

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.K.Venugopal ... **Member**

and

Thiru.S. Nagalsamy **Member**

M.A.P. NO. 1 OF 2008
and
I.A. NO.1 OF 2010

Tamil Nadu Electricity Board
Rep. by its Secretary
No.800, Anna Salai
Chennai – 600 002.

.... Petitioner
(Thiru.H.S.Mohammed Rafi, Advocate for Petitioner)

Versus

M/s. ST-CMS Electric Company Private Limited
70, Kasturi Avenue
M.R.C. Nagar, R.A. Puram
Chennai – 600 028.

.. Respondent

Dates of hearing : 19-10-2010 and 03-11-2010

Date of order : 03-11-2010

1. The prayer in M.A.P. No. 1 of 2008 is to determine the completed capital cost.

1.1 The prayer in I.A. No. 1 of 2010 is to record the settlement reached between both parties in respect of actual completed cost as Rs.1,281.39 crores and permit the Petitioner to withdraw the petition filed before the Hon'ble Commission on 13-05-2008.

1.2. The above M.A.P. No. 1 of 2008 and I.A. No. 1 of 2010 came up for final hearing on 03-11-2010 before the Commission. Upon perusing the said petitions and the connected records and after hearing both sides the Commission passes the following

ORDER

2. Tamil Nadu Electricity Board filed a petition M.A.P.No.1 of 2008 on 13-5-2008 under Sections 61, 62 and 86 of the Electricity Act, 2003 for determination of the capital cost of M/s.ST-CMS Electric Company Private Limited. The Commission on 20-6-2008 called upon M/s.ST-CMS Electric Company Private Ltd., to file the petition for determination of capital cost within 30 days. In their response dated 18-7-2008 M/s.ST-CMS questioned the jurisdiction of the TNERC in determining the capital cost and referred to the stay orders granted by High Court of Madras in respect of other IPPs restraining the TNERC from determining capital cost. Similar objections were raised by M/s.ST-CMS in their letters dated 20-8-2008 and 26-9-2008 questioning the jurisdiction of TNERC.

3. M/s.ST-CMS moved the High Court of Madras in W.P.No.23804 of 2008 and W.P.No.23805 of 2008 and obtained an interim stay on 28-9-2008 restraining the TNERC from proceeding to determine the capital cost. The stay order was made absolute on 10-8-2009 by the High Court of Madras.

4. Therefore, the Commission is unable to carryout the exercise of determination of capital cost of M/s.ST-CMS as prayed for by the TNEB. Now, the Petitioner TNEB, prays for withdrawing the petition for determination of capital cost of M/s.ST-CMS. As the Commission has been unable to proceed with the case for over two years since May 2008 due to the stay order of the High Court, the Commission permits the TNEB to withdraw their petition for determination of capital cost. The petition M.A.P.No.1 of 2008 and I.A.No.1 of 2010 filed by TNEB are dismissed as withdrawn.

Delivered on 03-11-2010

(Sd.....)
(S. Nagalsamy)
Member - II

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

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission