

THE 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

and

Thiru R. Rajupandi

- Member

D.R.P. No. 6 of 2009

Saheli Exports Pvt.Ltd.,
New No.25, Old No.10,
Sir Madhavan Nair Road
Mahalingapuram,
Nungambakkam,
Chennai 600 034

...

Petitioner

Vs.

The Tamil Nadu Electricity Board
Represented by its Chairman
800, Anna Salai,
Chennai 600 002

...

Respondent

The above DRP No.6 of 2009 came up for hearing on 29-7-2009. The Commission upon perusing the above DRP.No.6 of 2009 and connected records of the case and upon hearing both sides passes the following:

ORDER DATED 26TH AUGUST 2009

1. Prayer in DRP.No.6 of 2009

The prayer in DRP No.6 of 2009 is to -

a) direct the respondent to levy transmission charges on the petitioner for 7 MW of power in relation to the monthly transmission charges payable by the petitioner;

b) direct the respondent to refund with interest the amount of Rs.27,78,858 collected from the petitioner since October 2007, in excess of 7 MW power generated by the petitioner's plant;

c) direct the respondent to levy variable transmission charges on power generated by the petitioner's plant in excess of 7 MW;

d) direct the respondents to pay costs of the present proceedings to the petitioner..

2. Facts of the case

a) The petitioner is a company incorporated under the provisions of the Companies Act, 1956 involved primarily in the business of setting up power plants and generating electricity. The petitioner has set up a captive power plant in Komal West Village, Mayiladuthurai Taluk.

b) At the time of commissioning of the plant the installed capacity of the plant was 6.12 MW. The allotted 35000 SCMD of gas generates upto 6.80 MW power. Since the installed capacity of the plant was only 6.12 MW the petitioner was unable to utilize the entire allotment of 35000 SCMD and there was a daily balance of 2000 to 3000 SCM of gas.

c) Pursuant to the installation of the new machinery, the total installed capacity of the plant increased to 8.81 MW. The petitioner is required to pay transmission charges to the respondent for the transmission of the electricity generated at the plant to the respondent's grid. Since the wheeling approval is accorded by respondent on the installed capacity and not on the generation capacity, the petitioner was constrained to request the respondent for paralleling and wheeling approval for 8.81 MW. This was done despite the fact that on a regular basis the petitioner generates only 6.80 MW of power, although the installed capacity of the plant is 8.81 MW.

d) The petitioner in letter dated 7-12-2007 requested the Respondent to levy the transmission charges on 7 MW which is the generated capacity of the plant on the basis of firm gas allotment. Despite the above

request, the Respondent continued to levy transmission charges on 9 MW. Petitioner made payment under protest. The petitioner has been requesting the Respondent to levy transmission charges on the basis of generated capacity instead of installed capacity. Hence the above DRP No.6 of 2009 has been filed by the petitioner.

3. Contentions of TNEB

a) In para 5.12.1 of Order No.2 dated 15-5-2006 Commission accepts the proposal of TNEB to adopt the pooled cost method for determination of transmission and wheeling charges. Considering the plant load factor, availability of gas for each plant for each month for arriving at transmission charges is not the intention of the Commission as the transmission charges will differ from plant to plant every month and hence the question of taking plant load factor of individual plant does not arise.

b) The collection of transmission charges for the permitted capacity is in accordance with Order No.2 dated 15-5-2006. The details of transmission charges leviable and the actual transmission charges levied by Respondent as furnished by petitioner cannot be accepted as it is not on par with Order No.2 dated 15-5-2006.

c) The Order dated 15-7-2008 as passed by the Commission in DRP No.1 of 2008 filed by M/s.Kaveri Gas Power Ltd., confirms that transmission charges has to be collected for the allocated capacity only and not on the actual transmission capacity as said by petitioner company.

d) Since the transmission capacity is maintained at 8.81 MW, as per Order of TNERC the transmission charges are to be levied for 8.81 MW (rounded off to 9 MW) only.

4. Findings of the Commission

4.1 The petitioner was granted approval on 28-3-2005 for wheeling 7 MW on the basis of the application of the

petitioner dated 18-3-2005. The wheeling capacity was upgraded to 8.81 MW by the TNEB on 24-7-2006 at the request of the petitioner in accordance with clause 12 of Intra State Open Access Regulations 2005 of TNERC.

4.2 The petitioner now prays for levying a variable transmission charge depending on the output of power in excess of 7 MW retaining the minimum demand at 7 MW. The petitioner draws a parallel with the distribution licensee who has sought open access for transmission of power generated on the basis of plant load factor. But, the relevant question is that the petitioner has not sought transmission capacity consistent with his plant load factor. He sought and was granted transmission capacity of 8.81 MW. Nothing prevented him any time to lower his requirement. Blocking a higher transmission capacity and demanding a lower charge are inconsistent. Clauses 5.9.6 and 5.9.7 of Order No.2 dated 15-5-2006 of the Commission are reproduced below:

“5.9.6. The Commission has incorporated the following definition for “Allotted Transmission Capacity” in Tariff Regulations based on the guidelines in CERC’s Tariff regulations.

“Allotted Transmission Capacity means the **power transfer in MW between the specified point of injection and point of drawal** allowed to a long-term open access customer on the intra-state transmission system under the **normal circumstances** and the expression allotment of transmission capacity shall be construed accordingly.”

“5.9.7. As per clause 59 of the “Terms and condition for determination of tariff Regulation 2005 of TNERC the transmission charges payable by a open access customer shall be calculated by dividing the total transmission charges by the **sum of allotted transmission capacity** to all the long-term open access customers of the intra-state transmission system and multiplied by the capacity allotted to that long-term open access customer.”

In accordance with the Order the petitioner is bound to pay for the allotted transmission capacity.

5. Conclusion

In the above circumstances, the petition is dismissed. No costs.

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 forty five days.

Pronounced in open court on this day of 26th August 2009.

(Sd.....)
(R. RAJUPANDI)
Member

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission