

**ODISHA ELECTRICITY REGULATORY COMMISSION**  
**PLOT NO.-4, CHUNOKOLI, SHAILASHREE VIHAR**  
**BHUBANESWAR - 751 021**  
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**Present:        Shri U. N. Behera, Chairperson**  
**Shri S. K. Parhi, Member**

**Case No. 74/2016**

M/s. Green Energy Association	.....	Petitioner
Vrs.		
M/s. NALCO & another	.....	Respondents

**In the matter of:        An application under S.142 of the Electricity Act, 2003 read with Regulations 7 (1) & (2) of the OERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010 for non-compliance of Order dated 11.08.2015 of the Commission passed in Case No. 54/2014.**

**And**

**Case No. 75/2016**

M/s. Green Energy Association	.....	Petitioner
Vrs.		
OREDA & another	.....	Respondents

**In the matter of:        An application under S.142 of the Electricity Act, 2003 read with Regulations 7 (1) & (2) of the OERC (Renewable Purchase Obligation and its Compliance) Regulations, 2010 for non-compliance of Order dated 07.08.2015 of the Commission passed in Case No. 59/2014.**

For Petitioners    :    Nobody was present.

For Respondents:    Shri M.K.Rajguru, Advocate on behalf of M/s. NALCO, Ms. Sujata Dash, OREDA were present. Nobody is present on behalf of GRIDCO Limited.

**ORDER**

**Date of hearing: 09.07.2019**

**Date of order:23.07.2019**

M/s. Green Energy Association have filed both the above noted cases under S.142 of the Electricity Act, 2003 read with Reg.7(1)& (2) of the OERC ( Renewable Purchase Obligation and its Compliance) Regulations,2010 for non-compliance of order dated 11.08.2015 of the Commission passed in Case No.54 of 2014 & order dated 07.08.2015 of the Commission passed in Case No. 59 of 2014.

2. These two cases have been heard analogously since the petitions are of similar nature and Respondents are same. During hearing on 11.07.2017 the Counsel for the petitioners have submitted that the order of the Commission dated 07.08.2015 in Case No. 54/2014 and 11.08.2015 in Case No. 59/2014 were challenged by M/s. NALCO before the Hon'ble APTEL. In view of the above the Petitioner requested the Commission to keep the matter in abeyance till the matter is decided by Hon'ble APTEL. The representative of NALCO stated that the present petition is not maintainable since M/s. NALCO has gone on appeal before the Hon'ble APTEL against the order of the Commission in the said matter. The representative of GRIDCO stated that they have no objection for adjournment of hearing.
3. The Commission directed the Respondents to file their written note of submission within 15 days and the Petitioner M/s. Green Energy Association to submit its rejoinder, if any, within seven days thereafter. As per interim order dated 12.7.2017 M/s. Nalco has submitted its reply stating therein that in March, 2013 it has filed a petition in Case No.21 of 2013 with a prayer to waive/exempt NALCO from RPO obligation as it has consumed more than total target i.e. solar, non-solar and Co-generation target under RCPO Regulation, 2010. The Commission has rejected the prayer of NALCO and being aggrieved by the said rejection order of the Commission, M/s. NALCO under S.111 of the electricity Act, 2003 has moved the Hon'ble APTEL in Appeal No 223/2014 against the above order of the Commission passed in Case No.21 of 2013, Appeal No.261/2014 against the order of the Commission passed in Case No.59/2014 & Appeal No.260 of 2014 against the order of the Commission passed in Case No.54/2014. The Hon'ble APTEL during course of hearing of the above stated appeals, having come to know about the issuance of notice dated 12.01.2017 by this commission has observed that the State commission shall consider whether it should stay its hand till the matters are disposed of by APTEL. However, being a PSU, NALCO is not running away from its liability having made sufficient provision in the books of account towards such RPO obligation.
4. The counsel of M/s. NALCO further submitted that the petitioner filed Case No. 74/2016 for non-compliance of order of the Commission passed in Case No. 54/2014 which is already challenged by M/s. NALCO at a higher Forum. The petitioner being a party and knowing the status of the said appeal in its malafide intention to raise the same Case No. 54/2014 once again has filed this case which has no merit for consideration. Further this will lead to multiplicity of litigations and wastage of time. Therefore as the impugned

order of the Commission is subjudice before the Hon'ble APTEL till date, the Commission may drop the present proceeding in Case Nos. 74 & 75/2016.

5. Heard the respondents and after going through the case records, we observe that the order dated 11.08.2015 of the Commission passed in Case No.54 of 2014 and order dated 07.08.2015 of the Commission passed in Case No. 59 of 2014 have been challenged by M/s. NALCO before the Hon'ble APTEL. The petitioner has been impleaded as a respondent to the said proceedings and has filed the above noted cases before us for implementation of the order of the Commission passed in Case Nos. 54 & 59 of 2014. The petitioner has not yet submitted its note of submission as per our interim order dated 12.07.2017. The petitioner is not present today.
6. It is evident that the petitioner is no longer pursuing their two cases. Further, the order dated 11.08.2015 in Case No.54 of 2014 and order dated 07.08.2015 in Case No. 59 of 2014 of the Commission have been challenged by M/s. NALCO before the Hon'ble APTEL in Appeal Nos. 260 & 261/2014 and the same are sub-judice. The order passed by the Hon'ble APTEL in the above appeals shall be binding on the parties herein.
7. The Case Nos. 74/2016 and 75/2016 are, therefore, dropped.

Sd/-  
**(S. K. Parhi)**  
**Member**

Sd/-  
**(U. N.Behera)**  
**Chairperson**