

The Secretary
Telangana State Electricity Regulatory Commission
11-4-660, 5th floor
Singareni Bhavan, Red Hills
Hyderabad - 500 004

January 6, 2023

Respected Sir,

Submissions on the claims of TS GENCO for revision of capital cost, tariff and true-up for the 4th control period from 2019-20 to 2023-24 for its Bhadradri Thermal Power Station (4x270 MW) in I.A.No.58 of 2022 in OP No.6 of 2021 and OP No.78 of 2022

With reference to the public notice dated 15.12.2022, objections and suggestions on the subject proposals, am submitting the following points for the consideration of the Hon'ble Commission:

1. TS GENCO has sought the revised fixed charges for the subject project to the tune of Rs.5554.60 crore for the period from 2019-20 to 2023-24 against Rs.6535.13 crore claimed to have been provisionally approved. Compared to the provisionally approved fixed charges for the first three years of a total of Rs.4640.96 crore, the revised claim has come down to Rs.3504.96 crore. The reduction for the three years is Rs.1136 crore. The implication is that GENCO could not generate and supply power from BTPS to the extent expected during that period based on which the Hon'ble Commission worked out permissible fixed charges earlier. For the year 2023-24, GENCO has revised its claim for fixed charges from the provisionally approved Rs.1894.18 crore to Rs.2049.68 crore. The implication is that BTPS is expected to generate and supply more power than what was estimated for the current financial year or that the increase is based on additional expenditure GENCO has claimed to have incurred, with or without increase in estimated availability of power from the station.
2. For the period of three years from 2019-20 to 2021-22, TS GENCO has sought true up of Rs.31.89 crore towards fixed charges against the approved Rs.20983.75 crore and actual Rs.21015.54 crore.
3. For the two years 2022-23 and 2023-24, GENCO has claimed revision of fixed charges to increase by R.337.67 crore from the approved Rs.15745.08 crore to the projected Rs.16082.75 crore.
4. As per the submissions made by GENCO in its subject petitions, there has been abnormal delay in declaring commercial operation dates of the four units of the subject station as given below:

UNIT	SCHEDULED COD	COD DECLARED ON	DELAY
1st	20.3.2017	5.6.2020	39 months
2 nd	20.5.2017	7.12.2020	44 months

3 rd	20.7.2017	26.3.2021	45 months
4 th	20.9.2017	9.1.2022	52 months

5. The power purchase agreement was signed on 17.9.2019 and amended on 22.12.2021 which is valid up to 8.1.2047. The capital cost, including interest during construction, was originally estimated to be Rs.7290.60 crore. GENCO has submitted that it would increase to Rs.10515.24 crore by 1.4.2023 from Rs.8691.43 crore provisionally approved up to 22.3.2022. In other words, the capital cost increases by 3235.24 crore or 44.37%. Whatever be the reasons, abnormal delay in executing the project and declaring CODs of the four units from 39 to 52 months has led to this abnormal escalation in capital cost, including IDC, of the station. As per the revised capital cost, cost per MW works out to Rs.9.74 crore which is abnormal and prohibitive.
6. GENCO has come up with the subject petitions, without submitting the PPA for consideration and approval by the Hon'ble Commission. In other words, it is seeking another provisional approval for the revised capital cost based on its projections and revision and true-up of fixed charges, without PPA being approved. There is no finality to even to this projected capital cost, as it is projected on capital expenditure to be incurred up to 1.4.2024 and what further escalations would take place is anybody's guess. In other words, GENCO may come up in future with a petition seeking further revision of capital costs of the station and true up of additional claims for fixed charges For the year 2023-24, it is shown in the ARR submissions of the DISCOMs that, with a PLF of 78% against normative PLF of 85%, availability from BTPS is 7378 MU and fixed cost per unit Rs.2.57 and variable charges Rs.2.36 per unit, i.e., a tariff of Rs.4.93 per unit.
7. Regulation No.1 of 2019 of the Hon'ble Commission relating to terms and conditions of generation tariff stipulates, inter alia, that "the Generating Entity shall file the application for determination of final tariff for new Generating Station within one hundred and eighty Days (180) from the COD of Generating Unit or Stage or Generating Station as a whole, as the case may be, based on the audited capital expenditure and capitalisation as on the COD" Clause 4.2.7).

It further says: "where there is no power purchase agreement or arrangement, the supply of electricity by such Generating Entity to the Distribution Licensee after April 1, 2019 shall be in accordance with a power purchase agreement approved by the Commission. Provided that the petition for approval of such power purchase agreement or arrangement shall be filed by the Distribution Licensee with the Commission within three months from the date of notification of these Regulations" (clause 4.3.2).

The Regulation stipulates that "The Commission shall, within one hundred and twenty (120) days from receipt of a complete petition, and after considering all suggestions and objections received from the public:- (a) Issue a Tariff Order

accepting the Petition with such modifications or conditions as may be stipulated in that Order” (clause 4.5.1)

Several clauses of the Regulation underline need for financial prudence. It emphasises that “variations in capitalisation on account of time or cost overruns or inefficiencies in the implementation of a capital expenditure scheme not attributable to an approved change in its scope, change in statutory levies or Force Majeure Events,” “Variation in Operation And Maintenance Expenses” and “variation in coal transit losses, among others, may be attributed by the Commission to controllable factors (clause 6.7) have to be subjected to prudence check. “Prudence check may include scrutiny of the reasonableness of the capital expenditure, financing plan including the choice and manner of funding, interest during construction, use of efficient technology, cost over-run and time over-run, and such other matters as may be considered appropriate by the Commission for determination of tariff” (clause 7.10).

Clause 7.19.1 says: “Any additional capitalization after COD needs prior approval of the Commission.”

Clause 7.22.4 emphasises that “(a) The entire cost due to time over run has to be borne by the Generating Entity in case the causes for over-run are entirely attributable to the Generating Entity. For example, imprudence in selecting the contractors/suppliers and in executing contractual agreements including terms and conditions of the contracts, delay in award of contracts, delay in providing inputs like making land available to the contractors, delay in payments to contractors/suppliers as per the terms of contract, mismanagement of finances, slackness in project management like improper coordination between the various contractors, etc.” Further it says: (b)..... “Provided that the consumers should get full benefit of the Liquidated Damages (LDs) recovered from the contractors/suppliers of the Generating Entity and the insurance proceeds, if any, to reduce the capital cost.”

8. Why TS GENECO is not submitting PPA of the subject station for approval of the Commission and why the latter is entertaining the petitions of GENCO, without considering PPA, continues to be questionable and goes against the provisions of the Commission’s applicable regulations. As usual, TS DISCOMs, which are parties to the PPA, are not filing their counters to the petitions of GENCO, questioning abnormal escalations in the claimed capital costs of the station, thereby shirking their responsibility to protect their interests, which, in turn, means interests of their consumers of power. It is not known whether the Hon’ble Commission has directed the DISCOMs to file their counters to the subject petitions. The DISCOMs, as respondents, should not be allowed to shirk their responsibility to meet regulatory requirements.

9. The reasons given by TS GENCO for delay in execution of the subject station, escalation in its capital cost, including IDC, and resultant avoidable and additional burdens on consumers, are untenable for the following reasons, among others:
- a) As per the original schedule, CODs of the four units of BTPS had to be declared between 23.3.2017 and 20.9.2017. The developments subsequent to the scheduled COD of the 4th unit cannot justify the delay in declaring scheduled CODs.
 - b) Granting of environmental clearance by the Ministry of Environment, Forest and Climate Change and mandating of new emission norms, and direction of National Green Tribunal are shown as reasons for the delay in execution of the station by TS GENCO. In view of the scheduled declaration of CODs, TS GENCO should have applied and got EC from the Ministry well in time. Without doing that, it acted in a casual manner, leading to the said direction of NGT. Application for EC was filed by GENCO on 8.4.2016 and it took several months to get EC from the Ministry on 15.3.2017. In other words, GENCO should have initiated the process well in time and pursued with the MoEF&CC to get the EC. Who is responsible for taking up the project, without getting EC from the Ministry? What was the direction given by NGT on this failure?
 - c) Rains and Covid 19 are subsequent developments and for a temporary period. They cannot justify a delay in execution of the units of the station by 39 to 52 months.
 - d) Another reason trotted out by GENCO is that boiler erection works of unit IV of the station were hampered due to diversion of oxygen cylinders for medical purposes at the behest of the GoI. That diversion is also for a limited period and that cannot be the reason for delay in declaring CODs of the first three units and of the unit IV for a period of 52 months.
 - e) When GoTS decided to establish BTPS and order was placed on BHEL for supply of required machinery, serious allegations were made. Instead of taking up this project with super critical technology, it was decided to purchase the said machinery, with sub critical technology, lying with BHEL for several years, which was originally manufactured for a private company "India Bulls," as the latter failed to make payments. The claim of the powers-that-be was that, since that machinery was readily available, BTPS can be completed early and power from the station would be available early. It was also pointed out that for using sub critical technology substantial quantum of imported coal was needed and that several problems would arise, leading to increase in costs of generation and resultant additional burdens on consumers of power. The abnormal delay in execution of BTPS belied the claim that, with the said sub-critical technology machinery purchased from BHEL, completion of the station could be advanced.
 - f) BTPS is a case of failures of commission and omission due to imprudent decisions taken and failure to take required steps in time and in an orderly

manner. As a result, for the failures of commission and omission of the GoTS and TS GENCO, consumers are being penalised, with imposition of avoidable burdens on them in the form of higher tariffs for power being purchased from BTPS, for their no fault.

10. In the name of provisional approvals, allowing the unjustifiable escalations in capital costs of BTPS during the period of impermissible delay in execution of the station repeatedly is against larger consumer interest and prudent norms. In this connection, we reiterate that some of the questionable provisions in the applicable regulation of the Commission need to be amended prudently.
11. In response to our submissions, the Hon'ble Commission pointed out, in its order dated 22.3.2022, relating to the projects of TS GENE0, including BTPS, that "The Commission issues notices to all the respondents, as directed by the Commission the petitioner published a public notice in daily newspapers inviting objections/suggestion from all interested stakeholders and public at large on TSGenco's Petitions and it is on the choice of individual stakeholder to submit objections/suggestions and it is the choice of individual stakeholder to submit objection/suggestions. The Commission cannot insist any stakeholder to submit objections/suggestions. However, TSDiscoms, as respondents, were expected not merely present but actively to participate in this process to ensure transparency. The Commission is of the view that the better participation in the public consultation process would increase effectiveness of Regulatory system" (3.3.5 page 20). No doubt, as far as individual stakeholders are concerned, it is their choice to submit objections/suggestions. That cannot be the case with respondents. Silence and non-response of the DISCOMs in the subject petitions means that they cannot act independently or that they are not allowed to act independently to protect their interests and those of their consumers of power. Secondly, it implies that they have no objection to the claims of TS GENCO in the subject petition or that they cannot express objections, if any. Thirdly, it implies that, whatever claims of TS GENCO the Hon'ble Commission permits, the DISCOMs would simply pass through them to their consumers and wash off their hands. If the Commission issues notices to all the respondents, here, the TS DISCOMs, it should see to it that they participate in the regulatory process and respond to the claims of GENCO and points raised by objectors in the subject petitions. Otherwise, issuance of notices would be of no value and purpose.
12. There was no response to our submission - "TSGenco sent replies to written submissions (dated 30.03.2021) on 29.05.2021, i.e., nearly after two months on the same day when date of public hearing was conveyed, which does not provide adequate time to the objectors to study and submit replies. Therefore, the Commission should direct the Petitioners and the Discoms to send their replies to the submissions of objectors well in time, i.e., at least one week before scheduled public hearing" (ibid 3.2.2.) - in the said order of the Hon'ble Commission and from GENCO. We hope that, at least, now, the Hon'ble Commission would direct GENCO and DISCOMs to send their replies to objectors to reach them at least one

week before the scheduled public hearing in the subject issue and that GENCO and DISCOMs would comply with the same.

13. I request the Hon'ble Commission to provide me an opportunity to make further submissions during the public hearing on the subject issue after receiving and studying the responses of TS GENCO and TS DISCOMs.

Thanking you,

Yours sincerely,

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