



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

4<sup>th</sup>Floor, Singareni Bhavan, Red Hills, Hyderabad 500004

MONDAY, THE SECOND DAY OF AUGUST  
TWO THOUSAND AND TWENTY ONE

:Present:

**Justice C.V. Nagarjuna Reddy, Chairman**  
**Sri Thakur Rama Singh, Member**  
**Sri P. Rajagopal Reddy, Member**

O.P.No.64 of 2019

Between :

M/s. Indian Oil Corporation Limited,  
A company registered under the Companies  
Act 1956, Having its regd office at G-9,  
Ali Yavar Jung Marg, Bandra (East),  
Mumbai-400 051, India.  
Having its Head Office at Pipe Line Division:  
A-1, Udyog Marg, Sector-1, Noida-201301, India.

Represented by its Authorised Signatory  
Shri S.D. Pande, s/o. Late Shri J.D. Pande,  
General Manager (Operations & Technical),  
Southern Region Pipelines, 6/13 Wheat Croft Road,  
Nungambakkam, Chennai-600034, R/o. Chennai .. Petitioner

And

1. Southern Power Distribution Company of  
Andhra Pradesh Ltd., represented by its  
Chairman & Managing Director, # 19-13-65/A,  
Srinivasapuram, Tiruchanoor Road, Tirupati,  
Chittoor District, Andhra Pradesh-517503.
2. Transmission Corporation of Andhra Pradesh Ltd.,  
Vidyut Soudha, Gunadala, Eluru Road, Vijayawada,

Andhra Pradesh-520004, represented by its  
Chairman & Managing Director.

.. Respondents

**ORDER:**

The O.P. has been filed with the following prayers :

To direct respondent No.1-APSPDCL

- (i) To make payment to the petitioner of the outstanding amount of Rs.35,32,73,128/- towards monthly invoices due from August 2018 to July 2019 within 15 days of the receipt of order of the Commission;
- (ii) To make payment to the petitioner of the outstanding amount of Rs.2,11,83,213/- towards LPS for the unpaid monthly invoices from August 2018 till date in terms of Article 5.2 of the PPAs within 15 days of the receipt of order of the Commission;
- (iii) to make payment to the petitioner of the outstanding amount of Rs.99,12,214/- towards wrongful deduction of rebate from the petitioner's monthly invoices raised from FY 2013-14 to FY 2015-16 despite not being entitled to deduct such rebate in terms of Article 5.1 of the PPAs within 15 days of receipt of the order of the Commission;
- (iv) to make payment to the petitioner of the outstanding amount of Rs.2,23,59,457/- which payment was not made for the monthly invoices raised in FY 2016-17 and FY 2017-18 within 15 days of receipt of the order of the Commission;
- (v) to make payment to the petitioner of the outstanding amount of Rs.4,34,28,222/- towards LPS for delayed payment of monthly invoices from the FY 2012-13 to FY 2017-18 and from April 2018 to July 2018 in terms of Article 5.1 of the PPAs within 15 days of receipt of the order of the Commission; and
- (vi) to award costs of the proceedings against APSPDCL in favour of the petitioner.

In the Original Petition, the petitioner pleaded that it was allotted a total 46.2 MW capacity of wind power projects at YSR Kadapa and Anantapur Districts by the New Renewable Energy Development Corporation of Andhra Pradesh Ltd. (NREDCAP) which is the nodal agency of the State Government for granting approval of wind energy projects vide proceedings dated 23-01-2013 & 09-02-2011, 23-01-2013, 10-04-2012, 09-12-2011 & 22-12-2011 and that in terms of the said allotment, various agreements dated 21-01-2013, 01-02-2012, 24-01-2013, 10-04-2013 and 01-02-2012 were entered into between the petitioner and NREDCAP. The following are the Power Purchase Agreements entered into between the petitioner and the erstwhile APCPDCL (now under the control of respondent No.1) :

S.No.	Capacity of project	Location of project	PPA Date
1	16.8 MW	Vajrakarur Mandal, Anantapur District	31-03-2012
2	10.5 MW	Uravakonda Mandal, Anantapuram District	08-05-2012
3	14.7 MW	Gandikota, Jammalamadugu Mandal, YSR Kadapa District	21-03-2013
4	4.2 MW	Uravakonda Mandal, Anantapuram District	18-07-2014

The petitioner pleaded that since the date of synchronization, it has been selling power to respondent No.1 under the aforesaid PPAs and had been raising invoices accordingly; that however with respect to certain invoices, respondent No.1 had not made payments at the due dates of payment in terms of Article 1.6 of the PPAs; and that therefore the petitioner is entitled to Late Payment Surcharge (LPS) i.e., interest in terms of Article 5.2 of the PPAs amounting to Rs.19,78,001/- for FY 2012-13, Rs.44,05,080/- for FY 2013-14, Rs.35,19,749/- for FY 2014-15, Rs.19,22,499/- for FY 2015-16, Rs.44,29,597/- for FY 2016-17; Rs.1,51,18,785/- for FY 2017-18 and Rs.1,20,54,511/- from April 2018 to July 2018.

The petitioner further pleaded that the respondents had wrongfully deducted rebate at 1% amounting in total to Rs.99,12,214/- in terms of Article 5.2 of the PPAs for the invoices raised from FY 2013-14 to 2015-16 despite the fact that the petitioner's monthly invoices were not paid on or before the due date of payment; that the respondents had only made part payment of invoices for the FY 2016-17 and FY 2017-18; that the petitioner had raised invoices for a total amount of Rs.68,32,21,145/- for the said period but had received only

Rs.66,08,61,688/- resulting in a difference of Rs.2,23,59,457/- despite not having made even a single payment by the due date of payment as per Article 1.6 of the PPA; and that from the month of August 2018 till date, despite the fact that the petitioner was supplying power and raising monthly invoices as per the PPAs, the respondents, for reasons best known to them, have not paid the amounts totalling to Rs.35,32,73,128/- under such invoices. It was pleaded that a bare reading of Article 1.6 makes it unambiguously clear that the PPAs provide a credit period of 30 days from the Meter Reading Date; that on a combined reading of the Articles 1.6, 5.1, 5.3 and 5.5 of the PPAs it becomes evident that as long as the petitioner consistently generated and supplied electricity to APSPDCL and accordingly raised monthly energy sale invoices, respondent No.1 is bound to duly and timely make the payments on account of purchase of energy; that it is clear from the payment details that respondent No.1, in gross violation of the terms of the PPAs, had not made any payment for the invoices raised for the Billing Months of August 2018 to July 2019 to the detriment of the petitioner. That as per Article 5.6 of the PPAs, respondent No.1 never raised any dispute as to the amounts claimed under various monthly invoices raised by the petitioner; that petitioner-company vide letters dated 7-9-2018,

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2-10-2018, 11-12-2018, 8-4-2019, 22-2-2019 and 5-7-2019 addressed to the CMD & JMD (Finance) of respondent No.2 requested its immediate intervention so as to advise respondent No.1 for making necessary arrangements to release the payments; that the petitioner-company vide its letters dated 22-7-2019 and 17-9-2019 addressed to respondent No.1 requested for release of the outstanding amounts but there was no reply. That the petitioner made several requests for payment of the amounts against the invoices pending from August 2018 but the respondents have neither disputed the same nor replied in any manner; that respondent No.1 has unlawfully withheld principal amounts due to the petitioner; that the respondents are bound by the terms and conditions of the PPAs as the same are binding and enforceable on the parties; and that the petitioner is entitled to Rs.2,11,83,213/- towards LPS from August 2018 till date as per Article 5.2 of the PPAs on account of the delay in making payments. That the action of respondent No.1 in not making payment for the invoices raised is in violation of the provisions of the PPAs as it is not the case of the respondent No.1 that it is not drawing power being supplied by the petitioner or that there exists any dispute as regards the provisions of the PPAs; that the petitioner has been performing the non-gratuitous act of generating electricity and

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supplying the same to the respondents and the respondents having received the power generated and supplied by the petitioner and having supplied the same to the end consumes for consideration are liable to compensate the petitioner and that the non-payment of the amounts due to the petitioner is reflective of the arbitrariness on the part of the respondents.

On behalf of respondent No.1, its Chief General Manager/IPC filed reply stating that there exists a dispute between the Discom and Wind Power Generators, including the petitioner, in respect of the tariff and that the petitioner and several others have filed Writ Petitions against the Discom. It was further pleaded that the respondent disputes the correctness of the quantum of power supplied by the petitioner and the money claimed under the invoices; that the Hon'ble High Court by order dated 24-9-2019 directed the Discom to pay Rs.2.43 per unit in respect of the pending and future bills as an interim measure until disposal of O.P.No.17 of 2019 pending before the Commission; that in view of the said order of the Hon'ble High Court, the petitioner is not entitled for LPS and that in W.P.No.11688/2019, the Hon'ble High Court passed order to pay the pending bills @ Rs.2.43 per unit in three instalments commencing from 1-11-2019; that the Discom is making all out efforts to

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pay the pending bills of the petitioners as per the directions of the Hon'ble High Court in W.P.No.9844/2019 and that as the respondents are complying with the orders dated 24-9-2019 of the Hon'ble High Court, the instant O.P. became infructuous. The answering respondent, while explaining the VRE integration cost for each unit of VRE purchased by it with reference to Adequacy Cost, Balancing Cost and Grid Integration Cost, pleaded that if the petitioner is not agreeable for payment of invoices beyond the period specified in Article 9.2 of the PPAs, it can exercise the option provided in Article 9.4 of the PPAs and may terminate the agreement and prayed for dismissal of the O.P.

Pursuant to the interim order dated 18-2-2019 passed by the Commission, the respondents have made payment to the petitioner with respect to the unpaid monthly invoices until September 2019 at the interim rate of Rs.2.43 per unit. The petitioner filed I.A.No.16 of 2020 for amending the prayer in the O.P. to direct respondent No.1 to pay Rs.9,48,24,318/- towards monthly invoices due from October 2019 to April 2020 and all further monthly invoices to be raised by the petitioner as well as LPS of Rs.96,46,483/- accrued for the period from August 2019 of April 2020 along with further LPS accrued as per the PPAs on the ground that though the respondents are using the power supplied by



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the petitioner, no payments have been made as against the monthly invoices raised by the petitioner. The said I.A. was allowed on 7-7-2020.

In its rejoinder, in reply to para-1 of the counter affidavit, the petitioner pleaded that it has not filed any Writ Petition against the Discoms in the High Court and denied the averment relating to the existence of any dispute with regard to tariff in the Hon'ble High Court between it and the respondents as false and pleaded that the respondents are bound to honour the terms of the PPAs and make payments against the monthly invoices raised by it. In reply to paras 2 to 4 it was pleaded that the alleged dispute with regard to quantum of power and that the amounts claimed by the petitioner is just a moonshine. That the monthly invoices being raised by the petitioner have been submitted regularly and yet at no point of time there was any dispute by the respondents with regard to the tariff or otherwise. The petitioner pleaded that the common order dated 24-09-2019 of the Hon'ble High Court is not applicable to the petitioner in as much as the petitioner is neither a party to O.P.No.17/2019 nor connected with the tariff fixed in Regulation No.1 of 2015 which is under challenge in O.P.No.17 of 2019; that the petitioner is also not a party to W.P.No.11688/2019; that the petitioner being not a party to the said Writ

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Petitions and the petitioner's claim being unconnected to the tariff fixed in Regulation No.1/2015, the respondents are obligated to clear the monthly invoices from the year 2012 without any demur and that at this stage it is not open to the respondents to deny the amounts due to the petitioner. It was further pleaded that the first two PPAs i.e., dated 31-03-2012 and 8-5-2012 were executed under the 2008 A.P. Wind Power Policy which was notified vide G.O.Ms.No.48, dated 11-4-2008 and later amended vide G.O.Ms.No.99 dated 9-9-2008 wherein a firm tariff of Rs.3.50 per unit was fixed for a period of 10 years from the COD, subject to approval of the Commission. That the other PPAs dated 21-03-2013 and 18-07-2014 were executed during the 2012 tariff regime introduced vide O.P.No.13 of 2012, dated 15-11-2012 wherein a preferential generic levelized tariff of Rs.4.70 per unit was determined by the Commission in exercise of the powers conferred on it under Sections 61(h), 62, 86(1)(a), 86(1)(b) and 86(1)(e) of the Act in the absence of its own tariff regulations for wind power projects, in line with the CERC (Terms and Conditions of Tariff Determination from Renewable Energy Sources) Regulations; that the Commission relied on the 2009 CERC Regulations in terms of the provisions of the NTP and that the said tariff was computed taking into consideration the useful life of the projects.

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The petitioner further pleaded that the tariff of Rs.3.50/- per unit fixed vide the 2008 A.P. Wind Power Policy was never objected to by the respondents and the same was not the subject matter of any Writ Petition in the Hon'ble High Court and therefore even as per the contentions of the respondents the liability accrued under the first two PPAs have never been challenged and remains due and payable to the petitioner.

In reply to para-5, the petitioner submitted that the averments relating to Adequacy Costs, Balancing Costs and Grid Integration Costs were never raised by the respondents before the Commission in O.P.No.13/2012 or even subsequently; that similarly the Discoms have not challenged G.O.Ms.No.99, dated 9-9-2008 at any point of time and that therefore the Discoms are not entitled to raise such averments at this stage long after the PPAs have been executed and have been acted upon by both the parties without demur. In reply to para-6 it was pleaded that the APSPDCL is in a dominant position in the State of A.P. as it is only one of the two distribution licensees and all the wind power PPAs in the State have been executed with APSPDCL as the off-taker; that the business undertaken by APSPDCL is monopolistic in nature since it operates in an exclusive territorial jurisdiction and there is no

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other distribution licensee in the State with which PPAs can be executed for off take of power and that therefore it is not open to the petitioner to terminate its PPAs with the respondents. It was pleaded that all the averments made in the counter affidavit are not relevant to deny the dues accrued legitimately to the petitioner under the PPAs.

Respondent No.1 filed additional counter pleading that out of the four PPAs, the Commission has fixed the tariff at Rs.4.70 ps per unit in respect of PPAs dated 21-3-2013 and 18-07-2014 and the other two remaining two PPAs are with a tariff of Rs.3.50 per unit; that during the course of time the Discom suffered huge burden of adequacy costs, balancing costs and grid integration costs; that all the said three components worked out to Rs.2.25 ps per unit; that consequently the Discom's financial position became precarious and was unable to pay the monthly bills properly from June 2018 and that even during the period preceding June 2018 also the respondent could not pay the bills within the stipulated period. That although there is a Clause in the PPA to the effect that in the event of default of payment of monthly bills for more than 90 days, the petitioner is at liberty to terminate the PPA and to go for third party sale, the petitioner did not choose to exercise the said option; that therefore having no alternative, the respondents have filed

O.P.No.66 of 2019 before the Commission against the petitioner and others whose tariff is Rs.4.70 per unit; and that the said petition is similar to O.P.No.17 of 2019 which is filed in respect of wind power generators having PPA with tariff of Rs.4.83 ps. And Rs.4.84 ps. per unit. That the respondents/wind power generators in O.P.No.17 of 2019 have filed W.P.No.2401/2019 and the Hon'ble High Court while disposing of the said Writ Petition and W.P.No.9844/2019 & batch directed the respondent/Discom to pay Rs.2.43 ps. per unit as interim tariff until disposal of O.P.No.17/2019; that since OP.No.66/2019 was filed for reduction of tariff on similar grounds that are canvassed in O.P.No.17/2019 and since the petitioner is respondent No.4 in O.P.No.66/2019, the interim arrangement made by the Hon'ble High Court in respect of Generating Plants which have high tariff was applied to the petitioner's two PPAs dated 21-3-2013 and 18-7-2014 and the monthly bills upto March 2020 were cleared. It is further pleaded that in respect of the other two PPAs dated 31-3-2012 and 8-5-2012, the tariff payable is Rs.3.50 ps per unit; that the said tariff is applicable for 10 years only; that the monthly bills in respect of these PPAs were paid upto July 2019 and that the respondent would clear the bills upto date as soon as it gets financial assistance either from the financial institutions

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or from the Government. It was further pleaded that on the given set of facts, the petitioner is not entitled to claim Late Payment Surcharge amount. That the claim of the petitioner in respect of the amount deducted towards rebate in the monthly invoices is in respect of the period prior to September 2016 and that since the petition was filed on 3-10-2019, the said claim is barred by limitation.

Having regard to the respective pleadings of the parties, the following Points emerge for adjudication :

1. Whether the petitioner is entitled to recover the outstanding amounts under monthly invoices for the power generated and supplied by it to respondent No.1 ?
2. Whether the petitioner is entitled to Late Payment Surcharge (LPS) and if so for what period and at what rate ?
3. Whether the petitioner is entitled to the payment towards alleged unlawful deduction of rebate from the petitioner's monthly invoices raised from FY 2013-14 to 2015-16 ?

**Re Point No.1:** It is not in dispute that the petitioner and respondent No.1 have entered into four PPAs – two, dated 31-03-2012 and 28-05-2012, respectively, one dated 21-03-2013 and one more dated 18-07-2014. In the counter/reply statement of CGM/IPC of respondent

No.1 it was pleaded that as the tariff was very high, respondent No.1 has approached this Commission for review of PPAs vide O.P.No.17 of 2019; that the petitioner is one of the respondents to the said O.P; that in W.P.No.11688 of 2019 the Hon'ble High Court directed payment @ Rs.2.43 per Unit, and that therefore pending the said litigation the petitioner is not entitled to recover at full tariff as fixed under the PPAs. In the rejoinder, the petitioner denied the plea of respondent No.1 that it is a party to O.P.No.17 of 2019; that the respondents have not disputed the tariff of Rs.3.50 per Unit under the two PPAs dated 31-03-2012 and 8-5-2012 and that the same was not the subject matter of either the O.P. or the Writ Petition. In the additional counter filed by respondent No.1, it has corrected its earlier stand by admitting that the two PPAs dated 31-03-2012 and 8-5-2012 are not subject matter of any dispute; that it has filed O.P.No.66 of 2019 seeking review of tariff of Rs.4.70 per Unit and that the PPAs dated 21-03-2013 and 18-07-2014 entered with the petitioner are also the subject matter of the said O.P. It was further pleaded that as the issues raised in O.P.No.66 of 2019 are similar to those raised in O.P.No.17 of 2019 and as the tariff under the said PPAs is also high as in the case of the PPAs which are the subject matter of O.P.No.17 of 2019, the same interim rate of Rs.2.43 per Unit as directed

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to be paid in W.P.No.2401 of 2019 shall also be applicable to the said two PPAs dated 21-03-2013 and 18-07-2014. As regards payment of bills under the PPAs dated 21-03-2013 and 18-07-2014, it is averred that the monthly bills upto March 2020 were cleared and that as regards the PPAs dated 31-03-2012 and 8-5-2012, the monthly bills were paid upto July 2019. Respondent No.1 has also undertaken to clear the bills upto date as soon as it gets financial assistance either from the financial institutions or from the Government.

From the above noted pleadings, it is clear that the PPAs dated 31-03-2012 and 8-5-2012 are not subject matter of any dispute either before this Commission or before the Hon'ble High Court. Therefore, there is no justification for the respondents to not clear the bills as per the PPAs' tariff. The precarious financial condition cannot be a ground to keep the bills pending for unduly long periods. As regards the amounts payable under the PPAs dated 21-03-2013 and 18-7-2014, it is not the pleaded case of the respondents that either the High Court or this Commission passed any orders applying the interim rate of Rs.2.43 per Unit as fixed in the case of power developers covered by O.P.No.17 of 2019. In the absence of such orders, respondent No.1 cannot on its own apply the interim rate fixed by the High Court in cases of some



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other developers. As respondent No.1 has paid the outstanding bills upto March 2020 at the said interim rate of Rs.2.43 per Unit, it is liable to pay the balance arrears as per the invoices raised by the petitioners. This Point is accordingly decided.

**Re Point No.2:** It is not in dispute that the PPAs provide for the rebate of 1% of the total amount billed in any billing month for the payments made before the due date of payment. They also provide for payment of interest by respondent No.1 for any payment made beyond the due date of payment at the existing Nationalized Banks Rate (Prime Lending Rate) and in case this rate is reduced, such rate as applicable from the date of reduction. Except denying its liability to pay the LPS, respondent No.1 has not offered any cogent reason for such denial. Having agreed to the said term in the PPAs, respondent No.1's liability to pay the LPS is absolute. The stand of respondent No.1 that the petitioner has not exercised the option of terminating the PPAs despite delay in payment of bills, in our opinion, is a plea in despair. The said Clause only enables the petitioner to terminate the PPAs at its option. If it has not opted to terminate, respondent No.1 is not relieved of its obligation to pay the LPS. We accordingly hold that respondent No.1 is liable to pay the LPS. As regards the rate of surcharge, as noted above, the Clause stipulated

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payment at the Prime Lending Rate of Nationalized Banks. This Commission had an occasion to deal with a similar claim of LPS in **JSW Power Trading Company Ltd. Vs. APSPDCL (order dated 6-3-2020 in O.P.No.34 of 2019)**. Having regard to the bad financial position of respondent No.1, the Commission has granted partial relief in the rate of LPS. The detailed reasons assigned for granting such relief are also germane in the present case as respondent No.1 is common in both the cases and its financial position continues to remain bad even today. It is apt to extract the relevant part of the said order hereunder :

“21. Ordinarily, parties to an executory contract are bound by the terms thereof. However, when one of the parties to the contract pleads inability to pay, the Courts having regard to the facts and circumstances of the case, exercise their equitable jurisdiction to advance the cause of justice by appropriately reducing the interest liability. Indeed there are instances where the legislature stepped in to relieve the debtors from the undue burden of interest by enacting statutes such as The Usurious Loans Act, 1918, The Madras Debtors’ Protection Act (VII of 1935), The Madras Debt Conciliation Act, 1936 and Money-Lenders’ Act, to name a few. The main purpose of these enactments is to reduce the interest burden on the debtors, thereby extending some relief to them. This Commission is however conscious of the fact that these enactments have no application to the present case on hand. However, Regulation 55 (1) of the Business Rules of Andhra Pradesh Electricity Regulatory Commission (Regulation 2 of 1999) empowers the Commission to make such orders as may be necessary for meeting the ends of justice. Evidently exercising this power, this Commission in the past scaled down the rate of interest albeit with the consent of the creditors. In Orange Uravakonda Power Limited Vs APSPDCL & batch (O.P.Nos.21

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to 27 and 35 of 2017 and O.P.Nos.1 and 7 of 2018 dated 14-06-2018), this Commission persuaded the various Power Producers/creditors to accept the dues with interest only at 25% of what was stipulated under Article 5.2 of the respective PPAs, having regard to the precarious financial position of the DISCOMs in the State. Similar indulgence is being shown by this Commission in several other cases, scaling down the interest component in varied percentages depending upon the quantum of interest due and payable by the DISCOMs.

22. Though the terms of a bilateral contract have to be respected and regarded by the parties, when a dispute over payment of money is brought before the authority such as this Commission, a duty is cast on the latter to render even handed justice, instead of steadfastly holding to the terms of the agreement, more so, in a dispute pertaining to payment of interest. Justice, equity and good conscience are inseparable aspects of dispute adjudication even if the adjudicatory forum is not a full-fledged court, but only a quasi judicial forum. Indubitably, the respondent is a public utility undertaking, whose main object is not profit making, unlike the private distribution licensees. For various reasons which are not germane for discussion in the present context, the distribution utilities in the State of Andhra Pradesh including the respondent are in huge debts. As per the material available with this Commission, the respondent is in arrears of Rs.16,000 crores (approximately) payable to the power suppliers. Year after year revenue gap is increasing. The respondent is struggling for bare survival and hardly in a position to service its debts. In this situation, payment of interest at the agreed rate to the petitioner and similarly situated power suppliers does not appear to be possible at all. Keeping this precarious position of the respondent in mind, I have allowed both parties to reconcile and settle their dispute amicably. However, they failed to arrive at a negotiated settlement. In these facts and circumstances of the case, though this Commission is of the opinion that in normal course, the respondent is strictly bound by the stipulations in the PPA regarding late payment surcharge, in the circumstances explained above and in public interest, I am constrained to exercise the Commission's inherent power to reduce the respondent's liability to a reasonable extent. Accordingly, the late payment surcharge and also the

surcharge on delayed payment of Open Access charges are reduced by 50% of the respondent's liability as shown in Annexures A and B filed along with rejoinder of the petitioner. On such reduction, the amounts payable by the respondent to the petitioner come to Rs.18.67 crores towards surcharge for late payment of energy bills and Rs.3.24 crores towards surcharge for late payment of Open Access bills. The respondent is directed to pay the aforementioned amounts within one month from the date of receipt of this order.

Following the above order, we are inclined to extend the same relief to respondent No.1 herein as granted in O.P.No.34 of 2019. This Point is accordingly decided.

**Re Point No.3:** As could be seen from prayer (iii), the petitioner is seeking payment of Rs.99,12,214/- towards wrongful deduction of rebate from the petitioner's monthly invoices raised from FY 2013-14 to 2015-16. In **A.P. Power Coordination Committee Vs. Lanco Kondapalli Power Limited (2016) 3 SCC 468** the Hon'ble Supreme Court held that while exercising its judicial power for adjudication of disputes under Section 86(1)(f) of the Electricity Act 2003, the Commission shall not entertain time barred claims. The O.P. was filed on 03-10-2019. Under Article 113 of the Limitation Act, 1963 the limitation prescribed is three years. As, on the petitioner's own showing the rebate was withheld upto the FY 2015-16 only, the said period falls

beyond three years preceding the date of filing of the O.P. Hence, the said claim is barred by limitation.

In the result, the O.P. is allowed in part as under :

(a) Respondent No.1 shall pay all the outstanding bills to the petitioner under all the four PPAs as per the invoices raised by the petitioner in two equal monthly instalments. The first instalment shall be paid on or before 15-09-2021 and the second instalment shall be paid on or before 31-10-2021.

(b) Respondent No.1 shall pay LPS on the arrears at 50% of the ruling Prime Lending Rate along with the arrears as per the schedule fixed under (a) supra.

(c) There shall be no order as to costs.

Sd/-  
**Thakur Rama Singh**  
Member

Sd/-  
**Justice C.V. Nagarjuna Reddy**  
Chairman

Sd/-  
**P. Rajagopal Reddy**  
Member