



TELANGANA ELECTRICITY REGULATORY COMMISSION

'Vidyut Niyamtran Bhavan', G.T.S. Colony, Kalyan Nagar, Hyderabad 500 045

O. P. No. 25 of 2024

Dated 01.03.2025

Present

Dr. Justice Devaraju Nagarjun, Chairman

Between:

TGSPDCL

...Petitioner

AND

M/s. Dundigal Waste 2 Energy Private Limited

...Respondent.

This petition came up for hearing on 09.12.2024, 06.01.2025 and 24.02.2025. Shri Mohammad Bande Ali, law attaché appeared on behalf of the petitioner on 09.12.2024, 06.01.2025 and 24.02.2025. Shri Matrugupta Mishra, counsel for the respondent appeared on behalf of the respondent 09.12.2024, 06.01.2025 and 24.02.2025. Shri V. Prabhakar, Chief Engineer (IPC), TGSPDCL appeared on 24.02.2025. The petition having stood over for consideration to this day, the Commission passed the following:

ORDER

This is one of the classic cases of inordinate delay in approval of Power Purchase Agreement (herein after referred as PPA), as the DISCOM has raised an issue which is not directly connected with the approval of the Power Purchase Agreement.

1. The Chief Engineer, TGSPDCL has filed petition before this Commission by way of letter No. CGM (IPC) /DE (IPC)/F.DW2EPL/D.No.2160/23-24, 23.03.2024 seeking to give consent of the draft PPA dated 14.02.2024 entered into by the TGSPDCL and M/s. Dundigal Waste 2 Energy Private Limited for procurement of power from its 14.5 MW Waste 2 Energy Plant established at survey No. 684/1, Dundigal(v), Gandimaisamma(M), Medchal Malkajgiri(D).
2. In the petition, TGSPDCL has submitted that M/s. Dundigal Waste 2 Energy Private Limited agreed to comply with the provisions of regulations / guidelines / orders / proceedings of the Central Electricity Authority (CEA) / Central Electricity Regulatory Commission (CERC) / Telangana Electricity Regulatory Commission (TGERC) and also the provisions of the Electricity Act. It is further submitted that the PPA entered into with M/s. Dundigal Waste 2 Energy Private Limited by following all the regulations from time to time.
3. Having received the application of TGSPDCL for approval of PPA entered into M/s. Dundigal Waste 2 Energy Private Limited Plant dated 14.02.2024, the Commission has scrutinized the draft PPA dated 14.02.2024 and addressed a letter to TGSPDCL to inform the Commission as to whether the COD of Waste to Energy Plant is prior to 31.03.2024 and further directed to explain the reasons for proposing to procure the power on determination of project specific tariff instead of generic tariff which was in force by then. The TGSPDCL has replied vide its letter dated 28.05.2024 stating that as per National Tariff Policy 2016 and TGERC Regulation No. 7 of 2022 the TGSPDCL is under the obligation to purchase the power generated from Waste to Energy plants. It is further submitted that though the Commission has decided generic tariff in respect of power generated from Waste to Energy Plants which have achieved commercial operations during the periods from FY 2020-21 to FY 2023-24 by order dated 18.04.2020 in O. P. No. 14 of 2020, the generator has preferred an appeal before the APTEL questioning the part of the order in respect of tipping fee, which is still pending. It is therefore submitted by the TGSPDCL that on account of pendency of the

appeal with regard to tipping fee and that the generator has been generating the power independently without any concession from any agency, the project specific tariff was proposed by TGSPDCL and generator in PPA.

4. On considering the reply submitted by TGSPDCL and on scrutinising the petition carefully this Commission has admitted the petition and posted for hearing of both the parties.

5. Shri Mohammad Bande Ali, law attaché representing the TGSPDCL and Shri Matrugupta Mishra, Advocate representing the M/s. Dundigal Waste 2 Energy Private Limited were heard and perused the record.

6. The point that falls for consideration is

whether the PPA entered into between the TGSPDCL and M/s. Dundigal Waste 2 Energy Private Limited plant on 14.02.2024 can be given consent.

7. Section 86 (1) (b) of Electricity Act, 2003 mandates this Commission to regulate Electricity Purchase and procurement process of distribution licensees including the prices at which electricity shall be procured from the generating companies or licensee or from other source through agreement for purchase of power for distribution and supply with in the state.

8. Section 62 of the Electricity Act 2003 describes the power of this Commission to determine the tariff in accordance with the provisions of this act. Similarly, section 21.4 of the Telangana Electricity Reform Act, 1998 also mandates that a licensee shall enter into arrangements for purchase of electricity from generating companies by way of an agreement.

9. The above mentioned provisions are reproduced here under for reference.

Section 21 (4) of the Telangana Electricity Reform Act, 1998 (Act 30 of 1998) r/w the Telangana Gazette No.130 dated 1st June, 2016 and G.O.Ms.No.45, Law (F), 1st June, 2016 [Restrictions on licensees and Generating Companies

“A holder of a supply or transmission licence may, unless expressly prohibited by the terms of its licence, enter into arrangements for the purchase of electricity from, -

- (a) The holder of a supply licence which permits the holder of such licence to supply energy to other licensees for distribution by them; and
- (b) Any person or Generating Company with the consent of the Commission”

Section 86 (1) (b) of the Electricity Act, 2003

Functions of State Commission

- (a) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State.

Section 62 (1) (a) of the Electricity Act, 2003

Determination of Tariff (1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for- (a) supply of electricity by a generating company to a distribution licensee.

10. On considering the above provisions of the Electricity Act, Tariff Policy and the Regulation No. 7 of 2022 of this Commission in respect of approval of the PPAs, It is clear that the very object of requirement of giving consent to PPA by the Commission under relevant provisions mentioned above is to safeguard the interest of the public by ascertaining from the DISCOMs as to whether there is a need to procure the power from the generator as proposed in the PPA and also to consider whether the tariff proposed in the PPA is economic and reasonable and in line with market conditions considering the factors like cost of generation and transmission charges.

11. During the process of enquiry the Commission has found a report of the TGSPDCL stating that upon inspection of the plant, It was found that M/s. Hyderabad Integrated MSW is not using RDF as fuel for generation of power.

It is submitted by Shri Mohammad Bande Ali, law attaché that the same fuel is being used for generation of power in waste to energy plant at Dundigal.

12. It is also part of the record that, the Commission has directed the TGSPDCL for a detailed presentation in respect of fuel being used for generation of electricity. After considering the presentation made by the licensee this Commission has felt it necessary to call for the views of the management in respect of fuel being used in the said project, but, as seen from the records there is no report of the management views in respect of fuel. However on 24.02.2025, Shri V. Prabhakar, Chief Engineer (IPC), TGSPDCL has submitted his affidavit on behalf of TGSPDCL expressing that the fuel being used in the waste to energy project at Dundigal is not RDF.
13. Learned counsel Shri Matrugupta Mishra, representing the respondent has submitted that fuel being used in the waste to energy project at Dundigal is only RDF and not MSW as claimed by the TGSPDCL. On the other hand Shri Mohammad Bande Ali, Law Attaché representing the TGSPDCL has reiterated that fuel being used is not RDF.
14. The issue as to which fuel is being used for generating the electricity has attained significance, as this Commission as per the orders dated 18.04.2020 for the period FY 2020-21 to FY 2023-24 has decided Rs. 7.84/- per kWh as the generic tariff, if RDF is used as fuel to generate power. Thereby, if the fuel being used is not RDF the generator is not entitled for Rs. 7.84/- per kWh.
15. Infact the issue of use of fuel for generating power is actually debated out of proportion in this petition which is filed for giving consent for PPA. The debate as to whether generator uses the RDF as fuel to generate power will not arise in case if the generator is not seeking for generic tariff. In so far as this PPA is concerned, both the generator and TGSPDCL have been seeking this Commission to give the consent of this PPA and determine project specific tariff under section 62 of the Electricity Act. Once both the parties to the PPA intends this Commission to decide the tariff under section 62 of Electricity Act,

the issue as to whether RDF is being used as fuel will not come for consideration.

16. However, the other important aspect to be considered is that admittedly Waste to Energy Project at Dundigal has achieved COD on 01.03.2024, by which time the generic tariff which was decided by this Commission on 18.04.2020 for the period FY 2020-21 to FY 2023-24 was in force. Therefore when the Commission takes up the determination of tariff under section 62 of the Electricity Act one of the aspects to be determined by this Commission is whether the generic tariff which was prevailing as on the date of COD of the Waste to Energy Plant, Dundigal applies to the generator or not. Therefore for the time being the issue as to whether the generator has been using RDF or not for generating the electricity need not be decided at this point of time and same will be considered while determining the tariff under section 62 of the Electricity Act.

17. Except the nature of fuel which is being used for generating the power, there is no dispute between the generator and TGSPDCL in respect of other clauses of the PPA. Infact the learned law attaché as well as the senior officer of the TGSPDCL have submitted in the open court to the Commission that TGSPDCL does not have any objection if the PPA is approved in the present form. It is also submitted that after approval of PPA if DISCOM entertains any questions with regard to the fuel being used for production of power, the DISCOM will invoke clause 13.2 of the PPA.

18. This Commission has gone through all the clauses of PPA dated 14.02.2024 carefully to ensure whether there is a fairness and transparency in drawing up the clauses of the PPA by generator and DISCOM. This Commission has also considered the clauses in respect of dispute resolution and further as to whether this PPA is beneficial to the consumers considering the flow of supply and demand dynamics of the Electricity and its potential impact on the tariff structure including long term energy security. This Commission also records that there is a clause in the PPA under 13.2 that in case if the DISCOM

entertains any doubt in respect of fuel being used, the DISCOM will have liberty to invoke the same to terminate the agreement.

19. In view of the above, taking into consideration of the provisions of the Electricity Act, 2003, Tariff Policy and Regulations of this Commission, the Power Purchase Agreement entered into between TGSPDCL and M/s. Dundigal Waste 2 Energy Private Limited dated 14.02.2024 in respect of 14.5 MW Waste 2 Energy plant situated at survey No. 684/1, Dundigal(v), Gandimaisamma(M), Medchal Malkajgiri(D) is hereby consented.

20. Both parties are directed to place before the Commission a fresh PPA duly signed by both parties after effecting corrections mentioned in the annexure appended to this order.

This order is corrected and signed on the 1st day of March, 2025.

Sd/-
Dr. Justice Devaraju Nagarjun
Chairman

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Annexure

13.2: Inspection of the Project regularly

The DISCOM which has agreed to purchase the power shall inspect the power project regarding the use of fuel with the help of a team of Engineers and other experts at least once in three months or at any time if DISCOM suspects that the generator has not been using the RDF as agreed for generation of power.

The copy of the report prepared by such team should be submitted to the Commission.

If the company is using any other fuel other than the RDF for generation of power for running the power project except for starting the operations, the DISCOM is at liberty to initiate steps for termination of the agreement with the developer in accordance with Article 14 of this agreement or by adopting any other procedure known to law.