

**No.N/30/08 & N/02/09**

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION  
BANGALORE**

**Dated this 9<sup>th</sup> September 2009**

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

**Case No. OP 22/2008 & OP 02/2009**

**Between**

M/s. Hukkeri Rural Electric Cooperative Society  
HUKKERI – 591 309  
Belgaum District  
(Represented by Sri Shridhar Prabhu, Advocate)

**.... Petitioner**

**Vs.**

1. The Managing Director  
Hubli Electricity Supply Company Limited  
Navanagar  
HUBLI
2. The Managing Director  
KPTCL, Kaveri Bhavan,  
BANGALORE – 500 009
3. The Principle Secretary  
Government of Karnataka  
Energy Department  
Vidhana Soudha  
BANGALORE – 560 001
4. The Managing Director  
Power Company of Karnataka Limited  
Kaveri Bhavan, KPTCL Complex  
BANGALORE – 560 009  
(Represented by its Advocate Sri Sriranga)

**... Respondents**

1. The petitioner M/s Hukkeri Rural Electric Cooperative Society, Hukkeri ((hereinafter referred to as Society) has initiated this proceedings to declare that the 1<sup>st</sup> Respondent cannot demand the electricity charges other than the one approved by the Commission in its Order dated 7.3.2008 and for direction to the respondent to honour the order of the Commission dated 7.3.2008. Further, the petitioner has sought a declaration that notwithstanding the allocation to be made by the Government of Karnataka in future, the allocation of power purchase approved by the Commission shall continue.

2. The Society has also filed another petition in OP No.02/2009 wherein almost same issues are raised as in this petition. Respondents have filed their objections to both the petitions and sought rejection of the petition with cost.

3. As both the petitions raise common issues, with the consent of parties, both petitions have been heard together and disposed off.

4. In support of the relief sought, the petitioner Society has contended that the demand made by the Respondent No.1 to pay for the electricity supplied at Rs.3.40 per unit from the Society is contrary to the orders of the Commission dated 7.3.2008 and hence is unsustainable. It is further contended that unless the order passed by the Commission is modified in accordance with law, the same cannot be violated by the Respondent No.1 and demand higher tariff.

5. In reply, it is contended by the respondents that the demand to pay at Rs.3.40 per unit for the electricity supplied by it, has been worked out based on its estimated cost of supply since petitioner did not choose to procure power from other sources as observed by the Hon'ble Commission in its order. The Respondent has further alleged that the

petitioner is defaulting in making timely payments and the petitioner owes a sum of Rs.37.03 crores as arrears and therefore the petitioner is not entitled to the reliefs claimed in the petition.

6. We have considered the rival submissions and also the pleadings and material produced and also the written arguments.

7. This Commission in its order dated 7.3.2008 on the application of the Society for approval of ERC for FY08 to FY10 under MYT framework, had ordered that the petitioner shall pay for the electricity supplied by Respondent No.1 at the rate Rs.1.00 for HESCOM and to claim the difference amount of Rs.1.00 and actual amount payable towards power purchase and transmission charges for FY08 from Government of Karnataka out of subsidy payable to the Society towards IP sets and BJ/KJ consumption. The Commission had also reiterated its earlier stand that the Society shall make its own commercial arrangement for power purchase at competitive rates instead of depending on HESCOM. Further the Commission also requested Government of Karnataka to make allocation of power to the Society separately as the Society is a licensee under the provisions of Electricity Act, 2003.

8. Apparently the petitioner Society has not made any efforts to make its own arrangements to purchase power instead of taking power from Respondent No.1. The petitioner therefore really cannot make any legitimate grievance against HESCOM's statement that the petitioner may have to make its own commercial arrangement for power purchase. However, HESCOM on this score unilaterally cannot fix a tariff at Rs.3.40 as has been done on 9.4.2008 (Annexe-F). If the power supply at the rate determined by the Commission was not viable to it, the correct course of action for HESCOM was to approach the Commission for determination of tariff by producing necessary details. In the absence of such a petition to

the Commission, Respondent No.1 cannot demand on its own Rs.3.40 per unit from the petitioner Society. Therefore it has to be held that the demand of HESCOM on the petitioner to pay Rs.3.40 per unit for the electricity supplied is not correct. However, the petitioner shall negotiate with Respondent and arrive at mutually acceptable rate and seek approval of the Commission if it still desires to continue to purchase power through HESCOM. Otherwise petitioner cannot demand power supply from HESCOM at its own rates for all the time.

9. Therefore, in line with Commission's Order dated 7.3.2008, it is hereby directed that the petitioner Society shall enter into a commercial arrangement on or before 31.3.2010 for purchase of power either with HESCOM or with KPC or with any other sources suitable to it for purchase of power. Though shift from the existing arrangement is difficult, the petitioner Society being an independent licensee having independent staff of its own should manage its affairs more efficiently and economically. By arranging its required power independently, Society can serve its consumer better and supply better quality of power and for longer hours and win over its consumers. The Society shall become a model Society by being truly independent. Having a compact area of operation and having small section of consumers, the Society can definitely perform its role in a much better way and achieve better results both administratively and economically. It can also strive to meter all unmetered consumers by persuasion and also recover its entire revenue. This will definitely augur for the Society and it can provide a lead to the other bigger licensees.

10. As regards the allocation of power by Government of Karnataka, the petitioner cannot make any grievance against the same as the same has been done in accordance with the directions of this Commission. If

there are any issues relating to this, the appropriate course for the petitioner is to approach the Government and seek appropriate corrections.

11. As regards the arrears claimed by Respondent No.1, both parties can sit together and settle the same instead of allowing it to become an irritant at all times. Based on the Commission's order dated 7.3.2008, HESCOM shall collect the arrears of Society's subsidy from Government. This shall be done within a period of three (3) months. However commencing from 2009-10 onwards the Society shall collect its subsidy from Government of Karnataka from time to time and discharge its liabilities promptly to avoid unnecessary litigations.

12. Both the petitions have been disposed off in terms of above.

Sd/-  
(K.P. PANDEY)  
CHAIRMAN

Sd/-  
(VISHVANATH HIREMATH)  
MEMBER

Sd/-  
(K.SRINIVASA RAO)  
MEMBER