

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
No. 16 C-1, Miller Tank Bed Area, Vasanth Nagar, Bengaluru- 560 052

Dated : 17th December, 2018

Present:

Shri M.K. Shankaralinge Gowda .. Chairman
Shri H.D. Arun Kumar .. Member
Shri D.B. Manival Raju .. Member

OP No.42/2017

BETWEEN:

- 1) Bangalore Electricity Supply Company Limited,
K.R. Circle,
Bengaluru – 560 001.
- 2) State Load Despatch Centre,
No.28, Race Course Cross Road,
Bengaluru – 560 009.

.. **PETITIONERS**

[Represented by Indus Law, Advocates]

AND:

Shantha Projects Pvt. Ltd.,
S-9, 1 Floor, Shantha Skyline Apartment,
Near KEB Bus stop,
M J Nagar,
Hospet- 583 203.
Ballari District .

.. **RESPONDENT**

[Held ex-parte, vide Order dated 15.03.2018]

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- 1) In the above Petition, filed under Section 86(1) (f) of the Electricity Act, 2003, the Petitioners have sought for the following reliefs:
- (a) To direct the Respondent to pay a sum of Rs.48,90,100/-, towards the arrears and interest, in respect of the UI charges and Back Up Power charges, that is due and payable by the Respondent;
- (b) To direct the Respondent to pay interest, at the rate of 18% per annum, on the amount due, from the date of filing of the present Petition till the date of actual payment;
- (c) To declare that, the Respondent has acted in breach of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008;
- (d) To direct that, the amount of Rs.48,90,100/- be distributed amongst all the Electricity Supply Companies (ESCOMs), in the ratio as prescribed in the Notification bearing No.EN 11-PSR 2013, dated 22.03.2013, issued by the Government of Karnataka; and,
- (e) To pass any such other Order/s as this, Commission may deem fit, in the interest of justice and equity.

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- 2) The material facts, required for the disposal of this case, may be stated, as follows:
- (a) The Respondent had installed 10 Mega Watts (MW) capacity Captive Power Plant at Kenchanadoni village, Koppal District.
- (b) The Respondent had approached the 2nd Petitioner-State Load Despatch Centre (SLDC), in 2013, for grant of 'No Objection Certificate' (NOC), for enabling it to obtain inter-State open access, for transmitting energy from its Captive Power Plant to some inter-State customer. The 2nd Petitioner (SLDC), on 19.10.2013, granted the NOC, for inter-state open access for the period, from 20.10.2013 to 14.11.2013, as per the prevailing CERC Regulations. The Respondent had repeatedly under-injected power, resulting in accumulation of the UI charges and back up supply charges. The Respondent was also due of UI charges and back up supply charges, in another transaction, relating to the Power Purchase Agreement (PPA) dated 05.09.2013, between the Tata Power Trading Company Ltd.(TPTCL) and the ESCOMs, for the period from 11.11.2013 to 31.3.2014. Out of the total amount due from the Respondent, some portion of the amounts due, were recovered out of the amount payable to the TPTCL by the BESCO, and also out of the amount payable to the Respondent, during the period, when the Respondent supplied power under Section 11 Order, in 2016.

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- (c) The Petitioners have claimed in the above Petition, a total sum of Rs.48,90,100/- , towards the arrears of the UI charges and the Back Up Power Supply charges, along with interest at 14.6% p.a., thereon, for the period, from 23.03.2016 to 10.02.2017, as per the Statement in Document No.21 attached to the Petition. It is stated that, these amounts have remained unpaid, despite addressing several letters and reminders.
- (d) The Petitioners have stated that, the Respondent, vide letter dated 18.11.2015, had acknowledged the balance amount payable by it and proposed that the Respondent be permitted to inject power during the Section 11 period, and 25% of the weekly billing, for such supply, could be deducted towards the arrears due.
- 3) Upon admission of the Petition, Notices were issued on 31.03.2017 and 07.07.2017, through RPAD, to the Respondent. The said Notices were returned, unserved. Therefore, the substituted service of Notice was effected by Newspaper publication. The Notice was published in Kannada news daily, Vijayavani and English news daily, Deccan Herald, dated 20.01.2018. However, the Respondent remained absent and was held *ex-parte*, vide Order dated 15.03.2018.
- 4) We have heard the learned counsel for the Petitioners and perused the documents placed on record.

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- 5) The Petitioners have stated that, from 21.10.2013 to 02.06.2014, the Respondent is liable to pay the UI charges and the back up supply charges, for under-injection of energy and drawal of power from the grid, as per the Statement in Document No.21 and that, despite issuing letters and reminders, only a portion of the dues could be recovered.
- 6) The Petitioners have claimed future interest at the rate of 18% per annum, on the amounts due, towards the UI charges and the Back Up Power Supply charges, from the date of filing of the Petition till the date of realization. Regulation 19 of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008, provides for payment of interest on arrears of amounts to the Utilities, from the due date till the date of payment, at the rate of 0.04% per day, which works out to 14.6% per annum. Hence, the future interest claimed by the Petitioners at 18% p.a. appears to be not reasonable. It should be restricted to 14.6% per annum on the principal amount of Rs. 42,98,611/-, as mentioned in Document No. 21.
- 7) The present Petition is filed before this Commission on 06.03.2017. The claim of the Petitioners is within the period of limitation, as the Respondent has acknowledged the debt, in writing, on 18.11.2015 and also acted upon it. Therefore, we find no reason to disallow the claim of the Petitioners.

- 8) All the ESCOMs in the State of Karnataka are entitled to share the UI charges and the Back Up Power Supply charges, in proportion to the energy allotted to them, by the State Government.
- 9) For the foregoing reasons, we pass the following:

ORDER

- (a) The Respondent shall pay a sum of Rs.42,98,611/- (Rupees Forty Two Lakhs Ninety Eight Thousand Six Hundred and Eleven) only, towards arrears of the UI charges and the Back Up Power Supply charges and interest of Rs.5,91,489/- (Rupees Five Lakhs Ninety One Thousand Four Hundred and Eighty Nine) only, upto the date of filing of the Petition, the total amount being Rs.48,90,100/- (Rupees Forty Eight Lakhs Ninety Thousand One Hundred) only;
- (b) The Respondent shall pay further interest at the rate of 14.6% (Fourteen Point Six Percent) per annum on Rs. 42,98,611/- (Rupees Forty Two Lakhs Ninety Eight Thousand Six Hundred and Eleven) only, from 07.03.2017 till the date of full payment; and,
- (c) The amounts to be recovered, as mentioned above, from the Respondent, shall be distributed amongst all the Electricity Supply Companies in the State of Karnataka, in the ratio as prescribed in the Notification bearing No.EN 11 PSR 2013 dated 22.03.2013, issued by the Government of Karnataka.

Sd/-
(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-
(H.D. ARUN KUMAR)
MEMBER

Sd/-
(D.B. MANIVAL RAJU)
MEMBER