

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

**Dated : 17<sup>th</sup> October, 2013**

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| 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  
Bnagalore-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

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**PETITIONERS**

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

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**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  
Muddapur  
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

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**RESPONDENTS**

[R1 Represented by Party in Person,  
R2 represented by M/s. Shridhar Prabhu Associates, Advocates]

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1) 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

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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