

AEML-D for persistent non-compliance but the same also extends to seeking a direction that pending switchover cases be forthwith complied with.

8.4 The Commission, in its Order dated 7 January 2022, has stated as under:-

- i. Timelines stipulated in the Order dated 12 June 2017 must be strictly complied with by the distribution licensee (for existing applications as well as fresh applications).
- ii. AEML-D's excuse of the Commission's Practice Directions dated 26 March 2020 to deny switchovers, is unjustified.
- iii. As regards AEML-D's justification that it has put on hold some applications as it had some apprehension about eligibility of these cases, the Commission noted that while these issues have been raised by AEML-D in Case No. 135 of 2021, the said Petition was filed by AEML-D only after Case No. 82 of 2021 was filed by TPC-D. In any case, Case No. 135 of 2021 has not been heard by the Commission.
- iv. In view of the above, the Commission reiterated that it is not convinced with AEML-D's justifications put forth regarding its actions of delay in carrying out/ refusing to carry out switchover of consumers.
- v. The Commission directed constitution of a committee and provided the terms of reference of such committee, which amongst others, relates to need for sharing of information amongst the licensees. While the committee give its recommendation and the Commission passes further Orders, in the interregnum, it has been categorically directed as under:-

“38. In the interim, both the licensees are directed to follow the existing switchover protocol as laid down under the Order dated 12 June 2017 and ensure that consumers are switched over in the stipulated timeframe. All the pending switchover applications shall be decided on FIFO (First In First Out) basis instead of an adhoc approach and if operational convenience requires deviation from FIFO, same may be mutually discussed and agreed.”

8.5 Thus, the Commission has:-

- i. Re-iterated that the Order dated 12 June 2017, including the time-lines therein, must be strictly complied with.
- ii. Rejected AEML-D's stand of delaying switchover of consumer on the basis of alleged actions of testing of eligibility criteria of consumers.
- iii. The directions in Para 38 of the Order are twofold:- (i) Pending switchover applications shall be switchover forthwith on the basis of First in First out (**FIFO**); and (ii) New switchover applications are to be complied with strictly in terms of the Order dated 12 June 2017.

8.6 It is submitted that, AEML-D's contumacious conduct has led to delay of switchover

of consumers of approx. 200 consumers till date. It is noteworthy that, while AEML-D has delayed/ denied switchover of consumers, AEML-D is also offering various incentives to the consumers (known as ‘loyalty programme’) where incentives are offered to reduce the ‘landed cost of electricity’ of the consumers. This ‘loyalty programme’ is offered selectively only to those consumers who have:-

- i. Already switched over from AEML-D to TPC-D and for them to switchover back to AEML-D; and
- ii. Made applications for switchover from AEML-D to TPC-D. In addition, AEML-D is delaying/ denying switchover of these consumers to TPC-D.

8.7 It is stated that, the ‘loyalty programme’ offered by AEML-D is contrary to the applicable framework. In terms of the applicable framework, a distribution licensee is required to charge Tariff to the consumers, as determined by the State Electricity Regulatory Commissions vide its Tariff Orders, from time to time. Further, a distribution licensee situated in the State of Maharashtra is permitted to offer rebate/ discount on Tariff determined by the Commission in accordance with the MERC (Multi Year Tariff) Regulations, 2019.

8.8 From the MERC (Multi Year Tariff) Regulations, 2019, it is evident that:-

- i. The rebate/ discount offered by the distribution licensee to the consumer on the applicable Tariff determined by the Commission is to be intimated every quarter to the Commission. Further, the impact of such rebate is to be borne exclusively by the distribution licensee. In other words, the financial impact of granting such rebate cannot be passed on to the other set of consumers.
- ii. The rebate/ discount if offered by the distribution licensee the same has to be offered to the entire consumer category/ sub-category in a non-discriminatory manner.

8.9 These facts demonstrate that the entire purpose of delay in carrying out switchover is to lure consumers to stay with AEML-D. These actions of AEML-D completely distort the level playing field amongst the competing licensee in a parallel licensing scenario which is against the very ethos of promotion of competition under the EA. This is yet another attempt of AEML-D, in its series of continued efforts, to monopolize its distribution business in sub-urban Mumbai. Hence, the Commission ought to take judicial note of these developments and ought to pass the Order basis these facts.

8.10 The aforesaid actions of AEML-D demonstrate its continued non-compliance, high-handed and anti-consumer conduct and defiance of the applicable framework. Hence, AEML-D is liable to be punished Section 142 and Section 146 of the EA is akin to contempt jurisdiction. As regards the same, it is settled law that, difficulty in implementation of an Order passed by the Court, howsoever grave its effect may be, is no answer for its non-implementation. [K.A. Ansari v. Indian Airlines Ltd., (2009)]

8.11 In this regard, it is submitted that disobedience of Orders of the Court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the

foundation of a democratic society. Judiciary is the guardian of the rule of law. If the judiciary is to perform its duties and functions effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs.

- 8.12 As regards AEML-D's submission regarding TPC-D refusing to share information which is not specified in the Order dated 12 June 2017 (i.e., Single Line Diagrams etc.), it is noteworthy that:
- i. Order dated 12 June 2017 gives no power to the existing licensee of the consumer to check eligibility for switchovers of consumers to another licensee. AEML-D has failed to substantiate its submissions and has not cited any regulatory powers for checking eligibility of consumers.
 - ii. AEML-D itself in Case No. 97 of 2019 (i.e. the Petition filed by TPC-D regarding switchover of Netmagic) had contended that details qua switchover are not required to be furnished to it under the regulatory framework and same would amount to impermissible scrutiny of operations of a competing distribution licensee by another. The said submission was accepted by the Commission and switchover was permitted solely on the basis of AEML-D's statement/ submission that the said consumer, was being switched over by merely laying of service line without there being augmentation/ extension of distribution network.
- 8.13 AEML-D also erroneously submitted that at least 724 consumers have been unilaterally switched over by TPC-D since October 2021. It is submitted that any alleged switchovers which are not in consonance with the Order dated 12 June 2017 are not the subject matter of the present Petition. AEML-D is free to pursue other proceedings qua the same. However, the same can certainly not be raised in the Petitioner's application seeking contempt jurisdiction of the Commission.
- 8.14 As regards AEML-D's submissions qua interpretation of Hon'ble ATE's Judgment dated 28 November 2014 in Appeal No. 246 of 2012, it is noteworthy that:
- i. The said Judgment has been implemented by the Commission in Order dated 12 June 2017. AEML-D (amongst other parties) have challenged Order dated 12, June 2017 on the question of interpretation of Judgment dated 28 November 2014. Such Appeals are still pending adjudication, and as such issues raised therein cannot be permitted to be raised in the present matter.
 - ii. Even otherwise, AEML-D's submissions qua interpretation of Judgment dated 28 November 2014 have no relevance to the present matter which is merely seeking compliance of the Commission's Order dated 7 January 2022.
 - iii. AEML-D's submissions are being advanced merely to muddy the present issue and to cover its own conduct of non-compliance.
- 8.15 As regards AEML-D's allegation that TPC-D is cherry picking consumers, it is noteworthy that:
- i. AEML-D's allegation has been conclusively dismissed by the Hon'ble ATE in

its Judgment dated 28 November 2014 in Appeal No. 246 of 2012.

- ii. Approximately 92% of all consumers switched over by TPC-D pertain to residential category, i.e., the very category AEML-D alleges that TPC-D avoids switching over:

Category	Switchover Completed	%
LTI(B) – Residential	1322	92.51
LTII(A) – Commercial upto 20kW	55	3.85
LTIII(B) – Industrial > 20 kW	15	1.05
LTIII(A) – Industrial upto 20 kW	12	0.84
LTII(C) – Commercial > 50 kW	10	0.70
HT I – Industry	4	0.28
LTII(B) – Commercial 20 to 50 kW	4	0.28
HTIII – Group Housing Society (Residential)	3	0.21
HT II – Commercial	2	0.14
HT VI(B) – Public Services Other	2	0.14

8.16 In fact, it is pertinent to note that AEML-D is specifically denying/delaying switchover of a specific category of consumers thereby cherry picking themselves.

8.17 In view of the above submissions, it is prayed that AEML-D is held accountable for its contumacious conduct in denying consumers their switchover and the reliefs sought by TPC-D be allowed.

9. AEML-D, vide its written submission dated 18 April 2022, stated that:

9.1 AEML-D, at the E-Hearing held on 8 April 2022, displayed a table which captures the factual pleadings of both the Parties in the present Petition on illegal switchovers, and accordingly, the same is being placed on record along with the present written submissions.

9.2 The fulcrum of argument/ allegation raised by TPC-D in the present Petition is that despite the directions contained in the Order dated 7 January 2022 of the Commission in Case No. 82 of 2021, AEML-D is not carrying out switchover of consumers, even after sending various emails by TPC-D, and thus, the same acts as a violation of the aforesaid Order of the Commission.

9.3 In this regard, at the very outset, it is submitted that during the course of hearing of the present Petition, held on 8 April 2022, the Commission sought clarification as to how many switchover applications are pending out of the 149 consumer applications, which were the subject matter of the Case No. 82 of 2021.

9.4 In this regard, AEML-D submits that out of the 149 cases submitted by TPC-D, in 140 cases, switchover has been done. The status of the remaining 9 cases is as under:

Consumer category	Customer informed TPC about holding / cancelling switchover / continuing with AEML	Switchover not scheduled by TPC since Sept. 2021	Switchover Done	Grand Total
HT I – Industry	1		1	2
HT II – Commercial	1			1
HT III - Group Housing Society			1	1
LT I(B) - Residential		1	123	124
LT II(A) - Commercial upto 20 kW	1		10	11
LT II(B) - Commercial 20 to 50 kW			2	2
LT III(B) - Industrial > 20 kW	5		3	8
Grand Total	8	1	140	149

9.5 The detailed status of the above 9 cases is discussed below:

Consumer	Status		
	1	2	3
Harikrishna Exports Pvt. Ltd. (2 consumer accounts) LT-III (B)	Informed TPC-D of its decision to hold switchover, vide mail dated 4 September 2021, hence switchover was not executed.	Subsequent to hearing dated 8 April 2022, TPC-D again scheduled switchover on 12 April 2022.	Consumer has forwarded the earlier email to AEML-D again and confirmed that it wishes to continue with AEML-D. AEML-D has informed of the same to TPC-D.
Unity Jewels LT-III (B)	Informed TPC-D of their decision to hold switchover till further intimation, vide their mail dated 29 October 2021, hence switchover was not executed.	Subsequent to hearing dated 8 April 2022, TPC-D again scheduled switchover on 12 April 2022.	Consumer has forwarded the earlier email to AEML-D again and confirmed that it has already informed TPC-D that it does not want to switchover.
Shri Raj Jewels LT-III (B)	Informed TPC-D of their decision to hold switchover till further intimation, vide their email dated 29 October 2021, hence switchover was not executed.	Subsequent to hearing dated 8 April 2022, TPC-D again scheduled switchover on 12 April 2022.	Consumer has forwarded the earlier email to AEML-D again and confirmed that they have already informed TPC-D that they do not want to switchover.
Euroshine Jewellery LT-III (B)	Consumer is willingly continuing with AEML-D. Subsequent to the hearing on 8 April 2022, the consumer has informed TPC-D in writing that they want to cancel switchover application.		

Padmakar & Karunakar Rammurat Yadav LT-II (A)	Consumer has informed TPC-D vide letter dated 29 July 2021, about cancellation of its switchover application and willingness to continue with AEML-D's services.	Subsequent to hearing dated 8 April 2022, TPC-D again scheduled switchover on 12 April 2022.	AEML-D re-enquired from consumer about its intention. Consumer has confirmed that it intends to switchover. Accordingly, AEML-D has scheduled switchover on 14 April 2022.
Residential customer (1 account) LT-I(B) Residential	Switchover was initially planned for 23 July 2021, but it could not be executed as TPC-D works at the site were not complete.	TPC-D scheduled switchover again on 2 September 2022. AEML-D sought network information, which was not provided by TPC-d, hence switchover was not executed.	TPC-D has not scheduled switchover of this consumer, thereafter. Hence, there is no non-compliance of Order dated 7 January 2022, on AEML-D's part.
Bharti Airtel HT-II Commercial	Consumer informed TPC-D way back in July 2021, about cancellation of switchover application and their willingness to continue with AEML-D.	Consumer is getting supply from AEML-D.	
Lion Pencils Ltd. HT-I Industry	Consumer has verbally communicated with AEML-D about not switching over to TPC-D.	TPC-D scheduled switchover on 3 March 2022, without seeking any confirmation from consumer about the same	Consumer has, apparently, conveyed its intent to TPC-D as well. Hence, switchover has not been scheduled since consumer is willingly continuing with AEML-D.

9.6 A copy of the communication (emails/letters) from individual consumers as mentioned in the table, are enclosed with the submission.

9.7 As can be seen from the above, in eight out of nine cases, switchover is not done as consumers have either cancelled or held back switchover and are willingly continuing with AEML-D. TPC-D is aware of the same as they have been informed of the same by the consumers and yet TPC-D requested for scheduling switchover of some of these consumers post hearing dated 8 April 2022. However, as shown above, customers have re-confirmed their decision to not switchover. In the case of LT-II(A) customer, switchover was not done even after Order dated 7 January 2022, because of the earlier letter of consumer to TPC-D (dtd. 29 July 2021) about cancelling switchover. Despite the fact, when switchover is re-scheduled by TPC-D vide its email dated 12 April 2022,

AEML reconfirmed from consumer about its intent and has scheduled switchover on 14 April 2022.

- 9.8 In the remaining one case, TPC-D itself has not scheduled switchover since September 2021 and hence AEML-D is not responsible for not carrying out this switchover after the Order dated 7 January 2022.
- 9.9 While during the hearing, AEML had submitted that 3 cases are pending, but the factual position as of now, based on further review of the records, is as provided above, which may kindly be considered by the Commission. Accordingly, it is submitted that there is absolutely no non-compliance of the Order dated 7 January 2022 on the part of AEML-D.
- 9.10 It is further submitted that the Commission, based on the submissions of the parties, held that since a committee has already been formed in order to analyze inter-alia the issues pertaining to delayed/ unilateral switchovers, the scope of Case No. 82 of 2021 was confined to the switchover of 149 cases as presented by TPC-D and in this regard, the remaining cases should be processed. However, as submitted above, no intending consumer's switchover, out of 149 cases, is presently pending.
- 9.11 Without prejudice to the above, it is submitted that the instant Petition is nothing but a 'Corporate Business Strategy' of TPC-D to continue to file such frivolous Petitions, and kill the business of AEML-D, as it not only continues to cherry pick the consumers, but is also illegally extending/ augmenting its distribution mains, being in complete violation of the Order dated 12 June 2017 passed by the Commission in Case Nos. 182 of 2014 and 40 of 2015.
- 9.12 Thus, in view of the above, AEML pleads to pass necessary directions so that the Terms of References are expanded qua the committee constituted by the Commission vide the Order dated 7 January 2022, so as to allow investigation of all switchover cases where AEML-D has reasonable evidence of violation of Order dated 12 June 2017 by TPC-D, while also suggesting way forward in terms of information exchange between Licensees and an independent dispute resolution mechanism for cases where there is disagreement between AEML-D and TPC-D about legality of switchover. This would allow the switchover protocol to function in a transparent and efficient manner.
- 9.13 As regards the additional affidavit dated 24 February 2022 filed by TPC-D, it is submitted that the prayers in the present Petition are only limited to the non-compliance of the Order dated 7 January 2022 passed by the Commission. Certainly, the scope of the proceedings initiated under the present Petition cannot be changed by filing an additional affidavit. There is no relationship between the relief sought in the present Petition and the allegations now made in the additional affidavit dated 24 February 2022. Therefore, this Additional affidavit cannot be considered by the Commission while adjudicating the present proceedings.
- 9.14 In view of the submissions made hereinabove, no case of non-compliance is made out by TPC-D in the present Petition.

Commission's Analysis and Rulings:

10. The Present Petition has been filed by TPC-D seeking compliance of Order dated 7 January 2022 in Case No. 82 of 2021 and action against AEML-D under Section 142 of the EA contending that AEML-D has failed to comply with the directions issued by the Commission in the aforesaid Order. It is the claim of TPC-D that although the Commission, vide Order dated 7 January 2022, has directed to constitute a committee to enquire into the truths of allegation regarding selective switchovers and intentional delays by AEML-D and also to suggest improvement in the existing switchover protocol, in the interim, AEML-D and TPC-D have been directed to follow the existing switchover protocol as laid down under the Order dated 12 June 2017 and to ensure that existing consumers are given the choice of switched over in the stipulated timeframe. It was also directed that all the pending switchover applications should be decided on FIFO (First In First Out) basis instead of following an adhoc approach. However, AEML-D has been delaying/denying the switchovers and seeking details from TPC-D questioning the eligibility of consumers for switchover. It is the case of TPC-D that AEML-D has no right to seek any detail from TPC-D in terms of Order dated 12 June 2017 and despite express directions of the Commission, AEML-D has continued its non-compliance which warrants action against AEML-D under Section 142 of the EA.
11. AEML-D, in its defense, has contended that TPC-D has been extending its distribution mains for carrying out of switchover of existing consumers which is not permissible under the Order dated 12 June 2017 in Case No. 182 of 2014. Being aware of the ground realities about the network spread of TPC-D, AEML-D sought certain details from TPC-D for ensuing compliance of the principles as laid down under the Order dated 12 June 2017 in Case No. 182 of 2014. However, TPC-D has been refusing to provide any such details. AEML-D's Petition in Case No. 135 of 2021 has already highlighted many instances of violation by TPC-D. The Commission, in its Order dated 7 January 2022, has observed that illegal switchovers need to be avoided and expressed that the existing switchover protocol could be improved to have an information sharing mechanism between the TPC-D and AEML-D. Thus, AEML-D has tried to justify its action of seeking further details from TPC-D before scheduling the switchover. Also, vide its subsequent submission, AEML-D has stated that out of total 149 cases pertaining to the Case No. 82 of 2021, 140 cases have been executed and out of balance 9 cases, one case has not been scheduled by TPC-D itself and action as detailed in the table in the previous paragraphs has been completed by AEML-D. Thus, it is the claim of AEML-D that there is no non-compliance on part of AEML-D which warrants any non-compliance proceeding against it.
12. Since the present contempt Petition has been filed by TPC-D for non-compliance of the Order dated 7 January 2022 in Case No. 82 of 2021, it is imperative to examine the background of that Case and directions issued under that Order.
13. The Commission notes that the Case No. 82 of 2021 had been filed by TPC-D with the following prayers:

- “ i. Hold and declare that AEML’s actions of delaying/ disallowing the switchover of consumers is illegal and contrary to this Hon’ble Commission’s Order dated 12.06.2017 in Case Nos. 182 of 2014 & 40 of 2015 read with the Supply Code;*
- ii. Hold and declare that the aforesaid conduct of AEML is punishable under Sections 142 and 146 of the Electricity Act, 2003;*
- iii. Direct AEML that going forward, it shall carry out migration of the consumers strictly in accordance with this Hon’ble Commission’s Order dated 12.06.2017 in Case Nos. 182 of 2014 & 40 of 2015 read with Supply Code in a timely and non-discriminatory manner;*
- iv. Pending adjudication of the present proceedings, pass an ex-parte, ad-interim/ interim order directing AEML to forthwith carry out migration of pending cases (as specified in Table No. 1 hereinabove) and not later than a period of 30 days from the Order of this Hon’ble Commission;”*
14. The Commission notes that as on date of filing the Petition in Case No. 82 of 2021, as per TPC-D’s own submission, there were 149 switchover applications which were to be processed. At the hearing dated 13 August 2021, TPC-D stated that it would not be pressing the non-compliance action if AEML-D finishes the pending switchovers within two weeks. Vide its written submission dated 23 August 2021, AEML-D confirmed that out of these 149 applications, only 28 were remaining as on the date of hearing and these remaining applications will be processed in due course, keeping in mind the Covid-19 pandemic situation. Thus, the Petition in Case No. 82 of 2021 was confined to 149 pending switchover cases.
15. However, subsequently, on 1 September 2021, TPC-D filed its additional affidavit contending that AEML-D had yet again failed to carry out the pending switchovers and to facilitate new switchover requests. It was also stated that after 13 August 2021, 153 additional consumers became eligible for switchover. Out of these 153 cases, 42 cases were completed, and 111 cases remained pending. These 111 cases along with 37 still pending cases before 13 August 2021, bringing the total number of delayed and pending cases as on 30 August 2021 to 148. TPC-D further prayed that the Commission should impose penalty on AEML-D in terms of Section 142 and Section 146 of the EA. Thus, although TPC-D highlighted additional cases of switchover and requested a direction to AEML-D for completing all pending switchover cases, it essentially sought to withdraw from its earlier stand of non-pressing the non-compliance proceeding against AEML-D. Further, in response to the specific query raised by the Commission during the E-hearing held on 30 November 2021, TPC-D stated that in order to ensure compliance of Commission’s Order in Case No. 182 of 2014 on switchover related aspects, penal provision was the only mechanism which would be deterrent for the defaulting licensees.
16. The Commission, while passing the Order dated 7 January 2022 in Case No. 82 of 2021, issued the following directions:

“

- i. ***It is directed that a Committee shall be appointed to enquire and examine into the truths of allegation regarding selective switchovers and intentional delays. Apart from this, the Committee would make recommendations regarding improvement of existing protocol in consultation with both the licensees.***
 - ii. *Formation of the Committee, its terms of reference and the time frame for submission of the Report shall be specified in a separate notification of the Commission. Tata Power Company Ltd.-Distribution and Adani Electricity Mumbai Ltd.-Distribution are directed to make available all data /records / documents as required by the Committee.*
 - iii. *After receipt of the report of the aforesaid Committee, the Commission would take further decision in the matter according to provisions of the Electricity Act, 2003.*
 - iv. ***In the interim, both the licensees are directed to follow the existing switchover protocol as laid down under the Order dated 12 June 2017 and ensure that consumers are switched over in the stipulated timeframe. All the pending switchover applications shall be decided on FIFO (First In First Out) basis instead of an adhoc approach and if operational convenience requires deviation from FIFO, same may be mutually discussed and agreed.”***
17. Thus, considering TPC-D’s request for initiating non-compliance proceeding against AEML-D, the Commission deemed it appropriate to appoint a committee to look into allegations of TPC-D regarding selective switchover and undue delay by AEML-D before deciding the Case No. 82 of 2021 finally. Thus, the grievance of TPC-D about delay on part of AEML-D has already been addressed and necessary steps have already been taken by the Commission in this regard. Based on report of the enquiry committee constituted under the Case No. 82 of 2021, appropriate action shall be taken by the Commission if it is observed that AEML-D has been in non-compliance of the directions of the Commission.
18. Further, during proceeding in Case No. 82 of 2021, AEML-D had raised the issue of illegal and unilateral switchover and had also highlighted that it had filed a separate Petition (Case No. 135 of 2021) seeking action against TPC-D for illegal switchovers carried out by TPC-D.
19. The Commission, in its Order dated 7 January 2022 in Case No. 82 of 2021, has made the following observations:
- “ 32. The process may also require a re-look so as to deter the existing licensee to indulge into intentional delaying of the genuine switchover cases or to prevent wrongful disallowances. At the same time, **illegal switchovers and unilateral switchovers are also to be avoided which, as per AEML-D’s contention has happened in some cases.**”*
20. Further, subsequent to passing the Order dated 7 January 2022 in Case No. 82 of 2021, the Commission has also passed the Order in Case No. 135 of 2021 on 17 May 2022 observing that prima facie, TPC-D’s conduct appeared to be inconsistent with the principles laid down under the Order dated 12 June 2017 in Case No. 182 of 2014 while

carrying out switchover in one of the cases highlighted by AEML-D. Accordingly, vide the Order in Case No. 135 of 2021, the Commission has directed to increase the scope of the Committee constituted under Case No. 82 of 2021 to enquire into the truths of allegations of illegal switchovers of existing consumers at all the locations as highlighted in Case No. 135 of 2021. Thus, the concerns of AEML-D about illegal switchover cases as raised in Case No. 82 of 2021, Case No. 135 of 2021 and repeated in present case have not been rejected by the Commission at face value and same would be examined by the Committee as part of its enquiry as per the directions of the Commission issued under Case No. 135 of 2021.

21. Further, the Commission, although vide its Order dated 7 January 2022, directed that all pending switchover cases should be completed in the stipulated timeframe after following the existing switchover protocol as laid down under the Order dated 12 June 2017 in Case No. 182 of 2014, prima facie, there have been lapses (including illegal switchovers by TPC-D and delay on part of AEML-D) from both the Licensees which are being examined by the Committee constituted under Case No. 82 of 2021.
22. Further, out of total 149 cases which were pending as on date of filing the Case No. 82 of 2021 by TPC-D, AEML-D has confirmed that out these 149 cases, 140 cases have been already executed for switched over and out of pending 9 cases, in 7 cases, switchover is not done as consumers have either cancelled or held back switchover and are willingly continuing with AEML-D. In the remaining one case, TPC-D itself has not scheduled switchover since September 2021. And the balance one case has already been scheduled by AEML-D for switchover.
23. Under these circumstances, the Commission is not inclined to initiate a non-compliance proceeding against AEML-D as prayed by TPC-D in present Petition.
24. Till the final Order to be issued after the receipt of report from the Committee, the Commission reiterates that TPC-D and AEML-D shall comply with the existing switchover protocol as laid down under the Order dated 12 June 2017 and ensure that consumers are switched over in the stipulated timeframe. At the same time, illegal switchovers and unilateral switchovers are also to be avoided pending the final order from the Commission.
25. **Hence the following Order:**

ORDER

Case No. 44 of 2022 is dismissed.

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(I. M. Bohari)
Member**

**Sd/-
(Sanjay Kumar)
Chairperson**

