

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

**PRESENT:-**

Thiru.S.Nagalsamy ..... Member  
and

Thiru.G.Rajagopal ..... Member

**I.A.No.1 of 2012 in R.P.No.4 of 2012**  
**and**  
**R.P.No.4 of 2012 in M.P.No.10 of 2012**

Tamil Nadu Generation and  
Distribution Corporation Limited  
No.144, Anna Salai, Chennai – 600 002  
Represented by its Chief Engineer / Commercial

... Petitioner  
(Thiru N.C.Ramesh, Senior Advocate for  
Thiru P.H.Vinod Pandian, Standing Counsel  
for TANGEDCO)

Vs

NIL

....Respondent

**Dates of hearing :** 18-10-2012, 19-10-2012, 28-11-2012,  
30-01-2013, 19-02-2014 and 29-04-2014  
**Date of order :** 22-09-2014

The above I.A.No.1 of 2012 in R.P.No.4 of 2012 and R.P.No.4 of 2012 in M.P.No.10 of 2012 came up for final hearing before the Commission on 29-04-2014. The Commission upon perusing the above petitions and the connected records and after hearing the Petitioner passes the following order:-

**ORDER**

**1. Prayer of the Petitioner:**

**1.1. Prayer in Review Petition No.4 of 2012 in M.P.No.10 of 2012:-**

The prayer of the Petitioner is 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 the Commission may deem it fit and proper under the circumstance of the case and render justice.

**1.2. Prayer in I.A. No.1 of 2012 in Review Petition No.4 of 2012 in M.P.No.10 of 2012:-**

The prayer of the Petitioner is to pass an order of Interim Stay of the impugned order dated 28-09-2012 passed in the M.P.No.10 of 2012, in so far as the issues raised for a Review in the Review Petition and pass such other order or orders as this Commission may deem fit and proper under the circumstances of the case and render justice.

**2. Facts of the case:-**

A batch of Writ Petitions in W.P. (M.D.) Nos.4314 to 4316 of 2012 etc. were filed before the High Court, Madras challenging the orders issued by TANGEDCO in Memo No.CE/Comm/EE/DSM/F.Power Cut/D.No.48 of 2012 dated 29-02-2012, imposing a ban on the drawal of third party power purchase and self-generated wind mill energy during the period of power holidays and periods of load shedding. The said Memo was a sequel to issue of earlier Memo dated 25.2.2012 of TANGEDCO in which it had sought to implement certain R&C measures. After lengthy arguments, the Hon'ble High Court in the above Writ Petitions has inter-alia directed that the respondent therein (TANGEDCO) is at liberty to move the Regulatory Commission seeking appropriate orders imposing certain conditions on the High Tension industries and the application have to be filed within ten days from the date of the

order. Relevant portion of the orders of the High Court of Madras dated 04-04-2012 in the said Writ Petitions was as below:-

- “(a) The respondents are at liberty to move the Regulatory Commission seeking appropriate orders imposing certain conditions on the high Tension Industries. The said applications have to be filed by the respondents within ten days from this date.
- (b) On filing of the necessary applications by the respondents, the Tamil Nadu Electricity Regulatory Commission is at liberty to pass orders. In any event, the Commission is directed to pass orders within thirty days from the date of filing of such applications after necessarily following due process of law.
- (c) Till the final order is passed by the Tamil Nadu Electricity Regulatory Commission, the petitioners shall not consume or draw more power than what they purchase from the third party sources / self-generating power / wind mill generation / C.P.P. / Banked units.
- (d) If the petitioners consume or draw more than the power purchased from the third party sources / self-generating power / wind mill generation / C.P.P. / Banked units, the respondents are at liberty to take action against the concerned petitioners in accordance with their regulations.
- (e) The banking adjustments shall also be permitted in the same manner, as it was being done prior to the impugned proceedings ated29.2.2012”

2.1. Pursuant to the above orders of the High Court, Madras, TANGEDCO filed M.P.No.10 of 2012 before this Commission. In the said M.P., the petitioner submitted that there is a huge deficit in power position in the State due to widening of gap between demand and availability.

2.2. On a careful consideration of rival submissions in the said M.P.No.10 of 2012, the following issues arose for consideration of the Commission:-

- (a) Whether circulars dated 25.2.2012 and 29.2.2012 of TANGEDCO are valid vis-à-vis regulation 38 of the Tamil Nadu Electricity Distribution Code and

whether the said circulars have enlarged the scope of Regulation 38 of the Tamil Nadu Electricity Distribution Code?

- (b) Whether the circulars dated 25.2.2012 and 29.2.2012 have transgressed the rights of Open Access Consumers under section 42 of the Electricity Act,2003 and Captive Consumers under section 9 of the Electricity Act, 2003.
- (c) Whether the approval of the Commission is mandatory for Restriction and Control Measures in the light of the stand taken by TANGEDCO that there is no such requirement under Regulation 38 of the TN Electricity Distribution Code?

2.3. The Commission after consideration of the above issues in the light of the provisions of the Electricity Act,2003, the Tamil Nadu Electricity Distribution Code, Tamil Nadu Electricity Supply Code and upon hearing the submissions of the Advocates for the parties, Thiru. K.Venkatachalam, Chief Advisor, M/s.Tamil Nadu Spinning Mills Association, Thiru V.Rengarajan, Secretary, South Indian Mills Association, Thiru Ilango, Vice-President, Tamil Nadu Electricity Consumers' Association, Thiru R.P.Sudhakar, Executive, M/s.Brakes India Limited, Thiru V.K.Krishnan, Executive, IWAA, Thiru S.Gandhi, President, Power Engineers' Society of Tamil Nadu and other stakeholders and upon perusing the connected records inter-alia made the following order on 28-09-2012 in the said M.P.No.10 of 2012:-

*“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”.*

2.4. Praying to review the above orders of the Commission dated 28-09-2012 made in M.P. No.10 of 2012, the Petitioner has filed the present R.P.No.4 of 2012.

### **3. Contentions of the Petitioner in R.P.No.4 of 2012:-**

3.1. The Petitioner has filed the above review petition against the order passed by the 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 1000 MW.

3.2. The 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 25-02-2012 and 29-02-2012 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 29-02-2012 to 05-03-2012 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”.*

3.3. 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 the Commission.

3.4. 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 the 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 the Commission by its order dated 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 dated 25-02-2012 and 29-02-2012. Challenging the said Memos, several writ petitions were filed before Hon'ble High Court and the Hon'ble Court by order dated 27-03-2012, gave a direction to approach the Commission for introducing the additional R&C measures, as set out in the Memos dated 25-02-2012 and 29-02-2012. 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 the Commission. The Commission after hearing the Petitioner and the stake holders was pleased to pass an order dated 28-09-2012 in M.P.No.10 of 2012, setting aside both the Memos dated 25-02-2012 and 29-02-2012 for the reasons stated in the order.

3.5. The R & C measures were introduced from 01-11-2008, admittedly, after getting the approval of the Commission since the measures were sought to be introduced for the first time. The Commission was pleased to allow 40% power cut and 90% power cut during peak hours as proposed by the 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 M.P.No.42 of 2008 at any time. In view of above, the order passed by the Commission, requires to be reviewed.

3.6. 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 far reaching consequences, having regard to the fact that the restriction of power cut has already been approved by the Commission while passing orders in M.P.No.42 of 2008 dated 28-11-2008. In any event, the present R & C measures were introduced to offset the power position in order to give equal utilization of power available, amongst 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, the Commission may review the order in M.P.No.10 of 2012.

3.7. The additional R & C measures introduced was in the earlier Memo dated 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.

3.8. The introduction of power holiday has been withdrawn from 02-06-2012, and (which position has been discussed in the order under review by the 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 dated 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 dated 29-09-2012 has already been withdrawn and the same has also been discussed by the Commission in the order under review. Therefore, if the Memo dated 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 be implemented with effect from 27-02-2012 viz. item (A) (i) and (ii) as set out in the Memo dated 25-02-2012, which has already been approved by the Commission while ordering M.P.No.42 of



2008. Further the Grid management would be very tough task to be managed by TANGEDCO and TANTRANSCO.

3.9. Regulation 38 of the Tamil Nadu Electricity Distribution Code, 2004 provides for operation of it under two different situation / contingency. It postulates the use of the Regulation by the TANGEDCO to curtail the use of electricity by the consumer under certain situations mentioned therein, including exercise of the power by the TANGEDCO, if the power position warrants such an action. On the contrary the latter portion of the said Regulation provides as follows:-

*“Notwithstanding anything contained in any agreement / undertaking executed by a consumer with the license 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 matter and for the period as may be specified in any order that may be made by the licensee on the instructions of State Government or the Commission”.*

3.10. The earlier portion and the later portion of the Regulation 38 operates, under different circumstances. In fact in the Memos issued by the TANGEDCO, it only regulated the use of power and not altogether directed the ceasing of use of power by the licence. In view of the above, the findings rendered by the Commission on Regulation 38 of the Tamil Nadu Electricity Distribution Code, 2004 in the order under review requires reconsideration.

3.11. Consequent on the earlier ground of review, 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 / 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 Commission, and not otherwise. Having regard to the above, the findings rendered by the Commission on this aspect of the matter made in the order under review requires a reconsideration.

3.12. 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 licensee 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 licensee on the instruction of the State Government or the Commission. Therefore, 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 the Hon'ble Commission and not otherwise. Having regard to the above, the findings rendered by the Commission on this aspect of the matter made in the order under review requires a reconsideration.

#### **4. Interim order made by the Commission on 19-10-2012:-**

During the hearing on 18-10-2012, the Commission heard the arguments of Thiru N.C. Ramesh, Senior Advocate on behalf of the Petitioner. Thereafter, after perusing the documents filed by the Petitioner, the Commission on 19-10-2012, made an interim order in the I.A. No.1 of 2012 in the above R.P.No.4 of 2012. Paragraph 3 of the said interim order is as follows:-

*“The learned Senior Counsel also contended that if the Memo dated 25-02-2012 of the TANGEDCO is quashed in its entirety then the Review Petitioner would not be in a position to implement the R & C measures as set out in the said Memo dated 25-02-2012, which has been approved by the Government of Tamil Nadu vide its letter dated 29-02-2012. It has also been pointed out by him that a mistake of fact has crept in, in the orders passed by the Commission in M.P.No.10 of 2012 which sets aside the said Memo in toto, without taking into consideration the approval granted by the Government of Tamil Nadu for imposing additional R&C measures in its letter dated 29-02-2012. To this extent, the Review Petition is admitted. The Review Petition shall be hosted in the website of TANGEDCO and Tamil Nadu Electricity Regulatory Commission for comments by interested stakeholders upto 02-11-2012. Post the matter thereafter for further hearing. Till such time, the orders passed by the Commission in M.P.No.10 of 2012, setting aside the Memo of TANGEDCO dated 25-02-2012 shall not be given effect in respect of the following portion of the said Memo dated 25-02-2012:-*

- (iv) 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%.*
- (v) 90% cut on quota demand and energy for HT Industrial and Commercial services during peak hours i.e. 18.00 hours to 22.00 hours”.*

## **5. Public comments received:-**

5.1. In response to the notice posted on the website of the Petitioner/ TANGEDCO and of the TNERC as to this R.P., the Tamil Nadu Spinning Mills Association and

M/s.Pandiyan Chemicals Ltd. have sent comments. The Tamil Nadu Spinning Mills Association vide their communication dated 22-10-2012 has offered its comments as follows:-

- a) *Instead of the words “peak hour”, the words “restricted hour” may be notified.*
- b) *There may be a period notified for extending the R & C measures as per the requirement of Regulation 38 of the Tamil Nadu Electricity Distribution Code, 2004.*
- c) *The Additional Load shedding of one more hour in Chennai and sub-urban areas as enforced needs to be considered before issuing orders on the Review Petition”.*

5.2. M/s.Pandian Chemicals Ltd. vide its communication dated 27-10-2012 offered the comments as follows:-

- a) *The percentage power cut introduced is a fixed percentage and TANGEDCO, the Petitioner has no locus standi to reduce it even though it is within the figure of power cut. According to section 23 of the Electricity Act, 2003, any action affecting the consumers shall be implemented with the express orders of the Commission only. If Petitioner wanted modifications they should have appealed then itself or should have gone to Appellate Authority.*
- b) *The Petitioner’s contention that if the orders of the Commission is implemented, it will have far reaching consequences is meaningless and argument without substance.*
- c) *The statement of the Petitioner that Government has approved the R & C measures is untenable and not an acceptable argument. According to Clause 11 and 37 of the Electricity Act, 2003, appropriate Government can issue directions to Generating Company and Load*

*Despatch Centres directly and no such directions can be given to Distribution Licensees. The functions of the State Commissions are covered fully by sections 23 and 86 of the Act and only the Commission can issue orders related to State Grid Code and State Distribution Code. State Government can issue orders related to distribution matters to the Commission only and the Commission will act on the directions of the Government. Hence, the statement that the Petitioner has acted on the advice of the Government is not in order violates the provisions of the Act. Further the memo containing additional R & C measures dated 25-02-2012 was approved by Government on 29-02-2012, which clearly shows that the Petitioner has acted on its own and the statement that it acted on the advice of the Government is also wrong. When the Government itself does not have powers to issue orders related to R & C measures, the question of following it does not arise.*

- d) *Regulation 38 of Tamil Nadu Distribution Code stipulates that the R & C measures can be introduced by Licensee on instructions from Government or Commission. This should be read with sections 23 and 108 of the Act and the Government's orders shall be endorsed by the Commission. Further, in violation of Regulation 12 of Tamil Nadu Electricity Distribution Standards of Performance Regulations, no advance notice is given through newspapers stating when power supply will not be available. At present there is blatant discrimination in enforcing power cut as power is not made available for unspecified 14 hours per day in Southern Districts while only 2 hours power cut per day is enforced in Chennai city.*

- e) *The "Period" mentioned in Regulation 38 of the Distribution Code refers to the period upto which the earlier orders of R & C measures ordered by the Commission will continue and if any specific ending period is not mentioned any change shall be covered by orders of the Commission only.*

5.3. The copies of the comments were duly provided to TANGEDCO. During the hearing held on 30-01-2013, the Counsel for Kongu Vellalar Maha Sabha appeared before the Commission and read out certain comments on behalf of the said Sabha. Since those comments were not relevant to the present R.P. and were relevant to M.P.No.43 of 2012 filed by Tamil Nadu Electricity Consumer Association in the matter of seeking equitable distribution of electricity, such comments could be considered only in respect of the said M.P.No.43 of 2012.

**6. Status on power position as reported by the Petitioner/TANGEDCO in Affidavit dated 09-04-2014:-**

6.1. During November, 2008, the total number of services were about 2.03 crores and the total connected load was about 41750 MW.

6.2. During November 2008, the demand and supply gap was between 1800 MW to 2200 MW. To meet the gap the following Restriction and Control measures were introduced from 01-11-2008 as per direction of State Government and with the approval of the Commission:-

- (a) 40% power cut to HT industrial and commercial services.
- (b) 95% power cut for HT industrial and 90% power cut for HT Commercial services during evening peak hours.

- (c) 20% energy cut for LTCT industrial and commercial services.
- (d) LT industrial and commercial services consuming more than 2000 units would be required to reduce their consumption by 20%.
- (e) Load shedding as and when required on the grid condition was carried out for about 2 hours in Chennai and 3 to 4 hrs. for other parts of Tamil Nadu.

6.3. From 26-05-2009 the 20% energy cut for LTCT Industrial and Commercial services and for LT Industrial and Commercial services consuming more than 2000 units was withdrawn.

6.4. There was considerable delay in commissioning of the Central Generating Projects such as Kudankulam Atomic Power Station Units I and II (each 1000 Megawatts) scheduled to be commissioned in December 2007 and 2008, respectively, and the Neyveli Lignite Corporation Thermal Power Station II Expansion Units I and II (each 250 Megawatts) which were scheduled to be commissioned in February and June 2009 and hence the demand and supply gap rose to the tune of about 4000 MW in the year 2012 due to load growth and extension of new services.

6.5. In the event of forced outages of Central Generating Stations and State owned stations, load shedding was resorted to by carrying out 2 hours to Chennai and 3 hours or more for other areas of Tamil Nadu for the safety and security of the Grid and to avoid any possible grid collapse. Moreover, load shedding was inevitable so as to maintain the frequency bandwidth between 49.70 Hz. to 50.2 Hz as specified by Central Electricity Authority.

6.6. TANGEDCO took all possible steps expeditiously and commissioned its own projects (i) Mettur Thermal Power Station 1 x 600 Megawatts (COD 12-10-2013), (ii) NTPC-TNEB JV (3X500MW), Vallur Units 1&II (COD 29-11-2012 and 25-08-2013) and both units of North Chennai Thermal Power Station (2x600 MW).

6.7. In spite of the capacity additions the demand and supply gap could not be made zero due to the necessity to provide 12 hours supply in delta areas to save the standing crops for certain period, exemption to certain categories of consumers such as MoU signed companies, uninterrupted supply to school feeders during public exams etc.

6.8. In line with the policy of the Government of Tamil Nadu in encouraging non-conventional energy sources TANGEDCO has been promoting private wind generation in the State and the installed capacity has reached around 7200 MW in March 2014. The power from these wind sources to a tune of 3000 Megawatts is available from May to September, though it is seasonal and infirm. Wind power is generally not available to that extent during the period from October to April and hence additional load shedding is being resorted to if the required level of generation is not available from other sources.

6.9. The Government of Tamil Nadu has recently come out with a Solar Energy Policy–2012 for harnessing solar power to an extent of 3000 MW and it is expected that some solar generation will be adding upto the grid in a shortwhile.

5.10. To overcome the load shedding and improve the power situation in our State, a 9 member Committee headed by Hon'ble Minister for Electricity is reviewing the power position on every Monday and further the Chief Secretary, CMD /



TANGEDCO and other officials are reviewing the status of new projects periodically with main EPC contractors and suppliers of NTPC, BHEL NLC for early commissioning of the projects. The present status of projects is as below:-

Newly commissioned projects					
Sl. No.	Name of the Projects	Type	Sector	Installed Capacity / TANGEDCOs share	Date of Commissioning
1	NTPC-TNEB JV at Vallur (3x500 MW)	Thermal	JV	1000/694	Units-1&2/ 29-11-2012 & 25-08-2013
2	Mettur TPS Stage-3 (1x600MW)	Thermal	State	600	12-10-2013
3	Kudankulam APS Unit-1 (1000 MW)	Nuclear	Central	1000/462	Synchronised on 22-10-2013
4	NTPC-TNEB JV at Vallur (3x500 MW)	Thermal	JV	500/347	Unit-3 Feb'14
5	North Chennai TPS Stage-2 (2x600MW)	Thermal	State	1200	Unit-1 30-06-2013 Unit-2 27-12-2012
On-going Projects					
Sl. No.	Name of the Projects	Type	Sector	Installed Capacity / TANGEDCOs share	Date of Commissioning
1	NLC-TNEB JV at Tuticorin (2x500 MW)	Thermal	JV	500/193.5	Units-1 June'14
2	Neyveli TS-II Expansion Units-1 & 2 (2x250MW)	Thermal	Central	250/115	Unit-1 June'14
3	Neyveli TS-II Expansion Unit-1&2 (2x250MW)	Thermal	Central	250/115	Unit-2 June'14
4	Cogeneration Power Projects	Thermal	State	183	2014-15
5	NLC-TNEB JV at Tuticorin (2x500 MW)	Thermal	JV	500/193.5	Unit-2 Sep'14

6	Kudankulam APS Unit-2 (1000 MW)	Nuclear	Central	1000/463	Nov'14
7	Udangudi Power Project (2x660 MW)	Thermal	State	1320	Unit I & II by Dec'-17 and June-18
8	ETPS Expansion Project	Thermal	State	660	By Dec-17
9	Ennore SEZ STPS (2 x 660 MW)	Thermal	State	1320	Units-I&II by Dec'17 & June-18.
10.	Krishnapatnam UMPP(6x660 MW)	Thermal	UMPP	3960/792	Under litigation
11	Cheyur UMPP (5 x 800 MW) Unit 1	Thermal	UMPP	800/320	2018-19
12	Uppur TPP at Ramanathapuram District (2x800 MW)	Thermal	Tariff based competitive bidding	1600	2018-19
13	NCTPS Stg III (1x800MW)	Thermal	State	800	2018-19
14	Replacement of Ennore TPS (1x660 MW)	Thermal	State	660	2018-19
15	Gare Pelma Sector II Coal Block	Thermal	Pithead	1200	2018-19
16	Udangudi Expansion Stage II (1 x 800 MW)	Thermal	State	800	May'19
17	Cheyur UMPP (5x800 MW) Units 2 & 3	Thermal	UMPP	1600/640	2019-20

6.11. With the newly commissioned projects, the availability of firm power has come in the range of 10500 to 11500 MW and the following relaxation of R & C Measures were / are being extended to all sorts of consumers:-

- (a) From July 2013 to 21<sup>st</sup> February 2014 for about 150 days no load shedding was carried out.
- (b) From 14-08-2013 to 30-09-2013, the existing 40% power cut to HT Industrial & Commercial consumers was totally relaxed during normal hours and 90% evening peak hour power cut was relaxed to 40%.

- (c) From 01-10-2013 onwards the 40% power cut which was existing prior to 14-08-2013 was relaxed to 20% during normal hours and 90% power cut on peak hour was reintroduced from 01-10-2013.
- (d) All feeders feeding schools with exam centres are being exempted from the purview of load shedding during examination days.
- (e) The feeders feeding temples / churches / mosques are being exempted from the purview of load shedding during their festivals seasons.
- (f) As on 30-09-2013, TANGEDCO has extended supply to about 2.48 crore consumers with a connected load of 55385 MW. Thus even under R & C period during the last 5 years, TANGEDCO has extended new services to about 45 lakh consumers with addition of new loads of about 13635 MW.

6.12. TANGEDCO is taking all possible steps with the help of State Government to achieve zero load shedding hours from June 2014 onwards. Under the circumstances stated above, the Commission may review the order, dated 28-09-2012 made in M.P.No.10 of 2012 by allowing the above Review Petition.

## **7. Findings of the Commission:-**

7.1. The above Review Petition together with I.A came up for admission on 18-10-2012. The Commission upon hearing the arguments of the Senior Advocate for the petitioner issued an Interim Order on 19-10-2012. The operating portion of the Commission's interim order dated 19-10-2012 on I.A.No.1 of 2012 in R.P.No.4 of 2012 is reproduced below:

1. *R.P.No.4 of 2012 along with I.A. No.1 of 2012 in the said Review Petition came up for admission on 18-10-2012. The above Review Petition has been filed by TANGEDCO to review the orders passed by the Commission in M.P.No.10 of*

2012 dated 28-09-2012, wherein the Commission has set aside the memos dated 25-02-2012 and 29-02-2012 in its entirety. The I.A. has been filed to stay the said orders of the Commission till the disposal of the Review Petition.

2. *Heard the learned Senior Counsel who appeared on behalf of the TANGEDCO. The learned Senior Counsel, referring to ground (d) of the Review Petition argued that Regulation 38 of the Tamil Nadu Electricity Distribution Code, 2004 provides for operation of it under two different situation / contingency and it postulates curtailing the use of electricity by the consumer under certain situation, including exercise of the power by Review Petitioner if the power position warrants and later portion of the said Regulation 38 operates under different circumstances and in fact that impugned memo only regulated the use of power and not all together directed to ceasing of use of power by the licensee and pleaded that findings rendered by this Commission on the interpretation of the said Regulation 38 requires reconsideration. The Commission has elaborately discussed this issue in para 6 of the order dated 28-09-2012 in M.P.No.10 of 2012 and clearly discussed and explained the scope of the said Regulation 38. Hence, we outrightly reject this argument of the learned Senior Counsel and this cannot be a matter for review. If the Petitioner is aggrieved over the findings of this Commission, it is open to him to take up the issue before the Appellate Forum, since this issue cannot come within the scope of review. This portion of the contention / ground in the Review Petition is therefore not admitted.*
3. *The learned Senior Counsel also contended that if the memo dated 25-02-2012 of the TANGEDCO is quashed in its entirety then the Review Petitioner would not be in a position to implement the R & C measures as set out in the said memo dated 25-02-2012, which has been approved by the Government of Tamil Nadu vide its letter dated 29-02-2012. It has also been pointed out by him that a mistake of fact has crept in, in the orders passed by the Commission in M.P.No.10 of 2012 which sets aside the said memo in toto, without taking into consideration the approval granted by the Government of Tamil Nadu for imposing additional R&C measures in its letter dated 29-02-2012. To this extent, the Review Petition is admitted. The Review Petition shall be hosted in the website of TANGEDCO and Tamil Nadu Electricity Regulatory Commission for comments by interested stakeholders upto 02-11-2012. Post the matter thereafter for further hearing. Till such time, the orders passed by the Commission in M.P.No.10 of 2012, setting aside the memo of TANGEDCO dated 25-02-2012 shall not be given effect in respect of the following portion of the said memo dated 25-02-2012:-*
  - (iv) *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%.*
  - (v) *90% cut on quota demand and energy for HT Industrial and Commercial services during peak hours i.e. 18.00 hours to 22.00 hours”.*

7.2. As per the interim orders, R.P.No.4 of 2012 was hosted in the websites of the Commission & TANGEDCO inviting comments from the interested parties. During the hearing of the case on 30-01-2013, the counsel for Kongu Vellalar Maha Sabha appeared and read out their comments. The comments appeared to be not relevant to the present petition and it is related to Case No.43 of 2012 dealing with the equitable distribution of electricity. The counsel for Kongu Vellalar Maha Sabha was informed that their comments would be considered while taking up the relevant cases. The important comments received from others namely M/s. Tamilnadu Spinning Mills Association and M/s.Pandian Chemicals Limited are reproduced below:

#### **Comments received from M/s.Tamilnadu Spinning Mills Association**

*As the TANGEDCO is already enforcing 40% power cut on base demand and energy on all HT Industrial and Commercial services under Tariff I & III with effect from 27.02.2012, it could be continued and however, TANGEDCO should come forward to spell out the period up to which the above R&C measures are required, in pursuance of Regulation 38 which mandates the Distribution Licensee to specify the period. Hence, in compliance of the same, the Hon'ble Commission may insist to declare the period so as to pass orders appropriately by specifying the period also as it cannot be for a non-specified period.*

*Further, the word "peak hours" has a specific application to mean to notify the following hours as peak hours – from 6.00 AM to 9.00 AM and 6.00 PM to 9.00 PM. As such the work "peak hours" seen with the hours from 18.00 to 22.00 may not totally come within the period of peak hours. Therefore, if any order is to be passed, it should mean to notify the word "restricted hours of 18.00 to 22.00 hours" instead of the word "peak hours" to avoid any ambiguity in future.*

*Further, the TANGEDCO has now started enforcing load shedding in Chennai instead of one hour to two hours from 18.10.2012 onwards and as such, the TANGEDCO may be advised to amend the prayer in the Review Petition and accordingly, orders to the effect, on the same may also be considered while issuing final orders on the Review Petition. In short, the following may be ensured.*

- a) Instead of the words "peak hour", the words "restricted hour" may be notified.*
- b) There may be a period notified for extending the R&C measures as per the requirement of Regulation 38 of the TN Electricity Distribution Code 2004.*
- c) The Additional Load Shedding of one more hour in Chennai and sub urban areas as enforced needs to be considered before issuing orders on the Review Petition.*

## **Comments received from M/s.Pandian Chemicals Limited**

*I respectfully submit that the grounds on which TANGEDCO requests to review the order and justify their action of modifying the orders of Honorable Commission needs no revision and looks to be not in order under the following grounds.*

- a) *The percentage power cut introduced is a fixed percentage and TANGEDCO, the petitioner has no locus standi to reduce it even though it is within the figure of power cut. According the Section 23 of Electricity Act 2003, any action affecting the consumer shall be implemented with the express orders of the Hon'ble Commission only. If petitioner wanted modifications they should have appealed then itself or should have gone to Appellate Authority.*
- b) *It is respectfully submitted that the Petitioner's contention that if the orders of the Hon'ble commission is implemented, it will have far reaching consequences is meaningless and argument without substance.*
- c) *It is respectfully submitted that the statement of the Petitioner that Government has approved the R&C measures is untenable and not an acceptable argument According the Clause 11 and 37 of Electricity Act 2003, Appropriate Government can issue directions to Generating Company and Load Despatch Centres directly and no such directions can be given to Distribution Licensees. The functions of the State Commissions are covered fully by Sections 23 and 86 of the Act and only Hon'ble Commission can issue orders related to State Grid Code and State Distribution Code. State Government can issue orders related to Distribution matters to Hon'ble Commission only and Commission will act on the directions of the Government. Hence the statement that the Petitioner has acted on the advice of the Government is not in order violates the provisions of the Act. Further the memo containing additional R&C measures dated 25-02-2012 was approved by Government on 29-02-2012, which clearly shows that the Petitioner has acted on its own and the statement that it acted on the advice of the Government is also wrong. When the Government itself does not have powers to issue orders related to R&C measures, the question of following it does not arise.*
- d) *It is respectfully submitted that Regulation 38 of Tamil Nadu Distribution Code stipulates that the R&C measures can be introduced by Licensee on instructions from Government or Commission. This should be read with Sections 23 and 108 of the Act and the Government's orders shall be endorsed by the Commission. Further, in violation of Regulation 12 of Tamil Nadu Electricity Distribution Standards of Performance Regulations, no advance notice is given through News Papers stating when power supply will not be available. At present, there is blatant discrimination in enforcing power cut as power is not made available for unspecified 14 hours per day in Southern Districts while only 2 hours power cut per day is enforced in Chennai City.*
- e) *It is respectfully submitted that the "period" mentioned in Regulation 38 of the Distribution Code refers to the period upto which the earlier orders of R&C measures ordered by the Commission will continue and if any specific ending period is not mentioned any change shall be covered by orders of the Commission only.*
- f) *Under the circumstances, I humbly submit the Review Petition by the Petitioner does not deserve any action and fit to be rejected by the Commission.*

7.3. During the hearing on 19-02-2014, the Commission directed the petitioner to file a status report on the present condition of power position and to state whether the TANGEDCO has obtained the approval of the Commission for lifting and reintroducing R&C measures. Important points submitted in the status report are reproduced below:

*5.0. Meanwhile it is submitted that TANGEDCO took all possible steps expeditiously and commissioned its own Projects (i) Mettur Thermal Power Station 1X600 Megawatts (COD 12.10.13), (ii) NTPC-TNEB JV (3X500 MW) Vallur Units I & II (COD 29.11.12 & 25.08.13) and both Units of North Chennai Thermal Power Station (2X600 MW).*

*6.0. It is submitted that inspite of the above capacity additions the demand and supply gap could not be made zero due to the necessity to provide 12 Hrs. supply in delta areas to save the standing crops for certain period, exemption to certain categories of consumers such as MoU signed companies, uninterrupted supply to school feeders during public exams etc.*

*7.0. However it is submitted that in line with the policy of the Government of Tamil Nadu in encouraging non-conventional energy sources, Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO) has been promoting private wind generation in the State and the installed capacity has reached around 7200 MW in March 2014. The power from these wind sources to a tune of 3000 Megawatts is available from May to September, though it is seasonal and infirm. Wind power is generally not available to that extent during the period from October to April and hence additional load shedding is being resorted to if the required level of generation is not available from other sources.*

*8.0. It is further submitted that , the Government of Tamil Nadu also recently has come out with a Solar Energy Policy 2012 for harnessing solar power to an extent of 3000 MW and it is expected that some solar generation will be adding up to the grid in a shortwhile.*

*10.0 It is submitted that with the newly commissioned projects, the availability of firm power has come in the range of 10500 to 11500 MW and the following relaxation of R&C Measures were/are being extended to all sorts of consumers.*

- a. It is submitted that from July 13 to 21<sup>st</sup> Feb' 14 for about 150 days no load shedding was carried out.*
- b. It is submitted that from 14.08.2013 to 30.09.13, the existing 40% power cut to HT Industrial & Commercial Consumers was totally relaxed during normal hours and 90% evening peak hour power cut was relaxed to 40%.*
- c. It is submitted that from 01.10.2013 onwards the 40% power cut which was existing prior to 14.08.13 was relaxed to 20% during normal hours and 90% power cut on peak hour was reintroduced from 01.10.2013.*

- d. *It is submitted the all feeders feeding Schools with exam centres are being exempted from the purview of load shedding during examination days.*
- e. *It is submitted that the feeders feeding to Temples/Churches/Mosques are being exempted from the purview of Load Shedding during their festivals seasons.*
- f. *It is submitted that as on 30.09.2013, TANGEDCO has extended supply to about 2.48 crore consumers with a connected load of 55385 MW. This reveals i.e. even under R&C period during the last 5 years, TANGEDCO has extended new services to about 45 lakh consumers with addition of new loads of about 13635 MW.*

*From the above it is clearly evident that TANGEDCO is taking all possible steps with the help of State Government of Tamil Nadu to achieve zero load shedding hours from June 2014 onwards.*

7.4. The interim order has exhaustively dealt with the scope of the review and restricts the review only to the following R & C measures implemented by the TANGEDCO vide its Order dated 25-02-2012.

- (1) 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%.
- (2) 90% cut on quota demand and energy for HT Industrial and Commercial services during peak hours i.e. 18.00 hours to 22.00 hours”.

Therefore the scope of this Review Order pertains to only the above two issues.

7.5. In this connection M/s. Tamilnadu Spinning Mills Association has remarked that 40% power cut on base demand and energy on all HT industrial and commercial services in Tariff I & III could be continued. However they have requested that the TANGEDCO should spell out the period up to which the R&C measures would be required in accordance with the regulation 38 of distribution code. They have also requested that instead of using “ Peak Hours” which have the time intervals of 6 A.M to 9 A.M and 6 P.M to 9 P.M, the term “Restricted Hours” may be used for the demand / energy restricted period of 6 P.M to 10 P.M.



7.6. However M/s. Pandian Chemicals Limited contented that only the Commission has powers to approve the “Restriction and Control of Electricity” in pursuance of Section 23 of Electricity Act 2003 and the appropriate Government cannot directly issue such orders to the distribution licensee. M/s.Pandian Chemicals Limited has also pointed out that the Government has approved the R&C measures only on 29-02-2012 but the licensee issued the impugned Order on R&C measures on 25-02-2012 itself. They also commented that this clearly shows that the distribution licensee acted on their own without the approval of Government of Tamil Nadu. M/s. Pandian Chemicals Limited have also requested that the period of R&C measures shall be reported by the TANGEDCO in pursuance of regulation 38 of distribution code.

7.7. The authenticity of issuing Orders on restriction and control of electricity supply by the Government of Tamil Nadu under Regulation 38 of the Tamil Nadu Electricity Distribution Code and the scope of the Commission to deal with R&C measures under Section 23 of the Act have already been exhaustively dealt with by the Commission in its Order dated 28-11-2008 on M.P.No.42 of 2008 and in the said interim order dated 19-10-2012. Regarding the first issue of increasing the power cut from 20% on base demand and energy to 40% for certain categories of consumers, such measures have already been approved by the Commission in its Order dated 28-11-2008 on M.P.No.42 of 2008 based on the orders of Government of Tamil Nadu. Similarly the second issue of reducing / restricting the demand and energy for HT industrial and HT commercial consumers during the period from 6 P.M to 10 P.M has also been approved by the Commission in the said Order.

7.8. Regarding the period of R&C measures to be spelt out by the TANGEDCO, the TANGEDCO in their status report filed on 09-04-2014 has reported that zero load shedding shall be achieved from June 2014. As remarked by M/s.Pandian Chemicals Limited and M/s.Tamilnadu Spinning Mills Association, the term “restricted hours” may be used by the TANGEDCO in future instead of “peak hours” to represent the period of 6 P.M to 10 P.M to avoid any ambiguity.

7.9. In light of the above observations, the Commission Orders that the Orders passed by the Commission in M.P.No.10 of 2012, setting aside the memo of TANGEDCO dated 25-02-2012 shall not be given effect in respect of the following portion of the TANGEDCO’s said memo dated 25-02-2012.

- (iv) *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%.*
- (v) *90% cut on quota demand and energy for HT Industrial and Commercial services during peak hours i.e. 18.00 hours to 22.00 hours”.*

The TANGEDCO shall revise the consumer’s bill if required in line with this order and settle the account within three months of issue of this order.

## **8. Appeal:-**

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

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

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

/ True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission