

Record of Proceedings dated 16.11.2017

O. P. No. 10 of 2017

M/s. Arhyama Solar Power Pvt. Ltd., Vs. TSSPDCL

Petition filed seeking questioning the action of the respondent in not implementing provisions of regulations / orders issued by the Commission in respect of Balancing and Settlement Code of 2006.

Sri. N. K. K. Venkat, Consultant of the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The representative of the petitioner stated that necessary documents as directed by the Commission have been filed. The counsel for the respondent sought adjournment of the matter, stating that counter affidavit is yet to be filed and he requires four weeks time to do so. Accordingly, the matter is adjourned.

Call on 08.12.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

I. A. (SR) No. 35 of 2016
in
O. P. No. 32 of 2014

M/s. Ganapati Sugar Industries Ltd. & another Vs. TSDISCOMs

Application filed U/s. 62 & 86 of the Electricity Act, 2003 seeking modification of the order dated 16.05.2014 passed in O. P. No. 32 of 2014 of the combined Commission insofar as variable cost.

Sri. T. Vizhay Babu, Advocate representing Sri. Challa Gunaranjan, Counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The Advocate representing the counsel for the petitioner sought adjournment of the hearing, stating that he is yet to receive instructions in the matter as regards prosecuting the matter or otherwise, since as appeal is pending before the Hon'ble ATE. However, the counsel for the respondent emphasized the need to reject the petition as the petitioner cannot prosecute the same

matter before the two forums. The advocate stated that the particular fact requires detailed instructions from the party and that therefore sought adjournment of the matter. Accordingly, the matter is adjourned.

Call on 08.12.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

O. P. No. 15 of 2017

M/s. Steel Exchange India Limited Vs. TSDISCOMs

Petition filed U/s. 86 (1) (f) of the Electricity Act, 2003 R/w Conduct of Business Regulation No. 2 of 2015, claiming compensation bills payable by the TSDISCOMs as per power purchase orders.

Sri. T. Vizhay Babu, Advocate representing Sri. Challa Gunaranjan, Counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The advocate representing the counsel for the petitioner sought adjournment of the hearing. The standing counsel for the respondent has no objection. Accordingly, the matter is adjourned.

Call on 08.12.2017

Sd/-
Member

Sd/-
Chairman

O. P. No. 18 of 2017

M/s. Madhucon Sugar & Power Industries Ltd., Vs. TSPCC & TSDISCOMs

Petition filed U/s. 86 (1) (f) of the Electricity Act, 2003 seeking to recover short fall amounts from the licensee for the energy supplied in October & November, 2010.

Sri. T. Vizhay Babu, Advocate representing Sri. Challa Gunaranjan, Counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The advocate representing the counsel for the

petitioner sought adjournment of the hearing. The standing counsel for the respondent has no objection. Accordingly, the matter is adjourned.

Call on 08.12.2017

Sd/-
Member

Sd/-
Chairman

O. P. (SR) No. 20 of 2017

Smt. Lavanya Yeju Vs. GoTS & TSTRANSCO

Petition filed U/s. 67 (4) & (50 of the Electricity Act, 2003 seeking compensation for acquisition of properties without paying compensation.

Ms. Jyothisri Vankina, Advocate for the petitioner alongwith Ms. Anupama Maganti, Advocate and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The counsel for the petitioner has stated that the petition is filed for compensation towards land acquired for laying lines. The petitioner is the owner of six plots being developed by the developer, who is respondent in this petition. The petition is filed by the petitioner for payment of compensation for the land acquired by the government on behalf of licensee. No procedure with regard to acquiring lands has been followed by the District Collector and the borrowing authority also. It is her case that in the counter affidavit filed by the DISCOM before the Hon'ble High Court in the writ petition filed by the developer and herself also, had stated that the compensation had been paid to the owners. She claims that no compensation is paid by the government or any information is given to the land owner, which had been purchased by her in the year 2015.

The counsel for the respondents sought to emphasize that the compensation had been paid to the owners of the land pursuant to the order of the Collector and the present petition is premature as under section 67 of the Act, 2003, the Commission has to decide or can entertain an appeal on the order of the Collector and not

otherwise. It is also his case that the present petition is not maintainable before this Commission as the petitioner and the developer of the property are already before the Hon'ble High Court challenging the action of the respondent and the government. Therefore, he sought rejection of the petition as not maintainable.

The counsel for the petitioner has sought to distinguish the petitions before the Hon'ble High Court and the present petition filed by the petitioner. It is stated that the said writ petition complains of the violation of the rules and regulations in acquiring the land and to protect the rights of the individuals under the constitution. The present petition is not with reference to the same.

The Commission having noticed that it had in a similar petition had taken a view in respect of land acquisition in another matter and made some observations, felt that the present petition is not maintainable. It also pointed out to the parties that the present petition cannot be proceeded with as a higher forum has seized of the matter and the Commission is duty bound by the propriety not to engage itself in the matter having come to know that higher forum has initiated proceedings in the matter. However, in order to facilitate itself to look into factual matrix and know the veracity of the statement that the Collector had passed orders in the matter of compensation, the Commission has directed the counsel for the petitioner to ascertain, obtain and file the orders of the Collector as to what extent the compensation had been awarded by the competent authority. Accordingly, the matter is adjourned the hearing.

Call on 08.12.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

O. P. No. 6 of 2015
And
I. A. No. 28 of 2015

M/s Rithwik Power Projects Limited vs TSNPDCL

Petition filed seeking directions to the Licensee for payment of tariff for the additional capacity of 1.5 MW at the rate being paid to existing 6 MW power plant.

Filed an I.A seeking to amend the title in the original petition.

Sri. T. Vizhay Babu, Advocate representing Sri. Challa Gunaranjan, counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The advocate representing the counsel for the petitioner has sought adjournment, stating that the petitioner has requested for a meeting with the licensee and no further instructions are available to him, which he would obtain by the next date of hearing. Accordingly, the matter is adjourned the hearing.

Call on 08.12.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

O. P. No. 2 of 2017

M/s. NSL Krishnaveni Sugars Ltd. Vs. TSDISCOMs

Petition filed seeking for determination of tariff for 28.2 MW bagasse based cogeneration project consequent to the directions to purchase power under long term PPA

Sri. K. Gopal Chowdary, Advocate alongwith Sri. Vizhay Babu, Advocate representing Sri. Challa Gunaranjan, counsel for the petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondent alongwith Ms. Pravalika, Advocate are present. The advocate representing the counsel for the petitioner stated that the petitioner has filed two I. As. before this Commission, seeking specific orders relating to interim prayer of directing the tariff of Rs. 4.51 and amendment of the prayer in the main petition

respectively. The petitions are filed on 10.11.2017 (actually filed on 13.04.2017) according to the statement of the advocate.

According to the advocate, there is urgency in the petition as crushing season for sugar cane is about to start and in the absence of directions by the Commission for interim tariff, would render the sugar plant idle or wastage of energy generated may happen. The same is not desirable, as it is also beneficial to the several other stakeholders in the society including but not limited to farmers growing sugarcane. The I. As. are necessitated as unless the prayer for interim tariff is not specifically asked, the same cannot be determined by the Commission, as also the original prayer in the original petition was with reference to RPP obligation under Regulation No. 1 of 2012, which no longer survives, therefore, the prayer has to be in tune with the latest position of regulations.

To a pertinent question about maintainability of petition by the petitioner before the Commission and how the Commission can direct generic tariff to be made applicable or that it should direct the licensee to procure power, the advocate stated that section 62 read with section 64 and 86 (1) (a) of the Act, 2003 provide for determination of generic tariff as well as project specific tariff also coupled with section 86 (1) (b) and (e) of the Act, 2003. Since the petitions are not before the Commission for the day, he seeks adjournment for a short date, so that the interlocutory applications are listed on the board for hearing after notice to the respondents. On the next date of hearing he would place all the relevant judgments and appraise the Commission of the relevant paragraphs from those judgments in support of the contention that the tariff can be determined by the Commission. He also brought to the notice of the Commission that there is no generic tariff order in respect of bagasse

plant after 2009, however, the Commission has reminded him to checkup as to whether any order has been passed subsequent to the year 2009 by the erstwhile APERC.

The counsel for the respondents stated that the respondents are yet to receive notice on the I. As. and would respond post such notice. In any case, legal aspects have to be argued in the matter and that therefore, he needs adjournment. Accordingly the matter is adjourned. The office is required to take steps on the I. As. expeditiously.

Call on 08.12.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

O. P. No. 6 of 2017
&
I. A. No. 21 of 2017

M/s. Mytrah Vayu (Godavari) Pvt. Ltd. Vs. TSSPDCL & TSTRANSCO

Petition filed seeking to amend the PPA concerning evacuation and metering arrangements.

I. A. filed seeking for directions to the respondents to release the withheld payments to the tune of Rs. 21.75 crores immediately and to pay the monthly power purchase bills regularly.

Sri. Hemant Sahai, Senior Advocate alongwith Ms. Mazag Andrabi, Advocate for Sri. Challa Gunaranjan, counsel for the petitioner and Sri. Y. Rama Rao, Standing counsel for the respondents alongwith Ms. Pravalika, Advocate are present.

The counsel for the petitioner made detailed submissions in the matter while prayer for interim order extension for a further period in I. A. No. 21 of 2017, wherein earlier the Commission directed the respondents for payment of 75% of the amount due upto May, 2017. Now four months have passed by and no amount is being released from June, 2017 onwards till date. The reason offered is that the petitioner had earlier given an undertaking that it would shift the meters to the location mentioned

in the PPA instead of the location where they had been installed. It is the contention of the petitioner that the shifting of meters involved losses in transmission, which the petitioner has pegged it at 0.1% whereas the licensee is assuming it to be around 4%.

The counsel for the petitioner stated that the respondents could as well allowed the meters installed already and permit installation of check meters at the new point and paid him the charges for the supply after deducting losses as differentiated by the readings of both the meters. The respondents are not coming forth to accept this proposals. The petitioner is ready to install and has made a request for permitting it to install meters at the location suggest by the respondents. The application for such change made by the petitioner is not disposed of even after four months have elapsed. He has also stated that there is difficulty in procuring the same type of conductor for installing the meters at the new place.

The counsel for the petitioner stated that the petitioner is filing additional documents in support of factual and legal issues. He has explained each of the additional documents and read out the relevant portions of the same. The counsel for the petitioner emphasized the fact that the tariff determination is exclusive forte of the Commission under the provisions of the Act, 2003. While determining the generic tariff the Commission rightly adopted MYT regime and did not distinguish the capacity for such tariff to be applicable.

The investment made is dependent on the factors like promissory estoppel and legitimate expectation. It is also dependent on consistent policy and risk free environment. Though the erstwhile Commission passed orders determining the tariff by a judicial order, it could not have issued any communication contrary to the said order subsequently. The scope of the Act, 2003 enables determination of the tariff by

the Commission and to provide for such conditions for applicability of the tariff. It is the case of the counsel for the petitioner that PPA had been entered with the licensee primarily to avail the benefit of the subsisting tariff at the relevant time, may be hurriedly in the circumstances. Across the board the MYT regime would not provide for capacity it is for a specific period where the projects are envisaged to be established in that period only. Therefore, the petitioner was rightly acting on the tariff. Therefore, the proposition now made is that the Commission may consider passing fresh orders for payment and hear the matter finally on the next date of hearing. The licensees may also be directed to consider and clear the proposal for shifting of the meters or allow installation of check meters at new location for ascertaining losses.

The counsel for the respondent sought to emphasize that the licensee has made payment as per the directions of the Commission upto May, 2017, but the petitioner having given an undertaking is yet to take steps in terms of the directions of the Commission to shift the meters. On the aspect of not giving clearance by the construction company, upon instructions from the officer present in the Court, he stated that he would look into and require the transmission company to take steps for clearing the application pending with them on the issue of the meters. He is of the view that unless shifting of meters happens no payment can be made to the petitioner for the power supplied.

The Commission while being aghast about the action of the licensees both transmission and distribution sought to know as to what pleasure the licensees were deriving by not according the permission to shift the meters as well as make payment of the amount due to the petitioner from June, 2017 and onwards even after Commission's directions. It also observed that the licensee can release the amount to

the extent upto 100%, but after deducting the amount that the licensees consider the amount towards losses. It is also of the opinion that the aspect of losses may be hammered out by having mutual discussion in the matter.

Keeping the rival contentions in the fore front, the Commission made it clear that it would direct the licensee to pay the amount due to the petitioner from June, 2017 to October, 2017 and did not accede to the request of the counsel for petitioner that such order may be made applicable till the disposal of the petition. The Commission required the parties to report by the next date of hearing, the steps taken in respect of shifting of the meters as well as consensus arrived at in respect of line losses. According the matter is adjourned.

Call on 19.12.2017 at 11.00 A.M.

Sd/-
Member

Sd/-
Chairman

I. A. No. 3 of 2017
in
O. P. No. 76 of 2015

M/s. Federation of Telangana & Andhra Pradesh Chambers of Commers & Industry
Vs.
TSDISCOMs

Application filed for seeking modification of the tariff order for the year 2015-16 in respect of RO / water processing plants.

Smt. T. Sujatha, Deputy Director of the petitioner association and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocates are present. The counsel for the respondents stated that as directed by the Commission on the earlier date of hearing that a senior management level officer be nominated for resolving the issues raised by the R.O. plants including the issue of notice and change of category of the consumer from category III to II, has nominated Sri M.D. Manohar Raju, Chief General Manager (Comml.) to be the officer who will look into those issues.

Upon submissions of the licensee's counsel, the Commission had directed the office to communicate the said aspect to all the petitioners on the subject and require them to approach the officer for resolution of the issue. The matter is adjourned without any date, which will be intimated in due course and upon receipt of the report of such officer.

Sd/-
Member

Sd/-
Chairman

I. A. No. 4 of 2017
in
O. P. No. 76 of 2015

Sri Ashok Bukka Vs. TSDISCOMs

Application filed for seeking modification of the tariff order for the year 2015-16 in respect of RO / water processing plants.

Sri. Bukka Ashok petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocates are present. The counsel for the respondents stated that as directed by the Commission on the earlier date of hearing that a senior management level officer be nominated for resolving the issues raised by the R.O. plants including the issue of notice and change of category of the consumer from category III to II, has nominated Sri M.D. Manohar Raju, Chief General Manager (Comml.) to be the officer who will look into those issues.

Upon submissions of the licensee's counsel, the Commission had directed the office to communicate the said aspect to all the petitioners on the subject and require them to approach the officer for resolution of the issue. The matter is adjourned without any date, which will be intimated in due course and upon receipt of the report of such officer.

Sd/-
Member

Sd/-
Chairman

I. A. No. 5 of 2017
in
O. P. No. 76 of 2015

Sri M. Krishna Reddy Vs. TSDISCOMs

Application filed for seeking modification of the tariff order for the year 2015-16 in respect of RO / water processing plants.

Sri. M. Krishna Reddy petitioner and Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocates are present. The counsel for the respondents stated that as directed by the Commission on the earlier date of hearing that a senior management level officer be nominated for resolving the issues raised by the R.O. plants including the issue of notice and change of category of the consumer from category III to II, has nominated Sri M.D. Manohar Raju, Chief General Manager (Comml.) to be the officer who will look into those issues.

Upon submissions of the licensee's counsel, the Commission had directed the office to communicate the said aspect to all the petitioners on the subject and require them to approach the officer for resolution of the issue. The matter is adjourned without any date, which will be intimated in due course and upon receipt of the report of such officer.

Sd/-
Member

Sd/-
Chairman

I. A. No. 6 of 2017
in
O. P. No. 76 of 2015

Sri Bandi Laxminarayana Vs. TSDISCOMs

Application filed for seeking modification of the tariff order for the year 2015-16 in respect of RO / water processing plants.

There is no representation for the petitioner. Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocates are present. The counsel for the

respondents stated that as directed by the Commission on the earlier date of hearing that a senior management level officer be nominated for resolving the issues raised by the R.O. plants including the issue of notice and change of category of the consumer from category III to II, has nominated Sri M.D. Manohar Raju, Chief General Manager (Comml.) to be the officer who will look into those issues.

Upon submissions of the licensee's counsel, the Commission had directed the office to communicate the said aspect to all the petitioners on the subject and require them to approach the officer for resolution of the issue. The matter is adjourned without any date, which will be intimated in due course and upon receipt of the report of such officer.

Sd/-
Member

Sd/-
Chairman

I. A. No. 7 of 2017
in
O. P. No. 76 of 2015

Sri M. Jaipal Reddy Vs. TSDISCOMs

Application filed for seeking modification of the tariff order for the year 2015-16 in respect of RO / water processing plants.

There is no representation for petitioner. Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocates are present. The counsel for the respondents stated that as directed by the Commission on the earlier date of hearing that a senior management level officer be nominated for resolving the issues raised by the R.O. plants including the issue of notice and change of category of the consumer from category III to II, has nominated Sri M.D. Manohar Raju, Chief General Manager (Comml.) to be the officer who will look into those issues.

Upon submissions of the licensee's counsel, the Commission had directed the office to communicate the said aspect to all the petitioners on the subject and require them to approach the officer for resolution of the issue. The matter is adjourned without any date, which will be intimated in due course and upon receipt of the report of such officer.

Sd/-
Member

Sd/-
Chairman

I. A. No. 8 of 2017
in
O. P. No. 76 of 2015

Sri Mohd. Mukram Ali Vs. TSDISCOMs

Application filed for seeking modification of the tariff order for the year 2015-16 in respect of RO / water processing plants.

There is no representation for the petitioner. Sri. Y. Rama Rao, Standing Counsel for the respondents alongwith Ms. Pravalika, Advocates are present. The counsel for the respondents stated that as directed by the Commission on the earlier date of hearing that a senior management level officer be nominated for resolving the issues raised by the R.O. plants including the issue of notice and change of category of the consumer from category III to II, has nominated Sri M.D. Manohar Raju, Chief General Manager (Comml.) to be the officer who will look into those issues.

Upon submissions of the licensee's counsel, the Commission had directed the office to communicate the said aspect to all the petitioners on the subject and require them to approach the officer for resolution of the issue. The matter is adjourned without any date, which will be intimated in due course and upon receipt of the report of such officer.

Sd/-
Member

Sd/-
Chairman