

Record of proceedings dated 01.09.2022

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 71 of 2022 & I. A. No. 53 of 2022	M/s. Halo Energies Private Limited	TSSPDCL & its officers

Petition filed seeking to question the levy of cross subsidy surcharge towards the power drawn by its consumers.

I. A. filed seeking direction to the respondents not to deduct or recover CSS from the bills of its consumers pending disposal of the main petition.

Sri S. Ravi, Senior Advocate along with Sri M. Naga Deepak, counsel for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The representative of the respondents sought further time for filing counter affidavit in the matter. The counsel for petitioner stated that the issue in the present petition is very small, for which time is being sought again for filing counter affidavit. The representative of the respondents stated that he needs some more time for filing counter affidavit. In view of the request made by the representative of the respondents, the matter is adjourned by observing that the counter affidavit shall be filed immediately duly serving a copy on the petitioner and rejoinder, if any shall also be filed by the petitioner by serving a copy to the respondents.

Call on 22.09.2022 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. 25 of 2022	M/s. The Hyderabad Institute of Oncology Private Limited	TSTRANSCO & TSDISCOMs

Petition filed seeking payment of amount towards power supplied to the respondent Nos. 1 and 2 from February, 2018 to November, 2021.

Sri D. Narendar Naik, counsel for petitioner and Sri. Mohammad Bande Ali, Law Attachee for the respondents are present. The counsel for petitioner stated that the petitioner has established a solar project for captive consumption. The project was synchronized to the grid and it was not permitted to use the energy for captive consumption by allowing open access. After connecting the project to the grid, the plant has been injecting energy into the grid whereas it had sought open access for captive consumption. In the absence of not allowing captive consumption, the energy

generated by the plant was injected into the grid and the licensee has to pay for the same. The licensee has utilized the energy generated by the petitioner and gained from it. The Commission has already heard similar matters in O. P. Nos. 46, 47 and 61 of 2018. He is inclined to adopt the argument of the petitioners in those cases.

The representative of the respondents has endeavoured to submit that the petitioner itself gave consent that it would not claim for the energy injected into the grid prior to allowing to open access. However, it is submitted that the Commission has already seized the issue in similar matters, the same may be considered in this case also. Having heard the submissions 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. 43 of 2022	M/s. Pemmasani Solar Power Private Limited	TSSPDCL alongwith its officer & TPCC

Petition filed seeking payments of interest due along with late payment charges on such amount due in respect of 10 MW project near 132 / 33 KV Makthal substation in Mahabubnagar district.

Sri Srinivasa Rao Pachwa, counsel for petitioner and Sri Mohammad Bande Ali, Law Attachee for the respondents are present. The counsel for petitioner stated that the petition is filed for payment of interest alongwith late payment for the amount due. The Commission had required the licensee to file counter affidavit, but the same is not filed sofar. The representative of the respondents sought further time to file counter affidavit. The Commission noticing that sufficient time had been given already, expressed its displeasure for the action of the licensee in filing the counter affidavit. As such, the Commission required the licensee to pay costs of Rs. 5,000/- to an organization to be informed by the office of the Commission. Upon such payment, the time for filing counter affidavit stands extended. The matter is adjourned.

Call on 22.09.2022 at 11.30 AM.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 46 of 2018	M/s. Medak Solar Projects Private Limited	TSTRANSCO & TSSPDCL

Petition filed seeking declaration of the claim of the units fed into grid by the petitioner's 8.24 MW solar plant from the date of synchronization to the date of LTOA agreement as deemed to have been banked or in alternative to pay for the same.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the matter is being taken up by the Commission pursuant to directions of the Hon'ble ATE duly remanding the matter back to the Commission upon appeal filed by the respondent distribution licensee. Originally the Commission had considered the prayer of the petitioner and allowed the case of the petitioner. By virtue of the directions of the Hon'ble ATE, the Commission is required to look into two issues that have been identified. The Hon'ble ATE limited the proceedings to two issues, namely, whether the delay in according LTOA and damages thereof can be shifted to the transmission licensee / nodal agency and whether the Regulation No. 1 of 2017 can be made applicable in the case of the petitioner by treating it as retrospectively applicable.

The counsel for petitioner while elaborating on the orders of the Hon'ble ATE has brought out the various dates of importance applicable to the case of the petitioner. It is his case that the transmission licensee being the nodal agency has not followed the regulation on open access in case of granting LTOA. While under the regulation, the petitioner is entitled to be communicated as to whether it would be allowed to avail LTOA within 30 days of the closure of the window, which is taken as end of calendar month. The petitioner was allowed LTOA after 110 days after the period of allowing LTOA expired. In support of this statement, he has explained various dates applicable to the case to demonstrate that there is a violation of the regulation.

The counsel for petitioner stated that the petitioner's project was established pursuant to and in terms of the solar policy notified by the government and it is entitled to the benefits set out therein. The petitioner had established the project and synchronized it with the grid and thereafter applied for LTOA. There was no intimation from the respondents as to the running or stoppage of the petitioner's

project till LTOA is granted. In the absence of the same, the petitioner went on to generate power and fed the same into the grid. The distribution licensee had used the power fed into the grid and benefited by selling of the same to its consumers. The petitioner in this matter is now seeking payment for the supply of power at the rate appropriately decided by the Commission or allowing it to use the same for consumption by its consumers. Neither of these aspects have been considered by the distribution licensee.

The counsel for petitioner stated that the solar policy provided for banking energy, but the respondents have denied the same to the petitioner. The licensees have not given effect to the orders of the government as also the policy of the Government of India. Thereby, they have caused the loss to the petitioner by denying the benefit of the units fed into the grid prior to allowing to open access for either banking and utilization later or for effecting sale to its consumers. The petitioner had been contracting with the consumers but in the absence of LTOA the consumers were leaving from its fold. The Commission had given effect to the solar policy of the Government of Telangana and notified Regulation No. 1 of 2017. Considering the analogy set out therein, the Commission had given effect to the request of the petitioner on similar lines, though the regulation would not apply to the facts and circumstances mentioned in this case.

The counsel for petitioner would urge upon the Commission to consider giving effect to the provisions of the Act, 2003, solar policy of the Government of Telangana and the National Tariff Policy, which require and mandate encouraging renewable sources of energy. In the earlier round of this matter, the Commission pragmatically considered applying the above principles and as such, allowed the petition. Now the Hon'ble ATE has limited the scope of the petition to the two issues mentioned above and required the Commission to decide as to which of the licensee has to compensate the petitioner in respect of the energy generated and fed into the grid before it is allowed to avail open access on long term basis. It is needless to say that the principles of section 70 of the Contract Act would squarely apply to the present situation where the distribution licensee has drawn the power and sold to its consumers and such power was not fed into the grid by the petitioner in a gratuitous manner. There are lapses on the part of both the licensees and as such, the

Commission was considerate earlier and required the licensees to allow the petitioner to bank the quantum of energy injected into the grid prior to LTOA and use it in favour of its consumers within a period of one year that is a calendar year of 2019. In support of his contention, he has relied on the judgment of the Hon'ble Supreme Court reported in AIR 1962 SC 779 as followed in AIR 1968 SC 1218 and further followed in 2019 (5) SCC 341. Further, he relied on the judgment rendered by the Hon'ble Supreme Court in the matter of M/s. PTC India Limited vs. CERC reported in 2010 (4) SCC 603 with regard to the applicability of the regulation. The said judgment explained the concept of regulation as also the status of the regulation made by the Commission.

As such, the counsel for petitioner would endeavour to submit that the petitioner is entitled to compensation or damages for the energy injected into the grid for which, as directed by the Hon'ble ATE the Commission may consider as to which of the licensees is liable to compensate the petitioner. Though, the Hon'ble ATE required the consideration of the regulation made by the Commission as to its applicability and whether its application is prospective or retrospective, he is not pressing for the same. Thus, he sought a decision in the matter in terms of the directions of the Hon'ble ATE.

The representative of the respondents stated that the respondent / TSSPDCL had approached the Hon'ble ATE questioning the order of the Commission and the Hon'ble ATE considered the issues raised by the respondent, thus, remanded the matter back to the Commission for fresh adjudication on a limited scope as set out by them. Prima facie, the petitioner is not entitled to any relief as the petitioner's project is prior to the Regulation of 2017 and the said principle cannot be applied to this case. The principle set out in the amendment Regulation of 2014 would apply to the facts and circumstances of the case. The earlier regulations did not provide for banking of energy prior to the grant of open access and treated it as infirm power. As such, the petitioner was given the same treatment in case of the power injected by it into the grid. As directed by the Hon'ble ATE, the Commission may consider as to whether the distribution licensee is liable to pay for the energy which was injected contrary to the regulation applicable at that time.

Further, the relevant regulation provided for payment of pooled cost at 50% of the rate applicable for the units banked by the generators and not consumed by them. Even applying the said principle, the petitioner could not have been given the relief of payment of 100% pooled cost or for utilization of the same against the demand of its consumers. The licensee submits that the Commission may consider that the licensee has been put to grave loss due to inadvertent injection of power, which resulted in other penalties. It is his case that the Commission may consider whether delay in according permission for LTOA constitutes or invites any loss to the petitioner and if so, which of the licensees has to bear the same. The Commission may consider the submissions in the original proceedings qua the present directions of the Hon'ble ATE and decide the matter.

The counsel for petitioner would emphasize that even if Regulation of 2017 or the solar policy cannot be applied, the Commission had ample power under section 86 of the Act, 2003 to safeguard the interests of the generators more particularly renewable sources as mandated therein. Alternatively, the Commission is required to consider section 70 of the Contract Act with regard to non-gratuitous act, which has to be compensation for which the judgments have already been referred. The Commission may consider and decide the matter in terms of the directions of the Hon'ble ATE.

Having heard the submissions of the parties, the matter is reserved.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 47 of 2018	M/s. Dubbak Solar Projects Private Limited	TSTRANSCO & TSSPDCL

Petition filed seeking declaration of the claim of the units fed into grid by the petitioner's 8 MW solar plant from the date of synchronization to the date of LTOA agreement as deemed to have been banked or in alternative to pay for the same.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the matter is being taken up by the Commission pursuant to directions of the Hon'ble ATE duly remanding the matter back to the Commission upon appeal filed by the respondent distribution licensee.

Originally the Commission had considered the prayer of the petitioner and allowed the case of the petitioner. By virtue of the directions of the Hon'ble ATE, the Commission is required to look into two issues that have been identified. The Hon'ble ATE limited the proceedings to two issues, namely, whether the delay in according LTOA and damages thereof can be shifted to the transmission licensee / nodal agency and whether the Regulation No. 1 of 2017 can be made applicable in the case of the petitioner by treating it as retrospectively applicable.

The counsel for petitioner while elaborating on the orders of the Hon'ble ATE has brought out the various dates of importance applicable to the case of the petitioner. It is his case that the transmission licensee being the nodal agency has not followed the regulation on open access in case of granting LTOA. While under the regulation, the petitioner is entitled to be communicated as to whether it would be allowed to avail LTOA within 30 days of the closure of the window, which is taken as end of calendar month. The petitioner was allowed LTOA after 93 days after the period of allowing LTOA expired. In support of this statement, he has explained various dates applicable to the case to demonstrate that there is a violation of the regulation.

The counsel for petitioner stated that the petitioner's project was established pursuant to and in terms of the solar policy notified by the government and it is entitled to the benefits set out therein. The petitioner had established the project and synchronized it with the grid and thereafter applied for LTOA. There was no intimation from the respondents as to the running or stoppage of the petitioner's project till LTOA is granted. In the absence of the same, the petitioner went on to generate power and fed the same into the grid. The distribution licensee had used the power fed into the grid and benefited by selling of the same to its consumers. The petitioner in this matter is now seeking payment for the supply of power at the rate appropriately decided by the Commission or allowing it to use the same for consumption by its consumers. Neither of these aspects have been considered by the distribution licensee.

The counsel for petitioner stated that the solar policy provided for banking energy, but the respondents have denied the same to the petitioner. The licensees have not given effect to the orders of the government as also the policy of the

Government of India. Thereby, they have caused the loss to the petitioner by denying the benefit of the units fed into the grid prior to allowing to open access for either banking and utilization later or for effecting sale to its consumers. The petitioner had been contracting with the consumers but in the absence of LTOA the consumers were leaving from its fold. The Commission had given effect to the solar policy of the Government of Telangana and notified Regulation No. 1 of 2017. Considering the analogy set out therein, the Commission had given effect to the request of the petitioner on similar lines, though the regulation would not apply to the facts and circumstances mentioned in this case.

The counsel for petitioner would urge upon the Commission to consider giving effect to the provisions of the Act, 2003, solar policy of the Government of Telangana and the National Tariff Policy, which require and mandate encouraging renewable sources of energy. In the earlier round of this matter, the Commission pragmatically considered applying the above principles and as such, allowed the petition. Now the Hon'ble ATE has limited the scope of the petition to the two issues mentioned above and required the Commission to decide as to which of the licensee has to compensate the petitioner in respect of the energy generated and fed into the grid before it is allowed to avail open access on long term basis. It is needless to say that the principles of section 70 of the Contract Act would squarely apply to the present situation where the distribution licensee has drawn the power and sold to its consumers and such power was not fed into the grid by the petitioner in a gratuitous manner. There are lapses on the part of both the licensees and as such, the Commission was considerate earlier and required the licensees to allow the petitioner to bank the quantum of energy injected into the grid prior to LTOA and use it in favour of its consumers within a period of one year that is a calendar year of 2019. In support of his contention, he has relied on the judgment of the Hon'ble Supreme Court reported in AIR 1962 SC 779 as followed in AIR 1968 SC 1218 and further followed in 2019 (5) SCC 341. Further, he relied on the judgment rendered by the Hon'ble Supreme Court in the matter of M/s. PTC India Limited vs. CERC reported in 2010 (4) SCC 603 with regard to the applicability of the regulation. The said judgment explained the concept of regulation as also the status of the regulation made by the Commission.

As such, the counsel for petitioner would endeavour to submit that the petitioner is entitled to compensation or damages for the energy injected into the grid for which, as directed by the Hon'ble ATE the Commission may consider as to which of the licensees is liable to compensate the petitioner. Though, the Hon'ble ATE required the consideration of the regulation made by the Commission as to its applicability and whether its application is prospective or retrospective, he is not pressing for the same. Thus, he sought a decision in the matter in terms of the directions of the Hon'ble ATE.

The representative of the respondents stated that the respondent / TSSPDCL had approached the Hon'ble ATE questioning the order of the Commission and the Hon'ble ATE considered the issues raised by the respondent, thus, remanded the matter back to the Commission for fresh adjudication on a limited scope as set out by them. Prima facie, the petitioner is not entitled to any relief as the petitioner's project is prior to the regulation of 2017 and the said principle cannot be applied to this case. The principle set out in the amendment Regulation of 2014 would apply to the facts and circumstances of the case. The earlier regulations did not provide for banking of energy prior to the grant of open access and treated it as infirm power. As such, the petitioner was given the same treatment in case of the power injected by it into the grid. As directed by the Hon'ble ATE, the Commission may consider as to whether the distribution licensee is liable to pay for the energy which was injected contrary to the regulation applicable at that time.

Further, the relevant regulation provided for payment of pooled cost at 50% of the rate applicable for the units banked by the generators and not consumed by them. Even applying the said principle, the petitioner could not have been given the relief of payment of 100% pooled cost or for utilization of the same against the demand of its consumers. The licensee submits that the Commission may consider that the licensee has been put to grave loss due to inadvertent injection of power, which resulted in other penalties. It is his case that the Commission may consider whether delay in according permission for LTOA constitutes or invites any loss to the petitioner and if so, which of the licensees has to bear the same. The Commission may consider the submissions in the original proceedings qua the present directions of the Hon'ble ATE and decide the matter.

The counsel for petitioner would emphasize that even if Regulation of 2017 or the solar policy cannot be applied, the Commission had ample power under section 86 of the Act, 2003 to safeguard the interests of the generators more particularly renewable sources as mandated therein. Alternatively, the Commission is required to consider section 70 of the Contract Act with regard to non-gratuitous act, which has to be compensation for which the judgments have already been referred. The Commission may consider and decide the matter in terms of the directions of the Hon'ble ATE.

Having heard the submissions of the parties, the matter is reserved.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 61 of 2018	M/s. Sarvotham Care	TSTRANSCO & TSSPDCL

Petition filed seeking declaration of the claim of the units fed into grid by the petitioner's 3 MW solar plant from the date of synchronization to the date of LTOA agreement as deemed to have been banked or in alternative to pay for the same.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the matter is being taken up by the Commission pursuant to directions of the Hon'ble ATE duly remanding the matter back to the Commission upon appeal filed by the respondent distribution licensee. Originally the Commission had considered the prayer of the petitioner and allowed the case of the petitioner. By virtue of the directions of the Hon'ble ATE, the Commission is required to look into two issues that have been identified. The Hon'ble ATE limited the proceedings to two issues, namely, whether the delay in according LTOA and damages thereof can be shifted to the transmission licensee / nodal agency and whether the Regulation No. 1 of 2017 can be made applicable in the case of the petitioner by treating it as retrospectively applicable.

The counsel for petitioner while elaborating on the orders of the Hon'ble ATE has brought out the various dates of importance applicable to the case of the petitioner. It is his case that the transmission licensee being the nodal agency has not followed the regulation on open access in case of granting LTOA. While under

the regulation, the petitioner is entitled to be communicated as to whether it would be allowed to avail LTOA within 30 days of the closure of the window, which is taken as end of calendar month. The petitioner was allowed LTOA after 28 days after the period of allowing LTOA expired. In support of this statement, he has explained various dates applicable to the case to demonstrate that there is a violation of the regulation.

The counsel for petitioner stated that the petitioner's project was established pursuant to and in terms of the solar policy notified by the government and it is entitled to the benefits set out therein. The petitioner had established the project and synchronized it with the grid and thereafter applied for LTOA. There was no intimation from the respondents as to the running or stoppage of the petitioner's project till LTOA is granted. In the absence of the same, the petitioner went on to generate power and fed the same into the grid. The distribution licensee had used the power fed into the grid and benefited by selling of the same to its consumers. The petitioner in this matter is now seeking payment for the supply of power at the rate appropriately decided by the Commission or allowing it to use the same for consumption by its consumers. Neither of these aspects have been considered by the distribution licensee.

The counsel for petitioner stated that the solar policy provided for banking energy, but the respondents have denied the same to the petitioner. The licensees have not given effect to the orders of the government as also the policy of the Government of India. Thereby, they have caused the loss to the petitioner by denying the benefit of the units fed into the grid prior to allowing to open access for either banking and utilization later or for effecting sale to its consumers. The petitioner had been contracting with the consumers but in the absence of LTOA the consumers were leaving from its fold. The Commission had given effect to the solar policy of the Government of Telangana and notified Regulation No. 1 of 2017. Considering the analogy set out therein, the Commission had given effect to the request of the petitioner on similar lines, though the regulation would not apply to the facts and circumstances mentioned in this case.

The counsel for petitioner would urge upon the Commission to consider giving effect to the provisions of the Act, 2003, solar policy of the Government of Telangana

and the National Tariff Policy, which require and mandate encouraging renewable sources of energy. In the earlier round of this matter, the Commission pragmatically considered applying the above principles and as such, allowed the petition. Now the Hon'ble ATE has limited the scope of the petition to the two issues mentioned above and required the Commission to decide as to which of the licensee has to compensate the petitioner in respect of the energy generated and fed into the grid before it is allowed to avail open access on long term basis. It is needless to say that the principles of section 70 of the Contract Act would squarely apply to the present situation where the distribution licensee has drawn the power and sold to its consumers and such power was not fed into the grid by the petitioner in a gratuitous manner. There are lapses on the part of both the licensees and as such, the Commission was considerate earlier and required the licensees to allow the petitioner to bank the quantum of energy injected into the grid prior to LTOA and use it in favour of its consumers within a period of one year that is a calendar year of 2019. In support of his contention, he has relied on the judgment of the Hon'ble Supreme Court reported in AIR 1962 SC 779 as followed in AIR 1968 SC 1218 and further followed in 2019 (5) SCC 341. Further, he relied on the judgment rendered by the Hon'ble Supreme Court in the matter of M/s. PTC India Limited vs. CERC reported in 2010 (4) SCC 603 with regard to the applicability of the regulation. The said judgment explained the concept of regulation as also the status of the regulation made by the Commission.

As such, the counsel for petitioner would endeavour to submit that the petitioner is entitled to compensation or damages for the energy injected into the grid for which, as directed by the Hon'ble ATE the Commission may consider as to which of the licensees is liable to compensate the petitioner. Though, the Hon'ble ATE required the consideration of the regulation made by the Commission as to its applicability and whether its application is prospective or retrospective, he is not pressing for the same. Thus, he sought a decision in the matter in terms of the directions of the Hon'ble ATE.

The representative of the respondents stated that the respondent / TSSPDCL had approached the Hon'ble ATE questioning the order of the Commission and the Hon'ble ATE considered the issues raised by the respondent, thus, remanded the

matter back to the Commission for fresh adjudication on a limited scope as set out by them. Prima facie, the petitioner is not entitled to any relief as the petitioner's project is prior to the regulation of 2017 and the said principle cannot be applied to this case. The principle set out in the amendment Regulation of 2014 would apply to the facts and circumstances of the case. The earlier regulations did not provide for banking of energy prior to the grant of open access and treated it as infirm power. As such, the petitioner was given the same treatment in case of the power injected by it into the grid. As directed by the Hon'ble ATE, the Commission may consider as to whether the distribution licensee is liable to pay for the energy which was injected contrary to the regulation applicable at that time.

Further, the relevant regulation provided for payment of pooled cost at 50% of the rate applicable for the units banked by the generators and not consumed by them. Even applying the said principle, the petitioner could not have been given the relief of payment of 100% pooled cost or for utilization of the same against the demand of its consumers. The licensee submits that the Commission may consider that the licensee has been put to grave loss due to inadvertent injection of power, which resulted in other penalties. It is his case that the Commission may consider whether delay in according permission for LTOA constitutes or invites any loss to the petitioner and if so, which of the licensees has to bear the same. The Commission may consider the submissions in the original proceedings qua the present directions of the Hon'ble ATE and decide the matter.

The counsel for petitioner would emphasize that even if Regulation of 2017 or the solar policy cannot be applied, the Commission had ample power under section 86 of the Act, 2003 to safeguard the interests of the generators more particularly renewable sources as mandated therein. Alternatively, the Commission is required to consider section 70 of the Contract Act with regard to non-gratuitous act, which has to be compensation for which the judgments have already been referred. The Commission may consider and decide the matter in terms of the directions of the Hon'ble ATE.

Having heard the submissions of the parties, the matter is reserved.

Sd/-
Member

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Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 10 of 2021	M/s. Medak Solar Projects Private Limited	TSTRANSCO & TSSPDCL

Petition filed seeking to punish the respondents for non-compliance of the order dated 02.01.2019 in O. P. No. 46 of 2018 passed by the Commission.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for the petitioner stated that the present does not survive in view of the fact that the original proceedings in O. P. No. 46 of 2018 has been restored pursuant to directions of the Hon'ble ATE. Accordingly, he has proposed to file the necessary memorandum seeking closure of the original petition. The representative of the respondents has no objection. Upon filing of the memorandum as stated by the counsel for petitioner, the petition stands closed.

Sd/-
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Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 11 of 2021	M/s. Dubbak Solar Projects Private Limited	TSTRANSCO & TSSPDCL

Petition filed seeking to punish the respondents for non-compliance of the order dated 02.01.2019 in O. P. No. 47 of 2018 passed by the Commission.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for the petitioner stated that the present does not survive in view of the fact that the original proceedings in O. P. No. 47 of 2018 has been restored pursuant to directions of the Hon'ble ATE. Accordingly, he has proposed to file the necessary memorandum seeking closure of the original petition. The representative of the respondents has no objection. Upon filing of the memorandum as stated by the counsel for petitioner, the petition stands closed.

Sd/-
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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 12 of 2021	M/s. Sarvotham Care	TSTRANSCO & TSSPDCL

Petition filed seeking to punish the respondents for non-compliance of the order dated 02.01.2019 in O. P. No. 61 of 2018 passed by the Commission.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for the petitioner stated that the present does not survive in view of the fact that the original proceedings in O. P. No. 61 of 2018 has been restored pursuant to directions of the Hon'ble ATE. Accordingly, he has proposed to file the necessary memorandum seeking closure of the original petition. The representative of the respondents has no objection. Upon filing of the memorandum as stated by the counsel for petitioner, the petition stands closed.

Sd/-
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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 21 of 2022	M/s. Rain Cements Limited	TSTRANSCO & TSSPDCL

Petition filed seeking directions to the respondents to treat its WHRS plant as renewable source.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the issue raised in this petition is with regard to treating the petitioner's project as a renewable source. The Commission had earlier considered the issue in similar matters and also a view was taken in the generic order passed by it. The Commission had earlier allowed the respondents to treat petitioner like projects as renewable source in the generic order of 2021, however, in the subsequent specific orders in respective cases, the Commission clarified that the relaxation is applicable only for the period considered in the generic order and it would not be applicable for the subsequent years. As such, the Commission may consider similar orders to be passed in this case also.

The representative of the respondents stated that the Commission did consider the issue earlier and as such it may be pleased to pass similar order in this case also. The counsel for petitioner also brought to the notice of the Commission that the documents relied upon by the petitioner have been wrongly filed, to say the documents relating to A.P. Commission have been filed with this Commission and documents relating to this Commission have not been filed along with the petition. For that purpose and to replace the documents, the petitioner has filed an

interlocutory application, which may also be considered in this case by taking the interlocutory application on the file of the Commission. In view of the submissions of the parties, the matter is reserved for orders.

Sd/-
Member

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Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 24 of 2021	M/s. Prashanth Narayan G (PNG)	TSSPDCL & TSTRANSCO

Petition filed seeking the energy generated fed into the grid for the period before open access as deemed purchase of licensee or pay for the same.

Sri Challa Gunaranjan, counsel for petitioner along with Sri Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the matter involves payment of energy charges for the power injected into the grid prior to grant of LTOA to the petitioner.

The counsel for petitioner while elaborating the issue sought to rely on the orders of the Hon'ble ATE. It is his case that the transmission licensee being the nodal agency has not followed the regulation on open access in case of granting LTOA. While under the regulation, the petitioner is entitled to be communicated as to whether it would be allowed to avail LTOA within 30 days of the closure of the window, which is taken as end of calendar month. The petitioner was allowed LTOA after three years after the period of allowing LTOA expired. In support of this statement, he has explained various dates applicable to the case to demonstrate that there is a violation of the regulation. Even this permission came to be given only pursuant to a petition filed by the petitioner before the Commission in O. P. No. 23 of 2021.

The counsel for petitioner stated that the petitioner's project was established pursuant to and in terms of the solar policy notified by the government and it is entitled to the benefits set out therein. The petitioner had established the project and synchronized it with the grid and thereafter applied for LTOA. There was no intimation from the respondents as to the running or stoppage of the petitioner's project till LTOA is granted. In the absence of the same, the petitioner went on to generate power and fed the same into the grid. The distribution licensee had used

the power fed into the grid and benefited by selling of the same to its consumers. The petitioner in this matter is now seeking payment for the supply of power at the rate appropriately decided by the Commission or allowing it to use the same for consumption by its consumers. Neither of these aspects have been considered by the distribution licensee.

The counsel for petitioner stated that the solar policy provided for banking energy, but the respondents have denied the same to the petitioner. The licensees have not given effect to the orders of the government as also the policy of the Government of India. Thereby, they have caused the loss to the petitioner by denying the benefit of the units fed into the grid prior to allowing open access for either banking and utilization later or for effecting sale to its consumers. The petitioner had been contracting with the consumers but in the absence of LTOA the consumers were leaving from its fold. The Commission had given effect to the solar policy of the Government of Telangana and notified Regulation No. 1 of 2017. This regulation specifically provided for banking of energy and payment of charges for the energy injected into the grid or allowing it to be used for sale to its consumers. The same is squarely applicable to the facts of this case.

The counsel for petitioner would urge upon the Commission to consider giving effect to the provisions of the Act, 2003, solar policy of the Government of Telangana and the National Tariff Policy along with the regulation notified by it, which require and mandate encouraging renewable sources of energy. The Commission is required to decide as to which of the licensee has to compensate the petitioner in respect of the energy generated and fed into the grid before it is allowed to avail open access on long term basis. It is needless to say the principles of section 70 of the Contract Act would squarely apply to the present situation where the distribution licensee has drawn the power and sold to its consumers and such power was not fed into the grid by the petitioner in a gratuitous manner. There are lapses on the part of both the licensees. In support of his contention, he has relied on the judgment of the Hon'ble Supreme Court reported in AIR 1962 SC 779 as followed in AIR 1968 SC 1218 and further followed in 2019 (5) SCC 341. Further, he relied on the judgment rendered by the Hon'ble Supreme Court in the matter of M/s. PTC India Limited vs. CERC reported in 2010 (4) SCC 603 with regard to the applicability of the regulation.

The said judgment explained the concept of regulation as also the status of the regulation made by the Commission.

As such, the counsel for petitioner would endeavour to submit that the petitioner is entitled to compensation or damages for the energy injected into the grid. In this particular case, there cannot be a denial that the regulation made by the Commission has to be given effect to as the issue arose subsequent to the Regulation of 2017.

The representative of the respondents stated that the petitioner is not entitled to any relief as the petitioner's project had injected power on its own volition in the guise of claiming the benefit of the Regulation of 2017. As such, the petitioner was given the treatment in case of the power injected by it into the grid by not accepting the same as banked energy. The Commission may consider as to whether the distribution licensee is liable to pay for the energy which was injected contrary to the regulation.

The licensee submits that the Commission may consider that the licensee has been put to grave loss due to inadvertent injection of power, which resulted in other penalties. It is his case that the Commission may consider whether delay in according permission for LTOA constitutes or invites any loss to the petitioner and if so, which of the licensees has to bear the same.

The counsel for petitioner would emphasize that even if Regulation of 2017 or the solar policy was not available for application, the Commission has ample power under section 86 of the Act, 2003 to safeguard the interests of the generators more particularly renewable sources as mandated therein. Alternatively, the Commission is required to consider section 70 of the Contract Act with regard to non-gratuitous act, which has to be compensated for which the judgments have already been referred. The Commission may consider and decide the matter.

Having heard the submissions of the parties, the matter is reserved.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 45 of 2022	M/s. SLS Power Corporation Ltd.	TSSLDC

Petition filed seeking declaration of the petitioner's project to be recognized under RPPO Regulation and consequently grant accreditation.

Sri Challa Gunaranjan, advocate for petitioner along with Sri Deepak Chowdary, Advocate and Sri Sankalp, Advocate representing Sri Y. Rama Rao, counsel for respondent are present. The counsel for petitioner stated that the counter affidavit has been filed and he needs further time for filing a rejoinder. The advocate representing Sri Y. Rama Rao, counsel for respondent has no objection. Accordingly, the matter is adjourned.

Call on 22.09.2022 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. 92 of 2021 in O. P. No. 8 of 2016	TSDISCOMs	M/s. SCCL

Review petition filed seeking review of the order dated 22.03.2022 in O. P. No. 8 of 2016 filed by it in respect of grant of consent to the PPA entered with M/s. SCCL for procurement of power from 2 X 600 MW of Jaipur plant.

Sri Mohammad Bande Ali, Law Attachee for review petitioner is present. The representative of the review petitioner stated that the review petition is filed for reviewing the order dated 22.10.2021 in O. P. No. 8 of 2016. However, the review petitioners are not inclined to pursue the same and a memo to that effect has been filed with the office. Accordingly, the Commission may consider dismissing the review petition as withdrawn. The submission of the representative is accepted and the review petition stands dismissed as withdrawn.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman