

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.K.Venugopal	Member
	and	
Thiru.S.Nagalsamy	Member

M.P. No. 27 of 2011

Cuddalore PowerGen Corporation Limited
(Formerly known as Cuddalore Power Company Limited)
Rep. by its Managing Director
Thiru T.Sankaralingam
443, Anna Salai
Teynampet
Chennai – 600 018.

.... Petitioner
(Thiru. Rahul Balaji, Advocate for Petitioner)

Vs.

Tamil Nadu Electricity Board
Rep. by its Chairman
144, Anna Salai
Chennai – 600 002.

.... Respondent
(Thiru.P.K. Vinod Pandian, Advocate for Respondent)

Date of hearing : 15-11-2011

Date of Order :15-11-2011

The above M.P.No.27 of 2011 came up before the Commission on 15-11-2011. The prayer of the Petitioner is to pass orders to extend the date for financial closure of the Petitioner's power project till 30-9-2012 and direct the

TNEB to amend the PPA dated 28-9-2006. At paragraph 6(a) of the petition, the Petitioner states that the financial closure for 1320 MW power project remains stalled mainly due to the existence of VCM pipeline in the main plant area. At paragraphs 8 and 11 of the petition, the Petitioner pointed out that the delay is on account of the action taken by Government of Tamil Nadu in regard to G.O. Ms. No.181 dated 1-10-2008 and G.O. 145 dated 4-12-2009 and the delay is on account of factors totally beyond the Petitioner's control.

2. The TNEB in its counter affidavit has stated that the Board has conveyed consent for extension of time limit till 30-4-2012 for achieving the financial closure without any change in the approved capital cost.

3. The Commission upon perusing the above petition and connected records of the case and order dated 24-4-2008 in PPA/AP/1/2006 approving the PPA of the Petitioner's project and subsequent extensions granted for achieving financial closure, passed the following

ORDER

(a) M/s.Chemplast Sanmar Limited appeared before the Commission and stated that M/s.Cuddalore PowerGen Corporation Limited have levelled certain allegations against them in their petition in M.P. No.27 of 2011 and therefore sought to be impleaded as a party for the purpose of denying the allegations levelled by M/s.Cuddalore Power Gen Corporation Limited.

(b) TNERC has approved the PPA dated 28-9-2006 between M/s. Cuddalore Power Gen Corporation Limited and TNEB in exercise of powers conferred under sections 62(1)(a) and 86(1)(b) of the Electricity Act 2003.

(c) There is no scope for third party intervention in the proceedings before the Commission under section 86(1)(f) of the Electricity Act 2003, which reads as follows:-

“adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration”

The learned counsel for M/s.Chemplast Sanmar Limited was in agreement with the views expressed by the Commission and stated that his intervention in this matter is limited to the allegations made against his client in this petition by the Petitioner.

(d) In accordance with the above provisions of the Act, the Commission is unable to entertain the prayer of M/s.Chemplast Sanmar Limited to be impleaded as a third party in the present case. It was made clear to M/s.Chemplast Sanmar Limited that the Commission has no intention of recording a finding on the inter-corporate dispute between M/s.Cuddalore Power Gen Corporation Limited and M/s.ChempPlast Sanmar Limited.

(e) The Commission in order dated 24-4-2008 in PPA/AP No.1 of 2006 stipulated a deadline for financial closure, which expired on 23-4-2009. The Petitioner filed a petition in M.P. No.9 of 2009 on 21-4-2009 seeking extension of the deadline for financial closure upto 31-3-2010 which was granted.

(f) The deadline was further extended upto 30-9-2011 in M.P. No.13 of 2010.

(g) The Petitioner has cited the dispute with M/s.Chemplast Sanmar Limited on the project site, global economic slow-down and collapse of international funding markets as the reasons for the delay in achieving financial closure.

(h) TANGEDCO in their counter has supported the prayer of the Petitioner with the rider that the extension may be approved only upto 30-4-2012 and also on the condition that the cost of the project should not exceed as per Schedule 3.11 i.e. Rs.6,202 crores inclusive of variation in foreign exchange except for changes on account of rates of taxes and duties and change in law.

(i) The Commission considered the various grounds adduced by the Petitioner. The Commission does not pronounce an opinion or finding on the on-going dispute between the Petitioner and M/s.Chemplast Sanmar Limited.

5. Direction:-

The Commission decides to extend the deadline for financial closure upto 30-4-2012 with a direction that the capital cost shall not exceed the limit laid down in the original order of the Commission in PPA/AP No.1 of 2006 dated 24-4-2008.

6. Appeal:-

An appeal under section 111 of the Electricity Act, 2003 against this order shall lie to the Appellate Tribunal for electricity within a period of 45 days.

(Sd.....)
(S. Nagalsamy)
Member

(Sd.....)
(K.Venugopal)
Member

(Sd.....)
(S.Kabilan)
Chairman

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission

