

No.: N/49/15

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BENGALURU**

Dated : 13th October, 2016

Present:

Shri M.K. Shankaralinge Gowda	Chairman
Shri H.D. Arun Kumar	Member
Shri D.B. Manival Raju	Member

OP No.23 / 2015

BETWEEN:

- 1) Bangalore Electricity Supply Company Limited,
K.R. Circle
Bengaluru – 560 001
- 2) State Load Despatch Centre,
No.28, Race Course Cross Road,
Bengaluru-560009

..

PETITIONERS

[Represented by Indulaw, Advocates]

AND:

Surana Industries Pvt. Ltd.,
Plot No.231-234,
Raichur Growth Centre,
KIADB
Raichur-584 102

..

RESPONDENT

[Remained absent]

- 1) In the above Petition, the Petitioners have sought for the following reliefs :
 - (a) To direct the Respondent to pay a sum of ₹23,27,03,477/- towards arrears and interest in respect of the UI charges and Back Up Power charges that is due and payable by the Respondent;
 - (b) To direct the Respondent to pay interest at the rate of 18% per annum on the amount due from the date of filing of the present Petition till the date of actual payment;
 - (c) To declare that the Respondent has acted in breach of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008;
 - (d) To direct that the amount of ₹23,27,03,477/- be distributed amongst all ESCOMs in the ratio as prescribed in the Notification bearing No.EN 11-PSR 2013, dated 22.03.2013 issued by the Government of Karnataka; and
 - (e) To pass any such other Order/s as this Commission may deem fit in the interest of justice and equity.
- 2) The material facts required for the disposal of this case may be stated as follows :
 - (a) The Respondent has installed 35 Mega Watts (MW) capacity of coal-based grid-connected Captive Power Plant at KIADB Growth Centre at Raichur District.

- (b) The Respondent was approaching the 2nd Petitioner-State Load Despatch Centre, (SLDC) for grant of 'No Objection Certificate' (NOC) for enabling it to obtain the inter-State open access, for transmitting energy from its Captive Power Plant to some inter-State customer. The 2nd Petitioner (SLDC) used to grant the NOC on fulfilment of the required conditions as specified in the relevant Regulations.
- (c) The Respondent was required to pay certain charges for the open access transactions as specified in the relevant Regulations, including the UI charges and the Back Up Power Supply charges. The 2nd Petitioner (SLDC) used to raise bills on the Respondent for the UI charges and the Back Up Power Supply charges in respect of the inter-State open access transaction. It is stated in the Petition that, due to certain procedural issues, like delay in obtaining statistics from the Utilities concerning the inter-State open access transactions, the bills on the Respondent for the UI charges and the Back Up Power Supply charges could not be raised on a month-to-month basis and that such bills used to be raised after a lapse of 3 to 4 months. Further, it is stated that, as the payments which were due for the period from 1.12.2012 to 31.1.2013 were not paid within the stipulated time, the 2nd Petitioner (SLDC) insisted for the clearance of the bills and after clearance of both the bills, the 2nd Petitioner (SLDC) decided to grant the NOC for the subsequent period. That the 2nd Petitioner (SLDC), in good faith, had been granting the NOC to the Respondent from time-to-time, though sometimes, the Respondent failed to

make the payments due within the stipulated period. This led to accruing of arrears as claimed in the Petition.

(d) The Respondent failed to clear the dues within the stipulated dates, inspite of repeated demands and finally the 2nd Petitioner (SLDC) arranged a meeting with the Respondent to obtain explanation as to how the Respondent would clear its dues. It is stated that, at that stage, the Respondent proposed to inject 51.025574 Million Units (MUs) of energy in lieu of the UI charges that was due till that date and further agreed to pay the Back Up Supply Power Supply charges of ₹2,15,13,767/- immediately. However, such assurance was not kept up by the Respondent and it failed either to inject the energy or to make payments as agreed and there was no response from the Respondent for several other reminders sent by the 2nd Petitioner (SLDC).

(e) The Petitioners have claimed in the above Petition, a total sum of ₹23,27,03,477/- towards the arrears of the UI charges and the Back Up Power Supply charges along with interest thereon, the break-up details of which are as follows :

(a) Arrears of UI Charges.	..	₹15,87,74,914.00
(b) Interest on arrears of UI Charges upto 10.8.2015 @ 0.04% per day.	..	₹ 4,87,83,718.00
(c) Arrears of Back Up Power Supply Charges..		₹ 1,94,38,317.00
(d) Interest on arrears of Back Up Power Charges upto 10.8.2015 @0.04% per day..		<u>₹ 57,06,538.00</u>
Total ..		₹23,27,03,477.00

- (f) The Petitioners have also produced two letters dated 25.4.2014 and 13.11.2014 written by the Respondent, wherein the Respondent has admitted the dues towards the UI charges and the Back Up Power Supply charges as demanded by the 2nd Petitioner (SLDC) and has requested for time, expressing its difficulties for making payments and agreeing to supply energy from its Captive Power Plant towards the discharge of the arrears of the UI charges.
- (g) The 1st Petitioner-Bangalore Electricity Supply Company Limited (BESCOM) is a Distribution Company of the State of Karnataka, who is the really affected party by virtue of the non-payment of the amounts due towards the UI charges and the Back Up Power Supply charges by the Respondent. Therefore, the Petitioners have prayed for grant of the reliefs as mentioned above.
- 3) After filing of the above Petition, this Commission examined the maintainability of the Petition before this Commission, as the dues claimed related to the inter-State open access transactions. After considering the maintainability of the Petition, by Order dated 24.3.2016, this Commission held that it has jurisdiction to adjudicate the present dispute under Section 86(1)(f) of the Electricity Act, 2003. Before deciding the maintainability of the Petition, Notices were issued twice through RPAD to the Respondent. The Commission has verified the service of Notices sent through RPAD, by tracking the same on the India Posts Website and it was found that they have been duly served on

the Respondent. However, the Respondent remained absent throughout. It can also be noted that the Respondent had admitted its liability under its letters dated 25.4.2014 and 13.11.2014 addressed to the 2nd Petitioner (SLDC), as noted above.

- 4) We have heard the learned counsel for the Petitioners and perused the documents placed on record.
- 5) The 2nd Petitioner (SLDC) has produced the relevant records to establish the arrears towards the UI charges and the Back Up Power Supply charges and the replies furnished by the Respondent under letters dated 25.4.2014 and 13.11.2014 to support the claim of the Petitioners.
- 6) The Petitioners have claimed future interest at the rate of 18% per annum on the amounts due towards the UI charges and the Back Up Power Supply charges from the dates of filing of the Petition till the date of realization. Regulation 19 of the Central Electricity Regulatory Commission (Open Access in Inter-State Transmission) Regulations, 2008 provides for payment of interest on arrears of amounts to the Utilities from the due date till the date of payment at the rate of 0.04% per day, which works out to 14.6% per annum. Hence, the future interest claimed by the Petitioners appears to be not reasonable. It should be restricted to 14.6% per annum on the principal amount due.

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- 7) The present Petition is filed before this Commission on 4.9.2015, therefore the claim of the Petitioners is within the period of limitation. We found no reason to disallow the claim of the Petitioners. All the Electricity Supply Companies in the State of Karnataka are entitled to share the UI charges and the Back Up Power Supply charges in proportion to the energy allotted to them by the State.
- 8) For the foregoing reasons, we pass the following :
- (a) The Respondent shall pay a sum of ₹23,27,03,477/- (Rupees Twenty Three Crores Twenty Seven Lakhs Three Thousand Four Hundred and Seventy Seven) only towards arrears of the UI charges and the Back Up Power Supply charges and interest upto 10.08.2015;
- (b) The Respondent shall pay further interest at the rate of 14.6% (Fourteen Point Six Percent) per annum from 11.08.2015 till the date of payment on ₹17,82,13,231/- (Seventeen Crores Eighty Two Lakhs Thirteen Thousand Two Hundred and Thirty One) only; and
- (c) The amounts recovered as mentioned above from the Respondent shall be distributed amongst all the Electricity Supply Companies in the State of Karnataka, in the ratio as prescribed in the Notification bearing No.EN 11 PSR 2013 dated 22.03.2013 issued by the Government of Karnataka.

Sd/-

(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-

(H.D. ARUN KUMAR)
MEMBER

Sd/-

(D.B. MANIVAL RAJU)
MEMBER