor,
Plot No.3, H. No.6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.3 of 2019:

Between

M/s Axis Wind Farms (Vajrakarur) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, Having its office at the 2nd floor,
Plot No.3, H. No.6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.4 of 2019:

Between

M/s Axis Wind Farms (Pottipadu) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No.6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.5 of 2019:

Between

M/s Axis Wind Farms (Beluguppa) Private Limited,
A company incorporated under the provisions of
the Companies Act, 1956, having its office at the 2nd floor,
Plot No.3, H.No.6-3-680/8/3, PMR Plaza, Thakur Mansion lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.6 of 2019:

Between

M/s Axis Wind Farms (Penna) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, having its office at the 2nd floor,
Plot No.3, H. No.6-3-680/8/3, PMR Plaza, Thakur Mansion Lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company
of AP Limited, having its office at 19-13-65/A,
Raghavendra Nagar, Kesavayana Gunta,
Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.7 of 2019:

Between

M/s Axis Wind Farms (Mani Revu) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No.6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.8 of 2019:

Between

M/s Axis Wind Farms (Andhra Pradesh) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, having its office at the 2nd floor, Plot No.3,
H.No.6-3-680/8/3, PMR Plaza, Thakur Mansion Lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company
of AP Limited, having its office at 19-13-65/A,
Raghavendra Nagar, Kesavayana Gunta,
Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.9 of 2019:

Between

M/s Axis Wind Farms (Amidyala) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No.6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.10 of 2019:

Between

M/s Axis Wind Farms (Godavari) Private Limited,
A company incorporated under the provisions of
the Companies Act, 1956, having its office at the 2nd floor,
Plot No.3, H.No.6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.11 of 2019:

Between

M/s Axis Wind Farms (Kalyandurg) Private Limited,
A company incorporated under the provisions of
the Companies Act, 1956. having its office at the 2nd floor,
Plot No. 3, H. No.6-3-680/8/3, PMR Plaza, Thakur Mansion Lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.12 of 2019:

Between

M/s Axis Wind Farms (Raketla) Private Limited,
A company incorporated under the provisions of
the Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No. 6-3-680/8/3, PMR Plaza, Thakur Mansion lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.13 of 2019:

Between

M/s Axis Wind Farms (Borampall) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No.6-3-680/8/3, PMR Plaza, Thakur Mansion Lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.14 of 2019:

Between

M/s Axis Wind Farms (Seerpi) Private Limited,
A company incorporated under the provisions of
the Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No. 6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.15 of 2019:

Between

M/s Axis Wind Farms (Golla) Private Limited,
A company incorporated under the provisions of
the Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No. 6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.16 of 2019:

Between

M/s Axis Wind Farms (Chapiri) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No. 6-3-680/8/3, PMR Plaza,
Thakur Mansion Lane, Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.22 of 2019:

Between

M/s S.V. Renewable Energy,
A proprietorship concern,
having its office at the 5th Floor, Godrej Millennium, 9,
Koregaon Park Road, Pune 411001.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.23 of 2019:

Between

M/s Axis Wind Farms (Krishna) Private Limited,
A company incorporated under the provisions of
the Companies Act, 1956, having its office at the 2nd floor,
Plot No. 3, H. No.6-3-680/8/3, PMR Plaza, Thakur Mansion Lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company
of AP Limited, having its office at 19-13-65/A,
Raghavendra Nagar, Kesavayana Gunta,
Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.24 of 2019:

Between

M/s Axis Wind Farms (Tungabhadra) Private Limited,
A company incorporated under the provisions of the
Companies Act, 1956, Having its office at the 2nd floor,
Plot No.3, H.No.6-3-680/8/3, PMR Plaza, Thakur Mansion Lane,
Somajiguda, Hyderabad - 500 082.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.25 of 2019:

Between

M/s Pujaa Shree Green Renewable Energy Won Private Limited,
A company incorporated under the provisions of the Companies Act, 2013,
Having its registered No.594/2, Maniyakarar, Thotham Varappatti,
Sultanpet Palladam, Coimbatore-641 669, Tamil Nadu.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

OP No.26 of 2019:

Between

M/s GT Renewable Energy, a proprietorship concern,
Having its office at the 5th Floor, Godrej Millennium, 9,
Koregaon Park Road, Pune-411001.

.....Petitioner

and

Southern Power Distribution Company of AP Limited,
Having its office at 19-13-65/A, Raghavendra Nagar,
Kesavayana Gunta, Tiruchanoor Road, Tirupati- 517 501.

.....Respondent

All these Petitions have come up for final hearing before the Commission on 07-2-2024 in the presence of Sri Deepak Chowdhury, learned counsel for the petitioners and Sri P.Shiva Rao learned Standing for the respondent, that after hearing the learned counsel for both the parties and on consideration of the entire material on record, the Commission passed the following:

COMMON ORDER

1. As the issue involved in all these Original Petitions is common, they are being disposed of by this Common Order.

2. The factual matrix of these cases is briefly narrated here under.

Axis Energy Venture India Private Limited and Suzlon Energy Limited are engaged in the business of developing Renewable Energy; that in view of their commitment given to the Honourable Prime Minister on 15-02-2015 in the First Renewable Energy Global Investors Meet RE-INVEST, 2015, they have entered into a Memorandum of Understanding with the Government of Andhra Pradesh, on the said same date, in the presence of the then Honourable Chief Minister of Andhra Pradesh, for setting up of 4000 MW wind power Projects; that, accordingly, on 03-9-2015 they submitted a proposal to the Government of Andhra Pradesh for development of 4000 MW of Renewable Energy Projects in Andhra Pradesh along with manufacturing facilities; that on 27-11-2015 the Government of Andhra Pradesh has approved the same, vide: G.O.Ms.No.15; that in pursuance of the said G.O, a Tripartite Memorandum Of Understanding (MOU) was entered into between them and the Government of Andhra Pradesh on 04-12-2015; that, according to the said MOU both Suzlon Energy and Axis Energy Ventures have agreed to jointly participate in developing the Renewable Energy Projects for an aggregate capacity of 4000 MW, viz., Wind Power Projects of 3000 MW and Wind-solar Hybrid Power Projects of 1000 MW, in various Districts of Andhra Pradesh; that, in terms of the said MOU, they have entered into a Project Implementation Agreement (PIA) with the Government of Andhra Pradesh on 11-01-2016, Project Agreement with NREDCAP on 03-2-2016, and Project Implementation Agreement with the APTRANSCO and the APDISCOMs on 03-10-2016; and that, as per the PIA, the Government of Andhra Pradesh has agreed to permit the DISCOMs to procure the entire capacity of power generated from the Renewable Energy Projects developed by the aforesaid two Firms and the Government of Andhra Pradesh has agreed to extend all the benefits available to the Renewable Energy Projects under the Wind and Solar Power Policies, 2015 to the aforesaid two entities, viz., Suzlon Energy and Axis Energy Ventures.

- (a) Subsequently, the respondent-APSPDCL has entered into 21 Nos. PPAs with Axis Energy Venture India Pvt. Ltd., Suzlon Energy Limited and their group of companies (for short "the petitioners") on various dates for a total capacity of 774.9 MW. Article 2.2 of the PPAs provides that "the Wind Power Producer shall

be paid Tariff for the energy delivered at the interconnection point of sale to the DISCOM @ Rs.4.76 ps., per unit, which shall be firm, without considering the Accelerated Depreciation for a period of 25 years from the Commercial Operation Date (COD) as per the Order of this Commission dated 30-3-2017 in OP No.15 of 2017. The said PPAs were amended by the First Amended Agreements dated 27-6-2018. Subsequently, on the remarks made by this Commission in respect of the said PPAs, vide: Lr.No.APERC/JD(PPP)/DD(PPP)/F.No.E-509/D.No.953/18, Dated 20-11-2018, the First Amended Agreements were annulled and fresh Amended PPAs were issued on 12-12-2018 making certain amendments to Articles 1.15, 2.2, 9.1, 11.7 and Schedules IV and V of the original PPAs. The amended Article 2.2 provides that *“the Wind Power Producer shall be paid Tariff for energy delivered at the interconnection point of sale to DISCOM, which shall be at the tariff rate as determined by APERC in accordance with Sections 61, 62 and 86 of the Electricity Act, 2003 and the principles contained in the provisions of the Central Electricity Regulatory Commission (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulation 2017 and the orders of the APERC, without considering the Accelerated Depreciation for a period of 25 years from the Commercial Operation Date”*.

- (b) On 12-12-2018 and 02-01-2019 the respondent submitted the said PPAs, along with amendments, to this Commission for approval.
- (c) Meanwhile, the petitioners filed OP Nos.1 to 16 and 22 to 26 of 2019 before this Commission seeking a determination of Tariff in respect of the said 21 PPAs, *inter alia*, seeking the following reliefs:
 - i) to regulate the PPA (including any amendment thereof) by granting it's consent and taking the same on record in accordance with Section 86(1) (b) of the Electricity Act, 2003 read with Section 21 of the Andhra Pradesh Electricity Reform Act, 1998;
 - ii) fix project-specific levelized tariff for the Project at Rs.4.28 per unit;
 - iii) allow the levelized tariff for the Project at Rs.4.28 ps to be applicable for PLF up to and including 33%. Any generation beyond 33% PLF, petitioner may consider the tariff applicable to be 75% of tariff determined for project;
 - iv) approve amendment of the original PPA executed with the Respondent, to the extent of tariff approved;

- v) pass necessary orders allowing the Petitioner to achieve COD of the Project within 2 years from the date of the order passed by this Hon'ble Commission under these proceedings;
 - vi) allow recovery of the Project Support cost through a suitable mechanism over and above the tariff determined under these proceedings;
 - vii) pass such other further orders as this Honourable Commission may deem fit and proper in the interest of justice and equity.
- (d) After the issuance of the Public Notice, a Public hearing was conducted on 23-02-2019. Objections were filed by Sri M.Venugopala Rao, Sri A.Punna Rao and Sri M.Timma Reddy, learned Objectors, on 21-02-2019, 22-2-2019 and 03-5-2019 respectively, to which the respondent has filed its reply. The petitioners also filed their replies to the Objections filed by the aforesaid Objectors.
- (e) While the matter stood thus, on 27-07-2019 the respondent filed a Memo, *inter alia*, stating that in view of the precarious financial position of the APDISCOMS and consequent inability to bear the additional financial burden involved in purchasing power from 21 Nos. Wind Developers, APDISCOMs have decided to withdraw the PPAs entered with various Wind Power Project clients of Suzlon India Private Limited and Axis Energy Ventures India Private Limited; and that since the PPAs are not yet approved, the same are not enforceable and, hence, sought permission to withdraw the PPAs of the Wind Power Projects of the petitioners.
- (f) Pending consideration of the said Memo for withdrawal of the PPAs by this Commission, the petitioners approached the Honourable APTEL and obtained an interim stay of all further proceedings in these OPs, Vide: order dated 07-8-2019 passed in IA No.1465 of 2019 in OP No.7 of 2019. In view of the aforesaid interim order granted by the APTEL, this Commission vide: order dated 02-11-2019, adjourned all these matters *sine die*.
- (g) Subsequently, Axis Energy Ventures filed Writ Petition No.13374 of 2020 - followed by some more Writ Petitions by the other Wind Power Generators - challenging G.O Ms No.35, Energy (Power-II) Department, dated 18-11-2019 issued by the GoAP making certain Amendments to the A.P Wind-Solar Hybrid Power Policy, 2018 resulting in the issuance of the Memo for withdrawal of the PPAs.
- (h) Subsequently, the Government of A.P., filed a Common Additional reply affidavit before the Honourable High Court of A.P, in the aforesaid Writ Petitions, stating,

inter alia, that “it is inclined to continue the status that was in existence prior to issuance of G.O.Ms.No.35, dt. 18-11-2019 and committed to the conditions in the various agreements entered into by the petitioners with the respective respondents”.

- (i) Recording the aforesaid statement in the common additional affidavit, the Honourable High Court of Andhra Pradesh has disposed of the aforesaid batch of Writ Petitions, *inter alia*, observing that “*virtually the reliefs as sought for by the petitioners have otherwise been acceded to by the Government*”.
- (j) Subsequently, the Government of Andhra Pradesh issued letter No.117/Power-II/2016 dated 07-10-2022 directing the Member-Convenor, AP Power Coordination Committee, Vijayawada, to take necessary steps to implement the decision of the Government, which is made as part of orders dated 16-8-2022 passed by Hon’ble High Court in W.P.No.9680 of 2021, to adhere to all the agreements entered into with the Generators prior to 18-11-2019.
- (k) Pursuant to the aforesaid communication, the respondent addressed a letter, along with a Memo, on behalf of all the DISCOMs, to the Secretary of this Commission Vide:Lr.No.APSPDCL/TPT/CGM/IPC/GM/IPC/EE/F.Axis/DNo.986 /22, dated 09.11.2022, *inter alia*, stating that due to a change in circumstances, orders of the Hon’ble High Court of Andhra Pradesh and other orders of the Government of AP at present, they are withdrawing their earlier memo dated 27.07.2019 issued for the withdrawal of the 21 PPAs and requested the Commission to consider the same for further course of action.
- (l) This Commission, initially, returned the said Memo, dated 09-11-2022, in view of continuing stay order by the APTEL. Subsequently, the petitioner got the stay vacated by withdrawing the aforesaid OP No.7 of 2019. Thereafter, these petitions were taken up for hearing on merits. Since these matters relate to the approval of the PPAs and determination of Tariff, this Commission, while directing the Office to place these petitions in the public domain, directed the petitioners to carry out the publication of notices in two newspapers, again. However, to the Public Notices issued on 14-6-2023, no objections have been filed. Subsequently, the respondent filed an additional counter-affidavit on 16-9-2023, for which the petitioner filed a rejoinder on 17-10-2023.

(m) Since the pleadings in all these Petitions are almost identical, it would suffice to note the pleadings in OP No.1 of 2019 for appreciation of the pleas of both parties.

3. It is, *inter alia*, stated in the petition in OP No.1 of 2019 that the Tariff for procurement of the Power generated from the Wind Power Projects until March, 2017 was being determined by this Commission in accordance with the APERC (Terms and Conditions for Tariff Determination for Wind Power Projects Regulations, 2015 (Regulation 1 of 2015); that in March, 2017 the DISCOMs filed OP No.5 of 2017 before this Commission seeking - (a) to curtail the Control Period of Regulation 1 of 2015 for the period valid upto 31-3-2017; and (b) to determine the Tariff for FY 2017-18 considering the various facts stated in the said petition, including the precarious financial position of the DISCOMs; that this Commission, vide: Order dated 13-7-2018, has declared that Regulation 1 of 2015 shall be deemed to have remained in force upto 31-3-2017 and shall be deemed to have ceased to be in force with effect from 01-4-2017, and held that the DISCOMs are at liberty to procure power through a transparent process of bidding in accordance with the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid connected with Power Projects formulated and issued by the Ministry of Power, Government of India, dated 08-12-2017 under Section 63 of the Electricity Act, 2003; and the DISCOMs are at liberty to procure power from Wind Power Projects in accordance with the provisions of the Electricity Act, 2003, A.P. Electricity Reforms Act, 1998, Rules, Regulations, practice directions and orders issued thereunder until an appropriate Regulation in that behalf is made by this Commission and any PPA or Tariff thereunder for such procurement shall be guided by the principles contained in the provisions of the CERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulation, 2017; that in the light of the aforesaid Order in OP No.5 of 2017 and the subsequent instructions issued by this Commission, the respondent amended Article 2.2 of the PPA and issued the amended PPA as set forth supra; that this Commission while approving the ARR Projections for the FY 2018-19, vide: order dated 27-3-2018 in OP Nos.60 and 61 of 2017 filed by APEPDCL, has taken into consideration the power availability projection capacity of 762.3 MW relating to the petitioner, in respect of which PPAs have already been executed; that as per the assessment made by the National Institute of Wind Energy the petitioner has proposed to use new wind turbine generators with advanced technology with higher hub height of 140 meters, by spending additional amounts, to achieve higher CUF, which in turn would benefit the consumers by lowering the tariff and the DISCOMs in

faster achievement of the Renewable Power Purchase Obligation (RPPO); that Clause-7 of the Tariff Regulations, 2017 provides that for “Wind Energy Projects” no Annual Generic Tariff shall be determined but only Project Specific Tariff shall be determined, on case to case basis; that this Commission, vide:Letter No.APERC/JD(PPP)/DD/PPP/F.No.E-1146/D.No.395/2018, dated 15-5-2018, has informed the respondent that determination of the Tariff on the 12 PPAs of the petitioner shall be made only on filing proper applications under Section 62 of the Act; and that, therefore, the petitioner filed the present petition for determination of Project Specific Tariff as per the Tariff Regulations 2017. In the petition, the petitioner has furnished various cost components of the Project for consideration and determination of the Project Specific Levelized Tariff of the Project.

4. The facts in the other OPs are almost similar, except for some variation in the dates, here and there. Therefore, it is not necessary to reproduce here the contents of each of the other Original petitions, to avoid repetition.
5. Pursuant to the Public Notices issued by this Commission on 24-1-2019 and 30-1-2019, objections were received from Sri M.Venugopala Rao, Sri A.Punna Rao and Sri M.Timma Reddy, learned Objectors.
6. The sum and substance of the Objections filed by Sri M.Venugopala Rao, learned Objector, is that when there is a scope for the DISCOMs to purchase Wind Power at much lower rates through competitive bidding process, entering into long term PPAs with the Generators of the Wind Power Projects at higher tariffs and granting consent to it by this Commission would cause irreparable damage to the interest of the consumers at large; that for generation and supply of power above the threshold level of CUF, the Wind Power Generators are getting the full tariff for Kwh from the DISCOMs as per Regulation 1 of 2015 and as per the terms and conditions of the PPAs, and thereby getting windfall profits for the power generated and supplied above the threshold level of CUF at the cost of consumers as this Commission has not fixed limited incentive for generation and supply of power by Wind Power Projects above the threshold level of CUF; that the Merit Order Dispatch does not apply to Non-conventional Energy (NCE) units, including the Wind Power Projects, as they were treated as must-run units by this Commission; that the DISCOMs are subsidising the generators of NCE Projects, including the Wind Power Projects, and purchasing high cost power from them even though it is not required and asking the conventional units to back down their capacities as per merit order dispatch and paying fixed charges for the same; that the conduct of the petitioners herein indicates that they are not in a position to declare COD of their projects within the time schedule as per the terms and

conditions of the PPAs, as they have not even started the process of setting up of the Plants but are seeking consent of this Commission for extension of time by two years; that the tariffs proposed in the subject petitions are much higher than the tariffs for Wind Power being discovered through competitive bidding; that, in view of availability of substantial surplus power, including the NCE, there is need for reducing purchase of power proposed by the DISCOMs in their Long Term Load Forecast and Procurement Plan for the 4th control period; that since the DISCOMs have already exceeded their RPP obligation, there is no need for them to enter into the PPAs with the NCE units, including the petitioners herein, afresh, to meet their RPP obligations till the end of the 4th Control period; that as per the ARR proposals for FY 2017-18 & 2018-19 submitted by the DISCOMs, the State has achieved the surplus power generation and even exceeded the RPP obligation; that unless and until there is a need to purchase power, this Commission is not obliged to approve the PPAs; that when the tariff of around Rs.2.50 ps per unit for wind power is being discovered through competitive bidding, it is absolutely impermissible and detrimental to larger consumer interest to consider payment of a tariff of Rs.4.27 ps per unit upto 33% PLF and 75% of tariff for generation and supply above 33% PLF and recovery of project support cost over and above the tariff determined for purchase of wind power from the subject projects. They have, accordingly, sought for dismissal of these Petitions.

7. The objections of Sri A.Punna Rao, are the replica of the objections filed by Sri M.Venugopala Rao. Hence, they need not be dealt with once over.
8. The sum and substance of the Objections filed by Sri M.Thimma Reddy, learned Objector, is that the installed capacity of the petitioner's projects would be about 775 MW; that the petitioner requested this Commission to grant consent to the PPAs for 25 years, fix Project Specific Levelized Tariff for the Project at Rs.4.23 ps per unit, allow the petitioners to achieve the COD of the project within two years from the date of the order to be passed by this Commission in these proceedings and allow recovery of the Project Support Cost through a suitable mechanism over and above the tariff determined under these proceedings; that as the wind power tariff has declined to Rs.2.50 ps per unit in recent times through competitive bidding, entering into the 21 PPAs with the petitioners by the DISCOMs for an aggregate capacity of 775 MW with power purchase cost of Rs.4.23 ps per unit is inexplicable; that under the prevailing power surplus situation in the State there is no need for further procurement of power either from conventional power plants or renewable energy sources; that the Project Specific Tariff under the CERC Guidelines will be applicable only to the wind power projects which do not come within the scope of the bidding guidelines of the CERC;

that the aggregate generation capacity of the wind power projects proposed under the 21 PPAs is 775 MWs, which is much higher than the minimum bid capacity of 25 MW in the case of intra-state projects; that as the generation capacity involved under the 21 PPAs is 775 MW, Project Specific Tariff cannot be applicable to them; that if power is required for the State from the Wind Energy Units, it shall be procured through competitive bidding; that as the generation capacity proposed in these petitions comes within the scope of the bidding guidelines, the Tariff for the same shall be determined through Open Competitive Bidding but not through Project Specific Tariff; that since the State is already facing surplus power situation, as the Renewable Energy power being procured is over and above the RPPO, and as the Project Specific Tariff proposed by the petitioners (i.e.Rs.4.23 per unit) is much higher than the market determined price, it would add financial burden on the consumers in the State, and that, therefore, requested the Commission not to give consent to the PPAs of the petitioners.

9. The respondent filed its reply to the aforementioned Objections filed by the learned Objectors. It is, *inter alia*, stated therein that as there is a down trend in the market in respect of the Wind Power Tariff, the concern expressed by the Objectors deserves to be considered with required significance while determining the Project Specific Tariff; that the Policy of the Government of India is to develop 175 GW of NCE power to save the fossil energy to the future generations and to protect to environment; that, despite the surplus power, procurement of the Wind Power at the present market rate is in the best interest of the consumers; that in view of the inconsistent nature of availability of definite capacity of the wind power, thermal power is being inducted into the grid to maintain Grid stability; that though the proposed procurement of power is beyond the minimum percentage fixed by this Commission, yet Section 86(1)(e) of the Act contemplates to encourage NCE power and the Policy of the Government of India is to reach the optimum goal, it casts an obligation on the States to go for minimum quantity of procurement of Wind Power; that, considering the lesser tariff, the proposed procurement is in the best interest of the end consumers as these projects may not be backed down for commercial reason unlike the thermal stations; that though this Commission, vide: Order dated 13-7-2018 in OP No.5 of 2017, directed to go for competitive bidding for future procurement, still Section 62 of the Act and Clause 6.4 of the National Tariff Policy specifically empowers the DISCOMs to go for preferential tariff that may be determined by this Commission; that after curtailment of the operation of Regulation 1 of 2015, resorting to generic tariff was ruled out and only Project Specific Tariff is being canvassed; that though earlier only 24.5% CUF was considered by this Commission, but now, in view of the improvised technology in

producing the higher hub height of wind turbines, 33% CUF has to be considered to determine the reasonable tariff; and that, therefore, the aforementioned objections, for the present procurement of power, are absolutely not justified.

10. In addition to the aforesaid reply filed to the objections of the learned Objectors, the respondent also filed its reply to the Original Petition filed by the petitioners. It is, *inter alia*, stated therein that the petitioners failed to furnish the details as to when and where the construction of the Projects have been commenced; that the Wind Policy, 2015 issued by the Government of Andhra Pradesh is applicable to the Projects established and commissioned during the operation of the said Policy, but the petitioners have not established and commissioned their Wind Projects during the said period for which the Tariff is sought to be determined by this Commission, and, as such, Wind Policy, 2015 has no application to the facts of the present cases and Wind Policy, 2018, issued by the Government of Andhra Pradesh, would only be applicable; that, in order to decide the Capital Cost of the Project by this Commission, the petitioners shall submit the audited accounts of the expenditure incurred by the petitioners for establishment of the said Projects as well as the expenditure incurred for upgrading the same by using advanced technology Wind Turbine Generators etc., but the petitioners failed to submit those details; that to determine the Project Specific Capital Cost, this Commission may apply the CERC Regulations and fix the Tariff based on the prevailing market trends; that the average tariff discovered by Solar Energy Corporation of India (SECI) for various projects is Rs.2.76 ps., whereas the tariff discovered under competitive bidding is Rs.2.82 ps; that as regards the Levelized Tariff claimed by the petitioners, it has to be decided on the prevailing market rates; that the interest rate claimed by the petitioners is abnormally high and needs to be reduced to 9.23%; that the RoE of 17.8% is also on higher side and needs to be reduced to 14%; that the O&M cost is also on higher side when compared to the O&M cost adopted by the State Regulatory Commissions; that once Capital Cost is determined, it is inclusive of evacuation cost, and, hence, additional support cost towards power evacuation infrastructure, as claimed by the petitioners, shall not be considered; that since the Tariff is being determined with reference to the Capital Cost of the Project and the charges with reference to energy based on 33% of CUF, the petitioners are not entitled to any incentive payment for the energy delivered beyond 33% of CUF, as claimed by them; and that, therefore, prayed to determine the Project Specific Tariff in the best interest of the consumers in the State.
11. The petitioners filed a rejoinder to the aforesaid reply filed by the respondent, *inter alia*, reiterating their stand in the Original Petitions. It is, *inter alia*, stated therein that

this Commission, vide: order dated 30-3-2017, determined the Levelized Generic Preferential Tariff at Rs.4.76 ps., without AD benefit, which is applicable for all the new Wind Power Projects entered into the PPA with the APDISCOMs on or after 01-4-2017, and, hence, the said Tariff is also applicable to the Projects of the petitioners; that the petitioners have made all efforts for development of the Projects by identifying the sites at various places, conducted wind resource assessment studies, filed applications with the concerned authorities for getting required approvals, approached various financial institutions for funding the Projects; that the CERC Regulation, 2017 does not mandate that the Projects should have commenced construction or they should have been commissioned prior to filing of the petition for determination of Tariff; that the Tariff Petitions filed by the petitioners are in accordance with the terms and conditions of the CERC Regulation, 2017 and in compliance of the Order of this Commission in OP No.5 of 2017 dated 13-7-2018; and that as per Clause-8(2) of the CERC Regulation, 2017, the petitioners are required to furnish the details of the proposed expenditure of the Projects in Forms 1.1 and 2.1, which have been filed along with the Tariff Petitions. To justify the Capital Cost claimed in the Tariff Petitions, the petitioners have furnished few scenarios comparing the Tariff claimed for the Projects, vis-a-vis the Tariff discovered. It is further averred that the rate of interest @ 10.12% adopted by the petitioners for tariff determination is as per Clause 14(b) of the CERC Regulation, 2017; that the RoE quoted by the petitioners is in line with the norms set by the CERC Regulations, 2017; that the only benefit available to the Projects is Accelerated Depreciation; that as the petitioners are seeking Tariff without Accelerated Depreciation, the cause of curtailing such incentive does not arise; that as per Clause-11(1) of the CERC Regulation, 2017 all Renewable Energy Power Plants shall be treated as "Must Run" Power Plants and shall not be subjected to Merit Order Despatch principles, and, hence, the respondent is duty bound to procure all the power generated from the Projects at 33% CUF at the tariff determined by this Commission; and that, therefore, prayed for determination of the Project Specific Tariff as claimed by the petitioners.

12. The petitioner also filed replies to the Objections filed by the aforesaid Objectors, stating, inter alia, that they are devoid of any merits and prayed to ignore the same and determine the Tariff.
13. On 18-9-2023 the respondent filed an additional counter-affidavit narrating the events that had taken place subsequent to withdrawal of the 21 PPAs covered by these Petitions. It is, *inter alia*, stated therein that as per the Resource Plan submitted by the APDISCOMs before this Commission in April, 2023 for the 5th and 6th Control

Periods (FY 2024-29 to 2029-34) the AP State Grid demand is expected to increase to 27000 MW by 2033-34 at a compounded annual growth of 7.25% and the energy requirement is also poised to increase from 71,000 MW to 1,41,000 MW; that the DISCOMs, being obligated entities, are required to procure prescribed quantum of RE/NCE through PPAs to fulfil the RPPO as per the Regulations; that the Ministry of Power has issued sourcewise RPPO trajectory till 2029-30, according to which the Wind RPPO shall be met only from the Wind Projects commenced from 31-3-2022; that for the FY 2029-30 the Ministry of Power has specified the Wind RPPO at 6.94%; that going by the present annual Wind generation of around 6700 MU, compliance of Wind RPPO by 2027-28 is doubtful; that the present installation capacity of 774 MW was also taken into account in the Resource Plan for the 5th and 6th Control Periods submitted by the DISCOMs; that the petitioners have filed these petitions for determination of Project Specific Tariff, in respect of the PPAs entered, basing on the CERC Regulations, 2017, which had elapsed and the time limit for the subsequent Regulation also expired by 2023, and presently no CERC Regulation, governing the tariff determination of RE Projects, particularly Wind Projects on Cost plus basis, is in vogue; that since the Tariff is to be determined on Cost plus basis under Regulated Tariff mechanism, this Commission may adopt Net Fixed Asset based approach while allowing Return on Equity and allowable Interest on Debt, which would reduce the burden of excessive Return on Equity after the loans are fully paid back through the Tariffs; that since the Commission is guaranteeing the Developers to recover complete Capital investment through the Tariff determined on normative parameters, the additional energy beyond the threshold CUF need not be paid by the DISCOMs and the risk of weather conditions/wind flow is to be borne by the developer; and that since the DISCOMs are in a distressed financial position, the Commission is requested to take cognizance of the latest Wind Tariffs discovered in the recent competitive bidding, for comparison, while determining the Tariff.

14. Heard the learned counsel for both the parties. The learned counsel for the petitioners also filed written submissions.
15. Having regard to the respective pleadings of both the Parties, the points that would emerge for consideration are:
 - A. Whether there is a requirement for wind energy for the Respondent DISCOMS during the 5th control period commencing from 01.04.2024 and thereafter?
 - B. Even if the answer to point A is in the affirmative, is it necessary to procure such energy from the petitioner under the impugned 21 PPAs in the public interest?

Commission's Analysis and Decision**Re: Point A**

16. To examine the requirement of wind energy for the Respondents during the 5th control period and thereafter, the Commission proposes to examine the following.
- i. The Power Purchase Requirement (PPR) for the DISCOMS in Business As Usual (BAU) scenario estimated by the Commission during the 5th and 6th control periods is shown in the table below.

FY	PPR in MUs
2024-25	81,025
2025-26	86,595
2026-27	92,538
2027-28	98,963
2028-29	105,910
2029-30	113,369
2030-31	121,504
2031-32	130,324
2032-33	139,819
2033-34	150,192

- ii. The Ministry of Power vide Letter No. F.No. 09/13/2021-RCM dated 22.07.2022 issued the Renewable Power Purchase Obligation (RPPO) and the Energy Storage Obligation (ESO) Trajectory up to FY2029-30 under the National Tariff Policy 2016. The APERC has specified the RPPO trajectory up to FY 2026-27 under section 86 (1) (e) of the Electricity Act, 2003. The RPPO trajectory specified by the MoP vis a vis the RPO trajectory specified by the APERC is shown in the table below.

Year	<u>MoP Notification dt: 22-07-2022</u>				APERC Regulation No. 5 of 2022
	Wind RPO	Hydro RPO	Other RPO	Total RPO	
2022-23	0.81%	0.35%	23.44%	24.61%	18%
2023-24	1.60%	0.66%	24.81%	27.08%	19%
2024-25	2.46%	1.08%	26.37%	29.91%	20%
2025-26	3.36%	1.48%	28.17%	33.01%	22%
2026-27	4.29%	1.80%	29.86%	35.95%	24%
2027-28	5.23%	2.15%	31.43%	38.81%	-
2028-29	6.16%	2.51%	32.69%	41.36%	-
2029-30	6.94%	2.82%	33.57%	43.33%	-

- iii. In exercise of the powers under clauses (n) and (x) of Section 14 of the Energy Conservation Act, 2001, the Central Government by MoP notification dated 20.10.2023 has specified the minimum share of the consumption from non-fossil sources as a percentage of their total energy consumption for designated consumers up to FY2029-30. The Respondents are being designated consumers under the Energy Conservation Act, and have to comply with the same. The non-fossil trajectory specified by the MoP vis a vis the RPO trajectory specified by the APERC is shown in the table below

Year	<u>MNRE Notification dt: 20-10-2023</u>					APERC Regulation No. 5 of 2022
	Wind RE	Hydro RE	Distributed RE	Other RE	Total RE	
2024-25	0.67%	0.38%	1.50%	27.35%	29.91%	20%
2025-26	1.45%	1.22%	2.10%	28.24%	33.01%	22%
2026-27	1.97%	1.34%	2.70%	29.94%	35.95%	24%
2027-28	2.45%	1.42%	3.30%	31.64%	38.81%	-
2028-29	2.95%	1.42%	3.90%	33.10%	41.36%	-
2029-30	3.48%	1.33%	4.50%	34.02%	43.33%	-

- iv. Despite the MoP trajectory on RPO under the NTP 2016, the RPO trajectory specified by the APERC under Section 86 (1) (e) of the Electricity Act, 2003 is binding on the Respondent DISCOMS. The Central Government notification under the Energy Conservation Act 2001 is also binding on the Respondent DISCOMS. The RPO trajectory specified by the APERC and the Renewable Energy Consumption (RCO) specified by the central government will coexist and the Respondent DISCOMS have to comply with the higher of these two trajectories to comply with the law. The total Renewable Energy (RE) projected to be available with the DISCOMS as per the Commission's estimations and the RE requirement as per the MoP Notifications under the Energy Conservation Act 2001, NTP and APERC Regulation are shown in the table below.

(MU)				
FY	Total RE Available	RE Requirement as per MoP Notification Dated 20.10.2023	RE Requirement as per MoP Notification Dated 22.07.2022	RE Requirement as per APERC Regulation
2024-25	21,452	24,229	24,229	16,719
2025-26	29,703	28,585	28,585	19,591
2026-27	35,308	33,267	33,267	23,461
2027-28	36,577	38,408	38,408	
2028-29	36,504	43,804	43,804	
2029-30	36,504	49,123	49,123	

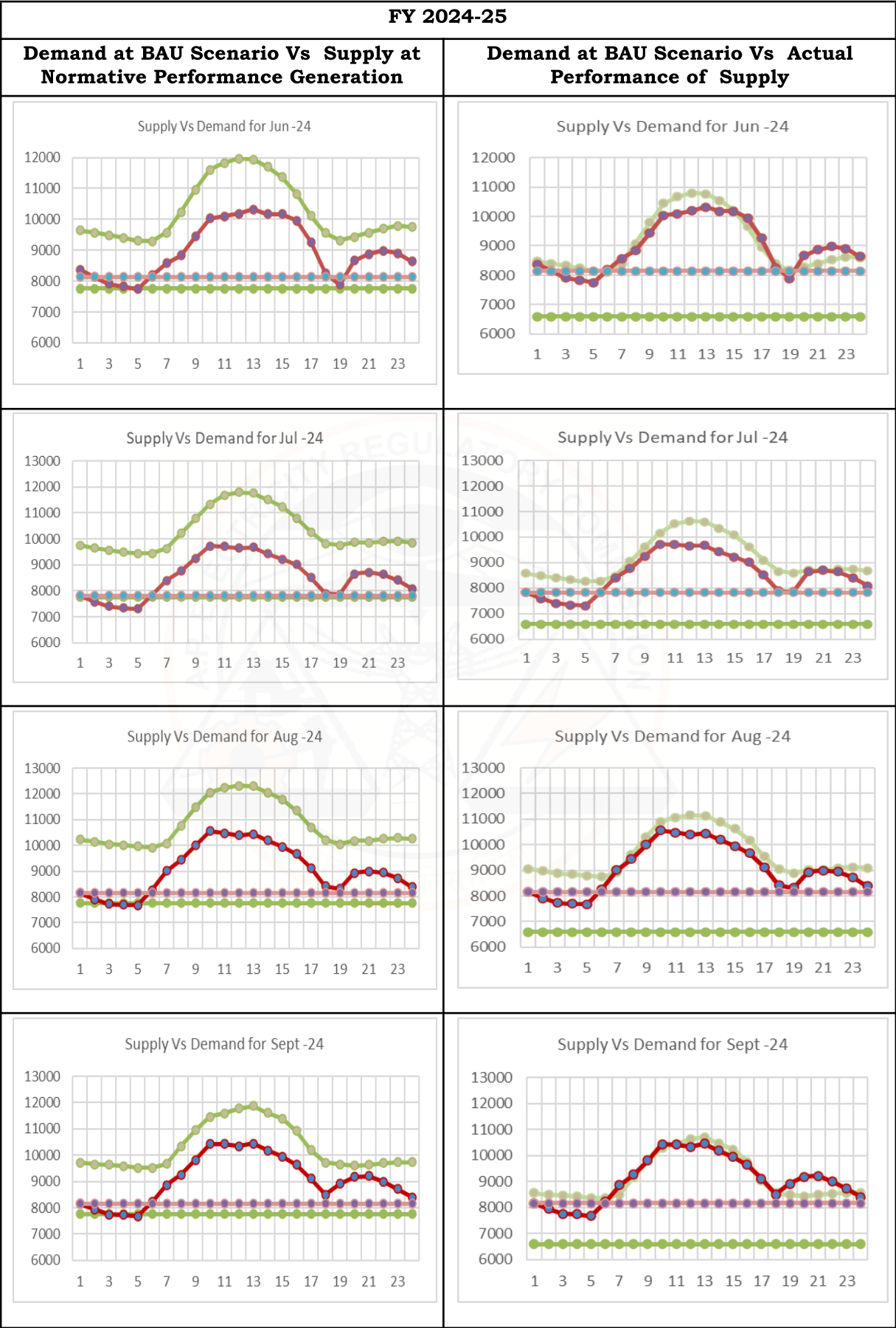
As can be seen from the table above, the projected RE available with Respondent DISCOMS falls short of meeting the RCO compliance from FY 2027-28.

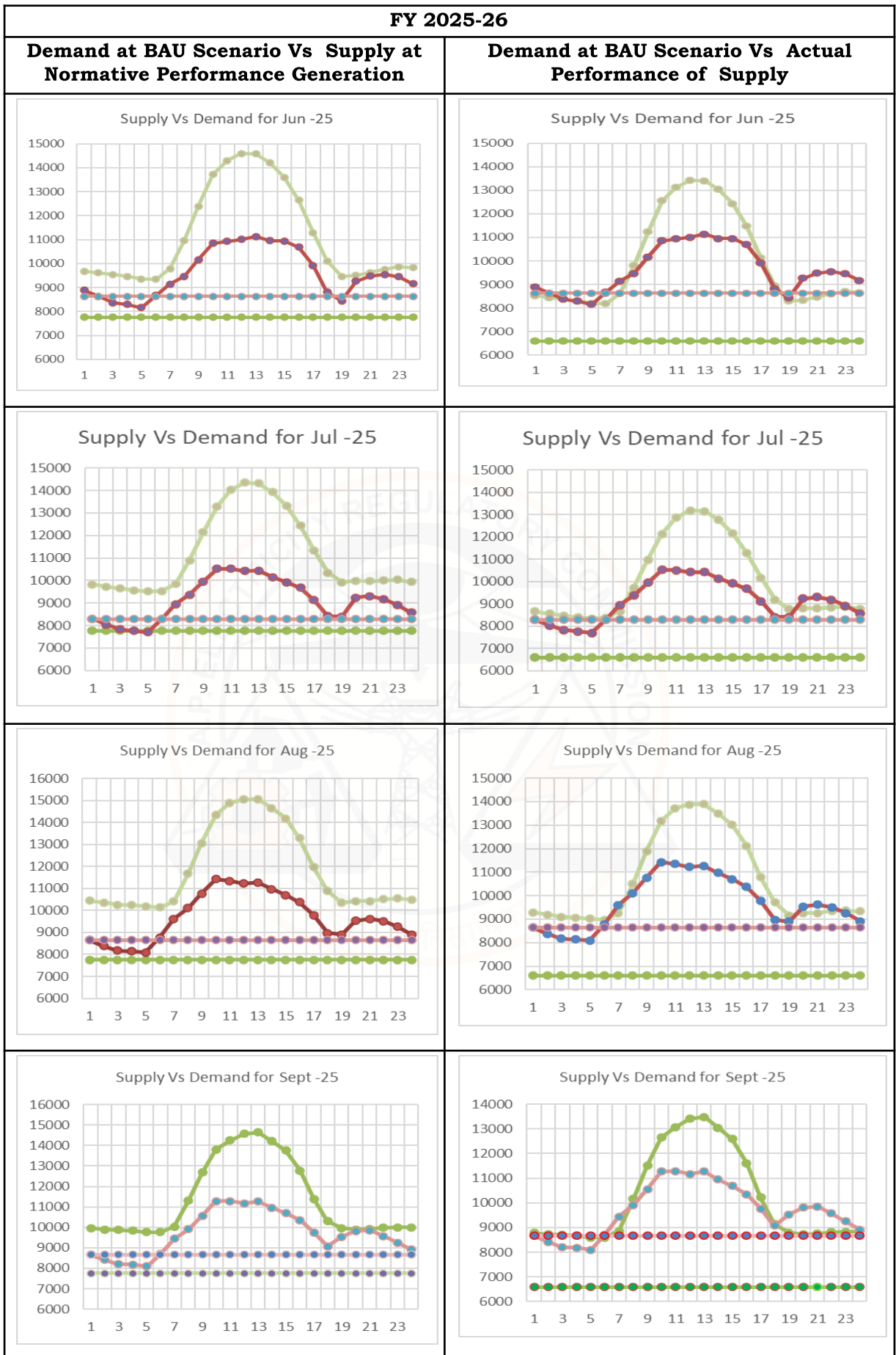
- v. The APERC Regulation does not stipulate a separate wind energy requirement in the RPPO trajectory. However, the MoP notifications under NTP and the Energy Conservation Act 2001 have specified the separate trajectory for wind energy projects to be Commissioned from 01.04.2022 and 01.04.2024 respectively. The total wind energy (RE) projected to be available with the DISCOMS from the new wind plants proposed to be commissioned after 01.04.2024 and the wind energy requirement as per the MoP Notifications under the Energy Conservation Act 2001, & NTP vis a vis the expected wind energy to be available from impugned 21 PPAs of AXIS if approved are shown in the table below.

(MU)					
FY	Wind Energy Available from the existing contracts	Wind Energy Available from new wind plants after 01.04.24	Wind Energy Requirement as per MoP Notification Dated 20.10.2023 (EC Act)	Wind Energy Requirement as per MoP Notification Dated 22.07.2022 (NTP)	Expected Wind Energy Available from AXIS PPAs of 770 MW if approved
2024-25	6,549	0	543	1,993	-
2025-26	6,529	0	1,256	2,910	-
2026-27	6,521	0	1,823	3,970	2,215
2027-28	6,521	0	2,425	5,176	2,215
2028-29	6,521	0	3,124	6,524	2,215
2029-30	6,521	0	3,945	7,868	2,215

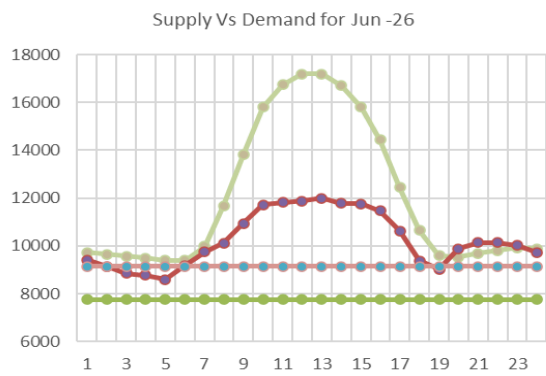
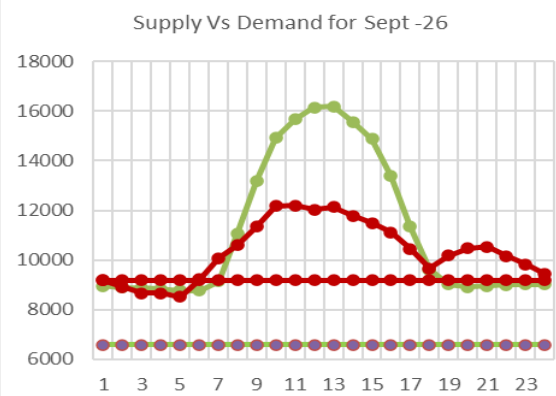
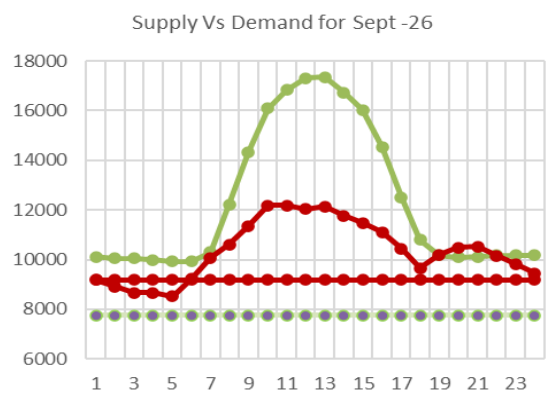
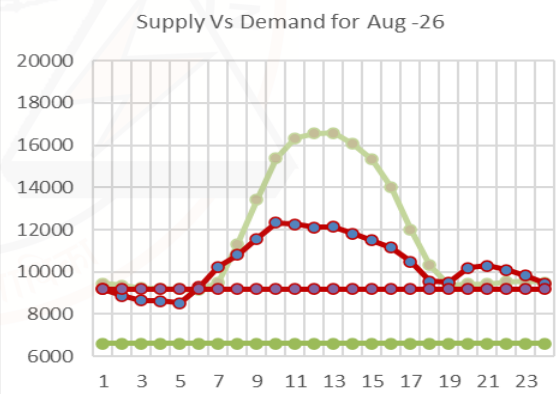
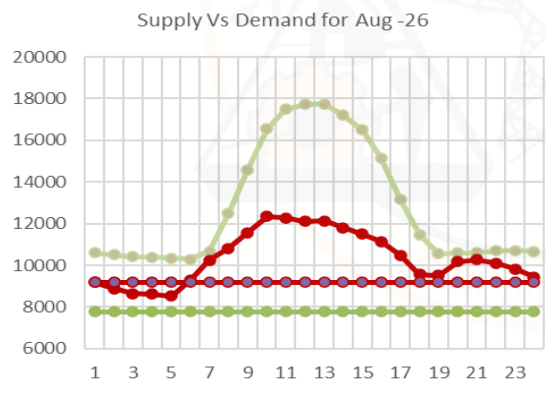
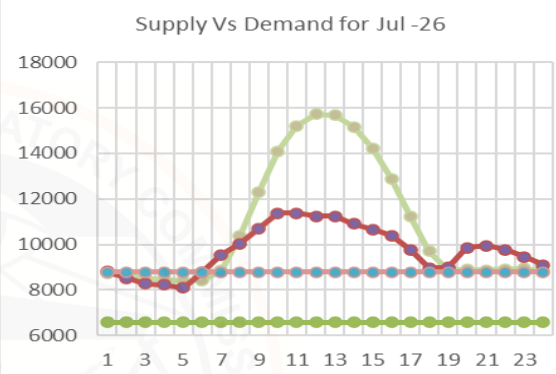
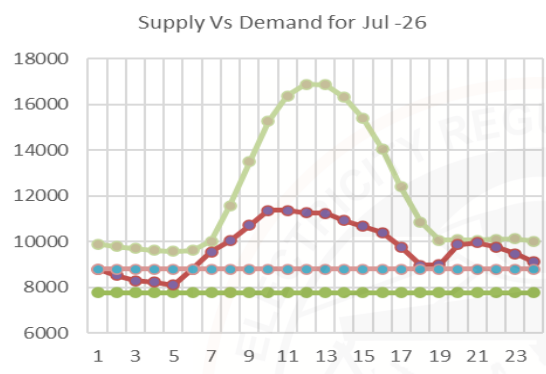
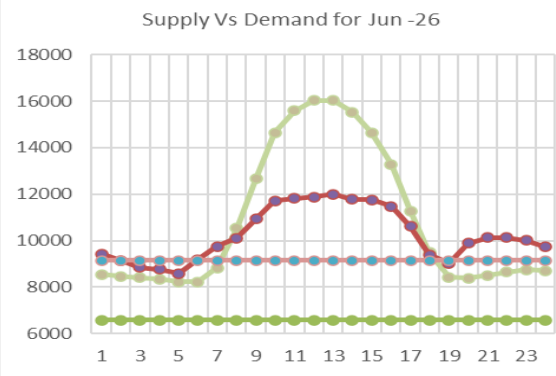
As can be seen from the table above, there is a requirement for wind energy to be procured by the Respondent DISCOMS from 01.04.2024 from the new wind power plants to comply with the law even though there are about 6500 MUs of energy available with them from existing contracts.

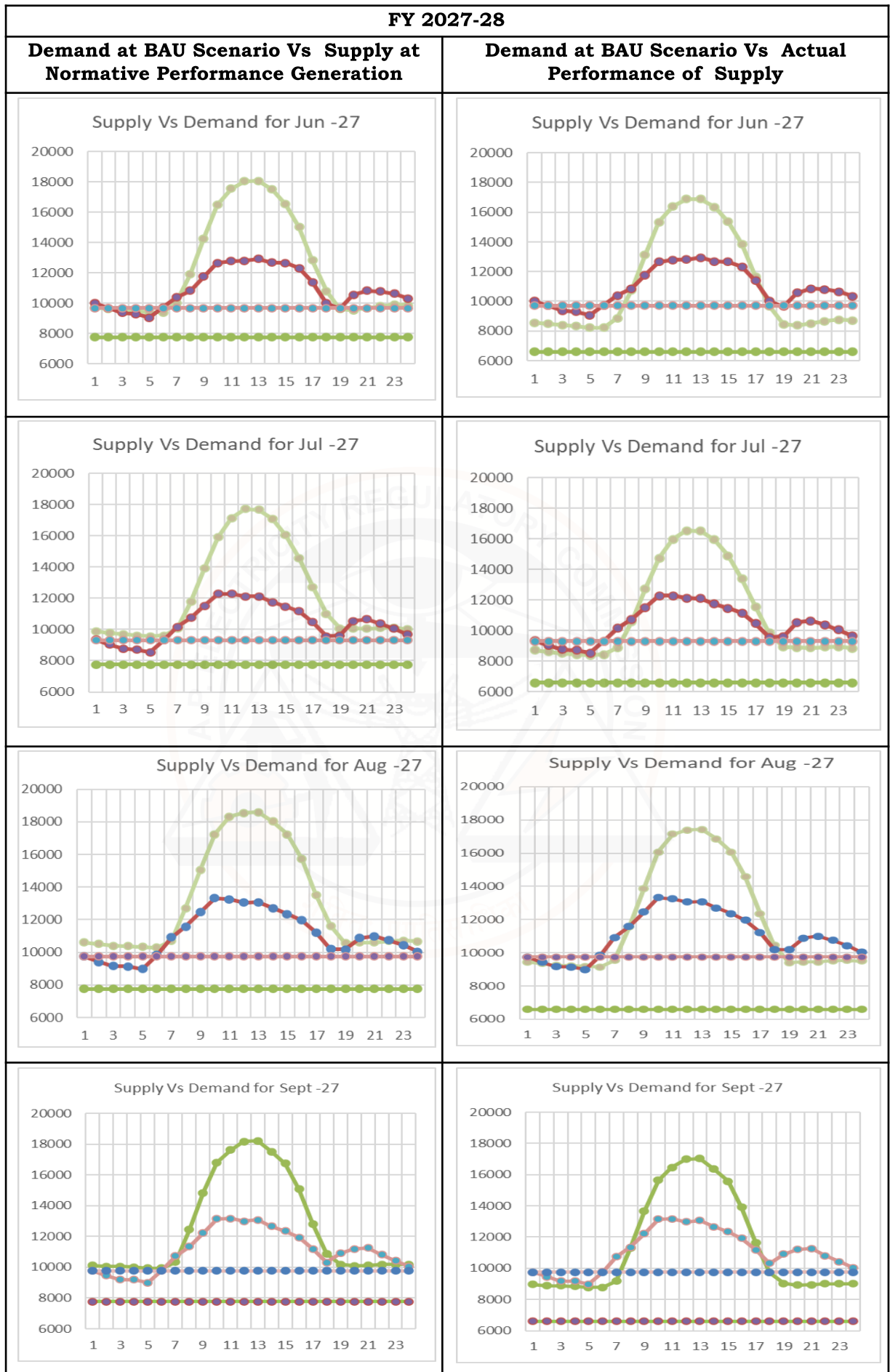
- vi. There is a higher potential for wind energy in the State during June, July, August and September of the year as per the past profile of wind generation. To examine the necessity of wind energy procurement to meet the demand, the month-wise energy projected to be available (Generation in normative performance and actual performance from thermal power plants) as against the demand profile (Business As Usual Scenario) as per the Commission's estimations in each year of the 5th & 6th control periods are shown in the following graphs (Red colour-demand curve, Green colour-Supply curve).



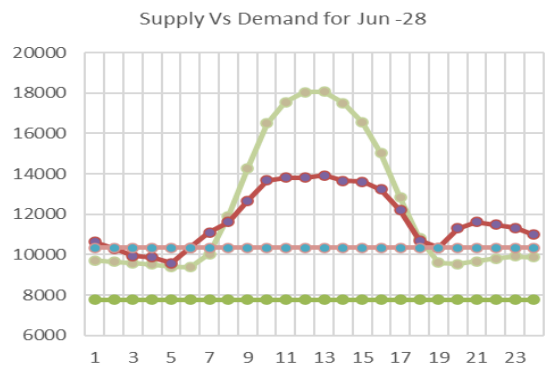
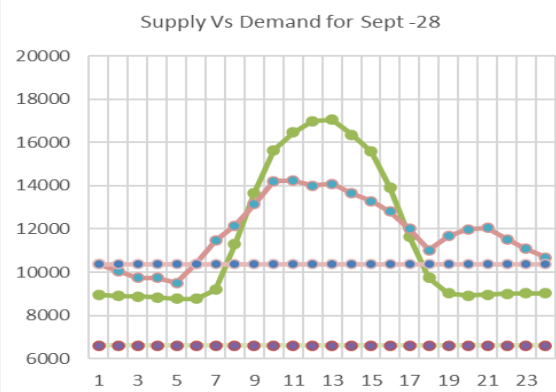
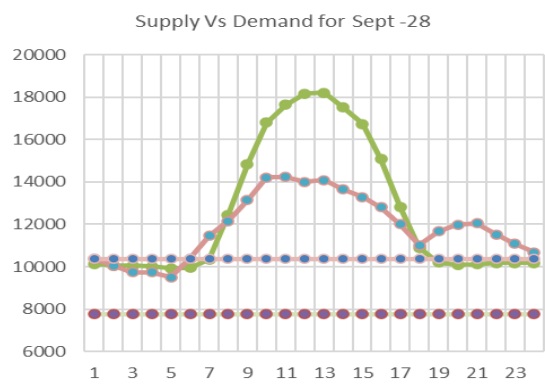
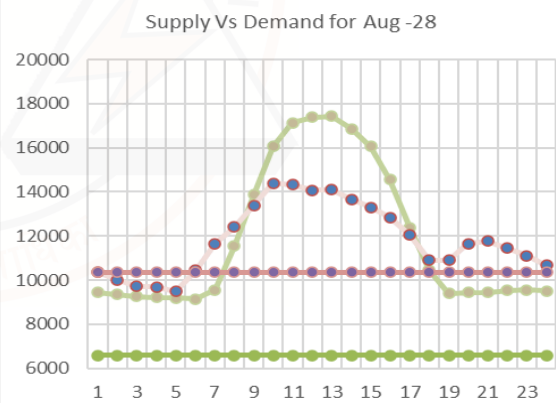
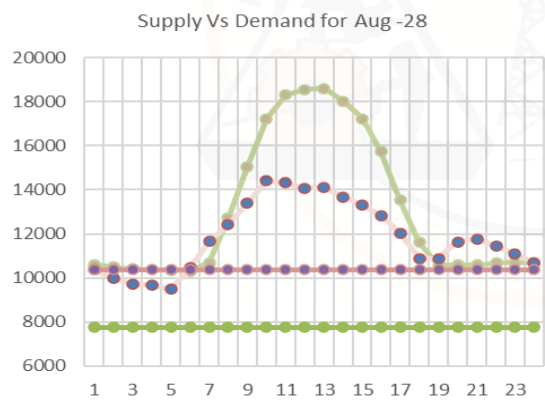
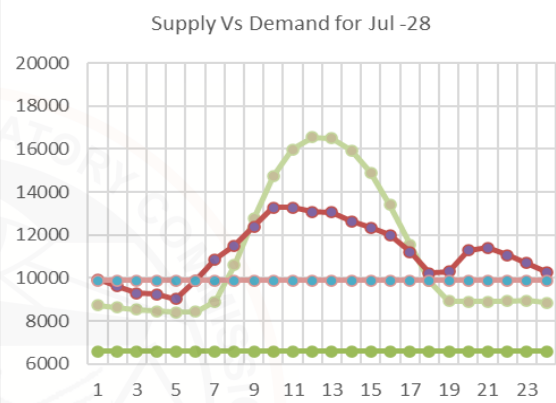
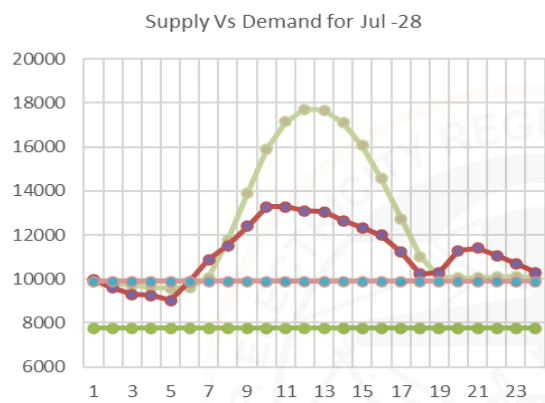
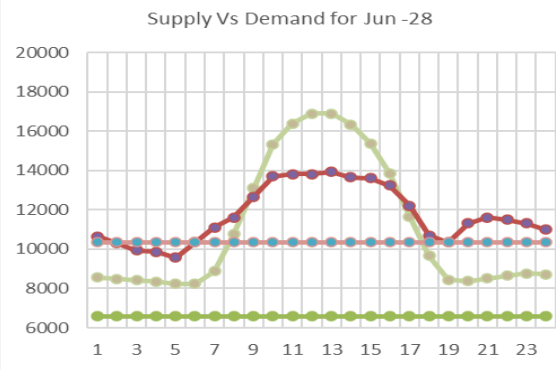


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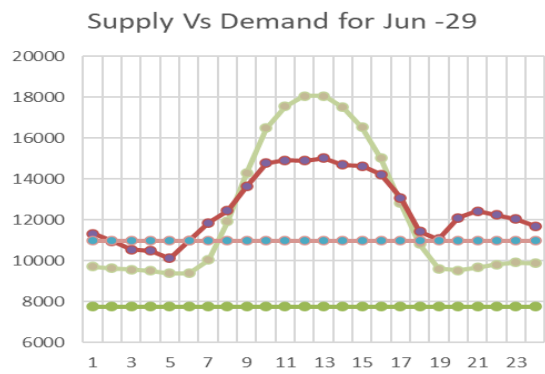
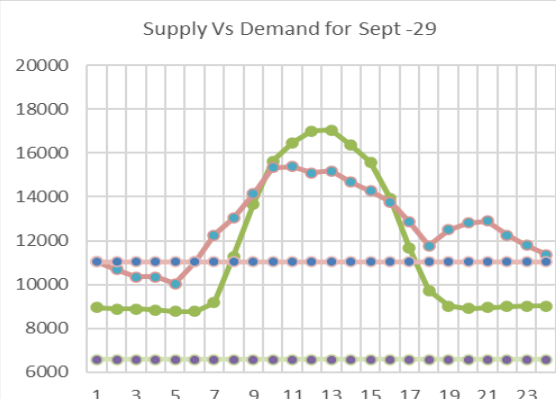
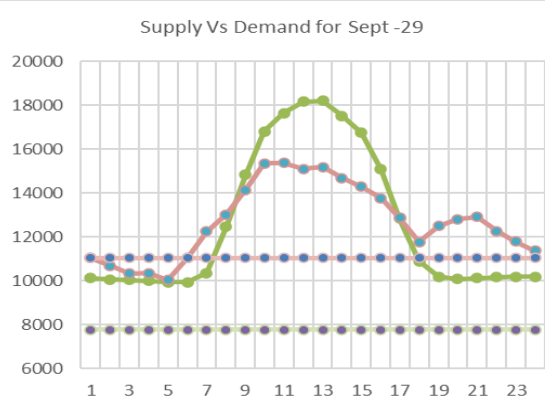
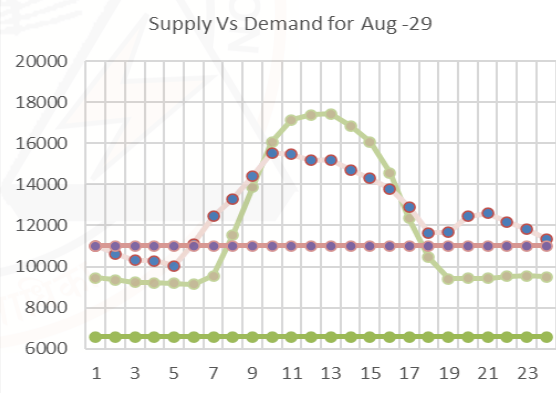
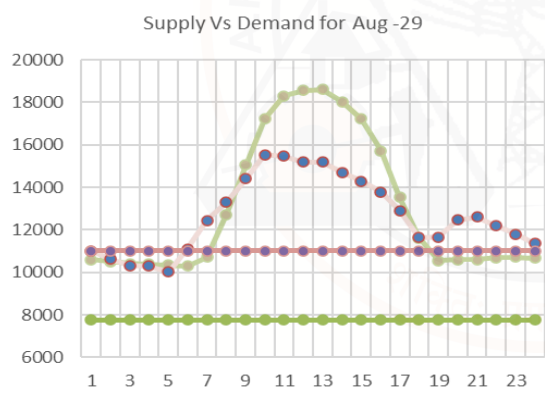
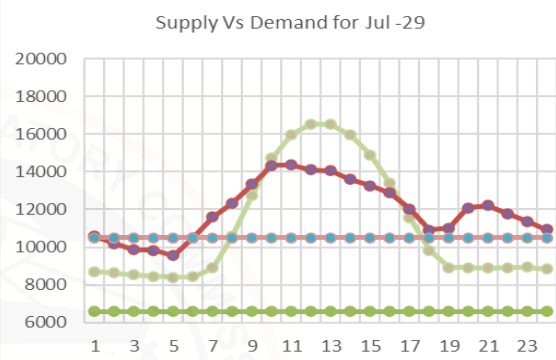
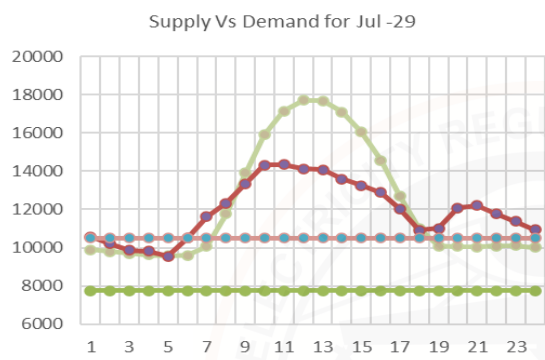
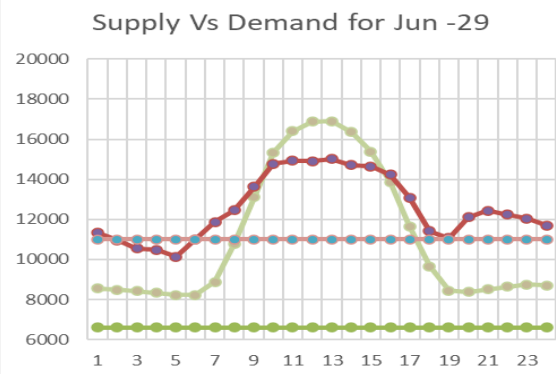
Demand at BAU Scenario Vs Supply at Normative Performance Generation**Demand at BAU Scenario Vs Actual Performance of Supply**



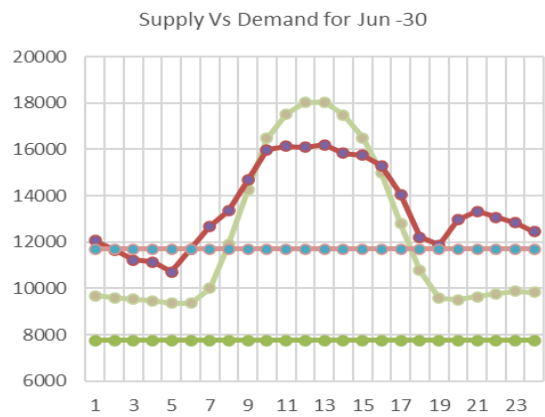
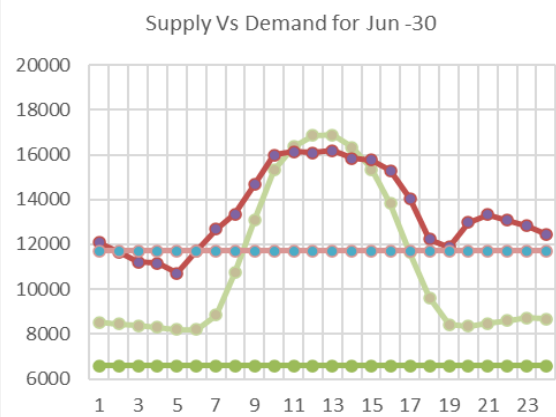
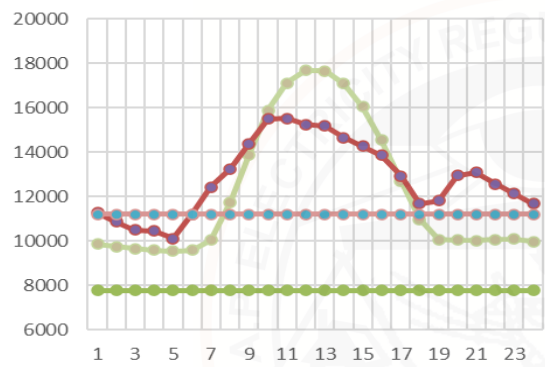
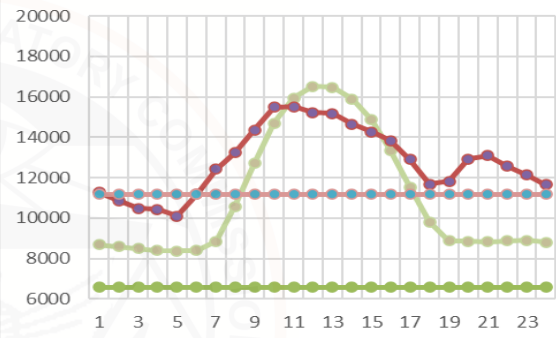
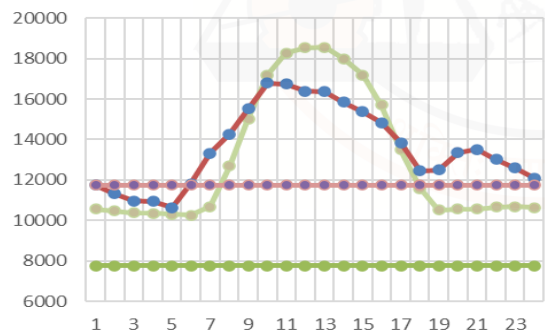
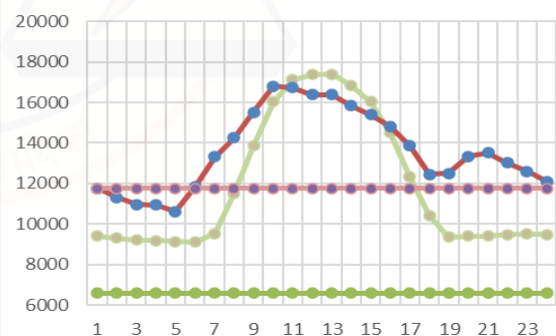
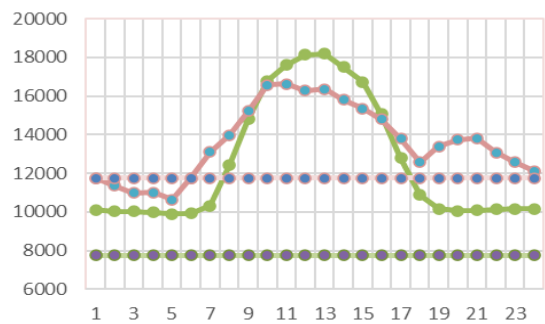
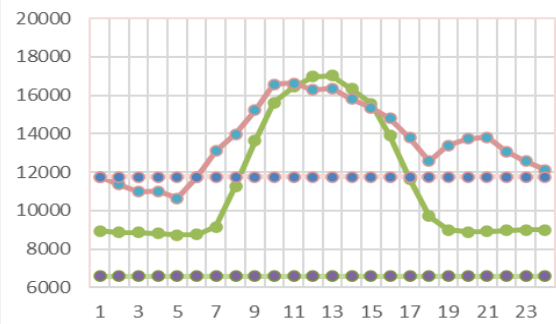
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Demand at BAU Scenario Vs Supply at Normative Performance Generation**Demand at BAU Scenario Vs Actual Performance of Supply**

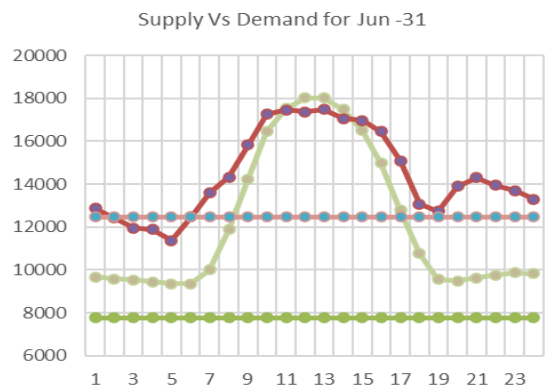
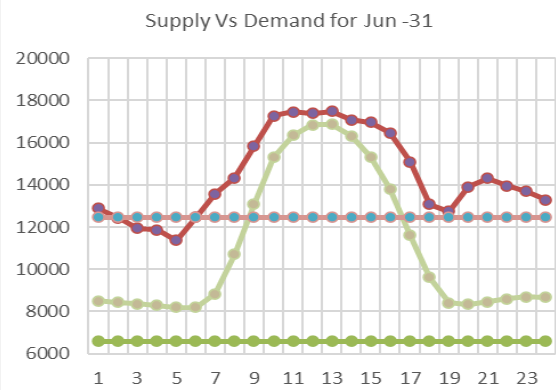
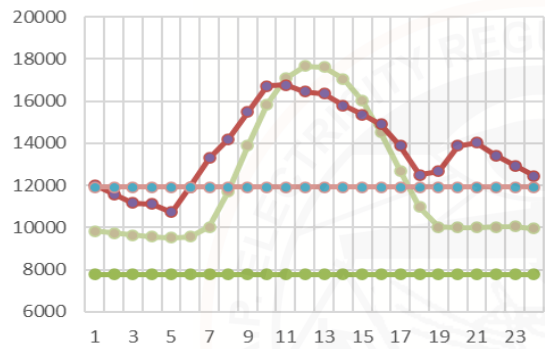
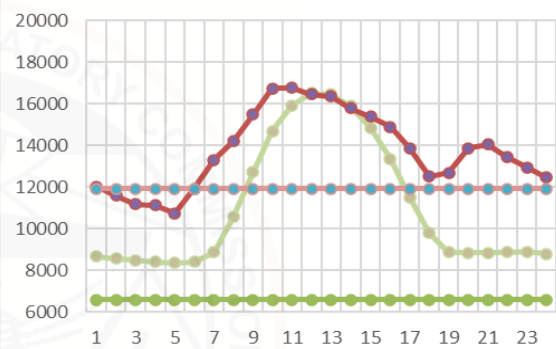
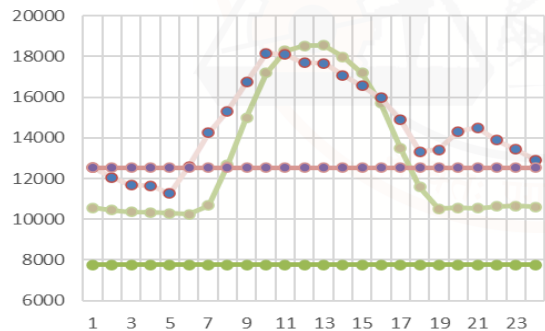
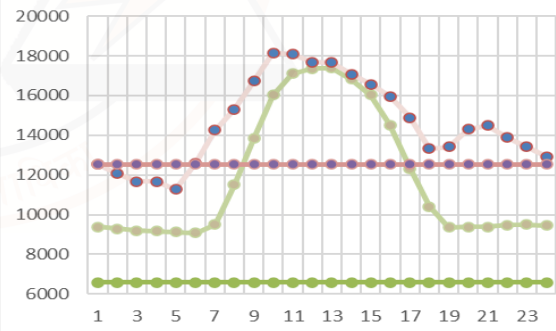
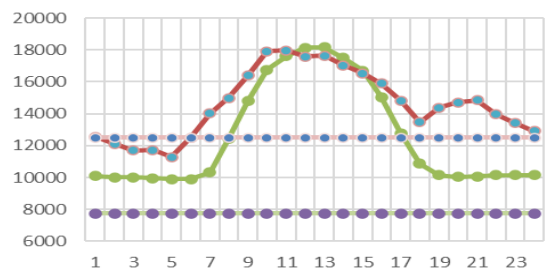
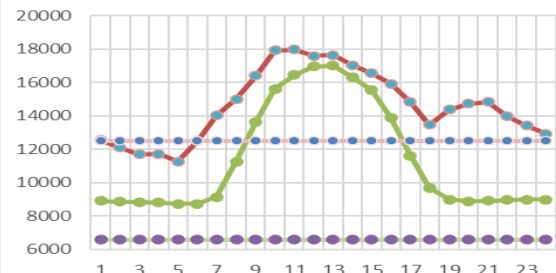
FY 2029-30

Demand at BAU Scenario Vs Supply at Normative Performance Generation**Demand at BAU Scenario Vs Actual Performance of Supply**

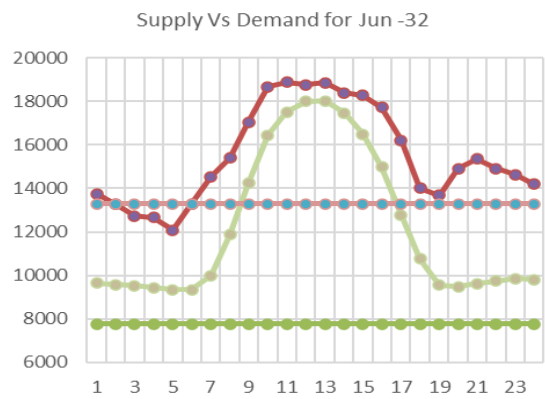
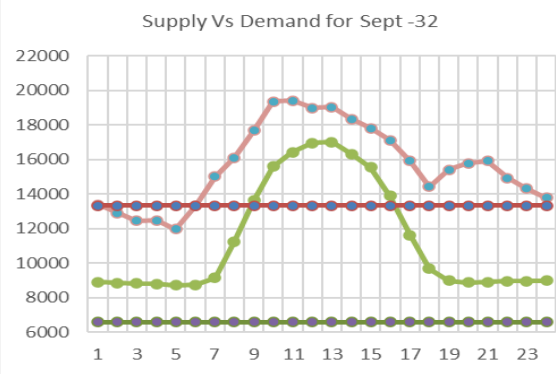
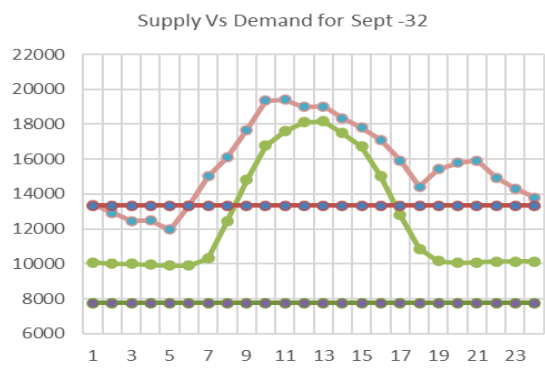
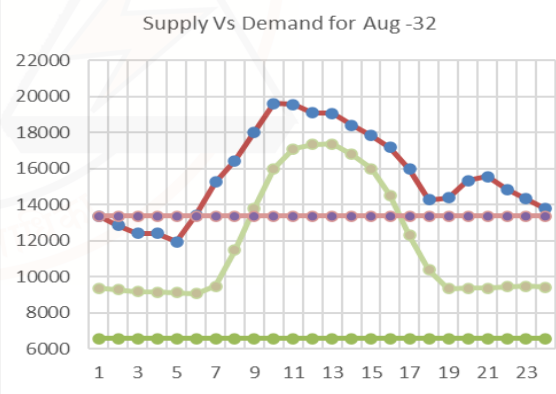
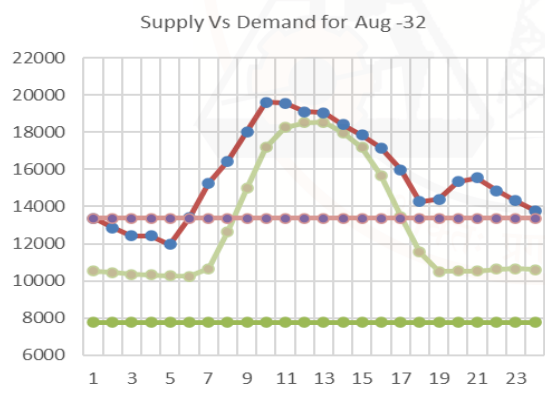
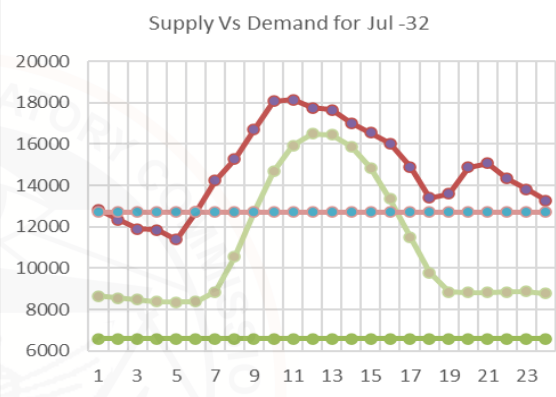
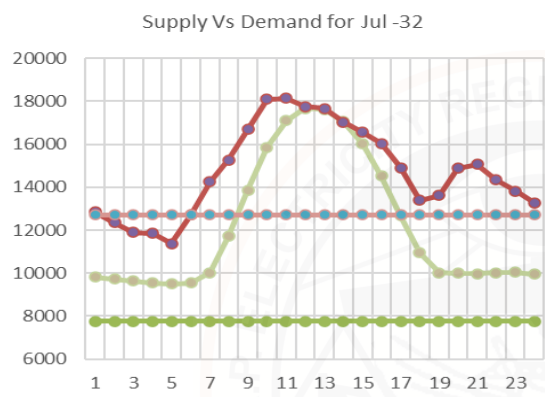
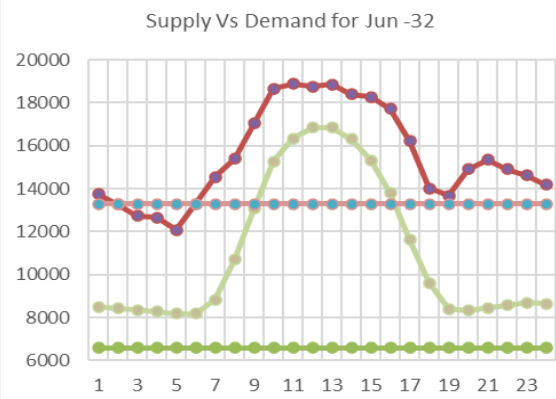
FY 2030-31

Demand at BAU Scenario Vs Supply at Normative Performance Generation**Demand at BAU Scenario Vs Actual Performance of Supply****Supply Vs Demand for Jul -30****Supply Vs Demand for Jul -30****Supply Vs Demand for Aug -30****Supply Vs Demand for Aug -30****Supply Vs Demand for Sept -30****Supply Vs Demand for Sept -30**

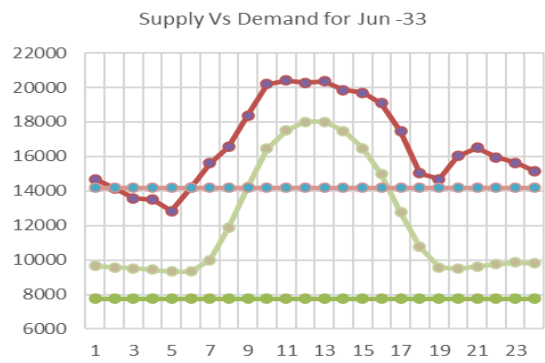
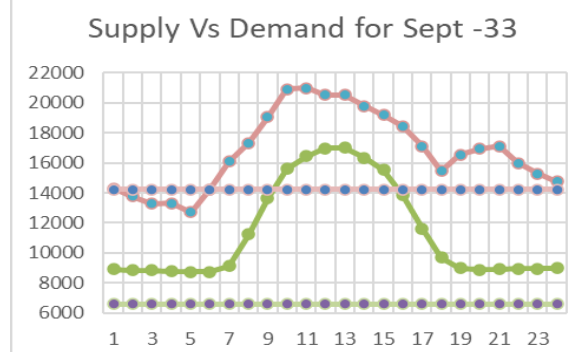
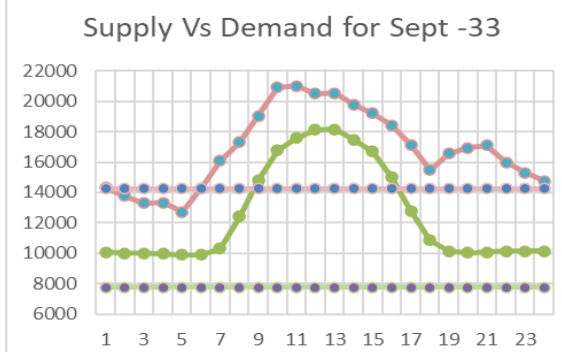
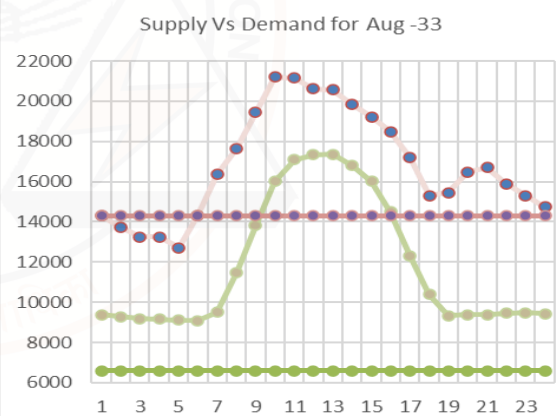
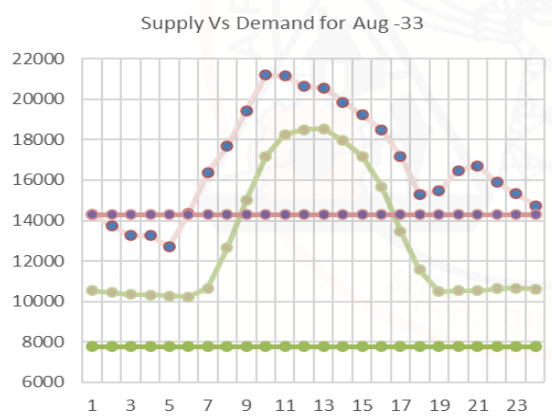
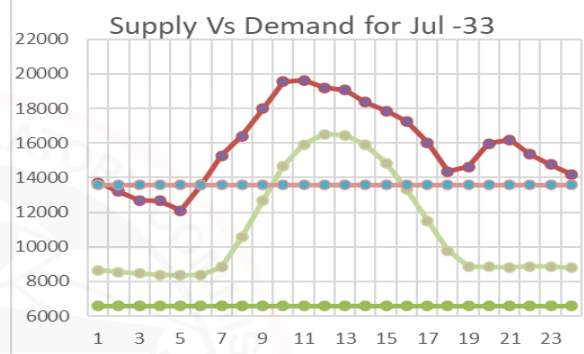
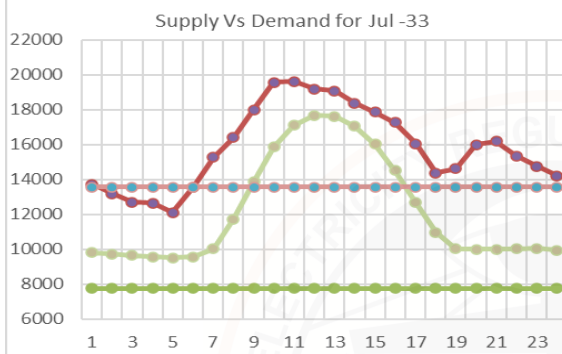
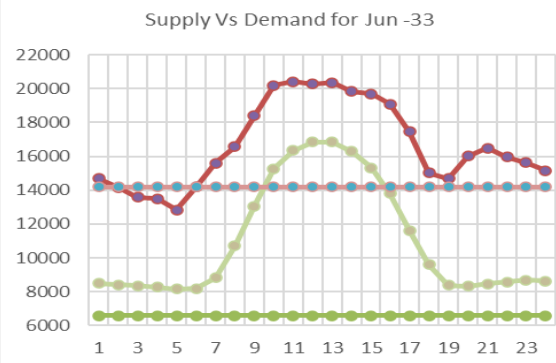
FY 2031-32

Demand at BAU Scenario Vs Supply at Normative Performance Generation**Demand at BAU Scenario Vs Actual Performance of Supply****Supply Vs Demand for Jul -31****Supply Vs Demand for Jul -31****Supply Vs Demand for Aug -31****Supply Vs Demand for Aug -31****Supply Vs Demand for Sept -31****Supply Vs Demand for Sept -31**

FY 2032-33

Demand at BAU Scenario Vs Supply at Normative Performance Generation**Demand at BAU Scenario Vs Actual Performance of Supply**

FY 2033-34

Demand at BAU Scenario Vs Supply at Normative Performance Generation**Demand at BAU Scenario Vs Actual Performance of Supply**

As seen from the graphs above, there will be surplus energy in certain time blocks in a day up to FY 2029-30 but there will be a shortage of supply from base thermal stations to meet the base demand from FY 2024-25 in any scenario. The shortage of base supply during the day time mostly will be met by solar generation. The existing wind generation all day and solar generation during the daytime will significantly contribute to the base demand during these months. Therefore, if the energy is procured from new wind plants to meet the RCO compliance as per the central government notification, it will also aid basically the existing supply to meet the base demand requirement during those months.

- vii. The above analysis reveals that the energy from the new wind plants to be commissioned after 01.04.2024 is required for the Respondent DISCOMS basically to meet the RCO compliance as per the Central Government notification under the Energy Conservation Act 2001 rather than to meet the demand in the normal course.

Accordingly, point A is answered.

Re: Point B

17. Having concluded that the energy from the new wind plants to be commissioned after 01.04.2024 is required for the Respondent DISCOMS basically to meet the RCO compliance as per the Central Government notification under the Energy Conservation Act 2001 rather than to meet the demand in the normal course, we propose to examine the necessity of procuring such energy from the wind plants with the tariff to be determined specifically under Section 62 of the Electricity Act, 2003 in the context of following objections from the Public vis a vis the replies furnished by the Petitioner and the Respondent to the Same.
- Entering into long-term PPAs with the Generators of the Wind Power Projects at higher tariffs and granting consent to it by this Commission would cause irreparable damage to the interest of the consumers at large;
 - When the tariff of around Rs.2.50 ps per unit for wind power is being discovered through competitive bidding, it is absolutely impermissible and detrimental to larger consumer interest to consider payment of a tariff of Rs.4.28 ps per unit up to 33% PLF and 75% of tariff for generation and supply above 33% PLF and recovery of project support cost over and above the tariff determined for purchase of wind power from the subject projects.
 - The aggregate generation capacity of the wind power projects proposed under the 21 PPAs is 775 MWs, which is much higher than the minimum bid capacity

of 25 MW in the case of intra-state projects; that as the generation capacity involved under the 21 PPAs is 775 MW, Project Specific Tariff cannot apply to them; that if power is required for the State from the Wind Energy Units, it shall be procured through competitive bidding; that as the generation capacity proposed in these petitions comes within the scope of the bidding guidelines.

The Petitioner is relying on the MoU, PIA entered into with the GoAP, project agreement (PA) entered into with the NREDCAP and PIA entered into with the Respondent DISCOMS in support of his case. He is also relying on the Supreme Court judgement in "The TATA Power Company Limited Vs Maharashtra Electricity Regulatory Commission & Ors." which held that there is nothing in Sections 62 or 63 that could lead to the interpretation that Section 63 is the dominant route for the determination of tariff that both the provisions provide alternative modalities through which tariffs can be determined and that the non-obstante clause in Section 63 must be read in the context of Sections 61 and Section 62 bestows the Commission with discretion to determine tariffs.

The Respondents, while not opposing the petitioner's request for procurement of energy from it as per the directions of the government, strongly opposed the tariff arrived at by the Petitioner. The Respondents stated that the tariffs determined under the competitive bidding in SECI's auctions shall be taken as the reference point for the determination of Tariffs for the energy proposed to be procured from the Petitioner's wind plants under the 21 PPAs, as CERC Regulations 2017 are no longer applicable. Per contra, the Petitioner consistently relies on the CERC Tariff Regulations 2017 quoting the Orders of this Commission in OP No 5 of 2017. We propose to analyse the competing versions keeping in view the objections from the public hereunder.

- i. The Government of Andhra Pradesh entered into the MoU with Suzlon and AXIS for the development of Wind Power Projects of 3000 MW and Wind-solar Hybrid Power Projects of 1000 MW, in various Districts of Andhra Pradesh. In terms of the said MOU, they have entered into a Project Implementation Agreement (PIA) with the Government of Andhra Pradesh on 11-01-2016, a Project Agreement (PA) with NREDCAP on 03-2-2016, and a Project Implementation Agreement with the APTRANSCO and the APDISCOMS on 03-10-2016. The Respondent DISCOMS entered into the PPAs with the petitioner on 03.06.2017 and amendments were incorporated on 12.12.2018 after the issue of the Order by

this Commission in OP No 5 of 2017 on 13.07.2018. The relevant recitals of the various agreements are extracted below.

The Memorandum of Understanding (MOU) Dated 04.12.2015

“SUZLON Group and Axis Energy Group, - the “Parties of First Part/First Party”; Government of Andhra Pradesh,-the “Party of the Second Part/Second Partu”.

The Parties of the First Part, in view of the common objectives under GoAP MoU and the Suzlon MoUs, are proposing to collaborate and jointly develop (under various business models) the Renewable Energy Projects (SUZLON group jointly with Axis Group) and the Manufacturing Facilities (by SUZLON Group) in the State of Andhra Pradesh in a period of next five years. Achieve the implementation of Manufacturing Facilities by SUZLON Group and Renewable Energy Projects by SUZLON & Axis Group by March 31, 2020;

Execution of firm Power Purchase Agreements for the capacities committed under this MOU with Feed in Tariff as per the prevailing regulations and orders of the AP Electricity Regulatory Commission for Wind Power and Wind Solar Hybrid Power Projects”

Project Implementation Agreement (PIA) dated 11.01.2016

“4.1.7 Execution of Power Purchase Agreement

GoAP agrees to cause the power distribution companies of Andhra Pradesh/ APPCC to execute firm Power Purchase Agreements in the format attached as Annexure 5 as may be approved by APERC and purchase the entire capacity of power generated from the Renewable Energy Projects at tariff determined by the Andhra Pradesh Electricity Regulatory Commission under Section 61 (h) of the Electricity Act, 2003 and the terms of PPA approved by Commission from time to time.

“Power Purchase Agreement” shall mean a contractual agreement to be signed with the Andhra Pradesh Power Distribution Companies or any other body for the sale of power generated from the Renewable Energy as may be approved by APERC from time to time.

Interpretations

This Agreement shall remain in force for a period of 7 (seven) years from the Effective Date to remain valid till December 31, 2022 (“Term”) including period of construction/ development and operation of the Renewable Energy Projects and the Manufacturing Facilities.”

(Emphasis Supplied)

PROJECT AGREEMENT (PA) Dated 03.02.2016 (Between: NEDCAP & SUZLON & AXIS)

“Power Purchase Agreement” shall mean a contractual agreement to be signed with the Andhra Pradesh Power Distribution Companies or any other body for the sale of power generated from the Renewable Energy Projects as may be approved by APERC from time to time”

(Emphasis Supplied)

NEDCAP Proceedings dated 24.09.2011

“12. The company shall enter into Power Purchase Agreement with DISCOMs in respect of Wind Power capacities set up in Government and Forest areas as per the policy of the Govt, in this regard from time to time. In case of wind power capacities set up in private land, the developer shall enter into Power Purchase Agreement or Open Access Agreement or Wheeling Agreement with DISCOMs as per policy decided by the Govt”

(Emphasis Supplied)

As can be seen from the above, the PPAs entered into with the DISCOMS by the Petitioner are subjected to the approval of the Commission. In this regard, it is relevant to refer to the Hon’ble Supreme Court Judgment dated 6th May 2009, in CA No. 3510-3511 of 2008 ([Tata Power Company Ltd. Vs. Reliance Energy Limited & Ors. \[2009\] INSC 980 \(6 May 2009\)](#)) which held that the agreement of distribution company (PPA) being subject to approval, indisputably the Commission would have the public interest in mind, that the Commission has the power to approve a MOU which subserves the public interest and that the Commission while granting such approval may also take into consideration the question as to whether the terms to be agreed are fair and just. It is also held that PPA/agreement is not unregulated and such an agreement is subject to the grant of approval by the Commission under Section 86 (1) (b) of the Electricity Act, 2003.

The Hon’ble Supreme Court in Civil Appeal No. 2926 of 2006, APTRANSCO Vs SAI RENEWABLES held:

“All policy directions shall be issued by the State Govt. consistent with the objects sought to be achieved by this Act and, accordingly, shall not adversely affect or interfere with the functions and powers of the Regulatory Commission including, but not limited to, determination of the structure of tariffs for supply of electricity to

various classes of consumers. The State Govt. is further expected to consult the Regulatory Commission in regard to the proposed legislation or rules concerning any policy direction and shall duly take into account the recommendation by the Regulatory Commission on all such matters. Thus the scheme of these provisions is to grant supremacy to the Regulatory Commission and the State is not expected to take any policy decision or planning which would adversely affect the functioning of the Regulatory Commission or interfere with its functions. This provision also clearly implies that fixation of tariff is the function of the Regulatory Commission and the State Govt. has a minimum role in that regard.”

(Emphasis added.)

While, as per the law declared by the Apex Court, irrespective of whether any understanding is reached between a developer and the Government/licencees, the Commission is not bound by such commitments and where public interest warrants, it can disregard such commitments while exercising its regulatory jurisdiction, even the Project Implementation Agreement entered into with the GoAP was valid only up to 31.12.2022 and it is not brought to the Commission's notice that the PIA was further extended. Even without the Petitioner's power plants being grounded (It sought 2 years time for their completion from the date of approval of PPAs by the Commission) the PIA ceased to be in force. It is also relevant to mention that the SUZLON, one of the parties to the Agreement along with the Petitioner has not established manufacturing facilities as per PIA as per the information available in the public domain. It is also further to be noted that as per the permission accorded by NEDCAP, in case of wind power capacities set up on private land, the developer shall enter into a Power Purchase Agreement or Open Access Agreement or Wheeling Agreement with DISCOMs as per policy decided by the Govt.

- ii. The Petitioner also placed reliance on the Order dated 13.07.2018 of this Commission in OP No 05 of 2017. The relevant portions of the Order on the contentions raised by the Petitioner in that petition are extracted below.

“8.21 The DISCOMs have filed 12 PPAs on 10-01-2018 entered into by them with M/s Axis Wind Energy Pvt. Ltd. However, it is mentioned that the tariff shall be determined by APERC u/s 61, 62 & 86 of Electricity Act, 2003 and any Regulation made there under. The same has been examined by the Commission and it was informed, inter-alia, that further action, if any on merits and as per law can be taken only upon filing an application for determination of tariff u/s 62.

8.22 Even if PPAs were entered into by the DISCOMs with the wind generators they are not enforceable under law unless they are specifically approved by the Commission u/s 86 (1) (b). As seen from the ARR proposals for FY2017-18 & 2018-19 submitted by the DISCOMs the State achieved surplus power generation, met and even exceeded the RPPO obligation and unless and until there is a need to purchase power the Commission is not obliged to approve the Power Purchase Agreements. While considering any such PPAs the Commission shall be guided by the consumer interest as also the principles and methodologies specified by Central Commission for determination of tariff as mentioned u/s 61. Accordingly, the Commission would like to follow the Central Electricity Regulatory Commission (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2017 dated 17-04-2017 for determination of project-specific wind tariff for such PPAs entered into on or after 01-04-2017 by the DISCOMs if it is otherwise found necessary to procure power at competitive rates in the interest of the consumers at large in the State of Andhra Pradesh. Hence, the wind generators who have set up wind power projects in Andhra Pradesh have no reason to have any fear that their financial interests are adversely affected if the Regulation No.1 of 2015 is curtailed up to 31-03-2017. There is another set of 4 PPAs filed by the same Axis wind Energy on 18-01-2018 but for which no such PPAs were filed by the DISCOMs. Hence, the same were returned as no request on the said PPAs is received from the DISCOMs. Subsequently, the CGM, P&MM, IPC, APSPDCL vide letter dated 02-05-2018, submitted 4 Nos copies of the PPAs essentially requesting for necessary consent of the Commission. The same have been examined in the Commission and the PPAs returned with certain observations as mentioned therein, vide letter dated 01-06-2018.

10. The DISCOMs are at liberty to follow the “Guidelines issued for Tariff Based competitive bidding process for procurement of Power from Grid Connected Wind Power Projects” by MoP dated 08-12-2017, from 01-04- 2018. These guidelines were issued under the provisions of Section 63 of the Electricity Act, 2003 for long-term procurement of electricity through a competitive bidding process, by the ‘Procurer(s)’, from grid-connected Wind Power Projects (‘WPP’) having, (a) individual size of 5 MW and above at one site with minimum bid capacity of 25 MW for intra-state projects; and (b) individual size of 50 MW and above at one site with minimum bid capacity of 50 MW for inter-state projects.

10.1 For wind power projects which do not come within the scope of the above bidding guidelines the Commission shall determine the wind tariff as a

project-specific tariff under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff determination from Renewable Energy Sources) Regulations, 2017, which are valid from 01-04-2017 to 31-03-2020.

11. Issue IV: Whether curtailment of Regulation as prayed for by the petitioners will affect the interest of wind power generators as claimed by some stakeholders in their objections.

11.1 Some of the objectors have claimed that they have executed various agreements with Govt. of Andhra Pradesh and its agencies including the DISCOMs and they are committed to develop 4000 MW of Renewable Energy projects in the State of Andhra Pradesh comprising 3000 MW wind power and 1000 MW wind-solar hybrid power and the petition to curtail Regulation No.1 of 2015 would result in stalling the construction of wind power projects under construction, causing irreparable loss and injury to such developers. Further, the petitioners under an agreement executed with them (Axis Energy) pursuant to MoU with Govt. of Andhra Pradesh have committed to procure the entire electricity generated from the projects constructed by them and hence the petitioners' request to curtail the Regulation and procure power through competitive bidding ought not to be allowed.

11.2 The contentions of the objectors are not correct and cannot be accepted. Even if there is agreement for development of wind power projects and understanding or agreement with DISCOMs for purchase of power they are not binding on the Commission. The Commission while exercising its powers u/s 86 (1) (b) is bound to verify whether there is a need to procure power and if so determine the quantum and the price and terms of PPA, before according approval if necessary if it is in consumer interest. The wind power developers can have no vested right in claiming that once they agree to develop wind power projects on the basis of agreement with Govt. of Andhra Pradesh, the DISCOMs were obliged to procure power. Unless and until the Commission verifies and approves each PPA in the interest of the consumers, such agreements can have no relevance and not enforceable and cannot be taken cognizance of under law (Electricity Act, 2003).

11.3 Nevertheless, we have discussed above that if the DISCOMs decide to procure power from wind developers in the State of Andhra Pradesh and submit the PPAs before the Commission, the Commission shall examine the same on merits of each case and will determine the Project Specific tariff after considering all the relevant factors including the CERC guidelines for procurement of wind power dated 28-04-2017 referred above. Thus, there is no loss or damage caused to the interests of the wind developers in Andhra Pradesh. Further, the promotion of

development of wind power projects by itself doesn't mean that the DISCOMs are bound to procure power from such projects unless there is necessity in doing so and if it is in the interest of the consumers, especially in a power surplus scenario as it is existing during the last 2 years in State of Andhra Pradesh. They have choice to sell the power in open access or through exchange or through any other means as per law. Thus, the contentions of the objectors in this regard are, without merit and hence rejected.

12. To sum up and conclude:

i. The Commission accepts the request/prayer of the petitioners to curtail Regulation of No.1 of 2015 up to 31-03-2017 for the detailed reasons discussed above. The control period of the Regulation is accordingly curtailed up to 31-03-2017 by the Commission in exercise of its powers conferred on it under section 181 read with Sections 61, 62 and 86(1) (b) of Electricity Act, 2003 and clause 55 of Regulation 1 of 1999 issued by the Commission. However, this Regulation continues to apply for the wind energy projects with whom DISCOMs of Andhra Pradesh have entered into Power Purchase Agreements up to 31-03-2017 and were approved by the Commission. Consequently, the Order of the Commission dated 30.03.2017 in O.P. No. 15 of 2017 (issued suo-motu) stands nullified with effect from 01.04.2017, i.e., it ceases to exist in the eyes of law from that date.

ii. Any Power Purchase Agreement entered into by DISCOMs after 01-04-2017 shall be processed by the Commission on the merits of each case, and the tariff will be determined as per the CERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2017 applicable for the period 01-04-2017 to 31-03-2020,

iii. The petitioners are at liberty to procure wind power w.e.f. 01-04-2018 as per the guidelines for tariff-based competitive bidding process for procurement of power for grid-connected wind power projects of MoP / MNRE dated 08-12-2017 as per the applicability of guidelines and the size of the projects.

iv. This order is to be read with APERC order dated 30-03-2017 in O.P.No.15 of 2017 (SUO-MOTU) in the matter of notifying the generic preferential tariff applicable from 01-04-2017 to 31-03-2018 in respect of wind power projects in the State of Andhra Pradesh pursuant to Regulation 6 of Regulation 1 of 2015, and APERC's order dated 13-12-2017 in the matter of 41 Nos. Power Purchase Agreements entered by the Southern Power Distribution Company of Andhra

Pradesh Limited (APSPDCL) with various wind power developers up to end of FY 2016-17 referred to above.”

The Commission, while negating all the contentions of the petitioner, held in the above order that the DISCOMS shall *procure* the power from the wind power plants as per the guidelines of MOP/MNRE dated 08-12-2017 for tariff-based competitive bidding process for procurement of power for grid-connected wind power projects from 01.04.2018 and that the CERC Regulations would be applicable from 01.04.2017 to 31.03.2020. Though the Commission shall process any Power Purchase Agreement entered into by DISCOMS after 01-04-2017 on the merits of each case, and the tariff will be determined as per the CERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2017 applicable for the period 01-04-2017 to 31-03-2020, this Commission unequivocally held that while exercising its powers u/s 86 (1) (b) the Commission is bound to verify whether there is a need to procure power and if so to determine the quantum, the price and terms of PPA, before according approval if it is in consumers' interest. It was further held that the wind power developers can have no vested right in claiming that once they agree to develop wind power projects on the basis of agreement with Govt. of Andhra Pradesh, the DISCOMS were obliged to procure power and that unless and until the Commission verifies and approves each PPA in the interest of the consumers, such agreements can have no relevance and are not enforceable and cannot be taken cognizance of under law (Electricity Act, 2003).

- iii. Regarding the method of power procurement by the DISCOMS and the validity of the PPA, the relevant provisions of the Electricity Reform Act, 1998, the Regulations, and the guidelines framed by APERC are reproduced hereunder.

Section 21 of AP Electricity Reform Act-1998 which is saved by the provisions of the Electricity Act-2003:

“Restrictions on licensees and Generating Companies - (1) No licensee or Generating Company shall at any time, without the previous consent in writing of the Commission, acquire by purchase or otherwise the licence or the undertaking of, or associate himself with, so far as the business of generating, transmitting distribution or supply of energy is concerned, any other licensee or person generating, transmitting, supplying or intending to generate, transmit or supply electricity: Provided that before granting the consent the Commission shall hear such person or authority as the Commission shall consider appropriate.

(2) The licensee shall not, at any time, assign his licence or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Commission. (3) The provisions of section 44 of the Electricity (Supply) Act, 1948 shall apply except that the persons to whom the section applies shall be required to obtain the sanctions and consents from the Commission, instead of such sanctions and consents to be obtained from the Board as provided under that section. (4) A holder of a supply or transmission licence may, unless expressly, prohibited by the terms of its licence, enter into arrangements for the purchase of electricity from:- (a) the holder of a supply licence which permits the holder of such licence to supply energy to other licensees for distribution by them; and (b) any person or Generating Company with the consent of the Commission. (5) **Any agreement relating to any transaction of the nature described in sub-sections (1), (2), (3) or (4) unless made with or subject to such consent as aforesaid, shall be void.** “**Clause 36 (iii) of APERC Regulation 10 of 2013 (Terms & Conditions of Distribution License:** “The licensee shall purchase electrical capacity and/or energy in an economical and efficient manner and under a transparent power purchase or procurement process and in accordance with the Regulations, directions, guidelines, and orders made for the purpose by the Commission from time to time. In case of the purchase of additional power over and above the power procured through Power Purchase Agreements (PPA) consented by the Commission, the licensees shall adopt a competitive bidding method as per the competitive bidding guidelines issued by the Ministry of Power, Government of India under Section 63 of the Act, and seek approval of the Commission for such procurement”.

Clause 4.1.2 of APERC-Guidelines for Load Forecasts, Resource Plans and Power Procurement issued in December 2006.

The Licensee shall follow the Guidelines for Determination of Tariff by Bidding Process for Procurement of Power by Distribution Licensees (for short the Competitive Bidding Guidelines or CBG) issued by the Ministry of Power on 19.01.2005 in respect of procurement of power for a period of more than one year. If the Licensee proposes to procure the power by a process other than that specified by the Competitive Bidding Guidelines, it shall, in its filing with the Commission, seek the consent of the Commission and demonstrate to the Commission’s satisfaction that the proposed procurement is the preferred least cost option, with reference to the economic, technical, system and environmental aspects of commercially viable alternatives, including arrangements for reducing

the level of demand. The Licensee shall describe the procurement procedure, proposed to be adopted, including the steps to be taken to ensure that the purchase is made on the best possible terms.

From the above, it is clear that the licensee shall purchase electrical capacity and/or energy economically and efficiently and under a transparent process following the competitive bidding guidelines issued by the GoI under Section 63 of the Electricity Act, 2003 and any agreement for procurement of such power by the DISCOMS without the consent of the Commission is void.

- iv. To examine the tariffs excluding the additional supporting costs estimated by the Petitioner in the petition, the SECI's auction rates determined since 2018 in various tenders are shown below.

S.No.	Date	Capacity	Price Discovered (Rs. Per unit)
1	April-2018	SECI-2000 MW	2.51
(1) M/s Srijan Energy Systems (SPV of Singapore based Continuum wind energy) – Rs.2.51 (250MW), (2) M/s Spring Energy (backed by UK based Actis LLP)- Rs.2.51/- (300MW), (3) M/s BLP energy (Italian based Enel backed) – Rs.2.51 (280MW), (4) M/s.Betam Wind Energy (French based Engie backed] – Rs.2.51 (200MW), (5) M/s Inox – Rs.2.52 (100MW), (6) M/s Adani – Rs.2.52(300MW), (7) M/s Mythra – Rs.2.52 (300MW-Tamilnadu – PPA in 9/2018) and (8) M/s Renew Power – Rs.2.52(270MW);			
2	May- 2019	GUVNL-1000MW	2.80
(1) M/s Anisha Power Projects – Rs.2.80 (40MW), (2) M/s Pwerica Ltd - Rs.2.81 (50MW), (3) M/s Vena Energy Shivalika Wind Power Pvt Ltd – Rs.2.81(100MW), (4) M/s Sarjan Realities Ltd – Rs.2.87 (100MW), (5) M/s Viridi Clean Alternatives Ltd - Rs. 2.95 (100MW), (6) M/s Renew Wind Energy Pvt Ltd – Rs.2.95 (200MW), (7) M/s Inox Wind Ltd – Rs.2.95 (40MW), (8)M/s Adani Renewable Energy – Rs.2.95 (113MW);			
3	Sept-2021	SECI-1200MW	2.69
ReNew Power, Green Infra Wind Energy (Sembcorp), Anupavan Renewables (Evergreen), Adani Renewable Energy, and Azure Power)			
4	May-2022	SECI-1200 MW	2.89
1.M/s NTPC Renewables – Rs.2.89 (200MW), 2.M/s Halvard Renewables (EDF) - Rs. 2.93 (300MW), 3.M/s JSW – Rs.2.94 (400MW), 4.M/s Torrent Power – Rs. 2.94 (300MW)			

DISCOM Submission's in the counter.

The tender ID is SECI/C&P/IPP/12/0008/22-23. The tenders were floated on 20th February 2023 and the e-Reverse Auction was held on 12.06.2023.

Name of the Bidder	Capacity	Price Discovered (Rs. Per unit)
Green Prairie Energy Private Limited	190	3.18
Apraava Energy Private Limited	300	3.24
SJVN Green Energy Limited	200	3.24
Total-Weighted Average	690	3.22

The Summary of the SECI Selection of 2000 MW ISTS-connected **Wind-Solar Hybrid Power Projects in India** (Tranche-VII) for the (RfS No: SECI/C&P/IPP/13/0008/23-24 dated 23.10.2023) and the results of its e-Reverse Auction on 09.01.2024 are tabulated below

Bidder's Name	Bidder's Quantity (MW)	Awarded capacity (MW)	Price Discovered (Rs. Per unit)
NTPC Renewable Energy Limited	300	300	3.15
Juniper Green Energy Private Limited	150	150	3.21
Green Infra Wind Energy Limited	450	450	3.21

As can be seen from the above, the tariffs discovered for wind energy since 2018 have not exceeded Rs.3.24 per unit from interstate-connected power plants. Given the GoI's promotional measures in various orders, the wind, solar and wind-solar hybrid projects connected to the ISTS system having its scheduled date of commissioning on or before 30th June 2025 are eligible for a 100 percent waiver of inter-state transmission charges and 75 percent, 50 percent, and 25 percent waiver of inter-state transmission charges for projects connected to the ISTS system having its scheduled date of commissioning on or before June 2016, June 2017, and June 2018 respectively. The waiver is applicable for 25 years. Hence, the requirement of wind energy by the DISCOMS particularly to meet RCO compliance if any procured from such sources, would save them substantial amounts in the power purchase costs compared to the energy from the petitioner's proposed power plants.

- v. The petitioner's capital cost for the proposed wind plants is based on its order placed on one of its partner companies, SUZLON, in 2019. It stated that the additional supporting costs are to be considered over and above this capital cost

for pass through in tariff. The levelised tariff worked out by the petitioner is Rs.4.28 per unit. If the additional supporting costs are considered, the tariff would further increase. Considering the tariffs discovered in SECI's auctions with a waiver of ISTS charges, the DISCOMS can procure wind energy at a much cheaper rate. These savings to the DISCOMS will outweigh all the submissions by the Petitioner. Further, the tariff under Section 62 shall be determined based on the actual costs incurred by the Petitioner. The CERC Regulations 2017 relied upon by the Petitioner can no longer be considered since the said Regulations were valid only up to 31.03.2020. Further, the CERC Regulations 2017 do not specify any reference capital cost except certain other normative parameters for project-specific tariffs. Therefore, the tariff determination under Section 62 based on the normative parameters specified in CERC Regulations 2017 and the capital cost furnished by its partner company in 2019 is highly detrimental to the interest of the consumer public. The Respondent DISCOMS' request to determine the tariff under Section 62 of the Electricity Act, 2003 for the petitioner's wind plants taking the tariffs determined in SECI's auctions in competitive bidding as reference is incomprehensible. In this context it is relevant to mention the directions given to the Respondent DISCOMS by this Commission vide its letter dated 20.11.2018 with regard to approval of the self same 21 PPAs which are reproduced hereunder.

“ (i) The need for Power in respect of 16 PPAs totalling to a capacity of 764.60 MW needs to be demonstrated by APDISCOMS having been approved under the Load Forecasts and Resource Plans submitted in the Commission before granting consent to the PPAs can be considered.

(ii) The PPAs which were aligned to Regulation 1 of 2015 are no longer valid since the said Regulation stands curtailed with effect from 1.04.2017. As such the PPAs need to be recast keeping in view the orders of the Commission dated 13.07.2018 in O.P.No.5 of 2017 and the options exercised there under and the observation at point (iii). As such, the PPAs that are submitted now cannot be approved in their present form and accordingly are returned here with.

(ii) The tariff to be determined for capacities over and above the capacities obligated under RPPO will not have any promotional aspects (promotional tariff, must-run status etc.) contemplated under Section 61(h) read with Section 86 (1) (e) of Electricity Act, 2003 and the tariff to be determined shall be after taking into consideration the prevailing competitive bidding tariff for wind power in the country. (APDISCOMS were also instructed/directed to request the Commission

accordingly by the Principal Secretary / I&I, Energy/GoAP, vide letters dated 14.09.2017 and 6.02.2018)”

The point (iii) mentioned in para (ii) of the above letter was to the effect “The petitioners (in OP no 5 of 2017, DISCOMS) are at liberty to procure wind power w.e.f. 01-04-2018 as per the guidelines for tariff-based competitive bidding process for procurement of power for grid-connected wind power projects of MoP / MNRE dated 08-12-2017 as per the applicability of guidelines and the size of the projects.” in the Order dated 13.07.2018 in OPNo 5 of 2017.

Therefore, it is evident from the above letter that the intent of the Commission communicated to the DISCOMS was that the DISCOMs must procure wind energy following the competitive bidding guidelines issued by GoI under Section 63 of the Electricity Act, 2003.

Therefore, from the above analysis the Commission has no hesitation to hold that there is no necessity to procure wind energy if required from the wind plants under the 21 PPAs to meet the RCO compliance by the Respondent DISCOMS in the larger consumer’s interest.

Accordingly, point B is answered.

18. In view of the foregoing, the OPs are dismissed. The Respondents may procure the wind energy duly following the competitive bidding guidelines issued under Section 63 of the Electricity Act, 2003 directly or through an intermediary (SECI).

Sd/-
P.V.R Reddy
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
Thakur Rama Singh
Member