

RECORD OF PROCEEDINGS DATED 12-10-2022**OP No. 53 of 2022****M/s. Bharat Heavy Electrical Limited Vs. APTRANSCO & others**

Petition filed U/Sec 86(1)(f) of Electricity Act, 2003 to direct the Respondents to pay sum of Rs. 1,95,75,929/- (Rupees One Crore, Ninety Five Lakhs, Seventy Five Thousands, Nine hundred and Twenty Nine only) together with interest at 10% Per Annum towards the cost of the energy supplied to the respondents

Smt G.Malathi, learned counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, requested time for filing counters. Four weeks' time is, accordingly, granted.

Call on 16-11-2022.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 33 of 2022**CMD / APTRANSCO & CGM / Commercial / APTRANSCO(iii)
Vs.****M/s Bharath Wind Farms Ltd. & others**

This petition is filed against the non-conventional energy developers such as wind, biomass, bagasse, mini hydel etc., entered into "Power Wheeling and Purchase Agreement' with the Petitioners at 33KV grid level for non-payment of transmission charges.

Sri P.Shiva Rao, learned Standing Counsel for the petitioners; Sri C.Anand Hitesh, learned counsel for Respondent No.2; Sri K. Gopal Chowdary, counsel representing Sri Sricharan Telaprolu, learned counsel for respondents 4, 5 & 6; Sri Deepak Chowdary, counsel representing Sri Challa Gunaranjan, learned counsel for respondents 9 and 10; Smt. G.Malati, learned counsel for respondent No.11; Sri J.V.Niranjan, learned counsel for respondent No.16; Mrs. Altaf Fathima, learned counsel for respondent No.17 are present at the hearing.

None appeared on behalf of respondent Nos.8, 18 and 19.

Respondents 4, 5, 8, 11, 17 and 18 filed their counter affidavits.

Respondents 4 and 8 have also filed I.As raising preliminary objections on the maintainability of the O.P. on various grounds.

Notices issued to respondents 1, 3, 12, 13, 14 and 15 have been returned unserved.

Notice sent to respondent No.7 has not been returned served or otherwise.

Sri P. Shiva Rao, learned Standing Counsel for the petitioners, undertakes to furnish the correct addresses of respondents 1, 3, 7, 12, 13, 14 and 15.

Office shall send fresh Notices to respondents 1, 3, 7, 12, 13, 14 and 15 to the addresses to be furnished by the Standing Counsel for the petitioners.

Sri P.Shiva Rao, learned Standing Counsel for the petitioners, requested time for filing counters in the I.As., filed by respondents 4 and 8. Four weeks' time is, accordingly, granted.

Call on 16-11-2022.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

O.P.No. 21 of 2020 & IA No.1 of 2022
Tata Power Renewable Energy Ltd Vs. APSPDCL, APSLDC & APTRANSCO

Petition filed for directions treating the loss of generation of Rs. 68.39 Crores as computed till May 2020 on account of curtailment of power as a deemed generation by the Petitioner/TPREL and direct Respondent No. 1 to make payment for the said Deemed Generation Charges.

Sri Suhael Buttan, counsel representing Mr. Sri Venkatesh, learned counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Additional counter along with certain documents have been filed by respondent No.3-APTRANSCO.

Sri Suhael Buttan, learned counsel representing the petitioner, requested time for filing additional rejoinder. Two weeks' time is, accordingly, granted.

Call on 23-11-2022 for hearing.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 43 of 2022**Azure Power Infrastructure Pvt. Ltd., Vs. APSPDCL**

Petition filed under Section 86(1)(f) of the Electricity Act, 2003 read with the relevant provisions of the Power Purchase Agreement dated 05.12.2014 seeking direction to the Respondent for making payment of the arbitrarily and illegally deducted amounts by it from the invoices of the Petitioner for the period from December 2019 to June 2021 on the pretext of alleged installation of additional modules by the Petitioner than allowed under the PPA and also seeking further direction to restrain the Respondent from undertaking any such illegal deduction from the future invoice(s) for the period beyond June 2021.

OP No. 9 of 2022 & IA No. 1 of 2022

OP No.10 of 2022 & IA No. 1 of 2022

OP No. 11 of 2022 & IA No. 1 of 2022

M/s. Greenko Solar Power (Dharmavaram) Ltd., Vs. APSPDCL

M/s. SEI Arushi Private Ltd., Vs. APSPDCL

M/s.SEI Green Flash Private Ltd., Vs. APSPDCL

Petitions filed under Section 86(1) (e) & (f) of the Electricity Act, 2003 seeking directions to the Respondents to pay the outstanding amounts and Late Payment Surcharges, among others.

IAs are filed by the petitioners under section 94(2) of the Electricity Act, 2003 r/w Regulation 55 of the APERC (Conduct of Business) Regulations, 1999, seeking interim directions against the respondent.

Ms. Shweta Vashist, counsel representing Sri Aniket Prasoon, learned counsel for the Petitioner in O.P No.43 of 2022; Sri V.Akshaya Babu, learned counsel for the Petitioners in OP No. 9 & 10 of 2022 and Sri K.Gopal Chowdary, learned counsel for the Petitioner in OP No. 11 of 2022; and Sri P.Shiva Rao, learned Standing Counsel for the respondent, are present at the hearing.

Rejoinder is filed in O.P.No.43 of 2022.

Sri P.Shiva Rao, learned Standing Counsel for the respondent, submitted that an identical case-OP No.112 of 2021 stood posted to 16-11-2022 and he requested that these cases also may be posted on the said date.

Sri K.Gopala Chowdary, learned counsel, submitted that he has instructions to appear in O.P.No.11 of 2022. Sri V.Akshaya Babu, learned counsel, submitted that he is appearing in O.P.Nos.9 and 10 of 2022, which are also identical to OP No.112 of 2021.

As all these cases are identical to O.P.No.112 of 2021, they are adjourned to 16-11-2022 for hearing.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 32 of 2022 & IA No. 1 of 2022
Brightsolar Renewable Energy Private Limited Vs. APSPDCL, APSLDC & APPCC

Petition filed under Sections 86(l)(b) and 86(l)(f) of the Electricity Act, 2003 for adjudication of disputes arising out of the Power Purchase Agreement dated 04.12.2014 between Southern Power Distribution Company of Andhra Pradesh Limited and M/s Brightsolar Renewable Energy Private Limited seeking issuance of appropriate order(s)/ direction(s) from this Hon'ble Commission to direct the Southern Power Distribution Company of Andhra Pradesh Limited to pay the outstanding dues in terms of the invoices raised by the Petitioner herein along with the late payment surcharge and opening of Letter of Credit

Application filed under section 94(2) of the Electricity Act, 2003 read with Regulation 55 of the APERC (Conduct of Business) Regulations, 1999 for interim relief

Sri Nitish Gupta, counsel representing Sri Hemanth Sahai, learned counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, submitted that out of the undisputed balance amount of Rs.10.00 crores, a sum of Rs.6.00 crores has been paid and the remaining amount will be paid within two weeks.

Sri Nitish Gupta, learned counsel for the petitioner, submitted that the grounds on which the respondents have disputed the claim of the petitioner are that: (i) legal litigation in respect of the tariff payable is pending; and (ii) a sum of Rs.6.60 crores relates to additional panels erected by the petitioner is also due, with respect to which the respondents raised a dispute. He further submitted that no part of the sum of Rs.30.28 crores includes LPS.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, submitted that, while the dispute regarding the tariff has been settled by the Honourable High Court of Andhra Pradesh, a Special Leave Petition before the Honourable Supreme Court is pending; and that, so far, no interim order has been granted in favour of the respondents. He, however, disputed the submission of the learned counsel for the petitioner that the sum of Rs.30.28 crores does not comprise any part of LPS.

In view of the adjudication of the dispute by the Honourable High Court, as per which the respondents are liable to pay the full tariff as per the PPA, and in the absence of any stay granted by the Honourable Supreme Court, the respondents cannot avoid its liability to pay the PPA tariff to the petitioner.

As regards the sum of Rs.6.60 crores pertaining to erection of additional panels, with regard to which there is a serious dispute, the respondents are permitted to withhold the same.

As the petitioner claims that the amounts claimed by it do not include LPS, the respondents are directed to verify the same and they shall pay the balance dues as on 31-12-2021, excluding LPS, if any, and the sum of Rs.6.60 crores towards erection of additional panels, within one month from today, failing which, the CMD of APSPDCL shall personally be present on the next date of hearing.

Call on 16-11-2022 for reporting compliance.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No 41 of 2022
M/s. Balaji Energy Pvt. Ltd., Vs. APSPDCL, APTRANSCO, APPCC

Petition filed u/s 86(1)(f) r/w 86(1)(K) of Electricity Act, 2003 read with clause (55) of APERC Conduct of business Regulations seeking a direction for seeling the power to 3rd parties under open access from 2 x 6 MW mini hydel power project at Somasila, Nellore District, Andhra Pradesh by cancelling the existing PPA

Sri S.Ravi, Senior Counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, submitted that a sum of Rs.6.00 crores, towards the admitted dues, is payable to the petitioner. He requested two weeks' time for such payment.

It is unfortunate that inspite of unequivocal undertaking given by the learned Standing Counsel for the respondents that a sum of Rs.6.00 crores will be paid within two months on 27-7-2022, the respondents have not stood on their commitment.

Sri S.Ravi, learned Senior Counsel, submitted that the further part of the undertaking, viz., that the respondents will continue to pay future monthly bills within the due dates, as agreed in the extant PPA, is also being breached.

It is not in dispute that the PPA enables the petitioner to wriggle out of the same, if the respondents commit default in payment of the dues.

Sri S.Ravi, learned Senior Counsel, submitted that even if the disputed amounts are kept aside, the respondents have failed to pay the admitted dues. He requested time for placing material before the Commission in support of his submission.

Call on 23-11-2022 for hearing. Meanwhile, the respondents shall pay the balance dues, which are not in dispute.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 18 of 2022
Vayu Urja Bharat Pvt Ltd., Vs. APSPDCL

Petition filed under Section 86(1)(f) read with Section 86(1)(e) of the Electricity Act, 2003 read with Article 10 of the Power Purchase Agreement dated 28.07.2016 inter-alia seeking direction to the Respondent for forthwith releasing payment against the outstanding invoices towards sale of wind energy since November 2020 till November 2021 along with the interest / delayed payment surcharge on such delayed payments as per the PPA.

Ms. Shweta Vashist, counsel representing Sri Aniket Prasoon, learned counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondent, are present at the hearing.

Sri P.Shiva Rao, learned Standing Counsel for the respondent, submitted that out of the sum of Rs.35.00 crores, which was directed to be paid, the respondent paid Rs.29.00 crores; and that it is continuing to pay further dues on a month to month basis from out of the loans sanctioned by the PFC.

The learned counsel for the petitioner requested an adjournment for verification of the veracity of the submission of the learned Standing Counsel. Meanwhile, as stated by Sri P.Shiva Rao, learned Standing Counsel, the respondent shall continue to pay the monthly instalments.

Call on 14-12-2022.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 113 of 2021**Vayu (India) Power Corporation Limited Vs. APTRANSCO, APPCC & APSPDCL**

Petition filed under Section 86(1)(b), 86(1)(e) and 86(1)(f) of the Electricity Act, 2003 for specific performance of the Power Purchase Agreement dated 29-05-2010 and for a direction against the respondents to make payments of the outstanding amounts

Ms. Shweta Vashist, counsel representing Sri Kailash Nath P.S.S., learned counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri P.Shiva Rao, learned Standing Counsel for the respondents, submitted that the entire amount payable as per orders dated 29-6-2022 and 07-9-2022 were paid yesterday and that respondent No.3 is continuing to pay the further dues on a month to month basis from out of the loans sanctioned by the PFC.

The learned counsel for the petitioner requested an adjournment for verification of the veracity of the submission of the learned Standing Counsel. Meanwhile, as stated by Sri P.Shiva Rao, respondent No.3 shall continue to pay the monthly instalments.

Call on 14-12-2022.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 119 of 2021 & IA Nos. 1 & 2 of 2021
OP No. 120 of 2021 & IA Nos. 1 & 2 of 2021
OP No. 121 of 2021 & IA Nos. 1 & 2 of 2021

M/s Ostro Andhra Wind Private Limited Vs. APSLDC & Others
M/s Ostro AP Wind Private Limited Vs. APSLDC & Others
M/s Helios Infratech (P) Ltd., Vs. APSLDC & Others.

Petition filed under Section 33(4) and Section 39 of the Electricity Act, 2003 read with Section 86(1) (e) and Section 86(1) (f) seeking appropriate direction (s) / Order(s) from this Hon'ble Commission against the statutory authorities namely, APSLDC and the Transmission Corporation of Andhra Pradesh Limited, to address and adjudicate the dispute arising due to non-performance of statutory obligations by the said entities which has severely prejudiced the rights and interest of the Petitioner.

IA No.1 of 2021 - Interlocutory Application seeking Urgent Listing of the Petition under Section 94 (2) of the Electricity Act, 2003 read with applicable regulations issued by this Hon'ble Commission.

IA No. 2 of 2021 - Interlocutory Application seeking Urgent and Interim Directions under Section 94(2) of the Electricity Act, 2003 read with applicable regulations issued by the Hon'ble Commission.

Sri Apporva Mishra, counsel representing Sri Challa Gunaranjan, learned counsel for the Petitioners and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

The respondents filed a memo dated 11-10-2022 along with a copy of the letter dated 07-10-2022 addressed by the Chief Engineer (Projects) of respondent No.2 to Sri P.Shiva Rao, learned Standing counsel for respondent No.2, wherein the detailed progress of erection of 220 kv Pampanuruthanda Substation has been furnished. In the said letter it is stated that the tentative date of completion of works in all respects is 31-12-2022.

After hearing the learned counsel for both the parties, the respondents are directed to strictly adhere to the above mentioned date of completion of the works and report compliance by the next date of hearing.

Call on 18-01-2023.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 12 of 2022
M/s. Palnadu Solar Power Pvt Ltd Vs. APCPDCL & APPCC

Petition filed under Section 86(I)(f) r/w. Section 86(I)(e) of the Electricity Act, 2003, Regulation 8 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking direction to the Respondents for releasing payment of the outstanding amounts along with interest on delayed payment of invoices towards sale of Solar Power as per the PPA.

&
OP No. 89 of 2021
M/s. Mytrah Vayu (Pennar) Private Limited Vs. APSPDCL & APPCC

Petition filed under Section 86(I)(f) of the Electricity Act, 2003, R/w. APERC (Conduct of Business) Regulations, 1999 seeking direction to the respondents for releasing payment against the outstanding monthly invoices towards sale of wind energy along with the interest/delayed payment surcharge as per Articles 2.2 and 5.2 of the Power Purchase Agreement dated 27.04.2012.

Sri Deepak Chowdary, learned counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri P.Shiva Rao, learned Standing Counsel for the respondents submitted that these cases involve the dispute relating to LPS and that they may be posted to 26-10-2022, on which date identical cases are posted and the learned Advocate General intends to appear for the respondents. His request is accepted.

The O.Ps., are, accordingly, adjourned to 26-10-2022.

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR

OP No. 43 of 2019
M/s. ITC Limited., Vs. APSPDCL, APEPDCL, APPCC & APSLDC

Petition filed under Section 86(l)(f) of the Electricity Act, 2003, R/w. APERC (Conduct of Business) Regulations, 1999 for directions to be issued to the Respondents in relation to making payment for the energy injected into the grid owing to unlawful denial of open access in compliance with the order dated 13-06-2016 passed by the Central Electricity Regulatory Commission

Sri Kaushik Soni, counsel representing Sri P.Vikram, learned counsel for the Petitioner and Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

A further request for an adjournment is made on behalf of the petitioner.

Call on 18-01-2023

Sd/-
Member/TRS

Sd/-
Chairman

Sd/-
Member/PRR