

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

**PRESENT:-**

Thiru S.Akshayakumar ..... Chairman

and

Thiru.G.Rajagopal ..... Member

**P.P.A.P.No.3 of 2012**

Tamil Nadu Generation and Distribution  
Corporation Limited  
144, Anna Salai, Chennai – 600 002.

... Petitioner  
(Thiru P.H.Vinod Pandian,  
Standing Counsel for TANGEDCO)

Vs.

NIL

... Respondent.

**Dates of hearing: 21-05-2012; 29-06-2012; 10-08-2012;  
28-09-2012; 13-12-2012; 15-07-2013  
21-04-2014 and 30-12-2015.**

**Date of Order: 23-02-2016**

The P.P.A.P.No.3 of 2012 came up for final hearing on 30-12-2015. The Commission after perusal of records relating to the above P.P.A.P. and after hearing the Chief Engineer, IPP/TANGEDCO passes the following order:-

**ORDER**

**1. Prayer of the Petitioner in P.P.A.P.No.3 of 2012:-**

The prayer of the Petitioner in the above PPAP No.3 of 2012 is that as there is a shortage prevailing to meet out the power requirement in the State and as directed in clause 7.1.35 of the Commission's Order No.1 of 2012, dated 30-03-2012 to take prior approval of the Commission before purchasing energy beyond the

quantum of 2000 MU and the benchmark rate of Rs.4/- per kwhr, the Commission may accord approval for the purchase of power under section 62 and section 86(1) (b) of the Electricity Act, 2003 totaling to a quantum of 6833 MU (on an average of around 810 MW) available from generating companies located in intrastate generators for a period i.e. from June 2012 to 15<sup>th</sup> May 2013 and to fix reasonable prices of the electricity under the proviso to section 62 (1) (a) and section 63 of the Electricity Act, 2003 and pass such other orders as the Commission may consider deemed fit and proper.

**1.1. Prayer of the Petitioner as modified in the Additional Affidavit dated 07-05-2012:-**

To approve and ratify the proposal of TANGEDCO for supply of 10304 MU of power from other regions for the months of June 2012 to May 2013 in Tender No.1 of 2012 and to approve and ratify the proposal of TANGEDCO for supply of power of 6483 MU for the months of July 2012 to May 2013 from the intra state generators in the tender floated vide Tender No.03 of 2012, filed before the Commission under P.P.A.P.No.3 of 2012.

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

2.1. The quantum of power required to meet the unrestricted demand for power is more than 12,000 MW and the power available from various sources to the Petitioner is in the order of 8000 MW, resulting in severe shortage of supply to meet the requirements in the order of about 4000 MW. The Petitioner's obligations to meet out the demand is rapidly increasing whereas its capacity augmentation is not upto the expected level due to the delay in execution of various ongoing new projects and capacity addition projects in Central Sector, State Sector and Private Sector etc.

2.2. The Commission in clause 7.1.34 of Order No.1 of 2012, dated 30-03-2012 has stated that as regards the quantum to be purchased from traders in FY 2012-13, energy from traders is not going to be scheduled under Merit Order Dispatch made by the Commission. The Commission also observed that the energy is available from other sources in order to meet the energy requirement. However, in order to provide flexibility and to set benchmark, the Commission has considered the purchase from traders at 2000 MU at an average rate of Rs.4.00/KW hr in FY 2012-13.

2.3. The Commission has issued the directives presuming that considerable energy will be available from other sources to meet out the energy requirement i.e. Commission vide clause 2.1.445 has considered the commissioning of some of the ongoing projects to an extent of 1050 MW by March 2012 and other projects of 2650 MW capacity would be progressively added during the year 2012-2013. The market trend has changed considerably due to various reasons like coal shortage, coal price, corridor congestion etc. The cost of power is bound to increase in coming days due to various such factors and the power availability may also come down drastically.

2.4. The factual position is that the ongoing projects are getting delayed due to various reasons and adequate capacity addition cannot be anticipated during the year 2012-2013 and the power supply and demand projection for the year 2012-2013 envisages that purchase of around 2000 MW is very much necessary to meet out the growing demand.

2.5. The Commission further directed that TANGEDCO shall take prior approval from the Commission in case power purchase from traders in FY 2012-2013 exceeds the quantum and rate specified in the Tariff Order. In view of prevailing power shortage in the State and in order to meet out the power requirement as per the projected forecast of supply-demand for the ensuing months, TANGEDCO has floated a short term tender for the procurement 1000 MW on RTC basis for a period of one year from June 2012 to May 2013 vide Tender No.01/2012. In the above tender, both interstate and intrastate generators participated and the tender quantum was met with offers from interstate traders at the landed cost varying from Rs.4.13/unit to Rs.5.00/unit. The bids of intrastate generators were not considered in view of their pricing. But availing power from inter region is not guaranteed due to the corridor congestion. However, in the near future due to capacity addition in southern region some of the congestion may get relieved and at that instant it is prudent to have adequate contracted quantum of power. Accordingly the tender was processed and LOA issued for the months of June 2012, July 2012 and August 2012. The Commission's approval for the rate and quantum is awaited.

2.6. In order to overcome the problems due to corridor congestion, another short term tender has been floated for the procurement of 1000 MW on round the clock basis from the intra region i.e. Southern Region for the period from June 2012 – May 2013 by fixing the due date for opening as 28-03-2012. The tenders were opened on 28-03-2012 at 15.00 hours in the presence of the representatives of the bidders who were present.

2.7. The following tenderers participated in the above tender and the offer is tabulated as below:-

1	M/s.Coastal Energen Pvt. Ltd.	9	M/s.Arkey Energy (Rameswaram) Ltd.
2	M/s.PTC India Ltd.	10	M/s.Saheli Exports Pvt.Ltd.
3	M/s.OPG PowerGen Pvt.Ltd.	11	M/s.Madras Aluminium Co. Ltd.
4	M/s.OPG Energy Pvt.Ltd.	12	M/s.Hi-Tech Carbon
5	M/s.OPG Renewable Energy Pvt. Ltd.	13	M/s.Kamachi Sponge & Power Corporation Ltd.
6	M/s.MMS Steel Power Pvt. Ltd.	14	M/s.Empee Sugars and Chemicals
7	M/s.Ind-Bharath Thermal Power Ltd.	15	M/s.Dalmia Cement (Bharath) Ltd.
8	M/s.Ind-Bharath Powergencom Ltd.	16	M/s.Sterlite Copper

2.8. The minimum quantum of power to be supplied by the bidders located in the intra region i.e. Southern Region will be 25 MW for each source. For the sources within Tamil Nadu, this condition will not apply.

2.9. On scrutiny, it was found that all the sources were found to satisfy the BQR conditions and as such one of the bidders M/s.PTC is rejected. The successful bidder is from intrastate generators i.e. generators within Tamil Nadu. The final ranking of the L1 bid, with reference to its source for the period from June 2012 to May 2013 is 16 MW is offered by M/s.Hi-Tech Carbon at the landed cost of Rs.5.90 /- per KWhr (Rate at ex-bus is Rs.5.66 per kwhr.)

2.10. The rate negotiation was conducted with L1 tenderer viz. M/s.Hi-Tech Carbon and have offered a reduction of 10 paise per kwhr of the landed cost (Rate at ex-bus is Rs.5.56/- per KWhr.) for the months of June 2012 to May 2013. Rate negotiation was conducted with other participants on 30-03-2012 and none was ready to match with L1 and stuck with their quoted price of Rs.5.90/- per Kwhr at Ex-bus. The Commission has fixed the price of Rs.5.05 per unit for intrastate generators in

I.A.No.1 of 2011 in P.P.A.P. No.5 of 2011 dated 04-10-2011 for the period from October 2011 to June 2012.

2.11. The Tamil Nadu State Government by invoking section 11 of Electricity Act, 2003 has passed an order that all power generating stations to operate at their full capacity and supply power within the State.

2.12. The proposed procurement under this tender for the period from June 2012 to May 2013 is as tabulated below considering the differential rate indicating the details of vendor, source, quantum, unit price and amount:-

Month	Trader	Quantum in MW	Rate at Ex-bus in Rs./ Kwhr	Expenditure in Rs.Crs.
June 2012	Hi-tech Carbon	16	5.56	6.405
	All other bidders	470.5	5.90	199.868
	<b>Total</b>	<b>486.5</b>		<b>206.274</b>
July 2012	Hi-tech Carbon	16	5.56	6.619
	All other bidders	515.5	5.90	226.284
	<b>Total</b>	<b>531.5</b>		<b>232.903</b>
August 2012	Hi-tech Carbon	16	5.56	6.619
	All other bidders	665.5	5.90	292.128
	<b>Total</b>	<b>681.5</b>		<b>298.747</b>
September 2012	Hi-tech Carbon	16	5.56	6.405
	All other bidders	720.5	5.90	306.068
	<b>Total</b>	<b>736.5</b>		<b>312.474</b>
October 2012	Hi-tech Carbon	16	5.56	6.619
	All other bidders	772.5	5.90	339.097
	<b>Total</b>	<b>788.5</b>		<b>345.715</b>
November 2012	Hi-tech Carbon	16	5.56	6.405
	All other bidders	794.5	5.90	337.504
	<b>Total</b>	<b>810.5</b>		<b>343.909</b>
December 2012	Hi-tech Carbon	16	5.56	6.619
	All other bidders	804.5	5.90	353.143
	<b>Total</b>	<b>820.5</b>		<b>359.762</b>
January 2013	Hi-tech Carbon	16	5.56	6.619
	All other bidders	864.5	5.90	379.481
	<b>Total</b>	<b>880.5</b>		<b>386.100</b>

February 2013	Hi-tech Carbon	16	5.56	5.978
	All other bidders	853.5	5.90	338.396
	<b>Total</b>	<b>869.5</b>		<b>344.374</b>
March 2013	Hi-tech Carbon	16	5.56	6.619
	All other bidders	858.5	5.90	376.847
	<b>Total</b>	<b>874.5</b>		<b>383.466</b>
April 2013	Hi-tech Carbon	16	5.56	6.405
	All other bidders	1260.5	5.90	526.244
	<b>Total</b>	<b>1276.5</b>		<b>532.650</b>
May 2013	Hi-tech Carbon	16	5.56	3.203
	All other bidders	1264.5	5.90	263.972
	<b>Total</b>	<b>1280.5</b>		<b>267.174</b>
<b>Total for tender 03 of 2012</b>				<b>4013.545</b>

**3. Contentions of the Petitioner in the additional affidavit filed in terms of Commission's order dated 21-05-2012:-**

3.1. The Commission vide its order dated 21-05-2012 in PPAP No.3 of 2012, has directed as follows:-

*“The requirement of power was projected at 50 Hz. Even the statement submitted today does not include any power purchase from the power exchanges, which offer competitive price during certain periods of the year. During the previous years, the TNEB / TANGEDCO had purchased power from the Energy Power Exchanges at competitive rates and therefore this cannot be totally excluded. The availability of wind power has been considered on an annual basis whereas the availability is fairly high during the wind season. Therefore, there is a need to analyze this on atleast monthly basis. The petition does not clearly bring out that the Restriction and Control measures or the load shedding shall be withdrawn or reduced, if this power purchase is resorted to. For a specific query from the Commission with regard to how surplus power will be handled on a real time basis and how the cost of power purchase would be optimized, the TANGEDCO sought additional time for furnishing the details. Accordingly, time was granted for filling the additional details. The Petitioner was also directed to file the petition after getting approval from the Board of Directors.*

*The Commission also pointed out that the process of estimation of demand is rough and talks in terms of round the clock power. To reduce the cost of power purchase under these circumstances, one option could be to call tenders with two part tariff which will enable purchase of energy according to requirements. The Petitioner is at liberty to come up with any other better alternative”.*

3.2. Formally all projections and statistics are conducted at 50 Hz only, even though the grid frequency would be hovering through the admissible bandwidth of 49.5 Hz to 50.2 Hz all the time depending on demand-supply position of not only the

TN grid, but also on the demand of the other States in the southern grid. Given the power number of 1000 MW for the southern grids, the difference between the unrestricted demand with 50 Hz correction and without correction approximately works out to 300 MW for the entire States in southern region. Contribution of Tamil Nadu in improving the frequency may be around 100 MW only. This will be handy in managing UI and may serve as stand by demand for Open Access consumers.

3.3. The power purchase from exchanges had to be totally stopped because of the high cost of power, even when small quantity power is requested for. This is mainly because of market splitting mechanism adopted by power exchanges due to corridor congestion. If power purchase through power exchanges is resorted to as a regular exercise the power cost would go further higher. The power from power exchange is not only expensive, but also unreliable. The quantity available is also meagre. The projections cannot be made considering power from exchange. However, the trade in power exchanges are meticulously monitored. As and when any opportunity to book any quantum of power at attractive rates persists in Day Ahead Market (DAM) or Term Ahead Market (TAM), the same is fully utilized. In fact, the excess power if available with TANGEDCO will be suitably exploited to trade in the exchanges given the attractive rates prevailing in the market.

3.4. The industrial consumers feel greatly affected due to the severe dosage of power cut on them. It is represented that their industrial production has fallen far below the economic level causing many of them to shut down their operations. This not only affects the individual consumer but also the whole of the State as well as of the nation. In the period of high economic growth, Tamil Nadu Industrial Sector has been stifled by the acute power shortage. Ensuring adequate power supply to the



industrial consumers ensures sustained economic growth in the State improving employment opportunities and life style of the public. At the same time, TANGEDCO also derives revenue in excess of its expenditure since the revenue realization from the industrial consumers is higher than the average cost of supply and also the cost of power at which it is proposed to procure power through this tender.

3.5. The wind power has been accounted for in the annual as well as monthly forecasts. The behavior of wind energy is unpredictable. The wind generators are also not coming forward to schedule that power even for the purpose of mock exercise. The failure to contract base load presuming the availability of wind generation may prove disastrous. There had been several occasions where the wind energy had gone down to negligible level. Even during consistent wind generation period the variability used to be severe. All these factors make wind generation unreliable.

3.6. At the times of high wind generation even after contracting base loads as proposed we may be able to back down the high cost generations and also the power from the proposed purchase may be reduced to 80% of the contracted quantity as per terms and conditions of the tender. Kadamparai hydro electric generators may be operated on pump mode. TANGEDCO has already instructed all their thermal plants to avail planned maintenance shut down by scheduling them during the surplus time i.e. from June to September and from November to December.

3.7. TANGEDCO will also explore possibilities of selling small quantum of power through power exchanges if the rates are attractive. Swapping of excess wind

energy as and when possible will also be tried with other States that need power during this surplus season and get back the same during deficit period.

3.8. On previous occasions attempts were made to procure power in the different time slots depending on the requirement of power, but it had ended in vain since the generator cannot be operated in different time slots with abnormally varying quantum of power output, as it has to fulfill the technical minimum as dictated by the design parameters. Moreover the power dispatch is done through the RLDCs which in turn depend on the corridor availability and hence it is decided to have a base load contract with the supplier on RTC basis. During 2011-2012, Letter of Acceptance was issued for peak hour only under Tender No.2 of 2011 for a quantum of 135 MW against the tendered quantum of 800 MW. But no power was scheduled as there was no corridor availability. Hence fragmented power purchase through tender due to the inherent uncertainty is not a viable proposition, both on economical and dependability terms. In the recent tenders floated by TANGEDCO bids were received with the condition that the suppliers are not willing to schedule the power if the corridor approval is fragmented.

3.9. With respect to calling for two part tariff based bids on short term basis, presently there are no specific guidelines for short term power market, which accounts for about 10 percent of total electricity procured in the country. Also till date no other utilities had opted for two part tariff in their short term power procurement. The Ministry of Power has passed a resolution dated 15<sup>th</sup> of May 2012 introducing competitive bidding guidelines for short term procurement of electricity very soon based on the draft guidelines prepared by Power Finance Corporation (PFC) for short term power procurement by distribution licensees through tariff based

bidding process. Power exchanges are not included in the same. The draft guidelines are issued with an objective to facilitate transparency and fairness in procurement process; facilitate reduction of information and approach asymmetries for various bidders and harness diverse sources of power. The guidelines prepared after consultations with stakeholders, would be applicable for power being procured for a period of less than one year. These guidelines would be issued under the provisions of section 63 of the Electricity Act, 2003. The new norms are likely to help in bringing transparency as well as standardize the process of short term power procurement. TANGEDCO would also strive to adopt these guidelines for short term power procurement as and when such guidelines are issued. At this juncture the resolution was notified on 15-06-2012 by Ministry of Power.

3.10. As directed by the Commission, the proposal of power procurement through Tender No.3 of 2012 was placed before the TANGEDCO Board, in its 25<sup>th</sup> meeting held on 30-05-2012. The Board discussed the subject in detail and observed that the rate of Rs.5.90 per unit offered by the intrastate generators for procurement of power from them needs to be revisited. The Board suggested re-negotiating the rate with them for bringing it down to a reasonable level.

3.11. The contract for supply of power from the local generators is expiring by 31-05-2012. In the absence of fresh contract being awarded, it will adversely impact the power situation in the State. Also the G.O. No.10 dated 27-02-2009 being in force the local generators are not allowed to go outside the State for selling their power. Therefore, the Board suggested that a petition may be filed with the Commission as an interim measure seeking approval for extending the existing contract for a period of one month explaining the fact and that price is also much

reasonable at Rs.5.05 per unit compared to the negotiated price of Rs.5.90 per unit in the new tender. The Board also suggested that repeal of G.O. No.10 dated 27-02-2009 may be considered as an alternative in case the suppliers are not willing to agree for a reasonable rate.

3.12. As per the directions of the Board of TANGEDCO, the petition P.P.A.P .No.4 of 2012 was filed before the Commission and the Commission in its order dated 02-06-2012 allowed TANGEDCO as a special case to avail power at a rate not exceeding Rs.5.05/Kwhr for the month of June 2012 as an interim measure. All the other terms and conditions indicated in P.P.A.P. No.5 of 2011 shall continue to apply. Based on the directions of TANGEDCO Board, renegotiation was conducted on 04-06-2012 and the final price offered by the intra state generators was Rs.5.70 per Kwhr. The generators were not willing to reduce the price further citing the following reasons:-

- (i) In view of G.O.No.10, they are not able to sell to other States that are willing to pay better price.
- (ii) Due to shortage of coal allocation, they are forced to import coal through dollar currency and the exchange rate of the same is fluctuating widely and the dollar-rupee rate has gone up from Rs.52.46 on 30-04-2012 to Rs.53.90 on 14-05-2012 and is expected to cross Rs.54.75 during August 2012.
- (iii) Indonesia, a major coal exporting country is going to hike the export tax on thermal coal at least by 25%, which has the effect of increase in the generating cost by 50-60 paise per unit. Similarly the Coal India which is the indigenous producer of the coal is going to switch to the Gross Calorific Value (GCV) based grading system for pricing coal from the Useful Heat Value (UHV) with the impact of electricity costing 60 paise per unit more on new coal price formula.
- (iv) Unlike medium term or long term bidding process which is linked to compensation for escalation of various cost elements in the short term

tenders is a single tariff in which the generators take the entire risk of all the elements of cost.

- (v) In the neighbouring States, the payment is made for weekly bills with a due date of seven days whereas in TANGEDCO it is 30 days billing and another 30 days as due date. The impact of this interest cost alone is 11 paise per Kwhr.

3.13. The Board on detailed deliberation on the outcome of the negotiation in the meeting held on 23-06-2012 has suggested that Rs.5.50 per unit shall be the ceiling limit for the purchase of power from the local generators. The generators were addressed to offer their acceptance for the revised rate of Rs.5.50 per unit. M/s.Hi-Tech Carbone alone has accepted the rate of Rs.5.50 per Kwhr. The other generators have replied in negative and requested to consider only the renegotiated rate of Rs.5.70 per unit. One of the local generators M/s.Ind Bharath Power Gencom Ltd. has filed a Writ Petition in W.P.No.14395 of 2012 before the High Court seeking relief of issuance of Writ of Mandamus directing TANGEDCO to issue LOA for the period from 01-06-2012 to 31-05-2013 at the negotiated price of Rs.5.90 per Kwhr or exempt it from the ban imposed under G.O.Ms.No.10, dated 27-02-2009 at least for the period of 3 years and grant interstate open access for export of energy outside the State. The High Court in its order dated 07-06-2012 has however ordered that since the issue has to be decided by the Commission in terms of section 63 of the Act requested the Commission to take up the matter for expeditious disposal for appropriate orders.

3.14. The State Government has already announced the lifting of power holidays imposed on industrial consumers and reduced the load shedding hours to Chennai and sub-urban areas from 2 hours to 1 hour and from 4 hours to 3 hours for other

parts of the Tamil Nadu. The South West monsoon this year has failed the State depriving TANGEDCO of 1100 MW during peak hour and 700 MW during day time. The Government considering the failure of the monsoon and to help raise paddy cultivation has announced that with effect from 17-06-2012, the delta district farmers of Tanjore, Thiruvarur, Nagapattinam districts Kulithalai, Musiri, Lalgudi taluks of Trich district, Kattumannar Koil, Chidambaram taluks of Cuddalore district will be supplied 3 phase power for twelve hours against the present supply of 9 hours and on account of this extra power of about 350 MW is required. Due to the delayed on set of monsoon the effect of summer in the State is continuing and the demand of power has not shown any decreasing trend. The wind power has been helping the State grid to an appreciable extent. However, the intermittency of the wind generation also causes concern for the grid operation. The upcoming new projects are getting delayed due to various unforeseen factors. The purchase of power from inter region is not sufficient due to transmission corridor congestion. In view of the above aspects, the proposal for the procurement of the firm power in this tender has to be treated as the base load and hence considered essential and also it is a firm power and also without any price increase for one year.

3.15. There is shortage of power varying around 1500 MW to 3500 MW to meet out the total power requirement in the State even after considering the power available from local generators. As directed by the Commission in its Order No.1 of 2012, dated 30-03-2012 under clause 7.1.35, prior approval of the Commission is to be obtained before purchasing energy beyond the quantum of 2000 MU and the benchmark rate of Rs.4/- per kwhr.

3.16. It is prayed that the Commission may be pleased to accord approval for procurement of power through the Tender No.03 of 2012. The totaling to a quantum of 6484 MU available from generating companies located in intrastate generators for a period i.e. from July 2012 to 15<sup>th</sup> May 2013 at the rate that may be fixed for this tender by the Commission.

**4. Contentions of the Petitioner in their Additional Affidavit filed as per Commission's order dated 29-06-2012:-**

4.1. The additional affidavit as per the direction of the Commission has been filed on 28-06-2012 and the same came up for hearing on 29-06-2012. The Commission was pleased to pass a common order for both the P.P.A.P.No.02 of 2012 and P.P.A.P.No.03 of 2012.

4.2. The Commission has directed the Petitioner to take a view on the matter and make a proper prayer for adoption of tariff under section 63 of the Electricity Act, 2003. TANGEDCO has floated tender for purchase of 1000 MW of RTC power vide Tender No.01 of 2012 and 21 bidders participated in the tender. The same has been placed before the Commission for approval as P.P.A.P. No.02 of 2012. Due to the non-availability of corridor for importing the said quantum of power another tender namely Tender No.03 of 2012 has been floated for purchase of 1000 MW of RTC power sourced from Southern region only for the months of June 2012 to May 2013. The same has been placed before the Commission as P.P.A.P.No.03 of 2012.

4.3. The availability and demand projection is reworked. The Commission was pleased to approve the intra state generator to inject the power to the extended period of one month as prayed for by the TANGEDCO for the month of June 2012 at

the rate of Rs.5.05 per kwh based on the Commission's Order in P.P.A.P.No.05. TANGEDCO has realized 361.5 MW from the local generators during the month of June 2012. The intrastate generators were instructed to schedule the power due to shortage of time in finalizing the tender for the month of July 2012 also in anticipation of Commission's approval by stating that the TANGEDCO has proposed the rate for power as Rs.5.50 per kwh and those who intend to schedule the power may schedule the power to TANGEDCO and this rate is subject to the Commission's approval. Accordingly TANGEDCO has realized 412.5 MW of RTC power through this instruction from the local generators for the month of July 2012.

4.4. With respect to the Tender No.01 of 2012 in anticipation Commission's approval TANGEDCO has issued Letter of Acceptance to the traders for booking the corridor for the month of June 2012 to September 2012 as per regulation of the Central Electricity Regulatory Commission. The issuance of Letter of Acceptance and the quantum approved thereof for the month of June 2012 to September 2012 with regard to the inter-regional power import from other regions as under:-

Month	Applied Quantum		Power sourced from	Approved quantum in MU	% of realization as against the applied quantum
	in MW	in MU			
June 2012	1100	792	NR,WR,ER	87.5	11
July 2012	1100	818	NR,WR,ER	420.3	51
August 2012	1150	855	NR,WR,ER	228.7	26
September 2012	1150	720	NR,WR,ER	129.1	17

Tender No.01 was called for to purchase about 1000 MW to meet out deficit. The successful bidders were suppliers of inter region as mentioned above. But due to corridor congestion, the average realization was to the tune of about 25% only.



The same is taken into consideration for demand supply projection for the months of October 2012 to May 2013.

4.5. Taking into consideration the factors like expected monsoon, expected wind power, expected hydro power, likelihood of load pick up, the RAC measures in vogue, the deficit quantum of power after accounting the firm power proposal for the entire period from July 2012 to May 2013 is summarized as below:-

Month	Minimum Deficit	Proposed power purchase (intra state)	Deficit after full quantum of intra state is realized (PPAP 3)	Expected purchase of 25% from inter region	Deficit even after only 25% quantum of interstate power is realized (PPAP 2)
July 2012	2775	531	2244	561	1683
August'12	2213	681	1532	575	1233
Sept'12	2816	786	2030	478	1835
Oct'12	5176	788	4388	1326	4063
Nov'12	4746	810	3936	1186	3611
Dec'12	4945	820	4125	1326	3800
Jan'13	5030	880	4150	1257	3825
Feb'13	5471	870	4601	1367	4276
March 2013	5730	875	4855	1432	4530
April 2013	5060	1276	3784	1265	3459
May 2013	3160	1280	1880	790	1555

The upcoming projects are getting delayed and have not come up as expected due to various reasons. As and when the capacity addition takes place and if it is consistent, it will be reviewed for lifting of load shedding and R&C measures.

4.6. When applied for MTOA by the Petitioner, the prevailing availability of corridor position was declared by the competent authority as below:-

*“Considering already allocated ATC, the MTOA can be effective only after 15<sup>th</sup> June, 2013 which is later than one year. Therefore, as per the regulations, the present application for transfer of power from LANCO Anapara to TANGEDCO for the period 1<sup>st</sup> July 2012 to 30<sup>th</sup> June 2015 cannot be processed, accordingly the aforesaid application is being closed.”*

4.7. In pursuance to the renegotiation initiated by TANGEDCO for the months of July 2012 to May 2013, the following generators had agreed to supply power at the rate of Rs.5.50 per kwh for the entire period of contract from July 2012 to 15<sup>th</sup> May 2013.:-

Sl. No.	Name of the Generator	Agreed rate in Rs.per kwh
1.	M/s.OPG PowerGen Pvt. Ltd., Gummidipoondi (coal)	5.50
2	M/s.OPG Energy Pvt.Ltd., Thiruchendur (Natural Gas)	5.50
3	M/s.OPG Renewable Energy Pvt. Ltd.,Gummidipoondi (coal)	5.50
4	M/s.MMS Steel Power Pvt. Ltd., Nagapattinam(Natural Gas)	5.50
5	M/s.Ind-Bharath Thermal Power Ltd., Thoothukudi (imported coal)	5.50
6	M/s.Ind-Bharath Powergencom Ltd. – Thoothukudi (imported coal)	5.50
7	M/s.Arkey Energy (Rameswaram) Ltd., Valuthur (Natural Gas)	5.50
8	M/s.Saheli Exports Pvt. Ltd., Kuttalam (Natural Gas)	5.50
9	M/s.Madras Aluminium Co. Ltd., Mettur Dam, Salem (imported coal)	5.50
10	M/s.Hi-Tech Carbon-Gummidipoondi (waste heat)	5.50
11	M/s.Kamachi Sponge & Power Corporation Ltd., Gummidipoondi (coal)	5.50
12	M/S.Sai Regency Power Corporation Ltd., Ramanathapuram (Gas)	5.50

13	M/s.Dalmia Cement (Bharath) Ltd., Dalmiapuram & Ariyalur (imported coal)	5.50
14	M/s.Sterlite Copper – Thoothukudi (imported coal)	5.50
15	M/s.Empee Sugars and Chemicals Ltd., Ambasamuthram (coal)	5.50

4.8. The proposed procurement of power through traders under Tender No.01 of 2012 for the month of October 2012 onwards is as below:-

Month	Trader	Source	Quantum in MW	Landed Cost in Rs. / Unit
June 2012*	NVVN	CSPDCL, WBSEDCL, SEL,WL and TSECL	500	4.26
	PTC	Jaypee Karcham Wangtoo, HEP	200	4.26
	PTC	BALCO	100	4.26
	Shree Cement	IPP in Rajasthan	200	4.26
	<b>Total</b>			<b>1000</b>
July 2012*	NVVN	CSPDCL, WBSEDCL, SE,WL & TSECL	500	4.13
	PTC	Jaypee Karcham Wangtoo HEP	200	4.13
	PTC	BALCO	100	4.13
	Adani	APL, Mundra TPP	100	4.13
	Shree Cement	IPP in Rajasthan	200	4.13
<b>Total</b>			<b>1100</b>	
August 2012*	NVVN	CSPDCL, WBSEDCL, SEL, WL and TSECL	550	4.13
	PTC	Jaypee Karcham Wangtoo HEP	200	4.13
	PTC	BALCO	100	4.13
	Adani	APL, Mundra TPP	100	4.13
	Shree Cement	IPP in Rajasthan	200	4.13
<b>Total</b>			<b>1150</b>	
September 2012*	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	550	4.13
	PTC	Jaypee Karcham Wangtoo HEP	200	4.13
	PTC	BALCO	100	4.13
	Adani	APL, Mundra TPP	100	4.13
	Shree Cement	IPP in Rajasthan	200	4.13
<b>Total</b>			<b>1150</b>	

\*In anticipation of approval of the Commission Letter of Acceptance issued.  
Ratification prayed (3222 MU).

October 2012	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra TPP	100	4.77
	Shree Cement	IPP in Rajasthan	200	4.80
	Shree Cement	Odisha in ER	100	4.80
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	
November 2012	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra TPP	100	4.77
	Shree Cement	IPP in Rajasthan	200	4.80
	Shree Cement	Odisha in ER	100	4.80
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	
December 2012	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra	100	4.77
	Shree Cement	IPP in Rajasthan	200	4.90
	Shree Cement	Odisha in ER	100	4.90
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	
January 2013	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra TPP	100	4.77
	Shree Cement	IPP in Rajasthan	200	5.00
	Shree Cement	Odisha in ER	100	5.00
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	

February 2013	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra	100	4.77
	Shree Cement	IPP in Rajasthan	200	5.00
	Shree Cement	Odisha in ER	100	5.00
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	
March 2013	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra TPP	100	4.77
	Shree Cement	IPP in Rajasthan	200	5.00
	Shree Cement	Odisha in ER	100	5.00
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	
April 2013	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra TPP	100	4.77
	Shree Cement	IPP in Rajasthan	200	5.00
	Shree Cement	Odisha in ER	100	5.00
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	
May 2013	NVVN	CSPDCL,WBSEDCL,SEL WL and TSECL	600	4.35
	PTC	BALCO	100	4.35
	Adani	APL, Mundra	100	4.77
	Shree Cement	IPP in Rajasthan	200	4.90
	Shree Cement	Odisha in ER	100	4.90
	Jindal Power Ltd	Jindal	200	4.81
	<b>Total</b>		<b>1300</b>	
<b>Total Energy for the tender (10304 MU)</b>				

4.9. The proposed procurement of power from the intra state generators under Tender No.03 of 2012 for the period from July 2012 to May 2013 is as below:-

Month	Quantum in MW	Rate at Ex-bus in Rs/Kwhr.
July 2012	531.5*	5.50
Aug'12	681.5	5.50
Sep'12	736.5	5.50
Oct'12	788.5	5.50
Nov'12	810.5	5.50
Dec'12	820.5	5.50
Jan'13	880.5	5.50
Feb'13	869.5	5.50
March'13	874.5	5.50
April'13	1276.5	5.50
May'13	1280.5	5.50

\*Plus 27.5 MW with effect from 00.00 hours on 14-07-2012 due to additional gas allocation by M/s.GAIL.

4.10. When TANGEDCO units are not running, additional gas are allotted to generators at Ramnad belt and Kuttalam belt by M/s.GAIL. To use the natural resources, additional quantum of power are approved for scheduling over and above the contracted quantum during such period. The Commission may be pleased to approve the additional quantum of power.

**5. Submissions of the Petitioner in the additional affidavits dated 16-08-2012 filed as per the Commission's order dated 10-08-2012 and Written Submission dated 11-01-2016:-**

5.1. The Commission has directed the Petitioner on 10-08-2012 to furnish the details of

- (1) Evaluation statement of tender;
- (2) Comparative statement;
- (3) Negotiation meeting minutes;
- (4) Board's resolution in respect of the Tender 03/2012;
- (5) Reason for not running the units at Valuthur I, II and Kuttalam;

- (6) Cost benefit while reallocating the gas to private gas turbine generators;
- (7) Penalties imposed towards take / pay of additional quantum of gas;
- (8) Adoption of rate as per APM and MDP for gas allocation to private gas generators;
- (9) MOP instructions regarding allocation of coal and gas

In addition to the submissions made in paragraphs 2.7 to 2.10 of this order, the Petitioner made the following additional submissions:-

TANGEDCO called on M/s.Hi Tech Carbon Ltd, the L1 of all the tenderers for negotiation on 30-03-2012. They have offered a reduction of 10 paise per Kwhr (Rate at ex-bus Rs.5.56).

5.2. TANGEDCO called on all the participants of the tenderers to attend a negotiation meeting on 03-04-2012 to match their price with L1. 16 bidders responded and attended the negotiation. All tenderers were reluctant to match their rate with that of L1 and have sent their acceptance to reduce the cost upto Rs.5.90 per unit. M/s.Coastal Energen (P) Ltd. who has been connected to CTU and who have offered their bid only for April 2013 and May 2013 for Rs.5.98, did not respond to the request of TANGEDCO. They had not replied for our request to extend their validity of their offer.

5.3. The proposal for procurement of 1000 MW RTC power was submitted to the Board and the Board in its 25<sup>th</sup> meeting held on 30-05-2012 had suggested to re-negotiate the rate with them for bringing it down to a reasonable level and also suggested to file a petition with the Commission as an interim measure seeking approval for extending the existing contract for a period of one month at Rs.5.05 per unit. In turn, TANGEDCO filed a petition to the Commission vide P.P.A.P.No.04 for

further extension of the existing contract upto June 2012 at the rate of Rs.5.05 per unit, as the Commission approval was awaited and the tender could not finalized before June 2012.

5.4. Renegotiation meeting was held with generating companies on 04-06-2012 at the Chamber of Chairman Cum Managing Director of TANGEDCO. It has been agreed by the Generators to inject power at the rate of Rs.5.70 per unit with respect to escalation in USD rates and the proposed export tax on coal by Indonesian Government. The generators said that the further reduction of cost is not feasible for the reason that the USD exchange rate and ocean freight charges have increased substantially.

5.5. Again the prospective tenderers of Tender No.03 were requested to send their acceptance to supply power at the Board approved rate of Rs.5.50 per unit for the period from 01-07-2012 to 15-05-2013. The following Intra State Generators have submitted their acceptance to supply power at the rate of Rs.5.50 per unit.

Sl. No.	Name of the Generator	Fuel used	Location	Quantum offered in MW
1	M/s.OPG PowerGen Pvt.Ltd.	Coal	Gummidipoondi	68 – 140
2	M/s.OPG Energy Pvt. Ltd.	Natural Gas	Thiruchendur	4
3	M/s.OPG Renewable Energy Pvt. Ltd.	Coal	Gummidipoondi	2
4	M/s.MMS Steel Power Pvt.Ltd.	Natural Gas	Nagapattinam	7.5
5	M/s.Ind-Bharath Thermal Power Ltd.	Imported Coal	Thoothukudi	50-250
6	M/s.Ind-Bharath Powergencom Ltd.	Imported Coal	Thoothukudi	150
7	M/s.Arkay Energy (Rameswaram) Ltd.	Natural Gas	Valuthur	80
8	M/s.Saheli Exports Pvt.Ltd.	Natural Gas	Kuttalam	1



9	M/s.Madras Aluminium Co. Ltd.	Imported Coal	Mettur Dam, Salem	33-85
10	M/s.Hi-Tech Carbon	Waste heat from Cogen	Gummidipoondi	16
11	M/s.Kamachi Sponge & Power Corporation Ltd.	Coal	Gummidipoondi	15
12	M/s.Sai Regency Power Corporation Ltd.	Gas	Ramanathapuram	5-15
13	M/s.Dalmia Cement (Bharath) Ltd.	Imported Coal	Dalmiapuram & Ariyalur	10-16
14	M/s.Sterlite Copper	Imported Coal	Thoothukudi	10-70
15	M/s.Empee Sugars and Chemicals Ltd.	Coal	Ambasamuthram	35

5.6. The proposed procurement of power from the Intra State Generators under Tender No.03 of 2012 for the period from July 2012 to May 2013 is as below:-

Month	Quantum in MW	Rate at Ex-bus in Rs./Kwhr.
July 2012	a) 432.5 b) 460 from 15-07-2012*	5.50
August'12	504.5 **	5.50
Sep'12	736.5	5.50
Oct'12	788.5	5.50
Nov'12	810.5	5.50
Dec'12	820.5	5.50
Jan'13	880.5	5.50
Feb'13	869.5	5.50
March '13	874.5	5.50
April'13	876.5	5.50
May'13	880.5	5.50

\* Including 27.5 MW with effect from 00.00 hours on 14-07-2012 due to additional gas allocation by M/s.GAIL.

\*\* Including 33 MW with effect from 00.00 hours from 01-08-2012 to 31-08-2012 due to additional gas allocation by M/s.GAIL.

5.7. MOP in its notification dated 28-06-2012 has instructed to advise all the coal block allocates to participate in the bids for sale of power from end use projects as

per the guidelines of MoP or cancellation of coal block allocation and this may be made a condition in allocation letter even for already coal blocks for power sector IPPs.

5.8. TANGEDCO resorts to procure power through inter-state generators only after ascertaining the deficit even after implementation of R & C measures. The details have already been submitted on 19-07-2012 as additional submission. The above load shedding and R & C measures may be relaxed as per the daily prevailing condition of the Tamil Nadu Grid to utilize the additional energy from wind and TANGEDCO's own generation.

5.9. As per the directions of the Commission, the prayer has been amended and requested to approve and ratify the proposal as per section 63 of the Electricity Act, 2003.

5.10. The power purchase has been necessitated in view of the delay in commissioning of various on-going projects, continuing restriction and control measures, prevailing load shedding, failure of monsoon and reduced hydro generation.

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

6.1. We have heard the Petitioner, the Chief Engineer, TANGEDCO who sought for approval of the power purchase totaling to the quantum of 6833 MU and ratification of LOAs issued in the months of July 2012 and August 2012. The Petition was filed under section 62 of the Electricity Act, 2003 in the first instance and

thereafter, as advised by the Commission, the petition was modified and filed under section 63 of the Electricity Act, 2003.

6.2. It is seen from the petition filed by TANGEDCO that as there was a sustained demand of 12000 MW of Power in June 2012 but the availability of power was only in the order of 8000 MW thus resulting in severe shortage in the order of 4000 MW which could not be garnered by means of regular sources such as TANGEDCO's own generating Stations, purchase of power from CGPs, IPPs, CPPs, Wind Generators, Co-Generation Plants, Traders and Power Exchanges. It is seen from the petition that the capacity augmentation did not meet the expected level due to the delay in the execution of ongoing projects.

6.3. It has also been brought to the notice of the Commission that as per Clause 7.1.34 of the Tariff Order No.1 of 2012 dated 31.3.2012, the energy to be purchased from the traders is not scheduled under Merit Order Despatch and that the Commission has set a ceiling for the purchase of power from the traders at 2000 Million Units at an average of Rs.4.00 / KWhr for the year 2012-2013 and that as per Clause 7.1.35 of the Tariff Order No.1 of 2012 dated 31.3.2012, any purchase beyond the quantum of 2000 MU and the benchmark rate of Rs.4.00/KWhr require the approval of the Commission. It is seen that the present quantum for which the approval has been sought is in the order of 6833 MUs and hence, the present petition has been filed seeking approval of the Commission.

6.4. It is the submission of the TANGEDCO that the ceiling fixed by the Commission at 2000 MUs at the rate of Rs.4.00 per KWhr was under the presumption that the ongoing projects to the extent of 1050 Mega Watts and

capacity addition from other projects of 2650 MW would be progressively added during 2012-2013 and in the present context where the ongoing projects and the capacity addition have not materialized to the desired level, the ceiling fixed by the Commission for purchase from traders in the Tariff Order No.1 of 2012 to the extent of 2000 MU at an average rate of Rs.4.00 per KWhr for the year 2012-2013 may have to be reconsidered by the Commission. In support of the said submission, TANGEDCO has cited the reasons such as coal shortage, coal price, corridor congestion, etc. which led to the non-receipt of power from the expected sources and the Inter-State generating companies. The TANGEDCO has further submitted that only 25 percent of the power of the 1000 MW which was sought to be procured from the Inter-State sources was guaranteed at that point of time and thus, it was forced to go for purchase from the Intra-State traders to overcome the power shortage. It has been further submitted by TANGEDCO that in view of the shortage of power from the Inter-State traders due to corridor congestion, short term tender was floated for procurement of power of 1000 MW round the clock from the power generators of the Southern Region for the period from June 2012 to May 2013.

6.5. It may be noted that P.P.A.P.No.2 of 2012 was filed praying for approval for the purchase of power to an extent of 10304 MU (on an average of about 1225 MW) from generating companies located in Inter-region for the period from June 2012 to May 2013. The said petition was heard by the Commission on 2.5.2012, 21.5.2012, 29.6.2012 and 10.8.2012 and final orders came to be passed on 28.9.2012 approving the same subject to a ceiling of 4000 MUs. Thus, the procurement of power from the Inter-State has already been approved in principle by the Commission thereby the necessity to procure power for meeting the energy needs of the State has been endorsed by the Commission in its order in P.P.A.P.No.2 of

2012. It is further seen that consequent to the transmission constraints and the difficulties faced in bringing the Inter-State Power into the State of Tamil Nadu, simultaneously, an attempt was made to float tenders for procurement of power from Intra-State Generators by way of P.P.A.P.No.3 of 2012 which is now the subject matter of approval herein.

6.6. It is further seen from the petition that the tenders were opened on 28.3.2012 and the highest bid was initially made by M/s.Hi-Tech Carbon at a landed cost of Rs.5.90 per KWhr. It is further seen that negotiation was conducted with M/s.Hi-Tech Carbon on the rates and finally the said company agreed to supply power at Rs.5.50 per KWhr and taking the same as the L1 bid, the other Intra-State Traders were asked to match the same. It is further seen from the correspondences exchanged between TANGEDCO and the other Intra-State generating companies that the rate of Rs.5.50 per KWhr has been agreed upon by all the other generating companies.

6.7. It is further seen that the Commission initially had some reservations on the rate of Rs.5.90 per KWhr and directed TANGEDCO in its order dated 21.5.2012 to examine the purchase of power from other sources such as power exchange and wind before approval of the power purchase and also sought the views of TANGEDCO on going in for Two Part Tariff and on the question of lifting of load shedding and R&C measures and absorption of the entire energy to be procured. Accordingly, an additional affidavit was filed by TANGEDCO before the Commission on 28.6.2012 furnishing the replies to the queries of the Commission.

It is against the said backdrop of events, the Commission is required to take a view on the Competitive Bidding in the instant case in terms of question of law as

well as question of fact and consider the justifications put forth by TANGEDCO in its written submission dated 28.6.2012.

Before proceeding to dwell upon the question of fact it is necessary to examine the question of law. The powers of the Commission and the discretion vested with it under Section 62 and 63 are entirely different and that in regard to the Section 63, the Commission is required to only examine the deviations and whether the process is otherwise is in accordance with the framework as envisaged in the Government of India guidelines. The judgement of the APTEL in Appeal No.82 of 2011 dated 16.11.2011 in *M/s.Essar Power Ltd Vs. UPERC* makes it clear that the Commission has only the power to either accept or reject the results of the competitive bidding. Keeping the same in view, we are inclined to examine the prices proposed for adoption and see whether any circumstances prior or after the competitive bidding justify the same for the adoption or the rejection as the case may be.

6.8. Section 63 of the Electricity Act, 2003 envisages adoption of the tariff by the appropriate Commission in regard to the competitive bidding conducted by the Distribution Licensee for the purchase of power as per the guidelines framed by the Government of India if the power is to be procured on long term basis. In regard to procurement of power on short term basis the same is governed by the proviso to Section 62(1)(a) which envisages fixing of reasonable price by the Commission. The present petition has been filed under Section 63 as the procurement is sought to be made by a competitive bidding process.

6.9. It is noted that there were no guidelines for short term power procurement under the Electricity Act, 2003 then and hence we are of the view that approval could

be granted to the power procurement in the instant case if the process meets the requirements of transparency and fairness. It is seen from the petition filed by TANGEDCO that basic minimum transparency and fairness has been adhered to as the details in regard to the rates quoted by different tenderers have been furnished.

6.10. The object and overall scheme of the Act is to bring about transparency, accountability and fairness in the purchase of power which, in our considered opinion, could be well achieved by resorting to section 63 as well. There being no guidelines in regard to short term purchase of power then, the only requirement is to ensure that there is no unfairness or arbitrariness or lack of transparency, as the case may be, in the competitive bidding process under section 63. We are firmly of the view that the Commission cannot interfere unduly in the absence of lack of transparency or arbitrariness in the whole process of bidding resulting in unfairness to anyone. The litmus test is only to see whether there is any lack of transparency or arbitrariness resulting in unfairness. Keeping the same in mind, we would like to test the whole process in terms of the said requirements. It is seen from the documents adduced before us that the Petitioner has followed the Transparency in Tenders Act, 2000 of the GOTN which is being followed by all Government Departments including the Petitioner for procurement of any materials in the absence of GOI Guidelines. We also see that the Board of the Distribution Licensee gave serious thought and consideration to the results of the competitive bidding process and the rates quoted by the tenderers were minutely scrutinized. It is seen that the Board of TANGEDCO itself had reservations on the rate of Rs.5.90 per unit and felt it was exorbitant. Having felt that the rate of Rs.5.90 per unit needed to be revisited, it advised its officials to re-negotiate the rates and finally settled down for Rs.5.50 per unit for procurement of power from the generating companies to which some of the bidders

were agreeable. It is further seen from the additional affidavit filed by the Petitioner on 29-06-2012, that rate of Rs.5.50 per unit has been agreed to by 15 bidders for supply of power from 1<sup>st</sup> July 2012 to 15<sup>th</sup> May 2013 consequent to the negotiations initiated by the Respondent.

6.11. It is seen from the submission of TANGEDCO that the reasons going in for the power purchase was that the wind power which was expected to be 2000 MW to 3000 MW was unreliable and that TANGEDCO has set for itself a self-imposed obligation to use the Hydro Power judiciously. It is seen from the submissions of TANGEDCO that there were intense discussions on the rates for the purchase of energy. Initially, there was a submission to the Board for purchase of power at Rs.5.90 per KWhr and the same was rejected by the Board as being very high. It was felt that Rs.5.50 per KWhr would be reasonable and steps might be taken to bring the same to the said level. The Board did even go to the level of suggesting the G.O.No.10 which prohibits the export of power outside the State might be repealed, if the generators were not agreeable for a reasonable rate. It is further seen that the Board was apprised of the stand taken by the generators that the USD exchange rate increased substantially and that it might continue in future as well. The generators also took a stand that ocean freight charges, labour charges, interest rates, prices of consumables, spares and other inputs which have a direct impact on the cost had risen considerably then. The Board of TANGEDCO was also apprised on the rates prevailing in Andhra Pradesh and the stand of the generators thereon. It is seen that the generators took a stand that there are no pit head power plants in Tamil Nadu unlike Andhra Pradesh and capacities of those power plants are big as compared to plants in Tamil Nadu and therefore, no parallel can be drawn. It is therefore, seen that there was an elaborate discussion on the feasibility of



acceptance of the rate of Rs.5.90 per KWhr and the Board finally came to a conclusion that nothing more than Rs.5.50 per KWhr would be acceptable for the period upto 15.5.2013 and if the generators are not agreeable, the G.O.Ms.No.10 may as well be recommended to be repealed. Thus, we see that there was a discernible approach on the part of the Board. We also find that the rate of Rs.5.50 per KWhr as approved by the Board was communicated to all the generators on 30.6.2012.

6.12. Thus, we find that there is a firm commitment on the Board of the Distribution Licensee to ensure that the power is procured at a competitive and minimal price which is a primary requirement for adoption under section 63. In view of the same, we do not see any lack of transparency or arbitrariness.

6.13. It is also to be seen that as stated by the Distribution Licensee, there is a huge gap between demand and supply. The Distribution Licensee has a basic mandate to ensure uninterrupted power supply and that the power is made available to the consumers at all times. It is also to be seen that even after procurement of the quantity of 6833 MU under this tender, the State had still been facing acute power shortage and consequent load shedding. It is in this context that the Commission would like to take a pragmatic view of the existing situation vis-à-vis the shortage of power existing at that point of time and the earlier directions of the Commission. In line with the said approach, the earlier order of the Commission dated 21.5.2012 wherein certain directions were given needs to be considered now.

6.14. It is seen that directions were given to the effect that before proceeding to finalise the power purchase in the instant case, TANGEDCO should examine the

purchase of power from the exchange, consider the availability of wind power, examine the possibility of going in for two part tariff and the firm commitment of TANGEDCO in reduction of load shedding and R & C measures and full absorption of power to be procured. In this connection, the reply furnished by TANGEDCO to the queries raised by the Commission have also been examined. It is relevant to reproduce the same for better appreciation of the facts of the case.

*It is respectfully submitted that formally all projections and statistics are conducted at 50 Hz only, even though the grid frequency would be hovering through the admissible bandwidth of 49.5 Hz to 50.2 Hz all the time depending on Demand-Supply position of not only the TN grid, but also on the demand of the other states in the southern grid. Given the power number of 1000 MW for the southern grids, the difference between the unrestricted demand with 50 HZ correction and without correction approximately works out to 300 MW for the entire states in SR. Contribution of Tamil Nadu in improving the frequency may be around 100 MW only. This will be handy in managing UI and may serve as stand by demand for Open Access consumers.*

*It is respectfully submitted that the power purchase from exchanges had to be totally stopped because of the high cost of power, even when small quantity power is requested for. This is mainly because of market splitting mechanism adopted by power exchanges due to corridor congestion. If power purchase through power exchanges is resorted to as a regular exercise the power cost would go further higher. The power from power exchange is not only expensive, but also unreliable. The quantity available also is meagre. It is humbly submitted that the projections cannot be made considering power from exchange. However the trades in power exchanges are meticulously monitored. As and when any opportunity to book any quantum of power at attractive rates persists in Day Ahead Market (DAM) or Term Ahead Market (TAM), the same is fully utilized. In fact the excess power if available with TANGEDCO will be suitably exploited to trade in the exchanges given the attractive rates prevailing in the market.*

*It is respectfully submitted that the Industrial consumers feel greatly affected due to the severe dosage of power cut on them. It is represented that their industrial production has fallen far below the economic level causing many of them to shut down their operations. This not only affects the individual consumer but also the whole of the state as well as of the nation.*

*It is respectfully submitted that in the period of high economic growth T.N. Industrial Sector has been stifled by the acute power shortage. Ensuring adequate power supply to the industrial consumers ensures sustained economic growth in the state improving employment opportunities and life style of the public. At the same time, TANGEDCO also derives revenue in excess of its expenditure since the revenue realization from the industrial consumers is higher than the average cost of supply and also the cost of power at which it is proposed to procure power through this tender.*

*It is respectfully submitted that the behavior of wind energy is unpredictable. The wind generators are also not coming forward to schedule that power even for the*

*purpose of mock exercise. It is respectfully submitted that the failure to contract base load presuming the availability of wind generation may prove disastrous. There had been several occasions where the wind energy had gone down to negligible level. Even during consistent wind generation period the variability used to be severe. All these factors make wind generation unreliable.*

*It is respectfully submitted that at the times of high wind generation even after contracting base loads as proposed we may be able to back down the high cost generations and also the power from the proposed purchase may be reduced to 80% of the contracted quantity as per terms and conditions of the tender. Kadamparai hydro electric generators may be operated on pump mode. TANGEDCO has already instructed to all their thermal plants to avail planned maintenance shut down by scheduling them during the surplus time i.e. from June to September and from November to December.*

*It is respectfully submitted that TANGEDCO will also explore possibilities of selling small quantum of power through power exchanges if the rates are attractive. Swapping of excess wind energy as and when possible will also be tried with other states that need power during this surplus season and get back the same during deficit period.*

*It is respectfully submitted that in the previous occasions attempts were made to procure power in the different time slots depending on the requirement of power, but it had ended in vain since the generator cannot be operated in different time slots with abnormally varying quantum of power output, as it has to fulfill the technical minimum as dictated by the design parameters. Moreover the power dispatch is done through the RLDCs which in turn depend on the corridor availability and hence it is decided to have a base load contract with the supplier on RTC basis. It is respectfully submitted, that during 2011-2012, Letter of Acceptance was issued for peak hour only under tender no.2 of 2011 for a quantum of 135 MW against the tendered quantum of 800 MW. but no power was scheduled as there was not corridor availability. Hence it is submitted that fragmented power purchase through tender due to the inherent uncertainty is not a viable proposition, both on economical and dependability terms. In the recent tenders floated by TANGEDCO bids were received with the condition that the suppliers are not willing to schedule the power if the corridor approval is fragmented.*

*It is submitted that, with respect to calling for two part tariff based bids on short term basis it is humbly submitted that presently, there are no specific guidelines for short term power market, which accounts for about 10 per cent of total electricity procured in the country. It is also to be submitted that till date no other utilities had opted for two part tariff in their short term power procurement. The Ministry of Power has passed a resolution dated 15<sup>th</sup> of May 2012 introducing competitive bidding guidelines for short-term procurement of electricity very soon based on the draft guidelines prepared by Power Finance Corporation (PFC) for short-term power procurement by distribution licensees through tariff-based bidding process. Power exchanges are not included in the same. The draft guidelines are issued with an objective to facilitate transparency and fairness in procurement processes, facilitate reduction of information and approach asymmetries for various bidders and harness diverse sources of power. The guidelines, prepared after consultations with stakeholders, would be applicable for power being procured for a period of less than one year. These guidelines would be issued under the provisions of Section 63 of the*

*Electricity Act, 2003. The new norms are likely to help in bringing transparency as well as standardize the process of short term power procurement. TANGEDCO would also strive to adopt these guidelines for short term power procurement as and when such guidelines are issued.*

*It is also submitted at this juncture that the resolution was notified on 15.06.2012 by Ministry of Power.*

*It is respectfully submitted that as directed by the Hon'ble Commission, the proposal of power procurement through Tender No.3 of 2012 was placed before the TANGEDCO Board, in its 25<sup>th</sup> meeting held on 30.05.2012. The extract of minutes of the Board is submitted as below:*

*“The Board discussed the subject in detail and observed that the rate of Rs.5.90 per unit offered by the intrastate generators for procurement of power from them needs to be revisited. The Board suggested re-negotiating the rate with them for bringing it down to a reasonable level.*

*It was also explained to the Board that the contract for supply of power from the local generators is expiring by 31.05.2012. In the absence of fresh contract being awarded it will adversely impact the power situation in the State. Also the G.O.No.10 dated 27.02.2009 being in force the local generators are not allowed to go outside the state for selling their power. Therefore, the Board suggested that a petition may be filed with TNERC as an interim measure seeking approval for extending the existing contract for a period of 1 month explaining the fact and that price is also much reasonable at Rs.5.05 /- per unit compared to the negotiated price of Rs.5.90 /- per unit in the new Tender.*

*The Board also suggested that repeal of G.O.No.10 dt 27.02.2009 may be considered as an alternative in case the suppliers are not willing to agree for a reasonable rate.”*

6.15. In view of the power shortage and the resultant load shedding prevalent in the State of Tamil Nadu, additional power was required then to offset partly the shortage and the Commission cannot ignore this aspect. The results of the power procurement process as brought out by the Distribution Licensee in the petition, it is seen, was well examined by the Board of the Distribution Licensee and we do not see any lack of transparency or arbitrariness. There was a need then to bridge the gap between demand and supply by procurement of power and therefore, if the proposal satisfies the basic requirements of transparency, it has to be necessarily adopted.

6.16. We also find that the replies given by TANGEDCO in regard to the queries raised by the Commission are acceptable and hence the present proposal for adoption of the rates in the competitive bidding held for purchase of 6833 MU from the generating companies situated locally in the State of Tamil Nadu for the period from July 2012 to May 2013 is approved. In the result, the rate of Rs.5.50/- per unit as proposed by the lowest bidder and accepted by the Board of TANGEDCO is fixed as being reasonable under proviso of Section 62 (1)(a) and Section 63 of the Electricity Act, 2003.

6.17. Incidentally, we also observe that the rate of Rs.5.50 per KWhr has been adopted for the subsequent year's short terms power purchase i.e., 2013-2014 by this Commission. The Commission in its Order dated 15-07-2013 in P.P.A.P.No.05 of 2013 which was filed for procurement of power around 903 MW to 927 MW from the intra-state local generators for the period from 1<sup>st</sup> June 2013 to 25<sup>th</sup> May 2014 approved the rate of Rs.5.50 /-. The said procurement has taken place for the subsequent year of 2013-2014. The Commission also observed in the said order that the rate is similar to the rate offered relevant to the P.P.A.P.No.3 of 2012 by referring to the Board Resolution dated 23-06-2012 of TANGEDCO which is the subject matter of present P.P.A.P.No.3 of 2012. Hence at this stage, we approve the rate of Rs.5.50 per KWhr for the period from July 2012 to May 2013 for the purchase of power of 6833 MUs from the Intra-State generators.

6.18. As decided by the Board of TANGEDCO, if any of the generators are not agreeable to Rs.5.50 per KWhr. TANGEDCO shall not receive power from such generators and if all of them are not agreeable to the said rate of Rs.5.50 per KWhr, TANGEDCO may even approach GOTN for the repeal of G.O.Ms.No.10. There is

absolutely no bar in selling the power to any other consumers in the State of Tamil Nadu as rightly observed by the Board of TANGEDCO, the embargo is only with regard to export of power outside the State and it is not necessary that the power should be sold only to the Distribution Licensee. Hence, we are in agreement with the views of the Board of TANGEDCO in this regard.

We also add that the necessity for procurement of power for the period from June 2012 to May 2013 has already been recognized and endorsed by the Commission in P.P.A.P.No.2 of 2012 in the petition filed for purchase of power from the Inter-State Traders. Thus, in-principle approval has already been accorded for procurement of power for the said period and the issue is now whether the procurement of power from the said Inter-State sources have materialized or not and whether the Intra-State purchase of power is necessary. We see that the purchase of power from Inter-State sources have not materialized due to reason such as transmission constraints as stated by TANGEDCO and therefore, in order to meet the energy needs, Intra-State purchase became necessary. As stated supra, having satisfied ourselves with the power requirements on the part of TANGEDCO and having satisfied with the requirement of transparency with regard to procurement of power from Intra-State traders and further having ensured that the power procurement for the subsequent years namely 2013-2014 has already been approved at the rate of Rs.5.50 per KWhr, the Commission approves the rate of Rs.5.50 per KWhr for procurement of power of 6833 MUs from Intra-State traders for the period from July 2012 to May 2013 as prayed for. The LOAs entered by the Board of TANGEDCO for the period from June 2012 to May 2013 for supply of 6833 MUs are also hereby ratified subject to the conditions set out herein.

With these observations, the P.P.A.P. No.3 of 2012 is allowed. No costs.

**7. 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.Akshayakumar)**  
**Chairman**

/ True Copy /

Secretary  
Tamil Nadu Electricity  
Regulatory Commission