



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

4<sup>th</sup>Floor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE TWENTIETH DAY OF  
TWO THOUSAND AND TWENTY TWO

:Present:

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

**OP No. 38 of 2021**

Between:

1. M/s Rayala Wind Power Company Private Limited, Plot No. 1366, Road No. 45  
Jubilee Hills, Hyderabad
  2. M/s Rayalaseema Wind Energies Private Limited, Plot No. 1366, Road No. 45  
Jubilee Hills, Hyderabad
  3. M/s Anantapura Wind Energies Private Limited, Plot No. 1366, Road No. 45  
Jubilee Hills, Hyderabad
- ... Petitioners

And

1. Southern Power Distribution Company of Andhra Pradesh Limited Beside Srinivasa  
Kalyana Mandapam, Tiruchanoor Road, Tirupathi – 517501
  2. Eastern Power Distribution Company of Andhra Pradesh Limited, P&T Colony,  
Seetammadhara, Visakhapatnam – 530020
- ... Respondents

This Original Petition has come up for final hearing on 20-7-2022 in the presence of Mr. Shri Venkatesh, learned Advocate of M/s.SKV Law Officers, learned counsel for the Petitioners; and Sri P. Shiva Rao, learned Standing Counsel for the respondents, and upon considering the material available on record and after hearing the arguments of the learned counsel for both parties, the Commission passed the following:

**ORDER:**

This O.P. is filed for the following reliefs:

- “a) To direct AP-SPDCL to pay the outstanding dues of Rs.3,510,163,958/- in terms of Article 5.3 of the PPA executed between

the parties and also continue to pay at the agreed tariff for the energy supplied to the Respondent under the PPA;

b) to direct AP-SPDCL to release amounts pertaining to interest/LPSC on delayed payments as per the PPA for the Invoices raised till November 2020;

c) to direct AP-SPDCL to put in place a Letter of Credit in terms of Article 5.4 of the PPA read with MoP OM dated 28.06.2019 for future payments under the PPA;

d) to direct AP-SPDCL to make regular payments to the Petitioners in terms of the PPA and the Order dated 15.11.2012 passed by this Hon'ble Commission; and

e) to pass such other order/orders, as may be deemed fit and proper in the facts and circumstances of the case.

At the hearing, the learned counsel for both sides fairly agreed that the main dispute raised in the counter to the petitioners' claim, viz., whether payment shall be made at the full PPA tariff or as per the interim arrangement made by the Honourable High Court of Andhra Pradesh no longer survives in view of the judgement, dated 15-3-2022, of the Honourable High Court in Writ Appeal No.383 of 2020 and batch. Following the said judgement, the respondents are liable to pay the rate for the energy they received from the petitioners as agreed in the PPAs, subject, however, to the outcome of the cases that are stated to be filed before the Honourable Supreme Court.

Sri P. Shiva Rao, learned Standing Counsel for the respondents, also fairly submitted that, in addition to the aforementioned objection, the two aspects i.e., Capacity Utilisation Factor (CUF) and Generation Based Incentive (GBI) may arise in the present case.

Sri Shri Venkatesh, learned counsel for the petitioners, submitted that the petitioners may be left free to avail appropriate remedies in respect of the said aspects

and also prayers (b) and © if and when those issues arise; and his clients are satisfied if the respondents are directed to pay the bills to the petitioners, as agreed, as per the PPA, keeping aside the purported disputed items of CUF and GBI.

As no other dispute arises between the parties and the respondents are liable to pay the money as per the PPA for the power supplied by the petitioners, the O.P. is allowed to the extent of Para 13(a) only, subject to the observations made herein before in respect of the CUF and GBI. It is needless to observe that any payment that may be made by the respondents shall be subject to the outcome of the cases stated to be pending before the Honourable Supreme Court.

Sd/-  
**Thakur Rama Singh**  
**Member**

Sd/-  
**Justice C.V. Nagarjuna Reddy**  
**Chairman**

