

Record of Proceedings dated 14.06.2017

O. P. (SR) No. 5 of 2016

And

I. A. No. 6 of 2016

M/s. REI Power Bazaar Private Limited vs Nil, TSDISCOMs, TSTRANSCO and TSGENCO added by the Commission.

M/s. IEX Limited vs M/s. REI Power Bazaar Private Limited, TSDISCOMs, TSTRANSCO and TSGENCO added by the Commission.

Petition filed seeking to establish power market (power exchange) in the state of Telangana u/s 86 (1) (k) read with section 66 of Electricity Act, 2003.

Petition in I A filed by for impleading M/s. IEX Limited as party respondent in the petition

Sri. P. Vikram, Counsel for the petitioner, Sri. Y. Rama Rao, Standing Counsel for the respondents along with Sri. B. Vijaya Bhaskar, Advocate and Sri. Gaurav Maheshwari, Manager of Indian Energy Exchange Ltd. alongwith Sri. Aditya Eranki (IEX) are present. The counsel for the petitioner stated that the petition is filed for establishment of power exchange exclusively for the State of Telangana to develop market. The representative of the implead petitioner stated that they are seeking to implead themselves in the petition as an interested party as they are operating power exchange at the national level. He stated that the petitioner has not placed before the Commission any material warranting this Commission to permit the petitioner to establish a power exchange for developing the market. He has also stated that the State Commissions of Kerala, Madhya Pradesh and Rajasthan have rejected similar petitions filed by the petitioner in the respective states. Similar petitions are pending in some other Commissions also.

The counsel for the TSGENCO stated that there is no requirement of establishing power market in the State of Telangana as the state is having surplus generation and is able to meet the demand. Moreover, there is no regulatory frame work in the form of rules and regulations so as to have suitable regulatory control over the same. It is also their case that there is no requirement of market condition as the supply made by the power utilities is after establishing huge capacities of transmission, distribution and generation.

The petitioner's counsel stated that the present petition is filed under sec 86 (1) (k) read with sec 66 of the Act, 2003 The counsel for the petitioner stated that the petitioner has filed necessary material before the Commission for allowing it to establish a power market for facilitating intra-state trading of power generated within the state. Though, it is a fact that there is no regulatory frame work notified by the Commission insofar as the power exchange activity is concerned, allowing the same would benefit the transmission and distribution licensees to strengthen their activity and the generator(s) can safely trade the surplus power. He has confirmed that the details relating to net worth of the company and financial statement have not been filed. However, he sought time to place such information before the Commission.

On specific question about the petitioner company being stand alone to the State of Telangana, the counsel replied in the negative and confirmed that the petitioner is a pan India company.

The Commission while taking into consideration of the submissions of the parties, directed the petitioner to place before it all the relevant particulars relating to net worth and financial statements for examination of the Commission and adjourned it without any date.

Sd/-
Member

Sd/-
Chairman

O. P. (SR) No. 33 of 2016

M/s. Sundew Properties Limited Vs. – Nil –

Petition filed seeking for determination of tariff to be charged to consumers with TSSPDCL tariff as the ceiling tariff

Sri. M. Pallaniappan, Consultant of the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate are present. The representative of the petitioner stated that the present petition is for determination of ceiling tariff to be made applicable to the consumers of the petitioner. He has filed the hard copy of the power point presentation, which he sought to make for consideration of the petition by the Commission.

The counsel for the respondent stated that the petitioner in this case has already moved the Hon'ble Appellate Tribunal in respect of the order passed by the

Commission while recognizing the petitioner as deemed licensee in Appeal No. 3 of 2017. Therefore, this case may not be proceeded with unless the said appeal is decided by the Hon'ble ATE. Accordingly he requested for adjournment of the matter indefinitely.

The Commission sought to know from the representative of the petitioner whether the order passed by the Commission has been complied with or not. The representative replied in the negative and stated that on their part the same has been complied with but not in accordance with the order of the Commission. The Commission required the representative as to how the present petition can be proceeded with in the face of appeal having been filed and pending in the appellate forum. The representative sought to distinguish both the cases but to no avail. Lastly, the Commission enquired with the representative whether the business of distribution of electricity has been started or not. The representative stated that the business has not yet commenced as certain other issues are pending resolution with the transmission and distribution licensees.

In the light of the facts that the petitioner is already before the appellate authority and the business has not yet commenced, the present petition is adjourned without any date.

Sd/-
Member

Sd/-
Chairman

O. P. No. 17 of 2016

Sri Allu Venkat Reddy Vs TSTRANSCO

Filed an application seeking compensation for laying of towers and lines across his agricultural land u/s 67 (4) of the Electricity Act, 2003.

Sri. P. Chengal Reddy Counsel for the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate are present. The counsel for the petitioner stated that the petition is filed under section 86 (1) (f) of the Electricity Act, 2003 for adjudication of the issue of compensation payable to the petitioner for acquisition of land for laying lines and towers for transmitting electricity. It is his case that the transmission licensee has not followed the rules issued by the then Government of Andhra Pradesh in the year 2007 and the said rules have not even been communicated to the Commission. It is his further case that the licensee did not

follow the procedure set out in the said rules. The action of the licensee is contrary to the Constitution and the Law as applicable in the matter of acquisition of land. While further narrating the detailed facts relating to the petition, he stated that the petitioner is suffering for the loss of property, which will be of no use post laying of towers and lines but the licensee has paid compensation only for crop and not for the property acquired for the said purpose.

The counsel for the respondent while rebutting the argument of the counsel for the petitioner, confirmed the payment of compensation for the land acquired as determined by the competent authority under the Land Acquisition Act. It is his case that Electricity Act requires the licensee to follow the Indian Telegraph Act, 1885 in the matter of laying lines as provided under section 164 of the Act, 2003. Inasmuch as the petitioner has collected the compensation and acknowledged the same while giving consent for the erection of towers and lines. To a particular question about following procedure set out in the Land Acquisition Law has not been followed, the counsel for the respondent sought to explain that the procedure contemplated under the Telegraph Act has to be taken into consideration alongwith the procedure to be followed in respect of the Land Acquisition Act. It is also his case that the licensee is not taking away the possession of the property but merely laying the lines and towers, thus, in effect, the title to the property still rests with the petitioner himself and he can undertake such suitable activity on the land as may be desirable to him.

The Commission having heard the arguments of the counsel for the parties directed them to file their respective written submissions within a period of one week by giving a copy of the same to other side. The matter is reserved for orders.

Sd/-
Member

Sd/-
Chairman

O. P. No. 19 of 2016
and
I. A. No. 12 of 2016

M/s. Yantra Green Power Private Ltd. Vs TSSPDCL

Petition filed for seeking exemption from wheeling charges as decided in O.P. No. 78 of 2015 for the control period 2015 in terms of the policy of the Government of Telangana State dated 01.06.2015.

Interlocutory Application filed for directing the respondent not to levy / collect wheeling charges from the petitioner company or its consumer during the pendency of the original petition.

Sri. P. Srinivasa Rao, Counsel for the petitioner is not present. Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate is present. The counsel for the respondent stated that the relief of exempting levy of wheeling charges and cross subsidy surcharge as directed by the Commission from 31.12.2016 had been implemented in favour of the petitioner. Nothing survives in this petition, therefore, same may be dismissed.

The counsel for the petitioner turned up before the Commission while we were in the process of signing the proceedings for the day and requested that his absence may not be recorded and the petition may be disposed of in terms of the order passed by the Commission.

The Commission, while recording the presence of the counsel for the petitioner, disposes of the petition in terms of the request made by the standing counsel for the respondent.

Sd/-
Member

Sd/-
Chairman

O. P. No. 20 of 2016

M/s. Sugna Metals Limited Vs. Officers of TSSPDCL

Petition filed seeking for questioning the action of DISCOM in not implementing the order of the CGRF and to punish the licensee under sec. 142 of Electricity Act, 2003.

Sri. N. Vinesh Raj, Advocate for the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate are present. The counsel for the petitioner stated that the present petition is filed for taking action for non-compliance of CGRF order. As of this date, the same has not been implemented by the respondents and they have not preferred any appeal before any other forum. The counsel for the respondents stated that it is a fact that the order has not been implemented, but however, the respondents are facing with orders, which are not in accordance with law and have no remedy to challenge the same either before the Ombudsman or the Commission.

Answering to the query of the Commission as to why the orders of the CGRF or Ombudsman are not being implemented, the counsel for the respondents sought to present the case of the licensees that they have no remedy to question the orders, which are arbitrary, erroneous and prejudicial to their interest. The Act does not provide a mechanism for questioning such orders, else the regulation made under the Act, 2003 also did not provide leverage to the licensees.

The counsel for the petitioner, therefore, stated that the Commission is required to initiate penal proceedings against the licensee in these matters. The counsel for the respondents sought time to file counter-affidavit in the matter.

The counsel for the petitioner informed the Commission that another matter is coming up for hearing of the same petitioner on 20.06.2017. Accordingly, the present petition is adjourned and posted to the said date.

Call on 20.06.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

O. P. No. 21 of 2016

Sri Akthar Ahmed Vs. Officers of TSSPDCL

Petition filed seeking for questioning the action of DISCOM in not implementing the order of the c|GRF and to punish the licensee under sec. 142 of Electricity Act, 2003.

Sri. N. Vinesh Raj, Advocate for the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate are present. The counsel for the petitioner stated that the present petition is filed for implementation of the order of the CGRF by the respondents. It relates to shifting of line existing over the premises of the petitioner to other place. The counsel for the respondents sought time to file counter-affidavit in the matter. On the question from the Commission, as to why the order is not implemented and under what rule shifting has to be done, the counsel for the respondent stated that steps have been taken to implement the order, but the petitioner is required to pay shifting charges. On pointing out by the counsel for the petitioner, that the line is directed to be shifted, the counsel for the respondent confirmed that under general terms and conditions of supply, the consumer has to pay necessary charges, which have been demanded from the petitioner, but the CGRF directed such action to be taken by spending the own funds of the licensee.

The Commission sought to know whether the premises is a dwelling house or the same is being used for any other purposes. The counsel for the petitioner requested time to confirm the same, as the petitioner is not present at the time of hearing. The Commission adjourned the matter for reporting the fact of usage of the property of the petitioner.

Call on 20.06.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

O. P. No. 27 of 2016

M/s. Sugna Metals Limited Vs. Officers of TSSPDCL

Petition filed seeking for questioning the action of DISCOM in not implementing the order of the CGRF and to punish the licensee under sec. 142 of Electricity Act, 2003.

Sri. N. Vinesh Raj, Advocate for the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate are present. The counsel for the petitioner stated that the present petition is filed for taking action for non-compliance of CGRF order. As of this date, the same has not been implemented by the respondents and they have not preferred any appeal before any other forum. The counsel for the respondents stated that it is a fact that the order has not been implemented, but however, the respondents are facing with orders, which are not in accordance with law and have no remedy to challenge the same either before the Ombudsman or the Commission.

Answering to the query of the Commission as to why the orders of the CGRF or Ombudsman are not being implemented, the counsel for the respondents sought to present the case of the licensees that they have no remedy to question the orders, which are arbitrary, erroneous and prejudicial to their interest. The Act does not provide a mechanism for questioning such orders, else the regulation made under the Act, 2003 also did not provide leverage to the licensees.

The counsel for the petitioner, therefore, stated that the Commission is required to initiate penal proceedings against the licensee in these matters. The counsel for the respondents sought time to file counter-affidavit in the matter.

The counsel for the petitioner informed the Commission that another matter is coming up for hearing of the same petitioner on 20.06.2017. Accordingly, the present petition is adjourned and posted to the said date.

Call on 20.06.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

O. P. No. 1 of 2017

TSDISCOMs Vs. – Nil -

Petition filed seeking for declaration of the pooled cost for the FY 2015-16 to be considered for payment in 2016-17

Sri. Y. Rama Rao, Standing Counsel for the petitioners along with Sri B. Vijaya Bhaskar, Advocate is present. Heard the arguments of the standing counsel for the petitioners and orders are reserved.

Sd/-
Member

Sd/-
Chairman

O. P. No. 2 of 2017

M/s. NSL Krishnaveni Sugars Ltd. Vs. TSDISCOMs

Petition filed seeking for determination of tariff for 28.2 MW bagasse based cogeneration project consequent to the directions to purchase power under long term PPA

Sri T. Vizhay Babu, Advocate representing Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate are present. The advocate on behalf of the counsel for the petitioner stated that the petition is for determination of tariff and entering into PPA. The Commission made it clear that the present petition will be limited to determination of tariff, however, it will leave the issue of signing of PPA to the licensee. The counsel for the respondents stated that they are filing counter-affidavit today. The counsel for the petitioner sought time to file reply in view of the receipt of the counter at that movement only.

Keeping in view of the above position, the Commission adjourned the matter without any date.

Sd/-
Member

Sd/-
Chairman

R. P. (SR) No. 46 of 2016
In
O. P. Nos. 6 & 7 of 2016

M/s. Salasar Iron and Steel Private Ltd. Vs. TSDISCOMs

Petition filed seeking review of the tariff order dated 23.06.2016 passed in O. P. for FY 2016-17 insofar as regards KVAH billing of energy on consumers.

Sri. N. Vinesh Raj, Advocate for the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Sri. B. Vijaya Bhaskar, Advocate are present. The counsel for the petitioner stated that the tariff order is required to be reviewed for changing the billing pattern from KWH to KVAH. The counsel for the respondents stated that the matter is settled by the Hon'ble High Court in favour of licensees and appeal has been filed before the Hon'ble Supreme Court, which is pending consideration. He also stated that the appeal number may be recorded, which is SLP No. 20810 of 2015 and batch. The counsel for the petitioner sought time to verify and report to the Commission. Therefore, the matter is adjourned without any date.

Sd/-
Member

Sd/-
Chairman