



TELANGANA STATE ELECTRICITY REGULATORY COMMISSION
5th Floor, Singareni Bhavan, Red Hills, Lakdi-ka-pul, Hyderabad 500 004

O. P. No. 2 of 2020

Dated 12.11.2021

Present

Sri T. Sriranga Rao, Chairman
Sri M. D. Manohar Raju, Member (Technical)
Sri Bandaru Krishnaiah, Member (Finance)

Between

M/s Tejas India Solar Energy Private Limited,
2nd Floor, Surya Towers, Sardar Patel Road,
Secunderabad – 500 033.

... Petitioner

AND

1. Southern Power Distribution Company of Telangana Limited,
6-1-50, Mint Compound, Hyderabad – 500 063.
2. Transmission Corporation of Telangana Limited,
(TSTRANSCO), Vidyut Soudha, Khairatabad,
Hyderabad – 500 082.

... Respondents

The petition came up for hearing on 25.01.2020, 22.02.2020, 18.02.2021, 15.03.2021, 22.03.2021, 09.06.2021, 28.06.2021, 07.07.2021 and 29.07.2021. Sri M.Abhinay Reddy, Advocate representing Sri P.Vikram, Advocate for petitioner has appeared on 25.01.2020 and also appeared through video conference on 18.02.2020, 15.03.2021, 22.03.2021, 09.06.2021, 28.06.2021. Sri Kaushik Soni, Advocate representing Sri P.Vikram, Advocate for petitioner has appeared on 22.02.2020 and also appeared through video conference on 07.07.2021 and Sri P.Vikram, Advocate for petitioner has appeared through video conference on 29.07.2021. Sri Y.Rama Rao, Advocate for respondents has appeared on 25.01.2020 and 22.02.2020 and Sri Mohammad Bande Ali, Law Attaché for respondents appeared through video conference on 18.02.2021, 15.03.2021,

22.03.2021, 09.06.2021, 28.06.2021, 07.07.2021 and 29.07.2021. The matter having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

The petitioner has filed the petition under sections 86(1)(f)&(e) and 42 of the Electricity Act, 2003 (Act, 2003), seeking directions to the respondents to synchronize the petitioner's project of 3 MW at 33 /11 kV Kodakandla substation to the existing 33 kV feeder of Pregnapur emanating from 132/33 kV Gajwel substation and to grant long term open access. The averments in the petition are as below:

- a) The petitioner is a generating company within the meaning of section 2 (28) of the Act, 2003 and was formed with a vision to be one of the leading players in converting solar and wind energy to power. It is backed by its experience and knowledgeable technical team has laid several ambitions and goals to acquire projects diverse in geographic location and each project is planned to be strategically located near an available load centre. It is well positioned with long term renewable resources to its power plants and as on today its group companies has in total set up 5 solar power projects in India, i.e., 3 in the State of Telangana, 1 in the State of Gujarat and 1 in the State of Uttar Pradesh.
- b) The petitioner stated that the State of Telangana with an intention to promote the solar power generation in the State had approved 'Telangana Solar Power Policy 2015' (Solar Policy) with effect from 01.06.2015 vide letter No. 645 / Budget. A2 / 2015-1 dated 10.06.2015.
- c) The petitioner stated that it is a company incorporated under the Companies Act, 2013 on 30.03.2015. Its main object is to encourage power production and is involved in renewable energy production by the usage of solar power and wind power. This is one of the main objectives of the petitioner.
- d) The petitioner stated that it has proposed to a 6 MW solar energy based power plant which is a renewable energy power plant in PT Venkatapur village, Rayavaram gram panchayath, Jagadevpur mandal, Medak district, Telangana out of which 3 MW solar energy based power plant is ready and waiting for 'synchronization process' with the

grid by connecting with 33/11 kV, Kodakandla substation at Gajwel mandal of Medak district, Telangana.

- e) The petitioner stated that it had submitted an application dated 16.09.2015 to the respondent No.1 for issuing technical feasibility to set up 6 MW solar power project to be connected to 33/11 kV Kodakandla substation at Gajwel mandal of Medak district, Telangana along with the prescribed application fee and other documents. The respondent No.1 on 01.12.2015 informed the petitioner that the proposed plant is feasible basing on the report by the SE/OP/Medak subject to following conditions:

- i) That petitioner shall provide a bank guarantee for an amount of Rs.2,00,000/- with a validity period of 2 years per MW of proposed capacity within a period of 45 days from the date of receipt of this letter.*
- ii) That petitioner shall execute the line work up to the interconnection point (i.e., 33 / 11 kV Kodakandla, substation at 33 kV voltage level existing on 33 kV Pregnapur feeder emanating from 132 / 33 kV Gajwel SS), associated switchgear and metering equipment.*
- iii) To provide fault protection scheme to avoid mal-operations at both substation's end and generator's end.*
- iv) To provide energy meters (with a main, check and standby of 0.2s class accuracy) at inter connection points, plant gross energy generation, auxiliary consumption and captive consumption.*
- v) That testing of CT's and PT's in the presence of the respondents officials.*
- vi) That petitioner should install: (1) equipment to maintain power factor within the limits of 0.95 lag to 0.95 lead, facility to control active power injection as per regulations. (2) equipment to limit the harmonic current injection, DC current injection and flicker. (3) equipment to record harmonic content injections in the load survey data and under instantaneous parameters etc., as per regulations.*

- vii) *To provide communication system i.e., SCADA / DAS to transfer real time data.*
- viii) *To provide a service connection for start-up power and auxiliary consumption.”*
- f) It is stated that the petitioner vide its letter dated 22.12.2015 provided a performance bank guarantee for an amount of Rs.12,00,000/- provided by Indian Overseas Bank to the respondent No.1 in compliance of one of the conditions prescribed under the letter dated 01.12.2015.
- g) It is stated that thereafter the petitioner procured the required approvals. no objections and completion reports from various authorities for the purpose of setting up the said solar project power project (i.e., NOC from gram panchayath, approval from Industries and Commerce Department of Telangana, approvals from Electrical Inspectorate for the energized electrical equipment, completion report from respondent No.1 for providing evacuation of power from the plant to the meeting point of the prescribed substation).
- h) It is stated that thereafter the petitioner on 16.10.2017 made an application to the Chief General Manager, RAC & IPC, of TSSPDCL for synchronizing to the petitioner plant 3 MW solar plant to the 33/11 kV Kodakandla SS end under phase 1, out of the total sanctioned capacity of the project of 6 MW.
- i) It is stated that on 10.11.2017 the petitioner addressed a letter to the Chief General Manager (SLDC), of TSTRANSCO providing scheme and drawings of remote terminal unit (RTU) for review/approval along with an approved Single Line Diagram (SLD) and request to provide the petitioner a signal list.
- j) It is stated that though the petitioner has requested the concerned authorities for synchronizing to it's 3 MW solar plant to the 33/11 kV Kodakandla SS vide its letter dated 16.10.2017, the same was pending with the authorities as they were insisting for providing SCADA/DAS system for monitoring and statistical purpose.
- k) It is stated that the petitioner addressed the letters dated 14.11.2017 and 11.12.2017 to respondent No.2 and informed that it has already placed order for supply and installation of SCADA system, obtained a

leased line from Airtel and the said installation will take 60 days time during which it requested respondent No.2 to advise respondent No.1 for synchronization of the plant with the grid on its undertaking that it would not claim for the energy injected in the grid from the date of synchronization to the date of installation of SCADA/DAS system and further informed that the delay in synchronization would adversely affect its plant.

- l) It is stated that in reply to the petitioner's request for synchronization respondent No.2 addressed a letter dated 10.01.2018 wherein they have approved for its proposal and advised respondent No.1 to synchronise the petitioner's plant and addressed the letter to respondent No.1 and marked a copy to the petitioner.
- m) It is stated that during the said period respondent No.1 issued a letter dated 16.01.2018 to the petitioner bank invoking the bank guarantee of Rs.12,00,000/- for alleged default in commissioning of 6 MW solar project. In reply to the letter dated 16.01.2018 it addressed a letter dated 19.01.2018 requesting respondent No.1 to withdraw the invocation in view of the fact that the plant is ready and in view of the approval given by respondent No. 2 for synchronization of the plant to the grid and further requested respondent No.1 to synchronize the petitioner's plant to the grid.
- n) It is stated that the petitioner again on 20.01.2018 addressed a letter to the respondent No. 1 to synchronization of the petitioner's plant to the grid in view of the respondent No.2 approval dated 10.01.2018 to synchronize pending establishment of DAS and SCADA integration.
- o) It is stated that in spite of the letters dated 10.01.2018 and 20.01.2018 to respondent No.1 failed to act on the directions of the respondent No.2 to synchronize the petitioner's power plant to the grid and in an arbitrary and highhanded manner have encashed the bank guarantee given by it to the respondent No. 1 on 24.01.2018.
- p) It is stated that the petitioner completed the DAS and SCADA integration on 05.02.2018 and the same was confirmed by respondent No. 2 vide its letter dated 07.02.2018 and further directed the respondent No. 1 to synchronize petitioner's plant to the grid.

- q) It is stated that the petitioner again addressed a letter dated 07.02.2018 to the respondent No. 1 requesting for synchronization of it's plant to the grid by giving a reference to the respondent No.2 letter dated 07.02.2018 giving clearance for synchronization of 3 MW solar power project to the grid. In spite of the directions from respondent No. 2 to synchronize the petitioner's power plant to the grid and even after completing the DAS and SCADA integration, the respondent No. 1 has failed to synchronize it's plant to the grid.
- r) It is stated that the petitioner also addressed letter dated 07.02.2018 to the Chief Secretary to Government of Telangana State (GoTS) apprising the inaction on the part of the respondent and further the circumstances under which the bank guarantee furnished by the petitioner was encashed by respondent No. 1 and requested the Chief Secretary to GoTS to intervene into the said issue and advice respondent No. 1 to synchronize the plant as it has already invested substantial amount into the project and is suffering financially because of the inactions of the respondent No. 1 in synchronizing it's plant to the grid and approval for long term open access.
- s) It is stated that the petitioner further addressed emails and letters dated 15.02.2018, 05.03.2018, 14.03.2018, 22.03.2018, 07.05.2018, 19.09.2018 and 24.10.2018 to respondent No.2 to intervene in issue pertaining to the synchronization of it's plant by respondent No.1 and for approval of long term open access.
- t) It is stated that pursuant to the request/follow up of the petitioner, respondent No. 1 on 29.05.2018 addressed an email to it to provide the status of the it's plant. It in reply to the said email addressed an email on 29.05.2018 and provided all the information requested by respondent No. 1. It is not out of place to submit that the respondent No. 1 failed to synchronize the petitioner's plant to the grid and approval for long term open access.
- u) It is stated that the petitioner further addressed various letters to the Chief Secretary to GoTS and Special Chief Secretary, Energy Department, GoTS on 08.06.2018, 25.07.2018, 20.08.2018 and 23.10.2018 in spite of which respondent No.1 failed to synchronize it's

plant to the grid till date.

- v) It is stated that the petitioner in its various communications has clearly brought out the fact that the respondent No.1 is solely attributable and liable for the delay caused in synchronizing its plant which is pending till date because of which it had to suffer an amount of about Rs.168.96 lakh because of the non-synchronizing to the petitioner plant to the grid.
- w) It is stated that further the petitioner is entitled for a refund of the bank guarantee amounts encashed by the respondent No.1 and is estopped from taking advantage of its own wrongdoing and encashing its bank guarantee in spite of the fact that on the date of encashment it has already received the required permission and it was the respondent No.1 which failed to synchronize the petitioner's plant to the grid.
- x) It is stated that respondent No.1 being an instrumentality of the State is expected to act fairly and in accordance with settled principle even in commercial contractual matters which is a settled principle of law.
- y) It is stated that in view of the factual matrix placed hereinbefore, the petitioner states that the actions of the respondent No.1 are contrary to its statutory obligations, public interest and contrary to the principles of natural justice and the petitioner having no other recourse is now compelled to file the present petition.
- z) It is stated that the collective action on the part of the respondents in not synchronizing the petitioner's plant to the grid and not grant long term open access permission to the petitioner plant is arbitrary, illegal and contrary to the provisions of Act, 2003. Further, it is stated that the Commission has the jurisdiction to entertain the present petition and grant relief on terms prayed herein under section 86 (1) (f) of the Act, 2003.

2. The petitioner sought the following reliefs in the petition.

“i Direct the Respondents to synchronize the petitioner's 3 MW solar plant situated at PT Venkatapur village, Rayavaram gram panchayath, Jagadevpur mandal of Medak district, Telangana to the 33/11 kV Kodakandla, Sub-station at 33 kV voltage level

existing on 33 kV Pregnapur feeder emanating from 132 / 33 kV Gajwel SS by consequently grant long term open access permission to the petitioner plant; and

- ii Declare that the action of the respondent No.1 as arbitrary, illegal and against the principles of natural justice in encashing bank guarantee furnished by the petitioner by consequently directing the respondent No.1 to repay the bank guarantee No.200 / 320 / 2015 amount that is Rs.12,00,000/- with future interest at the rate of 1.25% PM pendent lite and from the date of order till the date of actual payment.”*

3. The respondent No.1 has filed counter affidavit and stated as below:

- a) It is stated that the solar power developer, the petitioner herein, has proposed to setup 6 MW capacity solar power project on dated 16.09.2015, near 33 / 11 kV Kodakandla SS at Gajwel mandal, Medak district, in the State of Telangana for 3rd party sale.
- b) It is stated that respondent No.1 has issued technical feasibility on 01.12.2015 for grid connectivity at 33 kV side of 33 / 11 kV Kodakandla SS at 33 kV voltage level emanating from 33 kV Pregnapur feeder existing on 132 / 33 kV Gajwel SS in Medak district for establishing 6 MW solar plant under 3rd party sale subject to the condition to furnish bank guarantee with a validity period of two years and two months with one month additional claim period from any nationalized bank for Rs. 2,00,000/- per MW of proposed capacity within 45 days from the date of receipt of this letter or before processing of estimate, whichever is earlier, ensuing the commissioning of the said project within two years period.
- c) It is stated that the developer vide letter 23.12.2015 has furnished the bank guarantee with the details as shown below:

Sl. No.	BG No.	BG issue date	Issuing bank	BG value in Rs.	BG validity	BG claim period
----------------	---------------	----------------------	---------------------	------------------------	--------------------	------------------------

1	200/320/ 2015	22.12.15	Indian Overseas Bank PG Road Branch. Secunderabad	12,00,000/-	21.02.18	21.03.18
---	------------------	----------	--	-------------	----------	----------

- d) It is stated that after receipt of above BG, a letter vide D.No.1281, dated 10.10.2016 was addressed to the petitioner duly informing that the plant has to be commissioned and synchronize with the grid within two years i.e., 21.12.2017 from the date of issue of bank guarantee, else the bank guarantee will be invoked by TSSPDCL under non-compliance.
- e) It is stated that the SE / OP / SDPT vide letter dated 13.10.2017 has furnished work completion report in respect of 3 MW out of 6 MW solar power project for 3rd party sale at P. T. Venkatapur village Jagadevapur mandal in Siddipet circle, without enclosing the CE/SLDC approval regarding installation of SCADA/DAS.
- f) It is stated that as the work completion report is incomplete and the developer was not able to submit work completion report in full shape by 21.12.2017, the bank guarantee amount of Rs. 12,00,000/- was encashed.
- g) It is stated that the developer vide letter dated 19.01.2018 requested to withdraw the notice invoking the BG and expressed his readiness for synchronization of the project to the grid as per approval of CE / SLDC / TSTRANSCO duly enclosing CE (SLDC) / TSTRANSCO letter D. No. 14, dated 10.01.2018. The CE (SLDC) / TSTRANSCO in its letter informed as follows.
- “i) *The generators has further informed that the process for establishment of DAS is already initiated and shall be completed within 60 days and also shall not claim any credit for energy injected in the grid from the date of synchronization to the date of installation of SCADA / DAS system.*
- ii) *And the generator is willing to furnish an undertaking in this regard.*
- iii) *The proposal of the generator is reviewed by the management and approval is accorded.*

- iv) *And it is requested to take an undertaking from the generator not to claim any credit for energy injected in the grid till DAS / SCADA is established and permit for synchronization duly ensuring all the statutory requirements are met as per the solar guidelines.”*
- h) It is stated that as the petitioner is unable to synchronize the proposed 6 MW solar power plant within specified time i.e., by 21.12.2017 the bank guarantee has been encashed, whereas the TSSLDC approval for synchronization with a pending integration of SCADA/DAS is received after the expiry of the period of synchronization i.e., on dated 10.01.2018. The integration of SCADA was done on 05.02.2018.
- i) It is stated that the allegation raised by the petitioner to declare the action of respondent No. 1 as arbitrary, illegal, contrary to the public and principles of natural justice in denying the synchronization of the petitioners plant to the grid is baseless in view of stipulation of categorical condition in technical feasibility letter that the plant shall be commissioned and synchronized with the grid within two years i.e., by dated 21.12.2017 from the date of issue of the bank guarantee dated 22.12.2015, else the bank guarantee will be invoked by TSSPDCL for non-compliance of the condition. The petitioner having failed to fulfil the above condition/requirement is not entitled to seek the relief as prayed for in this petition.
- j) It is stated that all the allegations made by the petitioner are not specifically dealt with are denied.
- k) It is stated that in the light of the aforesaid facts and circumstances, it is prayed the Commission to dismiss the petition.

4. The petitioner has filed rejoinder to the counter affidavit filed by the respondents and the averments of it are as below:

- a) The petitioner stated that it is the contention respondent No.1 that the petitioner's work completion report in respect of the 3 MW out of 6 MW solar power project was not complete and therefore the petitioner's bank guarantee was encashed. It is stated that the respondent has conveniently not complied with the letter dated 10.01.2018 addressed

to respondent No. 1 by respondent No. 2 approving the request by the petitioner dated 11.12.2017 explaining the delay which was beyond the control of the petitioner.

- b) It is stated that the respondent No.1 after receiving the letter dated 10.01.2018 have issued the letter dated 16.01.2018 invoking the bank guarantee of the petitioner and the petitioner vide reply dated 19.01.2018 has once again brought to the notice of the respondent No. 1 that the respondent No. 2 has approved for synchronisation of the project. The respondent in spite of the same has encashed the bank guarantee of the petitioner.

Sl. No.	Date	Particulars
1.	10.06.2015	Govt. of TS announced the TS Solar Power Policy, 2015 with effect from 01.06.2015 vide Letter No.645 / Budget. A2 / 2015-1
2.	16.09.2015	The petitioner company has submitted an application to respondent No. 1 for issuing technical feasibility to Set up 6 MW solar power project to be connected to 33 / 11 kV Kodakandla substation at Gajwel mandal, Medak district, Telangana.
3.	01.12.2015	The respondent No. 1 informed the petitioner that proposed plant is feasible basing on report by the SE/OP/Medak.
4.	22.12.2015	The petitioner in compliance of the conditions issued performance bank guarantees for a sum of Rs.12,00,000/- vide letter dated 01.12.2015.
5.	10.11.2017	Petitioner addressed a letter to the chief general manager (SLDC), of TSTRANSCO" providing scheme and drawings of remote terminal unit (RTU) for Review and approval along with an approved single line diagram and request to provide the Petitioner a single list.
6.	10.01.2018	Letter issued by the TSTRANSCO to synchronise the petitioner's plant and addressed the letter to TSSPDCL.

Sl. No.	Date	Particulars
7.	16.01.2018	TSSPDCL issued a letter to petitioner bank invoking the bank guarantee of Rs. 12,00,000/- for alleged default in commissioning of 6 MW solar project.
8.	19.01.2018	The petitioner in reply to letter dated 16.01.2018 addressed a letter dated 19.01.2018 requesting TSSPDCL to withdraw the invocation in view of the fact that the plant is ready.

- c) It is stated that the respondent No. 1 in its counter affidavit dated 24.02.2021 has not stated any reason as to why the respondents have not synchronised the petitioner's plant till date.
- d) It is stated that, in view of the factual matrix placed hereinbefore, the petitioner states that the actions of the respondent No. 1 are contrary to its statutory obligations, public interest and contrary to the principals of natural justice.
- e) It is stated that the action respondent No. 1 in not synchronising the petitioner's plant to the grid and not grant long-term open access permission to the Petitioner plant is arbitrary, illegal and contrary to the provisions of the Act, 2003.
- f) In view of the above the above stated facts and circumstances, the petitioner prayed the Commission to allow the present petition.

5. The Commission has heard the counsel for the petitioner and the counsel for the respondent at first instance and subsequently the representative of the respondents in the matter on the dates mentioned in the preamble to this order. It has perused the material available on record. The submissions made on the relevant days of hearing are briefly extracted below:

Record of proceedings dated 25.01.2020:

"... .. The counsel for the petitioner stated that the petition is for directions to synchronize the project and allow open access. The standing counsel for the respondents sought time for filing counter affidavit. Accordingly the matter is

adjourned.”

Record of proceedings dated 22.02.2020:

“... .. The counsel for the respondent sought further time for filing counter affidavit. The advocate representing the petitioner opposed the same. However, as the issue relates to the synchronization of the project for open access, the matter is adjourned.”

Record of proceedings dated 18.02.2021:

“... .. The counsel for the petitioner stated that the counter affidavit in the matter has not been filed as yet, as the matter involves synchronization and open access. The representative of the respondents has sought time for filing counter affidavit for three weeks. Accordingly, the matter is adjourned. The respondents shall file counter affidavit on or before 08.03.2021 duly serving the same to the counter for petitioner either through email or in physical form. The petitioner may file rejoinder, if any on or before the date of hearing duly serving the same to the respondents through email or in physical form.”

Record of proceedings dated 15.03.2021:

“... .. The counsel for the petitioner sought time stating that he would file the rejoinder to the counter affidavit today itself and sought short adjournment. The representative of the respondents stated that a copy of the same may be served on them. Accordingly acceding to the request of the counsel for petitioner, the matter is adjourned.”

Record of proceedings dated 22.03.2021:

“... .. The counsel for the petitioner stated that the counsel for the petitioner narrated the facts of the case and sought relief as prayed for. The representative of the respondents stated that the petitioner was ready only with 3 MW plant and not 6 MW in term of the PPA. Therefore, the licensees have invoked the bank guarantee in the year 2018. Before invoking the bank guarantee, the TRANSCO and DISCOM had made correspondence in the matter. But the petitioner is not forthcoming with regard to the total capacity. The petitioner failed to comply with the requirements of the PPA, therefore, the licensee had no option but to invoke the bank guarantee. The representative of the respondents sought to explain the action taken by the respondents by quoting extensively from the counter affidavit. At this stage, the counsel for the petitioner sought further time to clarify the factual position

in the matter. Accordingly, the matter is adjourned.”

Record of proceedings dated 09.06.2021:

“... .. The counsel for the petitioner sought further time make submissions in the matter. The representative of the respondent has no objection. Accordingly, the matter is adjourned.”

Record of proceedings dated 28.06.2021:

“... .. The counsel for the petitioner sought further time to make submissions in the matter. Accordingly, the matter is adjourned finally.”

Record of proceedings dated 07.07.2021:

“... .. The advocate representing the counsel for petitioner sought further adjournment of the matter, due to preoccupation of the counsel for petitioner in another court. The Commission pointed out that the matter was adjourned on the understanding that it will be heard finally. However, in view of the request made by the advocate representing the counsel for the petitioner, the matter is adjourned. The Commission made it clear that no further adjournment for any reason will be considered.”

Record of proceedings dated 29.07.2021:

“... .. The counsel for the petitioner stated that the petitioner is seeking synchronization of the project. There was delay in completing the project and as such, the DISCOM encashed the performance bank guarantee. The petitioner was informed by the banker about the encashment of bank guarantee. The project had been established pursuant to the policy of the Government of Telangana on solar generation. The plant was ready since 2019, even now, though request had been made for synchronization, no action is initiated by the DISCOM. On the other hand, the representative of the respondent stated that the project was not completed in time, hence the bank guarantee has been encashed. The petitioner also did not make an application to the licensee for synchronization of the project after its completion. However, the counsel for petitioner stated that the request had been made to the licensee for synchronization of the project, soon after the petitioner was ready for generation of power from the plant.”

6. The issue that arises for consideration in this petition is that -
'Whether the petitioner is entitled to the reliefs as claimed by it?'

7. The Electricity Act, 2003 has delicensed generation of electricity, encourages private participation in the interest of overall growth of electricity industry and while placing other connected activities – transmission, trading and distribution – under regulatory control, assures non-discriminatory open access.

8. The present Petition has been filed under sections 86(1)(f)&(e) and 42 of the Act, 2003, which are reproduced hereunder:

“Section 86. (Functions of State Commission): --- (1) *The State Commission shall discharge the following functions, namely:-*

... ..

(e) *promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;*

(f) *adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;*

... ..”

“Section 42. (Duties of distribution Licensee and open access): --- (1) *It shall be the duty of a distribution licensee to develop and maintain an efficient co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act.*

(2) *The State Commission shall introduce open access in such phases and subject to such conditions, (including the cross subsidies, and other operational constraints) as may be specified within one year of the appointed date by it and in specifying the extent of open access in successive phases and in determining the charges for wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints:*

... ..”

9. Section 86 (1) (e) of the Act, 2003 gives a thrust to the promotion of generation of electricity from renewable sources of energy which can be achieved

only by the sustained efforts of all the stakeholders. Section 86 (1) (f) refers to adjudication of disputes between the licensees and generating companies. The Petitioner in the present case is seeking adjudication under section 86 (1) (f). The Commission is in agreement with the contention of the petitioner that the Commission has the jurisdiction to entertain the petition under section 86(1)(f) of the Electricity Act, 2003.

10. The Government of Telangana State (GoTS) has brought into force the Solar Policy 2015 with the intent of promotion of solar power generation in Telangana State. As a sequel to the Policy, the implementing agencies, which include the Respondents, have collectively formulated an operational mechanism for the interested developers to set up solar power plants in the State under the Policy. The case of the petitioner is on the purported acts of omission and commission of Respondent No.1 (TSSPDCL) in not synchronising its 3 MW solar power plant and encashing its bank guarantee.

11. The undisputed facts of the case are as under:

- i. On 16.09.2015, the Petitioner had submitted an application to TSSPDCL (Respondent No.1) for grant of connectivity for Solar Power Project for third party sale i.e., for technical feasibility to set up 6 MW solar power project at PT Venkatapur (V), Jagadevpur (M) to be connected at 33 kV level to 33/11 kV Kodakandla substation at Gajwel Mandal of Medak District.
- ii. TSSPDCL had confirmed technical feasibility vide letter dated 01.12.2015 for grid connectivity at 33 kV level for the aforesaid project subject to certain conditions. The following are the few of the conditions referred in the technical feasibility:
 - a) That petitioner to furnish Bank Guarantee (BG) for the validity period of Two years and two months with one-month additional claim period from any nationalized bank for Rs. 2,00,000/- per MW of proposed capacity within 45 days, ensuing the commissioning of the said project within two years period;
 - b) That petitioner should provide communication system i.e.,

SCADA / DAS to transfer the Real Time Data to the SLDC/ TSTRANSCO;

- iii. In compliance to the stipulated conditions in the letter of confirmation of technical feasibility, the Petitioner furnished the BG dated 22.12.2015 for an amount of Rs. 12,00,000/- for 6 MW. Accordingly, the Petitioner was to commission the project by 21.12.2017 i.e., Scheduled Date of Commissioning within two (2) years from the date of BG.
- iv. As on the scheduled date of commissioning i.e., 21.12.2017, only part of the capacity i.e., 3 MW (out of 6 MW) has been set up by the Petitioner and also the SCADA/DAS was not in place.
- v. TSSPDCL had issued a letter to the petitioner's bank invoking the bank guarantee of Rs.12,00,000/- for alleged default in commissioning of 6 MW solar project within the scheduled date of commissioning i.e., 21.12.2017.
- vi. TSSLDC vide its letter dated 10.01.2018 had permitted for synchronization of the project pending integration of SCADA/DAS duly ensuring all the statutory requirement are met as per the Solar Guidelines and upon taking an undertaking from the petitioner not to claim any credit for energy injected into the grid till DAS / SCADA is established.
- vii. Citing this letter, the Petitioner vide its letter dated 19.01.2018 had expressed readiness for synchronisation of the project and also requested to withdraw the notice invoking the BG.
- viii. With no further action taken by the TSSPDCL, the project had not been synchronised / commissioned till date. Whereas, the integration of SCADA / DAS was done on 05.02.2018.

12. The standing position is that the Petitioner had setup 3 MW capacity (out of 6 MW) and its integration of SCADA / DAS was completed on 05.02.2018. Section 86 (1) (e) of the Act, 2003 mandates promotion of generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person. In fulfilment of this mandate, the Commission deems it fit to consider the case of Petitioner as a special consideration

with respect to synchronization of the Petitioner's Solar Power Project. Therefore, Commission directs the Respondent No.1 to facilitate synchronisation of the Petitioner's project of 3 MW capacity and complete the same within 30 days of this Order.

13. Subsequently, the Petitioner is at liberty to apply for 3rd party open access in accordance with the Terms and Conditions of Open Access Regulation, 2005 (Regulation No.2 of 2005). The Respondents are directed to facilitate grant of open access to the Petitioner in compliance to the provisions of the said Regulation.

14. As regards other relief sought by the petitioner, as the conditions stipulated in the confirmation of the technical feasibility had not been complied in full by the petitioner as on the scheduled date of commissioning, the Commission upholds the act of Respondent No.1 in encashing the petitioner's BG.

15. In view of the above and the reasons explained in the foregoing paragraphs, the petition is partly allowed to that extent, but in the circumstances, no costs.

This order is corrected and signed on this the 12th day of November, 2021.

Sd/- (BANDARU KRISHNAIAH) MEMBER	Sd/- (M.D.MANO HAR RAJU) MEMBER	Sd/- (T.SRIRANGA RAO) CHAIRMAN
---	--	---

//CERTIFIED COPY//