BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION * HYDERABAD

1.1 A Public Notice was published on 22nd October, 2001 in The Hindu by the APTRANSCO calling for comments/objections on the PPA (original, modified and amended versions) entered into with M/s BSES Andhra Power Ltd, which need to be filed before the APERC on or before 20th November, 2001.

1.2 The PPA related to the BSES Andhra Power Ltd and the supporting documents which were made public as a part of the public scrutiny and public hearing did not include some very important documents like Techno Economic Clearance from the CEA and Indicative Tariff calculations from APTRANSCO. Without these it is impossible to comprehend and understand the implications of the PPA. Besides these, unlike other PPAs which were made public until now, the Schedule A: Technical Limits, and Schedule F: Test Procedures of the said PPA mention that these are according to the EPC contract. But unfortunately the said EPC contract is not made available along with the supporting documents. Without examining these documents it will not be possible to evaluate the concerned PPA. We also requested the Honourable Commission and also the Licensee, i.e., APTRANSCO to make these documents also available to the public at the earliest, well before 20th November, 2001, to make the public intervention fruitful and meaningful (Annex – I, and Annex – II). But until now the same is not made public. Hence, we request the Commission to make these vital documents public and allow some more time to study these documents and for filing comments/objections.

Unravel the Transactions

2.1 According to the PPA documents made available initially M/s SEW constructions Ltd submitted two bids to design, finance, construct, complete, own and operate two liquid fuel based power stations of 100MW capacity each at Vemagiri and Samalkot in East Godavary district and these bids were accepted by the GOAP. Subsequently M/s SEW Constructions had incorporated two new companies M/s Snehalata Power Ltd and M/s Snehalata Generation Ltd having the office at the same premises to execute the two separate projects. PPAs were signed with these two companies on 31st March, 1997. After this these two new Companies were said to have mutually agreed and submitted a proposal to empower the Snehalata Power Ltd to execute a combined single 200 MW capacity project at IDA Peddapuram near Samalkot in lieu of the two projects, and the Company obtained the Board's approval on 25th July, 1997. Later M/s Snehalata Power Ltd had resolved to change their name as M/s BSES Andhra Power Ltd pursuant to an agreement dated 24th December, 1997 with M/s BSES Ltd, Mumbai to become co-promoters of M/s Snehalata Power Ltd and the GOAP through a letter dated 1st March, 1999 accorded approval for change of name. There was also change in the address of the Company following this. After this with the intervention of the GOAP the company obtained the approval for an allotment of 1.00 MMscd of gas. The capacity of the plant also increased to 220 MW. This long history of the project raises many questions.

2.2 Whether the evolution of SEW into BSES Andhra Power Ltd has any financial implications for the Company as it exists today. For no reason SEW might have incorporated two new companies. Whether terms of bidding are altered while signing the PPAs? And for no reason these two companies might have been merged into one and as the documents show the proposal for merger is from the Companies and not from the Board and the Board merely consented to the merger. Why initially two bids were proposed, and later why they were allowed to be combined? Then for what considerations BSES Ltd has agreed to be a co-promoter. Whether it is bringing equity or debt or both and on what terms? What are its financial implications for the running of the plant? What are the implications for changing the fuel?

2.3 Whether the two new companies obtained TEC from CEA for setting up two 100 MW units? And also whether the merged company obtained new TEC from CEA for setting up 200 MW unit? Whether it has obtained CEA's approval for increasing the capacity to 220 MW subsequent to obtaining gas supply approval? If not the CEA, who wetted and appraised the project? If so, what is the outcome of this exercise?

2.4 The initial PPAs signed with the two companies were entered into on 31st March, 1997. The modified PPA starts thus, " This Modified Power Purchase Agreement (this "Agreement") entered into on 31st day of March, 1997 deemed to be effective from 31.3.1997…" But as the same Preamble shows the Company obtained approval from the Board on 25.7.1997 for executing a combined plant. Then the said modified PPA on page 5 mentions that the capital cost of the project is Rs. 7,000 millions as published in the AP Gazette No.149 dt.12-9-97. Then, when was the modified PPA signed and in what form?

2.5 Who, how, why have taken the decisions regarding the location of the units? Why they are putting the two units at one place as opposed to the initial proposal of two places?

Capital Costs

3.1 According to original PPAs capital cost of each unit was Rs. 351.86 crore. According to the modified PPA capital cost of the station was Rs. 700 crore. The amendments do not mention the capital costs. The two plants which were proposed under the initial PPAs were proposed to be combined in to a single plant. This change should have led to substantial reduction in capital cost as the number of plants have decreased and also the overhead costs of building two separate plants would be higher than one plant. But the documents show that there is no substantial reduction in capital cost reflecting change in the number of plants and their capacity.

3.2 According to original PPAs there would be 4 generating units based on naphtha as fuel and 2 steam generating units having a total nominal installed capacity of 200 MW. According to modified PPA there would be one generating unit based naphtha and one steam generating unit with nominal installed capacity of 200 MW. According to the amendments proposed there would be one generating unit based on natural gas as primary fuel and one steam generating unit having a nominal installed capacity of 220 MW. What are its implications for the capital cost?

3.3 The documents made available do not show how the capital for this project is mobilised/structured. What part of it comes in the form of equity and what part comes in the form of debt? What is the return guaranteed on the equity and on what terms debt is being contracted? What is the loan amount, rate of interest, and repayment schedule? What is the debt: equity ratio? What is the foreign exchange component and on what terms foreign investment is being obtained? Whether there is any foreign equity participation? If yes, on what terms? Without proper response to these questions and related issues it would not be possible to evaluate the PPA? As this PPA does not contain this vital information we request the Commission not to give consent to this PPA.

Fixed Charges

4.1 According to original PPAs Foreign Debt Service Charge (FDSC) is US$ 0.0105 per unit. This was not changed in the modified PPA. In the proposed amendment it is US$ 0.006. According to original PPAs OFC is Rs 0.84 per unit. This was changed in the modified PPA to Rs. 0.794. In the proposed amendment it is Rs 0.699. The PPA documents do not show how these rates on per unit basis are arrived at. As this PPA is lacking in crucial information to evaluate it, the same should not be given consent.

4.2 The presence of FDSC shows that the foreign component of the capital is quite substantial. Given the dangers of foreign exchange volatility the foreign component of the capital need to be kept to the minimum.

Variable Costs

5.1 Along with other important documents as mentioned above the PPA with BSES Andhra Power Ltd is not accompanied with the fuel purchase agreement. Given the experience with the Enron's DPC fuel supply agreement for supply of gas is very crucial for the cost of power going to be generated. As the addition of this plant to the grid is taking place at a time when there is already surplus power any take or pay provisions will spell doom to the generating company as well as the to the consumers. We request the Commission to see that the fuel supply agreement is made open to the public along with other documents and also request the Commission not to give consent to the provisions like 'take or pay' which will make power a costly commodity beyond the reach of common people.

5.2 The PPA does not provide any information/data on variable cost. Along with fixed cost variable cost decides the cost of power being generated. As this PPA lacks this crucial information the same should not be accorded consent.

5.3 Though the amendments to the PPA (Sl.No.2) mentions about the alternative fuels it does not mention the arrangements made to obtain them and its financial implications to the Company, the Licensee and the consumers. To this extent the PPA is incomplete and the same should not be given consent.

Incentive

6.1 According to the proposed amendments to the PPA incentive will be paid to the generator if the PLF in a year is more than 85 percent, at the rate of 2 percent of the other fixed charges for every one percent increase in PLF (for a PLF of 90 percent the incentive will be 10 percent of the other fixed charges).

6.2 When the generator is already assured of 16 percent return and the state government has given the guarantee there is no need to provide for further incentives burdening the Licensee and the consumers.

6.3 Besides this, there is no uniformity in incentives incorporated in the PPAs. For example, in the case of GVK's Jeegurupadu unit the incentive is 0.7 percent of ROE. In the case of BPL's Ramagundam unit it is 0.525 percent. In the case of RTPP's second stage it is

Rs. 0.215 per kWh. Even if incentives are allowed it is to be seen that it is uniform for all generators including APGENCO.

Station Heat Rate

7.1 Both the initial PPAs mention station heat rate as 1900Kcal per kWh. The Preamble to the amended PPA also mentions station heat rate as 1900 Kcal per kWh. When compared to the initial PPAs amended PPA is based on natural gas and also the capacity of the plant is increased. Whether this change will have any impact on technical limits like station heat rate?

Nature of the Plant

8.1 It is not clear from the PPA whether the BSES plant is a base load plant or a peak load plant. As the plant is designed to run on gas it should be easier to start and switch off generation, which is not the case with coal based thermal plants. Hence we request the Commission to treat it as a peak load plant.

8.2 To the extent that take or pay provisions are applicable in the case of a base load plant shall not be allowed in this case.

Agreement Period

9.1 Unlike other PPAs which hold good for 30 years this PPA entered into with BSES Andhra Power Ltd will hold good for 15 years only. This has serious financial implications. In this context it is apt to quote CAG's comments on the PPA entered into with GVK Industries for setting up Jeegurupadu gas based power plant, "Though the life of the gas turbines was shown as 15 years in Electricity (Supply) Act, their fair estimated life is around 20 years and of the auxiliaries and steam turbine is around 30 years. By carrying out renovation and modernisation of gas turbines, the capacity can be restored to normative level at a lower cost…..The terminal valuation should mean an amount equal to 50 percent of the depreciated/replacement cost of land, buildings and fixtures and net replacement cost of plant, machinery and equipment assuming the operating life of the project at 30 years from the COD of combined cycle plant. Thus the Board would have to pay a return of 16 percent on 50 percent of depreciated/replacement cost of plant treated as equity besides depreciation at 7.84 percent on such capitalised value of replacement cost. This additional financial burden could have been avoided had the agreement period been retained at 30 years as originally agreed upon" (p.105, CAG Report – 1998 on AP).

9.2 We request the Commission to examine the issue of period of agreement while evaluating the PPA.

Escrow

10.1 The PPA calls for opening an Escrow account. As a provision is already made for opening a Letter or Credit and also the state government of AP has guaranteed assured return on equity and the monthly payments there is no need to provide another facility which will be redundant on one hand and on the other a needless burden on the Licensee and the consumers. Hence we request the Commission not to allow Escrow facility.

Prayer to the APERC:

I. Not to give consent to PPA entered in to with BSES Andhra Power Ltd as vital information regarding the viability of the project is concealed and the likely outcome of the project will be harmfull to the interests of the consumers.

II. To direct the Licensee and the Company to make public all the contracts entered into with BSES Andhra Power Ltd including EPC contract and O&M contract well in advance to the public hearings.

III. To allow the petitioner to be in person before APERC takes any decision on this petition

Date: 20-11-2001 M.Thimma Reddy

PEOPLE'S MONITORING GROUP ON ELECTRICITY REGULATION

C/o Centre for Environment Concerns, 3-4-142/6, Barkatpura, Hyderabad – 500 027

Telefax: 756 4959; Tel: 756 3017; e-mail: cenvicon@hd2.vsnl.net.in

Date: 2 – 11 - 2001

To
The Chairman,
Andhra Pradesh Electricity Regulatory Commission,
8-2-283/B/1, Road No.3, Banjara Hills,
Hyderabad – 34.

Dear Sir,

Sub:- Request to make Techno Economic Clearance and Indicative Tariff and EPC contract related to BSES Andhra Power Ltd available to the public.

Ref:- Public Notice published in The Hindu on 22nd October, 2001 by APTRANSCO with regard to Application for Consent to PPA with M/s BSES Andhra Power Ltd.

This is to bring to your notice that the PPA related to the BSES Andhra Power Ltd and the supporting documents which were made public as a part of the public scrutiny and public hearing did not include some very important documents like Techno Economic Clearance from the CEA and Indicative Tariff calculations.

Besides these, unlike other PPAs which were made public until now, the Schedule A: Technical Limits and Schedule F: Test Procedures of the said PPA mention that these are according to the EPC contract. But unfortunately the said EPC contract is not made available along with the supporting documents.

Without examining these documents it will not be possible to evaluate the concerned PPA.

Hence, we request the Honourable Commission to direct the Licensee, i.e., APTRANSCO to make these documents also available to the public. We earnestly request the Commission to see that this is done at the earliest, well before 20th November, 2001, to make the public intervention fruitful and meaningful.

Thanking you.

Yours Sincerely,

M.Thimma Reddy,
Convenor.

PEOPLE'S MONITORING GROUP ON ELECTRICITY REGULATION
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Telefax: 756 4959; Tel: 756 3017; e-mail: cenvicon@hd2.vsnl.net.in

Date: 2 – 11 - 2001

To,
The Chairman and Managing Director,
APTRANSCO,
Vidyut Soudha,
Hyderabad – 500 082.

Dear Sir,

Sub:- Request to make Techno Economic Clearance and Indicative Tariff and EPC contract related to BSES Andhra Power Ltd available to the public.

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Without examining these documents it will not be possible to evaluate the concerned PPA.

Hence, we request the Chairman and Managing Director of APTRANSCO to make these documents also available to the public at the earliest, well before 20th November, 2001, to make the public intervention fruitful and meaningful.

Thanking you.

Yours Sincerely,

M.Thimma Reddy,
Convenor.