

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 455/MP/2019
along with IA No. 44/2023

Subject : Petition under Section 79 of the Electricity Act, 2003 read with the other applicable provisions of the Electricity Act, 2003 as amended from time to time as regards the unauthorized deductions made by the Respondents from the bills payable to the Petitioner.

Petitioner : Reliance Infrastructure Limited.

Respondents : Central Power Distribution Company of Andhra Pradesh Limited and 4 others.

Petition No. 65/MP/2020
along with IA Nos. 46/2023 & 54/2023

Subject : Petition seeking declaration that HSD is an alternative fuel in terms of Article 1.1.27 of the PPA and refund the unauthorized deductions of Rs. 96,68,92,198/- made by the Respondents from the bills payable to the Petitioner.

Petitioner : Reliance Infrastructure Limited.

Respondents : Central Power Distribution Company of Andhra Pradesh Limited and 3 others.

Petition No. 618/MP/2020

Subject : Petition under Section 79(1)(f) of the Electricity Act, 2003 for ineligibility of availability declarations made by Reliance Infrastructure Limited with alternate fuel (Naphtha/HSD) after 2009; and under Section 128 of the Electricity Act, 2003 for investigation of illegal dismantling of existing Naphtha tanks by the Respondent in 2009.

Petitioner : A.P. Power Coordination Committee and 5 others.

Respondents : Reliance Infrastructure Limited.

Date of Hearing : **22.9.2023**

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



Parties Present : Shri Buddy Ranganadhan, Advocate, RIL
Shri Dushyant Manocha, Advocate, RIL
Shri Hasan Murtaza, Advocate, RIL
Shri Sameer Sharma, Advocate, RIL
Ms. Mrinalini Mishra, Advocate, RIL
Shri Anand Ganesan, Advocate, AP Discoms
Ms. Kriti Soni, Advocate, AP Discoms
Ms. Ashabari Thakur, Advocate, AP Discoms

Record of Proceedings

Petition No. 455/MP/2019 with IA No. 44/2023

Petition No. 65/MP/2020 with IA No. 46/2023 & 54/2023

During the hearing, the learned counsel for the Petitioner, Reliance Infrastructure Limited (RIL) circulated a written note of arguments and submitted that the Petitions, filed by the Petitioner, relate to the deductions made by the Respondent Discoms, towards (i) Deemed generation discount and (ii) Deductions for lesser than normative availability.

IA No. 44/2023

2. As regards the IA pertaining to the deemed generation discount, the learned counsel for the Petitioner submitted the following:

- (a) The Petitioner had made a claim for Rs 12.50 crore in the original petition under this head and had also prayed for an interim relief against future deductions, by the Respondent Discoms, which was not granted.
- (b) During the pendency of the Petition, certain additional deductions were made by the Respondents, thereby resulting in a total claim of Rs 16.92 crore, along with interest. Except for the change in the amount deducted by the Respondents, the cause of action and the nature of the claim, remain the same.

IA No. 46/2023

3. As regards this IA pertaining to deductions for lesser than normative availability, the learned counsel for the Petitioner submitted the following:

- (a) An amount of Rs. 96.67 crore was claimed in the original petition under this head, and had also prayed for an interim relief against future deductions, by the Respondent Discoms, which was not granted.
- (b) During the pendency of the Petition, certain additional amounts were deducted by the Respondents, thereby resulting in a total claim of Rs 355 crore, along with interest. In the rejoinder filed by the Petitioner (to the reply of the Respondents) this amount of Rs 355 crore was claimed, which was not objected to by the Respondents.
- (c) Pursuant to the filing of the additional information/data by the Petitioner (as sought by the Commission), the Respondents have objected to the revision in the claims of the Petitioner.



- (d) Except for the change in the amount deducted by the Respondents, the cause of action and nature of the claim, remain the same.

IA No. 54/2023

- (a) During the pendency of the original petition, before the APERC, the Respondents had deducted an additional amount of Rs 39 crore, from the bills of the Petitioner.
- (b) Though the deduction of the said additional amount formed part of the pleadings in the original petition, inadvertently, the same did not form part of the prayer in the original petition.
- (c) The nature and reason for amendment of the main petition, through this IA is different from the other IAs.

4. Accordingly, the learned counsel for the Petitioner submitted that the amendments sought as above, in the main petition filed before the APERC in 2012, and transferred to this Commission (pursuant to the judgment of the Hon'ble High Court of Telangana & AP), in 2019 may be admitted.

5. The learned counsel for Respondent AP Discoms objected to the submissions of the learned counsel for the Petitioner, and pointed out in detail, that the amendments sought by the Petitioner in 2023, as above, relate to the claims made in 2012, and are barred by limitation. (*judgments of the Hon'ble Supreme Court in Voltas Limited Vs. Rolta India Limited, 2014 (4) SCC 516 and Liife Insurance Corporation of India Vs, Sanjeev Builders Private Limited and anr., 2022 SCC OnLine SC 1128 was relied upon.* He also submitted that the amendments made by the Petitioner do not relate back to the date of filing of the original petition.

6. In response to the above, the learned counsel for the Petitioner clarified that no new claims have been made and/or the nature of the claims is not different. He also clarified that while filing the transferred petitions before this Commission (in 2019 and 2020), the Petitioner had no other option but to verbatim refile the petitions (as in OP), which were originally filed before APERC in 2012.

7. The Commission, after hearing the learned counsel for the parties, observed as under:

- (a) The IAs filed by the Petitioner, as above, are allowed.
- (b) The Petitioner shall file an amended Petition, by **6.11.2023**, after serving copies to the Respondents;
- (c) The issue of limitation is kept open, to be decided based on the submissions of the parties. For this, the parties shall file their 'written submissions' on the issue as to '*whether the revised claims of the Petitioner, would relate back to the date of filing of the original petitions*' on or before **6.11.2023**, after serving copy to the other.



Petition No. 618/MP/2020

8. Based on the consent of the parties, the Commission adjourned the hearing of the Petition. The Commission, however, directed that the Petition will be listed, after compliance with the directions by the parties, as in para 7 above.

9. These Petitions shall be listed for hearing on **22.12.2023**.

By order of the Commission

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

