

**BEFORE THE HON'BLE TAMIL NADU ELECTRICITY  
REGULATORY COMMISSION AT CHENNAI**

**Review Petition No. 4 of 2012  
in  
M.P. No.10 of 2012**

**IN THE MATTER OF : Review of Restriction &Control of power supply  
– Additional measures – Implementation – Regarding**

Tamil Nadu Generation and  
Distribution Corporation Limited,  
No.144, Anna Salai, Chennai – 600 002

Represented by its Chief Engineer/Commercial.

..... Petitioner

-- VS --

-- Nil --

..... Respondent

PETITION FILED BY THE PETITIONER UNDER SECTION 94 OF THE ELECTRICITY ACT,  
2003 READ WITH REGULATION 43(1) OF THE TAMIL NADU ELECTRICTY REGULATORY  
COMMISSION – CONDUCT OF BUSINESS REGULATIONS, 2004 .

I, V.R.Geethanathan, son of Radhakrishnan, Hindu, aged about 56 years, officiating as Chief Engineer/Commercial (in-charge) in TANGEDCO and having office at NPKRR Maaligai, No.144, Anna Salai, Chennai-600002, do hereby solemnly affirm and sincerely state as follows :-

1. It is humbly submitted that the petitioner has filed the above review petition against the order passed by this Hon'ble Commission in the petition filed by the petitioner herein which was numbered as M.P.No.10 of 2012, praying for introduction of certain restriction and control measures in view of the demand and supply gap of about 4000 MW.

2. It is respectfully submitted that that this Hon'ble Commission after hearing the parties was pleased to pass the following order on 28.09.2012 :-

"In view of the foregoing findings, we deem it fit and appropriate to set aside the Memos dated 25.2.2012 and 29.2.2012 as the same have been issued in violation of provisions of Electricity Act, 2003 and as well as the orders of the Commission. In the result, the consequential collection of excess demand and energy charges, if any, collected for the period 29-2-2012 to 5-3-2012 shall be refunded. TANGEDCO is directed to ensure that approval of the Commission is obtained beforehand before issue of circulars concerning Restriction and Control Measures. There will be no order as to costs."

3. It is respectfully submitted that, the petitioner on going through the order has noticed certain errors apparent on the face of the record requiring a review of the order dated 28.09.2012 passed by this Hon'ble Commission.

The Restriction and Control Measures were introduced from 01.11.2008, in pursuance to a Government Letter (Ms.) No.121, Energy dated 22.10.2008 under which the Government had specifically directed the petitioner herein to do so after getting prior approval from this Hon'ble Commission. Accordingly, a petition M.P. No. 42 of 2008 was filed to ratify the action namely implementation of certain Regulatory measures which included, **a)** the power cut of 40% on base demand and energy for all HT Industrial and Commercial services covered under Tariff I & III **b)** the 90% cut on quota demand and energy for HT Industrial and Commercial services during peak hours, and the same was approved by Hon'ble Commission by its order dt. 28.11.2008. On the basis of the said order, on several occasions depending upon the power position the percentage of power cut was reduced/increased after taking into account the availability of power. However, during the month of February 2012 due to a huge gap between demand and supply, the petitioner introduced certain additional Restriction and Control measures (R&C measures) under two Memos dt.25.02.2012 and 29.02.2012 respectively. Challenging the said Memos, several writ petitions were filed before Hon'ble High Court and the Hon'ble High Court by Order dt.27.03.2012, gave a direction to approach this Hon'ble Commission for introducing the additional R&C measures, as set out in the Memos dt.25.02.2012 and 29.02.2012 respectively. In pursuance to the order passed by the Hon'ble High Court, a Miscellaneous Petition, namely, M.P. No.10 of 2012 was filed by the petitioner herein before this Hon'ble Commission. This Hon'ble Commission after hearing the petitioner and the stake holders was pleased to pass an order dt. 28.09.2012 in M.P. No.10 of 2012, setting aside both the Memos dt.25.02.2012 and 29.02.2012 for the reasons stated in the order. Aggrieved against the said order, the petitioner herein, is approaching this Hon'ble Commission seeking for a review of the order dt.28.09.2012 passed by this Hon'ble Commission, among other things, on the following grounds:-

### G R O U N D S

- a. It is respectfully submitted that, the Restriction and Control Measures were introduced from 01.11.2008, admittedly, after getting the approval of this Hon'ble Commission since the measures were sought to be introduced for the first time. This Hon'ble Commission was pleased to allow 40% power cut and 90% power cut during peak hours as proposed by Petitioner. Thereafter, based on the approval and considering the power position prevailing from time to time due to various factors, power cut was reduced/increased depending upon the situation. The petitioner had not exceeded the percentage ordered in the MP

No.42 of 2008 at any time. In view of above, it is therefore prayed that the order passed by this Hon'ble Commission, requires to be reviewed.

b. It is respectfully submitted that, if the order under review is allowed to stand as it stands, then the same will amount to directing the review petitioner to rework the quota already fixed, prior to the passing of the order under review, which will have a far reaching consequences, having regard to the fact that, the restriction of power cut has already been approved by this Hon'ble Commission while passing orders in M.P. No.2008 dt.28.11.2008. In any event, the present R&C measures were introduced to offset the power position in order to give equal utilisation of power available, amongst the various consumers, and if not permitted to be implemented, the same would result in deprivation of power to certain consumers, when compared with others. Hence it is therefore prayed that the Hon'ble Commission may be pleased to review the order passed by the Hon'ble Commission and render justice.

c. It is respectfully submitted that, the additional R&C measures introduced was in the earlier Memo dt.25.02.2012, (the measures contained in the said memo was approved by Government of Tamil Nadu vide letter (Ms.) No.18 dated 29.02.2012), are as follows.

**(A) From 27.02.2012:**

- (i) The existing power cut of 20% on base demand and energy for all HT Industrial and Commercial services covered under Tariff I & III is increased to 40%.
- (ii) 90% cut on quota demand and energy for HT industrial & commercial services during peak hours i.e. 18.00 hrs to 22.00 hrs.
- (iii) Increase in load shedding period in Chennai and its sub-urban areas

**(B) From 01.03.2012:**

- (iv) 1 day Power Holiday for HT, LTCT & LT Industrial services from Monday to Saturday as per schedule. In addition to this, Power Holiday for all HT industries on Sunday.

The introduction of power holiday has been withdrawn from 02.06.2012, and (which position has been discussed in the order under review by this Hon'ble Commission) which shows that, in the event of improvement in the power position the R&C measures introduced were withdrawn to the extent possible, excepting for retaining certain portions of the R&C measures set out in the Memo dt.25.02.2012. This clearly shows that the present R&C measures were introduced in order to tide over the power position and not with any other purpose. In fact, the later Memo dt.29.02.2012 has already been withdrawn and the same has also been discussed by this Hon'ble Commission in the order under review. Therefore, if the Memo dt.25.02.2012 is quashed as done in the order under review, then the petitioner would not be able to implement the R&C measures sought to implemented with effect from 27.02.2012 viz. item A (i) and

(ii) as set out in the Memo dt.25.02.2012, which has already been approved by this Hon'ble Commission while ordering MP No.42 of 2008. Further the Grid management would be very tough task to be managed by TANGEDCO and TANTRANSCO.

- d. It is respectfully submitted that, Regulation 38 of the Tamil Nadu Electricity Distribution Code, 2004 provides for operation of it under two different situation/contingency. On a reading of it, it is clear that it postulates the use of the Regulation by the review petitioner, to curtail the use of Electricity by the consumer under certain situations mentioned therein, including exercise of the power by review petitioner, if the power position warrants such an action. On the contrary the latter portion of the said Regulation provides as follows.

“Not withstanding anything contained in any agreement/undertaking executed by a consumer with the licence or in the tariff applicable to him, the consumer shall restrict the use of electricity in terms of his/her maximum demand and /or energy consumption in the manner and for the period as may be specified in any order that may be made by the licence on the instructions of State Government or the Commission.”

Therefore, according to the review petitioner, the earlier portion and the later portion of the Regulation 38 operates, under different circumstances. In fact in the Memos issued by the review petitioner, it only regulated the use of power and not all together directed to ceasing of use of power by the licence. In view of the above, it is prayed that the findings rendered by the Hon'ble Commission on Regulation 38 of the Tamil Nadu Electricity Distribution Code, 2004 in the order under review herein requires reconsideration and the petitioner prays for the same.

- e. It is respectfully submitted that, consequent on the earlier ground of and review, it is clear that, the word “for the period” provided in the later portion of the Regulation 38, operates under a different circumstance namely, when the consumer is asked to restrict the electricity in terms of his/ her maximum demand and/or energy consumption, in the manner and/or for the period, as may be specified in any order, that may be made by the licence on the instructions of the State Government or the Hon'ble Commission, and not otherwise. Having regard to the above it is therefore prayed that the findings rendered by the Hon'ble Commission on this aspect of the matter made in the order under review requires a reconsideration and the petitioner therefore prays for the same.
- f. In any event it is respectfully submitted that, under Rule 38 of the Electricity Distribution Code 2004, a dichotomy in the mentioning of the period of restriction of the use of Electricity by the consumer has been mentioned. While in the earlier part of Rule 38 a power is granted to the licence to restrict on the use

of Electricity for the reasons provided in the earlier part of Rule 38 which included the power position warranting such a course of action, the latter portion of rule 38 makes it clear that the restriction on the use of Electricity by the consumer for the period has to be mentioned in any order that may be made by the license on the instruction of the State Government or the Commission. Therefore it is clear that the requirement to mention the curtailment of the period of usage of Electricity need to be mentioned only if any instructions are issued either by the State Government or this Hon'ble Commission and not otherwise. Having regard to the above it is therefore prayed that the findings rendered by the Hon'ble Commission on this aspect of the matter made in the order under review requires a reconsideration and the petitioner therefore prays for the same.

The petitioner craves leave of this Hon'ble Commission to permit the Review Petitioner to raise any other grounds as may be required on a later date or during the course of hearing of this review petition.

Hence it is therefore, humbly prayed that this Hon'ble Commission may be pleased to review the order, dated 28.09.2012 made in M.P. No.10 of 2012 by allowing the above review petition and pass such further or other orders as this Hon'ble Commission may deem it fit and proper under the circumstance of the case and render justice.

Solemnly affirmed at Chennai on this 16<sup>th</sup> day of Oct 2012 and the deponent has signed his name in my presence.

BEFORE ME

Advocate