

**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**

**and**

**Thiru K. Venugopal** - **Member**

**D.R.P. Nos. 30 and 32 2009**

M/s. Pushpit Steels Pvt. Limited  
Represented by its Director  
Mr. Vinod Kumar Garg  
Regd. Office at R.S.No.94/2,3 & 4  
Erripakkam Village  
Nettapakkam Commune  
Pondicherry-605 107

.Petitioner in DRP No. 30 of 2009

M/s. V.S. Steels & Power Projects Pvt. Ltd  
Represented by its Director  
Mr. Vinod Kumar Garg  
Regd. Office at 163/1 Broadway  
K.Sona Complex, 1<sup>st</sup> Floor  
Chennai-600 108

: Petitioner in DRP no.32 of 2009

**-vs-**

The Tamil Nadu Electricity Board  
Represented by its Chairman  
NPKRR Maaligai  
No.144 Anna Salai  
Chennai-600 002

The Chief Engineer (NCES)  
Tami Nadu Electricity Board  
Chennai

Respondents for both  
..the DRPs.

The Superintending Engineer  
Tamil Nadu Electricity Board  
Tamil Nadu Electricity Distribution Circle  
Udumalpet

Respondent for DRP No.30

The Superintending Engineer  
Tamil Nadu Electricity Board  
Tamil Nadu Electricity Distribution Circle  
Tirunelveli

Respondent for DRP No.32

**Date of hearing – 3-12-2009**

**Date of Order – 3-12-2009**

The DRP No.30 of 2009 was filed by M/s. Pushpit Steels Pvt. Ltd., Pondicherry and DRP No.32 of 2009 was filed by M/s. V.s. Steels & Power Projects Pvt. Ltd. Chennai. Since both the petitions are identical having similar grounds and similar prayers they are bunched.

**1. Contentions of the petitioners**

In both these petitions, the petitioners have prayed for a direction to the TNEB to fix the rates for supply of wind energy from the wind energy generators (WEG) of the petitioners at par with other wind energy generators in respect of WEG supply agreement No.730 dated 11-4-2008 and agreement No.1103 dated 20-4-2008 respectively, **without taking into consideration of the date of commissioning** and pass such orders as the Commission deem fit and proper.

**2. Grounds contained in the petition**

- a) The rate of energy supplied by the WEG belonging to the petitioner has been fixed without hearing the petitioners, it is arbitrary and needs to be revised.

- b) The question of date of commissioning of the WEG may not be a relevant factor to decide the rate as the same would depend upon the number of units produced by the particular WEG.
- c) The conditions of the agreement between the petitioner and the TNEB is that the agreement would be in force for a period of 20 years and in the said circumstances, the wind energy supply rates should not be fixed with reference to the date of the commissioning of WEG.
- d) The order of the respondent in fixing various rates for the wind energy based upon the date of commissioning is against principle of equity and liable to be interfered with by the TNERC.
- e) The supply of energy is essential for day to day life and that the private entrepreneurs are encouraged. The cost of production remains the same for all types. The fixing of tariff is a statutory function. Viewing this case in this angle fairplay requires to modify the rate in the case of the petitioner on par with others.
- f) That as per Clause 20 of the agreement, the supply of power is dependent upon the rules as modified from time to time. Fixing the tariff is a statutory function as per which an enhanced rate at Rs.3.75 has been fixed by the TNERC with effect from April 2009. Hence, the petitioner is also entitled to the same rate.

The petitions were listed for admission and the petitioners were heard on 3<sup>rd</sup> December 2009.

### **3. Findings of the Commission**

3.1. The Commission has issued a comprehensive tariff order on wind energy in Order No.1 of 2009 dated 20-3-2009. This was preceded by a consultative paper seeking comments of all the stakeholders, discussion of the expert committee meeting on non-conventional energy sources held on 16-7-2008 (specifically for wind energy), discussion in the 16<sup>th</sup> State Advisory Committee meeting held on 16-2-2009, public hearing on 5-3-2009, etc. The procedure followed for finalising the

Order No.1 of 2009 is summarized in that order. The Commission has gone through an elaborate process by issuing a consultative paper seeking comments of all the stakeholders on the consultative paper, holding round table conference with experts, discussion in the State Advisory Committee and a public hearing. Wide publicity was also given during this process. The petitioners did not avail this opportunity.

3.2 The first mentioned petitioner in DRP 30 of 2009 namely M/s Pushpit Steels Pvt Ltd., had installed and commissioned the WEG on 30-03-2005 and the second mentioned petitioner in DRP 32 of 2009 namely M/s. V.S. Steels and Power Projects Ltd., had installed and commissioned the WEG on 15-02-2005. The original agreement entered into with the Respondent Board by the above first mentioned petitioner was in the year 2005 and the additional agreement was dated 11-04-2008. The agreement entered into by the above second mentioned petitioner with TNEB was dated 20-04-2008.

3.3 Para 4.0 of the order no.1 of 2009 dated 20-03-2009 reads as follows :

*“ Applicability of proposed order :*

*In line with the Commission’s order No.3 dated 15-05-2006, the proposed order shall come into force from the date of its issue. The tariff fixed in the proposed order shall be applicable to all the WEGs commissioned on or after the date of this order. It should be noted that the existing contracts and agreements between WEGs and the distribution licensees signed prior to this order would continue to remain in force. However, the WEGs and the distribution licensees shall have the option to mutually renegotiate the existing agreements / contracts in line with this order before the expiry of the contracts /agreements. Any renewal of the said contracts / agreements, new contracts / agreements shall be in conformity with this order. The tariff would be with reference to the date of commission and the rate in force on that day.”*

3.4 From the above paragraph 4 of the order 1 of 2009, it would be clearly seen that the said order shall be applicable only to WEGs commissioned on or after the date of the said order viz., 20-03-2009, and that the existing contracts and agreements between WEGs and distribution licensees signed prior to the said order would continue to remain in force. In view of the said clause 4 of the order, both the petitioners are governed only by the agreements entered into with TNEB prior to the date of issue of the said Order viz., 20-03-2009. In view of this, the Commission does not find any merit for admission of these petitions. Both the petitions are dismissed.

#### 4. **Appeal**

An appeal against this order lies with the Appellate Tribunal for Electricity as per Section 111 of the Electricity Act, 2003 within a period of 45 days.

**Delivered by this Commission on 3<sup>rd</sup> December 2009.**

(Sd.....)  
(K. Venugopal)  
Member-II

(Sd.....)  
(R. Rajupandi)  
Member-I

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

**/ True Copy /**

**Secretary  
Tamil Nadu Electricity  
Regulatory Commission**