

ORDER

The Petitioner has filed the above D.R.P. with the prayer to pass an order setting aside the Notice dated 29-12-2012 issued by the 2nd Respondent as illegal, arbitrary, without the authority of law and against and orders of the Commission made in D.R.Ps.No.14 & 15 of 2010 dated 14-3-2011 and R.Ps.No.3 & 4 of 2011 in D.R.Ps.No.13 & 14 of 2010 dated 15-11-2011 and the orders of the Hon'ble APTEL made in Appeals No.51 & 56 of 2012. The Superintending Engineer, Mettur Dam, the second Respondent herein has in the impugned notice made a demand of Rs.13,98,050/- being the short levy for excess over the energy in peak hour for the month of 04/11 and 05/11 in respect of the Petitioners HTSC No.235. However, in the Counter filed by the second Respondent in the above D.R.P. it has been submitted that based on Memo No. CE/Comml/ EE/DSM/ AEE/ F.R&C/D.56/11 dt. 11-02-2011, the petitioner had informed that "their base energy to be re-fixed based on the average of three consecutive month of January 2008, February 2008 and March 2008 and the base demand recorded for the month of September 2008". In continuation to the above, the demand and energy quota had been fixed erroneously and excessively by the 2nd Respondent on oversight by taking into account of the supplied units on the average of three consecutive months (01/2008 to 3/2008) and demand for the month of 09/2008 instead of taking into account of the adjusted units. The same had been pointed out by the BOAB audit and the demand and energy quota had been revised and re-fixed on adjusted units. Consequently on the revision of quota, the excess charges/short levy had been arrived for an amount of Rs.13,98,050/- in respect of the months from 04/2011 to 05/2011. The same had

been communicated to the Petitioner for payment of short levy vide letter dt. 29-12-2012 by the 2nd Respondent besides the quota already fixed erroneously had been revised and re-fixed from the month of 10/2012 onwards by the 2nd Respondent vide letter dt. 27-09-2012. It has been further submitted in the counter that the Commission in its earlier decision has pointed out that the quota fixed in the respective month is constant one and the same could not be revised and re-fixed at any occurrence. Hence, the audit short levy amount raised by the 2nd Respondent has been withdrawn.

When the case was taken up for final hearing on 19-03-2014 the counsel for the Respondent submitted that the Audit objection and notice thereon dated 29-12-2012 which resulted in the filing of the above D.R.P. by the petitioner have been withdrawn by the respondent and therefore nothing survives in this case. The counsel for Petitioner also confirmed the said fact and submitted that nothing survives in this D.R.P.

Considering the above factual position, the D.R.P. as well as the I.A.No.1 of 2013 in the said D.R.P. are closed.

(Sd.....)
(G.Rajagopal)
Member

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

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission