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Pdgs. No. APERC/Secy./Tariff/F:52/D.No. 322/20

Date: 17-07-2020.

Sub:- Procurement of power from M/s Lanco & M/s Spectrum during FY2020-21 on short term basis from 01.06.2020 - Directions issued- Reg

- Ref:-**
1. Lr. No. CMD/APSPDCL/TPT/CGM/GM/RAC/F: I D.No:280 /2020, Dt.:26-03-2020
 2. Lr. No. APERC/Secy./Tariff/F: 83/D.No. OL1 /2020, Date: 27-03-2020.
 3. Lr.No. APSPDCL/CGM (RAC) / GM (IPC) / EE (PPA) / D.No.299/2020, Dt.06-04-2020.
 4. Lr.No.APERC/Secy./Tariff/F: 83/D.No. OL3 /2020, Date: 06-04-2020.
 5. Ref:LKPL:APERC:191:20, 10-04-2020
 6. Lr.No. APSPDCL/CGM (IPC)/GM (IPC)/EE (PPA)/ D.No.693/2020, Dt.15-05-2020.
 7. Lr. No.CMD/SPDCL/TPT/CGM/GM/RAC/F: 1/D.No.366/ 2020, dt.28-05-2020
 8. Lr.No.CMD/APEPDCL/VSP/CGM/PPA&RA/E-34418/D.No.I/275504/2020. Dt.29.05.2020
 9. Lr. No. APPCC/CGM-PP/GM-PP-I/D.NO.51/2020/Dt:31-05-2020
 10. Prdgs. No. APERC/Secy./Tariff/F: 52/No. 292 /20, Date: 19-06-2020.
 11. Commission's notice/D.No.296/dated 24-06-2020
 12. Lr.No. APSPDCL/CGM(IPC)/GM(IPC)/EE(PPA)/D.No.834/2020, Dt. 23-06-2020.
 13. Lr.No. APSPDCL/CGM(IPC)/GM (IPC)/EE (PPA)/D.No.846 /2020, Dt. 26-06-2020.
 14. Lr.No.CGM/PowerPurchase/APPCC/Lanco & Spectrum/D.No.08 Dt.25.06.2020

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1. On behalf of the DISCOMs, APSPDCL through the letter dated 26.03.2020, requested the Commission's permission to procure power on short term basis till the Review petition on RST order for FY2020-21 is disposed of, referring to the reasons mentioned in the Review petition which are as follows:

- A. The plants have APM gas allocation. If power purchase is not done by DISCOMs from them, Government of India will divert the gas allocation to other priority sectors.
- B. They are also pursuing with the MoP&NG for re-allocation of gas from LANCO & SPECTRUM to state owned Godavari Gas Power Plant

- C. The power purchase price is lesser than average power purchase cost and hence it is prudent and in the interest of DISCOMs.

In addition to the above, the following additional reason has been urged.

“In view of the emergency like situation and lockdown imposed by the GoI due to COVID-19, which is expected to disrupt the coal availability to thermal stations, short term purchases are necessary”.

2. The Commission vide its order dated 27-03-2020, having regard to the DISCOMs’ apprehension that the coal supplies are expected to be disrupted in extraordinary situation of lockdown in view of COVID-19 pandemic and also to ensure uninterrupted supply to the consumers during the such unusual lockdown period in particular, granted approval for months of April 20 and May 2020 with the following conditions:
- (i) The cost of procurement proposed at the rate of Rs. 3.29 ps per unit from M/s LANCO and Rs.3.31 ps per unit from M/s Spectrum shall not be subject to any upside variation later on any grounds including fuel cost pass-through. Accordingly, the DISCOMs shall obtain undertakings from the said power plants in this regard.
 - (ii) The DISCOMs shall pursue with the Government of India to get approval for diversion of APM gas from M/s Lanco and M/s Spectrum to M/s GGPP, the DISCOMs’ owned power plant at the earliest, so as to run it at its full capacity.
 - (iii) The power from these plants shall be despatched at the rates approved supra taking unit cost into account for merit order.
 - (iv) This approval is subject to the outcome of any pending litigation including the disposal of a review petition on Retail Supply Tariff Order for FY2020-21.

- (v) The Commission shall be apprised of the power supply position every fortnight with reference to the source wise availability of power vis-a-vis demand.
 - (vi) On account of this approval, any variation in power purchase cost approved in Retail Supply Tariff Order for FY2020-21 would be corrected at the time of True up/down in accordance with the Regulations in vogue.
3. Thereafter, in the wake of decrease in gas prices notified by MoP&NG which came into effect from 01.04.2020, APSPDCL sent a request in writing vide letter dt: 06-04-2020 on behalf of all the DISCOMs for modification of the Commission's order dt: 27-03-2020, by reducing the unit price to Rs.2.69 ps and Rs.2.71 ps for M/s Lanco and M/s Spectrum respectively. The Commission by its order dated 06-04-2020 accordingly modified its previous order by substituting Rs. 2.69 ps and Rs. 2.71 ps for Rs.3.29 ps per unit & Rs. 3.31 ps for M/s Lanco and M/s Spectrum respectively, reiterating all other conditions as contained in the order dt: 27-03-2020.
 4. After receiving the approval from this Commission, the DISCOMs have neither furnished any information with reference to the source-wise availability of power vis-a-vis the demand as directed vide condition 5 of the Commission's order dt: 27-03-2020 nor informed this Commission whether undertaking letters as per order dt: 27-03-2020 read with subsequent order dated 06.04.2020 have been furnished by both the developers.
 5. With reference to the order dated 06.04.2020 of the Commission on revised/reduced price, M/s Lanco addressed a letter dt:10.04.2020 to this Commission for revision of tariff from Rs.3.29 ps per unit to Rs.2.69 ps per unit stating various reasons. The Commission has forwarded the same to APSPDCL for its remarks. In response to LANCO's representation, APSPDCL through letter dated 15.05.2020 has furnished its remarks as given below:

- i) The purchase is purely on a temporary basis, on a single part, so as not to lose the cheap gas available under Administrative Price mechanism (APM) and to keep the same for power generation, in the best interests of consumers.
- ii) The temporary tariff has not been worked out & proposed on two part tariff principles, and the total per unit rate as prevailed in the Tariff Order for FY2019-20.
- iii) As directed by the Commission, the DISCOMs are trying hard with the Govt. of India for reallocation of Gas to their own plant i.e., GGPP.
- iv) The rates originally proposed in the last week of March 2020 from Lanco & Spectrum, by the DISCOMs for temporary procurement during the FY2020-21 i.e., Rs.3.29 & Rs. 3.31 respectively, were based on the APM Gas Price of USD 3.23/MMBTU at that point of time.
- v) The composition of different sources of Gas like APM, Ravva & Ravva satellite fields etc., were not considered by APDISCOMs while calculating the single part tariff.
- vi) The reduction in gas price from USD 3.23/MMBTU to USD 2.39/MMBTU on Gross Calorific Value basis, is significant and cannot be ignored to be passed on to the end consumers, by reduction of tariff.
- vii) Ever since the PPAs of these two plants were expired, APDISCOMs are procuring power on a short term basis only in accordance with the prices specified in the relevant Retail Supply Tariff Order.
- viii) The order issued by the Commission on 27-03-2020, is applicable for only two months, and proceedings on disposal of Review Petition are yet to be commenced. The matter of determination of short-term tariff for procurement of power from these plants during 2020-21 is within the purview of the commission. The DISCOMs would oblige the tariff determined by the Commission purely on

the basis of short term/temporary procurement of power from these two plants, in the interests of the public.

- ix) The submissions of APDISCOMs herein are without prejudice to its other rights & obligations in the matters pending before various forums on these two plants and the need & necessity to extend the PPAs, that might or might not arise in future.
- x) Further M/s Lanco Kondapalli Power Ltd., has submitted undertaking to supply power at reduced price of Rs.2.69/kwh as per APERC revised order. Therefore now Lanco is estopped from claiming any price more than what stated in the revised undertaking dt 15.04.2020.”

6. Further, vide their separate letters dated 28-05-2020 & 29-05-2020, APSPDCL and APEPDCL respectively have requested the Commission for issuing suitable orders for temporary power procurement from LANCO & SPECTRUM w.e.f 01.06.2020 until the review petition filed by them on the Retail Supply Tariff order for FY 2020-21 is disposed of by the Commission. They stated that the Commission's approval granted vide its letters dt: 27.03.2020 and 06.04.2020 for the temporary procurement for the months of April'20 and May'20 from the said plants has expired on 31.05.2020. The APPCC vide its letter dated 31.05.20 reiterating the request of the DISCOMs for orders, has sought tariffs as per the Commission's orders dated 06.04.2020. It has also sought ratification of its action to continue to issue despatch instructions to the said plants from 01.06.2020 in anticipation of Commission's approval.
7. The above request was sent for further extension of approval from 01.06.2020 without complying with the conditions specified in Commission's orders dated 27-03-2020 and 06-04-2020. This necessitated the Commission to issue proceedings dated 19.06.2020 for strict compliance with the condition relating to furnishing of undertakings of the two plants regarding supply of power at the revised price.
8. In response to the Commission's proceedings dated 19.06.2020, vide the references cited 12 & 13, APSPDCL and vide the reference 14

cited, APPCC have submitted the undertakings obtained from M/s LANCO & M/s SPECTRUM to the Commission. The undertakings are stated to be in conformity with Commission's orders dated 06.04.2020 and 27.03.2020.

9. In this regard, it is to be noted that the proceedings dated 19.06.2020 were issued in consideration of the DISCOMs' request for extension of time for further procurement of power from 01.06.2020 from them at the revised prices approved in Commission's order dated 06.04.2020 till their Review Petition on RST order for FY2020-21 is disposed of. The said order of the Commission was very clear that the DISCOMs shall procure power from them at the tariffs approved in its order dated 06.04.2020 read with the other conditions specified in its order dated 27.03.2020 for power procurement from 01.06.2020. It was also informed in the said proceedings that if the DISCOMs fail to furnish the unequivocal undertakings from LANCO & SPECTRUM as directed by the Commission, they shall stop procurement of power from them from 01.07.2020. The Commission also issued notices dated 24-06-2020 calling for an explanation from the DISCOMs for non compliance with its orders dated 06.04.2020 and 27.03.2020.
10. Now, from the information received by the Commission, it is clear that SPECTRUM has furnished the unconditional undertaking agreeing to supply power at Rs. 2.71 ps till 30-09-2020 and LANCO has not furnished the undertaking for the power supplied from 01.06.2020 and instead, it filed a writ petition challenging the Commission's proceedings dated 06-04-2020 & 19-06-2020, revising the sale price to Rs.2.69 ps per unit.

11. In this context, the issue for examination before the Commission is whether power procurement from any generator including M/s. LANCO & M/s. SPECTRUM on a short term basis is justified and beneficial to the DISCOMs and to the consumer public if tariffs are over and above that were approved in this Commission's Order dated 06.04.2020.
12. In order to resolve this issue, the following points are examined in detail.
 - I. The power purchase agreements with LANCO & SPECTRUM have expired on 01.01.2016 and 18.04.2016 respectively. Though there is a buyout or renewal option before the DISCOMs as per PPAs, the DISCOMs preferred renewal. Accordingly the DISCOMs have filed a petition for renewal of PPA in O.P.No 8 of 2018 in respect of LANCO. Subsequently, they changed their mind and filed I.A.No.16 of 2019 for withdrawal of the PPA. The adjudication is pending on this issue before the Commission. No proposal for renewal of PPA in respect of SPECTRUM is made by the DISCOMs so far. Thus, there are no binding PPAs with LANCO & SPECTRUM for the DISCOMs as on today.
 - II. However, LANCO & SPECTRUM have supplied power to DISCOMs on a short term basis even after expiry of PPAs till 31.03.2020 at the tariffs approved by the Commission in its order dated 29.11.2017. The main reasons put forth for continuous power procurement from the two plants are that PPAs are under renewal, cheaper APM gas allocation to the said plants would be diverted to other sectors by MoP&NG if the DISCOMs do not procure power from them and that their tariffs are lower than average power purchase cost. The proposals of the DISCOMs

to procure power on short term basis from them year to year had been approved by the Commission relying on their submissions.

- III. Taking the many stakeholders' views into consideration, the Commission in its order dated 29.11.2017 had specifically directed the DISCOMs to place material record before it to show that these short term purchases did not impose any additional burden on the distribution companies or the consumers, within two months of completion of FY2017-18. The DISCOMs so far have not placed any material to prove that savings are achieved or that the procurement from these two plants has not imposed any additional financial burden on DISCOMs.
- IV. Further, LANCO and SPECTRUM have filed I.A.No 3 of 2019 dated 11.02.2019 & O.P.No 27 of 2019 dated 06.02.2019 respectively praying the Commission to allow fuel cost pass-through for power supplied by them in FY2018-19 on the ground of upward revision of gas prices by GAIL/ONGC during FY2018-19. Orders are reserved on this matter. In the event of allowing their request by the Commission, the short term power cost will go up further for the relevant past period .
- V. When the DISCOMs had again proposed power procurement from these two plants on short term basis for FY2020-21 in their ARR submission, the Commission keeping the above noted facts and also the following points specifically in view, did not include them in power procurement plan for FY2020-21.
 - i) The Discoms filed IA No.16 of 2019 seeking withdrawal of OP No.8 of 2018 filing for approval of PPA with LANCO urging the following main reasons:
 - “a) *Subsequent to expiry of PPA, during the course of time, with due permission of GOAP, the APDISCOMs have decided to renew the PPA for ten years and the*

draft PPA was agreed by both parties and was submitted for approval.

- b) *During further course of time it was noticed that if the gas being supplied to LANCO and the Spectrum Power Ltd. is diverted to GMR Vemagiri Power Project, it would be cheaper than to procure from the respondent. Therefore, in the hearings at O.P.No. 8 of 2018 the DISCOMs through their counsel orally reported to the Hon'ble Commission about their intention of not procuring power under long term from respondent.*
- c) *Now the GOAP has decided and directed the DISCOMs to withdraw O.P.No.8 of 2018 together with the draft PPA.”*

- ii) The DISCOMs have not indicated the government's approval either for renewal of PPAs or for temporary short term procurement from both LANCO & SPECTRUM in their ARR submissions.
- iii) Estimation by the Commission showed surplus power position for FY2020-21 as below:

Month	Availability (M U)	Despatch (M U)	Surplus (M U)
Apr'20	5931.10	5684.09	247.01
May'20	6076.98	6059.24	17.74
Jun'20	6393.43	5715.11	678.32
Jul'20	7068.23	5492.24	1575.99
Aug'20	7418.92	5449.02	1969.90
Sept'20	6228.75	5349.27	879.48
Oct'20	6517.90	6407.27	110.62
Nov'20	6271.40	5884.81	386.59
Dec'20	6262.24	5488.47	773.77
Jan'21	6763.96	5428.10	1335.86
Feb'21	6553.42	5346.99	1206.43
Mar'21	6919.54	6596.99	322.55
Total	78405.87	68901.60	9504.27

- iv) LANCO & SPECTRUM do not have binding agreements. Their claims for higher variable cost on account of fuel cost pass-through, are pending before the Commission and

DISCOMs kept on varying their stand from time to time on procuring power from them.

VI. Keeping in view the above noted facts, the Commission carefully examined the request of APPCC and the DISCOMs in the light of the following further facts:

- (i) The actual demand is far less than the estimated demand by the Commission for FY 2020-21 as indicated in the following table due to the economic slowdown on account of COVID-19 pandemic.

Sl.No	Month	APERC approved Despatch (MU)	Actual Grid Despatch (MU) as per SLDC website
1	April 20	5684	4681
2	May 20	6059	5492
3	June 20	5715	5021
4	July 20	5482	5000 (Expected as per the trend)

- (ii) There is presently no emergency situation prevailing due to COVID-19 as it existed in April and May 2020 as lockdown is relaxed to a larger extent. In fact the coal stocks are piled up at all state run generating stations as there was no demand for power generation.
- (iii) At the prevailing demand, after must run stations, the approved thermal power plants in service in accordance with the merit order principle as per RST order for FY 2020-21 are shown from serial no. 21 to 36 in the following table. The DISCOMs ought to pay the fixed charges to the plants without availing power from SI No 37 in the following table due to binding agreements.

Sl.No in Despatch approved by APERC for FY20-21	Name of the Thermal Station	Fixed cost per unit (RS) obligation	Variable cost per unit (Rs)
21	Sembcorp Energy (Formerly Thermal Powertech)	1.7	2.25
22	NNTPS	2.1	2.31
23	Talcher Stage 2	0.7	2.39
24	APGPCL I - Allocated capacity	2.1	2.41
25	NLC Stage-I	0.9	2.64
26	NLC Stage-II	0.9	2.64
27	NTPC (SR)-Ramagundam Stage 3	0.7	2.73
28	NTPC (SR)-Ramagundam Stage1&2	0.7	2.77
29	KSK Mahanadi	1.5	2.77
30	JNNSM Phase-II Thermal	1.7	3.04
31	NTTPS V	1.8	3.14
32	Damodaram Sanjeevaiah Thermal power plant - I	1.9	3.14
33	Damodaram Sanjeevaiah Thermal power plant - I	1.9	3.14
34	Damodaram Sanjeevaiah Thermal power plant - II	1.8	3.14
35	NTTPS IV	0.9	3.15
36	Tuticorin	1.5	3.16
37	NTTPS I	0.8	3.34
38	NTTPS II	0.8	3.34
39	NTTPS III	0.8	3.34
40	NTPC Simhadri Stage II	1.5	3.34
41	NTPC Simhadri Stage I	0.9	3.38
42	RTPP Stage-IV	1.8	3.66
43	Vallur Thermal Power Plant	1.8	3.78
44	RTPP Stage-I	1	3.86
45	RTPP Stage-II	0.9	3.86
46	RTPP Stage-III	1.5	3.86
47	JNNSM Phase-I Thermal	1.7	3.93
48	Kudigi	2.2	3.98

The present low demand is expected to continue for a few more coming months. Further, the full wind generation season and expected improved hydel generation due to copious rainfall in upper riparian states of AP in coming months, will aggravate the backing down of approved thermal stations as shown in the above table. In addition to this, due to prevailing low demand all over the country, the power rates at real time power exchanges have become attractive and cheaper. Therefore, the Discoms are purchasing the cheaper power from exchanges though they were permitted to purchase the power from exchanges during only exigencies as per the Tariff order for FY 2020-21. The landed price of such power purchased from market, between April and May, 2020 is in the range of Rs.2.55 ps to Rs.3.07 ps per unit as per the daily reports furnished to the Commission by the DISCOMs. The weighted average purchase price for these two months is Rs. 2.94 ps per unit.

- iv) The expected availability of power per day from LANCO & SPECTRUM is in the range of 5 MU to 8 MU depending upon gas allocation out of the total daily requirement for the State, of about 160 to 170 MU. This small amount of power is easily manageable either from the market or from the existing sources. However the only consideration is if the power is supplied at Rs.2.69 ps by LANCO and Rs.2.71 ps by SPECTRUM as per the Commission's order dated 06.04.2020, subject to prevailing present demand continuing in coming months, it may be prudent in the interest of the consumer public to continue purchases at those rates.
- v) M/s LANCO had filed a writ petition in Hon'ble High Court of A.P. challenging the orders of the Commission dated 06.04.2020 on revised tariff of Rs. 2.69 ps per unit and its proceedings dated 19.06.2020 for insisting on the unequivocal undertakings.

13. After examining the points in para 12, the Commission holds as under:
- i) Any short term purchase from any other source departing from approved sources in Tariff Order for FY2020-21 including from LANCO & SPECTRUM at the overall single part tariff in excess of Rs. 3.16 (Variable cost of source at Sl.No 36 of Merit order table as stated supra) is neither prudent, nor is the same in the interest of DISCOMs as well as in the interest of the consumer public, as such purchases during the future period will impose additional burden on DISCOMs by way of fixed charges, if Lanco and Spectrum's tariffs are in excess of Rs.3.16. This threshold tariff will further come down if demand falls down from the present level.
 - ii) The difference between the average power purchase price and price offered is not the criterion to be considered for approving tariff for the short term purchases and it depends upon the demand and available supply gap during the period under consideration for short term purchases. Therefore, the DISCOM's thumb rule that the tariffs are lower than average power purchase cost do not hold good for all the occasions. However, this thumb rule can be taken as the basis for determining short term tariffs if the demand exceeds the estimated demand and variable cost of power available from the approved sources is higher for meeting the increased demand. Such a situation does not exist now.
 - iii) The Commission has unequivocal powers under section 86 (1) b, of the Electricity Act, 2003 to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured. Therefore, if LANCO is not willing to supply power at the tariffs approved in Commission's order dated 06.04.2020, for the power supplied by them from 01.06.2020 and also for future, the DISCOMs shall stop taking power from LANCO if they have not already done, with immediate effect on receipt of this order and shall report compliance accordingly. As

regards SPECTRUM, as they have furnished unconditional undertaking to supply power at tariff Rs.2.71 ps per unit till 30.09.2020, the DISCOMs are permitted to continue procurement at the said price till 30.09.2020. If the DISCOMs intend to procure power from SPECTRUM after 30.09.2020, they shall approach this Commission with proper justification on or before 15.09.2020. It is made clear that without prior approval, the APPCC & the DISCOMs shall not procure any short term power either from the above two plants or from any other generator in future. Any request seeking permission to procure short term power shall be made at least 15 days in advance to enable the Commission to examine and pass appropriate orders keeping in view the DISCOMs' as well as consumer public interests.

- iv) Further, it is observed that DISCOMs have purchased power from the power exchanges at large scale in the last few months deviating from the approved sources in Tariff Order for FY2020-21. Therefore, they are directed to place the material to justify their decision by showing the savings achieved or that such purchases have not imposed any additional burden on DISCOMs due to existing binding agreements within one month.

(BY ORDER OF THE COMMISSION)


Commission Secretary_{IC}

To

1. The Chairman & Managing Director, AP Transco & Chairman, APPCC, Vidyuth Soudha Gunadala, Eluru Rd, Vijayawada, Andhra Pradesh– 520004.
2. The Chairman & Managing Director, APSPDCL, Corporate Office, Behind Sreenivasa Kalyana Mandapam, 9-13-65A, Kesavayanagunta, Tirupathi – 517 501.
3. The Chairman & Managing Director, APEPDCL, P&T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam – 530 013.