

BEFORE THE KARNATAKA ELECTRICITY REGULATORY COMMISSION
No.16 C-1, Miller Tank Bed Area, Vasanthanagar, Bengaluru-560052

Dated 25th June, 2020

Present:

Sri. Shambhu Dayal Meena	- Chairman
Sri. H.M. Manjunatha	- Member
Sri. M.D. Ravi	- Member

In the Matter of carry forward of the excess banked energy on account of Covid-19.

Preamble:

1. MNRE has issued an Official Memorandum(OM) on 16.04.2020 wherein, MNRE quoting the Nationwide lock down in the wake of Covid-19 and anticipating the continuation of the pandemic for few more months in FY- 21 and based on the representations received by MNRE to issue advisory to the States of Andhra Pradesh, Karnataka and Tamil Nadu, MNRE has conveyed that these States may consider permitting Rollover of banked electricity (from Solar PV Rooftops Projects and Open Access Renewable Energy Generating Stations under Captive and Third-Party Sale) of FY 2019-20 and FY 2020-21 to FY 2021-22.
2. Meanwhile few generators citing the above OM, have approached and requested the Commission in writing to carry forward the banked energy.
3. The Commission had sought the opinion of the KPTCL & ESCOMs and the Government of Karnataka. BESCOM, MESCOM and GESCOM, who have submitted their responses in the matter. Further, the GoK vide letter dated 06.06.2020 has informed that, it has consulted KPTCL and ESCOMs in the matter and as per the opinion expressed by them, the GoK has requested the Commission to extend the banking period for two months from the date of opening of lockdown. GoK has also requested to allow



ESCOMs to use the banked energy remaining un-utilised at the end of above two months, free of cost.

4. In this regard, the Commission after considering the above views, has observed the following:
 - i. In respect of REC route-based Renewable projects, as per the orders of the Commission, the banking is on a monthly basis and thus, the question of carry forward of banked energy does not arise;
 - ii. For Non-REC RE power projects, banking is provided only to Solar, Wind and Mini-Hydel projects.
 - iii. In case of Solar and Wind power projects which are under Non-REC route, annual banking is provided and for this purpose the financial year [Commencing on 1st April of a calendar year and ending on 31st March of the following calendar year] is considered. As Covid Lock-Down started from 25th of March,2020, these projects are affected by Lock-Down only for seven days and the impact would be very marginal. As such for these projects, the need for roll over of banked energy will not arise.
 - iv. In case of Mini-hydel Power projects which are under Non-REC route, annual banking is provided and for this purpose the Water Year [Commencing on 1st June of a calendar year and ending on 31st May of the following calendar year] is considered. As Covid Lock-Down started from 25th of March,2020, these projects are affected by Lock-Down for about two months and hence, the banked energy is allowed to be carried forward for two months i.e. up to 31.07.2020. Any banked energy allowed to be carried forward, remaining unutilised, at the end of two months, shall be deemed to have been supplied to the concerned ESCOM at no cost.



5. The Commission also notes that the Commission's Order dated 09.01.2018, reducing the banking period from one year to six-months and that the energy banked by the Non-REC route based RE projects, during the peak Time of Day (ToD) hours (as specified by the Commission in its Tarff Orders), alone can be drawn during the peak ToD hours, and not otherwise, was challenged by the generators before the Hon'ble ATE. The APTEL passed an Order 29.03.2019, setting aside the Order of the Commission and remitted back the case to the Commission, directing it to pass appropriate orders, keeping in view the observations made in the said order of the APTEL. Subsequently, the generators filed an interim appeal before the Hon'ble APTEL and APTEL has passed an Order on 13.05.2019 in IA No: 962 of 2018 in appeal No. 42 of 2018 & Ors., directing the Commission not to proceed with the hearing in terms of remand order till the next date of hearing. The Hon'ble ATE vide its Order dated, 5th August, 2019, has deleted the Paragraph in the Order portion remanding the matter to the Commission for fresh consideration, stating that, the modification to the Terms & Conditions of Banking arrangement in the concluded contracts is not appropriate and such modifications could be applied to future contracts, as decided in the Order dated, 09.01.2018. The Order passed by Hon'ble ATE is challenged before the Hon'ble Supreme Court of India by BESCO in DFR – 26531/2019 and the matter is pending before the Hon'ble Supreme Court.

Thus, for the purpose of this order the Commission has considered the Annual banking, as there is no stay granted on APTEL's Order by the Hon'ble Supreme Court.

6. In this regard, the Commission further notes that, as per the standard WBA Article-9, in the event of Force Majeure conditions, the KPTCL/ ESCOMs are not obligated to bank and wheel energy and if normalcy is not restored within thirty days, the agreement is to be temporarily suspended for the period of such Force Majeure and KPTCL/ESCOMs are not liable to pay any compensation or damage or any claims whatsoever for any direct or indirect loss suffered by the Generating company. However, considering Covid-19 as a special case, the



Commission decides to allow carry forward of the banked energy for a period of two months i.e., up to 31.07.2020 for Mini-Hydel Projects only, as the Order dated 08.07.2014 of the Commission approving the standard WBA empowers the Commission to add, vary, alter, modify or amend any of clause or clauses of the standard WBA or the entire agreement, suo-motu.

7. Hence, the following order. -

ORDER

- (i) The Commission, hereby orders to allow carry forward the banked energy remaining unutilized as on 31.05.2020 up to 31.07.2020, in respect of mini hydel generators who have executed wheeling and banking agreement, subject to the condition that any banked energy allowed to be carried forward and remaining unutilized till 31.07.2020, shall be deemed to have been supplied to the concerned ESCOM at no cost;
- (ii) No carry forward of banked energy is allowed to Renewable projects under REC route and to the Renewable projects under non-REC route other than the mini hydel projects; and
- (iii) Accordingly, Article – 9 of the WBA is amended for mini hydel projects.

This Order is signed and issued by the Karnataka Electricity Regulatory Commission on this 25th day of June, 2020.


(SHAMBHU DAYAL MEENA)
25/6/2020

Chairman


(H.M. MANJUNATHA)
25/6/2020

Member


(M.D. RAVI) 25/6/2020

Member