

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION,
No.16, C-1, Millers Tank Bed Area, Vasanth Nagar, Bengaluru-560 052.

Dated: 16.08.2021

Shri Shambhu Dayal Meena : **Chairman**
Shri H.M. Manjunatha : **Member**
Shri M.D. Ravi : **Member**

O.P. No.12/2021

BETWEEN:

M/s Vijayalakshmi Power Private Limited.,
105, 'RR Takt', 37, Bhoopasandra Main Road.
Sanjaynagara, Bengaluru- 560 094
Represented by its Vice President,
Mr. Narayanadas Jaju
S/o Late Raghunath Jaju
Aged about 62 years.
(Representated by Sri. Anish Acharya
for Anveshana Advocates and Consultants)

..... **PETITIONER**

And

1. Chamundeshwari Electricity Supply Corporation Limited
CA-29, Vijayanagar 2nd Stage,
Hinkal, Mysore 570 017 .
2. Karnataka Power Transmission Corporation Limited.,
Company incorporated under the Companies Act 1956
having office at
Kaveri Bhavan Bengaluru-560 001.
3. State Load Despatch Centre,
27/1, Race Course Road,
Madhava Nagar, Gandhi Nagar.
Bengaluru Karnataka -560 001.
Represented by Chief Engineer.

OP No 12/2021
N/20/2021

4. State of Karnataka,
Department of Energy,
Vikasa Soudha, Bengaluru,
Represented by its Secretary.

.....**RESPONDENTS**

(R-1 represented by Sri. Shahbaaz Hussain,
for Precinct Legal, Advocates)

ORDERS

1. The petitioner has filed this petition under section 86 of the Electricity Act, 2003 for the reliefs to;
 - a) Direct the respondent to renew PPA dated 30.03. 2001 for a period of 10 years as per article 9 of PPA directing the respondent to purchase the power from the petitioner at the existing rate as per the order of the Order of this Commission at Annexure-E
 - b) Alternatively direct the respondents to facilitate the petitioner to sell the power under Captive/ Group Captive Open Access policies to Captive Consumers and determine and fix wheeling and Bank charges involved as per Article 5 of the PPA.
 - c) Direct the respondent to buy electricity from the petitioner at the existing rate i.e., Rs. 4.89 per unit until such time the respondent facilitates proper medium to the petitioner to sell the electricity.
 - d) Grant such other further reliefs as this Hon'ble Authority deems fit and proper under the facts and circumstances of the case to meet the ends of justice and equity.

2. Brief facts of the petition as here under:

a) The petitioner had set up a Mini Hydro Electric Power Generating Station of 1.75 MW capacity at Hebbakawadi Branch Canal Mandya District. The unit of the petitioner was commissioned its operation with the approval of Government of Karnataka, the petitioner had entered into a PPA with the KPTCL(Respondent No 2) vide Agreement dated 30.03.2001 Annexure-C.

b) The PPA is for a period of 20 years and may be renewed for such further period of 10 years and on such terms and conditions as may be mutually agreed between the parties. The PPA entered between petitioner and respondent is deemed to be terminated on 29.03.2021 as per article 9 of the PPA, in this connection the petitioner had addressed various communication to the respondent seeking information regarding the extension of PPA. The copies of letters are produced as Annexures - F, H and J. (collectively) as the respondent failed to replay to the letters of the petitioner, the petitioner has filed this petition.

3. After issuance of notice by this Commission, 1strespondent, Chamundeshwari Electricity Company Corporation Limited appeared through its counsel and filed a detailed statement of objection as follows;

a) the petition filed by the petitioner is devoid of any merits and liable to be dismissed in limine.

- b) The contention of petitioner that PPA dated 30.03.2001 has expired on 29. 03. 2021, is incorrect and the petitioner has misinterpreted of Article 9 of the PPA. Article 9.1 makes it explicitly clear that the agreement may be renewed after 20 years from the date of Scheduled date of completion.
- c) The respondent submitted that the Commissioning Certificate dated 23.07.2002 shows the Mini Hydel plant has commissioned on 20. 07. 2002 and from that date the energy was injected into the grid. Consequently, the PPA will expire after 20 years on 19.07.2022 as per the terms of Article 9.1 of the PPA. Hence, the contention of petitioner that the PPA will expire on 29. 03. 2021 is wholly erroneous, untenable and in this respect this respondent has produced the copy of Commissioning Certificate as Annexure-R1.
- d) Further, the petitioner has submitted that the petitioner has chosen the renewal process more than one year before the expiry of the PPA. This respondent on 30.04.2021 communicated the petitioner that as per Article 9.1 of the PPA, the Agreement may be renewed 90 days prior to expiry of 20 years term of the PPA. A copy of the letter dated 30.04.2021 is at Annexure-R2. This respondent has been making payment to the petitioner at the rate of Rs.4.89 per unit. However, the PPA can be renewed before expiry of PPA only if both the parties agree for renewal as per the tariff fixed by the Commission.

- e) The respondent contended that the petitioner cannot sell the power to third parties through Open Access during the subsistence of the PPA, accordingly question of granting NOC by the Nodal agency does not arise and therefore prayed for dismissal of petition in the interest of justice and equity.
- f) We have heard the learned counsels for the parties. The Petitioner Counsel files a memo on 05.08.2021 by accepting the 1st respondent's contentions made in the statement of objection and the contents of Annexure R-1 and submitted that the Commission may dispose the petition observing that the PPA is still subsisting till date 19.07.2022.
- g) Therefore, we proceed to pass the following:

ORDER

The Petition is disposed off accordingly.

Sd/-
(SHAMBHU DAYAL MEENA)
CHAIRMAN

Sd/-
(H.M.MANJUNATHA)
MEMBER

Sd/-
(M.D.RAVI)
MEMBER