

No.N/07/10

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 3rd March 2011

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| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri Vishvanath Hiremath | Member |
| 3. Sri K. Srinivasa Rao | Member |

Case No. OP 06/2010

Between

M/s SRM Power Private Limited
'Brewery House, 7th Mile
Kanakapura Road
BANGALORE – 560 062
(Represented by Sri Shridhara Prabhu, Advocate)

... Petitioner

And

1. Mangalore Electricity Supply Company Limited
'Paradigm Plaza', A.B. Shetty Circle
MANGALORE – 575 001
2. Karnataka Power Transmission Corporation Limited
Kaveri Bhavan, K.G. Road
BANGALORE – 560 009
(Represented by Just Law Advocates)

... Respondents

1. In this petition the petitioner has sought a direction to the 1st Respondent MESCOM to sign a PPA with the tariff rate decided by this Commission vide its Order dated 11.12.2009 and in the alternative to issue a direction to the 1st and 2nd and 2nd Respondents to provide Open Access.

2. The counsel appearing for the petitioner fairly agrees that the prayer for signing a fresh agreement is based on the contention that the earlier PPA has become null and void. Since this Commission has already taken a view in similar

matters that the agreement does not become null and void at the instance of the generator for non-fulfillment of any conditions precedent on his part. The learned counsel for the petitioner has fairly conceded that the present case is covered by the above decision of the Commission.

3. However, the learned counsel for the petitioner has also raised another contention that the PPA in this case is not validly executed with adequate stamp duty for 'conveyance' of a specified quantity of electricity and the value of any claim arising from the PPA cannot exceed ten times the stamp duty paid.

4. We have heard the learned counsel on this contention in support of which he has relied upon the order of the Hon'ble Supreme Court in Civil Appeal No.5876/2009.

5. In OP No.37/2010 we have already considered similar contention and have rejected the same. Duly following the said reasoning, the contentions raised in this petition also have to be rejected.

6. Consequently this petition has to be dismissed and is accordingly dismissed.

Sd/-

(M.R. SREENIVASA MURTHY)
CHAIRMAN

Sd/-

(VISHVANATH HIREMATH)
MEMBER

Sd/-

(K. SRINIVASA RAO)
MEMBER