

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

Dated : 19th November, 2015

Present:

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| 1. Sri M.K. Shankaralinge Gowda | Chairman |
| 2. Sri H.D. Arun Kumar | Member |
| 3. Sri D.B. Manival Raju | Member |

OP No.7 / 2015

BETWEEN:

Bonal Hydro Electric Company Private Limited,
365. J.L.B. Road,
MYSURU -570 005
[Represented by Smt. Poonam Patil, Advocate]

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PETITIONER

AND:

- 1) The Karnataka Power Transmission Corporation Limited,
Cauvery Bhavan,
K.G. Road,
Bengaluru – 560 009.
- 2) Gulbarga Electricity Supply Company,
Station Road,
Kalaburagi – 585 101.
- 3) Bangalore Electricity Supply Company,
K.R. Circle,
Bengaluru – 560 001.
- 4) Mangalore Electricity Supply Company,
Paradigm Plaza,
A.R. Shetty Circle,
Mangaluru – 575 001

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- 5) Hubli Electricity Supply Company Limited,
P.B. Road, Navanagar,
Hubballi – 580 025.
- 6) Chamundershwari Electricity Supply Corporation Limited,
No.927, L.J. Avenue,
New Kantharaja Road,
Saraswathiuram,
Mysuru – 570 009

[Represented by Just Law, Advocates]

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RESPONDENTS

ORDERS

- 1) The Petitioner, M/s. Bonal Hydro Electric Private Limited, has sought for re-determination of tariff, specific for its Mini Hydel Plant, with effect from the date of Commercial Operation.
- 2) The Government of Karnataka, by its Orders, viz.: (1) No.DE 362 NCE 2004, Bangalore, dated 10.12.2004; (2) No.DE 63 NCE 2002, Bangalore, dated 18.04.2002; and (3) No.DE 42 NCE 98, Bangalore, dated 11.1.1998, has accorded its sanction to the proposal of the Petitioner-Company for installation of a Mini Hydro Electric Power Generating Station of 2.5 MW capacity at Bonal Village, Surpur Taluk, Kalaburagi District and permitted the first Respondent -KPTCL to enter into an agreement with the Petitioner-Company for purchase of electricity.

- 3) Subsequently, the Petitioner entered into a Power Purchase Agreement (PPA) with the first Respondent-KPTCL on 13.12.2004. The tariff agreed under the PPA was Rs.2.90 per unit for the energy delivered, with an escalation of 2% per annum over the base tariff, for a period of ten years from the Commercial Operation Date (COD). The Petitioner's Plant achieved Commercial Operation in September, 2011, though the said Plant was required to achieve Commercial Operation within 18.4.2006, as per the terms of the PPA.
- 4) The Petitioner has raised several grounds in the Petition, urging for redetermination of tariff specific to its Plant or to grant a tariff of Rs.4.16 per unit as per the Generic Tariff Order dated 1.1.2015 of this Commission, with effect from the date of Commercial Operation.
- 5) The Respondents have filed a common Statement of Objections, contending that there is no justifiable ground for redetermination of tariff or for grant of generic tariff under the Commission's Generic Tariff Order dated 1.1.2015.
- 6) We have heard the learned counsel for the parties. The learned counsel for the Respondents has relied upon the recent Judgment of the Hon'ble Supreme Court in C.A.No.5612/2012, decided on 28.4.2015, between Bangalore Electricity Supply Company Limited

-Vs- *Konark Power Projects Limited and another*, and has contended that the terms agreed between the parties regarding tariff cannot be altered, for the reasons stated in the Petition. The learned counsel for the Respondents has also pointed out that the facts of the present case and the facts involved in the *Konark Power Projects Limited* case are one and the same, and the decision of the Hon'ble Supreme Court in the said case squarely applies to the facts of the present case.

- 7) The learned counsel for the Petitioner has not rebutted the contention raised by the Respondents regarding the applicability of the decision of the Hon'ble Supreme Court in the *Konark Power Projects Limited* case to the facts of the present case.
- 8) We have gone through the decision rendered by the Hon'ble Supreme Court in the *Konark Power Projects Limited* case. The said decision lays down that, whatever terms regarding the tariff that have been agreed between the parties, should continue to remain in force without any alteration, at least for a period of ten years, as provided in the PPA, and the modification, if any, of the rate should be done as provided in the PPA.
- 9) We note that the law laid down in the *Konark Power Projects Limited* case is a decision on the interpretation of the terms agreed

regarding the tariff in the PPA. As already noted, the terms regarding tariff in the *Konark Power Projects Limited* case and the present case are similar. Therefore, we are of the opinion that the arguments put forth by the learned counsel for the Respondents in the present case are to be accepted.

10) For the foregoing reasons, we pass the following :

ORDER

The Petition stands dismissed.

Sd/-
(M.K. SHANKARALINGE GOWDA)
CHAIRMAN

Sd/-
(H.D. ARUN KUMAR)
MEMBER

Sd/-
(D.B. MANIVAL RAJU)
MEMBER