

Record of proceedings dated 30-06-2020

O.P.No.3 of 2020

In the matter of Amendment to APERC (Terms & Conditions of Open Access) Regulation, 2005 (Regulation No. 2 of 2005)

O.P.No.4 of 2020

Petition filed by APSPDCL under Section 42 (2), 66 & 94 (2) of the Electricity Act 2003, Clause No. 24.2 & 26 of APERC Regulation 2 of 2005 seeking amendment to the APERC Terms and Conditions of Open Access Regulation, 2005 (Regulation No.2 of 2005) and its amendment i.e., Regulation 1 of 2016, for withdrawal of incentives given to the Group captive Open Access generators and Open Access consumers

O.P.No.5 of 2020

Petition filed by APSPDCL under Section 42 (2), 66 & 94 (2) of the Electricity Act 2003 Clause 15 of APERC Regulation 2 of 2006 seeking amendment to Interim Balancing and Settlement Code for Open Access Transactions (Regulation No. 2 of 2006) with plea to abolish the banking facility for open access RE generators and open access consumers

O.P.No.16 of 2020

Petition filed by APEPDCL under Section 42 (2), 66 & 94 (2) of the Electricity Act 2003 Clause 15 of APERC Regulation 2 of 2006 seeking amendment to Interim Balancing and Settlement Code for Open Access Transactions (Regulation No. 2 of 2006) with plea to withdraw the banking facility for open access RE generators and open access consumers.

O.P.No.17 of 2020

Petition filed by APEPDCL under Section 42 (2), 66 & 94 (2) of the Electricity Act 2003 (36 of 2003) seeking suitable amendment to 2nd proviso to Clause 4.1 & 10.5 of APERC Regulation 2 of 2006

Sri P. Shiva Rao, learned Standing Counsel for the utilities, Sri Abhimanyu Lavu, representing Odysseus Logos LLP, Sri M. Venugopala Rao, Ms. Mazag Andrabi, learned counsel, Sri C.V. Mohan Reddy, learned senior counsel, Sri Challa Gunaranjan, learned counsel and Sri Girik Bhalla, learned counsel are present on behalf of some of the objectors at the web hearing.

We have heard Sri P. Shiva Rao, learned Standing Counsel for the utilities, Sri C.V. Mohan Reddy, learned senior counsel representing A.P. Textile Mills Association and Sri Challa Gunaranjan, learned counsel for some of the objectors in O.P.Nos.3, 4, 5 & 16 of 2020. After commencement of the submissions by Sri P. Shiva Rao, the

Commission felt that to facilitate proper appreciation of the facts and issues involved in these O.Ps., it is appropriate for the petitioners to file a comprehensive volume of the material papers along with chronology of facts and events. Sri P. Shiva Rao has undertaken to file such a volume within ten days from today. On such filing, the office of the Commission shall upload the same on its website to enable the learned counsel appearing for various objectors and also other objectors who are unrepresented by the counsel to go through the volume. Call on 04-08-2020 for hearing finally.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

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

The petitioner has filed an Interlocutory Application seeking amendment of the prayer in the O.P. The office shall process and number the same if it is otherwise in order.

At the request of Sri P. Shiva Rao, learned Standing Counsel for the utilities, call on 07-07-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P. No. 57 of 2014 & I.A. No. 8 of 2015

Sardar Power Pvt Ltd Vs APEPDCL

Petition filed for determination of capital cost and consequent re-determination of tariff for the first 10 years of operation with effect from 17.07.2008 (being COD of the project) pursuant to the Judgment of Hon'ble ATE dt. 20.12.2012 in Appeal No. 172 of 2011 and batch

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

With reference to the letter of M/s. Brahmayya & Co., an affidavit is filed on behalf of the petitioner disputing the observations made in the said letter, as regards the absence of documentary evidence in support of the expenditure relating to civil works. As the documents are voluminous and as there is no possibility of physical hearing at the Court, it is agreed during the hearing that the learned counsel for both sides would sit with the officers concerned of the Commission and explain the material already filed. Both the learned counsel indicated that 13-07-2020 is convenient for them for meeting. Accordingly, the officers concerned of the Commission shall sit with the learned counsel for both parties on the said date and after examination of the material, the officers shall prepare a detailed note and place before the Commission. Sri K. Gopal Choudary also undertook to file written submissions within one month. He has also requested for arranging physical Court hearing for making his submissions. As the physical hearing is not conducive at present and to allow the above mentioned exercise to be completed, the case is adjourned by six weeks. If on the next date of hearing, physical hearing is possible, the same will be notified by the Commission. Call on 19-08-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P. No.73 of 2019 & I.A. No.12 of 2020
M/s. Aditya Birla Renewable SPV 1 Ltd Vs APSPDCL & APTRANSCO

Petition filed under Section 86 (1) (f) of the Electricity Act, 2003 and other applicable provisions of the Electricity Act, 2003 read with APERC (Terms and Conditions of Open Access) Regulations, 2005, against Respondent No.1 for claiming wheeling charges and losses from the petitioner for alleged use of distribution system, when no distribution system of Respondent No.1 is been utilized for transmitting electricity from 20 MW captive solar project of the Petitioner

Application filed for interim relief

Sri Sakya Chaudhuri, learned counsel for the petitioner and Sri P. Shiva Rao, learned Standing Counsel for the utilities are present at the web hearing.

Counter Affidavit is not filed in spite of several opportunities being given to the respondents. Having regard to the specific assertion of the petitioner that they have laid a dedicated 33 kV line for evacuation of power from the place where the plant is situated upto 132/33 kV line at Sambepally and that no part of the distribution line of respondent No.1 is being used for such evacuation, which remained uncontroverted in the absence of a counter, there shall be stay of recovery of wheeling charges from the petitioner by respondent No.1 pending further orders. Call on 12-08-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P. No.1 of 2020 & I.A. No.13 of 2020

M/s.Vaayu (India) Power Corporation Limited Vs APTRANSCO, APPCC & APSPDCL

O.P. No.14 of 2020 & I.A. No.14 of 2020

M/s. Vish Wind Infrastructure LLP Vs APTRANSCO & 2 others

O.P. No.15 of 2020 & I.A. No.15 of 2020

M/s. Vish Wind Infrastructure LLP Vs APTRANSCO & 2 others

Petitions 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 Agreements dated 29-05-2010 and for a direction against the Respondents for the payments of the outstanding amounts

Applications filed by APPCC for amendment in the counter

Sri Vishal Gupta & Sri Khailashnath PSS, learned counsel for the petitioners and Sri P. Shiva Rao, learned Standing Counsel for the utilities are present at the web hearing.

I.A.Nos.13, 14 & 15 of 2020 in O.P.Nos.1, 14 & 15 of 2020 respectively are filed by APPCC seeking amendment in the Counter Affidavits. Learned counsel for the petitioners have not opposed these applications. In view of the same, these Interlocutory Applications are allowed.

On 12-06-2020 on the persuasion of Sri P. Shiva Rao, learned Standing Counsel for the utilities, we have adjourned the cases for filing affidavits of a responsible officer of the respondents indicating the specific schedule for payment of the undisputed principal liability. Today at the hearing, it has come out that no such affidavits are filed and when we asked for the reason for not filing affidavits, Sri P. Shiva Rao, learned Standing Counsel candidly submitted that in spite of his advising them, the officers have not come forward to file the affidavits. It is regrettable that officers of the public utility undertaking have shown scant regard for the undertaking given before the Commission based on which the Record of Proceedings is prepared. It is thus evident that the officers of the utilities have failed to attach sanctity to the orders of the Commission. The Commission hence saddles the officers of the respondents responsible for non filing of affidavits with costs of Rs.10,000/- (Rupees ten thousand only) in each O.P., to be deposited to the account of the Commission within two weeks from today. The respondents shall identify the officer (s) concerned responsible for not filing affidavits and recover the costs from them. Sri P. Shiva Rao, learned Standing Counsel made a strong request to give one more opportunity to the respondents to file affidavits as they have earlier undertaken to file. Accepting his request and subject to their deposit of costs, the officers concerned of the respondents are permitted to file

affidavits indicating the specific schedule for payment of the undisputed principal liability within two weeks from today. Call on 14-07-2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR