

Record of proceedings dated 04.04.2023

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 16 of 2017 & I. A. No. 25 of 2017	M/s. Sundew Properties Limited	TSSPDCL & TSTRANSCO

Petition filed seeking transfer of distribution assets falling within the area of SEZ area.

I. A. filed seeking directions to respondent No. 1 to disconnect the consumers pertaining to SPL's licence area and handover the assets to the petitioner and also to the respondent No. 2 to grant transmission connectivity at 33 KV level on two Nos. of 33 KV SPL feeders.

Sri Mohammad Bande Ali, Law Attachee for respondents is present. There is no representation for the petitioner. The Commission is in receipt of a letter from the petitioner with a request to adjourn the case as the counsel for petitioner is in some personal difficulty on account of illness. Considering the letter of the counsel for the petitioner, the matter is adjourned to the next date of hearing for the reason that it is one of the oldest matters.

Call on 10.04.2023 at 11.30 AM.

Sd/-
Member

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Member

Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 4 of 2021	M/s. Sundew Properties Limited	– None—

Petition filed seeking determination of tariff for the power procured by it / to be charged to its consumers with TSSPDCL tariff as the ceiling tariff.

There is no representation for petitioner. As the matter is connected to O. P. No. 16 of 2017, the matter is adjourned.

Call on 10.04.2023 at 11.30 AM.

Sd/-
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Sd/-
Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 27 of 2020	M/s. L&T Metro (Hyderabad) Limited	TSSPDCL

Petition filed seeking directions for deration of the CMDs for the connections given to the petitioner for the entire lockdown period (Upto 08.06.2020 for malls and still

continuing for metro operations upto 31.07.2020 as per MHA order dated 29.06.200) starting from 22.03.2020 and subsequently issue revised electricity bills to that effect.

Sri. Avinash Desai, Senior Counsel alongwith Sri M. Nethan Reddy, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for the respondent are present. The counsel for petitioner stated that the original petition was earlier disposed of by the Commission by order dated 19.10.2020. The petitioner had approached the Hon'ble ATE questioning the order passed by the Commission in Appeal No. 238 of 2022. The Hon'ble ATE disposed of the matter on 15.11.2022 duly remanding the matter back to the Commission for reconsidering the prayer of the petitioner in terms of the observations made therein.

The counsel for the petitioner stated and explained the prayer in the original petition, which was not acceded to by the Commission in terms of its subsequent order dated 29.04.2020 regarding deration of the load of the petitioner. He stated that the Commission did not consider the entire lockdown period starting from 22.03.2020 upto its removal for effecting deration. Instead the period considered is posterior to the Commission's order dated 29.04.2020 and further the condition stipulated therein that it should be considered on application and after entering into fresh agreement for supply. He stated that the petitioner had originally sought to give effect to the order of the Commission dated 29.04.2020 from 22.03.2020 to that time period upto which lockdown was imposed. Also, the licensee had misinterpreted the directions of the Commission and insisted on entering into fresh agreement which was not required as per the observations of the Hon'ble ATE while interpreting the order of the Commission dated 29.04.2020.

The counsel for petitioner stated that the Commission by its order dated 29.04.2020 had sought to mitigate the difficulty in availing the total demand contracted for as the petitioner and all other consumers were required to shutdown the operations or functions except emergency services during the lockdown imposed by the government in the year 2020. The petitioner also approached the licensee to derate the demand temporarily as it was not permitted to operate its services.

The counsel for petitioner stated that eventhough, it had approached the licensee for deration of demand, the licensee did not accede to the request and insisted upon the agreement to be entered, which was not the intention of the

Commission while safeguarding the interest of consumers in its order dated 29.04.2020. Despite representation to the licensee as no action was coming forth from the licensee, the petitioner had to approach the Commission for appropriate orders. The Commission having considered the request of the petitioner disposed of the original petition on 19.10.2020, but did not consider the relief to be extended from the date of lockdown as sought for.

The counsel for petitioner stated that aggrieved by the order of the Commission, the petitioner approached the Hon'ble ATE. After considering the submissions of the petitioner and the licensee, it was pleased to remand the matter back to the Commission with the observation made therein. The Hon'ble ATE required the Commission to re-examine the prayer of the petitioner in accordance with its suo motu order dated 29.04.2020, wherein the requirement of fresh agreement has been relaxed in terms of SOP regulation.

At present, the Commission is not required to examine the entire case, but it is limited to the prayer extending the facility of deration from the commencement of lockdown period that is 22.03.2020. The Commission in its order dated 29.04.2020 did not specifically mention that the order is prospective and instead it employed the words for the period of the lockdown. In view of the above, the Commission may consider examining the matter afresh in terms of the observations of the Hon'ble ATE and give relief to the petitioner.

The representative of the licensee stated that the Hon'ble ATE did not give any liberty to the Commission to examine the entire case of the petitioner afresh. The observations made therein are specific and require the Commission to examine only the prayer made by the petitioner in the context of the order passed by the Commission suo motu on 29.04.2020. The conditions imposed are compliance of the regulation or terms and conditions of supply are not the ingredients for consideration at this point of time. The Hon'ble ATE did not give liberty to look at the issue in the prism of regulation or terms and conditions of supply. The Commission is required to consider in this remand proceeding only the prayer made by the petitioner and if it could be considered in terms of the order passed by the Hon'ble ATE.

The representative of the respondent strenuously pointed out that the Hon'ble ATE merely explained the order of the Commission dated 29.04.2020 as to what are the requirements to be complied with and not complied with. The petitioner cannot now circumvent what has been approved by the ATE that there was no requirement of any agreement, which was not the import of the order of the Commission with regard to the agreement. Therefore, the Commission may examine if the petitioner is entitled to deration as sought by it from the date of lockdown or prospectively from the date of order of the Commission that is 29.04.2020 in terms of the observations of the Hon'ble ATE.

The counsel for petitioner clarified that the petition was filed originally in respect of extension of deration from the date of lockdown till it is lifted in respect of the petitioner's services and nothing more, which the Hon'ble ATE required the Commission to examine the prayer in terms of the orders passed by it on 29.04.2020. It is not praying for any additional consideration other than the directions given by the Hon'ble ATE to the Commission.

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

Sd/-
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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. (SR) No. 65 of 2022 in O. P. Nos. 58 & 59 of 2021	Telangana Ferro Alloys Producers Association	TSDISCOMs

Review Petition filed seeking review the order dated 23.03.2022 passed in O. P. Nos. 58 & 59 of 2021 by the Commission.

Sri. T. Avinash, Advocate representing Sri M. A. Haroon Amjad, Advocate for review petitioner is present. The advocate representing the counsel for review petitioner sought adjournment. However, the Commission noticed that the review petitioner has to file the revised version of the review petition consequent upon allowing the application for amendment of the prayer in the filing. In view of the request of the advocate representing the counsel for review petitioner, the matter is adjourned.

Call on 10.04.2023 at 11.30 AM.

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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. P. Lakshmi, counsel for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the petitioner had made efforts to resolve the matter with the licensee and also proposed a revised rate of payment of average pooled cost as determined by the Commission. However, even this proposal was not acceded to by the licensee. The representatives of the petitioner have been making efforts to speak to the Chairman and Managing Director of the licensee as also the Chairman of the Power Coordination Committee. But, their efforts are in vain. The representative of the petitioner who was also present in the hearing, stated that for the past 8 years the petitioner has not been able to earn anything out of the project. Earlier, it had undertaken third party sale by availing open access, but that also became unremunerative, as such it was discontinued. He stated that huge expenditure had been made on establishment and are continuing to make the same for the purpose of payment of wages and other expenses. Also, whenever renewable source is available, power has been generated and injected into the grid. Even that amount is not being considered for payment. The counsel for petitioner requested that arguments may be heard in the matter on the next date of hearing due to her inability to submit the arguments on account of personal inconvenience. The representative of the licensee emphatically made it clear that the respondent is not inclined to procure power from the generating unit. In view of the prevailing situation and as requested by the counsel for petitioner, the matter is adjourned.

Call on 24.04.2023 at 11.30 AM.

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 73 of 2022 & I. A. No. 56 of 2022	M/s. Hyderabad MSW Energy Solutions Private Limited	TSSPDCL

Petition filed seeking directions to the respondent in respect of billing under PPA and reimbursement of the excess deduction made towards import charges.

I. A. filed seeking exparte ad-interim direction restraining the respondent No. 1 from applying threshold PLF mentioned in the tariff order, deducting any additional amounts towards import charges under the PPA and also directing R-1 to make an upfront payment of 50% of the principal amount.

Sri. Avinash Desai, Senior Advocate alongwith Sri. Matrugupta Mishra, Advocate and Ms. Ishita Thakur, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the petitioner is a MSW project undertaking supply of power to the respondent under a PPA. The issue raised in the petition is with regard to payment of amount for the energy supplied to the respondent at 100% as is required under National Tariff Policy, 2016 (NTP) and also in terms of the Regulation No. 7 of 2022.

The counsel for petitioner stated that the licensee has paid amounts for the power supply that has been made at the rate of 65% of the power supply for the first year, 75% for the second year and 80% for the third year. The COD of the project is in the year 2020 and the issue of short payment by the respondent came to light in the year 2022 when the amounts were being reconciled against the energy supplied under the PPA.

The counsel for petitioner stated that in fact, the PPA provided for payment of tariff for the entire energy delivered after deducting the auxiliary consumption as agreed thereof. The petitioner has been achieving capacity of more than 100% of the plant in occasional generation and has been injecting such generation into the grid. As per the policy and the regulation mentioned above, the petitioner is entitled to payment for the entire generation de hors of the normatives by deducting the auxiliary consumption only. To this effect, the provisions of PPA are specific and clear. The licensee is not complying with the same. The NTP specifically requires direct procurement of MSW RDF based generation without following the process of competitive bidding which is required in respect of other renewable sources. The

Commission had recognized and quoted with approval the said condition provided in the national tariff while determining the generic tariff for MSW projects in the year 2020. Further, the Commission recognized this aspect in its regulation also made in the year 2022 with regard to renewable power purchase obligation.

The counsel for petitioner stated that when the order of the Commission on tariff as well as regulation is specific and clear, the licensee cannot deviate from the provisions thereof and implement the order of the Commission or the regulation in its own fancied manner. The licensee is bound to give effect to the order of the Commission along with regulation including the terms of the PPA. Inasmuch as the terms of the PPA are inline with the NTP and the Regulation of 2022 and there is no ambiguity in this regard. Moreover, because the Commission had pointed out that the generation would be available to the extent of 65%, 75% and 80% respectively for the 1st, 2nd and 3rd year, it does not mean that it is estopped from giving effect to the NTP as also subsequent regulation made by the Commission.

The counsel for petitioner stated that the project is conceived for 19.8 MW initially, however, due to technical requirement the capacity installed is capable of generation upto 24 MW. In fact after the COD, the petitioner had been able to achieve more than 19.8 MW generation. Thus, it had injected additional quantum of energy for which the present petition is filed to recover the tariff of the said generation. The petitioner sought to rely on the observations made by HERC and DERC on the same. The counsel for petitioner brought to the notice of the Commission the various clauses in the PPA which would highlight the case of the petitioner. He also stated that since the petitioner's project is a renewable source and is also otherwise can environmental friendly project undertaking the disposal of the waste management of the municipal authorities, it is necessary that it should be encouraged by allowing to recover the amounts beyond the applicable parameters insofar as the energy generated.

The counsel for petitioner stated that the petitioner is not inclined to press for the payment of the tariff beyond 100% eventhough it had generated excess energy over and above 100%. The counsel for petitioner stated that the petitioner is not inclined to agitate for the amounts which are beyond the tariff provisions and the PPA. However, the licensee should pay the amount towards 100% generation after

deducting auxiliary consumption as provided in the PPA and the order of the Commission alongwith regulation.

The representative of the respondent while opposing the petition stated that the petitioner has violated the orders of the Commission and the PPA and injected additional quantum of energy, which is not sought for by the licensee. The provisions in the PPA and the regulation made by the Commission have specifically provided as to what is the quantum of energy that is required to be procured by the respondent. It cannot cross the PLF as provided in the PPA as also the tariff order. Only because, it could achieve higher generation than the normatives, it does not mean that the respondent is bound to pay for all the energy delivered. When the petitioner has violated the normatives and the provisions of the PPA, the respondent is not required to oblige the petitioner towards such generation and payment thereof.

The representative of the respondent stated that the petitioner is seeking to interpret the provisions of the PPA to mean that whatever energy is generated by it, is required to be procured by the respondent and pay for the same. The provisions do not establish such a case for the petitioner. No doubt the tariff policy and the regulation might have provided for procurement of 100% of the energy generated but it would be upto the contracted capacity only applying the normatives. The licensee cannot on its own motion or to facilitate the petitioner, deviate from the clauses in the agreement read with the policy and the regulation. The respondent has been giving effect to the provisions of the PPA including the normatives as setout by the Commission in its generic tariff order. Nothing precluded the petitioner from limiting its generation to the normatives and the provisions of regulation without there being any authority to generate excessively.

The representative of the respondent stated that the respondent is not agreeable to procure the additional quantum of generation which has been achieved by the petitioner beyond the contracted capacity. Though, it may be technically feasible to generate excess quantum, the same has not been ratified by the Commission. The references made by the petitioner with regard to the orders passed by other Commission are neither binding nor applicable to this case. The same have arisen in a different set of circumstances. Therefore, the Commission may not

consider the case of the petitioner and accordingly reject the relief sought for by the petitioner.

The counsel for petitioner stated that the claims made by the petitioner and the correspondence made with the respondent did not yield result in the matter. Therefore, to safeguard its interest and to highlight the misinterpretation being indulged by the respondent, the petitioner had approached the Commission. No doubt reference made to orders of the other Commissions are not binding but are of persuasive value, yet the Commission may consider the interpretation that is placed in respect of RDF projects. The Commission may consider allowing the petition in order to encourage renewable source.

Accordingly, the matter is reserved for orders.

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 74 of 2022	M/s. Dinkar Technologies Private Limited	TSSPDCL

Petition filed seeking extension of SCOD and consequential reliefs.

Ms. Meghna Sarma, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that in a similar matter the petitioner therein upon refusal of necessary orders by the Commission, had approached the Hon'ble ATE and the same is pending consideration. In view of the above, this matter may be adjourned to a longer date. The representative of the respondent has no objection. Considering the status of the earlier matter, this matter is adjourned.

Call on 26.06.2023 at 11.30 AM.

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 6 of 2023 & I. A. No. 1 of 2023	M/s. Orient Cement Company Limited	TSTRANSCO for SLDC, TSNPDCL & SE OMC Circle, TSTRANSCO

Petition filed questioning the levy of line and bay maintenance charges and consequential relief.

I. A. filed seeking stay the collection of bay and line maintenance charges in pursuance of letter dt. 01.11.2022 issued by R-1 pending disposal of the main petition.

Sri. Nishanth, Advocate representing Sri. Challa Gunaranjan, Counsel for petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The advocate representing the counsel for petitioner sought time for filing rejoinder in the matter. The representative of the respondents has no objection. Accordingly, the matter is adjourned.

Call on 24.04.2023 at 11.30 AM.

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
R. P. No. 1 of 2023 in O. P. No. 70 of 2018	TSSPDCL	M/s. Sugna Metal Limited

Review Petition filed seeking review the order dated 17.10.2022 in O. P. No. 70 of 2018 passed by the Commission.

Sri. Mohammad Bande Ali, Law Attachee for review petitioner and Sri. Ravindar, Advocate Clerk representing Sri N. Vinesh Raj, counsel for respondent are present. The representative of the counsel for respondent has sought some time for arguing the matter. The representative of the review petitioner has also stated that he needs time to make submissions in the matter. Considering the request of the parties, the matter is adjourned.

Call on 24.04.2023 at 11.30 AM.

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Chairman

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. (SR) No. 91 of 2022	Garrison Engineer (I) R&D	-None-

Petition filed seeking orders for handing over of connected assets to MES (Deemed licensee) created from defence funds at RCI, Hyderabad to establish direct grid connectivity being deemed licensee to enable MES to operate as deemed distribution licensee.

Sri. Vimal Kumar Bendwal, AE (E/M) for petitioner is present. The representative e of the petitioner stated that the petitioner has filed the present petition for the purpose

of obtaining deemed licensee status. The Commission pointed out that there is deficiency of filing and all the necessary documents as required by the Commission have not been filed. To the said question raised by the Commission, the representative stated that all the necessary documents have been filed and no further submission is required. In view of the above, the matter is reserved for orders on maintainability.

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