

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 28th June 2007

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

Petition No.V/02/1/2007

Between

M/s.Jindal Aluminium Limited,
Jindal Nagar, Tumkur Road,
BANGALORE-560073

And

1. The Managing Director,
Karnataka Power Transmission Corporation Ltd,
Cauvery Bhavan,
Kempegowda Road,
BANGALORE-560009

2. The Managing Director,
B.E.S.C.O.M.
Corporate Office,
K.R.Circle,
BANGALORE-560001

The erstwhile K.E.B.(now KPTCL) had entered into a wheeling agreement on 25.8.1997 with M/s.Jindal Aluminium Limited to wheel energy generated from 2.3 MW of wind power plant at Chitradurga to USERS specified by M/s.Jindal Aluminium Limited and approved by the Board. Article 5.03 of the said agreement specifies the wheeling charges at 2% in the form of energy. Subsequently, a supplemental wheeling agreement was signed between the parties on 07.01.1998 revising the capacity of the plant from 2.3 to 4.14 MW. Vide its order No.KPTCL/B-28/B-13/558/85-86 dated 30.08.2000, the KPTCL had revised

the wheeling charges for NCE sources to 20%. For captive plants, the rate was revised to 15% by the KPTCL vide its order dated 18.10.2001.

M/s.Jindal Aluminium Limited, being aggrieved by the above orders, had filed a Writ Petition before the Hon. High Court of Karnataka and the Hon. High Court had passed an interim order on 06.11.2000 directing the KPTCL to collect the wheeling charges at the rate of 10% pending further order from the Hon. High Court. Some other generating companies had also filed Writ Petitions before the Hon. High Court and the Hon. High Court had disposed the said petitions by a common order dated 01.09.2006 with the following directions.

"1. It is open to the petitioners and the 2nd respondent to forward their proposal-cum-agreement permitting the petitioners and respondent No.2 to execute the necessary agreement and same may be forwarded for approval to the competent authority KERC.

2. The KERC is directed to receive the same and pass appropriate orders in strict compliance of the Karnataka Electricity Regulatory Commission and take decision in accordance with law

3. Meanwhile, the interim order granted by this court is extended directing the petitioners in all the petitions to pay 10% increase in the wheeling charges, if in case, any excess amount has been fixed, the petitioners will undertake to pay the same on the basis of final decision taken by the competent authority."

During the pendency of the Writ Petition before the Hon. High Court, a tripartite supplemental agreement had been initialled on 21.06.2006 by KPTCL, BESCOM and M/s.Jindal Aluminium Limited wherein the wheeling charges had been agreed to as follows:

"The wheeling charges shall be in the form of energy and shall be 10% for the energy wheeled w.e.f. 06.11.2000 (date of the interim order of the Hon. High Court) till 09.06.2005 (the date on which KERC has determined the wheeling charges. Thereafter, the wheeling charges shall be as determined by the Commission from time to time."

Following the directions issued by the Hon. High Court, the Commission had issued notices to KPTCL and BESCOM to place necessary proposals for

wheeling charges before the Commission in respect of the Petitioners for the period for which the wheeling charges have to be determined by the Commission along with working details and supporting documents. The KPTCL and BESCOM had, vide letter dated 08.01.2007, intimated the Commission that the supplemental agreement entered into with M/s.Jindal Aluminium Limited on 21.06.2006 may be approved. As per this agreement, M/s.Jindal Aluminium Limited had agreed for revision of wheeling charges from 2% to 10% as against 20%/15% fixed earlier and the rate arrived at between the parties is on the basis of consensus reached between the parties keeping in view the facts and circumstances of the case. As the rate fixed is fair and reasonable to both the parties, the Commission was requested to accord approval for the supplemental agreement. Regarding the other developers who had filed Writ Petitions before the Hon. High Court, the Commission was informed that, as and when the generating companies discuss and agree with KPTCL on the wheeling charges, supplemental agreement would be submitted for approval. During the course of the hearing, representatives of KPTCL, BESCOM and M/s.Jindal Aluminium Limited were present and heard. Both the parties referred to the supplemental agreement entered into on 21.06.2006 and pleaded that in view of the consensus reached between the parties and the rate agreed to being reasonable and fair, the same may be approved by the Commission.

The Commission has perused the records. There were 3 other parties who had filed Writ Petitions before the Hon. High Court along with M/s.Jindal Aluminium Limited and the Hon. High Court had permitted the parties concerned to execute necessary agreement and forward the same for approval of the Commission. The Commission has received copy of the supplemental agreement in respect of M/s.Jindal Aluminium Limited only. As mentioned above, the period for which the wheeling charges were to be determined is for the period prior to 09.06.2005 when the Commission had determined the wheeling charges in respect of consumers availing Open Access under Phase-I, i.e. the H.T. Consumers with a contract load of 15 MW and above and with voltage of 66 KV and above effective from 10.6.2005. The Commission,

vide order dated 25.04.2007, has determined the wheeling charges for the 3rd phase of Open Access wherein the wheeling charges for 3 MW and above have been determined. The above Order of the Commission is effective from 01.04.2007 onwards. As mentioned above, the installed capacity in the present case is 4.14 MW and, therefore, the Order of the Commission dated 25.04.2007 will be applicable to this case with effect from 01.04.2007 only. As per the above agreement filed in the present case, the wheeling charges shall be 10% with effect from 06.11.2000 i.e. the date of interim order of the Hon. High Court. The Commission is of the view that, as the supplemental agreement initialled by both the parties and filed before the Commission now agreeing for 10% wheeling charges is based on facts and circumstances of the case and both the parties have pleaded for acceptance of the agreement being fair and reasonable, the Commission accepts the said agreement entered into between the parties. Copy of the final agreement signed by both the parties may be filed before the Commission seeking necessary approval.

The Petition is accordingly disposed.

Sd/-
(K.P.Pandey)
Chairman

Sd/-
(H.S.Subramanya)
Member

Sd/-
(S.D.Ukkali)
Member

