

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,  
BENGALURU**

**Dated : 27<sup>th</sup> August, 2015**

**Present:**

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

**RP No.8 / 2014**

**BETWEEN:**

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

2) The State Load Despatch Centre,  
KPTCL, No.26, Race Course Road,  
Bengaluru – 560 009.

3) Bangalore Electricity Supply Company Limited,  
K.R. Circle,  
Bengaluru – 560 001

*[Represented by Justlaw, Advocates]*

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**PETITIONERS**

**AND:**

NSL Sugars Ltd.  
No.60/1, Residency Road, 2<sup>nd</sup> Cross,  
Bengaluru – 560 025

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**RESPONDENT**

*[Represented by Smt. Poonam Patil, Advocate]*

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**ORDERS**

- 1) This Review Petition is filed by the Respondents in OP No.1/2013, praying for review of the Order dated 29.5.2014 in the said case, directing the third Respondent therein (third Petitioner in this Review Petition) to pay

compensation for the electricity injected into the grid, for the period from 15.11.2012 to 6.2.2012 at the rate of Rs.3.90 per unit, after deducting the amounts paid, if any, to the Petitioner therein (Respondent in this Review Petition). This Review Petition is opposed by the Respondent - NSL Sugars Ltd.

- 2) We have heard the learned counsel for the parties, perused the contents of the Review Petition and the Statement of Objections filed by the Respondent.
- 3) The learned counsel for the Review Petitioners mainly contended that, on the facts and in the circumstances of this case, only variable costs should have been allowed as compensation for the electricity injected into the grid, as held by the Hon'ble Appellate Tribunal for Electricity (ATE) in its Order dated 27.11.2012 in Appeal No.140/2012, in the case of *Parrys Sugar Industries Limited -Vs- Karnataka Power Transmission Corporation Limited and others*.
- 4) The same contention was raised by the Review Petitioners in OP No.1/2013 and it was considered by the Commission at length [under Issue No.(2) of its Order] and ultimately decided to allow compensation at the rate of Rs.3.90 per Unit, being the minimum generic tariff for Co-generation Plants, instead of Rs.2.52 per Unit, being the variable cost applicable for such Co-generation Plants.

- 5) The other contention urged by the Review Petitioners is that, from the date of receipt of application seeking NOC for inter-State open access from the Respondent, the second Review Petitioner (SLDC) had seven days' time for responding, and in default, the Respondent could have obtained NOC for open access by filing an Affidavit setting out the required details, and therefore, this Commission should not have granted compensation to the Respondent from the date of application seeking NOC for open access. It is pointed out that, in the present case, the Respondent had filed the application seeking NOC for open access on 17.11.2012 and therefore, the liability to make payment for the energy supplied would accrue only from 25.11.2012 until 6.12.2012, but not from 15.11.2012 to 6.12.2012.
- 6) We find that the above contention was not taken by the Review Petitioners in their objections in OP No.1/2013, and therefore, they are not entitled to urge this new ground in the present Review Petition. Even if such a ground was urged in OP No.1/2013, it could not have been entertained on the facts and in the circumstances of the case. The Respondent was supplying electricity to the third Review Petitioner during the pendency of OP No.33/2009, wherein the validity of termination of the Power Purchase Agreement (PPA) was under consideration, till it was finally disposed of on 15.11.2012, holding that the termination of the PPA was valid. On 15.11.2012 itself, the Respondent had intimated the third

Review Petitioner regarding the compelling reasons for injecting electricity to the State Grid from 15.11.2012 itself and requested the third Respondent to receive the energy and to pay for the same and the Respondent and applied for grant of NOC for open access on 17.11.2012. These were the circumstances, which were taken into consideration by the Commission while allowing compensation for the energy injected from 15.11.2012 itself.

- 7) In view of the above, we find that there are no grounds for revising the Order dated 29th May, 2014 of this Commission, passed in OP No.1/2013.
- 8) For the foregoing, we pass the following :

**ORDER**

The Review Petition stands dismissed.

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