

## **Annual Report for the year 2008-09**

(In accordance with section 105 of Electricity Act 2003 (Central Act 36 of 2003))

**(To be laid before the State Assembly)**

### **1. Preamble**

#### **1.1. Introduction**

The Government of Tamil Nadu (GoTN) constituted the Tamil Nadu Electricity Regulatory Commission (TNERC) vide G.O Ms No 58 Energy (A1) Department dated March 17<sup>th</sup> 1999 in accordance with the Electricity Regulatory Commissions Act 1998 ( Central Act 14 of 1998) which has since been replaced by the Electricity Act 2003 ( Central Act 36 of 2003). The Commission is empowered to make regulations for the conduct of its proceedings and discharge of its functions. All proceedings before the Commission are deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860). The Commission is deemed to be a Civil Court for the purposes of Section 345 and 346 of the Code of Criminal Procedure 1973 (2 of 1974). Section 105 of the Electricity Act 2003 stipulates that the State Commission shall prepare each year an annual report giving a summary of its activities during the previous year. The Annual Report shall be placed before the State Legislature. The format for the annual report has been prescribed in G.O Ms No 31, Energy (A1) dated 18-3-2004.

#### **1.2. The composition of the Commission**

The Commission consists of a Chairman and two Members. Thiru S.Kabilan I.A.S., (Retd) is the Chairman since 3-1-2007.. Thiru B. Jeyaraman and Thiru.R.Rajupandi are the two Members at present. Thiru R.Balasubramanian continues as the Secretary of the Commission

#### **1.3. Functions of the Commission**

As per section 86 of the Electricity Act 2003, the Commission shall discharge the following functions , namely :

1 (a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

(b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;

(c) facilitate intra-state transmission and wheeling of electricity;

(d) issue licence to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;

(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;

(g) levy fee for the purposes of this Act;

(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;Annual report 2006-07-approved

(i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;

(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary; and

(k) discharge such other functions as may be assigned to it under this Act.

(2) The Commission shall advise the State Government on all or any of the following matters, namely:-.

- (i) promotion of competition, efficiency and economy in activities of the electricity industry;
- (ii) promotion of investment in electricity industry;
- (iii) reorganization and restructuring of electricity industry in the State
- (iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the State Commission by that Government.

(3) The Commission shall ensure transparency while exercising its powers and discharging its functions.

(4) In discharge of its functions the Commission shall be guided by the National Electricity Policy, National Electricity Plan and National Tariff policy published under section 3.

#### **1.4 Powers of Commission to make Regulations**

Section 181 of the Electricity Act 2003 empowers the Commission to make regulations consistent with this Act and the rules thereunder, generally to carry out the provisions of this Act. As per section 181(3), all regulations made by the State Commission shall be subject to the condition of previous publication. As per section 182, all such regulations have to be placed before the State Legislature as soon as may be after they are framed.

In accordance with various provisions in the Act, the following regulations have been framed by the Commission

<b>Regn/ Amend No.</b>	<b>Name of Regulation</b>	<b>Notified on</b>
1/2	Tamil Nadu Electricity Regulatory Commission- Conduct of Business Regulations, 2004	18-02-2004
2/2	Tamil Nadu Electricity Regulatory Commission - State Advisory Committee Regulations, 2004	18-02-2004
3/2	Tamil Nadu Electricity Regulatory Commission - Appointment of Consultants Regulations, 2004	18-02-2004

4/2	Tamil Nadu Electricity Regulatory Commission - Fees and Fines Regulations, 2004	18-02-2004
4/2-1	Amendment to Tamil Nadu Electricity Regulatory Commission - Fees and Fines Regulations, 2004	03-01-2007
4/2-2	Amendment to Tamil Nadu Electricity Regulatory Commission - Fees and Fines Regulations, 2004	25-06-2008
4/2-3	Amendment to Tamil Nadu Electricity Regulatory Commission - Fees and Fines Regulations, 2004	23-07-2008
5/2	Tamil Nadu Electricity Regulatory Commission ( Terms and Conditions for Determination of Tariff Regulations 2005)	03-08-2005
5/2-1	Amendment to Tamil Nadu Electricity Regulatory Commission ( Terms and Conditions for Determination of Tariff Regulations 2005)	07-06-2006
5/2-2	Amendment to Tamil Nadu Electricity Regulatory Commission ( Terms and Conditions for Determination of Tariff Regulations 2005)	29-08-2007
5/2-3	Amendment to Tamil Nadu Electricity Regulatory Commission ( Terms and Conditions for Determination of Tariff Regulations 2005)	03-10-2007
5/2-4	Amendment to Tamil Nadu Electricity Regulatory Commission ( Terms and Conditions for Determination of Tariff Regulations 2005)	06-02-2008
5/2-5	Amendment to Tamil Nadu Electricity Regulatory Commission ( Terms and Conditions for Determination of Tariff Regulations 2005)	27-02-2008
5/2-6	Amendment to Tamil Nadu Electricity Regulatory Commission ( Terms and Conditions for Determination of Tariff Regulations 2005)	25-06-2008
6/1	Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman,2004	18-02-2004
6-1	Amendment to Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman,2004	07-12-2005
6-2	Amendment to Regulations for Consumer Grievance Redressal Forum and Electricity Ombudsman,2004	14-03-2007
7/1	Tamil Nadu Electricity Supply Code	01-09-2004
7-1	Amendment to Tamil Nadu Electricity Supply Code	07-12-2005
7-2	Amendment to Tamil Nadu Electricity Supply Code	21-06-2006
7-2-(1)	Amendment to Tamil Nadu Electricity Supply Code	03-01-2007
7-3	Amendment to Tamil Nadu Electricity Supply Code	25-04-2007

7-4	Amendment to Tamil Nadu Electricity Supply Code	13-06-2007
7-5	Amendment to Tamil Nadu Electricity Supply Code	12-09-2007
7-6	Amendment to Tamil Nadu Electricity Supply Code	19-12-2007
7-7	Amendment to Tamil Nadu Electricity Supply Code	09-01-2008
7-8	Amendment to Tamil Nadu Electricity Supply Code	16-07-2008
7-9	Updated version of TN Electricity Supply Code incorporating the amendments	20-08-2008
7-10	Amendment to Tamil Nadu Electricity Supply Code	20-08-2008
7-11	Amendment to Tamil Nadu Electricity Supply Code	28-01-2009
7-12	Amendment to Tamil Nadu Electricity Supply Code	01-04-2009
8/1	Tamil Nadu Electricity Distribution Code	01-09-2004
8-1	Amendment to Tamil Nadu Electricity Distribution Code	07-12-2005
8-2	Amendment to Tamil Nadu Electricity Distribution Code	15-03-2006
8-3	Amendment to Tamil Nadu Electricity Distribution Code	21-06-2006
8-4	Amendment to Tamil Nadu Electricity Distribution Code	16-08-2006
8-5	Amendment to Tamil Nadu Electricity Distribution Code	16-08-2006
8-6	Amendment to Tamil Nadu Electricity Distribution Code	03-10-2007
8-7	Amendment to Tamil Nadu Electricity Distribution Code	19-12-2007
8-8	Amendment to Tamil Nadu Electricity Distribution Code	27-02-2008
8-9	Amendment to Tamil Nadu Electricity Distribution Code	11-06-2008
8-10	Updated version of TN Electricity Distribution Code incorporating the amendments.	20-08-2008

9/1	Tamil Nadu Electricity Distribution Standards of Performance Regulations	01-09-2004
9/1-2	Amendment to Tamil Nadu Electricity Distribution Standards of Performance Regulations	07-12-2005
9/1-3	Amendment to Tamil Nadu Electricity Distribution Standards of Performance Regulations	21-06-2006
9/1-4	Amendment to Tamil Nadu Electricity Distribution Standards of Performance Regulations	16-08-2006
9/1-5	Amendment to Tamil Nadu Electricity Distribution Standards of Performance Regulations	03-01-2007
9/1-6	Amendment to Tamil Nadu Electricity Distribution Standards of Performance Regulations	23-05-2007
9/1-7	Amendment to Tamil Nadu Electricity Distribution Standards of Performance Regulations	25-07-2007
9/1-8	Amendment to Tamil Nadu Electricity Distribution Standards of Performance Regulations	19-12-2007
9/1-9	Updated version of TN Electricity Distribution Standards of Performance Regulations incorporating the amendments	28-08-2008
10/1	Regulations on Powers and duties of Secretary	24-11-2004
11/1	Tamil Nadu Electricity Regulatory Commission - Intra State Open access Regulations	03-08-2005
11/1-1	Amendment to Tamil Nadu Electricity Regulatory Commission Intra- State Open access Regulations	23-07-2008
11/1-2	Amendment to Tamil Nadu Electricity Regulatory Commission- Intra -State Open access Regulations	10-12-2008
12/1	Tamil Nadu Electricity Regulatory Commission (Licensing) Regulations, 2005	03-08-2005
12/2	Amendment to Tamil Nadu Electricity Regulatory Commission (Licensing) Regulations, 2005	25-07-2007
13/1	Tamil Nadu Electricity Grid Code	14-12-2005
16/1	Power Procurement from New and Renewable Sources of Energy Regulations 2008	27-02-2008
16/2	Amendment to Power Procurement from New and Renewable Sources of Energy Regulations 2008	17-12-2008
16/3	Amendment to Power Procurement from New and Renewable Sources of Energy Regulations 2008	18-02-2009
17	Tamil Nadu Electricity Regulatory Commission (Procedure for payment of Subsidy by State Government) Regulations 2008.	22-10-2008
18/1	Tamil Nadu Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff )Intra-State Transmission /Distribution of Electricity under MYT framework	11-03-2009

## 1.5 Judicial Character of the Commission

The Commission, by virtue of the following provisions of the Electricity Act 2003 assumes judicial character

- i. **Commission to have same Powers of a Civil Court** : Section 94 of the Act states that “ *The Appropriate Commission shall, for the purposes of any enquiry or proceedings under this Act , have the same powers as vested in a civil court under the Code Civil Procedure,1908 (Act 5 of 1908) in respect of the following matters, namely:-*
  - a) *summoning and enforcing the attendance of any person and examining him on oath;*
  - b) *discovery and production of any document or other material object producible as evidence;*
  - c) *receiving evidence on affidavits;*
  - d) *requisitioning of any public record;*
  - e) *issuing commission for the examination of witnesses;*
  - f) *reviewing its decisions, directions and orders;*
  - g) *any other matter which may be prescribed”*
- ii. **Proceedings of Commission deemed to be judicial proceedings:** Section 95 of the Act stipulates that “*All proceedings before the Appropriate Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the appropriate Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 ( 2 of 1974)”*
- iii. **Appeal provision against Commission’s orders:** Section 111 of the Act which provides for appeal against the orders of the Commission states that “ *Any person aggrieved by an order made by an adjudicating officer under this Act ( except under section 127) or an order made by the Appropriate Commission under this Act may prefer an appeal to the Appellate Tribunal for Electricity”* The Appellate Tribunal for Electricity is headed by a serving /

retired judge of the Supreme Court or a Chief Justice of a High Court and consists of three other members.

- iv. **Further appeal to Supreme Court** : Section 125 of the Act provides for further appeal to Supreme Court “ *Any person aggrieved by any decision or order of the Appellate Tribunal may, file an appeal to the Supreme Court within 60 days from the date of communication of the decision or order of the Appellate Tribunal to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):*
- v. **Punishment for non-compliance of direction by Commission:** Section 142 stipulates that “ *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 there under, or any directions 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 extended to six thousand rupees for every day during which the failure continues after contravention of the first such direction”*
- vi. **Power to adjudicate:** Section 143 of the Act states that “ *For the purpose of adjudging under this Act, the appropriate commission shall appoint any of its Members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Appropriate Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty”*
- vii. **Civil Court not to have jurisdiction:** Section 145 of the Act stipulates that “ *No Civil Court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the adjudicating officer appointed under this Act empowered by or under this Act to determine and no injunction shall be*



*granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”*

- viii. **Punishment for non – compliance of orders or directions:** Section 146 provides for punishment for non-compliance of orders and stipulates that *”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”*

### **1.6 Administration**

Government of Tamil Nadu have sanctioned the required staff for the Commission vide G.O Ms No 80 Energy (A1) Department, dated 19.8.2002. As regulation of the electricity sector is a new and emerging area, the Commission decided to fill up the posts gradually. As per the G.O, the Commission may appoint officers and staff on regular basis, or contract basis, or on deputation from Central / State Governments and other Public Sector Undertakings. The total staff strength of the Commission as on 31.03.2009 was 29. The following table shows the staff position as on 31.03.2009

#### **Sanctioned Staff position and actual Staff strength of the Commission**

S.No.	Description of posts	Sanctioned Staff Position	Actual staff strength as on 31-3-2009
1	Secretary	1	1
2	Director	3	1
3	Deputy Director	4	3
4	Assistant Director	4	4

5	Assistant Secretary	1	
6	Public Relation Officer	1	1
7	Personal Secretary to Chairman	1	1
8	Personal Assistants	7	4
9	Assistant	2	2
10	Bench Assistant	1	1
11	Marshall	1	-
12	Receptionist-cum-Telephone Operator	1	1
13	Driver	2	2
14	Office Assistants	As per norms	8
	<b>Total</b>		<b>29</b>

### 1.7 State Advisory Committee (SAC)

As per Sections 24 & 25 of the ERC Act 1998, the Commission established the State Advisory Committee (SAC). Chairman /TNERC and members of the Commission are ex-officio members of the SAC. As per section 87 of the Electricity Act 2003, Commission nominated the Secretary to Government, Co-operation, Food and Consumer Protection Department as an ex-officio member of the SAC on 10.11.2004. The State Advisory Committee was reconstituted on 28.12.2007. Over and above the four ex-officio members noted above, the reconstituted SAC has twenty one members representing the interests of commerce, industry, transport, agriculture, labour, consumer, non-governmental organizations and academic &. research bodies in the electricity sector

The Commission conducted four State Advisory Committee meetings during 2008-2009. The first meeting was convened on 26-8-2008 to discuss “Roadmap for reduction of cross subsidy”. The second meeting on 18-11-2008 was devoted to “Discussion on the miscellaneous petition filed by TNEB seeking approval of

additional charges for excess over quota in consumption during the Restriction and Control period. The third and fourth meetings on 16-2-2009 and 26-2-2009 were devoted to the three consultative papers on Power procurement by the Distribution Licensee from Wind Energy based Generation, Biomass based generation and Bagasse based co-generation.

### **1.8 State Coordination Forum:**

Section 166(4) of the Electricity Act 2003 states that *“The State Government shall constitute a Co-Ordination Forum consisting of the Chairperson of the State Commission and Members thereof, representatives of the generating companies, transmission Licensee and distribution Licensees engaged in generation, transmission and distribution of electricity in that State for smooth and coordinated development of the power system in the State”*

In accordance with the above provision, Government constituted the Forum in GO MS Energy (C3) Department dated 9-8-2005 and expanded the composition vide GO Ms No 74 Energy (C3) Department dated 2-8-2007. The Forum has a total of ten members. The Chairman / TNERC is the Chairman of the Forum. Other members of the Forum are (i) two Members of the Commission, (ii) Chairman / TNEB, (iii) Chairman / Neyveli Lignite Corporation, (iv) Member-Secretary / Regional Load Despatch Center/ Bangalore, (v) Additional General Manager / Power Grid Corporation of India, (vi) Executive Director (Operations) Nuclear Power Corporation of India, (vii) Vice Chairman / Indian Wind Power Association and (viii) Managing Director / GMR (Energy Sector).. The Forum has had four meetings. During the year, the third meeting of the State Coordination Forum was convened on 25-6-2008 and the fourth meeting on 18-2-2009 .The following subjects were discussed :

- a. The current scenario with regard to generation, and the targets for completion of 11<sup>th</sup> plan schemes.
- b. Sourcing of capital expenditure for generation

- c. Power evacuation schemes pending , way-leave problems and Interaction with PGCIL for a co-ordinated development of transmission projects
- d. Seriousness of borrowing money to pay for revenue expenditure and the genesis of the problem .
- e. Overloading of power transformers
- f. Road map for reduction of cross subsidy

### **1.9 Forum of Regulators (FOR) :**

In pursuance of the provision under section 166(2) of the Electricity Act 2003. a Forum of Regulators (FOR) was constituted by the Government of India in February, 2005. The Forum consists of Chairman of Central Electricity Regulatory Commission (CERC) and Chairmen of State Electricity Regulatory Commissions (SERCs). TNERC is a member of FOR since its constitution in 2005. Six FOR meetings have been held so far. The functions of the FOR are:

- Analysis of the tariff orders and other orders of Central Commission and State Commissions and compilation of data arising out of the said orders, highlighting, especially the efficiency improvements of the utilities;
- Harmonization of regulation in power sector;
- Laying of standards of performance of licensees as required under the Act;
- Sharing of information among the members of the Forum on various issues of common interest and also of common approach;
- Undertaking research work in-house or through outsourcing on issues relevant to power sector regulation;
- Evolving measures for protection of interest of consumers and promotion of efficiency, economy and competition in power sector; and
- Such other functions as the Central Government may assign to it from time to time.

During the year , there were five meetings ( 13-6-2008 at New Delhi, 26-9-2008 at Khajuraho, 15-11-2008 at Bhubaneswar, 30-1-2009 at Chennai and 2-3-2009 at New Delhi) of the Forum of Regulators. The discussions in the meetings and through working groups covered the following :

- Open access theory and practice
- Code of ethics
- Demand side management and energy efficiency
- Loss reduction strategies
- Multi year tariff framework and distribution margin
- Policies on renewables
- Protection of consumer interest
- Metering issues

#### **1.10 Forum of Indian Regulators (FOIR) :**

A need was felt by the regulators for a common platform to discuss emerging issues in regulatory procedures and practices, to evolve common strategies to meet the challenges before regulators in India and to share information and experiences. Accordingly a Forum of Indian Regulators (FOIR) was formally registered as a Society under the Societies Registration Act, with the Registrar of Societies in the National Capital Territory of Delhi on 4<sup>th</sup> February 2000. The Chairmen and members of all Electricity Regulatory Commissions are members of this Forum. TNERC is a member of FOIR since its inception. The functions of this Forum are to :

- Promote transparency in the working of the regulatory bodies
- Protect consumer interest and develop consumer advocacy organisations
- Develop human and institutional capacities in regulatory bodies, utilities and other stake holders
- Research the efficiency and effectiveness of independent regulations and matters incidental thereto.
- Provide an information base on regulatory law and practice and regulatory economics

- Collaborate with academic and research institutions, professional bodies and NGO's in India and internationally in areas of Internet to the Society.
- Do all such other lawful things as are conducive or incidental to the attainment of the above aims and objects

During the year, one Annual General Body Meeting, ( 12-6-2008 at New Delhi) one FOIR General Body Meeting ( 25-9-2008 at Khajuraho), one research conference (30-1-2009 at Chennai) were held..The Members and Chairmen attended these meetings. The meetings covered the following issues:

- Philosophy of grid operation in India
- Issues on promotion of renewable sources of energy including solar power
- Functioning of consumer grievance redressal Forums
- Green energy- Energy efficiency and renewable sources
- Power shortage mitigation strategy- Pune Model
- Real time commercial availability index of a Steam Power Plant
- Issues on competition
- Consumer protection in other infra structure sectors such as TRAI, SEBI etc.,

#### **1.11 Southern Electricity Regulators Forum (SERF) :**

The Electricity Regulators in the southern region, comprising Tamil Nadu, Andhra Pradesh, Kerala and Karnataka meet under the banner of Southern Electricity Regulators Forum (SERF) to discuss region specific problems and issues related to electricity sector . The meetings are sponsored by one of the four Commissions by rotation. The Southern Electricity Regulators Forum was registered as a society at Bangalore on 15-2-2008. The Forum met during the year under review, on 7-3-2009 at Tirupathi. Member Thiru. B.Jeyaraman, Member, attended the meeting . The meeting covered the following issues:

- Ring fencing of load dispatch centre
- Discussion on power shortages
- Third party meter testing

- Tariff for solar power.

## **2.0. Major activities during the year**

### **2.1 Commission's meetings**

Most of the decisions of the Commission are taken through file circulation and routine discussions. The Commission conducted five formal meetings during the financial year 2008-09. The major decisions taken during the year are detailed below :

- Approval of the Annual Accounts ( Preliminary and later final audited) for the year ended 31.03.2008
- Approval of proposals to extend the services of translator
- Approval for a comprehensive tariff order for procurement of power from wind energy generation

### **2.2 Computerization**

The Commission is equipped with a Windows NT based server with 20 independent nodes connected through a 10/100 MBPS Local area network. The server is loaded with the latest database, development and application software and is used to share data among the officers and staff of the commission. A Windows XP based Proxy server is used to provide internet access to all the computers in the commission's network. This midrange server also acts as a web server and the following intranet applications have been hosted on this server which could be used by all the computers in the Commission's network.

- Important orders issued by the commission
- Regulations of the commission
- Important Government orders
- A software application to search Important documents like Electricity Act 2003, and Regulations issued by the Commission

As an effective management tool to help in Regulatory works, The Commission has developed and hosted the Regulatory Information Management

System. The software is capable of supplying information about the various functions of the state utility (TNEB). The reports are not only useful to the Commission, but also will help the utility in improving its performance. Since the base data entry is yet to be completed by TNEB, the application could not be put to use effectively.

As furtherance to E-Commission efforts, the Commission has also developed and hosted a Consumer query platform in its website, wherein the consumers can raise a query regarding the Regulations and orders issued by the Commission. The queries are replied within two weeks through e-mail.

The Commission periodically updates its website, so as to disseminate the latest information to consumers/stake holders. Through this website, the stakeholders / general public are informed about the Regulations and orders passed by the Commission. Draft Regulations and orders are posted on the website for seeking the comments / suggestions of the public.

### **2.3 Details of orders on major issues**

#### **(i) Tariff order for procurement of power from Wind Energy Generation**

The Commission in the Common Order in M.P.Nos.9, 14 and 23 of 2008 dated 19-9-2008 ruled that the control period of three years specified in order No.3 dated 15-5-2006, viz., "Order on purchase of power from NCES based generating plants" is waived from 19-9-2008. The control period of three years in the Regulation 6 of the Power Procurement from New and Renewable Sources of Energy Regulations, 2008. was also amended as two years. Accordingly, in exercise of the power conferred by Sections 181, 61 (h) and 86 (1) (e) of the Electricity Act 2003, (Act 36 of 2003), read with the National Electricity Policy, the Tariff Policy and the Power Procurement from New and Renewable Energy Sources Regulations, 2008 of the Commission and after considering the views of experts in a Round Table Conference held on 16-7-2008, after circulating a consultative paper on 12-12-2008 and after observing all prior publication



requirements, the Commission passed a suo motu comprehensive tariff order on wind energy vide order No. 1 of 2009 dated 20-03-2009.

The salient features of the tariff order are as follows:

**a. Applicability of the order**

All the wind energy generators commissioned on or after 19-9-2008 shall become eligible for the benefits of the present order, subject to the condition that the monetary benefits shall accrue from the date of this order.

**b. Banking**

Slot-wise banking is permitted to enable unit to unit adjustment for the respective slots towards rebate / extra charges. Unutilised energy at the end of the financial year may be encashed at the rate of 75% of the relevant purchase tariff. The banking period commences on 1<sup>st</sup> April and ends on 31<sup>st</sup> March of the following year.

**c. Transmission and Wheeling Charges**

The wheeling and transmission charges including line losses at 5% uniformly for captive use and third party sale of wind energy in case of HT / EHT consumption is retained. However, the charges in regard to captive use and third party sale for LT services are fixed at 7.5%.

**d. Cross subsidy surcharge**

50% of the cross subsidy surcharge for third party sale by wind energy generators.

**e. CDM Benefits**

The Commission adopted the formula recommended by the Forum of Regulators. Viz. CDM benefits should be shared on gross basis starting from 100% to developers in the first year and thereafter reducing by 10% every year till the sharing becomes equal (50:50) between the developer and the consumer in the sixth year. Thereafter, the sharing of CDM benefits will remain equal till such time the benefits accrue.

**f. Energy Purchase Agreement (EPA) and Energy Wheeling Agreement (EWA)**

The format of the EPA and EWA shall be evolved by the Commission after discussion with wind energy generators and the distribution licensee within a month of this order.

**g. Renewable Energy Purchase Obligation**

Commission fixed Renewable Energy Purchase Obligation at minimum of 13% for 2009-10 and minimum of 14% for 2010-11.

**h. Wind Energy Tariff**

The wind mills commissioned between 19-9-2008 and 19-3-2009 shall be eligible for a tariff of Rs.2.90 per unit. These wind mills shall be eligible for Rs.3.24 per unit from 20-3-2009 to 31-3-2009 and Rs.3.39 per unit from 1-4-2009. The wind mills commissioned on or after 20-3-2009 shall be eligible for tariff of Rs.3.24 per unit upto 31-3-2009 and the tariff of Rs.3.39 per unit from 1-4-2009.

**(ii) Provisional tariff for procurement of power from grid interactive Solar power generation plants**

The Commission issued the Order No. 3 dated 15.5.2006 on "Power purchase and allied issues in respect of Non-Conventional Energy Sources based Generating Plants and Non-Conventional Energy Sources based Co-Generation Plants". The said order stipulates tariff rates for power procurement by the distribution licensee from Wind Energy Generators (WEG), Biomass based generators and Bagasse based generators. The order did not specify the tariff for purchase of power from Solar Power Generation Plants.

With a view to develop and demonstrate technical performance of grid interactive solar power generation, achieve reduction in the cost of the grid connected solar power generation in the country, the Ministry of New and Renewable Energy (MNRE), Government of India have launched a generation based incentive

scheme to encourage grid quality Solar Photovoltaic(PV) and Solar Thermal Power Generation from megawatt size solar power plants.

Under this programme, the Ministry would provide incentive for installation of up to 50MW capacity solar power projects in the country. Solar power projects with an aggregate capacity of a maximum of 10MW in a State would be considered for support. Any project developer would be allowed to set up a maximum aggregate capacity of 5MW, either through a single project or multiple projects of a minimum capacity of 1MW each, under the demonstration programme. The said MNRE guidelines specify the importance of the SERC's tariff order on purchase of power from solar generation plants.

Based on the above, many organizations have approached the Government of Tamil Nadu (GoTN) and Tamil Nadu Energy Development Agency (TEDA) for installation of Solar Generation plants in Tamil Nadu. The Chairman, TEDA in his letter dated 4.6.2008 stated that the announcement of MNRE has generated considerable interest and some of the project developers are coming forward to install solar photovoltaic and solar thermal power plants in Tamil Nadu. In order to avail the generation based incentive, the projects should be commissioned on or before 31.12.2009..

Tamil Nadu, is a pioneer State in development of power from renewable sources and Wind Energy. We have contributed around 39% of the total installed capacity of the renewable sources in the country and around 48% with regard to wind energy. The State should not miss this opportunity offered by the MNRE for developing solar power generation in the State. Solar energy is considered to be the ultimate energy source. Considering the importance of solar energy and keeping the laudable trend set by this State in renewable energy development, there is an urgency to set the tariff for purchase of power from the Solar Generation Plants.

After careful consideration of all the points discussed above, the Commission , in its order no 6 dated 11-07-2008, fixed a provisional tariff of Rs. 3.15 per kWh as purchase rate for procurement of power by the distribution licensee from the Solar Photovoltaic and Solar Thermal Power Generation Plants.

**(iii) Amendments to Tariff order:**

Orders were issued with respect to amendment to tariff schedule in the main tariff order dated 15-03-2003, schedule of payment of subsidy by Government of Tamil Nadu, for the concessional tariff / free supply etc., applicable as per the policy directive of Government of Tamil Nadu

Such orders issued during the year are as under:

Sl. No.	Order No. and Date	Details of Order
1	TO 1-111, 22-05-2008	Orders for Tariff to Tiny Industries.
2	TO 1-112, 05-06-2008	Approval of balance subsidy for 2004-05 for domestic consumers.
3	TO 1-113, 11-12-2008	Restriction and Control of power supply and levy of excess demand charges.
4	TO 1-114, 22-01-2009	Tariff to Isha Foundation, Coimbatore.
5	TO 1-115, 11-02-2009	Interest on Security Deposit from consumers.
6	TO 1-116, 04-03-2009	Provision of Tariff subsidy for the year 2009-10.

**2.4 Details of other major issues which came up before the Commission :**

**a) Approval of Power Purchase Agreement:**

M/s. Cuddalore Power Corporation Ltd (CPCL) had filed a petition before the Commission on 29-09-2006, registered as PPA/ AP/1/ 2006, seeking approval of the Commission of the Power Purchase Agreement (PPA) that they entered into

with TNEB on 28-09-2006 for sale of capacity and energy to be generated in the 1320 MW (660 MW X 2) generating station to be established at Cuddalore. The salient features of the PPA were placed in public domain through a public notice and comments were received from stakeholders. The proposal was placed before the State Advisory Committee. A public hearing was conducted on 18-04-2007 to hear the views of public. Taking into consideration all the above, the Commission approved the Power Purchase Agreement in its Order dt. 24-04-2008

The salient features of this order are as under :

- |  |  |                                   |         |  |        |                     |                |  |                |
|--|--|-----------------------------------|---------|--|--------|---------------------|----------------|--|----------------|
| (1) Capacity                             | Acknowledged to be a base load station with 2 x 660 MW (1320 MW)   |                                   |         |  |        |                     |                |  |                |
| (2) Location                             | 400 hectares area in Thiagavalli and Kudikadu villages in Cuddalore District, adjacent to Cuddalore Town and 200 KMs from Chennai Airport.   |                                   |         |  |        |                     |                |  |                |
| (3) Raw water Source                     | Captive desalination plant.  |                                   |         |  |        |                     |                |  |                |
| (4) Coal linkage                         | Through long term coal supply agreement with off shore coal suppliers.   |                                   |         |  |        |                     |                |  |                |
| (5) Cooling water                        | Closed circuit cooling water system.   |                                   |         |  |        |                     |                |  |                |
| (6) Capital Cost                         | Rs.6004 Crores, consisting of the following:<br><br><div style="text-align: right;">(Rs. in Crores)</div> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr> <td>(i)230 Million Euros @ Rs.58/Euro</td> <td style="text-align: right;">1334.00</td> </tr> <tr> <td>(ii) 173.31 Million US\$ @ Rs.45.50/US\$</td> <td style="text-align: right;">788.56</td> </tr> <tr> <td>(iii) Indian Rupees</td> <td style="text-align: right;"><u>3881.44</u></td> </tr> <tr> <td></td> <td style="text-align: right;"><u>6004.00</u></td> </tr> </table> <p>(The Completed cost shall not exceed Rs.6202 Crores on any account)</p> | (i)230 Million Euros @ Rs.58/Euro | 1334.00 | (ii) 173.31 Million US\$ @ Rs.45.50/US\$ | 788.56 | (iii) Indian Rupees | <u>3881.44</u> |  | <u>6004.00</u> |
| (i)230 Million Euros @ Rs.58/Euro        | 1334.00  |                                   |         |  |        |                     |                |  |                |
| (ii) 173.31 Million US\$ @ Rs.45.50/US\$ | 788.56   |                                   |         |  |        |                     |                |  |                |
| (iii) Indian Rupees                      | <u>3881.44</u>   |                                   |         |  |        |                     |                |  |                |
|  | <u>6004.00</u>   |                                   |         |  |        |                     |                |  |                |
| (7) Financial Closing Date               | Shall not be later than 12 months from the date of execution of the Agreement.   |                                   |         |  |        |                     |                |  |                |
| (8) Commercial operation                 | 1st Unit, 56 months after the financial closing Date. 2 <sup>nd</sup> Unit, 62 months after the financial  |                                   |         |  |        |                     |                |  |                |

closing Date.

- (9) Sale of power generated The entire capacity and the power generated are proposed to be sold to Tamil Nadu Electricity Board.

**b) Regulations for Multi Year Tariff (MYT) framework :**

As per National Tariff Policy MYT framework is to be adopted for any tariff to be determined from April, 2006. Some of the State Commissions have already formulated the regulations for the MYT. In line with these regulations, TNERC issued a draft (Terms and Conditions for determination of Tariff for Intra state Transmission / Distribution of Electricity under MYT framework) Regulations. The draft was placed before the SAC and after following the requirements of prior publication, the MYT Regulations were notified on 11.03.09.

**The salient features of the regulations are as under :**

**Control Period :**

The initial control period under the MYT framework shall be for a duration of 3 years. Thereafter, each control period shall be normally for a period of five financial years.

**Business Plan :**

Every licensee shall file a business plan for Commission's approval along with MYT filing for the control period. The business plan shall contain projection for all activities including on going projects, new projects with the specific nature, loss reduction, effective and tamper-proof metering etc. The licensee shall also furnish the criteria adopted for projection.

**Capital Investment Plan :**

The licensee shall get the approval of the Capital Investment Plan for each year of the initial control period in accordance with the Regulation 17 of TNERC Tariff Regulations, such that the approval of the Commission is obtained before tariff filing under MYT framework. The capital investment plan shall have capitalization schedules for each year of the control period.

**Mechanism of pass through on account of uncontrollable factors :**

The licensee shall file application for revision on account of uncontrollable costs such as (a) Cost of fuel, (b) Costs on account of inflation; (c) Taxes and duties and (d) Variation in power purchase unit cost from base line level etc.,

**Mechanism for sharing approved gains/ losses out of controllable factors :**

The financial loss, if any, due to failure to achieve the target for the controllable costs in any of the years in the control period shall be borne by the licensees and the gains, if any, shall be shared with the beneficiaries at 50 : 50.

**Annual Review of Performance :**

- i) The Commission may undertake annual review of licensee's performance at the end of each year of the control period.
- ii) The Commission, on an application from the licensee, may consider any modification to the forecast of the ARR for the remainder of the control period with detailed reasons for the same.

**c) Regulations for Payment of Subsidy :**

The Commission after conforming to the requirement of prior publication, notified the TNERC (Procedure for payment of Subsidy by the State Govt.) Regulations 2008. on 22-10-2008

The Intent of this Regulation is to define subsidy, the method of its computation, the manner in which it shall be paid by the GoTN, the person eligible to receive subsidy and consequences of delays or non-receipt of subsidy by the concerned person etc.,.

**2.5 Concept paper on Tariff Classification for consumer categories:**

Taking into consideration the distortions and demand from various consumers on the classification of consumer categories, the Commission initiated a concept paper for rationalizing the consumer categories. As a first step in the consultative process, interactive discussions were held with the field officers of TNEB from

engineering and accounts wings in Trichy, Madurai, Tirunelveli and Coimbatore regions. The matter was placed before the SAC and the TNEB was directed to form a Task Force Committee to study in depth, the categorization, and make specific recommendations. TNEB have completed the study and submitted the committee's report on 20-10-2006. Since the reclassification will have direct financial impact on the quantum of subsidy, it was decided to obtain the views of Government. Accordingly, the Secretary of respective departments (such as Agriculture, Industry, Education etc.) were addressed. Reaction from Government is awaited to proceed further.

In the meantime, under the auspices of the Southern Forum of Regulators (SERF), a study group has been constituted to analyse the existing tariff categorization and classification of all the southern States and come up with a common classification of consumer categories to be adopted by all the southern States.

## **2.6 Concept paper on Road map for Reduction of Cross Subsidy:**

The price of electricity to certain categories of consumer is either free or fixed at a level below the cost to supply, on the grounds of food security, ability to pay and to encourage tiny industries, power loom etc.

To compensate the loss on account of such free / below the cost price, to a certain extent, the tariff to industrial and commercial category of consumers were fixed at a level above the cost to supply. Due to the extension of free and subsidized tariff for a long time in Tamil Nadu, the existing tariff structure is heavily subsidizing and subsidized.

Under section (zc) of sub-section (2) of section 181 of the Electricity Act 2003, the Commission is required to make regulation through a road map for the reduction of cross subsidies. This paper attempts to bring out various issues to be considered while specifying the manner of reduction of cross subsidy and the road map for the same. The concept paper was placed before the State Advisory Committee for discussion on 26-08-08. Secretary, Energy Department stated



in the meeting that the opinion of Government on the road map would be soon forwarded. The views of the Govt. are awaited.

## **2.7 Approval of Completed Capital Cost for power projects**

a) M/s PPN Power Generating Co. Pvt. Ltd. have filed a petition for fixation of the Capital Cost for the 330.50 MW capacity Pillai Perumal Nallur Power Generating Station. After hearing the Petitioner and the respondent Board, the Commission constituted an evaluation committee with Secretary, TNERC, representatives of the Petitioner and TNEB. The evaluation is in progress.

b) TNEB filed application for fixation of the Capital Cost for the following generation projects. The Respondent companies filed Writ Petition in the Hon'ble High Court of Madras, questioning the jurisdiction of the Commission to deal with the Power Purchase Agreements entered prior to the Electricity Act, 2003 i.e. prior to 10-0-03 and have obtained a stay. The matter is pending with Hon'ble High Court:

- 105.66 MW capacity Samalpatti Power Generation
- 106 MW capacity for Madurai Power Company Pvt. Ltd.
- 250 MW capacity at Neiveli by ST-CMS Electric Co. Pvt. Ltd.

## **2.8 Review meetings with TNEB:**

During the year, the Commission conducted review meetings with TNEB on 10-4-2008 and 16-10-2008. Financing the capital expenditure during the 11<sup>th</sup> plan period, capacity addition, status of new projects, transmission planning, fixation of loss reduction targets to be achieved by TNEB were discussed.

## **2.9 Consumer service related matters**

As per the Regulations issued under section 42 of the Electricity Act 2003, the Commission has constituted 39 Consumer Grievance Redressal Forums (CGRF), one in each distribution circle of TNEB. As reported by the Licensee, the

Forums have dealt with 336 complaints during the quarter ending 12/2008 for the year(2008-2009) and 289 complaints were disposed of within the stipulated time frame of two months. State Electricity Ombudsman is the Appellate Authority against the orders of these forums. Thiru. **R.Balasubramanian**, Secretary of the Commission has been designated as Electricity Ombudsman from 06.07.2007. During 2008-2009, 24 petitions were filed and 21 petitions were disposed. For the benefit of the general public and officers of TNEB, the orders of the Ombudsman are placed in an exclusive website for the Ombudsman viz., [www.tneo.gov.in](http://www.tneo.gov.in). There is a marked increase in the public awareness as can be seen from the number of cases and the issues raised.

A consumer advocacy wing has been established in the Commission from December-2005 to disseminate information on consumer rights and responsibilities through various means. 1000 copies in each issue of the quarterly News Letter “**Min Nugarvor Thunaivan**” was freely distributed during 2008 -09 for the benefit of consumers/ consumer organizations, NGOs etc.,.

In the Commission’s website, to facilitate clarification of doubts on the orders/ codes and Regulations issued by the Commission, a “**Consumer Query Platform**” was opened during June 2007. 140 consumers have benefited in the year 2008-2009 by way of getting their doubts clarified.

The Consumer Advocacy wing prepared a pamphlet in question and answer format in Tamil (7000 copies) and English (3000 copies) of Electricity Supply Code (Amended upto 31-07-2008) during June 2008 and distributed in the year 2008-2009.

The Tamil Nadu Electricity Regulatory Commission (TNERC) intends to establish a **Cell for Consumer Education and Advocacy (CCEA)** under its aegis towards consumer education as well as consumer advocacy, through an effective system of collection and dissemination of consumer related information. Expression of Interest (EOI) has been called for from voluntary organizations, who are willing to take a lead with a strong

team of activists, establish a network with individuals / organizations in the entire state, gather, share and disseminate information for the consumers in Tamil Nadu. . ***The contracted organization shall arrange non-controversial self-financing***, take policy guidelines from the Commission, bring out a monthly position paper on their current activities, assist the consumers and the Distribution licensee, bring out bilingual newsletter, create web page and use the media for the purpose of consumer education and advocacy.

### **2.10 Response to petitions under RTI Act 2005**

In order to meet the requirements under the Right to information Act 2005, Thiru S.P.Ezhilazhagan was nominated as the Public Information Officer and the Secretary of the Commission Thiru.R.Balasubramanian is the Appellate Authority. During the year 2008-09, totally 57 petitions were received under the RTI and were disposed of in accordance with the Act

### **2.11 Public participation in the Commission's proceedings**

All the new regulations / Codes, amendments to existing regulations, draft policy papers, tariff orders of the Commission undergo prior publication by uploading them in the Commission's website and issuing press releases etc., to receive the comments and objections from all the stakeholders and general public. Over and above, particularly in the case of tariff orders and major policy decisions such as policies on procurement of power from wind energy sources, levy of charges by TNEB for excess consumption during power cut period etc., the Commission also conducts public hearings with proper advance information to the public. During the year, two such public hearings, the first one on 21-11-2008 at Kalaivanar Arangam with respect to levy of excess demand charges and excess consumption charges from industrial and commercial consumers and the second one on 5-3-2009 at Naradha Gana Sabha Hall regarding the tariff determination and allied issues for purchase of power by the distribution License from wind, bio mass and bagasse based co-generation were conducted ,

## 2.12 Government Directives

Government of Tamil Nadu issued directives under section 108 (1) of the Electricity Act, 2003, for extension of free / concessional tariff to different categories of consumers as detailed below :

- Reduction in tariff to Domestic consumers from 16-06-2004 (Letter MS No 100 / Energy (A1) Dept/ dated 7-6-2004)
- Free supply of electricity to agricultural consumers under normal category from 01-04-2004(Letter MS No 100 / Energy (A1) Dept/ dated 7-6-2004)
- Free supply of electricity to agricultural consumers under SFS category from 01-04-2006 (Letter MS No 75/2006 / Energy (A1) Dept/ dated 11-8-2006)
- Free supply to Hut consumers from 01-04-2004(Letter MS No 100 / Energy (A1) Dept/ dated 7-6-2004)
- Reduction in tariff rate to actual places of public worship from 01-01-2006 (Letter MS No 15 / Energy (A1) Dept/ dated 31-1-2006 )
- Reduction in tariff rate to powerloom consumers from 01-02-2006 (Letter MS No 910/C3/ 2005/ Energy (A1) Dept/ dated 6-2-2006)
- Free supply to powerloom consumers upto 500 units from 01-08-2006 (Letter MS No 90 / 2006/ Energy (A1) Dept/ dated 6-9-2006)
- Free supply to handloom consumers upto 100 units bi-monthly from 01-08-2006 (Letter MS No 90 / 2006/ Energy (A1) Dept/ dated 6-9-2006)

- Reduction in tariff rates to street lights and public water supply from 12-04-2007(Letter MS No 70 / 2006/ Energy (A1) Dept/ dated 24-7-2007)

Based on the directives issued by the Government and the estimated loss of revenue to TNEB, the Commission approves every year, the tariff subsidy payable by the Government to TNEB. Government makes necessary provision for this subsidy in the budget

For 2008-09, TNEB sought Rs. 1623.11 Crores towards subsidy for extension of free / concessional tariff to different categories of consumers. The Commission determined the subsidy at Rs.1567.11 Crores.

### **2.13 Delay in compliance of Statutory requirements in respect of Metering of Agricultural and Hut services**

Section 55 (1) of the Electricity Act 2003 stipulates the following

“(1) No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the authority

Provided that the State Commission may by notification, extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.”

In clause 7.16 (ii) of the Tariff order dated 15.03.2003, the following directives were issued by the Commission :

All new connections are to be on metered basis only;

100% metering should be completed within 3 years; and

A master metering plan should be furnished within 3 months for commission’s approval.

TNEB expressed its difficulties in providing meters to agricultural and hut consumers to the Government of Tamil Nadu. The Government in letter dated 26-03-2009, requested the Commission to extend time for another six months

beyond 31-03-2009 i.e upto 30-09-2009 for installation of meters in Hut services and Agricultural services including SFS category by the TNEB. The above request of the Government is under the consideration of the Commission.

### **3. Activities proposed for the Current Year**

- a) Tariff fixation for the procurement of power from Bio Mass based power generation and from bagasse based co-generation. All the preliminaries including the prior publication requirements are completed and the orders are to be released in April / May 2009
- b) Revision of retail tariff is pending for a very long time. TNEB have to necessarily file a tariff revision petition during this year, which will be a major exercise to bridge the big gap of income-expenditure.
- c) The Commission initiated a concept paper for rationalizing the consumer categories. After going through various stages such as discussion in SAC, study by a task force , interactive discussions with distribution engineers in various regions etc., it was referred to Government and the opinion of the Government is awaited. The proposal will have to be placed in public domain for comments and tariff classification order issued
- d) Disposal of petitions of TNEB for approval of final capital cost of the three private power projects at Madurai, Samalpatti and Pillai Perumal Nallur
- e) Fixation of final capital cost for the Pillai Perumal Nallur Power Station
- f) Finalisation of the Service Regulations for Secretary, Officers and Employees of the Commission.
- g) Generalised tariff for purchase of power from grid connected Solar Power with Photo Voltaic / Thermal generation, replacing the provisional tariff in existence

### **4. Petitions before the Commission**

**a) Details of petitions admitted / disposed / pending before the Commission, during the year 2008-2009 are as follows:**

<b>S. No.</b>	<b>Type of petition</b>	<b>Pending at the beginning of (2008-09)</b>	<b>Petitions admitted</b>	<b>Petitions disposed</b>	<b>Pending for Orders</b>	<b>Pending at the end of the year (2008-09)</b>
<b>1.</b>	<b>Tariff Petition</b>	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>
<b>2.</b>	<b>Dispute Resolution Petition</b>	<b>2</b>	<b>32</b>	<b>23</b>	<b>4</b>	<b>7</b>
<b>3.</b>	<b>Review Petition</b>	<b>Nil</b>	<b>3</b>	<b>2</b>	<b>-</b>	<b>1</b>
<b>4.</b>	<b>Miscellaneous Petition</b>	<b>3</b>	<b>44</b>	<b>41</b>	<b>2</b>	<b>4</b>
<b>5.</b>	<b>Miscellaneous Approval Petition</b>	<b>3</b>	<b>2</b>	<b>Nil</b>	<b>-</b>	<b>5</b>
<b>6.</b>	<b>Power Purchase Approval Petition</b>	<b>2</b>	<b>4</b>	<b>4</b>		<b>2</b>
	<b>Total</b>	<b>10</b>	<b>85</b>	<b>70</b>	<b>6</b>	<b>19</b>

**b) Petitions pending before the Appellate Tribunal:**

Five cases are pending before the Appellate Tribunal for Electricity, New Delhi. In five cases Commission is a formal party and as such the matters have not been contested. In one of those cases filed by TNEB against the Commission and Nethaji Apparel Park and others relating to single point supply, the Tribunal has remanded the case to the Commission for fresh consideration.

**c) Cases pending before the High Court:**

The number of cases where the Tamil Nadu Electricity Regulatory Commission has been impleaded as a respondent and pending before the High Court as on 31-3-2009 are as follows:

<b>S.No.</b>	<b>Description of Cases</b>	<b>No. of cases</b>
1	Civil Miscellaneous Appeals (CMA)	5
2	Writ Appeals	1
3	Writ petitions from individual consumers	51
4	WP filed in batches	10
Total		67

Issues in these petitions, inter alia, relate to

- Merger of tariff structure in Commission's order dated 15-3-2003
- 15% Surcharge on Arc Furnace Consumption
- Directions given by the Commission to explore the options to optimize the cost of power purchase
- Challenging of first cum first served basis in Open Access Regulations
- Provision for belated payment surcharge in Electricity Supply Code
- To declare the portion of Supply Code which provides for determination of civil liability in case of theft of electricity as ultra vires



- To declare section 86(1) (f) of the Electricity Act 2003 which relates to the powers of the Commission to adjudicate upon disputes as unconstitutional
- To restrain Commission from processing the petition filed by TNEB for determining capital cost
- To declare the Electricity (Removal of Difficulties) Order 2005 of the Government of India, under which Supply code was amended to provide for determination of civil liability in respect of cases of theft., as unconstitutional
- To declare section 84 of the Electricity Act 2003, which relates to Constitution of the Commission, as unconstitutional
- To declare the notification No. TNERC/SC /7-10, which enables the licensee to disconnect the service connection of a consumer in cases where there is default in another service connection which stands in the name of the same consumer, as illegal
- To treat the IT enabled industries on par with IT industries in the matter of tariff
- To call for records pertaining to Order No. 3 dated 15.5.2006 of the Commission relating to Additional Security deposit under which two times of maximum net energy supplied in a month during previous banking period was ordered and consequential demand of SE, Virudhunagar TNEB as against Regulation 5(5) (ii) (a) of TN Electricity Supply Code and for directions to TNEB to accept Additional Security Deposit on par with consumers who own captive power project as stipulated in Order No. 4 dated 15-5-2006 of the Commission.

#### **d) Cases pending before the Supreme Court:**

(i) The number of cases filed against the Tamil Nadu Electricity Regulatory Commission pending before the Supreme Court as on 31-3-2009 are as follows:

Civil Appeals	24
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Issues in these appeals relate to

- Appeals against the judgment of the High Court of Madras upholding the Tariff Order dated 15-3-2003 of the Commission
- Appeals filed by TNEB against of the orders of the Appellate Tribunal for Electricity in Appeal Nos 205 & 235/06 which gave directions for taking time value into consideration in regard to wind power procurement. Commission is also a respondent in the said appeals.

(ii) Case where TNERC has preferred appeal over Tribunal's decision:

Commission has filed a Civil Appeal in the Supreme Court against the orders of the Appellate Tribunal for Electricity in Appeal Nos 205 & 235/06 which gave directions for taking time value into consideration in regard to wind power producers.

#### **5. Training and Seminars**

To acquaint themselves with the emerging technology and regulatory practices, the officers of the Commission were deputed to attend trainings and seminars on the following topics / issues

- Transmission Grid Security issues at PGCIL/ Bangaluru
- Capacity building programme for the officers of Commissions at IIT/ Kanpur
- Workshop of Green House Gas Emissions at Taipei
- Waste to energy solutions and Public- Private Community partnership at Chennai

- Regulatory and Policy framework for market development for renewable energy at Bhubaneswar
- Seminar on open access by IPPAI / New Delhi

## **6. Regulations/Codes/Amendments**

Consequent to the enactment of Electricity Act 2003 (Central Act 36 of 2003), Regulations/Codes have been issued by the Commission as stipulated in the Act. The following principal regulation / amendments to the Codes/Regulations were notified during the period from 1-4-2008 to 31-3-2009.

- a) One Principal Regulation in respect of Procedure for payment of Subsidy by Government of Tamil Nadu to the licensee.
- b) One Principal Regulation in respect of Multi-Year Tariff
- c) Two amendments in respect of Fees and Fines Regulations
- d) One amendment as errata in respect of (Terms and Conditions for Determination of Tariff) Regulations
- e) Four amendments in respect of Tamil Nadu Electricity Supply Code
- f) One amendment in respect of Tamil Nadu Electricity Distribution Code
- g) Two amendments in respect of Intra State Open Access Regulations
- h) Two amendments in respect of NCES Regulations 2008

## **7. Finance and Audit:**

In accordance with Section 104 of the Electricity Act 2003, the Government have notified the format for preparation of Annual Statement of Accounts of the Commission vide G.O.Ms.No.50 Energy (A1) Department dated 13.06.2006. Accordingly, the Commission prepares annual statement of accounts, gets them audited by the Accountant General and places them before the Legislative Assembly.

The Commission receives Grants in Aid from Government of Tamil Nadu for meeting its expenditure. A sum of Rs 178.96 lakhs was provided in the Budget

estimate (BE) for the year 2008-09 to meet the expenses of the Commission. Based on the request of the Commission, an additional amount of Rs.35 lakhs was provided in the Revised Estimate for 2008-09. Under the final supplementary grants an amount of Rs. 27.77 lakhs was received from Government towards payment of rental advance to TIDCO and to meet the expenditure for an All India Conference of Electricity Regulators held at Chennai in January 2009. The total grants-in aid received during the year is Rs.2,41,73,000

The Commission's revenue by way of fees and fines and other miscellaneous receipts during the year are as follows. It needs to be noted that the Commission under the Regulatory regime, could become a self supporting body in the near future.

i. License Application fee	Rs. 55,63,210
ii. Petition Filing Fee	Rs. 19,68,850
iii. Sale of Office Publications	Rs. 7,327
iv. Other Misc. receipts	Rs. 29,336
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	Total Rs. 75,68,723

As per section 180 (2) (g) read with section 103 (3) of the Electricity Act 2003, the Government of Tamil Nadu have notified the Tamil Nadu Electricity Regulatory Commission Fund Rules 2007 and the funds are being operated through "Tamil Nadu Electricity Regulatory Commission Fund" in a public deposit account.

## 8. Miscellaneous

The Commission has been transparent in all its activities and has made available to the public all important orders of the Commission, all regulations/ codes / amendments etc., including the archives of the already published ones, through its website [www.tnerc.gov.in](http://www.tnerc.gov.in). The Commission has shifted its office on 20-10-2008, from No.17, Third Main Road, Seethammal Colony, Alwarpet, Chennai 600 018 to the TIDCO office complex at 19-A Rukmini Lakshmipathi Salai ( Marshalls Road), Egmore, Chennai 600 008. The Commission, being a

perpetual body under the mandate of the Electricity Act, would prefer to move to a building, easily accessible to public. Liberal assistance of the Government of Tamil Nadu would be needed in this regard.

**(By order of the Tamil Nadu Electricity Regulatory Commission)**

**R.Balasubramanian  
Secretary**