

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

M.P. No. 18 of 2009

Date of Order 14-10-2009

In the matter of orders requesting to drop the action initiated against the Chief Engineer/NCES as directed in the Hon'ble Commission's Order dt.29-6-2009.

Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai 600 002

Rep. by its Chief Engineer/NCES
Vs

.. Petitioner

Nil

.. Respondent

The above M.P.No.18 of 2009 came up for final hearing before the Commission on 14-10-2009. The Commission upon perusing the above petition and the connected records and upon hearing the party in person orally dismissed the petition with the observation that the CE, NCES may file a Review petition. Pursuant to the oral orders, the Commission passes the following

ORDER DATED 14-10-2009

1. Prayer of the Petitioner in M.P.No.18 of 2009:

The prayer of the Petitioner in M.P.No.18 of 2009 is to expunge adverse remarks against the Chief Engineer/NCES as ordered in the Commission's Order dt.29-6-09 (i.e.) the position of inadequate understanding of the Chief

Engineer/NCES about the Electricity Act 2003 is to be reflected in the annual Confidential Report of the petitioner Board, by considering the above submission.

2. Facts of the case:

CE/NCES of the Petitioner Board (shortly referred to as TNEB) has in letter D804/2008 dated 1-10-2008 addressed to M/s EID Parry(India) Limited given order for the supply of power using imported coal to TNEB Grid at the rate Rs.7.40 per unit. The following would be relevant.

“Your offer for supply of power using imported coal to TNEB grid at the rate of Rs.7.40 per unit has been accepted by Board. You are requested to start generation of power and export to grid immediately during non crushing period as informed already.”

Since the above letter conveyed the impression that the rate of Rs.7.40 per unit for supply of power to TNEB’s grid by M/s EID Parry(India) Ltd. Is final and since the ratification of the Commission was sought for at the above rate and since the rate determination is a violation of Sec.62(1)(b) of the Electricity Act, 2003 which has conferred this authority on the Commission, a show cause notice dated 6-1-2009 was issued to the CE/NCES of the TNEB. In letter dated 30-1-2009 summons were issued to CE/NCES directing him to appear in person on 1-4-2009 and explain his position. Accordingly CE/NCES appeared in person before the Commission and defended his order. In order dated 29-6-2009 while referring to the previous order of the Commission dated 16-5-2008, the Commission has inter alia observed as follows:

“In spite of the above findings of the Commission in its order dated 16-5-2008, CE, NCES has committed this violation. The Chief Engineer, NCES appeared before the Commission and defended his order. Despite his proven ignorance of the Electricity Act 2003, there was no offer of apology in his reply to the show cause notice. The Commission would have been inclined to accept an apology

and drop further proceedings in such a situation. Since no such option is available to the Commission, we deem it fit to come to the conclusion that the understanding of this officer of the Electricity Act 2003 is woefully inadequate. This position needs to be duly reflected in the Annual Confidential Report of the Officer. The Chairman, TNEB is directed to ensure that the order of the Commission is carried out and report compliance within six months.”

3. Contentions of the Petitioner Board represented by CE, NCES :

- a) In the reply letter dated 30-1-2009 given by the TNEB to the show cause notice issued by the Commission, the fact of the Petitioner Board tendering apology was omitted inadvertently and that the above omission is neither willful nor wanton and the above act of not tendering the apology may be pardoned.
- b) The petitioner Board has appeared in person before the Commission on 24-2-2009 as directed by the Hon’ble Commission and rendered unconditional apology in the open court at the time of hearing (i.e.) after submitting the reply to the Hon’ble Commission.

4. Findings and conclusion of the Commission:

M.P. No.18 of 2009 is dismissed. However, in view of the statement in para 23 of the petition to the effect that the petitioner appeared in person on 24-2-2009 and the claim that he tendered unconditional apology in the open court, the Commission hereby directs the CE, NCES to file a review petition.

(Sd.....)
(K. Venugopal)
Member-II

(Sd.....)
(R. Rajupandi)
Member-I

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

/ True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**