

N/20/06

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 27th day of September 2007

1. Shri K.P.Pandey	..	Chairman
2. Shri H.S.Subramanya	..	Member

Case No.OP 24 / 06

Between

M/s.Graphite India Limited, 31, Chowringhee Road, Kolkatta-700016	..	Petitioner
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And

1. The Karnataka Power Transmission Corporation Limited(KPTCL) Cauvery Bhavan, Bangalore-560009		
2. Mangalore Electricity Supply Company Limited, A.B.Shetty Circle, Paradigm Plaza, Mangalore-575001	..	Respondents

The Petitioner Company has filed a Petition praying for the following relief:

a) QUASH the letter dated 05.07.2003 bearing No.KPTCL/B35/SEE (P&M)/AEEEE4 4571 issued by the 1st Respondent terminating the PPA dated 21.12.2001 entered into with the Petitioner (ANNEXURE W)

b) DECLARE that the PPA dated 21.12.2001 (ANNEXURE K) entered into by the parties is valid and subsisting.

(c) DIRECT the Respondents 1 & 2 to jointly and severally pay the petitioner a sum of Rs.60,70,711 (Rupees Sixty Lakhs, Seventy Thousand, Seven Hundred and Eleven) towards differential arrears of tariff and interest thereon calculated till 31.03.2006, as per Article 5 of the PPA (ANNEXURE HH).

(d) DIRECT the 1st Respondent to pay the petitioner a sum of Rs.24,31,000 (Rupees Twenty-Four lakhs, Thirty One Thousand) towards estimated loss of generation on account of the illegal disconnection of the evacuation facility from 16.07.2003 till 30.08.2003.

(e) DIRECT the 2nd Respondent to pay differential arrears of tariff accruing during the pendency of the present petition as per PPA terms.

(f) DIRECT the 2nd Respondent to henceforth abide by and honour all the terms and conditions of the PPA dated 21.12.2001.

(g) GRANT such other and further reliefs as are just, including the costs of the petition.

Notices were issued to the Petitioner as well as the Respondents and the Counsels for both the parties were heard. In the course of the hearing, the parties informed the Commission that the dispute would be settled after discussion and a Joint Memo would be filed. Accordingly , a Joint Memo has been filed, which reads as under:

“ JOINT MEMO

1. Both the parties to the above petition have negotiated and deliberated upon the subject matter of the dispute and have agreed upon the following terms:

(i) That for the period from 30.08.2003 to 31.03.2007, the tariff to be paid to the Petitioner Company will be as per the Power Purchase Agreement dated

21.12.2001 (now revived) and the difference between the applicable rate and ad hoc rate paid, if any, shall be paid by the Respondent company.

(ii) That the Petitioner Company shall be paid for the electricity supplied to the respondent from 01.04.2007 at the following rate per unit with 2% non cumulative escalation for the base tariff for the base year of 2006-07.

Period	Tariff in Rs/Unit
30.08.2003 to 31.03.2004	3.49
01.04.2004 to 31.03.2005	3.66
01.04.2005 to 31.03.2006	3.84
01.04.2006 to 31.03.2007	4.03
01.04.2007 to 31.03.2008	4.1106
01.04.2008 to 31.03.2009	4.1912
01.04.2009 to 31.03.2010	4.2718
01.04.2010 to 31.03.2011	4.3524
01.04.2011 to 20.12.2011	4.4330

(iii) That the Respondent further agrees to pay the arrears arising on account of the difference of tariff as agreed upon in the present memo to the Petitioner Company expeditiously but not later than 60 days from the date of this joint memo, failing which the Respondents would pay penal interest at the rate mentioned in PPA dated 21.12.2001.

2. The Respondents would pay interest on the arrears, if interest on arrears has been paid or would be paid to any other party whose PPA was similarly terminated and with whom the Respondents have entered or would enter into a settlement involving payment of arrears with interest.

3. Both the parties also agree that recording the aforementioned terms, a supplemental Power Purchase Agreement shall be signed and executed and shall be submitted to KERC for its approval.

4. WHEREFORE, it is respectfully prayed that this Hon'ble Commission be pleased to approve the above terms of settlement arrived at between the parties and be pleased to dispose of the present petition in terms stated above, in the ends of justice.

5. This joint memo has been executed on 9th day of August 2007

Advocate for Petitioner for Graphite India Limited

Advocate for Respondents for Karnataka Power Transmission Corporation Ltd.

for Mangalore Electricity Supply Company Limited "

The joint Memo has been signed by the representatives of the Petitioner as well as the Respondents

Since the parties have settled the matter after mutual discussions, the Petition is disposed off with direction that effect shall be given in terms of the Joint Memo by the Respondents. The Respondent 2 shall file the supplementary PPA for approval of the Commission.

Sd/-
(K.P.Pandey)
Chairman

Sd/-
(H.S.Subramanya)
Member

