

Record of Proceedings dated 09-02-2022

OP No. 102 of 2021
APEPDCL

OP No. 103 of 2021
APSPDCL

OP No. 104 of 2021
APCPDCL

Public hearing in the matter of petitions filed by DISCOMs for pass through of Fuel & Power Purchase cost Adjustment (FPPCA) for 1st quarter for FY 2021-22 (Apr'21 to Jun'21) in Rs/Unit as per Second amendment to APERC Regulation No.4 of 2005 (Terms and condition for determination of tariff on wheeling and retail sale of electricity) Regulation No.4 of 2021.

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

Sri P. Shiva Rao requested two more weeks' time for submitting responses. His request is accepted. Call on 23-03-2022. The responses shall be served on the objectors well in advance. On the said date, the learned Standing Counsel shall make his submissions also.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

OP No. 4 of 2022
M/s. Aeolus Wind Parks Pvt. Ltd. Vs. APSPDCL & APPCC

OP No. 5 of 2022
M/s. Danu Wind Parks Pvt Ltd Vs. APSPDCL & APPCC

OP No. 6 of 2022
M/s. Danu Wind Parks Pvt Ltd Vs. APSPDCL & APPCC

OP No. 7 of 2022
M/s. Dindore Wind Parks Pvt Ltd Vs. APSPDCL & APPCC

OP No. 8 of 2022M/s.
M/s. Fujin Wind Parks Pvt Ltd Vs. APSPDCL & APPCC

Petition under Sections 86(1)(f) and (e) of the Act, Regulation 8 of the Andhra Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 seeking directions to APSPDCL for payment of outstanding amounts and Late Payment Surcharges.

Sri. Vivek Chandrasekhar, learned counsel for the petitioners and Sri P. Shiva Rao, learned Standing Counsel for the Respondents are present at the web hearing.

At the request of Sri P. Shiva Rao, four weeks' time for filing counter is granted. Call on 23-03-2022.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

OP No. 9 of 2022
M/s. Greenko Solar Power (Dharanavaram) Ltd., Vs. APSPDCL

OP No.10 of 2022
M/s. SEI Arushi Private Limited Vs. APSPDCL

Petition 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.

Sri. Basava Prabhu Patil, counsel for the petitioners and Sri P. Shiva Rao, learned Standing Counsel for the Respondents are present at the web hearing.

At the request of Sri P. Shiva Rao, four weeks' time for filing counter is granted. Call on 23-03-2022.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

OP No. 43 of 2021
M/s. Texmo Industries Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 20-04-2010 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 44 of 2021

M/s. Texmo Precision Casting Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 02-08-2010 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 45 of 2021

M/s. Triveni Enterprises Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 31-03-2011 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 46 of 2021

M/s. Texonic Instruments Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 16-12-2010 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 47 of 2021

M/s. Vikram Traders Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 18-03-2010 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 48 of 2021

M/s. Siddanga Oil Extractions Pvt Ltd Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 22-04-2010 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 49 of 2021

M/s. S. Kumar Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 23-04-2010 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 50 of 2021

M/s. Prakash Beedies Pvt Ltd Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003 for specific performance of PPA dated 20-04-2010 and for a direction against the respondents for the payments of the outstanding amounts

OP No. 51 of 2021
M/s. Arts & Crafts Exports Vs. APTRANSCO & APSPDCL

Petition under Section 86(1)(b), 86 (1) (e) and 86 (1) (f) of the Electricity Act, 2003
for specific performance of PPA dated 21-04-2010 and for a direction against the
respondents for the payments of the outstanding amounts

OP No. 60 of 2021
M/s. Shreem Electric Ltd Vs. APTRANSCO & APSPDCL

Petition under section 8(1)(b), 86(1)(e) and 86 (1) (f) of the Electricity Act, 2003 for
specific performance of the Power Purchase Agreement dated 30-03-2011 and for a
direction against the respondents for the payments of the outstanding amounts

Sri. A.P. Reddy, counsel for the petitioners and Sri P. Shiva Rao, learned Standing Counsel for the Respondents are present at the web hearing.

Rejoinders have been filed. The petitioners are permitted to carryout publication in terms of Section 64(2) of the Electricity Act 2003. Call on 15-06-2022 for filing proof of publication.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

RP No. 2 of 2021 in OP No. 46 of 2017
APGENCO Vs. APSPDCL, APEPDCL & AP Solar Power Corporation Ltd (APSPCL)

Petition u/s 94 (1) (f) of the Electricity Act 2003 r/w Regulation 49 (1) of the APERC
(Conduct of Business), Regulation 1999 for review of the Commission's order
dt.22-10-2020 in OP No. 46 of 2017

Sri. O. Manohar Reddy, Counsel for the petitioners and Sri P. Shiva Rao, learned Standing Counsel for the respondents are present at the web hearing.

After arguing the case for some time, Sri. O. Manohar Reddy requested an adjournment for further instructions. Call on 23-03-2022.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

RP No. 3 of 2021 in OP No. 33 of 2019 & OP No. 35 of 2018 (PART)
APGENCO Vs.APSPDCL & APEPDCL

Petition u/s 94 of the Electricity Act, 2003 r/w Regulation 49 (1) of the APERC
(Conduct of Business) Regulation 1999 seeking review of APERC order dt.
31-12-2020 in OP No. 33 of 2019 & OP No. 35 of 2018 (PART)

Sri. O. Manohar Reddy, Counsel for the petitioners and Sri P. Shiva Rao, learned
Standing Counsel for the respondents are present at the web hearing.

After arguing the case for some time, Sri. O. Manohar Reddy requested an
adjournment for further instructions. Call on 23-03-2022.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

IA No.42 of 2020 & IA No. 3 of 2021 in O.P.No. 18 of 2020;

M/s. Khandaleru Power Company Ltd Vs. 1) CMD/APSPDCL, 2) CE/IPC, PP&S/
APSPDCL, 3) GM/OPC/PP&S/APPCC, 4) SE/Opt Circle/ APSPDCL,Nellore

Petition under Section 86 (1) (f) of the Electricity Act, 2003 r/w APERC (Conduct of
Business) Regulation, 1999, seeking adoption of tariff discovered through
competitive bidding for procurement of 6 MW capacity power from the petitioner's
Mini Hydel Project at Khandaleru Reservoir, Khandaleru, Nellore District in terms of
the PPA dated 16-02-2019

IA No. 42 of 2020 - Application filed by the petitioner u/s 142 of the EA, 2003 r/w
Regulations 55 of the APERC (Conduct of Business) Regulation, 1999 for violating
and dis-obeying the orders passed by the Commission dt.17-03-2020 and
26-08-2020 in IA No. 4 of 2020 in OP No. 18 of 2020

IA No. 3 of 2021 - Application filed by the petitioner under Regulation 16 r/w
Regulation 55 of the APERC (Conduct of Business) Regulation 1999 to permit the
petitioner to withdraw the prayers in OP No. 18 of 2020

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

IA No.3 of 2021:

This application is filed with the following prayer :

“..... to permit the petitioner to withdraw the following prayers in OP No.18 of
2020 :

(a) Approve the PPA dated 16-02-2019 entered between 1st respondent and the petitioner with tariff of Rs.3.73 per unit in terms of Section 86(1)(b) r/w. Section 62 of Electricity Act 2003 which has been granted in-principle approval by this Hon'ble Commission vide letter dt.30-05-2018 and direct the respondent to act upon the same.

(c) Direct the respondents to commission the balance 3 MW unit of the petitioner's project and permit the petitioner to supply the power generated from its project to the 1st respondent in terms of the PPA dated 16-02-2019.

(d) Declare that the Letter LoI No.CGM/(P&MM, IPC)/APSPDCL/F.Mini Hydel Bidding/D.No.1088, dated 22-09-2020 issued by the 3rd respondent is illegal and non-est in law."

At the hearing Sri Challa Gunaranjan, the learned Counsel for the petitioner submitted that having unconditionally rescinded the PPA on 22-09-2020, the Chief General Manager of APPCC addressed letter on 15-11-2021 adding a further condition that rescindment of PPA shall be subject to withdrawal of the OP No.18 of 2020 by the petitioner. He has further submitted that while his client has no objection for withdrawal of the O.P. to the extent it pertains to prayers (a), (c) and (d), prayer (b) needs to be necessarily adjudicated on merits by this Commission.

After hearing Sri P. Shiva Rao, learned Standing Counsel, we take exception to the attitude of the CGM, APPCC who has imposed an unreasonable condition that rescission of PPA shall be subject to withdrawal of the O.P. by the petitioner. It is trite that the petitioner has a statutory right to avail his legal remedies in exercise of which it has filed the O.P. When the respondents, for reasons justifiable or not has rescinded the PPA by proceedings dated 22-09-2020 and the matter is *sub judice* before this Commission with respect to various aspects, including tariff payable to the petitioner for the power supplied by it to the respondents, it is wholly impermissible for the respondents to stipulate a condition such as the one as stated above. The conduct of the CGM, APPCC is abhorrent, to say the least. Sri P. Shiva Rao however submitted that within one hour, the letter dated 15-11-2021 will be withdrawn and communicated to this Commission and the petitioner. He has also undertaken that the petitioner's application for Open Access will be considered as per the Regulations without being influenced by the pendency of OP No.18 of 2020 or any other extraneous reasons. The gesture of Sri P. Shiva Rao is appreciated.

As regards the prayer in the I.A., as the issue relating to payment of tariff needs to be adjudicated, prayer (d) survives for adjudication. Accordingly, OP No.18 of 2020, to the extent of prayers (a), (c) and (d) are permitted to be withdrawn while the O.P. is kept pending to the extent of prayer (d). The application is accordingly disposed of.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

I.A.Nos.1 and 2 of 2022:

I.A.No.1 of 2022 is filed for a direction to respondent Nos.1 and 5 to grant permission for selling the power generated from the petitioner's Hydel Power Project through Open Access by issuing No Objection Certificate/Standing Clearance to the petitioner in the interest of justice and equity.

I.A.No.2 of 2022 is filed to implead the A.P. Transmission Corporation, represented by its Chairman & Managing Director as respondent No.5 in the O.P.

As the petitioner is seeking Open Access in I.A.No.1 of 2022 which is to be granted by the A.P. Transmission Corporation, its presence to the above limited extent is necessary. Hence, I.A.No.2 of 2022 is ordered.

As regards the Open Access claimed in I.A.No.1 of 2022, as noted hereinabove, Sri P. Shiva Rao submitted that respondent No.1 will forthwith consider the petitioner's application for Open Access and take a decision strictly in accordance with the extent Regulations without being guided by the pendency of OP No.18 of 2020. Respondent Nos.1 and 5 are accordingly directed to consider the petitioner's application for Open Access strictly in terms of the relevant Regulations and take appropriate decision within one week from today.

Sd/-
MEMBER / TRS

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CHAIRMAN

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MEMBER / PRR

OP No.18 of 2020

Call on 22-06-2022.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

RP No. 3 of 2020 in Lr.No.APERC/JD(PPP)/DD(P&PP)/F.No.E-938/D.No.451/ 18,
Dt:30.05.2018

APSPDCL & APEPDCL Vs. Khandaleru Power Company Ltd
Victory Power Systems Pvt Ltd & Raji Power Pvt Ltd

Review Petition under Section 94(1)(f) of Electricity Act 2003, Regulation 49 & 59 of
APERC (Conduct of Business) Regulations, 1999 seeking review of the directions of
this Hon'ble Commission vide

Lr.No.APERC/JD(PPP)/DD(P&PP)/F.No.E-938/D.No.451/ 18, Dt:30.05.2018
according in principle approval for procurement of power from Mini Hydel Projects

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

Call on 23-03-2022 along with OP No.40 of 2020.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR

O.P.No. 40 of 2020
Victory Power Systems Pvt Ltd Vs. APSPDCL

Petition u/s 86 (1) (f) r/w Sections 86 (1) (b) and 86 (1) (e) of the Electricity Act, 2003
for adjudication of the dispute relating to the purchase of mini hydel power by
APSPDCL from Victory Power Systems Pvt Ltd in terms of the PPA dt.16-02-2019
and for approval thereof.

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.

Heard Sri K. Gopal Choudary. Sri P. Shiva Rao requested time for making his
submissions. Both the learned Counsel have undertaken to file the relevant case
law in support of their respective propositions. Call on 23-03-2022.

Sd/-
MEMBER / TRS

Sd/-
CHAIRMAN

Sd/-
MEMBER / PRR