

No. N/74/11

**BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
BANGALORE**

Dated 24th May, 2012

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

RP No.10/2011

BETWEEN

Gulbarga Electricity Supply Company Limited
Registered Office
Station Road
GULBARGA – 585 102
[Represented by M/s. Just Law, Advocates]

...

Petitioner

AND

Nil

...

Respondent

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1. This Review Petition is filed by the Gulbarga Electricity Supply Company Limited (GESCOM) on 12.8.2011 seeking review of the Tariff Order passed by this Commission on 7.12.2010, with an Application dated 5.9.2011 for condonation of delay.

2. We have gone through the Application filed by the Petitioner for condonation of delay in filing the Review Petition. In the said Application, it is stated by the Petitioner that in the Tariff Order dated 7.12.2010 pertaining to the Petitioner-Company, the Commission had determined the value of cross-subsidy surcharge to be paid by the Open Access

consumers as "zero", though the Petitioner-Company in its ERC filing had submitted that the Company is facing adverse financial implications on account of abolition of collection of cross-subsidy surcharge. It is further stated that on a perusal of the Tariff Order dated 7.12.2010, the Petitioner-Company tried to work out the impact of the Tariff Order reducing the cross-subsidy to zero, but the necessary data for the same could not be gathered due to lack of certain material from companies like M/s.JSW Steel Limited. When M/s.JSW Steel Limited produced its consumption data and certain other details with regard to its Project before the Commission in the matter of OP No.34/2010, and upon perusal of the Order of the Commission dated 7.7.2011 passed in the said case, wherein the consumption details of M/s.JSW Steel Limited are noted in detail, the Petitioner-Company was able to determine the loss caused to it and then it decided to file a Review Petition before the Commission. It is further stated by the Petitioner that soon after receipt of the above-said Order dated 7.7.2011 of the Commission, the Petitioner instructed its Counsel to prepare a Review Petition; that the draft of the Review Petition was prepared and sent to the Petitioner-Company by its Counsel on 30.7.2011; that the said draft was approved by the Petitioner-Company on 5.8.2011; and that upon receipt of all the details and material for filing the Review Petition, the Counsel for the Petitioner has filed this Review Petition on 16.8.2011.

3. Under Section 94 of the Electricity Act, 2003, this Commission has been conferred with the powers of review as available to a Civil Court under the Code of Civil Procedure. Further, as per Schedule to Article 124 of the Limitation Act, 1963, a Review Petition has to be filed for review of the Judgment of a Court, other than the Hon'ble Supreme Court, only within 30 (thirty) days. Admittedly, the present Review Petition has been

filed much beyond 30 (thirty) days from the date of the Order to be reviewed has been passed. The Commission's Orders in OP No.34/2010 do not give a cause to the Petitioner to seek a belated review of the Tariff Order of 7.12.2010.

4. The application filed for condonation of delay in filing the Review Petition, in our view, does not give any satisfactory explanation for the delay that has been caused in filing the Review Petition. The reasons stated therein are all general in nature. Therefore, we decline to condone the delay.

Accordingly, this Review Petition is liable to be rejected only on the ground of limitation and accordingly the same stands rejected.

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

Sd/-
(VISHVANATH HIREMATH)
MEMBER

Sd/-
(K.SRINIVASA RAO)
MEMBER