



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

O. P. No. 54 of 2021

Dated 18.04.2022

Present

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

Between:

M/s. Dr. Reddy's Laboratories Limited,
Regd. Office: 8-1-337, Road No.3,
Banjara Hills, Hyderabad – 500 034.

Unit: (S.C.No.MCL-713)
FTo-2, Bachupally Village,
Qutubullapur Mandal, Rangareddy District,
Hyderabad– 500 090.

... Petitioner.

AND

1. Chief Engineer, TSTransco,
State Load Dispatch Centre,
Vidyut Soudha, Khairatabad, Hyderabad – 500 082.

2. Sothern Power Distribution Company of Telangana Limited,
H.No.6-1-50, 5th Floor, Mint Compound,
Hyderabad – 500 063.

... Respondents.

The petition came up for hearing on 20.12.2021 and 03.01.2022. Sri Challa Gunaranjan, Advocate for petitioner and Sri Mohammad Bande Ali, Law Attaché for respondent No.2 has appeared 20.12.2021 and 03.01.2022 and Sri Y.Rama Rao, Advocate for respondent No.1 has appeared on 03.01.2022. The proceedings of the matter have been conducted on 20.12.2021 and 03.01.2022 through video conference, having been heard and having stood over for consideration to this day, the Commission passed the following:

ORDER

M/s. Dr. Reddy's Laboratories Limited (petitioner) has filed a petition under section 142 of the Electricity Act, 2003 (Act, 2003) read with clause 2 of TSERC (Conduct of Business) Regulation, 2015, seeking to punish the respondent Nos. 1 and 2 for not complying with the orders / directions issued in the order dated 18.02.2021 in O. P. No. 25 of 2020 passed by the Commission. The averments of the petitioner are as below;

- a. It is stated that the petitioner is a company incorporated under the provisions of the Companies Act, 1956, *inter alia* is engaged in the business of manufacture of Active Pharmaceuticals Ingredients (API) which are used by Formulation (FTO) projects and which requires continuous and uninterrupted power supply. The petitioner company has set-up one of its units at Rangareddy District and has been drawing power under the HT-I category at 33 kV with H. T. S. C. No. MCL-213 with a CMD of 5.25 MVA.
- b. It is stated that the respondent No.1 is the State Load Dispatch Centre (SLDC) is established in pursuance of section 31 of the Act. The respondent No. 2 is the distribution licensee in the area where the petitioner's unit is located.
- c. It is stated that the petitioner has made various applications in FY 2020-21 for obtaining short-term open access (STOA) to the 1st respondent under the Terms and Conditions of Open Access Regulation, 2005, being Regulation No. 2 of 2005 (OA Regulation), as adopted by the Commission vide Regulation No. 1 of 2014. However, no response to the STOA applications of the petitioner was received from the 1st respondent.
- d. It is stated that having no other remedy, the petitioner filed O. P. No. 25 of 2020 before the Commission seeking directions to the 1st respondent to forthwith approve the STOA application Nos.202006274090 and 202006262531 dated 27.06.2020 and 26.06.2020 respectively submitted by the petitioner, and STOA applications for further periods.
- e. It is stated that the petitioner has relied on clause 5.2 of the OA regulation which prescribes that the 1st respondent is the nodal agency for the STOA which is to receive and process the applications and

grant No Objection Certificate (NOC) after consulting the concerned transmission or the distribution licensees whose networks would be used for such transactions. The petitioner also relied on clause 8.2 of the OA regulation, which mandates that the licensees make all reasonable attempts to ensure that operational constraints in the transmission/ distribution systems are removed as per the phasing plan set out in the said OA regulation so that no eligible consumer is denied open access on the grounds of operational constraints. The petitioner also relied on clause 9.3.2 which states that in case STOA with transactions need to be accommodated through corridors which have insufficient spare capacity, the 1st respondent is to invite bids with floor price equal to the uncongested price for the short term users.

- f. It is stated that TSTransco had filed its counter affidavit stating that there were no constraints in the transmission system and that the 1st respondent had to obtain technical clearance from the 2nd respondent before approving the STOA application.
- g. It is stated that the 2nd respondent had filed its counter affidavit stating that it was in the process of verification of technical feasibility and due to network constraints, the STOA applications were not approved. It was averred that the network constraint is attributable to the instructions of the Government, that is the Telangana State being provided with 24 hrs power supply to all the services including agricultural services from January, 2018 and that the 2nd respondent had to make necessary arrangements for adequate power procurement from various sources and as a result of which the network became completely loaded. It was also stated that the 2nd respondent was according approval for a quantum of 700-800 MW in open access only.
- h. It is stated that after hearing all the parties, this Commission was pleased to dispose of O. P. No. 25 of 2020 vide order dated 18.02.2021 and had made various observations and issued directions to the respondents as extracted hereunder:

"15. Since the petitioner has been availing STOA in the past also, obviously the facilities at sl. no. (i) and (iii) were existing. Regarding sl. no. (ii) the transmission licensee submitted that

there is no congestion in the transmission system whereas respondent No.3 could not demonstrate any congestion in their network. In fact, the STOA sought by the petitioner was well within its contracted demand with the distribution licensee i.e., respondent No. 3, and as such demand for STOA power sought by the petitioner could not have overloaded the distribution network.

16. The respondent No. 3 strenuously contended in its submissions both written and oral that there is already system constraint existing insofar as serving the petitioner is concerned and this is happening due to policy of the Government to serve all the categories of consumers 24x7 with quality power supply. No submission or evidence rebutting this situation is noticed from the pleadings or submissions of the respondent No.3. It is also noticed from the submissions that the respondent No. 3 placed on record the macro situation of allowing STOA and difficulties faced by it but did not elaborate insofar as the reasons attributed in the case of the petitioner.

17. It is observed that relevant facts on the system dynamics have not been analysed or recorded by the respondent No.1 which was mandatory for denying the STOA permission to the petitioner and by just mentioning in the letter that the respondent No. 3 as not accorded consent cannot be considered as justifiable reason for such denial. In the present case, the reasons stated for denying the STOA to the petitioner for the applied months was neither right nor in accordance with the prevailing Regulations. We agree that the open access should be provided subject to operational constraints but the specific reason for such denial ought to be given as per the OA Regulation.

... ..

20. Owing to the above reasons and observations, this petition should succeed and is accordingly required to be allowed. However, as the period for STOA purchase has already

expired insofar as the specific prayer is concerned, the same is being disposed of as no further action is required. But, it does not mean that the respondents had acted properly in the matter, as they failed to comply with the provisions of the Act and Regulations thereof.

21. The present petition stands disposed of; directing the respondents to ensure compliance of the Act and Regulations thereof subject to the observations made above."

- h. It is stated that after receiving the order dated 18.02.2021 passed by this Commission, the petitioner made three STOA applications dated 31.03.2021, 04.05.2021 and 28.05.2021 for the months of Apr'21, May'21 and Jun'21.
- i. It is stated that however, the 1st respondent rejected all three applications on the ground that the 2nd respondent had informed that was non-availability of distribution corridor. Such action of the respondents is in stark and clear violation of the directions issued by this Commission and that till date the respondent(s) had not made any efforts in complying with the directions of order dated 18.02.2021 passed by this Commission in O. P. No. 25 of 2020. It is further stated that having no other alternative the petitioner is constrained to approach this Commission with this present petition seeking to punish the respondents for noncompliance of the said directions/order passed by this Commission.

2. The petitioner has prayed the following relief in the petition.

"To punish respondents 1 and 2 for not complying the orders / directions issued in order dated 18.02.2021 in O. P. No. 25 of 2020 passed by this Commission."

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

- a. It is stated that the petitioner with H. T. S. C. No. MCL-713 had entered into an HT agreement with CMD of 5.25 MVA,
- b. It is stated that as per section 31 of Act, 2003, the SLDC shall be the apex body to ensure integrated operation of the power system in a

State and responsible for carrying out real time operations for grid control and despatch of electricity within the State through secure and economic operation of the State grid. Accordingly, SLDC issues 'No-Objection certificate' to the petitioner, only after obtaining Technical Clearance from TSSPDCL and without obtaining the said Technical Clearance from DISCOM, TSSLDC cannot issue NOC, as per the clause No. 5.2 of Regulation No.2 of 2005 (Adopted by TSERC Regulation No.1 of 2014).

- c. It is stated that the petitioner had submitted various inter-State STOA application to purchase through power exchange in FY 2020-21 and the same got rejected by the TSSPDCL, then the petitioner filed O. P. No. 25 of 2020 before the Commission. Being TSSLDC as a respondent counter affidavit was filed before the Commission. It is stated that the Commission disposed the petition and issued an order on 18.02.2021. In the order, the Commission directed the respondents i.e., TSSLDC, TSSPDCL for coordination among themselves for processing the open access applications within the stipulated time lines in terms of OA regulation. The respondents complied with the orders for subsequent month applications. Therefore, there was no violation of the Commission orders by the respondents.
- d. It is stated that the petitioner has submitted an inter-State STOA application under collective transaction to purchase 3.85 MW power in power exchange for the months of Apr'21, May'21, and Jun'21 through online in web portal. It is stated that the petitioner intends to purchase open access power from power exchange as the transaction is the inter-State transaction. The Central Electricity Regulatory Commission (Open Access in inter-State transmission) Regulations 2008 are applicable.
- e. When a state utility or an intra-State entity proposes to participate in trading through power exchange(s), it shall obtain 'No Objection' or 'Prior Standing Clearance" from the concerned SLDC. As per the Inter-State STOA Regulations 2008, after receiving the application SLDC shall verify the availability of surplus transmission capacity in the State

network. For the said purpose the SLDC shall communicate with the DISCOM about the availability of the distribution / transmission network and based on the clearance given by the DISCOM the 'No Objection' or 'Prior Standing Clearance' shall be communicated in writing to the applicant.

- f. As per the clause 5.2 of Regulation No. 2 of 2005, for STOA transactions, the nodal agency for receiving and processing applications shall be the SLDC. The SLDC shall, however, allow short term open access transactions only after consulting the concerned transmission and / or distribution licensee(s) whose network(s) would be used for such transactions.”
- g. It is stated that here the petitioner, H. T. S. C. No. MCL-713 connected at 33 kV Feeder voltage of 132 kV Bollaram sub-station, which falls under the jurisdiction of TSSPDCL and technical clearance shall be obtained from the concerned DISCOM i.e., TSSPDCL.
- g. It is stated that as per the above clauses TSSPDCL has to furnish clearance for the processing of the applications which were submitted by petitioner. It is stated that the TSSPDCL has rejected the open access applications for the months of Apr'21, May'21 and Jun'21 due to non-availability of distribution corridor. Accordingly, TSSLDCL has rejected the applications due to non-availability of distribution corridor and the same was communicated to the petitioner through letters dated 01.04.2021, 05.05.2021, 29.05.2021 respectively within time frame limits of the regulation.
- h. It is stated that these answering respondents have been scrupulously following the provisions of the Act, 2003, rules and regulations issued from time to time and the orders of the Commission and have been acting in accordance with law. Hence, there is no inaction on the part of the answering respondent.
- i. In the light of aforesaid facts and circumstances, it is prayed that the Commission to dismiss the petition by keeping in view of rejection of application by TSSPDCL for the months of Apr'21, May'21 and Jun'21.

4. The 2nd respondent has filed a counter affidavit and stated as below:

- a. It is stated that the Commission by order dated 18.02.2021 disposed of O. P. No. 25 of 2020. The Commission though observed that the petition should succeed and is accordingly required to be allowed, but the Commission did not grant the relief sought by the petitioner. The relevant lines of para 20 are extracted below:
- "Owing to the above reasons and observations, this petition should succeed and is accordingly required to be allowed. However as the period of STOA purchase has already expired insofar as the specific prayer is concerned, the same is being disposed of as no further action is required."
- b. It is stated that the applications dated 31.03.2021, 04.05.2021 and 28.05.2021 filed by the petitioner for the months of Apr'21, May'21 and Jun'21 were disposed of by this respondent within the stipulated time.
- c. It is stated that the contention of the petitioner that rejection of the said applications on the ground of non-availability of distribution corridor is clear violation of the direction issued by the Commission is absolutely false and baseless.
- d. It is stated that the further contention of the petitioner that the respondent had not made any efforts in complying with the directions of order dated 18.02.2021 in O. P. No. 25 of 2020 is also false and baseless for the reason that there is no order in the said O.P., which requires compliance by this respondent.
- e. It is stated that the respondent has been disposing of the applications filed by the petitioner well within the stipulated timeframe. It is stated that the respondent has not violated the order of the Commission.
- f. It is stated that the respondent prayed the Commission to dismiss the petition.

5. The Commission has heard the submission of the counsel for the petitioner and the representative of the respondent. It has perused the material available on record along with the connected record out of which the present proceedings have emanated. The submissions as made and recorded are extracted herein below:

Record of proceedings dated 20.12.2021:

“... The counsel for petitioner stated that he needs further time to file rejoinder in the matter. Accordingly, the matter may be adjourned to any other date. The Commission directs the counsel for petitioner that the rejoinder shall invariably be filed by the next date of hearing duly serving the same to the respondents through email or in physical form ...”

Record of proceedings dated 03.01.2022:

“... The counsel for petitioner stated that the issue raised in the present petition is with regard to allowing open access on short term basis on which a finding had been rendered by this Commission in the case of the petitioner itself. He has readout the relevant portions of the earlier order passed by the Commission in O. P. No. 25 of 2020 and also explained the subsequent events that have happened in respect of short term open access sought by the petitioner through various letters and communications made between the parties. He also explained the facts arising in the present case and sought action against the respondents. It is stated that the licensee failed to give effect to the observations made by the Commission earlier in the order dated 18.02.2021 in O. P. No. 25 of 2020. The licensee resorted to replying the applications made by the petitioner for short term open access without reasons. Therefore, the petitioner is before the Commission for taking action against the licensee.

The representative of the respondents reiterated the contents of the counter affidavits. The Commission sought to know his reply on the observations made earlier by the Commission in the earlier order dated 18.02.2021. The representative of the licensee was not forthcoming on any of the aspects and left the matter to be dealt by the SLDC. The counsel for respondent No.1, while reiterating the contents of the counter affidavit of the respondent No.1, stated that his actions are dependent on the information furnished by the respondent No.2. It is also his case that section 42 of the Act, 2003 requires wider interpretation in the given circumstances in appropriate case.

The counsel for petitioner stated that the open access sought for is well within the contracted demand availed from the licensee, yet the licensee is not inclined to grant open access. The Commission may consider the difficulty of

the petitioner. Having heard the submissions of the parties, the matter is reserved for orders.”

6. The contention of the petitioner is that the respondents 1 and 2 are liable for punishment under Section 142 of the Electricity Act, 2003 for not complying the orders/ directions issued in order dated 18.02.2021 in O. P. No. 25 of 2020 by this Commission.

7. Admittedly, the petitioner submitted Inter-State Short Term Open Access applications to the 1st respondent to purchase power under collective transactions in power exchange for the months of Apr'21, May'21 and Jun'21.

8. For such Inter-State transactions, the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations 2008 as amended from time to time is applicable and the nodal agency shall be the National Load Despatch Centre (NLDC). Provided that in respect of a consumer connected to a distribution system seeking inter-State Short-Term Open Access, the concurrence of State Load Despatch Centre shall be obtained in advance and submitted along with the application to the nodal agency. Further, the SLDC, before giving its consent as required under the CERC Regulations, shall obtain the consent of the Distribution licensee concerned. The Regulation 8 (3) (c) says that while processing the application for 'concurrence' or 'no objection' or 'prior standing clearance', as the case may be, the SLDC shall verify the existence of necessary infrastructure, the availability of surplus transmission capacity in the State network and submission of affidavit as required under provisos to sub-clause (a) of clause (3) of regulation 8 have been established. The Regulation 8 (4) says that whenever the SLDC decides not to give 'concurrence' or 'no objection' or 'standing clearance' as the case may be, such refusal shall be communicated to the applicant within the timeframe along with reasons for such refusal.

9. Further, as per clause 5.2 of OA Regulation, the Nodal Agency for receiving and processing the applications for STOA transactions is State Load dispatch Centre (SLDC) i.e. 1st respondent herein and the SLDC shall, however, allow STOA transactions only after consulting the concerned transmission and/or distribution licensee(s) whose network(s) would be used for such transactions. Since the H. T. Service Connection of the petitioner falls under the jurisdiction of 2nd respondent

such technical clearance and feasibility has to be submitted by 2nd respondent to 1st respondent and the 1st respondent in turn has to communicate the same to the petitioner.

10. According to the respondents the open access applications of the petitioner for the months of Apr'21, May'21 and Jun'21 were rejected for the reason of non availability of Distribution Corridor and communication of the same to the petitioner was made within the timeframe of the Central Electricity Regulatory Commission (Open Access in inter-State Transmission) Regulations 2008.

11. In fact, the Commission, at the end of paragraph 17 of the order dated 18.02.2021 in O. P. No. 25 of 2020 held that the open access should be provided by the respondents subject to operational constraints and when open access is denied specific reasons should be given as per the Terms and Conditions of Open Access Regulation, 2005, being Regulation No. 2 of 2005 (OA Regulation), as adopted by the Commission vide Regulation No. 1 of 2014.

12. The rejection of the open access applications of the petitioner for the months Apr'21, May'21 and Jun'21 was made by the respondents on account of operational constraints that is for want of availability of Distribution Corridor. When such rejections were made with reasoning then it cannot be said that there is stark and clear violation of the directions issued by the Commission in O. P. No. 25 of 2020 as alleged by the petitioner in the petition. Further, the rejection of the applications were made by the respondents in compliance to the observation made by the Commission at the end of the paragraph of 17 of the Order dated 18.02.2021 in O. P. No. 25 of 2020.

13. For the above stated reasons, the Commission comes to a conclusion that the respondents have not violated, disobeyed or failed to comply the Order in O.P.No.25 of 2020 dated 18.02.2021.

14. Accordingly, this petition is dismissed without costs.

This order is corrected and signed on this the 18th day of April, 2022.

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