



TELANGANA ELECTRICITY REGULATORY COMMISSION

‘Vidyut Niyantran Bhavan’, G.T.S. Colony, Kalyan Nagar, Hyderabad 500 045

O. P. No. 59 of 2018

Dated 28.08.2026

Present

Dr. Justice Devaraju Nagarjun, Chairman

Between:

1. Northern Power Distribution Company of Telangana Ltd.,
H. No. 2-5-31 / 2, Corporate Office, Vidyut Bhavan,
Nakkalgutta, Hanamkonda, Warangal – 506 001
 2. Southern Power Distribution Company of Telangana Limited,
H. No. 6-1-50, Mint Compound,
Hyderabad – 500 063
- Petitioners

AND

1. Andhra Pradesh Power Generation Corporation,
Vijayawada, Krishna District, Andhra Pradesh – 520 004.
 2. Andhra Pradesh Power Transmission Corporation Limited,
Vidyut Soudha, Gundala, Eluru Road, Vijayawada,
Krishna District, Andhra Pradesh – 520 004.
 3. Eastern Power Distribution Company of Andhra Pradesh Limited,
Corporate Office, P & T Colony, Seethammadhara,
Visakhapatnam, Andhra Pradesh – 530 013.
 4. Southern Power Distribution Company of Andhra Pradesh Limited,
Tiruchanoor Road, Tirupati,
Andhra Pradesh – 517 503.
- Respondents

Counsel for the Petitioners : Y. Rama Rao, Advocate
Counsel for the Respondents : M. Vidyasagar and P. Shiva Rao, Advocates

ORDER

The petitioners are distribution licensees operating in the State of Telangana and claim to fall within the jurisdiction of this Commission under paragraph 8 of Part C of the Twelfth Schedule to the Andhra Pradesh Reorganisation Act, 2014. They have filed the present petition under Section 64(5), read with Sections 23 and 86(1)(f), of the Electricity Act, 2003, seeking the following reliefs:

- (a) a declaration that the claim made by Respondent No. 1, APGENCO, is unenforceable and that the petitioners are not liable to pay any amount contrary to the Electricity Act, 2003, the Andhra Pradesh Reorganisation Act, 2014, and the applicable Regulations and orders of this Commission;
- (b) a direction to Respondent No. 1 to pay the amounts allegedly due to the petitioners and TSGENCO towards investments made in APPDCL, together with interest at 18% per annum until realisation;
- (c) a direction to Respondent No. 2, APTRANSCO, to release the amount allegedly due to TSTRANSCO, together with interest at 18% per annum until realisation;
- (d) a direction to Respondent No. 1 to refund to TSGENCO the amounts allegedly lying with it towards Telangana's share of pension bonds, excess liabilities discharged in respect of common loans and other items, together with interest at 18% per annum until realisation; and
- (e) a direction to Respondent Nos. 3 and 4, the APDISCOMs, to refund to the petitioners the amounts allegedly lying with them towards inter-corporate

deposits, liabilities discharged in respect of common loans and other items, together with interest at 18% per annum until realisation.

The averments in the petition, in brief, are as follows:

2. Upon bifurcation of the erstwhile State of Andhra Pradesh, disputes arose concerning payments of dues to be paid by Telangana Discoms and Andhra Pradesh Discoms, sharing of employees, sharing of pension funds, sharing of assets and liabilities, among the power utilities of the undivided State and that many of those issues are pending before various Forums/Committees, judicial and quasi-judicial bodies.
3. According to the petitioners, Respondent No. 1 did not schedule Telangana's share of power from its hydel generating stations in accordance with the Andhra Pradesh Reorganisation Act, 2014, the relevant PPAs and G.O. Ms. No. 20 dated 08.05.2014. The petitioners state that they approached the Joint Commission constituted under paragraph 3 of Part C of the Twelfth Schedule to the Andhra Pradesh Reorganisation Act, 2014, by filing O.P. No. 75 of 2015.
4. They further state that several issues relating to the allocation of assets, liabilities and employees among the power utilities of the two successor States remained unresolved before various fora and committees. Respondent No. 1 nevertheless raised bills by applying the power-allocation ratio as per G.O. Ms. No. 20 dated 08.05.2014, instead of billing on the basis of the power actually scheduled. The petitioners objected to those bills, which were based on the generation tariff order dated 26.03.2016 issued by APERC, but state that, without prejudice and subject to reconciliation and settlement at the State level, they provisionally paid approximately Rs. 3,886 crores to Respondent No. 1. They also sought adjustment of the power-purchase claims of TSGENCO against APDISCOMs. By letter dated 08.06.2017, the Chairman of TSPCC requested the

Managing Director of Respondent No. 1 to settle the issues at the State level by adjusting the power bills against the amounts allegedly payable to TSGENCO, TSTRANSCO and the Telangana DISCOMs and by releasing the net amount said to be due to the Telangana power utilities. The petitioners also disputed the claim for interest on pension bonds and the fixed-cost claims relating to hydel stations from which, according to them, Telangana did not receive its allocated share of power.

5. The petitioners further aver that, following the division of the assets and liabilities of the DISCOMs of the erstwhile State, APSPDCL owed approximately Rs. 1,391 crore to the second petitioner; that the first petitioner had placed inter-corporate deposits with APEPDCL and APSPDCL; that APTRANSCO owed approximately Rs. 101 crore to TSTRANSCO pursuant to the demerger of the transmission utility; that TSGENCO was entitled to receive approximately Rs. 3,096 crore from APGENCO towards the demerger of assets and liabilities, including excess liabilities discharged in respect of common loans and employee pension funds; and that the Telangana power utilities had invested approximately Rs. 929 crore in APPDCL. According to the petitioners, after setting off the mutual claims of the power utilities of both successor States, a net amount of Rs. 2,137.57 crore was receivable by the Telangana power utilities. They state that these circumstances led them to withhold amounts claimed under the power-purchase bills raised by Respondent No. 1 pending final settlement of all inter-utility disputes.
6. The petitioners contend that Respondent No. 1's claims are disputed and do not constitute admitted dues. They state that the claims are based on APERC's generation tariff order dated 26.03.2016 and involve issues under Section 64(5) of the Electricity Act, 2003. While disputes among the power utilities of the two successor States were pending before different fora and committees, Respondent No. 1 instituted proceedings against the petitioners before the National Company Law Tribunal under the Insolvency

and Bankruptcy Code, 2016, seeking payment for power supplied up to October 2017. According to the petitioners, Respondent No. 1 ought to have approached the appropriate Electricity Regulatory Commission under Section 86(1)(f) of the Electricity Act, 2003. They apprehended that insolvency proceedings against the distribution licensees could disrupt the supply of electricity in Telangana and, therefore, sought intervention and appropriate directions from this Commission.

Respondent No. 1, APGENCO, filed a counter-affidavit. Its contentions, in brief, are as follows:

7. Following the Andhra Pradesh Reorganisation Act, 2014, the power utilities of the erstwhile State were reorganised and separate utilities were established for Telangana. In accordance with G.O. Ms. No. 20 dated 08.05.2014, APGENCO continued to supply 53.89% of its generation to the Telangana DISCOMs. On 17.06.2014, APSLDC issued a notice to discontinue scheduling APGENCO power to the Telangana DISCOMs on the ground that the PPAs lacked regulatory approval. POSOCO (Power System Operation Corporation Limited) now, Grid Controller of India Limited, by letter dated 18.06.2014, directed APSLDC to continue scheduling power to the Telangana DISCOMs pending the decision of the Neerja Mathur Committee constituted by the Government of India. APGENCO alleges that, despite continued supply, the Telangana DISCOMs made only nominal payments and dues accumulated to Rs. 3,441.78 crore. After the Government of Andhra Pradesh directed APGENCO to initiate recovery proceedings, APGENCO filed proceedings before the NCLT on 10.11.2017. During their pendency, the petitioners filed the present O.P. No. 59 of 2018. By interim order dated 29.12.2018, this Commission restrained APGENCO from taking coercive steps before any forum. APGENCO challenged that order in W.P. No. 42577 of 2018 before

the then High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh.

8. The petitioners raised objections questioning the jurisdiction of the NCLT in entertaining the petition filed by the APGENCO. The respondent No. 1 states that, upon instructions from the Government of Andhra Pradesh, it withdrew the NCLT proceedings on 03.09.2020 with liberty to approach the appropriate forum. APGENCO further relies on a reconciliation exercise conducted on 19.08.2019 and a consolidated statement signed by the concerned Energy Secretary and the heads of APTRANSCO, TSTRANSCO and TSGENCO, which, according to it, recorded principal dues of Rs. 3,441.78 crore, excluding late-payment surcharge. APGENCO thereafter filed W.P. No. 21638 of 2021 before the High Court for the State of Telangana for recovery of the said amount. At a meeting convened by the Secretary (Power), Government of India, on 08.11.2021, APGENCO sought settlement of the power dues independently of the demerger issues, whereas the petitioners insisted upon a composite settlement of all outstanding issues.
9. The respondent No. 1 further states that the Ministry of Home Affairs, Government of India, constituted a Dispute Resolution Committee on 08.02.2022 to consider five issues between the States of Andhra Pradesh and Telangana, including APGENCO's claim for power dues. Sub-committee meetings were held on 17.02.2022 and 17.06.2022. APGENCO withdrew W.P. No. 21638 of 2021 on 09.06.2022 in view of the efforts initiated by the Government of India. On 29.08.2022, the Government of India directed the Government of Telangana to pay Rs. 6,756.92 crore, comprising principal of Rs. 3,441.78 crore and surcharge of Rs. 3,315.14 crore, to APGENCO within thirty days. The Telangana DISCOMs and the State of Telangana challenged that direction in W.P. Nos. 37555 and 37599 of 2022. By judgment dated 19.10.2023,

the High Court for the State of Telangana set aside the direction dated 29.08.2022. APGENCO and the Government of Andhra Pradesh challenged that judgment before the Supreme Court in SLP (C) Nos. 26879 and 26880 of 2023, in which notice was issued on 15.12.2023. Respondent No. 1 also refers to W.P. No. 25788 of 2022, filed before the High Court for the State of Telangana in relation to the demerger issues between the power utilities of Andhra Pradesh and Telangana.

10. Respondent No. 1 accordingly contends that, in view of the subsequent events and the proceedings pending before the High Court and the Supreme Court, the present petition is not maintainable and has become infructuous. It therefore seeks dismissal of the petition with costs.

Heard the parties. The material placed on record has been considered.

The following point arises for determination:

Whether, in view of the subsequent developments, any effective relief survives for consideration in the present petition?

11. The petition was instituted principally in the context of the insolvency proceedings then initiated by Respondent No. 1 before the NCLT in petition Nos. CP(IB) No. 57/9/HBD/2018 and CP(IB) No. 58/9/HBD/2018 and in apprehension of coercive steps likely to be taken by respondent No. 1. However, the respondent No. 1 has subsequently withdrawn the proceedings initiated before NCLT. Thereafter, the claim for power-supply dues and other issues pending between these two states have become the subject matter of various proceedings, including W.P. No. 21638 of 2021 on the file of Hon'ble High Court for the State of Telangana the directions of the Government of India dated 29.08.2022, the judgment dated 19.10.2023 in W.P. Nos. 37555 and 37599 of 2022 on the file of Hon'ble High Court for the State of

Telangana and SLP (C) Nos. 26879 and 26880 of 2023 pending before the Hon'ble Supreme Court of India. The demerger-related issues are also stated to be the subject matter of W.P. No. 25788 of 2022 before the Hon'ble High Court for the State of Telangana. In these circumstances, the immediate cause that prompted the present petition no longer survives, while the substantive claims and counterclaims have since been carried into, or are materially connected with, proceedings before various forums and finally before the constitutional courts. No effective or independent relief can therefore be granted in the present proceeding on the pleadings as they presently stand. Keeping this petition pending would serve no useful purpose. This conclusion is confined to the disposal of the present petition only and shall not be construed as an adjudication of the Commission's jurisdiction, the maintainability of the petition or on the merits of any claim or counterclaim, the legal effect of any reconciliation statement, or any issue pending before the Hon'ble High Court or the Hon'ble Supreme Court.

12. Accordingly, O. P. No. 59 of 2018 is closed for the time being, in view of the developments that took place subsequent to the filing of this petition. The closure of this petition for the time being is, without prejudice to the rights and contentions raised by the petitioner in this petition as well as in respect of rights of the petitioner in the proceedings pending before the competent courts or any other forum having jurisdiction. The interim order dated 29.12.2018 passed in I. A. No. 35 of 2018 in O. P. No. 59 of 2018 stands vacated. The petitioner is at liberty to approach this Commission again, in case if the situation arises. There shall be no order as to costs.

This Order is typed to dictation, corrected and signed on this 28th day of August, 2026.

Sd/-
Dr. JUSTICE DEVARAJU NAGARJUN
CHAIRMAN