

Record of proceedings dated 24.04.2023

Case No.	Name of the Petitioner(s)	Name of the Respondent(s)
O. P. No. 32 of 2015 & I. A. No. 5 of 2015	M/s. Tata Power Trading Company Ltd.	TSDISCOMs, APSPDCL, APEPDCL and APPCC

Petition filed seeking questioning the illegal, unilateral and wrongful deduction of Rs. 9,72,00,000/- and Rs. 96,48,000/- towards illegal compensation claim for supply of short-term power.

I. A. filed seeking release of Rs. 9,72,00,000/- and Rs. 96,48,000/- in lieu of bank guarantee for corresponding amounts.

Sri M. Ramakanth, Advocate for petitioner and Sri D. N. Sarma, OSD (Legal and Commercial) for respondents are present. The counsel for petitioner stated that the matter before the Hon'ble High Court is still pending and efforts are being made for early disposal of the matter. Therefore, adjournment may be granted for a longer period. The representative of the respondents did not oppose the same. The Commission observed that the matter is proposed to be put on sine die adjournment leaving the parties to mention the same upon disposal of the case before the Hon'ble High Court. However, the counsel for petitioner requested the Commission that for this time, a date may be given. Accordingly, the matter is adjourned.

Call on 26.06.2023 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. 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. Kunal Kaul, Advocate representing M/s. J. Sagar Associates for the petitioner and Sri Mohammad Bande Ali, Law Attachee for respondents is present. The counsel for petitioner stated that the petition is filed for directions to the existing

distribution licensee to part with certain assets which are existing within the area of SEZ which has been recognized as distribution licensee by the Commission. Earlier, the petitioner had approached the Commission for being declared as deemed distribution licensee, which was considered favourably to the petitioner. After such declaration, the petitioner had approached the existing distribution licensee to segregate the assets and part with certain assets which are within the area of SEZ. But the distribution company as well as the transmission licensee are not forthcoming in the matter. Therefore, it had filed the present petition seeking directions to that effect against the distribution licensee.

The counsel for petitioner stated that the distribution licensee has filed a counter affidavit and contended that the assets demanded by the petitioner cannot be parted by them as the same are the property of the DISCOM and it is required to undertake fresh installation of required assets, as the DISCOM cannot part its assets. The reliance placed by the DISCOM on the general terms and conditions of supply is not appropriate. It is his case that the GTCS has been framed prior to 2010 notification under SEZ Act and therefore, this present situation would not have been factored into while framing the relevant clauses including service line which are now sought to be stated as assets of the DISCOM.

The counsel for petitioner stated that the assets sought for transfer to it do not constitute service line as is contended by the DISCOM. In this regard, he has filed a detailed sketch map alongwith statement identifying the assets, service line, feeders and distribution substation. He has explained through the said sketch map as to what is required to be assigned to the petitioner and what is to be retained by the DISCOM from the identified assets. He also stated that just because certain assets are taken over by the petitioner, the existing distribution licensee is not precluded from serving the consumers located within the SEZ area. He also identified the total area which is under the control of the petitioner as also the area that is notified as SEZ.

The representative of the respondents stated that the claim of the petitioner cannot be accepted as it is against the terms and conditions of supply as also contrary to the licence issued to the petitioner. The petitioner after obtaining the licensee status ought to have established its own network for undertaking distribution

of electricity and retail sale thereof within the area of its operation, more particularly the SEZ area. As a consumer, it had obtained power supply earlier before becoming SEZ and had established the lines and equipment which became the property of the DISCOM in terms of GTCS, which cannot be parted at this point of time. Though, the petitioner might have paid for the same, but as at present the said equipment or assets being the property of the DISCOM cannot be transferred to the petitioner. The petitioner cannot claim that the assets which are located within the area of SEZ should be transferred to it without operationalizing the SEZ and distribution business by laying its own line and equipment.

The representative of the respondents stated that the petitioner cannot undertake supply of power using DISCOM assets as it is not permitted under law. Without establishing its own assets for undertaking distribution business, it wants to draw power from the existing system and serve its consumers at the cost of distribution licensee. The petitioner in any case cannot claim the service lines which have become part of the distribution network and the assets mentioned by the petitioner do not constitute other than service lines and transformers. Therefore, the petitioner has not made out any case in respect of the prayer sought in this petition.

The counsel for petitioner stated and explained the provisions made in the Act, 2003, more particularly the definitions as provided for in respect of mains, distribution mains, service line and others, which constitute the necessary assets of the distribution licensee and a part of which is existing is being claimed by the petitioner through this petition. The petitioner sought orders of the Commission to enable it to operationalize the SEZ and distribution business by directing transfer of assets by the DISCOM. In view of the submissions made by 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. 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.

Sri. Kunal Kaul, Advocate representing M/s. J. Sagar Associates for the petitioner is present. The counsel for the petitioner stated that the petition had been filed earlier for determination of tariff to be levied on the consumers situated in the SEZ area. The SEZ area comprises consumers of the categories of HT industry and commercial along with LT commercial consumers. The Commission is required to determine the ceiling tariff under section 62 (1) (d) proviso of the Electricity Act, 2003, where two licensees are operating in the same area. Infact being a deemed distribution licensee, it is required to file proper petition for determination of tariff when it starts actual operations as a distribution licensee. For the present, the Commission may consider the tariff as determined by the Commission in respect of the existing distribution licensee at present to be the ceiling tariff in respect of the petitioner also. Based on which the petitioner will charge its consumers the tariff for the present.

The Commission sought to know that the petitioner had already approached the Hon'ble Supreme Court against the order of the Commission. The counsel for petitioner stated that the petitioner had sought deemed distribution licence from the Commission and the Commission had imposed certain conditions for operationalizing the same. Aggrieved by the said condition, the petitioner approached the Hon'ble ATE and later to the Hon'ble Supreme Court. According to the petitioner, the condition imposed by the Commission is a condition subsequent and not condition precedent. However, the said proceeding does not affect the present prayer as in any case, if it fails, the petitioner has to comply with the order of the Commission. Accordingly, he sought fixation of tariff to enable the petitioner to start operations of the distribution licensee as has been recognized under section 49 of the SEZ Act, 2005 and rules thereof. Having heard the submissions of the counsel for petitioner, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
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. Deepesh Bahadur, Advocate representing Sri M. A. K. Mukheed, Advocate for review petitioner is present. The advocate representing the counsel for review petitioner stated that the Commission is having power to undertake the review of the order passed by it under section 94 (1) of the Electricity Act, 2003. Such review can be undertaken insofar as powers exercisable under order XLVII Rule 1 of Civil Procedure Code, 1908. In this particular case, the fair review petition is filed and the points 2 and 3 of Rule 1 mentioned above are attracted. The Commission had already considered in the tariff order for FY 2012-13 that the consumers of this category cannot be merged into HT Industry 1-A and thus retained them as HT Industry 1-B. The tariff for HT 1-A is higher than HT 1-B and thus, the industry in this category cannot be merged being a power intensive industry. The Commission may review the tariff fixed for this category by taking the petition on the file of the Commission. Heard the counsel for petitioner and 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. 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 respondent / DISCOM is not forthcoming to settle the issue. Therefore, the petitioner is making a fresh representation to the DISCOM as well as Chairperson of the coordination committee. The representative of the respondents stated that the matter will be referred to the coordination committee and a decision will be communicated. The Commission also observed that efforts may be made to settle the issue amicably. In view of the submission of fresh representation, the matter is adjourned.

Call on 05.06.2023 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. 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. P. V. 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 stated that the rejoinder will be filed today as it has already been sent for the signature of the authorized representative. The matter may be taken up after one week. The representative of the respondents has no objection. Accordingly, the matter is adjourned.

Call on 05.06.2023 at 11.30 AM.

Sd/-
Member

Sd/-
Member

Sd/-
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. N. Vinesh Raj, Advocate for respondent are present. The representative of the review petitioner stated that the review petition is filed with regard to consideration of the quantum of open access demand as considered by the Commission and for effecting calculations by CGRF. The Commission considered highest demand instead of the average demand. Therefore, the order requires reconsideration to that limited extent.

The counsel for respondent / petitioner stated that the Commission had already clarified this aspect while determining the tariff for FY 2016-17 and there is no ground made out by the review petitioner for reconsideration of the order. Nothing is shown to satisfy the ingredients of the review as is required under law. The

counsel for respondent / petitioner relied on the judgment rendered by the Hon'ble Supreme Court in the matter of Smt. Meera Bhanja Vs. Smt. Nirmala Kumari Choudhury reported in 1994 Supreme (SC) 1140 with regard to interpretation of Order XLVII Rule 1 of Civil Procedure Code, 1908. It is his case that the Commission cannot entertain the review petition where the submission clearly constitutes a ground for appeal and not for review. In this case, it is his contention that the review petitioner has raised the ground which clearly constitutes a ground for appeal and not amenable to review proceedings. The Commission may consider retaining the order without any modifications and require the CGRF to complete the exercise expeditiously as directed earlier by the Commission in its order.

Having heard the parties to the review petition, 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. P. Soma Sekhara Naidu, Advocate representing Sri. Srinivasa Rao Pachwa, counsel for petitioner and Sri. Mohammad Bande Ali, Law Attachee for the respondents are present. The advocate representing the counsel for petitioner stated that the main issue in this petition is with regard to interest due alongwith late payment surcharge. The details were earlier not forthcoming from the respondents. Moreover, the petitioner has claimed the bills towards power supply and the same have been honoured but in a belated manner as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the

payment gets delayed. The respondent cannot contend that the limitation has expired.

The advocate representing the counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondents in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The advocate representing the counsel for petitioner stated that the respondents have committed themselves to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondents. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondents. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondents earlier.

The representative of the respondents stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondents have specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for

a period prior to the period mentioned in the PPA or the petition. In any case as the respondents have made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The advocate representing the counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondents have disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The advocate representing the counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 49 of 2022	M/s. Vena Energy Solar India Power Pvt. Ltd.	TSSPDCL

Petition filed seeking directions to the respondent for payment of dues along with late payment surcharge duly complying with the provisions of PPA of the project situated at Sadasivpet (V), Medak District

Sri. Aditya K. Singh, counsel for petitioner alongwith Ms. Ayushi Saxena, Advocate and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner

that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble

ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 50 of 2022	M/s. Vena Energy Solar India Power Pvt. Ltd.	TSSPDCL

Petition filed seeking directions to the respondent for payment of dues along with late payment surcharge duly complying with the provisions of PPA of the project situated at Minpur (V), Medak District

Sri. Aditya K. Singh, counsel for petitioner alongwith Ms. Ayushi Saxena, Advocate and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such

consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of

interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 52 of 2022 & I. A. No. 42 of 2022	M/s. Ujjvalatejas Solaire Urja Pvt. Ltd.	TSNPDCL

Petition filed seeking release of payments due to the petitioner by the respondent and consequently payment of future bills in a timely manner in accordanced with PPA.

I. A. filed seeking interim order directing the respondent to pay 80% of the pending amounts to USUPL within one week as well as to deposit the balance 20% of the pending amounts with the Commission.

Sri. Pratyush Singh alongwith Sri. P. S. S. Bhargava, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power

Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the

late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 53 of 2022 & I. A. No. 43 of 2022	M/s. Suprasanna Solaire Urja Pvt. Ltd.	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the respondent and consequently payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent to pay 80% of the pending amounts to SSUPL within one week as well as to deposit the balance 20% of the pending amounts with the Commission.

Sri. Pratyush Singh alongwith Sri. P. S. S. Bhargava, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills

towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 54 of 2022 & I. A. No. 44 of 2022	M/s. Nirjara Solaire Urja Pvt. Ltd.	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the respondent and consequently payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent to pay 80% of the pending amounts to NSUPL within one week as well as to deposit the balance 20% of the pending amounts with the Commission.

Sri. Pratyush Singh alongwith Sri. P. S. S. Bhargava, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be

expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only

interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 59 of 2022 & I. A. No. 49 of 2022	M/s. Achampet Solar Private Limited	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent No. 1 to pay 80% of the pending amounts to ASPL within one week pending final adjudication.

Sri. Amit Kapoor alongwith Sri. T. G. Rejesh Kumar, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of

arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The

Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject.

Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 60 of 2022 & I. A. No. 48 of 2022	M/s. Padmajiwadi Solar Private Limited	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent No. 1 to pay 80% of the pending amounts to PSPL within one week pending final adjudication.

Sri. Amit Kapoor alongwith Sri. T. G. Rejesh Kumar, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made

clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 61 of 2022 & I. A. No. 46 of 2022	M/s. Ghanpur Solar Private Limited	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent No. 1 to pay 80% of the pending amounts to GSPL within one week pending final adjudication.

Sri. Amit Kapoor alongwith Sri. T. G. Rejesh Kumar, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for

liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 62 of 2022 & I. A. No. 50 of 2022	M/s. Thukkapur Solar Private Limited	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent No. 1 to pay 80% of the pending amounts to TSPL within one week pending final adjudication.

Sri. Amit Kapoor alongwith Sri. T. G. Rejesh Kumar, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned

as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 63 of 2022 & I. A. No. 51 of 2022	M/s. Renjal Solar Private Limited	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent No. 1 to pay 80% of the pending amounts to RSPL within one week pending final adjudication.

Sri. Amit Kapoor alongwith Sri. T. G. Rejesh Kumar, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to

the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel

for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 64 of 2022 & I. A. No. 47 of 2022	M/s. Gummadidala Solar Private Limited	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

I. A. filed seeking interim order directing the respondent No. 1 to pay 80% of the pending amounts to GSPL within one week pending final adjudication.

Sri. Amit Kapoor alongwith Sri. T. G. Rejesh Kumar, counsels for petitioner and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond

the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for

a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 65 of 2022	M/s. Essel Mining & Industries Limited (10 MW Mustyal plant)	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

Sri. Aditya K. Singh, counsel for petitioner alongwith Ms. Ayushi Saxena, Advocate and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in

law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 66 of 2022	M/s. Essel Mining & Industries Limited (5 MW Achampet plant)	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

Sri. Aditya K. Singh, counsel for petitioner alongwith Ms. Ayushi Saxena, Advocate and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned

as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 67 of 2022	M/s. Essel Mining & Industries Limited (10 MW Pedda Shankarampeta plant)	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

Sri. Aditya K. Singh, counsel for petitioner alongwith Ms. Ayushi Saxena, Advocate and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner

that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble

ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by 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. 68 of 2022	M/s. Essel Mining & Industries Limited (10 MW Kalwakurthy plant)	TSSPDCL

Petition filed seeking release of payments due to the petitioner by the DISCOM and consequential payment of future bills in a timely manner in accordance with PPA.

Sri. Aditya K. Singh, counsel for petitioner alongwith Ms. Ayushi Saxena, Advocate and Sri. Mohammad Bande Ali, Law Attachee for respondent are present. The counsel for petitioner stated that the main issue in this petition is with regard to payment of arrears due alongwith interest and late payment surcharge. The details were earlier not forthcoming from the respondent. Moreover, the petitioner has claimed the bills towards power supply and the same have not been honoured as such interest is liable to be paid for the same and further as the amount is paid belatedly, as per the provisions of the PPA the respondent is liable to pay late payment surcharge also. One contention that has been raised by the respondent is that the claims are beyond the period of limitation, which cannot be accepted as it is a continuous process as and when the payment gets delayed, it will attract such

consequence as are provided in the PPA. Therefore, the respondent cannot contend that the limitation has expired.

The counsel for petitioner stated that even if the contention is to be accepted insofar as limitation is concerned the claims would survive for the reason that the Hon'ble Supreme Court in suo motu proceedings in W. P. No. 3 of 2020 had extended the limitation period for the issues where the limitation had expired between 15.03.2020 to 28.02.2022 by its orders from time to time. It is also made clear there that the limitation would start running from 01.03.2022 and would be expiring after 90 days. It is also submitted that the Hon'ble Supreme Court had occasion to consider the issue of limitation in the matters of A. P. Power Coordination Committee Vs. Lanco Kondapalli Limited reported in 2016 (3) SCC 468, which is not applicable to the facts of the case. Reliance is also placed by the respondent in the matter of Power Company of Karnataka Limited Vs. Udupi Power Corporation Limited reported in 2020 SCC On Line APTEL 94, which is of no help to the respondent. In fact, the said appeal would support the contents of the petitioner that the respondent is bound to pay the LPS. The Commission has extensive power on regulation in respect of PPAs executed and it can pass such necessary orders.

The counsel for petitioner stated that the respondent has committed itself to release the payments in 9 or 12 instalments upto 36 instalments of the amounts due through an affidavit filed by the respondent. They now cannot contend different aspects contrary to their own submissions that arrangements have been made for liquidating the arrears of amounts due. The Commission may consider the approbating and reprobating of submissions made by the respondent. The Commission may not consider the arguments raised now in the additional submissions in view of the specific affidavit submitted by the respondent earlier.

The representative of the respondent stated that the aspect of LPS cannot be agitated as there was no issue on the same. Therefore, the respondent has specifically adverted to in the additional submissions pointing out the provisions in the PPA alongwith the relevant law. In the contentions raised by the petitioner, the amounts have been quantified only for a specific period and nothing is made out for a period prior to the period mentioned in the PPA or the petition. In any case as the respondent has made arrangement for payment of the principal amount, payment of

interest or late payment surcharge would not arise. One specific issue that requires consideration is that of change of applicability of interest rate which was mentioned as prime lending rate, which has been changed by the banking regulator for consideration of interest as marginal cost lending rate (MCLR), which needs to be examined, as it stands contrary to the provisions of PPA. Therefore, the Commission may consider refusing the said prayer.

The counsel for petitioner stated that the amounts due is a continuous exercise and every month when the amount is becoming due it will attract not only interest but also late payment surcharge unless the respondent has disputed the bill and communicated the same before the due date. Inasmuch as, the Government of India had notified the late payment surcharge rules. Such rules have been held to be part of the agreement on and from the date of their notification. Therefore, the respondent could not have raised the contention with regard to applicability of the late payment surcharge and as also question of limitation attracting it. The counsel for petitioner referred to several provisions and judgements rendered by the Hon'ble ATE as also the Hon'ble Supreme Court on the question of limitation, continuity of liability and treatment of modifications made by the government policies as change in law. The contention that the calculation of interest based on prime lending rate has been changed to MCLR do constitute a change in law and the licensee should have taken steps to amend the agreement.

The counsel for petitioner stated that the Commission may not consider any of the submissions made by the licensee as the law is settled against them. Also, the Commission had already disposed of a batch of cases on the similar subject. Therefore, there is nothing further to be considered for deviation from the earlier decision of the Commission.

The Commission felt it appropriate that the parties to the petition may consider undertaking conciliation of the matter towards LPS amount amicably. In view of the submissions made by the parties, the matter is reserved for orders.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman