

No.N/47/09

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 23rd December 2010

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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 36/2009

Between

Mr. Kashyap J Majethia
S/o Sri Jitendra Majethia
Shilawant Galli
Madhura Market
H U B L I – 580 020 ... Petitioner
(Represented by its Advocate Sri Vishwanath R Hegde)

Vs.

H E S C O M
Navanagar
H U B L I – 580 025 ... Respondent
(Represented by its Advocates Just Law)

1. In this petition the petitioner is seeking payment of interest of Rs.5,09,935/- for the delay in payments for the power supplied to the Respondent Company from March 2007 to March 2009. The petitioner has also prayed for a direction to the Respondent to make prompt payments.
2. The respondents have put in appearance and have denied the claim for interest through the statement of objections.
3. We have heard counsels appearing for both the parties.
4. The only question that arises for consideration is whether the petitioner is entitled to interest for the delayed payments made by the respondents.

5. It is an admitted fact that the petitioner and the respondents have signed a Power Purchase Agreement (PPA) dated 15.2.2007. In clause 6.2 of the PPA, it is the obligation of the respondent to make payments for power within fifteen days from the date of receipt of the tariff invoice from the petitioner. As per clause 6.3 of the PPA, if any payment is not paid when due, interest is payable at the rate of SBI medium term lending rate until such payment is made in full.

6. The petitioner has produced a statement at Annexure-B showing the interest liability of the respondents which totally comes to Rs.5,09,935/-.

7. Other than making a general denial statement the Respondent has not produced any material to show that there was no delay in making the payments on their part and therefore no interest as claimed by the petitioner is payable.

8. We have examined the claim of the petitioner in the light of the terms of the PPA. We observe that there is a delay in making the payment though this is tried to be denied by the Respondents. Therefore, the respondent is liable to pay interest at the rate prescribed in Clause 6.3. Accordingly we hold that the respondent is liable to pay an interest of Rs.5,09,935/- as claimed by the petitioner. Consequently, a direction is issued to the respondent to pay this amount within two months from the date of this order.

9. As regards a direction to the Respondent to make future payments promptly, we feel that no direction need to be issued as the PPA itself provides for the same and the consequences of non payment.

10. This petition is allowed in terms of the above.

Sd/-

(M.R. SREENIVASA MURTHY)
CHAIRMAN

Sd/-

(VISHVANATH HIREMATH)
MEMBER

Sd/-

(K. SRINIVASA RAO)
MEMBER