

energy generator actually consumed by the captive user or energy adjusted in a month.

- (ii) However, the memo dated 17.11.2008 was modified by the State Commission order dated 28.10.2009 to the extent that the demand and energy quota was fixed on the basis of advance declaration of captive energy by the consumer. This created an ambiguous situation. Once the quota has been fixed by the Electricity Board on the basis of the advance declaration and communicated to the consumer and the consumer abided by it, the same cannot be changed subsequently.*
- (iii) However, once the system of advance declaration was dispensed with by the order dated 7.9.2010, the memo dated 17.11.2008 in original form as interpreted in this judgment as read with the order dated 7.9.2010 shall take effect.*
- (iv) Thus, it has to be held that the State Commission was not correct in holding that the clarification will take effect from 25.6.2010 because the procedure of advance declaration of energy by the consumer and communication of demand and energy quota as per the order dated 28.10.2009 was still in vogue and the same was modified only by the order dated 7.9.2010. Thus till September, 2010, the demand and energy quota as communicated to the consumers by the Electricity Board based on the advance declaration of energy by the consumers will have effect for calculation of excess demand and energy charges. Thereafter, from 1.10.2010, the method of*

calculating the equivalent demand on the basis of energy from wind energy generator actually consumed or adjusted in consonance with the order dated 7.9.2010 read with memo dated 17.11.2008 shall take effect.

40. In view of the above we allow the Appeals and set aside the impugned order to the extent indicated above. The State Commission is directed to pass the consequential order within 30 days from the date of communication of this judgment. No order as to Costs. “

In the light of the above directions of the Hon'ble APTEL, this Commission passes the following consequential order

ORDER

- (i) TANGEDCO shall resort to calculation of the demand and energy quota based on the wind energy actually consumed by the captive user and adjusted in the same month with effect from 1-10-2010.
- (ii) As directed by the APTEL in para 39 (iv), the implementation of this order may be confirmed within a month's time.
- (iii) This order shall be posted in the website of the Commission and copies be forwarded to TANGEDCO for compliance and copies may also be sent to other parties to the appeal viz. M/s. Indian Wind Power Association, Chennai and Southern India Mills Association, Coimbatore.

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

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

// True Copy //

Secretary
Tamil Nadu Electricity
Regulatory Commission