

TAMIL NADU ELECTRICITY CONSUMERS' ASSOCIATION, COIMBATORE
 REVIEW OF PRESENT STATUS OF LEGAL CASES (**ANNEXURE - 1**) dated 30.09.2019

S.No.	Proceeding	Parties	Relief prayed for	Status
1	W.A. No. 3254 of 2019 filed before Hon'ble High Court of Madras (Advocate: Mr. R.S. Pandiyaraj)	Petitioner : TECA Respondent : TANGEDCO TAMIL NADU GOVT, SLDC, & TNERC	<u>G.O. (Ms). No. 37, Energy (D1) dtd 17.04.2019 curtailing OA Power for less than 1MW connected load consumers.</u>	TECA Appeal was admitted by Hon'ble High Court on 20 th September 2019 and it was listed along other petitions on 23rd September 2019. Based on the arguments placed, the Court has directed to furnish the following details on next hearing. <i>(i). From how many power generators, conventional and non-conventional power is purchased by TANGEDCO for the past 10 years? [yearwise details have to be given]</i> <i>(ii).What is the rate of purchase of power from various generators? [year wise and generator wise rate details need to be provided]</i> <i>(iii).What are the agreements which cover purchase of power by TANGEDCO? [Give the details of agreement for the past 10 years]</i> <i>(iv).Is it a fact that TANGEDCO entered into a power purchase agreement with a power generator company for 21 years at the rate of Rs.7.00 per unit (approximately)?</i> <i>(v).Is it a fact that power is purchased from the Appellants at the rate of Rs.2.00 per unit (approximately)?</i> <i>(vi).Is it a fact that loss of Rs.5.00 per unit (approximately) is caused to TANGEDCO because of the agreement with a power generator for a period of 21 years?</i> <i>(vii).Is it a fact that loss is deliberately caused to wind power generators because</i>

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				<p><i>of non-evacuation of power generated by wind energy generators completely in time?</i></p> <p><i>(vii).How much is due to be paid to various power generators? [year wise and generator wise details have to be given for the past 10 years].</i></p> <p><i>(ix).From which year onwards, the amounts are to be paid? [generator wise details have to be given].</i></p> <p><i>(x).When the amounts would be paid to the generators, if TANGEDCO is due?</i></p> <p>Next hearing posted on 01st October 2019</p>
2	<p>W.P. No. 10548 of 2017 filed before Hon'ble High Court of Madras (Advocate: Mr. R.S. Pandiyaraj)</p>	<p>Petitioner : TECA Respondent : TANGEDCO</p>	<p><u>TANGEDCO's notice on verification of the status of Captive Generating Plant.</u></p> <p>Members who have captive windmills or those purchasing power under the Group Captive scheme (from Fossil Fuel, Wind, biomass etc) have received letter from TANGEDCO calling for certain documents for verifying the status of the Captive Generating Plant. TECA has filed objection to TANGEDCO informing them about their lack of jurisdiction to verify documents under the Group Captive Scheme. Moreover, members may also not be able submit all the documents called for as some of them pertain to the generator and the consumer may not be available with them. There are various legal aspects involved in the matter and the process of verification of CGP status by TANGEDCO is without the Authority of</p>	<p>This matter came up before His Lordship Mr. M.M. Sundaresh on 25th April 2017. After elaborate arguments by our Advocates, the Hon'ble Court was pleased to pass an order directing TANGEDCO not to raise any new demand by means of Cross Subsidy Surcharge. If any such demand already raised it should not be given effect.</p> <p>The important portion of Order is extracted for your reference.</p> <p><i>"Considering the above submissions made, this Court is of the view that the matter requires a deeper consideration. It is submitted that only in few cases, demands have been raised after conclusion of the process of verification. Therefore, this court is of the view that while permitting the process of verification to go on, no new demand can be raised by way of passing appropriate orders. In case, where demands have already been raised,</i></p>

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			<p>Law as it is only a Distribution Licensee.</p> <p>Hence TECA filed a Writ Petition No.10548/2017 before Hon'ble High Court, Madras in CGP verification matter.</p>	<p><i>they shall not be given effect to.</i></p> <p><i>It is made clear that this order will not stand in the way of the petitioners contending that the process of verification is contrary to law. It is further clear that the benefits which the petitioners are enjoying till now shall not be disturbed until further orders, so is the case of the entitlement for the future, on merits, if any.</i></p> <p>This matter was finally listed for hearing at Madras High Court on 15.06.2017. Our Advocate handed over the copy of Madurai High Court order and mentioned about consent of the AAG provided in Madurai. It is expected that a similar order is likely to be issued at the Principal Court. Hence the status is continuing as per the orders dated 25th May as ordered by Madurai High Court by keeping all CGP verification issues in abeyance.</p> <p>While so, TANGEDCO has filed writ appeal against the consent order passed in Madurai HC directing TANGEDCO to approach TNERC. We also filed a implead petition before Hon'ble Madurai High Court on 31st July 2017.</p> <p>The Hon'ble Court passed final order dated 09.10.2018 directing TNERC to pass general or specific order laying down procedure for CGP Verification. In such order TNERC will also decide of TANGEDCO can be given the liberty to verify.</p> <p>Accordingly TNERC has issued draft</p>
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				proceeding for Procedure for verification of CGP status in accordance to requirements in Rule 3 of Electricity Rule 3 of Electricity Rules 2005. We have submitted our comments. We will now wait for TNERC to take up the issue.
3.	SLP No.35425-35426 of 2012 before Supreme Court (Advocate : Mr.N.L.Rajah)	Appellant : TECA Respondent : The Government of Tamil Nadu	<u>E-tax on maximum demand & Self Generation Tax</u> Relief Prayed for : To quash the levy of E-tax on Maximum Demand and self-generation The appeals against the order of Bench of Madras High Court in Writ Petition No. 11016 & 11017 of 2008	The SLP of TECA was dismissed on the ground that an Association could not to be party. However appeal of SIMA and TECA members have been admitted and granted interim stay for the collection of E-Tax on Maximum Demand Charges. In respect of Generation Tax, the Court served notice to the Government for its reply. These matters are continuously listed for final hearing during September 2018 and was last heard on 27.09.2018 During the hearing held, one of the Counsels appearing for one Company, has argued that keeping the permanent exemption for CGPs at one hand and demanding to pay the Self-Generation Tax on the other hand, is not correct. On that score, he further argued that if the exemptions are withdrawn and if the Government comes forward to collect the levy by withdrawing the exemption, prospectively, their Company will be ready to pay the SG Tax on CGPs. On this plea, the Energy Secretary, on behalf of the State of Tamilnadu, was directed to appear before the Hon'ble Supreme Court and however, even on the appearance of the Energy Secretary, there was no conclusion arrived, as the Government was not in favour of the approach put forth by the respective Counsel.

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				<p>However, instead of the Hon'ble Supreme Court deciding the matter on merits and law, has passed an order as follows when the matter was heard on 25.09.2018.</p> <p><i>"In the meanwhile, learned counsel appearing for both the parties should try and work out some kind of a settlement so that the litigation comes to an end "</i></p> <p>Last hearing was held on 27.11.2018. Hon'ble Supreme Court has granted leave on the matter. Hereafter, SLP will be converted in to a Civil Appeal and will be listed for hearing in due course</p>
4	<p>W.P. No. 39720 & W.P No. 39721 of 2016</p> <p>(Advocate : R.S. Pandiyaraj</p>	<p>Petitioner: TECA Respondent : TANGEDCO, TANTRANSCO & TNERC</p>	<p><u>Scheduling and System Operation Charges (SOS)</u></p> <p>After the coming in to force of the Tariff Order No. 3 of 2016 dated 31.03.2016, there was a confusion in the matter of collection of Scheduling and System Operation Charges (SOS) on the reason of having neglected to provide the pro rata capacities of windmills and also making the SOS charges as a promotional measure for REC type windmills. Hence, both the issues have been challenged by our Association before the High Court of Judicature at Madras.</p>	<p>Hon'ble High Court has passed an Interim order to collect the SOS charges at Rs.300 instead of Rs.800 for Non REC windmills and Rs.2000 for REC windmills through its order dated 14.11.2016.</p> <p>The interim order still holds good the matter is pending</p>
5.	<p>Civil Appeal No.7945-7946 of 2014 before</p>	<p>Appellant : TANGEDCO Respondent : TECA</p>	<p><u>Solar Purchase Obligation</u></p> <p>Civil Appeal filed against the Order dated 21.01.2014 passed by the Hon'ble APTEL</p>	<p>This appeal came before Supreme Court on 16.11.2016.</p> <p>The Appeals were dismissed by the Hon'ble</p>

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	Supreme Court (Advocate : Mr.N.L.Rajah)	and TASMA		Supreme Court as the advocates for both the TANGECO and respondent were not present in the court on that day. However, TANGEDCO has filed an application for restoration of the Appeal as the dismissal was not on merits. This appeal was admitted by Honb'le court and last hearing was held on 18.09.2019. However it was not reached on that date. May be heard on next week.
6.	Information filed before Competition Commission of India	Informant : SIEMA Respondent : TANGEDCO	<u>Equitable Distribution of Power – filed before CCI</u> Seeking Equitable Distribution of Electricity to all consumers in Tamil Nadu	<p>The Commission, passed an order dated 08.10.2013 directing The Director General to investigate the matter for violation of any/all provisions of the Competition Act, In case the DG finds any company in violation of the provision of the Act, it shall also investigate the role of the persons who at the time of such contravention were in charge of and responsible for the conduct of the business of the company involved so as to fix responsibility of such persons under section 48 of the Act. DG shall give opportunity of hearing to such persons in terms of section 48 of the Act. The report of DG be submitted within 60 days from receipt of the order.</p> <p>On the basis of this order, the Office of the Director General (Investigation) has sent a notice to The Chairman cum Managing Director, TANGEDCO to provide the certain information along with supporting documents.</p> <p>However TANGEDCO has filed a writ petition No. 35047 of 2013 and M.P. No. 1 of 2013 in Madras High Court seeking to</p>

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				quash the order of the Competition Commission of India and the Notice of its Director General (Investigation). Informant SIEMA has appointed a Counsel to argue this petition at High Court. Last hearing held on 17.06.2014
7.	Batch of Writ Petitions before the Hon'ble High Court, Madras (Advocate : Mr.N.L.Rajah)	Individual consumers Vs. The Government of Tamil Nadu and 2 Others	<p style="text-align: center;"><u>To claim the E-Tax amount paid before 2003</u></p> <p>The Supreme Court in its Judgment dated 15/05/2007 in SPIC Vs Electricity Inspector has held that levy of E-tax on Maximum Demand was invalid. Subsequently Tamil Nadu Assembly has passed the Tamil Nadu Tax on Consumption or sale of Electricity (Amendment) Act of 2007 (Act 38 of 2007) nullifying effect of this Supreme Court Order. TECA has filed writ appeal No.11016 & 11017 of 2008 against this amendment. This matter went against TECA by the order of Madras High Court Bench Judgment dated 15.06.2012 which upheld the validity of the levy. The SLP No 35425-35426 of 2012 of TECA in Supreme Court on this matter was dismissed. (Please see item No.7) SLP's filed by other Associations and individual members are pending in Supreme Court. Concurrently individual members of TECA have claimed the refund of E-tax paid by them on Maximum demand before June 2003. The Tamil Nadu Electricity Ombudsman has kept its final order in abeyance in view of the proceedings challenging Tamil Nadu Tax on Consumption or sale of Electricity</p>	Pending before the Hon'ble High Court.

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			(Amendment) Act of 2007 (Act 38 of 2007) at Madras High Court. A final decision on this matter can be expected only after the SLP's in item 4 in Supreme Court are decided.	
8.(a)	Civil Appeal Nos.1090-1099 of 2011 before the Hon'ble Supreme Court of India	Appellant : TNEB Respondents : TECA, TASMA and Others	<p style="text-align: center;"><u>Levy of Excess demand and energy charges for violation of peak Hour restriction</u></p> <p>TNEB have levied charges for the excess demand and energy consumed by the Consumers during Peak Hour from 1.11.2008 based on the TNERC order on MP No. 42 of 2008 dated 28.11.2008, after a period of 10 months. This was challenged by TECA at TNERC vide M.P. No.4 of 2010. TNERC.</p> <p>TNERC passed an order dated 04.05.2010 dismissing TECA's petition holding that Tamil Nadu Electricity Board is entitled to impose the Excess Demand Charges and Excess Energy Charges during evening peak hours as it was in consonance with its order dated 28.11.2008</p> <p>Against this Order TECA and other Association filed Appeals before APTEL. APTEL passed an order dated 11.01.2011 stating there is no clarity in TNERC order dated 28.11.2008 about excess demand charges and excess energy charges for evening peak hour violation. Only in the order dated 4.05.2010 the commission made it clear that excess demand and energy charges were applicable from</p>	<p>a) Civil Appeal pending before the Hon'ble Supreme Court of India.</p> <p>b) Civil Appeal pending before the Hon'ble Supreme Court of India. The last hearing was held on 03.11.2017. Further hearing was not heard till date.</p>
8.(b)	Civil Appeal No.2859 of 2011 before the Hon'ble Supreme Court of India (Advocate : Mr.N.L.Rajah)	Appellant : TNEB Respondent : TECA		

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			<p>28.11.2008. Hence TNERC has got powers to grant permission to the Electricity Board to collect excess demand charges and excess energy charges only prospectively, i.e., from the order dated 04.05.2010.</p> <p>This order was challenged by TNEB in Supreme Court</p>	
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