

THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under Section 82(1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:

Thiru S. Kabilan

.....Chairman

Thiru R. Rajupandi

.... Member

D.R.P.No. 7 of 2009

M/s. ITC Limited
Virginia House, 37, J.L.Nehru Road,
Kolkata 700 071
And its Division Headquarters at
84, Chamiers Road, Chennai

... Petitioner

Versus

The Chairman
Tamilnadu Electricity Board
144, Anna Salai
Chennai-600 002

.... Respondent

The above D.R.P.No.7 of 2009 came up for final hearing before the Commission on 29th July, 2009. The Commission upon perusing the D.R.P.No.7 of 2009 and other connected records of the case and after hearing both the parties pronounces the following .

ORDER DATED 26th AUGUST 2009

1. Prayer of the Petitioner in D.R.P. No.7 of 2009:

The prayer of the Petitioner in D.R.P.No.7 of 2009 is to direct the Respondent Board to make suitable modifications, additions and deletions in the Energy Wheeling Agreement(EWA).

2. Facts of the case:

The Petitioner entered into a Wheeling Agreement with the Respondent Board for Wheeling of Power from 9 Group II WEGs in Tirunelveli and Theni Districts which have been commissioned in

September, 2008 for wheeling energy to its Plant at Thiruvottiyur, Chennai. As a result of unilateral restrictions imposed by the Respondent Board such as scheduled and unscheduled power cut there is huge accumulation of banked wind energy with respondent Board. Due to various restrictions such as power holidays, demand cut, energy cut etc., the Petitioner is not in a position to consume the entire power generated by the WEGs for their Captive consumption. The Petitioner was forced to sell the unutilised banked units to Respondent Board for 75% of the prescribed tariff at the end of the year for no fault of the Petitioner. It is requested that in the EWA a clause to the effect that in the event of TNEB not being in a position to return the banked wind energy units to the captive generators then the captive generators should have the option to sell the banked energy either to the TNEB at the prescribed rate or at a negotiated rate to a third party. The above DRP 7 of 2009 is filed for directing the Respondent Board to make suitable modifications, additions and deletions in the EWA.

3. **Contentions of the Respondent Board:**

- a) The power cut is imposed not only to the petitioner but also to all consumers. The power cut is necessitated because of shortage of power.
- b) Even though the power cut is imposed, the banked energy was allowed to be adjusted within the quota limit.
- c) The petitioner was allowed to adjust the wind energy within the quota limit. Being the situation, the question of the modification in the Energy Wheeling Agreement to sell the banked energy to third party does not arise. Such request seeking modification of the Energy Wheeling Agreement amounts to review of the TNERC order No.3 dt.15-05-06 at this distant point of time.

4. **Findings and Conclusions of the Commission**

- 4.1. The petitioner prays for certain amendments to the Energy Wheeling Agreement between the wind energy generators and the Tamil Nadu Electricity Board. The Energy Wheeling

Agreement was finalised by the Commission on 27-12-2007 in pursuant to Order No.3 dated 15-5-2006 of the Commission. Thereafter, the Commission has passed another comprehensive tariff order on procurement of wind energy on 20-3-2009. The Energy Wheeling Agreement pursuant to this order has been finalised by the Commission on 18-5-2009 in consultation with the wind energy generators and the distribution licensee.

- 4.2. Re-opening of the EWA pursuant to Order No.3 dated 15-5-2006 would disturb the provisions in the subsequent EWA finalised on 18-5-2009.
- 4.3. Although the EWA was finalised in 27-12-2007 the petitioner has chosen to seek amendments only on 26-03-09, more than a year later.
- 4.4. The Commission does not find it prudent to consider these issues at this late stage and therefore the petition is dismissed.

5. Appeal

An appeal against this order lies to the Appellate Tribunal for Electricity as per Section 111 of the Electricity Act 2003 within a period of forty five days.

Pronounced in the open Court by this Commission on this 26th day of August 2009.

(Sd.....)
(R. RAJUPANDI)
Member

(Sd.....)
(S. KABILAN)
Chairman

/ True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**