

Record of Proceedings Dated 14-06-2023

IA No.1 of 2023 in OP No. 43 of 2019

M/s ITC Limited Vs. APSPDCL, APEPDCL, APPCC & APSLDC

(Original Petition u/s 86(1)(b) & 86 (1) (f) of the Electricity Act, 2003, r/w Clause 55 of APERC (Conduct of Business) Regulations, 1999 for the directions to respondents in relation to making payment for the energy injected into grid owing to unlawful denial of Open Access in compliance with order dt 13-06-2016 passed by CERC).

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

IA No.1 of 2023:

This application is filed under Clause 18 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking to set aside/recall the order dated 12-4-2023 passed by this Commission in OP No.43 of 2019 and restore the OP back to file.

Heard Sri S.Ravi, learned Senior Counsel for the Petitioner; and Sri G.V.Brahmananda Rao, counsel representing Sri P.Shiva Rao, learned Standing Counsel for the respondents.

The Order passed in the OP is self-speaking. However, having regard to the earnest request made by the learned Senior Counsel for the petitioner, we are inclined to exercise our discretion in favour of the petitioner by setting aside the order, but, however, on condition of payment of Rs.25,000/- (Rupees twenty five thousand only) towards costs, within two weeks from today, in favour of the Commission.

The application is, accordingly, allowed. Order dated 12-4-2023 passed in OP No.43 of 2019 is set aside and the OP is restored back to file.

OP No. 43 of 2019:

Call the OP for hearing on 05-7-2023, on which date, both the parties must be ready to argue the case.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

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 Private Limited 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**

(Petitions filed under Sections 86(l)(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, r/w 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 Petitioner to the 1st Respondent beyond the Capacity Utilisation Factor (CUF) of 23%.)

Ms.M.Iswarya, Counsel representing Sri S.Vivek Chandrasekhar, learned Counsel for the Petitioners; and Sri G.V.Brahmananda Rao, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri G.V.Brahmananda Rao, counsel representing the respondents, requested four weeks' time for filing counters.

Call on 12-7-2023.

Sd/-

MEMBER/TRS

Sd/-

CHAIRMAN

OP No. 25 of 2023**M/s. APEPDCL Vs. None**

(Petition under Section 86(1)(e) and Section 61 & 66 of the Electricity Act, 2003, r/w Clause 54 of the APERC (Conduct of Business) Regulations, 1999 and r/w Clause 10 of Regulation 1 of 2017 praying the Commission for granting more time to meet the Leftover RPPO for the years from 2012-13 to 2018-19 stipulated under APERC Regulation 1 of 2012 and APERC Regulation 1 of 2017 for APEPDCL

Ms. K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Petitioner, is present at the hearing.

Heard. Orders reserved.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 27 of 2023

M/s Balaji Energy Pvt. Ltd, Vs. APSPDCL,APTRANSCO & APPCC

(Petition under section 86(1)(f) r/w 86(1)(k) of the Electricity Act 2003 r/w Clause-55 of the APERC (Conduct of Business) Regulations, 1999 seeking a direction for considering the Actual Generation during the month as Scheduled Energy at the time of settlement of Petitioner's Account with its O.A. Consumer and consequently direct the respondents to pay an amount of Rs.2,48,79,546/- (for 2x4 MW) along with 12% interest at quarterly rests for the period October 2019, November 2019, December 2019, April 2020, May 2020 and June 2020.)

OP No. 28 of 2023

M/s Balaji Energy Pvt. Ltd, Vs. APSPDCL,APTRANSCO & APPCC

(Petition filed under section 86(1)(f) r/w 86(1)(k) of the Electricity Act 2003 r/w Clause-55 of the APERC (Conduct of Business) Regulations 1999 seeking a direction for considering the Actual Generation during the month as Scheduled Energy at the time of settlement of Petitioner's Account with its O.A. Consumer and, consequently, direct the respondents to pay an amount of Rs.28,76,193/- (for 2x 1.5 MW) along with 12% interest at quarterly rests for the period October 2019, November 2019, December 2019, April 2020, May 2020 and June 2020)

Sri M. Naga Deepak, learned counsel for the petitioner; Ms. K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the respondent are present at the hearing.

Ms. K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the respondents, requested four weeks' time for filing counters.

Call on 12-7-2023.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 29 of 2023**M/s Hetero Wind Power (Pennar) Pvt. Ltd, Vs. APSPDCL & APPCC**

(Petition filed under Sections 86(1)(f) and (e) of the Electricity Act read with Clause- 8 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 as amended, r/w. Articles 5, Clause 5.2 of the Power Purchase Agreements dated 16.03.2016 ("PPA") entered into between the Petitioner and APSPDCL, seeking directions to APSPDCL for expeditiously releasing the payments of the amounts due and payable to the Petitioner/Applicant by APSPDCL under the PPA towards Late Payment Surcharges (LPS)

OP No. 30 of 2023**M/s Hetero Wind Power Pvt. Ltd Vs. APSPDCL & APPCC**

(Petition under Sections 86(1)(f) and (e) of the Electricity Act, 2003, r/w. Clause- 8 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 as amended, read with Article 5 and Clause 5.2 of the Power Purchase Agreements dated 18.12.2014 (PPAs) entered into between the Petitioner and APSPDCL, seeking directions to APSPDCL for expeditiously releasing the payments of the amounts due and payable to the Petitioner/Applicant by APSPDCL under the PPA towards Late Payment Surcharges (LPS)

Ms. M.Iswarya, Counsel representing Sri S.Vivek Chandrasekhar, learned Counsel for the Petitioners; and Sri G.V.Brahmananda Rao, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the respondents, are present at the hearing.

Sri G.V.Brahmananda Rao, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the respondents, requested four weeks' time for filing counters.

Call on 12-7-2023.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 32 of 2023**M/s APSPDCL Vs. M/s. Vayu (India) Power Corporation Pvt. Ltd,****OP No. 33 of 2023****M/s. APSPDCL Vs. M/s. Vayu (India) Power Corporation Pvt. Ltd,**

(Petitions filed under Section 86(1) (f) of the Electricity Act, 2003 read with Clause 9 of the APERC (Conduct of Business) Regulations, 1999, seeking declaration that the Notices dt 02-12-2022 terminating the PPAs in mid course by the Generator, as illegal and void.)

Ms. K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Petitioner; and Sri Suhael Buttan, counsel representing Sri Shri Venkatesh, learned counsel for the Respondent, are present at the hearing.

Ms. K.Madhavi Lata, learned counsel representing the petitioner, submitted that the petitioner has cleared all the arrears upto February, 2023 and that she will advise the petitioner to clear the balance arrears also by the next date of hearing.

The learned counsel representing the respondent requested time for filing counters.

Call on 12-7-2023.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 3 of 2023

M/s Vish Wind Infrastruktire LLP Vs. APSPDCL & 2 Ors

OP No. 13 of 2023

M/s Vaayu (India) Power Corporation Pvt. Ltd. Vs. APSPDCL & Ors

(Petitions filed under Section 86(1)(e) and (f) of the Electricity Act, 2003 read with Article 2.2, 5 and 9 of the PPA seeking direction against the Respondents for issuance of No Objection Certificate in order to enable the Petitioner to sell the Power through Open Access.)

Sri Suhael Buttan, counsel representing Sri Shri Venkatesh, learned counsel for the Petitioners; Ms.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Respondents, are present at the hearing.

Call on 12-7-2023 along with OP Nos.32 of 2023 and batch.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

IA No.1 of 2023

and

OP No. 17 of 2023

M/s ACME Solar Holdings Pvt., Ltd. & 5 Others Vs. APSPDCL & 3 others

(I.A.No.1 of 2023 is filed seeking stay of operation of the letter dated 04-4-2-23 issued by APSPDCL to the petitioners, till final adjudication of Appeal No.282 of 2023 by APTEL, and to injunct the APSPDCL from taking any coercive action against the petitioners till final disposal of the said Appeal).

(Original 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)

Sri P.S.S.Bhargava, learned counsel for the Petitioners; and Ms.K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Respondents, are present at the hearing.

A letter is circulated by TRILEGAL, counsel for the petitioners, stating that the arguing counsel is not in the Country and a request is, therefore, made for an adjournment.

Considering the fact that the Honourable APTEL has indicated the time frame for disposal of the I.A, the case is adjourned to 28-6-2023 for hearing the IA.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 10 of 2023

Military Engineer Services (MES), Visakhapatnam Vs. APTRANSCO APEPDCL

(Petition filed under Section 2, 14 & 42 of the Electricity Act, 2003 for recognizing Military Engineer Services (MES) as a Deemed Distribution Licensee in the state of Andhra Pradesh as Military Engineer Services (MES) at Ship Building Centre, Visakhapatnam (HT Connection No VSP427) is a department under Ministry of Defence engaged in distribution of electric supply)

Sri C.Sunil Chowdary, IDSE, AEE E/M, AGE E/M-I of Garrison Engineer(I), NYC, Visakhapatnam, Authorised representative of Petitioner; and Ms. K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Respondents, are present at the hearing.

OP disposed of (vide separate order)

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 70 of 2022

M/s Bharat Heavy Electrical Ltd., Vs. APTRANSCO & Ors

(Petition filed under Section 86(1)(f) of the Electricity Act 2003 for recovery of a sum of Rs.1,90,31,273/- (Rupees One Crore, Ninety Lakhs, Thirty One Thousand, Two Hundred Seventy Three only) together with interest at 10% per annum towards the amount due under Invoice dated 07/12/2019 issued in respect of the 3 MW power for 6012440 Units injected between April 2016 to November 2019 to the respondents at its Inter-connection point based on the collective Joint Meter reading.)

Smt. G.Malathi, learned counsel for the petitioner; and Ms.K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Respondents, are present at the hearing.

Further time for filing rejoinder is requested.

Call on 12-7-2023.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No.1 of 2019 & Batch

OP No. 1 of 2019 M/s Axis Wind Farms (Uravakonda) Pvt. Ltd.
OP No. 2 of 2019 M/s Axis Wind Farms (Ahobilam) Pvt. Ltd.
OP No. 3 of 2019 M/s Axis Wind Farms (Vajrakarur) Pvt. Ltd.
OP No. 4 of 2019 M/s Axis Wind Farms (Pottipadu) Pvt. Ltd.
OP No. 5 of 2019 M/s Axis Wind Farms (Beluguppa) Pvt. Ltd.
OP No. 6 of 2019 M/s Axis Wind Farms (Penna) Pvt. Ltd.
OP No. 7 of 2019 M/s Axis Wind Farms (Manirevu) Pvt. Ltd.
OP No. 8 of 2019 M/s Axis Wind Farms (AP) Pvt. Ltd..
OP No. 9 of 2019 M/s Axis Wind Farms (Amidyala) Pvt. Ltd.
OP No. 10 of 2019 M/s Axis Wind Farms (Godavari) Pvt. Ltd.
OP No. 11 of 2019 M/s Axis Wind Farms (Kalyandurg) Pvt. Ltd.
OP No. 12 of 2019 M/s Axis Wind Farms (Raketla) Pvt. Ltd.
OP No. 13 of 2019 M/s Axis Wind Farms (Borampalli) Pvt. Ltd.
OP No. 14 of 2019 M/s Axis Wind Farms (Seerpi) Pvt. Ltd.
OP No. 15 of 2019 M/s Axis Wind Farms (Golla) Pvt. Ltd.
OP No. 16 of 2019 M/s Axis Wind Farms (Chapri) Pvt. Ltd.
OP No. 22 of 2019 M/s SV Renewable Energy
OP No. 23 of 2019 M/s Axis Wind Farms (Krishna) Pvt. Ltd.,
OP No. 24 of 2019 M/s Axis Wind Farms (Tungabhadra) Pvt. Ltd.,
OP No. 25 of 2019 M/s Pujaa Shree Renewable Energy Won Pvt. Ltd.
OP No. 26 of 2019 M/s G T Renewable Energy
Vs. APSPDCL

(Petitions filed under Sections 61(h),62(1)(a),64(1),86(1)(a),86(1)(b) and 86 (1)(e) of the Electricity Act, 2003 r/w CERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2017 and Section 21 of the A.P. Electricity Reform Act, 1998.)

Sri Deepak Chowdhary, learned counsel for the Petitioners; and Ms. K.Madhavi Latha, counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Respondent, are present at the hearing.

Proof of Publications is presented by Sri Deepak Chowdhary, learned counsel for the Petitioners, during the hearing of the case.

Office shall take these Publications on file.

Learned counsel for the respondent requested time for filing counters.

Call on 12-7-2023.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 1 of 2022

M/s. Greenko Uravakonda Wind Power Pvt. Ltd., Vs. APSPDCL

(Petition filed under Section 86(1)(e) & (f) of the Electricity Act, 2003 R/w Clause-55 of the APERC (Conduct of Business) Regulations, 1999 seeking directions to the Respondent, among other things, for payment of the outstanding dues and Late Payment Interest in terms of Articles 5.2 & 5.3 of the PPA).

OP No. 2 of 2022

M/s Greenko Anantapur Wind Power Pvt. Ltd., Vs. APSPDCL

(Petition filed under Section 86(1)(e) & (f) of the Electricity Act, 2003 R/w. Clause 55 of the APERC (Conduct of Business) Regulations, 1999 seeking directions to the Respondent, among other things, for payment of the outstanding dues and Late Payment Interest in terms of Articles 5.1, 5.2 & 5.3 of the PPA.)

Sri V.Akshaya Babu, learned counsel for the petitioners; and Ms. K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the Respondent, are present at the hearing.

We have heard the learned counsel for both the parties. During the hearing, it has been brought to our notice that the monthly payments as per the Electricity (Late Payment Surcharge) Rules, 2021 are being made; and that, so far, nine instalments have been paid.

Sri V.Akshaya Babu, learned counsel for the petitioners, however, submitted that random payments are being made without any details.

Post filing of this OP., the respondents have been making monthly payments as per the above mentioned Rules. As per the said Rules, the entire arrears need to

be paid in 12 instalments. The learned counsel for the respondent submitted that in terms of the said Rules, the respondent will pay the balance three instalments, which shall be completed by August, 2023.

As regards the grievance of the learned counsel for the petitioners that certain deductions contrary to the PPA have been made and that even accounts are not being furnished, in our opinion, it is appropriate to adjudicate as to whether the respondent has been paying the arrears as per the PPA terms or not after completion of payments of all the 12 instalments by the respondent. On completion of the payment under the 12th instalment, the respondent shall file a detailed statement regarding the arrears payable and/or paid to the petitioner in terms of the PPA and the extant Regulations. Such a statement shall be filed by 31-8-2023 after furnishing a copy of the same to the petitioners.

Call the OPs on 13-9-2023.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN

OP No. 33 of 2022

APTRANSCO Vs. M/s Bharath Wind Farms Ltd.& others

(Petition filed against the non-conventional energy developers such as wind, biomass, bagasse, mini hydel etc., entered into "Power Wheeling and Purchase Agreement, (hereinafter referred to as PWPA) with the Petitioners at 33KV grid level for non-payment of transmission charges)

Ms. K.Madhavi Lata, Counsel representing Sri P.Shiva Rao, learned Standing Counsel for the petitioner; Sri G.Anil Kumar, counsel representing Sri Sricharanprolu, learned counsel for Respondent No.8; Sri P.V.Nishanth, counsel representing Sri K.Gopal Chowdary, learned counsel for respondents 8 and 18 and also representing Challa Gunranjan, learned counsel for Respondents 9 & 10; Smt Aiswarya Subramani, learned counsel for respondents 1 and 12; Smt. B.Poojitha, learned counsel representing respondent No.19, and Smt.G.Malati, learned counsel for respondent No.11, are present at the hearing.

The learned counsel for both the parties requested time for making submissions.

Call on 17-8-2023.

Sd/-
MEMBER/TRS

Sd/-
CHAIRMAN