



TAMIL NADU GOVERNMENT GAZETTE

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Part VI --- Section 2

**Notifications of interest to a section of the public
Issued by Heads of Departments, etc.**

NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.

TAMIL NADU ELECTRICITY REGULATORY COMMISSION

Notification No. TNERC / SC / 7- 5 dated 23.08.2007

WHEREAS the Tamil Nadu Electricity Regulatory Commission specified and notified in the Tamil Nadu Government Gazette dated the 1st September 2004, the Tamil Nadu Electricity Supply Code under section 50 of the Electricity Act 2003 (Central Act 36 of 2003), providing for recovery of electricity charges etc.,

AND WHEREAS the Tamil Nadu Electricity Regulatory Commission specified and notified in the Tamil Nadu Government Gazette dated the 13th June 2007, the Tamil Nadu Electricity Supply (Amendment) Code 2007 based on the Notification of Government of India in GO 790 (E), The Electricity (Removal of difficulties) order 2005, to include the following in the Electricity Supply Code,

- (i) methods of assessment of the electricity charges payable in case of theft of electricity pending adjudication by the appropriate court;
- (ii) Disconnection of supply of electricity and removing the meter, cables lines, electric plant and other apparatus in case of theft or unauthorized use of electricity; and

- (iii) Measures to prevent diversion of electricity, theft or unauthorized use of electricity or tampering, distress or damage of electrical plant, electric lines or meter.

AND WHEREAS the Government of India in the Notification dated 29.5.2007, issued the "Electricity (Amendment) Act, 2007" containing the amendments to various sections relating to unauthorized use of electricity, theft of electricity, etc.

NOW, THEREFORE, in exercise of the powers conferred on it by section 181 read with section 50 of the Electricity Act, 2003 (Central Act 36 of 2003) and all other powers enabling it in this behalf, the Tamil Nadu Electricity Regulatory Commission hereby makes the following regulations to amend the Tamil Nadu Electricity Supply Code (hereinafter referred to as the principal code), namely:-

1. Short Title and Commencement

(a) These regulations may be called the Tamil Nadu Electricity Supply (Second Amendment) Code 2007

(b) These regulations shall be deemed to have come in to force on the 15th June 2007, the date on which the provisions of the Electricity (Amendment) Act, 2007 shall come in to force as appointed by the Central Government in the Gazette of India dated 12th June 2007.

2. Amendment of Regulation 23 of the principal code

For sub-regulation 23 (AA), the following sub-regulation shall be substituted, namely:-

“

23 (AA) The Procedure for assessment of the electricity charges, disconnection of supply of electricity and removing the meter, electric line, electric plant and other apparatus in case of theft of electricity *as detailed in section 135 of the Act is given below:*

- (1) The officer authorized under sub-section (2) of section 135 of the Act (hereinafter referred to as the authorized officer), may either *suo- motu* or on receipt of reliable information regarding theft of electricity in any premises, conduct inspection of such place or premises (The provisions of the Code of Criminal Procedure, 1973, relating to

search and seizure shall apply, as far as may be, to searches and seizure under this Act.).

(2)(a) The authorized officer shall prepare a report at the place or premises giving details such as connected load, condition of seals, working of meter and record, modus operandi adopted for theft of energy. Any damage or destruction to the electric meter, metering equipments, apparatus, line, cable or electrical plant of the *Licensee or supplier concerned*, caused or allowed to be caused by the accused person so as to interfere with the proper or accurate metering of electricity or for theft of electricity shall also be duly recorded in the report indicating whether conclusive evidence substantiating the fact that theft of energy was found or not. The authorized officer may also take photo or prepare a diagram illustrating the arrangements found to have been made for theft of electricity, wherever feasible and such photo or diagram shall form a part of inspection report. Upon detection of such theft of electricity, the officer of the licensee or supplier, as the case may be, as authorized for the purpose by the Commission, may, immediately disconnect the supply line of electricity and a complaint shall be lodged in the police station as per the procedure stipulated in section 135 (1A) of the Act on the basis of the materials collected by the Assessment officer who has conducted the inspection. The supply to the premises shall be restored only after satisfying the stipulation of the third proviso of section 135 (1A) of the Act.

(b) To carry out all or any of the above acts specified in subsection (1A) of section 135 of the Act, the Commission authorises the same officers of the Licensee or the supplier as authorised by the Government of Tamil Nadu to do all or any of the acts specified in clauses (a) to (c) of subsection (2) of section 135 of the Act.

(3) In case of suspected theft by tampering of meter or metering equipment, meter connection security seal or by replacing original seal

by bogus seal, the meter shall be removed and sealed and a separate report shall be prepared on the condition of the meter and metering equipment removed and sealed. At the time of sealing, signatures of the accused person and also of the officers of licensee or supplier concerned, as the case may be, and any other witness shall be obtained on this report. This report shall also form a part of the inspection report. The supply shall be restored only through a meter tested in an accredited test laboratory and metering equipment of appropriate rating subject to satisfying the condition as specified in sub-regulation (2). In such cases, the licensee or supplier concerned, as the case may be, shall also verify the connected load at the premises and record details of equipment found in the premises, in the inspection report.

- (4) In cases where the theft of electricity by by-passing the meter or metering equipment is detected and the electrical load, fully or partially, or the accused person's connection is found connected directly with the lines, cables or electrical plant, electric supply to such premises shall be disconnected forthwith as stipulated in sub-regulation (2) and shall be restored only after the cause of theft is removed to the satisfaction of the licensee or supplier concerned, as the case may be, and subject to satisfying the condition as stipulated in sub-regulation(2).
- (5) In cases of theft by direct tapping from the licensee's or supplier's lines, cables or electrical plant of the licensee or supplier, if the accused person unauthorizedly connects or reconnects any meter of the licensee or supplier in a disconnected service, then electric supply to such premises or place shall be disconnected forthwith as stipulated in sub-regulation (2). The licensee or supplier concerned, as the case may be, may subsequently remove or divert or convert his line, cable or electrical plant to prevent further theft of electricity provided that such action shall not result in any inconvenience in affording quality supply or disruption of supply, to other consumers.

- (6) The authorized officer and any other officer of the licensee or supplier concerned, as the case may be, who accompanied the authorized officer shall sign the inspection report in all the above cases and obtain signatures of the accused person or his representative and the same must be handed over to the accused person or his representative at site immediately under proper receipt. In case of refusal by the accused person either to sign or accept or give a receipt, a copy of inspection report must be pasted at a conspicuous place in or outside the premises and a note recorded on the office copy of the inspection report to the effect that the copy of the report has been pasted at the conspicuous place of the premises. A copy of the report shall be subsequently sent to the accused person of the premises under registered post within three days of inspection.
- (7) Where it is established that there is a case of theft of energy, the authorized officer shall assess the quantum of energy consumption for the past twelve months as per the assessment formula given in Form 8 in Appendix to this code and prepare provisional assessment order for the charges for such consumption at two times of the tariff applicable (i.e the applicable tariff for the purpose for which the pilfered energy was used) and serve on the accused person under proper receipt. The authorized officer may reduce the period for such billing if it is established by the facts or documents submitted in the representation of the accused person or any such other evidence observed by the authorized officer. Wherever electronic meters are installed and the load curves are studied periodically, the period of theft could be limited to the exact period as could be determined scientifically. The authorized officer shall record reasons for such reduction in the period of billing, in the assessment order. The energy consumption arrived at as per the formula referred to in the said Form 8 will be charged excluding the energy consumption recorded by the meter as per the rates specified by the Commission's Tariff Order.

- (8) Within five days of inspection, the authorized officer shall serve on the accused person, provisional assessment order in the Form 9 in Appendix to this code for the charges for the theft of electricity based on the evidence recorded during the course of inspection. The order should clearly state the time, date and place at which the reply has to be submitted and the designation/ address of the officer to whom it should be addressed. The accused person shall be required to submit his representation within seven days of issue of the provisional assessment order.
- (9) In case of suspected theft through a tampered meter, such tampered meter taken out and sealed at the time of inspection, as prescribed in sub regulation (3), shall be sent to the third party accredited meter testing laboratory as arranged by the licensee or supplier concerned, as the case may be, or to the Chief Electrical Inspector to the State Government till such time the third party meter testing arrangement is established by the licensee or supplier concerned, as the case may be. The accused person shall be given a notice of seven working days for witnessing the test of such meter at such meter testing laboratory. The notice shall clearly indicate the time, date and place wherein the suspected tampered meter shall be tested and the accused person shall be allowed to witness the test. The accused person shall duly sign the test results report after witnessing it. If such accused person does not turn up at the meter testing laboratory on the appointed date and time indicated in the notice to witness the test or refuses to sign the test results, the licensee or supplier concerned, as the case may be, shall carryout the test in the absence of such accused person and shall send a copy of results to the accused person through registered post within three days of the date of testing.
- (10) In cases where the meter has been tested at such meter testing

laboratory and where it is established that there is a case of theft of energy, the procedure for assessment as specified in sub regulation (7) shall be followed.

- (11) In case the accused person does not respond to the provisional order within seven working days, the licensee or supplier concerned, as the case may be, may proceed to initiate the recovery against the provisional assessment order.
- (12) Within seven working days from the date of submission of such accused person's reply, if made within the seven working days from the date of receipt of provisional assessment order, the authorized officer shall arrange a personal hearing with such accused person. For this purpose the authorized officer shall serve a three days notice to such accused person to allow him for a personal hearing and shall also allow any additional submission of new facts or documents if any, during the course of hearing by such accused person. If such accused person does not respond to the notice in the matter, the authorized officer shall proceed to issue the final assessment order, as per the procedure specified herein after.
- (13) Before the personal hearing, the authorized officer before whom personal hearing shall be conducted, shall analyze the case after carefully considering all the documents, submissions by the accused person, facts on record and the consumption pattern, whatever available.
- (14) The authorized officer shall also compute the quantum of energy consumption for the past twelve months. The Assessment Officer may study the energy consumption pattern of the Service Connection concerned for the past one year or more. If necessary, it may also be compared with the load/production pattern or output of the service connection. In case of suspected theft, if consumption pattern is

commensurate with the assessed consumption or in case of the decision that the case of suspected theft is not established, no further proceedings shall be taken and the decision shall be communicated to the accused person under proper receipt within three working days and the supply to the premises shall be restored forthwith.

- (15) Considering the facts submitted by the accused person, the authorised officer shall issue, within seven working days from the date of enquiry, a final assessment order in Form 10 in Appendix to this code. If the accused person does not respond to the personal hearing, the authorised officer shall issue a final assessment order within fifteen days from the issuance of provisional assessment order. This speaking order shall contain a brief of inspection report, submissions made by accused person in his written reply as well as during his personal hearing and reasons for acceptance or rejection of the same and the assessment charges as per sub-regulation (12). In the final assessment order, charges, if any, paid by the accused person during the period for which the assessment is done shall be duly credited, if warranted, to avoid duplication of billing for such period.
- (16)** The final assessment amount and the last date should be clearly stated in the speaking order. A copy of the speaking order shall be handed over to the accused person under proper receipt on the same day.
- (17)** The accused person shall be required to make the payment within seven working days of receipt of final assessment order. On deposit or payment of the assessed amount or electricity charges by the accused person, supply to the premises shall be restored as referred to in the third proviso of section 135 (1A) of the Act.
- (18) In case of default in payment of the assessed amount, the licensee or supplier concerned, as the case may be, shall, after giving a fifteen days' notice in writing, remove meter and service line

and also electrical plant for giving supply to this connection. However if the accused person makes payment within notice period, surcharge applicable to that category shall also be payable as prescribed in this code.

- (19) In case where the theft of electricity in the premises which does not have regular electricity connection, has been detected and the licensee or supplier concerned, as the case may be, shall forthwith disconnect the supply to such premises. In such premises supply shall be given only after the accused person has cleared the dues to be paid on account of charges assessed for theft of electricity in full including surcharge if any and has availed a regular new connection after completing the required formalities.
- (20) If the accused person does not make payment, the licensee or supplier concerned, as the case may be, may proceed to recover its dues against such order and take such further action as is permitted under the Act.
- (21) If no person is available to whom the provisional or final assessment order can be served with reasonable diligence or if any person refuses to accept or avoids to receive such order, it shall be affixed at the inspected premises in the presence of two witnesses and in such case an endorsement to the effect shall be made in the copy of such order. An assessment order so affixed shall be deemed to have been duly served to the person or occupier of the premises.
- (22) In case of compounding the notice as in Form 11 in Appendix to this code may be issued and the amount collected as per section 152 of the Act.

Explanation: For the purpose of this regulation and regulation 23-BB:

- (a) *"accused person" shall mean and include the owner or occupier of the premises or his authorized agent or*

representative or any other person who is in occupation or possession or in charge of the premises at the relevant time of detection of theft of electricity or any other person who has been benefited by the theft of electricity .

(b) "authorised officer", shall in case if he is not an officer of the licensee or supplier, as the case may be, mean and include an officer designated or appointed as an authorised officer by the State Government for the purpose of dealing with theft of electricity as provided in the Act, including the assessment of theft of energy empowered under this code.

(c) "licensee or supplier" means and includes the licensee or supplier, as the case may be or his franchisee or his authorized *agent or representative who alleges the occurrence of theft of electricity. "*

3. In the principal code after form 8 and the entries relating thereto, the following forms 9 to 11 and the entries relating thereto, may be substituted with, namely:-

"

Form 9
[See Regulation 23 (AA) (8)]

**Provisional Assessment order for theft of energy under section 135/138 of
the Electricity Act, 2003**

From (The Authorised Officer), To (Full address of the person in whose name the service connection stands (or) occupier (or) enjoyer, etc.)

Letter No.....,dated.....

Sir,

Sub: Theft of energy – Detected in SC No.....Provisional Assessment Order - Reg.

Ref: Inspection Report dated ...

1.0 On.....(the day, month, year of inspection) at..... (time) hours the service connection in SC No..... located at Door No....., in SF No..... (Full address of the service connection) which is/was in the name of Thiru/Thirumathy was inspected by me in the presence of you/your representative Thiru/Thirumathy

2.0 * During the inspection it was found that an offence of theft of energy has been committed(describe the actual mode of theft with details of artificial means found in the service/unauthorized reconnection of a disconnected service connection). By committing the said offence, you have dishonestly abstracted, consumed and used energy with the intention to defraud the licensee.

The above said illegal abstraction, consumption and use of energy is punishable under section 135 of the Electricity Act 2003.

3.0 The approximate loss caused by you due to dishonest abstraction/illegal restoration of supply is assessed at Rs..... (Rupees

.....) in accordance with the regulations of the Tamil Nadu Electricity Supply Code, and a working sheet is enclosed herewith.

4.0 The assessment amount as referred to above shall be paid within 7 working days from the date of receipt of this order.

5.0 If you are desirous of filing objections, if any, against the provisional assessment, you may send your explanation to the address of the undersigned with sufficient proof, within seven days from the date of receipt of this order. You may also choose to appear in person or through an authorised representative with relevant documents for an enquiry before the undersigned.

6.0 You are requested to acknowledge the receipt of this order immediately.

Yours faithfully,

Authorised Officer.....

Encl: Copies of

1. Report
2. Statement Recorded (if any)
3. Mahazar

Copy submitted to:

Copy to

He is instructed to arrange to serve this order to the accused person with dated acknowledgement and send the acknowledgement to this office.

* Strike out whichever is not applicable.

Form 10
[See Regulation 23 (AA) (15)]
Final Assessment order for theft of energy under section 135 of the
Electricity Act, 2003

From (The Authorised Officer), To (Full address of the person in whose name the service connection stands (or) occupier (or) enjoyer etc.)

Letter No.....,dated.....

Sir,

Sub: Theft of energy – Detected in SC No.....Final Assessment Order - Reg.

Ref: 1. Provisional Assessment Order...
2. Your reply....

* * *

1.0 On.....(the day, month, year of inspection) at..... (time) hours the service connection in SC No..... located at Door No....., in SF No..... (Full address of the service connection) which is/was in the name of Thiru/Thirumathy was inspected by me in the presence of you/your representative Thiru/Thirumathy

2.0 During the inspection it was found that an offence of theft of energy has been committed

..... (describe the actual mode of theft with details of artificial means found in the service/unauthorized reconnection of a disconnected service connection). By committing the said offence, you have dishonestly abstracted, consumed and used energy with the intention to defraud the licensee. The above said illegal abstraction, consumption and use of energy is punishable under section 135 of the Electricity Act 2003.

3.0 A provisional assessment was issued to you in the reference cited and you were allowed to file your objections and to appear for a hearing as per the Tamil Nadu Electricity Supply Code.

4.0 On a detailed examination and on consideration of your explanation offered, facts and records furnished in your letter / during the personal hearing, it is found that the theft of electricity has been committed by you as described below:-

(A reasoned/detailed order to be passed by the Officer concerned taking into consideration the theft of electricity noticed, explanation and the findings. Reference to be made to the materials in support of the claim of the licensee about the existence of theft, the involvement or the role of the consumer with reference to the said theft of energy, submissions made by accused person in his written reply as well as during his personal hearing and reasons for acceptance or rejection of the same).

5.0 The loss caused by you due to dishonest* abstraction/*illegal restoration of supply is assessed at Rs.....(Rupees) in accordance with the regulations of the Tamil Nadu Electricity Supply Code, and a working sheet is enclosed herewith. The assessment amount referred to above shall be paid within seven working days from the date of receipt of this order.

You are requested to acknowledge the receipt of this order immediately.

Yours faithfully,

Authorised Officer.....

Encl: Copies of

1. Report
2. Statement Recorded (if any)
3. Mahazar
4. Provisional Assessment Order.

Copy submitted to:

He is instructed to arrange to serve the order to the accused person with dated acknowledgement and send the same to this office.

Form 11

[See Regulation 23(AA) (22)]

Compounding of offence under section 152 of the Electricity Act, 2003.

From (The Authorized Officer), To (Full address of the person in whose name the service connection stands (or) occupier (or) enjoyer, etc.)

Letter No.....,dated.....

Sir,

Sub: Theft of energy – Detected in SC No.....- Order on Compounding Amount - Reg.

1.0 On.....(the day, month, year of inspection) at..... (time) hours the service connection in SC No..... located at Door No....., in SF No..... (Full address of the service connection) which is/was in the name of Thiru/Thirumathy was inspected by me in the presence of you/your representative..... Thiru/Thirumathy

2.0 * During the inspection it was found that an offence of theft of energy has been committed..... (describe the actual mode of theft with details of artificial means found in the service/unauthorized reconnection of a disconnected service connection). By committing the said offence, you have dishonestly abstracted, consumed and used energy with the intention to defraud the licensee.

3.0 The above said illegal abstraction, consumption and use of energy is punishable under section 135 of the Electricity Act 2003.

4.0 As you have opted for compounding of offence under section 152 of the Electricity Act, 2003, you are requested to pay Rs..... (Rupees

.....) towards the compounding of the offence as mentioned above.

Yours faithfully,

Authorized officer

Encl: Working sheet.

Copy to

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(By Order of the Tamil Nadu Electricity Regulatory Commission)

**R. Balasubramanian
Secretary**