

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**Review Petition No. 5 of 2011 in
Appeal No. 194 Of 2009**

Dated 11th January, 2012

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam,
Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member
Hon'ble Mr. Justice P.S. Datta, Judicial Member**

In the matter of:

M/S GUTTASEEMA WIND ENERGY COMPANY PVT. LTD.,

Having its Registered Office at Plot No. 1112/A,
Road No. 56, Jubilee Hills,
Hyderabad-500 033

rep. by its Director

S/o Mr. S. Ramachandra Rao

...Review Petitioner/Appellant

Versus

- 1. Andhra Pradesh Electricity Regulatory Commission,**
Singareni Bhavan, Red Hills, Hyderabad,
represented by its Chairman 500001
- 2. Transmission Corporation of Andhra Pradesh Ltd.,**
represented by its Chairman & Managing Director,
Vidyut Soudha, Hyderabad 500082.
- 3. Central Power Distribution Company of Andhra Pradesh Ltd. ,**
represented by its Managing Director,
11-5-423/1/A, First Floor,
Singareni Collieries Bhavan,
Lakdi-Ka-Pul, Hyderabad 500 001
- 4. Southern Power Distribution Company of Andhra Pradesh Ltd.,**
represented by its Managing Director,
Upstairs, Hero Honda Showroom,
Renigunta Road, Tirupati 517 501.

5. Northern Power Distribution Company of Andhra Pradesh Ltd.,
represented by its Managing Director,
11-5-423/1/A, First Floor, 1-7-668,
Postal Colony, Hanamkonda, Warangal 506 001

6. Eastern Power Distribution Company of Andhra Pradesh Ltd.,
represented by its Managing Director, Sai Shakti, Opp Saraswati
Park, Daba Gardens, Visakhapatnam 530 020.

7. Andhra Pradesh Power Coordination Committee, Vidyut
Soudha, Khairatabad, Hyderabad-500 082 rep. by its Chief
Engineer (Commercial) **... Respondents**

Counsel for the Review Peititioner/
Appellant

: Mr. K. Gopal Chaudhary
Mr. Mullapudi Rambabu

Counsel for the Respondent (s)

: Ms. Surbhi Sharma for R 2 to 7

ORDER

Hon'ble Shri Rakesh Nath, Technical Member:

This Review Petition has been filed by the Appellant, M/s. Guttaseema Wind Energy Company Private Limited against the judgment of this Tribunal dated 3.5.2011 passed in Appeal No. 194 of 2009. In this judgment, the Tribunal had decided certain issues relating to determination of tariff for wind energy projects and the State Commission was

directed to re-determine the tariff for wind energy projects taking note of the findings of the Tribunal.

2. The Review Petitioner/Appellant is aggrieved by the findings of the Tribunal regarding open access and third party sale, wherein the Tribunal, after noting the findings of the State Commission in the impugned order, had indicated that the provisions of relevant orders/regulations/codes issued by the State Commission would be applicable to wind energy projects also. Thus, the Tribunal did not accept the contention of the Appellant that the State Commission had not dealt with the issue of open access and third party sale.

3. However, the learned counsel for the Review Petitioner/Appellant has pointed out the grounds raised and the pleadings made before the Tribunal

regarding wheeling and transmission charges and banking arrangements in availing open access and stated that the Commission had never adverted to nor dealt with the suggestions and views expressed by the Petitioner before the Commission and this Tribunal also did not deal with the same.

4. Learned counsel for the Review Petitioner submitted that the above issues are required to be dealt with by the State Commission in the light of the suggestions of the Review Petitioner and wind power policy of the Government of Andhra Pradesh.

5. The learned counsel for the Review Petitioner also referred to the grounds of Appeal numbered as 9.10 to 9.19 which specifically dealt with non-consideration of issues regarding wheeling and transmission charges and banking arrangements by the State Commission. He also submitted that as the State Commission has

not yet commenced the exercise of re-determination of tariff, the Commission may be directed to deal with the issues relating to wheeling and transmission charges and banking arrangement of wind energy generators.

6. The learned counsel for Respondent No. 2 to 7 opposing the Review Petition has pointed out the relevant provisions of the existing Regulations of the State Commission relating to wheeling and banking of energy applicable to third party sale by the wind energy generators.

7. We have examined the matter including the public notice issued by the State Commission in O.P. No. 6 of 2009 and O.P. No. 7 of 2009 in which the Commission had indicated that it had to take a decision on the new State Government Policy for development of wind power and had sought the views of the stakeholders

and the general public on the subject. A copy of the public notice was filed by the Review Petitioner/Appellant with the main Appeal.

8. We have gone through the comments offered by the Review Petitioner/Appellant before the State Commission on the subject.

9. Keeping all the above in view, we deem it fit to direct the Commission to consider with respect to wheeling and transmission charges and banking arrangements in open access/third party sale applicable to the wind energy generators. The State Commission while carrying out the exercise to re-determine the tariff for wind energy projects may also consider the submissions of the Review Petitioner/Appellant in the matter of open access/third party sale and decide the issue according

to law. We do not express any view on this issue. The same may be disposed of as expeditiously as possible.

10. Accordingly, the Review Petition is ordered and the judgment dated 3.5.2011 in Appeal no. 194 of 2009 is modified to the extent as indicated above.

11. Pronounced in the open court on this
11th day of January, 2012.

(Justice P.S. Datta) (Rakesh Nath) (Justice M. Karpaga Vinayagam)
Judicial Member Technical Member Chairperson

REPORTABLE / NON-REPORTABLE

vs