

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No.91/MP/2018

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) and other applicable provisions of the Electricity Act, 2003 seeking adjudication of disputes and differences under the Power Purchase Agreement dated 31.07.2012 as amended on 19.12.2014 and 23.01.2018 in regard to non-payment of tariff and unilateral deduction of the monthly energy bills of the Petitioner by the Respondents.

Petition No.53/MP/2021

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) and other applicable provisions of the Electricity Act, 2003 seeking adjudication of disputes and differences under the Power Purchase Agreement dated 31.7.2012 as amended on 19.12.2014 and 23.1.2018 in regard to non-payment of tariff and unilateral deduction of capacity charges under the Bills of the Petitioner by the Respondents.

Petition No.61/MP/2021

Subject : Petition under Section 79(1)(f) and (k) of the Electricity Act, 2003 for adjudication of disputes arising on account of termination of the Power Purchase Agreement dated 31.7.2012 by the Respondent Nos. 1 and 2.

Petition No.149/MP/2021

Subject : Petition under Section 79(1)(b) read with Section 79(1)(f) and other applicable provisions of the Electricity Act, 2003 seeking adjudication of disputes and differences under the Power Purchase Agreement dated 31.7.2012 as amended on 19.12.2014 and 23.1.2018 in regard to non-payment of tariff and unilateral deduction of capacity charges under the Bills of the Petitioner by the Respondents.

Petitioner : KSK Mahanadi Power Company Limited

Respondents : Southern Power Distribution Company of A.P. Limited & 3 Ors.

Date of Hearing: **20.5.2022**

Coram : Shri I.S. Jha, Member
Shri Arun Goyal, Member
Shri Pravas Kumar Singh, Member

Parties Present: Shri Anand K. Ganesan, Advocate, KMPCL
Ms. Swapna Seshadri, Advocate, KMPCL
Shri S. Vallinayagam, Advocate, AP Discoms & TANGEDCO



Shri Y. Pratap Reddy, AP Discoms
Shri Ardhendumauli Kumar Prasad, Advocate, AP Discoms
Ms. Shreya Srivastava, Advocate, AP Discoms

Record of Proceedings

These Petitions were called out for virtual hearing as the parties to the petitions are common and the questions to be answered in all the above stated petitions are interdependent.

Petition No. 91/MP/2018 and Petition No. 61/MP/2021

2. During the hearing, the learned counsel for the Petitioner submitted that the Respondent AP Discoms had challenged the Commission's order dated 20.7.2021 in Petition No.91/MP/2018 and Order dated 1.5.2021 in Petition No.61/MP/2021 before the Hon'ble High Court of Andhra Pradesh in W.P No. 25904/2021 and W.P. No. 11908/2021. He further submitted that the Hon'ble High Court vide its order dated 17.12.2021 in the said Writ Petitions, has set aside the aforesaid orders of the Commission and remanded the matters for fresh consideration on the issue of jurisdiction of the Commission and pass orders afresh.

3. The learned counsel for the Petitioner pointed out that Petition No.91/MP/2018 relates to adjudication of disputes for non-payment of tariff and unilateral deduction of monthly energy bills of the Petitioner by the Respondents and pleadings are complete in the matter. He also submitted that Petition No.61/MP/2021 pertains to adjudication of disputes arising on account of the termination notice dated 19.12.2020 in respect of PPA dated 31.7.2012 issued by the Respondents. The learned counsel, however, submitted that since the PPA had expired on 31.3.2021, the Petitioner may be permitted to amend the petition, to bring on record consequential reliefs/updated claims. This was accepted by the Commission

4. The learned counsel for the Respondent AP Discoms submitted that the Respondents may be permitted to file its reply to the amended petition to be filed by the Petitioner in Petition No.61/MP/2021. The learned counsel for the Petitioner prayed for grant of time to file its rejoinder to the said reply.

Petition No. 53/MP/2021 and Petition No. 149/MP/2021

5. The learned counsel for the Petitioner submitted that these petitions relate to adjudication of disputes for non-payment of tariff and unilateral deduction of capacity charges under the bills of the Petitioner by the Respondents. He further submitted that since Petition No.149/MP/2021 is listed for 'admission', the same may be admitted and the parties may be permitted to complete pleadings in the matter.

6. The learned counsel for the Respondent AP discoms prayed for grant of two weeks' time to the respondent to file its reply in both the matters. The learned counsel for the Petitioner submitted that it may be granted time to file its rejoinder thereafter, to the said reply.

7. The learned counsel for the Petitioner submitted that since the adjudication of the issues raised in the aforesaid four petitions are common and is based on the PPA dated 31.7.2012 (as amended on 9.12.2014 and 23.1.2018) entered into with the



Respondents, the Commission may club these matters and hear the parties together on the issue of jurisdiction (pursuant to Hon'ble High Court order dated 17.12.2021) and on merits, and accordingly dispose of the same. (*order of Hon'ble SC in Civil Appeal No. 7524 of 2012 (PTC India Ltd. vs GERC & anr was referred to)*)

8. The Commission after hearing the parties, directed as under:

- (a) Petition No.149/MP/2021 is admitted, subject to question of jurisdiction. The Petitioners shall serve copy of this petition on the Respondents, immediately, if not already served. The Respondents shall file their replies, on the issue of 'jurisdiction' as well as on 'merits', in Petition No.149/MP/2021 and Petition No.53 /MP/2021 on or before 20.6.2022, after serving copy to the Petitioner, who may file its rejoinders, by 30.6.2022.
- (b) The Petitioner is permitted to file amended petition (in Petition No.61/MP/2021) on or before 2.6.2022, with advance copy to the Respondents, who shall file its reply to the same on or before 20.6.2022. Rejoinder, if any, by the Petitioner must be filed by 30.6.2022.
- (c) Parties shall ensure that the pleadings are completed within the due dates mentioned above. No extension of time shall be granted for any reason.

9. These Petitions along with IAs shall be listed for hearing in due course on the issue of 'jurisdiction' as well as on 'merits', for which separate notice will be issued to the parties.

By order of the Commission

Sd/-
(B. Sreekumar)
Joint Chief (Law)

