

**Record of proceedings dated 22.08.2022**

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 57 of 2022 & I. A. No. 52 of 2022	M/s. Surajkiran Renewable Resources Pvt. Ltd.	TSSPDCL

Petition filed seeking extension of SCOD and consequential reliefs.

I. A. filed seeking amendment of petition.

Sri Khamar Kiran Kantamneni, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the petition is filed for extension of SCOD of the power project. The counter is yet to be filed in the matter. The representative of the respondent stated that the counter affidavit is being filed today. The Commission observed that a copy of the counter affidavit be served on the counsel for petitioner and the counsel for petitioner may file rejoinder, if any by the next date of hearing duly serving a copy of the same on the respondent. In view of the request of the parties, the matter is adjourned.

Call on 12.09.2022 at 11.30 AM.

Sd/-  
Member

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Member

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 1 of 2022 & I. A. No. 1 of Of 2022	M/s. Hyderabad MSW Energy Solutions Pvt. Ltd.	TSSPDCL

Petition seeking to quash notice dated 16.07.2021 issued by the respondent seeking reimbursement of the tipping fee from the petitioner.

I. A. filed seeking exparte ad-interim stay of the operation of the notice dated 16.07.2021 issued by the respondent seeking reimbursement of the tipping fee from the petitioner.

Sri Avinash Desai, Advocate along with Sri Matrugupta Mishra, counsel for petitioner as well as Ms. Ishita Thakur, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the counter affidavit as well as rejoinder is filed by the parties. The pleadings are complete. However, in the connected matter in R. P. No. 2 of 2022 the rejoinder has been filed today. The Commission may consider hearing both the matters together on the next date of hearing. The representative of the respondent stated that the Commission may hear

the submissions in this matter and can hear the other matter as decided by the petitioner's counsel on another date. In view of the submissions of the parties, the matter is adjourned.

Call on 12.09.2022 at 11.30 A.M.

Sd/-  
Member

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Member

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. No. 2 of 2022 & I. A. No. 39 of 202 in O. P. No. 14 of 2020	M/s. Ramky Enviro Engineers Ltd.	TSSPDCL

Review petition seeking to review of the order dated 18.04.2020 in O. P. No. 14 of 2020 (suo motu) regarding determination of generic tariff for RDF projects.

I. A. filed seeking amendment of the parties to the review petition.

Sri Avinash Desai, Advocate along with Sri Matrugupta Mishra, counsel for the review petitioner as well as Ms. Ishita Thakur, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for review petitioner stated that the review petition has been admitted by the Commission earlier and the respondent has also filed their counter affidavit in the matter. Now the review petitioner is filing rejoinder in the matter and it is submitted in the office of the Commission today. The representative of the respondent stated that as the rejoinder has been filed today, the matter may be taken on any other date and a copy of the rejoinder may be made available for the respondent. In view of the status of the pleadings and the submissions of the parties, the Commission is inclined to adjourn the matter, accordingly the matter is adjourned.

Call on 12.09.2022 at 11.30 A.M.

Sd/-  
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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. (SR) No. 18 of 2022 in O. P. No. 71 of 2018	TSNPDCL	M/s. MSR Mega Bio Power Private Ltd.

Petition seeking review of the order dated 02.12.2021 passed in O. P. No. 71 of 2018 regarding determination of fixed cost tariff for industrial waste based power 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 passed by the Commission. Eventhough, no notice is issued to the respondent / generator, the counsel appearing for the respondent / petitioner in the original petition submitted that he needs to file counter affidavit in the matter. Accordingly, the matter is adjourned.

Call on 12.09.2022 at 11.30 A.M.

Sd/-  
Member

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. (SR) No. 78 of 2022 in O. P. No. 2 of 2022	TSTRANSCO	-None-

Review petition filed seeking review of the order dated 23.03.2022 in O. P. No. 2 of 2022 filed by it in the matter of annual performance review (true up) for FY 2020-21 activity of TSTRANSCO.

Sri G. Srinivas, FA & CCA & CPO for review petitioner alongwith Sri A. Vivekanand, Chief Engineer / Comml. & TAC, TSTRANSCO is present. The representative of the review petitioner has made detailed submissions as to why review of the order passed by the Commission is required. He also sought to explain why review should be undertaken in the matter in accordance with the provisions of the law. Having heard the representative, the matter is reserved for orders.

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Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. (SR) No. 85 of 2022 in O. P. No. 3 of 2022	TSTRANSCO	-None-

Review petition filed seeking review of the order dated 07.04.2022 in O. P. No. 3 of 2022 filed by it in respect of determination of annual performance review for FY 2020-21 of TSTRANSCO business.

Sri G. Srinivas, FA & CCA & CPO for review petitioner alongwith Sri A. Vivekanand, Chief Engineer / Comml. & TAC, TSTRANSCO is present. The representative of the review petitioner has made detailed submissions as to why review of the order passed by the Commission is required. He also sought to explain why review should be undertaken in the matter in accordance with the provisions of the law. Having heard the representative, the matter is reserved for orders.

Sd/-  
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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 28 of 2022	M/s. Sri Sai Ram Ice Factory	TSSPDCL & its officers

Petition filed seeking refund of the amounts paid towards electricity charges and punishing the respondents for non-compliance of the order of the Vidyut Ombudsman U/S. 146 of the Electricity Act, 2003.

Sri. Mohammad Bande Ali, Law Attachee for the respondents is present. There is no representation for petitioner. The representative of the respondents stated that the matter filed by the respondents is still pending consideration before the Hon'ble High Court. In view of the pendency of the writ petition, the matter is adjourned.

Call on 14.11.2022 at 11.30 AM.

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Member

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 58 of 2022 & I. A. No. 45 of 2022	M/s. Sneha Renewable Energies Ltd.	Spl. Chief Secretary, Energy Dept., TSSPDCL & TSTRANSCO

Petition filed seeking directions to the respondents to enter into PPA by fixing tariff at Rs. 5/- per unit.

I. A. filed seeking interim order directing the respondents to purchase power from the petitioner on payment of average pooled purchase costs till the disposal of the petition.

Ms. Lakshmi, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the counter affidavit is yet to be filed by the respondents. The representative of the respondents stated that the counter affidavit had already been filed and a copy of the same has been sent to the party. The Commission pointed out that the counter affidavit had been filed earlier, as such a copy of the same may be collected from the office of the Commission. The counsel for petitioner has requested for granting time to file rejoinder, if any. Accordingly, the matter is adjourned.

Call on 12.09.2022 at 11.30 AM.

Sd/-  
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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, but whether to pursue the review petition or not is not instructed. He sought time for instructions in the matter including possible withdrawal of the review petition. Accordingly, the matter is adjourned.

Call on 01.09.2022 at 11.30 AM.

Sd/-  
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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 25 of 2021	M/s. Singareni Collieries Company Ltd.	TSDISCOMs

Petition filed seeking adjudication on the secondary billing disputes for FY 2016-19 for 2 X 600 MW Jaipur project.

Sri P. Shiva Rao, Advocate for petitioner and Sri. D. N. Sarma, OSD (Commercial & Legal) for the respondents are present. The counsel for petition stated and submitted

detailed arguments on the issues arising in the petition. The petitioner has sought relief in respect of reimbursement of 9 items of account, which the respondents are liable to pay to the petitioner. He enumerated the items on which relief is sought in the petition. While doing so, he has not pressed for two of the items, which are of meagre amount and no substantial submissions can be made.

The counsel for petitioner stated that the issues pertaining to the tariff period 2016-19 where certain amounts have been withheld by the respondents due to erroneous interpretation set out by the respondents. The provisions of the PPA, the applicable regulations and orders of the Commission have to be given effect to in a harmonious manner. The Commission while determining the tariff had in respect of certain items, relied on the regulation issued by the then APERC in 2008 and wherever no provision is made, it relied upon the provisions of the applicable CERC regulation.

It is the contention of the counsel for petitioner that the provisions of the PPA have to be given effect to and the same should be in consonance with the applicable regulation of the Commission or CERC as the case may be. The petitioner is aggrieved by the action of the respondents insofar as calculation of the interest is concerned as also other expenses, which have to be reimbursed by the respondents. The respondents are bound to reimburse the statutory payments arising out of or in connection with the generation activity of the petitioner. The petitioner has paid fee towards boilers, factory and pollution control. These expenses are being denied by the respondents alleging that they form part of the administration and general expenses. This interpretation of the respondents is erroneous and contrary to the provisions of the PPA which emphatically require the respondents to reimburse all such statutory payments including taxes, which do not form part of the tariff.

The counsel for petitioner would endeavour to submit that the provisions of the PPA are sacrosanct between the parties and any Act provision, rule or regulation if made subsequently and running contrary to the clauses in the agreement would supersede such clause as has been held by the Hon'ble Supreme Court. In the instant case, certain aspects are neither provided in the APERC regulation nor in the CERC regulation. As such, the same are to be given effect to in terms of the PPA

only. It is trite to state that some of these expenses have been identified under O and M expenses in the regulation notified by the CERC in 2019. As the claims are relating to the period FYs 2016-19, the respondents have to apply the provisions of the regulations as applicable at the relevant time.

The counsel for petitioner stated that the present proceedings is an off shoot of the observations made by the Commission while passing the tariff order for the control period FYs 2019-24, as such, the respondents cannot now revert to state that these claims are not acceptable. In any case, the respondents cannot question the claims made by the petitioner as they have not preferred any appeal against any of orders passed by the Commission allowing the expenses either as part of the tariff or true up, as the said orders have attained finality as against them. Therefore, the petitioner is entitled to the relief sought in the petition.

The representative of the respondents stated and opposed the claims made by the petitioner in the petition. He stated that the Commission had already allowed what is reasonably payable to the petitioner. The claim now made through this petition appears to be arising out of the misunderstanding or wrong interpretation of the provisions of the PPA. The claims made by the petitioner can only be considered under the applicable regulations at the relevant time and in terms of the PPA. The petitioner appears to be under the misconception that PPA provides for the amounts claimed herein alongwith the provisions made in the CERC Regulation, 2019.

The representative of the respondents stated that the PPA specifically provided for certain of the aspects and the same were already considered by the Commission. All the claims now made are part of the administrative and general expenses, which were allowed by the Commission by considering the tariff that was determined as also in the subsequent orders. Though, certain claims relate to statutory payments, even then, the same cannot be treated outside the O and M expenses as it comprises of administration and general expenses also.

The representative of the respondents stated and explained the various provisions of the PPA, the applicable regulations for the relevant period as also the present regulation. He also relied on the judgment of the Hon'ble ATE on the issues touching upon the claims made the petitioner in this petition. He also relied on the

construction / overriding of clauses in the PPA by the Act, rules and regulations as has been held by the Hon'ble Supreme Court.

It is the case of the representative that the petitioner cannot mix up the different payments in the context of controllable items which are well defined in the regulation itself. As stated the claims relate to fee payment to government on boilers, factory and pollution control, which are routine expenses and are part of administration and general expenses, which again is considered as part of O and M expenses. The O and M expenses have already been considered and allowed by the Commission to the extent it is applicable under the regulation. He also placed on record the information whereby he sought to demonstrate that no other generators have claimed such amounts separately and the respondents have not paid the same to any generator. It appears that the petitioner is seeking to take advantage of the regulations wherever the PPA does not provide for to make double claims, even though, such amounts have already been factored in the tariff.

The counsel for petitioner rebutted the submissions of the representative of the respondents stating that the respondents are seeking to portray that the statutory levies and duties are part of administration and general expenses, which is not correct. As the claims made in this petition relate to the statutory payments under the different enactments, these payments are required to be reimbursed to the petitioner. These expenses are not part of the tariff as the tariff determined by the Commission is exclusive of all statutory payments. He has emphasized the provisions of the regulation of CERC of 2014 and pointed out that Regulation of 2019 need not be considered. It is atrocious to state that the petitioner is claiming over and above the amounts it is entitled to. The petitioner is only claiming the amounts relating to the statutory payments, which are not part of the tariff and the respondents are liable to pay in terms of the PPA. No double claims or unacceptable claims are being made by the petitioner in this petition.

The Commission noticed that the main issue is with regard to calculation of interest by taking the number of days where difference of opinion is arising between the parties. The Commission has noted the submissions of both the parties on the subject. Having heard the parties, the matter is reserved for orders.

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