



**IN THE HON'BLE TAMIL NADU ELECTRICITY REGULATORY
COMMISSION
CHENNAI**

29TH DAY OF MAY 2006

PRESENT:

The Hon'ble Chairman Mr. A. Balraj, IAS., Retd. - Chairperson

The Hon'ble Member Mr. S. Thangarathnam - Member

and

The Hon'ble Member Mr. B. Jeyaraman - Member

M.P. No. 7 of 2004

Tamil Nadu Power Producers' Association,
Regn. No. 130/2004
28 (New) Mooker Nallamuthu Street,
Chennai 600 001.
represented by its Secretary
N. Ravisunthar

: APPLICANT

VERSUS

Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai 600 002.

: Respondent

This petition coming on for final orders before this Commission, upon perusing the petition and the affidavit filed in support thereof and the counter affidavit of the Respondent Board and all other connected records pertaining to the above petition and after hearing the arguments of Learned Counsels for both the Petitioner and Respondent Board and having stood over for the consideration of this Commission till this day, this Commission pronounces the following

ORDER

1. Prayer by the Petitioner

The prayer in M.P. No. 7 of 2004 is as follows:

- i) to direct the Respondent TNEB to refund to the members of the Petitioner Association the amount collected by way of levy of extra charges of 20% on the quantum of energy produced by the members of the Petitioner Association by captive generation plants and consumed by them during peak hours.
- ii) to grant to the members of the Petitioner Association the rebate of 5% on the quantum of energy consumed during off peak hours which will include the quantum of energy produced by the members of the Petitioner Association by captive generation plants and consumed by them during off peak hour.
- iii) to grant power factor incentive for the entire units consumed by the members of the Petitioner Association in their consuming end by directing the Respondent TNEB to allow the full Power Factor Rebate to all the eligible consumers of the Petitioner's Association from 16.03.2003 onwards, based on the total units consumed at their respective units and it may also be ordered to dispense with the system of allowing Power Factor Rebate after the adjustment of the energy produced in their captive power plants or any other energy, as the case may be.

2. Contentions of the Petitioner

In the Affidavit of the Petitioner, it has been contended by the Petitioner as follows:

- i) The billing procedure followed by the Respondent TNEB i.e. to say, levying extra charges of 20% for the consumption of entire quantum of energy during peak hours including the quantum of energy produced by the Petitioner itself by captive generation plants which ought to have been deducted from the total quantum of energy consumed during peak hours is arbitrary and discriminatory and violative of Article 14 of the Constitution of India.
- ii) The billing procedure followed by the Respondent TNEB in regard to denial of incentive viz. granting of rebate of 5% for consumption during off peak hour is not in consonance with the directions given by the Hon'ble Commission in the Tariff Order.

- iii) The Board's decision to curtail and cut short the Power Factor Rebate only to the net charges is arbitrary and therefore not supported by the authority of the Tariff Order of this Hon'ble Commission.

3. Contentions of the Respondent Board

In the Counter Affidavit filed by the Respondent Board, it has been contended as follows:

Para 5 of the Counter of the typed set

- (i) With regard to Para 2 to 4 of the petition it is submitted that as per tariff order dated 15.03.2003, of the Hon'ble Tamil Nadu Electricity Regulatory Commission the High Tension Consumers (HT IA) shall be billed at 20% extra on the energy charges for the energy recorded during peak hours. The duration of peak hours shall be 6.00 AM to 9.00 AM and 6.00 PM to 9.00 PM.
- (ii) The Tamil Nadu Electricity Board is incurring huge extra expenditure by way of purchasing the surplus power from the independent power producers, etc. and selling at a lesser cost. The loss to this extent has to be made good by collecting peak hour surcharge from the HT industries who are the members of the Petitioner Association also.
- (iii) In case of services where wheeling of energy is involved, the CC charges are worked out on net energy consumed after adjusting the wheeled energy on unit to unit basis as per agreement entered into by the Tamil Nadu Power Producers' Association with Board. For calculating both the power factor incentive or penalty the CC charges are calculated based on the net energy. Since the CC charges for the Members of the Petitioner Association who are wheeling power from their captive power plant are being levied only for the net energy, it is appropriate to allow incentive or levy penalty for the net energy only after adjustment.

4. Point in issue

The point in issue is whether the Petitioner Association is entitled to any relief prayed for in this petition.

5. Findings of the Commission

With reference to prayer in para 1 above it may be stated that this Commission is of the view that the existing billing procedure followed by the Respondent Board cannot be said to be violative of the tariff order of this Commission as contended by the Petitioner Association. Regarding the prayer of the Petitioner in paragraph 1 (i) above namely to direct the Respondent TNEB to refund to the Members of the Petitioner Association the amount collected by way of levy of extra charges of 20% on the quantum of energy produced by the Members of the petitioner Association by Captive Generation Plants and consumed by them during peak hours, it may be stated that as per the agreement entered into by the Petitioner with Respondent Board, the Respondent Board has got the right to vary from time to time the power purchase tariff, terms and conditions of supply, etc.,. In order No.3 dated 15.05.2006 which is effective from the said date, under para 10.8. Adjustment of peak / off peak hour it has been stated as follows "The peak hour extra charges and off peak hour rebate shall be on net energy consumption after deducting captive generation during the respective peak hour block and off peak hour block".

However if the Respondent Board had adopted a procedure on similar lines to the said order No.3 dated 15.05.2006 at any earlier date, this Commission sees no objection to the above action of the Respondent Board for adopting a procedure similar to the said order. Hence in view of the above position the Petitioner is not entitled to claim any refund as prayed for.

With regard to the prayer in para 1 (ii) namely granting off peak hour rebate it may be stated that the order of this Commission under para 10.8 at page 96 is to be implemented in toto with effect from 15th May 2006 that is to say the off peak hour rebate shall be on net energy consumption after deducting captive generation during off peak hour block.

With reference to the prayer in para 1 (iii) above namely granting power factor rebate it may be stated that the order of this Commission under para 10.9 is to be implemented in toto with effect from 15th May 2006 that is to say the power factor rebate is applicable on the current consumption charges bill prepared based on the gross energy and applicable demand as per the said order and the average power factor recorded by the meter will be the reference for calculation of power factor incentive.

6. Conclusion

(a) In the above circumstances, the Commission hereby directs as follows:-

- (i). The prayer in para 1 (i) above namely the refund of the amount collected by way of levy of extra charges of 20% on the quantum of energy produced by the Members of the Petitioner Association is disallowed.
- (ii) With reference to the prayers in para 1 (ii) and 1 (iii) above namely grant of off peak hour rebate and power factor rebate the above order No.3 dated 15.05.2006 should be implemented in toto with effect from 15.05.2006.
- (b) As per paragraph 4 of the said order, the order shall be applicable to all future and renewal of existing contracts / agreements for the Non-Conventional Energy Sources (NCES) based Generating Plants and Non-Conventional Energy Sources based Co-Generation Plants located within the State of Tamil Nadu. As per the said para 4, the existing contracts and agreements between NCES based generators and the distribution licensee signed prior to the date of issue of this said order would continue to remain in force. The above order comes into force on 15th May 2006. In view of the said para 4 of the said order, it is open to the Petitioner to opt for coming under the new order in toto by giving termination notice of existing agreements to the Respondent Board and in that case the Respondent Board shall accept the notice of termination of existing agreement and allow the Petitioner for coming under the new order in toto on executing revised agreement.
- (c) With the above directions, the M.P. No. 7 of 2004 is finally disposed off.
- (d) There would be no costs.

Pronounced in the Open Court by this Commission on this the 29th day of May 2006.

**Sd.....
(B. JEYARAMAN)
Member**

**Sd.....
(S. THANGARATHNAM)
Member**

**Sd.....
(A. BALRAJ)
Chairman**

/Certified Copy/

**Secretary
Tamil Nadu Electricity
Regulatory Commission**

