

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

**PRESENT:-**

ThiruS.Akshayakumar	....	Chairman
Thiru.G.Rajagopal	....	Member
	and	
Dr.T.PrabhakaraRao	....	Member

**M.P.No.30 of 2014**

M/s.CuddalorePowerGen Corporation Limited  
(Formerly known as Cuddalore Power Company Limited)  
Rep. by its Director, R.Ramesh Kumar  
443, Anna Salai, Teynampet, Chennai – 600 018.  
... Petitioner

(ThiruRahul Balaji  
Advocate for the Petitioner)

Vs.

Tamil Nadu Generation and Distribution Corporation Limited  
Represented by its Chairman and Managing Director  
NPKRR Maaligai, 144, Anna Salai, Chennai – 600 002.

...Respondent  
(ThiruP.Gunaraj  
Standing Counsel for the Respondent)

**Dates of hearing: 23-06-2014, 22-09-2014, 29-12-2014,  
29-12-2015, 28-01-2016 and 28-04-2016**

**Date of Order: 29-08-2016**

**ORDER**

The above M.P.No.30 of 2014 came up for final hearing on 28-04-2016. After hearing the learned Counsel for both the parties and after perusing the records, the Commission passes the following order:-

1. The petitioner, CuddalorePowerGen Corporation Limited has filed the above M.P.No.30 of 2014 with the prayer to order extending the date for financial closure of the project till 30-04-2016 and to direct Tamil Nadu Generation and Distribution

Corporation Limited (TANGEDCO), the respondent herein to amend the PPA dated 28-09-2006 accordingly.

2. The petitioner proposes to establish 2X660 MW thermal power project at Thiyagavalli and Kudikadu Villages in Cuddalore District. The Power Purchase Agreement (PPA) between the petitioner and TANGEDCO was approved by the Commission vide Order dated 24-04-2008 in PPA/AP/1/2006. As per clause 16(4) (d) under the head "16. Grant of Approval" of the order of the Commission dated 24-04-2008 the petitioner should have achieved financial closure within 12 months from the date of approval of the PPA by the Commission (i.e) on or before 23-04-2009. However, owing to several difficulties expressed by the petitioner extension of time was sought for achieving financial closure on several occasions.

3. In M.P.No.9 of 2009 filed by the petitioner on 21-04-2009, the Petitioner sought extension of time for financial closure up to 31-03-2010. Since the TNEB supported the project, by order dated 29-07-2009 the Commission extended the deadline for financial closure up to 31-03-2010. As the petitioner could not achieve financial closure by 31-03-2010 the petitioner filed M.P.No.13 of 2010 praying to pass orders extending the date for financial closure till 30-09-2011.

4. Considering the reasons stated by the petitioner and the consent conveyed by the TNEB, the Commission by order dated 11-06-2010 extended the time till 30-09-2011. Even by 30-09-2011 the financial closure could not be achieved by the petitioner and further extension of time was prayed till 30-09-2012 in M.P.No.27 of 2011. TANGEDCO in their counter supported the prayer of the Petitioner on condition that the cost of the project should not exceed as per schedule 3.11 i.e.

Rs.6,202crores inclusive of variation in foreign exchange except for changes on account of rates of taxes and duties and change in law. By order dated 15-11-2011 the Commission after considering the various grounds adduced by the petitioner interalia ordered extending the deadline till 30-04-2012 with a direction that the capital cost shall not exceed the limit laid down in the original order dated 24-04-2008.

5. The financial closure of the Petitioner's project did not happen even by the deadline fixed by the Commission in M.P.No.27 of 2011. The petitioner, however, affirming that endeavors and efforts would be made to maintain the project cost as approved in April 2008 and submitting that fresh steps to address and conclude financing issues in view of the comfort and assurance given by the Government of Tamil Nadu, filed the M.P.No.13 of 2012 praying for further time till 30-04-2014 for achieving financial closure. The Commission thereupon extended the deadline for financial closure upto 30-04-2014 taking into consideration the need for capacity addition as justified by the TANGEDCO and their desire to off take power from the project. While extending the time for financial closure, the Commission also observed that the question of awarding compensation to TANGEDCO for availing high cost power because of delay occasioned in the said project could be considered at the time of tariff fixation and also on condition that the petitioner should not ask for further extension of time.

6. The present petition has been filed by the petitioner praying for extension of time for the 5<sup>th</sup> time till 30-04-2016 (i.e. for two more years) for achieving financial closure. The above petition came up for hearing on 23-06-2014, 22-09-2014, 29-12-2014, 29-12-2015, 28-01-2016 and on 28-04-2016. On all the above hearings of the Commission both the parties were given fair opportunity to present their cases. The

respondent TANGEDCO took a stand in their affidavit dated 02-02-2015 filed after the hearing on 29-12-2014 that TANGEDCO is interested in the project on condition that the capital cost of the project should not go beyond Rs.6202 crores as approved by the Commission in its original order.

7. It needs to be recorded that the task of acquisition of substantial portion of land required for the project has not been completed by the petitioner till the date of final hearing. Thiru Rahul Balaji, the, Counsel for the petitioner submitted that negotiation to get some of the lands contiguous to the land already in possession of the project is going on with land owners by exchange of some other green land in the possession of the project and the process will be completed in due course. No further progress in the matter of land acquisition was reported by the Petitioner thereafter.

8. Since the prayer in the above M.P is for extension of the time limit till 30-04-2016 for achieving financial closure for the project, the matter was taken up by the Commission for final hearing on 28-04-2016 in order to ascertain the ground realities. On that day, the counsel for the petitioner indicated among other things that the efforts to get the land required for the project through the process of exchange has not yet been completed and that the pipeline beneath the land owned by the project needs to be removed. Thereupon, the Petitioner made a prayer that the Commission may consider for extension of time till June 2016 for achieving financial closure. Thus the prayer in the above M.P.No.30 of 2014 for extension of time till 30-04-2016 has become infructuous. Further on 28-04-2016, TANGEDCO submitted that even if the capital cost is to be maintained at the level approved by the Commission, considering the prevailing surplus power position in the state TANGEDCO is not interested anymore in the project and it is for the project to look

out for the prospective purchasers for its power if at all the project comes to reality or they have to opt for the bidding route if they desire to sell power to TANGEDCO. In view of the above position the Commission expressed its disinclination to grant the prayer put forth by the counsel of the petitioner. The Commission however directed both the parties to file their written submission in a week's time. Even after 3 months from the date of such direction to the parties to file written submission, neither of them preferred to file written submission as directed by the Commission on 28-04-2016. It is obvious that the petitioner is not in a position to comply with its obligation of achieving financial closure with reference to the PPA even after several extensions aggregating to seven years.

9. For the reasons stated in the above paragraphs and also in view of the categorical stand taken by the TANGEDCO (who is a party to the PPA) during the final hearing of this M.P that it is not interested in the project as the State is power surplus, the Commission do not see any reason to grant further extension of time to the petitioner for achieving financial closure. Therefore the Commission feels that the above Miscellaneous Petition may be closed and accordingly directs that the M.P.No.30 of 2014 be closed.

**10. Appeal:-**

An appeal against this order shall lie before the Appellate Tribunal for Electricity under section 111 of the Electricity Act, 2003 within a period of 45 days from the date of receipt of a copy of this order by the aggrieved person.

(Sd .....)  
**(Dr.T.PrabhakaraRao)**  
**Member**

(Sd.....)  
**(G.Rajagopal)**  
**Member**

(Sd.....)  
**(S.Akshayakumar)**  
**Chairman**

/ True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission