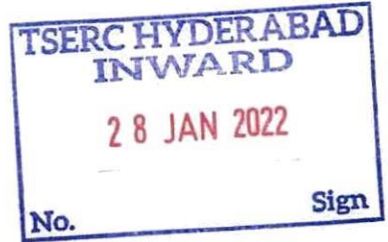


Ref: CMES/Telangana/2021-22/003

Date: 22.01.2022

To

- ✓ 1. The Secretary
Honorable Telangana State Electricity Regulatory Commission
5th Floor, Singareni Bhawan, Red Hills, Hyderabad – 500 004
2. The Chief General Manager (RAC)
TSSPDCL, Corporate office
'A' Block, First Floor, Mint Compound, Hyderabad – 500 063



Ref: Public Notice seeking objections / suggestions in below mentioned subject matter in OP No. 58 of 2021.

Sub: Objections/Suggestions in the matter of Determination of Aggregate Revenue Requirement (ARR) for Retail Supply Business for the year FY 2022-23 under Section 62 of the Electricity Act, 2003 – Reg.

Dear Sir,

The undersigned respondent is a leading project developer and an IPP Company engaged in the business of development of renewable energy projects with Solar, Wind and Wind-Solar Hybrid Technology in the country and various other parts of the world for both onsite and off-site applications.

The company which is one of the leading developer of on-site / rooftop solar power projects in the country has developed a sizable quantum of Rooftop Solar PV Power Projects in the premises of various Central / State Government, Private C&I as well as NOT for Profit entities under various government schemes as floated from MNRE / SECI or State Nodal Agencies and under provisions of the hon. commission's regulations of the State of Telangana under both OPEX and CAPEX. The company as well as their consumers will be directly impacted in the event of proposed imposition of the proposed charges on the generation and consumption of Renewable Energy

from infirm sources of power using Solar PV in the state and this finds its locus standi as being an aggrieved party from the proposed amendment to file the below mentioned objections and suggestions in the said matter.

The objection is being raised on the matter of proposed Parallel Operations / Grid Support Charges on the CPPs which the applicant perceives may get imposed on the renewable energy generating projects from Solar PV resource.

The applicant objects any such proposal, approval, and imposition of Parallel Operations / Grid Support Charges on the consumption of power from onsite or offsite renewable energy generating plants from solar and wind and wish to seek clarification and confirmation on the matter of its non-applicability on the renewable energy generation and consumption in the state of Telangana on both on-site and off-site installations.

In support of our submissions the undersigned would like to make following submissions:

1. In the matter of parallel operation charges, in the draft ARR the state utilities have taken reliance on the '*Honorable CSERC Discussion paper on PoC determination dt.01.06.2008*'. It is pertinent to mention here that: the same was proposed to be determined and applied on CPPs based on firm power sources like coal, gas, biomass, bagasse etc. and not on infirm power sources like wind and solar.
2. Here the consumer was though connected to the utilities grid but has neither availed any contract demand nor was in the ambit of regime of contract demand charges from the utility and the load was catered by the CPP. Further any surplus power was exported and billed to the state utility and in case of any startup / ramp-up power required by the CPP or power required by the consumers load during the shutdown or breakdown of the CPP was drawn from the utility paying temporary charges of power.
3. In case, even if the consumer takes the contract demand from utility, it was either

minimal or to the tune of difference between his total load / Contract Demand requirement and the Capacity of the CPP.

4. Whereas in the case of Renewable Energy Generating Station from Solar and Wind the client is always under the ambit of the Contract Demand regime to the tune of its connected load duly paying the contract demand charges and the load. This Contract Demand availed from the utility is equal or more than the total connected load / demand of the consumer. It is never the case when the consumer has the option / liberty to reduce its Contract Demand below its connected load to the tune of the CPP from such renewable energy source of wind and solar.
5. Thus, the consumer cannot draw power over and above the contract demand maintained from the utility at any given point of time and in the event the contract demand exceeds for a moment above the availed contract extra fixed and temporary charges are applicable as per the provisions of the regulations.
6. In the event of Captive Rooftop Solar PV Power Plant in the premises of the consumer the capacity of the solar power plant is governed by the capacity restriction as provided by the regulations which is upto a maximum of 80% of the contract demand availed from utility by the consumer.
7. Thus, in the case of renewable energy if we go by the formula proposed in the petition which states that:

"Persons Operating Captive Power Plants (CPPs) in parallel with the T.S. Grid have to pay 'Grid Support Charges' for FY 2022-23 on the difference between the capacity of CPP in KVA and the contracted maximum demand in kVA with licensee and all other sources of supply, at a rate equal to 50% of the prevailing demand charge for HT consumers. In case of CPPs exporting firm power to TSTRANSCO, the capacity, which is dedicated to such export, will also be additionally subtracted from the CPP capacity."

Suppose:

1. (A) Total capacity of CPP from solar resource is 800 KVA.
2. (B) The total load / Contracted maximum demand of the consumer is 1000 KVA.
3. Further the solar / wind does not give FIRM power.

Then as per the formula the Charges will be
 $\{(A) - (B)\} \times \text{demand Charges} \times 50\%$ which will go in negative.

Thus, as per our understanding the proposed grid support charges for CPPs in parallel operations from renewable energy sources from Solar / Wind cannot be applied.

It is also pertinent to mention that the Renewable Energy Generating plants installed in the state were installed as per the terms and conditions and charges as applicable at that particular point of time and any new charges to be imposed on these older installation will be violation of the law. It's an established principle of retrospective application of law the honourable APEX Court of India going against the retrospectivity also says that: The broad general principle is that a "vested right cannot be taken away by a retrospective law".

The SC has stressed on doctrine of fairness and how it would be unfair to fasten an obligation based on an amendment in law in the future. It unequivocally also provides that a legislation which impose new obligations should be treated as prospective, but the same which confers a benefit, could be construed as retrospective considering the intent of the lawmakers.

Any retrospective introduction of the superseding / amendment of the regulations thus will contradict the Doctrine of Legitimate Expectations, Principles of Promissory Estoppel in the present case.

These charges if imposed on the renewable energy generating plants from solar and wind will deter the development and growth of renewable energy in the state and will be violation of the Objectives behind the enactment of The Electricity Act, 2003.

Further imposition of such arbitrary charges on the rooftop solar (renewable energy generation) will create hurdle in the achievement of the sustainability goals of the consumers in the state which are committed to contribute towards the fight for the global warming. Further imposition of such regulatory charges to discourage consumption of renewable energy from own resources and forcing them to buy RE from the state utilities shall be avoided.

The apex court in their landmark judgement stated that: If de-licensing of the generation is the prime object of the Act, the courts while interpreting the provisions of the statute must guard itself from doing so in such a manner which would defeat

the purpose thereof. It must bear in mind that licensing provisions are not brought back through the side door of Regulations.

Further it is submitted that:

1. Honorable Rajasthan DISCOMS in their petition to the honorable State commission has categorically stated that the said charges shall not be applicable on renewable energy sources. Some other states like Maharashtra has also not imposed the same on RE.
2. Almost all of the states in the country have not imposed any such charge on the RE generation and consumption.

Solar Rooftop Target Vs. Achievement:

It is important to refer the following data on the total achievement versus the target of rooftop in the state of Telangana (as per the records from MNRE).

Target of Rooftop Solar till 2021-22	2000	MW
Achievement of Rooftop Solar till 31st Dec 2021	205.69	MW
Percentage Achievement	10.28%	

Benefits derived by the DISCOMs from the Rooftop Solar PV Power Projects:

Solar Renewable Power Purchase Obligation (SRPPO) and CDM Benefits – The regulations of the honorable commissions allows the state utilities to account the generation from these rooftop solar PV Power plant installed in the state of Telangana for their complimentary Solar RPO for which other wise the state utilities would have to incur financial burden. In the similar manner the regulations also permit the sharing of the complimentary CDM benefits for the solar power generated from such plants in the state of Telangana thus providing direct financial saving to the state utilities from such renewable energy generating plants in the premises of the consumer.

SUBMISSION

1. Thus, to remove ambiguity and any future difficulty being faced by the consumer / CPP from renewable energy sources from infirm power sources of solar and wind the honorable commission is requested to clarify and confirm that no such parallel operation charges / grid Support charges will be applicable from power consumed from infirm Renewable Energy Sources from Wind and Solar.

2. In case the honorable commission so decides to impose such charges on the CPPs from infirm renewable energy sources of solar / wind / hybrid the projects and generation from the plants installed on or before the date of notification / imposition of these charges shall be exempted from these charges for the life of these projects.

Thanks and Best Regards

For Cleanmax Enviro Energy Solutions Pvt. Ltd.

ASHU
GUPTA

Digitally signed
by ASHU GUPTA
Date: 2022.01.28
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