



ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

4thFloor, Singareni Bhavan, Red Hills, Hyderabad 500004

WEDNESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY ONE

:Present:

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

R.P.No.1 of 2021

In

Proceedings NO.T-52/2020/09, Dt.01-10-2020

Between :

M/s. Lanco Kondapalli Power Limited

Regd. office : LANCO House,

Plot No.4, Software Units Layout, HITEC City,

Madhapur, Hyderabad.

.. Petitioner

And

1. Southern Power Distribution Company of
Andhra Pradesh Ltd., D.No.19-13-65/A,
Corporate Office Raghavendra Nagar,
Kesavayani Gunta, Tiruchanoor Road,
Tirupathi, Chittoor District,
Andhra Pradesh-517501.

2. Eastern Power Distribution Company of
Andhra Pradesh Ltd., Corporate Office
P & T Colony, Seethammadhara,
Visakhapatnam, Andhra Pradesh.

.. Respondents

This Review Petition has come up for hearing finally on 05-05-2021 in the presence of Sri P. Soma Sekhara Naidu, learned Counsel for the petitioner and Sri. G.V. Brahmananda Rao, Counsel representing Sri P. Shiva Rao, learned Standing Counsel for the respondents and after

hearing the arguments of the learned Counsel for both the parties, the Commission passed the following :

ORDER:

This Review Petition is filed for the following substantive reliefs:

(a) To review the impugned Order dated 01-10-2020 passed by this Hon'ble Commission in Proceedings in T-52/2020/09 to the extent of the value of the tariff by adopting the factual values and correcting the arithmetic mistake in the said Impugned Order; and

(b) to direct the respondents to pay to the petitioner as per such revised tariff as decided by this Hon'ble Commission from 01-10-2020."

At the hearing Sri P. Soma Sekhara Naidu, learned Counsel for the petitioner, has not disputed the fact that in pursuance of the proceedings dated 28-09-2020 of the Commission, the petitioner has given an unconditional undertaking to the respondents in the following terms:

1. Lanco represented by IRP hereby Un-conditionally undertakes that the cost of procurement by APSPDCL and APEPDCL from generating station of Lanco during the period from 1st October 2020 onwards shall be at the rate approved by APERC.
2. Lanco represented by IRP hereby further Un-conditionally undertakes that it will not claim any amount in excess than the per unit cost determined by APERC for the period 1st October 2020 onwards, later on any grounds including fuel cost pass through.
3. As per the petition filed by M/s. Axis Bank Ltd., the petitioner & Financial Creditor against M/s. Lanco Kondapalli Power Ltd. under Section 7 of the Insolvency and Bankruptcy Code 2016 (I&B Code-16) Read with Rule 4 of the Insolvency & Bankruptcy

(Application to Adjudicating Authority) Rules 2016 (For Brevity, IB Rules 16) Sri Pankaj Dhanuka has been appointed as Insolvency Resolution Professional by NCLT as proposed by the Financial Creditor.

4. In view of the present prevailing Covid-19 crisis, this Un-conditional undertaking is being submitted through e-mail by the authorised signatory Sri K. Satyanarayana as approved and nominated by the IRP. Sri Pankaj Dhanuka (Regn No.IBB1/IPA-001/P/P-01205/2018-2019/11911).
5. The Authorised Signatory approved and nominated by IRP Sri Pankaj Dhanka hereby states that after the normalcy conditions restores, the signed hard copy will be submitted in person to the CGM/Power Purchase.
6. In pursuance of the APERC order dated 28-09-2020 the following Un-conditional undertaking is given to AP Discoms.

It is not the pleaded case of the petitioner that the unconditional undertaking given by it that it will supply power at the rate approved by the Commission i.e., @ Rs.2.35 per unit as fixed vide proceedings dated 1-10-2020, was on account of mistake of fact or mistake of law or that it was compelled by the factors like economic duress. Having given the undertaking, the petitioner cannot be allowed to go back on the same and seek revision of the tariff, as it is precluded from doing so by the doctrines of estoppel, waiver and acquiescence.

After hearing the learned Counsel for the petitioner, the Commission is of the view that the Review Petition is not maintainable as it flies in the face of the above extracted unconditional undertaking

irrespective of whether the petitioner has justification on merits in filing the Review Petition or not.

The Review Petition is accordingly dismissed in limine.

Sd/-
Thakur Rama Singh
Member

Sd/-
Justice C.V. Nagarjuna Reddy
Chairman

Sd/-
P. Rajagopal Reddy
Member

