No.: N/10/15

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION, BENGALURU

Dated : 10th December, 2015

Present:

1. Sri M.K. Shankaralinge Gowda Chairman
2. Sri H.D. Arun Kumar Member
3. Sri D.B. Manival Raju Member

OP No.6 / 2015

BETWEEN:

M/s. R.B. Seth Shreeram Narsingdas
D.No.1499/1,
P.O, Box 38,
Kariganur Post,
Hosapete - 583 201 .. **PETITIONER**

[Represented by Keystone Partners, Advocates & Solicitors]

AND:

1) The Karnataka Power Transmission Corporation Limited,
Cauvery Bhavan,
K.G. Road,
Bengaluru – 560 009.

2) Hubli Electricity Supply Company Limited,
P.B. Road, Navanagar,
Hubballi – 580 025.

3) Gulbarga Electricity Supply Company Limited,
Station Road,
Kalaburagi - 585 101

4) Bangalore Electricity Supply Company Limited,
2nd Floor, K.R. Circle,
Bengaluru – 560 001

5) Karnataka State Load Despatch Centre,
Cauvery Bhavan,
K.G. Road,
Bengaluru-560 009. .. **RESPONDENTS**

[Represented by Just Law, Advocates]

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ORDERS

1) The Petitioner in the above Petition has sought for the following reliefs :

(a) Direction to the Respondents to forthwith certify the amount of energy that has been generated and injected by the Petitioner from 23rd April, 2014 (as shown in ANNEXURE-34 to the Petition), and to confirm that the said balance of energy has been banked to the Petitioner's credit;

(b) Direction to the Respondents to carry over the energy banked by the Petitioner during the Financial / Wind Year 2014-15 to the Financial / Wind Year 2015-16;

OR IN THE ALTERNATIVE,

Direction to the Respondents to compensate the Petitioner for the energy banked by it during the Financial / Wind Year 2014-15 at the rate of Rs.5.35 or such other rate as this Commission may fix;

(c) Direction to the Respondents to forthwith execute the Supplemental Wheeling and Banking Agreement (W&BA), so as to enable the Petitioner to wheel energy to third parties;

(d) Quashing of the letter dated 17th March, 2015 issued by second Respondent (HESCOM), seeking to levy a penalty on the Petitioner, of Rs.1,28,976,853/- payable to the third Respondent - Gulbarga Electricity Company Limited (GESCOM) and of Rs.15,039/- payable to the second Respondent – Hubli Electricity Supply Company Limited (HESCOM);

(e) Direction to Respondent No.3 (GESCOM) to refund the amount of Rs.2,89,97,830/- to the Petitioner;

(f) Any other order (s) in the interest of justice.

The prayers made at (d) and (e) above are included after amendment of the Petition, vide Order dated 22.4.2015.

2) The material facts as made by the Petitioner may be stated as follows :

(a) The Petitioner is a partnership firm, registered under the Partnership Act, 1932. The Government of Karnataka, vide Government Order dated 4.3.2014, accorded approval for transfer of 4.8 Mega Watt (MW) of Wind Power Project in favour of the Petitioner, out of 27.2 MW capacity pending for commissioning, which was already allotted in favour of one M/s. J.N. Investments and Trading Company Private Limited. On the very next day, by letter dated 5.3.2014 (ANNEXURE–P4), the Petitioner requested the fifth Respondent – State Load Despatch Centre (SLDC) to arrange for wheeling of electricity from the Switching Station located at

Harthi Village, Gadag Taluk, situated within the jurisdiction of the second Respondent (HESCOM), to the captive consumption premises of the Petitioner, bearing R.R.No.EHT-28, located within the jurisdiction of the third Respondent (GESCOM), intimating that the completion of the Project was in an advanced stage and was expected to be commissioned during March, 2014 itself.

(b) Thereafter, the Wind Turbines of the Petitioner's Project, each having about 0.8 MW capacity, were commissioned in four stages as noted below:

Stage No.	Number of Turbines	Date of Com-missioning	Total Capacity (MW)
I.	2	22.04.2014	1.6
II.	2	07.05.2014	1.6
III.	1	31.05.2014	0.8
IV.	1	11.09.2014	0.8

The Commissioning Certificates pertaining to the above-mentioned Wind Turbines are produced at ANNXURES – P5 to P8, respectively.

(c) As and when each Wind Turbine of the Project was commissioned, the Petitioner immediately began injecting the energy into the grid and the energy so injected was confirmed by B-Forms issued by the second

Respondent (HESCOM) at the end of each month, from April, 2014 onwards.

(d) In the meanwhile, the Petitioner kept on following up with the Respondents to have the W&BA executed at the earliest. Thereafter, the Petitioner received a letter from the fifth Respondent (SLDC) on 23.6.2014 (ANNEXURE – P10), intimating the Petitioner to submit a draft W&BA to the first Respondent – Karnataka Power Transmission Corporation Limited (KPTCL). The Petitioner immediately prepared the draft W&BA, as per the prescribed standard format, and submitted the same to the first Respondent (KPTCL) on the next day, i.e., on 24.6.2014 (ANNEXURE-P11).

(e) The Petitioner and the first Respondent (KPTCL) signed four sets of the W&BAs on 26.6.2014, and the first Respondent, on the very same day, had sent the said four sets of W&BAs to the third Respondent (GESCOM) (as per ANNEXURE-P12) for signature and forwarding them to the second Respondent (HESCOM). The third Respondent (GESCOM) had signed the W&BA and sent them on 9.7.2014 (as per ANNEXURE-P13) to the second Respondent (HESCOM) for signature. Thereafter, the second Respondent (HESCOM) had signed the said W&BAs and sent them back to the first Respondent (KPTCL) on 22.7.2014, thus completing the execution of the W&BAs by all the parties concerned. The Petitioner has stated that there was no further communication from any of the Respondents regarding

commencement of wheeling of energy to the captive point. The Petitioner addressed a letter dated 6.8.2014 (ANNEXURE-P14) to this Commission seeking direction against the Respondents concerned to arrange for wheeling of energy, at the earliest.

(f) The Petitioner has stated that the first Respondent (KPTCL) had issued letter dated 29.9.2014 (ANNEXURE-P16) to the second Respondent (HESCOM), stating that, in view of this Commission's letter dated 12.9.2014, the W&BAs would have to be executed afresh, after incorporating some new provisions therein.

(g) Finally, the W&BAs in the new format, incorporating some new provisions, were executed by all the parties concerned on 13.10.2014. A copy of the W&BA dated 13.10.2014 is produced at ANNEXURE-P17. One set of the W&BAs, so executed, was received by the Petitioner with a covering letter (ANNEXURE-P18) on 6.11.2014.

(h) The Petitioner, under letter dated 13.10.2014 (ANNEXURE-P19), addressed to the second Respondent (HESCOM), enclosing a statement of computation of the energy injected from the date of commissioning of the Project to the end of September, 2014, amounting to 42,91,239 units, based on the B-Forms issued for these months and made a request that the total energy injected into the grid by the Petitioner be banked. The Petitioner also enclosed copy of the C-Form to its letter (ANNEXURE-P19),

indicating the total energy to be wheeled for the month of October, 2014 to its captive destination. In response to this letter (ANNEXURE-P19), the second Respondent (HESCOM) had issued letter dated 31.10.2014 (ANNEXURE-P20), intimating the third Respondent (GESCOM) that the quantum of energy requisitioned by the Petitioner for wheeling during the month of October, 2014, was 5,50,000 units. The third Respondent (GESCOM) had issued an Official Memorandum dated 10.12.2014 (ANNEXURE-P21), approving to wheel the energy to the extent of 5,50,000 units to the captive point of the Petitioner, for the month of October, 2014, subject to the conditions mentioned therein.

(j) In the same manner, the Petitioner requested the second Respondent (HESCOM) to wheel 5,00,000 units of energy for the month of November, 2014, 6,00,000 units for the month of December, 2014 and 6,50,000 units for the month of January, 2015, to its captive point. The second Respondent (HESCOM), in response to the above requests of the Petitioner, wrote letters to the third Respondent (GESCOM) intimating the quantum of energy requisitioned by the Petitioner for wheeling during the above months. The third Respondent (GESCOM) issued Official Memoranda approving to wheel energy as per the requests of the Petitioner for the months of November and December, 2014, but the third Respondent (GESCOM) did not issue any Official Memorandum approving to wheel the energy requisitioned by the Petitioner for the

month of January, 2015. The correspondence pertaining to these transactions are at ANNEXURES - P22 to P29.

(k) The Petitioner has contended that the Respondents have refused to allow and confirm the banking of the energy injected by the Petitioner from the dates of commissioning of its Wind Turbines, despite the B-Forms having been issued by them certifying the energy injected into the grid for these months.

(l) The Petitioner identified 18 HT consumers, who were located within the jurisdiction of the fourth Respondent – Bangalore Electricity Supply Company Limited (BESCOM) and requested for grant of open access to wheel the energy banked, so far, to them, as per its letter dated 26.11.2014 (ANNEXURE-P31) addressed to the fifth Respondent (SLDC). On the same day, the Petitioner had also addressed another letter (ANNEXURE-P30) for issuance of concurrence to wheel the banked energy to these 18 HT consumers. The Petitioner has requested to approve wheeling of energy to the HT consumers, on the premise that, as on 1.10.2014 the energy banked by it approximately works out to 40,00,000 units and it had proposed to wheel the whole of it on or before 31.3.2015.

(m) By its letter dated 22.12.20145 (ANNEXURE-P32), the fifth Respondent (KPTCL) intimated the grant of open access to the Petitioner to wheel the

energy to HT consumers and directed the Petitioner to comply with the further steps as per the Open Access Regulations. Pursuant thereto, the Petitioner had submitted five sets of Supplemental W&BAs, signed by it, to the concerned. The Petitioner has stated that, till the date of filing of the petition, it had not received any communication regarding the grant of open access requested by it for wheeling of the energy of HT consumers.

(n) The Petitioner has stated that the W&BA provides that the energy banked by the open access customer shall be permitted to be carried forward, from month-to-month, within the same Financial Year and that the unutilized banked energy at the end of the Financial Year would be treated as having been utilized by the ESCOM at the injection point and the said ESCOM should pay at 85% of the generic tariff prevailing during the relevant period for the energy so utilized.

(p) The Petitioner has stated that it has a right to open access to wheel the energy for self-consumption or for sale to third parties, subject to the Regulation specified by the Commission and that there was an inordinate delay in granting of the open access and the wheeling of energy to its captive point, though there was no fault on its part, at any stage, Further, the Petitioner has stated that the Respondents have failed to confirm the quantum of banked energy and to grant open access for wheeling the energy to HT consumers and that the Petitioner would have sold the energy to third parties at a rate not less than Rs.5.35 per unit, and that the

Petitioner would sustain a huge loss, if the unutilized quantum of the banked energy was purchased by the ESCOM concerned at 85% of the generic tariff. Further, the Petitioner has stated that Wind Power Project was established for captive use, as well as for sale of energy to third parties and it had invested more than Rs.27 Crores for the Project and therefore it would be put to irreparable loss, if the banked energy unutilized at the end of the Financial Year was sold at 85% of the generic tariff. Therefore, the Petitioner requested to credit the balance of banked energy at the end of the Financial Year to its account and to permit it to supply such banked energy to third parties or for its own use during subsequent years. With the above averments, the Petitioner has filed its Petition on 11.2.2015.

3) The Petitioner has filed an Application, I.A.No.5, on 22.4.2015, praying for insertion of certain averments in the main Petition, which had taken place subsequent to filing of the Petition, and for insertion of the required reliefs in Prayer column. The said Application was allowed by this Commission and subsequently the Petitioner had inserted Paragraphs-30(a) to 30(e), 42(a) and 42(b), and also inserted additional prayers (d) and (e). The material facts leading to the amendment of the Petition are as follows:

(a) The Petitioner received, on 24.3.2015, a letter dated 17.3.2015, issued by the second Respondent (HESCOM) to the Petitioner, levying a penalty of

Rs.1,28,96,853/- payable to the third Respondent (GESCOM) and a penalty of Rs.15,039/- payable to the 2nd Respondent (HESCOM), within a period of eighteen days from the date of receipt of the said letter, and stating that, if the amount demanded was not paid within time, the wheeling of electricity for captive use would be stopped.

(b) The Petitioner has contended that the penalty sought to be imposed was wholly illegal, *malafide* and is a direct consequence of deliberate omission by the Respondents concerned in not properly accounting for the generated electricity prior to the wheeling of energy for captive use as per the W&BA dated 13.10.2014 (ANNEXURE-P17). According to the Petitioner, the energy generated and injected into the grid, from the date of commissioning of the Wind Turbines of the Petitioner, till the date of execution of the W&BA (ANNEXURE-P17), should be treated as 'banked energy' and the Petitioner should be authorized to use it either for self-consumption or for sale to third parties. The Petitioner has stated that, from April, 2014 till 31.3.2015, the total energy injected into the grid from its Wind Power Projects was 68,93,400 units, and out of the said quantity, the energy that should have been made available to the Petitioner for wheeling was 63,62,080 units, after accounting for the transmission losses, import charges and wheeling & banking charges. Further stated that the Petitioner during the said period had consumed a total quantity of 64,95,800 units at the captive point. Therefore, according to the Petitioner, if this quantity of 63,62,080 units, for which he was

entitled to, was taken into account, then the excess energy drawn by the Petitioner would be only 1,33,720 units, for which the Petitioner would have to pay only a sum of Rs.8,59,459/- to the third Respondent (GESCOM). The Petitioner has stated that, for the total consumption of 64,95,800 units of energy, from April, 2014 up to the end of March, 2015, it had paid a total amount of Rs.2,98,48,289/- to the third Respondent (GESCOM). Therefore, the Petitioner has contended that, even after deducting the penalty payable by it for the excess energy drawn, it should get a refund in a sum of Rs.2,89,97,830/-.

4) The Respondent have appeared through their counsel and filed a common Statement of Objections to the main Petition and also an additional Statement of Objections to the amended Petition. The contentions raised by the Respondents may be stated as follows :

(a) The present Petition filed before this Commission under Section 86(1(f) of the Electricity Act, 2003, is not maintainable as the Petitioner is only a registered Partnership Firm, but not a Company, and that a dispute could be raised only by a Generating Company and not by a Partnership Firm.

(b) The Respondents have denied the contention of the Petitioner that there was an inordinate delay in the execution of the W&BAs. They have stated that the fifth Respondent (SLDC) had issued consent for wheeling and banking of energy on 26.6.2014, and on the same day, the first

Respondent (KPTCL) executed W&BAs, and forwarded them to the third Respondent (GESCOM), and on 9.7.2014, the third respondent (GESCOM) executed the W&BAs and forwarded them to the second Respondent (HESCOM). In the meanwhile, this Commission had revised the standard format of the W&BA, with effect from 8.7.2014, and therefore, the second Respondent (HESCOM) had returned the W&BAs to the first Respondent (KPTCL) without signing the same so as to enable them to seek clarifications. A copy of the Order dated 8.7.2014 of this Commission revising the standard format of the W&BA is produced at ANNXURE-R1.

(c) The first Respondent (KPTCL) had addressed a letter to this Commission on 30.8.2014, seeking clarification on the issue and this Commission replied to the said letter, vide letter dated 18.9.2014, which was received by the first Respondent (KPTCL) on 26.9.2014. Further, it is stated that, immediately thereafter, vide letter dated 29.9.9014, the first Respondent (KPTCL) sent back the earlier sets of W&BAs to the second Respondent (HESCOM) to arrange for their execution in the new format. It is stated that, thereafter, the W&BAs were executed in the new format on 13.10.2014. Therefore, the Respondents have contended that the delay, if any, caused in this regard was not attributable to them and the contention of the Petitioner was wholly untenable and baseless.

(d) It is stated that, the W&BAs entered into between the parties contemplate wheeling of 4.8 MW of power generated from the Wind

Project of the Petitioner to its captive unit at Hosapete. However, the wind turbines were commissioned in four stages between April, 2014 and September, 2014. Therefore, it is contended that the grounds urged and the prayers sought for by the Petitioner were contrary to the terms of the W&BA. Therefore, it is contended that, such being the case, giving credit for the energy generated for the period prior to achieving the full capacity does not arise and it cannot be considered.

(e) It is contended that, Article 1.1(f) of the W&BA defines "Commercial Operation Date" as the date declared jointly by the generator and KPTCL / Electricity Supply Companies (ESCOMs), on which the Project or any of its Unit/s is/are declared as "available for commercial operation"; but, no such declaration has been executed by the Petitioner and the Respondents. Therefore, it is contended, in the absence of such a declaration, the only declaration, wherein the Petitioner has indicated that it is in a position to commence generation, is the W&BA, and hence, the question of either treating the energy generated by the Petitioner as 'banked energy' or allowing wheeling of the same, would only arise after the execution of the W&BA. Further, it is contended that, for these reasons, the energy injected into the grid prior to the signing of the W&BA can only be treated as "infirm energy" and no credit can be given for the same as 'banked energy'.

(f) The Respondents have contended that the prayer of the Petitioner for carrying over of the banked energy from one Financial Year to another is also wholly untenable, in view of the terms contained in Articles 5.6, 5.7 and 6.2 of the W&BA. It is contended that, a perusal of these Articles would clearly indicate that carry forward of the banked energy from one Financial Year to another is not contemplated and that the manner in which such energy is to be treated is clearly dealt with and that the Petitioner is bound by those terms.

(g) The Respondents have contended that the alternative prayer made by the Petitioner for payment for the energy banked at Rs.5.35 per unit is wholly unsustainable, as it amounts to modifying the terms of a concluded contract of W&BA.

(h) The Respondents have contended that the Notice dated 17.3.2015, claiming penalty, is valid and legal, and it has been issued as per Article 5.4 of the W&BA for over-drawal of energy by the Petitioner. It is contended that, mere furnishing of B-Forms does not entitle the Petitioner to treat the energy as 'banked energy' and the same is not contemplated in the W&BA. Therefore, the Respondents have prayed for dismissal of the Petition.

5) We have heard the learned counsel for both sides and considered the respective pleadings and documents produced by the parties in the

case. During the course of arguments, the learned counsel for the Petitioner did not press for the relief of executing the W&BA for sale of energy to third party HT consumers, and for any consequential reliefs on this count.

6) Based on the controversies involved between the parties in the case, the following issues would arise for our consideration :

(1) Whether the present Petition before this Commission is not maintainable, as contended by the Respondents?

(2) Whether the energy injected into the Grid by the Wind Power Project of the Petitioner, from respective dates of provisional Interconnection Approvals up to the execution of the W&BA, has to be treated as, "banked energy"?

(3) Whether the energy injected, from the date of provisional interconnection till the date of execution of the W&BA, can be treated as 'infirm power', as contended by the Respondents?

(4) Whether the Petitioner is entitled to any compensation for the energy injected into the grid prior to the date of W&BA, on the principles stated in Section 70 of the Indian Contract Act, 1872?

(5) Whether there was any delay in granting of open access and in executing the W&BAs, so as to warrant awarding of compensation to the Petitioner?

(6) Whether the penalty imposed by the second Respondent (HESCOM) on the Petitioner, vide letter dated17.3.2015, is valid?

(7) To what reliefs the Petitioner is entitled?

7) **<u>ISSUE No.1</u> : Whether the present Petition before this Commission is not maintainable, as contended by the Respondents?**

(a) The learned counsel for the Respondents contended that, under Section 86(1)(f) of the Electricity Act, 2003 (hereinafter referred to as the Act), the Commission has jurisdiction to adjudicate upon the disputes between Licensees and Generating Companies. He further contended that, in the present case, the Petitioner is a Partnership Firm, but not a Company, as defined under the Act, and therefore, the present Petition filed by a Partnership Firm against the Respondents cannot be maintained before this Commission. The learned counsel for the Respondents relied upon the definition of "Company" as defined in Section 2(13) of the Act and also relied upon the definition of "Body Corporate" or "Corporation" as defined under Section 2(7) of the Companies Act, 1956, to strengthen his arguments. On the other hand, the learned counsel for the Petitioner submitted that the definition of "Generating Company" as defined under Section 2(28) of the Act is to be taken into consideration, while interpreting Section 86(1)(f) of the Act, and the definition of "Company" as defined under Section 2(13) of the Act, has no relevance.

(b) The argument of the learned counsel for the Petitioner appears to be correct. Section 86(1)(f) of the Act states that, one of the functions of the State Commission is to 'adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration'. Therefore, while interpreting Section 86(1)(f) of the Act, the

definition of "Generating Company" as defined in the Act has to be taken into consideration, but not the definition of "Company". The definition of "Generating Company", as given under Section 2(28) of the Act, reads thus:

> "'***Generating company***' *means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial judicial person, which owns or operates or maintains a generating station;*"

This definition makers it clear that, "Association" or "Body of Individuals", which owns, operates or maintains a Generating Station, falls within the meaning of "Generating Company". A Partnership Firm is a "Body of Individuals", hence a Partnership Firm, which is owning a Generating Station or Plant, is a "Generating Company" under the Act. We, therefore, answer Issue No(1) in the negative.

8) **<u>ISSUE No.2</u> : Whether the energy injected into the Grid by the Wind Power Project of the Petitioner, from respective dates of provisional Interconnection Approvals up to the execution of the W&BA, has to be treated as, "banked energy"?**

(a) The pleadings of the Petitioner disclose that the energy injected into the Grid by Wind Power Projects, from the respective dates of provisional Interconnection approvals up to the execution of W&BA 13.10.2014, should also be treated as "banked energy" and the same can be utilized by the Petitioner at a later date, before the end of the Wind Year, i.e., before 31st March of a calendar year. On the other hand, the

Respondents have contended that there can be no question of 'banking of energy', until and unless the W&BA comes into operation.

(b) The concept of banking facility was, for the first time, introduced by this Commission in its Order dated 9.6.2005, "in the matter of Determination of Transmission Charges, Wheeling and Cross-Subsidy Charges under Open Access", in respect of Wind and Mini Hydel Projects. In the said Order, the definition of "banking" and the method of calculating the energy banked and the duration of banking, etc., were not laid down. However, subsequently, under Order dated 11.7.2008, this Commission approved the Standard Format of W&BA in respect of Renewable Energy, after hearing the stakeholders. In the said approved Format, "banking" is defined as follows :

> "'***Banking***' *means residual energy after utilization by the 'Exclusive' or 'Partly Exclusive' Consumer or 'captive consumption' out of the injected energy in a month into the transmission and/or distribution system of Corporation/ ESCOMs, which will be utilized for its own use or for wheeling to its 'Exclusive' or 'Partly Exclusive' Consumers at a later date/month, as per the terms and conditions set forth in this agreement.*"

The other details regarding "banking" are stated in Article 6.2 of the W&BA Format. Article 6.2.4 pertains to calculation of the quantum of energy banked at the end of a month. Considering the various provisions

relating to the banking of energy stated in the W&BA, it is clear that the banking of energy starts only after the W&BA comes into operation. Unless the captive consumption point is recognized by the ESCOMs concerned at the injection and drawal points and the energy to be wheeled is indicated to the ESCOMs, the issue of banking of energy does not arise. Similarly, unless the 'Exclusive' and 'Partly Exclusive' consumers are identified and the energy is wheeled to the said consumers, there is no question of calculating the banked energy. Mere injection of energy from the Wind Power Projects, there being no wheeling of energy for captive consumption or to the 'Exclusive' or 'Partly Exclusive' consumers, does not amount to banking of energy, as defined in the definition of 'banking' given in the W&BA, approved by this Commission as per Order dated 11.7.2008.

(c) Recently, as per the Order dated 8.7.2014, this Commission has revised the W&BA Formats, after hearing the stakeholders in a public hearing. In these revised Formats, the meaning of, 'banking' is defined thus:

> "***'Banking'*** *means the facility by which electrical energy remaining unutilized by the 'Exclusive' or 'Non-Exclusive' Consumer or 'Captive Consumer' out of the energy injected by the Company into the transmission and/or distribution system of Corporation / ESCOM/s, which is allowed to be utilized for wheeling to 'Exclusive' or 'Non-Exclusive' Consumers of the Company or Captive Consumer for later use, as per the terms and conditions set forth in this agreement.*"

The other details regarding 'banking' are stated in Article 6.2 of the revised W&BA Formats. These details relate to carry forward of the energy banked from month-to-month and what should happen to the unutilized banked energy at the end of the year and also how to calculate the banked energy at the end of a month. The definition and the other details regarding banking stated in the revised W&BA Formats are almost similar to those existed in the earlier W&BA Format. Considering the various provisions relating to the banking of energy stated in the earlier W&BA Format, as well as in the revised W&B Formats, it is clear that the banking of energy would start only after the W&BA comes into operation. The facility of banking, as contended by the Petitioner, is not contemplated under the approved banking facility. The banking facility is provided to mini Hydel and Wind Power Projects as a promotional measure, though in certain respects, it puts the Distribution Licensee into disadvantageous position, even after collecting the banking charges.

(d) In the present case, the W&BA was finally executed on 13.10.2014. Admittedly, the energy injected subsequent to this date has been wheeled to the captive point of the Petitioner. On 13.10.2014 itself, the Petitioner wrote a letter (ANNEXURE-P19), enclosing a computation sheet for energy accounting from April, 2014 to September, 2014, based on the

Form-B issued for these months, with a request that the energy injected into the grid by the Petitioner be banked and confirmed accordingly. On subsequent months also, the Petitioner wrote similar letters requesting to confirm the quantum of the banked energy as per Form-B issued for the period from the dates of commissioning of the Wind Turbines, till the date of executing the W&BA, i.e., till 13.10.2014. The Petitioner has not pointed out any provision of law to claim the banking of energy even prior to the execution of the W&BA. The concept of banking facility, as approved by this Commission, does not consider mere injection of power into the grid as 'banking of power', without there being a W&BA. Therefore, the facility of banking, as proposed by the Petitioner, has no approval of the Commission or any law and such self-proclaimed arrangement cannot be accepted to fasten the liability on the Respondents. Therefore, we answer Issue No.(2) in the negative.

9) **<u>ISSUE No.(3)</u> : Whether the energy injected, from the date of provisional interconnection till the date of execution of the W&BA, can be treated as 'infirm power', as contended by the Respondents?**

(a) The W&BA has been entered into between the parties in the revised format approved by this Commission under Order dated 8.7.2014 - *In the Matter of Wheeling and Banking for Renewable Sources of Energy*. Article 5.6 of the said W&BA reads thus :

"5.6 ***Charges for infirm power :***

The infirm energy injected during the period from trial operation date after synchronization up to the commercial operation date shall be deemed to be sold to the ESCOM in whose jurisdiction the project is located and shall be paid for by such ESCOM at the applicable pooled power purchase cost determined by the Commission."

(b) The learned counsel for the Respondents contended that the energy injected from the respective dates of provisional interconnections of the Wind Turbines of the Petitioner till the execution of the W&BA on 13.10.2014, is "infirm energy" as understood in Article 5.6 of the W&BA. Therefore, he contended that the "infirm energy" so injected shall be deemed to be sold to the ESCOM in whose jurisdiction the Project is located and shall be paid by such ESCOM at the applicable average Pooled Power Purchase Cost determined by this Commission. The learned counsel for the Petitioner submitted that the question of "infirm power" would only arise in the case of Thermal or Hydro Electric Plant, which requires a successful trial operation before the declaration of commissioning of such Plant. Further, he submitted that, such a requirement of trial operation does not arise in the case of wind-based Power Plant, and therefore, the contention that the energy generated from a wind-based Power Plant has to be treated as "infirm power" under Article 5.6 of the W&BA, is not correct.

(c) The term, "infirm power" is not defined in the W&BA. The scope and meaning of "infirm power" under Article 5.6 of the W&BA is to be ascertained on an analysis of the said Article. The question of trial operation after synchronization up to the Commercial Operation Date, comes into play only in the case of Thermal or Hydro Electric Plant, which should be tested for a particular length of time to ascertain its capacity to generate electricity at a required quantum. In the case of Wind Power Projects, such trial operation is not contemplated. Therefore, in the present case, the energy injected from the date of provisional interconnection to the date of W&BA cannot be treated as "infirm power" injected during the period from the Trial Operation Date after synchronization up to the Commercial Operation Date.

(d) While arguing on this issue, there was a debate regarding the meaning of "Commercial Operation Date". Article 1.1(f) of the W&BA defines "Commercial Operation Date" (COD) thus :

> *"'**Commercial Operation Date**' means the date declared jointly by the Company and the Corporation / ESCOM/s on which the project or any of its units is/are declared as available for commercial operation ."*

The learned counsel or the Petitioner submitted that the date of issue of the Commissioning Certificate should be treated as the COD, even in the absence of a specific joint declaration by the parties concerned, as per the definition of COD. On the other hand, the learned counsel for the

Respondents submitted that a joint declaration regarding achievement of commercial operation should be made by the concerned parties in writing. He further submitted that, in the present case, no such joint declaration was made, and in the absence of any such declaration, the only joint declaration that could be inferred is the execution of the W&BA by the parties, wherein the parties have indicated that the Project is ready for commercial generation.

(e) In the present case, the Commissioning Certificates are produced at ANNEXURES – P5 to P8. Each of these Certificates states that the particular Wind Turbine referred to in the Commissioning Certificate has been commissioned on a particular day and further it states that this Certificate has been issued on the basis of the provisional Interconnection Approval issued by the Chief Engineer (Electy.) (Planning & Co-ordination), KPTCL, Bangalore. Therefore, the terms and conditions incorporated in the provisional Interconnection Approvals are deemed to be the terms and conditions of the Commissioning Certificates. It may be noted that, in each of the Commissioning Certificates, the date of commissioning of the Wind Turbine corresponds to the date of provisional Interconnection Approval, and they are one and the same. Therefore, it can be inferred that the date on which the provisional Interconnection Approval is given, is treated as the date of commissioning of the Wind Turbine. The provisional Interconnection Approvals produced by the Petitioner specifically stipulate that the said approval would only indicate the

technical connectivity of the installation in question with KPTCL's grid for synchronization. The provisional Interconnection approvals do not say anything regarding the commercial operation of the Wind Project. A Project can become available for commercial operation, only when a commercial agreement, like Power Purchase Agreement with any of the ESCOMs or third parties, is entered into for sale of energy generated by the Project. Mere injection of energy into the grid, without intending to sell it, in pursuance of a commercial agreement, to any person, would not amount to commercial operation of the Project. In the present case, the energy was injected soon after the provisional Interconnection Approvals were given, without there being any commercial agreement for sale of energy to anyone. Therefore, it cannot be said that the commercial operation of the Project has taken place on the respective dates of issue of Commissioning Certificates. The issuance of Commissioning Certificates only implies the connectivity of the Project to the transmission system, certifying the technical feasibility to inject the power generated into the grid. If the date of commercial agreement for sale of energy to any person coincides with the date of commissioning, then it could be stated that the COD and the date of commissioning are one and the same. Therefore, the date of commercial operation is to be ascertained from the facts of each case. Hence, the date of injection of energy into the grid, in pursuance of some commercial agreement for sale, etc., of the energy, should decide the COD, and the COD should be understood accordingly

in cases wherever it is applicable. For the above reasons, we answer Issue No.(3) in the negative.

10) **ISSUE No.(4) : Whether the Petitioner is entitled to any compensation for the energy injected into the grid prior to the date of W&BA, on the principles stated in Section 70 of the Indian Contract Act, 1872?**

(a) The Petitioner, in paragraph-39 of the Petition, has stated that, it was always clear that the Petitioner did not intend to generate and deliver energy into the grid gratuitously and that it was always understood that the purpose of generating and delivering energy into the grid was for captive consumption and also for sale to third parties. Therefore, according to the Petitioner, if such energy is utilized by the Respondents, then on the principles stated in Section 70 of the Contract Act, the Petitioner should be compensated for such utilization of energy. The Respondents have denied the above contention of the Petitioner.

(b) Section 70 of the Contract Act reads as follows :

> "***70. Obligation of person enjoying benefit of non-gratuitous act.***
>
> *Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such another person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered."*

(c) Whenever there were unexplained and inordinate delay in granting of Open Access and execution of W&BA by the Utilities, this Commission had allowed compensation to the generator for the energy injected into the Grid and utilized by the Distribution Licensees during the delayed period. While supporting the grant of compensation in such cases, Section 70 of the Contract Act was also referred to. The analysis of the facts of the present case shows that the principles stated in Section 70 of the Contract Act cannot be applied to the present case. The basis of Section 70 is that, something had been done by one party for the other, which the other party has voluntarily accepted. It is based on the doctrine of restitution, which prevents unjust enrichment by retaining anything received by a party and which does not belong to him, and he must return it to the person from whom he received it or to pay for its value. The Commentary under Section 70 of the Contract Act by the learned Authors, Pollack & Mulla, 14th Edition, Volume II, states the circumstances under which the ingredients of the said Section are not made out, and it reads thus :

> *"… A claim on the basis of something done against the express provisions of statute cannot be claimed under this Section…."*
>
> *"…Where the Defendant informed the Plaintiff that he did not want the work done, the work was not done lawfully. …"*
>
> *"…The voluntary acceptance of the benefit of the work done or under delivery is the foundation of the claim under*

> *Section 70. The person on whom the benefit is conferred, enjoys the benefit voluntarily. It means that the benefit must not have been thrust upon him without his having the option of refusing it. Nobody has a right to forcing the benefit upon another. …"*

(d) In the present case, admittedly, the provisional Interconnection Approvals specifically state that such approvals were given only to provide technical connectivity of the Wind Turbines of the Petitioner's Project with KPTCL's grid for synchronization. Further, Condition No.9 of 'Other General Conditions' of the said Approvals stipulates that the grant of provisional Interconnection Approval shall not be construed to mean that the requirements of all other laws are fulfilled by the generator, and the generator shall be responsible for compliance of all other statutory requirements and approvals under any other law, and that for any non-compliance, the generator alone shall be responsible and KPTCL shall not be liable for any action, whatsoever, in this regard. These conditions in the provisional Interconnection Approvals would show that the grant of provisional Interconnection Approval is not a blanket approval for injection of energy into the grid, for which someone would be made liable to pay for such energy. It is not the case of the Petitioner that it was not aware of such condition imposed in the provisional Interconnection Approvals. It cannot be disputed that, a person cannot inject the energy into the grid, without grant of open access to wheel the energy to the permitted destination. Further, it can be noted that the electrical energy injected into the Grid cannot be stored and it would be

consumed instantly, and there would be no option for the Respondents, either to accept or reject the said energy. Therefore, it is not a case of enjoying the benefit voluntarily by the Utilities, but it amounts to thrusting it upon them, without having the option of refusing it.

(e) In this connection, the decision of the Hon'ble Appellate Tribunal for Electricity (ATE) in Appeal Nos.123 and 124 of 2007, decided on 8.5.2008, in the case of *Hyderabad Chemicals Limited –Vs- Andhra Pradesh Electricity Regulatory Commission and others* can be usefully referred to. In the said case, the Generating Company approached the APTRANSCO by means of a letter, stating that, in case the generator pumps the energy into the Grid of APTRANSCO before commissioning of the Project and entering into a PPA or necessary Banking-cum-Wheeling Agreement, APTRANSCO will not be required to pay any consideration for the same. After giving such a letter, the Generating Company pumped certain quantity of power into the Grid, and subsequently, made a claim for the quantity of power injected before the date of entering into the PPA. The Hon'ble ATE has held that the principles under section 70 of the Contract Act cannot be applied in the facts and circumstances of that case, stating that the Appellant intended to deliver the energy gratuitously and there was no obligation on the person, to whom delivery had been made, to pay compensation to the former. In the present case, the provisional Interconnection Approvals stipulate that the grant of provisional Interconnection Approval shall not be construed to mean that

the requirements of all other laws are fulfilled by the generator, and the generator shall be responsible for compliance of all other statutory requirements and approvals under any other law, and that for any non-compliance, the generator alone shall be responsible and KPTCL shall not be liable for any action, whatsoever, in this regard. These conditions in the provisional Interconnection Approvals would show that the grant of provisional Interconnection Approval is not a blanket approval for injection of energy into the grid, for which someone would be made liable to pay for such energy. Therefore, the decision of the Hon'ble ATE stated above would clearly apply to the present case. For the reasons stated above, we answer Issue No.(4) in the negative.

11. **ISSUE No.5 : Whether there was any delay in granting of open access and in executing the W&BAs, so as to warrant awarding of compensation to the Petitioner?**

(a) Before analyzing the facts to ascertain the delay, if any, in granting of open access, it is useful to understand under what circumstances the delay assumes the legal quality of 'negligence', warranting award of compensation. In this regard, the following paragraph at Page-412 of the book titled, "*The Law of Torts*" by Rathanlal & Dhirajlal, 23rd Edition, 1997, may be noted:

> *"The law takes no cognizance of carelessness in the abstract. It concerns itself with carelessness only where there is a duty to take care and where failure in that duty*

has caused damage. In such circumstances carelessness assumes the legal quality of negligence and entails the consequences in law of negligence. The cardinal principle of liability is that the party complained of should owe to the party complaining a duty to take care, and that the party complaining should be able to prove that he has suffered damage in consequence of a breach of that duty." "In strict legal analysis, negligence means more than heedless or careless conduct, whether in omission or commission; it properly connotes the complex concept of duty, breach, and damage thereby suffered by the person to whom the duty was owing."

(b) The meaning and scope of "Tortious Liability" under the head, "Negligence" can be better understood from paragraph-11 of the decision rendered by the Hon'ble Supreme Court, cited in **(1994) 4 (Supreme Court Cases) 1**, in the case of *Jay Laxmi Salt Works (P) Ltd.-Vs-State of Gujrat*. At the beginning of Paragraph-11 of the said Judgment, in respect of liability for negligence, it is held thus:

"… 'Negligence' ordinarily means failure to do statutory duty or otherwise giving rise to in damage, undesired by the defendant, to the plaintiff. Thus its ingredients are –

(a) a legal duty on the part of A towards B to exercise care in such conduct of A as falls within the scope of the duty;

(b) breach of that duty;

(c) consequential damage to B."

Further, in the same paragraph, it is held as follows "

> *"… Even improper exercise of power by the authorities giving rise to damage has been judicially developed and distinction has been drawn between power coupled with duty. Where there is duty the exercise may not be proper if what is done was not authorised or not done in the bona fide interest of public. …"*
>
> XXX XXX XXX
>
> *"…Thus the distinction arising out of damage due to negligence and even without it rather unintentionally and innocently is a firmly established branch of law of tort. In 'Read v. J. Lyons & Co.Ltd.', it was observed that the damage caused by escape of cattle to another land was a case of pure trespass constituting a wrong without negligence. Thus negligence is only descriptive of those sum total of activities which may result in injury or damage to the other side for failure of duty both legal or due to lack of foresight and may comprise of more than one concept known or recognized in law, intended or unintended. …"*

(c) The term, "open access" is defined in Section 2(47) of the Electricity Act, 2003, as follows :

> *" 'open access' means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Appropriate Commission;"*

There is a duty prescribed under the Electricity Act, 2003 against the transmission utility, transmission licensee and also on a distribution

licensee, to provide non-discriminatory open access to its transmission or distribution system for transmission of electricity in accordance with the Regulations specified by the appropriate Commission. This Commission has framed the KERC (Terms and Conditions for Open Access) Regulations, 2004. Regulation 9 of the said Regulations provides for the procedure for applying for grant of open access. Regulation 9(6) of the said Regulations casts a duty on the Nodal Agency to communicate the capacity available or otherwise for open access to the applicant, within seven days from the date of receipt of application in case of short-term open access, and within thirty days from the date of receipt of application in case of long-term open access. The other clauses in Regulation 9 provide that the open access customer shall enter into W&BA with the concerned and a copy of the same shall be furnished to the Nodal Agency, and thereafter, within three days from the date of receipt of a copy of the W&BA, the Nodal Agency shall inform the open access customer, the date from which the open access would be available. Therefore, the Nodal Agency has a duty to intimate, within three days from the date of receipt of a copy of the W&BA from the open access customer, the date from which the open access would be available.

(d) The procedure specified for applying for grant of open access does not prescribe the time-limit within which the open access customer and others have to execute the W&BA, after receipt of the intimation of the

availability of open access from the Nodal Agency. Regulation 15 of the said Regulations provides for installation of special Energy Meters (ABT Meters), with the specifications stated therein, by the open access customer, before actual wheeling of energy could take place.

(e) The Petitioner has established Wind Power Plants and has applied for grant of open access for captive consumption of electricity. Any delay in granting of open access would certainly result in incurring of loss by the Petitioner. A duty is cast on the transmission and distribution licensee to provide non-discriminatory open access to the applicant within the time specified in the Regulations. Therefore, a duty is owed by the utilities to exercise due care and diligence in processing the applications seeking grant of open access. This duty of exercising due care and diligence is meant for avoiding any delay, which one can reasonably foresee, that it would be likely to injure the open access applicant. The utilities would stand on a special relationship with the open access applicant, and they are under a statutory duty to process the application for grant of open access without any delay, in order to protect the interest of the open access customer.

(f) In the absence of any special circumstances, the reasonable period for grant of open access can be taken as the period allowed under Regulation 9 of the said Regulations. As noted above, within thirty days from the date of receipt of the application for grant of open access, the

Nodal Agency has to intimate the granting of open access or otherwise to the long-term open access applicant. The open access applicant has to furnish the W&BA, duly signed by him, for execution of the same by the other parties concerned. For this purpose, no time limit is mentioned in the Regulations. The W&BA has to be executed by the transmission licensee, injecting ESCOM and drawal ESCOM. Therefore, one week's time may be taken as the 'reasonable time' for this purpose. Thereafter, within three days, the Nodal Agency should intimate the date from which the open access would be available. The open access applicant has to install the Special Energy Meters (ABT Meters), as required, at the Drawal Point before the actual wheeling of energy could take place. He should also submit the W&BA, without any loss of time, upon receipt of intimation of granting of the open access. If there is any delay on the part of the open access applicant in installing the Special Energy Meters or in tendering the W&BA for execution by the parties concerned, such period of delay is to be added to the period within which the open access is to be granted to the Applicant.

(g) Keeping in mind the above yardstick, we may now analyze the facts relating to the present case, in order to find out whether there is any delay in granting the open access to the Petitioner.

(h) In the present case, the Petitioner filed the application for grant of open access on 5.3.2014 (ANNEXURE-P4). The Government of Karnataka, by its

Order dated 4.3.2014 (ANNEXURE-P3), approved transfer of 4.8 MW capacity Wind Power Project in favour of the Petitioner. The Government Order, noticing that, transferred 4.8 MW capacity Wind Power Project was yet to be established, granted time for commissioning of the said Project till 31.12.2014. The Petitioner filed open access application, on the next day, i.e., on 5.3.2014, of the said approval, stating that the Project was in an advanced stage and was expected to be commissioned during March, 2014 itself. The open access application (ANNEXURE-P4) is in the format as specified by the Nodal Agency [fifth Respondent (SLDC)]. The said format requires certain documents to be enclosed to the open access application. Some of these documents are: (1) Single Line Diagram; (2) Govt. Electrical Inspectorate Approval; and (3) Synchronization Approval relating to the Project. The Petitioner has not produced these documents along with the open access application and a note is made in the application that, these documents would be furnished on receipt of the same and these requirements were under process. It can be said that, without production of these documents, the open access application (ANNEXURE-P4) is not complete in all respects. As the Project was yet to be commenced and time had been granted till 31.12.2014 by the Government, there was no reliable ground for the Nodal Agency to assume that the Project was in an advanced stage and was expected to be commissioned during March, 2014, itself. In such circumstances, the date of filing of the open access application should be taken as the date on which the above documents were furnished by

the Petitioner to the Nodal Agency for grant of open access. The Petitioner does not say as to when these documents were furnished to the Nodal Agency [fifth Respondent (SLDC)]. The provisional interconnection for the first two wind Turbines had taken place on 22.4.2014. It is said that the Govt. Electrical Inspectorate approval and the Single Line Diagram Approval should precede the provisional interconnection / synchronization approval. Therefore, we are of the considered opinion that the Effective Date of filing of the open access application should be taken as 22.4.2014. None of the Respondents claims that it was not aware of the provisional Interconnection Approval granted for the first two Wind Turbines. Copies of the provisional Interconnection Approvals had been sent to all the Respondents and others. If 22.4.2014 is considered as the Effective Date of filing of the open access application, the Nodal Agency [fifth Respondent (SLDC)] should have intimated to the Petitioner the grant of open access or otherwise, at least within thirty days from 22.4.2014, i.e., on or before 21.5.2014. But the Nodal Agency [fifth Respondent (SLDC)], vide letter dated 26.6.2014 (ANNEXURE-P10), communicated the grant of open access and directed the Petitioner to execute the W&BA. There is absolutely no explanation for this delay of more than one month in communicating the grant of open access and informing to execute the W&BA. The Petitioner filed the required sets of the W&BA signed by it, for further needful. We are, therefore, of the opinion that within seven days the Respondents should have completed the process of execution of the

W&BA, and within three days the Petitioner should have been intimated the date from which the wheeling and banking of energy to the required destination was available. Therefore, it could be said that, had the open access and wheeling of energy been allowed at least on 01.06.2014, there would have been no delay on the part of the Respondents in granting of open access.

(j) The first Respondent (KPTCL), vide letter dated 26.6.2014 (ANNEXURE-P12), forwarded the required number of W&BA, signed by it and the Petitioner, to the third Respondent (GESCOM), with a request to forward the same to the second Respondent (HESCOM) for its signature, after GESCOM's signature. The third Respondent (GESCOM), vide its letter dated 9.7.2014 (ANNEXURE-P13), forwarded the said sets of W&BA, after its signature, to the second Respondent (HESCOM). The second Respondent (HESCOM) completed the execution of the W&BA by 22.7.2014.

(k) In the meanwhile, on 8.7.2014, this Commission revised the W&BA format after following the due procedure. The first Respondent (KPTCL) sought for certain clarifications from this Commission, viz., whether in the present case, it was necessary to execute the W&BA in the new format. After obtaining clarification from this Commission, the W&BA was executed on 13.10.2014.

(l) The Respondents have contended that the delay, if any, has taken place because of the Order of this Commission revising the W&BA format with certain alterations. As already noted above, if the Respondents were diligent, the execution of the W&BA should have been completed on or before 01.06.2014. In the above circumstances, we hold that the reason stated by the Respondents for the delay in the execution of the W&BA is not relevant. The W&BA in the present case should have been completed well before a month from the date of revising the WBA format by this Commission. For the above reasons, we answer Issue No.(5) in the affirmative.

12) **ISSUE No.(6) : Whether the penalty imposed by the second Respondent (HESCOM) on the Petitioner, vide letter dated 17.3.2015, is valid?**

(a) The second Respondent (HESCOM) has issued a Notice dated 17.3.2015 to the Petitioner (produced by the Petitioner along with I.A.No.4 in the case), claiming penalty for overdrawal of energy from the grid, beyond the quantum of energy for which it was entitled under the W&BA. The second Respondent (HESCOM) has arrived at the quantum of overdrawal of energy, taking into consideration the quantum of energy injected from 13.10.2014, i.e., the date on which the wheeling and banking of energy was allowed. As we have come to the conclusion that the wheeling and banking should have been allowed from

01.06.2014, the quantum of energy injected should be calculated from 01.06.2014, and not from 13.10.2014. Therefore, the present Notice imposing penalty against the Petitioner for overdrawal of energy is to be withdrawn and a fresh calculation for overdrawal of energy needs to be done.

(b) The second Respondent (HESCOM) relied upon Article 5.4 of the W&BA to impose penalty against the Petitioner for overdrawal of energy. The said Article reads thus :

> *"The ESCOM shall recover from the Exclusive Consumer, twice the energy charges applicable for the relevant category for the overdrawal of power from the grid beyond that contracted under wheeling with the Company."*

This Article 5.4 applies only in the case of "Exclusive" consumers. It is necessary to ascertain whether the Petitioner was an existing consumer of the third Respondent (GESCOM), within whose jurisdiction the captive consumption point is situated, prior to granting of wheeling and banking of energy from the Wind Power Project in question, and whether the existing demand for energy from the third Respondent (GESCOM) was continued or not. If the Petitioner is found to be a "Partly Exclusive" consumer of the third Respondent (GESCOM), then Article 5.4 of the W&BA does not apply. For the above reasons, we answer Issue No.(6) in the negative.

13) **ISSUE No.(7) : To what reliefs the Petitioner is entitled?**

From the above discussions, it could be seen that the wheeling and banking of energy should have been allowed from 01.06.2014 and the second Respondent (HESCOM) and the third Respondent (GESCOM) should have taken into account the energy injected and drawn from 01.06.2014 to 31.3.2015 for the purpose of ascertaining the rights and liabilities of the Petitioner in respect of the wheeling and banking transactions.

14) For the foregoing reasons, we pass the following :

ORDER

(a) The second Respondent (HESCOM) and the third Respondent (GESCOM) should take into account the quantum of energy injected at the injection point of the Project and the energy drawn at the captive consumption point of the Petitioner, for the period from 01.06.2014 to 31.03.2015, and raise the monthly energy bills in terms of the Wheeling and Banking Agreement dated 13.10.2014, as if the wheeling has taken place from 01.06.2014, and refund the excess amount collected, if any, to the Petitioner, within 2 (months) from the date of this Order; and,

(b) The Petitioner is not entitled to any other reliefs claimed in the Petition.

Sd/-	Sd/-	Sd/-
(M.K. SHANKARALINGE GOWDA)	(H.D. ARUN KUMAR)	(D.B. MANIVAL RAJU)
CHAIRMAN	MEMBER	MEMBER