



## **ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

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

**WEDNESDAY, THE ELEVENTH DAY OF JANUARY  
TWO THOUSAND AND TWENTY THREE  
(11.01.2023)**

:Present:

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

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### **File No.APERC/IDST/E.221**

In the matter of grant of exemption from licence to RESCO, Anakapalli to carry out the Distribution and Retail Sale of Electricity under section 13 of the Indian Electricity Act, 2003.

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The Rural Electricity Supply Co-operative Society, Anakapalli (hereinafter referred to as “the RESCO”) filed an application dated 27-07-2022 before this Commission seeking grant of exemption from obtaining Licence for distribution and supply of Electricity as required under Section 14 of the Electricity Act, 2003 (for short “the Act”). This application is accompanied by the recommendation of the Government of Andhra Pradesh.

Before discussing the application for exemption on merits, it would be useful, nay instructive, to discuss the backdrop pertaining to the constitution and functioning of the RESCOs.

In pursuance of the Government of India Policy of 100 per cent Rural Electrification, the undivided State of Andhra Pradesh has formed 9 (nine) Rural Electricity Cooperative Societies. They were: M/s. Kuppam RESCO, M/s. Rayachoty RESCO, M/s. Kadiri East RESCO, M/s. Kadiri West RESCO, M/s. Anakapalli RESCO, M/s. Cheepurupalli RESCO, M/s. Sircilla RESCO, M/s. Sanjay RESCO, and M/s. Atmakur RESCO.

Before the constitution of the Andhra Pradesh Electricity Regulatory Commission (for short “the Commission”) under the provisions of the Electricity Reforms Act, 1998, all the RESCOs in the State were being granted licences in conformity with their objects. After formation of the Commission, the same procedure was being continued for granting licences from time to time.

A perusal of the record reveals that till the year 2004, the RESCOs, in the State were being granted licences. First time, the erstwhile Regulatory Commission has granted exemption in favour of all the nine RESCOs, vide: its Order dated 15-6-2004, till 09-6-2005. Thereafter, five of the nine RESCOs, viz., Jogipet RESCO, Atmakur RESCO, Kadiri East RESCO, Kadiri West RESCO and Rayachoti RESCO were wound up and the liquidation and merger with the concerned DISCOMs were also

completed by 09-6-2005. The remaining four surviving RESCOs were granted extension of exemption from time to time.

The Government of Andhra Pradesh, vide: its letter dated 22-3-2019 recommended grant of exemption to the remaining three RESCOs situated in the residuary State of Andhra Pradesh, including the applicant herein, for grant of exemption from the requirement of obtaining licence for the Financial Year 2019-20 under Section 13 of the Act. Based on the said recommendation, this Commission, vide: Proceedings dated 26-3-2019, granted exemption to the applicant for the period from 01-4-2019 to 31-3-2020.

In a joint meeting of the State Co-ordination Forum and the State Advisory Committee held on 10-1-2019, the issue of merger of the RESCOs with the DISCOMs was deliberated and the Commissioner for Cooperation and Registrar of Co-operative Societies, Andhra Pradesh, was asked to study the working of the RESCOs and report on the need and necessity of their continuation. In response, the Special Commissioner and Registrar of Co-operative Societies informed about the result of the study and submitted his report dated 11-1-2018. The details of the report will be discussed at appropriate place.

In its 14<sup>th</sup> meeting held at Tirupati on 13-01-2020 the State Advisory Committee, (constituted as per section 87 of the Electricity Act,2003), discussed the aforementioned Report of the Special Commissioner and Registrar of Co-operative Societies. All the SAC

Members were unanimous in their view that it is not desirable to continue the RESCOs and that they be merged forthwith with the respective DISCOMs in whose jurisdiction they are located. A Resolution to that effect was passed in the said meeting. Apart from communicating the SAC Resolution, the APERC vide its letter dated 21-1-2020 rendered its statutory advice under Section 86(2) (i) and (iii) of the Act to the Government of Andhra Pradesh to the effect that there is no necessity for the continuance of the RESCOs and to merge them with the respective DISCOMs forthwith.

Meanwhile, the Applicant-RESCO submitted applications for exemption for the FYs 2020-21 and 2021-22 without being accompanied by the recommendation of the Government of Andhra Pradesh, which is mandatory under Section 13 of the Act. Vide its letter dated 14-12-2020, the Commission has returned the application for Financial Year 2021-22 to the Applicant-RESCO with liberty to it to apply afresh along with Government of Andhra Pradesh recommendation. In Spite of affording ample opportunities, the Applicant-RESCO failed to submit a fresh application along with Government of Andhra Pradesh Recommendation. As the Applicant-RESCO failed to secure the exemption by following the stipulated statutory procedure, without which it is not authorised to carry on the activity of distribution and supply, the Commission vide its Proceedings dated 25-3-2021 directed the APEPDCL to take over the activities of distribution and retail sale of electricity in the area of the

RESCO with immediate effect, pending settlement of the issues relating assets and liabilities by the competent authority.

For about five months the Applicant-RESCO continued the illegal activities of distribution and supply of power without a licence or exemption and despite the specific order dated 25-3-2021 passed by this Commission to hand over its activities to APEPDCL. On coming to know about this illegal conduct of the applicant-RESCO, this Commission has initiated *suo motu* proceedings under Sections 142 and 146 of the Act. After appearing before this Commission, the Managing Director of the RESCO handed over the activity of distribution and retail sale of electricity to APEPDCL with effect from 01-9-2021. Since then, the activities of distribution and retail sale of electricity in the Applicant-RESCO area are being carried on by APEPDCL till date.

For the Financial Year 2022-23, the Applicant has made its application on 18-5-2022 for grant of exemption. This application also was not accompanied by the Government's recommendation for exemption. However, later, the Commission has received a letter dated 02-06-2022 from the Government, wherein it has recommended ratification of grant of exemption for the FYs. 2020-21, 2021-22 and exemption from obtaining licence for the FY 2022-23 under Section 13 of the Act.

After receipt of the said recommendation, the Commission has directed the RESCO, vide: letter dated 04-7-2022 to send information along with relevant material on various aspects, such as, data on SoP

Norms, Compensation to the victims of electrical accidents for the FY 2020-21 & FY 2021-22, and the details of the release of Agricultural Connections as per seniority & investment proposals, if any, as per the proformas/practice directions/guidelines within a month from the date of receipt of the letter. Further, it was also directed to submit the following information within a month from the date of receipt of the letter.

- Details of the dues to the RESCO from the consumers, category wise, under separate heads of Government & Private.
- Details of dues payable/receivable to/from the DISCOMs/GoAP by the RESCO.

The RESCO, vide: its letter dated 18-7-2022, sent some information. On a perusal of the said information, the Commission felt that the RESCO failed to submit the required information in complete shape. Hence, the Commission's office addressed a letter dated 12-9-2022 to APEPDCL, wherein the following information was sought within two weeks from the date of receipt of the letter.

- a) Details of the dues receivable from the private consumers which are pending for more than 6 months, 1 year and 3 years as of 31.08.2022.
- b) Details of the private consumers who are in the top ten as far as their dues (as of 31.08.2022) are concerned.

The APEPDCL vide their letter dated 14-10-2022 has submitted the information, and on analysing the said information it was felt that further

more information was required. The Office of the Commission addressed a letter dated 21-12-2022 to furnish the said information.

On 26-12-2022 the APEPDCL furnished some information. On being required, the MD of the RESCO sent Audit Reports for the relevant years. Meanwhile, the RESCO has filed Writ Petition No.37883 of 2022 before the Honourable High Court of Andhra Pradesh for issuing a Writ of Mandamus, *inter alia*, to direct the Commission to dispose of the petitioner's exemption application. Meanwhile, the Commission has issued a Notice fixing 14-12-2022 as the date for public hearing. Challenging the said notice of Public hearing, the applicant-RESCO filed another Writ Petition, i.e., W.P.No.39432 of 2022. When both the matters came up for hearing on 06-12-2022, a learned Single Judge of the Honourable High Court, while granting stay of public hearing, issued an interim direction to this Commission to grant Exemption in favour of the Applicant-RESCO. Assailing the said common interim order, the Commission filed Writ Appeal Nos.1018 and 1019 of 2022, which were disposed of by a Division Bench of the Honourable High Court, vide: its common Judgement dated 28-12-2022. The Honourable Division Bench directed this Commission to dispose of the exemption application on merits after taking note of the fact that the applicant-RESCO has waived the right of personal hearing and also holding that it is not obligatory for the Commission to issue a public notice for considering the application for grant of exemption. While directing the applicant-RESCO to furnish the



required information within 48 hours, the Honourable Division Bench has granted 10 days time for passing an appropriate order on the exemption application. In the above background facts, the Commission is considering the present application for exemption.

**The relevant provisions of the Act:**

Under Section 12 of the Act, unless a person is authorised by a licence issued under Section 14 or exempted under Section 13, he shall not “Transmit electricity, or Distribute electricity or Undertake trading in electricity”.

Section 14 of the Act authorises the appropriate Commission to grant any person licence “To transmit electricity as a transmission licensee; or to Distribute electricity as a distribution licensee; or to undertake trading in electricity as an electricity trader, in any area as may be specified in the licence”.

Section 13 of the Act, which is pivotal for the present case, reads as under:

“13. Power to exempt:- The Appropriate Commission may, on the recommendations of the Appropriate Government, in accordance with the national policy formulated under section 5 and in public interest, direct, by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, the provisions of section 12 shall not apply to any local authority, Panchayat Institution, users’ association, co-operative societies, non-governmental organizations, or franchisees”.

The present Andhra Pradesh Electricity Regulatory Commission, vide APERC (Adaptation) Regulation, 2014 (Regulation 4 of 2014), adapted the Andhra Pradesh Electricity Regulatory Commission (Conduct



of Business) Regulations, 1999 (Regulation 2 of 1999), which were notified by the erstwhile APERC of the undivided State. Clause 43(6) of Regulation 2 of 1999, *inter alia*, mandates that the persons exempted from obtaining licence for distribution and supply shall (i) furnish to the Commission such information required for the purposes of the discharge of the functions of the Commission as the Commission may from time to time direct; and (ii) to comply with the provisions of the Act including the applicable provisions of the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948, the Indian Electricity Rules, 1956, the Regulations of the Commission, technical codes such as Grid Code, Distribution Code, Standards of performance and Overall Standards of Performance or any other guidelines issued by the Commission”.

From the Scheme of the Act, it is evident that to carry on the activities of Transmission, Distribution (which includes supply) and trading, as defined under Section 2(17) of the Act, a person has to obtain a licence. Exemption is only an exception. Before granting exemption, the Commission shall be satisfied that the following conditions shall exist:

- (i) The grant of Exemption is recommended by the appropriate Government;
- (ii) The grant of Exemption should be in accordance with the National Electricity Policy formulated under Section 5; and
- (ii) The Exemption must be in Public interest.

No doubt, the first condition is fulfilled in the instant case.

As regards Condition No.2, Section 13 of the Act envisages consideration for grant of exemption in accordance with the National Rural

Electricity Policy formulated under Section 5 of the Act. Section 5 of the Act reads as under:

**“5. National policy on electrification and local distribution in rural areas.**

The Central Government shall also formulate a national policy, in consultation with the State Governments and the State Commissions, for rural electrification and for bulk purchase of power and management of local distribution in rural areas through Panchayat Institutions, users associations, co-operative societies, non-Governmental organisations or franchisees”.

The Rural Electrification Policy notified on 23-8-2006 by the Ministry of Power, Government of India, is holding the field as on the date. It has aimed at the following goals:

- “i. Provision of access to electricity to all households by the year 2009;
- ii. quality and reliable power supply at reasonable rates;
- iii. minimum lifeline consumption of 1 unit per household per day as a merit good by the year 2012”.

The Policy envisages review of progress of Rural Electrification in terms of the achievements, *vis a vis*, the above mentioned goals. In the context of provision of access to all households, the Policy has referred to and relied upon the definition of “Electrified Village” as specified in the Ministry of Power’s OM No.42/1/2000-D(RE), dated 05-2-2004, which is as under:

“A Village would be classified as electrified based on a Certificate issued by the Gram Panchayat, certifying that:

- a) Basic infrastructure, such as Distribution Transformer and Distribution Lines, are provided in the inhabited locality as well as a minimum of one Dalit Basti / hamlet where it exists;
- b) Electricity is provided to public places like Schools, Panchayat Office, Health Centres, Dispensaries, Community Centers etc; and

- c) The number of households electrified are at least 10% of the total number of households in the village”.

In the Commission's Letter No.Engg/JD(Engg)/E-221/D.No.790/2022 Dated 21-12-2022, one of the aspects on which information sought from the Applicant-RESCO is the details of electrification of villages/hamlets/houses. The following reply was submitted by the Managing Director of the Applicant, vide his letter in Rc.No.12/ARECS/KSK/2022-23, Dated 29-12-2022:

**“ c. Functioning efficiency of RESCO Anakapalli in respect of  
(i) Electrification of Villages/Hamlets/Houses:**

**Reply:**

The area of operation of the society is confined to the erstwhile Anakapalli Revenue taluk which was later divided into 5 Mandals viz., Kasimkota, Anakapalli Rural, Munagapaka, Parawada and Sabbavaram Mandals and some villages in Gajuwaka, Atchutapuram and Chodavaram Mandals covering 153 Gram Panchayats and 330 Hamlet Villages and supply has been extended to 1,48,929 households” .

While in the said reply it is not stated that there are still any households left without electricity, in the report dated 11-1-2018 of the Special Commissioner & Registrar of Co-operative Societies, which was referred to supra, he has clearly mentioned that 100% electrification in all the three RESCOs, including the applicant-RESCO, was completed.

Thus, the main object of the National Rural Electricity Policy has been fulfilled. Indeed, the main purpose for which the RESCOs have been created is Rural Electrification and with the 100% electrification of the

Rural Areas, covered by its area of operation, this purpose has been achieved.

We shall now consider whether the element of Public Interest, a condition precedent for granting exemption, is satisfied by the applicant-RESCO.

**A. Distribution losses:**

The Commission has called for a data of Distribution Losses from the applicant-RESCO. The RESCO data was compared with the data of APEPDCL, for the said period. The difference in performance of the two entities is shown in the table below:

<b>Financial Year</b>	<b>RESCO's reported losses for all months</b>	<b>APEPDCL's loss per annum</b>
FY 2018-19	10.80%	8.64%
FY 2019-20	10.75%	8.39%
FY 2020-21	10.70%	8.31%

The above figures would clearly reveal that there is wide disparity in the Distribution Losses between the RESCO and APEPDCL, which shows the former's performance is very poor.

In this context, it is required to be noted that the distribution losses reported by APEPDCL for the period of four months from 01-12-2021 to 31-3-2022 - after it has taken over the distribution and supply in RESCO area - were 26.9%, which were brought down to 14.93% from April to September, 2022. From this it could be presumed that even during the

Financial Years 2018-19 to 2020-21, the losses could be much more than they were reported by the RESCO. It appears that the RESCO has only reported the percentage of distribution losses, which were directed to be maintained in the Annual Tariff Orders passed by this Commission, instead of reporting the actual losses. The fact that the distribution losses were reduced after the APEPDCL took over the distribution and supply activity shows that the RESCO's performance was highly inefficient in minimising the distribution losses. The higher distribution losses reflect the poor performance of the RESCO resulting in severe financial losses. Even if we go by the RESCO's figures on distribution losses, the same are higher than the Distribution losses of EPDCL and the losses estimated in financial terms are as shown below:

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
Power purchased by RESCO in MUs	256	277.17	274.6
Difference of distribution loss percentage	2.16%	2.36%	2.39%
Loss in terms of units (MUs)	5.53	6.54	6.56
Average Billing Rate of RESCO in Rupees per unit	3.98	4.04	4.44
Loss in Rupee Crores	2.20	2.64	2.91

#### **B. Disparity in Distribution Cost:**

On an analysis of the data furnished by the DISCOM and the applicant-RESCO, the following Table is prepared for comparing the

difference Per Unit Distribution Cost between the RESCO on the one side and the APEPDCL on the other side:

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
<b>Anakapalle RESCO</b>			
Revenue from sale of electricity (in crores)	90.88	100.06	108.99
Sales in MUs	228.5	247.37	245.21
PP cost (in Crores)	29.64	32.73	27.67
Distribution cost (in Crores)	40.66	48.79	62.07
Dist. cost per unit Rs.	1.78	1.97	2.53
<b>EPDCL</b>			
Dist. cost (in Crores)	1772.25	2048	3016
Sales MUs	19586	20776	20416
Dist. cost per unit Rs.	0.90	0.99	1.48
Difference of Distribution cost per Unit.	0.88	0.98	1.05

As could be seen from the above table, there is a huge disparity in the Distribution Cost between the two entities. The loss on account of this disparity works out as under:

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
<b>Loss in Rupee Crores on account of higher Distribution Cost</b>	228.5 MU X Rs 0.88 = Rs 20.10	247.37 MU X Rs 0.98 = Rs 24.24	245.21 MU X Rs1.05 = Rs 25.75

**C. Metering Efficiency:**

The Managing Director of the applicant-RESCO has claimed metering efficiency as 93.3%, whereas as per the figures furnished by the DISCOM, it was only 69.60% up to October, 2022. The reason for this appears to be that 70% of the meters available to the customers situated in the RESCO area were non-IRDA compatible meters, as per the data furnished by the applicant-RESCO itself. In the IRDA compatible metering technology, the manual interference in the meter reading is not involved; as a result of which, there is no scope for manipulation of meter readings and it ensures 100% accuracy of billing in accordance with the consumption. In the case of manual billing, there is every scope for fudging the consumption figures by the billing staff either due to collusion with the customers or by adopting the reading without physical verification of the meters at the consumers' premises.

**D. Billing & Collection Efficiency:**

While the Managing Director of the Applicant-RESCO has reported billing efficiency as 89.3%, the CMD of the DISCOM reported it as 84.03% during the FY 2022-23 (up to October, 2022). The collection efficiency is reported by the applicant-RESCO as 89.84%. For any Distribution Agency, metering, billing and collection constitutes backbones. From the above data, it is very clear that the applicant-RESCO is far too lagging behind in all the above areas.



**E. Recovery of arrears:**

As per the Audit Report submitted by the Managing Director, RESCO, Anakapalle, the total arrears receivable from consumers as on 31-3-2021 are Rs.45,33,02,413.97 ps.

The following data has been furnished by the RESCO, vide: its letter dated 29-12-2022, on the arrears position which are pending for more than six months:

Sl. No.	Period of dues pending	No. of Private consumers	Total dues amount in lakhs
1.	Dues recoverable from the private consumers in the area of Society for more than last six months	13211	276.11
2	Dues recoverable from the private consumers in the area of Society for more than last one year	15262	348.86
	Dues recoverable from the private consumers in the area of Society for more than last Three years	22267	626.14
4	Top Ten Private Consumers having Dues in the area of Society	10	170.40
	<b>Total</b>		<b>1421.51</b>

From the above table it is clear that the total arrears recoverable from the private customers are to the tune of Rs.14.22 crores. The RESCO has not come up with any justification for not recovering such huge arrears.

**F. Average Billing rate:-**

From the figures submitted by the applicant-RESCO and the APEPDCL data available with the Commission, demand realisation per unit for the RESCO vs EPDCL is as under:

Description	FY 2018-19	FY 2019-20	FY 2020-21
EPDCL total Revenue excluding Subsidy Rupee Crores.	10263.59	10845.52	11114.25
EPDCL Sales MUs	19586	20776	20416
Revenue realisation per unit in Rupees by EPDCL	5.24	5.22	5.44
Anakapalle RESCO Revenue Cr.	90.88	100.06	108.99
RESCO sales MUs	228.5	247.37	245.21
RESCO realisation per unit in Rupees	3.98	4.04	4.44
Under realisation by RESCO per unit in Rupees compared to EPDCL	1.26	1.18	1.00

From the above details, it is clear that the RESCO per Unit realisation is less than the DISCOM's per Unit realisation. The annual loss of revenue for three years is worked out below:

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
Total loss in Crores to the DISCOM/ Public due to under realisation of revenue by RESCO	228.5 MU X Rs.1.26 =Rs 28.86	247.37 MU X Rs.1.18 =Rs 29.07	245.21 MU X Rs1.00 =Rs24.50

**G. DISPARITY IN POWER PURCHASE COST:**

There is a huge disparity between the rate at which the Power is supplied to the Applicant-RESCO and the Average Power Purchase Cost of the DISCOM. The following table depicts the total number of Units sold to RESCO, the DISCOM's Power Purchase Cost per Unit, the Unit cost at which Power was supplied to the RESCO, the difference of Power Purchase Cost and the total loss for three consecutive years:

**Difference of Power Purchase Cost of APEPDCL & RESCO,  
Anakapalli**

Year	Units sold to RESCO (in MU)	Discoms PP Cost (Rs/kWh)	Unit Cost sold to RESCO (Rs/kWh)	Difference of PP Cost (Rs/kWh)	Loss of Amount in Rs.Cr
2018-19	256	4.44	0.99	3.45	88.32
2019-20	277.17	4.27	1.06	3.21	88.97
2020-21	274.6	4.42	1.06	3.36	92.27

From the above, it is clear that every year DISCOM/Government is losing huge money as indicated in the Table supra. However, the applicant-RESCO is charging its customers the same tariff as the DISCOM is charging its customers, without passing on any part of this benefit to its consumers. In reality, the RESCO is only acting as an intermediary and enjoying the surplus. As per the audited information furnished by RESCO, the year wise surplus are shown below:

Particulars	FY 2018-19	FY 2019-20	FY 2020-21
Reserves in Rupee Crores	18.8	16.65	17.33

From the Audited Accounts furnished by the applicant-RESCO, it could be seen that the surplus amounts are shown as “other reserves and profits”. The Profit and Loss Accounts for the successive years do not show how and for what purpose these amounts are spent. In the absence of the details of utilization of these amounts, it is reasonable to presume that there is huge misappropriation of funds every year.

To bridge the gap between the expenditure and the revenue arising on account of providing highly concessional tariff to the RESCO, the DISCOM has to charge its customers the higher tariff or GoAP shall provide more subsidy to EPDCL, which is completely against the public interest. If the RESCO is merged with the DISCOM (APEPDCL), this loss can be completely avoided.

**H. Diversion of Funds to Rajiv Gandhi RECS Polytechnic College, Kasimkoita:**

Clause 4(a) of the Original Bye-laws of the RESCO reads as under:

“4.(a). The main objects of the society shall be to make electric energy available to its members and other consumers in its area at as low cost as practicable and to promote, through intensive rural electrification and co-ordination of its activities with other institutions and agencies, the economic development of the area”.

In furtherance of the above object, the Society is permitted to undertake one or more of the activities mentioned in sub-Clauses (v) to (xv) of Clause (b) of the Bye-laws. All the permitted activities narrated thereunder relate to the electricity business and allied activities connected

thereto. However, in the year 2008 Bye-Law 4(b) was amended by adding sub-Clause (xvi), which reads as follows:

“To promote or establish educational and technical institutions on its own or in collaboration with other institutions and agencies within the area of operation to impart General and Technical Education specially and ensure availability of technical and skilled personnel in the interest of overall economic development of the area”.

Clause 28 of the Andhra Pradesh Electricity Regulatory Commission (Distribution Licence) Regulation, 2013 (Regulation 10 of 2013) permits the Distribution Licensee to engage in any other business, only so long as such activity is likely to result in optimum utilization of its assets and infrastructure comprising the distribution system, subject to the the following conditions:

- a) that the Licenced Business and the conduct thereof by the Distribution Licensee is not prejudiced and/or adversely affected in any manner;
- b) that a proportion of the revenues derived from such Other Business, as may be specified by the Commission, shall be utilised for reducing the wheeling charges of the Distribution Licensee;
- c) that the Distribution Licensee shall maintain separate accounts for each of such Other Business to ensure that the Licensed Business neither subsidises such Other Business undertaking in any way or encumbers its distribution assets in any way to support such business; and
- d) the Distribution Licensee shall always comply with such guidelines as the Commission may specify in this regard”.

While granting exemption to the RESCOs by the Commission, there is a stipulation to the effect that the grant of exemption shall be subject to and on the same terms and conditions and restrictions contained in the licences earlier granted to them. Thus, whatever general

conditions, the Distribution Licence envisaged shall equally apply to the RESCO.

A perusal of the Commission's record does not reveal that any prior intimation was given to this Commission for amending the Bye-Laws so also to engage itself in the business of running a Polytechnic College. Moreover, as per sub-Clause (i) of Clause 28, getting engaged in any other business shall be for the purpose of optimum utilisation of the assets and infrastructure comprising the distribution system. It is, therefore, clear from this Condition that the Licensee shall not engage itself in any activity not connected with the distribution of electricity activity. Thus, in the Commission's opinion, the very activity of running the Polytechnic College is, per se, contrary to the License Conditions, which got incorporated by reference in the Exemption Orders being granted to the RESCO from time to time.

Further, a perusal of the balance sheet as on 31-3-2019 furnished by the RESCO pertaining to the said Polytechnic College being run by the RESCO shows that the RESCO has advanced unsecured loan to the extent of Rs.2,38,86,169/- to the college. The balance sheet as on 31-3-2020 shows that the loan advanced by the RESCO has swelled to Rs.3,06,36,169/-. The balance sheet as on 31-3-2021 would show that the loan amount has further increased to Rs.3,15,68,894/-. These admitted facts would show that the RESCO has not only ventured into an activity, which is totally unrelated to the Distribution of Electricity

Business, but it has also been diverting its funds to such an activity prohibited by the Conditions of the Commission.

Under the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulation, 1999 (Regulation 9 of 1999) the Commission fixes the Tariffs based on the Aggregate Revenue Requirement (ARR). Clause 45-A(1) of this Regulation stipulates that each Licensee shall file with the Commission in the format as specified by the Commission statements containing calculation for the ensuing Financial Year the expected revenue from charges at its current year approved tariff and the expected cost of providing services. While working out the Tariffs, the expected ARR is considered. Thus, every part of the revenue derived by the Licensee or Exemptee must necessarily show the entire revenue, including that advanced as loans or investment elsewhere. From a perusal of the Commission's record, it is clear that at no point of time the RESCO has informed the Commission about its running the said Polytechnic College, leave aside intimating that, a huge sum, constituting a part of its revenue from the distribution and sale of electricity to its consumers, was advanced as an unsecured loan in another business being run by itself. This act of unauthorised diversion of revenue by the RESCO eventually leads to additional burden to the DISCOM and the Government.



### **I. Adherence to Standards of Performance of (SOP) Norms:**

In order to ensure better, efficient and prompt consumer services, the Commission has framed Regulations, called Andhra Pradesh Electricity Regulatory Commission Licensees' Standards of Performance (Regulation 7 of 2004), amended from time to time. As per the Amended Clause 3 of the Amended Regulation No.9 of 2013 to Principle Regulation No.7 of 2004, w.e.f. 04-6-2021, automatic compensation is payable for violations of SOP Norms as under:

Sl.No	Service	Time Standard	Compensation payable in case of violation of Standard	
			Compensation payable to individual consumer if the event affects a single consumer	Compensation payable to individual consumer if the event affects more than one consumer
<b>I. Normal Fuse off:</b>				
i.	Cities and towns	Within 4 working hours	Rs.100/- in each case of affected	Rs.50/- to each consumer affected
ii)	Rural Areas	Within 12 working hours	Rs.100/- in each case of affected	Rs.50/- to each consumer.
<b>II. Processing of application &amp; intimation of relevant charges payable for new connection/sanction of additional load/Demand</b>				
i).	All cases- If Connection feasible from	Within 3 working days of receipt of	Rs.100 for each day of default	Not applicable.

	existing network for release of supply	application.		
ii).	<b>If Network expansion/enhancement required to release supply`</b>			
a)	Release of supply- Low Tension	Within 7 days of receipt of application	Rs.100/- for each day of default	Not applicable.
b)	Release of supply- High Tension 11KV	Within 15 days of receipt of application		
c)	Release of supply- High Tension 33 KV	Within 30 days of receipt of application	Rs.500/- for each day of default	Not applicable.
d)	Release of supply- Extra High Tension	Within 45 days of receipt of application		
III.	<b>Release of new connection/additional load upon payment of all charges</b>			
i)	All cases- If connection feasible from existing network for release of supply	Within 30 days of receipt of application (along with prescribed charges)	Rs.100/-for each day of default.	Not applicable.
ii)	<b>Network expansion/enhancement required to release supply</b>			
a)	Release of supply- Low Tension	Within 30 days of receipt of prescribed charges	Rs.100/- for each day of default	Not applicable.
b)	Release of supply- High Tension	Within 60 days of receipt of prescribed		

	11KV	charges		
c)	Release of supply- High Tension 33 KV	Within 90 days of receipt of prescribed charges	Rs.500/- for each day of default	
d)	Release of supply- Extra High Tension	Within 180 days of receipt of prescribed charges		
e)	Erection of substation required for release of supply,	Within the time period approved by the Commission.	Rs.1000/- for each day of default	
<b>IV.</b>	<b>Wrongful disconnection of service connection/levy of reconnection charges without disconnection.</b>			
i)	Wrongful disconnection of service connection even after payment of electricity charges due.		Rs.100/- for each day of default	Not applicable
ii)	Levy of reconnection charges without actual physical disconnection.			

All the three Distribution Licensees (DISCOMS) in the State have developed software compatible with the above SoP norms, due to which wherever there is a failure on their part to follow the SoP norms, the provision of automatic compensation is being applied. This has been serving dual purposes of ensuring payment of compensation to the consumers for denial of the services within the prescribed time frame and to act as a punitive measure; thereby ensuring prompt and efficient services by the suppliers.

In the case of applicant-RESCO, due to absence of Information Technology and non-development of software, it is not possible to know whether it has been following the SoP norms or not. From the data furnished by the applicant-RESCO, it is observed that the dates of resolving the complaints, release of services, regularisation of additional loads, conversion of single phase to three phase etc., are found to be preceding the actual dates of complaint/application, which shows that the applicant-RESCO is coming out with incorrect data evidently for the reason that it does not have in place the software which works as a foolproof system to know the exact date and time of the complaint and date and time on which the complaint has been redressed. It is indeed surprising that in spite of the huge profit element being enjoyed by the applicant-RESCO, it is still following the obsolete manual methods of metering, billing, revenue collection and grievance redressal mechanism, without the aid of software systems.

**J. Other Commissions and Omissions:**

**i) Audit Objections:**

The Audit Objections pointed out the RESCO transferring funds from one account to another account indiscriminately. It has also pointed out that the RESCO has 26 bank accounts. In addition to this, the Audit report has seriously indicted the RESCO for not maintaining the records of the scrap; and while no sale of the scrap was shown for the year 2021, the RESCO has purchased materials worth crores of Rupees.

For better appreciation, the relevant observations in the Audit Report are reproduced as under:

“ I to VII. ... ..

VIII. During the course of audit it is observed that the administrative management of the society has transferred amounts from one account to another account indiscriminately, which is not a healthy practice, as such practice is desirable now and then but not every time. Therefore the Managing Director of the Society is directed to issue cheques to the concerned from the accounts where the sufficient balances are available. Moreover, having (26) bank accounts for the same organization is not at all advisable and therefore it is necessary to close the inoperative accounts if any and reduce its number.

IX. During the course of audit, it is observed that the society is not maintaining the records relating to scrap. This is an essential aspect on which the society has to act upon the accumulation of scrap vis-a-vis the replacement of old materials in the field areas. It is evidently clear that during the Financial Year 2020-21 there is no sale of scrap and at the same time the society has purchased the materials in crores. This is a serious concern on which the society shall work out as to how much scrap is accumulated during the year. The Managing Director of the Society is directed to review the issue with regard to procedure in vogue” .

## **II. Special Commissioner & Registrar's Report:**

In the year 2017 the Special Commissioner and Registrar of Co-operative Societies, Andhra Pradesh, Guntur, held a review meeting on 07-12-2017 with the Managing Directors of the three RESCOs. In the said meeting, the Managing Directors were requested to furnish complete information about the functioning of the RESCOs. Accordingly, the Special Commissioner and Registrar of the Co-operative Societies received reports. After a detailed study of the merits and other material collected by him, the Special Commissioner and Registrar of Co-operative Societies submitted his detailed report, vide: Rc.No.11351/2017/PE, dated 11-1-2018. In the said report, the Special Commissioner and Registrar of

Co-operative Societies made certain findings on facts, regarding the commissions/ommissions of the RESCOs, the gist of which is given below:

- (1) The Government of Andhra Pradesh, vide: G.O.Ms.No.26, A&C Department, dated 05-2-2010 deleted four RESCOs i.e., Cheepurupalli, Anakapalli, Kuppam and Sircilla (now in Telangana State) from the purview of Public Enterprises Department. The Government, vide: Memo dated 12-3-2010 informed that the Council of Ministers in the meeting held on 06-3-2010, have resolved for approval of reconsideration of the earlier Resolution of the Council of Ministers dated 30-6-2009 to merge the four RESCOs with the respective DISCOMs and to drop the proposal of merger of RESCOs with respective DISCOMs; and that in pursuance of the same, the four RESCOs are functioning.
- (2) After reorganization of the State of Andhra Pradesh, three RESCOs were retained within the State of Andhra Pradesh, which are Cheepurupalli, Anakapalli and Kuppam.
- (3) From the reports furnished by the three Managing Directors, it is noticed that there is no Government share capital; but the Government guarantee is extended to loans taken from RECS, New Delhi.

- (4) The RESCOs are drawing power (electricity) from the DISCOMs at subsidized rates and supplying to the consumers/members of their respective areas of operation of the Societies.
- (5) The RESCOs are not complying with the mandatory provisions of Section 116-C of the A.P. Co-operative Societies Act, regarding establishment of pay and allowances of the staff, which are existing beyond the norms prescribed under the said Provision (For the Applicant RESCO the report pointed out that the ceiling of 30% of GP was far too exceeded - for FY 2015-16 the excess expenditure was 1813.04 lakhs and for FY 2016-17 the excess expenditure was 1712.92 lakhs).
- (6) Several complaints are being received on the functioning of the RESCOs i.e., irregular recruitment, regularisation of those irregularly employed staff, procurement and collecting money from the members while providing power connections etc.

The report has elaborately referred to the irregularities/illegalities in running the Societies, which is reproduced herein below for better appreciation:

**“a. Procurement:**

The RECS procure material from EPDCL and other local SSI units for material work Rs. 5 Lakhs by way of nomination and above Rs. 5 Lakhs through open tenders. As there is no transparency and to avoid fraud, the 3 RECSs were instructed to take steps for adopting e-procurement for all their requirements. Exemption was sought by the 3 RECSs and the Government vide Memo No.7719/Coop.I/2016, dt: 23-01-2017, rejected the proposal and instructed for implementation of e-procurement.



**b) Irregularities in providing services to consumer-members:**

In Anakapalli RECS, Sri Dasari Siva Sankara Prasad, Asst. Project Engineer, Paravada Section and Sri Nakka Suresh, Deputy Project Engineer, Paravada & Munagapaka Sections, were trapped by ACB when they demanded and accepted bribe of Rs. 9 Lakhs for doing official favour of erection/installation of Transformer and upgrading three-phase power supply under commercial category. Further action against the erring officers is being pursued by the MD and Vigilance Section in this Office.

**c. Irregular appointments:**

Regarding irregular appointments, it is submitted that, the earlier Managements have recruited Staff on contract basis without following Rule of reservation and recruitment procedure prescribed in Byelaws and now these staff are insisting for regularization of their service and ten (10=9 Anakapalli, 1 Cheepurupalli) cases were filed before High Court and necessary counters were filed.

**d. Details of earlier Enquiries/Statutory Inquiries in Anakapalli RECS:**

It is submitted that no.of complaints are being received on the functioning of Anakapalli, RECS. Earlier based on complaints received from Sri A.V.Satyanarayana, Convener of Anakapalli RECS members Welfare Association and others, a Statutory Inquiry U/s 51 of the Act was ordered vide Proceedings Rc. No.11484/2014-PE, dt: 26-09-2014. The said orders were stayed by the Government in Memo dt:31-10-2014. Subsequently, at the behest of the then Hon'ble MLC, Anakapalli, another petition enquiry was conducted by the DCAO, DLCO, Visakhapatnam and reported that the allegations are held not proved. Further, another discrete enquiry was ordered in Memo dt:24-09-2011 based on the Letter of the then Hon'ble Minister for Tribal Welfare and the then Hon'ble MLA, Yelamanchili Constituency. The DLCO, Visakhapatnam was the enquiry officer and informed that the allegations were not held proved. Later another enquiry was ordered in Proceedings Rc.No.12418/2010/PE, dt:14-9-2012, which was challenged in WP No.31532/2012 and stay was granted by the Court initially and later disposed on 23-7-2015 by allowing the WP. In Proceedings Rc.No.11484/2014/PE, 26.09.2014 another 51 Inquiry was ordered and the same was annulled/set aside by the Government in Memo No. 8991/Coop-I/A-I/2014, dt: 19-1-2015.

Presently, Sri A.V.Satyanarayana, R/o Munagapaka is representing for action on mismanagement, irregular appointments and improper enquiry conducted by the then DLCO, Visakhapatnam, which was referred to the DCO, Visakhapatnam for a report.

7. In addition to the above, it is submitted that the employees of RECS are requesting to enhance the superannuation age on par with IX and

X Schedule Institutions, which is not applicable to them. The following cases were filed in this regard and action is being taken for filing of counters in all these cases.

Sl.No.	Name of the RECS	WP No.	Name of the petitioner	Interim orders
i.	Anakapalle	24545/2017	Sri G.Demudu, Asst.Project Engineer.	The Petitioner filed WPMP to direct the respondents to continue him in service till he attains the age of 60 years as per G.O.Ms No.102, Fin (HR.IV.FR) Dept,dt.27.06.2017 and the Hon'ble High court issued interim direction in WPMP NO.30399/2017 in W.P. No.24545 of 2017 issued interim direction 'as prayed for'.
ii.	Anakapalle	34943/2017	Sri GVV. Govinda Rao, Foreman and 10 others.	In WPMP No. 43426/2017 Court ordered that the respondents 1 and 2, i.e. Government and Registrar are directed to act on the letter 15-07-2017 and take decision within a period of eight weeks from the date receipt of a copy of the order.
iii.	Anakapalle	31286/2017	Sri S.Jagga Rao Foreman & K.Eswaramma, Jr. Asst.	-do- (It is submitted that as seen from the AP High Court website the case stands disposed on 5-12-2017).
iv.	Cheepurupa Ili	35094/2017	V.Nageswara Rao, Line Inspector & V. Maheswara Rao	That in similar circumstances the court granted interim orders dt: 23-10-2017 in WPMP No. 43426/2017 in WP No. 34943/2017 & in WPMP No. 43609/2017 directed the Govt, and Registrar to act on the letter dt.1-7-2017 and to take a decision within a period of eight (8) weeks from the date of receipt of the order. Orders received on 28.11.2017.
v.	Cheepurupa Ili	35098/2017	Sri T.Sanyasi Naidu, Line Inspector.	Do

Based on the detailed analysis of the functioning of the three RESCOs, the Special Commissioner and Registrar of Co-operative Societies recommended as under:

“In view of the above and since that 100% electrification of villages in 3 RECS in the area of operation of the societies was completed and presently works relating to the various schemes, such as DDUGJY of GOI, NTR Jalasiri, and operational maintenance works are being done, the Government may consider taking a decision for merger of the three RECS with their respective DISCOMs”.

#### **K. Representation from the Consumers/General Public:**

The Commission has received several representations/objections in pursuance of the Public Notice issued by the former. The necessity of discussing these representations is obviated in view of the judgment of the Division Bench of the Honourable High Court holding that the provisions of the Act 2003 has not envisaged any Public Notice for considering an application for grant of exemption. In deference to this view of the Honourable Division Bench, the Commission refrains from undertaking any discussion on these representations/objections.

#### **Conclusion:**

To sum up, continuation of the applicant-RESCO is detrimental to the Public Interest in more ways than one. For various reasons, as discussed above, the applicant-RESCO is unable to render efficient and economical service to its consumers. On account of its failure to carry on its operations in an efficient and economical manner, it is causing huge

losses to the exchequer, as quantified hereinabove and briefly summed up in the following table.

1	Loss due to higher distribution losses	Rs.2.58 Cr.
2	Loss due to Disparity in Distribution cost	Rs.23.41 Cr.
3	Loss due to under realisation because of difference in average billing rate	Rs.27.48 Cr.
4	Loss to EPDCL due to disparity in Power Purchase cost	Rs.89.85 Cr.
5	Average surplus with RESCO	Rs.17.59 Cr.

The Commission under Section 61(c) and 86 (2) of the Act should encourage competition, efficiency, economical use of the resources, good performance and optimum investment. The above discussed data clearly reveals, the RESCO is far away from achieving the above goals. Therefore, continuation of the RESCO, being far from any public interest, is against the same. Even considering the National Rural Electrification Policy prepared under Section 5 of the Act, as per which the predominant object being rural electrification, which has already been achieved, the applicant-RESCO has outlived its purpose. Hence, we have no hesitation to hold that the RESCO is not entitled to grant of exemption. As APEPDCL has already taken over the activities of distribution, supply within the RESCO's area of operation, it shall continue to do so.

Sd/-  
Thakur Rama Singh  
Member

Sd/-  
Justice C.V. Nagarjuna Reddy  
Chairman

Sd/-  
P. Rajagopal Reddy  
Member