

Record of proceedings dated 10.07.2023

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. Challa Gunaranjan, counsel for petitioner and Sri. Deepak Chowdary, Advocate and Sri Mohammad Bande Ali, Law Attachee for respondents are present. The counsel for petitioner stated that the petition is filed questioning the levy of line and bay maintenance charges sought to be recovered from the petitioner by issuing demand notices to the petitioner for the period 2012 to 2019. The petitioner stated that it is a cement manufacturing unit and it was established in the year 1979 with a contracted maximum demand of 12500 KVA. The power facility was availed through a line connected to the then board's substation for which the then board collected voluntary loan contribution for erecting the line.

The counsel for petitioner stated that it has been enhancing the power requirement from the board and later from the respondents time and again and reached 32 MVA in the year 2008. The proposals were also submitted for further enhancement of the load, however, did not avail the same. In the meantime, the petitioner had established a captive generation plant of 2 X 25 MW in the year 2012 and got synchronized to the grid for operating it in parallel with the grid.

The counsel for petitioner stated that the petitioner having established the captive power plant sought to reduce the demand being availed from the then existing capacity to 15 MVA, which was acceded to by the respondents. The petitioner had availed open access and had been paying transmission and open action charges as determined by the Commission from the year 2012 to till date. The petitioner has no power purchase agreement with the licensee. The power generated by the petitioner is either consumed by itself or any surplus power is sold in the power exchange.

The counsel for petitioner stated that the licensee strangely and all of a sudden raised a demand requiring the petitioner to pay line and bay maintenance charges for the period 2012 to 2019 initially and subsequently for further period upto 2022. The petitioner had been making representations time and again pointing out that it is not liable for payment of line and bay maintenance charges as it does not arise in any rule or regulation. The total amount as of now due as claimed by the licensee is around Rs. 84.0 lakhs. There are no parameters for assessing the amount and the licensee has relied on certain clauses provided in the non-conventional energy power purchase agreement.

The counsel for petitioner stated that where a generator is producing energy from renewable sources and in those cases, the power purchase agreement entered by the respondents would provide for payment of charges towards line and bay maintenance. Such is not the case of the petitioner, as it is only a consumer of energy supplied by the licensee and had established only CPP for its own utilization. In case of excess generation being available from the generation of the CPP, such excess generation from CPP would be injected into the grid for being sold to third parties through power exchange.

The counsel for petitioner stated that the consumer has obtained NOC for captive consumption and had been paying the open access charges and transmission tariff as determined by the Commission. It had at first instance itself given undertaking that it would abide by the tariff and charges as has been determined by the Commission. In fact, the transmission tariff as determined by the Commission would take into account all the assets in operation in respect of transmission or distribution as the case may be. Therefore, there is no case for the respondents to mulct the petitioner with any other charges other than the tariff as determined by the Commission. Also, it is relevant to state that once the line has been established it becomes the property of the transmission or distribution licensee as the case may be. Therefore, for maintaining the said asset it is not required to collect any charges other than the tariff as determined by the Commission.

The counsel for petitioner stated that the licensee is claiming amounts for the period 2012 to 2022 through its several demand notice, which is not permissible under the Electricity Act, 2003 or even under the general law. It is beyond the

limitation prescribed for claiming the amount. The respondent did not reply to the representations made by the petitioner in detail including the legal issues with regard to non-applicability of the line and bay maintenance charges, as the same does not arise under any rule or regulation as notified by the Commission, as also in general financial principles for a such long period. The Hon'ble ATE in an almost identical situation had held that the line and bay maintenance charges are not liable to be paid that too against belated claim beyond the time period as stipulated by the Act, 2003. The APERC also considered similar issue and passed orders in favour of the consumer before it, the said reference is only invited for persuasive value only.

In any case, the petitioner is not liable to pay the charges as claimed by the respondent / licensee as the whole claim is based on sum internal discussion and correspondence between various officers of the licensee. Inasmuch as, there is no specific agreement between the parties, which would have given rise to the liability on the part of the petitioner. As such, the Commission may set aside the claim made against the petitioner.

The representative of the respondents stated that the claim is made subsequent to the petitioner becoming a developer of power project of 2 X 25 MW and till that date the petitioner is treated as ordinary consumer only. It is a fact that the representations have not been replied by the licensee. It has to be stated that the petitioner has to comply with the provisions of the Act, 2003, rules and regulations as provided in section 10 (1) of the Act, 2003. Therefore, the petitioner is bound to pay the amount as demand by the respondent / licensee. The contentions with regard to the applicability of the judgment of the Hon'ble ATE and reference made to the order passed by the APERC, primarily, cannot be accepted, however, the same will be answered in detail in the written submissions. The petitioner being a generator is bound to comply with the demand placed by the respondent / licensee. The petitioner has not made out any case for interference by the Commission.

The counsel for petitioner stated that the licensee is now bringing forth the concept of developer only to sustain its demand and also invoking section 10 of the Act, 2003. At any rate, no claims can be made by the respondents based on their internal discussion and proposition which is not based on any rule or regulation including not limited to any bilateral agreement on the subject.

Having heard the argument of both 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. 12 of 2023	M/s. Sai Adithya Green Energy Pvt. Ltd.	TSSPDCL & its officer

Petition filed seeking to claim of the units fed into the grid of the respondent as deemed purchase and pay the average pooled power cost as determined by the Commission for the relevant years of 2020-21 and 2021-22.

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 sought time for filing rejoinder in the matter. The representative of the respondents has no objection. The Commission has directed the counsel for petitioner to file rejoinder on or before 24.07.2023 by serving a copy of the joinder to the respondents. Accordingly, the matter is adjourned.

Call on 24.07.2023 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. 13 of 2023	TSDISCOMs	SCCL

Petition filed seeking directions to the respondent in respect of procurement of power pricing charged by Singareni Thermal Power Plant (STPP) towards procurement of power from 2 X 600 MW for FY 2021-22 to till the date of operationalization of Naini Coal Block and later to adopt the CERC input price determination methodology in the interest of end consumers.

Sri. H. T. Vivekananda, SE / IPC, TSSPDCL for petitioners and Sri. P. Shiva Rao, Advocate along with Sri. G. V. Brahmananda Rao, Advocate for respondent are present. The representative of the petitioner has sought time for filing the rejoinder in the matter. The counsel for respondent has no objection. The Commission has directed the representative of the petitioner to file rejoinder on or before 21.08.2023

by serving a copy of the joinder to the respondent. Accordingly, the matter is adjourned.

Call on 21.08.2023 at 11.30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman