

No.: N/45/17

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

Dated : 16th November, 2017

Present:

Shri M.K. Shankaralinge Gowda	..	Chairman
Shri H.D. Arun Kumar	..	Member
Shri D.B. Manival Raju	..	Member

OP No. 149/2017

BETWEEN:

Sri Tadi Sessa Reddy,
Kittur Chennamma Poultry Farm,
Kulavalli Road, Honnapur Cross,
Honnapur - 591 115.
Bailhongal Taluk, Belagavi District.

.. **PETITIONER**

[Represented by Navayana Law Offices, Advocates]

AND:

Hubli Electricity Supply Company Ltd.,
P B Road,
Navanagar,
Hubballi - 580 025

.. **RESPONDENT**

[Represented by Induslaw, Advocates]

ORDERS

- 1) This petition is filed under Section 86(1) (e) of the Electricity Act, 2003, read with Regulation 13(2) of the KERC (Implementation of Solar Rooftop Photovoltaic Power Plant) Regulations, 2016, praying to:

- (a) Permit the Petitioner to install SRTPV plant of 500 kWp capacity, being 50% of the capacity of 999 kWp agreed in the PPA, on or before 31.03.2018 as per the Generic Tariff Order dated 02.05.2016;
 - (b) Declare that the Petitioner is entitled to a tariff of Rs.5.67 per unit as approved in the Commission's Generic Tariff Order dated 02.05.2016; and,
 - (c) Pass such other and incidental order/s to meet the ends of justice and equity.
- 2) The submissions made by the Petitioner in the petition in support of the prayers may be summed up as follows:
 - (a) The Petitioner has established a poultry-farm over his private agricultural land measuring 20 acres 26 guntas in Sy.No.55 of Honnapur Village in Kittur Taluk of Belagavi District.
 - (b) The Respondent invited applications from interested persons for installation of Grid connected Solar Roof Top PV Generation System (hereinafter referred as SRTPV plant) on Net Metering basis and since the Petitioner's poultry-farm provided ample scope to install solar panels over part of its roof, an application was submitted by the Petitioner. The Respondent by letter dated 26.12.2015 accorded approval for installing SRTPV System of 999 kWp within 180 days and the Petitioner and the

Respondent entered into a Power Purchase Agreement (PPA) on 29.12.2015.

- (c) The Commission accorded its approval to the PPA, subject to furnishing proof of existing roof of 25679 sq. mtrs (276410 sq. ft) and the same was communicated to the Petitioner, by the Respondent in letter dated 28.01.2016. The Petitioner, on 08.02.2016, confirmed the availability of the said roof area and the Commission confirmed the approval, which was intimated by letter dated 18.02.2016.
- (d) The Petitioner, who was sanctioned loan sought by it, after a long delay and started commissioning the project after finalizing EPC Contractor, suppliers, etc., felt that the project may not be completed within time and sought extension of 12 months' time in letter dated 19.04.2016. On 04.07.2016, the Petitioner informed the Respondent, the status of the project, pursuant to which the Respondent's officer inspected Petitioner's installation and submitted a Status Report on 08.07.2016 to the higher authorities.
- (e) As the Respondent did not consider its request and there were instructions from the Government to the Respondents and others to consider such requests, the Petitioner once again submitted a representation dated 12.12.2016 to the Respondent, seeking extension of time. As there was no response, the Petitioner filed a Writ Petition

bearing No.100397 of 2017 (GM-KEB) in the Hon'ble High Court of Karnataka which it disposed of on 08.03.2017 by directing the Petitioner to submit necessary representation to the Respondent.

- (f) In compliance of the Hon'ble High Court's Order, the Respondent issued a communication dated 17.4.2017 stating that, if there is a delay in commissioning of the project beyond 6 months, the Petitioner would be eligible for revised tariff as per the Commission's Order dated 02.05.2016. Accordingly, the Petitioner is prepared to commission the SRTPV plant of 500 KW capacity at a tariff of Rs.5.67 per unit as per the Commission's Order dated 02.05.2016.
- 3) Upon issuance of Notice, the Respondent appeared through its Counsel. The Counsel for the Respondent submitted that the Respondent is not filing any Objections and would abide by the decision of the Commission in the matter. The Counsel for Petitioner has not made any additional oral submissions.
- 4) We have considered the pleadings of the Petitioner and perused the records.
- 5) The only point which arises for our consideration is, whether the Petitioner should be permitted to install the SRTPV plant of 500 kW capacity at the tariff of Rs.5.67 per unit, as prayed?

- 6) It is the submission of the Petitioner that in the Commission's Order dated 10.10.2013, there was no restriction/cap on the installable capacity of the SRTPV Plants whereas, in the Commission's Order dated 02.05.2016 the capacity is capped at 150% of the sanctioned load of the consumers. It is his case that, much prior to the passing of the Order dated 02.05.2016, he had made substantial investment of about Rs.2 Crores after being sanctioned a bank loan of Rs.4.5 Crores for commissioning of the 999 KW SRTPV plant and that the infrastructure was designed for the originally planned 999 KW plant. It is his submission that if the capacity is reduced in tune with the Order dated 02.05.2016 to 150% of the sanctioned load, the Petitioner will be put to financial loss and hardship. Hence, he has prayed to allow him to commission the SRTPV plant of at least 500 kW capacity at the tariff fixed in the Order dated 02.05.2016 (Rs.5.67 per unit). It is his further submission that if he is permitted to commission the project as per the Order dated 02.05.2016, he is prepared to commission the project in six months.
- 7) From the Annexures to the petition, it can be seen that the loan of Rs.4.5 crores was sanctioned by Andhra Bank on 07.04.2016 and the Petitioner is stated to have invested Rs.2,01,60,000/- as on 11.07.2017, out of the total project cost of Rs.7.9 crores. According to the Status Report dated 08.07.2016, the status of the project implementation is as follows:

- (i) For stability of the sheds, their existing asbestos sheets are replaced by Galvalium colour coated prefabricated sheets;
 - (ii) The work of fixing access ladder and platform for fixing solar modules is under progress;
 - (iii) Control room civil work is under progress;
 - (iv) Orders for transformer, inverter, switchgear panel, modules and cables are placed. The creation of infrastructure for the 11 kV line is not yet started.
- 8) Therefore, it can be inferred that the Petitioner has not made substantial investments in or achieved substantial progress in implementation of the project, before the passing of the Commission's Order dated 02.05.2016. Admittedly, the project had to be commissioned before 26.06.2016. We note that the PPA does not provide for extension of time to commission the project beyond the stipulated date. We note that the various directions issued by the State Government regarding time extension for commissioning of solar power plants, referred to by the Petitioner, are not in respect of the SRTPV projects. Admittedly, the Commission's Order dated 10.10.2013 is not applicable to the project as it has not been commissioned within the stipulated time so as to be entitled for the tariff as per the said Order, as agreed in the PPA.

- 9) The Commission, in respect of the SRTPV projects with PPAs executed in terms of the generic tariff Order dated 10.10.2013, which could not be commissioned within the time stipulated but were commissioned or were on the verge of being commissioned, after the issue of subsequent generic tariff Order dated 02.05.2016, allowed such projects to be commissioned at the revised tariff, determined in the Order dated 02.05.2016 but, without the capacity restriction imposed in such Order. We note that the Petitioner's project cannot be extended similar treatment as facts of the Petitioner's case are different. Admittedly, the Petitioner was able to start implementing its project in the middle of April, 2016 after sanction of bank loan and, therefore, sought time extension for its commissioning. Even when such extension was not granted by the Respondent and in the meanwhile, considering substantial reduction in capital cost of the SRTPV plants, the Commission issued the Order dated 02.05.2016 revising the tariffs for the SRTPV plants while imposing capacity restriction, the Petitioner claims to have gone ahead with the project implementation. The Petitioner not having completed the project is now seeking permission to complete it with a lower capacity of 500 kW instead of the capacity of 999 kW envisaged in the PPA and also seeking a tariff of Rs.5.67 per unit, as per the Commission's Order dated 02.05.2016 but, without capacity restrictions as imposed in the said Order.
- 10) The Commission in its recent Order dated 07.01.2017 has given to such SRTPV projects which could not be commissioned in terms of the PPAs

executed under the Commission's Order dated 10.10.2013 or 02.05.2016, the option of entering into fresh PPAs with a tariff of Rs.3.57 per unit (the latest notified APPC) without any capacity restrictions. We think it fair and just in the facts and circumstances of the Petitioner's case that, the Petitioner be given the option of commissioning the project with 500 kW capacity on or before 31.12.2017 by entering into a fresh PPA with a tariff of Rs.3.57 per unit, being the latest notified APPC, for the PPA term of 25 years.

- 11) For the foregoing reasons, we pass the following:

ORDER

The Petitioner may install the SRTPV plant of 500 kW capacity by entering into a fresh PPA with the Respondent at a tariff of Rs.3.57 (Rupees Three and Paise Fifty Seven) only per unit, being the latest notified APPC, for the 25 years' term of the PPA, subject to the plant being commissioned on or before 31.12.2017. The Petition is disposed of accordingly.

Sd/-	Sd/-	Sd/-
(M.K. SHANKARALINGE GOWDA)	(H.D. ARUN KUMAR)	(D.B. MANIVAL RAJU)
CHAIRMAN	MEMBER	MEMBER