



**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 B. Jeyaraman** - **Member**

**and**

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

**I.A. No.7 of 2009 in MP.No.2 of 2009**

Indian Wind Power Association  
(Formerly Wind Power Producers  
Association)  
No.40, Ground Floor, Besant Avenue  
Adyar, Chennai 600 020.

::: PETITIONER

Vs.

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

::: RESPONDENT

---

The above IA.No.7 of 2009 in MP.No.2 of 2009 came up for final hearing on the 1<sup>st</sup> April 2009. The Commission upon perusing the above IA No.7 of 2009 and the connected records and upon hearing both sides passes the following order namely:

## **INTERIM ORDER DATED 1<sup>st</sup> APRIL 2009**

### **1. Prayer of the petitioner in MP.No.2 of 2009**

The prayer of the petitioner in MP.No.2 of 2009 is to direct the Respondent TNEB to make suitable modifications, additions and deletions in the Energy Wheeling Agreement (EWA) and Energy Purchase Agreement (EPA).

### **2. Interim prayer in IA.No.7 of 2009**

The interim prayer is for directing the respondent TNEB not to pass any orders which may pre-judicially affect the members of the petitioner's Association, on the unutilized units accumulated at the banking account of the members of the petitioner's Association till the main petition is disposed off.

### **3. Contentions of the petitioner**

The contentions of the petitioner are briefly as follows:

(a) The spirit of the National Electricity Policy is to promote non-conventional sources of energy and this Hon'ble Commission has taken several steps in this direction to meet the objectives of the National Electricity Policy.

(b) The draft of EWA or EPA was not made public at any time before it was vetted and approved by the Hon'ble Commission. It was made known to the second signatory, ivz., the WEG, only in December, 2007, after the order No.3 dated 15-5-2006. The efforts of the Petitioner Association through letters, personal interaction with and representation to the Chairman, TNEB and the Chief Engineer (NCES) about the incorrectness of working of EWA and EPA and its incompleteness in covering all the aspects to be covered in last 15 months from December, 2007 to date, has not brought any tangible results. Hence, this petition to TNERC.

(c) The contents of the existing agreements need some modifications to make it more benign to the wind mill owners as these modifications would motivate and attract more and more investors in the wind mill sector in the State of Tamil Nadu.

#### **4. Contentions of the Respondent Board in the counter affidavit**

The contentions of the Respondent Board as set out in the counter affidavit are briefly as follows:

(a) The petitioner Association has prayed the Hon'ble Commission for modification of the Energy Purchase Agreement and Energy Wheeling Agreement. This amounts to review of the TNERC Order No.3 dated 15-5-2006. As per Regulation 43 (1) of the TNERC Conduct of Business Regulations 2004, a review petition should be filed within 30 days of the order. But the petitioner under the guise of filing a miscellaneous petition, seeks to review the TNERC Order No.3 dated 15-5-2006 after a long time. Hence the petition is not valid and liable to be dismissed.

(b) In TNERC Order No.3 dated 15-5-2006 in clauses (10.10) and (10.11) it is mentioned that the Board have to submit the model draft EPA and EWA to the Commission for vetting and approval. As per the direction the respondent Board has submitted its model EPA and EWA and the same was approved by the Hon'ble Commission after proper vetting. The petitioner should have approached the Hon'ble Commission at that time itself, instead the petitioner is approaching after the expiry of the control period.

#### **5. Findings of the Commission**

As per clause 10.10 of order no.3 dated 15-5-2006 TNEB would frame and file a model EPA for approval of the Commission. As per clause 10.11 of the said order no.3, the distribution licensees should draft EWA taking cognizance of the energy wheeling principles elaborated in the order.

Accordingly the EPA and EWA were approved by the Commission. As rightly contended by the TNEB, the prayer of the petitioner Association virtually amounts to a review of order no.3dated 15-5-2006. It is to be noted that as per clauses 8.16 and 8.17 of order no1 of 2009 dated 20-3-2009 the formats of EPA and EWA shall be evolved by the Commission after discussion with wind energy generators and the TNEB. The Commission is actively considering the question of evolving a new format of EPA and EWA.

**6. Conclusion**

There is no prima facie case which has been made out by the petitioner so as to justify the grant of the interim prayer asked for. As such no interim relief is granted

Orally pronounced in the open court by this Commission on the 1<sup>st</sup> April 2009.

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

(Sd.....)  
**(B.JEYARAMAN)**  
Member

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

**/ True Copy /**

**Secretary**  
**Tamil Nadu Electricity**  
**Regulatory Commission**