

The Tamil Nadu Electricity Regulatory Commission - Conduct of Business Regulations, 2004

TAMILNADU

India

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Rule

THE-TAMIL-NADU-ELECTRICITY-REGULATORY-COMMISSION-CONDUCT OF 2004

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The Tamil Nadu Electricity Regulatory Commission - Conduct of Business Regulations, 2004 Published vide Notification No. TNERC/CBR/1/2, dated 8.1.2004 - No. 5 (2)498/2004 In exercise of the powers conferred on by section 181 of the Electricity Act, 2003 (Act 36 of 2003) and all powers enabling it in that behalf the Tamil Nadu Electricity Regulatory Commission hereby makes the following Regulations. These Regulations supersede 'Tamil Nadu Electricity Regulatory Commission (Conduct of Business) Regulations, 2002' published in Notification No. TNERC/CBR/1/1, dated 5.7.2002 in the Gazette, dated July 17, 2002 of Government of Tamil Nadu.

Chapter I

General

1. Short title, commencement and extent.

(1) These Regulations may be called the Tamil Nadu Electricity Regulatory Commission - Conduct of Business Regulations, 2004. (2) The object of these Regulations is to establish procedures in regard to the transaction of business with regard to the Commission (3) They shall [come into force on the date] [(vide-the Tamil Nadu Government Gazattee, (Supplement) dated the 18th February 2004).] of their publication in the Tamil Nadu Government Gazette. (4) They extend to the entire State of Tamil Nadu.

2. Definitions.

(1) In these Regulations, unless the context otherwise requires, - (a) 'Act' means the Electricity Act, 2003 (Act 36 of 2003); (b) 'Commission' means the Tamil Nadu Electricity Regulatory Commission; (c) 'Chairperson' means the Chairperson of the Tamil Nadu Electricity Regulatory Commission; (d) 'Member' means a Member of the Tamil Nadu Electricity Regulatory Commission; (e) 'Secretary' means the Secretary of the Tamil Nadu Electricity Regulatory Commission; (f) 'Officer' means an officer of the Commission; (g) 'Petition' means and includes all petitions, applications, complaints, appeals, replies, rejoinders, supplemental pleadings, other papers and documents filed before the Commission; (h) 'Proceedings' shall mean and include proceedings of all nature such as hearings, meetings, discussions, deliberations, enquiries, investigations, consultations, etc. that the Commission may hold in the discharge of its functions under the Act; (i) 'Specified number of copies' means five copies or such number of copies as may be prescribed by the Commission; (j) 'Fee' means a fee payable to the Commission for the services rendered, which will be fixed by the Commission for different types of services; (k) 'Designated officer' means an officer of the Commission designated for the specific purpose; (l) 'Board' means the Tamil Nadu Electricity Board or any of its successor entities; (2) Words or expressions occurring in these regulations and not defined herein but defined in the Electricity Act, 2003 shall bear the same meanings assigned to them in that Act. (3) The original regulations will be in English and they will be translated in Tamil. In case of difference in interpretation of regulations in Tamil version, the original regulation in English version will stand.

3. Commission's offices, office hours and sittings.

(1) The place of the offices of the Commission may, from time to time, be specified by the Commission, by an order made in that behalf. (2) Unless otherwise directed, the headquarters and other offices of the Commission shall be open daily except on Saturdays, Sundays and holidays notified by the Government of Tamil Nadu. The headquarters and other offices of the Commission shall be open at such times as the Commission may direct, from time to time. (3) When the last day for doing any act falls on a day on which the office of the Commission is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which the office is open. (4) The Commission may hold sittings for transacting its business at the headquarters or at any other place on days and time to be specified by the Commission.

4. Language of the Commission.

(1) The proceedings of the Commission shall be conducted in English or Tamil, if permitted by the Commission. (2) The petitions, documents or other matters contained in any language other than English or Tamil shall be accepted by the Commission only, if the same is accompanied by a translation thereof in English. (3) Any translation which is agreed to by the parties to the proceedings or which any of the parties may furnish with a certificate of the person who had translated the same to English, may be accepted by the Commission as a true translation. The Commission, in appropriate cases, may insist for translation in English of the said documents by an officer or person designated by the Commission for the purpose.

5. Commission to have a seal of its own.

(1)The Commission shall have a seal of its own. The impression of the seal shall be certified and kept on record of the Commission.(2)Every order or communication made, notice issued or certified copy granted by the Commission shall be stamped with the seal of the Commission and shall be certified by an officer designated for the purpose.

6. Members officers and employees of the Commission to be public servants.

- As provided in section 169 of the Act, the Chairperson, members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of the Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

7. Protection of action taken in good faith.

- As provided under section 168 of the Act, no suit, prosecution or other legal proceedings shall lie against the Commission or the officers of the Commission for anything done or in good faith purporting to be done under the Act or these regulations.

8. Officers of the Commission.

(1)The Commission shall have the power to appoint Secretary, officers and other employees for discharging various duties. It may also prescribe the qualifications, experience and other terms and conditions for the appointment of such officers and other employees.(2)The Commission may appoint Consultants to assist the Commission in the discharge of its functions.

9. Secretary of the Commission.

(1)The Secretary is the Principal Officer of the Commission and shall perform such functions as are assigned to him by these regulations or otherwise by the Commission or the Chairperson.(2)In particular and without prejudice to the generality of the above provisions, the Secretary shall have the following powers and perform the following duties, namely:-(a)He shall have the custody of the seal and records of the Commission;(b)He shall receive or cause to receive all petitions, applications or references on behalf of the Commission;(c)He shall prepare or cause to be prepared briefs and summaries of all pleadings before the Commission in the discharge of its function in this regard and that such summary shall indicate the names of the parties and the relief sought in verbatim without going into the merits of the pleading;(d)He shall assist in the proceedings conducted by the Commission;(e)He shall issue certified copies of the order passed by the Commission;(f)He shall ensure compliance of the orders passed by the Commission as stated in regulation 54 of these regulations;(g)He shall have the right to collect from the Government or other offices, companies and firms or any other party as may be directed by the Commission, such information as may be considered useful for the purpose of efficient discharge of the functions of the Commission under

the Act and place the information before the Commission;(h)He shall prepare the minutes of the meetings of the Commission and record the decisions of the Commission in the minutes book to be kept for the purpose.(3)The Secretary may, with the approval of the Commission, delegate to any other officer of the Commission any function required by these regulations or otherwise, to be exercised by the Secretary.(4)In the absence of the Secretary, such other officer of the Commission, as may be designated by the Chairperson, may exercise all the functions of the Secretary.(5)The Chairperson may delegate to the officers such functions including functions that may be required by these regulations to be performed by the Secretary on terms and conditions to be specified for the purpose.(6)The Commission shall at all times have the authority, either on an application made to it by any interested or affected party or suo motu to entertain, review, revoke, revise, modify, amend, alter or otherwise change any order passed or action taken by the Secretary or the officers of the Commission, if the Commission considers the same to be appropriate.

10. Advisory Committee.

- An Advisory Committee shall be constituted in accordance with the provisions of section 87 of the Act. This committee shall conduct its business in line with the State Advisory Committee Regulations to achieve the objects as specified under section 88 of the Act.

Chapter II

Proceedings Before the Commission

11. Proceedings before the Commission.

(1)The commission may, from time to time, hold such proceedings as it may consider appropriate in the discharge of its functions under the Act. The Commission may appoint an officer or any other person whom the Commission considers appropriate to represent the matter as Commission's representative in the proceedings.(2)All matters which the Commission is required under the Act to undertake and discharge through hearings of the affected parties and such other matter as the Commission may consider appropriate shall be done through proceedings.(3)All other matters may be decided by the Commission administratively through the meeting of the Chairperson and Members or by such other officers or persons to whom the powers and functions have been delegated.

12. Quorum.

- Except for initial procedural issues like notices, filing of copies and documents, the quorum of the Commission shall be two among the three Members. For all initial procedural issues, the quorum may be one Member.

13. Conduct of proceedings in the absence of Chairperson.

- Conduct of proceedings in the absence of Chairperson shall conform to the provisions in section 92(2) of the Act, which reads as "The Chairperson or if he is unable to attend a meeting of the Appropriate Commission, any other member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from amongst themselves shall preside at the meeting."

14. Decision through majority of votes.

- The decision of the Commission shall be through majority of votes as provided in section 92(3) of the Act which reads as "All questions which come up before any meeting of the Appropriate Commission shall be decided by a majority of votes of the Members present and voting and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote."

15. Authority to represent.

- A person may authorise an advocate or a member of any recognised professional body as the Commission may, from time to time, specify, to represent him and act and plead on his behalf before the Commission. The person may appear himself or may authorise any of his employees or an agent to appear before the Commission and to act and plead on his behalf. The Commission may, from time to time, specify the terms and conditions subject to which a person may authorise any other person to represent him and act and plead on his behalf.

16. Initiation of proceedings.

(1)The Commission may initiate any proceedings suo moto or on a petition filed by any affected or interested person.(2)When the Commission initiates the proceedings, it shall be by a due notice issued by the Commission. The Commission may give such orders and directions as may be deemed necessary, for serving of notices to the affected parties for the filing of replies and rejoinders against or in support of the petition in such form as the Commission may direct. The Commission may, if it considers appropriate, issue orders for publication of the petition inviting comments from the public or any class of persons on the issue involved in the proceedings in such form as the Commission may direct.(3)While issuing the notice of inquiry, the Commission may, in suo moto proceedings and other appropriate cases, designate an officer of the Commission or any other person whom the Commission considers appropriate to present the matter in the capacity of a petitioner in the case.

17. Petitions and pleadings before the Commission.

- All petitions to be filed before the Commission shall be typewritten or printed neatly and legibly on one side of white paper and every page shall be consecutively numbered. The contents of the petition shall be divided appropriately into separate paragraphs which shall be numbered serially.

The petition shall be accompanied by such authenticated documents, listed serially and marked as Annexure alphabetically in capital letters along with supporting data and statements.

18. General Headings.

- The general heading in all petitions before the Commission shall be in Form 1 (Annexure 1).

19. Affidavit in support.

(1) Petitions or objections or counters filed shall be verified by an affidavit and every such affidavit shall be in Form 2 (Annexure 2). (2) Every affidavit shall be drawn up in the first person and shall state the full name, age, occupation and address of the deponent and the capacity in which he is signing and shall be signed and sworn before a person lawfully authorised to take and receive affidavits. (3) Every affidavit shall clearly and separately indicate statements which are true to the: (a) belief of the deponent; (b) knowledge of the deponents; and (c) information received by the deponent. (4) Where any statement in the affidavit is stated to be true to the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes that information to be true.

20. Presentation and scrutiny of the pleadings, etc.

(1) All petitions shall be filed with specified number of copies and each set of the petition shall be complete in all respects. The fees as may be prescribed by the Commission shall be payable along with the petition. (2) All petitions shall be presented in person or by any duly authorised agent or representative at the headquarters or such other filing centre or centres as may be notified by the Commission, from time to time, and during the time notified. The petitions may also be sent by registered post with acknowledgment due to the Commission at the place mentioned above. The vakalatnama in favour of the advocate and in the event the petitions are presented by the authorised agent or representative, the document authorising the agent or representative shall be filed along with the petition, if not already filed on the record of the case. (3) Upon the receipt of the petition, the designated officer (the officer of the Commission designated for the purpose) shall acknowledge the receipt by stamping and endorsing the date of its receipt / presentation and shall issue an acknowledgment. In case the petition is received by registered post, the date on which the petition is actually received at the office of the Commission shall be taken as the date of the presentation of the petition. (4) The presentation and receipt of the petition shall be duly entered in the register maintained for the purpose by the office of the Commission. (5) The designated officer may decline to accept any petition which does not conform to the provisions of the Act or the regulations or directions given by the Commission or otherwise defective or which is presented otherwise than in accordance with the regulation or directions of the Commission. Provided no petition shall be refused for defect in the pleadings or in the presentation, without giving an opportunity to the person filing the petition to rectify the defect within the time which may be given for the purpose. The designated officer shall advise in writing the person filing the petition of the defects in the petition filed and it shall be the responsibility of the person filing the petition / application to rectify the discrepancies pointed out by the designated officer within the prescribed time. (6) A person

aggrieved by any order of the designated officer in regard to the presentation of the petition may request the matter to be placed before the Secretary of the Commission for appropriate orders.(7)The Chairperson or any member designated by the Chairperson for the purpose shall be entitled to call for the petition presented by the party and give such directions regarding the presentation and acceptance of the petition as considered appropriate.(8)If after scrutiny, the petition is accepted by the Secretary or by the Chairperson or the Member of the Commission, the petition shall be duly registered and given a number in the manner to be specified the Commission. Petition thus registered shall be placed before the Commission for admission.(9)The Commission may admit the petition for hearing without requiring the attendance of the party. The Commission shall not pass un order refusing admission without giving the party concerned an opportunity of being heard. The Commission may also desire to hear respondents.(10)If the Commission admits the petitions, it may give such orders and directions, as may be deemed necessary, for service of notices to the respondent and other affected or interested parties for the filing of replies and rejoinder in opposition or in support of the petition.(11)The Commission while ordering notice/publication shall determine dates for -(a)filing counter or objections;(b)rejoinders, if any, to the counters or objections;(c)hearing on the pleadings.The respondents and or third parties shall file their respective counters or objections on or before the specified dates, after serving a copy on the other parties to the proceedings

21. Serving of notices and processes issued by the Commission.

(1)Any notice or process to be issued by the Commission may be served under any one or more of the following ways:-(a)Service by any of the parties to the proceedings as may be directed by the Commission;(b)By hand delivery through a messenger, duly acknowledged;(c)By registered post with acknowledgment;(d)By publishing in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices, processes, etc., on any person in the manner mentioned above;(e)In any other manner as considered appropriate by the Commission.(2)The Commission shall be entitled to decide in each case, the persons who shall bear the cost of such service / publication.(3)Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him or at the place where the person or his agent ordinarily resides or carries on business or personally works.(4)In the event, when any matter is pending before the Commission and the person to be served has authorised an agent or representative to appear for or represent him in the matter, such agent or representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the party concerned in all the matters and the service on such agent or representative shall be taken as due service on the person to be served.(5)Where a notice is served by a party to the proceedings either in person or through registered post, an affidavit of service shall be filed by such party with the Commission giving details of the date and manner of service of notices and processes.(6)Where any petition is required to be published, it shall be done so within such time as the Commission may direct and unless otherwise directed by the Commission, in one issue each of a daily newspaper in the English language and one newspaper in Tamil language having wide circulation in the area specified by the Commission.(7)In default of compliance with the requirements of the Regulations or directions of the Commission as regards the service of notices, summons or processes or the advertisement and publication thereof, the Commission may either

dismiss the petition or give such other further directions as it thinks fit.(8)No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient. No proceeding shall be invalidated by reason of any defect or irregularity unless the Commission, on an objection taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

22. Publication of petition.

(1)Where any application, petition or other matter is required to be published under the Act or as per these regulations or as per the directions of the Commission, it shall unless the Commission otherwise orders or the Act or any other regulations made by the Commission other than these regulations otherwise provide, be advertised not less than seven days before the date fixed for hearing.(2)Except as otherwise provided, such advertisements shall give a heading describing the subject matter in brief.(3)Such advertisement to be published shall be approved by the officer of the Commission designated for the purpose.

23. Filing of reply, opposition, objections, etc.

(1)Each person to whom the notice of enquiry or the petition is issued (hereinafter called the respondent) who intends to oppose or support the petition, shall file the reply and the authenticated documents relied upon within such period and with specified number of copies as may be fixed by Commission. In the reply filed, the respondent shall specifically admit, deny or explain the facts stated in the notice of inquiry or the petition and may also state such additional facts as he considers necessary for proper adjudication of the case. The reply shall be signed and verified and supported by affidavit in the same manner as in the case of the petition. The respondent shall also indicate in the reply whether he wishes to participate in the proceedings and be heard in person.(2)The respondent shall serve a copy of the reply along with the documents duly attested to be true copies on the petitioner or his authorised representative and file proof of such service with the Commission at the time of filing the reply.(3)Where the respondent states additional facts, as may be necessary for the decision of the case, the Commission may allow the petitioner to file a rejoinder to the reply filed by the respondents. The procedure mentioned above for filing of the reply shall apply mutatis mutandis to the filing of the rejoinder.(4)Every person who intends to file objection or comments in regard to a matter pending before the Commission pursuant to the advertisement and publication made for the purpose (other than the persons to whom notices, processes, etc., have been issued calling for reply) shall deliver to the designated officer, the statement of the objection or comments with copies of the authenticated documents and evidence in support thereof within the time fixed for the purpose as per clause 11 of regulation 20.

24. Hearing of the matter.

(1)The Commission may determine the stages, manner, the place, the date and the time of the hearing of the matter as considered appropriate.(2)The Commission may decide the matter on the pleadings of the parties or may call for evidence from the parties by way of affidavit or lead oral

evidence in the matter.(3)If the Commission directs evidence of a party to be led by way of affidavit, or oral submission, the Commission may, if considered to be necessary, or expedient, grant an opportunity to the other party to cross-examine the persons giving the evidence.(4)The Commission may, if considered necessary or expedient, direct that the evidence of any of the parties be recorded by an officer or person designated for the purpose by the Commission.(5)The Commission may permit such person or persons including associations, forums and bodies corporate as it may consider appropriate to participate in the proceedings before the Commission, if the Commission considers that the participation of such person or persons will facilitate the proceedings and the decision in the matter.(6)The Commission may direct the parties to file written note of arguments or submissions in the matter.

25. Powers of the Commission to call for further information, evidence, etc.

- Powers of the Commission to call for further information, evidence, etc., shall be governed by the provisions of section 94(1) of the Act which reads as "The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for 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 matters which may be prescribed.

26. Powers of entry and seizure.

- The powers of entry and seizure shall be governed by the provisions of section 96 of the Act which reads as "The Appropriate Commission or any officer, not below the rank of a gazetted officer specially authorised in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies there from subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it maybe applicable."

27. Reference of issues to others.

(1)At any stage of the proceedings, the Commission shall be entitled to refer such issue or issues in the matter as it considers appropriate to persons including but not limited to, the officers and consultants of the Commission whom the Commission considers as qualified to give expert or specialized advice or opinion.(2)The Commission may nominate, from time to time, any person including, but not limited to, the officers and consultants to visit any place or places for inspection and report on the existence or status of the place or any facilities therein.(3)The Commission, if it thinks fit, may direct the parties to appear before the persons designated in clause (1) or (2) above to present their respective views on the issues or matters referred to.(4)The report or the opinion received from such person shall form a part of the record of the case and the parties shall be given the copies of the report or opinion given by the person designated by the Commission. The parties

shall be entitled to file their version either in support or in opposition to the report or the opinion.(5)The Commission shall duly take into account the report or the opinion given by the person and the reply filed by the parties while deciding the matter and if considered necessary, the Commission shall examine the person giving the report or the opinion. The Commission shall, however, not be bound by the report or the opinion given as conclusive.

28. Procedure to be followed where any party does not appear.

(1)Where, on the date fixed for hearing or any other date to which such hearing may be adjourned, any of the party or his authorised agent or representative does not appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the petition for default when the petitioner or the person who moves the Commission for hearing is absent or proceed ex parte against the party failing to appear and hear and decide the petition.(2)Where a petition is dismissed in default or decided ex parte, the person aggrieved may file an application within 30 (thirty) days from the date of such dismissal or being proceeded ex parte, as the case may be, for recall of the order passed, and the Commission may recall the order on such terms as it thinks fit, if the Commission is satisfied that there was sufficient cause for the non-appearance when the petition was called for hearing.

29. Continuance of proceedings after death, etc.

- Where in any proceedings, any of the parties to the proceedings dies or is adjudicated as an insolvent or in the case of a Company under liquidation/winding up, the proceedings shall continue with the successors-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the party concerned.(2)The Commission may, for reasons to be recorded, treat the proceedings as abated in case the Commission so directs and dispenses with the need to bring the successors-in-interest, etc., on the record of the case.(3)In case, any person wishes to bring on record the successors-in-interest, etc., the application for the purpose shall be filed within 90 days or within the time fixed by the Commission in each specific case from the event requiring the successors-in-interest to come on record.

30. Proceedings to be open to public.

- The proceedings before the Commission shall be open to the public. However, admission to the hearing room shall be subject to availability of sitting accommodation:Provided that the Commission, if it thinks fit and for reason to be recorded in writing, order at any stage of the proceedings of any particular case that the public generally or any particular person or group of persons shall not have access to or remain in the room or building used by the Commission.

31. Orders of the Commission.

(1)On conclusion of hearing of the case before the Commission, the Commission shall pronounce the orders in the open Court or soon thereafter as may be practicable on some future day. In the later

case, when the Commission fixes a future day for pronouncing the orders, due notices intimating the date shall be served on the concerned parties.(2)The order shall be dated and signed by the Commission at the time of pronouncing it. Such orders shall not be, afterwards, altered or added to unless and except there is any clerical or arithmetical error arising therein from any oversight or omission.(3)The order shall contain statement and counter statement of facts in brief, the points or issues for determination, the decision thereon and the reasons for such decision. This will include dissenting conclusion, if any, as specified in sub-section (4).(4)While giving the orders after hearing, if the Chairperson or any member of the Commission dissents, he shall give his dissenting conclusion with reasons. The orders of the Commission shall be based on majority view of the Commission as per section 14 of these regulations.(5)All orders and decisions issued or communicated by the Commission shall be certified by the signature of the Secretary or an officer empowered in this behalf by the Commission and bear the official seal of the Commission.(6)All orders of the Commission shall be communicated to the parties in the proceedings under the signature of the Secretary or an officer empowered in this behalf by the Commission.

32. Interim orders.

- The Commission may pass interim orders as considered appropriate at any stage of the proceedings. It may also do so when such interim orders are sought for by the concerned parties.

33. Recovery of costs.

(1)Subject to such conditions and limitation as may be directed by the Commission, the cost of and incidental to all proceedings shall be awarded at the discretion of the Commission and the Commission shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid and give all necessary directions for the aforesaid purposes.(2)The costs shall be paid within 30 (thirty) days from the date of the order or within such time as the Commission may, by order, direct. The order of the Commission awarding costs shall be executed in the same manner as the decree/order of a Civil Court.(3)The Commission may recover any cost or penalty imposed by it on any party or parties to any proceedings, as land revenue in the event of any default committed by such party or parties, within the time specified by the Commission.

34. Inspection of records and supply of certified copies.

(1)Records of every proceeding shall be open, as a matter of right, to the inspection of the parties or their authorised representatives at any time either during the proceedings or after the orders are passed, subject to payment of fee and complying with other terms, the Commission may direct.(2)Records of every proceeding, except those parts, which, for reasons specified by the Commission, are confidential or privileged or otherwise not to be disclosed to any person, shall be open to inspection by any person other than the parties to the petition either during the proceeding or after the orders have been passed, subject to such person complying with such terms as the Commission may direct, from time to time, including in regard to time, place and manner of inspection and payment of prescribed fees.(3)Any person shall be entitled to obtain certified copies of the orders, decisions, directions given by the Commission as well as the pleadings, papers and

other parts of the records of the Commission to which he is entitled subject to payment of fee and complying with other terms which the Commission may direct.

35. Judicial cover for the Commission and the proceedings.

- Judicial cover for the Commission and the proceedings, as provided in section 95 of the Act reads as follows: "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 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."

36. Punishment for non-compliance of directions given by the Commission.

(1) In case any complaint is filed before the Commission by any person or if the Commission is satisfied that any person has contravened any directions issued by the Commission, rules or regulations made thereunder, the 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 rupees one lakh for each contravention and in case of a continuing failure, with an additional penalty which may extend to rupees six thousand for every day during which the failure continues after contravention of the first such direction. (2) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

37. Offences by companies.

- With respect to the provisions regarding offences by companies, section 149 of the Act governs them and reads as: "(1) Where an offence under this Act has been committed by a company, every person, who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Explanation. - For the purpose of this section -(a) 'company' means a body corporate and includes a firm or other association of individuals; and (b) 'director' in relation to a firm means a partner in the firm."

38. Punishment for false evidence.

- In accordance with section 193 of the Indian Penal Code, 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates false evidence for the purpose of being used in any of the proceedings be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

39. Punishment for insult, interruption.

(1) In accordance with section 228 of the Indian Penal Code, 1860, whoever intentionally offer any insult or causes any interruption in any of the proceedings of the Commission shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend Rs.1000/- or with both.(2) Whoever intentionally offers any insult or causes any interruption in the presence of the Commission shall be punishable in accordance with section 345 of the Criminal Procedure Code, 1973.

Chapter III

Investigation of Certain Matters, Orders for Securing Compliance and Procedure for Issuing Directions

40. Investigation of certain matters.

- Section 128 of the Act provides for the investigation of certain matters and reads as:(1)The Appropriate Commission may, on being satisfied that a licensee has failed to comply with any of the conditions of licence or a generating company or a licensee has failed to comply with any of the provisions of this Act or the rules or regulations made thereunder, at any time, by order in writing, direct any person (hereafter in this section referred to as "Investigating Authority") specified in the order to investigate the affairs of any generating company or licensee and to report to that Commission on any investigation made by such Investigating Authority:Provided that the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting (sic) in any investigation under this section.(2)Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of its officers, of any licensee or generating company and his books of account and the Investigating Authority shall supply to the licensees generating company, as the case may be, a copy of his report on such inspection.(3)It shall be the duty of every manager, managing director or other officer of the licensee or generating company, as the case may be, to produce before the Investigating Authority directed to make the investigation under sub-section (1) or inspection under sub-section (2) all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the licensee or generating company, as the case may be, as the said Investigating Authority may require of him within such time as the said Investigating Authority may specify.(4)Any Investigating

Authority, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath any manager, managing director or other officer of the licensee or generating company, as the case may be, in relation to his business) and may administer oaths accordingly.(5)The Investigating Authority, shall, if it has been directed by the Appropriate Commission to cause an inspection to be made, and may, in any other case, report to the Appropriate Commission on any inspection made under this section.(6)On receipt of any report under sub-section (1) or sub-section (5), the Appropriate Commission may, after giving such opportunity to the licensee or generating company, as the case may be, to make a representation in connection with the report as in the opinion of the Appropriate Commission seems reasonable, by order in writing -(a)require the licensee or the generating company to take such action in respect of any matter arising out of the report as the Appropriate Commission may think fit; or(b)cancel the licence; or(d)direct the generating company to cease to carry on the business of generation of electricity.(7)The Appropriate Commission may, after giving reasonable notice to the licensee or the generating company, as the case may be, publish the report submitted by the Investigating Authority under sub-section (5) or such portion thereof as may appear to it to be necessary.(8)The Appropriate Commission may specify the minimum information to be maintained by the licensee or the generating company in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by licensee or the generating company in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Authority to discharge satisfactorily its functions under this section.Explanation: For the purposes of this section, the expression "licensee or the generating company" shall include in the case of a licensee incorporated in India-(a)all its subsidiaries formed for the purpose of carrying on the business of generation or transmission or distribution or trading of electricity exclusively outside India; and(b)all its branches whether situated in India or outside India. (9) All expenses of and incidental to, any investigation made under this section shall be defrayed by the licensee or the generating company, as the case may be, and shall have priority over the debts due from the licensee or the generating company and shall be recoverable as an arrear of land revenue".

41. Orders for securing compliance.

- Section 129 of the Act provides for orders for securing compliance and reads as:(1)Where the Appropriate Commission, on the basis of material in its possession, is satisfied that a licensee is contravening, or is likely to contravene, any of the conditions mentioned in his licence or conditions for grant of exemption or the licensee or the generating company has contravened or is likely to contravene any of the provisions of this Act, it shall, by an order, give such directions as may be necessary for the purpose of securing compliance with that condition or provision.(2)While giving direction under sub-section (1), the Appropriate Commission shall have due regard to the extent to which any person is likely to sustain loss or damage due to such contravention."

42. Procedure for issuing directions.

- Section 130 of the Act provides for procedure for issuing directions and reads as:"The Appropriate Commission, before issuing any direction under section 129 of the Act shall:(a)serve notice in the manner as may be specified to the concerned licensee or the generating company;(b)publish the

notice in the manner as may be specified for the purpose of bringing the matters to the attention of persons, likely to be affected or affected;(c)consider suggestions and objections from the concerned licensee or generating company and the persons, likely to be affected or affected

Chapter IV

Miscellaneous

43. Review of the decisions, directions and orders.

(1)The Commission may on its own or on the application of any of the persons or parties concerned within 30 days of the making of any decision, direction or order, review such decision, directions or orders on the ground that such decision, direction or order was made under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record.(2)An application for such review shall be filed in the same manner as a petition under Chapter II of these regulations.

44. Appeal provisions in certain cases.

- Any person aggrieved by an order of the Commission may file an appeal to the Appellate Tribunal for Electricity subject to the provisions under section 111 of the Act.

45. Recognition for Consumer Associations.

(1)It shall be open to the Commission to permit any registered association / forum or other bodies corporate or any group of consumers to participate in any proceedings before the Commission.(2)It shall be open to the Commission for the sake of timely completion of proceedings, to direct grouping of the associations / forums, referred to above, so that they can make collective affidavits.(3)The Commission may, as and when considered appropriate, notify a procedure for recognition of associations, group, forum or bodies corporate as registered consumer association for purposes of representation before the Commission.(4)The Commission may appoint any officer or any other person to represent the interest of the consumer in general or any class or classes of consumers as the Commission may consider appropriate.(5)The Commission may direct payment to the officer or person appointed to represent the consumers' interest such fees, costs expense by such of the parties in the proceedings as the Commission may consider appropriate.

46. Inspection of Commission's records and confidentiality.

(1)Records of the Commission, except those parts which for reason specified by the Commission are confidential or privileged, shall open to inspection by all, subject to the payment of fee and complying with the terms as the Commission may direct.(2)The Commission may, on such terms and conditions as the Commission considers appropriate, provide for the supply of the certified copies of the documents and papers available with the Commission to any person.(3)The Commission may, by order, direct that any information, documents, other papers and materials in

the possession of the Commission or any of its officers, consultants, which are required by law or for other reasons specified to be kept confidential or privileged shall not be available for inspection or supply of copies, and the Commission may also direct that such document, papers or materials shall not be used in any other manner except as specifically authorised by the Commission.

47. Issue of orders and directions on procedures.

- Subject to the provisions of the Act and these regulations, the Commission may, from time to time, issue orders and directions in regard to the implementation of the regulations and procedure to be followed and various matters which the Commission has been empowered by these regulations to specify or direct.

48. Saving of inherent power of the Commission.

(1) Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission. (2) Nothing in these regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these regulations, if the Commission, in view of the special circumstances of a matter class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters. (3) Nothing in these regulations shall, expressly or impliedly bar the Commission to deal with any matter or exercise any power under the Act for which no regulation have been framed, and the Commission may deal with such matters with powers and functions in a manner it thinks fit.

49. General power to amend.

- The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceeding before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the proceedings.

50. Power to remove difficulties.

- If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, take action, for removing the same, consistent with the provisions of the Act.

51. Power to dispense with the requirement of the regulations.

- The Commission shall have the power, for reasons to be recorded in writing, to dispense with the requirements of any of the regulations in a specific case or cases subject to such terms and conditions as may be specified.

52. Extension or abridgement of time prescribed.

- Subject to the provisions of the Act, the time prescribed by these regulations or by order of the Commission for doing any act may be extended (whether it has already expired or not) or abridged for sufficient reason by order of the Commission.

53. Effect of non compliance.

- Failure to comply with any requirement of these regulations shall not invalidate any proceeding merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

54. Enforcement of orders passed by the Commission.

- The Secretary shall ensure enforcement and compliance of the orders passed by the Commission, by the persons concerned in accordance with the provisions of the Act and regulations and, if necessary, may seek the orders of the Commission for directions.

55. Provisions of these regulations to be in addition to and not in derogation of other regulations made under the Act.

- The provisions of these regulations are in addition to and not in derogation of any other regulations made by the Commission under the Act and the provisions of these regulations shall not apply in case if any special form for petition or application etc. or any special procedure has been specified by the Commission in any other regulations made separately by the Commission under the Act for any specific purposes mentioned in the Act. Annexure 1 Form 1 (See regulation 18) General Heading for Proceedings Before The Honourable Tamil Nadu Electricity Regulatory Commission Filing No. Case No. (To be filled by the Office) In the Matter of: (Gist of the purpose of the petition or application) And In The Matter of: (Names and full address of the petitioners / applicants and names and full addresses of the respondents) Details of enclosures: (i) Form 2 (Affidavit) (ii) (iii) (iv) Annexure 2 Form 2 (See regulation 19(1) Affidavit in support) Before The Honourable Tamil Nadu Electricity Regulatory Commission Filing No. Case No. (To be filled by the Office) In the Matter of: (Gist of the purpose of the petition or application) And In the Matter of: (Names and full address of the petitioners / applicants and names and full addresses of the respondents) Affidavit verifying the petition / application I, Son of aged residing at do solemnly affirm and say as follows:

1. I am Director / Secretary of Ltd., the petitioner in the above matter and I am duly authorised by the said petitioner to make this affidavit on its behalf.

2. I solemnly affirm at.....on.....this day of that-

(i)the contents of the above petition are true to my knowledge and I believe that no part of it is false and no material has been concealed therefrom;(ii)the statement made in paragraphs.....of the petition herein now shown to me and marked with the letter 'A' are true to my knowledge, and(iii)the statements made in paragraphs.....marked with the letter 'B' are based on information received from and I believe them to be true. Identified before me by: