

TAMILNADU ELECTRICITY CONSUMERS ASSOCIATION

Regd. No. 181-8524/1998

1st Floor, SIEMA Building, 8/4, Race Course, Coimbatore - 641 018

Phone: (0422) 4351400 [e-mail:teca@tecaonline.in](mailto:teca@tecaonline.in)

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CIRCULAR

To

All Members

Sub: APTEL sets aside TNERC order on Solar Power Obligation & TECA Press Note on SPO APTEL order

Dear Sir,

With reference to the Circular No. 170 dated 22nd January 2014 we are enclosing herewith the Order passed by APTEL in the matter of TECA's appeal against TNERC order No. 1 of 2013 on issues related to Tamil Nadu Solar Energy Policy 2012.

The gist of the order is as follows;

i) *The State Commission in discharge of its functions under the Electricity Act, 2003 has to be guided by the directions of the State Government u/s 108 of the 2003 Act but the same are not mandatory and binding. The State Commission being an independent statutory authority is not bound by any policy directions which hampers its statutory functions.*

ii) *The State Commission has to be guided by the directions of the State Government u/s 108 of the Act only in discharge of the functions assigned to it under the 2003 Act. Such directions have to be implemented only under the functions and powers assigned to the State Commission under the 2003 Act. The Act only provides for specifying the purchase obligation from the renewable energy sources under Section 86(1)(e). Thus, the directions of the State Government for SPO can only be considered by the State Commission in exercise of its powers under Section 86(1)(e) of the Act.*

iii) *The contention of the State Commission that SPO and RPO are two different obligations and the RPO has been fixed under RPO Regulations 2010 under Section 86(1)(e) and SPO as per implementation of Policy directions of the State Government under Section 108 is not legally valid. The State Commission has to consider the directions of the State Government under section 108 in the matter of discharge of its functions under the Act and not in a general way outside the functional scope of the Act. The State Commission had no power to issue an SPO order as per the directions of the State Government u/s 108 in addition and contrary to RPO obligations specified in the RPO Regulations 2010.*

iv) *The State Commission can specify the RPO/SPO on the total consumption of the distribution licensee and not selectively and directly on some categories of consumers of the distribution licensee. The SPO obligation as provided in the impugned order is contrary to the State Commission's Renewable Energy Regulations 2010 and is beyond the powers of the State Commissions. The impugned order is also discriminatory to some categories of consumers of the distribution licensee.*

v) *The State Commission has simply tried to implement the directions of the State Government by passing the impugned order without considering its own functions and powers under the 2003 Act and its own Renewable Energy Regulations notified under the Act and even without considering the other important issues raised by the objectors.*

In view of above, the Appeals are allowed and the impugned order is set aside. No order as to costs.

We are enclosing herewith **APTEL order** and **TECA Press Note on SPO order of APTEL dtd 21.01.2014** for your reference.

With Warm Regards

D Balasundaram
President