

Record of proceedings dated 11.12.2020

O. P. No. 28 of 2020

M/s. Enrich Energy Private Limited Vs. TSSPDCL & its officers

Petition filed seeking declaration of the SCOD as 31.03.2017 of the solar project and reimbursement of penalty amount including bank guarantee.

Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The counsel for the petitioner stated that the petition is filed for declaration of the COD of the project to be 31.03.2017 and consequently direct the licensee to reimburse the penalties recovered through encashment of PBG as the COD was declared beyond the stipulated period under the PPA. According to the PPA, the SCOD of the project had to be completed by 25.02.2017. There were delays in completion of the project due to various reasons including land acquisition, district reorganization etc. The counsel for the petitioner drew attention of the Commission to the conditions in clause 6.1 of the PPA. He also stated that the Commission had occasion to consider all these aspects in several cases filed before it and gave specific reference to O. P. No. 42 of 2018. He further stated that the government had considered the difficulty of the developers and gave blanket extension of SCOD upto 30.06.2017, which was also accepted by the Commission in the earlier cases. The petitioner has been making request for accepting the SCOD, however, the DISCOM had invoked the penal clauses and recovered the amounts without heeding its request. Therefore, the present petition is filed for declaration of SCOD and refund of the amounts collected by the licensee. Infact, this Commission had earlier condoned the delay beyond 30.06.2017 wherein the respective projects were commissioned after 40 to 50 days. Inasmuch as the petitioner is within the period of exemption granted by the government itself though there is a delay beyond the PPA date. Keeping in view the earlier decisions of the Commission, the Commission may consider allowing the petition also.

The representative of the respondents sought to rely on the directions of the Commission, which were communicated to the petitioner also that general exemption for extension of SCOD cannot be granted and the DISCOMs were required to file proper petition in respect of the each of the developers, which in turn was informed

to the developers. It was the view of the Commission that each of the developer's case has to be examined independently. He also stated that the reasons attributed by the petitioner for the delay are not acceptable and owing to that reason only the DISCOM had invoked the guarantees and levied penalties also. It is also not understood as to why the petitioner came to the Commission with the relief after a long period of time. In fact, the petitioner had also paid the amount duly replacing the PBG. Now turning around and stating that the Commission may declare the SCOD as 31.03.2017 and refund of the amount recovered from the petitioner is not correct. Assuming without accepting, the Commission is inclined to grant the relief then it should be at present tariff.

Heard the submissions of the parties and the matter is reserved for orders.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

O. P. No. 29 of 2020
&
I. A. No. 15 of 2020

M/s. Gayatri Sugars Limited Vs. TSNPDCL

Petition filed Seeking declaration of fixed costs for 16.5 MW bagasse based cogeneration project.

I. A. filed seeking interim orders directing the respondent to pay generic tariff as fixed by the order dated 05.08.2014 in O. P. Nos. 8 / 2011, 9 / 2012, 12 / 2012, 22 / 2014 and 25 / 2014.

Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Advocate for the respondent have appeared through video conference. The counsel for the petitioner stated that the petitioner is seeking determination of fixed costs in terms of the order passed by the erstwhile APERC in the year 2014 or to fix the project specific tariff. He also narrated the sequence of events in the matter. The counsel for the respondent stated that the respondent is agreeable for adopting the fixed costs tariff as determined erstwhile APERC. As such there is no issue to be decided in the matter in terms of the concession made in the counter affidavit.

In view of the submissions made and the concession submitted by the DISCOM, there is no further issue, as such, the matter is reserved for orders

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

O. P. (SR) No. 27 of 2020

M/s. Sri Ambika Steel Industries Vs. TSSPDCL & its officers

Petition filed seeking penal action against the TSSPDCL and its officers for not giving effect to the orders of the Commission in respect of restriction and control measures in proceedings dated 15.09.2012 and consequent withdrawal of minimum charges.

Ms. Nishtha, representative for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The counsel for the petitioner stated that the petitioner is questioning the inaction of the licensee in giving effect to R & C measures and claiming arrears beyond the stipulated period under the Electricity Act, 2003 contrary to the orders of the Commission. The representative of the respondents sought further time for filing written arguments in response to the submissions filed by the petitioner, which were filed by the petitioner only the other day. Accordingly, the respondents are allowed time till 23.12.2020 for filing written submissions. A copy of the written submissions should be made available to the representative of the petitioner as soon as it is filed.

In the circumstances, the matter is adjourned. Call on 07.01.2021 at 11.30 AM.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

O. P. (SR) No. 28 of 2020

&

I. A. (SR) No. 29 of 2020

M/s. L & T Metro Rail (Hyderabad) Limited Vs TSSPDCL & its officers

Petition filed seeking directions to the licensee and its officers to give effect to the order of the Commission fixing the tariff under HT V (B) – HMR tariff.

I. A. filed seeking interim orders directing the respondents not to disconnect the electricity supply to the petitioner pending disposal of the original petition.

Sri. Avinash Desai, Advocate for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The counsel for the petitioner stated that the issue in this petition is with regard to levy of charges for the power supply availed by the petitioner at three places for the period 01.07.2016 to 31.08.2017 contrary to the tariff order of the Commission for the year 2016-17. By the tariff order, the Commission had treated metro rail as separate category under HT V (B). Instead of billing, the petitioner under said category, the respondents had billed it under HT-II category. Eventhough, they have corrected the bills for the months of September and October, 2017, they have not given the benefit of the same for the earlier period. Also, the Commission issued notice as regards the maintainability of the case. However, the Commission had itself accepted the maintainability of the case in the earlier proceedings in the case of the petitioner itself in the order dated 19.10.2020 in O. P. No. 27 of 2020. It had also placed on record in that case, the various decisions regarding the maintainability. Now there is threat of disconnection of power supply by the licensee, as such an interlocutory application is filed for suitable orders.

The representative of the respondents stated that the representative needs further time of four weeks for filing counter affidavit in the matter. Also, it is stated that the licensee would not resort to disconnection of the power supply immediately and the Commission may take it as an undertaking.

In the circumstances, the matter is adjourned duly recording the undertaking that the licensee shall not effect disconnection of power supply to the petitioner. The respondents shall file the counter affidavit by 30.12.2020 duly forwarding a copy of it to the counsel for petitioner.

Call on 07.01.2021 at 11.30 AM.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

I. A. No. 16 of 2020
in
O. P. No. 18 of 2020
(Suo moto petition)

TSDISCOMs Vs M/s. Hyderabad Metropolitan Water Supply & Sewerage Board

Application filed seeking to withdraw tariff made applicable to HT – IV (B) category and to advise the GoTS to reimburse the revenue loss to be incurred by the DISCOMs on account of implementation of the revised tariff.

Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the applicants and Sri. M. Dana Kishore, Managing Director respondent have appeared through video conference. The representative of the respondent in this interlocutory application stated and explained in detail the steps being taken by the board for ensuring water supply to Hyderabad city and its peripheral area falling within the outer ring road. The representative gave the details of the financial expenditure as also the amount of water being supplied at present to the consumers of Hyderabad city. The licensee has requested it to part with the difference of amount that is the result of the tariff fixed by the Commission and the actual tariff applicable to them. The board had taken steps to make available the subvention directly from the government and has been corresponding with its parent department that is Municipal Administration and Urban Development as also Energy Department of the government. They need three months' time to ensure subvention for the next year also as the budget exercise has already began in the government. As for the present, the Commission may continue the tariff upto 31st March, 2021. The total subvention likely to be committed by the government to the licensee is about Rs.580 crores.

As the licensee is required to comply with the directions of the government, the representative of the respondent requests that no order may be passed considering the public interest involved in undertaking water supply, as any order would jeopardize the revenues earned towards water supply for undertaking development activities. If the order of the Commission is modified, the entire revenues will be lost in paying electricity charges only.

The representative of the licensee stated that the licensee is constrained to seek orders for the release of subsidy by the government as it is undertaking 24 hours power supply to all consumers and is involved in serving the consumers at large. The Commission had passed this order for implementing the orders of the government in the suo moto proceedings. The licensee prays the Commission to safeguard its interest in the matter of revenue and tariff and ensure grant of subvention from the government to facilitate extending the tariff as directed by the

government as ordered by the Commission. The Commission may consider the request of the parties.

Heard the representatives of the parties. The matter is reserved for orders.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

R. P. (SR) No. 40 of 2019
&
I. A. (SR) No. 43 of 2019
in
O. P. No. 47 of 2018

TSSPDCL Vs M/s. Dubbak Solar Projects Private Limited

Review petition filed seeking review of the order dated 02.01.2019 in O. P. No. 47 of 2018 passed by the Commission by modifying the relief [43 (b)] of the order directing adjustment of utilized energy (banked energy for the period from 30.07.2016 to 18.11.2016) to the developer as per subsisting Regulation No. 2 of 2014.

I. A. filed seeking condonation of delay in filing the review petition.

Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the review petitioner and Sri. Challa Gunaranjan, Advocate for the respondent have appeared through video conference. The counsel for the respondent in the review petition has stated that similar matters are scheduled for hearing on 17.12.2020. The representative for the review petitioner is agreeable with the statement of the counsel for the respondent. Accordingly, the Commission directed the posting of the matter on 17.12.2020 alongwith the other matters.

Call on 17.12.2020 at 11.30 AM

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

O. P. No. 25 of 2020

M/s Dr. Reddy's Laboratories Limited Vs SLDC, TSTRANSCO & TSSPDCL

Petition u/s 86 (1) (c) read with section 86 (1) (k) of Electricity Act, 2003 seeking directions to the respondents to approve short term open access.

Sri. Challa Gunaranjan, Advocate for the petitioner, Sri. Y. Rama Rao, Advocate for the respondent Nos. 1 and 2 and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for respondent No. 3 have appeared through videos conference. The counsel for the petitioner stated that the issue in the petition is with regard to giving permission for short term open access in accordance with the Regulation No. 2 of 2005 as adopted by the Commission. Applications were made for earlier months and the prayer has been sought in this petition for subsequent months also. The counsel for the petitioner stated that the petitioner has made applications for the months of November and December, 2020 also and the SLDC replied to the petitioner rejecting the request for the month of December, 2020.

The counsel for the petitioner stated that earlier the Commission pointed out about filing of the writ petition before the Hon'ble High Court on the same issue, however, the said writ petition had been withdrawn by the petitioner and it was dismissed as withdrawn on 19.11.2020, a copy of the same is placed before the Commission alongwith the rejoinder filed by the petitioner. From the counter affidavit, it is seen that the DISCOM is not inclined to allow STOA owing to the reason that 24 hours supply to agriculture is being extended and also the capacity on the line is exhausted. The said action is contrary to their own stand earlier as in the year 2015, they had allowed STOA to the petitioner and now reverting to state that other technical difficulties are prohibiting them from allowing STOA is not correct.

The counsel for the petitioner stated that section 42 of the Act, 2003 clearly emphasizes on allowing open access. In continuation of the said provision only, the State Commission had made regulation in Regulation No. 2 of 2005 as adopted by it from erstwhile APERC and the CERC notified similar regulation in the year 2008. The counsel for the petitioner sought to rely on the provisions of the said regulations. It is his case that the licensees are denying STOA on irrelevant grounds contrary to the Act, 2003 and the regulation mentioned earlier. In the rejection made for December, 2020 nothing is stated except stating that DISCOM conveying 'not feasible' and SLDC saying that 'rejected'.

The counsel for the petitioner also relied on the decision rendered by this Commission in O. P. No. 19 of 2020, wherein the Commission emphatically held that

open access has to be provided and the licensees cannot deviate from the provisions of the Act, 2003 and regulations thereof.

The counsel for the respondent Nos. 1 and 2, while reiterating the submissions in the counter affidavit, stated that there is no congestion in 132 KV line but there might be congestion at 33 / 11 KV line, which report has been placed by the DISCOM before the 1st respondent, based on which the 1st respondent refused to accord permission for STOA. The central regulation is not required to be considered as in any case there is a state specific regulation on the aspect of open access. He sought to rely on sections 42 and 86 of the Act, 2003 with regard to the powers and functions of the Commission. The present refusal of STOA is based on the technical inputs of the DISCOM. The contention that the SLDC rejected the application without reasons is not acceptable and as it is based on the inputs given by the DISCOM only. Infact, the Commission has limited role in the matter as the petitioner has alternative remedy under sub-section 5 of section 42 of the Act, 2003.

The representative for the respondent No. 3 sought time for arguing the matter for few days. Considering the request of the respondent No. 3, the matter is adjourned.

Call on 17.12.2020 at 11:30 A.M.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

O. P. No. 26 of 2020

M/s. Arhyama Solar Power Pvt. Ltd. vs TSSPDCL, CGM (Revenue), SAO (Operation Circle), Sanganareddy & SAO (Operation Circle), Medchal.

Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for respondents have appeared through video conference. The counsel for the petitioner stated that the respondents are yet to file counter affidavit in the matter, though the time was sought earlier for the said purpose. The representative of the DISCOM stated that the counter affidavit has been filed before the Commission on 03.12.2020. The counsel for the petitioner stated that he is yet to receive a copy of the counter affidavit. Accordingly, the

Commission directed the DISCOM to furnish a copy of the counter affidavit immediately and adjourned the matter.

Call on 17.12.2020 at 11.30 A.M.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman

R. P. (SR) No. 134 of 2018
&
I. A. (SR) No. 7 of 2020
in
O. P. No. 10 of 2017

TSSPDCL Vs M/s. Arhyama Solar Power Private Limited

Review petition filed seeking review of the order dated 17.07.2018 passed in O. P. No. 10 of 2017 filed by the respondent.

I. A. filed seeking condonation of delay in filing the review petition.

Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for the review petitioner and Sri. Challa Gunaranja, Advocate for the respondent have appeared through video conference. The counsel for the respondent stated that the review petitioner in this case is yet to file counter affidavit in the connected matter in O.P. No. 26 of 2020, though the time was sought earlier for the said purpose. He also stated that insofar as interlocutory application for delay in filing the present petition is concerned, a counter affidavit had already been filed. The representative of the review petitioner stated that the counter affidavit in the other matter has been filed before the Commission on 03.12.2020. The counsel for the respondent stated that he is yet to receive a copy of the counter affidavit. Accordingly, the Commission directed the DISCOM to furnish a copy of the counter affidavit immediately to the respondent and adjourned the matter.

Call on 17.12.2020 at 11:30 A.M.

Sd/-
Member (F)

Sd/-
Member (T)

Sd/-
Chairman