

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

(Constituted under section 82 (1) of the Electricity Act, 2003

(Central Act 36 of 2003)

R.A. No. 3 of 2013

PRESENT:-

Thiru. K. Venugopal

..... Member

and

Thiru. S. Nagalsamy

..... Member

**In the matter of implementation of the order dated 24-9-2012 of the Hon'ble
Appellate Tribunal for Electricity in Appeal No. 40 of 2012:**

Date of Order : 21-2-2013

Consequent to the order passed by the Hon'ble ATE in its Order dt. 24-9-2012 in Appeal No. 40 of 2012 directing the Commission to treat M/s. Kaveri Gas Power Ltd. as a short term open access consumer, it has been decided by the Commission to treat the remanded matter as a remand application and the consequential order as directed by the ATE is hereby passed. In this connection, the directions of the ATE in the order under reference are extracted as below:

"Summary of Our Findings

i) The Open Access Regulations specify that Short Term Open Access customer is one who avails intra-state open access for a period of one year or less. The Long Term Open Access customer is one who avails open access for a period of 5 years or more. However, Open Access application

for a period less than five years and more than 1 year has to be considered under Short Term Open Access only and to be allowed at a time for a period not exceeding one year. In this case the Wheeling Agreement dated 4.10.2008 was for a period of 3 years.

ii) The period prior to the execution of Energy Wheeling Agreement can not be taken into account Appeal No.40 of 2012 while calculating the period for determining the question whether the Appellant is a Long Term Open Access Customer or not, particularly when the Energy Wheeling Agreement was valid for a period of three years from the date of execution of the Agreement. Accordingly, the Appellant has to be treated as a Short Term Open Access Customer. If the intention of the Electricity Board was to give long term open access then it should have entered into a long term wheeling agreement for a period of 5 years or more.

iii) The Respondent No.1 is liable to refund the excess amount collected from the Appellant from 19.10.2007 to 03.10.2008 wherein the Appellant was erroneously treated as a Long Term Open Access Customer.”

It may be seen from the aforesaid directions of the ATE that the appellant in the said appeal namely Kaveri Gas Power Ltd. has to be treated as a short term open access customer. As directed by the Hon'ble ATE, the Commission hereby passes this consequential order further directing the TANGEDCO to treat the company as a short term open access customer and refund the excess amount collected from the appellant, namely, Kaveri Gas Power Ltd. for the period from 19-10-2007 to 3-10-2008.

The above order is hosted in the website of the Commission and copies forwarded to TANGEDCO for compliance and copies may also be sent to the

other party to the said Appeal No. 40 of 2012, namely, M/s. Kaveri Gas Power Ltd., Chennai.

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

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

/True Copy/

Secretary
Tamil Nadu Electricity
Regulatory Commission

To

1. The Chairman & Managing Director
TANGEDCO (TNEB),
NPKR Malaigai,
144, Anna Salai,
Chennai – 600 002.
2. Kaveri Gas Power Ltd.
5, Ranganathan Garden,
Anna Nagar,
Chennai – 40.
3. The Superintending Engineer,
Nagapattinam Electricity Distribution Circle,
The Tamil Nadu Generation and Distribution
Corporation Limited,
No.36, Sadayappar East Street,
Nagapattinam- 611 011
4. The Assistant Director (Computer)
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmi pathy Salai
Egmore,
Chennai – 600 008. - for hosting in the website.