

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

25th DAY OF SEPTEMBER 2003

CORUM:

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

and

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

Tariff Review Petition No.1 /2003

T.N, Sivasubramanian,
Member of Legislative Assembly,
Karur Constituency, Karur.

... Petitioner.

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Govt.,
Energy Department,
Fort St., George, Chennai-9.
2. The Chairman;,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-2.
3. The Member Distribution,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-2.

...

Respondents.

This petition coming on for final hearing before us on 17th day of September, 2003 in the presence of the petitioner appearing in person and Thiru Jo Jayanathan, City Government Pleader for the 1st Respondent and Thiru G. Vasudevan, Advocate for the respondents 2 and 3, having perused the petition, counter affidavit and other documents and having heard the arguments of both the sides and having stood over for consideration till this day, this Commission deliver the following

ORDER

1. Prayer in the Tariff Review Petition 1 of 2003:

The prayer in TRP No. 1 of 2003 is that this Hon'ble Commission may be pleased to (1) review the levy of current consumption charges at the rate of 50 paise for the farmer members of the following Societies (i) Olappalayam Farmers Lift Irrigation Society (ii) Pugalur River Pumping Irrigation Co-operative Society - Orathi Scheme (iii) Pugalur River Pumping Irrigation co-operative society - Pugalur Scheme (iv) Pugalur River Pumping Irrigation Co-operative Society - Nadaiyanur Scheme (v) Velliyampalayam Small Farmers Lift Irrigation Society (vi) Pungodai Small Farmers Lift Irrigation Society (vii) Vettamangalam Small Farmers Lift Irrigation Society and declare free supply of Electricity for their Agriculture on par with the Low Tension Power Supply Service Connection and pass such further or any other orders to that effect (2) to direct the 1st Respondent to negotiate with the Banks with whom the above Societies availed loan and set off the interest and thus render justice.

2. Facts of the case as set out in the Petitions, Affidavits of the Petitioner as well as in the Counter Affidavit of Respondents:

The facts of the case of the Petitioner as set out in his Petition and Affidavit filed in support of his Petition are summarised as follows:

- (a) The Petitioner states that as a Member of the Legislative Assembly he is entitled to approach this Hon'ble Commission to review the tariff for the consumption of electricity supply for the members of various farmers Lift Irrigation Societies in his Constituency.
- (b) The 2nd Respondent namely TNEB had sanctioned power connection to the Petitioner's Lift Irrigation Societies which is categorised as HT Power Supply for Agriculturists.

When the service connection was given a separate meter was installed and the farmers were asked to pay current consumption charges at the rate of 0.15 per unit.

- (c) The 2nd Respondent had increased the rate from 15 paise to 25 paise per unit from the year 1997. At present, it is increased to 50 paise per unit. The increase is arbitrary, against the Policy of the 1st Respondent and therefore liable to be set aside.
- (d) The cost of end products of the farmers using Low Tension connection and the members of the Lift Irrigation Society are the same. Hence there is inequality among the farmers in the same area who produce the same type of crops.

The contentions of the 2nd and 3rd Respondents, namely, the TNEB, as put forth in their common Counter Affidavit are briefly extracted as follows:

- (i) Prior to fixing of Tariff Rates by Hon'ble Tamil Nadu Electricity Regulatory Commission the Government of Tamil Nadu, under the Tamil Nadu Revision of Tariff rates on Supply of Electrical Energy Act 1978 (Tamil Nadu Act 1 of 1979), have fixed tariff rates for High Tension Lift Irrigation Societies and the Low Tension Agriculture separately.
- (ii) High Tension Lift Irrigation Tariff Rates could not be equated with the Low Tension Agricultural pump sets Tariff rates since the effecting of service connection is under different priority system. Low Tension farmers have to wait for number of years for getting the connection in view of large number of agricultural applications pending.
- (iii) As per clause 29 (2) (c) of the Electricity Regulatory Commissions Act, 1998 (Central Act 14 of 1998), the tariff should progressively reflect the cost of supply of power. The Hon'ble Commission has assessed the cost of supply of energy per unit as 307 paise. Therefore, it is not

possible to give free supply of power to the Societies covered in the petition.

- (iv) This Hon'ble Commission has also fixed tariff rate for Low Tension Agricultural services at 20 paise per unit (until meters are fixed) or a flat rate of Rs.250 per HP per annum in its Tariff Order dated 15.3.2003. The tariff for High Tension Lift Irrigation supply and Low Tension Agriculture Supply have been dissimilar, even prior to the implementation of Tariff Order of the Hon'ble Commission.

The 1st Respondent namely the Government of Tamil Nadu represented by the Secretary to Government, Energy Department have adopted the Counter Affidavit of the TNEB.

3. Point at issue:

The following point at issue arises for consideration namely whether there is inequality among the farmers using LT supply and the farmers using HT supply in the same area in the matter of fixation of tariff by this Commission and whether the increase of tariff to 50 paise for the Petitioner Societies is arbitrary?

4. Arguments of the Petitioner:

Regarding the above point in issue, the Petitioner Thiru T.N. Siva Subramanian appearing in person argued that most of the members of the Irrigation Societies in his Constituency are illiterate, hard working and as such they have to be considered on humanitarian grounds. Further he contended that the members of the said Societies who were receiving HT supply were small farmers only who have to be treated on par with LT agriculturist in the matter of fixation of tariff.

5. Arguments of the Respondents:

On behalf of the 2nd and 3rd Respondents namely TNEB, Thiru G. Vasudevan the Learned Counsel while inviting attention to paragraphs 5 and 6 of the

Counter Affidavit filed by the TNEB contended that even prior to the passing of Tariff Order by this Commission, the Government of Tamil Nadu under the Tamil Nadu Revision of Tariff Rates on Supply of Electrical Energy Act 1979 (Tamil Nadu Act 1 of 1978) have levied separate tariffs for HT Lift Irrigation and the LT agriculturists. While referring to para 6 of the Counter Affidavit, he said that six Nos. Societies are being fed with 14 hours supply and one Society is being fed from 11 KV urban feeder with 24 hours supply. The quality of supply under HT is more stable. In view of the above position the Learned Counsel for TNEB contended that the Lift Irrigation Societies who are HT consumers having a long duration of supply cannot be equated with LT agricultural consumers who get restricted supply. The 1st Respondent, namely the Government have adopted the counter of TNEB.

6. Findings of this Commission:

It may be noted that there is a difference between the Lift Irrigation Societies which the Petitioner represents and the small farmers in the nature of supply of electricity Section 29 (3) of the ERC Act contemplates different tariff according to the nature of supply. At page 14 of the Tariff Order dated 15.3.2003 under the caption '**Nature of Supply**', this Commission has referred to the High Tension Consumers and Low Tension Consumers. The Lift Irrigation Societies, which are High Tension Consumers, are different from the individual small farmers who are Low Tension Consumers and they cannot be said to be equals for the purpose of tariff. As such the petitioner herein cannot claim parity for the Lift Irrigation Societies which he represents with the individual small farmers who are Low Tension Consumers. Before the present tariff determination order, H.T. agricultural consumers, served through society were charged at concessional rate of 25 paise per unit, whereas the individual L.T. agricultural consumers were charged nil. Taking into account the cost of supply and to reduce progressively the cross subsidy

to any class of consumers over a period of time and to avoid tariff shock to any class of consumers the tariff in the present order were determined at 50 paise per unit for H.T. Lift Irrigation Society and for the individual L.T. agricultural consumers the tariff rates were introduced and fixed at Rs.250 per H.P. per annum for unmetered services and at 20 paise per unit for metered agricultural services.

As rightly pointed out by the Learned Counsel for TNEB the Lift Irrigation Societies which the Petitioner represents who are HT consumers having long and uninterrupted supply of electricity are having different priorities in getting the service connection whereas in the case of LT agriculturists it is not so.

In the above circumstances, this Commission feels that the Lift Irrigation Societies which the Petitioner represents cannot be placed on par with LT Industrial agriculturists for the purpose of tariff and there is no arbitrariness in the Tariff Order of this Commission in so far as it relates to Lift Irrigation Societies which the Petitioner represents.

7. Conclusion:

In the above circumstances, this Commission feels that the above TRP 1 of 2003 is devoid of any merit and the Petitioner is not entitled to the relief prayed for in the Petition. However, in this connection, it would be relevant to point out that this Commission in its tariff philosophy at Chapter 1.4.3 of the Tariff Order have interalia laid down a principle that the HT tariff in any category should be equal to the LT tariff in the same category. The following observations at pages 16 and 17 of the Tariff Order would be relevant.

"Rationalisation of existing tariff to meet the requirements of the Act Provisions - Secondly, HT tariff and LT tariff for same category of consumers should be made atleast equal to begin with. Later, HT tariff rate should be made lesser than LT tariff rate. Thirdly the tariff rates for all categories of consumers should progressively reflect the cost of supply....."

The strategy to be followed is that the revision of tariff rates should not cause tariff shock to any group of consumers"

The TNEB is directed to take into account the aforesaid basic principle of tariff structure at the time of forwarding its next Tariff Petition and the Commission also will strive to achieve the above objective of rationalisation of tariff as spelt out in pages 16 and 17 of the Tariff Order.

With the above directions, the above Tariff Review Petition 1 of 2003 is dismissed without costs.

Pronounced in Open Court by this Commission on 25th September 2003

Sd./.....
(S. THANGARATHNAM)
Member

Sd./.....
(A. BALRAJ)
Chairman

List of Witnesses examined

NIL

List of Documents

NIL

Sd./.....
(S. THANGARATHNAM)
Member

Sd./.....
(A. BALRAJ)
Chairman

/True Copy/

**Secretary
Tamil Nadu Electricity
Regulatory Commission
Chennai 600 018**