

THE TAMIL NADU ELECTRICITY REGULATORY COMMISSION
CHENNAI
Constituted under Section 82(1) of the Electricity Act, 2003
(Central Act 36 of 2003)

Friday, the 16th day of May 2008

PRESENT :

Thiru S. Kabilan - **Chairman**

Thiru B. Jeyaraman - **Member**

and

Thiru R. Rajupandi - **Member**

SUO MOTU PROCEEDINGS

In the matter of Contravention by Tamil Nadu Electricity Board in respect of Commission's Order No. 2 dated 15.5.2006, Order No. 4 dated 15.5.2006 and Tamil Nadu Electricity Grid Code.

The Commission after giving reasonable opportunity for explanation to the TNEB passes the following

ORDER DATED 16 - 5 - 2008

1. Issue of Order Nos. 2 and 4 dated 15-05-2006.

The Commission issued Order No. 2 on Transmission and Wheeling Charges, etc. and Order No. 4 on the Fossil Fuel Based Captive Generating Plants & Cogeneration on 15-05-2006. The said Order No.2 dated 15-05-2006 was issued by the Commission in exercise of the powers conferred by Section 42 of the Electricity Act 2003 (Act 36 of 2003). As per clause 5.24.1 of the said Order No.2, the order is applicable to all the open access customers covered under the TNERC Intra Sate Open Access Regulations 2005 which took effect from 3-8-2005. Clause 5.24.2 of the said order interalia stipulates that the licensee may also approach the Commission for revision of the

charges made in the order by filing a distinct revision petition without linkage to the regular tariff revision. TNEB has not filed any revision petition as facilitated in clause 5.24.2 of the said order nor was any review petition filed under section 94 (1) (f) of the Electricity Act 2003, read with regulation 43 (1) of the TNERC Conduct of Business Regulations 2004. Item 1 of clause 6.0 of the said Order No.2 which relates to schedule of charges and which is relevant to the issue involved in the instant case reads as follows:

“6.0 Schedule of Charges

1. Transmission Charges (Rs./MW/day)	
a. Long Term Open Access customers	2781.00
b. Short Term Open Access customers	695.25
2. Wheeling Charges	14.74”

Order No.4 dated 15-05-2006 was issued by the Commission in exercise of the power conferred by section 181 read with sections 9, 61, 86 (b) and 86 (e) of the Electricity Act, 2003 (Act 36 of 2003). Clause 12 (8) (d) of the said Order No.4 dated 15-05-2006 which is contravened by the TNEB is reproduced below:

“(d) Billing and Payment to CGP holder by Distribution Licensee for Purchase of Firm / Infirm power:

The Distribution Licensee shall raise the bill to CGP user after accounting for generation and consumption at the end of each monthly billing cycle subject to recovery of charges in cash and losses in kind.

The payments in respect of the energy consumed from CGP after adjustments shall be made by the Distribution Licensee within the same period as provided by the Distribution Licensee to recover payments from its HT Industrial Consumers.”

TNEB filed two review petitions namely R.P. No.2 of 2006 and R.P. No.3 of 2006 for the review of Order No. 3 and 4 dated 15-05-2006. R.P. No. 2 of 2006 was filed on 4th

August 2006 and R.P. No. 3 of 2006 was filed on 21st September 2006. The Commission in its Order dated 15-03-2007 dismissed both the above review petitions filed by the TNEB. TNEB did not file any appeal before the Appellate Tribunal for Electricity, New Delhi against the said order dated 15-03-2007. Against Order No.2 dated 15-05-2006 no revision petition as facilitated in clause 5.4 of the said order or any review petition under section 94 (1) (f) of the Act was filed by the TNEB. Therefore, the said orders 2 and 4 dated 15-05-2006 became final and binding on the TNEB. The TNEB issued working instructions in their Memo No. D 409 / 2007 dated 6-11-2007 in regard to the procedure for accounting, adjustment of energy and collection of charges for implementation of Order Nos. 2 and 4 dated 15-05-2006.

M/s. Arkay Energy (Rameswaram) Ltd. in their letter dated 19-11-2007 pointed out that certain items of the above working instructions are in contravention of the orders issued by the Commission.

2. Provisions of the Electricity Act, 2003 in regard to punishment for contravention of the directions by Appropriate Commission.

2 (1) Sections 142 and 146 of the Electricity Act, 2003 (Central Act 36 of 2003) contain provisions with regard to punishment for contravention of directions or orders. The said sections are reproduced below.

2 (2) " Section 142:- Punishment for non-compliance of directions by Appropriate Commission.- In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in

case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.

2 (3) Section 146:- Punishment for non-compliance of orders or directions.- Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:

Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121. "

3. Initiation of proceedings

According to regulation 16 (1) of the Tamil Nadu Electricity Regulatory Commission's Conduct of Business Regulations 2004, the Commission may initiate any proceedings suo motu or on a petition filed by any affected or interested person.

4. Complaints against the TNEB made by M/s. Kaveri Gas Power Ltd.,

4 (1) M/s. Kaveri Gas Power Ltd., in their letter dated 17.11.2007 brought to the notice of the Commission certain contraventions committed by TNEB. In the said letter, the company has stated as follows:

" 1. The wheeling charges is to be paid for the net units supplied to the grid that is after considering the technical loss. This is clearly stated in the TNERC's Order in the page

no. 40 of "Order on Transmission and Wheeling Charges". TNEB asked us to pay wheeling charges on the gross unit put into the Grid. This is a clear violation.

Grid Availability Charges.

TNERC has clearly mentioned in their order under Grid availability charges that during outage of captive generation plants (CGP), the captive users should be charged on the appropriate tariff. But TNEB is wrongly interpreting it and claiming 621.81 paise per kWhr from captive user. This is again a clear violation of the TNERC's Order."

4 (2) Complaints against the TNEB made by M/s. Arkay Energy (Rameswaram) Ltd.,

M/s. Arkay Energy (Rameswaram) Ltd., in their letter dated 19.11.2007 brought to the notice of the Commission certain contraventions committed by TNEB. In the said letter, the company has stated as follows:

"Sub: Working instructions issued for implementing Order No.2 dated 15.5.2006 and Order No.4 dated 15.5.2006 of the Hon'ble TNERC- Contravention-Intimation- reg.

Ref: (1) Lr. No. SE/ REDC/ RMD/ DFC/ Rev/ AS/ RCS/ Asst/ F.CPP- Arkay/ D.1043/07 dated 17.11.2007.

(2) Memo No.CE/PPP/SE/PP/EE/AEE/ CPP/F.TNERC/ D.409/07 dated 06.11.2007.

Your good selves has issued working instructions to the field officers for implementing the orders of Hon'ble TNERC with regard to Order No.2 and 4 vide reference cited. In the instructions, we find that in certain items, the instructions issued are in contravention to orders issued by the Hon'ble TNERC as detailed below:

1. Clause 3 a): Under this clause, it is stipulated that "the wheeling charges are to be computed for the wheeled units to the captive users including the loss component at the rate of 14.74 paise per kWhr, irrespective of voltage levels.

In this connection, we wish to inform that the wheeling charges shall be only on the wheeled units alone and not including the losses since the loss component is not wheeled actually to the captive user.

Further, the claim of 14.74 paise per kWhr irrespective of voltage levels is also incorrect for the reason that while computing the wheeling charges by the Hon'ble TNERC vide clauses 5.8 and 5.13.1, annual wheeling charges of Rs. 72489 lakhs arrived is only for voltage levels of 11 KV and 22 KV and not above. Hence, it is evident that the wheeling charges should be restricted to voltage level of 11 KV and 22 KV only and not above than that which will only be in consistent with orders of Hon'ble TNERC."

5. Show Cause Notice dated 26.12.2007 issued to TNEB.

After careful examination of the letters referred to above received from M/s.Kaveri Gas Power Ltd., and M/s. Arkay Energy (Rameswaram) Ltd., the Commission came to the conclusion that a prima facie case has been made out against the TNEB for initiating proceedings against the TNEB under sections 142 and 146 of the Electricity Act, 2003. Accordingly the Commission issued a show cause notice on 26.12.2007 (Ref: TNERC/ D(E)/ DD(E)/ AD/ SA/ F.CGP/ D.No. 1312 / 2007). The said show cause notice is reproduced below:

"Sub: Contravention of Commission's Order No.2 dated 15.5.2006, Order No.4 dated 15.5.2006 and Tamil Nadu Electricity Grid Code.

- 1) Whereas TNEB has issued working instructions vide Memo No. CE/PPP/SE/PP/EE/AEE/PPP/F.TNERC/D.409/07 dated 6.11.2007 on the procedure for accounting, adjustment of Energy and Collection of charges for implementing the Commission's Order No.2 dated 15.5.2006 and Order No.4 dated 15.5.2006.

- 2) And whereas para 1 (b) sub-para 2 of the above instruction stipulates that the "Billing and adjustments of the generated energy will be done only on receipt of the payment for the above invoice" and the same is contrary to the provision of section 12(8)(d) of Order No.4 dated 15.5.2006 which is reproduced below:

" The payments in respect of the energy consumed from CGP after adjustments shall be made by the Distribution Licensee within the same period as provided by the Distribution Licensee to recover payments from its HT Industrial Consumers".

- 3) And whereas para 1(c) of the instruction provides the following;

The "wheeling charges for the wheeled energy (Energy allotted to end users plus loss component) at the rate of 14.74 paise per unit".

However, wheeling charges are payable for the net energy wheeled through distribution network of 22 kV and 11 kV and the loss at 22/11KV levels only and not on the energy allotted. If the point of injection and point of drawal are at 230KV, 110KV, 66KV and 33KV, wheeling charges of 14.74 paise per unit is not applicable. The instructions of TNEB contravene to the orders of the Commission.

- 4) And whereas para 3(b) regarding Reactive Energy Charges provides the following;

"Whenever CGP is drawing reactive power from the grid, the CGP holder has to pay the reactive energy charges at the rate of 6 paise per kVARh". However, the provision in the Order No.2 dated 15.5.2006 and in regulation 9(2)(xi) of Tamil Nadu Electricity Grid Code regarding the basic rules for absorption and generation of VAR have not been brought out in the instructions. Thus the instructions do not reflect the provisions in the order fully.

- 5) And whereas para 7(I) of the above instruction stipulates that the "interfacing losses at the rate of 2% for EHT lines and 5% for HT lines may be deducted from the total

energy to be sold, where the meter is provided at the Captive Power Plant end" and the same is in contravention of the Commission's Order No. 2 dated 15.5.2006 as no such separate treatment has been given for "interfacing losses".

And whereas the Commission is satisfied that there is a contravention of its orders which is punishable under section 142 of the Electricity Act 2003. TNEB is directed to show cause by 21.1.2008, why appropriate action should not be initiated under section 142 of the Electricity Act, 2003."

6. Advice to TNEB

The Commission in its letter dated 26.12.2007, while referring to the working instructions of the TNEB pointed out that the act of the TNEB in issuing the above working instructions is in excess of its authority. In the said letter the Commission advised the TNEB to seek the guidance of the TNERC in respect of the above matter.

7. Reply of TNEB to the Show Cause Notice dated 26.12.2007.

TNEB furnished its reply to the show cause notice on 21-1-2008. The contentions of the TNEB in the letter dated 21-1-2008 are briefly set out as below:

- (a) TNERC's Order 2 & 4 stipulate payments involved. Therefore Board / Licensee has evolved procedure to give effect to the orders of the Hon'ble Commission. In order to motivate the CGP to make the payments, due to the Board it was mentioned in the instructions that "billing and adjustments of the generated energy will be done only on receipt of the payment for the above invoice" and the intention is not to delay the adjustments or not to contravene the orders of the Hon'ble Commission.
- (b) The intention of the Board is not to contravene the policy stipulated by TNERC but only to place a workable mechanism to give effect to the orders of Hon'ble Commission.

- (c) There is nothing expressly stated in the TNERC's order to exclude wheeling charges for those consumers of 33 KV and above. In the schedule of charges (Order No. 2 dated 15.5.2006), wheeling charges have been fixed at 14.74 paise per unit and there is no indication whatsoever that it need not be collected from the persons drawing power at 33 KV and above.
- (d) While referring to chapter 6(7) (ii) of the Tamil Nadu Electricity Grid Code, it may not be possible to contend that only 33KV and above are transmission lines and those less than 33 KV alone are distribution system.
- (e) Collecting the Wheeling charges when distribution is made in the lines with voltages of 33KV and above is justified and hence Board has not contravened the orders of TNERC.
- (f) In regard to the remarks of the TNERC that wheeling charges are payable for the net energy wheeled through distribution network, as per the definition of wheeling charges as mentioned in the Electricity Act, 2003 (section 2(76)), wheeling charges are payable for the conveyance of energy. In the process of wheeling the total energy allotted including loss component is conveyed through the distribution network and hence in the working instructions it has been mentioned that wheeling charges is to be collected for energy allotted at the generator end users plus loss component. However, an amendment to collect wheeling charges for the net energy conveyed to the captive user(s) is under issue.
- (g) The orders issued by the Commission could be implemented only after ABT mechanism is fully put in place in respect of giving relief or otherwise by the beneficiary depending on the reactive power utilization. Therefore this part of the detailed working instruction were issued only for implementation up to ABT mechanism is put into effect. As implementation of ABT mechanism would take

some more time TNEB has issued the instructions to give effect to the orders of the Hon'ble Commission.

- (h) There is no provision for accounting interfacing losses in TNERC's Order. So far TNEB had been levying interfacing losses only when the metering arrangement is put in at the generator end for the sale of energy by the generators. No interfacing loss is collected when metering is at TNEB's end. No interfacing loss was being collected in respect of wheeling. TNERC has issued orders that metering arrangements have to be made only at the generator end. The loss component has been provided for the existing network only and no such provision has been given for the losses occurring in the interfacing locations. However, Board has restricted to apply this only for energy supplied for sale purpose when the metering arrangement is at generator end and not for the energy supplied for wheeling purpose. However, instructions to field officers deleting the said para is under issue.

8. Reply of the TNEB to the Show cause notice

TNEB in its reply dated 21-01-2008 stated that the Board has evolved a procedure to give effect to the orders of the Commission. TNEB further stated that in order to motivate the CGP to make the payments due to the Board the above provision was made. It is to be noted that TNEB has adopted a different procedure. The above reply is not convincing and it is not acceptable. There is a clear contravention of the said order No.4 dated 15-05-2006.

Para 3 of the show cause notice is to the effect that para 1 (c) of the instructions of the TNEB in regard to the levy of wheeling charges on the energy allotted to the end users contravene the orders of the Commission. TNEB in its reply has stated that an amendment to collect wheeling charges for the net energy conveyed to the captive users is under issue. The above reply clearly implied contravention which was sought to be

rectified by an amendment. Further, the TNEB in their reply dated 21-01-2008 stated that wheeling charges would also be applicable to the consumers using transmission system of 33 kV and above. This was based on the opinion of the Additional Advocate General that there is nothing expressly stated in the TNERC's order to exclude wheeling charges for those consumers of 33 kV and above.

9. Response of TNERC

9 (1) The above contentions are incorrect for the following reasons:

- (i) Distribution system, transmission lines and wheeling have been defined in the Electricity Act 2003, as below:

“2 (19) “distribution system” means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers”

2 (72) “transmission lines” means all high pressure cables and overhead lines) not being an essential part of a distribution system of a licensee transmitting electricity from a generating station to another generating station or a sub-station, together with any step-up and step-down transformers, switch-gears and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works.”

2 (76) “wheeling” means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62”

- (ii) The definition for wheeling given in the Act has to be construed as for conveyance of electricity only. Conveyance of electricity can be through transmission lines and distribution lines.

- (iii) Distribution system can be part of Transmission lines when the power is injected or delivered at any voltage above 33 kV.
- (iv) However, charges have been determined distinctly for each network i.e. separately for transmission networks and distribution networks.
- (v) The Commission determined transmission charges and wheeling charges on two distinct petitions filed by TNEB separately for transmission charges and wheeling charges.
- (vi) TNEB submitted the petition on annual transmission charges with the following prayers
- To approve the annual transmission charges requirements for the financial year 2005-06.
 - To determine the transmission charges for long and short term open access customers.
 - To approve all expenses and assumptions considered while considering annual transmission charges.
- (vii) TNEB submitted the petition on annual wheeling with the following prayers:
- To approve the annual wheeling charges requirements for the financial year 2005-06.
 - To determine the wheeling charges for long and short term open access customers.
 - To approve all expenses and assumptions considered while considering annual wheeling charges.
- (viii) The TNEB is functioning as integrated utility and has bundled accounts. The TNEB has unbundled the annual expenses during the year 2005-06 to compute annual transmission charges requirements and annual wheeling

charges requirements based on the assumptions put up to the Commission for approval.

- (ix) In the absence of voltage wise network cost of the assets, the value of assets of 33 kV voltage and above were considered as cost of transmission assets and the value of assets 22 / 11 kV voltage and below were considered as cost of distribution assets as proposed by TNEB.
- (x) The annual transmission charges were the annual expenses allocated on transmission assets and the annual wheeling charges were the annual expenses allocated on distribution assets.
- (xi) The transmission charge recoverable from open access customer was computed with reference to the capacity of the transmission system. The wheeling charges recoverable from the open access customer was computed with reference to the energy injected into the network 22 / 11 kV and below after adjusting the consumption and loss at network of 33 kV and above from the input energy.
- (xii) When the usage is restricted to the transmission network, only transmission charges are recoverable.
- (xiii) Thus, where the points of injection and points of drawal are 33 kV and above and where no network of voltage level 22 / 11 kV is used, transmission charges alone are recoverable. In case networks 22 / 11 is used either at injection or drawal point wheeling charge in addition to transmission charge is recoverable. Hence there is a clear contravention of Order No.4 dated 15-05-2006.

9 (2) Para 4 of the show cause notice is to the effect that para 3 (b) of the instructions of TNEB in regard to reactive energy charges does not provide the basic rules for the absorption and generation of VAR and as such it does not reflect the

provisions in the order fully. In regard to this TNEB has stated that for implementation of ABT Mechanism which would take some more time they have issued the instruction to give effect to the orders of the Commission. Regarding this, it is to be noted that the introduction of ABT mechanism in future has nothing to do with the levy of reactive energy charges. The reference to ABT mechanism is irrelevant to the collection of reactive energy charges. TNEB has completely ignored the basic rules for absorption and generation of VAR as contained in regulation 9 (2) (xi) of the Tamil Nadu Electricity Grid Code. There is a clear contravention which is continuing.

9 (3) Para 5 of the show cause notice is to the effect that para 7 (1) of the instructions of the TNEB in regard to the deduction of interfacing losses at the rate of 2 % for EHT lines and 5% for HT lines from the total energy to be sold where the meter is provided at the captive power plant end is in contravention of Order No.2 dated 15-05-2006 as no separate treatment has been given for “interfacing losses”, TNEB in its reply has stated that instructions to Field Officers deleting the said para 7 (1) is under issue. The above reply clearly implied contravention which was sought to be rectified by the deletion of the instructions.

10. Clarificatory Order

A clarificatory order No.4 – 1 dated 21-02-2008 was issued by the Commission in the matter of levy of transmission and wheeling charges payable for the fossil fuel based co-generation plants. The said clarificatory order is based on the facts set out above. Instead of complying with the above clarificatory order, TNEB has addressed a letter to TNERC seeking review of the said order. This amounts to wilful and deliberate contravention of the clarificatory order of the Commission. Accordingly, a summon was issued by the Commission on 8-5-2008 for the personal appearance of Member (Generation) and Chief Engineer / PPP on 14-05-2008 for offering their explanation as to

why proceedings under sections 142 and 146 of the Act should not be initiated against them.

11. Point in issue:

The point in issue is whether the TNEB has contravened the orders of the Commission.

12. Summons for personal appearance

As the TNEB continued to contravene the Orders 2 and 4 dated 15-5-2006 of the Commission, the Commission decided on 8-5-2008 to summon Member (Generation) and Chief Engineer (Private Power Project) of TNEB to appear before the Commission on 14-5-2008 to explain why Section 142 and 146 of the Electricity Act should not be invoked against them. The two officials appeared before the Commission on 14-5-2008. They tendered unconditional apology for the contravention. They had no defence for their intransigence.

13. Findings of the Commission

13 (1) Order No.2 and 4 dated 15-5-2006 are quasi-judicial orders of the Commission. These orders were passed after an elaborate procedure of consultation with expert bodies, public hearing, and affording opportunity to TNEB. The TNEB did not choose to appeal against the Orders to the Appellate Tribunal for Electricity as per Section 111 of the Electricity Act 2003. Instead, the TNEB filed a petition under section 94(1) of the Act on 21-9-2006 before the Commission seeking review of Order No.4. Clause 43 of the Conduct of Business Regulations 2004 of the TNERC stipulates a deadline of 30 days for filing a review petition. The delay of the TNEB was condoned and the TNEB was

heard on 6-2-2007. The review petitions were dismissed on 15-3-2007 as the petitions did not disclose any mistake of fact, ignorance of any material fact or any error apparent on the face of record. Thus, the Orders No.3 and 4 dated 15-5-2006 became final and binding on the TNEB. As regards Order No.2 dated 15-5-2006, it was neither appealed nor was any review petition filed and therefore became final and binding on 15-5-2006.

13 (2) That being the case, the TNEB ought to have, forthwith, implemented the Order No.2 and 4 dated 15-5-2006 of the Commission. The TNEB continued to delay the implementation of the Orders. Finally, the TNEB chose to issue instructions on 6-11-2007 to the field officers for implementing Orders No.2 and 4 dated 15-5-2006 of the Commission. These instructions contained several clauses contravening the Orders of the Commission. M/s.Kaveri Gas Power Ltd., and M/s.Arkey Energy (Rameswaram) brought to the notice of the Commission these contraventions.

13 (3) The Commission, therefore, was constrained to issue under section 142 of the Electricity Act 2003 a show cause notice on 26-12-2007 to the TNEB. The TNEB replied to the show cause notice on 21-1-2008. While some contraventions were rectified, in regard to the others the TNEB questioned the interpretation adopted by the TNERC and persisted in the contravention. The Commission issued a clarificatory Order No.4-1 dated 21-2-2008 to clarify the issues both in Order No.2 and Order No.4 dated 15-5-2006 of the Commission. This was intended to clear any doubt in the mind of the licensee, generator and consumers. Most objectionably, Member (Generation) and Chief Engineer, (Private Power Project) addressed a letter on 1-4-2008 to the Commission, as if the Commission is an executive authority, seeking review of the clarificatory order.

13 (4) This was the limit in testing the patience of the Commission and therefore the Commission had to come down heavily on the offenders. The contravention has been admitted by the TNEB when the Member (Generation) and Chief Engineer, (Private Power Project) appeared before the Commission on 14-5-2008 but their only defence was that these contraventions have been set right by an executive order dated 9-5-2008 of the TNEB. Thus, it is proved that the contravention of the orders of the Commission continued from 6-11-2007 till 9-5-2008.

14. Conclusion

14 (1) Section 142 of the Act provides for penalty upto Rs. one lakh for each contravention and Rs. six thousand per day for continuing contravention. Section 146 provides for criminal prosecution of those charged with contravention. The Commission would like this case to be an example for all licensees and generators, who dare to contravene the orders of the Commission, deliberately and wilfully. On two previous occasions, the TNEB has been let off without any penalty for non compliance of the orders of the Commission. It is time to impose an exemplary penalty on those who seek to defy the authority of the Commission. As this is the first case of penalty, the Commission decides to limit the penalty to Rs.ten thousand each on Member (Generation) and Chief Engineer (Private Power Project). The fine shall be paid within thirty days of the order. The Commission does not wish to seek criminal prosecution of the offenders this time.

14 (2) It is evident that the contravention has led to the TNEB levying wheeling charges unauthorisedly even when the usage is limited to transmission alone. The TNEB adopted its own interpretation in levying wheeling charges on transmission lines of rating 33 kVA and above. Section 62(6) of the Electricity Act 2003 lays down that if a licensee recovers a price or charge exceeding the tariff determined by the Commission,

the excess amount shall be recovered along with interest equivalent to the bank rate. Therefore, the Commission directs that Electricity Board shall refund the excess collection within thirty days of the Order along with interest at the rate of 6% per annum.

Pronounced in the open court by the Commission on 16th May 2008.

(Sd.....)
(R. RAJUPANDI)
Member

(Sd.....)
(B.JEYARAMAN)
Member

(Sd.....)
(S.KABILAN)
Chairman

/True Copy/

Secretary
Tamil Nadu Electricity Regulatory Commission