

Record of proceedings dated 16-06-2020

I.A.No.3 of 2019 in O.P.No.8 of 2018
Lanco Kondapalli Power Limited (Respondent in main O.P) Vs APDISCOMS
(Petitioners in main O.P)

Application under Section 86 (1) (b) of Electricity Act, 2003 read with Clause (55) of APERC (Conduct of Business) Regulations seeking directions to the respondents to pay variable cost on pass through basis corresponding to the increase / decrease in cost of fuel from time to time for the exported units from the generating station and the same is taken on the file of the Commission as I.A.No.3/2019 in O.P.No.8/2018

O.P.No.8 of 2018
APSPDCL & APEPDCL Vs M/s. Lanco Kondapalli Power Ltd

Petition filed u/s 86 (1) (b) of the Electricity Act, 2003 seeking renewal of PPA with M/s. Lanco Kondapalli Power Ltd.

I.A.No.6 of 2019 in O.P.No.8 of 2018 and I.A.No.7 of 2019 in I.A.No.6 of 2019
APSPDCL & APEPDCL Vs M/s. Lanco Kondapalli Power Ltd

M/s. GMR Vemagiri Power Generation Ltd filed Intervention cum Objection affidavit and interlocutory application

I.A.No.16 of 2019 in O.P.No.8 of 2018
APSPDCL & APEPDCL Vs M/s. Lanco Kondapalli Power Ltd

Application filed by the above mentioned applicants / petitioners under Order 21, Rule 1 CPC, seeking permission to withdraw the O.P.No.8 of 2018 (APDISCOMS Vs. M/s. Lanco Kondapalli Power Ltd, seeking renewal of PPA) and dismiss the same as withdrawn

I.A.Nos.5 & 6 of 2020 in I.A.Nos.6 & 7 of 2019 in O.P.No.8 of 2018
APSPDCL & APEPDCL Vs M/s. Lanco Kondapalli Power Ltd

Applications filed by M/s. GMR Vemagiri Power Generation Ltd for amendment of prayer

Sri K. Gopal Choudary, learned counsel representing Sri Challa Gunaranjan, learned counsel for the petitioner / M/s. Lanco Kondapalli Power Limited, Sri P. Shiva Rao, learned Standing Counsel for the respondents, Ms. Pujitha Gorantla, learned counsel for M/s. GMR Vemagiri Power Generation Limited and Sri M. Venugopala Rao, learned objector are present at the web hearing.

We have heard Sri K. Gopal Choudary, learned counsel for the petitioner in O.P.No.8 of 2018 and Sri P. Shiva Rao, learned Standing Counsel for the

respondents in the said O.P., and the applicants in I.A.No.16 of 2019. The learned counsel for the petitioner requested for disposing of O.P.No.8 of 2018 without considering I.A.No.16 of 2019. Alternatively, he has submitted that I.A.No.16 of 2019 is liable to be dismissed in view of the judgment of the Appellate Tribunal for Electricity in Appeal No.41 of 2018 dated 07-01-2020. Sri P. Shiva Rao, learned Standing Counsel submitted that the judgment in Hinduja case (supra) is the subject matter of Civil Appeal before the Hon'ble Supreme Court and that the same is pending. Though the judgment of the Appellate Tribunal, subject to its relevance, is binding on this Commission, it has not attained finality in view of the pendency of the Civil Appeal before the Hon'ble Supreme Court. When the learned counsel was asked whether he is relying upon the judgment of the Appellate Tribunal for disposing of I.A.No.16 of 2019, he submitted in the affirmative. Unless I.A.No.16 of 2019 filed for withdrawal of the O.P., which is filed for approval of draft PPA is heard and adjudicated, it is not possible for this Commission to decide the O.P. In as much as Civil Appeal against the judgment in Hinduja case is pending before the Hon'ble Supreme Court, we find it not appropriate to dispose of O.P.No.8 of 2018 until the said Civil Appeal is disposed of by the Hon'ble Supreme Court. However both parties agreed for arguing I.A.No.3 of 2019. Accordingly O.P.No.8 of 2018 along with I.A.No.16 of 2019 and all other I.As., except I.A.No.3 of 2019 are adjourned *sine die*. Liberty is given to the parties to move the Commission for disposal of O.P.No.8 of 2018 along with other I.As. after disposal of the Civil Appeal by the Hon'ble Supreme Court. Call I.A.No.3 of 2019 in O.P.No.8 of 2018 on 23-06-2020 for hearing.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No.42 of 2019
M/s. Srivathsa Power Projects Pvt Ltd Vs APEPDCL

Petition filed u/s 86 (1) (b) of the Electricity Act, 2003 r/w Clause 55 of APERC (Conduct of Business) Regulations to reconsider the fixation of variable cost on pass through basis instead of variable rate of Rs.2.91/- per unit in respect of the petitioner.

Sri P. Shiva Rao, learned Standing Counsel for the respondent and Sri M. Venugopala Rao, learned objector are present at the web hearing.

None appeared for the petitioner. The scope of this O.P. is similar to that of I.A.No.3 of 2019 in O.P.No.8 of 2018. Call along with the said I.A. on 23-06-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No.2 of 2020

Public hearing on the Amendments to implementation of the Regulation No. 4 of 2017 - APERC Forecasting Scheduling and Deviation Settlement of Solar and Wind Generation Regulation 2017

Sri P. Shiva Rao, learned Standing Counsel for the utilities, Ms. Mazag Andrabi, learned counsel for (i) Indian Wind Power Association, (ii) Sterling Agro Industries Ltd., & (iii) Renew Power Private Limited, Sri P. Vikram, Ms. Akanksha Tanvi, Sri Aniket Prasoon, learned counsel and Sri M. Venugopala Rao, learned objectors are present at the web hearing.

Ms. Mazag Andrabi, learned counsel brought to the notice of this Commission that an interim order has been granted by the Hon'ble High Court in W.P.No.13860 of 2019 & batch to the effect that this Commission may pass final orders and the same shall not be given effect to till the disposal of W.P.No.13860 of 2019 & batch.

Sri P. Shiva Rao and Sri M. Venugopala Rao filed their written comments. Sri Aniket Prasoon, Ms. Mazag Andrabi and Ms. Akanksha Tanvi, learned counsel appearing

for developers submitted that written comments have not been posted on the Commission's web site so far and that therefore, they are unable to submit their written responses to the said written comments. The office of the Commission is directed to post the written comments of Sri P. Shiva Rao and Sri M. Venugopala Rao on the Commission's website forthwith. All the developers and other objectors are granted two weeks' time for submitting their written responses, if any to the written comments. Hearing is accordingly closed. Orders would be passed after considering all the written submissions/objections/responses of all the parties.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No.27 of 2019

M/s. Spectrum Power Generation Limited Vs APSPDCL & APEPDCL

Petition under Section 62 (1), 86 (1) (b) of the Electricity Act, 2003 read with Clause (55) of APERC (Conduct of Business) Regulations, seeking approval for the tariff (FC & VC) as proposed by them for the FY 2018-19 and FY 2019-20 i.e., fixed cost at Rs.0.92 / Kwh on actual units supplied subject to an overall ceiling of Rs.108.17 crores and change in variable cost from time to time based on revision in natural gas prices with effect from 01-04-2019 on pass through basis

Sri Naga Deepak, learned Counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present at the web hearing.

Call along with I.A.No.3 of 2019 in O.P.No.8 of 2018 on 23-06-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

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

Sri Aniket Prasoon, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondent are present at the web hearing.

A memo is filed on behalf of the petitioner showing outstanding amount as at the end of August, 2019. Sri P. Shiva Rao, learned Standing Counsel while disputing the quantum of dues, requested for time for filing a reply to the said memo. Accordingly, the case is adjourned to 08-07-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No.43 of 2019 & I.A.No.17 of 2019
M/s. ITC Limited Vs APSPDCL & 3 others

Petition under Section 86(1)(b) and 86(1)(f) of the Electricity Act, 2003 read with Regulation 55 of the 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 P. Vikram, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present at the web hearing.

Counter Affidavit is filed. At the request of Sri P. Vikram, learned counsel for the petitioner, call on 07-07-2020 for filing rejoinder.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P. No.65 of 2019
M/s. TGV SRAAC Ltd Vs APTRANSCO, APSPDCL & NREDCAP

Petition under Section 86(1) (f) of the Electricity Act, 2003 read with Regulation 55 of the APERC (Conduct of Business) Regulations, 1999 for adjudication of the disputes between the parties in respect of giving credit of about 73,68,610 units of wind power generated and evacuated into Grid between April, 2016 to July, 2019 in the energy bills of the petitioner

Sri P. Sri Raghu Ram, learned senior counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present at the web hearing.

Counter Affidavit is filed. Post on 14-07-2020 for hearing. Meanwhile, the petitioner is given liberty to file rejoinder, if any.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No.18 of 2019

M/s. Satya Maharshi Power Corporation Limited Vs APTRANSCO & 6 others

Petition under Section 86 (1) (f) of the Electricity Act, 2003 seeking directions to the 2nd Respondent to pay the fixed costs of Rs.54,25,085/- on deemed generation at Rs.1.37/- per unit from 09-06-2017 to 18-07-2017 at 80% PLF and damages incurred during the period of stoppage to the applicant company with interest at 18%

O.P.No.19 of 2019

M/s. SLS Power Limited Vs APTRANSCO & 6 others

Petition under Section 86 (1) (f) of the Electricity Act, 2003 seeking directions to the 2nd Respondent to pay the fixed costs of Rs.71,88,480/- on deemed generation at Rs.1.56/- per unit from 09-06-2017 to 18-07-2017 at 80% PLF and damages expenses of Rs.22,00,000/- incurred during the period of stoppage to the applicant company with interest at 18%

O.P.No.20 of 2019

M/s. Sree Venkata Sreedevi Power LLP Vs APTRANSCO & 6 others

Petition under Section 86 (1) (f) of the Electricity Act, 2003 seeking directions to the 2nd Respondent to pay the fixed costs of Rs.65,89,440/- on deemed generation at Rs.1.43/- per unit from 09-06-2017 to 18-07-2017 at 80% PLF and damages, expenses of Rs.21,40,000/- incurred during the period of stoppage to the applicant company with interest at 18%

Sri P. Shiva Rao, learned Standing Counsel for the respondents is present at the web hearing.

None appeared for the petitioners. Call on 21-07-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No.6 of 2020

M/s. Spectrum Power Generation Ltd Vs APSPDCL, APEPDCL & APTRANSCO

Petition under Section 86 (1)(f) of the Electricity Act, 2003 read with Clause (55) of APERC (Conduct of Business) Regulations seeking recovery of rebate (2.5%) deducted by DISCOMs in payment of monthly energy bills

Sri S. Ravi, learned senior counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present at the web hearing.

On a further request made by Sri P. Shiva Rao, learned Standing Counsel for the respondents, post on 14-07-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No.9 of 2020

M/s. Vibrant Greentech India Pvt Ltd. Vs APSPDCL & 2 others

Petition U/Sec. 86(1)(b) r/w 86 (1) (f) of the Electricity Act, 2003 R/w APERC (Conduct of Business) Regulations, 1999 to direct the APSPDCL to act upon the PPA dt.30-03-2017 entered into with the petitioner for purchase of power from its 4.25 MW wind power project and to direct to pay for the power generated and supplied from the petitioner's project, for the period from the date of COD i.e., 30-03-2017 onwards along with interest and to direct APSPDCL to open irrevocable revolving letter of credit as per Article 5.4 of PPA dated 30-03-2017

Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present at the web hearing.

Counter Affidavit is filed. At the request of Sri Challa Gunaranjan, learned counsel for the petitioner time for filing rejoinder is granted. Call on 21-07-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

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MEMBER / PRR