

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**

MP.No.14 of 2009

In the matter of:- Seeking permission to incorporate a condition in the Energy Purchase Agreement & Energy Wheeling Agreement for implementing the Order No.1, dated 20-03-2009 on conditional basis.

Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai 600 002.

Represented by its Chief Engineer / NCES ... Petitioner

The above MP.No.14 of 2009 came up for final hearing before the Commission on the 26th August 2009. Upon perusing the above petition and the concerned records of the case and upon hearing the Learned Counsel Thiru H.S.Mohamed Rafi appearing for petitioner Board, the Commission hereby pronounces the following:

ORDER DATED 14TH OCTOBER 2009

1. Prayer of the petitioner Board in MP.No.14 of 2009

The prayer of the petitioner Board in MP
No.14 of 2009 is

(a) to permit the Board to incorporate the conditions mentioned in Para 4 of the petition in the Energy Purchase Agreement and Energy Wheeling Agreement for implementing the Order No.1, dated 20-03-2009 on a conditional basis.

(b) to permit the Board to modify the condition incorporated in the Energy Wheeling Agreement subject to the outcome of the Appeal Petition at Hon'ble Appellate Tribunal for Electricity (ATE).

2. Contentions of the petitioner Board

(a) The petitioner Board stated that if Order No.1 dated 20-03-2009 is implemented it will drastically affect the financial position of the petitioner Board and it would be difficult to serve the general public. Petitioner Board further stated that the financial implication has to be passed on to the general public only. Hence, petitioner Board has decided to file an appeal petition against the Order No.1 dated 20-03-2009 before the Hon'ble ATE. The appeal petition will be filed soon.

(b) In the mean time representations were received from various companies and Associations to implement at least power purchase rate of Rs.3.39 per unit. Board has implemented the Order No.1 dated 20-03-2009 on a conditional basis vide its letter dated 2-7-2009.

(c) If the Order No.1 dated 20-3-2009 is implemented the new Energy Purchase Agreement and Energy Wheeling Agreement vetted and approved by this Hon'ble Commission has to be executed.

(d) The order has been implemented on obtaining an undertaking in the format mentioned in para 4 of the petition.

(e) It would be appropriate that conditions be incorporated in the agreement itself till the disposal of the appeal before the Hon'ble ATE by seeking the leave of this Hon'ble Commission to do so.

3. Findings and conclusion of the Commission

It is the inherent right of the distribution licensee to challenge the Orders of the Commission in the Appellate Tribunal for Electricity under Section 111 of the Electricity Act 2003. The Orders of the Tribunal shall bind everyone including the Commission, the generators and the distribution licensee. Therefore, there is no need to incorporate a special condition as prayed for by the TNEB in Order No.1 of 2009 dated 20th March 2009 of the Commission. The petition is dismissed.

4. 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.

With the above directions MP.No.14 of 2009 is finally disposed off.

Pronounced in the open court on this 14th day of October 2009.

(R. Rajupandi)
Member

(S.Kabilan)
Chairman