

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**

I.A.No.1 of 2010 in M.P. No. 43 OF 2010 & M.P. No. 43 OF 2010

Tamil Nadu Electricity Consumer Association
No.8/732, Chamber Towers
Avinashi Road, Coimbatore – 641 018. **Petitioner**
(Thiru. N.L. Rajah, Advocate for petitioner)

Versus

Tamil Nadu Electricity Board
Rep. by its Chairman
800, Anna Salai,
Chennai – 600 002. **Respondent**
(Thiru.H.S.Mohammed Rafi, Advocate for Respondent)

I.A.Nos.1 & 2 of 2010 in M.P. NO. 44 OF 2010 & M.P. NO. 44 OF 2010

Southern India Mills Association
41, Race Course, Coimbatore. **Petitioner**
(Thiru. N.L. Rajah, Advocate for petitioner)

Versus

Tamil Nadu Electricity Board
Rep. by its Chairman
800, Anna Salai,
Chennai – 600 002. **Respondent**
(Thiru.H.S.Mohammed Rafi, Advocate for Respondent)

I.A.No.1 of 2010 in M.P. NO. 45 OF 2010 & M.P. NO. 45 OF 2010

M/s. Indian Wind Power Association
(Formerly Wind Power Producers Association)
Door No. E, 6th Floor, Tower I, Shakthi Towers
No.766, Anna Salai
Chennai – 600 002.

.... Petitioner

(Thiru.Rahul Balaji, Advocate for Petitioner)

Versus

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

..... Respondent

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

Dates of hearing: 10-11-2010,15-11-2010, 6-12-2010, 4-1-2011, 7-3-2011 &

25-4-2011

Date of order : 25-4-2011

The above petitions were filed by different petitioners with the prayer to clarify that the quota to be fixed by the respondent is on the 'A' portion of the respondent's Memo.CE/Comm/EE/DSM/AEE/PMM/F.Powercut/D.28/2008 dated 17-11-2008 which is the base demand and base energy on the power supplied by the respondent and that the power cut is to be applied only on this component and that the entire base demand and base energy fixed pursuant to the order dated 28-11-2008 passed by the Commission in M.P.No.42 of 2008 is to be considered as the respondent component and no further deduction from this should be made when the extra power is sourced through CPP, Wind, third party, etc., and consequently to set aside the Memo. No.CE/Comm/EE/DSM/AEE1/F.Power cut/D.358/10, dated 17-9-2010 issued

by the respondent in total violation of the order dated 7-9-2010 passed by the Commission in M.P.Nos.6, 9 and 17 of 2010 and D.R.P.No. 9 of 2010.

Since the relief sought for in all the three petitions is the same, the petitions were heard together on various dates and the cases were taken up for final hearing on 25-4-2011. The counsel of the petitioner filed a joint memo on behalf of Tamil Nadu Electricity Consumer Association (petitioner in M.P.No.43 of 2010), Southern India Mills Association (Petitioner in M.P.No.44 of 2010) and Indian Wind Power Association (petitioner in M.P.No.45 of 2010) submitting that during the pendency of the above M.Ps. several individual consumers had filed W.Ps. before the High Court of Madras, who have passed an order thereon. Along with the joint memo the counsel submitted a copy of the order of the High Court dated 15-3-2011 passed in W.P.Nos.6526 and 6527 of 2011 and M.P.Nos. 1 and 2 of 2011 and prayed that in view of the said comprehensive orders of the High Court covering the entire issue as also the subsequent circular issued by the respondent Board, the Commission may be pleased to record the judgment of the High Court and dispose of the above M.Ps. in accordance therewith. After hearing the arguments of both side the Commission made the following:

COMMON ORDER

We record the order of the Hon'ble High Court of Madras. In this regard the Commission would like to refer to the minutes of the meeting convened by the Hon'ble Deputy Chief Minister with the Confederation of

Indian Industries (CII) / SIMA etc., on 27-1-2011. Para 3.0 (ii) deals with fixation of demand and energy quota which permitted consumers to opt for any three consecutive months favourable to the consumer for calculation of base energy. The formula communicated by the TNEB in their earlier memo dated 1-11-2008 and 17-11-2008 were approved by the commission in order in M.P.No.42 of 2008 dated 28-11-2008 and S.M.P.No.1 of 2009 dated 28-10-2009. The formula communicated by the TNEB on 11-2-2011 modified the formula contained in the circular of TNEB dated 1-11-2008 and therefore the amended formula should have been submitted to the Commission for approval. This was not done. Nor was this brought to the notice of the High Court. The TNEB should have explained to the Hon'ble Deputy Chief Minister that the amended formula should be submitted to the TNERC for approval. This was also not done by the TNEB.

The TNEB has clarified in their memo dated 11-2-2011 that the amended formula for computation of base energy and base demand would have prospective effect i.e. from 11-2-2011. The High Court has directed that the benefit of the revised quota should be given to the consumers from 17-9-2010. The High Court has indicated that the bills will have to be re-worked from 17-9-2010, the date on which the TNEB issued a memo on the basis of 7-9-2010 order of the Commission.

M.P.No.43 of 2010, M.P.No.44 of 2010 and M.P.No.45 of 2010 are disposed of with the above observation.

Consequently, the common interim order dated 6-12-2010 made in the above interim applications is withdrawn and interim applications are dismissed.

(Sd.....)
(S. Nagalsamy)
Member

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

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission