

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
Tariff Authority for Major Ports

GNo.134

New Delhi,

16 August 2008

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes the proposal received from the Tuticorin Port Trust for fixation of levy to recover overhead charges in respect of supply of Electricity as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/22/2006 - TPT

Tuticorin Port Trust

Applicant

ORDER

(Passed on this 14th day of July 2008)

This case relates to a proposal received from Tuticorin Port Trust (TPT) for fixing levy to recover overhead charges in respect of supply of electricity.

2.1. The Tuticorin Port Trust (TPT) had earlier filed a proposal in November 2003 for fixing 20% of electricity charges towards recovery of overhead charges in respect of electricity supply.

2.2. This Authority had, however, deferred consideration of the proposal of the TPT on two main reasons. Firstly, the overheads appeared to be counted twice once in the general tariff computation and again by way of the proposed levy. Secondly, there were some legal issues like recovering the overhead charges from the private terminal operator PSA SICAL and the jurisdictions of regulators, which needed to be frontally addressed before approving the proposed tariff. The TPT was advised to refer the issue to the Tamil Nadu Electricity Regulatory Commission (TNERC) and obtain their guidance on the correct legal position in this matter. It was also not clear whether the term 'scheduled rate of TNEB' would include the proposed overhead levy.

The TPT was, therefore, advised vide Order No. TAMP/79/2003-TPT dated 4 May 2004 to propose the levy as part of the general revision of its Scale of Rates subject to clarifications on the various legal issues.

3.1. In this backdrop, the TPT has filed the instant proposal. The main points made by the TPT in the proposal are as follows:

(i). The electricity supplied by the TNEB is consumed by the following:

(a) Port side: Government Buildings,
Contractors / Port users,
Quarters,
Shopping center,
Wharf crane.

(b) PSA SICAL Terminals Limited (PSA SICAL)

(ii). The High Tension bill raised by TNEB is wholly paid by the TPT. In the case of PSA SICAL, however, a separate transformer system is installed. The charges for electricity consumed by PSA SICAL are collected by the TPT on the basis of the tariff prescribed by the TNEB. Apart from that, maximum demand charges and meter rent charges are also collected from the PSA SICAL.

(iii). The TPT has furnished cost sheets for the years 2003-04 to 2008-09 showing the cost of distribution of electricity amongst the port users and the PSA SICAL. A summary of the cost statements furnished by the TPT for recovery of direct fixed cost from the port users / contractors and PSA SICAL for the years 2003-04 to 2008-09 is tabulated below:

1. Port Side (Contractors / Port Users)

| Sl. No. | Particulars | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 |
|---------|--|----------|----------|----------|----------|----------|----------|
| 1. | Units consumed | 2577041 | 2311308 | 2860642 | 2860642 | 2860642 | 2860642 |
| 2. | Electricity Charges (excluding maximum Demand charges) | 14321659 | 12450055 | 14620920 | 16117789 | 16676919 | 17252823 |

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|----|--|---------|---------|---------|---------|---------|---------|
| 3. | Maximum Demand Charges | 2084275 | 1312291 | 1678245 | 1665905 | 1665905 | 1665905 |
| 4. | Allocated Electrical Dept Charges | 3812600 | 3175794 | 4131576 | 4450586 | 4584104 | 4721627 |
| 5. | Total Amount to be recovered (3+4) | 5896875 | 4488085 | 5809821 | 6116491 | 6250009 | 6387532 |
| 6. | % to the basic electricity charges (5 / 2) | 41.19% | 35.99% | 39.73% | 38.01% | 37.39% | 36.98% |
| 7. | Average % | 38% | | | | | |

2. PSA SICAL Terminals Limited

| Sl. No. | Particulars | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 |
|---------|---|----------|----------|----------|----------|----------|----------|
| 1. | Units consumed | 2278688 | 2315129 | 2971809 | 2971809 | 2971809 | 2971809 |
| 2. | Electricity Charges | 12633590 | 12470635 | 15189102 | 16744141 | 17324999 | 17923283 |
| 3. | Allocated Electrical Dept Charges | 3371202 | 3181043 | 4292133 | 4623540 | 4762246 | 4905114 |
| 4. | % to the basic electricity charges (3/ 2) | 26.62% | 25.42% | 28.18% | 27.71% | 27.44% | 27.36% |
| 5. | Average % | 27% | | | | | |

(iv). The cost sheet furnished by the TPT include allocated management and general overheads, pension payments, return on capital employed, etc., Since these indirect cost elements are significant, the TPT proposes to recover the direct fixed cost (i.e. electricity department charges and maximum demand charges) only to the extent of 20% on the cost of electricity consumed.

(v). In case of PSA SICAL, since maximum demand charges are collected separately, the computation of levy excludes maximum demand charges. In case of PSA SICAL as well, the proposal of the TPT is to recover 20% of the electricity cost for the power consumed by PSA SICAL to partly meet the departmental expenses. The balance expenditure is proposed to be absorbed along with the management and general overheads and return as part of its general revision proposal of port tariff.

3.2. The TPT has forwarded a copy of the Board Resolution approving the proposed rate in its meeting held on 30 April 2006.

3.3. The TPT has alongwith its proposal submitted the clarification issued by Tamil Nadu Electricity Regulatory Commission (TNERC) dated 18 June 2004. The TNERC has informed that the tariff fixed for the High Tension (HT) supply cannot be different from that fixed by the Commission and the TNERC is concerned with the tariff only and that all other charges do not fall under the jurisdiction of the TNERC.

3.4. The TPT has also forwarded the communication of the Tamil Nadu Electricity Board (TNEB) dated 9 July 2004. The TNEB has informed that it has no objection in the port collecting the overhead charges from the lessees (i.e. users of the electricity) to meet the additional expenditure in terms of transformer loss, Maximum Demand charges, etc., insofar as the overhead charges are collected duly complying with provisions of 31.03 (1) of the Terms and Conditions of Board provided the collection is made on "no profit no loss basis". Further, the TNEB has also informed that since the TPT is a consumer of the TNEB and not a licensee, approval of the TNERC is not required for collecting the overhead charges.

3.5. The issue whether the proposed levy can be applied on PSA SICAL in view of Clause 6.1.8 of the License Agreement which specifies that that charges levied on the licensee shall be as per the 'scheduled rate of the TNEB' is, however, not made clear in the proposal.

4.1. In accordance with the consultative procedure prescribed, the proposal of TPT was forwarded to the PSA SICAL and concerned users / user organisations seeking their comments.

4.2. The comments received from the users/user organisations were forwarded to TPT as feedback information. The TPT has furnished its response to the comments of the users / user organisations.

5. Based on a preliminary scrutiny of the proposal, the TPT was requested to furnish additional information/clarifications on the various points. The TPT in response has furnished its reply to our queries. A summary of the queries raised by us and reply furnished by TPT is tabulated below:

| Sl. No. | Queries raised by us | Reply furnished by TPT |
|---------|--|---|
| (i). | The statement of electricity cost distribution may be updated with the estimates for the year 2009-10 corresponding with the estimates furnished in the general revision proposal. | The statement of electricity cost distribution has been updated upto 2009-10 corresponding with the estimates furnished in the general revision proposal. As per the revised statement, the average overhead rate for the years 2004-05 to 2006-07 based on actuals and estimates for 2007-08 to 2009-10 for recovery of direct fixed cost works out to be 43.18% of electricity cost in respect of port side users (Contractors/Port users) and 31.82% in case of PSA SICAL. |
| (ii). | Clarify how the consumption of electricity by the port for its operations at the yard/ dock, port administrative office building, port hospitals, illumination of the roads, storage area etc., are considered in this statement. If not considered, then the statement may be updated with the consumption of electricity by the port on these accounts and the overhead charges may also be allocated proportionately. | Action is being taken to install energy meter to assess the current consumption at administrative buildings, hospital, street light, etc. The groupings of Government Buildings, Contractors/Port Users, Quarters, Shopping center and wharf cranes, however, consider the issue of apportionment of overhead. |
| (iii). | The proposal is for levying overhead charges from the contractors / port users and the PSA SICAL. Explain the reasons for not proposing this levy on the other categories of users like tenants of the shopping centres, other government buildings, and users other than the port and at places where the port is obliged to provide free electricity. | The overhead charges in respect of parties other than contractors/ports users will be recovered by clubbing the relevant cost in the general revision proposal, as the majority of other users are shops etc., meant for port employees residing at port colony. |
| (iv). | Confirm that the electricity charges and the overhead charges indicated in the statement for the years 2003-04 to 2005-06 are at actuals. Explain the basis of estimating the electricity charges for the years 2006-07 to 2008-09. A detailed breakup of the estimates may be furnished for each of the years. | The electricity charges and the overhead charges indicated in the statement for the years 2003-04 to 2005-06 are at actuals. For the year 2006-07, Revised Estimates (R.E.) and for the year 2007-08 Budget Estimates (B.E.) are considered. For the subsequent years, 3% increase has been considered on B.E.2007-08. |
| (v). | Explain the basis of allocation of the overhead incurred in the electricity department between the various users, i.e. government building, contractors, port users, shopping centres, PSA SICAL, etc. | The overhead incurred in the electricity department between the various users, i.e., government building, contractors, port users, shopping centers, PSA SICAL etc., is apportioned based on number of units consumed by the respective categories. |
| (vi). | The maximum demand charges in case of the PSA SICAL increases significantly from the year 2005-06 onwards and is found to be higher than the maximum demand charges estimates for port side in respect of all the other users. The reasons therefor may be explained. | (a). PSA SICAL has demanded for 1200 KVA of Maximum Demand (MD) but the actually measured MD comes to around only 800 KVA during 2006-07. As per clause 6.1.8 of the BOT agreement, for the supply of power, the charges must be levied on PSA SICAL by port as per the scheduled rates of TNEB. |

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| | | (b). As per TNEB for High Transmission (HT) tariff, the maximum demand will be charged at 90% of sanctioned MD or the recorded MD whichever is higher. Therefore, the port is charged for 90% of 1200 KVA, which is 1080 KVA, the same is constant in nature and it is not seen increasing. |
| (vii). | It is found that the levy proposed is to recover the maximum demand charges plus electrical department charges from contractors / port users other than the PSA SICAL. As against this, detailed calculation sheet furnished vide letter dated 28 August 2006 indicate that Rs. 6.20 per unit collected from the HT consumer is already inclusive of the maximum demand charges. Confirm that there is no duplication in collection of maximum demand charges by way of this levy and also establish this position is reflected in the cost statement. | In the calculation of electricity overhead charges in respect of PSA SICAL, the amount of maximum demand charges has been excluded and only the expenditure of electrical department charges is included. Hence, there is no duplication in collection of maximum demand charges by way of this levy. |
| (viii). | The minutes of the meeting of the Board of Trustees of the TPT held on 30 April 2006 show that it was agreed to examine the point made by one of the Trustees about excess collection of 50 paise per unit as electricity overhead charges. Intimate the outcome of the review conducted by the port in this regard. | As agreed in the Board of Trustees of TPT meeting held on 30 April 2006, the current consumption charges and claim for various users has been reviewed and found that excess charges has been collected from one of the user viz. M/s Sea Port Logistics due to clerical mistake and the same has been rectified by adjusting the excess amount in subsequent current consumption charge. |
| (ix). | Clause 6.1.8. of the BOT Agreement signed with the PSA SICAL specify that charges levied on the licensee shall be as per the schedule of rates of the TNEB. The legal opinion obtained by TPT earlier also endorses this position. In view of the specific clause in the BOT Agreement and legal opinion sought by the TPT earlier, please confirm whether the TPT is authorised under the License Agreement (LA) to recover overhead charges for distribution of electricity from the PSA SICAL Terminals Ltd. | (a). As per clause 6.1.8. of the BOT Agreement, relating to power and water supply, the charges levied on PSA SICAL by port should be as per the schedule of rates by TNEB. While approaching the TNEB for the approval for collecting overhead charges from the lessee, it is stated that TNEB has no objection in collecting overhead charges, from the lessee to meet additional expenditure in terms of transformer loss, MD charges, etc., insofar as the overhead charges are collected duly complying with the provisions of 31.03 (1) of the Terms and Conditions of the TNEB i.e., collection is made on 'no profit no loss basis'. (b). When approached, the Tamil Nadu Electricity Regulatory Commission (TNERC), it has stated that the tariff rates to the users/lessees under TPT HT supply cannot be different from the tariff fixed by the Commission. The TNERC are concerned only with the tariff rates chargeable and any other charges do not fall under their jurisdiction. (c). The proposal is for collection of electricity overhead charges on 'no profit no loss basis' and there is no objection from TNERC for the recovery of electricity overhead charges. |
| (x). | The expenditure relating to the electricity overheads excluded in the general revision proposal filed recently by the TPT do not match with the overheads considered in the instant | The expenditure relating to the electricity overheads excluded in the general revision proposal is modified to reflect the recovery proposed to be collected by the proposed levy. |

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| | proposal. Modify these figures to ensure that the electricity overheads excluded from the general revision proposal tallies with the overhead proposed to be recovered in the instant proposal. | |
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6. A joint hearing in this case was held on 13 July 2007 at the Tuticorin Port Trust premises. At the joint hearing, the TPT and the concerned users made their submissions.

7.1. The submissions made by the users at the joint hearing gave an impression that the overhead recovery in absolute terms would increase if and when the Tamil Nadu Electricity Board revises its tariff upwards. The TPT was, therefore, advised to examine the position closely and furnish its explanation. The TPT was also advised to carefully analyse the objection raised by PSA SICAL Terminals Limited with reference to the relevant BOT agreement and furnish a detailed note in this regard.

7.2. In response to the decisions taken at the joint hearing, the TPT has submitted the following points:

- (i). The point about increase in overhead recovery with increase in the electricity tariff by the Tamil Nadu Electricity Board (TNEB) arises because the rate of overhead recovery is proposed on the basic electricity charges billed on units consumed. In order to do justice, the port agrees to re-fix the percentage downwards or upwards in proportion to the increase / decrease in the tariff announced by the TNEB with respect to the tariff fixed by the Authority. It has requested the Authority to incorporate a suitable note in this regard in the tariff Order.
- (ii). As regards the second point about proposal to recover overhead from PSA SICAL, it has referred to its earlier submissions made on the comments of PSA SICAL and its reply to the query raised by the Authority in this regard. It has further submitted that the related expenditure has been included in the revised cost statement prepared for general revision of its Scale of Rates for estimating the surplus / deficit position pending a final decision by the Authority on its proposal to levy overhead charges on electricity in respect of PSA SICAL.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details is also be made available at our website <http://tariffauthority.gov.in>

9. With reference to the totality of the information collected during the processing of this case, the following position emerges:

- (i). The proposal of the Tuticorin Port Trust (TPT) is for introduction of a new tariff item to recover part of the direct expenses incurred by the port in distribution of electricity.

The TPT procures in bulk electricity from the Tamil Nadu Electricity Board (TNEB) and arranges distribution within its area. The port recovers from its users the tariff being paid to the TNEB at the applicable rates based on the consumption pattern of the relevant user. In addition to the electricity charges payable to the TNEB, the port maintains the required infrastructure for distribution of electricity within its area and incurs expenditure on them. In the existing arrangement the related overhead expenses are treated as part of the general administrative overheads and apportioned to the various activities. The proposal of the port is to recover part of the direct expenses which is referred as overhead charges in its proposal from the relevant users.

This Authority had in principle endorsed the proposal filed by the TPT earlier in 2003 in this regard. As already mentioned, the consideration of the earlier

proposal of the TPT was deferred for want of clarification from the port on certain legal issues and on account of a doubt arising about double counting of the cost elements proposed to be recovered in the general tariff of the port as well as by the proposed levy.

- (ii). The main issues raised in the last Order are addressed by the TPT in the instant proposal. The port has reported that the Tamil Nadu Electricity Board have expressed no objection to the port collecting the overhead charges from the lessees to meet the additional expenses in terms of transformer loss, Maximum Demand charges etc., provided the collection is made on no profit no loss basis in compliance with the clause 31.03 (1) of the terms and conditions for supply of electricity by the TNEB. The TPT has confirmed that its proposal complies with the said condition set by the TNEB.

On the issue of regulatory jurisdiction, the Tamil Nadu Electricity Regulatory Commission (TNERC) has informed the TPT that the Commission is only concerned with the tariff and other charges do not fall under the jurisdiction of the Commission.

This Authority relies on the submissions made by the TPT with necessary documentary support. It is noteworthy that a similar tariff arrangement is available in the Scale of Rates of the Jawaharlal Nehru Port Trust to enable the port to recover the overhead charges for distribution of electricity from the relevant lessees / occupants.

The TPT has excluded the expenditure items termed as electricity overheads which are proposed to be recovered by way of the new levy from the cost statements for the general revision of its Scale of Rates to eliminate overlapping of the cost elements.

- (iii). The proposal seeks to recover part of the direct cost incurred over and above the basic charges paid to the TNEB. As confirmed by the port, it does not propose to make any profit out of the proposed levy. The proposal is to recover part of the direct expense from the concerned users instead of loading the relevant expenditure to the activities of the port by including it as general expense.

Though the cost elements like management and general overheads, pension payments, return on capital employed, etc. are included in the cost sheet drawn by the port, they are not considered for computation of levy percentage. These components continue to be a part of the relevant cost items in the general revision proposal filed by the port. Therefore, the apprehension expressed by some of the user associations about double counting of certain cost elements and factoring a profit element in the computation is found to be misplaced.

- (iv). The consumers of electricity supplied by the port broadly are grouped into Government building, contractors, port users, employee quarters, shopping centers, wharf crane and PSA SICAL Terminals Limited.

The port has argued that the excluded category predominately caters to the need of the port employees residing at port colony and, therefore, the portion allocable to these categories of users is treated as general expenses and loaded on to the general port tariff.

The reason adduced by the port does not appear to be convincing. Even though the burden of the excluded categories is not transferred to the other categories of users since only a part of direct overhead is recovered through the proposal levy, the proposed arrangement does not appear to be logical. The TPT is, therefore, advised to examine the matter in the light of the above observation and propose a suitable modification at the time of next tariff review.

- (v). In the revised cost statement furnished in June 2007, the figure pertaining to 2006-07 are updated with actuals and allocation of expenses to the various categories of users for the past period 2004-05 and 2005-06 has also been modified.

The consumption pattern of the electricity is assumed to be at the level of 2007-08 for the subsequent two years 2008-09 and 2009-10. The expenses of electricity department for the year 2007-08 is reportedly estimated based on the Budget Estimates 2007-08. For the subsequent two years, an annual increase of 3% is considered in estimation of the expenses over the estimates of the respective previous years. The annual escalation that can be considered for the tariff cases decided in 2008-09 is 4.6%. The annual increase considered by the TPT for estimation of the expenses is found to be within admissible escalation. The cost estimates as well as consumption pattern furnished by the TPT in the revised cost statement are relied upon for fixing the levy.

- (vi). The average direct cost for the years 2008-09 and 2009-10 is 38.42% of the average unit cost of electricity consumed by the port users and contractors. As against this, the proposal of the port is to recover the direct cost to the extent of 20% of the electricity cost, which is approved.
- (vii). The expenses pertaining to the electrical department and the maximum demand charges are generally fixed in nature except for some marginal increase in the departmental expenses due to normal inflationary trend, which is already factored in the computation of levy.

The proposal of the TPT to recover the levy as a percentage of the average cost of electricity consumed by the relevant user may result in the levy in absolute terms to increase with corresponding increase in the unit of rate of power, if announced by the TNEB.

The TPT at the joint hearing agreed to re-fix the levy downwards or upwards in proportion to the change in the tariff announced by the TNEB. It is more appropriate to prescribe the levy in absolute terms so that there is certainty in the tariff payable by the concerned users. The levy is, therefore, fixed applying the proposed percentage of levy on the actual average unit rate of the electricity charges paid by the port users / contractors for the year 2006-07.

The average unit rate of the electricity charges collected from the contractors / port users excluding maximum demand charges is reported at Rs. 5.70 for the year 2006-07. The levy is, therefore, fixed at Rs. 1.15 per unit of power consumed by the relevant user.

- (viii). The TPT has proposed to bring the supply of electricity to PSA SICAL also within the ambit of the proposed levy. The PSA SICAL has challenged the proposed levy claiming that it has to reimburse charges based on the scheduled rates of TNEB as per the BOT Agreement.

Clause 6.1.8. of the BOT agreement regulates power and water supply arrangement. The relevant clause clearly specifies that that the charges levied on the licensee shall be as per the scheduled rate of the TNEB. The legal opinion obtained by TPT earlier also endorses the position maintained by PSA SICAL.

The TPT has, however, referred TNEB's communication which conveyed no objection to TPT collecting overhead charges, from the lessee to meet additional expenditure in terms of transformer loss, MD charges, etc., insofar as the overhead charges are collected duly complying with the provisions of 31.03 (1) of the Terms and Conditions of the TNEB i.e., collection is made on 'no profit no loss basis'. The clarification given by the TNEB generally permits TPT to levy

overhead charges but it does not appear to have been given in the specific case of PSA SICAL after examining the provisions contained in the BOT Agreement.

The TPT has not been able to explicitly confirm that it is authorised under the BOT Agreement to recover the overhead for distribution of electricity from the PSASICAL. The proposal of the TPT to levy overhead charges from PSA SICAL is, therefore, not approved.

Incidentally, even the TPT has subsequently included the related expenditure pertaining to the PSA SCAL for estimating the surplus / deficit position in the revised cost statement prepared for general revision of its Scale of Rates pending a final decision by this Authority on its proposal to levy overhead charges on electricity in respect of PSA SICAL.

- (ix). The rates approved by this Authority are to be implemented after 30 days from the date of notification of the Order in the Gazette of India. As already mentioned earlier, this case has been finalised simultaneously with the general revision of the port tariff to ensure there is no overlapping of the cost elements. The Order is, therefore, to be given effect from the date of implementation of the revised Scale of Rates of the TPT approved in the general revision case. The levy for recovery of overheads from the port users / contractors is incorporated in the revised Scale of Rates of the TPT.

The cost position considered in this analysis is for two years i.e. 2008-09 and 2009-10. Further, it may be appropriate to review this tariff item along with the review of other tariff items prescribed in its Scale of Rates. That being so, the validity of the levy to recover the overhead for distribution of electricity is prescribed till 31 March 2010 to make it co-terminus with the validity of its revised Scale of Rates.

10. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves levy of Rs. 1.15 per unit of electricity consumed to recover overhead expenses for supply of electricity from port users/ contractors.

(Brahm Dutt)
Chairman

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/22/2006-TPT

- **Proposal from the Tuticorin Port Trust for fixing levy to recover overhead charges in respect of Electricity charges.**

1. The summary of comments received from the user / user organisations and comments of the Tuticorin Port Trust (TPT) thereon are tabulated below:

| Sl. No. | Comments of users/user organizations | Comments of TPT |
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| 1. | Tuticorin Chamber of Commerce and Industry (TCCI) | |
| (i). | On enquiries with the other metropolitan port users and chambers, it is learnt that there can be no profit made out of the supply of power to users by the port trust. | As per clause 31.03 (1 & 2) of TNEB terms and conditions of electric supply, port is extending supply of power to users. As per this clause, port can collect charges towards recovery of expenditure incurred over and above the amount payable for consumption of electricity on 'no loss and no gain' basis. The subject proposal is only to recover the direct cost incurred over and above basic charges paid to TNEB and hence is not aimed at earning profit as stated by the TCCI. |
| (ii). | The cost statement for distribution of electricity furnished by TPT considers 15% return on capital employed which is nothing but hidden profit making. There is duplication in the classification as one head of cost is telescoped into another head in fixing the total cost. | The proposed levy of 20% on electricity charges includes only the direct cost elements and not the indirect cost component like return on capital employed as stated by TCCI. These components are considered in the calculation of Return on Capital Employed in the proposal filed for general revision of its Scale of Rates. |
| (iii). | The cost analysis has not been done scientifically with the help of a cost accountant. | This is an internal matter of the port. Moreover, TAMP thoroughly reviews the proposal. Hence the comments of TCCI are not warranted. It has made a casual statement. |
| (iv). | The TNEB has clearly stated that no profit can be made out of the supply of power by the head user namely Port Trust. There can be no hidden profit by clever classification. On enquiry with the TNEB, it also states that only a licensee under Electricity Regulatory Authority can make profit as a person legally entitled to trade in electricity. The increase in electricity cost to the extent of 38% for recovery as overhead rate is on a very high side. | Proposal is based on direct cost and is for recovery of only 20% and not 38% as stated by TCCI. |
| (v). | No breakup has been furnished for the port side usage of electricity under five different heads. | It is not relevant to the proposal and hence has no comment to offer. |
| (vi). | Electricity sub-meters should be installed for port users alone as huddling on various heads will not give the correct figures. | Units booked under various heads like residential quarters, street lights, line loss etc., are excluded while calculating units for various users from whom overhead cost is proposed to be recovered. |
| (vii). | Any subsidised electricity supplied to officers, staff, labour quarters will attract fringe benefit tax which will be saddled on port users. | Subsidy and fringe benefit tax are not relevant to the current proposal. |
| (viii). | A relative study regarding the other ports will be useful as electricity tariff is fixed uniformly throughout the country by the Electricity Tariff Authority. The permission of the Electricity Tariff Authority is required to find out whether there are hidden profits. | Since topography of each major ports is different, it will be unrealistic to compare services / infrastructure provided across the major ports. |

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| 2. | Indian Chamber of Commerce & Industry (ICCI) | |
| (i). | A nominal levy may be fixed to recover overhead charges in respect of electricity charges. | Proposal is reasonable with respect to actual direct cost incurred. Hence, the request is already addressed. |
| 3. | The Tuticorin Steamer Agent's Association (TSAA) | |
| (i). | TPT is procuring power from TNEB in bulk at the rate of Rs.4.25 per unit. But, TPT is preferring claim on the port users at the rate of Rs.6.05 per unit. It would mean that TPT is already collecting Rs.1.80 per unit in addition to the normal rate charged by TNEB. While this is at a higher side, there is no justification for making an extra additional recovery at 20% over and above the value of electricity consumed. | Unit rate of electricity levied by the TNEB for Tuticorin Port Trust, the HT consumer, is Rs.5.00 per unit as per HT Tariff – III (commercial). After including the maximum demand charges of Rs.300/- per KVA per month and meter rent, the effective unit rate works out to Rs.6.20 per unit. A detailed calculation is attached in support of this cost. Hence proposal is justified and no over recovery is contemplated. |
| (ii). | Certain components like management and general overhead, pension payments, return on capital, etc., are included for working out the electricity cost. It is not appropriate on the part of TPT to include these components for the purpose of collection of electricity charges, since these charges are to be borne by TPT only. In fact this general expenditure is already taken into account by TPT while revising the port tariff as a whole. | In the calculation of overhead rate, the components such as management and general overhead, pension payments and return on capital are not taken into account. |
| (iii). | According to the Electricity Act and its tariff regulations, nobody has any right to levy any additional charges over and above what is billed for by TNEB. | (a). From reading of Sections 12 and 13 of Part IV - Licensing order of the Electricity Act, 2003, it is clear that the provision of Authorised persons to transmit, distribute and undertake trade in electricity by issue of license under Section 14, shall not apply to any local authority and other bodies mentioned therein. In this regard it has referred to the definitions of "Local authority" and other relevant sections in the Electricity Act 2003. (b). It has reiterated that as per clause 31.03 (1) & (2) of TNEB terms and conditions of Electric supply, port can extend supply of power to users. As per this clause, port can collect charges towards recovery of the expenditure incurred over and above the amount payable for consumption of electricity on no loss and no gain basis. |
| (iv). | Free power supply is extended to the staff of the port who are provided residential quarters. Of course, there is no grudge or any comments on this. TPT is collecting heavily from the port users to offset the loss of revenue on this account. | The exercise of working out the overhead cost is based on the proportion of the overhead cost to the electricity charges payable on units consumed by respective users. The cost attributable to consumption by port employees, PSA SICAL etc., do not form part of this working. Hence, the issue raised is not based on facts. |
| (v). | The space in the World Trade Avenue presently occupied by the users was a barren land earlier and development what is now has come out from the sweat of the brow of the shipping community. Although the area was allotted to the users, the basic physical structures needed for operation have to be provided by TPT only. It is not fair on the part of TPT to collect different charges in different styles to meet overheads etc., since, after all, they are doing only what they are expected to do in the normal circumstances. | The issues raised by TSAA are not relevant to fixation of electricity overhead charges. |

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| (vi). | The TPT slaps heavily on port users in lease rental charges. There is an astronomical increase of 787% in the lease rent charges between the years 1994 and 2006. These increases have a cascading effect in all areas. In view of heavy collection of lease rental charges, electricity charges, water charges, etc., many shipping companies are now shifting their offices to Tuticorin town despite the notable convenience of proximity to Customs, port etc. | The issues are not relevant to fixation of electricity overhead charges. |
| 4. | Tuticorin Custom House Agent's Association (TCHAA) | |
| (i). | It has reiterated the comments made by the Tuticorin Steamer Agents' Association. | Comments and reply thereon, all are same as furnished to comments of Tuticorin Steamer Agents Association. |
| 5. | PSA SICAL Terminals Limited | |
| (i). | <p>PSASICAL has contracted for operating the container terminal at Tuticorin Port for 30 years based on commercial terms agreed by the Licensor and the Licensee in the form of a commercial agreement, which stipulates that the charges levied on the Licensee shall be as per the scheduled rates of TNEB (Clause 6.1.8.).</p> <p>The bidding was done on the basis that there would be no further charges other than normal electricity charges paid by the licensor to TNEB as per tariff fixed by the electricity authorities. The proposal of TPT to TAMP to levy further charges in the name of overhead charges is not acceptable to PSA SICAL.</p> <p>PSA SICAL is bound to pay only electricity charges which are paid by the Licensor to TNEB as per scheduled rates of TNEB and not any other charges.</p> | PSA SICAL is using High Tension (HT) power and they are paying Maximum Demand charges also. The contention of the company is not acceptable since they have to pay the electricity charges as per TNEB tariff and the TNEB tariff provides for collection of cost on no profit no loss basis. Hence, PSA SICAL also has to pay overhead charges with respect to their electricity charges payable on actual consumption. In the calculation of arriving at 20% overhead cost, (not 27% as stated by the company), the maximum demand charges is excluded. |
| (ii). | Tariff of PSA SICAL is also regulated by TAMP and the regulator allows only a reasonable inflation related increase in power cost. That being the case, the regulator cannot order such an increase for PSA SICAL. | No comments furnished. |
| (iii). | TNEB ensures good quality reliable power at the point of supply. The reliability and quality of power supplied to PSA SICAL suffers to a great extent in the TPT distribution system. As there is no value-addition, there is no justification for collection of overhead charges. | No comments furnished. |
| (iv). | The expenditure cited by TPT would have been or can very well be covered under various permitted heads in the tariff revision submission. Hence this can be considered with general revision of Scale of Rates. | No comments furnished. |
| 6. | All India Chamber of Commerce & Industries (AICCI) and Tuticorin Port Handling Agents Association (TPHAA) | |
| (i). | They have reiterated the comments made by the Tuticorin Steamer Agent's Association. | Comments are already furnished on the points made by the TSAA. |
| 7. | Southern Petrochemical Industries Corporation Limited (SPIC) | |
| (i). | Port facility being a major infrastructure to help trade and industry, electricity charges levied by the port should not be more than the rate | It has reiterated the submissions made at 3(iii) above on the comments TSAA. |

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| | charged by the State Electricity Board. The overhead expenses incurred for supply of electricity should also be absorbed in the operational expenses of the port. | |
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2. A joint hearing in this case was held on 13 July 2007 at the Tuticorin Port Trust premises. At the joint hearing, the following submissions were made:

Tuticorin Port Trust

- (i). We want to levy the charge from actual users instead of indirect recovery.
- (ii). The proposed rates are less than the actual cost.
- (iii). We want to recover 50% of the cost only. It is justified.
- (iv). BOT operator should also pay. There is no prohibition in BOT agreement.

The PSA SICAL Terminals Ltd.

- (i). There can't be this levy on us as per BOT.
- (ii). If imposed, our tariff is bound to go up.

The Tuticorin Steamer Agents' Association

- (i). We are already paying high charges for other services. We request port to drop the proposed levy.
