

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION

No. 16 C-1, Miller Tank Bed Area, Vasanth Nagar, Bengaluru- 560 052

Dated : 26th March, 2019

Present:

Shri Shambhu Dayal Meena	..	Chairman
Shri H.M. Manjunatha	..	Member
Shri M.D. Ravi	..	Member

OP No.118/2018

BETWEEN:

Bhoruka Power Corporation Limited,
No.48, Lavelle Rod,
Bengaluru – 560 001

[Represented by Navayana Law Offices, Advocates]

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PETITIONER

AND:

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

[Represented by its Managing Director]

2) State of Karnataka,
Department of Energy,
Vikasa Soudha,
Dr. Ambedkar Veedhi,
Bengaluru – 560 001.

[Represented by its Additional Chief Secretary]

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RESPONDENT

**ORDER ON THE APPLICATION FOR CLAIMING WAIVER OF FEE
PAYABLE ON THE PETITION**

- 1) Regulation 3(i)(a) of the KERC (Fee) Regulations, 2016, provides that, every Petition, Application, etc., shall be made to the Commission along with payment of the prescribed Fee, specified under these Regulations. Regulation 4 of the said Regulations provides for the amounts payable towards Fees for making different types of Petitions, Applications, etc., before the Commission. Regulation 3(iii) authorizes the Commission, in appropriate cases, to waive or reduce the amount of Fee payable under these Regulations, by an Order, in writing.
- 2) Though the phrase "in appropriate cases" is not defined or explained under these Regulations, the said phrase is to be interpreted to cover cases of persons, who are unable to pay the Fees to institute any proceedings before the Commission, due to their indigence or poverty. A person, who applies for exemption from payment of Fees, has to establish that, he does not have the capacity to pay or raise funds to pay the required Fee for institution of the proceedings. The other instance to waive or reduce the amount of Fee would be, where the Fee is not commensurate with the claim made in the Petition or Application.
- 3) In the present case, the Petitioner is a Generating Company, having Wind Power Projects at different places in Karnataka and has entered into different

PPAs with the Respondent (HESCOM). The Petitioner has claimed the amounts due from the Respondent (HESCOM), towards supply of energy, for the months from June, 2018 to October, 2018, amounting to Rs.9568.85 Lakhs. The Petitioner is required to pay the Fee at 0.5% on the claim amount, subject to a minimum of Rs.25,000/-, as per Item No.13 of Regulation 4 of the said Regulations, which works out to Rs.47,84,425/-.

- 4) The Petitioner has stated in its Application that, due to non-payment of the arrears, claimed in this Petition, by the Respondent (HESCOM), the Petitioner has suffered huge financial loss, for the last two consecutive years and is likely to suffer huge financial loss even during the present Financial Year and it is not in a position to pay the Fees for filing the present Petition. This appears to be a general statement without any substance. The loss suffered if any, in the last two consecutive years, may not be having any relevance for non-payment of arrears for five months, from June, 2018 to October, 2018. It is also not clearly stated, whether these arrears are towards the entire bill amounts or part thereof. The Petitioner does not say that it has no capacity to raise funds for payment of the prescribed Fee. The Petitioner has further stated that, it would undertake to pay the required Fees, once all the dues and payments are recovered from the Respondent (HESCOM). This cannot be a valid reason for prosecuting the claim, without paying the prescribed Fee. As per the provisions of the KERC (Fee) Regulations, 2016, it is mandatory to pay requisite Fee along with the Petition. In the instant case, the Petitioner has not paid any Fee and asking exemption without proper justification.

- 5) For the above reasons, we hold that, the Application filed by the Petitioner, for exemption of Fee for filing the present Petition, is not tenable.
- 6) For the foregoing reasons, we pass the following:

ORDER

The Application filed by the Petitioner is hereby rejected. The Petitioner is permitted to pay the Fee, as prescribed in the KERC (Fee) Regulations, 2016 for prosecuting the Petition, within 6 (six) weeks from the date of this Order. In default, the Petition shall stand rejected.

Sd/-
(SHAMBHU DAYAL MEENA)
CHAIRMAN

Sd/-
(H.M. MANJUNATHA)
MEMBER

Sd/-
(M.D. RAVI)
MEMBER