

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act 2003)
(Central Act 36 of 2003)

PRESENT:-

Thiru.K.Venugopal Member
and
Thiru.S.Nagalsamy Member

D.R.P.No.21 of 2011

Ashwin Textiles (P)m Ltd.
HT SC No.200
Therpattipirivu
Palani Road
Dharapuram – 638 673
Repd. by its Manager K.Periyasamy

.. Petitioner
(Thiru R.S.Pandiyaraj and 3 others
Advocates for Petitioner)

Vs

1. The Chief Financial Controller (Revenue)
Tamil Nadu Electricity Board
800, Anna Salai
Chennai – 600 002.
2. The Superintending Engineer
UEDC, TANGEDCO
Udumalpet

.... Respondents
(Thiru P.H. Vinodh Pandian
Standing Counsel for the Respondents)

Dates of hearing : 15-12-2011, 24-01-2012, 16-02-2012,
20-11-2012, 20-12-2012 & 08-02-2013

D.R.P.No.28 of 2011

Best Cotton Mills
HT SC No.129 & 271
(Unit of Best Corporation Limited)
Pollachi Road
Dharapuram – 638 673
Repd. by its Manager P.Muthu Krishnan

.. Petitioner
(Thiru R.S.Pandiyaraj and 3 others
Advocates for Petitioner)

Vs

1. The Chief Financial Controller (Revenue)
Tamil Nadu Electricity Board
800, Anna Salai
Chennai – 600 002.
2. The Superintending Engineer
UEDC, TANGEDCO
Udumalpet

..... Respondents
(Thiru P.H. Vinodh Pandian
Standing Counsel for the Respondents)

**Dates of hearing : 16-02-2012, 17-04-2012, 26-04-2012,
26-09-2012, 20-12-2012 & 08-02-2013**

D.R.P.No.1 of 2012

Super Sales India Limited
HT SC No.155
Ayyampalayam
Jamin Muthur (PO)
Pollachi, Coimbatore
Repd. by its General Manager – Finance
S.Ravindran

.. Petitioner
(Thiru R.S.Pandiyaraj and 3 others
Advocates for Petitioner)

Vs

1. The Chief Financial Controller (Revenue)
Tamil Nadu Electricity Board
800, Anna Salai
Chennai – 600 002.

2. The Superintending Engineer
UEDC, TANGEDCO
Udumalpet

.... Respondents
(Thiru P.H. Vinodh Pandian
Standing Counsel for the Respondents)

Dates of hearing : 16-02-2012, 17-04-2012, 26-04-2012,
26-09-2012, 20-12-2012 & 08-02-2013

D.R.P.No.2 of 2012

Spictex Cotton Mills (P) Limited
HT SC No. 221
63-B, P.N.Road
Tirupur – 641 602
Repd. by Manager S.P.Satheesh Kumar

.. Petitioner
(Thiru R.S.Pandiyaraj and 3 others
Advocates for Petitioner)

Vs

1. The Chief Financial Controller (Revenue)
Tamil Nadu Electricity Board
800, Anna Salai
Chennai – 600 002.

2. The Superintending Engineer
UEDC, TANGEDCO
Udumalpet

.... Respondents
(Thiru P.H. Vinodh Pandian
Standing Counsel for the Respondents)

Dates of hearing : 16-02-2012, 17-04-2012, 26-04-2012,
26-09-2012, 20-12-2012 & 08-02-2013

D.R.P.No.4 of 2012

Bannari Amman Spinning Mills Ltd
HT SC No.279
Morepatty Post
Velvarkottai
Vadamadurai
Repd by its General Manager K.Prabakaran

.. Petitioner
(Thiru R.S.Pandiyaraj and 3 others
Advocates for Petitioner)

Vs

1. The Chief Financial Controller (Revenue)
Tamil Nadu Electricity Board
800, Anna Salai
Chennai – 600 002.

2. The Superintending Engineer
DEDC, TANGEDCO
Dindigul

.... Respondents
(Thiru P.H. Vinodh Pandian
Standing Counsel for the Respondents)

Dates of hearing : 16-02-2012, 17-04-2012, 29-05-2012,
21-06-2012, 20-07-2012, 20-12-2012
& 08-02-2013

D.R.P.No.5 of 2012

Bannari Amman Spinning Mills Ltd
Unit -1 HT SC No.171
Vadamadurai
Vedasandur Taluk
Repd by its General Manager K Prabakaran

.. Petitioner
(Thiru R.S.Pandiyaraj and 3 others
Advocates for Petitioner)

Vs

1. The Chief Financial Controller (Revenue)
Tamil Nadu Electricity Board
800, Anna Salai
Chennai – 600 002.

2. The Superintending Engineer
DEDC, TANGEDCO
Dindigul

.... Respondents
(Thiru P.H. Vinodh Pandian
Standing Counsel for the Respondents)

Dates of hearing : 16-02-2012, 17-04-2012, 26-04-2012,
26-09-2012, 20-12-2012 & 08-02-2013

Date of order : 17-04-2013

The above D.R.Ps. came up before the Commission for final hearing on 08-02-2013. Since the prayer of the above D.R.Ps. is one and the same and the contentions of the petitioners and the respondents are also one and the same, they were clubbed together. Upon perusing the above DRPs. and the connected records and upon hearing the Learned Senior Counsel, Thiru A.R.L.Sundaresan, representing the Learned Counsel Thiru R.S.Pandiyaraj, Advocate for the petitioners in all the above D.R.Ps. and Senior Counsel Thiru N.C.Ramesh, representing Thiru P.H.Vinodh Pandian, Standing Counsel for the respondents in all the above DRPs, the Commission passes the following common order:-

COMMON ORDER

1. Prayer of the Petitioner in D.R.P.No.21 of 2011:-

The prayer of the petitioner in D.R.P.No.21 of 2011 is to pass an order setting aside the impugned notice dated 16-11-2011 issued by the second respondent as illegal, arbitrary, without the authority of law and against the orders of the Tamil Nadu Electricity Regulatory Commission made in Suo Motu Proceedings No.1 of 2009 dated 28-10-2009.

2. Prayer of the Petitioner in I.A.No.1 of 2011 in D.R.P.No.21 of 2011:-

The prayer of the petitioner in I.A.No.1 of 2011 in D.R.P.No.21 of 2011 is to issue an order of Interim Stay of the operation and all further proceedings of the impugned demand notice dated 16-11-2011 issued by the second respondent pending disposal of the above petition.

3. Prayer of the Petitioner in D.R.P.No.28 of 2011:-

The prayer of the petitioner in D.R.P.No.28 of 2011 is to pass an order setting aside the impugned notice dated 09-12-2011 issued by the second respondent as

illegal, arbitrary, without the authority of law and against the orders of the Tamil Nadu Electricity Regulatory Commission made in Suo Motu Proceedings No.1 of 2009 dated 28-10-2009.

4. Prayer of the Petitioner in I.A.No.1 of 2011 in D.R.P.No.28 of 2011:-

The prayer of the petitioner in I.A.No.1 of 2011 in D.R.P.No.28 of 2011 is to issue an order of interim stay of the operation and all further proceedings of the impugned demand notice dated 09-12-2011 issued by the second respondent pending disposal of the main petition.

5. Prayer of the Petitioner in D.R.P.No.1 of 2012:-

The prayer of the petitioner in D.R.P.No.1 of 2012 is to pass an order setting aside the impugned notice dated 09-12-2011 issued by the second respondent as illegal, arbitrary, without the authority of law and against the orders of the Tamil Nadu Electricity Regulatory Commission made in Suo Motu Proceedings No.1 of 2009 dated 28-10-2009.

6. Prayer of the Petitioner in I.A.No.1 of 2012 in D.R.P.No.1 of 2012:-

The prayer of the petitioner in I.A.No.1 of 2012 in D.R.P.No.1 of 2012 is to issue an order of interim stay of the operation and all further proceedings of the impugned demand notice dated 09-12-2011 issued by the second respondent pending disposal of the above petition.

7. Prayer of the Petitioner in D.R.P.No.2 of 2012:-

The prayer of the petitioner in D.R.P.No.2 of 2012 is to pass an order setting aside the impugned notice dated 09-12-2011 issued by the second respondent as

illegal, arbitrary, without the authority of law and against the orders of the Tamil Nadu Electricity Regulatory Commission made in Suo Motu Proceedings No.1 of 2009 dated 28-10-2009.

8. Prayer of the Petitioner in D.R.P.No.4 of 2012:-

The prayer of the petitioner in D.R.P.No.4 of 2012 is to pass an order setting aside the impugned notice dated 07-12-2011 insofar as the levy of excess energy / demand penalty Rs.2,36,023/- Audit Report vide Audit Slip No.80 dated 27-10-2011 issued by the second respondent as illegal, arbitrary, without the authority of law and against the orders of the Tamil Nadu Electricity Regulatory Commission made in Suo Motu Proceedings No.1 of 2009 dated 28-10-2009.

9. Prayer of the Petitioner in I.A.No.1 of 2012 in D.R.P.No.4 of 2012:-

The prayer of the petitioner in I.A.No.1 of 2012 in D.R.P.No.4 of 2012 is to issue an order of interim stay of the operation and all further proceedings of the impugned demand notice dated 07-12-2011 insofar as the levy of excess energy / demand penalty of Rs.2,36,023/- Audit Report vide Audit Slip No.80 dated 27-10-2011 issued by the second respondent pending disposal of the above petition.

10. Prayer of the Petitioner in D.R.P.No.5 of 2012:-

The prayer of the petitioner in D.R.P.No.5 of 2012 is to pass an order setting aside the impugned notice dated 07-12-2011 insofar as the levy of excess energy / demand penalty Rs.4,34,118/- Audit Report vide Audit Slip No.83 dated 27-10-2011 issued by the second respondent as illegal, arbitrary, without the authority of law and against the orders of the Tamil Nadu Electricity Regulatory Commission made in Suo Motu Proceedings No.1 of 2009 dated 28-10-2009.

11. Prayer of the Petitioner in I.A.No.1 of 2012 in D.R.P.No.5 of 2012:-

The prayer of the petitioner in I.A.No.1 of 2012 in D.R.P.No.5 of 2012 is to issue an order of interim stay of the operation and all further proceedings of the impugned demand notice dated 07-12-2011 insofar as the levy of excess energy / demand penalty Rs.4,34,118/- Audit Report vide Audit Slip No.83 dated 27-10-2011 issued by the second respondent pending disposal of the above petition.

12. Facts of the case in all the above DRPs:-

The facts of the case in all the above DRPs namely D.R.P.No.21 of 2011, D.R.P.No.28 of 2011, D.R.P.No 1 of 2012, D.R.P.No 2 of 2012, D.R.P.No. 4 of 2012 and D.R.P.No 5 of 2012 are one and the same. In all the above DRPs, the petitioners are challenging the impugned letters of the respondent levying penalty for excess consumption of energy and demand during both peak hours and normal hours. It is noted that in all the above DRPs, impugned notices of the respondent were issued based on TNEB's BOAB Audit Reports. Since the contention of the petition in all the above DRPs are one and the same, they are all clubbed together and finally heard by the Commission on 08-02-2013.

13. Common contention of the Petitioner in all the above DRPs:-

(a) The Petitioner in **D.R.P.No.21 of 2011** has not exceeded the demand quota fixed by the respondent for the month of April 2010 in letter dated 31-03-2010 and limited their consumption within the quota. Insofar as the energy quota / consumption is concerned, there is an excess consumption of 29,953 units in peak hours. However, there is no enabling provision in the S.M.P.No.1 of 2009 to levy penalty in the event of a difference between the proposed wind energy, actual

generation and consumption. Therefore, the question of levy of penalty does not arise.

(b) The Petitioner in D.R.P.No.21 of 2011 has not exceeded the demand and energy quota fixed by the second respondent vide his letter dated 06-05-2010 and limited their consumption within the quota. Therefore, the question of levy of penalty does not arise.

(c) Since wind mill generation is an infirm power depending upon the availability of wind in a particular season, the proposed energy would be only be tentative / rough as indicated by the 1st Respondent. Therefore, that does not mean that it should be taken as a firm commitment and penalty / excess charges could be levied for the consumption over and above the proposed energy as indicated by the wind mill captive users.

(d) The second respondent did not give an opportunity to the petitioner as to how he has arrived at the above penalty calculation and not put the petitioner on notice in this regard.

(e) The impugned levy of penalty is without jurisdiction, without authority of law and much against the order of the TNERC in its Suo Motu Proceeding No.1 of 2009 and therefore, liable to be set aside.

(f) The impugned demand notice is issued without jurisdiction, without application of mind and without any basis or authority of law and hence liable to be set aside.

(g) The second respondent has failed to give any opportunity to the petitioner before raising the impugned amount in the letter dated 16-11-2011 or put on notice to the petitioner as to the proposed levy of penalty and the basis for such levy. He has straight away issued the notice.

(h) The second respondent has failed to note that there is no provision in the Suo Motu Proceedings No.1 of 2009 dated 28-10-2009 to levy penalty / excess charges for the difference between the actual wind mill generation and the tentative / rough monthly average given by the wind mill captive generator.

(i) The second respondent failed to consider that the wind energy is an infirm power and it would vary season to season according to availability of wind. That is why the TNERC in paragraph 16 (13) and (14) of its Suo Motu Proceedings No.1 of 2009 used the word as “proposed” and “rough” monthly average generation.

(j) The second respondent has no authority of law to levy such a penalty without the prior approval of the TNERC who is competent Statutory Authority under the Electricity Act, 2003 on the issue in hand. The impugned demand notice is therefore, issued without the approval of the proper authority.

(k) The respondent is estopped from changing his position after fixing quota fully knowing well the provisions as contained in S.M.P.No.1 of 2009. Having given a quota letter, directing the petitioner to adhere to such quota, it is not permitted to go back and alter his position by giving a different approach after fully knowing well that the respondent has got a duty to give the correct quota for the petitioner to follow.

(l) Had the respondent fixed quota properly, the occasion to levy penalty for the alleged excess consumption by the BOAB audit party would not have arisen at all.

(m) Nothing has prevented the petitioner to fix quota without any ambiguity by giving what is TNEB's portion of quota and what is wind energy portion of quota. Having given a quota and permitted by the respondent to follow such quota, unless there is any violation of such quota, the petitioner is not legally permitted to levy any penalty as sought for in this petition.

(n) In similar matters, the Commission was pleased to set aside the demand notices issued by the respondent TNEB in orders passed in D.R.P.No.13 and 14 of 2010. These orders squarely cover the present case also.

14. Common Contentions of the Respondents as set out in the Counter:-

(a) The petitioners in all the above DRPs had supplied energy much lower than the proposed and thereby consumed more power from TANGEDCO than their quota.

(b) As the bills which were prepared by the second respondent for all the petitioners in all the above DRPs were not as per the working instructions of the Chief Engineer / Commercial's letter dated 17-11-2008, the audit has raised the bill and instructed to collect the short fall amount.

(c) The principle on which the audit has revised the bills of the petitioners in all the above DRPs is in order as per S.M.P.No.1 of 2009 dated 28-10-2009 and circular memo approved by the Commission.

(d) The relevant portion of the TNERC's order dated 14-03-2011 in D.R.P.No.14 of 2010 is as follows:-

“The limited question before us is whether TNEB is bound by estoppels and whether the bill for July 2010 can be at variance with the demand and energy quota communicated in advance by the TNEB for the month of July 2010. The answer should be a categorical ‘No’ ”.

(e) In view of fact that the demand and energy quota has to be arrived based on the proposed units at the beginning of the month shall be taken as a constant one. So that, subsequently the demand and energy quota should not be redrawn based on the actual units supplied or adjusted by the end of the month besides the excess demand and excess energy charges has to be levied by comparing the actual demand utilized and energy consumed during a month with that of the quota fixed by the proposed units only at the beginning of the month as per the TNERC's Suo Motu Proceedings No.1 of 2009 and the same has upheld by the Commission in D.R.P.No.14 of 2010.

(f) As per the regulation 38 of Tamil Nadu Electricity Distribution Code and as per the Commission's Order in M.P.No.42 of 2008 dated 28-11-2008, the respondent has power to levy excess charges for exceeding demand and energy quota. Hence, the contention of the petitioner is not correct and is denied.

(g) In the order passed in D.R.P.No.13 and 14 of 2010, the demand and energy quota has not been revised by the end of the month based on the actual units supplied or injected from the month of 01-11-2009. In the present case, the demand and energy quota has been arrived at based on the units proposed to be supplied by

the petitioner at the beginning of the month as ordered by the Commission. Subsequently the demand and energy quota has been redrawn based on the actual units adjusted by the end of the month. Therefore, the order passed by the Commission in D.R.P.No.13 and 14 of 2010 is not applicable to the facts of the present case and the impugned order is valid and is not liable to be set aside and based on the impugned order excess charges claimed by the respondent and challenged in the petition is in line with the order passed by the Commission in S.M.P.No.1 of 2009 dated 28-10-2009 and therefore impugned order is not liable to be set aside.

(h) Due to a mistake committed by the second respondent, the same was not billed in accordance with Circular Memo dated 17-11-2008 and S.M.P.No.1 of 2009 dated 28-10-2009. The BOAB audit party has issued the audit slip as per regulation 12 (1) of the Tamil Nadu Electricity Supply Code which reads as follows:-

“12(1) In the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Licensee, the Licensee will have the right to demand an additional amount in case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging”.

15. Common Contentions of the Petitioners in the Re-joinder:-

(a) Apart from refixing the quota, the second respondent is trying to reduce the wind energy supplied by the petitioner from the industrial consumption and arrive at the above penalty which was not contemplated anywhere in orders passed in Suo Motu Proceedings No.1 of 2009. The respondent is trying to refix the quota indirectly by taking the actual energy consumed for the period from 04/2010 and 05/2010 only

to overcome the finding of this Commission in D.R.P.No.14 of 2010 that quota once fixed cannot be altered with.

(b) After the modification in the procedure by order dated 28-10-2009 the consumers had the understanding and legitimate expectation that the equivalent demand will be based on the declared energy and not the energy actually consumed and excess demand and excess energy charges will be calculated on the demand and energy quota communicated by the second respondent. It is submitted that it is unjust and unlawful on the part of the second respondent to redraw the quota based on the energy and demand adjusted / consumed by the petitioner instead of the declared energy. It is submitted that same position has been confirmed by the APTEL by its order dated 12-12-2012 in Appeal No.51 and 56 of 2012.

(c) The Commission only by the order in M.P.Nos.6,9 and 17 of 2010 and D.R.P.No.17 of 2010 dated 07-09-2010 dispensed with the need for advance declaration by the consumer of procurement of captive power as stipulated in the order dated 28-10-2009. By this order, this Commission also decided that the equivalent demand brought in by the consumer from captive and third party sources would be subtracted from the maximum recorded demand of the consumer and balance would be the demand actually supplied by the Electricity Board, the consumer would be liable to pay excess demand charges. Similarly, the energy purchased from captive and third party sources would be subtracted from the total energy consumed by the consumer and the balance would be deemed to be the energy actually supplied by the Electricity Board. If this energy exceeded the energy quota of the Electricity Board, excess energy charges will be payable by the consumer. Thus the procedure was made very clear only by the order dated

07-09-2010 passed by the Commission and not before it. Hence the action of the respondent in giving a retrospective effect to it, i.e. when the method of advance declaration was in force, is without jurisdiction, without authority of law and much against the order of the TNERC in its Suo Motu Proceeding No.1 of 2009 and the orders in M.P.Nos.6, 9 and 17 of 2010 and D.R.P.No.17 of 2010 dated 07-09-2010. The same position has been confirmed by the Hon'ble APTEL by its order dated 12-12-2012 in Appeal No.51 and 56 of 2012.

(d) In pursuance of the energy and demand quota letters and penalty calculations in the impugned workings it can be seen that the respondent tries to arrive at the short fall by revising the quota fixed in advance for the month of April and May 2010 based on the actual energy generated instead of the actual energy proposed / declared which is against the orders of the Commission in Suo Motu Proceedings No.1 of 2009 dated 28-10-2009 and order passed by the Hon'ble APTEL in its dated 12-12-2012 in Appeal No.51 and 56 of 2012.

(e) The respondent is trying to refix the quota indirectly by taking the actual energy generated only to overcome the findings of the Commission in D.R.P.No.14 of 2010 that quota once fixed cannot be altered with. It is submitted that what cannot be done directly is sought to be done indirectly which is unlawful and amounts to misleading the order of the Commission. Moreover, it is pertinent here to mention that in the event of a difference between the proposed wind energy, actual generation and actual consumption, there is no enabling provision in the S.M.P.No.1 of 2009 to levy penalty. The procedure adopted by the audit party in the impugned audit was made very clear only by the order dated 07-09-2010 passed by the Commission and not before it. Hence the action of the respondent in giving a

retrospective effect to it i.e. when the method of advance declaration was in force, is without jurisdiction, without authority of law and much against the order of the TNERC in its Suo Motu Proceeding No.1 of 2009 and the order made in M.P.No.6,9 and 17 of 2010 and D.R.P.No.17 of 2010 dated 07-09-2010 and the order passed by the Hon'ble APTEL in its dated 12-12-2012 in Appeal No.51 and 56 of 2012.

(f) The finding of the State Commission in D.R.P.No.13 and 14 of 2010 will be relevant for the period before the passing of the order dated 07-09-2010 when the procedure for advance declaration was in force.

(g) The second respondent failed to consider that the wind energy is an infirm power and it would vary season to season according to availability of wind. That is why the TNERC in paragraph 16 (13) and (14) of its Suo Motu Proceedings No.1 of 2009 used the word as "proposed" and "rough" monthly average generation. This does not mean that any difference between the rough monthly average and the actual generation should be penalized as is done in the impugned demand notice. The idea behind such instruction is to give a rough requirement of power for the next month by the second respondent and it does not contemplate any penalty.

(h) The demand and energy quota as communicated to the consumer by the second respondent based on the advance declaration of energy by the petitioner cannot be altered with and cannot be changed subsequently. It is also clear that before 07-09-2010 the equivalent demand will be calculated on the basis of declared energy and not on the basis of the energy consumed or adjusted. Further the demand and energy quota as communicated to the consumer by the second respondent based on the advance declaration of energy by the petitioner will have

effect for the calculation of excess demand and energy charges. Impugned levy of penalty is without jurisdiction, without authority of law and much against the order of the Commission in its Suo Motu Proceeding Order No.1 of 2009, M.P.No.6, 9 and 17 of 2010 and D.R.P.No.14 of 2010 dated 07-09-2010 and the order of the APTEL in Appeal No.51 and 56 of 2012, therefore liable to be setaside.

16. Finding of the Commission:-

16.1. All these petitions relate to the period April 2010 and May 2010. All these cases arise out of the notices issued by TNEB / TANGEDCO for recovery of excess charges consequent to raising of audit objection by BOAB. We have heard the Learned Senior Counsel for the petitioner Thiru ARL Sundaresan and the Learned Senior Counsel for TANGEDCO Thiru N.C. Ramesh.

16.2. For the purpose of convenience, DRP No. 21 of 2011 filed by M/s.Aswin Textiles against CFC Revenue, TANGEDCO and Superintending Engineer, Udumalpet, TANGEDCO is taken up for examination for the purpose of delivering a common decision on all these petitions.

16.2.1 Quota fixed for April 2010:-

	NORMAL HOURS		PEAK HOURS	
	DEMAND	ENERGY	DEMAND	ENERGY
TNEB QUOTA	135.24	0	6.76	0
WEG	714.00	4,60,811	559.13	62,399
TOTAL	849.24 KVA	4,60,811 UNITS	565.90 KVA	62,399 UNITS

16.2.2 Actual consumption by the petitioner for April 2010:-

	NORMAL HOURS		PEAK HOURS	
	DEMAND	ENERGY	DEMAND	ENERGY
ACTUAL CONSUMPTION	741.93	1,47,856 (Normal Hours) 1,30,304 (Off-Peak Hours)	521.6	92,352
TOTAL	741.93 KVA	2,78,160 UNITS	565.90 KVA	92,352 UNITS

16.2.3 Quota fixed for May 2010:-

	NORMAL HOURS		PEAK HOURS	
	DEMAND	ENERGY	DEMAND	ENERGY
TNEB QUOTA	152.56	0	7.63	0
WEG	689.26	4,60,811	820.48	88,611
TOTAL	841.82 KVA	4,60,811 UNITS	828.10 KVA	88,611 UNITS

16.2.4 Actual consumption for May 2010:-

	NORMAL HOURS		PEAK HOURS	
	DEMAND	ENERGY	DEMAND	ENERGY
ACTUAL CONSUMPTION	739.2	1,43,216 (Normal Hours) 1,12,864 (Off-Peak Hours)	641.6	84,912
TOTAL	739.2 KVA	2,56,080 UNITS	641.6 KVA	84,912 UNITS

16.3. The argument of the petitioner is that they have never exceeded the demand quota fixed and always limited their consumption within the quota. Insofar as the energy quota / consumption is concerned there is an excess consumption of 29,953 units during evening peak hours for the month of April 2010. Since there is no

provision in the SMP No. 1 of 2009 to levy penalty in the event of difference between the proposed wind energy, actual generation and consumption, question of levy of penalty does not arise.

16.4. Per contra, the contention of TANGEDCO is that the TNEB quota and the wind energy generation supply are separately indicated in the quota fixed by TANGEDCO for the months of April 2010 and May 2010 in respect of these petitions which are under challenge. Once the TNEB quota is exceeded, the liability to pay penalty will arise as per OM dated 17-11-2008. To understand the issues more clearly, it is necessary to reproduce the provisions of relevant Notifications and also to recapitulate the decisions of this Commission in earlier cases and that of the Hon'ble Appellate Tribunal for Electricity in the subject-matter. Accordingly, they are being extracted in the following paragraphs.

16.5. OM dated 17-11-2008:

16.5.1. Under fixation of demand quota, following paragraph exists:-

“At the time of every weekly check / monthly reading the concerned SEs should closely watch the demand and energy used by the consumer and compare it with the deemed demand and energy supplied by the generators. If there is any violation of the demand quota and energy as determined above, then the excess demand charges may be collected for the excess energy used from TNEB Grid at the rate to be specified by TNERC.”

16.5.2. Under illustration, the following provision exists:-

“The consumer shall not exceed demand / energy quota fixed for the TNEB power for any reasons, either due to outage of generator of their supplier or short supply from their supplier, etc., it is their responsibility to monitor this with their generator. The excess demand/energy charges shall be collected as prescribed by TNERC for the quota violated. In addition, the excess energy shall be deducted from the coming months quota of TNEB power and quota fixed accordingly in the respective month ensuring that quota fixed shall not be exceeded by the consumer in any month.”

(The last sentence Viz., excess energy shall be deducted from the coming months quota of TNEB power was not approved by the Commission in MP No. 42 of 2008.)

16.6. MP No. 42 of 2008:-

para 24 of the Order directs that the method for determination of demand and energy quota for wind energy captive users shall be the same as that of their captive users. Para 29 of the said order prescribes the charges for excess demand and excess energy at the rate thrice the normal rate.

16.7. Suo Motu Petition No.1 of 2009:-

The Commission initiated Suo Motu Proceedings in S.M.P.No.1 of 2009 consequent to Order of the High Court of Madras in WP No. 30890 of 2008. Essentially the challenge in the above writ petition relate to banking of wind energy and the enhancement of the demand and energy quota in favour of the wind mill captive consumer.

16.8. Further, in WP No. 8366 of 2009, the High Court of Madras had passed the following Order on 19-5-2009:-

“This writ petition is filed for a issue of writ of Mandamus directing the respondents to forthwith comply with the order of the Tamil Nadu Electricity Regulatory Commission in its order dated 28-11-2008 in M.P. No. 42/2008 as contained in para 24 of the Order.

2. On notice, the learned Additional Advocate General has submitted that even Board is also consenting to treat the petitioner’s association on par with any other captive power users and their quota will be refixed basing on the respondent Board power supply and captive power supply. He has also submitted that this is subject to the Board’s other proceedings with regard to imposing penalty and other things.

3. Recording the above submission, the writ petition is closed. No costs. Consequently, connected M.P. Nos 1 and 2 are closed.”

16.9. In certain other writ petitions as discussed in SMP No. 1 of 2009, the two memos dated 4-8-2009 and 21-8-2009 were called into question and they were to be re-examined by the Commission as per the directions of the High Court. Para 6 of SMP No. 1 of 2009 is reproduced below:-

“6. The High Court has directed the Commission to decide the energy quota and demand quota in respect of wind energy generators taking into account the memos dated 4-8-2009 and 21-8-2009 filed by the TNEB with the TNERC.”

These two memos were never placed before the Commission by the TNEB and the same were stuck down by the Commission in its Order dated 28-11-2009 in the above referred SMP No. 1 of 2009.

16.10. Para 16(13) of Order in SMP No. 1 of 2009 which is relevant to the issue on hand is reproduced below:-

“From 1-11-2009, all captive users, whether thermal or wind, shall declare on the first day of every month, the energy proposed for captive use for the following month, which shall be considered as B and F for the purpose of energy quota and demand quota respectively in terms of the memo of TNEB dated 17-11-2008 the energy so declared shall roughly be the monthly average generation.

16.11. In the common order of the Commission dated 07-09-2010 in MP.Nos.6 of 2010, 9 of 2010 and 17 of 2010 and DRP No. 9 of 2010, the Commission dispensed with the procedure of advance declaration envisaged in S.M.P.No.1 of 2009. Paragraphs 4.1, 4.2, 4.3, 4.4, 4.5 and 4.6 of the said order are relevant and are therefore extracted below:-

“4.1. The present batch of petitions have drawn the attention of the Commission to certain distortions in the application of the Order of the Commission in SMP No.1 of 2009. This batch consists of both consumers and generators. The issues pertain to consumers. That order provided for subtraction of the demand and energy supplied through captive or third party sources from the base demand and base energy. Power cut was applied on the remaining portion. This method

effectively reduces the power available to the consumer from third party sources. The present order is aimed at redressing the imbalance.

4.2. The TNEB has expressed a concern that whereas the share of the TNEB in the base demand is a constant figure, the Order of the Commission in SMP No.1 of 2009 renders the TNEB component of the base demand a variable figure depending on the declaration of the captive consumer. There is merit in the contention of the TNEB, which needs to be addressed.

4.3. This can be addressed by fixing the burden on TNEB at a constant figure. The TNEB component of the base demand and base energy are fixed. Power cut is applied on this component.

4.4. The consumer is at present permitted to utilise power from captive sources. The present order would enable a consumer to purchase power from third party sources as well. Procurement of power by a consumer through Open Access is protected by the Electricity Act, 2003. The role of the licensee is limited to that of a carrier. Procurement through Open Access will be treated as an additionality. The ceiling, upto which a consumer can utilise power including the TNEB quota demand, captive power and third party purchase would be the sanctioned demand. In such a situation, there would be no need for advance declaration by the consumer of procurement of captive power as stipulated in SMP No.1 of 2009 or procurement of third party power as stipulated in the Interim Order dated 17-8-2010. As the TNEB had allowed procurement of power upto the sanctioned demand in their communication dated 17-7-2009 "procedure for allowing third party sale / purchase under intra state open access", there should be no difficulty in allowing the consumer to procure power upto the sanctioned demand.

4.5. The equivalent demand brought in by the consumer from captive and third party sources should be subtracted from the maximum demand recorded by the meter of the consumer. Balance would be the demand actually supplied by the TNEB. If this figure exceeds the quota demand of the TNEB, the consumer would be liable to pay excess demand charges at the rates stipulated in the order of the Commission in M.P.No.42 of 2008. Similarly, the energy purchased from captive and third party sources would be subtracted from the total energy consumed by the consumer. The balance would be deemed to be the energy actually supplied by the TNEB. If this quantum exceeds the energy quota of the TNEB, the consumer would be liable to pay excess energy charges at the rates stipulated in the order of the Commission in M.P.No.42 of 2008.

4.6. To summarise, the present order enables a consumer to consume power upto sanctioned demand including TNEB quota demand and procurement of power from captive sources and third party sources. The need for advance declaration of the consumer for procurement of

power through open access is dispensed with for the purpose of this order.”

16.12. The above referred Order of the Commission is the one in which advance declaration as envisaged in SMP No. 1 of 2009 was withdrawn. The disputed period in question Viz., April 2010 and May 2010 also lies within this interim period between October 2009 and August 2010. Therefore, this Order dated 7-9-2010 of the Commission assumes importance as both the petitioners and the Respondents are heavily relying on this Order to advance their arguments. While it is the contention of the petitioner that this order cannot be applied retrospectively for the months of April 2010 and May 2010, it is the contention of the respondent that para 4.5 of the Commission's Order is exactly the same as the provisions contained in the office memo dated 17-11-2008 and therefore would clearly apply to the case on hand.

16.13. The Order of the Commission dated 14-03-2011 in DRP No. 13 of 2010 and DRP No. 14 of 2010 as well as subsequent review petitions in these matters filed by TANGEDCO were also the subject-matter of discussion. While the petitioners heavily relied on these Orders, the Respondent TANGEDCO argued that neither the DRP No.13 and 14 of 2010 nor Orders in review petitions have any application for the case in hand as the facts of those two cases and the facts in the cases under discussion are different. It is their contention that the quota of TNEB and quota from wind energy have been separately specified in these 6 cases and therefore the petitioners cannot rely on the said orders of this Commission in DRP Nos. 13 and 14 of 2010 or in the concerned review petitions relating to DRP No. 13 and 14 of 2010.

16.14. Appeal No. 51 and 56 of 2012:-

Hon'ble Appellate Tribunal for Electricity examined the above issues in Appeal No. 51 of 2012 and 56 of 2012 and had passed its Order on 12th December 2012.

Relevant paragraphs of the above Order are extracted below:-

“16. Let us now examine the memo dated 17.11.2008 issued by the Electricity Board regarding fixation of quota for consumers getting part of supply from captive power plants during the period of restrictions and control. The memo specifies that the demand energy quota for HT consumers partially using power from captive power plant will be fixed as under:-

“Fixing of Energy quota:-

(i)	Monthly base energy consumption as illustrated in working instructions dated 1.11.2008	} }	A
(ii)	In that the actual energy supplied (monthly average) for the above three months average by the CPP	} }	B
(iii)	The actual energy availed by consumer from TNEB	} }	A – B = C
(iv)	60% energy on C (Cx60/100)	=	D
(v)	The quota fixed for energy	=	B + D

Fixing of Demand Quota

(i)	The base demand consumption as illustrated in working instructions dated 1.11.2008	} }	E
(ii)	In that the calculated demand supplied for the Energy for the month by CPP	} }	F

$$F = \frac{\text{Energy supplied by CPP in a month}}{\text{No. of days in the month} \times 24 \text{ hours} \times P.F. 0.95}$$

- | | | |
|-------|---|------------------|
| (iii) | The actual demand
availed by consumer
from TNEB | } }
E – F = G |
| (iv) | 60% demand of G
(Gx60/100) | = H |
| (v) | The demand quota fixed | = F + H |

Calculation of demand supplied by generator may be worked out on par with calculation made for wheeling of power to the captive consumers as communicated in CE/PPP memo. Dated 6.11.2007 and subsequent amendment thereof).

The Superintending Engineers/Electricity Distribution Circle should get a letter from the CPP for each HT service connection they intend to supply power before fixing quota.

The SEs of the circle where the generator unit is available will arrange to take a check reading on every Saturday slot wise and the details of energy actually sent out and shared by various industries who have wheeled energy from the generator should be communicated to the SEs concerned where the HT service are available by every Monday. The SE of the circle where the HT Service are available by every Monday. The SE of the circle where the HT Service availing the wheeled energy, is situated will check the actual consumption with respect to the total quota fixed and take appropriate action.

At the time of every weekly check/monthly reading the concerned SEs should closely watch the demand and energy used by the consumer and compared it with the deemed demand and energy supplied by the generators. If there is any violation of the demand quota and energy as determined above, then the excess demand charges may be collected for the excess energy used from TNEB Grid at the rate to be specified by TNERC.”

17. The instructions dated 1.11.2008 mentioned in the above order dated 17.11.2008 stipulate that the base energy consumption for HT consumers will be the average consumption of any three consecutive months advantageous to the consumers between the billing period from October, 2007 to September, 2008, when there were no power cuts. The base demand will be the highest demand registered in any month during the period October, 2007 to September, 2008.
18. The order dated 17.11.2008 was meant for HT consumers partially using power from Captive Power Plant (CPP). The monthly base energy indicated in the above order as ‘A’ is the actual average energy consumption of the consumer. ‘B’ also pertains to the energy actually supplied by the CPP to the consumer. In fixing of demand quota of the

consumer, 'E' is the recorded base demand of the consumer. 'F' is the calculated demand supplied by the CPP to the consumer. Since all the values in the formulation given in the order dated 17.11.2008 are relating to consumption of the captive consumer, the energy supplied by the CPP for calculating 'F' should also be the supply by the CPP to the captive user or consumption and not energy injected by the CPP into the grid.

19. *The note to the memo dated 17.11.2008 stipulates that the distribution licensee at the time of monthly reading of the consumer will compare the demand and energy used by the consumer and compare it with the deemed demand and energy supplied by the generators and if there is any violation of the demand and energy quota then excess demand and excess energy charges will be collected. Thus, while computing the excess energy and excess demand charges, the actual demand and energy consumed by the captive consumer at the end of the month has to be compared with the actual energy and deemed demand supplied by the captive generator. Even according to the Ld. Counsel for the Appellants, the deemed demand has to be calculated with respect to the energy from captive wind energy generator actually consumed by the consumer. Thus the excess demand and energy charges are to be calculated after accounting for deemed demand and actual energy supplied by the captive generator to the consumer.*
20. *The State Commission by order dated 28.11.2008 regarding approval of the restriction and control measures and levy of excess demand charges and energy charges decided that the method for determination of demand and energy quota for wind energy captive users shall be the same as that of other captive users i.e. as per memo dated 17.11.2008. The State Commission also permitted utilization of banked energy between 1.12.2008 to 30.4.2009 in five monthly equal instalments by enhancing the demand and energy quota.*
- 21 (iii) *From 1.11.2009, all captive users shall declare on the first day each of every month, the energy proposed for captive use for the following month which shall be considered 'B' and 'F' for the purpose of energy quota and demand quota respectively in terms of the memo of the Electricity Board dated 17.11.2008 and the energy so declared shall roughly be the monthly average generation.*
22. *In the above order dated 28.10.2009, the State Commission allowed drawal of banked energy in addition to energy available from the generation of the current month. Further from 1.11.2009, the captive users had to declare on the first day of the month the energy proposed for captive use for the following month which shall be considered as 'B' and 'F' in the formula specified in the memo dated 17.11.2008 for the purpose of energy quota and demand quota. The declared energy shall roughly the monthly average generation i.e. 1/12th of annual energy generation. Thus, the declared energy may not be the total energy*

injected by the captive wind generator during the month but the energy intended to be utilized by the captive consumer which shall roughly be equal to a monthly average generation, i.e. monthly average of annual energy generation which will not be equal to actual generation in the month. This order has to this extent modified the earlier memo dated 17.11.2008, that the 'B' & 'F' were to be based on the declared energy with effect from 1.11.2009. The Electricity Board also started intimating demand and energy quota to the consumers based on the advance declaration of energy by the consumers.

23. *The last paragraph of the memo dated 17.11.2008 quoted in paragraph 16 above provides for comparison of demand and energy used by the consumer with the deemed demand and energy supplied by the generator at the end of the month. Therefore, at the end of the month if the captive consumer has not been able to consume the entire intended supply from the wind energy generator, then 'B' has to be restricted to the actual energy consumed by the captive consumer from the wind energy generator. If 'B' is restricted to the actual energy consumed by the consumer logically 'F' has also to be based on the actual energy consumed from the wind energy generator during the month. The contention of the Appellants is that 'F' should be based on the energy generation even though they have not objected to 'B' being restricted to the actual energy from captive generation utilized by the consumer allowing the balance energy, if any, for banking. However, the procedure of advance declaration of energy from captive wind energy generator by the State Commission's order dated 28.10.2009 and the Electricity Board also intimating demand energy quota to the consumer created an ambiguous situation as once the quota has been fixed on the basis of the advance declaration and the consumer abided by it, the same can not be changed subsequently. This was the contradiction between the memo dated 17.11.2008 which was effective as per the State Commission's order dated 28.11.2008 and order dated 28.10.2009, necessitating a clarification by some of the consumers and field officers.*
24. *Subsequently, the State Commission by the order dated 7.9.2010 dispensed with the need for advance declaration by the consumer of procurement of captive power as stipulated in the order dated 28.10.2009. By this order, the State Commission also decided that the equivalent demand brought by the consumer from captive and third party sources would be subtracted from the maximum recorded demand of the consumer and balance would be the demand actually supplied by the Electricity Board. If this figure exceeds the demand quota of the Electricity Board, the consumer would be liable to pay excess demand charges. Similarly, the energy purchased from captive and third party sources would be subtracted from the total energy consumed by the consumer and the balance would be deemed to be the energy actually supplied by the Electricity Board. If this energy exceeded the energy quota of the Electricity Board, excess energy charges will be payable by the consumer. Thus the procedure was made very clear by the order dated 7.9.2010 passed by the Commission.*

25. *It is also important to refer to the wind energy tariff order no. 1 of 2009 dated 20.3.2009 passed by the State Commission before the system of advance declaration was introduced by the order dated 28.10.2009. This order clearly permits the slotwise banking for captive wind energy generator to enable unit to unit adjustment for the respective slots towards rebate/extra charges and payment for unutilized banked energy at the end of the year by the distribution licensee. Paragraph 8.2.3 clearly stipulates how the energy generated by the wind energy generator in a month will be adjusted against the consumption of the captive consumer during that month and if the energy generated exceeds the consumption the balance shall be reckoned as the banked energy for that month. For the following month also, the generation will be first adjusted against the consumption. If the consumption exceeds the generation in the following month, the energy banked in the previous month shall be drawn to the required extent. However, if the consumption in the following month is also lesser than the generation, the balance energy will also be banked along with the energy banked in the previous month. This procedure shall be repeated every month.*
26. *The above order dated 20.3.2009 also indicates how energy charges and demand charges of the captive user will be calculated. The net energy consumed by the captive user from the distribution licensee will be calculated slotwise after adjusting the slotwise generation by the wind generator. Paragraph 8.7.4 of the order describes the demand charges. The demand recorded by the consumer will have two components namely the demand supplied by the distribution licensee and the demand supplied by the wind energy generator. According to the order dated 20.3.2009, in computing the demand supplied by the generator, the total generated units consumed by the consumer have to be used.*
27. *Ongoing thorough State Commission's orders dated 28.11.2008, the memo of the Electricity Board dated 17.11.2008 and wind energy Tariff Order dated 20.3.2009, it has to be held that the actual energy supplied by the captive wind energy generator and calculated demand or equivalent demand supplied by the captive WEG have to be based on the actual energy from the captive WEG consumed by the consumer in a month.*

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32. *However, the State Commission's order dated 28.10.2009 modified the memo dated 17.11.2008 to the extent that the demand and energy quota was to be fixed as per the advance declaration of energy from captive generator by the consumer. Accordingly, the Electricity Board issued energy and demand quota for the consumer based on the advance declaration by the consumer. This created some ambiguity and difficulty in implementation of the order dated 28.10.2009 resulting in seeking of clarification by some of the field officers of the distribution licensees from Chief Financial Controller. However, when the clarificatory letter dated 25.6.2010 was issued, the system of advance declaration of energy was in vogue for fixation of energy and demand quota of the captive users.*

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34. *We find that the order dated 28.10.2009 by the State Commission modified the memo dated 17.11.2008 of the Electricity Board to the extent that the captive users had to declare on the first of every month the energy proposed for captive use which was to be considered for 'B' and 'F' in the formula specified in the memo dated 17.11.2008 and the Electricity Board on the basis of the advance declaration by the captive user intimated the demand and energy quota to the consumers. Thus after the modification in the procedure by order dated 28.10.2009 the consumers had the understanding and legitimate expectation that the equivalent demand will be based on the declared energy and not the energy actually consumed and excess demand and excess energy charges will be calculated on the demand and energy quota communicated by the Electricity Board. Once the quota has been fixed at the beginning of the month by Board based on the advance declaration by the consumer, and the consumer abided by it, it was unfair to change the same subsequently, as also held by the State Commission in its orders in DRP no. 13 and 14 of 2010 for some consumers related to billing for the month of July, 2010.*

16.15. From the Order of the Appellate Tribunal for Electricity in Appeal No. 51 and 56 of 2012, relevant paragraph of which are extracted above, the following conclusions emerge :-

1. The Order dated 28-10-2009 by the State Commission modified the memo dated 17-11-2008 of the Electricity Board to the extent that the captive users had to declare on the first of every month the energy proposed for captive use which was to be considered for "B" and "F" in the formula specified in the memo dated 17-11-2008.
2. The Electricity Board on the basis of the advance declaration by the captive user intimated the demand and energy quota to the consumers.
3. As per para 22 of APTEL's order in Appeal No.51 and 56 of 2012, the declared energy may not be the total energy injected by the captive wind generator during the month but the energy intended to be utilized by the captive consumer which shall roughly be equal to a monthly average

generation i.e. monthly average of annual energy generation which will not be equal to actual generation in the month.

16.16. The Order of the Hon'ble Appellate Tribunal for Electricity Appeal Nos 51 and 56 of 2012 has not been challenged by any party before the Supreme Court.

16.17. In view of the above, the only issue which requires consideration is whether the consumer has abided by the quota fixed at the beginning of the month by TANGEDCO based on the advance declaration by the consumer. For this purpose the details of the quota, actual consumption, etc as furnished by the petitioners in their new type set filed on 8-2-2013 are extracted below:-

17. WORKING SHEET FOR THE DISPUTED PERIOD BASED ON THE QUOTA LETTERS AND
CORRESPONDING CC BILLS

17.1 D.R.P No. 21 OF 2011 – ASWIN TEXTILES (P) LTD, HTSC NO.200:

	TNEB QUOTA (As per quota letters)				ACTUAL CONSUMPTION				EXCESS CONSUMPTION			
	DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)	
	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS
A	B	C	D	E	F	G	H	I	J	K	L	M
APRIL / 2010	849.24	460811	565.90	62399	741.93	370512	521.60	57808	NIL	NIL	NIL	NIL
MAY / 2010	841.82	460811	828.10	88611	739.20	340992	641.60	54992	NIL	NIL	NIL	NIL

17.2 D.R.P. No. 1 OF 2012 – SUPER SALES INDIA LIMITED, HTSC NO. 155:

A	TNEB QUOTA (As per quota letters)				ACTUAL CONSUMPTION				EXCESS CONSUMPTION			
	DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)	
	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS
B	C	D	E	F	G	H	I	J	K	L	M	
MAY / 2010	2132.93	1265209	1701.09	195260	1692.90	792360	102.80	8200	NIL	NIL	NIL	NIL

17.3 D.R.P. No. 2 OF 2012 – SPICTEX COTTON MILLS (P) LTD, HTSC NO.221

A	TNEB QUOTA (As per quota letters)				ACTUAL CONSUMPTION				EXCESS CONSUMPTION			
	DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)	
	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS
B	C	D	E	F	G	H	I	J	K	L	M	
APRIL / 2010	1385.05	867202	796.33	104245	1686.45	769140	1668	185180	301.40 (penalty already paid in the 04/ 2010 CC Bill)	NIL	681.10 (penalty already paid in the 04/ 2010 CC Bill)	49806 (penalty already paid in the 04/2010 CC Bill)
MAY / 2010	1591.45	1051629	1200.95	131583	1590	814180	1550	154400	NIL	NIL	349.05 (penalty already paid in the 04/ 2010 CC Bill)	222817 (penalty already paid in the 04/ 2010 CC Bill)

17.4 (i) D.R.P. No. 28 OF 2011 – BEST COTTON MILLS, HTSC NO. 129

A	TNEB QUOTA (As per quota letters)				ACTUAL CONSUMPTION				EXCESS CONSUMPTION			
	DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)	
	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS
B	C	D	E	F	G	H	I	J	K	L	M	
MAY / 2010	1822.57	1071760	1723.31	185141	1775.52	827160	1225.92	116328	NIL	NIL	NIL	NIL

17.4 (ii) D.R.P. No. 28 OF 2011 –RRD TEX, HTSC NO. 271

A	TNEB QUOTA (As per quota letters)				ACTUAL CONSUMPTION				EXCESS CONSUMPTION			
	DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)	
	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS
B	C	D	E	F	G	H	I	J	K	L	M	
MAY / 2010	3041.80	1934777	2112.28	250702	2910.40	1361840	1864	165840	NIL	NIL	NIL	NIL

17.5 D.R.P NO. 5 OF 2012 – BANNARI AMMAN SPG MILLS, UNIT – I, HTSC NO. 171

A	TNEB QUOTA (As per quota letters)				ACTUAL CONSUMPTION				EXCESS CONSUMPTION			
	DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)	
	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS
B	C	D	E	F	G	H	I	J	K	L	M	
MAY / 2010	2590.41	1498425	1362.39	184945.62	2349.60	1208637	1268	52203	NIL	NIL	NIL	NIL

17.6 D.R.P NO. 4 OF 2012 – BANNARI AMMAN SPG MILLS, UNIT – II, HTSC NO. 279

A	TNEB QUOTA (As per quota letters)				ACTUAL CONSUMPTION				EXCESS CONSUMPTION			
	DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)		DEMAND (KVA)		ENERGY (UNITS)	
	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS	NORMAL HOURS	PEAK HOURS
B	C	D	E	F	G	H	I	J	K	L	M	
MAY / 2010	7921.8	4500455	4292.23	588595.28	7480.80	3574620	4104	430920	NIL	NIL	NIL	NIL

18. From the Tables extracted above, it can be seen that there is no excess demand and excess energy consumption in most of the cases. Excess demand and excess energy has been shown only in case of DRP No. 2 of 2012 in respect of M/s.Spictex Cotton Mills Pvt Ltd which is stated to have been already paid.

19. Since the quota has to be fixed based on the advance declaration by the consumers in line with the order of the APTEL in Appeal Nos.51 and 56 of 2012,

especially para 22 of the order, during the relevant period, the Commission has not found any violation of overall demand and energy quota fixed by TANGEDCO and the actual consumption by the petitioners except in the case of DRP No. 2 of 2012 relating to M/s Spictex Cotton Mills Pvt Ltd. Hence the BOAB Audit slips and consequential demand notices which are impugned in D.R.P.No.21 of 2011; D.R.P.No.28 of 2011; D.R.P.No.1 of 2012; D.R.P.No.4 of 2012 and D.R.P.No.5 of 2012 are hereby set aside. So far as the petitioner in D.R.P.No.2 of 2012 is concerned no relief can be granted since the petitioner has admitted in paras 7 and 8 of his petition that there was an excess consumption of demand quota during normal hours and excess consumption of demand and energy quota during peak hours in the month of April 2010 and excess consumption of demand and energy quota during peak hours in May 2010. All the six petitions are disposed of on the above lines. There shall be no order as to cost.

17. Appeal:-

An Appeal against this Order shall lie before the Appellate Tribunal for Electricity under section 111 of the Electricity Act 2003 within 45 days from the date of receipt of a copy of this order by the aggrieved person.

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

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission