

BEFORE THE ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF

Petition requesting the Andhra Pradesh Electricity Regulatory Commission

1. To review the Honourable Commission's Order on Non Conventional Energy Tariffs.
2. To review the capital costs, rates of return, fuel prices, PLF and incentives allowed by the Commission for the Non Conventional Energy units.
3. To allow the petitioner to be heard in person before the Commission takes any decision on this petition.

IN THE MATTER OF

Petitioner: People's Monitoring Group on Electricity Regulation, C/o Centre for Environment Concerns, 3-4-142/6, Barkatpura, Hyderabad – 27

Represented by M.Thimma Reddy, Convenor, People's Monitoring Group on Electricity Regulation, C/o Centre for Environment Concerns, 3-4-142/6, Barkatpura, Hyderabad – 27

And

Respondents: Chairman and Managing Director, Transmission Corporation of Andhra Pradesh Ltd, Vidyut Soudha, Hyderabad

I am submitting the following points for the kind consideration of the Honourable Commission for reviewing its order related to Non Conventional Energy Tariffs in the interests of the consumers of electricity.

1.1 Section 49 of the Conduct of Business Regulations framed by the Honourable Commission provides for a review petition. According to the said Section, "The Commission may on its own motion, or on the application of any of the persons or parties concerned, within 90 days of the making of any decision, direction or order, review such decision, directions or orders and pass such appropriate orders as the Commission thinks fit". Under the provision of this Section we appeal to the Commission to review its order R.P.No.84/2003 in OP No.1075/2000 dated 20.03.2004 related to the Non-Conventional Energy (NCE) Tariff Order.

1.2 We have learnt that APTRANSCO and some other parties to the NCE Tariff issue filed review petitions before the Honourable Commission requesting to review the said Order. We also have learnt that the Bio-Mass energy developers have approached the Honourable High Court of Andhra Pradesh to do justice to them and the High Court in turn had asked the Commission to dispose the matter within 8 weeks. We request the Commission to accept our review petition also and examine the issues in totality.

2.1 We are surprised to find that the Honourable Commission had issued the said Order on 20th March 2004 while public hearing was held just a day earlier i.e., on 19th March 2004. Given this we fear that the Commission might not have taken in to account the full import of the submissions made by the public. Again the public was not involved in all stages of the decision making. Though through the Tariff Order for the year 2003-04 the Commission had expressed that the public hearing would be held on NCE tariff, this was held just a few days before the Tariff Order for the year 2004-05, and also the NCE Tariff order was issued the very next day of the public hearings raising misgivings that the Commission had already arrived at its decision and in order fulfill its promise given in the past order it just went through the motions of holding a public hearing. Given the manner of its holding it may not be wrong to say that it was a mock public hearing. Though other parties to this issue like APTRANSCO and NCE developers were heard on 22nd and 23rd December 2003 and also on other occasions the consumers were never made part of it though the Commission in its previous Tariff Order committed itself holding a public hearing on NCE tariff. The one held on 19th March 2004 appears to be an after thought. A perusal of the Order shows that the contentions of the public hardly find a place in it. In this background we urge the Commission to review the Order passed by the Commission on 20th March 2004 regarding the NCE Tariffs.

2.2 We feel that the review is necessary as the said order will be in operation for five years, unlike the tariff order which is in operation for one year only. Given the length of the period over which this order is going to be in force it is necessary to see that the said order will help the sector to work in efficient and competitive manner. We feel the contents of the Commission's order are adverse to the interests of the consumers as they will be loaded with very high tariffs and it is not justified to continue it for five long years. It is necessary to take a relook at it to reduce burden on the consumers.

CAPITAL COSTS:

3.1 In our earlier petition we appealed to the Commission not take normative capital costs as it will lead to increased capital cost burden on the consumers. Once a higher capital cost is taken as a norm all other cost components also increase proportionately as they are taken as a percentage of this capital cost of the plant. Hence we requested the Commission not to take normative capital costs and take in to account actual capital costs of these plants after due and comprehensive scrutiny of their records. As this scrutiny is a one time work it should not be a burden on either the APTRANSCO or the Commission. Consequent to this separate power purchase agreements should have been made with individual units on the basis of separate plant capital cost and variable cost.

3.2 But contrary to this the Commission in its Order adopted the normative capital costs, and these capital costs are on the higher side burdening the consumers and unduly benefiting the developers. Some of these are higher than the ones originally proposed by NEDCAP, and also APTRANSCO which they claimed to be based on developers project reports. It is needless to mention that the figures in these project reports are based on questionable documentation like fictitious records. For example while NEDCAP proposed Rs. 2.50 crore per MW for bagasse plants the Commission adopted Rs. 3.25 crore per MW. Similar is the case with other NCE units. We fail to comprehend how the

Commission has arrived at this decision. The normalized figures decided by the Commission will only help to benefit developers unduly at the cost of power consumers.

3.3 It is also to be recognized that already the developers have recovered a substantial amounts as they were paid higher per unit price of power at Rs. 3.48 irrespective of their capital costs. This should have been taken into account while calculating the amount to be paid to the developers – a kind of claw back provision should have been included. For example Active Power Corporation a mini-Hydel unit on Budameru with 1.4 MW capacity was paid Rs. 12.29 crore for supplying 36.1 MU power during 2000-01 to December 2003. With a capital cost of about Rs. 4 crore this plant received four times its capital cost. This was made possible because all the other capital costs are made a proportion to its capital cost and it is to be recognized that its variable cost is insignificant. This underlines the need to look back at the payments already made on the basis of inflated capital costs, and adjust payments to be made to these units accordingly.

3.4 Some NCE units have obtained capital and other subsidies and help from the governments. This should be taken in to account while computing the capital costs of these plants. If normative capital costs are applied to these plants the promoters will be getting double benefits at the cost of the consumers. Hence we request the Commission to reconsider the capital costs allowed in the said Order.

3.5 The Commission in its order stated that if any developer is aggrieved by any specific issue, he can approach APTRANSCO individually with sufficient data on his cost of generation. While such explicit direction itself is questionable, here we would like to state that this would be applicable to the units who claim that their capital costs are higher than the ones allowed by the Commission. Then what about the units whose capital costs are lower? Would these units voluntarily approach APTRANSCO or the Commission to reduce their capital costs? This discrimination though will not affect the developers will surely cost the consumers a lot. On this basis we request the Commission to set aside normative capital costs, and adopt real and actual capital costs after thorough scrutiny.

FUEL COSTS:

4.1 The Commission through this Order allowed higher fuel/variable costs. This is particularly the case with the Bio-Mass projects. The prevailing high fuel costs are because the plants were set up irrespective of the fuel availability. For example in Krishna district while availability of fuel was estimated to be sufficient for 12.25 MW capacity (NEDCAP advertisement dated 3rd September 1998 published in The Hindu, Hyderabad edition) plants with a total capacity of 24 MW were set up. This over capacity led to skyrocketing fuel prices. But the consumers are being asked to bear the burden of the misdeeds and mistakes of the developers. It is very unjust and we request the Commission to reexamine the fuel prices.

RATE OF RETURN:

5.1 The Commission allowed 16% return on equity to be recovered by the developers. In the background of the present fiscal and monetary policies this rate appears to be very

high. In this context we would like to draw the attention of the Commission to one of its recent orders (PPA between TRANSCO and Krishna Godavari Power Utilities Ltd dated 5-2-2004) where the return on equity is pegged at 12.5%. As the Commission has already recognized lower rate of return on equity it is illogical to award higher rate of return. If the higher rate of return is taken along with the higher capital costs the burden on the consumer will be very high. While there is no doubt about encouragement to be given to the NCE units to place all the burden on the consumers is not correct.

PLANT LOAD FACTOR AND INCENTIVES:

6.1 We feel that the Commission has adopted very low PLF and the consequent incentives allowed will be additional burden on the consumers. Even when the examples of the developers mentioned higher PLFs the Commission has adopted very low PLFs. The Commission has adopted PLF of 80% for Bio-mass plants while experience showed that they have achieved more than this. Similarly PLF of 55% is adopted for bagasse plants while these plants achieved more than 80% PLF and PLF of 35% is adopted for mini hydel plants while some of them clocked nearly 100% PLF. If the present low PLFs are maintained it will lead to super profits to developers and high tariffs for the consumers. We request the Commission to reexamine the PLFs and reduce burden on the consumers.

We appeal to the Commission to review the said Order and reduce the burden on the consumers.

M.Thimma Reddy
Convenor.

