

TAMIL NADLU 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

M.P.No.6 of 2009

Tamilnadu Spinning Mills Association
No.24, 11th Cross Street
Thiruvallur Nagar
Spencer Compound
Dindigul-624 003
Rep. by its Chief Advisor
Mr. K. Venkatachalam

... Petitioner

Versus

The Chairman
Tamilnadu Electricity Board
144, Anna Salai
Chennai-600 002

.... Respondent

The above M.P.No.6 of 2009 came up for final hearing before the Commission on 29-7-2009. The Commission upon perusing the above M.P.No.6 of 2009 and the connected records of the case and after hearing both sides passes the following

ORDER DATED 26th AUGUST 2009

1)Prayer of the Petitioner:

The prayer of the Petitioner is to make suitable provisions in the text of Energy Wheeling Agreement (EWA) so as to provide the following:-

(a) Non-charging 5% of banking charges during the period of demand cut/energy cut, power shedding and restriction imposed by TNEB for reasons not attributable to Wind Mill Owners.

(b) Maintaining separate pending account of units not allowed to be consumed by the captive consumer.

(c) Allowing the WTG to consume or adjust such left over units without any time restriction

(d) Not to allow such units to lapse either on 31st March or at any; other point of time.

(e) To compensate the WTG Owners promptly during every month at a fair price fixed by Commission or in the alternative pass such other order or relief as the Commission may deem fit and proper in the circumstances of the case.

2. Facts of the case:

The Petitioner Association is an Association of Yarn Spinning Mills situated in various districts of Tamil Nadu having a strength of 404 Mills as Members. The Members have installed Wind Turbine at feasible locations and after executing an agreement with the Respondent Board are wheeling the power generated through the Wind Turbine to the consuming end by paying suitable wheeling charges as fixed by the Commission. Due to inability of the Respondent Board to provide continuous power for the whole day without any interruption or shedding, the industries were not able to avail power continuously every day during March 2008. On several MPs. filed by the Members of the Petitioner Association the Commission was pleased to order extension of banking period for three more months from April 2008 to 30th June 2008 and thereby, almost all the unutilised energy kept at the banking account of

the concerned WTG Owners are fully adjusted during the so extended period. During 2008-2009 also, the Respondent Board is unable to supply power to the Members of the Petitioner Association. Having regard to the grave situation prevailing in the State and due to the fact that there may not be any improvement in the power position in the State of Tamil Nadu in the coming year, the Petitioner Association files the above M.P.No.6 of 2009 for the relief as prayed for in the prayer at para 1 above.

3. Contentions of the Petitioner:

(a) There is no provision in the EWA for dealing with the energy left unutilised every month due to the fault of the Respondent Board in not permitting the consumer to consume the energy at the consumption end then and there during every month.

(b) Those who have put up Wind Mills for captive consumption and those who have not put up any such Wind Mills are being treated as equal in the matter of fixation of demand cut/energy cut and this is against the principles of equity and fairness.

(c) The draft EWA was not made public at any time before it was allowed for execution.

4. Contentions of the Respondent Board:

(a) Power cut is imposed not only to the Petitioner but also to the general public and the said power cut is imposed due to shortage of power.

(b) Even though power cut is imposed the banked energy was allowed to be adjusted within the quota limit and the Petitioner is not denied from adjusting banked energy within the quota limit.

(c) Since there is no discrimination of power cut imposed in the State of Tamil Nadu, the question of unequals are being treated equals in the matter of fixing demand and energy quota does not arise.

(d) EWA now executed has been already approved by the Commission.

(e) The Petitioner is eligible only for encashment of 75% of the purchase rate/unutilised banked energy as on 31-3-2009.

5. Findings and Conclusion:

5.1 The petitioner prays for certain amendments to the Energy Wheeling Agreement between the wind energy generators and the Tamil Nadu Electricity Board. The Energy Wheeling Agreement was finalised by the Commission on 27-12-2007 in pursuant to Order No.3 dated 15-5-2006 of the Commission. Thereafter, the Commission has passed another comprehensive tariff order on procurement of wind energy on 20-3-2009. The Energy Wheeling Agreement pursuant to this order has been finalised by the Commission on 18-5-2009 in consultation with the wind energy generators and the distribution licensee.

5.2 Re-opening of the EWA pursuant to Order No.3 dated 15-5-2006 would disturb the provisions in the subsequent EWA finalised on 18-5-2009.

5.3 Although the EWA was finalised on 27-12-2007 the petitioner has chosen to seek amendments only on 18-2-2009, more than a year later.

5.4 The Commission does not find it prudent to consider these issues at this late stage and therefore 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 the open Court by this Commission on this 26th Day of August 2009.

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

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

/ True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**