

## **Record of proceedings dated 22.06.2016**

I. A. No. 5 of 2016  
IN  
O. P. No. 60 of 2015

DISCOMS & APPCC vs M/s KSK Mahanadi Power Company Ltd., & 4 others

Petitioners filed an I.A. seeking to “Direct the respondent to extend the validity of the existing CPGs pertaining to TSDISCOMs till the finalization of the O. P. No. 60 of 2015”

Petition u/s 86(1) (f) of the Electricity Act, 2003 for directions on illegal claim of Rs. 66.31 crores towards the transmission charges for the period 16<sup>th</sup> June, 2013 to 13<sup>th</sup> August, 2013 and capacity charges for the period 16<sup>th</sup> June, 2013 to 26<sup>th</sup> July, 2013 by illegal invoking letter of credit by M/s KSK Mahanadi Power Company Ltd., for the period without supplying power to the petitioners.

Sri Y. Rama Rao, Counsel for the petitioner along with Smt. Priya Iyengar, Advocate and Sri Anand K. Ganeshan, Counsel for the respondent along with Sri A. Srikanth, DGM, Business Development Group are present. The counsel for the petitioner sought extension of the order passed on 14.06.2016 and posting the matter to another date for submission of arguments. The counsel for the respondents stated that the respondent is filing counter affidavit in the interlocutory application and opposed the extension of the interim order stating that mutual securities have to be provided and are already available with the petitioner in the respect of bank guarantees. However the guarantees given by the developer had expired which it is inclined to extend subject to the petitioners providing letter of credit for the energy pumped in to the grid upto 15.06.2016 on which date the term of PPA concluded.

The counsel for the respondent also brought to the notice of the Commission that a full bench of the Hon'ble Appellate Tribunal for Electricity has delivered a judgement dated 07.04.2016 in appeal No. 98 of 2014 and 100 of 2013 filed by M/s Uttar Haryana Bijli Vitran Nigam Limited holding that jurisdiction in respect of sale of power to two states would amount to interstate sale and any dispute will have to be decided by the Central Commission. Pending disposal of the present litigation, the counsel requested that the financial instruments and facilities given by either party may be directed to be extended by 6 months and later the matter can be decided by the Commission.

The Commission pointed out that since the counsel for the respondent in this case was not available on the last date of hearing and adjournment was sought, interim order was passed on the application made by the petitioners (TSDISCOMs) in this case. Unless an application is made by the respondent the same order or any other interim order cannot be passed by the Commission. The counsel for the respondent agreed to file a separate petition seeking interim orders on the lines requested by the TSDISCOMs as the developer also sought similar orders from the Commission. The counsel for the respondent stated in view of the order of the Hon'ble ATE the developer would report as to the continuation of the proceedings or otherwise on the next date of hearing.

The Commission adjourned the hearing of the I A as the parties have sought adjournment of the same. However, in view of the request of counsel for the respondent that the hearing may be scheduled at the earliest, the same scheduled to 02.07.2016 to suit the availability of the counsel for the respondent.

Sd/-  
Member

Sd/-  
Member

Call on 02.07.2016  
At 11.00 AM  
Sd/-  
Chairman

O. P. No. 59 of 2015  
And  
I. A. No. 20 of 2015

M/s. KSK Mahanadi Power Company Limited vs TSSPDCL & TSNPDCCL

Petition filed u/s 86(1) (f) of the Electricity Act, 2003 seeking resolution of disputes between it and the under the power purchase agreement dated 31.07.2012.

Sri Anand K. Ganeshan, Counsel for the petitioner along with Sri A. Srikanth, DGM, Business Development Group and Sri Y. Rama Rao, Counsel for the respondent along with Smt. Priya Iyengar, Advocate are present. The counsel for the parties stated that in view of the adjournment of O. P. No. 60 of 2015, this petition may also be adjourned to the same date. Accordingly adjourned.

Sd/-  
Member

Sd/-  
Member

Call on 02.07.2016  
At 11.00 AM  
Sd/-  
Chairman

O. P. No. 68 of 2015  
And  
I.A. No. 19 of 2015

M/s. KSK Mahanadi Power Company Ltd., Vs TSSPDCL & TSNPDCL

Petition filed u/s 86(1) (f) of the Electricity Act, 2003, seeking resolution of disputes between it and the under the power purchase agreement dated 31.07.2012.

Sri Anand K. Ganeshan, Counsel for the petitioner along with Sri A. Srikanth, DGM, Business Development Group and Sri Y. Rama Rao, Counsel for the respondent along with Smt. Priya Iyengar, Advocate are present. The counsel for the parties stated that in view of the adjournment of O. P. No. 60 of 2015, this petition may also be adjourned to the same date. Accordingly adjourned.

Sd/-  
Member

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Member

Call on 02.07.2016  
At 11.00 AM  
Sd/-  
Chairman

O. P. No. 5 of 2015  
And  
I. A. No. 27 of 2015

M/s Knowledge Infrastructure Systems Pvt. Ltd., New Delhi & M/s Shalivahana (MSW) Green Energy Ltd. vs TSSPDCL, Chief General Manager, (Comml & RAC) & TSPCC

Petition filed u/s 86 (1) (f) of the Electricity Act, 2003 claiming certain amounts due Eon account of supply of electricity under short term purchase for the months January, February and March, 2013

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

Sri. Challa Gunaranjan, counsel for the petitioner and Sri. Y. Rama Rao counsel for the respondent along with Smt. Priya Iyengar, Advocate are present. The counsel for the petitioner submitted arguments on various issues in the petition and sought directions to the licensee for payment of the amount due at the earliest. The counsel for the respondent submitted his arguments based on the counter affidavit filed by the licensee. The concerned officer of the licensee also submitted technical aspects relating to drawal of power and billing of the same.

The Commission considering the arguments submitted before it, has directed the licensee to file with the Commission the details of power supplied by the generator

along with recorded details of power flow by the SLDC, the energy billing centre settlement details regarding payment and the amount of energy taken into consideration for such payments, the unscheduled inter change penalty levied on the generator and the MRI data gathered by the DISCOM. The above details have to be furnished to the counsel for the petitioner by 15.07.2016. The petitioner will verify the details and make submissions by the next date of hearing. The matter is adjourned to 05.08.2016 and it is made clear that no further adjournment will be granted.

		Call on 05.08.2016
		At 11.00 AM
Sd/- Member	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 petition.

Sri. Challa Gunaranjan counsel for the petitioner and Sri. Y. Rama Rao counsel for the respondent along with Smt. Priya Iyengar, Advocate are present. The counsel for the petitioner sought adjournment stating that he requires some more time to take further instructions from the petitioner to enable himself to make submissions in the matter as he could not contact them after the last adjournment. The counsel for the respondent has no objection for the adjournment. Adjourned

		Call on 05.08.2016
		At 11.00 AM
Sd/- Member	Sd/- Member	Sd/- Chairman

O. P. No. 14 of 2015

M/s. Arhyama Solar Power Pvt. Ltd. vs Energy Dept., Govt. of Telangana, TSSPDCL & TSTRANSCO

Petition seeking the levy of transmission and wheeling charges as determined by erstwhile APERC vide order dated 09.05.2014 contrary to government policy as adopted by the APERC.

Smt. P. Lakshmi, Counsel for the petitioner and Sri. Y. Rama Rao, Counsel for the respondents along with Smt. Priya Iyengar, Advocate are present. The counsel for the parties submitted the respective arguments and also identified the amount due or otherwise in respect of wheeling charges. Heard the arguments and reserved for orders.

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Member

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Chairman

O. P. No. 82 of 2015

And

I. A. No. 31 of 2015

M/s. Pragathi Group vs TSSPDCL, TSTRANSCO & TSSLDC (Proposed to be impleaded)

Petition seeking to question the action of levying wheeling and transmission charges by licensees along with other issues.

Petition in IA No. 31 of 2015 to implead TSSLDC

Sri. N. Venkat consultant for the petitioner and Sri. Y. Rama Rao, Counsel for the respondent along with Smt. Priya Iyengar, Advocate are present. The consultant submitted the arguments and explained the prayer in the petition. He sought exemption from payment of wheeling charges as well as allowing of the banking units generated to be used by it later. The petitioner is not inclined to sell such units as there is no agreement between the project and the licensee and the power is being sold to the third parties. It is also stated that the DISCOM is taking away the units generated between the date of synchronisation and the date of allowing open access. The same are being treated as inadvertent power. The counsel for the respondent stated that the petitioner is project established under the 2012 policy on solar projects by the erstwhile Government of Andhra Pradesh. Unless the petitioner migrates to the Telangana solar policy he cannot have the benefit of the exemption of wheeling charges. The other issue is that the petitioner was given open access with a delay of 4 days only after the application is made and has been processed by the DISCOM and the TRANSCO. The DISCOM is inclined to give benefit of the units for those 4 days. The consultant on the other hand stated that the application was made quite early after synchronisation of the project for open access and the same was cleared only after months of deliberations.

The Commission directed the licensee to place before it the details of quantum of energy generated for the four days and fed into the grid, since, the DISCOM itself conceded that there is a delay of four days in allowing the open access to the petitioner. Adjourned.

Sd/-  
Member

Sd/-  
Member

Call on 05.08.2016  
At 11.00 AM  
Sd/-  
Chairman

R. P. (SR) No. 42 of 2015  
And  
I. A. (SR) No. 51 and 52 of 2015

M/s Suguna Metals Limited vs TSNPDCL & TSSPDCL

Petition filed seeking review of the tariff order dated 27.03.2015 in OP Nos. 76 and 77 of 2015 in respect of voltage surcharge (SR. No. 42 of 2015)

Petition filed for interim orders pending disposal of the review petition (SR No. 51 of 2015)

Petition filed for condoning the delay of 34 days in filing the review petition (SR No. 52 of 2015)

Sri. N. Vinesh Raj, Counsel for the petitioner and Sri Y. Rama Rao, Counsel for the respondent along with Smt. Priya Iyengar, Advocate are present. The counsel for petitioner submitted the arguments in respect of levy of voltage surcharge pursuant to the tariff order dated 27.03.2015 and sought review of the order in respect of levy of voltage surcharge for the power drawn under open access, as it is hurting the petitioner in particular and industry in general. He also contended that the provision in the tariff order is not proposed in the aggregate revenue requirement proposals made by the DISCOM, as such consumers more particularly industrial consumers had no notice of the same.

The counsel for the respondent pointed out that the review petition filed by the petitioner is required to be filed within 75 days as per Commission's Regulation and the said petition also does not raise the main ingredients of review as required under Order XLVII Rule 1 of the Civil Procedure Code 1908. The Commission is required to condone the day in filing the review petition and then only the substantial issue can be entertained. Even assuming that the issue requires review and reconsideration, the

tariff order is required to be re-opened for a specific purpose, which is not warranted in this case, since, the review petitioner is aggrieved of the wordings used in the schedule and note appended to a table in the schedule. The Commission is not the remedy and the remedy lies elsewhere.

The Commission having heard the rival contentions, sought to know from the petitioner as to whether the petition can be entertained in view of the deficiencies pointed out by the counsel for the respondent. The counsel for the petitioner stated that the absence of notice itself, satisfies the review conditions. In the circumstances, the Commission reserved its order.

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Chairman

R. P. (SR) No. 15 of 2016  
IN  
O. P. No. 92 of 2015

D.E (O), TSSPDCL, Vikarabad, SAO (O), RR South, TSSPDCL & SE (O),  
TSSPDCL, R.R.South vs M/s Suguna Metals Limited and Vidyut Ombudsman, TS

Petition filed seeking review of the tariff order dated 27.03.2015 in OP Nos. 76 and 77 of 2015 in respect of voltage surcharge (SR. No. 42 of 2015)

Petition filed for interim orders pending disposal of the review petition (SR No. 51 of 2015)

Petition filed for condoning the delay of 34 days in filing the review petition (SR No. 52 of 2015)

Sri Y. Rama Rao, Counsel for the Petitioner along with Smt. Priya Iyengar, Advocate and Sri. N. Vinesh Raj Counsel for the Respondent are present. The counsel for petitioner stated that the original petition was disposed of imposing penalty for non-compliance of the orders of the Ombudsman. The licensee will be suffering heavy loss, if such penalties are allowed to be levied and also implement the orders of the Commission as well as Ombudsman. Therefore, the present petition is filed for review. The counsel for the respondent informed the Commission that despite the order of the Commission, the licensee has not implemented the order of the commissions and is going on showing amount due as claimed by it earlier in the bill without insisting on payment.

The Commission enquired from the counsel for the petitioners and the officers of licensee as to why the order of the Ombudsman is not implemented apart from directions of the commission itself in the matter. The officers replied that they have implemented the order by not insisting on the payment of the amount disallowed by the Ombudsman, but are continuing to show the amount in the bill as an arrear of due. The Commission directed immediate implementation of the order of the Ombudsman and reserved the order.

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Member

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Chairman

O. P. No. 89 of 2015

M/s Bhagyanagar India Limited vs Govt. of Telangana, TSSPDCL, TSTRANSCO  
and Officers

Petition filed questioning the action of the licensees in demanding payment of wheeling charges contrary to the tariff order dated 09.05.2014 of erstwhile APERC.

Sri Challa Gunaranjan, Counsel for the petitioner and Sri. Y. Rama Rao, Counsel for the respondents along with Smt. Priya Iyengar, Advocate are present. The Counsel for the petitioner stated that the licensee has to refund the wheeling charges levied on the petitioner in terms of order dated 09.05.2014 of the erstwhile APERC. It was stated on the earlier occasion that they would place the actual benefit given to the petitioner, but no details are forthcoming from the licensee. The counsel for the respondent stated that the licensee has already taken steps and refunded the amounts due to the petitioner as per the tariff order.

The Commission reminded the counsel for the respondent that the licensee is required to place before the Commission the complete details with a copy to the petitioner by this date of hearing. The counsel for the petitioner would have verified the same from the petitioner and reported the status on this day. Since, the information as required by the commission is not placed today, the matter is adjourned with a specific direction that the licensee shall give details of the amounts paid to the petitioner through its

counsel by 15.07.2016 and the counsel for the petitioner has to report about the refunds made and any amounts remaining due from the licensee. Adjourned at the request of counsel for the respondent, who shall ensure the compliance of the same.

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Call on 05.08.2016  
At 11.00 AM  
Sd/-  
Chairman

O. P. No. 2 of 2016

M/s Ultra Tech Cement Limited vs CMD, TSSPDCL and TSSPDCL Officers

Petition filed questioning the action of the licensees in demanding payment of wheeling charges contrary to the tariff order dated 09.05.2014 of erstwhile APERC.

Sri. Challa Gunaranjan counsel for the petitioner and Sri. Y. Rama Rao, Counsel for the respondents along with Smt. Priya Iyengar, Advocate are present. The counsel for petitioner stated that the counsel for the respondent took time to report on the status of the case pending before the Hon'ble High Court. The Counsel for the respondent stated that on the earlier occasion he had sought time stating that the licensee had filed writ appeal against the order of the single judge and the same is yet to be numbered, which status is required to be ascertained. He also stated that the licensee had originally filed the writ petition and suffered an order against which the writ appeal is filed.

On the instructions from the licensee, the counsel for the respondent stated that the writ appeal stated to have been filed earlier, has been numbered, but yet it is not listed for hearing. Therefore, the licensee requires another three months to finally know its status with regard to implementation of the order of the CGRF. The Commission may adjourn the hearing to a long date.

The Commission expressed its displeasure in not implementing the order of CGRF and stated that it is not concerned with the status of the writ appeal before the Hon'ble High Court as the present petition before the commission is for implementation of the order and there is no impediment for the licensee to implement the order of CGRF or for this commission not to proceed with the matter. However, considering the request of the counsel for the respondents, the matter is adjourned.

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Member

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Member

Call on 05.08.2016  
At 11.00 AM  
Sd/-  
Chairman