

No.N/25/09

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION  
BANGALORE**

**Dated this 14<sup>th</sup> December 2009**

**Present**

<b>1. Sri K.P. Pandey</b>	<b>Chairman</b>
<b>2. Sri Vishvanath Hiremath</b>	<b>Member</b>
<b>3. Sri K. Srinivasa Rao</b>	<b>Member</b>

**OP No. 16/2009**

**In the matter of Application filed by KPTCL for determination of  
Transmission Charges payable by NCE projects**

**Karnataka Power Transmission Corporation Limited (KPTCL)  
Cauvery Bhawan, Kempegowda Road  
BANGALORE – 560 009**

**... Applicant**

**ORDER**

1. This petition is initiated by Karnataka Power Transmission Corporation Limited (hereinafter referred to as KPTCL) for determination of transmission charges payable by any licensee or generating company for providing open access to its transmission system in modification of the Order of the Commission dated 09.06.2005 read with Order dated 11.07.2008.

2. It is contended by the petitioner that under Section 39(2)(d) of the Electricity Act, 2003 (hereinafter referred to as Act), it is obliged to provide non discriminatory open access to its transmission system for use by any licensee or generating company only on payment of transmission charges, whereas, according to the Commission's Order dated 09.06.2005

read with Order dated 11.07.2008, wheeling and banking charges are payable only to ESCOMs where energy is drawn. As a consequence to the Commission's Order it is not getting any charges towards the user of its transmission network. It is further contended that KPTCL is investing huge amounts in developing and maintaining its transmission network and it shall be entitled to the transmission charges from the person whoever uses its network. Therefore it is prayed for modification of the Commission's Order dated 09.06.2005 and 11.07.2008 to provide for payment of transmission charges by the NCE projects at the rate of 19.42 paise per unit.

3. Since the prayer of the petitioner will affect the distribution companies which are also providing open access to their distribution network, notices were issued them to elicit their views. In reply, ESCOMs have filed their responses.

4. We have considered the submission of the petitioner and also the views of ESCOMs.

5. State Commission under Section 86(1)(e) of the Act shall discharge the function of promoting cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee on the Commission. Section 39(2)(d) of the Act imposes an obligation on the State Transmission Utility to provide non discriminatory open access to its transmission system for use by any licensee or generating company on payment of transmission charges. Similarly Section 42(2) imposes an obligation on the distribution companies to provide open access by any

person or generating company on payment of wheeling charges and other charges as determined by the Commission from time to time.

6. In exercise of its powers conferred under Section 181 read with Sections 39(2)(d), 40(c), 42(2)&(3), 86(1)(c), Commission has framed Karnataka Electricity Regulatory Commission (Terms and Conditions for Open Access) Regulations, 2004. Clause 11 of the Open Access Regulations provides for determination of open access charges payable by user of the transmission and distribution networks. Relevant portion of Clause 11 of the Open Access Regulations read as under :

**“11. Open Access Charges**

*The charges for the use of the transmission / distribution system by an open access customer shall be regulated as under :*

- (i) Where open access is availed from a transmission licensee (including STU) under Section 39(2)(d)(ii) and Section 40(c)(ii) of the Act, transmission charges as determined by the Commission under Section 62(1)(b) of the Act shall be applicable from time to time. The Commission would follow the postage stamp method for determination of transmission tariff for the present.*
  
- (ii) Where open access is availed from a distribution licensee under Section 42(2) of the Act, wheeling charges as determined by the Commission under Section 62(1)(c) of the Act shall be applicable from time to time, in addition to transmission charges payable under sub-clause (i) above. The wheeling charges as determined by the Commission in its Tariff Order 2003 shall be applicable till such time wheeling charges are determined by the Commission afresh.*

**Clause (ii) As Amended:**

*“Where open access is availed from a distribution licensee under Section 42(2) of the Act, wheeling charges as determined by the Commission from time to time shall be applicable, in addition to transmission charges payable under sub-clause 11(i)”.*

*(iii) In case intra-state transmission system or distribution system is used by an open access customer in addition to inter-state transmission system, transmission charges and wheeling charges shall be payable for use of intra state system in addition to payment of inter-state transmission charges.”*

7. Pursuant to the above Regulation and powers conferred under Sections 62(1)(b) and 42(2) of the Act, Commission on 09.06.2005 has determined the open access charges after considering the submissions of the stakeholders and expressed during public hearing. According to the said order, Commission has determined overall wheeling charges payable by NCE sources as 5 % of the energy input into the system and has categorically said that other than 5 % wheeling charges, NCE generators shall not be liable to pay any transmission / wheeling charges either in cash or kind as determined in the order. It is observed from the above order that overall wheeling charges have been fixed for the NCE sources at 5 % only keeping in view the objective of the Act for promotion of NCE generation.

8. BESCOM, CESC and GESCOM in their written submission have expressed that they have no objection to fix transmission charges separately for KPTCL but it shall be in addition to 5 % wheeling charges already fixed and payable to the ESCOMs. However, HESCOM has stated

that it is agreeable to part with 1.67 % out of 5 % of input energy to KPTCL towards its transmission charges.

9. The prayer of the petitioner for issuing a direction for payment of 19.42 paise per unit as transmission charge for wheeling of energy in our opinion cannot be acceded to. Admittedly the lines which are used by generating companies for open access are the one which are not separately laid for the purpose and is a part of the general transmission network constructed and maintained by KPTCL. For this network, KPTCL is already recovering transmission charges from the distribution companies through the transmission tariff. While determining the transmission tariff, Commission has taken into account all the costs of KPTCL including the costs incurred for transmission of power generated by NCE generators.

10. The Commission has determined 5 % wheeling charges in kind allowable to ESCOMs taking into account the entire cost incurred both by transmission company as well as distribution companies. As pointed out above, the Commission under Section 86(1)(e) has a function of promoting generation of electricity by renewable sources by providing suitable measures for connectivity with the grid and sale of electricity to any person. While fixing 5 % even KPTCL had pleaded for fixation of concessional wheeling charges to promote generation from NCE sources. This may be observed from Para 7.04 at Page 7 of the Commission's Order dated 09.06.2005.

11. If the prayer of the petitioner is considered, in our view, the same may discourage open access and market development within the State. It is noticed that the NCE generators are already trying to sell the power generated by them outside than within the State, which in turn is affecting the consumers of the State. In the immediate past, this has compelled the

State to go in search of power at a higher tariff besides imposing an obligation on the NCE generators to supply within the State by exercising statutory power conferred on the State under Section 11 of the Act.

12. We are of the view that the concessional wheeling charges provided for NCE generators for transmission of power within the State needs to be continued and will be in the interest of the State in general. This will also not affect KPTCL adversely, as income generated by collecting the transmission charges from NCE generators, will have to be deducted while calculating the net ARR of KPTCL. As pointed out above, even now KPTCL is collecting transmission charges for carrying NCE power, from ESCOMs, not directly, but indirectly.

13. The contention of KPTCL that it is incurring loss due to non payment of transmission charge is not tenable. KPTCL, having not incurred any additional expenditure on account of transferring NCE power to ESCOMs or captive generators there is no cause to complain. If KPTCL has incurred any special expenditure, it may bring up a separate claim. Till then, in our opinion, fixing of 5 % wheeling charge does not require any modification.

14. For the foregoing discussions, the petition is liable to be rejected and accordingly stands rejected.

Sd/-  
(K.P. PANDEY)  
CHAIRMAN

Sd/-  
(VISHVANATH HIREMATH)  
MEMBER

Sd/-  
(K. SRINIVASA RAO)  
MEMBER