

Record of proceedings dated 07-12-2019

O.P.No.17 of 2019

APSPDCL & APEPDCL Vs M/s Karam Chand Thapar & Bros Limited & others
Petition u/s 61 (d), 86 (1) (b) and 86 (1) (f) of the Electricity Act, 2003 r/w 55 (1) & (2)
of APERC (Conduct of Business) Regulation 2 of 1999, Regulations 23, 24 & 25 of
the Regulation No. 1 of 2015 (Terms and Conditions for Tariff Determination for
Wind Power Projects in the State of Andhra Pradesh for the period 2015-16 to FY
2019-20) and provisions under PPAs enabled in the APERC orders dt.13-12-2017 to
revise the tariff fixed for wind power projects (pursuant to APERC Regulation 1 of 2015)

Learned Advocate General of the State of Andhra Pradesh representing the petitioners, Ms. Mazag Andrabi, learned counsel for (i) M/s. Karam Chand Thapar & Bros Limited (ii) M/s. Renew Wind Energy Private Limited (iii) M/s. Ostro AP Wind Private Limited (iv) M/s. Helios Infratech Private Limited (v) M/s. Ostro Anantapur Wind Private Limited (vi) M/s. Ostro Andhra Wind Private Limited (vii) M/s. KCT Renewable Energy Private Limited (viii) M/s. Molagavalli Renewable Private Limited (ix) M/s. Sterling Agro Industries Limited; Sri P. Vikram, learned counsel for (i) M/s. Skiron Renewable Energy (Amidyala) Private Limited (ii) M/s. Guttaseema Wind Energy Company Private Limited (iii) M/s. Vayuputhra Energy Private Limited (iv) M/s. Kanhur Wind Power Private Limited (v) M/s. Animala Wind Power Private Limited (vi) M/s. JED Solar Parks Private Limited & (vii) M/s. Poly Solar Parks Private Limited; Sri K. Syamala Rao, Deputy Manager representing (i) M/s. Eenadu Television Private Limited & (ii) M/s. Ushodaya Enterprises Private Limited; Sri Challa Gunaranjan, learned counsel for (i) M/s. Jindal Aluminium Limited (ii) M/s. Vibrant Green Tech India Limited & (iii) M/s. Sunwin Power Tech India Private Limited; Sri Deepak Chowdhury, learned counsel for (i) M/s. Axis Wind Energy (Anantapur) Private Limited & (ii) M/s. Axis Wind Farms (Rayalaseema) Private Limited; Sri S. Nagarjuna Reddy, Dy. Manager representing (i) M/s. Mytrah Vaayu (Indravathi) Pvt. Ltd. (ii) M/s. Mytrah Vayu (Tungabadra) Pvt. Ltd. (iii) M/s. Mytrah

Vayu (Krishna) Pvt. Ltd. & (iv) M/s. Mytrah Energy (India) Pvt. Ltd; Sri M. Rajesh Kumar, learned counsel for M/s. Green Infra Wind Solutions Limited; Sri Guntur Pramod Kumar, learned counsel for M/s. PTC Energy Limited; Sri Venkatesh and Sri Suhael Buttan, learned counsel for M/s. Tata Power Renewable Energy Limited; Sri N. Veera Babu, Manager representing M/s. Hetero Wind Power (Pennar) Pvt. Limited; Avijeet Lala & Sri Nethan Reddy, learned counsel representing Sri Avinash Desai, learned counsel for M/s. Vayu Urja Bharat Private Limited and Sri M. Venugopala Rao, learned objector are present.

Respondent Nos.3, 52 and 53 in O.P.No.17 of 2019 filed a memo *inter alia* stating that the said respondents have filed W.A.No.393 of 2019 before a Division Bench of the Hon'ble High Court challenging the common order in W.P.No.2401 of 2019 and batch on the ground of maintainability of O.P.No.17 of 2019, that some other wind energy generators have also filed similar Writ Petitions against the order dated 24-09-2019 and that all those Writ Appeals are listed for final adjudication to 19-12-2019. Respondent No.63 also filed a similar Memo. On both these Memos, a request is made to defer the hearing of this O.P. till appropriate orders are passed by the Division Bench of the Hon'ble High Court. Learned Advocate General of the State of Andhra Pradesh representing the petitioners while admitting the facts pleaded in the Memo however suggested that since no order granting stay of proceedings has been passed by the Hon'ble High Court, the parties may be directed to complete the pleadings before the Commission taking up the case for hearing subject to the decision of the Hon'ble High Court. The learned counsel for the respondents have agreed to this suggestion.

In the light of the above, we deem it appropriate to defer the hearing of the case *sine a die* with liberty to either parties to move this Commission for posting of the case

after the Hon'ble High Court passes appropriate orders in the pending Writ Appeals. However, all the parties shall file their respective pleadings within four weeks from today to enable the Commission to hear the parties subject to the result of the Writ Appeals.

Sd/-
MEMBER / PRM

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CHAIRMAN

Sd/-
MEMBER / PR

O.P. No. 66 of 2019
APSPDCL & APEPDCL Vs M/s. Sri KPR Infra & Projects Ltd and 23 others

Petition u/s 86 (1) (b) of the Electricity Act, 2003 read with 55 of APERC (Conduct of Business) Regulation 2 of 2019, seeking revision / amendment of tariff order dated 15-11-2012 in O.P.No.13 of 2012 and to restrict the PPA period to 5-10 years from the date of COD

Learned Advocate General of the State of Andhra Pradesh representing the petitioners, Sri S. Nagarjuna Reddy, Dy. Manager representing (i) M/s. Mytrah Vayu (Pennar) Pvt. Ltd. & (ii) M/s. Mytrah Vayu (Krishna) Pvt. Ltd.; Sri Vikram Pooserla, learned counsel for (i) M/s. Rayala Wind Power Company Private Limited (ii) M/s. Sterling Agro Industries Limited (iii) M/s. Rayalaseema Wind Energies Private Limited & (iv) M/s. Anantapuram Wind Energies Pvt. Limited; Sri N. Veera Babu, Manager representing M/s. Hetro Wind Power Project Limited; Sri Aniket Prasoon & Sri Priya Dhankhar, learned counsel for M/s. Vena Energy Power Resources Pvt. Ltd.; Sri M. Sridhar, learned counsel representing Sri Challa Gunaranjan, learned counsel for M/s. IOCL and Sri M. Venugopala Rao, learned objector are present.

Learned Advocate General of Andhra Pradesh representing the petitioners has placed before us order dated 05-12-2019 in D.F.R.No.2405 of 2019 and I.A.No.2137 of 2019 of the learned Appellate Tribunal for Electricity granting stay of further proceedings in O.P.No.66 of 2019 pending on the file of this Commission. In the light of the same, hearing of the case is deferred *sine a die* with liberty to either

parties to move this Commission for posting of the case after the learned Tribunal passes appropriate orders in the pending case before it.

Sd/-
MEMBER / PRM

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CHAIRMAN

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MEMBER / PR

O.P. No. 67 of 2019
APSPDCL & APEPDCL Vs M/s. Abhedya Power Pvt Ltd and 31 others

Petition petition under Section 86 (1) (b) of the Electricity Act, 2003 read with Clause 55 & 59 of APERC (Conduct of Business) Regulation 2 of 1999 seeking revision of tariff payable to Solar Power Developers who entered into Power Purchase Agreements / Power Sale Agreements during 2012-2016 with the DISCOMs.

Learned Advocate General of the State of Andhra Pradesh representing the petitioners, Sri Vikram Pooserla, learned counsel for (i) M/s. New Era Enviro Ventures (Mahbubnagar) Pvt. Ltd. (ii) M/s. Rain Coke Ltd (iii) M/s. SEI Arushi Pvt. Ltd. & (iv) M/s. SEI Green Flash Pvt. Ltd.; Sri Aniket Prasoon & Sri Priya Dhankhar, learned counsel for M/s. Azure Power Infrastructure Pvt. Ltd. (ii) M/s. Waaneep Solar Pvt. Ltd. (Gurramkonda) & (iii) M/s. Waaneep Solar Pvt. Ltd. and Sri M. Venugopala Rao, learned objector are present.

Learned counsel for the parties placed before us order dated 28-11-2019 in W.A.No.433 of 2019 whereby a Division Bench of the Hon'ble High Court stayed public hearing in the present O.P. until further orders, while listing the case for hearing to 19-12-2019. In the light of this order, public hearing of this case is deferred *sine a die* with liberty to either parties to move this Commission for posting of the case after the Hon'ble High Court passes appropriate orders in the pending Writ Appeal.

Sd/-
MEMBER / PRM

Sd/-
CHAIRMAN

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MEMBER / PR

O.P.No.33 of 2019
APSPDCL & APEPDCL Vs APGENCO

Petition u/s 86 (1) (b) of the Electricity Act, 2003 read with Section 21 (4) of the A.P. Reforms Act, 1998 requesting for granting consent to the Amended and Restated PPA dated 28-01-2019 in respect of 600 MW Rayalaseema Thermal Power Project (RTPP) - Stage IV at Muddanur, Cuddapah District.

Sri P. Shiva Rao, learned Standing Counsel for the petitioners, Sri K. Gopal Choudary, learned counsel for the respondent and Sri M. Venugopala Rao, learned objector are present.

Sri K. Gopal Choudary, learned counsel for the respondent in O.P.No.33 of 2019 made his submissions. For hearing Sri P. Shiva Rao, learned Standing Counsel for the petitioners and Sri M. Venugopala Rao, learned objector, call on 31-12-2019.

Sd/-
MEMBER / PRM

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CHAIRMAN

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MEMBER / PR

O.P.No.50 of 2019
APSPDCL and APEPDCL Vs --NIL--

Petition filed by APDISCOMs for determination of true-up for Retail Supply Business for FY 2014-15 in accordance with the APERC (Terms & Conditions for determination of tariff for Wheeling and Retail Sale of Electricity) Regulation No. 4 of 2005 and amendments issued from time to time

Sri P. Shiva Rao, learned Standing Counsel for the petitioners, Sri M. Venugopala Rao and Sri R. Shiva Kumar, FAPCCI, learned objectors are present.

Sri P. Shiva Rao, learned Standing Counsel for utilities submitted that responses to all the objections except to that of Federation of Andhra Pradesh Chambers of Commerce and Industry (FAPCCI) have been filed and a little more time is required for filing response to the objections in the case of FAPCCI. The case is accordingly adjourned.

Call on:

14-02-2020
at 11:00 AM

Sd/-
MEMBER / PRM

Sd/-
CHAIRMAN

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MEMBER / PR

I.A.No.14 of 2019 in O.P. Nos. 1 & 2 of 2016
APSPDCL and APEPDCL Vs --NIL--

Petition filed by APDISCOMs for determination of true-up for Retail Supply Business for FY 2016-17 in accordance with the APERC (Terms & Conditions for determination of tariff for Wheeling and Retail Sale of Electricity) Regulation No. 4 of 2005 and amendments issued from time to time

Sri P. Shiva Rao, learned Standing Counsel for the petitioners, Sri M. Venugopala Rao and Sri R. Shiva Kumar, FAPCCI, learned objectors are present.

Call along with O.P.No.50 of 2019 on 14-02-2020.

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MEMBER / PRM

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CHAIRMAN

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MEMBER / PR

I.A.No.15 of 2019 in O.P. Nos. 28 & 29 of 2016
APSPDCL and APEPDCL Vs --NIL--

Petition filed by APDISCOMs for determination of true-up for Retail Supply Business for FY 2017-18 in accordance with the APERC (Terms & Conditions for determination of tariff for Wheeling and Retail Sale of Electricity) Regulation No. 4 of 2005 and amendments issued from time to time

Sri P. Shiva Rao, learned Standing Counsel for the petitioners, Sri M. Venugopala Rao and Sri R. Shiva Kumar, FAPCCI, learned objectors are present.

Call along with O.P.No.50 of 2019 on 14-02-2020.

Sd/-
MEMBER / PRM

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CHAIRMAN

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MEMBER / PR

O.P.No.46 of 2017
APSPDCL & APEPDCL Vs APGENCO & A.P. Solar Power Corporation Ltd

Petition filed under Section 86 (1) (b) of the Electricity Act, 2003 for approval of long term Power Purchase Agreement (PPA) signed by APDISCOMs with APGENCO on 01-07-2017 and to pass orders regulating the price for purchase of 400 MW solar power generated from the Ananthapuram-II Ultra Mega Solar Park proposed at Talaricheruvu (V), near Tadipatri, Anantapuramu Dist AP@the tariff of Rs.3.57 / Kwh

Sri P. Shiva Rao, learned Standing Counsel for the petitioners and Sri M. Venugopala Rao, learned objector are present.

The office informed the Commission that the notice sent to the revenue authorities in pursuance of the order dated 16-11-2019, has not returned served or otherwise. The office of the Commission is directed to make enquiries about service of notice and ensure that the notice is served on the revenue secretary before the next date of hearing.

Call on: 14-02-2020
at 11:00 AM

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MEMBER / PRM

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CHAIRMAN

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MEMBER / PR

O.P.No.64 of 2019
M/s. Indian Oil Corporation Limited Vs APSPDCL & APTRANSCO

Petition under Section 86(1) (f) of the Electricity Act, 2003 read with APERC (Conduct of Business) Regulations, 1999 seeking directions to the respondents for releasing payment against the outstanding monthly invoices towards sale of wind energy along with the interest / delayed payment surcharge on such delayed payments, payments of amounts deducted towards 1% rebate from monthly invoices and interest on delayed payment as per Articles 2.2 and 5.2 of the Power Purchase Agreements dated 08-05-2012, 31-03-2012, 21-03-2013 and 18-07-2014

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

Pleadings are completed. The O.P. needs to be heard finally.

Call on: 18-02-2020
at 11:00 AM

Sd/-
MEMBER / PRM

Sd/-
CHAIRMAN

Sd/-
MEMBER / PR

O.P.No.55 of 2019 to O.P.No.58 of 2019
M/s. Mytrah Vayu (Krishna) Private Limited Vs APSPDCL & APPCC & others

Petition under Section 86 (1) (f) read with Section 86 (1) (e) of the Electricity Act, 2003, Regulation 8 of the APERC (Conduct of Business) Regulations, 1999 as amended from time to time read with Article 10 of the Power Purchase Agreement seeking direction to APSPDCL and APPCC for releasing payment against the outstanding invoices towards sale of wind energy along with the interest/delayed payment surcharge on such delayed payments as per the PPA

Sri M. Sridhar, learned counsel representing Sri Challa Gunaranjan, learned counsel for the petitioners and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present.

Individual Memos have been filed in each of the cases to the effect that as the petitioners have approached the Hon'ble High Court seeking reliefs similar to that sought in these O.Ps. They may be permitted to withdraw the said O.Ps.

Learned counsel for the petitioners reiterated the contents of the said Memos. Sri P. Shiva Rao, learned Standing Counsel for the utilities submitted that he has no objection for the petitioners withdrawing the petitions. Accordingly, all these Original Petitions are dismissed as withdrawn.

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MEMBER / PRM

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CHAIRMAN

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MEMBER / PR

O.P.No.59 of 2019
M/s. Azure Power Infrastructure Pvt Ltd Vs APSPDCL & APPCC

Petition under Section 86 (1) (f) read with Section 86 (1) (e) of the Electricity Act, 2003, Regulation 8 of the APERC (Conduct of Business) Regulations, 1999 as amended from time to time read with Article 10 of the Power Purchase Agreement seeking direction to APSPDCL and APPCC for releasing payment against the outstanding invoices towards sale of wind energy along with the interest/delayed payment surcharge on such delayed payments as per the PPA

M/s. Aniket Prasoon & Priya Dhankhar, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the utilities are present.

As the O.P. is similar to O.P.No.35 of 2019, call along with the same on 21-12-2019.

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CHAIRMAN

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MEMBER / PR

I.A.No.19 of 2019 in O.P.No.35 of 2019
M/s. Vayu Urja Bharat Pvt. Ltd Vs APSPDCL

Application under Section 142 of the Electricity Act, 2003 read with Regulation 55 of the APERC (Conduct of Business) Regulations, 1999, as amended, seeking urgent directions against APSPDCL for the non-compliance of this Commission's order dated 31-08-2019 in O.P.No.35 of 2019

M/s. Aniket Prasoon & Priya Dhankhar, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present.

Learned counsel for the applicant submitted that a review petition filed before the Hon'ble High Court stands posted to 09-12-2019 and that the result of the said review petition has a bearing on the present I.A. He accordingly requested for an adjournment for awaiting the disposal of the review petition.

Call on:

21-12-2019
at 11:00 AM

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MEMBER / PRM

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CHAIRMAN

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MEMBER / PR

O.P.No.60 of 2019
M/s. Green Infra Wind Solutions Ltd Vs APPCC & APSPDCL

Petition under Section 86 (1) (f) of the Electricity Act, 2003 read with Power Purchase Agreement dt.18-02-2017 executed between the petitioner and respondent for recovery of outstanding amounts legally due to the petitioner

Sri T.G. Ramesh Kumar, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present.

Learned counsel for the petitioner requested for time for filing rejoinder.

Call on:

18-02-2020
at 11:00 AM

Sd/-
MEMBER / PRM

Sd/-
CHAIRMAN

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MEMBER / PR

O.P.No.63 of 2019
M/s. Jindal Aluminium Ltd Vs APSPDCL & 2 others

Petition under Section 86 (1) (f) of the Electricity Act 2003 R/w APERC Conduct of Business Regulation 1999 for direction to make payment amounts against the monthly bills for the period from 01-08-2018 to 31-07-2019 and the amounts deducted towards rebate from monthly power bills for the period May, 2018 to June, 2018 along with interest in terms of PPA dated 14-08-2015

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

Learned counsel for the petitioner requested for time for filing rejoinder.

Call on:

18-02-2020
at 11:00 AM

Sd/-
MEMBER / PRM

Sd/-
CHAIRMAN

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