BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
BANGALORE

Dated : 17th October, 2013

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

RP No.03/2013

BETWEEN :

1) Power Company of Karnataka Limited
   KPTCL Building
   Cauvery Bhavan
   Bangalore-560 009

2) Bangalore Electricity Supply Company Limited
   K.R.Circle
   Bengaluru-560 009

3) Chamundeshwari Electricity Corporation Limited
   No.927, L.J. Avenue
   New Kantharaj Urs Road
   Saraswathipuram
   Mysore-570 009

4) Hubli Electricity Supply Company Limited
   P.B. Road, Navanagar
   Hubli-580 029

5) Mangalore Electricity Supply Company Limited
   Paradigm Plaza, A.B. Shetty Circle
   Mangalore-575 001

6) Gulbarga Electricity Supply Company Limited
   Main Road, Opposite Parivar Hotel
   Gulbarga-585 101

[Petitioners 1 to 6 represented by M/s.Justlaw, Advocates]
AND:

1) M/s. Himatsingka Seide Limited
   10/24, Kumara Krupa Road
   High Grounds
   Near Sindhi High School
   Bangalore – 560 001

2) M/s. J.K. Cement Works
   Muddapuri
   Bagalkot-587 122

3) The Government of Karnataka
   Energy Department
   Vikasa Soudha
   Bangalore-560 001

4) Karnataka Power Transmission Company Limited
   Cauvery Bhavan
   Bangalore-560 009

5) State Load Despatch Centre
   Ananda Rao Circle
   Bangalore-560 009

[Respondents]

The above Review Petition was originally filed by the Bangalore Electricity Supply Company Limited (BESCOM) and the Power Company of Karnataka Limited (PCKL) against Himatsingka Seide Limited, State Load Despatch Centre (SLDC), the Government of Karnataka and the five ESCOMs, for review / modification of the Order dated 14.2.2013 of this Commission in OP Nos.40 and 41 of 2010. Later on, on I.A.No.1/2013 filed by the Applicant/Respondents, this Commission, by its Order dated 18.9.2013, allowed the original Respondents Nos.6 to 9 to be transposed as Review Petitioner Nos.3 to 6 in the Review Petition.
2) We have heard the counsel appearing for the Review Petitioners and considered the Orders of this Commission passed in OP Nos.40 and 41 of 2010, dated 24.3.2011 and 14.2.2013, and also the Order dated 3.10.2012 of the Hon’ble ATE in Appeal Nos.141 and 142 of 2011 and 10 of 2012.

3) In our view, none of the grounds raised by the Review Petitioners in support of its prayer for review of the Commission’s Order dated 14.2.2013 are tenable.

4) The first error in the Order of the Commission, according to the Review Petitioners, is that while determining the marketing expenses and transmission charges, the Commission has not considered the cost that would be borne by the Seller/Trader. The second error in the Order, according to the Review Petitioners, is the observation of the Commission that the amount to be deducted from the price payable to the generators cannot include the cost attributable to the transmission losses and transmission charges. The third error is on the cost that has to be borne by the Sellers and Buyers of electricity with respect to the transmission and marketing expenses. The fourth error is that this Commission has arrived at the Weighted Average Marketing Rate taking the weighted average rates for the months of April, May and June, 2010. The fifth error is that the Commission has not addressed the question as to from which date the interest is payable, i.e., whether from the date of the Order of this Commission re-determining the tariff or from the date of supply of electricity.
5) According to us, the first three errors do not arise, as this Commission has considered all the submissions made by both the parties while determining the discount that has to be made on account of the marketing expenses and transmission charges. Mere non-acceptance of the argument of the Review Petitioners does not amount to an error that needs to be corrected.

6) As regards the fourth error relating to the Weighted Average Rate, the same also does not merit acceptance, as the approach of this Commission for adopting the Weighted Average Rate for working out the rate at which the generators have to be paid has already been upheld by the Hon'ble ATE in the Appeal referred to above. Further, it is noted that the Review Petitioners had not made out any grievance against adopting the Weighted Average Rate method for arriving at the rate at which the generators are payable and had not filed an Appeal against the said approach.

7) As regards the error relating to payment of interest, in our view, this is also liable to be rejected, as the Order dated 3.10.2012 of the Hon'ble ATE and the Order dated 14.2.2013 of this Commission are very clear and there is no error in them. The Hon'ble ATE has ordered payment of interest for the delay caused in making payments by the Review Petitioner, as the same will also cause adverse financial impact on the generators, and therefore it has to be compensated under Section 11(2) of the Electricity Act, 2003. This Commission, as per the Hon'ble ATE's Order, had only to determine the rate at which the interest is
payable, and not the period. Therefore, the question of this Commission determining the date from which the interest is payable, at this juncture, will not arise.

8) For the foregoing discussions, this Review Petition is liable to be rejected and accordingly rejected.

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

Sd/-  
(VISHVANATH HIREMATH)  
MEMBER

Sd/-  
(K.SRINIVASA RAO)  
MEMBER