

Record of proceedings dated 18-02-2017

Public hearing on 18-02-2017 on the Petition filed by M/s.REI Power Bazaar Pvt. Ltd., under Section 86 (1) (k) r/w Section 66 of the Electricity Act, 2003 seeking permission for setting up and operation of intra-state power market in the State of Andhra Pradesh. Public hearing on the maintainability of the said petition in the absence of any regulation relating to development of market in power.

Sri M. Abhinay, learned counsel representing Sri P. Vikram, learned counsel for the petitioner, Sri P. Shiva Rao, learned Standing Counsel for AP Transco, Sri E. Naga Adithya representing Indian Energy Exchange (IEX) and Sri M. Venugopala Rao, learned objectors are present.

Sri M. Abhinay, learned counsel representing Sri P. Vikram, learned counsel for the petitioner filed a Memo on behalf of the petitioner stating that the petitioner wishes to withdraw the petition with a liberty to file a new petition with amended prayers. Sri P. Shiva Rao, learned Standing Counsel for AP Transco has no objection for acceptance of the request. Therefore, the memo is recorded. The petitioner is permitted to withdraw the petition. The petition is dismissed as withdrawn, without costs, with a liberty to the petitioner to pursue any remedies available to it under law concerning the subject matter of this petition.

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CHAIRMAN

O.P.No.19 of 2016
APEPDCL & APSPDCL Vs Hinduja National Power Corporation Ltd (HNPCL)

Public hearing on 18-02-2017 on the Petition for grant of approval of PPA to 1040 MW (2 x 520 MW) coal fired power station of HNPCL under section 86 (1) (b) of the Electricity Act, 2003

Sri P. Shiva Rao, learned Standing Counsel for the petitioners, Sri Sridhar Prabhu and Sri Ravi Charan, learned counsel for the respondent and Sri M. Venugopala Rao, learned objector are present.

While Sri Sridhar Prabhu, learned counsel for the respondent requested the Commission to proceed to decide the petition on merits, Sri P. Shiva Rao, learned Standing Counsel for the petitioners submitted that both parties are still in discussion concerning the procedure acceptable to both of them regarding third party sales. Sri M. Venugopala Rao, learned objector submitted that the procedure prescribed by the

Commission in the case of M/s.BSES Power Limited (now Reliance) may also be considered for adoption. Other objectors are absent. Both parties are therefore requested either to conclude their discussions and come back to the Commission with any agreed stand to be considered by it on merits or proceed to advance their arguments along with the arguments of the other objectors on the next hearing date. For further hearing, call on 18-03-2017.

Call on: 18-03-2017
at 11:00 AM

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O.P.No.30 of 2016
M/s. SIFLON Drugs Vs APTRANSCO, APSPDCL & NREDCAP

Petition under Section 86 (1) (f) of the Electricity Act, 2003 read with Regulation 8 of APERC (Conduct of Business) Regulations 1999 and seeking directions for giving credit of the wind power units amounting to 1.2 million by banking the units for the period between 23-03-2015 to 14-06-2016

Sri P. Shiva Rao, learned Standing Counsel for AP Transco and APSPDCL is present.

Counter of the 2nd respondent is filed. No separate counter for the 1st respondent. For rejoinder of the petitioner, if any, the matter is posted to 25-03-2017.

Call on: 25-03-2017
at 11:00 AM

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O.P.No.11 of 2015
APSPDCL & APEPDCL Vs Konaseema Gas Power Ltd

Petition under Section 86 (1) (b) and (f) of the Electricity Act, 2003 to delete Clause reflecting alternate fuel in the definition of "Fuel" in the PPA entered by M/s. Konaseema Gas Power Ltd., with APTRANSCO, APDISCOMs

Sri P. Shiva Rao, learned Standing Counsel for the petitioners and Sri E. Satish Kumar, learned counsel for the respondent are present.

At request of the Sri E. Satish Kumar, learned counsel for the respondent, the matter is posted as a last chance to file counter to 18-03-2017.

Call on: 18-03-2017
at 11:00 AM

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O.P.No.57 of 2014 & I.A.No.8 of 2015
Sardar Power Pvt Ltd Vs APEPDCL

Petition filed for determination of capital cost and consequent re-determination of tariff for the first 10 years of operation with effect from 17-07-2008 (being COD of the project) pursuant to the Judgment of Hon'ble ATE dt.20-12-2012 in Appeal No.172 of 2011 and batch

Sri Challa Gunaranjan, learned counsel representing Sri K. Gopal Choudary, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present.

At request of both parties, the matter is posted to 22-04-2017.

Call on: 22-04-2017
at 11:00 AM

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CHAIRMAN

O.P.No.27 of 2016
Shri Girija Alloy & Power (I) Ltd Vs APTRANSCO & APEPDCL

Petition under Section 86 (1) (f) r/w Section 46 of the Electricity Act, 2003 seeking directions to refund the excess of development charges paid i.e., Rs.3,12,60,226/- with subsequent interest at 18%

Sri P. Shiva Rao, learned Standing Counsel for the respondents is present.

Counter of the 1st respondent is filed. 2nd respondent has no separate counter. For rejoinder of the petitioner, if any, the matter is posted to 25-03-2017.

Call on: 25-03-2017
at 11:00 AM

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O.P.No.26 of 2016
M/s. JITF Urban Infrastructure Ltd Vs APSPDCL

Petition under Section 86 (1) (a) of the Electricity Act, 2003 r/w Regulation 55 for a direction to apply agricultural tariff to Solid Waste Management Project to be setup in the State of A.P., under promotional benefit in line with the Hon'ble Supreme Court & Ministry of Urban Development directives

Sri M. Abhinay, learned counsel representing Sri P. Vikram, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present.

At request of Sri M. Abhinay, learned counsel representing Sri P. Vikram, learned counsel for the petitioner, posted for rejoinder to 25-03-2017.

Call on: 25-03-2017
at 11:00 AM

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CHAIRMAN

O.P.No.31 of 2016
M/s. Rain Cements Ltd Vs APSLDC & APSPDCL

Petition under Section 86 (1) (e) of the Electricity Act, 2003 r/w clause 9 of Regulation 1 of 2012 for exempting the petitioner from the Renewable Power Purchase Obligation under Regulation 1 of 2012

Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present.

Counter of the 2nd respondent is filed. 1st respondent has no separate counter. For rejoinder of the petitioner, if any, the matter is posted to 18-03-2017.

Call on: 18-03-2017
at 11:00 AM

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CHAIRMAN

O.P.No.44 of 2014
International Paper APPM Ltd (The Andhra Pradesh Paper Mills Ltd) Vs APSLDC

Petition seeking accreditation of the petitioner's renewable energy project

Sri Amara Narayana, representing the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present.

The petitioner filed a memo requesting the Commission to consider the written submissions of the petitioner and pass appropriate orders. Heard the reply arguments of Sri P. Shiva Rao, learned Standing Counsel for the respondent. For orders, the matter is posted to 18-03-2017.

Call on: 18-03-2017
at 11:00 AM

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O.P.No.24 of 2016
Aquawave Biotech Pvt Ltd Vs APSPDCL & 2 others

Petitioner challenging the Memo No.CGM/Opn/APSPDCL/TPT/RAC/F: /D. No. 282/2016 dated 27-07-2016 issued by the Chief General Manager (Operations), APSPDCL / Respondent No.2

Sri K. Vijaya Kumar, leaned counsel representing Sri K. Venkata Rangadas, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present.

Sri K. Vijaya Kumar, leaned counsel representing Sri K. Venkata Rangadas, learned counsel for the petitioner, time extended for rejoinder till 18-03-2017.

Call on: 18-03-2017
at 11:00 AM

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O.P.No.20 of 2015
Empee Power Co (I) Ltd Vs APSPDCL

Petition u/s 62 r/w 86 (1) of the Electricity Act, 2003 for revision of tariff specified under Article 2.2 of the Power Purchase Agreement dated 23-05-2007

Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present.

Time extended at request for rejoinder till 25-03-2017.

Call on: 25-03-2017
at 11:00 AM

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O.P.No.32 of 2015
M/s. ITC Ltd Vs APTRANSCO & APSLDC

Petition under Sections 62(6), 142 & 146 of the Electricity Act, 2003 for recovery of transmission charges collected contrary to Transmission Tariff Order dated 09-05-2015 and interest thereon

Sri Challa Gunaranjan, learned counsel representing Sri K. Gopal Choudary, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present.

At request, the matter is posted to 15-04-2017.

Call on:

15-04-2017
at 11:00 AM

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I.A.No.1 of 2017 in O.P.No.1 of 2013
M/s. Sundaram Alloys Ltd Vs APEPDCL

Petition under Section 62 r/w 86 of the Electricity Act, 2003 for revisiting of the conditions stipulated in the Retail Supply Tariff Order for the FY 2013-14 for the Category of HT-1 (b) consumers

Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present.

Sri P. Shiva Rao, learned Standing Counsel for the respondent submitted that there is no formal counter. Arguments of both the learned counsel are heard. For orders, the matter is posted to 25-02-2017.

Call on:

25-02-2017
at 11:00 AM

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R.P.No.11 of 2015 in O.P.No.39 of 2014
Empee Power Co (I) Ltd Vs APPCC, APTRANSCO & APSPDCL

Petition for review of the Commission's order dated 23-05-2015 in O.P.No.39 of 2014

Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present.

Orders are not ready. Posted for orders to 25-02-2017.

Call on:

25-02-2017
at 11:00 AM

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I.A.No.2 of 2016 in R.P.No.13 of 2015 in O.P.No.39 of 2014
APPCC, APTRANSCO & APSPDCL Vs Empee Power Co (I) Ltd

Petition for review of the Commission's order dated 23-05-2015 in O.P.No.39 of 2014

Sri P. Shiva Rao, learned Standing Counsel for the petitioners and Sri Challa Gunaranjan, learned counsel for the respondent are present.

Orders are not ready. Posted for orders to 25-02-2017.

Call on: 25-02-2017
at 11:00 AM

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OP (SR) No.30 of 2016
M/s. Weizmann Ltd Vs APSPDCL

Petitioner under Section 64 (1) r/w Section 62 (1) (a), 61 and 86 of the Electricity Act, 2003 seeking determination of tariff for supply of electricity generated by the petitioner from its 7.5 MW wind power project to the respondent, being the commencement of the 21st year following the commercial operation date of the project, will be taken up for hearing by the Commission about its maintainability

Sri Challa Gunaranjan, learned counsel for the petitioner is present.

Orders pronounced (*vide separate order*)

“7. Under the circumstances, the Commission does not appear to have any jurisdiction. While the learned counsel for the petitioner or the Commission could not lay their hands on any binding or persuasive judicial precedent on the aspect, any interpretation attempting at invoking such jurisdiction appears to be on unacceptable strained logic. Section 86 (1) (e) which was referred to in the letter of the learned counsel for the petitioner dated 23-11-2016 of-course refers to providing suitable measures for connectivity with the grid and sale of electricity to any person but that cannot be stretched to thrusting of purchase of power (even power from renewable sources) on an unwilling distribution licensee at a cost unacceptable to it.

8. In case of an application for determination of tariff not in accordance with the provisions of the Act etc., the procedure to be adopted is laid down under

section 64 (3) (b) which provides for rejection of petition for reasons to be recorded in writing after giving a reasonable opportunity of hearing to the applicant before such rejection. Under the circumstances, the present petition has to be rejected accordingly for the above recorded reasons arrived at after a comprehensive opportunity of hearing to the petitioner.

9. Therefore, the petition is rejected, no costs.”

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CHAIRMAN

OP (SR) No.31 of 2016
M/s. Weizmann Ltd Vs APPCC, TSPCC, APSPDCL & TSSPDCL
Petition under Section 86 (1) (f) of the Electricity Act, 2003 r/w APERC Conduct of
Business Regulations, 1999 for non-payment of monthly power bills, will be taken up for
hearing by the Commission about its maintainability

Sri Challa Gunaranjan, learned counsel for the petitioner is present.

Orders pronounced (*vide separate order*)

“9. While even the proceedings pending by the appointed day stood transferred to the Telangana State Electricity Regulatory Commission on its formation in all matters exclusively relating to the territories of the State of Telangana, the question of this Commission exercising any jurisdiction over Telangana Power Co-ordination Committee or Southern Power Distribution Company of Telangana Limited now does not even remotely arise under the circumstances. While it is true that the Power Purchase Agreement (s) in question are much anterior to the division of the erstwhile State of Andhra Pradesh, the correspondence between the parties shows that the Telangana Power Co-ordination Committee and the Southern Power Distribution Company of Telangana Limited specifically contended that the liability lies with the residual State of Andhra Pradesh after transfer of Anantapur and Kurnool districts to the Southern Power Distribution Company of Andhra Pradesh Limited and the Andhra Pradesh Power Co-ordination Committee ultimately stated by its letter dated 26-11-2015 that the Andhra Pradesh Power Co-ordination Committee will release its share of 17.45% towards proportionate liability in respect of Anantapur and Kurnool districts, if arrears payable by Telangana Power Co-ordination

Committee and the Southern Power Distribution Company of Telangana Limited are admitted. The present petition shows that the petitioner did not in any manner assert the liability of the proposed respondents 1 and 3 to be anything more than 17.45% and if so, there cannot be considered to be existing any dispute relating to the liability of the respondents 1 and 3 to that extent and the petitioner may only have to take recourse the appropriate remedies available under law to enforce and recover such admitted liability. The petition as framed now does not appear tenable in respect of respondents 1 and 3 even in respect of the admitted liability. In so far as the proposed respondents 2 and 4 are concerned, even though the liability claimed appears to be in respect of a cause of action that arose prior to bifurcation of the State of Andhra Pradesh, as no proceeding was pending by the appointed day or till the date of formation of Telangana State Electricity Regulatory Commission for the State of Telangana, any adjudication of any dispute between the petitioner and the proposed respondents 2 and 4 can only be before the Telangana State Electricity Regulatory Commission and not before this Commission. As such, the petition as framed appears to be untenable in law and beyond the jurisdiction of this Commission. The claim that the common cause of action and the claim are inseparable is also *ex facie* unsustainable in the face of the claim of Andhra Pradesh Power Coordination Committee and the Southern Power Distribution Company of Andhra Pradesh Limited that their liability is only to the extent of 17.45% of the liability, which is not denied or disputed specifically. The inherent lack of jurisdiction since the formation of the Telangana State Electricity Regulatory Commission disables this Commission from entertaining the petition against the proposed respondents 2 and 4 and even against the proposed respondents 1 and 3 in the manner in which it is prayed to be considered.

Hence, the petition is declined to be accepted and refused under Regulation 12 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999. No costs.”

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CHAIRMAN

O.P.No.31 of 2015

M/s. Jocil Ltd Vs APSPDCL

Petition filed under Section 86 (1) (f) of the Electricity Act, 2003 for the payment of the differential variable cost of surplus power supplied

Sri Challa Gunaranjan, learned counsel representing Sri K. Gopal Choudary, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present.

Orders are not ready. Posted for orders to 25-02-2017.

Call on:

25-02-2017
at 11:00 AM

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MEMBER / PR

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CHAIRMAN