

By E-mail

**TANGEDCO
ACCOUNTS BRANCH**

**Revenue Division
144, Anna Salai,
Chennai – 600 002.**

Memo No. CFC/Rev/FC/Rev/DFC/Rev/AO/F.APTEL/D.289/2020, dated: 21-05-2020

Sub: TANGEDCO – COVID-19 outbreak – stay of the impugned order of the Hon'ble TNERC S.M.P. No. 2 of 2020 dt. 04.05.2020 by Hon'ble APTEL – Instructions issued - Reg.

Ref: 1. Hon'ble TNERC S.M.P. No. 2 of 2020 dated 04.05.2020
2. Hon'ble APTEL's Appeal No. 102 of 2020
3. CMD's Note Approval dated 20.05.2020

1.0 In the reference (1) above, Hon'ble TNERC in its order S.M.P. No. 2 of 2020 dated 04.05.2020 has issued instructions to levy demand charges at 20% of the sanctioned demand for the HT consumers whose recorded demand is less than 20%. The operative portion of the said order is extracted below,

" XXX

4) Keeping all these in mind, Commission issues the following direction, to TANGEDCO, in respect of billing of HT Services –

The G.O.s of the State of Tamil nadu - G.O.152, dt.23.03.2020, G.O.172 (Revenue & Disaster Management Department) dt.25.03.2020 and G.O.193 (Revenue & Disaster Management Department) dt.15.04.2020, have notified to close down all the activities such as industrial, commercial, education institutions, etc., to stay everybody at home, with some exceptions. The G.O.s are applicable throughout the State. Therefore,

(a) i) In the case of HT consumers, whose recorded demand does not exceed the 20% of sanctioned demand during this lock-down period – those HT consumers are to be considered to fall within the Proviso of Regulation 6(b) and twenty percent of the contracted demand or recorded demand whichever is higher can be recovered besides the charges for the actual consumption of electricity. And the above charges are recoverable by the TANGEDCO in addition to the Transformer loss component in case the HT service is connected in LT side of the Transformer.

ii) Even though such HT services are required to be billed under regulation 6 (b) of the Supply Code, as stated in the provision (i) of 6(b) i.e., insisting of the certificate from Labour officer/any other revenue authority, by this time, is not at all required, since the LOCK-DOWN of all the sectors due to epidemic situation have been clearly explained in the above G.O.s 152, 172 and 193. Moreover, approaching of any authority of Revenue administration, as requested by TANGEDCO, is also impracticable, since those officials were made involved by State Government in prime task of containment measures of COVID-19.

The above direction to be adopted invariably, during this lock-down period caused due to COVID-19 in their respective area, in the billing of all HT consumers, without insisting of any representation by the HT consumer.

(b) Further, State Government vide above G.O.s, following the guidelines of Government of India, made exception for certain activities such as Government Hospitals, Government offices, TWAD Board, Pharmaceutical industries, Oil refining, Banks, etc., These services are allowed to function as usual considering its essentiality, therefore the usage of electricity also will be quite normal i.e., more than 20%.

Considering the above circumstances, in the case of any HT consumer, who have been permitted to carry out their business, during this lock-down period – those HT consumers are to be billed under routine billing method as stated in the Tariff Order i.e., maximum Demand Charges for this period will be levied on the demand actually recorded in that month or 90% of the sanctioned demand whichever is higher, besides the charges for the actual consumption of electricity. Usual HT billing to be done, as if normal industrial/commercial/ other activities were carried on by the Consumer.

(5) After the period specified under Para (1) above, wherever the Government of Tamilnadu adopts the partial lock-down due to COVID-19, TANGEDCO may accept the permission granted for functioning of such industry/activity by the designated authority (viz., District Collector, Corporation Commissioner, etc.,) as stipulated by the Government time to time; and the Minimum charges for such HT services may be decided based on the direction under Para 4 (a) or (c) as the case may be."

2.0) Further to the above, the Appeal petition was filed by TANGEDCO before Hon'ble APTEL vide Appeal.No.102 of 2020 and the Hon'ble APTEL during the hearing held on 18.05.2020 through video conferencing and passed the order dated 18.05.2020. The operative portion of the order is as below,

" XXXX.....

The Appellant is the Distribution licensee operating in the State of Tamil Nadu and is aggrieved by the above mentioned order raising various issues including that of fairness of dispensation besides correctness and legality of the unilateral directives, also questioning the power and jurisdiction exercised as well as the propriety of the procedure followed by the State Commission leading to the blanket order granted in the nature extracted above.

We were informed at the hearing that the billing for month of April, 2020, which primarily is the immediate cause for worry for the Appellant on account of effect on its revenue, has been initiated and issued in the past week, some interim relief against coercive action on such score by the Distribution Licensee having been granted by the jurisdictional High Court on a petition preferred in the meantime by some of the affected parties.

We note from the Impugned Order that the State Commission did not hold a formal hearing, nor called for any objections in strict sense and thereby seems to have prima facie been in breach of rules of natural justice.

In our opinion, the Commission needs to be called upon to explain to us the power and jurisdiction which was exercised by it so as to deviate from the requirements of Regulation No.6 of the Supply Code and lay down principles different from those envisaged therein particularly the prerogative of the Discom to consider and decide on such claim of relief vis-à-vis demand (fixed) charges and prerequisite of official certification putting the onerous onus on the former to find out entities as may not have

be entitled to the relief. In these circumstances we direct the operation of the Impugned Order dated 04.05.2020 passed by the State Commission in SM No.2 of 2020 to remain stayed till next date of hearing. Since the Impugned Order is being stayed by the above direction passed today, the bills which may have been issued prior to this order being passed shall be treated, as one-time exception, as if they were issued today and the time for payment shall be construed accordingly by all concerned....

XXXXX"

3.0) In view of the above Hon'ble APTEL order, the Superintending Engineer/EDCs are requested to consider the HT bills which have been issued prior to the order of Hon'ble APTEL dated 18.05.2020 be treated as one-time exception, as if they were issued on 18.05.2020 and the time for payment shall be construed accordingly.

//By Order of CMD/TANGEDCO//

Sd/- xxx 21.05.2020
Chief Financial Controller/Revenue

To

All the Superintending Engineers/EDCs.

Copy to All the Chief Engineers/ Distribution Regions.

Copy to Chief Financial Controller/General/TG,

Copy to Chief Financial Controller/Regulatory Cell/TG. (For necessary action wherever required)

Copy to Chief Engineer/Information Technology (For necessary action).

Copy to Chief Internal Audit Officer/TANGEDCO.

Copy submitted to Director (Finance) & Director (Distribution)/TANGEDCO

Copy to EA to Chairman cum Managing Director/TANGEDCO.

Copy to APO (Tamil Development) (to publish in gazette).

Copy to Stock file.