

## PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

### SCO.220-221, SECTOR 34-A, CHANDIGARH

Date of Order: 13.12.2007

In the matter of : Implementation of Govt. of Punjab directive issued under Section 108 of the Electricity Act, 2003 for compliance of the New & Renewable Sources of Energy (NRSE) Policy, 2006

Present: Shri Jai Singh Gill, Chairman  
Smt. Baljit Bains, Member  
Shri Satpal Singh Pall, Member

### ORDER

1. Govt. of Punjab (GOP), Department of Science, Technology, Environment and Non-Conventional Energy has notified its NRSE Policy 2006 in its Notification No. 10/106/06-STE (1)/5390 dated 24th November, 2006. Salient features of this policy are:

(i)	Share of generation from NRSE based plants to be 10% of conventional power by the year 2020.	
(ii)	Tariff	
	<ul style="list-style-type: none"><li>• Biomass, Urban/Municipal/Ind. liquid /solid waste to energy and wind power projects.</li></ul>	Rs.3.49/unit (with base year 2006-07) with five annual escalations @ 5% up to 2011-12.
	<ul style="list-style-type: none"><li>• Mini/Micro Hydel, Bagasse/Biomass based Co-generation.</li></ul>	Rs.3.49/unit (with base year 2006-07) with five annual escalations @ 3% up to 2011-12.
	<ul style="list-style-type: none"><li>• Solar energy</li></ul>	Rs.7.00/unit (with base year 2006-07) with five annual escalations @ 5% up to 2011-12.
	At the end of the above specified escalation periods, the tariff payable shall be the last escalated tariff or the PSEB HT tariff applicable in that year whichever is higher. PSEB/Licensees can purchase power from NRSE projects set up outside the State in the Northern Region at the same tariff applicable to NRSE projects within State.	
(iii)	In case of projects where MOUs/implementation agreements have already been signed by PEDDA, under the NRSE Policy – 2001, but PPAs are yet to be signed by PSEB, tariff as per the NRSE Policy, 2006 shall be applicable.	
(iv)	Co-generation plants qualifying as per the criteria in the policy are eligible for	

	consideration of benefits.
(v)	Wheeling charges shall be 2% of the energy fed to the grid irrespective of the distance from the generating station.
(vi)	NRSE generators would be entitled to third party sale.
(vii)	NRSE developers are to pay a percentage of the energy generated to PEDDA. PEDDA will, in addition, charge 0.1% of the project cost as facilitation charges for all NRSE projects.
(viii)	Private developers shall file petition in the PSERC for tariff approval within 15 days of signing of implementation agreement. For wheeling of energy such developers shall file a petition with the Commission for approval of wheeling charges.

- 2.
3. The Notification of NRSE Policy by the State Govt. was followed on 16.7.2007 by a Directive to the Commission under Section 108 of the Electricity Act, 2003 (Act) which is reproduced as under:

“In pursuance of the provisions of sub-section (1) of Section 108 of the Electricity Act, 2003 ( Central Act 36 of 2003) and all other powers enabling him in this behalf, the Governor of Punjab is pleased to give the following directions to the Punjab State Electricity Regulatory Commission, namely:-

- i. that the provisions of the New and Renewable Sources of Energy Policy, 2006, as notified by the Government of Punjab, Department of Science, Technology, Environment and Non Conventional Energy, Notification No. 10/106/2006-STE(1) 5390, dated the 24th November, 2006 should be complied with in letter and spirit.
  - ii. that the said Commission shall not decide the tariff of New and Renewal Sources of Energy Projects on case to case basis, but shall include the tariff for that particular year in their annual tariff order; and
  - iii. that while issuing tariff Order for the concerned year, the said Commission shall comply with the provisions of the New and Renewable Sources of Energy Policy, 2006.”
4. On receipt of the Directive, the Commission deliberated upon the issue of implementing the Policy as enunciated by the State Govt. It noted some legal infirmities and inconsistencies in the policy which were brought to the notice of the Govt. in its communication dated 20th August, 2007 (Annexure-I) wherein it was also suggested that the Directive needs to be held in abeyance. The State Govt. has, in its letter dated 17.10.2007 (Annexure-II), reiterated the Directive observing that it be implemented in letter and spirit.
  5. The Commission has again given its earnest consideration to the question of implementing the NRSE Policy of the State Govt. in the light of its Directive. In its communication to the State Govt., as in Annexure-I, the Commission had interalia pointed out that issues such as determination of generation tariff of the NRSE developers or indeed of any other generator are according to the Electricity Act, strictly within the purview of the Commission. In addition, wheeling charges and the percentage of NRSE power that a licensee must necessarily procure has also to be determined by the Commission in terms of Section 86 of the Act. In the situation,

where the Govt. even on reconsideration has reiterated its Directives, it becomes necessary for the Commission to first determine the scope of Directives issued under Section 108 of the Act and see whether these can override the provisions of the Act itself. Section 108 of the Act clearly stipulates that the Govt. is empowered to issue directive in matters of policy and that Government's decisions as to what constitutes matters of policy would also be final. However, neither Section 108 nor indeed any other section of the Act specifically empowers the Govt. to override other provisions of the Act while issuing a directive under Section 108 of the Act. As mentioned earlier, Sections 62, 64 and 86 of the Act specifically empower the Commission to determine generation tariff, regulate electricity purchase, fix cost of wheeling power and the percentage of the NRSE power that a Distribution Licensee must source over time. In para 2 of the Government's letter dated 17.10.2007, it has in fact been admitted that these powers no doubt vest with the Commission but Govt. has considered it necessary to make a specific prescription in this respect on the ground that there has been delay in determining these issues by the Commission and that consequent policy confusion is detrimental to the development of the NRSE power in the State.

6. The Commission appreciates Government's concern as to the need for encouraging development of NRSE power in the State as well as providing a stable policy environment to achieve that objective. In fact, the Commission is also statutorily bound to encourage NRSE projects as per provisions of Section 86 (I) (e) of the Act. However, such concerns of the Government can not be taken to mean that it can at any time exercise powers that are not vested with it under the Act by issuing directives under Section 108 of the Act. The fact that the Commission may not have taken a final view on NRSE tariffs and associated issues can not be an occasion for the Government to step in and fill the void. It is necessary in this context to also observe that neither the Act nor the National Tariff or Electricity Policy lays down any specific time table for the fixation of NRSE tariffs by the Commission. Moreover, the Commission had initiated the exercise to determine such tariffs when GOP reiterated its directive. In the light of position highlighted above, the Commission must inescapably conclude that Government Directives can not, in any manner, override other specific provisions of the Act. Accordingly, the Commission intends to align those aspects of the NRSE Policy as enunciated by the Government which come into conflict with the provisions of the Act or otherwise require clarification. These matters are dealt with in the succeeding paras.
7. Government Policy provides for a uniform tariff for NRSE power of Rs.3.49 per unit starting with the base year 2006-07 with annual escalation thereon. In the case of solar power, however, the rate determined is Rs.7.00 per unit. The Commission had initiated the exercise of determining tariff in respect of NRSE power from different sources and a working paper thereon had been published for inviting objections of the public. The tariff rates indicated therein had varied for different types of NRSE power given the fact that both technologies and fuels are different in each case. It is evident that the rates given in the initial working paper of the Commission vary considerably from those fixed by other Commissions as well as from rates suggested by effected parties in response to the Public Notice. In the normal course, the Commission would be obliged to go into this matter in further detail, obtain expert technical opinion, if necessary, and give its findings on the rates that should be applicable for different categories of NRSE power. The Commission has chosen not to adopt this route as it would be somewhat time consuming and lead to a policy vacuum till such time the Commission finalizes this exercise. The Commission has taken note of rates fixed in

adjoining states such as Haryana, Uttar Pradesh and some other states such as Andhra Pradesh, Maharashtra and Karnataka. NRSE rates in the case of Karnataka, Maharashtra and Andhra Pradesh were fixed a while ago and are decidedly lower than those fixed in Uttar Pradesh and Haryana. It is obvious that for the purposes of comparison, it is more relevant to take into account the rates that have been determined in Punjab's neighbourhood. Looking at the rates as fixed in Haryana and Uttar Pradesh, it is seen that the lowest rates are for hydel power and these are marginally more than the rates proposed by the GOP. Rates for other NRSE categories such as co-generation, bagasse and agro based power also vary but are invariably higher than the rates determined for hydro based power. In these circumstances, the rate of Rs.3.49 with the year 2006-07 as base appears to be reasonable when compared with rates in the neighbouring states. Accordingly, the Commission approves rates as indicated in the GOP NRSE Policy subject to the following observations:

- a. These rates will be considered the minimum rates that a NRSE developer can claim. It is entirely possible that NRSE projects adopting different technologies and/or fuels might need enhanced rates for their encouragement. Therefore, individual developers would be free to approach the Commission for determination of such rates. The Commission will, at that stage, decide whether rates are to be approved individually in each case or generically for a category of cases.
- b. The tariff rate for purchase of power by the Board/Licensee during the year 2007-08 shall be

• Biomass,Urban/Municipal/Ind. liquid /solid waste to energy and wind power projects	366 P/Unit
• Mini/Micro Hydel, Bagasse/Biomass based Co-generation	359 P/Unit
• Solar energy	735 P/Unit

- c. The Commission notes that an important element of Government's policy is to encourage NRSE sector by offering attractive rates initially for a period of 5 years and in case there is no further revision in subsequent policies, rates payable to such projects would be those applicable to PSEB's HT consumers. The effect of this stipulation is that attractive tariff rates intended to encourage investment in this sector will be made available to developers in perpetuity. It is entirely understandable that such rates must be available over the period of pay back of any particular project and even beyond that to allow entrepreneurs earn reasonable profits on their investment. However, enhancement of these rates in perpetuity is not justified and is against the long term interests of the consumers. Accordingly, the Commission holds that rates as prescribed in the Policy will be applicable for a period of 5 years (upto 2011-12) after which the last escalated tariff shall continue and the Commission will determine the manner in which further enhancement in tariff, if any, by way of encouragement to the sector is to be effected.
- d. Para III of the Policy stipulates that a Distribution Licensee in the State can purchase power from NRSE projects set up outside the state in the northern

region in case power generated by such projects is less than 10% of conventional power. The Commission has separately observed that the present percentage of NRSE power in the State as compared to the total power supply is less than 1% and it would take considerable effort and time before the percentage of NRSE power can reach anywhere close to 10%. Thus, this provision implies that NRSE projects located outside the state but in the northern region will for considerable time be entitled to supply power to the State at the above approved NRSE rates. The scheme of the Act requires each state to encourage NRSE power projects within their own jurisdiction and thus this stipulation goes beyond that obligation in incentivising NRSE power projects outside the state. Perhaps, the only justification for such a provision can be that it will enable access to hydel based NRSE power in the neighbouring states but that advantage would also not be available if NRSE rates after 5 years are to be perpetually linked to the escalated tariff or PSEB's HT tariff applicable in a particular year whichever is higher. The Commission has in para (c) above already observed about the need to take a second look at tariff based incentive beyond the initial period of 5 years and this becomes specially important when encouragement of NRSE based projects outside the state is being advocated at the cost of the Punjab consumers.

Government Policy provides that all NRSE projects to be undertaken within the state will be facilitated by PEDDA and brought before the empowered committee for approval. However, such a procedure cannot obviously be applicable to NRSE projects based outside the state which are supplying power to Punjab. Thus, Govt. would need to look at the creation of credible administrative mechanism that certifies that such projects are indeed NRSE based and are not conventional power generators. An added issue is the manner in which cost of wheeling and transmission losses is to be accounted for in respect of projects located outside the state. The Policy does not make any specific reference to this matter but the Commission would like to clarify that transmission losses and wheeling costs upto the State boundary are to be borne by the developer and the NRSE tariff, as approved, is the net amount payable for power supplied at the touch point of the State grid. Para 4(ii) of Appendix-II of the Policy further describes Northern Region as the Northern Regional Power System and goes on to clarify that the system comprises of the power systems and generating stations of Union Territory, Chandigarh, States of Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttranchal, Delhi and National Thermal Power Corporation, National Hydroelectric Power Corporation, Nuclear Power Corporation, Power Grid Corporation of India, Satluj Jal Vidyut Nigam, Tehri Hydro Development Corporation and Bhakra Beas Management Board. While the inclusion of states in the Northern Region is understandable, there is complete lack of clarity as to how other entities can qualify as NRSE producers. For the moment, therefore, the Commission accepts only NRSE projects located in the states in the Northern Region as those entitled to supply power to Punjab at the rates approved. The Government might, at the same time, like to clarify the manner in which the other entities are entitled to be classified as NRSE producers.

- e. Para 4(ii) of Appendix-II of the Policy provides that NRSE tariff would also be available in the case of such projects where MOUs/Implementation Agreements had been signed under the State Government's NRSE Policy 2001 but Power Purchase Agreements are yet to be signed by PSEB. The Commission notes that in addition to the above mentioned categories of cases, there are a fairly large number of other projects where Power Purchase Agreements have already been signed in pursuance of MOUs/Implementation Agreements of the developers with PEDDA but no concrete steps have thereafter been taken to implement the project for one reason or another. In any case, it is evident that the latter category of cases have taken atleast one more additional step for implementing the project but they are being penalized as compared to those developers who failed to proceed beyond signing the initial MOUs/Implementation Agreements. The Commission is of the view that the distinction drawn between the above two categories of projects is invidious and detrimental to the interests of developing the NRSE sector. The Commission observes that in either case, substantial steps towards project execution are yet to be initiated and the developer of either category will have to incur enhanced costs before their projects can come into operation. With a view to encouraging the actual setting up of these projects, it might therefore be necessary to offer incentives of enhanced rates to both categories. The Commission, accordingly, allows rates as approved in this order to both categories subject to the condition that these would not be applicable in the case of such projects that have achieved COD before the announcement of the GOP NRSE Policy, 2006.
- f. In order to protect the interests of the PSEB and consumers in general, PEDDA and State Government may take suitable steps to ensure that the developers/plant owners continue to supply power at prescribed rates during the entire period of contract .

10. Para II of the Policy stipulates that the objective is to develop NRSE based power to a degree that it would be 10% of the conventional power requirements of the State by 2020. On the other hand, Section 86(1)(e) of the Act requires the Commission to specify the percentage of power from NRSE sources that will be purchased by each Distribution Licensee for sale in its area of operation. Thus, there is an immediate requirement to prescribe this percentage and increase it in a phased manner. From data made available by PEDDA, the Commission observes that the NRSE power as a percentage of the total power distributed in the State is less than 1% in the year 2006-07. Taking into consideration, the NRSE projects in the pipeline and likely to be established over the next 5 years, the Commission orders that the PSEB as the Distribution Licensee in Punjab will purchase minimum NRSE power as indicated below:

Year	Minimum percentage of purchase from renewable sources
2007-08	1%
2008-09	1%
2009-10	2%
2010-11	3%
2011-12	4%

11. Para 4 (ii) of Appendix-II, annexed to the Policy, provides that a producer of NRSE power will have the option to sell electricity generated to a third party within the state on such terms and conditions as may be mutually agreed upon. The Commission observes that one of its functions under Section 86(1)(e) of the Act is to promote NRSE generators by providing suitable measures enabling sale of such electricity. The overall scheme of the Act as enshrined in Sections 9, 10 and 42 of the Act envisages that electricity can be sold to a consumer either by a Licensee or by following the Open Access route. In the light of these provisions, the Commission concludes that while it is possible to provide for third party sale by NRSE generators on terms that may be mutually agreed upon, such sale can, however, be permitted only by adopting the open access route and paying such charges as prescribed in the Open Access Regulations notified by the Commission. Same principles will apply for transmission and wheeling of NRSE power for captive use. Accordingly, the Commission decides as under:
- a. The Policy of the State Govt. stipulates that PSEB/Licensees will undertake to transmit NRSE power through their grid at uniform wheeling charges of 2% of the energy fed into grid irrespective of the distance from the generating station. As already observed above, the determination of wheeling charges is a function assigned to State Commissions under Section 86 of the Act. The Commission has already framed Open Access Regulations. These Regulations, as a measure of encouragement to NRSE Developers, already provide that transmission and wheeling charges in case of NRSE power shall be levied @ 2% of the energy injected into the state grid irrespective of distance. Accordingly, wheeling of power generated from NRSE Projects will be permitted on the basis of such wheeling charges including transmission charges as prescribed in the Open Access Regulations.
  - b. NRSE Policy 2006 is silent about T&D losses. The NRSE generators shall compensate the Licensee as per Open Access Regulations for T&D losses in this regard.
  - c. Other charges such as surcharge, operation charges, additional surcharge, UI charges and reactive energy charges will also be payable by the NRSE generators, as per Open Access Regulations

The Commission further observes that Open Access charges leviable in the State of Punjab are moderate and that payment of such charges, in addition to tariff that may be mutually agreed upon between a NRSE generator and a third party consumer, would continue to provide sufficient incentive for NRSE generation and third party sale.

12. The Policy provides that private developers will file a petition before the Commission for approval of tariff which would then be given effect by licensees for signing the PPAs within 45 days. On the other hand, the directive of July 2007 issued by the State Govt. enjoins that the Commission shall not decide the tariff of NRSE projects on a case to case basis. Clearly the provisions of the Policy and the directive contradict each other. The Commission has in this order already approved the rates that will be applicable to developers of NRSE power, wheeling costs thereof and the manner in which sale can be effected to third parties. In the light thereof, individual developers need not, in future, file separate petitions before the Commission and so long as PPA's conform to the findings of the Commission in this order they would be free to approach the licensees for signing of PPAs on that basis.

13. A large number of NRSE developers have filed petitions before the Commission for determination of tariff in accordance with the Policy or re-determining the same as provided therein. These petitions will now be disposed of by the Commission in the light of conclusions reached by the Commission in this order.

Sd/-

**(Satpal Singh Pall)**  
**Member**

Sd/-

**(Baljit Bains)**  
**Member**

Sd/-

**(Jai Singh Gill)**  
**Chairman**

Place: Chandigarh

Dated: December 13, 2007.

Annexure I

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**

**SCO.220-221, SECTOR 34-A, CHANDIGARH**

To

The Secretary to the Govt. of Punjab,  
Department of Power,  
Mini secretariat,  
Chandigarh.

Memo No.PSERC/3243-44/2007-08

Dated: 20/8/2007

**SUBJECT: DIRECTIONS UNDER SUB-SECTION (1) OF SECTION 108 OF THE ELECTRICITY ACT.**

The Commission is in receipt of directions under provisions of sub-section (1) of section 108 of the Electricity Act, 2003 (The Act) from Government of Punjab, Department of Science, Technology, Environment and Non-Conventional Energy through its Notification No.10/106/2006/STE(1) dated the 16th July, 2007 (copy enclosed). The observations of the Commission with regard to the directions in the notification are as under:-

1. The first directive to the Commission in the Notification is to comply with the GOP NRSE Policy 2006 in letter and spirit. The Policy provides that the NRSE Project Developer shall file petition before the Commission for approval of tariff within 15 days after signing of the implementation agreement with PEDDA. Further, PSEB/Licensee shall sign the PPA within 45 days from the date of issue of Tariff Order by the Commission. Accordingly, the PSEB/Licensee is permitted to sign the PPA only after issue of approval/Tariff Order by the Commission. As per direction number two, the Commission is not to decide the tariff of NRSE Projects on case to case basis but to include the tariff for a particular year in the annual Tariff Order. Thus direction one and two as brought out above are contradictory to each other. The

Commission is directed to approve, which in essence entails determination of tariff in respect of each petition and also not to decide tariff on a case to case basis.

2. Section-61 of the Act enjoins the Commission to frame Regulations specifying the terms & conditions for the determination of tariff, and while doing so to be guided by the principles laid down in this section. One of the principles specified in clause(h) of Section 61 provides for promotion and Co-generation and generation of electricity from renewable source of energy. Section 62 (1) of the Act mandates the Commission to determine the tariff for supply of electricity by a generating company to a distribution licensee, transmission of electricity, wheeling of electricity and retail sale of electricity in accordance with the provisions of the Act. Further Section 86 (1) of the Act enumerates the functions to be discharged by the Commission which include “(e) promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee”.

In view of these provisions of the Act, the Commission is duty bound to determine all tariffs (including all NRSE Projects) specified in Section 62(1) and while doing so to promote Co-generation and generation of electricity from renewable sources of energy in a manner laid down in Section 86 (1) (e) of the Act.

With a view to frame NRSE Regulations, the Commission carried out a preliminary exercise and a background paper was prepared. This background paper which also included tariff determination principles and preliminary tariff calculations for NRSE Projects of different categories was put to Public Objections. The Objections have been received from the Public as well as PEDDA. PEDDA has made reference to the Government of Punjab NRSE Policy, 2006 wherein tariffs for different categories of NRSE Projects have been specified. It is observed by the Commission that there is a large variation in the tariff for Bio-mass Projects as per GOP NRSE Policy, 2006 and preliminary tariff calculations contained in the background paper and tariff demanded by prospective developers of Bio-mass Projects. Moreover, the tariff as per GOP tariff Policy 2006, does not, in any way, appear to be promoting generation of electricity as far as bio-mass based Projects are concerned. It appears that Micro Hydro Projects will get more benefit through tariff as compared to other NRSE Projects.

3. Further Section 86(1)(e) of the Act mandates the Commission to specify for purchase of electricity from NRSE sources, a percentage of total consumption of electricity for the area of a distribution licensee. Whereas the GOP NRSE Policy, 2006 envisages shares of NRSE to the level of 10% of conventional power by the year 2020, it does not specify the purchase of electricity from NRSE sources as a percentage of total consumption as a minimum mandatory requirement for the licensee. Therefore, the Commission has to fix year wise target for purchase of electricity from NRSE sources as mandated by the Act. Minimum Targets have been notified in the background paper considering the likely availability of electricity from NRSE sources in the coming years.
4. As per the GOP NRSE Policy 2006, Licensee may purchase power from NRSE Projects set up outside the State in the Northern Region at the same tariff. In this connection, reference may be made to Section 64(5) of the Act which provides that

notwithstanding anything contained in part X (which includes section 108), the tariff for any inter-state supply, transmission and wheeling of electricity involving territories of two States shall be determined by the State Commission having jurisdiction in respect of licensee who intends to distribute such electricity and make payment there for. Hence, as per Act, only the State Commission has the mandate to determine tariff in case of NRSE Projects for inter-state supply.

5. Third party sale is permitted as per the GOP NRSE Policy, 2006 while Section 12 of the Act lays down that no person shall (a) transmit electricity, or (b) distribute electricity, or (c) undertake trading in electricity unless he is authorized to do so by a licence issued under section 14 or is exempt under section 13. Accordingly, third party sale of electricity is permissible only after issue of license in accordance with Section 12 and 14 of the Act. The only exemption is provided in Section 10(2) of the Act, which permits supply of electricity to any consumer under Section 42(2) (Open Access Consumer).
6. The Commission intends to bring out NRSE Regulations in accordance with the above stated provision of the Act and keeping in view the objections received from the public as well as PEDDA by the end of September, 2007. The State Government may like to reconsider some of the provisions of the NRSE Policy 2006, in view of the statutory provisions as brought out in above paragraphs and keep the directions contained in the Notification dated July, 2007 in abeyance till such time.

Sd/-  
Secretary

CC: Shri Ramesh Inder Singh, IAS, Chief Secretary to Govt. of Punjab, Chandigarh for information.

Sd/-  
Secretary

## **Annexure II**

Government of Punjab  
Department of Science, Technology & Environment And Non-Conventional Energy

Secretary  
Punjab State Electricity Regulatory Commission  
Sector 34  
Chandigarh

Memo No.: 10/106/061 STE 1/3889

Dated, Chandigarh the 17/10/07

**Subject: Direction under sub section 1 of Section 108 of the Electricity Act 2003.**

Madam,

In response to your Letter no.PSERC/3243-44/2007-08 dated 20.8.07 on the subject mentioned above addressed to Secretary, Power with copy to Chief Secretary, Pb., the para wise comments of the Govt. on the observations of the commission are as follows:

1. The directions contained in the Govt. Notification are not contradictory as the NRSE Project developers will still approach the PSERC for decisions regarding approval and applicability of NRSE Policy tariff for the project and other commercial terms and conditions. The announcement of one time annual tariff shall enable the commission to decide the petitions for NRSE Projects on fast track basis. This shall lead to faster signing of PPA's and also enable the developers of NRSE projects to do a speedy financial closure. The background is that the cabinet while approving the NRSE Policy-2006 issued the directions that the commission shall not decide the tariff of New and Renewable Sources of energy projects on case to case basis but shall include the tariff for that particular year in their annual tariff order and that while issuing the tariff order for the concerned year, the said commission shall comply with the provisions of the New & Renewable Sources of Energy Policy-2006. The essence of the Govt. and the Cabinet decision is to have a fast tracked pre-project activities including issue of tariff order as per NRSE Policy-2006 so that the projects are set up within a scheduled time frame.
2. The commission is well aware of the fact that the NRSE Policy 2006 was enacted by the state govt. after expiry of the NRSE Policy 2001, with a specific purpose to promote the setting up of environment friendly non-conventional energy based projects in the state and with a view to increase their percentage energy share in the state. Also there were a lot of NRSE Projects being set up, which were under various stages of approval / development and in the absence of the policy, would have not come up at all. The Govt. never wanted a policy vacuum to be there after expiry of the NRSE Policy-2001. It is agreed to that the commission has powers under the referred sections of the Electricity Act' 2003, but the commission never took up timely exercise for announcement of the NRSE tariffs and now when the govt. has already notified the policy the commission has come out with a public notice inviting public comments on the separate NRSE Tariffs, close to a year after NRSE Policy-2006 notification. This scenario has rather created a total confusion in the minds of

the investors / developers of NRSE Projects as to the tariff to be given for the different NRSE Projects. The Govt. with a purpose to implement the NRSE Policy-2006 and also the cabinet decision in this regard has issued the directions under section 108 of the Electricity Act to the Commission.

The commission stating that the biomass tariff announced by the Govt. in NRSE Policy-2006 does not in any way appears to be promoting generation of electricity as far as bio-mass based projects are concerned is not acceptable to the Govt. as the tariff has been announced by the Govt. after thorough analysis, inviting comments from PSEB, PSERC, Pvt. Developers, Other Govt. Departments/organizations. As regards Micro Hydro Projects, the capital cost per MW for low head canal based projects is much higher than that considered by the commission in its background paper. Moreover, the energy from NRSE projects is not even currently 1% of the energy requirement in the state and keeping in view the benefits of such NRSE Power projects, the rate of purchase of power by PSEB for these projects @ Rs.3.49 is less than the short term power purchase rates of PSEB from outside the state, which are as high Rs.6-7 per unit. It is worth while to know that HERC in its recent tariff order for NRSE projects of various types has given tariff rates which are higher than that contained in the State NRSE policy 2006. We must give due weight age to the fact that working parameters and investment required in Punjab are similar to Haryana and could not be compared with any other State of the country.

Moreover, in a judgement dated 2nd June' 2006, Renewable Energy developers Vs APERC & APTRANSCO. The Appellate Tribunal for Electricity gave the verdict that the APERC has no power or authority to alter the policy direction issued by the State Govt. and the said Commission has no Executive power nor a plenary power as claimed by it.

3. Minimum targets notified in the background paper are quite less and the commission may like to revise them in view of the fact that state is encouraging private sector investment in the Renewable Energy Sector and is quite confident of achieving higher generation capacity additions. The commission may specify for purchase from NRSE sources a percentage of total consumption of electricity for the area of a distribution license, but the Govt. is of the opinion that if higher generation capacity are added then there should not be any bar/limit on the NRSE power purchase upto 10% level.
4. The Govt. has included this clause for purchase of NRSE power from Northern region Grid states with a view to reduce the huge gap in the demand and supply position in the state. The other major reason has been the environment friendly nature of these projects and the commission is already aware of these facts. It is only due to this inter state supply clause that PEDDA has been able to sign MoUs for 231.35MW for Mini/Micro Hydro projects in a short span of less than one year of the policy coming into force. After signing of PPAs, PSEB will be able to purchase power at a much lower rate than the present short term purchase rate for outside power. Therefore any reconsideration of the NRSE Policy-2006 by the Govt. at this stage will lead to a nebulous situation, which is certainly not in the interest of the State and neither for the NRSE Sector and nor for the pvt. Developers.
5. The spirit of NRSE Policy is that developer will have options of either to sell the power to state utilities or third parties. It may also be possible that, under open access policy and the way NRSE policy is planning to attract the other state developers, NRSE developers may like to sell the power to other state, if the tariff is not

remunerative in Punjab. Commission should allow third party sale by giving open access to NRSE Projects at a uniform wheeling charge of 2% without levying any additional charges/costs on NRSE Projects. It is also stated that the Commissions of Maharashtra and Haryana have also allowed wheeling @ 2%.

6. It is quite relevant to bring to notice the fact that the tariff for various types of NRSE projects contained in the State NRSE policy 2006 have been worked out after thorough analysis by the Government. Moreover, even the present policy is basically an extension of the tariff rates contained in the earliest state NRSE policy 2001, which have already been accepted by PSERC, approving the tariff rates for earlier projects.

Further, NRSE projects have major environmental benefits in terms of non-polluting / environmentally benign resources and technologies in addition to the fact that these are small, de-centralized power plants located on the 11KV / 66KV distribution network in the state close to the load/consumption areas thus contributing to improved power availability, with very less T&D losses.

7. In view of the above, the State Govt. hereby reiterates its directions issued vide Notification No.10/106/2006/STE(1)/2561 dated 16.7.2007 under Section 108 of the Electricity Act 2003 and again directs the Commission to implement the directive of the Govt. without further delay.

Sd/-

(M.P.SINGH), IAS  
Secretary, STE & NCES