BEFORE THE HON'BLE A.P. ELECTRICITY REGULATORY COMMISSION
AT IT'S OFFICE AT V FLOOR, SINGARENI BHAVAN, RED HILLS, HYDERABAD

File No. …………….of 2019
O.P. No. 66 of 2019

IN THE MATTER OF:

Revision/amendment of tariff for wind power developers who have entered PPAs pursuant to APERC tariff order dated 15.11.2012 in O.P.No.13 of 2012 and to restrict the PPA period to 5 to 10 years from the date of COD.

1. Southern Power Distribution Company of Andhra Pradesh Limited,
   Rep. by its Chairman & Managing Director,
   Beside SrinivasaKalyanaMandapam, Tiruchanoor Road,
   Tirupathi – 517501.

2. Eastern Power Distribution Company of Andhra Pradesh Limited,
   Rep. by its Chairman & Managing Director,
   P & T Colony, Seetammadhara, Vishakhapatnam – 530020.

…….Petitioners

And

1. M/s.Sri KPR Infra & Projects Ltd
   5th Floor, KPR House,
   S.P.Road, Near Anand Theatre,
   Secunderabad - 500003.

2. M/s.MytrahVayu (Pennar) Pvt Ltd
   8001, Q-City, S.No.109,
   Nanakramguda, Gachibowli,
   Hyderabad, -500 032

3. M/s.Khandke Wind Energy Private Ltd
   IL & FS Financial Centre,
   Plot.No.C-22, G-Block,
   Bandra-Kurla Complex,
   Bandra (East), Mumbai,

4. M/s.IOCL
   Indian Oil Bhavan 1,
   Sri Aurobindo Marg,
   New Delhi – 110016

5. M/s Neminath Trading Company
   (formerly M/s.RV Consulting services Private Ltd)
   Plot No.111, Rd.No.10, Jubilee Hills, Hyd-33.

6. M/s.Beta Wind Farms private Limited
   SigapiAchi Building - IV Floor, 18/3,
   RukmaniLakshmipathi Road,
   Egmore, Chennai.

7. M/s.Weld Fuse Pvt. Ltd
   11-7-265 HUDA complex,
   Saroor Nagar,
   Hyderabad – 500035.

8. M/s.KRBL Ltd (2.1MW)
   C-32, 5th & 6th Floor,

Sector-62, Gautambudh Nagar, (U.P),
Noida - 201301.

9. M/s.Saptagir Camphor limited
Plot No.284,
Sri Swamy Ayyappa Co-Operative Housing Society Ltd,
Madhapur, Hyderabad.

10. M/s Hitech Systems & services Ltd
White House 119,
Park Street, Kolkata - 700016.

11. M/s.Woodside Fashions Ltd
Regd.Off.22, Camac Street,
Kolkata - 700016.

12. M/s.MytrahVayu (Krishna) Pvt. Ltd
#8001 S.No 109,
Q-City Nanakramguda,
Gachibowli, Hyderabad.

13. M/s Vena Energy Power Resources Pvt Ltd
(Formerly M/s Energon Power Resource Pvt. Ltd)
591, 10 A Main, 44^{th} Cross, 5^{th} Block,
Jayanagar, Bangalore.

14. M/s.Rayala wind power Company Private Ltd
Plot No.1366,
Road No.45,
Jubilee Hills, Hyderabad.

15. M/s En En Electrical Engineers Pvt. Limited
11-1-474-1, Aravindanagar,
Anantapur - 515001.

16. M/s Santhiram Wind power Pvt. Limited
H.No. 25-602,
Srinivasa Nagar, Kurnool (Dist.),
Nandyal - 518501

17. M/s. Sri KPR Industries Limited (Formerly M/s.SriVenkateswara Pipes Limited)
5^{th} floor, KPR House,
Near Anand Theatre,
SP Road, Secunderabad-500 003

18. M/s.Hetro Wind power project Limited
#7-2-A2, 3^{rd} floor,
North East Wing,
Industrial Estate, Sanath Nagar,
Hyderabad.

19. M/s Rajasthan Gum Pvt Limited
E-8-9, G-234-236 & SP-6,
Agro Food Park, Boranada,
Jodhpur – 342012.

20. M/s sterling Agro Industries Ltd
11^{th} Floor-Aggarwal Cyber Plaza-II,
NetajiSubhash Place,
Pitampura, New Delhi – 110034.

21. M/s BNR constructions
H.No.1-98/4/69, Plot N0.69,
Near Indian Bank,

Vittalrao Nagar, Madhapur,
Hyderabad – 500081.

22. M/s Rayalaseema Wind Energies Pvt. Limited
Plot No.1366, Road No.45,
Jubilee Hills, Hyderabad.

23. M/s Anantapura Wind Energies Pvt. Limited
Plot No.1366, Road No.45,
Jubilee Hills, Hyderabad.

24. Sri Vijayeebhava Enterprises private Limited
Flat No.1602, A Block,
Meenakshi Trident Towers,
Gachibowli, Opp. Ramky Towers,
Hyderabad - 500032.

………Respondents

Petition filed under sec 86(1)(b) read with clause 55 of APERC conduct of Regulation 2 of 1999.

1. The petitioners submit that they are Distribution Companies in the successor state of Andhra Pradesh. Prior to the division of State, two Districts namely Ananthapur& Kurnool were in the operation area of the then APCPDCL. By the effect of AP Reorganisation Act 2014, in particular schedule XII(c)(8) of the said act the operation area of the then APCPDCL was reorganised to be co-terminous with territorial area of successor Telangana State, and the operation area of Kurnool and Ananthapur districts are attached to APSPDCL. As such, the petitioner APSPDCL has succeeded the subject contracts entered with Respondents by the then APCPDCL prior to 2014.

2. The respondents 1 to 24 are wind power generators who have entered PPAs in pursuance of the tariff order passed by this Hon'ble Commission vide its order dated 15.11.2012 in OP No 13 of 2012.

3. The petitioners submit precisely the brief facts of the non-conventional power development in the state of AP. The petitioners submit that during 1997-98 Government of Andhra Pradesh issued G.O.Ms.No.93 & 112 to effect that the tariff for non-conventional power including wind power was decided at Rs.2.25 per unit together with escalation of base year as 1997-98. Subsequently, after establishment of Regulatory Commission under AP Reforms Act 1998, this Hon'ble Commission in its order dated 20.06.2001, decided the tariff at Rs.2.25 per unit with escalation of 5% per annum but the base year should be as 1994-95 with a condition that the tariff will be reviewed thereafter for the period from 01.04.2004. Consequently, dated 20.03.2004 this Hon'ble commission had determined the tariff for all non-conventional power generators where under the tariff for wind power is determined at Rs.3.37 per unit subject to the condition that the same will be reviewed after completion of 10 years from COD of the Project. Subsequently, during 2008 the then Government has issued orders to enhance the wind tariff to Rs.3.50 per unit from Rs.3.37 per unit vide

G.O.Ms.No.99 dated 09.09.2008. The same was issued at the request of the wind power developers. Since the same was a policy decision issued under Section 108 of the Electricity Act to the Regulatory Commission, this Hon'ble commission has accepted the same, and revised the tariff to Rs.3.50 per unit vide order dated:01.05.2009. During further course of time the wind power developers have challenged the said tariff in Appellate Tribunal Electricity which in turn passed orders dated 03.05.2011 in Appeal No.194 of 2009 whereby the matter was remanded to this Hon'ble Commission to determine the tariff afresh. Then, this Hon'ble Commission vide its order dated 15.11.2012 in OP No 13 of 2012 revised the tariff to Rs.4.70 per unit as against its earlier decision of Rs.3.50 per unit. Thus the tariff for wind power developers has been time to time revised from 1997 to 2012. During further course of time, this Hon'ble Commission has issued Regulation 1 of 2012 titled as Renewable Power Purchase Obligation whereby this Hon'ble Commission has specified the percentage of procurement of minimum quantity of solar and non-solar power for every year for by the Distribution Companies in the State. However, APDISCOMs could not achieve the percentages specified in the said Regulation, as there was only little capacity addition of solar or other non-conventional power generation like wind power etc.

4. In pursuance of the above order dated 15.11.2012 in OP No 13 of 2012 passed by this Hon'ble Commission, the Respondents 1 to 24 entered PPA's during the period from 15.11.2012 to 30.07.2015.In the PPAs of all these respondents the tariff of Rs.4.70 per unit for entire period of 25 years is specified. The model PPA was also given by the then Hon'ble Commission to enter with wind developers.

5. As stated above either the terms of the PPA or the tariff specified in the PPA is not the result of appropriate bargain made by the petitioners. The tariff and the terms of the PPA are thrust upon the Respondents.

6. The said tariff of Rs.4.70 is in fact very much high even as on the date of entering of respective PPA's with Respondents. But, there was no option for the petitioner than to enter the PPA with Respondents with such high tariff as they were compelled to achieve the RPPO as specified in RPPO Regulation, and that default of the same would entail with consequence of the liability to purchase of RE certificate in respect of short fall of such RE Power which will be a burden on DISCOMs without getting power. Because of the said high tariff as decided by this Hon'ble Commission through its order dated 15.11.2012 several wind power developers had rushed to the A.P. State and entered PPAs. As a matter of fact due to the improvement in technology the cost of wind turbines has come down in India. Thus the capital cost has been reduced substantially. Yet, because of the orders of this Hon'ble commission determining generic tariff at high values and model PPA was also given by this Hon'ble commission, the DISCOMs have no option than to enter PPAs.

7. The petitioners submit that although Multi Year Tariff with a control period of 5 years procedure is very much in vogue, this Hon'ble Commission directed the DISCOMs to enter PPA for period of 25 years, which caused unjustified burden for such longer period. In the recent past the cost of wind power turbines has been phenomenally decreased across the country. In the bidding process for procurement of wind power held in 2017, Gujarat state has got the tariff of Rs.2.43 per unit.

8. The petitioner submits that during the public hearing for ARR of 2019-20, public have made several objections to the procurement of high cost wind power. Thereafter the Hon'ble Commission addressed a D.O. letter dated 27.02.2019 to the Principal Secretary to GoAP, Energy Department to obtain opinion from Ld. Advocate General, GoAP as to the possibility of revision/amendment of tariff and to reduce the PPA period to 5 years or any other period for the existing PPAs.

9. The petitioner submit that the tariff once decided by Hon'ble Commission either under Section 62 of Electricity Act or agreed by mutual consensus of the parties is always subject to regulation procurement process including the rate at which power need to be purchased as is provided under section 86 (1)(b) of Electricity Act. Further submit that the tariff specified in such long term PPAs are not inviolable during the subsequent period. The interpretation of similar provision of long term PPA fell for consideration by Hon'ble Supreme Court in Tarini case reported at 2016 (8) SCC Page 743 held as under:

18. All the above would suggest that in view of Section 86(1) (b) the Court must lean in favour of flexibility and not read inviolability in terms of the PPA insofar as the tariff stipulated therein as approved by the Commission is concerned. It would be a sound principle of interpretation to confer such a power if public interest dictated by the surrounding events and circumstances require a review of the tariff.

20. Before parting, a word about the recent pronouncements of this Court in Gujarat Urja Vikas Nigam Limited Vs. EMCO Ltd. & Anr. (supra) and Bangalore Electricity Supply Co. Vs. Konark Power Projects Ltd. (supra), relied upon by the appellant. All that would be necessary to note in this regard is the context in which the bar of a review of the terms of a PPA was found by this Court in the above cases.

21. In Gujarat UrjaVikas Nigam Limited Vs. EMCO Ltd. & Anr. (supra) the power purchaser sought the benefit of a second tariff order made effective to projects commissioned after 29.01.2012 (the power purchaser had commissioned its project on 02.03.2012) though under the PPA it was to be governed by the first tariff order of January, 2010. Under the first tariff order for such projects which were not commissioned on or before the date fixed under the said order, namely, 31.11.2011 the tariff payable was to be determined by the Gujarat

Electricity Regulatory Commission. The power producer in the above case did not seek determination of a separate tariff but what was sought was a declaration that the second tariff order dated 27.01.2012 applicable to PPA(s) after 29.01.2012 would be applicable. It is in this context that this Court had taken the view that the power producer would not be relieved of its contractual obligations under the PPA.

22.In the case of Bangalore Electricity Supply Co. Vs. Konark Power Projects Ltd. (supra), this Court held that it was beyond the power of State Commission to vary the tariff fixed under the approved PPA in view of the specific provisions in Regulations 5.1 and 9 of the KERC (Power Procurement from Renewable Sources by Distribution Licensee) Regulations, 2004 and 2011 respectively as the same specifically excluded a PPA concluded prior to the date of notification of the Regulations in question.

10. Therefore as per the said principle of law, the tariff specified in PPA entered with Respondents on various dates is not inviolable and in fact during the course of time same is amenable for amendment appropriately regulating the same.

11. The petitioners further submit that the Regulation of tariff is a continuous process more particularly in respect of long term PPAs depending upon the circumstances that are cropped up. The review of tariff is distinctly different from revision of tariff. The doctrine of re-judicata is not applicable to the issue of tariff Regulation. Even the principle of order II rule ii Civil Procedure Code is also not applicable. The aforesaid principal of law is upheld by the Hon'ble Supreme Court in a case U.P Power Vs NTPC reported at (2009) 6 SCC page 235. The relevant portion of said judgment is extracted here under:

34. While exercising its power of review so far as alterations or amendment of a tariff is concerned, the Central Commission strict sensu does not exercise a power akin to Section 114 of the Code of Civil Procedure or Order XLVII, Rule 1 thereof. Its jurisdiction, in that sense, as submitted by Mr.Gupta, for the aforementioned purposes would not be barred in terms of Order II, Rule 2 of the Code of Civil Procedure or the principles analogous thereto.
35. Revision of a tariff must be distinguished from a review of a tariff order. Whereas Regulation 92 of the 1999 Regulations provides for revision of tariff, Regulations 110 to 117 also provide for extensive power to be exercised by the Central Commission in regard to the proceedings before it.

36. Having regard to the nature of jurisdiction of the Central Commission in a case of this nature, we are of the opinion that even principles of res judicata will have no application.

40. Regulations 92 and 94, in our opinion, do not restrict the power of the Central Commission to make additions or alterations in the tariff. Making of a tariff is a continuous process. It can be amended or altered by the Central

Commission, if any occasion arises there for. The said power can be exercised not only on an application filed by the generating companies but by the Commission also on its own motion.

12. This Hon'ble Commission Regulation 2 of 1999 (conduct of business regulations) are parimateria with the Regulations of CERC stated above. Therefore the principle of law laid down in the above case equally applies to the powers and functions of this Hon'ble APERC with a reference to Section 62, 63 & 86 (i) (b) of Electricity Act and said Regulations i.e. Regulation 2 of 1999.Further, the Hon'ble Supreme Court in a case between APTRANSCO Vs Lanco Kondapalli reported at AIR2016SC1925, it is clearly held in respect of tariff matters before the Hon'ble commission, law of limitation is not applicable.

13. In view of the aforesaid principles of law, through binding precedent and in view of the public interest involved, the tariff of Rs.4.70 per unit specified in the PPAs entered with respondents deserves to be modified by the undertaking the process of regulating the tariff.

14. The petitioners submit that the Respondents have been claiming must run status to their projects and insisting for dispatch of their power dehors to the merit order dispatch which is based on economic principles of power procurement cost. Such must run status forced the petitioner to back down the cheaper power for which the petitioner have long term PPA with a condition that they are liable to pay fixed charges though such power is not scheduled. As such the said must run status is causing unjustified burden on the petitioners.

15. The Petitioners further submit that the Additional financial burden on DISCOMs due to "Must Run" status given to the Wind & Solar Power is stated hereunder.

    The must run high cost renewable power accounts to 15000 MU/year out of 60000 MU/year of AP State consumption. This is about one-fourth of the AP State consumption and is the highest share for any state in India. All this high cost must run energy is purchased at an additional cost of rates Rs.2/unit by shutting down the readily available cheaper thermal power. This leads to a loss of nearly Rs.3000 Cr per year (15000 MU x Rs.2/unit). This will contribute to Rs.0.5/unit additional cost (Rs.3000 Cr/60000 MU) to the end-consumer which is not a small amount. Therefore, this is certainly prejudicial to the interest of end consumers. There is no stipulation of "Must Run" status in Solar Power purchase agreement entered with Respondents. But the state Government in the policy has stated that the solar power generation is given "Must Run" status by which the solar power has to be dispatched dehors to merit order dispatch which is based on economic principles. Therefore, the implication and value of such "Must Run", in the Power Purchase Agreement (PPA)/Power Sale Agreement (PSA), since not factored, need to be deducted from the said decided/agreed tariff.

16. Further Petitioners submit that as per the report of "Committee On Optimal Energy Mix In Power Generation On Medium And Long Term Basis "constituted by Ministry Of Power Government Of India, it is reported that the following are the components grid integration cost which has adverse impact on the DISCOMs for procurement of Variable Renewable Energy (VRE) i.e. wind and solar PV power.

   i) **Adequacy costs (back-up costs)**

   "The variable nature of renewable energy has implications on system adequacy and on the utilization of available power plants. First, in terms of adequacy, generation capacity needs to be present in the system to be able to ensure demand-supply balance at all times, also at times of low RES generation. Second, the variability of RES has implications on how the remainder of the generation system can be operated (shift from base load generation to mid and peak load generation). As such, the variable character of renewable energy causes additional integration costs, referred to as back-up cost."

   The Discoms have entered into long term PPAs with conventional capacity to cater to the peak demand. This means that the Discoms have to pay the fixed costs irrespective of whether the power from those sources is purchased or not. If power from these conventional sources under long term PPAs is purchased, the Discoms pay only the variable cost. In case this power is not scheduled during mid/peak load operations and must run VRE is absorbed, then the difference between the variable cost of conventional power and the cost of VRE power is the loss to the Discoms. This cost is calculated at a minimum of Rs. 2.25 per unit; being the difference between the pooled variable thermal power cost of about Rs. 2.4 and the cost of VRE i.e. Rs. 4.70.

   ii) ***Balancing costs***

   "On short time scales, the supply-demand balance must be maintained. As the generation from Renewable Energy Sources (RES) is subject to forecast errors, additional operational flexibility might be required in this regard. As such, the partly unpredictable character of RES causes additional integration costs, referred to as balancing costs."

   The following contribute to balancing costs.

   (a) Cost of wasted coal: When the thermal plants are ramped down the coal consumption does not come down to zero. Coal and oil are burnt wastefully. For example in Krishnapatnam Thermal plant, the specific coal consumption at 800 MW generation is 0.58 kg/unit whereas at 400 MW generation specific coal consumption is 0.68 kg/unit. Similarly for VTPS, specific coal consumption increases from 0.6 kg/unit to 0.7 kg/unit due to ramp down. The cost of coal is about Rs.5 per kg. Therefore, one unit ramped down will waste Rs 0.5 for burning coal wastefully.
   (b) Increased fixed cost: Due to frequent daily ramp up/ramp down operations, the thermal plant life reduces from 25 years to 20 years. The fixed cost per unit of coal energy is about Rs. 1.4 per unit. This reduction in plant life increases the fixed cost by 25% or about 0.35 per unit.

(c) Increased wear & tear. The increased ramp up/down, start/stop of thermal plants is leading to increased maintenance costs.

(d) High cost of sudden purchases: Due to the unpredictable nature of VRE, the short falls during the day have to be purchased at a higher cost from the market. This cost about Rs.0.5 per unit more than the cost of VRE.

(e) Loss of GVA due to Load Relief: Many times during sudden shortfalls of VRE, due to unavailability of energy in the market or unavailability of funds, load reliefs are being given. Energy elasticity is the percentage change in energy consumption to achieve one per cent change in national GDP. Planning commission has estimated energy elasticity of India at 0.82 (http://planningcommission.nic.in/sectors/index.php?sectors=energy). This means that 0.82 % cut in energy consumption will lead to one percent loss in GDP. The annual consumption of energy in the state is about 60,000 MU and GSDP Rs. 10.81 lakh cr for 19-20 (est). Therefore, for every unit of load relief given, the loss of GSDP to the state is Rs. 220 per unit.

The balancing cost per unit of VRE consumed due to the above four items (excluding GSDP loss to the state) costs a minimum of Rs.1 per unit of VRE consumed.

iii) Grid integration costs

"Deploying renewable energy requires connecting these to the grid and possibly strengthening the grid (both on the transmission and distribution level), to carry the RES-generated power to load centers. Offshore wind farms require a specific grid connection, while onshore wind and solar PV have a modular nature. As such, these RES cause integration costs, referred to as grid integration costs."

Evacuation infrastructure has to be laid for the VRE at the cost of capex loans taken and serviced by the state utilities. This infrastructure lies idle except for a few hours of peak time generation some times in a year. For example for the 7500 MW of VRE installed capacity the evacuation infrastructure is created. However, the generation of 7500 MW is never achieved and a maximum of 4000 MW is achieved occasionally in the year. Most of the time the generation is not even 1000 MW. This is huge investment in wasted capacity for which the loss making Discoms are made to suffer financially. This cost is estimated at a highly conservative cost of Rs.0.25 per unit of VRE consumed.

17. The petitioners submit that considering the above said components and adverse impact on procurers, during the 11th meeting of Standing committee of Southern Zonal council, the GOAP has submitted the following:

a) **Burden due to Adequacy cost effect**

AP *maintains 12,000 MW of stable power purchase through agreements to cater to its peak demand. The fixed costs are paid irrespective of whether this power is consumed or not. AP has backed down APGENCO and CGS stations to an equal extent to which VRE purchase was done. Thermal generation is being backed down to accommodate the wind & solar generation even during low grid demand conditions. This imposes indirect charges on the consumers being supplied by the DISCOMs. The variability in VRE generation is forcing discoms to have surplus power in the system* *so that deficit resulting from deviation in forecast of these generation cast could be met seamlessly to ensure 24X7 power supply to consumer. The VRE at 7400 MW is a surplus capacity which is at a cost much higher than the pooled variable cost of the firm thermal power. Due to this surplus and the must run nature of VRE, the state is losing more than Rs.2 per unit of VRE consumed as shown below.*

	16-17	17-18	18-19
APERC Tariff	4.84	4.84	4.84
Pooled thermal variable cost	2.61	2.6	2.59
Adequacy cost	2.23	2.24	2.25

Annually AP consumes more than 15,000 MUs of VRE. This results in a loss of more than Rs.3000 Cr per year.

b) **Burden due to Balancing cost effect**

Contingency purchases are being made in cases of frequent daily deviations in forecast during the day furnished by VRE generation. Recently, changes were made in the deviation settlement mechanism effective from 01.01.2019 in which Average market clearing price in exchange is linked to frequency at 50Hz and sign change for every 6 time blocks is introduced. Subsequently this six time sign change was revised to 12 time blocks until next year. These changes resulted in increase in pay out to Unscheduled Interchange (UI) pool and the introduction of sign change is forcing SLDC to load shedding to be carried out due to its intermittency nature.

There are losses incurred due to the wasted coal consumption, reduced efficiency of thermal plants, increased wear & tear etc.

All this is costing Rs.1 per unit of VRE purchased by AP.

c) **Burden due to Grid Integration cost effect**

The evacuation infrastructure is created by the AP State. Most of the infrastructure created is lying unutilized during low generation times. The Discoms and Transco are unable to pay for the debts that have arisen out of these wasted capital expenditure. This grid integration cost is Rs.0.25 per unit.

The abstract of additional burden on APDISCOMs in procurement of RE power

Adequacy cost impact on tariff – difference between readily available pooled variable thermal cost and variable renewable energy)	Rs.2.25 per unit
Balancing cost (reduced efficiency of thermal plants, increased sp. heat rate, auxiliary consumption, wear & tear etc.)	Rs.1 per unit
Grid integration cost	Rs.0.25 per unit
Total RE integration cost burden	Rs.3.50 per unit

18. Further, the Petitioners submit that because of the high cost of procurement of wind power and solar power together with must run status to the said generating stations, as stated above the financial burden on the DISCOMs was heavy and consequently and DISCOMs could not even pay monthly power purchase bills from August 2018 onwards which have piled up nearly to Rs.20,000 Crores.

a) As per the clause 9.4 of the PPA, if the default on the part of DISCOMs for payments of monthly bill continues for a period of 30 days or more from the due date, either party will have a right to issue a preliminary notice for termination of this Agreement. If the default is not cured within 30 days thereafter, either party can terminate this Agreement and can claim damages at its option.

19. Further submit that the encouragement to generate the Renewable Energy undoubtedly cannot be at the cost of customers/end consumers. The DISCOMs are to manage their functions on commercial principles and the exorbitant cost due to said power procurement would invariably cause unjustified burden on the end consumers. Power sector in Andhra Pradesh is in deep financial crisis. The financial position of the DISCOMS in the recent past is as under:

- About Rs. 20,000 Cr unpaid dues to power generators who supplied power to DISCOMs exist currently.
- Rs. 15,000 Cr DISCOM losses have accumulated.
- Borrowing limits of DISCOMs are exhausted and there is no scope for borrowing in order to pay the power generator dues.
- Rs. 5000 Cr losses are adding due to high cost renewable energy purchases every year.
- Debt servicing has become impossible.
- Salaries and other Operating Expenses (OPEX) costs are being met with borrowings.
- Considering the said financial position of DISCOMs, it has become impossible to procure VRE power on long term basis.

The said facts are stated in the counters submitted by APPCC/APDISCOMs before High Court of AP in W.P. No. 9844 of 2019 and batch.

20. The Petitioners submit that because of the said high tariff, besides the must run status given to the wind power, by which the wind power need to be scheduled dehors to the economic principles/merit order, it has caused unjustified burden on the Petitioners/end-consumers. The said unjustified burden is clearly evident from the aforesaid financial position of the APDISCOMs and also evident from the true-up applications filed by the APDISCOMs before the Hon'ble Commission.

21. The following table shows the costs incurred by Discoms due to wind Energy Purchase, compared with Thermal Variable cost beyond RPPO Purchase from FY 2015-16 to 2018-19.

Sl.No.	Source of Energy	2015-16	2016-17	2017-18	2018-19	Total
1	Energy Purchased from in MU	1752	2876	6358	8593	19759
2	Purchase Rate (Rs/Unit)	4.70	4.75	4.80	4.80	
3	Additional Burden Beyond RPPO due to	2123	2311	3074	3939	11447

	Back Down : RPPO in MU					
4	Excess Power Purchase Over RPPO in MU	0	565	3284	4654	8503
5	Thermal Variable Cost which is arrived at Rs/Unit	2.57	2.77	2.82	2.97	
6	Excess Over Thermal Variable Cost Rs/Unit	2.13	1.98	1.98	1.83	
7	Additional Burden on DISCOMs in respect of excess unit of wind power procured beyond RPPO obligation multiplied by excess over thermal variable cost is in Cr.	0	111.9	650.2	851.2	1614
8	Lowest cost in the country during the year(Rs/Unit)	3.96	3.96	2.43	2.43	
9	Excess over the lowest rates in the country (Rs/Unit)	0.7	0.79	2.4	2.4	
10	Additional burden within RPPO in Crs	129.6	182.6	728.5	933.5	1974

22. As stated above, the wind power tariff across the country is now found to be Rs.2.43 per unit. Therefore tariff specified in the PPAs with Respondents deserves to be amended at Rs.2.43 per unit against the existing tariff of Rs.4.70 per unit.

23. As such, public interest warrants revision of tariff by reducing the same to Rs. 2.43/unit from the existing tariff.

24. Cause of action arose to file petition when this Hon'ble Commission passed order dated 13.12.2017 in the proceeding related approval of 41 PPAs, and also during February 2019 when public have submitted several objections during public hearings of ARR 2019-20.

25. Fixed fee of Rs.50,000/- has paid in the form of Demand Draft No.282222, dated 07.10.2019

26. It is prayed that Hon'ble Commission may pleased to pass orders.

    a. To amend the tariff to Rs.2.43 per unit from the existing tariff of Rs.4.70 per unit from the FY:2019-20 or.

    b. To restrict the duration of PPA to a period between 5 to 10 years as against the existing period of 25 years.

    c. Any other relief to which the petitioners are entitled may also be granted.

Applicants 1

Applicants 2

BEFORE THE HON'BLE A.P. ELECTRICITY REGULATORY COMMISSION
AT IT'S OFFICE AT V FLOOR, SINGARENI BHAVAN, RED HILLS, HYDERABAD

File No. ……………..of 2019
Case No.……………. of 2019

<u>IN THE MATTER OF:</u>

Revision/amendment of tariff for wind power developers who have entered PPAs pursuant to APERC tariff order dated 15.11.2012 in O.P.No.13 of 2012 and to restrict the PPA period to 5 to 10 years from the date of COD.

1. Southern Power Distribution Company of Andhra Pradesh Limited,
Rep. by its Chairman & Managing Director,
Beside SrinivasaKalyanaMandapam, Tiruchanoor Road,
Tirupathi – 517501.

2. Eastern Power Distribution Company of Andhra Pradesh Limited,
Rep. by its Chairman & Managing Director,
P & T Colony, Seetammadhara, Vishakhapatnam – 530020.

……..Petitioners

And

M/s.Sri KPR Infra & Projects Ltd
5th Floor, KPR House,
S.P.Road, Near Anand Theatre,
Secunderabad - 500003.
and 23 others.

…...Respondents

<u>VERIFICATION AFFIDAVIT</u>

I, K. Santhosha Rao, S/o. K.Yosupu, age: 57 years working at Chief General Manager (IPC), Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL), Tirupathi, do solemnly affirm and say as follows:

1. I am the Chief General Manager (IPC) of Southern Power Distribution Company of Andhra Pradesh Limited (APSPDCL) having its office at 19-13-65/A, Raghavendra Nagar, Kesavayanagunta, Tiruchanoor Road, Tirupati – 517 501 and am competent and duly authorized by the Petitioners to affirm swear, execute and file this Petition.

2. I have read and understood the contents of the Petition. The contents of the Petition now shown to me are true to my knowledge derived from the official records made available to me and are based on information and advice received which I believe to be true and correct.

DEPONENT

VERIFICATION:

I, solemnly affirm at Tirupati on this day of October 2019 that the affidavit has been signed in my presence.

ATTESTED