

**Record of Proceedings Dated 04-10-2023**

**IA No.3 of 2023**

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**OP No. 17 of 2023**

**M/s ACME Solar Holdings Pvt., Ltd. & five others Vs. APSPDCL & three others**

**(I.A.No.3 of 2023):** This Interlocutory Application is filed by the Petitioners seeking to:-

- (a) direct APSPDCL to pay the Petitioners, forthwith, the amounts deducted towards excess DC capacity installed prior to commissioning of the projects, amounting to Rs.102.85 Crores;
- (b) direct APSPDCL not to deduct the amounts towards DC capacity installed, prior to commissioning, for future invoices and make future payments for the DC capacity installed prior to commissioning i.e. 176.96 MW; and (c) to direct the APSPDCL to pay Late Payment Surcharge (LPS) on the total amount deducted towards excess DC capacity installed prior to commissioning of the Projects).

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**(OP No.17 of 2023):** This Petition filed is filed under Section of the 86(1)(f) of the Electricity Act, 2003 for recovery of amounts wrongfully withheld by APSPDCL from the petitioners' bills along with Late Payment Surcharge)

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**I.A.No.3 of 2023:**

Sri Vishrov Mukerjee, learned counsel assisted by Sri P.S.S.Bhargava, learned counsel for the Petitioners, and Sri P.Shiva Rao, learned standing counsel for the respondents, are present at the hearing.

We have heard Sri Vishrov Mukerjee and Sri P.Shiva Rao.

The limited aspect for consideration in this IA is - whether the respondents have withheld CC charges payable to the petitioners in respect of any part of the DC capacities existing on the date of COD of five units of the petitioners?

Sri Vishrov Mukerjee, learned counsel for the petitioner, has drawn our attention to Page Nos.1746, 1760, 1765,1780 and 1789, which are, admittedly, synchronisation certificates indicating the existence of DC capacities as on those dates. All that learned counsel for the petitioners submits is that the respondents, at least, by way of an interim measure, shall pay the amounts withheld, if any, upto the above mentioned DC capacities.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, requested two weeks' time for filing a statement, in writing, indicating the payments already made and also clarifying whether any part of the charges have been withheld upto the aforementioned DC capacities, which, *prima facie*, were in existence on the date of COD of the respective units. Time is, accordingly, granted.

Call the IA on 08-11-2023.

Sd/-  
CHAIRMAN

Sd/-  
MEMBER/TRS

**OP No. 18 of 2023**

**M/s Hetero Wind Power Ltd. Vs. APSPDCL, APTRANSCO & APPCC**

**OP No. 19 of 2023**

**M/s Danu Wind Parks Private Limited Vs. APSPDCL, APTRANSCO & APPCC**

**OP No. 20 of 2023**

**M/s Dindore Wind Parks Pvt Ltd., Vs. APSPDCL, APTRANSCO & APPCC**

**OP No. 21 of 2023**

**M/s Fujin Wind Parks Private Limited Vs. APSPDCL, APTRANSCO & APPCC**

**OP No. 22 of 2023**

**M/s Danu Wind Parks Private Limited Vs. APSPDCL, APTRANSCO & APPCC**

**OP No. 23 of 2023**

**M/s Hetero Wind Power (Pennar) Pvt. Ltd Vs. APSPDCL, APTRANSCO & APPCC**

**OP No. 24 of 2023**

**M/s Aeolus Wind Parks Private Limited Vs. APSPDCL, APTRANSCO & APPCC**

(These Petitions are filed under Sections 86(1)(e) &(f) of the Electricity Act, 2003 read with Clause-8 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations 1999 (as amended), read with the Clauses of the Power Purchase Agreements entered into between the Petitioners and the Respondents, seeking directions to the 1st Respondent for expeditiously releasing the payments to the Petitioners, which are illegally deducted and withheld by the 1st Respondent, on account of the energy delivered by the Petitioners to the 1st Respondent beyond the Capacity Utilisation Factor (CUF) of 23/23.5%)

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Sri S.Vivek Chandrasekhar, learned Counsel for the Petitioners; and Sri P.Shiva Rao, learned Standing Counsel for the respondents; are present at the hearing.

Heard. The OPs are disposed of, vide separate common order)

Sd/-  
CHAIRMAN

Sd/-  
MEMBER/TRS

**OP No. 53 of 2019****APPDCL Vs. APSPDCL & APEPDCL**

(Petition filed u/s 62 of the Electricity Act, 2003 for determination of Tariff for the Control period 2019-2024 for the electricity supplied by APEPDCL from Sri Damodaram Sanjeevaiah Thermal Power Station to the Distribution Licensees in Andhra Pradesh)

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

A.P. Textile Mills Association submitted a representation stating that the link relating to the Annexures of the Petition, which was published in the year 2019, has not been provided and that, therefore, they had no opportunity of studying the material on record. On receipt of this representation, the office of the Commission has uploaded the missing material on its website. To give a fair opportunity to the Objectors, two weeks' time, as requested by them, is granted for filing objections, if any.

Call on 01-11-2023.

Sd/-  
**CHAIRMAN**

Sd/-  
**MEMBER/TRS**

**OP No. 4 of 2023****Kreate Energy India Pvt. Ltd. Vs. APPCC**

(Petition filed under Section 86(1)(f) of the Electricity Act, 2003 for adjudication of the disputes between the Petitioner and the Respondent relating to supply of power for the period from January, 2018 to October, 2019 in terms of the power banking arrangement between the parties.)

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Mrs.Sneha Bhogle, counsel representing Sri Adarsh Tripathi, learned counsel for the Petitioner; and Sri P. Shiva Rao, learned Standing Counsel for the Respondent, are present at the hearing.

We have heard Mrs.Sneha Bhogle, and Sri P. Shiva Rao.

During the hearing, Sri P.Shiva Rao submitted that Clause-13 of the LoI excludes the jurisdiction of this Commission. He also submitted that a part of the

claim is also barred by limitation. He further submitted that since the transactions relate to an interstate supply and the petitioner being interstate trader, whose licence was granted by the CERC, the dispute is not amenable to the jurisdiction of this Commission.

Mrs.Sneha Bhogle, learned counsel for the petitioner, submitted that the last of the objections has not been raised by the respondent in writing. Since the said objection goes to the root of the jurisdiction of this Commission, the respondent is permitted to file an additional counter specifically raising this objection. In the additional counter, the respondent shall also give out the details as to which part of the claim is barred by limitation.

Two weeks' time is, accordingly, granted for this purpose. One week time is granted to the petitioner for filing additional rejoinder, if any.

Call on 01-11-2023.

Sd/-  
**CHAIRMAN**

Sd/-  
**MEMBER/TRS**

**OP No. 9 of 2023**

**M/s Alufluoride Limited Vs. APSLDC, APTRANSCO, APEPDCL**

(Petition filed under Section 86(1)(f) of the Electricity Act, 2003 seeking consideration of the unsettled Banking Units of 6.18 lakhs during the period from 25.03.2019 to 31.03.2020 and 23.21 lakhs during the period from 01.04.2020 to 10.01.2021 (total 29.39 lakhs units) towards increasing the capacity from 1.6 MW to 3.00 MW Generator in their project at Polepalli Village, Butchayyapeta Mandal, Visakhapatnam District, Andhra Pradesh)

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Sri L.Aravind Reddy, learned counsel for the Petitioner; and Sri P. Shiva Rao, learned Standing Counsel for the Respondents; are present at the hearing.

We have heard the OP in part.

During the hearing it has come out that the claim relating to 6,18,428 units injected from 25-3-2019 to 31-3-2020 is under positive consideration of the respondents.

Admittedly, from 01-4-2020 to 19-8-2020 relating to 1.6 MW (Phase-I) Unit, no application for Open Access was made. The only stand taken by the petitioner in this regard is that during that period, due to Covid, 2019 they could not make such an application. Since the said period is not covered by any application for Open Access, *prima facie*, the petitioner is not entitled to be given credit for those units.

As regards the remaining period, viz., 19-8-2021 to 10-1-2021, the petitioner claimed 14,51,420 units as deemed banked units. The learned counsel for the petitioner also submitted that for four months, from the date of making a common application for Open Access, the respondents have kept the said application pending, which was evidently returned only on 22-12-2020. He further submitted that there was deemed approval of the Open Access application, and, hence, the petitioner is entitled to be given credit of 14,51,420 units. The learned counsel also pointed out that in respect of 1.4 MW (Phase-II) Unit, substantial number of units injected from the date of synchronisation upto the COD were utilised by the respondents.

Sri P.Shiva Rao, learned Standing Counsel for the Respondents, submitted that under the extant Regulation synchronisation of the First Unit shall be treated as synchronisation of the entire plant, and that, therefore, there cannot be a separate synchronisation of the Second Unit, and, thereby, the petitioner is not entitled to the benefit of Banking provision.

Sri L.Aravind Reddy, learned counsel for the Petitioner, pointed out that the respondents cannot take a contradictory stand; that if the whole project was considered as being synchronised, with the synchronisation of the First Unit, the respondents ought not to have returned the common application made for the two Units.

In the light of the above disputed aspects, the learned counsel for both the parties requested an adjournment for making further submissions.

Call on 08-11-2023 for further hearing.

Sd/-  
**CHAIRMAN**

Sd/-  
**MEMBER/TRS**