Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 15 of 2008 & IA 38/08
Appeal No. 20 of 2008 & IA 50 of 2008
Appeal No. 21 of 2008 & IA 52 and 53 of 2008
Appeal No. 22 of 2008 & IA 54 and 55 of 2008
Appeal No. 23 of 2008 & IA 56 and 57 of 2008

Dated: October 09 , 2009.

Present:- Hon'ble Mrs. Justice Manju Goel, Judicial Member
Hon'ble Shri H.L. Bajaj, Technical Member

IN THE MATTER OF:

1. Appeal No. 15 of 2008 & IA 38 & 39/08

Bangalore Electricity Supply Company Ltd.
K.R. Circle,
Bangalore-560001 ....Appellant
v/s

Karnataka Electricity Regulatory Commission
6th & 7th floors, Mahalakshmi Chambers
9/2, M.G. Road
Bangalore-560001 ....Respondent

2. Appeal No. 20 of 2008 & IA 50 of 2008

Hubli Electricity Supply Company Limited
P.B. Road
Navanagar
Hubli-580025

.....Appellant

v/s
Karnataka Electricity Regulatory Commission
6th & 7th floors, Mahalakshmi Chambers
9/2, M.G. Road
Bangalore-560001 ……Respondent

3. Appeal No. 21 of 2008 & IA 52 and 53 of 2008

Gulbarga Electricity Supply Company Limited
Station Main
Gulbarga
Karnataka ….Appellant

v/s

Karnataka Electricity Regulatory Commission
6th & 7th floors, Mahalakshmi Chambers
9/2, M.G. Road
Bangalore-560001 …….Respondent

4. Appeal No. 22 of 2008 & IA 54 and 55 of 2008

Mangalore Electricity Supply Company Limited
Paradigm Plaza, AB Shetty Circle
Pandeshwara
Mangalore-575001 ……Appellant

v/s

Karnataka Electricity Regulatory Commission
6th & 7th floors, Mahalakshmi Chambers
9/2, M.G. Road
Bangalore-560001 ….Respondent

5.Appeal No. 23 of 2008 & IA 56 and 57 of 2008

Chamundeshwari Electricity Supply
Corporation Limited
No. 927, New Kantharaj Urs Road
Saraswathi Pram
Mysore-570001 .....Appellant

v/s

Karnataka Electricity Regulatory Commission
6th & 7th floors, Mahalakshmi Chambers
9/2, M.G. Road
Bangalore-560001 .....Respondent

Counsel for appellant(s): Mr. M.G. Ramachandran
Mr. Anand K. Ganesan
Ms Swapna Seshadri

Counsel for respondent (s): Mr. M. Srinivas R. Rao
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Linergy for FKCCI
Mr. Ananga Bhattacharya
Mr. L. Roshmani

J U D G M E N T

Per Hon'ble Mr. H.L. Bajaj, Technical Member

Five distribution companies in Karnataka have filed these appeals against the orders passed by Karnataka Electricity Regulatory Commission (KERC or the Commission in short)

whereby the Commission has determined the Annual Revenue Requirements (ARR) and tariff for the distribution companies for the Multi Year Tariff Period 2007-08 to 2009-2010. As the following common issues have been agitated in these appeals, we are disposing these appeals with this common judgment.

1. Truing up for the past period
2. Inadequate Power Purchase Cost allowed.
3. Inclusion of Transmission Losses in calculating loss level for the appellants.
4. Interest and Finance Charges
5. Depreciation and Operation and Maintenance Charges
6. Loss level for Multi Year Tariff Period
7. Fixing Differential Tariffs across different licensees.

2. In addition to the above issues, in Appeal Nos. 15, 21 and 22 of 2008, the following issue is also agitated.

8. Limiting the purchase of power from Non-Conventional Energy Sources to 10% of the total power procurement.

The following issue is also agitated in Appeal No. 15 and 22 of 2008:

9. Arithmetical Mistakes.

3. We have taken up Appeal No. 15 as reference Appeal as it agitates all the nine issues mentioned above.

Issue No. 1: Truing up for the past period.

4. The appellant has contended before us that the respondent Commission has reopened the past financials of the distribution companies and that the truing up has been carried out on the basis of different assumptions, methodology and the philosophy adopted when compared to the one adopted for the previous years. The appellant contended that the Commission has applied a wrongful methodology so as to deny the Power Purchase Cost paid by the distribution companies to the Tanir Bhavi Power Corporation. The Commission is reopening the truing up

previously undertaken. Learned Counsel for the appellant submitted that the issue of reopening past financials to find surplus by adopting new methodology earlier followed by the Commission for truing up for the past period has been decided by the Tribunal in case of Karnataka Power Transmission Corporation Ltd. in Judgment dated December 04, 2007 passed in Appeal No. 100 of 2007 and in the Judgment dated May 09, 2008 passed in Appeal No. 09 of 2008.

5. In this regard Mr. Rao, learned counsel for the respondent FKCCI conceded that the present issue of fresh truing up for the past period of the methodology adopted for truing up is squarely covered by the decision of the Tribunal in Appeal No. 09 of 2008 dated May 09, 2008.

6. In Appeal No. 09 of 2008 dated May, 09, 2008 this Tribunal had held as under:-

> 31. *The Commission has proceeded on the basis that it is entitled to undertake truing up for the financial years 2000-01 to 2005-06 by virtue of the observations*

contained in Para 28 of the Order dated December 04, 2007. In the above part of the Order, this Tribunal had observed that the truing up per se cannot be faulted and, therefore, the Tribunal does not want to interfere with the decision of the Commission in this regard in order to cleans up accounts of the past though belatedly. We reiterate that the truing up stage is not an opportunity for the Commission to re-think de-novo on the basic principles, the premise and issues involved in the initial projections of the revenue requirements of the licensee and that once the truing up exercise has been carried out, the Commission is not permitted to again take up the truing up exercise based on new assumption. We had specifically dealt with the case of KPTCL where the Commission had been carrying out the truing up exercise on year-to-year basis and had not given effect to the results of such exercise during all these years. Therefore, the Commission was neither required nor authorized to undertake the truing up afresh, particularly, based on new assumptions or new processes or new methodology. The Commission could have trued up based on the audited figures, if the earlier exercises were done on provisional basis.

32. In case of NDPL vs DERC, in Appeal No. 265 of 2006, the appellant (NDPL) had contended that second truing up is warranted only when there is difference between the provisional accounts on the basis of which the first truing up is done and audited accounts, which may have been furnished after such truing up.

33. We consider it necessary to set out below the relevant extract from this Tribunal's judgment of May 23, 2007 in Appeal No. 265 of 2006:

> *60. Before parting with the judgment we are constrained to remark that the Commission has not properly understood the concept of truing up. While considering the tariff petition of the utility the Commission has to reasonably anticipate the revenue required by a particular utility and such assessment should be based on practical considerations. It cannot take arbitrary figures of increase over the previous period's expenditure by an arbitrarily chosen percentage of 4% or 20% and leave the actual adjustments to be done in the truing up exercise. The truing up exercise is mentioned (sic) to fill the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. When the utility gives its own statement of anticipated expenditure, the Commission has to accept the same except where the Commission has reasons to differ with the statement of the utility and records reasons thereof or where the Commission is able to suggest some method of reducing the anticipated*

expenditure. This process of restricting the claim of the utility by not allowing the reasonably anticipated expenditure and offering to do the needful in the truing up exercise is not prudence. In any case, the method adopted by the Commission has not helped either the consumer or the utilities. It can only be expected that the Commission will properly understand its role in assessing the revenue requirement of the utility and in determination of the tariff in accordance with the policy directions and the relevant law in force.

34. In the present case admittedly there has not been any substantial change between the provisional accounts and the audited accounts on all the three scores the Commission has done the second truing up on the basis of revised policy which is not permissible as per above judgment.

35. For the financial years 2000-01 to 2003-04 the aggregate deficit found by the Commission was of Rs. 479.09 crores. Now adopting a new approach the Commission has discovered a surplus of Rs. 738.23 crores as against the deficit earlier found and thereby providing for an adjustment on account of additional Power Purchase Cost of Tanir Bhavi of Rs. 545.87 crores. Commission's order clearly shows that it has found a new methodology and process to undertake truing up. Truing up exercise has to be done with reference to the

amounts approved and the actual figure. The Commission has changed the approved figure of Rs. 183.29 crores for the revenue requirements for the year 2002-03 for the purpose of truing up and that too on a second attempt. This was not permitted by
the Tribunal in its order dated December 04, 2007. Such an approach is against the essence of true-up exercise: True up exercise is meant to fill the gap between the actual expenses and revenues estimated at the end of the year and anticipated expenditure and revenue at the beginning of the year.

36. The Commission has erred in its assessment of power purchase quantum to be considered for the purpose of revenue requirement for the relevant year FY 2000-01 to FY 2005-06. While arriving at the quantum of power purchase to be allowed for revenue requirement, KERC should first reduce the disallowed T&D losses from the quantum of power purchase entered in the audited accounts of KPTCL. From the figure so arrived, the Commission has to reduce the allowed T&D losses which will give the quantum of power available for sale yielding revenue. Moreover, KERC has to realize that the audited sale quantum includes metered sale and unmetered sale which also includes agricultural pumping

sets and, therefore, there is an overlapping between the unmetered sale and loss. In this view of the matter, we are of the opinion that calculations should be carried out on the basis of the methodology given by KPTCL in its Memo of Appeal at para 'W'. We order accordingly.

Analysis and decision

7. This Tribunal has since held that the truing up exercise is meant to fill the gap between the actual expenses and the actual revenues at the end of the year and expected expenditure and revenue at the beginning of the year. The truing up cannot be done on the basis of revised policy or by adopting new philosophy or a new methodology.

8. We direct that the Commission carries out the truing up based upon this principle.

Issue No. 2: Inadequate Power Purchase Cost allowed.

9. The appellant contended that the Commission has significantly reduced the projection of power purchase cost

proposed to be incurred by the distribution companies for the Multi Year Tariff (MYT) assuming higher availability from hydro sources which entail substantially lower costs. This has resulted in lowering the cash flow considerably to the appellants. Learned counsel cited the decision of this Tribunal in case of Bangalore Electricity Supply Company Ltd.(BESCL) V/s Karnataka Electricity Regulatory Commission (KERC) & Others, 2008 ELR (APTEL) 164 which deals with the tariff of the appellants for the year 2006-07 wherein it has been held that the Commission should not normally interfere with the plans and projections of the distribution companies for power purchase and that any excess or deficit over the projection can be adjusted during the truing up exercise. Learned counsel for the respondent also submitted that issue of power purchase cost can be trued up on the basis of actual data available for the years 2007-08 and 2008-09 and that the deficit, if any, can be adjusted in the truing up exercise. He also stated that the power purchase cost for the year 2009-10 can be determined on the basis of truing up exercise.

Analysis and decision

10. The Commission has proceeded to reduce the power purchase cost of the appellant companies by assuming higher availability from hydro sources. The issue before us is whether the Commission is right in interfering with the projection of the appellant for power procurement. It is the responsibility of the distribution companies to arrange for power to supply to the consumers in the entire state. It is the appellant who projects figures of power available from various sources so as to ensure that it has adequate power supply to meet the demand of consumers in its area of license. By over projecting hydro based power, the Commission has reduced the cash flow of the appellant thereby debilitating it to procure power from available sources. In view of this, this Tribunal in its judgment in Appeal No.250 of 2006 in the case of Bangalore Electricity Supply Company Limited & Ors. v/s Karnataka Electricity Regulatory Commission & Ors. 2008 ELR (APTEL) 164 had held as under:

> *28. The basic issue before us is as to who should estimate the power requirement. It is the responsibility of the appellant*

to ensure power supply and also give new connections required during the year. The DISCOM have their own planning departments where experts assess the power requirements. This Tribunal in its judgment in Appeal No. 84 of 2006, dated August 29, 2006, in case of KPTCL vs KERC has decided that it is for the utility to estimate the future demands. Relevant para from our judgment is extracted below:

> *"The Commission overlooked the fact that the appellant being transmission utility transmitting power through out the State for the bulk supply as well as distribution has an obligation to maintain the supply as well as quality supply and when the demand increase, either at the level of distribution or at the level of bulk supply it is the transmission licensee who should provide for the supply. This obviously means that the transmission utility has to plan in advance and should be in a position to supply power as demanded from time to time. Section 42, 43 of The Electricity Act 2003 also should not be lost sight of. To meet the ever increasing demand consequent to development and improvement in the status of the consumer public, industrialization, computerization, heavy industries and requirement increases by geometric proportion, it is for the transmission utility or such other utility to estimate the future demands as well, besides improving the quality and standard of maintenance. This is possible only if the utilities have the freedom to plan with respect to their investment, standardization, upgrading of the system. For such a course it is within the domain of those utilities to undertake to plan, invest and execute the projects or schemes of transmission etc. If the view of the Commission is to be sustained, as already pointed out, the same would mean for each and*

every investment an approval has to be sought by the utility in advance which is not the objective of the Act."

29. It is not for the Commission to assume day to day duties and responsibilities of the appellant as it is the appellant alone who has to ensure power supply and who should estimate the requirement of power. Any way, at the end of the year the truing up has to be done. The appellants have fairly submitted that in case of any over recoveries they will refund *the excess amounts collected by them with interest to the consumers.*

11. We hold that as the appellant is responsible for meeting the power demand in its area, its projections – unless perverse or grossly wrong – should not be interfered. Any variation in power procurement cost can be taken care of during truing up exercise. In the present case since tariff years 2007-08 and 2008-09 are over and we are in the midst of the tariff year 2009-10, the Commission is directed to i) allow the power purchase cost on the basis of actual available figures and ii) also allow it the carrying cost, while carrying out the truing up exercise.

Issue No. 3: Inclusion of Transmission Losses in calculating loss level for the appellants.

12. Mr. Ganesan, learned counsel for appellant has contended that the Commission has erroneously included transmission losses in calculating the power requirements. Appellant stated that it is a distribution company and does not undertake transmission of electricity in the state of Karnataka which is undertaken by Karnataka Power Transmission Corporation Limited (KPTCL). Moreover, the appellants have no control over the transmission losses. The Commission erred in accounting for the transmission losses while calculating the revenue requirements for the appellant.

The Commission's view is that any inefficiencies in the transmission system in terms of loss has to be borne either by the Transmission Licensee or the ESCOMS. The Commission contends that the Government of Karnataka has assigned PPAs to the ESCOMS and that the ESCOMS are making payment for power purchases, which are accounted at the generator bus and not at the interface point of ESCOMS with KPTCL. Thus the

ESCOMS are already paying for the losses also. The Commission contends that any inefficiency in the transmission system in terms of loss has to be borne by ESCOMS and that this inefficiency cannot be passed on to consumers.

Analysis and decision

13. We find force in the contention of the appellants, being only distribution companies, they have no control over the transmission losses occuring in the transmission system and, therefore, there can be no adjustment of the transmission losses while calculating revenue requirement for the appellant ESCOMS. The Commission is directed to effect necessary corrections in the revenue requirement

Issue No. 4: Interest and Finance Charges

14. Mr. Ganesan has contended that the Commission has substantially reduced the interest and financial charges as claimed by it thereby reducing the revenue requirement and tariff. He contended that the appellant had proposed interest charges on loans payable on the basis of actual loans taken by the

distribution companies and the prevailing Prime Lending Rate of State Bank of India for the future loans to be taken. He averred that the reduction in interest and financial charges is contrary to the decision of this Tribunal.

15. On the other hand respondent Commission asserted that interest on belated power purchase payments cannot be passed on to KPTCL and that it has to be borne by the distribution companies who are repositories of revenue from the consumers. The Commission is allowing interest on Working Capital which includes interest on two month's receivables. The interest on belated power purchase payments cannot be allowed to the distribution companies.

Analysis and decision

16. We agree with the contention of the Commission that as far as interest on belated power purchase payment is concerned the same cannot be allowed to the appellant as the Working Capital interest allowed includes interest on account of two month's

receivables. However, as regards interest on account of other loans, the Commission is directed to allow the same during truing up exercise after due prudence check.

Issue No. 5: Depreciation and Operation and Maintenance Charges

17. The appellant contended that the Commission has reduced the depreciation and O&M expenditure claimed by it on the basis of assumptions subject to truing up after the year is over. Appellant submitted that this is against the orders of the Tribunal which states that the projections of the utilities with regard to expenditure should not ordinarily be reduced. He urged that the Commission may review such expenditure after the tariff period and conduct prudence check of such expenditure incurred by the licensees. He submitted that the Commission ought not to reduce such expenditure proposed by the licensee before the tariff year.

18. It is contended by the Commission that the appellant should have proposed a formula for arriving at the O&M expenses. Since

the licensee did not file the proposal as per the MYT Regulations the Commission has prescribed the formula which is based on International Accepted Practice: RPI- X methodology in arriving at the formula for the O&M expenses.

Analysis and decision

19. Under the circumstances we would direct the appellant to approach the Commission by submitting O&M formula as required under MYT Regulations. As far as depreciation is concerned we direct that the same may be allowed as per Regulations of the Commission and given effect to during truing up exercise.

Issue No. 6: Loss level for Multi Year Tariff Period

20. Mr. Ganesan contended that the Commission has considered the loss level trajectory for the Multi Year Tariff period which is substantially lower than the loss level projected by the licensee. He submitted that the appellants have substantially reduced loss

level from the level prevalent in the base year 2006-07. The loss level achieved by the companies from the base level for the year 2006-07 are given in the table below:

Distribution Company	2006-07	2007-08	2008-09 (Provisional)
BESCOM	23.73	19.99	16.81
MESCOM	15.29	13.71	12.95
CESC	25.80	22.62	17.35
HESCOM	29.95	25.06	25.15
GESCOM	35.52	26.03	26.01
Total for the State	25.71	21.67	19.46

21. Mr. Ganesan averred that from the table it is clear that the companies have functioned in an efficient manner and substantially reduced the loss levels.

22. Mr. Ganesan contended that the Commission has changed the methodology of determining distribution losses by having reference to input energy exclusive of EHT sales. Which has distorted loss level figures of the appellant. The Commission has

not given any reason for the change in methodology for benchmarking the distribution losses by excluding EHT sales.

23. Per contra it is contended by the Commission that the loss target fixed by the Commission were based on studies undertaken by appellants themselves. The appellant had undertaken anti theft drives and submitted the result thereto. Based on these steps the Commission has scientifically fixed the loss target which had been accepted by the appellant and, therefore, the issue of fixing loss target is a settled issue.

Analysis and decision

24. The Commission while determining the tariff is required to inter alia encourage efficiency, economical use of resources and reward efficiency in performance. It is for the Commission to set loss reduction targets to encourage efficient operations. In the present case these targets have been set in consultation with the licensees who have also been able to meet/surpass these targets. In view of this we would not like to interfere with the orders of the Commission in this view of the matter. However, we hasten to add

that appropriate adjustment on account of not considering EHT sales may be allowed to the appellants.

Issue No. 7: Fixing Differential Tariffs across different licensees

25. Learned counsel for the appellant has contended that the Commission has determined differential tariffs for the different distribution companies in the state of Karnataka. In this regard Mr. Ganesan submitted that the issue of differential tariff has been decided by the Tribunal in the case of Bangalore Electricity Supply Company Limited v/s Karnataka Electricity Regulatory Commission 2008 ELR (APTEL) 164 wherein the Tribunal has held that the Commission has jurisdiction to have differential tariff and on this issue the appeal filed by the distribution companies was dismissed. He submitted that however, in this case the Government of Karnataka vide their letter dated September 26, 2007 addressed to the Commission has directed to maintain uniform tariff to all distribution licensees in the state of Karnataka. He submitted that the state Government has the power to issue policy directives to the Commission under Section

108 of The Electricity Act, 2003 but the Commission has failed to implement the policy directive of the State Government and has gone ahead with the determination of differential tariff for the distribution companies in Karnataka.

26. Per contra the Commission contended that the Government, vide their letter dated September 26, 2007 have only requested the Commission reiterating their earlier stand that the Government is not in favour of differential tariff at this stage. This is not a policy direction under Section 108 of the Act. Therefore, in view of the earlier decision of the Tribunal the Commission has determined differential tariff for different distribution licensees.

Analysis and decision

27. The determination of tariff for each distribution licensee is based on the cost and expenses, power availability for the particular distribution licensee, consumer base and consumer mix of the distribution licensee, their efficiency of operations,

distribution losses etc. etc. In order to encourage efficient operation, it is only necessary that the different licensees have competition amongst themselves to carry out their operations in more efficient manner. In view of this, this Tribunal held that the Commission may determine differential tariff, according to the geographical location of the consumers, different distribution licensees could have differential tariffs for their respective area of operations. The letter dated September 26, 2007 from the Government of Karnataka to Secretary, KERC relied upon by the appellant ends with the following para.

> *" In this connection, I am directed to reiterate that the Government is not in favour of differential tariffs at this stage. This may be brought to the notice of the Commission"*

28. We are inclined to agree with the contention of the Commission that the aforesaid letter dated September 26, 2007 relied upon by the appellant is not any policy direction in terms of Section 108 which has not even been quoted in the letter. This is

only an innocuous suggestion. In this view of the matter, the appeal is not allowed and we uphold the decision of the Commission.

Issue No. 8: Limiting the purchase of power from Non-Conventional Energy Sources to 10% of the total power procurement.
(In appeal Nos. 15,21 & 22 of 2008)

29. The appellant has contended that the Commission while approving its power purchase cost has limited the purchase of power from Non-Conventional Energy Sources to 10% of the total power procurement of the distribution companies. While doing so the Commission relied on the KERC (Power procurement from renewable sources by distribution licensees), Regulation, 2004 which provides for a maximum of 10% electricity to be procured from Non-Conventional Energy Sources. The Commission has ignored the facts that all agreements to procure power from Non-Conventional Energy Sources have been approved by it and in these circumstances the appellant has no option but to purchase such electricity from Non-Conventional Energy Sources. He averred that with approved Power Purchase Agreements in place,

the appellant cannot wriggle out of the agreements which have been duly approved by the Commission. He urged under such circumstances procurement of power under approved Power Purchase Agreement from Non-Conventional Energy Sources be allowed in the ARR of the appellant even if such procurements exceeds 10% of the total power procurements of the appellant.

30. Per contra it is contended by the Commission that the KERC (Power Procurement from Renewable Sources by distribution licensees) Regulations, 2004 under the provisions of The Electricity Act, 2003 had been gazetted on October 10, 2004. These Regulations were finalized after giving an opportunity to all stakeholders including appellant licensees and nodal agencies, KREDL. As per these Regulations maximum power procurement from the renewable sources is limited to 10%. The Commission says that while submitting the PPAs for approval the appellants were furnishing a certificate that they are yet to reach the maximum of 10%, therefore while approving ARR, the Commission

has restricted the power purchase from renewable sources to 10% as per the prevailing Regulations.

Analysis and decision

31. We find it necessary to give below relevant clauses of the KERC Regulations regarding Renewable Sources of Energy. Clause 3 of the KERC (Power Procurement from Renewable Sources by Distribution Licensee) Regulations, 2004 states as under:

> *" 3. Quantum of purchase of electricity from Renewable Sources of Energy.*
>
> *3.1 Each Distribution Licensee shall purchase a minimum quantum of 5% and a maximum quantum of 10% of electricity from renewable sources expressed as percentage of its total consumption during a year.*
>
> *Till such time the STU or any licensee is engaged in the activity of bulk purchase and sale of electricity to distribution licensees in the State, the quantum of purchase from renewable sources shall be considered as the above specified percentage expressed as percentage of total*

consumption in the area of supply of all such Distribution Licensees considered together."

3.2
:
3.7

32. However, the above Regulations have been amended vide Notification No. S/03/1 dated January 23, 2008 (Notified in Karnataka Gazette January 31, 2008 Part 3 Pages 239, 240 wherein the Clause 3 has been amended as under:

11. Amendments to the following Regulations of KERC (Power Procurement from Renewable Sources by Distribution Licensee) Regulations 2004:

The existing sub-clauses as in column 3 of the Table below shall stand substituted by the provisions as in column 4.

Sl. No.	*Section No.*	*As existing*	*As amended*
1	*2*	*3*	*4*
1	*3.1*	*Each Distribution Licensee shall purchase a minimum quantum of 5% and a maximum quantum of 10% of electricity from renewable sources expressed as percentage of its total consumption during a year* *Till such time the STU or any licensee is engaged in the activity of*	*Each Distribution Licensees shall purchase a minimum quantity of electricity from the renewable sources expressed as a percentage of its*

		bulk purchase and sale of electricity to distribution licensees in the State, the quantum of purchase from the renewable sources shall be considered as the above specified percentage expressed as percentage of total consumption in the area of supply of all such Distribution Licensees considered together.	*total consumption during a year as specified below:* *1. BESCOM – 10%* *2.MESCOM – 10%* *3. CESC - 10%* *4. HESCOM- 7%* *5. GESCOM- 7%* *6. Hukeri - 7% Society*
2	*3.6*	*The Commission may review the quantum of purchase from renewable sources once in every 3 years.*	*The Commission may review the quantum of power purchase s and when it considers necessary.*

33. Gleaned from the angle that the Commission has limited the renewable source power purchase cost to 10% of the total power purchase cost as per the then prevalent KERC Regulations, (Supra) this decision cannot be faulted. However, the Act requires promotion of co-generation and generation of electricity from renewable sources of energy. It is also a fact that even after procuring power in excess of 10% from renewable energy sources, Karnataka faces power shortage after exhausting all other sources of power procurements. In view of the prevalent ground reality, it will only be prudent, so as to encourage renewable energy sources

and to honour the PPAs already entered into by the appellant where they are bound to pay at least the fixed cost charges, to allow upto the maximum per unit cost of procurement from sources other than the renewable energy sources. We order accordingly for the tariff year 2007-08. However, for the tariff years 2008-09 and 2009-10, the Commission is directed to allow the actual purchase cost of energy from Renewable Sources as the amended Regulations (Supra) require a **' Minimum'** percentage without specifying any maximum limit from the Renewable Sources.

Issue No. 9: Arithmetical Mistakes
(In appeal No. 15 and 22 of 2008)

34. It is contended by the appellant that there are some obvious arithmetical mistakes in Appeal No. 15/2008 (Page No. 265 and Appeal No. 22/08, page No. 256). He submitted that these mistakes are obvious and may be corrected by the Commission.

35. The Commission is directed to look into the mistakes pointed out by the appellants and correct the same, if required.

36. The appeal is accordingly allowed in part. We dispose of the appeal with our directions in paras 8,11,13,16,19,24,28,33 and 35.

37. No order as to costs.

38. Pronounced in the open court on 09th day of October, 2009.

(H.L. Bajaj)
Technical Member

(Mrs. Justice Manju Goel)
Judicial Member

No. of corrections
GB