



## **ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

Vidyut Niyamtrana Bhavan, Adjacent to 220/132/33/11 KV AP Carbides SS,  
Dinnedevarapadu Road, Kurnool - 518 002, Andhra Pradesh.  
Phones: 08518 - 294823,24,25,26

SUNDAY, THE SIXTH DAY OF OCTOBER  
TWO THOUSAND AND TWENTY-FOUR

**:Present:**

**Justice C.V. Nagarjuna Reddy, Chairman**

**Sri Thakur Rama Singh, Member**

**Sri P.V.R.Reddy, Member**

**In the matter of determination of tariff for the sale of electricity generated from the additional 5 MW Waste to Energy (WtE) capacity by Jindal Urban Waste Management (Guntur) Ltd. to APDISCOMS from the existing power plant under the Power Purchase Agreement dated 06.02.2016.**

**in**

**O.P. No. 58 of 2023**

**Between:**

Jindal Urban Waste Management (Guntur) Ltd. ....**Petitioner**

**And**

Andhra Pradesh Central Power Distribution Corporation Ltd. (APCPDCL)

**...Respondent**

This Original Petition has come up for final hearing before us on 11-09-2024 in the presence of Sri S. Vivek Chandrasekhar, learned counsel for the Petitioner, and Sri P. Shiva Rao, learned standing counsel for the Respondent. After carefully considering the material available on record and after hearing the learned counsel for the Petitioner and the Respondent, the Commission passes the following:

**ORDER**

The Petitioner, Jindal Urban Waste Management (Guntur) Ltd, files this Petition under Sections 62(1), 64, and 86(1) of the Electricity Act, 2003, seeking determination of tariff at Rs.7.16 per unit or higher for the sale of electricity generated from an additional 5 MW WtE ( Waste to Energy) to the APDISCOMS from its existing power plant under the PPA dated 06.02.2016.

**The Petitioner** pleaded that it has been selected as the successful bidder through an open competitive bidding process conducted by NREDCAP for the installed capacity of a 15 MW WtE plant at Naidupeta Village, Chikaluripet Road at Guntur District under the policy of the Govt of Andhra Pradesh. Accordingly, the Petitioner has entered into a PPA dated 06.02.2016 with the APSPDCL. By amendment dated 17.10.2017 to the original PPA, inter alia, the project's location is changed to Naidupeta Dumpyard, Kondaveedu village, Yadlapadu Mandal, Guntur District. The PPA was accorded approval by the Commission by letter dated 02.02.2018. The GoAP formed a separate DISCOM in the name of A.P. Central Power Distribution Corporation Limited (APCPDCL) to serve three erstwhile districts of Krishna, Guntur and Prakasam, duly carving out from the existing APSPDCL. The APCPDCL has commenced operations with effect from 1st April 2020. APERC granted a Distribution licence to APCPDCL (1 of 2020) vide letter No. E-265/DD-Dist/2019, Dt 31.03.2020. The power plant achieved its commercial operation date ( COD) on 01.10.2021 and was connected at a 33 kV voltage level at 33kV/132 kV at the Nallapadu substation in Guntur District. The PPA is valid for 25 years from the date of COD. Due to the subsequent additional allocation of Municipal Waste from 19 ULBs ( Urban Local Bodies) to the Petitioner's existing plant under the PPA dated 06.02.2016, as informed by Swachandra Corporation, the Respondent stated to have requested the

Commission's approval by letter dated 06.03.2023 to amend the PPA with the Respondent from 15 MW to 20 MW at the tariff to be determined as per clause 2.4 of the PPA quoting the following in the letter.

(i) Clause 3.1 of APERC Regulation 5 of 2022:

“The distribution licensees shall compulsorily procure 100% Power produced from all the Waste to energy plants in the State in the ratio of their procurement of Power from all sources, including their own, at the tariff determined by the Commission under section 62 of the Act.

(ii) The Central Public Health and Environmental Engineering Organization (CPHEEO) Manual Part 11 in the year 2016

“Municipal Authority must Select a suitable concessionaire through a competitive bidding to set up, operate and maintain the Waste processing facility for a long term, not below 20 years”.

(iii) Clause 2(1) hh(v) of CERC RE Tariff regulation 2020,

“The useful life of a Municipal solid waste-based Power project is 25 years.”

Quoting the letter dated 06.03.2023 of the DISCOMS, the Petitioner filed this petition to determine the tariff as per clause 2.4 of the PPA. The Petitioner has not filed a specific investment proposal for the additional capacity except for submitting the cost comparisons for installing the 15 MW and 20 MW WtE plants.

**In its counter**, the Respondent stated that the Petitioner's plant is among the nine projects selected under competitive bidding to establish WtE plants in the State. The Others quoted the Tariff of Rs.7.5 per unit, which has a capacity in the range of 1 MW to 5 MW compared to the 15 MW capacity of the Petitioners. The

Petitioner's first-year tariff from the COD is Rs.6.165 per unit with an escalation clause based on the Wholesale Price Index (WPI). The COD of the project of 15 MW was achieved on 01.10.2021 and since then, the petitioner is supplying power to APDISCOMs. The PPA is valid up to 30.09.2046. That the petitioner project is in the 3rd year of operation, and the tariff payable to the developer is Rs.6.461 per unit. The Respondent further stated that the Petitioner's request for the tariff at Rs7.16 is baseless and very high and requested the Commission to determine the tariff as per clause 2.4 of the PPA. The Respondent denied all the petitioner's averments mentioned in the Petition regarding capital cost for the additional capacity and other parameters relating to the tariff determination. The Respondent also stated that as per clause 2.6 of the PPA, any Generation Based Incentive (GBI) announced by the Central/State Government for WtE projects and applicable for the Project shall be passed on 100% to DISCOMs and that the Respondent allegedly received the incentive in the form of Central Financial Assistance. Still, the same has not been transferred to APDISCOMs, and the respondent has not even been intimated/informed about the same. Hence, the Respondent requested the Commission to direct the petitioner to transfer any such incentive received by the Petitioner to APDISCOMs.

**In its Rejoinder to the counter**, the Petitioner stated that the initial planned plant installed capacity to be implemented by the Petitioner was 15 MW. However, it opted to install a 20 MW plant capacity as the Municipal Solid Waste (MSW) given for the Cluster Operation was higher than that envisaged at the tender time. Countering all the submissions of the Respondent regarding the capital cost and other parameters of tariff determination, the Petitioner requested that the Commission may pass such orders as deemed fit and proper in the interest of justice. Regarding the GBI received to be passed on to the DISCOMS as per clause 2.6 of the PPA, the Respondent stated that the incentive received from the Ministry

of New & Renewable Energy (Waste to Energy Division) (MNRE) grant/incentive, i.e. Central Financial Assistance (CFA) by the Petitioner herein is not a generation-based incentive. The main objective of CFA is to provide a back-ended subsidy for installing waste-to-energy projects to recover energy from waste. The said grant would be released to the lead lender directly to offset the loan amount after the successful commissioning of the project. The main objective of the grant is to reduce the chances of default and improve the financial viability of the projects. As such, the incentive was directly remitted to the lender and not to the Petitioner.

In light of the parties' above submissions, the point for consideration is whether the additional capacity of 5 MW is to be approved and, if so, at what tariff for the additional capacity.?

### **Commission's Decision**

The Commission carefully perused the records. As the matter related to the tariff fixation under section 62 of the Electricity Act for the additional capacity under the existing PPA, the Petitioner published a summary of the petition in the newspapers as per the direction of the Commission. There were no objections received from any quarter. Since by letter dated 29.06.2022, the Government designated the A.P. Central Power Distribution Corporation Limited (the Respondent) as the lead DISCOM/Procurer for all Bulk Power Procurement for the three Government-owned DISCOMS, viz APSPDCL, APEPDCL, and APCPDCL, the APCPDCL is dealing with the present matter on behalf of the DISCOMS.

The Petitioner, though selected for installing a 15 MW plant under competitive bidding, installed a 20 MW plant as per the COD reports and rejoinder of the Petitioner. It declared COD for 15 MW out of the 20 MW capacity installed. Hence, no new additional capacity is to be installed. After the project's COD, the waste

from additional ULBs was allocated; therefore, the Petitioner proposes to utilise the full generation capacity of his plant. The Respondent agreed to procure additional capacity subject to the tariff determination under clause 2.4 of the PPA.

As per clause 3.1 of this Commission's Regulation 5 of 2022, the distribution licensees shall compulsorily procure 100% Power produced from all the Waste to energy plants in the State in its supply area at the tariff determined by the Commission under section 62 of the Act. The Resource plan approved by the Commission by Order dated 27.06.2024 also estimated a significant base generation capacity deficit for the three DISCOMS. In view of the above and keeping the environmental concerns with Waste generated in ULBs and the national tariff policy and other policies of the GoAP and GoI in view, the Commission is inclined to approve the procurement of an additional 5 MW capacity from the Petitioner's plant by the DISCOMS.

As regards the tariff to be fixed, Clause 2.4 of the PPA on which the respondent placed reliance is extracted below.

*" The WtE Developer at any time during validity of this Agreement shall endeavour to add to enhance the generation capacity of the WtE Project over and above the installed capacity defined in the PPA subject to the mutual agreement of Participating ULBs and DISCOM. The tariff applicable for such enhanced generation capacity shall be determined by the Commission (APERC) upon filing of the petition by either of the parties. The Commission, while determining the tariff, will take into account any additional investment made towards enhancement of the generation capacity. Notwithstanding anything contained hereinabove, it is hereby agreed that any generation over and above 100% of Contracted Capacity on annualised basis shall not be paid if no associated/additional investment is made."*



As seen from the above, details of additional investment incurred towards enhanced generating capacity need to be provided to determine the tariff. In the instant case, the Petitioner installed 20 MW instead of the 15 MW by the time of COD. Therefore, the above provision would not be applicable since the machine's additional capacity was already available for generation by the time of COD. Added to this, the Petitioner did not furnish the specific expenditure incurred for the enhanced capacity. As noted, the enhanced capacity has already been available with the same machine and has yet to be put to use, subject to the availability of waste corresponding to the enhanced capacity. The Petitioner's project has been selected under competitive bidding, and the base investment for 20 MW was made. The segregation of investment for 15 MW and 5 MW from the total investment for 20 MW is complex and can only be done on some approximation. The total investment made for the 20 MW is also not furnished except for a difference between the investment required for 20 MW and 15 MW.

Further, the Petitioner's request to fix a tariff of Rs. 7.16 per unit or higher appears unjust. Fixing the separate tariff for 5 MW would require segregating the energy in the billing meter between 15 MW and 5 MW. The Commission adopted the Tariff of Rs.6.165 per unit for the first year of operation after COD as determined in the competitive bidding under section 63 for the 15 MW. As per the Respondent's submission in the counter, the petitioner was paid Rs.6.461 per unit in the third year of the operation, which is still less than the first-year tariff of Rs.7.50 per unit determined for other projects selected under the same competitive bidding. In the above circumstances, the Commission refers to and rely on the erstwhile Commission's orders dated 08.04.2019 in [OP NO 23 of 2018](#) & [OP NO 24 of 2018](#), fixing the tariff determined in the competitive bidding for the enhanced capacity of the MSW power plants. Following the same approach, the Commission, in exercise of the powers vested in it under Section 62 read with section 86 (1) (b) of the

Electricity Act, 2003 (Central Act No. 36 of 2003) and of all other powers hereunto enabling, is inclined to fix the tariff for the extra capacity of 5 MW at the same tariff paid for the 15 MW plant as of the date of this Order and subsequently at same escalation. Accordingly, the installed capacity shall be treated as 20 MW instead of 15 MW, and the auxiliary consumption as 2 MW instead of 1.5 MW, which shall be substituted in the extant PPA after passing the demonstration test for the installed capacity of 20 MW or ex-bus capacity of 18 MW at the interconnection point (contracted capacity as per PPA) as per the applicable standards from the date of this Order.

As regards the claim for passing on the GBI to the respondent, the parties are directed to comply with the provisions of clause 2.6 of the PPA regarding the GBI pass-on to the DISCOMS by the Respondent if and when received by the petitioner. If any dispute arises in this regard, either of the parties is at liberty to approach this Commission for resolution of the dispute.

This original petition is ordered accordingly.

**Sd/-**  
**P.V.R. Reddy**  
**Member**

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

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