

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:

ThiruM.Chandrasekar

.... Chairman

and

Thiru.K.Venkatasamy

.... Member (Legal)

D.R.P. No.40 of 2014

M/s. NuPower Renewables Limited
618, Maker Chambers V
Nariman Point
Mumbai – 400 021.

... Petitioner
(Thiru. Rahul Balaji
Advocate for the Petitioner)

Vs.

1. TANGEDCO
Rep. by its Chairman & Managing Director
144, Anna Salai
Chennai – 600 002.
2. The Chief Financial Controller
TANGEDCO
144, Anna Salai
Chennai – 600 002.

... Respondents
(Thiru. M. Gopinathan,
Standing Counsel for Respondents)

Dates of hearing : 29-01-2014; 30-01-2014; 28-04-2014;
05-09-2019; 17-09-2019; 10-12-2019;
28-01-2020; 22-09-2020; 03-11-2020;
01-12-2020; 08-12-2020; 22-12-2020;
19-01-2021; 23-02-2021 and 09-03-2021

Date of Order : 23-03-2021

The DRP No. 40 of 2014 came up for final hearing on 09-03-2021. The Commission upon perusing the affidavit filed by the petitioner, counter affidavit filed by the respondent and all other connected records and after hearing both the parties passes the following:-

ORDER

1. Prayer of the Petitioner in D.R.P.No.40 of 2014:-

The petitioner in D.R.P. No. 40 of 2014 has been filed to direct the respondents to immediately make payment of Rs.10,19,85,632/- being the interest accrued and payable to the petitioner against delayed payments made till 12th November 2013 for power supplied from the Petitioner's Wind Generation Projects together with further interest on the aforesaid sum of Rs.10,19,85,632/- at 18% per annum from 13th November till the date of payment and further direct TANGEDCO to make payment of invoices fallen due for payment together with interest at the interest rates as per Energy Purchase Agreement (EPA) and APTEL Order dated 17th April 2012 and to direct the respondent to bear the costs of the instant petition including court fees.

2. In the hearing held on 28-04-2014, both the parties have submitted that they propose to negotiate the issue for finding the possible settlement.

3. In the hearing held on 05-09-2019, the Counsel for the Respondent informed that notice was issued for seeking willingness on the part of the petitioner for settlement @ 6% interest.

4. In the hearing held on 28-01-2020, the counsel for the petitioner informed that the petitioner company is not accepting the offer made by the TANGEDCO to settle the interest at 6% per annum. Therefore, the case was adjourned to 21-04-2020 for arguments.

5. However, on 22-09-2020, the Standing Counsel for TANGEDCO has submitted that settlement can be effected if 6% interest is agreed to by the parties and at the request of both parties, the case has been adjourned to 03-11-2020 for reporting the stage of settlement.

6. On 01-12-2020, the Standing Counsel for TANGEDCO informed the Commission that the dues have been settled and Memo will be filed. The matter was adjourned to 08-12-2020 for reporting compliance. However, on 08-12-2020, the counsel for the petitioner reported that the settlement was made 6% interest without obtaining letter of consent from the petitioner. Thereafter, the matter was adjourned to 22-12-2020 and to 19-01-2021 for reconciliation of accounts and filing of details of payment. On 23-02-2021, the counsel for the petitioner submitted that no payment was made but was willing for settlement @ 6% interest. The matter was adjourned, thereafter to 09-03-2021.

7. In the hearing held on 09-03-2021, the Standing Counsel for TANGEDCO filed the Memo of Calculations and the Counsel for the Petitioner prayed that orders may be passed based on the Memo filed by the TANGEDCO.

8. In the Memo filed by the TANGEDCO on 09-03-2021, the following details are provided:-

Sl. No.	Circle	Service Connection No.	Period	Cheque Details	Amount
1			10/2010 to 08/2013	Canara Bank Cheque No. 065866/dated 27-01-2016	82,87,641/-

2	Theni Electricity Distribution Circle	T.19, T.20, T.21, T.22, T.24, T.25	10/2014 to 05/2015	Canara Bank Cheque No. 211303 dated 17-05-2019	52,47,916/-
			04/2011 to 08/2013	Canara Bank Cheque No. 215454/dated 07-03-2016	2,18,01,875/-
			02/2010 to 08/2013	Canara Bank Cheque No. 770311/dated 06-06-2019	74,11,493/-
			09/2013 to 09/2014	Canara Bank Cheque No. 792763/dated 06-07-2017	1,48,34,129/-
				Total	5,75,83,054/-
(Rupees Five Crores Seventy Five Lakhs Eighty Three Thousand Fifty Four Only)					

9. It is seen from the above, that the payment has been made as early as in the year 2016 itself but in the hearings held subsequently on various date both parties did represent the above facts but continued the hearing making one or other submissions. The Commission fails to understand as to why the parties did not bring out the facts in the earlier hearings and brought to the hearing to end at once. Needless to say that valuable time of the Commission was lost in listing and hearing these matters which could have otherwise been spent on other cases.

10. Both the petitioner as well as the respondents have failed to point out that these amounts were paid in part towards dues and the dispute was only with reference to further claim. In such case, the Commission would have proceeded to hear the matter altogether differently. We find that there was total absence of co-ordination between the parties and their counsels in this regard. We express our displeasure at these happenings and hope such things do not recur in future.

11. As the petitioner has accepted the payment made by the TANGEDCO and has not made any other submission, nothing survives for further adjudication by the Commission.

Accordingly, this D.R.P. No.40 of 2014 is closed as settled out of court.

(Sd.....)
(K.Venkatasamy)
Member (Legal)

(Sd.....)
(M.Chandrasekar)
Chairman

/True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission