

**TAMIL NADU ELECTRICITY CONSUMERS' ASSOCIATION**  
**Regd. No.** 181-8524/1998 – **CIN.No.** U37102TZ1998GAP008524  
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TECA: CIR:2018-19/41  
July 20, 2018

**CIRCULAR**

All Members

Dear All,

Sub: **CGP Verification** - Filing of reply regarding.

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We have been informed by members that, they have received letters from TANGEDCO for submission of financial statements (for the years 2014-15, 2015-16 and 2016-17). This is for verification of Captive Group Power (CGP) user status by TANGEDCO.

The Hon'ble High Court had issued judgment dated 25 May 2017, **keeping in abeyance** CFC-Revenue's instructions to verify CGP Status. Whereas, after this judgement, TANGEDCO had gone for writ appeal and this appeal is not stayed. Hence, the order dated 25 May 2017 is in effect.

Further, TNERC had filed a detailed counter, which informs jurisdiction of the commission to verify CGP status. TNERC had not delegated its power to any person or TANGEDCO to verify CGP status. As of now, TANGEDCO has no authorization to verify CGP Status.

Under present situation, **submission of financial statement may not be required**, and members may submit a reply as per draft letter attached herewith under copy to TECA.

With Warm Regards,

N. Pradeep  
Secretary

(To be printed in the letterhead)  
Specimen

To Date:

The Superintending Engineer,  
TANGEDCO,  
----- Electricity Distribution Circle,  
Station -----.

Sir,

Sub: Verification of Group Captive User Norms – Documents called for – Regarding.

Ref: Your letter No.----- dated -----.

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We have received your letter cited above, calling for records for the purpose of verification of CGP Status for the years 2014-15, 2015-16 and 2016-17.

In this connection, we wish to state that calling for documents as per referred letter is not in your jurisdiction and lacks locus-standi. Verification of Captive Status of any Captive Generating Plant (CGP) or Captive User, is a function of the State Regulatory Commission and accordingly, only the Hon'ble TNERC has domain and authority to verify concerned documents in the State of Tamil Nadu.

It may be noted that allotment of energy to consumer is being done by SLDC, after getting NOC from consumer end SE and accordingly, after entering in to an agreement with SLDC. The contracted quantum of energy is being supplied to captive users for their consumption from CGP. At the closure of the financial year, required details are being provided to TANGEDCO / TANTRANSCO by Generators on the pattern of energy supplied to various consumers from the CGP and accordingly, a confirmation is also being obtained to this effect.

All the case laws so far decided by the APTEL, only allow the State Commissions alone, to verify and declare Captive Status of CGPs. Therefore, any attempt by other authorities to go for verification, would be an act of contempt and would be amounting to supersede the powers of State Commission in this regard. Hence, calling for records from consumers by TANGEDCO for the purpose of verification of CGP status, is not an authorized course.

In addition to the case laws so far decided by the APTEL, there are many other judgements supporting the same stand and declare that only the State Commission has the Jurisdiction and Authority to decide the matter of declaring the Captive Status of any CGP/Captive User.

Further to the same, the Hon'ble High Court of Madurai Bench, has already issued its final order in WP (MD) No. 9304 and 9305 of 2017 dated 25.05.2017 that the TANGEDCO should approach the TNERC in the matter of getting verification of the CGP / Captive User Status. Further, by the said order, all the instructions of the CFC-Revenue, as far as the matter of verification of CGP status, were are ordered to be kept in **abeyance**. This order was not yet stayed and it is still in operation.

Even on a Writ Appeal filed by the TANGEDCO, no final outcome has come and the status was not altered.

Further, on the Writ Appeal No. 930 and 931 of 2017, filed by TANGEDCO, the TNERC has filed a detailed counter. In the said counter, the TNERC has categorically recorded its view that only the Commission has the Authority to verify the CGP status. However, it has also mentioned that the power to verify the CGP status could be delegated to any other person also, as per Section 97 of the Electricity Act 2003. However, the TNERC has not so far delegated the powers either to TANGEDCO or to any other persons. In this connection, the Division Bench has to list the Writ Appeals for further hearing. However, the legal position was declared by the TNERC through its counter.

Therefore, we request you kindly, not to act up on your letter cited above. Please defer the matter till the disposal of the Writ Appeals filed by TANGEDCO before the Madurai Division Bench. Further, when the TNERC has not delegated the powers to TANGEDCO as per Section 97 of the Electricity Act 2003, as maintained in the counter filed by the TNERC, calling for records for the purpose of verification of CGP would go against the High Court order already issued in this regard in WP (MD) No. 9304 and 9305 of 2017 dated 25.05.2017.

Thanking You,

Yours Truly,