

No.N/67/10

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated this 13th January 2011

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|-------------------------------|----------|
| 1. Sri M.R. Sreenivasa Murthy | Chairman |
| 2. Sri Vishvanath Hiremath | Member |
| 3. Sri K. Srinivasa Rao | Member |

Case No. RP 11/2010

Between

M/s. Soham Mannapitlu Power Private Limited
137, 7th Floor, HMG Ambassador Building
Residency Road
B A N G A L O R E – 560 025
(Represented by its Advocate Sri Shridhar Prabhu)

... Petitioner

Vs.

Karnataka Power Transmission Corporation Limited
1st Floor, Cauvery Bhavan
B A N G A L O R E – 560 009
(Represented by its Advocate Sri Sriranga)

... Respondent

1. This review petition is filed by the original petitioner M/s. Soham Mannapitlu Power Private Limited in OP No.10/2010 under Section 94 of the Electricity Act, 2003 seeking review of this Commission's Order dated 29.7.2010 in OP No.10/2010 read with OP No.02/2010.

2. The respondents have entered appearance and have filed their statement of objections dated 23.12.2010.

3. We have considered the review petition, the objections filed by the respondents and also the order of this Commission dated 29.7.2010 in OP No.10/2010 read with OP No.02/2010.

4. In the order dated 29.7.2010 in OP No.10/2010, this Commission has considered the validity of the levy of Network Augmentation Charges (NAC) in

the light of the provisions of the Electricity Act, 2003 and held that the levy and collection of Network Augmentation Charges by Karnataka Power Transmission Corporation Limited (KPTCL) is valid and legal.

5. It is contended by Sri Shridhar Prabhu, Counsel for the Review Petitioner that while passing the impugned order, the Commission has not noticed that the facts in the case of the petitioner were different from the facts in OP No. 2/2010. According to him, the petitioner had obtained evacuation approval on 4.1.2003 when there was no requirement of paying Network Augmentation Charges. 'NAC' orders passed subsequently by KPTCL have no retrospective effect and these charges could be levied and collected only after 10.6.2003, i.e., the date on which the new Electricity Act, 2003 came into force. He has further contended that since the petitioner has built a project specific substation and evacuation network no 'NAC' shall be collected from him and it is the respondent who shall augment the network to carry the power to the Distribution Licensees' / Consumers' end, the expenses for which shall be borne by the respondent KPTCL or the Distribution Licensees.

6. Under Section 94 of the Electricity Act, 2003, this Commission has powers to review its order only in case the petitioner discovers new and important evidence which was not within its knowledge or could not be produced at the time when the order was passed, or if the order has a mistake or error apparent on the face of record, or for other sufficient reasons.

7. This Commission, while upholding the validity of the levy of 'NAC', has considered the provisions of the Electricity Act, 2003, the factual matrix placed before it in support of the levy by the respondents and also the arguments advanced by the parties.

8. In the present review petition, the petitioner has not placed any new material which has not been considered by us earlier. He has also not pointed out any mistake / error apparent on the face of record in the order passed.

Further, the claim of the petitioner that this Commission has not noticed that the facts of the petitioner's case were different from the facts pleaded in OP 2/2010 is not correct. This Commission has considered the facts in the context of deciding whether the respondent legally can claim 'NAC' from generation companies in general under the Provisions of the Electricity Act, 2003. Because in that petition what was to be decided was only the legality of the NAC claimed by KPTCL and not the claim in any specific case. This Commission has therefore not dealt with the facts of individual cases, as the same was not necessary in the context of deciding on the legal validity of 'NAC' prescribed by the respondent KPTCL. Whether 'NAC' is payable under the impugned order and if so at what rate, etc., by each generator has to be decided by the respondent KPTCL considering the facts of each case and not by this Commission. What was disputed by the generators before the Commission was whether the Respondent KPTCL can levy and collect 'NAC' under the provisions of the Electricity Act, 2003 and the Commission has decided the same in favour of the respondent KPTCL.

9. Therefore we hold that the review petition has no merit and has to be rejected. Accordingly it stands dismissed.

Sd/-
(M.R. SREENIVASA MURTHY)
CHAIRMAN

Sd/-
(VISHVANATH HIREMATH)
MEMBER

Sd/-
(K. SRINIVASA RAO)
MEMBER