



**BEFORE THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION
CHENNAI**

SUO-MOTU ORDER NO. 1 of 2024 dated. 03-01-2024

PRESENT:

Thiru M.Chandrasekar Chairman
Thiru K.Venkatesan Member
Thiru B.Mohan Member (Legal)

and

In the Matter of: Tamil Nadu Generation and Distribution Corporation Ltd. insisting for submitting Building Completion Certificate in respect of application submitted by consumers for Tariff conversion – Clarificatory Order issued – Regarding.

In exercise of the inherent powers conferred by Regulation 48 of the Tamil Nadu Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 read with Regulation 26(3) of the Tamil Nadu Electricity Supply Code, the following order is issued by this Commission suo-motu for removal of difficulty.

2) Plethora of representations received from the consumers complaining that for effecting tariff change, especially from Domestic Service to Commercial Service (LT-IA to LT-V) as TANGEDCO is insisting production of

Completion Certificate issued by the competent authorities from the consumers, prompted this Commission to issue clarifications to the Chairman cum Managing Director, TANGEDCO vide communication dated 01.08.2023. Through the above referred communication placing reliance on Regulation 9 (2) of the Tamil Nadu Electricity Supply Code and Rule 20 of the Tamil Nadu Combined and Development and Building Rules, 2019, a direction came to be issued by this Commission to TANGEDCO to issue necessary instructions to all its field officials not to insist for production of Building Completion Certificate from the existing consumers (excluding those under LT-VI – Temporary Supply) who apply for tariff change.

3) In response to the referred communication, the Director / Distribution (FAC), TANGEDCO, (Technical Branch), Chennai vide letter dated 18.10.2023, while apprehending initiation of contempt proceedings by the Hon'ble Madras High Court, as the implementation of the Memo dated 16.04.2021 has been stayed vide order dated 19.08.2021 passed in W.P.No. 11873 of 2021, which is pending disposal, expressed the inability of TANGEDCO to withdraw the instructions issued on 20.09.2022 in regard to tariff change.

4) Further in order to justify the non-compliance of the directions issued by this Commission vide communication dated 26.09.2023, it is alleged by TANGEDCO that there is flagrant violation of the provisions of the Tamil Nadu

Combined Development and Buildings Rules, 2019 by several consumers as they initially obtain new service connection under Domestic Tariff and subsequently apply for Tariff change from LT-IA to LT-V without submitting the requisite Completion Certificate.

5) Considering the delicate situation in which TANGEDCO has been placed in view of the pendency of W.P.No.11873 of 2021 and stay order passed therein, to ameliorate the genuine grievance of consumers who prefer application before TANGEDCO for effecting tariff change, this Commission deem it just and necessary to pass suitable / appropriate order in the interest of justice.

6) To dispel the apprehension entertained by TANGEDCO inviting initiation of contempt proceedings by the Hon'ble High Court, this Commission deem it seemly to reproduce the relevant portion of the orders passed in W.P.No.15344 of 2020 and W.P.No.11873 of 2021.

(i) W.P.No. 15344 of 2020:-

“Accordingly WP 15344 /2020 was disposed of by directing the TANGEDCO, to comply strictly with the Tamil Nadu Combined Building Development Rules 2019 with regard to grant of Electricity service connections.”

(ii) W.P 11873/2021:

“The further implementation of the impugned Memorandum dated April 16, 2021 is stayed in view of such memorandum is at variance to the Rules 2019. Till the time this petition is decided, TANGEDCO will be guided by such rules of 2019.”

7) There can be no cavil that orders of the constitutional courts such as the Hon'ble High Court of Madras have to be carried out scrupulously by the Subordinate Judicial Forums in letter and spirit. But no authority, under the misinterpretation or misconception of the order so passed, can be allowed to wriggle out from its responsibility to discharge their lawful duty cast as per statutes or Regulations which have the force of law. The reluctance on the part of TANGEDCO to implement the directions issued by this Commission in regard to tariff change vide communication dated 26.09.2023, in the esteemed opinion of this Commission, is totally misconceived.

8) There is distinct difference between “Grant of electricity Service Connection” and “Change of tariff”. While the grant of electricity service connection is dealt in the Tamil Nadu Electricity Distribution Code with prescribed conditions, change of tariff is governed by the Tamil Nadu Electricity Supply Code with specific conditions. Situated thus, a Distribution Licensee is expected to apply the provisions judiciously and in accordance with the purpose for which the respective code came into existence.

9) Apposite to point out that grant of electricity service connection and change of tariff are two different facets covered under two different Code (viz) TNE Distribution Code and TNE Supply Code. The Completion Certificate is issued primarily on the basis of the nature of building whereas, tariff or its change depends upon the nature or purpose for which the energy is utilized.

10) It would not be out of place to point out that the orders passed in the writ petitions W.P.No.15344 of 2020 and W.P.No.11873 of 2021 and the Rules framed by the Tamil Nadu State Government essentially relate to only the New Buildings and New Service Connections and not for the existing buildings for which service connection had already been effected. Hence it is manifest that once service connection is effected to a new building, the characteristic nature of such building will never change though the purpose of usage of the building may change in due course.

11) To illustrate, if a house is exempted from production of Completion Certificate at the time of effecting service connection and subsequently the usage of the building warranted change from domestic usage to some other usage, the resultant change would require only revision of tariff in regard to the service connection already effected to the building and not change / revision in the building category which would remain the same.

12) Further in para 6.2.2.1. of the Tariff Order dated 09.09.2022 passed in T.O.No.7 of 2022 this Commission has categorically ordered that LT Tariff – IA is generally applicable for dwelling units of Domestic, Multi-tenements, including purposes such as usage of an independent dwelling unit as clubbed accommodation by students / employees / bachelors for residential purpose not exceeding six persons, without name board and consulting rooms of size limited to 200 square feet of any professionals, the consulting rooms being attached to the residence of such professionals such as Doctors, Lawyers, Auditors, Engineers, Architect, Technical consultants, etc., If the usage of the dwelling unit exceed the limits prescribed for the above purposes, appropriate tariff change is required in regard to the service connection provided to such dwelling unit. Here again, change of tariff is warranted due to change of usage, while the nature and construction of the building remains the same. Situated thus, it is pellucid that non compliance of genuine request by a consumer for tariff change by the officials of TANGEDCO insisting production of Completion Certificate cannot be vindicated as it violates the statutory provisions governing the subject and in all likelihood, would cause substantial revenue loss to the Licensee.

13) On evaluation of all factual and legal aspects involved in the matter, this Commission was impelled to issue appropriate directions vide communication dated 26.09.2023 to TANGEDCO to instruct its Field Officials not to insist production of Completion Certificate in regard to applications submitted by

consumers for Tariff Change in respect of the existing permanent service connections. In regard to new service connections, TANGEDCO was directed to insist production of Completion Certificate by the applicant consumers.

14) The Commission is not oblivious of the fact that whenever the Enforcement Authorities of the Corporation / Municipality / Local Bodies request for discontinuance of supply complaining construction of new building in deviation to the approved plan by a consumer, TANGEDCO hitherto is considering the same favourably and would continue to do so in future also. Only in cases where there is prohibitory order by a Court of Competent jurisdiction, TANGEDCO desist from effecting disconnection. While processing applications submitted by consumers for service connection, the officials of TANGEDCO are at liberty to inspect the premises for the said purpose, and if anything is found not in accordance with the plan approved, the same can be clarified with Authorities concerned (viz) Corporation / Municipality / Local Body as the case may be.

15) The recalcitrant attitude exhibited by TANGEDCO and its officials in not implementing the directions issued by this Commission vide communication dated 26.09.2023 despite elaborate clarifications by the Commission is quite disheartening. To compound the agony of the consumers who apply for Tariff change, the officials of TANGEDCO instead of acceding the request, it is given to understand, are booking cases under misuse of tariff and collecting

penalty from those consumers. To give a quietus to the sorry state of affair now prevailing, this Commission is inclined to pass the following order reiterating the earlier directions issued in this regard.

16) In effect, this Commission passes the following order:

- a.) TANGEDCO shall issue necessary instruction to all field officials not to insist building Completion Certificate from existing permanent consumers for effecting Tariff change.
- b.) However, while effecting new service connections, the TANGEDCO shall strictly comply with the TN Electricity Distribution Code, TN Electricity Supply Code, applicable laws in force and the orders Courts of competent jurisdiction, if any.
- c.) The above orders are for strict compliance by TANGEDCO and its officials and any non-compliance will be dealt in accordance with the relevant penal provisions of the Electricity Act, 2003.

-sd/-
(B. Mohan)
Member/Legal

-sd/-
(K. Venkatesan)
Member

-sd/-
(M.Chandrasekar)
Chairman

(By Order of the Commission)



Secretary
Tamil Nadu Electricity Regulatory Commission