

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

Order of the Commission dated this the 13th Day of February 2025

PRESENT:

Thiru.K.Venkatesan

.... Member

and

Thiru.B.Mohan

.... Member (Legal)

M.P. No. 50 of 2024

Tamil Nadu Power Distribution Corporation Limited
Represented by its Chief Engineer /
Private Power Projects,
144 Anna Salai,
Chennai – 600 002.

... Petitioner
(Thiru.N.Kumanan &
Thiru.A.P.Venkatachalapathy
Standing Counsel for TANGEDCO)

This Miscellaneous Petition Coming for final hearing on 12-11-2024 in the presence of Tvl. N.Kumanan, Standing Counsel for the Petitioner and on consideration of the submission made by the Counsel for the Petitioner, this Commission passes the following:

This Miscellaneous Petition stands preferred by the Petitioner Tamil Nadu Power Distribution Corporation Limited., with a prayer to approval to float a short-term tender and for deviation from the guidelines for procurement of RTC & Peak hour power from 01.02.2024 to 31.05.2025 as detailed below:-

Month & Year	Time Period (00.00 to 18.00 hrs) in MW	Time Period (18.00 to 24.00 hrs) in MW
February – 2025	200	540
March – 2025	750	1575
April – 2025	1200	2340
May – 2025	600	1320

ORDER

1. Contentions of the Petitioner :-

1.1. The Miscellaneous Petition is filed seeking approval from the Commission to float tender for procurement of RTC and Peak hour power for the period from 01-02-2025 to 31-05-2025 under Short Term Tender by inviting tender through DEEP-Portal.

1.2. The petitioner, Tamil Nadu Power Distribution Corporation Ltd (TNPDC) erstwhile TANGEDCO, an entity incorporated under the Companies Act 1956 and one of the successor entities of Tamil Nadu Electricity Board (TNEB) and engaged in the business of Generation, Distribution etc. That apart the petitioner is a Distribution Licensee in the State of Tamil Nadu for distribution of electricity to various categories of consumers in the State of Tamil Nadu and the electricity required for distribution is availed from various sources such as the petitioner's own generating stations and purchase of power from various Central Generating Stations of its share, Independent Power Plants, Captive Power Plants, Wind generators, Co-generation plants, Bio – mass plants, Merchant power plants, Power exchanges etc.

1.3. The petitioner, TNPDC, contend that the demand for electricity in Tamil Nadu was steadily increasing and all time high-consumption in the State of Tamil Nadu during 2022 to 2024 were:

Year	All time high demand		All time high consumption	
2022	17563 MW	29.04.2022	388.078 MU	29.04.2022
2023	19387 MW	20.04.2023	423.785MU	20.04.2023
2024	20830 MW	02.05.2024	454.320 MU	30.04.2024

1.4. TNPDC contend that due to tremendous growth and development in industrial sector, there had been substantial increase in requirement of power within the state and there was wide gap in Demand supply condition. Accordingly, all time high demand of electricity is increasing around 6% every year and the minimum demand and consumption of power were also considerably increased during summer months.

1.5. The petitioner claims that TNPDC met the power demand through own generating stations, Central Generating Stations, Renewable energy sources and through various power purchase agreements executed under long- and medium-term tenders. Apart from the above sources, TNPDC purchases power through exchanges in Day Ahead Market (DAM), Real Time Market (RTM) and Term Ahead Market (TAM) in case of outages of own generating stations.

1.6. TNPDCCL has met the demand from the Installed Capacity of conventional sources of 18479 MW (TNPDCCL Thermal 5120 MW +Hydro 2321 MW + Gas 516 MW + IPP 525 MW + CPP 223 MW + CGS Share 6724 MW + LTOA 2900 MW + MTOA 150 MW).Considering a PLF of 85%, the net availability would be 15707 MW.

1.7. TNPDCCL also contend that since lifting of covid restrictions in Tamil Nadu, all IT firms and commercial establishments resumed their regular operations and industrial operations have gained momentum. On account of anticipated dry weather during summer months, the minimum demand and consumption of power will be increased considerably during the summer months of 2025 and the demand over the grid would likely to be increased.

1.8. The petitioner contend that there would be significant increase in peak summer demand during 2025 and usually during summer period of every year the wind generation would be meagre and the average Price per unit in exchange market would be high due to increased demand. Public exams for schools/colleges would be scheduled during the summer months of April and May 2025. Therefore, in order to maintain the uninterrupted power supply, it would be necessary to make arrangements for procurement of power to meet out the summer demand without any interruption.

1.9. TNPDCCL contend that on analysing the data from previous years, it is observed that during procurement of power through exchange even if petitioner placed bid during summer period at the maximum price, they could get only 30% of the bided quantum block wise under DAM/RTM segment, as the buy bids were more than double the sell bids quantum in some blocks indicating higher demand and lower supply.

1.10. The petitioner contend that from the previous experience they observed that, if the STOA tenders are floated as RTC quantum with an arrangement of supply of at least 60% of the quantum during (00 to 18) hrs and 100% quantum during peak hours, the generators and traders are willing to participate. The petitioner also claims that the Commission has also emphasized this arrangement of procurement of power through short term tender vide orders in M.P. No. 43 of 2023 dated 18.07.2024.

1.11. It is also contended by the petitioner that, they noticed that there has been a significant rise in quantum before 18:00 Hrs and fall in quantum after 24:00 hrs. Therefore TNPDCCL proposed to make the bidding arrangements such that from 00.00 to 18.00 hrs under RTC, a quantity nearer to the technical minimum of a generating unit, has been procured and for peak hours, 18.00 to 24.00.hrs, RTC plus min 70% of RTC quantum has been procured so that cumulative quantum of supply in peak hours would be maximum. To meet out the maximum quantum the petitioner has to consider the

ramp up time for the generator between the time period (16:00 to 18:00 hrs) and also the ramp down between the time period after 24:00 hrs.,(i.e.,00:00 to 02:00 hrs of next day).

1.12. The petitioner also referred the following TNERC order dated 18.07.2024 in MP No.43 of 2023:

“The Commission observed that there is a poor response from Generators and Traders for peak hour tender as they are interested in RTC supply or to supply Technical minimum of contracted quantum in non-peak hours and 100% quantum in peak hours. Hence, Bidding can be called for RTC power to the level of Technical minimum of the plant (ranging from 40% to 55% of rated capacity) and to supply balance capacity during peak hours, so as to bring the price lesser than DAM price of peak hour”.

1.13. The petitioner also contend that the Chief Engineer / Grid Operation has furnished an indent vide U.O. on 20.09.2024 for requirement of power for the upcoming summer months of 2025 i.e., February 2025 to May 2025 to overcome the power crisis:

Power requirement during RTC & Peak hours in MW		
Month	Requirements during 00:00-18:00 hrs in MW	Requirements during 18:00-24:00 hrs in MW
Feb 2025	200	1200
March 2025	750	3500
April 2025	1200	4950

1.14. The petitioner anticipated that, the demand will set to increase during summer month of 2025 and to ensure the power availability and to maintain uninterrupted power

supply during the next summer 2025, they decided to float a short term tender for procurement of RTC and peak hour power for the arrangement as given below:

Months	Proposed RTC procurement as per TNSLDC requirement (a)	Req. during Peak Hrs (18:00-24:00) (b)	70% of RTC to be added for Peak Hour 18:00 to 24:00 Hrs (c)	Proposed addl. quantum for peak hours (d)	Final qtm for peak hour proposal (e)	Balance peak hour qtm may be procured through various modes. i.e LDC, HP-TAM or GAS tender or NTPC (f)
Feb-25	200	1200	340	200	540	660
Mar-25	750	3500	1275	300	1575	1925
April-25	1200	4950	2040	300	2340	2610
May-25	600	2400	1020	300	1320	1080

The balance peak hour quantum, in column(f), may be procured through various modes i.e., through Long Duration Contract(LDC), High Price Day ahead market(HPDAM), Short Term Open Access(STOA) tender only for Peak hour, NTPC Vidyut Vyapar Nigam Ltd. NVVN i.e., giving priority to the cost of procurement.

1.15. The petitioner also contend that considering the above arrangements, the power demand including peak hour might be met out for the upcoming summer 2025 by floating a short-term tender through DEEP-Portal as detailed below:

Months	Time Period (00:00 to 18:00hrs)	Time Period (18:00 to 24:00hrs)
Feb-25	200	540
Mar-25	750	1575
April-25	1200	2340
May-25	600	1320

1.16. The petitioner also contend that, Tenders to procure power through SWAP arrangements were floated twice. In both the tenders there were no participants. It was primarily due to increased solar generation throughout the country. Many states had surplus power during solar hours. However, arrangements have been made to float another tender to procure power under SWAP arrangement for receiving of RTC/ Peak Hour power to TNPDCCL from other Utilities during Feb 2025 to May 2025 and return of RTC /Peak Hour power from TNPDCCL to other Utilities from June 2025 to Sept 2025 to meet out the summer demand of 2025. The quantum thus derived through SWAP Tender shall also be considered and adjusted with the final balance procurement through STOA Tender (Peak Hr) /HP-DAM/NTPC.

1.17. TNPDCCL also contend that as per the MoP's Guidelines for short term (ie. for a period of more than one day to one year) procurement of power by distribution licensees through tariff based bidding process under Electricity Act, 2003 issued by the Central Government, the demand forecast shall be based on the latest available Electric Power Survey published by the Central Electricity Authority.

1.18. TNPDCCL also contend that in view of accommodating the low cost power in advance and urgency in booking transmission corridor, they decided to float the tender immediately with Board approval.

1.19. TNPDC, on the basis of guidelines issued by Ministry of Power has prepared the draft bid documents with certain deviations to ensure commercial clarity in respect of provisions in the guidelines, to safe guard the interest of TNPDC and to avoid cost implication on TNPDC and the details of deviations /modifications proposed in the bidding documents as detailed below:

Sl. No.	MoP Guidelines dt.30.3.2016 and its amendments for short term procurement of power by Distribution licensees by Tariff based bidding	Details of Terms and Conditions to be incorporated in NIT
1.	<p>6.4 (vi) (c) : Change in Law – Change in Law shall include</p> <ul style="list-style-type: none"> • Any change in transmission charges and open access charges • Any change in taxes (excluding income tax), duties, cess or introduction of any tax, duty, cess made applicable for supply of power by the Seller 	<p>Since the tender is invited for short period at firm price, change in law will not be applicable.</p>
2.	<p>6.4(vi) (e): Payment of Liquidated Damages for failure to supply the Instructed Capacity: Both the parties would ensure that actual scheduling does not deviate by more than 15% of the contracted power as per the approved open access on monthly basis.</p>	<p>Both the parties would ensure that actual scheduling does not deviate by more than 40% of the contracted power as per the approved open access on monthly basis.</p>
3.	<p>Validity of bid shall be till the time of signing of LOA i.e from start date to 10 days of signing of PPA as per Time table for short term procurement bid process and</p>	<p>Validity of the bids shall be 30 days from the date of e-Reverse Auction process (excluding the date of of e-RA).</p>

	activities.	
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The petitioner also aver that if the Commission approves the short-term power procurement, with the above deviation, TNPDCCL may issue Letter of Acceptance (LoA) to the successful bidders subject to reasonableness in the discovered price in the tender.

1.20. The petitioner aver that as mandated by Ministry of Power, procurement under short term will be done through MoP's e-bidding portal (DEEP). To enable the successful bidders to book transmission corridor in advance, Tender process has to be initiated immediately and finalized quickly. The above short-term tender floated for STOA is as per the MoP guidelines and through transparent competitive bidding and approval of the Commission has to be obtained under Section 63 of Electricity Act 2003 and TNPDCCL will approach the Commission on finalizing the tender for tariff adoption.

1.21 On the edifice of the above referred pleadings the petitioner prayed the Commission to accord approval for the following:

- a. Approval for deviation from the guidelines and to float a short-term tender for procurement of RTC & Peak hour power from 01.02.2025 to 31.05.2025.

Months	Time Period (00:00 to 18:00hrs)	Time Period (18:00 to 24:00hrs)
Feb-25	200	540
Mar-25	750	1575
April-25	1200	2340

May-25	600	1320
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- b. To publish RfP notice in two Tamil newspapers and two English National newspapers and upload the same in TNPDC website.

2. Findings of the Commission:

2.1. The Commission has carefully gone through the submissions made in the petition and the affidavit filed by the Petitioner Tamil Nadu Power Distribution Corporation Limited (TNPDC).

2.2. The petitioner has come forward with the present petition M.P.No.50 of 2024 with prayer for approval to float a short-term tender and for deviation from the guidelines for procurement of RTC & Peak hour power from 01.02.2024 to 31.05.2025 for the time period 00.00 to 18.00 hrs, 200 MW, 750 MW, 1200 MW and 600 MW during Feb 25, Mar 25, Apr 25 and May 25 respectively and for the time period 18.00 to 24.00 hrs, 540 MW, 1575 MW, 2340 MW and 1320 MW respectively during Feb 25, Mar 25, Apr 25 and May 25.

2.3. Tamil Nadu Power Distribution Corporation Limited the petitioner herein claim that the "All time high demand" of 17563 MW reached on 29.04.2022(388.078 MU) and in the corresponding next April 2023 (i.e., on 20.04.2023) all time high demand reached to the record of 19387 MW (423.785 MU) and in May 2024 (02.05.2024) it reached further high of 20830 MW and 454.320 MU on 30.04.2024. The petitioner, TNPDC reasoned the increase in demand due to lifting of COVID restriction in Tamil Nadu and

momentum gained in the activities of IT firms, Industrial operations and commercial establishments, and also the probable further increase in the demand on account of dry weather over the grid in next year 2025. The petitioner further contend that the demand may reach further high with around 6% increase in the summer months of 2025 over the previous year high demand,

2.4. The Commission has gone through all the details furnished by the petitioner in this petition necessitating the process for short term power purchase arrangement as detailed below:

Month & Year	Time Period (00.00 to 18.00 hrs) in MW	Time Period (18.00 to 24.00 hrs) in MW
February – 2025	200	540
March – 2025	750	1575
April – 2025	1200	2340
May – 2025	600	1320

2.5. The Commission has taken note of the fact that TNPDC floated tenders to procure power through SWAP arrangements twice and there were no participants. Lack of response to the tender was primarily due to solar generation throughout the country. Many states had surplus power during solar hours. The petitioner, TNPDC has to make arrangements to float another tender to procure power under SWAP arrangement for receiving of RTC/ Peak Hour Power to TNPDC from other Utilities during Feb 2025 to May 2025 and return of RTC /Peak Hour power from TNPDC to

other Utilities from June 2025 to Sept 2025 to meet out the summer demand of 2025.

The quantum thus derived through SWAP Tender shall be considered and adjusted with the final balance procurement through STOA Tender (Peak Hr) /HP-DAM/NTPC.

2.6. The fact that, at present, peculiar situation prevails in Power Exchanges where the price has gone as high as Rs.12/Kwh and that the power purchase is not viable due to high competition remain undisputed. Situated thus, it is manifest that the petitioner TNPDCCL require a firm contract to tackle the anticipated power crisis and ensure uninterrupted power supply in the State.

2.7. The petitioner while filing the Miscellaneous Petition No. 50 of 2024 before the Commission seeking approval for purchase of power from 01.02.2025 to 31.05.2025 under Short term tender, had submitted the block wise forecasted demand using three years average growth, anticipated available sources obtained from SLDC for the period from 01.02.2025 to 31.05.2025. From the above submissions, the Commission is persuaded to take a view that only under the compelling exigency and to meet out the required additional quantum; the petitioner proposed to procure power on short term basis by way of Short term tender through DEEP portal. The Commission has given serious consideration to the submissions made by the petitioner in its petition such as the details of Demand forecasted, Availability of power quantum and the block wise quantum of power required to the period for which approval for procurement is sought. From the facts and circumstances emanating from the documents produced by the

petitioner, it is apparent that there exists an exigency to meet out the impending power crisis and that the same can be tackled effectively only through power procurement by floating short term tender with deviation from guidelines as sought for by the petitioner. However, this Commission deem it seemly to give certain directions in this regard to the petitioner, while according the approval.

2.8. The Commission hereby directs the petitioner to submit the compliance report on the directives issued in M.P.No.27, 32 and 33 of 2023 order dated 14.05.2024 along with the adoption petition.

2.9. The Commission also hereby directs the petitioner to submit a detailed report on cost implication derived by deviation from the guidelines on deviation from 15% to 40% in Tender No.32, 35 & 36 of 2023 along with the adoption petition.

2.10. In this connection the Commission has noticed that consequent to the filing of the present petition, the petitioner went ahead with tender process and the competitive bidding was already over and presented a *fait accompli*. Hence, insofar as the present petition is concerned, the approval is to be granted only to the quantum of power procurement for floating of tender and a Power Purchase Approval Petition has to be filed separately for adoption setting out the details of the rates obtained in the competitive bidding for approval of the Commission in the P.P.A.P.

2.11. It is further viewed by the Commission with serious concern that, of late, petitions are filed by TANGEDCO seeking approval on either ex-post-facto basis or by presenting

a case of *fait accompli* for approval thereby virtually leaving the Commission with no or little choice to give adequate consideration to the proposal. The present case is one such case where TANGEDCO went ahead with a tender process immediately after filing the present petition and presented a *fait accompli* leaving the Commission no option but to approve. There may be so many reasons for going ahead with the tender pending approval. But the fact remains prior approval is mandatory and nothing prevented the licensee from filing an I.A. This practice of seeking approval on *expost facto* basis or presenting a *fait accompli* shall be strictly avoided in future .

2.12. However, considering the scenario where the demand is steadily increasing, and the need to maintain uninterrupted power supply and to pre-empt load shedding, the Commission is of the view that the quantum approval sought for herein can be permitted with direction to TANGEDCO to seek approval for quantum well in advance in future so as to enable the Commission to give adequate consideration on its proposals.

2.13. In the result, the Commission hereby issues the following order :-

a) The floating of tender by the petitioner for the short-term tender with deviation from the guidelines as prayed in the petition for procurement of RTC and Peak hour power from 01.02.2025 to 31.05.2025 and set out as below hereby stand approved and ratified:

Month & Year	Time Period (00.00 to 18.00 hrs) in MW	Time Period (18.00 to 24.00 hrs) in MW
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February – 2025	200	540
March – 2025	750	1575
April – 2025	1200	2340
May – 2025	600	1320

b) The publication of RfP notice in two Tamil Newspapers and two English National newspapers and uploading of the same in TNPDCCL website is given *expost facto* approval.

c) TANGEDCO shall strictly follow the directions given in paras 2.11 & 2.12 of this order in future.

Petition ordered accordingly.

(Sd.....)
Member (Legal)

(Sd.....)
Member

/True Copy /

**Secretary
Tamil Nadu Electricity
Regulatory Commission**