

**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  
and

Thiru K. Venugopal - Member

**M.P. No. 4 of 2010**

**M.P.No. 7 of 2010**

**Dates of hearing – 10-2-2010, 25-2-2010, 5-3-2010 and 29-4-2010**

**Date of Order :- 4-5-2010**

1. Tamilnadu Electricity Consumers Association

Rep. by its President  
Chamber Towers, 8/372  
Avanashi Road  
Coimbatore-641 018

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Petitioner in M.P.No.4 of 2010  
Counsel for Petitioner  
Thiru N.L. Rajah  
Thiru R. Kumar  
Thiru L. Jayasankar

2. Tamilnadu Spinning Mills Association

No.24, 11<sup>th</sup> Cross Street  
Thiruvalluvar Nagar  
Spencer Compound  
Dindigul 624 003  
Rep. by its Chief Advisor  
Mr. K.Venkatachalam

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Petitioner in M.P.No.7 of 2010  
Counsel for Petitioner  
Thiru R.S. Pandiyaraj  
Thiru L. Sundaresan

**vs.**

Tamil Nadu Electricity Board  
144 Anna Salai  
Chennai-600 002  
Rep. by its Chairman

..... Respondent in both M.P.s  
Counsel for Respondent  
Thiru H.S. Mohamed Rafi  
Thiru P.S. Raman,  
Advocate General

M.P. No. 4 of 2010 and M.P.No.7 of 2010 came up for final hearing before the Commission on 29-4-2010. The Commission upon perusing the above petitions and the connected records and upon hearing the Learned Advocate-General representing Counsel for Respondent Board and Learned Sr. Counsel Tvl. L. Sundaresan and N.L. Rajah and R.S. Pandiyaraj Counsels for the petitioners passes the following

### **COMMON ORDER**

#### **1. Prayer in M.P.No.4 of 2010**

The prayer in M.P.No.4 of 2010 is to punish the Respondent by imposing maximum punishment by passing appropriate orders in exercise of powers conferred in Sections 142 and 146 of the Electricity Act, 2003.

#### **2. Prayer in M.P.No.7 of 2010**

The prayer in M.P.No.7 of 2010 is to order that the Respondent Board or the Officials of the Board are not having such an authority to levy penalty in terms of money for the alleged excess use of demand and energy during evening peak hours except for the reduction of demand to the level of 5% for the following 48 hours as more specifically stated in para 33 of the Order passed in M.P.No.42 of 2008 dated 28-11-2008.

3. **Facts of the case in M.P.No.4 of 2010**

The Respondent after more than 10 months of the order in M.P.No.42 of 2008, has suddenly started levying penalty for consumption of electricity during peak hours in excess of the restriction measures.

4. **Facts of the case in M.P.No.7 of 2010**

a. The Government of Tamil Nadu on 22-10-2008 has issued restrictions on the consumption of power relying on Regulation 38 of the Tamil Nadu Electricity Distribution Code 2004 and directed the Respondent to impose 40% power cut to HT industrial and commercial consumers, with effect from 1-11-2008 onwards.

b. On the directions of the Government dated 22-10-2008, the Respondent imposed 40% cut on demand and energy on and from 1-11-2008 onwards to all consumers of the electricity including the member mills of the petitioner and consequently the demand quota and energy quota have been revised accordingly. It is also informed that the utilized quota in any quota period will not be carried over to the subsequent period.

c. After the receipt of Order dated 22-10-2008 from the Government, the Respondent approached this Commission for levying of charges for excess demand and energy in case of exceeding the demand and energy quotas.

d. The Commission has issued a detailed Order in M.P.No.42 of 2008 dated 28-11-2008.

e. The Respondent, Board have raised demand notices against the members of the petitioner for the alleged violation of excess usage of demand during evening peak hours for the period from 11/2008 to 7/2009 and demanded them to pay additional charges without quoting any authority of law or quoting any paragraph of Order in M.P.No.42 of 2008 of the Commission.

f. Aggrieved by the levy of penalty, the members approached the Hon'ble High Court which passed orders setting aside the levy of penalty and giving liberty to the Respondent Board to pass orders afresh after due notice to the petitioners and after hearing thereon.

g. The Respondent Board have issued demand notices to the members of the Petitioner Association who again approached the Hon'ble High Court, which set aside all such demand notices.

h. In W.P.No. 2732 of 2010, the Hon'ble High Court, in its Order dated 10-2-2010 has transferred the writ petitions to the Commission and requested the Commission to consider the issues raised in the writ petition and to pass appropriate orders thereon within a period of 15 days of receipt of the petitions on merits and in accordance with law after giving an opportunity of hearing to the petitioner as well as to the Respondent Board.

i. These writ petitions which were transferred by the Hon'ble High Court to this Commission are yet to be received by this Commission.

5. **Contention of the Petitioner in M.P.No.4 of 2010**

a) If the consumers had been put on notice that penalty would be charged in the first month itself they would have ensured that their consumption was within limits. Further, in most cases not even a show cause-notice is issued before imposition of penalty.

b) The levy is an afterthought and without any authority of law and this is against the provisions as contained in paragraph 33 of the order made in M.P.No.42 of 2008 dated 28-11-2008 issued by this Commission.

c) The Respondent herein has no authority of law to levy penalty without the prior approval of this Commission who is competent Statutory Authority under the Electricity Act, 2003 in the issue on hand. The impugned demand notice is issued without authority of law.

d) The action of the Respondent in levying such penalty is clearly in violation of the orders of this Commission in M.P.No.42 of 2008

dated 28-11-2008 and that the Respondent is therefore liable to be punished under Secs. 142 and 146 of the Electricity Act, 2003.

6. **Contention of the Petitioner in M.P.No.7 of 2010**

(a) The demand notices of the Respondent Board towards levying penalty in terms of money for exceeding evening peak hour quota is illegal, arbitrary, without the authority of law, against the orders of the Hon'ble Commission and hence liable to be set aside.

(b) There is no provision in the order of the Hon'ble Commission conferring any right for levying such a penalty for exceeding quota during evening peak hours except by issuing a notice to the petitioner to restrict the demand for following 48 hours to avail 5% of the quota demand for lighting and security purposes.

(c) The Respondent Board has failed to consider that the Hon'ble Tamil Nadu Electricity Regulatory Commission has passed a very detailed and comprehensive order in M.P.No.42 dated 28-11-2008 covering all the matters including the matter relating to levy of penalty for exceeding quota in normal hour consumption in paragraph 29. Therefore, if at all any modification is required in this order as to the levy of penalty for exceeding quota during evening peak hours in terms of money the Respondent has to file suitable revision petition before the Hon'ble Commission for such modification and approval, without which the impugned penalty cannot be levied.

(d) The Respondent Board relied upon the amendment of Regulation (5) of the principal code issued by the Hon'ble Commission vide Notification No.TNERC/SC/7-11 dated 15-12-2008 under the head of (13) Excess demand charge and excess energy charge during restriction and control of supply which again is available only for exceeding quota during normal hours and not relate to paragraph 33 of the order made in M.P.No.42 dated 28-11-

2008 which specifically contemplates only notice for restricting the power to 5% level for the following 48 hours for exceeding quota during evening peak hour.

**7. Contention of Respondent Board in the counter to M.P.No.4 of 2010**

a) On a cogent reading of the Order of the Commission in M.P.No.42 of 2008, it is clearly understood that no consumer should exceed the energy and demand quota fixed to them either in peak hour or in other hours and if they exceed their energy and demand quota, they have to face the consequence of 5% / 10% restriction as the case may be for the following 48 hours and they have to pay the penal charges at the rate of thrice the normal rate. Further, it is also understood that the levy of penal charges at the rate of thrice the normal rate is applicable not only on the excess energy and demand recorded during normal hours, but also applicable during peak hours. One para of the Commission's Order should not be so interpreted by the petitioner, as to nullify another para of the same Order of the Commission.

b) The petitioner Association members have been issued 15 days notice as per Regulation 13 (2) of the Supply Code. Further it was informed to them that if the amount is not paid within the time limit the excess charges will be included in their CC Bill. As per the Hon'ble TNERC's Order dated 28-11-2008, as per the amendment issued by the Hon'ble Commission to the Regulation 5 (13) on 15-12-2008 and as per the Commission's Order No. R.P 2/2008, dated 24-12-2008, the excess charges for the excess demand and excess energy consumed by the consumer during the evening peak hours i.e. from 6 p.m . to 10 p.m. were calculated and demand notices were sent to the HT consumers.

c) At para 3.9 of R.P.No.2 of 2008 dated 24-12-2008, the Commission has interalia observed as follows:-

*"It must be borne in mind that excess demand charges and excess energy charges are leviable in addition to the penalty of drastic reduction of electricity*

*supply to 5% or 10% during the following 48 hours, as the case may be for violation of restriction and control measures.”*

d) The Hon'ble Tamil Nadu Electricity Regulatory Commission has made an amendment in regulation 5 of the Supply Code and notified in No.TNERC/SC/7-11 dated 15-12-2008 as below:-

“In regulation 5 of the principal code, after sub regulation (12), the following sub regulation shall be added namely, (13) excess demand charges and excess energy charge during restriction and control supply:

- (i) The maximum demand charges for HT supply shall be based on the actual recorded demand at the point of supply or at 90% of the demand quota as fixed from time to time through restriction and control measures whichever is higher. In case the maximum recorded demand is in excess of the quota fixed, the demand in excess of the quota fixed shall be charged at rates specified by the Commission from time to time.
- (ii) The energy consumption over and above the energy quota fixed shall be charged at the rates specified by the Commission from time to time in respect of such class of consumers upon whom the restriction and control measures apply.”

The above provision also specifies both the quota periods, i.e. peak hour and other hours.

8. **Common hearing for M.P.Nos. 4 of 2010 and M.P.No. 7 of 2010 as requested by the Petitioner**

Common issues are involved in the above MP 4 of 2010 and MP 7 of 2010 and as such common hearing for both M.P.No.4 of 2010 and M.P.No.7 of 2010 was held as requested by the Petitioner in M.P.No.7 of 2010 in their letter dated 2-3-2010.

9 **Interim order dated 25-2-2010 in IA No.1 of 2010 in M.P. No.4 of 2010**

The Commission on 25-2-2010 passed an Interim Order in IA No.1 of 2010 in M.P.No.4 of 2010 as follows:

*“Disconnection on the ground of non-payment of penal excess charges for evening peak hour violation shall not be resorted to by the Tamil Nadu Electricity Board till the disposal of this petition.”*

10. **Arguments**

10.1. The Learned Advocate General, Thiru P.S. Raman on behalf of the respondent Board contended that in the TNEB's view there is no ambiguity in the order of the Commission. He stated that there is no estoppel against exercising a statutory right to levy the penalty. He pointed out that there are 7000 Industrial consumers and communication to each and every consumer is not practicable. He further stated that the date of demand is solely irrelevant in regard to ambiguity. He also stated that the amendment issued by this Commission to regulation 5 of Supply Code is in pursuance of the order of the Commission.

10.2. The Learned Senior Counsel Thiru Sundaresan contended that paragraphs 27, 29 and 31 of the order of the Commission have to be read together. He pointed out that paragraph 33 of the order relates to evening peak. While referring to the public announcement made by the Commission, he stated that a person attending a meeting in pursuance to the public announcement would offer views only on the basis of what has been proposed in the public announcement made by the Commission. He further stated that the excess charges leviable under paragraph 31 of the order are restricted only to welding set during evening peak hour.

10.3. The Learned Counsel for the petitioner Thiru N.L. Rajah while referring to Clause 38 of the Tamil Nadu Electricity Distribution Code which relates to restriction on the use of electricity contended that there is no provision to enable the TNEB to levy the penalty. He pointed out that there is no bifurcation of peak hours and non-peak hours in paragraph 29 of the order of the Commission which provides for the levy of excess charges. He contended that the public are not put to notice about the penalty to be levied and that the public hearing is restricted only in regard to the matter specified in the public announcement made by the Commission. While referring to paragraphs 24 to 27 of the decision of the Hon. Supreme Court in the case of Virtual Soft Systems Ltd. vs. Commissioner of Income Tax (2007 9 SCC p.665) he stated that the order with regard to penalty should be strictly construed and that the order does not speak about penalty.

10.4. On the 29<sup>th</sup> April 2010, Thiru N.L. Rajah, Learned Counsel for the Petitioner in M.P.No.4 of 2010 contended that waiver and estoppel would apply to the Respondent Board. While reading paragraph 23 at page 663 of a Supreme Court decision reported in 1999 7 SCC, he contended that if TNEB has kept quiet for nearly ten months without making any demand, then, it must be assumed that the TNEB has waived their right to claim excess demand charges. He pleaded that reason is the sole deciding factor and the penalty should be strictly construed and the notification relating to amendment of supply code does not speak about penalty. The Learned Counsel for Respondent Board Thiru Md. Rafi contended that waiver and estoppel cannot be pleaded against statute and in the instant case, there is a statutory contract under the Electricity Act and the order of the Commission is a law and the question of waiver does not arise. He further pleaded that the power situation in the State should be taken into account. Thiru N.L. Rajah, Learned Counsel for the Petitioner replied that in the instant case there is no statute which operates and there is only a contractual obligation. Thiru R.S.Pandiyaraj the Learned Counsel for the Petitioner in M.P.No.7 of 2010, adopted the line of argument advanced by Learned Counsel Thiru N.L. Rajah.

## 11. **Findings of the Commission**

11.1. Tamil Nadu Electricity Board filed a Petition M.P.No.42 of 2008 on 6-11-2008 seeking to enforce restriction and control of power supply to HT and LT consumers and levy of excess demand charges and excess energy charges for HT consumers and excess energy charges for LT consumers. The TNEB made a public announcement of their proposals on 15-11-2008 in leading newspapers in accordance with Section 64 (2) of the Electricity Act, 2003. The State Advisory Committee of the TNERC considered the petition of TNEB on 18-11-2008 in accordance with Section 88 of the Electricity Act, 2003. The Commission held a public hearing on 21-11-2008 to elicit the views of the public in terms of Section 64 (3) of the Electricity Act, 2003. The order of the Commission was pronounced on 28-11-2008. Thereafter, the TNEB filed a Revision Petition R.P.No. 2 of 2008 on 15-12-2008 seeking to raise the excess demand charges at 5 times the normal rate instead of three times. This petition was disposed of by the Commission on 24-12-2008.

11.2. The public announcement of the TNEB mentioned that the TNEB proposes to levy excess demand charges for HT Industrial and HT commercial services at four times the normal rate and excess energy charges at three times the normal rate. Para 5 of the public announcement prohibited welding between 6.00 p.m. and 10.00 p.m. and proposed penalties for violation.

11.3. The petitioners in M.P.No.4 of 2010 and M.P.No.7 of 2010 contend that para 33 of the order of the Commission in M.P.No.42 of 2008 does not talk of excess demand and excess energy charges. They contend that excess demand and excess energy charges mentioned in para 29 would not apply to peak hour violation mentioned in para 33. They, further, contend that penalty was proposed in the public announcement for welding operators only for violations between 6 p.m. and 10 p.m.

11.4. To facilitate proper understanding, we reproduce below the relevant paragraphs of the Orders of the Commission in M.P.No.42 of 2008 and R.P. No.2 of 2008.

(i) M.P.No.42 of 2008

*“29. If the excess demand is charged at a rate thrice the normal rate as at present and if excess energy consumption is charged thrice the normal rate, the excess consumption is liable to be charged at a rate equivalent to Rs.13.20 per unit for HT industrial consumers, if both the demand and energy quota are exceeded. We believe that this is fair and just to the consumer and the licensee and therefore the Commission directs that excess demand shall be charged at a rate thrice the normal rate and excess energy consumption be charged at thrice the normal rate for both HT industrial and commercial consumers.*

*30. As regards LTCT industrial and LTCT commercial consumers, the proposal of TNEB is that the excess consumption be charged at four times the normal rate. This works out to Rs.18.80 per unit for industrial consumers and Rs.23.20 per unit for commercial consumers. If the excess energy consumption is charged at thrice the normal rate then the respective figures are Rs.14.10 per unit for industrial consumers and Rs.17.40 per unit for commercial consumers. These consumers are also subject to the same restriction of energy consumption to 5% or 10% as the case may be for the following 48 hours, if at any time the energy quota is exceeded. Therefore, in the opinion of the Commission it will be more than adequate to peg the charges for excess consumption at thrice the normal rate and therefore, we direct the licensee to fix the energy consumption charges for LTCT industrial and LTCT commercial consumers at thrice the normal rate.*

*33. The TNEB has proposed to restrict the demand of HT industrial and HT commercial consumers to 5% and 10% respectively during the evening peak hours from 6 pm to 10 pm. They have, further proposed that*

*consumers violating the restrictions and the demand and energy quota should be liable to face the restricted demand of 5% or 10% as the case may be for the following 48 hours. The Commission accepts the above proposals in view of the acute shortage of power.*

*35. The TNEB has proposed to adjust the excess consumption during one quota period against the entitlement for the following quota period. This has to be read along with the proposal to levy excess demand charges and excess energy charges and also the proposal to drastically prune the quota to 5% or 10% as the case may be in case of violation of the energy or demand quota. Adjustment in the following month is a third deterrent, which in our opinion is excessive in as much as the unutilized energy of one quota period is not permitted to be utilized in the succeeding quota period. Therefore, we direct that there shall be no set off of the excess consumption of one quota period in the following quota period.”*

(ii) R.P.No.2 of 2008

*“3.9. The petitioner Board has reiterated the demand for excess demand charges at five times the normal rate as against the three times approved by the Commission. There was severe resistance from the advisory committee and the consumers for the levy of five times the normal charges. The Commission has balanced the interest of the consumers and the distribution licensee and moderated the charges to three times the normal rate. It must be borne in mind that excess demand charges and excess energy charges are leviable in addition to the penalty of drastic reduction of electricity supply to 5% (or 10%) during the following 48 hours, as the case may be, for violation of restriction and control measures. Raising the excess demand charges to five times the normal rate, in such a context, would be draconian. The Commission does not see merit in this argument.”*

11.5. Para 29 of the Order of the Commission in M.P. No.42 of 2008 stipulates that excess demand and excess energy shall be

charged at thrice the normal rate for HT industrial and HT commercial consumers. This is a general stipulation and should be deemed to apply to all demand and energy consumption in excess of the quota determined by the licensee. This was designed as a monetary disincentive to discourage HT industrial and commercial consumers from exceeding the demand and energy quota. Para 33 should be read in conjunction with para 29. Para 33 deals with non-monetary measures for the specific period between 6.00 p.m. to 10.00 p.m. to dissuade HT industrial and HT commercial consumers from drawing power in excess of 5% and 10% respectively. In other words, the demand quota for HT industrial consumers would be 5% between 6.00 p.m. and 10.00 p.m. and the demand quota for HT commercial consumers would be 10% between 6.00 p.m. and 10.00 p.m. Consumption of demand and energy in excess over the quota is liable to be charged at the rate mentioned in para 29 irrespective of the fact whether the excess is recorded during non-peak hour or evening peak hour. .

11.6. Para 35 of the Order of the Commission in M.P. No.42 of 2008 talks of a third deterrent, the first being levy of excess demand / energy charges and the second being pruning of the quota for the following 48 hours. Para 30 of the Order in M.P. No.42 of 2008 envisages similar treatment for LT CT industrial and LT CT commercial consumers.

11.7. Para 3.9 of the Order of the Commission in R.P. No.2 of 2008 explicitly states as follows:

*“It must be borne in mind that excess demand charges and excess energy charges are liable in addition to the penalty of drastic reduction of electric supply to 5% (or 10%) during the following 48 hours as the case may be for violation of restriction and control measures.”*

11.8. The amendment to the Tamil Nadu Electricity Supply Code 2004 notified by the Commission on 15-12-2008 is reproduced below:-

**“TAMIL NADU ELECTRICITY REGULATORY COMMISSION**

**Notification No. TNERC/SC/ 7- 11 dated 15/12/2008.**

WHEREAS the Tamil Nadu Electricity Regulatory Commission specified and notified the Tamil Nadu Electricity Supply Code under section 50 of the Electricity Act, 2003 (Central Act 36 of 2003) and published in Part VI – Section 2 of Tamil Nadu Government Gazette dated the 1st September 2004;

AND WHEREAS there is a necessity to issue certain amendments to the Tamil Nadu Electricity Supply code issued under section 50 of the Electricity Act 2003(Central Act 36 of 2003) to meet situations during acute power shortage with restriction and control declared for usage of electricity in the State and to ensure equitable distribution of power during such contingencies;

AND WHEREAS such amendments shall be subject to the condition of previous publication and undergone previous publication;

NOW, THEREFORE in exercise of the powers conferred on it by section 181 of the Electricity Act 2003 (Central Act 36 of 2003) and all other powers enabling it in this behalf, the Tamil Nadu Electricity Regulatory Commission hereby specifies the following amendments to the Tamil Nadu Electricity Supply Code( herein after referred to as the principal code), namely : -

**1. Short title and commencement**

(a) This Code may be called the **Tamil Nadu Electricity Supply (Amendment) Code, 2008.**

(b) It shall be deemed to have come into force on the 28th. November 2008.

## **2. Amendment of regulation 4 of the principal code :**

In regulation 4 of the principal Code, in sub-regulation (2), after clause (xiii), the following clause shall be added, namely :

“(xiv). Excess demand and excess energy charges during Restriction and Control of supply”.

## **3. Amendment of regulation 5 of the principal code :**

In regulation 5 of the principal Code , after sub-regulation (12), the following sub-regulation shall be added namely : -

“(13). Excess demand charge and excess energy charge during Restriction and Control of supply :

(i) The maximum demand charges for HT supply shall be based on the actual recorded demand at the point of supply or at 90% of the demand quota as fixed from time to time through restriction and control measures whichever is higher. In case the maximum recorded demand is in excess of the quota fixed, the demand in excess of the quota fixed shall be charged at rates specified by the Commission from time to time.

(ii) The energy consumption over and above the energy quota fixed shall be charged at the rates specified by the Commission from time to time in respect of such class of consumers upon whom the restriction and control measures apply.

(iii) The services which draw electricity from TNEB Grid for using welding sets during the restricted hours shall be charged at the rates specified by the Commission from time to time.”

/By order of the Commission/

Assistant Secretary

For Secretary

Tamil Nadu Electricity Regulatory Commission”

11.9. The amendment prescribes excess demand charges and excess energy charges for exceeding the demand quota and energy quota. Since different quotas have been fixed for peak hour and non-peak hour, excess demand charges and excess energy charges would be leviable in case of violation, whether the violation occurs during peak hour or non-peak hour. The Electricity Supply Code does not restrict the excess demand charges to non-peak hour violation alone.

11.10. The contention of the Petitioner that penalty was proposed only for welding operators in the public announcement and that excess demand and excess energy charges would not apply to evening peak hour violation as per the public announcement is not correct. The public announcement did mention that excess demand charges and excess energy charges would apply for exceeding the quota fixed by the TNEB. Since separate quotas have been fixed for peak hours and non-peak hours, it is axiomatic that excess demand charges and excess energy charges would be attracted, if the quota is exceeded.

11.11. Therefore, it is clear that the Order of the Commission in M.P. No.42 of 2008 prescribed excess demand and excess energy charges for evening peak hour violation also.

11.12. A plea has been raised by the Petitioners that excess demand charges and excess energy charges have been raised by the TNEB belatedly as late as one year after the Order. The excess demand charge and excess energy charge being in the nature of penalty, ought to have been levied promptly, in which case the Petitioners would have desisted from consuming excess power. The conduct of the TNEB, according to them, in raising the demand almost a year after the Order of the Commission amounts to waiver of claim for penal charges.

11.13. We wish to refer, in this context, to Section 56 of the Electricity Act 2003 extracted below:

**“56. Disconnection of supply in default of payment – (1)** *Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days’ notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled land may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:*

*Provided that the supply of electricity shall not be cut off if such person deposits, under protest,-*

a) *an amount equal to the sum claimed from him,*  
or

b) *the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.*

*(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”*

11.14. Section 56 makes it clear that a licensee is empowered to claim its demand upto a period of two years from the date when such sum became due. The “charge for electricity” mentioned in Section 56(1) refers to the electricity tariff; “any some other than a charge for electricity” referred to in Section 56(1) means charges other than tariff charges such as capacitor compensation charge, excess demand charge, belated payment surcharge, additional security deposit, name transfer charge, re-connection charge, meter related charges etc., mentioned in Clause 4 of the Tamil Nadu Electricity Supply Code 2004 notified by the Commission. Therefore, we have to conclude that the TNEB is entitled to recover any sum due to them within a period of two years.

12. **Directions**

The M.P.No.4 of 2010 and M.P.No. 7 of 2010 are dismissed. While raising the bill for excess demand and excess energy charges, the TNEB is directed to furnish month-wise figures of the excess demand and excess energy recorded by the meter of the consumer between 6 p.m. and 10 p.m. and indicate the excess demand and excess energy charges for that month

13. **Merger of Interim Order dated 25-2-2010 in M.P.No.4 of 2010**

The interim order dated 25-2-2010 in M.P.No.4 of 2010 is merged with this Order.

14. **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 45 days.

With the above directions, M.P.No. 4 of 2010 and MP No.7 of 2010 are closed. No costs.

(Sd.....)  
(K. Venugopal)  
Member

(Sd.....)  
(R. Rajupandi)  
Member

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

/ True Copy /

**Assistant Secretary  
Tamil Nadu Electricity  
Regulatory Commission**