

TAMIL NADU ELECTRICITY CONSUMERS ASSOCIATION

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CIRCULAR

To

All Members

Sub: Competition Commission of India (CCI) interim order dtd 08.10.2013 on Equitable Distribution of Power in Tamil Nadu.

Dear Sir,

Members are aware that the Southern India Engineering Manufacturers' Association (SIEMA) had filed information vide Case No. 38 of 2013 before Competition Commission of India (CCI), New Delhi, seeking Equitable Distribution of Electricity to all consumers in Tamil Nadu.

The Commission, after considering the information filed by SIEMA and hearing its Counsel, passed an order dated 08.10.2013 as follows:

10. In view of the foregoing discussion, it is evident prima facie OP (i.e TANGEDCO) was abusing its dominant position by imposing discriminatory conditions in the sale of electricity in the relevant market within the meaning of section 4(2)(a)(i) of the Act. This is a fit case for DG investigation.

11. The opinion expressed herein above is based on facts available to the Commission at this stage. The Director General has to investigate the matter for violation of any/all provisions of the Competition Act, and not only in respect of the provisions above stated.

12. The Secretary is, therefore, directed to send a copy of this direction to the office of the DG. The DG shall investigate the above matter as stated above. 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.

On the basis of this order, the Office of the Director General (Investigation), Competition Commission of India under Section 41(2) read with Section 36 (2) of the Competition Act 2002 has sent a notice to The Chairman cum Managing Director, TANGEDCO to provide the following information along with supporting documents.

1. Certified true copy of incorporation documents.
2. Certified true copy of audited Annual Accounts for the last three accounting years
3. Details of Board of Directors of TANGEDCO.
4. Shareholding pattern of the TANGEDCO, details of share holding of major share holders in absolute and percentage terms.
5. Explain business activities and operations of TANGEDCO.
6. Year wise details of the power produced/purchased and distributed by TANGEDCO since 2009. Is there is any alternate agency for the supply of electricity in the relevant market.
7. Month wise data related to demand and supply of electricity in the state of Tamil Nadu since the year 2009.
8. Month wise data related to demand and supply of electricity in Chennai since the year 2009.
9. Copies of studies, if any carried out to assess the demand and supply of electricity in Tamil Nadu.
10. Details of the categorization of electricity consumers, if any, done on the basis of usage/purpose of supply of electricity and the applicable tariff thereof since 2009.
11. Details of the categorization of electricity consumers, if any, based on their geographic locations and details of the applicable tariffs since the year 2009.
12. Manner in which the schedule of load shedding is decided and the manner in which it is appropriated to the different categories of electricity consumers.
13. Data on hours of load shedding, on monthly basis in Tamil Nadu since 2009. District-wise break-up of the aforesaid data on load shedding.
14. Details of the policy, if any, of government or any other competent authority, for providing electricity to the city of Chennai on preferential basis vis-à-vis other cities/districts in Tamil Nadu.
15. Please explain the rationale for alleged equitable distribution of electricity across cities and districts in Tamil Nadu.
16. Copies of any study/analysis undertaken/relied upon to assess the impact of

such inequitable distribution of electricity on various economic activities undertaken in the different regions of the state of Tamil Nadu.

17. Copies of correspondence exchanged with the Informant on the alleged issues.

18. Details of the action, if any, taken on the TNERC order dated 23.02.2012.

19. Details of the proposals submitted to State Government, consequent to the Order dated 11.01.2011 passed by APTEL.

20. Please confirm whether the Electricity Act contains any provisions for load shedding, if yes, specify.

21. Certified copies of the Memorandum of Understanding entered with the Industries as mentioned in para 18.0 of the Counter Affidavit dated 23.09.2013, filed before Hon'ble Competition Commission of India.

22. Confirm whether similar Memorandum of Understanding with entities situated outside Chennai, If not, reasons thereof.

23. Details of the services which are exempted from the demand and energy restrictions. Whether such services, rendered outside Chennai, have also been exempted from such power and demand restrictions. If not, reasons for the same may be informed.

24. Any other information/documents relevant to this investigation that you may like to furnish.

TANGEDCO has filed a writ petition in the Madras High Court seeking to quash the order of the Competition Commission of India and the Notice of its Director General (Investigation). The petition is being heard. We have already informed you about these proceedings.

This is for the information of members.

With Warm Regards,

D Balasundaram
President