



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

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Prdgs. No. APERC/Secy./Tariff/F: 52/No. 292 /20

Date: 19-06-2020.

Sub: Procurement of power from M/s Lanco & M/s Spectrum during FY20-21 on short term basis -- Extension of period -Reg

Ref: 1. Lr.No CMD/SPDCL/TPT/CGM/GM/RAC/F/Dno 366/20,Dt.28.05.20
2. Lr.No CMD/APEPDCL/VSP/CGM/PPA&RA/E-34418
/D.no1/275504/20 dt 29.05.20

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Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL) and Eastern Power Distribution Company of Andhra Pradesh limited (APEPDCL) vide their Lr. No. 366 dt: 28.05.2020 and 1/275504 dt: 29.05.2020 respectively have requested the Commission for suitable orders for temporary power procurement from M/s LKPL (hereinafter referred to as M/s Lanco) and M/s SPGL (hereinafter referred to as M/s Spectrum) until the review petition filed by them on the Retail Supply Tariff order for FY 2020-21 is disposed of by the Commission stating 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.

Further Andhra Pradesh Power Purchase Coordination Committee (APPCC) vide its letter dt: 31.05.2020 reiterated the request of APDISCOMs as stated above and sought the ratification of the action taken in giving despatch instructions to the said plants from 01.06.2020 in anticipation of approval of the Commission to continue to procure power from them from 01.06.2020 at the tariff approved in the Commission's letter dt: 06.04.2020. The main reason stated for such temporary power procurement is cheaper APM gas allocation to the said plants and such procurement is in the interest of DISCOMs.

In this context it is apt to recall that APSPDCL has made a request in writing to this Commission on 26-03-2020 on behalf of the DISCOMs seeking permission to purchase power from M/s LANCO and M/s SPECTRUM for the months of April 20 and May 20 interalia on the grounds that due to Covid-19 situation they are apprehending disruption in coal supplies. Vide its order dt: 27-03-2020, the Commission had approved

the temporary power procurement from M/s LANCO & M/s SPECTRUM for the months of APRIL & MAY 2020 having regard to the aforementioned reasons assigned by the DISCOMs though the Commission had not considered the power procurement from the said plants in Retail Supply Tariff Order for FY 2020-21 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 Government of India to get the approval for diversion of APM gas from M/s Lanco and M/s Spectrum to M/s GGPL, the DISCOMs owned the 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 outcome of any pending litigation including the disposal of a review petition on Retail Supply Tariff Order for FY 2020-21.
- (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.

After receiving approval from this Commission, the DISCOMs have not furnished any information either 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 have been furnished by both the developers, much less forwarding the copies of undertaking letters. In the wake of decrease in gas prices, 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 of even date

accordingly modified its previous order by substituting Rs. 2.69 ps and Rs. 2.71 ps for Rs. 3.29 ps & 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.

Having secured the orders from the Commission, M/s Lanco addressed a letter dt: 10.04.20 for revision of Tariff from Rs. 2.69 ps per unit to Rs. 3.29 ps per unit. The enquiries by the Office of the Commission revealed that while M/s Lanco submitted an undertaking letter for supplying power at the reduced price, M/s Spectrum has not furnished any such undertaking. Neither the DISCOMs nor APPCC forwarded the M/s Lanco's fresh undertaking letter nor they informed the Commission about non-furnishing of fresh undertaking by M/s Spectrum which constituted an essential condition stipulated by this Commission.

The office of the Commission is however able to secure copies of the two undertaking letters dt: 31-03-2020 and 15.04.20 furnished by M/s Lanco and undertaking letter dt: 30-03-2020 furnished by M/s Spectrum to the Discoms. In the letter dt: 31-03-2020 of M/s Lanco and dt: 30-03-2020 of M/s Spectrum, they unequivocally undertook to supply power at Rs. 3.29 ps and Rs. 3.31 ps respectively. However, in the fresh undertaking letter dt: 15-04-2020 furnished by M/s Lanco, the following conditions are found:

- 1) Lanco represented by IRP hereby undertakes that the cost of procurement by APSPDCL and APEPDCL from the generating station of Lanco during the period from 1st April 2020 to 31st May 2020 shall be at the rate of Rs.2.69 ps per unit.
- 2) Lanco represented by IRP hereby further undertakes that it will supply power at Rs 2.69 ps per unit for the period 1st April 2020 to 31st May 2020, without prejudice to the rights of fuel cost pass through that are accrued or available under law and the contract.

As could be seen from the above extracted paras from the undertaking, M/s Lanco having unequivocally undertaken in Para 1 to supply power at the tariff of Rs.2.69 per unit, however, stated in Para 2 that the supply of power at that rate is without prejudice to the rights of claiming fuel cost price as pass through that have accrued or available under law or under the contract.

Para 2 clearly shows the intention of LANCO to claim higher tariff than what is permitted to be collected by it in the Commission's order dated 06.04.20 in the name of fuel cost escalation. Unfortunately, the Discoms have not brought the stand of LANCO to the notice of the Commission, let alone not furnishing a copy of undertaking to the Commission.

Though in the Retail Supply Tariff order for FY 2020-21 the Commission had not permitted the power purchases from M/s Lanco & M/s Spectrum having regard to the availability of surplus power, considering that tariff agreed to by M/s Lanco and M/s Spectrum was somewhat low, the Commission has acceded to the request of Discoms during the extraordinary situation brought about by COVID-19. However, having regard to the reduced prices of fuel, the Commission has clearly stipulated the condition that cost of procurement of power at Rs. 2.69 ps per unit from M/s Lanco and Rs. 2.71 ps per unit from M/s Spectrum shall not be subject to any upside later variation on any grounds including that of fuel cost passthrough and that Discoms shall obtain undertakings from both the developers in this regard.

In spite of the unequivocal direction as mentioned above, the Discoms evidently failed to insist on M/s Lanco to delete condition no 2 in its undertaking dt.15.04.20 which runs contrary to the specific condition imposed in the order dt 06.04.20 of this Commission, nor it informed the Commission about the said condition. Added to this, the Discoms again made a request to this Commission to extend permission for procuring power from the month of June 2020. In the case of M/s Spectrum, as noted above, it had not even furnished fresh undertaking in compliance with its order dated 06.04.20, but still the Discoms went ahead to procure power from M/s Spectrum.

In spite of improper undertaking by M/s Lanco and failure of M/s Spectrum to furnish undertaking, the Discoms have been evidently procuring power exposing themselves to further litigation for payment of higher tariff than at which they are permitted to procure power from M/s Lanco & M/s Spectrum. The Commission has also observed that during the months of April 2020 and May 2020, the landed tariff was in the range of Rs. 2.55 ps per unit to Rs. 3.10 ps per unit for the power procured by the Discoms through power exchanges.

In this situation, the Commission is of the strong opinion that unless M/s Lanco & M/s Spectrum unequivocally undertake to supply power at Rs. 2.69 ps per unit & Rs.2.71 ps per unit respectively without any condition whatsoever, it is not in the public interest to permit the Discoms to procure power from the said developers in view of definite possibility of their suffering litigation for payment of higher tariff.

Therefore, the Commission directs the Discoms to produce the written undertakings of both M/s Lanco & M/s Spectrum as in Para no 1 of undertaking dt: 15.04.20 of M/s Lanco without there being any condition as in Para 2 of said undertaking.

If such undertakings are not produced before this Commission within one week from today, both the Discoms shall stop taking power from M/s Lanco & M/s Spectrum with effect from 1st July 2020.

(By order of the Commission)


Commission Secretary (i/c)

To

1.The Chairman & Managing Director,
AP Transco & Chairman, APPCC
Vidyuth Soudha Gunadala,
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2.The Chairman & Managing Director,
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3.The Chairman & Managing Director,
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