



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**

D.R.P. No. 9 of 2008

M/s.HI – Tech Carbon (A Unit of Aditya Birla Nuvo Limited)
K-16, Phase II
SIPCOT Industrial Complex
Gummidipoondi (PO)
Thiruvallur District – 601 201

... Petitioner

Vs.

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

... Respondents

The above petition viz namely DRP No.9 of 2008 came up for hearing before the Commission on the 10th November, 2008. The Commission upon perusing the above petition and the connected records relating thereto and upon hearing the petitioner in person, hereby pronounces the following order, namely;

ORDER DATED 27th November, 2008

1. Prayer of the Petitioner:

The prayer of the petitioner is to –

i) approve the surplus sale and purchase of power by the Petitioner to the Respondent Board at the rate of Rs.2.90/unit for a maximum of 25.7 MW purchased (out of the total four generators having capacity of 33.7 MW, as the Petitioner is consuming around 8 MW for self consumption) since 01.04.2008 with appropriate escalation till ABT based tariff is fixed after accomplishment of the required arrangements.

ii) direct the Respondent Board to enter into a common PPA for total surplus Power sale to Respondent at common rate irrespective of power produced from any of our export generator as per Order No.4, dated 05.05.2006.

2. Facts of the case:

The Commission has classified the Petitioner company as co-generation plant as defined in Section 2(12) of the Electricity Act, 2003. The petitioner continued to supply the surplus power generated by it to the Respondent Board even after the expiry of PPA on 01.04.2008 though so far rates offered have not been finalized to purchase at the rate of Rs.2.90 per unit. The petitioner failed to convince the Respondent Board that it is within the contractual powers to fix the tariff. But the Respondent Board is of the view that they have no power to fix the tariff. Hence the petitioner has filed the above DRP.

3. Contentions of the Respondent Board in the Counter-Affidavit:

a) The Respondent Board has no objections to treat the petitioner plant as a co-generation plant since the process involved in the plant is waste heat recovery method and hence well within the ambit of Fossil Fuel based co-generation plant.

b) The Respondent Board is unable to fix a single tariff (Rs.2.90 per unit) because as per order no.4, dated 15.05.2006, UI rates are to be adopted for purchase of firm power from CPP/co-generation plants.

4. Issues:

Two issues arise for consideration namely –

i) Whether the claim of the petitioner to fix the rate of purchase at Rs.2.90 per unit for a maximum of 25.7 MW purchase since 1.04.2008 with appropriate escalation till ABT based tariff is fixed, can be allowed?

ii) to what extent the petitioner is entitled to relief?

5. Findings of the Commission with reference to first issue:

The date of commissioning of 8 MW is not known. Fixation of tariff by the Respondent Board for the 2.5 MW is contrary to the existing PPA. The fixation of tariff for 8MW on 10.11.2004 is again contrary to the said PPA. As per the orders dated 1st August, 2007, issued by the Commission in DRP 3 of 2007, the petitioner company should be treated as co-generating plant and they would be governed by Order No.4, dated

15.05.2006 and that they would be entitled only to the benefits conferred under the said order No.4, dated 15.05.2006 as a co-generating plant and not as a captive generating plant. Hence the claim of the petitioner for fixation of purchase rate at Rs.2.90 per unit with appropriate escalation since 01.04.2008 cannot be granted.

6. Findings of the Commission with reference to Second issue:

The petitioner company is entitled only to such benefits as are conferred under order No.4, dated 15.05.2006 as a co-generation plant.

7. Conclusion:

The petitioner company is directed to install ABT compliance Meter by 31st January, 2009. Till such time, the purchase rate for supply of power to the Respondent Board would be Rs.2.60 plus 10% that is Rs.2.86 per unit as per Order No.4, dated 15.05.2006, as they have been already classified as fossil fuel co-generation in the said Order No.4, dated 15.05.2006. With the above directions, DRP No.9 of 2008 is finally disposed of. There would be no cost.

**Pronounced in the Open Court by this Commission on
twenty seventh day of 27th November, 2008.**

(Sd.....)
(R.RAJUPANDI)
MEMBER II

(Sd.....)
(B.JEYARAMAN)
MEMBER I

(Sd.....)
(S.KABILAN)
CHAIRMAN

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission