

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**
Thiru R. Rajupandi - **Member**

D.R.P.No.9 2009

M/s. T.T. Limited
305/1-A, Thirupathi Thottam
Thevampalayam, Palangarai Village
AVINASHI – 641 654 - **Petitioner**

Vs.

1. The Chief Engineer
Tamil Nadu Electricity Board
No.800, Anna Salai,
Chennai 600 002
2. The Superintending Engineer
Udumalpet Electricity Distribution Circle
TNEB
Udumalpet - **Respondents**

The above D.R.P. No. 9 of 2009 came up for final hearing before the Commission on 29-7-2009. The Commission upon perusing the above DRP 9 of 2009 and other connected records of the case and after hearing both sides passes the following

ORDER DATED 26th AUGUST 2009

1. Prayer of the petitioner in DRP No. 9 of 2009

The prayer in DRP No. 9 of 2009 is to direct the Respondent TNEB to pay a sum of Rs.10,56,625/- (Rupees ten lakhs fifty six thousand and six hundred and twenty five only) for the unutilized banked units of 5,12,303 as on 30-6-2008 at the rate of 75% of the unutilized banked units as per Order No.3 dated 15-5-2006 issued by the TNERC which came into force from 15-5-2006.

2. Facts of the case

The petitioner is a Public Limited Company registered under the Companies Act 1956 owning wind mills at Udumalpet EDC with HT WEG SC No. 1195 and 1200 and producing electricity therefrom and supplying to the respondent Board at the above circle. The petitioner has entered into two Energy Wheeling Agreements (EWA) with the respondent on 28-3-2008 in line with Order No.3 dated 15-5-2006 for their HT SC Nos. 1195 and 1200 for the purpose of wheeling adjustments against their consumption and banking surplus units of power produced in their wind mills after deducting wheeling charges for using the respondent's transmission and distribution facilities. As per the said Order No.3 dated 15-5-2006, the petitioner is eligible for refund of 75% of the unutilized banked units as on 30-6-2008. The petitioner in letter dated 21-1-2009 have requested for payment of Rs.10,56,625/- towards the cost of the unutilized banked units of 5,12,303 as on 30-6-2008 at the rate of 75% of Rs.2.75 per unit as per the terms and conditions of the EWA. In spite of several representations, the respondents did not make payment as requested by the petitioner. Hence the above DRP 9 of 2009 has been filed by the petitioner.

3. Contentions of the petitioner

- (a) As per Clause 5 (b) of the agreements, the petitioner is legally entitled for encashment of 75% of the unutilized banked energy as on 30-6-2008.
- (b) The act of the respondent is against the principles of equity, good conscience and fair play

4. Contentions of the Respondent Board

- (a) An instruction was issued vide the letter dated 23-5-2009 to Superintending Engineer / Udumalpet EDC and Superintending Engineer / Coimbatore EDC / North for releasing the payment to the petitioner as like the case in M/s. Maruthamalai Andavar Spinning Mills in DRP No.11 of 2008 for the 75% of the payment for the unutilized banked energy available beyond the extended banking period i.e. on 30-6-2008.
- (b) For having wheeled the wind energy from April 2007 to 31-3-2008 the petitioner has to pay scheduling and system operation charges but the petitioner has not paid the same. Hence based on the above instruction, a payment of Rs.8,09,124/- has been paid to the petitioner company vide cheque no.669862 dated 11-6-2009 for the 75% of the payment for the unutilized banked energy after deducting scheduling and system operation charges for the period from April 2007 to 31-3-2008. The petitioner company has also accepted the same and received the above payment.

5. Findings

5.1. The petitioner prays for encashment of the unutilized banked 5,12,303 units as on 30-6-2008 at the rate of 75% of Rs.2.75 per unit. The Respondent conceded his prayer but deducted a sum of Rs.2,47,500 towards scheduling and

system operation charges for the period from 1-4-2007 to 28-3-2008. The prayer is limited to refund of this sum.

5.2. A revised Energy Wheeling Agreement was executed on 28-3-2008 between the petitioner and the TNEB and therefore the scheduling and system operational charges prescribed in Order No.2 dated 15-5-2006 of the Commission would apply from the date of execution of the revised agreement namely 28-3-2008. The rates would be as prescribed in Order No.2 dated 15-5-2006 of the Commission. It is Rs.300 per 1650 KW as per the amendments dated 21-4-2008 and 11-10-2008 to Order No.2 dated 15-5-2006 of the Commission. As per Clause 18 of Intra State Open Access Regulations 2005, SLDC is entitled to collect security deposit equivalent to 3 months of scheduling and system operational charges. The TNEB has recovered a sum of Rs.23,498 against each HT SC No.1195 and HTSC No.1200. There is no provision for advance recovery of scheduling and system operational charges and therefore this was irregular.

6. Conclusion

It is directed as follows:

1. The TNEB shall refund the advance recovery of scheduling and system operational charges of Rs.23,498/- collected against each service connection.
2. TNEB is entitled to recover a deposit of three months equivalent for scheduling and system operational charges.
3. After adjustment of the above two sums, the balance if any out of Rs.2,47,500 may be refunded to the petitioner.

7. **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 the open Court by this Commission on the 26th August 2009.

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

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

/ True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**