



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

O. P. (SR) No. 116 of 2022

Dated 30.10 .2023

Present

Sri. T. Sriranga Rao, Chairman
Sri. M. D. Manohar Raju, Member (Technical)
Sri. Bandaru Krishnaiah, Member (Finance)

Between:

Southern Power Distribution Company of Telangana Limited,
Corporate Office, # 6-1-50, Mint Compound,
Hyderabad 500 063.

... Petitioner

AND

- None -

... Respondent

The petition came up for hearing on 21.09.2023. Sri. Mohammad Bande Ali, Law Attaché for the petitioner has appeared, having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

Southern Power Distribution Company of Telangana Limited (TSSPDCL) (petitioner) has filed a petition u/s 86(1)(b) of the Electricity Act, 2003 (Act, 2003) seeking consent for the draft first amendment to power purchase agreement (PPA) dated 10.10.2022 between it and M/s Hyderabad MSW Energy Solutions Private Limited (HMESPL) for the augmentation of the existing operating capacity from 19.8 MW to 24 MW in current operating phase-1 RDF based power project under Phase-II at Jawaharnagar Village, Kapra Mandal, Medchal District, Telangana. The averments of the petition are extracted below:

- a. It is stated that the PPA dated 19.02.2020 was entered between petitioner and HMESPL for purchase of power from 19.8 MW RDF based Waste to Energy

- (WtE) plant at Jawaharnagar, Kapra, Medchal District at a tariff determined by the Commission from time to time.
- b. It is stated that as per clause 10.2 of the PPA, the agreement may be modified on such terms and conditions as may be mutually agreed upon by the parties, subject to the prior approval of the Commission.
 - c. It is stated that HMESPL has requested for enhancement of capacity of its WtE plant at Jawaharnagar, Kapra, Medchal District from 19.8 MW to 24 MW capacity and the TSSPDCL having approved the request of HMESPL entered into first draft amendment on 10.10.2022 to the PPA dated 19.02.2020 with HMESPL for enhancement of capacity of the WtE plant from 19.8 MW to 24 MW capacity subject to the consent of TSERC and condition.
 - d. It is stated that HMESPL shall comply with the provisions of regulations/guidelines/orders/proceedings of the Central Electricity Authority (CEA), the Central Electricity Regulatory Commission (CERC) and the Commission, notified and as amended from time to time.
 - e. It is stated that the terms and conditions of the PPA dated 19.02.2020 shall remain unchanged except clause 2 of the preamble, 1.9, 1.16 and 1.23 of the definition and Schedule-1 of the PPA.
 - f. It is stated that HMESPL shall not be eligible for obtaining Renewable Energy Certificates (RECs) as per prevailing regulations issued by CERC and the Commission for energy generated from their project and supplied to TSSPDCL under PPA.
 - g. It is stated that as per the Tariff Policy, 2016, the distribution licensee(s) shall compulsorily procure 100% power produced from all WtE plants in the State, in the ratio of their procurement of power from all sources including their own, at the tariff determined by the appropriate Commission under Section 62 of the Act, 2003.
 - h. It is stated that the Commission mandated renewable power purchase obligation (RPPO) is as submitted below:

FY/Source	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Solar RPPO %	5.33	5.77	6.21	7.10	7.5	8	9	10	11
Non- Solar RPPO %	0.67	0.73	0.79	0.90	1	1.25	1.5	1.75	2
Total	6.00	6.50	7.00	8.00	8.5	9.25	10.5	11.75	13

i. It is stated that the details of compliance of RPPO by TSSPDCL is as below:

Source/ Financial Year	Solar RPPO %		Non-Solar RPPO %		Total RPPO %	
	As mandated by TSERC	Achieved by TSSPDCL	As mandated by TSERC	Achieved by TSSPDCL	As mandated by TSERC	Achieved by TSSPDCL
2018-19	5.33	9.36	0.67	0.83	6	10.4
2019-20	5.77	9.96	0.73	0.67	6.5	10.53
2020-21	6.21	9.57	0.79	0.87	7	10.44
2021-22	7.1	8.55	0.9	1.08	8	9.63

j. It is stated that as could be seen from the above table, TSSPDCL is not able to meet the RPPO targets fixed by the Commission and is only able to marginally meet Non-Solar RPPO targets prescribed by the Commission from FY 2018-19 till FY 2021-22.

k. It is stated that in the light of the higher RPPO targets fixed by the Commission (Regulation No.7 of 2022) and increasing load growth @ 8-9%, the present procurement of non-solar power helps TSSPDCL comply the same.

l. It is stated that the stated amendment agreement is enforceable from the date of execution subject to obtaining consent of the Commission as per Section 21 of the Telangana Electricity Reform Act, 1998 (Act No.30 of 1998) u/s 62(1)(a) and 86(1)(b) of the Act, 2003.

m. It is stated that this amendment to the PPA dated 19.02.2020 is agreed by both the both parties and signed. The other clauses of Articles and Schedules of the PPA dated 19.02.2020 shall remain unaltered.

2. Therefore, the petitioner has sought the following relief in the petition.

“To accord consent u/s 62(1)(a) & 86(1)(b) of the Electricity Act, 2003 and u/s 21(4) of the Telangana Electricity Reforms Act, 1998 to the draft first amendment dated 10.10.2022 to the power purchase agreement (PPA) dated 19.02.2020.”

3. The Commission has heard the representative of the petitioner and the officers present and also considered the material available to it. The submissions on 21.09.2023 are extracted for ready reference.

Record of proceedings dated 21.09.2023:

“... .. The Commission having perused the record took exception to the way the petition had been filed without examining the requirement of information and the necessity of providing complete comprehensive fair information in the matter. The petitioner has into a draft amendment PPA without verifying the technical parameters for enhancement of capacity from 19.8 MW to 24 MW. Moreover, when the Commission sought to examine the technical aspects and

required the petitioner to submit the details, two contradictory reports have been placed at the disposal of the Commission. Both the reports have been secured by the petitioner itself, one being from its internal officers and the other from the external agency. These reports relating to technical examination should have been done at the first instance itself before filing the petition. The petitioner should have examined the request of enhanced capacity considering the technical parameters before approaching the Commission for approval of draft amendment PPA.

The Commission sought to know from the officers of the petitioner as to why the aspects have not been examined before filing of the petition. The officers present have replied that they relied on the recommendations of Telangana State Renewable Energy Development Corporation, which had suggested the fuel and rating capacity. Also, reliance was placed on the certification done by the Chief Electrical Inspector for the State of Telangana, who had certified about the rating capacity of the plant. They sought to explain the said details. The Commission expressed displeasure in the way the matter was handled and also sought to know how the petitioner is injecting higher capacity of more than the rated capacity. There is no reply from them, however, they tried to explain on these aspects only after the Commission had raised the questions on the same.

At this stage, the representative of the petitioner sought some time to rectify the defects and also place the appropriate material or else to return the petition. However, the Commission pointed out that since the matter has been called for hearing on the maintainability, it has no other option except to decide the matter either to entertain or refuse the same by rejecting it. Therefore, the Commission expressed its views in the matter and would pass orders accordingly on it.”

4. In order to appreciate the factual matrix, the correspondence that has been undertaken is required to be examined, as reproduced below:

Letter dated 29.12.2022 of the Commission:

“... .. I am directed by the Commission to obtain the following information with regard to TSSPDCL proposals seeking consent of the Commission for 1st draft amendment to NCE PPA dated 19.02.2020 entered with M/s Hyderabad MSW Energy Solutions Pvt Ltd for enhancement of capacity of integrated municipal solid waste management based power project located at Jawaharnagar (V), Kapra (M), Medchal district from 19.8 MW to 24 MW.

- I. How the additional capacity of power of 4.2 MW is generated. Is it by augmenting the existing TG Equipment or by installing separate TG unit.*
- II. Whether the Company has already started injecting the additional capacity of 4.2 MW.*
- III. Whether TSSPDCL had made any inspection of the power project by a team of three engineers once in four months, regarding the usage of fuel by the generator as per the clause 13.2 of Article 13 of PPA.*
- IV. If inspection was made, a copy of the report prepared by such team shall be sent to the Commission for its perusal and verification.*
- V. If inspection was not made so far, TSSPDCL may be directed to inspect power project immediately in respect of the additional capacity of 4.2 MW as per draft 1st amendment PPA and also regarding the usage of fuel by the generator as per the clause 13.2 of Article 13 of PPA and*

submit the report to the Commission for its perusal and verification. TSSPDCL is directed to submit the above information at an early date.”

Letter dated 04.02.2023 of SE, TSSDCL to CGM, TSSPDCL (which is enclosed to the reply letter dated 27.07.2023):

“... .. the Integrated Municipal Solid Waste Management based power project located at Jawaharnagar (V), Kapra (M), Medchal district operated by M/s Hyderabad MSW Energy Solutions Pvt. Ltd was inspected by the Committee members on 31.01.2023 in the presence of Sri D.Srinivas, Sr.Manager, Electrical, HMSESPL.

The observations made during the inspection are as follows:

- 1. The plant was generating power of 23.81 MW with auxiliary consumption 2.38 MW, captive consumption 0.76 MW and exporting 20.78 MW to the grid.*
- 2. The data was collected from the energy meters existing at interface point and power plant.*
- 3. On analysis of meter data of gross generation meter at power plant, the total power generated as observe das 27.128 MW whereas the rating of generator as per the name plate is 24780 kVA only.*
- 4. As per the history of billing meter at interface point, the power exported is in the range of 21.42 MW to 24.49 MW from December 2020 without approval from TSSPDCL.*
- 5. The existing CTs ratio at interface point is 100/1 A and needs replacement to cater the generation capacity of 24 MW.*
- 6. With regard to the fuel usage, it is to submit that the developer is using the municipal solid waste as fuel to 2 no boilers.*
- 7. The fuel used in the power plant is segregated combustible solid waste, dehydrated and heated and fed to the boilers for generation of steam to turbine to produce electrical power.*
- 8. There is no preparation of RDF in the form of pellets observed in the power plant.*

... ..”

Reminder letter dated 10.03.2023 of the Commission:

“... .. TSSPDCL was requested to submit certain additional information with regard to TSSPDCL proposals seeking consent of the Commission for 1st draft amendment to NCE PPA dated 19.02.2020 entered with M/s Hyderabad MSW Energy Solutions Pvt Ltd for enhancement of capacity of integrated municipal solid waste management based power project located at Jawaharnagar (V), Kapra (M), Medchal district from 19.8 MW to 24 MW, but till now the same is not received.

In view of the above, it is once again requested to submit the information at an early date for taking further necessary action”

Reply letter dated 27.07.2023 of TSSPDCL:

“... .. the following replies are submitted for placing before the Commission.

Reply to (I): *It is observed from the TSSPDCL Committee report that Rating of the Generator is 24750 kVA and power factor mentioned on the name plate is 0.8, so the rated capacity of Generator is 19.8 MW (i.e., 24750 kVA x 0.8 = 19800 kW). Thus, without enhancing capacity of Generator / Alternator, turbine, boiler and Auxiliary equipment, the proposed enhancement of Generating station capacity from 19.8 MW to 24 MW is not possible. Further, the*

CEIG of GoTS has also certified the capacity of the existing Generator/Alternator as 19.8 MW only.

Reply to (II): As there is no change in rating of the Generator, it is not possible to inject the additional capacity.

Reply to (III): Yes. TSSPDCL team has inspected the plant on 31.01.2023.

Reply to (IV): The copy of report is enclosed.

Reply to (V): TSSPDCL team has inspected the plant on 31.01.2023 and it is observed that there is no change in the rating of the Generator, concluded that fuel being used by generator as MSW. Subsequently, it has decided to seek third party opinion on the type of fuel being used by BICS JNTU Hyderabad. The JNTUH Committee concluded that the fuel being used by Generator is RDF in form of fluff.”

Letter dated 03.10.2023 of TSSPDCL:

“Pursuant to the notice of the Commission in O.P.(SR) No.116 of 2022 issued in the petition seeking consent for the draft first amendment dated 10.10.2022 to NCE PPA dated 19.02.2020 for amending the capacity of integrated municipal solid management based waste to energy power plant of M/s Hyderabad MSW Energy Solutions Pvt. Ltd., located at Jawaharnagar (V), Kapra (M), Medchal District from 19.8 MW to 24 MW, it is to submit that the said amendment to the PPA for enhancement of the capacity was carried out in expectation of the addition / augmentation of the same in accordance to the in-principle sanction of State Nodal Agency for development of the Renewable Energy in the State and in accordance to the mandate of the National Tariff Policy, 2016 to mandatorily procure power from all the waste to energy (WtE) plants in the State.

Subsequently, it was reported by the team of Engineers deputed to inspect the plant in accordance to the clause 13.2 of the PPA that there is no change either through addition/augmentation in the rating of the generator & associated equipment(s) viz., turbine, boiler, etc., at the plant and without addition/augmentation of capacity of the generator/alternator, turbine & boiler, the proposed enhancement of capacity from 19.8 MW to 24 MW is not possible.

In view of the above, the Commission is prayed to allow to withdraw petition filed by TSSPDCL seeking consent to the draft first amendment dated 10.10.2022 to the PPA dated 19.02.2022 made between TSSPDCL & M/s Hyderabad MSW Energy Solutions Private Limited for enhancement of capacity of the waste to energy plant from 19.8 MW to 24 MW, as there is neither augmentation of the alternator/turbine/boiler, nor installation of separate unit at the plant.”

5. Initially, upon in-principle consent accorded by the Commission vide letter No. L-36 / 6 / Secy / JD (Law)-1 / D. No. 212, dated 03.12.2019 to draft PPA dated 23.07.2019, a fair NCE PPA No.01 / 2020 dated 19.02.2020 was entered between petitioner and HMESPL for setting up RDF based power project of capacity 19.8 MW at Jawaharnagar (V), Kapra (M), Medchal District with a proposal of 2.178 MW for auxiliary consumption and 17.622 MW for export to grid for sale to petitioner at a tariff determined by the Commission from time to time for a period of 20 years from

Commercial Operation Date (COD). The following are the definition and provisions in the PPA relevant to the present case:

Article 1.16 "Installed Capacity" means 19.8 MW that is the total rated capacity in Mega Watts of all the generators installed.

Article 10.2 No oral or written modification of this Agreement either before or after its execution shall have any force or effect unless such modification is in writing and signed by the duly authorized representatives of the company and the DISCOM, subject to the condition that any further modification of the agreement shall be done only with the prior approval of TSERC. However, the amendments to the agreement as per the respective orders of TSERC from time to time shall be carried out. All the conditions mentioned in the agreement are with the consent of TSERC.

6. Later on, the Government of Telangana vide G.O.Ms.No.42 dated 05.12.2020 had permitted HMESPL to enhance the capacity of existing 19.8 MW WtE power plant for disposal of Solid Waste to that of 48 MW as the project is an environmentally friendly activity, as recommended by the TSPCB subject to obtaining all statutory approval from concerned regulatory bodies.

7. Subsequently, TSREDCO accorded sanction to HMESPL vide proceedings No.TSREDCO / HMESPL / 2022-23 dated 14.03.2022 to establish the RDF based Waste to Energy plant with an additional capacity of 28.2 MW from the existing capacity 19.8 MW in two phases i.e., augmentation of existing capacity from 19.8 MW to 24 MW and establishment of another 24 MW and hence entered agreement (between TSREDCO and HMESPL) on 14.03.2022.

8. Having approved the request of HMESPL vide its letters dated 17.08.2022 and 12.09.2022, the petitioner entered into first draft amendment on 10.10.2022 to the PPA dated 19.02.2020 with HMESPL for enhancement of capacity of the WtE plant from 19.8 MW to 24 MW capacity (i.e., augmentation of existing capacity) subject to the consent of the Commission, and hence filed this petition seeking consent to the draft first amendment to PPA on 06.12.2022.

9. The Commission on scrutiny of the petition, had addressed a letter to the petitioner on 29.12.2022 seeking certain information as reproduced at para (4) supra.

10. In reply letter dated 27.07.2023 the petitioner stated that an inspection has been carried out of HMESPL power project on 31.01.2023 by a team of officers of the petitioner and also stated that rating of the generator has been assessed through

name plate details of the power plant as 19.8 MW and the fuel used in the power plant is as Municipal Solid Waste (MSW) and no preparation of RDF. Further stated in the said letter that on its own volition had entrusted the inspection of the same power plant to the Jawaharlal Nehru Technology University, Hyderabad (JNTU) a third party, which has constituted a Committee and the said Committee concluded that the generator is using RDF in the form of fluff. The Commission notices that the reports placed before the Commission is contrary to each other.

11. Inasmuch as the existing plant of the generator according to the petitioner is delivering higher capacity than the rated capacity of the plant, which itself is an unauthorized action, contrary to the original agreement entered between the petitioner and generator. The petitioner failed to bring forth the factual situation while filing the petition itself and only brought these facts on record after filing the petition that too upon insistence by the Commission.

12. The petitioner ought to have verified all the aspects before executing a draft amendment to the PPA and approaching the Commission for obtaining its consent. In the absence of concrete specific stand of the petitioner as to the capacity and fuel, the Commission cannot consider the pray of the petitioner for according consent to the amendment of the PPA for enhanced capacity.

13. At the time of hearing the matter, the petitioner was at pains to explain the technical and other aspects due to lapses on its part. Having failed to convince the Commission about its fair action, subsequently the petitioner conveniently to obviate any adverse order as also sustain the PPA ostensibly has sought to withdraw the petition through a letter dated 03.10.2023. There is also no request for liberty for resubmitting the same for fresh consideration after compiling the proper information. In this regard it may be appropriate to observe that the Commission having come to the conclusion in the matter and having expressed its view across the hearing, it may not be appropriate to allow the petitioner to escape the clutches of adversity at the hands of the Commission.

14. No doubt that the petitioner has option to withdraw the petition, but subject to certain conditions. It is trite that the petitioner has sought permission to withdraw the petition albeit given the factual situation arising out of the enquiry made by the

Commission. Though the circumstances in this case do exist and the petitioner has consciously realised the same and wanted to abandon the petition, the Commission is constrained to observe that the request came as afterthought and that too after a period of about 12 days have passed by, after the Commission has expressed its displeasure and sought to pass orders in the matter at the time of hearing. Hence the Commission could have ordinarily allowed the petitioner to withdraw the petition but is refraining from doing so, as it is on record to have made up its view and also distinctively made known its view at the time of hearing.

15. Further, the Commission is also confronted with a situation where the other beneficiary in the petition, the generator, though not put on notice has sought to cause appearance and defend the petition.

16. Allowing the petitioner to withdraw the petition may also lead to adverse consequences, as the said beneficiary the generator, who signed the amendment to the PPA would allege it, being party to PPA and beneficiary, had been denied opportunity to place its case as to why the amended PPA has been entered by the petitioner herein. Since the Commission is not satisfied with the submission of the petitioner and to obviate the adverse consequences of such withdrawal, it is not permitting the same.

17. In these circumstances, the Commission cannot permit the petitioner to go Scot free for its lapses and withdraw the petition. Accordingly, while refusing to consider the request made by petitioner in its letter dated 03.10.2023, the Commission is not inclined to entertain the petition and accordingly rejects the same at the admission stage.

This order is corrected and signed on this the 30th day of October, 2023.

Sd/- (BANDARU KRISHNAIAH) MEMBER	Sd/- (M. D. MANOHAR RAJU) MEMBER	Sd/- (T. SRIRANGA RAO) CHAIRMAN
---	---	--

//CERTIFIED COPY//