

Record of proceedings dated 28.06.2021

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. (SR) No. 132 of 2018 in O. P. No. 36 of 2018	M/s. GEA BGR Energy System India Limited	Spl. Chief Secretary, Energy Department, TSSPDCL & CGM (IPC & RAC) TSSPDCL

Review petition filed seeking review of the order dated 15.09.2018 passed in O. P. No. 36 of 2018.

Sri Challa Gunaranjan, Advocate for the review petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The counsel for petitioner stated that the short issue involved in the review petition, is with regard to extending the SCOD and consequent fixation of date of SCOD. The Commission, while allowing the petition, took into consideration the actual SCOD as 08.02.2018 instead of 23.11.2017, which resulted in SCOD being delayed by 100 days instead of 22 days only. He stated that the petitioner has informed to the respondent that the plant is ready for synchronization on 23.11.2017 itself, however, the respondent did not proceed to synchronize the project within a reasonable time and completed the exercise only on 08.02.2018. The reasonable time should have been 10 to 15 days only. However, the respondent took three months to complete the exercise to synchronize the power project.

The representative of the respondents stated that the Commission has considered all the facts and the reasons for the delay in completing the project and allowed the matter by extending SCOD. The SLDC has recognized the project on 06.12.2017 itself. The present petition seeking review of the order is devoid of merits as it does not involve any of the reasons for undertaking review being any arithmetic error, error apparent on the record or that new material is discovered. In fact, the original petition was based on the conditions of PPA, which were also not satisfied relating to force majeure. However, the Commission considered the submissions and granted extension of SCOD as prayed by the petitioner.

The counsel for petitioner stated that no new material is being placed or being taken support of in reviewing the order of the Commission. It is his case that the contention available on record has not been considered earlier. The licensee delayed the synchronization of the project, probably due to awaiting instructions from

the Commission. The petition is filed originally based on the conditions of the PPA invoking force majeure clause, which has been considered by the Commission. As such, the Commission did not appreciate specific contention, therefore, the present review petition is filed. The sole relief would be to consider the date of synchronization based on the information provided by the generator to the licensee.

The counsel for petitioner stated that while informing the DISCOM about the synchronization of the project, all the sanctions and permissions including that of CEIG were also communicated to the DISCOM. This review petition is not beyond the material that is available on record. Hence, the Commission may consider revising the date of SCOD suitably. The representative of the respondents sought to rely on certain judgments with regard to the scope of review, which the Commission directed him to file.

Having heard the arguments of the parties, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 71 of 2018	M/s. MSR Mega Bio-Power Private Limited	TSNPDCL

Petition filed seeking determination of tariff for the industrial waste power plant.

Sri Challa Gunaranjan, Advocate for the petitioner and Sri Mohammad Bande Ali, Law Attachee for respondent have appeared through video conference. The counsel for petitioner stated that the matter involves determination of tariff for the industrial waste power project. The counsel for petitioner stated that PPA has been entered and tentative tariff has been agreed subject to determination by the Commission. The COD of the project is 01.06.2016. He has explained various parameters of the tariff relating to capital cost, O & M expenses, debt and equity ratio, plant load factor, auxiliary consumption etc. He stated that the parameters have been considered in terms of CERC Regulation of 2016, whereas the respondents are contesting the parameters by considering the Regulation of 2021. The parameters of 2021 cannot be adopted for a project, which has been established in the year 2016. In fact, the project was conceived in the year 2009 and it was completed in the year 2016.

The counsel for petitioner stated that the petitioner considered capital cost of 600.4 lakhs, whereas the licensee is seeking to consider 559.03 lakhs as per CERC Regulation of 2021. The petitioner is willing to accept the same. However, the petitioner is seeking consideration of tariff in terms of the earlier regulation only. The petitioner stated that the project based on a particular technology available in the year 2016 whereas the licensee is relying on the technology referred by CERC in 2021.

The representative of the respondents reiterated the submissions made in the counter affidavit and emphasized that the Commission may consider appropriate tariff as there is no separate generic tariff for the type of generation. The Commission sought to know from the parties as to whether it is required to undertake public consultation of the tariff determination being sought by the petitioner. The reply from both the parties came in the affirmative.

Having heard the arguments of the parties, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 9 of 2021	M/s. Madhucon Sugar & Power Industries Limited	TSNPDCCL

Petition filed Seeking determination of the tariff and fixed cost in respect of 24.2 MW bagasse based cogeneration project.

Sri Challa Gunaranjan, Advocate for the petitioner and Sri Mohammad Bande Ali, Law Attachee for respondent have appeared through video conference. The counsel for petitioner stated that the matter involves determination of tariff and as the counter affidavit has been filed, he requires further time to make submissions in the matter, accordingly sought for scheduling the matter to another date. The representative of the respondent has no objection.

Call on 29.07.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. (SR) No. 4 of 2019 in O. P. No. 8 of 2017	M/s. Shree Cement Limited	TSSPDCL & Vedanta Limited (Previously known as Sesa Sterlite Limited)

Review petition filed seeking review of the order dated 01.11.2018 passed in O. P. No. 8 of 2017

Sri. Abhinay Reddy, Advocate representing Sri P. Vikram, Advocate for the review petitioner, Sri D. N. Sarma, OSD (Legal & Commercial) alongwith Sri Mohammad Bande Ali, Law Attachee for respondent No. 1 and Sri Hemanth Singh, Advocate for respondent No. 2 have appeared through video conference. The counsel for the petitioner stated that on the earlier occasion, the Commission directed the petitioner to file a memo about the amending of the prayer. However, the petitioner is filing a regular application to amend the prayer in the review petition. As the signed papers have not been received as yet, he needs time to file the same. The representatives of the respondents and the counsel for respondent No. 2 opposed the seeking of time. However recognizing the need to amend the prayer, the Commission granted time of one week and adjourned the matter.

Call on 07.07.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 2 of 2020	M/s. Tejas India Solar Energy Private Limited	TSSPDCL & TSTRANSCO

Petition filed seeking directions to the respondents to synchronize the plant and consequently grant long term open access permission.

Sri. Abhinay Reddy, Advocate representing Sri P. Vikram, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The counsel for the petitioner sought further time to make submissions in the matter. Accordingly, the matter is adjourned finally.

Call on 07.07.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 7 of 2019	M/s. Prathmesh Solar Farms Private Limited	TSTRANSCO, M/s. Mytrah Agriya Power Private Limited, CGM (Comml & RAC) TSSPDCL

Petition filed questioning the action of the TSTRANSCO in allowing another project to utilize the facilities developed by the petitioner contrary to the regulations.

Smt. Swapna Seshadri, Advocate for the petitioner, Sri Y. Rama Rao, Advocate for respondent No. 1, Sri Avinash Deasi, Advocate for respondent No. 2 and Sri Mohammad Bande Ali, Law Attachee for respondent No. 3 have appeared through video conference. The counsel for the respondent No. 2 pointed out that certain documents relating to permission accorded to the petitioner and respondent No. 2 are not part of the record and that the transmission company be directed to place the same before the Commission. The counsel for petitioner opposed the same and stated that all the relevant documents relating to both the parties are available on record and no further documents are required to be filed. The counsel for respondent No. 2 made an attempt to show as to what are the documents that are not found on record, which have been rebutted by the counsel for the petitioner. However, the counsel for respondent No. 1 sought time, stating that though arguments were heard on the last occasion of the counsel for the petitioner, he is not ready to make submissions in the matter.

While making it clear that no further adjournment will be given, the parties are directed to place on record all the documents, which are appropriate to the case, which are being relied upon by them with a copy to the other parties well in advance. Accordingly the matter is adjourned.

Call on 15.07.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 6 of 2020	M/s. Satec Envir Engineering (India) Private Limited	TSSPDCL & Spl. Chief Secretary, Energy Department

Petition filed seeking extension of SCOD and granting time for completing the project.

Sri. P. Srinivasa Rao, Advocate for the petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents have appeared through video conference. The counsel for

the petitioner stated that the Commission directed the petitioner to file documents and judgments being relied upon immediately on the last occasion. However, the same have been sent to him only yesterday, which he emailed the same to the Commission. Further, he is filing the physical set of papers today and therefore, sought adjourned of the matter by a week while confirming the service of the papers on the respondents. He also expressed regret over inconvenience caused to the Commission and the other party. Considering the request of the petitioner, the matter is adjourned.

Call on 07.07.2021 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 8 of 2021	M/s. Singareni Collieries Company Limited	TSDISCOMs

Petition filed seeking resolution of disputes regarding billing u/s. 86 (1) (f) of the Act, 2003.

Sri P. Siva Rao, counsel for petitioner and Sri. D. N. Sarma, OSD (Legal and Commercial) along with Sri. Mohammad Bande Ali, Law Attachee, of TSSPDCL for the respondents have appeared through video conference. The advocate for the petitioner stated about the issue involved in the petition. He has stated that the petition relates to payment of bills based on coal supply and also incentives payable to it upon achieving PLF over and above the normative.

The counsel for petitioner stated that the Commission has fixed the quantum of energy to be supplied by the petitioner in the tariff order for the year 2018-19. However due to various factors, the petitioner could not achieve the target supply envisaged in the retail supply order for FY 2018-19. The difficulty faced by the generator is twofold, namely, supply of coal at higher cost and backing down instructions by SLDC. The petitioner had difficulty in procuring the coal due to delicensing of mining activity and allocation being made by the Government of India to meet the requirement of generating stations. The petitioner made efforts to procure coal of required quantity for generation purpose, but ended up getting tagged to a captive coal mine in the State of Orissa. Thus, the landed cost of coal have to be worked out in terms of the CERC Regulation of 2014.

The counsel for petitioner stated that the petitioner has been able to generate power substantially to the extent of the target fixed by the Commission. Further, the petitioner has been facing the backing down instructions from SLDC and it resulted in the petitioner supplying under capacity, though it was ready to supply the quantum fixed by the Commission. The petitioner raised bills claiming variable charges, which includes the fuel cost. The fuel cost has to be worked out in terms of the Regulation of CERC and has been done so including the figures in respect of landed cost of coal. Despite the above difficulty, the petitioner could achieve more than 85% PLF, which is normative fixed by the Commission.

The counsel for petitioner stated that the tariff payable to the petitioner and O and M expenses have to be based on CERC Regulation and this includes variable cost also. The CERC Regulation is applicable to this case as the Regulation No. 1 of 2008 of the then APERC as adopted by this Commission does not provide the mechanism in respect of power projects of the capacity more than 500 MW.

The counsel for petitioner stated that the petitioner is entitled to incentive for generation over and above the normative of 85% PLF at the rate of 0.50 paise per unit. The respondents have not accepted the claim made by the petitioner. The reasoning accorded that the petitioner has excessively generated over and above the quantum of day ahead schedule cannot be accepted, as the Regulation requires consideration of the normative for the full year and not on the daily supply. The Commission may consider allowing the prayer.

The representative of the respondents stated that they are not liable to pay any amount as claimed by the petitioner. He stated that there are two concepts of assessing the generation that is plant availability factor and plant load factor. In fact, the petitioner having achieved the plant load factor of 85% is adequately gaining on fixed cost, which is sufficient and substantial amount.

The petitioner has generated energy as per tariff order for FY 2018-19, however, the SLDC is at liberty to back down the generation to maintain grid discipline upto 35% of the plant. The petitioner has raised issues in this petition whereas it had already filed an appeal in Appeal No. 312 of 2017 before the Hon'ble

ATE, which is pending consideration. The petitioner sought to make claims under the Regulation of CERC, whereas it has approached the Hon'ble ATE on the ground that the Commission has applied the CERC Regulation and the then APERC Regulation No. 1 of 2008 in a sporadic manner.

The representative of the respondents stated that the petitioner is relying on the provisions of the PPA, but the provisions of the regulation are superior to the provisions of the PPA. He brought to the notice of the Commission various provisions of the PPA as are subsisting today. Excess generation made by the petitioner would result in penalties in terms of the regulation made by CERC on unscheduled interchange. The regulation on unscheduled interchange provides for penalty to the generator and the licensee for excess generation or under drawl. The Commission had notified deviation mechanism and provided that the power supply shall be discontinued, if the normative of 50 Hzs per cycle is exceeded by the bandwidth as provided in the regulation. The petitioner cannot claim that it has generated less than the projected capacity and claim that it had supplied according to the directions of SLDC. The petitioner, in fact, achieved more than normative PLF. The deviations are reckoned in a fifteen minutes time block.

The representative of the respondents stated that as the petitioner is achieving more than 85% PLF, it is not losing on the fixed cost. The petitioner cannot have any grievance over the variable cost and incentive.

Having heard the submissions at length, the matter is adjourned for further hearing.

Call on 29.07.2021 at 11.30 AM.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman