

**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  
and  
Thiru K. Venugopal - Member

**D.R.P. No. 16 of 2009**

**Date of Order:16-11-2009**

M/s. Harihar Power and Alloys (P) Ltd.  
Door No.37 A SF No.230, 231 & 234  
Lakshmaanapathy Village  
Kulathur Taluk  
Pudukottai District.

- Petitioner  
Counsel for Petitioner  
Thiru K. Seshadri

**Vs.**

1. The Chairman  
Tamil Nadu Electricity Board  
144 Anna Salai  
Chennai-600 002.

2. The Member Generation  
Tamil Nadu Electricity Board  
144 Anna Salai  
Chennai – 600 002

- Respondents  
Counsel for Respondents  
Thiru H.S. Mohamed Rafi

M/s. Harihar Power and Alloys (P) Ltd., has  
filed D.R..P. No.16 of 2009 with the following prayers :-

- i) to determine the tariff for the energy exported by the petitioner from 4-6-2009 to 19-6-2009
- ii) to determine the tariff for the period from 20-6-2009 to 30-6-2009 after the installation of ABT meters.
- iii) to direct the respondents to pay the tariff so determined from 4-6-2009 to 30-6-2009.

2. **Facts of the case:-**

The petitioner established a 6 MW waste heat recovery based generation plant at Lakshmanampatti village, Pudukkottai district. Power to the extent of 3.5 MW generated by the said co-generation plant was being wheeled to its sister concern M/s. Harihar Alloys Castings (P) Ltd. The petitioner submits that their plant was brought under Order No.4 dated 15-5-2006 with effect from November 2007. TNEB granted revised wheeling approval on 28-10-2008 to wheel power to the extent of 4.8 MW. It is also stated that on 2-5-2009 TNEB accorded approval to the petitioner treating it as a co-generation plant with captive status. The petitioner has stated that due to withdrawal of shares by the investors in the power plant on 29-5-2009 the petitioner requested the TNEB to permit them to sell power to third parties. The plant was restarted on 4-6-2009. On 17-6-2009 the second respondent accorded approval for third party sale of power. The respondent agreed to buy power to the tune of 4.8 MW from the petitioner from 4-6-2009. The petitioner was informed by the respondent that tariff for the period from 4-6-2009 till the installation of ABT meters would be fixed by the TNERC. The petitioner exported their power to TNEB from their co-generation plant from 4-6-2009 to 19-6-2009 and thereafter from 20-6-2009 to 30-6-2009 with ABT meters. The quantum of power supplied until installation of ABT meters and after installation of ABT meters has been indicated in the petition. The petitioner submits that from 20-6-2009, after installation of ABT

meters, he is eligible to be paid at infirm rates as per the frequency based UI rates ranging between Rs.2.10 to Rs.4.08 per unit of supply upto 30-6-2009 with premium of 10% for co-generation. This is stated to be in accordance with the TNERC's order No.4 dated 15-5-2006. The petitioner states that in a similar case in D.R.P.No.9 of 2008 dated 27-11-2008, the Commission has already fixed the tariff. The respondents have not disputed the facts of the case. The respondents have stated that the petitioner has sold energy to them for the period from 4-6-2009 to 20-6-2009, the date on which ABT meters were installed and the rate may be fixed by the Commission not exceeding Rs.2.60 per unit plus 10% premium since the petitioner is classified as a co-generation plant with waste heat recovery involved in the process of generation. The respondents have stated that after 20-6-2009 payment will be for infirm power supplied by the petitioner in terms of TNERC's Order No.4 dated 15-5-2006. The case was heard by the Commission on 30-10-2009, when both the counsels reiterated their position outlined in the petition and counter.

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

a. In letter dated 25-6-2009 the petitioner has been informed as below:

*“4.8 MW of power injected into the grid from 4-6-2009 is accepted till such time third party sales are effected and the payment will be made at the UI rates as approved in TNERC's Order No.4 dated 15-6-2009 from the date of installation of ABT meters. Power purchase tariff for the period from 4-6-2009 and upto the period of installation of ABT meters have to be got fixed by Hon'ble TNERC. The Company have installed the ABT meters on 20-6-2009.”*

b. In DRP No.9 of 2008 filed by one M/s. Hi-Tech Carbon, the Hon'ble TNERC in the Order dated 27-11-2008 has fixed Rs.2.60 plus 10%

- premium i.e. 2.86 per Kwhr as the tariff for the supply of power from the waste heat based co-gen plant till ABT meters were installed.
- c. In line with the above order in respect of DRP No.9, the infirm power purchase tariff for M/s. Harihar Power and Alloys (P) Ltd. For the period from 4-6-2009 to 20-6-2009 the date on which ABT meters were installed the rate may be fixed not exceeding Rs.2.60 plus 10% premium since the Company is also classified as a co-gen plant as waste heat recovery is involved in the process of generation.
  - d. After 20-6-2009, payment will be made as per UI rates for infirm power supplied from co-gen plant in terms of the Hon'ble TNERC's order No.4 dated 15-5-2006.

4. **Findings of the Commission:-**

4.1. The Commission notes that there is no dispute between the parties with regard to facts. The respondents have agreed to make payment in accordance with the TNERC's Order No.4 dated 15-5-2006. Both the parties quote with approval an earlier order of the Commission in DRP No.9 of 2008. It would have been proper for the parties to resolve the dispute in terms of the earlier order of the Commission. The Commission is empowered under Sec.86 (1) (b) of the Electricity Act, 2003 to regulate electricity purchase and procurement of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources. The Commission has issued various orders for procurement of power from wind energy generators, captive power plants as well as co-generation power plants. In view of this it may not be necessary for the TNEB to approach the Commission for procurement of power from such generators, who are covered by the earlier orders of this Commission. Accordingly it is directed that wherever generic orders have been issued by the Commission fixing the power

purchase cost, the same shall be followed. For power purchase from any other source as well as any other technology, the TNEB / generator may approach the Commission for fixing the tariff.

4.2. The Commission also observes that neither the Petitioner nor the Respondents are aware of the amending order No.4-3 dated 10-6-2009 issued by the Commission in the matter of power purchase and allied issues in respect of fossil fuel based group captive generating plants and fossil fuel based cogeneration plants. This particular order has revised the rate for purchase of firm/infirm power from CGP/Co-generation power plants.

## **5. Conclusion:-**

In view of this amending order, the Commission directs as follows:

- a) the rate of infirm power for the period from 4-6-2009 to 9-6-2009 purchase shall be regulated in accordance with order No.4 dated 15-5-2006 and Order in DRP No.9 of 2008; accordingly the rate for this period shall be 90% of the sum of Rs.2.60 and 10% premium (i.e.) 90% of Rs.2.86 per Kwh, which is Rs.2.57 per kwhr.
- b) for the period from 10-6-2009 to 19-6-2009 the rate shall be as per the amendment order 4-3 dated 10-6-2009; it specifies a floor rate of Rs.2.10 per Kwh and a ceiling rate of Rs.4.08 per Kwh for the power supplied to the distribution licensee by a CGP/Co-generation plants. The average rate is Rs.3.09 per Kwh. For firm power supplied by Co-generation plant to distribution licensee, the rate shall be with 10% premium, i.e. it shall be Rs.3.39 per Kwh. The petitioner supplied infirm

power for the period from 4-6-2009 to 30-6-2009. This is accepted by both petitioner and respondent. Accordingly, the rate for the period from 10-6-2009 to 19-6-2009 for the infirm power supplied by the petitioner shall be 90% of Rs.3.39 i.e. Rs.3.05 per Kwh as per amendment order No.4-3 dated 10-6-2009.

- c) for the period from 20-6-2009 to 30-6-2009 after the installation of ABT meters, the rate shall be in accordance with the Table contained in the Amending Order No.4-3 dated 10-6-2009.
- d) the petitioner shall raise invoice for the sale of power for the period from 4-6-2009 to 30-6-2009 in accordance with para (a), (b), & (c) above and the respondents shall make payment within 30 days of receipt of the invoice.
- e) During the hearing the TNEB stated that they have directed the generator to instal ABT compliant meter; the meter has been since installed by the petitioner. The STU shall ensure that in all such cases, the ABT meters shall comply with the Central Electricity Authority (Installation and Operation of meters) Regulations, 2006.

## 6. 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 45 days.

**Pronounced in the open Court by this Commission on this day of  
16<sup>th</sup> November 2009**

**(K. VENUGOPAL)**  
Member-I

**(R. RAJUPANDI)**  
Member-II

**(S. KABILAN)**  
Chairman