

KERALA STATE ELECTRICITY REGULATORY COMMISSION
THIRUVANANTHAPURAM

Present: Shri. Preman Dinaraj, Chairman
Shri. S. Venugopal, Member
Shri. K. Vikraman Nair, Member

Review Petition No. RP 01/2019

In the matter of : Review Petition filed by M/s INOX Renewables Limited seeking review of the order dated 03.10.2018 in original petition No. 8 of 2017 viz., approval of tariff for 16 (8x2) MW wind power projects commissioned by the petitioner in the land allocated by KINFRA at Kanjikode, Palakkad District, KERALA.

Petitioner : INOX Renewables Limited
Plot No. 17 Sector 16A
Noida-201301

Respondent : Kerala State Electricity Board Limited

Petitioner represented by : Adv. Vishal Gupta

Respondent represented by : Smt. Meharunnisssa M, EE, KSEB Ltd
Smt. Latha S V, AEE, KSEB Ltd
Smt. Anitha K, AEE, KSEB Ltd
Smt. Vijayalekshmy, AEE, KSEB Ltd

Daily Order dated 31.05.2019

1. M/s INOX Renewable Limited (herein after referred as 'petitioner' or INOX) filed a petition seeking review of the order dated 03.10.2018 in original petition No. 8 of 2017 viz., approval of tariff for 16 (8x2) MW wind power projects commissioned by the petitioner in the land allocated by KINFRA at Kanjikode, Palakkad District, KERALA. The prayers of the petitioner are the following:
 - a) Review the order dated 03.10.2018 in OP No. 8 of 2017 insofar as it is inconsistent with the provisions of RE Tariff Regulations 2015 while determining the tariff computation methodology for wind power projects;
 - b) Declare date of commissioning of project as 28.03.2017 and that the project commissioned during Financial Year 16-17;

- c) Declare that the generator has not availed the benefit of Accelerated Depreciation and correspondingly allow the generic tariff without considering the benefit of Accelerated Depreciation;
 - d) Approve the draft power purchase agreement and direct the Respondent No. 1 herein to execute the same with the Petitioner herein at generic tariff as determined by the Commission for the projects commissioned in FY 16-17 vide Renewable Energy Amendment Regulation dated 02.11.2017 as applicable in the case of the petitioner herein;
 - e) Pass such other order or orders as the Hon'ble Commission may wish to pass for doing substantial justice in the matter and to uphold the provisions of the Act of 2003.
2. The Commission admitted the petition as RP No. 1/2019 and at the convenience of the petitioner, the hearing on the petition was held on 24.05.2019. During the hearing, Adv. Vishal Gupta presented the petition on behalf of the petitioner M/s INOX and Smt. Latha S.V, AEE on behalf of the respondent KSEB Ltd. The summary of the deliberations during the hearing is as follows.
3. During the hearing, the petitioner stressed only on the following two issues, in the order of the Commission dated 03.10.2018 in OP No. 08 of 2017.
- (1) As per the proviso to Regulation 18(3) of the KSERC (Renewable Energy) Regulations, 2015, the Commission has to determine the tariff for the wind energy plant installed by the petitioner by adopting the norms for determination of tariff for 2016-17, as the norms are not revised.

However, the Commission has relied on CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2017 as per the Regulation 17(4) of the KSERC (Renewable Energy) Regulations 2015. Accordingly, there is an error in the norms adopted by the Commission while determining the tariff of the wind power plant of the petitioner vide the order dated 03.10.2018 in OP No. 08 of 2017.
 - (2) The Commission has determined the tariff for the 16 MW WEG at Kanjikode installed by the petitioner on the presumption that, the developer had availed the benefit of accelerated depreciation. However, in light of the judgement of the Hon. APTEL dated 28th September 2015 in Appeal No 198, 199, 200, 291 of 2014, the benefit of the accelerated depreciation can be considered only if the developer had availed such benefits. The developer may take appropriate decision on availing the benefit of accelerated depreciation, after one year from the date of commercial operation, after assessing that availing the same is beneficial for them or not.

Hence the petitioner requested to approve the tariff of the electricity generated from the 16 MW WEG at Kanjikode, Palakkad installed by the petitioner without accounting the benefit of accelerated depreciation.

The petitioner further submitted that, KSEB Ltd is not making payment for the energy generated and injected to the grid from date of synchronization as was directed by KSERC vide order dated 03.10.2018.

Regarding the IA filed, the petitioner submitted that it may be considered along with the approval of the PPA to be signed with KSEB Ltd for selling the energy injected from the project.

4. Smt. Latha S.V, presented the comments on behalf of KSEB Ltd, and submitted that, the petition is not maintainable as per the Code of Civil Procedure, 1908. KSEB Ltd had already submitted detailed comments on the issues raised by the appellant, and the same may be considered by the Commission while disposing the petition.

KSEB Ltd further submitted that, it had decided to purchase the power from the project only from the date of commercial operation and the draft PPA to be signed with KSEB Ltd as initialed accordingly. KSEB Ltd further submitted that, it had no obligation to purchase the energy injected during the testing period and accordingly KSEB Ltd is not liable to make payments for the energy injected during testing period at the tariff approved by the Commission.

5. Based on the deliberations during the hearing, the Commission hereby issues the following directions/ orders to the petitioner M/s INOX and the respondent, for immediate compliance, within 15 days from the date of this order.

- (1) KSEB Ltd shall submit detailed comments on the issues raised by the petitioner during the hearing detailed under paragraph-3 above.
- (2) KSEB Ltd shall submit the details of the energy injected into the State Grid from the date of synchronization till the date of commercial operation, including the UI/ deviation settlement paid.
- (3) The petitioner shall file separate petition for approval of the PPA to be signed with KSEB Ltd, instead of filing petition through a third party. The Commission further clarified that, any person authorized by the petitioner INOX can sign PPA with KSEB Ltd for selling power from the 16 MW WEG installed at Kanjikode, Palakkad.

**Sd/-
K. Vikraman Nair
Member**

**Sd/-
S. Venugopal
Member**

**Sd/-
Preman Dinaraj
Chairman**

Approved for issue

**Sd/-
G Jyothichudan
Secretary**