

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

**PRESENT:-**

**Thiru S.Akshayakumar**

.... **Chairman**

**and**

**Dr.T.Prabhakara Rao**

.... **Member**

**R.A.No.1 of 2017**

Indian Wind Power Association  
Rep. by its Secretary General  
Door No.E, 6<sup>th</sup> Floor  
Shakti Towers – II  
766, Anna Salai  
Chennai – 600 002.

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

Vs.

Tamil Nadu Generation and  
Distribution Corporation Ltd.  
Rep. by its Chairman and  
Managing Director  
144, Anna Salai  
Chennai - 600 002.

...Respondent  
(Thiru M.Gopinathan,  
Standing Counsel for TANGEDCO)

**Dates of hearing : 29-08-2017; 18-09-2018 and 31-01-2019**

**Date of Order : 22-02-2019**

This Remand Application has been taken on file consequent on the orders of the Hon'ble Supreme court dismissing the Civil Appeal Nos. 1471-1472 of 2008 and 1361-1362 of 2008 filed by Tamil Nadu Electricity Board and Tamil Nadu Electricity Regulatory Commission respectively on 02-05-2017. The said appeals have been filed against the orders of the Hon'ble APTEL in Appeal No.205 and 235 of 2006

dated 18-12-2007. Consequent on the dismissal of the appeals filed by the Tamil Nadu Electricity Board and Tamil Nadu Electricity Regulatory Commission, by the Supreme Court against the above said orders of the Hon'ble APTEL in Appeal Nos.205 and 235 of 2006, the orders of the Hon'ble APTEL dated 18-12-2007 remanding the matter to the Commission for redetermination of wind tariff taking into account "Time Value of Money" has to be implemented. Thus the present Remand Application is now on the file of this Commission.

## **1. Facts of the case:-**

1.1. In B.P.No.99 dated 27-09-2001, the Tamil Nadu Electricity Board had fixed Rs.2.70 per unit for the wind energy supplied to the Board by the wind energy generators. The said proceedings of the TNEB had been challenged by the Wind Power Producers Association in D.R.P.No.1 of 2002 before the Commission. The main prayer in the said D.R.P. No.1 of 2002 *inter-alia* is as follows:-

- (a) Call for BP 99 dated 27-09-2001 and quash the same and revise the price.
- (b) Direct the respondent to pay the difference in the rate of purchase per unit from the financial year 1994-95 upto 2001-02 to all members of petitioner association.
- (c) Direct the respondent to fix the rate per unit for financial year 2002-03 with effect from 01-04-2002 at Rs.3.30 per unit instead of Rs.2.70 as fixed by the Respondent which is contrary to guidelines of Gol.

1.2. Subsequent to the filing of the above D.R.P.No.1 of 2002, the Commission has issued a suo-motu order fixing wind tariff in Order No.3 of 2006. The Commission considered the following methodologies and important factors to arrive at the tariff for NCES based generators and issued Tariff Order No.3 of 2006 on 15-05-2006:-

- (1) Pricing methodology
- (2) General / Project specific Tariff
- (3) Two Part Tariff / Single Part Tariff

- (4) Capacity Utilization Factor (CF) / Load factor
- (5) Fuel Cost
- (6) Capital Investment
- (7) Life of Plant and salvage value
- (8) Depreciation rate applicable
- (9) Operation and Maintenance expenses
- (10) Debt-equity ratio
- (11) Interest on loans
- (12) Term of loan
- (13) Return on equity
- (14) Insurance cost

1.3. Since wind energy is not amenable to merit order dispatch principle because of its infirm nature, single part tariff has been considered suitable by the Commission to recover all the costs of wind electric generators. To factor in the Time Value of money in calculating the tariff, the Commission has considered the escalation provided for O&M charges, derating of the CUF after 10 years and grouping of the existing and proposed generators. The Commission also classified two categories of generators in its Order No.3 of 2006 dated 15-05-2006 as follows:-

- (i) Wind Power Projects commissioned and to be commissioned based on agreements executed prior to the date of the said order (i.e. before 15-05-2006) (hereinafter called "WEG:Group 1".
- (ii) Wind Power Projects to be commissioned based on future agreements after the date of the said order (i.e. after 15-05-2006) (hereinafter called "WEG:Group 2".

1.4. The Commission has adopted the following parameters and determined the tariff for wind generators as follows:-

Key Driver Description	Windmills	
	Group 1	Group 2
Capital Cost	4.50 Crores / MW	5.00 Crores / MW
CUF / PLF	25.29% with de-rating at 1% every year after 10 years	26.70% with de-rating at 1% every year after 10 years
Life of plant	20 years	20 years
Depreciation Rate	4.50% under SLM upto 90%	4.50% under SLM upto 90%
O & M	1.10% of capital cost	1.10% of capital cost

Expenses	and 5% escalation. Every year after 5 years	and 5% escalation. Every year after 5 years
Debt Equity Ratio	70 : 30	70 : 30
Term of loan and Interest on Loan	10 years with one year moratorium and 9% interest	10 years with one year moratorium and 9% interest
RoE	16% pre tax	16% pre tax
Insurance Cost	0.75% on the projects for 5 years and reduction of 0.5% every year	0.75% on the projects for 5 years and reduction of 0.5% every year
Working Capital	Nil	Nil
Interest on W/C	Nil	Nil
Fuel Consumption		
Auxiliary Consumption		

Taking into account the technical and financial parameters as above, the single part cost plus tariff has been computed and enclosed in Annexure 7-A to Annexure 10 of the said Order No.3 of 2006 which is self-explanatory with footnotes. The purchase of power from the NCES generators shall be at the rates as below:-

No	NCE Source	Tariff rate per Kwhr
1	WEG: Group 1	Rs.2.75
2	WEG: Group 2	Rs.2.90

1.5. The D.R.P.No.1 of 2002 came to be finally disposed of by the Commission on 29-05-2006, taking into account the order issued in Order No.3 of 2006 and the Commission in its order dated 29-05-2006 in the said D.R.P.No.1 of 2002 has ruled as follows:-

*“The Commission has in exercise of the powers conferred by section 181 read with section 61 (h), 86 (1) (e) of the Electricity Act, 2003 (Act 36 of 2003) issued a Order No.3 dated 15-05-2006 in regard to power purchase and allied issues in respect of non-conventional energy sources. It may be relevant to point out that the said order has been issued after holding a public hearing and after hearing the views of the stakeholders and the members of the State Advisory Committee and the views of experts in a round table conference.*

x x x x

*As per para 4 of the said order, the order shall be applicable to all future and renewal of existing contracts / agreements for the Non-Conventional Energy*

*Sources (NCES) based Generating Plants and Non-Conventional Energy Sources based Co-Generation Plants located within the State of Tamil Nadu. As per the said para 4, the existing contracts and agreements between NCES based generators and the distribution licensee signed prior to the date of issue of this order would continue to remain in force. The above order comes into force on 15<sup>th</sup> May 2006. In view of the said para 4 of the order, it is open to the Petitioner to opt for coming under the above new order in toto by giving termination notice of existing agreements to the Respondent Board and in that case the Respondent Board shall accept the notice of termination of existing agreement and allow the Petitioner for coming under the above new order after executing revised agreement.”*

1.6. Against the said orders of the Commission in D.R.P.No.1 of 2002 and Order No.3 of 2006, the Wind Power Producers Association, Chennai filed an appeal before Hon'ble APTEL in Appeal No.205/2006 and Appeal No.235/2006 respectively. In Appeal No.235 of 2006, the Appellant has challenged Order No.3 of 2006 so far as it relates to the fixation of tariff for the power generated by member of the Appellant association.

1.7. During the hearing of the Appeal, the only ground pressed by the Counsel for the Appellant is with regard to “Time Value of Money”. In Order No.3 of 2006, the Commission has fixed the levelised tariff for the wind energy producers on the basis of calculations relating to O&M charges, insurance, interest on loan, depreciation, return on equity etc. and based on the calculation of cost on the above items, “per unit” cost was determined for 20 years to follow. The factor called “Time Value of Money” has not been incorporated in the tariff fixing methodology.

1.8. The Commission held the view that the factoring the time value of money in calculating the tariff would be taken care of by the escalation provided for O&M charges, derating the CUF after 10 year period and grouping of the existing and proposed generators in two categories. The Hon'ble APTEL has held the above view of the Commission as incorrect. The Hon'ble APTEL has also held that the

rate of interest or the rate at which the future value is discounted for arriving at the present value is an important criterion for levelising the future payments and present payment. When future figure is weighed with the present figure, by taking into consideration the rate of discount, the average of such weighted figures will certainly be different from the average of original figure.

1.9. The Hon'ble APTEL has also held as follows:-

*“The wind energy generators are entitled to the same returns as are allowed to other kinds of energy generators. It is not disputed that these generators are entitled to return on equity @ 16%. It is not sufficient that the tariff is higher than the cost. The wind energy generators are entitled to their 16% return on equity. Admittedly, the tariff fixed when discounted at an appropriate rate does not ensure return of 16% on equity invested by the generators.”*

1.10. The Hon'ble APTEL has also pointed out that there is an error in the Tabular Statement made in the Annexure VIII in Order No.3 of 2006, wherein the cost has shown depreciation at 4.5% as 18,22,500 whereas the correct figure should be 20,25,000 and tariff has been fixed based on the incorrect figures. For all the above reasons, the Hon'ble APTEL has allowed the appeal and set aside the tariff fixed by the Commission by the impugned order and directed to re-determine the tariff for the wind power by taking into consideration the time value of money.

1.11. Against the above said judgment of the Hon'ble APTEL, the erstwhile TNEB and the Commission filed Civil Appeal Nos.1471-1472 of 2008 and 1361-1362 of 2008 respectively before the Hon'ble Supreme Court and the same were dismissed by the Hon'ble Supreme Court on 02-05-2017. Consequently, the Commission has taken on record the issue to re-determine the tariff for wind energy ordered in Order

No.3 of 2006 as ordered by Hon'ble APTEL in Appeal No.205 of 2006 and Appeal No.235 of 2006 dated 18-12-2007 and numbered the same as R.A.No.1 of 2017.

**2. Hearing held on 29-08-2017:-**

The above Remand Application has been numbered as R.A.No.1 of 2017 and was listed for hearing on 29-08-2017. The arguments of both the parties were heard and the parties were directed to file their Written Submissions within four weeks. However, the Petitioner Association alone has filed its Written Submission on 18-01-2018.

**3. Contentions of the Petitioner:-**

3.1. In DRP No. 1 of 2002 filed before this Commission, the Petitioner sought for quashing of the BP No. 99 dated 27.09.2001 issued by the Respondent and consequent revision of tariff and direction for payment of difference in rate. Subsequently, this Commission also initiated suo-motu proceedings of fixation of tariff. Thereafter, this Commission passed a tariff order dated 15.05.2006 in its suo-motu proceeding No. 3 and subsequently the DRP No. 1 of 2002 came to be disposed of with directions by way of an order dated 29.05.2006.

3.2. The members of the Petitioner were entitled to recover the arrears as per the new tariff orders for the period during which they have been paid as per the rates fixed by the impugned order in DRP No.1 of 2002. The relevant portion of the order of the Hon'ble APTEL is extracted below:

*"24. Accordingly, we allow the appeal and set aside the impugned tariff fixed by the Tamil Nadu Electricity Regulatory Commission by the impugned orders and direct that the tariff for the wind power producers be re-determined within next two months by taking into consideration the time value of money. The Commission shall allow the appellant an opportunity of being heard in the process of redetermination. The Members of the appellant association shall*

*be entitled to recover from the TNEB the arrears as per the new tariff order for the period during which they have been paid at the rates fixed by the impugned orders and the TNEB shall pay the same within two months of the redetermination of tariff. "*

3.3. By dismissing the appeals filed by the Respondent, the Hon'ble Supreme Court accepted the contention of the Petitioner that the Time Value of Money ought to be considered in determining the tariff for wind energy.

3.4. The scope of the Appeal preferred by the Petitioner has been set out under paragraph 1 of the APTEL's order dated 18.12.2007. The relevant extract is set out below:

*"These two appeals are filed by an Association of Wind Power Producers to challenge the tariff order, being No. 3/2006 dated 15.05.06 and a subsequent order dated 29.05.06 passed in DRP No. 1/2002. The order No. 3/2006 dated 15.05.06 is challenged in appeal No. 235/06 so far as it relates to fixation of tariff for the power generated by members of the Appellant Association. The challenge to the impugned order dated 29.05.06 is also limited to that issue ...."*

Therefore, the scope of the order is limited to revision of the tariff determined by the Commission in Suo-Motu Proceedings bearing Order No.3 dated 15.05.2006 and the order of this Commission in DRP No.1 of 2002 dated 29.05.2006.

3.5. The Hon'ble APTEL's order dated 18.12.2007, paragraph 23 sets out that despite correction in depreciation value by the Commission, the tariff has not been amended. The relevant extract is set out below:

*"23. It has been further brought to our Notice that Annexure VIII to the tariff order which is a tabular statement of cost has shown depreciation at 4.5% as 1822500 whereas the correct figure should be 2025000. The Commission filed a corrected table at the time of arguments but the tariff determined is based on the incorrect figures and the tariff has not been amended despite amendment in the table".*



3.6. The correct figure for depreciation at 4.5% should be 22,50,000 instead of 20,25,000. The amended tariff due to above correct depreciation value should be as below as per the detailed workings furnished as Annexures.

Tariff order dated 15.05.2006	Average Tariff for existing units.	Average Tariff for Future units
Tariff after correcting the depreciation value (without applying the discounting factor for time value of money)	Rs.2.75	Rs.2.90
Tariff after considering Time Value of Money	Rs.3.03	Rs.3.20

3.7. The scope in the present R.A. No.1 of 2017 is to revise the tariff for WEG's for the existing wind power projects as on 01.04.2002 and with effect from 01.04.2002 taking into account the time value of money. Inasmuch as this Commission has adopted the Time Value of Money principle for the Tariff Orders from 2012, it is required to redetermine the Tariff by taking into account the principle of Time Value of Money to revise the tariff for WEGs for the existing wind power projects as on 01.04.2002 and for all the wind mills commissioned prior to 31-07-2012.

3.8.1. The Petitioner therefore prayed for re-determination of the tariff for the WEGs for the period and reason as prayed in the petition in D.R.P No 1 of 2002 and for the tariff fixed in the wind tariff order dated 15.05.2006 and also for the wind tariff order dated 20.03.2009 taking into account the time value of money along with the parameters approved and adopted by the Commission as indicated below:

- (a) For the tariff fixed at Rs.2.70 per unit for the wind mills existing as on 01.04.2002 and commissioned from 01-04-2002 to 14-05-2006 (prior to

15.05.2006), the eligible revised tariff will be Rs.2.88 per unit from the date of commissioning or 01.04.2002 whichever is later;

(b) Wind Tariff Orders dated 15.05.2006 and 20.03.2009:

Commissioning Period	Existing Tariff Rs./Unit	Tariff after correcting depreciation without considering Time Value for Money Rs./Unit	New Tariff after considering Time Value of Money Rs./Unit
Till 14-05-2006 (prior to 15-05-2006)	2.75	2.83	3.03
15-05-2006 to 18-09-2008	2.90	3.00	3.20
19-09-2008 to 19-03-2009	2.90 (applicable rate upto 19-03-2009)	3.00	3.20
	3.24 (applicable rate from 20-03-2009 to 31-03-2009)	--	3.61
	3.39 (applicable rate from 01-04-2009)	--	3.78
On or after 20-03-2009	3.24 (applicable rate upto 31-03-2009)	--	3.61
	3.39 (applicable rate from 01-04-2009)	--	3.78
01-04-2009 to 31-07-2012	3.39	--	3.78

3.8.2. The Petitioner further prayed to direct the Respondent to pay the arrears accruing out of revised tariff within two months of the redetermination of tariff as

ordered by the Hon'ble APTEL. Any delay in payment would carry an interest of 1% per month.

3.8.3. The Petitioner also prayed to direct the Respondent to pay the arrears accruing out of revised tariff order for the wheeling category of WEGs, for the unutilized banked wind energy available with TANGEDCO after adjustment as on 31<sup>st</sup> March every year from March 2002 to 2012 within two months after re-determination of the tariff. Any delay in payment would carry an interest of 1% per month.

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

4.1. The present Remand Application has been taken on file consequent to the orders of the Hon'ble Supreme Court dismissing the Civil Appeal Nos. 1471-1472 of 2008 and 1361-1362 of 2008 filed by Tamil Nadu Electricity Board and Tamil Nadu Electricity Regulatory Commission against the common judgment of the Hon'ble APTEL in Appeal Nos.205 and 235 of 2006 dated 18.12.2007. The Association of Wind power Producers challenged the Order No.3 of 2006 dated 15.05.2006 in Appeal No.235/2006 and the orders of this Commission in D.R.P.No. 1 of 2002 dated 29.05.2006 in Appeal No. 205/2006. In the said Order No.3 dated 15-05-2006, the Commission has issued orders in regard to power purchase and allied issues in respect of non-conventional energy sources. In the said D.R.P.No.1 of 2002, the Wind Power Producers' Association had challenged the orders issued by the erstwhile TNEB in B.P.No.99 dated 27-09-2001 wherein wind tariff was fixed at Rs.2.70 per unit with effect from 01-04-2002 and the prayer of the said Association was to fix the rate at Rs.3.30 per unit which was rejected by the Commission in its order dated 29-05-2006. The Hon'ble APTEL in the common

judgment in the said Appeals directed that the tariff fixed for the wind power producers in the impugned orders be re-determined by taking into consideration the time value of money.

4.2. Before proceeding with the tariff re-determination process, the relevant extract of the Hon'ble APTEL's Judgment in the above appeals is reproduced below:

“ xxx xxx

*3) It may be mentioned at the outset that in the grounds of appeal the appellants have not used the term 'time value for money'. They on the other hand, challenged the assumptions of the Commission regarding the various items of cost. For eg. the appellants have challenged the calculations of capacity utilization factor, the assumed life of a generator, the assumption of operation and maintenance (O&M) expenses at 1.10% of the capital cost, assumption of interest at 9% per annum etc. It is also alleged in the grounds of appeal that the tariff fixed by the Commission will deny the investors of their legitimate expectations. However, at the time of hearing, instead of pressing these grounds separately the learned counsel has preferred to limit his challenge to the tariff fixed only to the extent the factor called the 'time value for money' has not been incorporated in the tariff fixing methodology. Therefore, he has not challenged the calculations of the Commission on individual items. Nor has he challenged the assumption regarding the capacity utilization factor or the life of a plant. The appellant seems to be satisfied if the time value of money is also added as a relevant factor to fixation of tariff for the next 20 years.*

*4) In the subsequent impugned order dated 29.05.06, the Commission has followed the order dated 15.05.06 so far as tariff is concerned.*

.....

*22) In view of the above analysis we have no hesitation to hold that the tariff order dated 15.05.2006 relating to the wind power*

*generation, as reiterated in the order dated 29.05.2006 cannot be sustained.*

*23) It has been further brought to our notice that Annexure VIII to the tariff order which is a tabular statement of cost has shown depreciation at 4.5% as 1822500 whereas the correct figures should be 2025000. The Commission filed a corrected table at the time of arguments but the tariff determined is based on the incorrect figures and the tariff has not been amended despite amendment in the table.*

*24) Accordingly we allow the appeal and set aside the impugned tariff fixed by the Tamil Nadu Electricity Regulatory Commission by the impugned orders and direct that the tariff for the wind power producers be re-determined within the next two months by taking into consideration the time value of money. The Commission shall allow the appellant an opportunity of being heard in the process of redetermination. The members of the appellant association shall be entitled to recover from the TNEB the arrears as per the new tariff order for the period during which they have been paid at the rates fixed by the impugned orders and the TNEB shall pay the same within two months of the redetermination of tariff.”*

4.3. Pursuant to the above orders of the Hon'ble APTEL which has been subsequently upheld by the Hon'ble Supreme Court in its order dated 02.05.2017, the Commission has taken up the matter as a Remand Application and numbered the same as R.A.No.1 of 2017. During the hearing on 29.08.2017 on the Remand Application No. 1 of 2017, the Commission directed both the petitioner, M/s. Wind Power Producer Association and the respondent, TANGEDCO to file their written submissions.

4.4. Written submission has been filed on behalf of the petitioner. The petitioner submits that the scope in the present R.A.No.1 of 2017 is to revise the tariff for WEGs for the existing wind power projects as on 01.04.2002 and with effect from

01.04.2002 taking into account the Time Value of Money. The Petitioner would submit that inasmuch as the Commission has adopted the principles of Time value of Money for the Tariff Orders from 2012 effective from 31-07-2012, it is required to redetermine the Tariff by taking into account the principle of Time value of Money to revise the tariff for WEGs for the existing wind power projects as on 01.04.2002 and for all the wind mills commissioned prior to 31.07.2012.

4.5. Accordingly, the prayer of the petitioner to re-determine the tariff for the financial year 2002-03 with effect from 01-04-2002 at Rs.3.30 per unit for the WEGs in their petition in D.R.P No.1 of 2002 and to refix the tariff fixed in the wind tariff order dated 15.05.2006 as ordered by the Hon'ble APTEL in its judgment dated 18.12.2007 taking into account the Time Value of Money along with the parameters approved and adopted by the Commission has to be considered now in this petition. Further, the wind tariff order dated 20-03-2009 is also sought to be modified taking into account of concept of Time Value of Money. The petitioner has also prayed that the respondent may be directed to pay the arrears accruing out of revised tariff order within two months of the redetermination of tariff as ordered by the Hon'ble APTEL and any delay in payment to carry an interest of 1% per month. Additionally, the petitioner also prays that the Respondent may be directed to pay the arrears accruing out of revised tariff order for the wheeling category of WEGs, for the unutilized banked energy available with TANGEDCO after adjustment as on 31<sup>st</sup> March every year from March 2002 to 2012 within two months after re-determination of tariff and any delay in payment to carry an interest of 1% per month.

4.6. TANGEDCO has not filed any Written Submissions.

4.7. Let us look into the prayer of the petitioner one by one. Firstly, the petitioner has sought to revise the tariff fixed @ Rs.2.70 per unit for WEGs existing as on 01.04.2002 and commissioned from 01.04.2002 to 14.05.2006 @ Rs.2.88 per unit from the date of commissioning or 01.04.2002 whichever is later.

4.8. In this regard, it is to be noted that the Hon'ble APTEL in the said common order dated 18.12.2007 referred to above after discussing on the guidelines of the Ministry of Non-conventional Energy Sources for promoting the production of non-conventional sources, has held that the Tariff order dated 15.05.2006, relating to the wind power generation, as reiterated in the DRP No.1 of 2002 order dated 29.05.2006 cannot be sustained and set aside the impugned tariff fixed by this Commission in the impugned orders and directed that the tariff for the wind power producers be re-determined by taking into consideration the time value for money. The Hon'ble APTEL has also stated the order No.3/2006 dated 15.05.2006 is challenged in Appeal No.235/06 so far as it relates to fixation of tariff for the power generated by members of the appellant association and the challenge to the impugned order dated 29.05.2006 is also limited to that issue.

4.9. Going by the directions of the Hon'ble APTEL, the onus of the Commission is to re-determine the tariff fixed in Order No.3 dated 15.05.2006 which includes two groups of generator namely:-

Group I: Wind power projects commissioned and to be commissioned based on agreements executed prior to the date of the order (i.e. 15-05-2006); and

Group II: Wind power projects to be commissioned based on future agreements after the date of the order (i.e. 15-05-2006).

4.10. The category of generators stated by the petitioner in his prayer i.e generators existing as on 01.04.2002 and commissioned from 01.04.2002 to 14.05.2006 would fall under Group I of the Tariff Order dated 15.05.2006. Therefore this Commission is of the opinion that the proposed reworking of tariff considering time value of money for Group I category in order No.5 dated 15.05.2006 would address this issue.

4.11. Next issue is the redetermination of the average tariff worked out in Order No.3 of 2006 dated 15.05.2006 considering 'time value of money'. It is to be seen from Para 4.2 above that, the Petitioner, M/s. Indian Wind Power Association during the course of appeal before the APTEL has not challenged the calculations on individual items (parameters) of the tariff nor the assumptions regarding Capacity Utilisation factor or the life of a plant. With this background, the Commission proposed to proceed with the tariff redetermination process considering the parameters finalized in the Annexure VIII to Order No.3 dated 15-05-2006 as amended by Order No.5 dated 15.05.2006, taking into account the corrected figures of depreciation amount of Rs.2025000 and Capacity Utilisation Factor @ 25.9% for Group I category and Rs.225000 and 27.46% for Group II category respectively.

4.12. Based on the above, the average tariff for wind energy covered under Order No.3 of 2006 dated 15.05.2006 is recomputed considering a discount factor of 8.38% equal to post tax weighted average cost of capital on the basis of normative debt: equity ratio (70:30) and the levelised tariff of generators shall be as follows:-

**Group-I Category**

Rs.2.91 per unit without A.D. benefit

Rs.2.60 per unit with A.D. benefit

**Group-II Category**

Rs.3.05 per unit without A.D. benefit

Rs.2.72 per unit with A.D. benefit



The detailed tariff workings are placed as Annexure I & II to this order.

4.13. Coming to the next issue of redetermination of tariff fixed in Wind Tariff Order dated 20.03.2009 sought by the petitioner taking into account the time value of money along with the parameters approved and adopted by the Commission, the Commission wish to put forth that the Appeal No.235/2006 was filed by the petitioner, challenging the Order No.3 of 2006 dated 15.05.2006 so far as fixation of tariff. The subsequent wind Order No.1/2009 dated 20.03.2009 also specifies the following:-

*“6.4 Cost plus, single part, average tariff*

*The Commission’s Order No.3 dated 15.05.2006 adopted the ‘cost plus single part average tariff’. This tariff order was challenged by Wind Power producers Association before the Appellate Tribunal for Electricity (ATE). The ATE in its Order dt.18.12.2007 against the appeal No. 205/2006 and 235/2006 have directed the Commission that **“the tariff for the wind power producers be re-determined within the next two months by taking into consideration the time value for money”**. The order of the ATE has been challenged by the Commission and TNEB before Hon’ble Supreme Court and Hon’ble Supreme Court in its order dated 03.03.2008 (against appeal nos. 1361-1362 of 2008) have stayed the order of the ATE. Hence the Commission decided to continue the present methodology of average tariff.”*

4.14. The above said wind tariff Order No.1 of 2009 dated 20-03-2009 has not been challenged by the petitioner or anyone else in any forum and allowed to become final. Therefore the Commission is of the opinion that redetermination of tariff considering time value of money cannot be extended to the subsequent order which has been lapsed during the course of time.

4.15. On the issue of payment of arrears accruing out of the revised tariff ordered in para 4.12 above, the Commission directs that the respondent TANGEDCO shall pay the same within two months of the date of this order.

With the above, this Remand Application is disposed of.

**5. 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.Prabhakara Rao)**  
**Member**

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

/True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission



