



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

**R. P. (SR) No. 102 of 2023**

**in**

**O. P. No. 25 of 2022**

**Dated 16.11.2023**

**Present**

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

Between:

Southern Power Distribution Company of Telangana Limited,  
Corporate Office, # 6-1-50, Mint Compound,  
Hyderabad 500 063.

... Review Petitioner/Respondent No.3

**AND**

1. M/s The Hyderabad Institute of Oncology Private Limited,  
Regd. Office at # 8-2-293/82/L/276 A, MLA Colony,  
Road No.2, Hyderabad 500 034. ... Respondent No.1/Petitioner
2. Transmission Corporation of Telangana Limited,  
Vidyut Soudha Building, Khairtabad Road,  
Near Eenadu, Hyderabad 500 082.
3. Northern Power Distribution Company of Telangana Limited,  
Corporate Office, # 2-5-31 / 2, Vidyut Bhavan,  
Nakkalagutta, Hanamkonda, Warangal 500 001.  
... Respondent No.2 and 3/Respondent No.1 and 2

The review petition came up for hearing on 15.11.2023 in the presence of Sri. Mohammad Bande Ali, Law Attaché for review petitioner, having been heard and having stood over for consideration to this day, the Commission passed the following:

**ORDER**

M/s. Southern Power Distribution Company of Telangana Limited (TSSPDCL) (review petitioner / respondent No. 1 in the original petition) has filed a review petition

under Section 94 (1) (f) of the Electricity Act, 2003 (Act, 2003) read with clause 32 of Conduct of Business Regulation, 2015 seeking review of order dated 31.07.2023 passed in O. P. No. 25 of 2022 filed by M/s The Hyderabad Institute of Oncology Private Limited (respondent No. 1 / original petitioner). The contents of the review petition are extracted below:

a. It is stated that M/s The Hyderabad Institute of Oncology Private Limited has filed petition vide O. P. No. 25 of 2022 before the Commission with a prayer:

- “i. To direct respondent No.1 and 2 to make payment of Rs.3,68,38,980/- for 40,93,220 units supplied to the respondent No.1 and 2 from February,2018 to November,2021 at a price of Rs.9/- per unit or as may be determined by this Commission;*
- ii. In the alterative to direct the respondents to adjust 40,93,220 units supplied to respondent No.1 and 2 on a monthly basis against the additional units of electricity to be consumed by the petitioner at its hospital;*
- iii. To pass such other and further as are deemed fit and proper in the facts and circumstances of the case and in the interest of justice.”*

b. It is stated that in this regard, the Commission vide the order dated 25.07.2023 in O. P. No. 25 of 2022 has issued the following directions.

- “34. In view of the foregoing discussion, the petitioner is entitled to be compensated for the energy injected into the grid from the date of synchronization till the date of granting LTOA for captive consumption. Since, the review petitioner had suffered sufficiently with regard to compensation for the units injected into the grid and there is a big-time lag due to various reasons, it may be appropriate to direct the respondent No.3 to pay for the same at the average pooled power purchase cost as determined by the Commission for the relevant year. However, the respondent No.3 can set off the energy so paid for against their renewable power purchase obligation.*
- 35. This order shall be complied within eight weeks from the date of receipt of this order. Accordingly, the petition is disposed of, but in the circumstances, the parties shall bear their own costs.”*

c. It is stated that in the facts and circumstances of the case, the Commission should not have granted the above relief, for the reason that the Regulation No 1 of 2017 is not applicable since the respondent No. 1 neither had a banking agreement nor an open access agreement as per Regulation No. 1 of 2017 for claiming for the energy injected prior to entering open access agreement. Therefore, order of the Commission dated 25.07.2023 is required to be reviewed on the following grounds:

- i. It is stated that the Commission ignored the fact that the Regulation No. 1 of 2017 is not applicable since the respondent No. 1 neither had a

banking agreement nor an open access agreement as per Regulation No. 1 of 2017 for claiming for the energy injected prior to entering open access agreement.

- ii. It is stated that the Commission has ignored the fact that clause No. 7 of Appendix-3 of Regulation No. 1 of 2017 was silent on the way in which the banked energy is to be settled. Whereas the Commission directed to treat such banked energy as unutilised energy for the purpose of settlement and directed to settle such energy at the rate of average pooled power purchase cost.
- iii. It is stated that the Commission has ignored the fact that 1 MW solar power plant of the respondent No. 1 is located in the jurisdiction of the respondent No. 3 and the energy was injected into the grid at the interconnection point located in the jurisdiction of respondent No. 3.
- iv. It is stated that the Commission failed to take into account the fact that respondent No. 1 has submitted an undertaking immediately at the request of the petitioner for not claiming the energy injected for period from the date of synchronization to the date of LTOA. It is evident from the immediate submission of the undertaking by the respondent No.1 on the request of the petitioner that there is no coercion by the petitioner for submission of the undertaking and the respondent No. 1 has never objected to the request of the petitioner.
- v. It is stated that the Commission ignored the fact that, the developer submitted its open access application on 24.04.2018 with a delay of 3 months from the date of synchronization (24.01.2018) and the review petitioner herein was directed to compensate even for the units injected during the period of delay on the account of the respondent No.1 in submission of the open access application to the nodal agency, respondent No. 2.
- vi. It is stated that the Commission ignored the fact that as per clause 10.6 of APERC (Terms and Conditions of Open Access) Regulation, 2005 Regulation 2 of 2005), (subsequently adopted by the Commission vide Regulation No. 1 of 2014) the nodal agency, respondent No. 2 herein is provided with a timeline of 30 days from the closure of the window period to process any LTOA application. As per the said provision the

application of the respondent No.1 was received on 24.04.2018 and the window closure for the said month was 30.04.2018. The respondent No. 2 as per Regulation No.2 of 2005 is provided with a timeline of 30 days for processing the said open access application filed by the respondent No. 1. Whereas the Commission in its order dated 25.07.2023 directed the review petitioner herein to compensate even for the units injected during this period.

- vii. It is stated that the Commission should have exempted the review petitioner from the liability for compensation of units injected into the grid by the respondent No.1 during the period from 24.01.2018 to 30.05.2018 as the said period constitutes the delay on account of the act of respondent No. 1 in submitting the application for open access and the open access processing time provided to the nodal agency for processing the open access application of the respondent No. 1 as per the Regulation No. 2 of 2005.
- viii. It is stated that the Commission should have appreciated the fact that there a huge delay from the side of the respondent No. 1 in seeking the compensation towards the energy injected and the liability of the petitioner shall be limited as per the relevant provisions of the Limitation Act ,1963. The respondent No. 1 till the date of filing the O. P. No. 25 of 2022 has never sought for payment towards the energy injected into the grid from the date of synchronization. It was only after entering into the LTOA agreement dated 26.11.2021, the respondent No.1 has filed the O. P. No. 25 of 2022 on 20.01.2022 seeking for settlement of energy injected for the period from the date of synchronization to the date of LTOA agreement.
- ix. It is stated that in the circumstances mentioned above, it becomes very much clear that there is mistake apparent on the case of record and hence the order dated 25.07.2023 has to be reviewed.

2. The review petitioner has sought the following reliefs in the review petition:

*“To review the order of the Commission dated 25-07-2023 in O.P.No.25 of 2022 by modifying the liability for payment towards energy injected by the respondent No 1 from the petitioner to respondent No.3 as the plant is located in the jurisdiction of respondent No 3. Further the period for*

*settlement of the energy injected may be modified duly considering the limitation period and the period corresponding to the delay on account of the respondent No.1 in filing the LTOA application and the time period available to the nodal agency for processing the LTOA application filed by the petitioner.”*

3. The Commission has heard the representative of the review petitioner to the review petition and considered the material available to it. The submissions on 15.11.2023 are noticed below, which are extracted for ready reference.

Record of proceedings dated 15.11.2023:

*“... .. The representative of the review petitioner has stated that the Commission had passed orders contrary to the facts available on record. The original petitioner has no case as it has not entered into banking arrangement or open access agreement with the DISCOM. The Commission did not appreciate the applicability of Regulation No.1 of 2017. The Commission had not considered the timelines provided in the open access regulation and allowed compensation beyond the period for which the original petitioner is entitled to the same. Thereby, the order sought to be reviewed by this petition suffice from apparent on the face of the record. As such, the Commission may consider admitting the review petition and undertaking fresh hearing in the matter, in the light of the facts narrated in the review petition. Having heard the submissions of the review petitioner, the matter is reserved for orders.”*

4. The review petitioner sought to raise issues, which are primarily within the knowledge of the review petitioner as on the date of hearing original petition by the Commission on 01.09.2022. The contentions raised by the review petitioner do not constitute any material, which would be discovered after the disposal of the original proceedings. Inasmuch as, the various parameters considered by the Commission are based on the submissions of the parties and nothing exterior is considered by the Commission.

5. The Commission does not find any infirmity in the order passed by it nor it calls for interference by way of review. None of the ingredients of reviewing an order as set out in Order 47 of Civil Procedure Code, 1908 have been satisfied in this case. The review petitioner has not been able to show as to the following aspects for undertaking a review of the order.

- a. Where there is a typographical mistake that has crept in the order;
- b. When there is an arithmetical mistake that has crept in while effecting calculation or otherwise;
- c. When there is a mistake committed by Commission, which is apparent from the material facts available on record and / or in respect of application of law;

- d. When the Commission omitted to take into consideration certain material facts on record and 'law on the subject' and that if on taking into consideration those aspects, there is a possibility of Commission coming to a different conclusion contrary to the findings given;
- e. If the aggrieved party produced new material which he could not produce during the enquiry in spite of his best efforts and had that material or evidence been available, the Commission could have come to a different conclusion;
6. It is noteworthy to state that the principles of review are not satisfied in respect of the contentions raised by the review petitioner, None of the contentions would attract the ingredients of review so as to allow the Commission to revisit the order.
7. In view of the above, the Commission is not inclined to review the order dated 25.07.2023 in O.P.No.25 of 2022 and accordingly the present review petition is dismissed as non-maintainable.

**This order is corrected and signed on this 16<sup>th</sup> day of November, 2023.**

Sd/-  
(BANDARU KRISHNAIAH)  
MEMBER

Sd/-  
(M. D. MANOHAR RAJU)  
MEMBER

Sd/-  
(T. SRIRANGA RAO)  
CHAIRMAN

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