

No.N/23/09

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 11th December 2009

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|----------------------------|----------|
| 1. Sri K.P. Pandey | Chairman |
| 2. Sri Vishvanath Hiremath | Member |
| 3. Sri K. Srinivasa Rao | Member |

Case No. OP 12/2009

Between

M/s. Sathavahana Ispat Limited
314, Ramakrishna Towers, Nagarjuna Nagar
HYDERABAD – 500 073
(Represented by its Advocate Sri Sridhar Prabhu)

.... **Petitioner**

And

1. The Principal Secretary to Government
Energy Department, Vikasa Soudha
BANGALORE – 560 001
2. Managing Director
G E S C O M, Station Road
GULBARGA – 585 102
3. Chief Engineer
State Load Despatch Centre
28, Race Course Road
BANGALORE – 560 001

4. Managing Director
KPTCL, Kaveri Bhavan
BANGALORE – 560 009
(Represented by its Advocate Sri Sriranga)

.... **Respondents**

1. In this petition, the petitioner has prayed for issuing a direction to the respondents to pay a sum of Rs.2,81,86,750/- for 36,37,000 Kwh units of energy pumped in by them to the grid between the period 14.7.2008 and 20.9.2008 at the rate of Rs.7.75 along with interest @ 15 % per annum.

2. The respondents have appeared and have filed their statement of objection opposing the prayer made by the petitioner.

3. The facts of the case are that the petitioner has set up a steel plant and a cogeneration power plant at Kudithini village, Kurugod taluk of Bellary district for captive consumption. The petitioner after setting up the plant got the same synchronized with the KPTCL grid on 14.7.2008 and started generation of power and injected the same to the grid. In the meanwhile it had applied for open access for exporting the power. The respondents after considering the request of the petitioner granted open access on 20.9.2008 as per Annexure P-9.

4. It is the case of the petitioner that from the date of synchronization to the date of granting open access it has injected electricity to the extent of 36,37,000 Kwh and respondents have not paid any charges for the same. Petitioner therefore submits that the respondents shall be ordered to pay at Rs.7.75 per Kwh.

5. Per contra the respondents have contended that they had not sought for supply of any power by the petitioner during the period in issue nor they had agreed to purchase the power. It is petitioner's on its own volition pumped the power and therefore they are not liable to pay any charges for the same. The respondents have further contended that the demand of petitioner to pay for the electricity pumped in at Rs.7.75 is also not correct as the petitioner may be entitled to a maximum of Rs.3.72 per unit based on relevant considerations. They have also given the details of the working at Para 9 of the written statement.

6. We have considered the averments made both by the petitioner as well as the respondents.

7. The question that arises for consideration is whether petitioner is entitled to get paid for the electricity supplied by it for the period between the date of synchronization and date of grant of open access and if entitled to at what rate.

8. It is not disputed that the petitioner synchronized its plant with the grid and has pumped in the power to the extent stated by it. What is disputed by the respondent is the payment for the power supplied which was not sought for.

9. In our considered opinion, petitioner is not entitled for charges for the power pumped at Rs.7.75 as there was no agreement on the rate or supply of power between the petitioner and respondent. Admittedly power is pumped not at request of the respondent but by the petitioner on its own volition as they had to generate. Petitioner having supplied power on its own cannot demand payment at its rate. Therefore it has to be held that the petitioner is not entitled to be paid at Rs.7.75 per Kwh nor interest in the absence of any agreement to that effect.

10. The next question is whether the respondents are not liable to pay any charges. In our view the respondents are liable to pay and the petitioner is entitled to the charges for the power supplied at the rate worked out by respondents in their counter, as respondents have used the electricity to supply to their consumers from whom they collect charges.

11. Considering the facts and circumstances of this case, we hold that Rs3.70 per unit will be a reasonable rate at which petitioner shall be paid. Accordingly we direct the respondents to pay to the petitioner @ Rs.3.70 per unit for the electricity supplied during the period between 14.7.2008 to 20.9.2008 and make the payment within a period of three (3) months from the receipt of this Order without any interest thereon.

Sd/-
(K.P. PANDEY)
CHAIRMAN

Sd/-
(VISHVANATH HIREMATH)
MEMBER

Sd/-
(K. SRINIVASA RAO)
MEMBER