Before the

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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Case No. 100 of 2011

IN THE MATTER OF

Petition filed by Maharashtra State Electricity Distribution Company Limited seeking Final True Up for FY 2009-10 and Annual Performance Review for FY 2010-11

Shri V. P. Raja, Chairman

Shri Vijay L. Sonavane, Member

Maharashtra State Electricity Distribution Company Limited…………………Petitioner

ORDER

Dated: December 30, 2011

In accordance with the MERC (Terms and Conditions of Tariff) Regulations, 2005, and upon directions from the Maharashtra Electricity Regulatory Commission (Commission), Maharashtra State Electricity Distribution Company Limited (MSEDCL), submitted its Petition for Final True Up for FY 2009-10, and Annual Performance Review (APR) for FY 2010 -11. This Petition was numbered as Case No. 100 of 2011. The Commission, in exercise of the powers vested in it under Section 61 and Section 62 of the Electricity Act, 2003 (EA 2003) and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by MSEDCL, all the objections, responses of the MSEDCL, issues raised during the Public Hearing, and all other relevant material, conducts the Final True Up for FY 2009-10, and Annual Performance Review for FY 2010-11 for FY 2010-11.

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List of Abbreviations

AAD	Advance Against Depreciation
A&G	Administration and General
APDRP	Accelerated Power Development and Reforms Programme
APR	Annual Performance Review
ARR	Aggregate Revenue Requirement
ASC	Additional Supply Charge
ATE	Appellate Tribunal for Electricity
BPL	Below Poverty Line
CAGR	Compounded Annual Growth Rate
CEA	Central Electricity Authority
CERC	Central Electricity Regulatory Commission
CGS	Central Generating Stations
CPI	Consumer Price Index
CPP	Captive Power Plant
Commission/MERC	Maharashtra Electricity Regulatory Commission
EA 2003/ Act	Electricity Act, 2003
FAC	Fuel Adjustment Cost
FY	Financial Year
GFA	Gross Fixed Assets
GoM	Government of Maharashtra
HT	High Tension
HVDS	High Voltage Distribution System
IDC	Interest During Construction
kVA	Kilo-Volt Ampere
kW	Kilo Watt
kWh	Kilo Watt Hour / Unit
LT	Low Tension
MPECS	Mula Pravara Electric Cooperative Society Limited
MSEB	Maharashtra State Electricity Board
MSEDCL	Maharashtra State Electricity Distribution Company Ltd.

MSETCL	Maharashtra State Electricity Transmission Company Ltd.
MSLDC	Maharashtra State Load Despatch Centre
MSPGCL	Maharashtra State Power Generation Company Limited
MU	Million Units
MYT	Multi Year Tariff
NCE	Non Conventional Energy
NTPC	National Thermal Power Corporation
O&M	Operation and Maintenance
PF	Power Factor
PGCIL	Power Grid Corporation of India Limited
PWW	Public Water Works
RGGVY	Rajeev Gandhi Grameen Vidyutikaran Yojana
RGPPL	Ratnagiri Gas and Power Private Limited
RLC	Regulatory Liability Charge
RPO	Renewable Purchase Obligation
RPS	Renewable Purchase Specification
RoE	Return on Equity
Rs.	Indian Rupees
SLDC	State Load Despatch Centre
T&D	Transmission and Distribution
TOD	Time of Day
TPC	The Tata Power Company Ltd.
TVS	Technical Validation Session
UI	Unscheduled Interchange
WPI	Wholesale Price Index
WRPC	Western Region Power Committee

1 BACKGROUND AND SALIENT FEATURES OF THE ORDER

1.1 Background

1.1.1 The Petitioner, MSEDCL is a Company formed under the Government Resolution No. ELA-1003/P.K.8588/Bhag-2/Urja-5 dated January 24, 2005, of the Government of Maharashtra, with effect from June 6, 2005 according to the provisions envisaged in Part XIII of the Electricity Act, 2003. The provisional Transfer Scheme was notified under Section 131(5)(g) of the EA 2003 on June 6, 2005, which resulted in the creation of following four successor Companies and MSEB Residual Company, to the erstwhile Maharashtra State Electricity Board (MSEB), namely,

- MSEB Holding Company Limited;
- Maharashtra State Power Generation Company Limited (MSPGCL);
- Maharashtra State Electricity Transmission Company Limited (MSETCL); and
- Maharashtra State Electricity Distribution Company Limited (MSEDCL).

1.1.2 MSEDCL is in the business of distribution and supply of electricity in the entire State of Maharashtra, except the Mumbai licence areas supplied by Brihan-Mumbai Electric Supply & Transport Undertaking (BEST), Reliance Infrastructure Limited (RInfra), and The Tata Power Company Limited (TPC). However, MSEDCL and RInfra are both licensees in the areas of Chene and Versova falling under the Mira Bhayender Municipal Corporation.

1.1.3 The present Petition has been filed by MSEDCL to seek Final Truing Up for FY 2009-10, and APR for FY 2010-11. The Petition has been filed under the MERC (Terms and Conditions of Tariff) Regulations, 2005 (hereinafter referred to as "Tariff Regulations, 2005"]. The background leading to the filing of the present petition is discussed in the following paragraphs.

1.1.4 ***Commission's Order on MYT Petition for MSEDCL for the Control Period from FY 2007-08 to FY 2009-10:*** MSEDCL submitted its ARR and Multi Year Tariff (MYT) Petition for the first Control Period from FY 2007-08 to FY 2009-10 on December 29, 2006. The Commission issued the MYT Order for MSEDCL on

May 18, 2007 (Operative Order issued on April 27, 2007), which came into effect from May 1, 2007. The Commission determined the tariff for FY 2007-08 through this Order.

1.1.5 Commission's Order on MSEDCL's Petition for Annual Performance Review for FY 2007-08 and Determination of Revenue Requirement for FY 2008-09: MSEDCL submitted it's Petition for Annual Performance Review for FY 2007-08 and Tariff Determination for FY 2008-09 on November 30, 2007. The Commission issued the Order on the Annual Performance Review for FY 2007-08 and determination of tariff for wheeling and retail sale of electricity for MSEDCL for FY 2008-09, on June 20, 2008 (Operative Order issued on May 31, 2008), which came into effect from June 1, 2008. When the Annual Performance Review for FY 2007-08 and Tariff determination for FY 2008-09 were under process, the Utilities filed a Petition for continuation of tariff determined for FY 2007-08 beyond March 31, 2008, till the time of issuance of the respective Orders for each Utility. Accordingly, the Commission vide Order issued on April 1, 2008, extended the applicability of the aforesaid Tariff Orders for the Utilities till the new tariffs were determined for FY 2008-A09 under the APR framework and Orders issued there under.

1.1.6 ***Review Petition on the Commission's APR Order for FY 2007-08 and Tariff determination for FY 2008-09 (Case No. 42 of 2008):*** MSEDCL filed a Petition on July 21, 2008 under Regulation 85 of the MERC (Conduct of Business) Regulations, 2004, seeking a review of the aforesaid Order dated June 20, 2008 passed in Case No. 72 of 2007. MSEDCL filed an addendum to the above-mentioned Petition on August 7, 2008, and requested the Commission to include the same in the Review Petition. The Commission vide its Order dated December 10, 2008 upheld some of the contentions raised in MSEDCL's Review Petition and clarified that any impact of the same would be taken into account by the Commission vide Order on MSEDCL's Petition for APR for FY 2008-09 and tariff determination for FY 2009-10. The Commission also permitted MSEDCL to recover Rs. 427 Crore, through an Additional Charge, over a four-month period from December 2008 to March 2009.

1.1.7 Petition for Truing Up for FY 2007-08, Annual Performance Review for FY 2008-09 and Tariff determination for FY 2009-10 (Case No. 116 of 2008): MSEDCL submitted its Petition for Annual Performance Review for FY 2008-09 and Tariff Determination for FY 2009-10 on December 8, 2008. The Commission issued the Order on the Annual Performance Review for FY 2008-09 and determination of tariff for wheeling and retail sale of electricity for MSEDCL for FY 2009-10, on August 17, 2009, which came into effect from August 1, 2009.

1.1.8 Petition for Truing Up for FY 2008-09, Annual Performance Review for FY 2009-10 and Tariff determination for FY 2010-11 (Case No. 111 of 2009): MSEDCL submitted its Petition for Truing Up for FY 2008-09, Annual Performance Review for FY 2009-10 and tariff determination for FY 2010-11 on February 18, 2010. The Commission issued the Order on the above on September 12, 2010, which came into effect on September 1, 2010. The consolidated Revenue Gap for FY 2010-11 as estimated by the Commission was Rs. 909 Crore as against Rs. 4166 Crore projected by MSEDCL in its Petition.

1.1.9 Petition for review of the Order dated September 12, 2010 in Case No. 111 of 2009 in respect of MSEDCL's Annual Performance Review for FY 2009-10, True Up for FY 2008-09 and ARR and Tariff Determination for FY 2010-11 (Case No. 69 of 2010): MSEDCL submitted a Petition for review of the Order dated 12th September, 2011 in Case No. 111 of 2009. The Commission approved additional revenue of Rs. 1136.27 Crore in this Review Order, which was to be recovered as Additional Energy Charge from consumers. This Order came into force from September 1, 2010. However, the recovery of additional revenue from consumers commenced from December 1, 2010.

1.1.10 ***Multi Year Tariff (MYT) Regulations, 2011:*** On February 4, 2011, the Commission notified the Maharashtra Electricity Regulatory Commission (Multi Year Tariff) Regulations, 2011 (hereinafter referred to as the "MYT Regulations, 2011"). These Regulations were to be applicable for determination of tariff in all cases covered under these Regulations from April 1, 2011 and onwards up to FY 2015-16. These Regulations were applicable to all existing and future Generating Companies, Transmission Licensees and Distribution Licensees. These Regulations came into force from April 1, 2011.

1.1.11 ***Exemption from MYT Regulations, 2011 (Case No. 24 of 2011):*** MSEDCL submitted a Petition on February 22, 2011 under Section 94 (2) of the EA 2003 and

Regulation 85 (a) of the MERC (Conduct of Business) Regulations, 2004, Regulation 4.1 and Regulations 99, 100 of the MYT Regulations, 2011 seeking exemption from the determination of tariffs under MYT Regulations, 2011. On this Petition filed by MSEDCL, an exemption was granted to MSEDCL, under Regulation 4.1 of the MYT Regulations, 2011, vide the Commission's Order dated August 23, 2011 in Case No. 24 of 2011, for two years (till March 31, 2013) from the determination of tariff under the MYT Regulations, 2011. Furthermore, an amendment to the MYT Regulations, 2011 was made on October 21, 2011, in which the distribution licensees who have been exempted for certain periods from the determination of tariff under the MYT Regulations, 2011, were permitted to continue to file ARR and Tariff applications under the Tariff Regulations, 2005.

1.1.12 In terms of Regulation 101.2 of the MYT Regulations, 2011 "….. any proceedings before the Commission pertaining to the period till FY 2011, including Review Petitions, shall be governed by MERC (Terms and Conditions of Tariff) Regulations, 2005". Therefore, in regard to the present Petition for the years before FY 2011-12, (i.e., FY 2009-10 and FY 2010-11), the Tariff Regulations, 2005 are applicable.

1.1.13 ***Petition for Final True Up for FY 2009 – 10, and Annual Performance Review for FY 2010 -11 (Case No. 100 of 2011):*** On August 23, 2011, the Commission, during the proceedings of Case No. 24 of 2011, directed MSEDCL to file its Petition for Final True Up for FY 2009 – 10, and Annual Performance Review for FY 2010 -11. MSEDCL submitted its Petition (numbered as Case 100 of 2011), on July 12, 2011, wherein it projected a Revenue Gap of Rs. 5,155 Crore, as under:

Table 1: Revenue Gap as per MSEDCL Petition dated July 12, 2011

Particular	Rs. Crore
True Up Requirement for FY 2009-10	717
Provisional True Up for FY 2010-11	3,950
Revenue Gap	4,667
Additional Impact of ATE Order	487
Total Revenue Gap	**5,155**

1.1.14 The prayers made by the Petitioner in Case No. 100 of 2011 are as follows:

"1. To invoke the powers conferred to it under Section 94 of the Electricity Act 2003, to be read with Regulation 4, 99, 100 and 101 of MERC (Multi Year Tariff) Regulations, 2011 and to admit the Petition seeking Final True Up of FY 2009-10, Provisional True Up for FY 2010-11 and Annual Performance Review of FY 2010-11.

2. Pending final dispensation in the matter, to pass an interim Order without any delay permitting MSEDCL to recover the deviation in power purchase expenses for FY 2010-11 and assist MSEDCL to financially sustain its activities by way of imposition of an additional charge with immediate effect (Interim Order).

3. Pending final dispensation in the matter, to pass an interim Order without any delay permitting MSEDCL to recover the deviation in revenue estimation for FY 2010-11 and assist MSEDCL to financially sustain its activities by way of imposition of an additional charge with immediate effect (Interim Order).

4. To allow MSEDCL to recover the other factors of Revenue such as Load Factor incentives, Power Factor incentive / Penalty, Contract Demand Penalty and any other incentive/penalty provided to the consumers on a monthly basis in line with the FAC principle as the same is an uncontrollable cost.

5. To approve the True Up for FY 2009-10 as proposed by MSEDCL.

6. To approve the Provisional True Up for FY 2010-11 as proposed by MSEDCL.

7. To allow to recover the additional charges in case of any variation in the fixed cost of the Central Government Station as approved by CERC in line with the CERC (Terms & Conditions of Tariff) Regulations, 2009.

8. To approve the actual capital expenditure for FY 2009-10, revised capital expenditure plan for FY 2010-11 without limiting or restricting the same to only 50% of DPR Schemes, since MSEDCL has already complied with the directions of the Hon'ble Commission in respect of submission of Cost Benefit Analysis.

9. To approve the revision in tariff as proposed for different categories of consumers

10. To restore fixed charges for all categories of consumers as per Tariff Order dated 20th October 2006 and rationalise the fixed charges as proposed and may please consider deciding a road map to gradually increase the fixed charges to ensure that the fixed expenditure is fully recovered through fixed charges.

11. To approve the increase in the fixed charges of BPL Category from Rs. 3 per connection per month to Rs. 10 per connection per month

12. To approve the increase in the TOD rebate to Industrial Consumers from existing level of 85 paise per unit to 250 paise per unit applicable for consumption during night hours (10.00 p.m. to 06.00 a.m. next day).

13. To approve cross subsidy surcharge and all such other charges in relation with Open Access granted to consumers in accordance with the provisions of the EA 2003 for the year 2011-12 based on the correct level of cross subsidy for this year.

14. To modify the present provision in respect of "Billing Demand" and the Demand recorded during off peak hours to be considered for billing purpose.

15. To approve revision regarding load factor incentive for such consumers who exceed contract demand during night hours.

16. To approve the proposed energy charge payable by domestic consumers in the tariff slab of zero to hundred units per month equivalent to the landed cost of power purchase.

17. To allow to introduce a new consumer sub-category within Low Tension / High Tension non-domestic (Commercial) category as Government owned or 100% Government aided Schools (viz. Zilla Parishad Schools etc.) and Government owned hospitals (viz. District Civil Hospitals, Primary Health Centre etc.).

18. To allow to introduce new tariff slabs in LT non-domestic consumer category as (i) Zero to 200 units, (ii) 200 to 500 units, and (iii) above 500 units.

19. To remove ceiling of 10% on levy of FAC.

20. To grant any other relief as the Hon'ble Commission may consider appropriate.

21. To pass any other Order as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice.

22. To condone any error/ omission and to give opportunity to rectify the same.

23. To permit the Petitioner to make further submissions, addition and alteration to this Petition as may be necessary from time to time."

1.2 Technical Validation Session (TVS)

1.2.1 The Commission scrutinised the Petition of MSEDCL and asked MSEDCL to address certain data gaps vide letter dated July 28, 2011. Certain other information was also sought for in regard to the aforesaid Petition.

1.2.2 Subsequently, the Commission held a Technical Validation Session (TVS) on August 1, 2011. Post TVS, further data gaps were identified in the Petition filed by MSEDCL. These additional data gaps were communicated to MSEDCL by the Commission vide letter dated August 1, 2011.

1.2.3 On August 2, 2011, MSEDCL submitted its replies to the preliminary data gaps sent vide letter dated July 28, 2011. Another TVS was held by the Commission on August 17, 2011. Subsequently, MSEDCL submitted its replies to the additional data gaps.

1.2.4 Further to TVS held on August 17, 2011, a meeting was held between representatives of MSEDCL and staff of Commission at the Commission's office on September 7, 2011. The changes in MSEDCL's Petition and annexures submitted in response to the identified data gaps/ inconsistencies were verified. Thereafter, MSEDCL resubmitted the data formats with the proposed change in numbers. According to the revised submissions of MSEDCL, the following changes had taken place.

Table 2: Impact on MSEDCL's Revenue Gap due to revision of data

Particular	Net Impact on Gap (Rs. Crore)
Power purchase expenses for FY 2010-11	11.01
Cost of Power Procured for Implementation of ZLS in FY 2009-10	-22.30
Revenue generated on account of ZLS in FY 2009-10	49.00
Cost of power procured for implementation of ZLS in FY 2010-11	-77.50
Revenue generated on account of ZLS in FY 2010-11	-12.00
Return on equity for FY 2010-11	-7.61
Other expenses for FY 2009-10	1.83
Total	**-57.57**

1.2.5 Accordingly, MSEDCL's total Revenue Gap was revised to Rs. 5,097 Crore. Summary of the revised Revenue Gap is presented below as under:

Table 3: Revised Revenue Gap of MSEDCL

Particular	Rs. Crore
True Up Requirement for FY 2009-10	745
Provisional True Up for FY 2010-11	3,865
Revenue Gap	4,610
Additional Impact of ATE Order	487
Total Revenue Gap to be recovered	**5,097**

1.3 Admission of the Petition and Public Process

1.3.1 In accordance with Section 64 of the EA 2003, MSEDCL issued Public Notices in two English (The Times of India and Indian Express) and two Marathi (Lokmat and Sakal) newspapers inviting suggestions and objections from stakeholders on its Petition. The Public Notice was published in these newspapers on September 10, 2011. Further, MSEDCL made available copies of its Petition and Executive Summary (in both English and Marathi version) for inspection / purchase by members of the public at MSEDCL's offices. It was also made available on MSEDCL's website (www.mahadiscom.in) in free downloadable format. The Executive Summary of the Petition and copy of Public Notice were also made available on the website of the Commission (www.mercindia.org.in) in downloadable format.

1.3.2 The Commission received written objections expressing concerns on several issues, including tariff of MSEDCL, tariff categorisation, procedural issues, distribution losses, sales projections, power purchase, cross-subsidy, etc. The list of objectors, who participated in the Public Hearing, is provided in **Appendix- 1**. The Commission held combined Public Hearings for MSPGCL, MSETCL and MSEDCL at Amravati, Nagpur, Nashik, Pune, Aurangabad and Navi Mumbai during the period from October 7, 2011 to October 25, 2011, as per the following schedule. Consumer Representatives also participated actively in this process. Pursuant to the above, Public Hearings were held as follows:

Table 4: Schedule of Public Hearings

S. No.	Place/Venue of Public Hearing	Date of hearing

S. No.	Place/Venue of Public Hearing	Date of hearing
1	Amravati Hall No.1,Divisional Commissioner's Office Camp, Amravati, District – Amravati	Friday, 7th October, 2011
2	Nagpur Vanamati Hall, V.I.P. Road, Dharampeth, Nagpur, District-Nagpur	Saturday, 8th October, 2011
3	Nashik Niyojan Bhavan, Collector Office Campus, Old Agra Road, Nasik	Saturday, 15th October, 2011
4	Pune Council Hall, Office of The Divisional Commissioner, Pune District- Pune	Wednesday, 19th October, 2011
5	Navi Mumbai, Conference Hall, 7th Floor, CIDCO Bhavan, CBD, Belapur, Navi Mumbai	Sunday, 23rd October, 2011
6	Aurangabad Meeting Hall, Office of the Divisional Commissioner, Aurangabad, District-Aurangabad	Tuesday, 25th October, 2011

1.3.3 The Commission ensured that the due process, contemplated under law, was followed at every stage meticulously to ensure transparency and public participation. Adequate opportunity was given to all the persons concerned to submit their response in the matter. This Order is the detailed Order on the Petition filed by MSEDCL, which deals with the Final Truing Up of FY 2009-10, and Annual Performance Review of FY 2010-11. Various objections that were raised on MSEDCL's Petition after issuing the Public Notice both in writing as well as during the Public Hearing, along with MSEDCL's response and the Commission's Rulings have been summarised in Section 2 of this Order.

1.3.4 In regard to the suggestions and objections raised by the consumers, the Commission had invited the Government of Maharashtra, being owner of the State utilities, namely, MSPGCL, MSETCL and MSEDCL, to attend the Public Hearings in Case 100 of 2011, so that the voices of the electricity consumers are directly heard by them.

1.4 Interim Order in Case No. 100 of 2011, MA No. 4 of 2011 and Case No. 143 of 2011

1.4.1 On September 5, 2011, MSEDCL submitted a Miscellaneous Application in Case No. 100 of 2011 for interim financial relief. This Petition was numbered as Miscellaneous Application (MA) No. 4 of 2011 in Case No. 100 of 2011.

1.4.2 In MA No. 4, MSEDCL submitted that pending finalization of the draft amendment to MYT Regulations, 2011, and the Public Hearing process for finalization of Revenue Gap for FY 2009-10 and FY 2010-11, vis-à-vis determination of tariff, the Commission may, as an interim relief, allow MSEDCL to recover Rs. 4,847 Crore immediately (out of the projected Revenue Gap of Rs. 5,155 Crore), with effect from the billing month of September 2011. As per MSEDCL, this was necessary to save the electricity sector in Maharashtra from an impending financial crisis.

1.4.3 A hearing was held on MSEDCL's Petition for interim financial relief (MA No. 4 in Case No. 100 of 2011) on September 28, 2011 at the Commission's office. During the hearing, Shri Sharad Dabhade, Director (Operations), and Shri Abhijeet Deshpande, Executive Director (Commercial), appeared on behalf of MSEDCL. Dr. Ashok Pendse and Dr. S. L. Patil, authorised Consumer Representatives u/s 94(3) of the EA 2003 appeared on behalf of Thane Belapur Industries Association.

1.4.4 Keeping in view the fact that Public Hearings were scheduled for MSEDCL's main Petition (Case No. 100 of 2011), the Commission observed during the proceedings of MA No. 4 of 2011 conducted on September 28, 2011 that the consumers, general public and other stakeholders ought to be given an opportunity of being heard on the MA No. 4 of 2011 seeking interim financial relief. Unless and until such due process is complete, no such interim relief could be granted.

1.4.5 MSEDCL filed a Petition before this Commission on October 4, 2011, numbered as Case No. 143 of 2011, wherein MSEDCL sought review of the observation of the Commission made during the proceedings of MA No. 4 of 2011 conducted on September 28, 2011.

1.4.6 The Petition in Case No. 143 of 2011 was heard on October 14, 2011.

1.4.7 Having heard MSEDCL, the Commission was of the view that interim financial relief as sought by MSEDCL under MA No. 4 of 2011 in Case 100 of 2011 had been extracted from the Truing Up sought in the main Petition in Case 100 of 2011. Therefore, Case No. 143 of 2011 and MA No. 4 were an integral part of the main Petition in Case No. 100 of 2011. As the consumers would be bearing the amounts towards recovery of the gap sought in MA No. 4 of 2011 in Case No. 100 of 2011, the consumers deserved an opportunity to be heard by way of the Public Hearing process. Therefore, interim relief could be considered only after MA No. 4 of 2011 also followed the Public Notice / Public Hearing process.

1.4.8 The Commission was also of the view that MA No. 4 of 2011 sought to amend the tariff approved under the Order dated September 12, 2010 as the said Order still continued in the absence of any further Tariff Order. In that sense, any relief granted under MA No. 4 of 2011 would be defacto a Tariff Order. Therefore, a Tariff Order must follow the procedure under Section 64 of EA 2003, i.e., its publication in newspapers, hearing of public, etc. However, the procedure specified under Section 64 of EA 2003 was not followed by MSEDCL in the case of MA No. 4 of 2011.

1.4.9 Accordingly, MSEDCL's Petition in Case 143 of 2011 was dismissed as not maintainable. Consequently, MA No. 4 of 2011 was also dismissed as the process under Section 64 of EA 2003 had not been followed by MSEDCL.

1.4.10 However, MSEDCL had submitted that there was an emergent situation that needed to be addressed even before determination of tariff. Therefore, it was necessary to examine whether the situation warranted such attention of the Commission. From the submissions of MSEDCL, the Commission observed that the following factors had been highlighted by MSEDCL for its purported financial difficulty. MSEDCL had highlighted that it had to bear much higher power purchase cost mainly due to failure of MSPGCL to deliver the required energy from its Chandrapur power station and also due to late applicability of the Tariff Order for FY 2010-11 dated September 12, 2010. Consequently, MSEDCL had to resort to short-term borrowings and overdraft from its bank accounts. MSEDCL in its written Petition, and also during hearing held on September 28, 2011, mentioned that it was borrowing short-term fund and using overdraft facility to purchase additional power. It submitted that the total sanctioned loan amounts had been fully utilized. Banks and Financial Institutions had become reluctant to sanction additional limit. MSEDCL submitted that the total working capital loan sanctioned and utilised by MSEDCL had increased from Rs. 1,350 Crore in the month of April 2010 to Rs. 3,106.11 Crore as on August, 2011. This led to increase in interest cost during the period.

1.4.11 The Commission observed that the situations explained by MSEDCL were clearly not ordinary within the meaning of Sub-section (4) of Section 62 of the EA 2003. Hence, the tariff determined under the order dated September 12, 2010 could be amended in extraordinary circumstances. Hence, the Commission considered granting a part of the prayers in Case No. 100 of 2011 only after satisfying itself that there was a genuine need for addressing the problem.

1.4.12 Accordingly, the Commission approved a total amount of Rs. 3,265 Crore as part relief in Case No. 100 of 2011, in its Order dated October 31, 2011.

Table 5: Part relief approved in Order dated October 31, 2011

(Rs. Crore)

Particular	MSEDCL's Petition	Interim Approved
Deviation in power purchase expenses for FY 2009-10	155	143
Deviation in power purchase expenses for FY 2010-11	1,009	783
Income tax for FY 2009-10	126	126
ASC refund	212	0
Audit review of Bhiwandi DF	185	0
Shortfall in revenue from sale of power in FY 2010-11	2,529	2,023
50% of deviation in depreciation, interest on long-term loan and ROE for FY 2009-10	189	189
50% of deviation in depreciation, interest on long-term loan and ROE for FY 2010-11	336	0
Total Partial Relief	**4,742**	**3,265**

1.5 Organisation of the Order

1.5.1 For the sake of convenience, a list of abbreviations with their expanded forms has been included at the beginning of this Order. Thereafter, this Order is organised in the following Sections:

a) **Section 1** of the Order provides a brief background of the process undertaken by the Commission;

b) **Section 2** of the Order summarises the various objections raised by the objectors in writing as well as during the Public Hearing before the Commission. Each of the objections is followed by the response of MSEDCL and the Ruling of the Commission on each of the issues;

c) **Section 3** of the Order details the Commission's analysis and decisions on the Final Truing Up sought by MSEDCL for FY 2009-10;

d) **Section 4** of the Order discusses the Annual Performance Review for FY 2010-11. This Section also details the Commission's analysis on various components of revenue requirement of MSEDCL for FY 2010-11, including sales projections, distribution losses, energy balance, power purchase, O&M expenses, etc; and

e) **Section 5** of the Order discusses certain amounts claimed by MSEDCL as the successor entity of erstwhile MSEB for distribution of electricity. This claim is in relation to FY 2001-02. This Section also summarises the total Revenue Gap approved by the Commission following Final Truing Up of FY 2009-10, Provisional Truing Up of FY 2010-11 after Annual Performance Review, and the Commission's view on the additional amount claimed by MSEDCL pertaining to FY 2001-02.

2 OBJECTIONS, MSEDCL'S RESPONSE AND COMMISSION'S RULING

2.1 Tariff related objections

2.1.1 Increase in tariff

Janata Dal (Secular), Maharashtra submitted that since the previous APR Order, MSEDCL has increased the tariff four (4) times. Presently, MSEDCL has proposed tariff hike of 28% for BPL consumers, and 58% for 0-100 units domestic consumers. This increase is mostly on account of inefficient working of MSEDCL resulting in excess cost of administrative expense, repair and maintenance, interest, depreciation, repayment of loan, etc.

Shri Vitthal Lokhndkar, MNS, submitted that MSEDCL has proposed unjustifiable increase in tariff by 40% for domestic consumers with use within 100 units, which are mostly poor and middle class people.

Shri Anil Vyas, Shri Uday Apte & others submitted that MSEDCL has been proposing artificial revenue loss year by year and proposing tariff hike to recover the same from common people. Consumers' objections are not considered seriously. Farmers and students are suffering from increased load shedding.

Vidyut Dar Vadh Virodhi Sangharsh Samiti submitted that since last 7 yrs, MSEDCL has been increasing tariff. MSEDCL's Revenue Gap should be scrutinized. For BPL consumers, rate of Tata, Reliance & BEST are 40 paise/unit whereas MSEDCL has proposed 80 paise/unit.

Shivsena Grahak Sanrakshan Kaksha submitted that MSEDCL has proposed reduced tariff for commercial hoardings, malls, multiplexes, cinema halls, etc. which is an injustice to common and poor people.

Shri Ajit Abhyankar, and Gokul Shirgaon Manufacturers Association submitted that three months ago MSEDCL asked for entire cross subsidy surcharge to prevent tariff hike for poorer sections of society. Now even when the said cross subsidy surcharge is accepted MSEDCL is proposing a tariff hike that will adversely affect poorer sections of society. So, tariff hike is not justified.

Federation of Industries Association, Vidharbha submitted that MSEDCL has claimed a Revenue Gap of Rs. 4166 Crore with proposal to increase tariff by 14%. But in various orders, the Commission has already allowed to collect about Rs. 5029 Crore and increased tariff by 16.77%.

MSEDCL's Response

MSEDCL submitted that the tariff revisions happen after the approval of the Commission. Also, proposing tariff revision to meet the gap between expenditure and income as per the norms given by Regulations and expected revenue at present tariff doesn't mean that MSEDCL's expenses are uncontrolled & irresponsible.

Due to increasing cost of power purchase and other materials, revision of tariff is unavoidable. However, MSEDCL is taking steps to ensure minimum tariff hike by way of reducing losses, accurate billing by proper meter readings, increasing collection efficiency, reducing operation & maintenance expenses and efficient management.

Currently, MSEDCL is charging 107 paise per unit to BPL consumers and now it has proposed a tariff of 80 paise per unit, which is a relief to BPL consumers. Also, it is not relevant to compare the tariff of different companies for BPL category as every company has different revenue requirement, and has different policies.

In regard to excess cost of administrative expenses, repair, interest, depreciation, repayment of loan, etc, MSEDCL submitted that the Commission has allowed very less capitalisation citing the reason that MSEDCL did not submit cost benefit analysis (capitalisation rate of 50% for DPR schemes and 20% on non DPR schemes). MSEDCL has now submitted the cost benefit analysis for capital expenditure schemes undertaken in FY 2009-10 & FY 2010-11 and hence requested the Commission to allow capital expenditure related expense as submitted. MSEDCL has filed an Appeal before the ATE against methodology for approving capital expenditure & capitalisation.

2.1.2 Fixed Charges

Shri Vitthal Lokhndkar, MNS submitted that increasing fixed cost for industrial consumers will burden consumers as production cost will go up. MSEDCL should get financial support from State Government Budget.

Shri Harishchandra Chowdhary submitted that Fixed Charges should be cancelled. Also, domestic consumers (LT1) should be charged at 78 paise per unit for 1 -100 units and for consumption above 100 units, the present rate should be kept as it is.

Vidyut Dar Vadh Virodhi Sangharsh Samiti submitted that MSEDCL has proposed to double the Fixed Charges which will burden the consumers by Rs. 2200 Crore more yearly. This should not be allowed.

Shri Ajit Abhyankar submitted that Fixed Charges should not be hiked. For residential category Fixed Charges should be kept same as Rs. 30 for consumption up to 300 units. In the present competitive economy 120% hike in fixed charges for LT V consumers and increasing energy charges from Rs. 5.95 to Rs. 6.15 per unit will adversely affect the small and medium industries.

Pimpri Chinchwad Small Industries Association submitted that till the time MSEDCL is not able to provide continuous and quality supply of electricity, Fixed Charges should not be increased. Fixed Charges should be linked to supply availability.

Swami Ramanand Bharati Sahakari Sut Girani Ltd. submitted that 100% increase in Fixed Charges should be completely denied as this is due to the inefficiency and increased administrative expenses of MSEDCL. MSEDCL should instead be incentivised to undertake cost reduction programs.

Pune Nagrik Sanghatana, and M/s Maharashtra Elektrosmelt Limited submitted that the Commission decided to reverse the trend of increase in Fixed/ Demand Charges so that MSEDCL recovers greater portion of its fixed cost through variable energy charges. Fixed cost recovery was reduced (Fixed Demand Charges reduced from Rs. 330 per kVA per month to Rs. 300 per kVA per month in MERC Order of Case 65 of 2006) and recovery through energy charges was increased correspondingly to incentivize MSEDCL to increase hours of supply to consumers. Further as per Case 72 of 2007, the Fixed/ Demand Charges were reduced from Rs. 300 per kVA per month to Rs. 150 per kVA per month. Increasing the energy charges will ensure that bills are more directly linked to the consumption. Therefore there is no justification for MSEDCL to ask for increase in fixed charges.

MSEDCL's Response

MSEDCL submitted that total expenditure has two components; (i) variable component and (ii) fixed component. Variable component accounts for the expenditure that varies as per the availability of power, such as power purchase expenses, transmission charges, etc., whereas fixed component has to be incurred irrespective of availability of power, such as O&M expenses, depreciation, interest and finance charges, etc. MSEDCL further submitted that the variable charges depend on power purchased (MU), while fixed charges are independent of electricity purchased/handled.

If the comparison of fixed expenses is made with the fixed revenue at the existing tariff for FY 2009-10 and FY 2010-11, the following observations can be made:

a) Fixed expenditures are Rs. 5,238 Crore and Rs. 6,030 Crore respectively;

b) Fixed Charges billed based on existing tariff are Rs. 2,325 and 2,198 Crore respectively;

c) Presently only 44% and 36 % of fixed expenditure is being recovered from fixed charges levied on consumers; and

d) Fixed charges constitute 8.41% and 7.1% of the total revenue respectively, at the existing tariff.

The logic behind the said decision to reduce the Fixed Charges may not hold good for certain specific categories of consumers like HT-I Industries (Express feeder), HT-PWW (Express feeder), etc. since these categories of consumers are exempted from load shedding. Similarly, in case of HT Industries (non-express feeder) & HT-PWW (non express feeder) consumers are subjected to only 16 hours load shedding every week. MSEDCL further submitted that the decision of the Commission to reduce the Fixed Charges entirely defeats the principles stated by the Commission vide Tariff Order dated May 5, 2000 for determining the Fixed Charge component of the tariff. In the said Order the Commission has stated that the recovery of fixed costs should come from Fixed Charges and has also observed that the level of Fixed Charge prevailing from time to time being not compatible with the fixed expenditure, the Fixed Charge component of tariff needs to be gradually increased in due course. Though the increase in Fixed Charges seems to be 100%, MSEDCL has requested the Commission to increase Fixed Charges to the level of rates applicable before June 2008 and to standardize the Fixed Charges.

2.1.3 Demand Charges

Maratha Chamber of Commerce, Industries and Agriculture submitted that the tariff philosophy adopted by the Commission in the last couple of years was that the consumers' bill should directly be linked to the consumption considering prevalent power shortfall. MSEDCL in its Petition stated that the load shedding may continue to some category of consumers in FY 2011-12. Thus it is anticipated that the demand-supply shortage position in MSEDCL License area is going to persist in this year. It is expected that MSEDCL come up with a road map to eliminate the load shedding in its License area and also judiciously procure all available power from all resources. Until then, the Demand Charges should not be increased.

MSEDCL's Response

MSEDCL submitted that the major contributors to the Revenue Gap are deviation in power purchase cost (23%) and revenue estimation (50%), which are beyond the control of MSEDCL. Similarly, about 20% of contribution is due to approval of 50% of capitalisation against the DPR Schemes and 20% on the capitalisation of Non DPR Schemes. Hence, about 70% of the proposed gap is beyond the control of the MSEDCL. Therefore, MSEDCL is compelled to propose increase in tariff in order to serve its customer better along with supplying reliable and quality power.

2.1.4 Billing Demand

M/s Bharat Forge submitted that MSEDCL has proposed to modify the present provision of Billing Demand. MSEDCL has proposed that the Billing Demand recorded during off-peak hours be considered for billing purposes. In this connection, the objector suggested that this change be only made in respect of those consumers who misuse this provision and record demand more than the contract demand. Even additional penal charges are levied to such consumers. But all other honest consumers should not be deprived from the advantage of present provision of Billing Demand.

MSEDCL's Response

MSEDCL submitted that as per prevailing provisions, the demand recorded by a High Tension consumer during night hours is ignored for billing purpose, even when the same exceeds his Contract Demand. Further, such consumer, who has exceeded his Contract Demand during night hours, is otherwise considered as eligible for Load Factor Incentive. It has been observed that the consumers are taking undue advantage of such provision and are getting benefited by paying marginal penalty for exceeding Contract Demand against substantial quantum of Load Factor Incentive. MSEDCL has proposed to enhance the off peak consumption rebate (limited to High Tension Industrial consumers only) to 250 paise per unit from existing 85 paise per unit. It is expected that every High Tension Industrial consumer would attempt to get maximum benefit of the proposed provision. In case the present provision of "Billing Demand" is continued as it is, then the High Tension Industrial consumer may be tempted to purposely exceed his Contract Demand during night hours to ensure maximum consumption during night hours and in the process will be unduly benefited in Load Factor Incentive. In view of this situation, MSEDCL has proposed modification of the present provision in respect of "Billing Demand". Similarly, such consumers who have exceeded Contract Demand during night hours should also not be considered as eligible for "Load Factor Incentive". This modification has been proposed by MSEDCL to ensure that those consumers who are taking undue advantage of present provision are penalized.

2.1.5 Domestic tariff

Shri Mahendra Jichkar submitted that the tariff plan for Non Domestic (LT-II) category is more beneficial than Domestic (LT-1) category for consumption above 500 units, which seems to be against moral principles causing social injustice to Domestic consumers.

MSEDCL's Response

No reply was submitted by MSEDCL.

2.1.6 Industrial tariff

Federation of Industries Association, Vidharbha submitted that the proposed industrial tariff is not competitive in comparison to that of other states in India. Industrial tariffs of MSEDCL have been steeply increasing from 4th Tariff Order dated October 20, 2006 to 8th Tariff Order dated September 12, 2010 on the basis of relief from load shedding provided to industrial consumers. So, there is a need to take corrective measures to reduce industrial tariffs.

Vidyut Dar Vadh Virodhi Sangharsh Samiti submitted that since the last 7 yrs, MSEDCL has been increasing tariff. MSEDCL has manipulated Revenue Gap, which should be scrutinized. The tariff for industrial consumers is highest in the country and this tariff hike will not allow them to stand in international competition, when almost 50% of industries in industrial areas are shut down.

MSEDCL's Response

Total Revenue Gap after considering revenue shortfall for FY 2009-10, Provisional True Up for FY 2010-11 and impact of ATE Order is Rs. 5097 Crore, which requires an average increase of 14% in existing tariff. MSEDCL submitted that the projected Revenue Gap needs to be recovered to maintain viability of its business. Further, the tariff increase required on account of estimated Revenue Gap in FY 2010-11 is mainly attributable to increase in power purchase cost including transmission cost and the incentives / rebates provided to the consumers which are deducted from the Revenue.

Power purchase cost including Transmission cost constitutes about 85% of Revenue Requirement of MSEDCL, on which it has no control. Also the total cost has increased from Rs. 27,682 Crore in FY 2009-10 to Rs. 32,457 Crore in

FY 2010-11 i.e. it has increased by about Rs. 4775 Crore (about 15%). The major contributors to Revenue Gap are deviation in power purchase cost (23%) and revenue estimation (50%), which is beyond the control of MSEDCL. Similarly, about 20% of contribution is due to approval of 50% of capitalisation against the DPR Schemes and 20% on the capitalisation of Non DPR Schemes. Therefore, about 70% of the proposed gap is beyond the control of the MSEDL. Therefore, MSEDCL is compelled to propose increase in tariff in order to serve its customer better along with supplying reliable and quality power.

MSEDCL submitted that before comparing MSEDCL's tariff with other States in India, the following issues need to be considered:

a) The difference in power generation, power purchase expenses considering the diversity in the power generation sources, available power resources (Thermal/Hydro/Nuclear/NCE);
b) MSEDCL distributes electricity in the largest geographical area in India as compared to other Distribution Utilities;
c) Geographical diversity in the State;
d) Variation in power purchase cost in different States;
e) Diversity in consumer mix and consumption pattern;
f) Economic/Industrial/Agricultural Policy of the State; and
g) Other terms and conditions of tariff.

Considering the above parameters, it is not appropriate to compare stand alone tariff of MSEDCL with the tariffs of other State Distribution Utilities.

2.1.7 Reduction in HT tariff

Akhil Bhartiya Grahak Panchayat submitted that MSEDCL proposed to reduce tariff on sale of approximately 5,125 MU @ Rs. 1.10/unit and approximately 10,249 MU @ Rs. 2.50/unit to HT consumers. Reduction of tariff to this higher class of consumer is totally unwarranted.

MSEDCL's Response

No reply was received from MSEDCL.

2.1.8 EHV tariff

M/s Bharat Forge submitted that MSEDCL's present tariff structure for the last 5 years is only framed for High and Low Voltage categories. There is no separate category for EHV consumers and these consumers are considered in H.T. category. The objector felt that the basic tariffs should be based on various voltage levels at which consumers are supplied viz. A) Low voltage consumers supplied up to 230/ 440 volts; B) High voltage consumers supplied at 11/22/33 KV; and C) Extra High Voltage consumers supplied at 66 KV and above. This is obvious as cost of supply and T&D losses vary with change in voltage level. Taking this fact into consideration, it is but natural that cost of supply for EHV consumers is much less than H.T. and L.T. consumers. Since EHV consumers are connected on intra-state Transmission System fed by MSETCL, the operation and maintenance is carried out by MSETCL and not by MSEDCL. However, MSEDCL is treating EHV consumers as its consumers and is issuing bills applying H.T. tariffs. Further, H.T. losses are not involved as supply is at EHV. Therefore, only transmission losses are required to be taken into consideration.

MSEDCL's Response

MSEDCL submitted that it has been proposing tariffs based on categories that are according to the existing framework. The Commission has the rights to determine tariff and consumer category. The decision of the Commission in this regard is binding on MSEDCL and the consumers. MSEDCL does not have any right to change the consumer category.

Although MSETCL owns and maintains the transmission lines, the O&M expenses are considered a pass through. As per the Tariff Regulations, 2005, MSEDCL needs to pay these charges to MSETCL in the form of transmission charges. Also it is pertinent to note that transmission licensee is prohibited from directly supplying to consumers as per the provisions of the Electricity Act 2003.

2.1.9 LT Industrial tariff

Akhil Bhartiya Vij Grahak Samiti submitted that MSEDCL has proposed tariff for LT Industrial(>20kW) as Rs. 6.15 per unit, for HT express feeders proposed tariff is Rs. 5.95 per unit and for non express feeders proposed tariff is Rs. 5.45 per unit. This tariff structure is against small scale industries.

MSEDCL's Response

MSEDCL submitted that for HT I Industrial category, the proposed tariff is: Fixed Charge of Rs. 300 & Energy Charge of Rs. 5.95 per unit. For LT V industrial category the proposed tariff is: Fixed Charges of Rs. 220 & Energy Charges Rs. 6.15 per unit. In comparison, the fixed charges for LT category are lower than that for the HT category. Also, it needs to be noted that there are more losses incurred in supplying electricity to LT category than to HT category. Hence, the expense incurred in providing electricity to LT category is higher than that for HT category. Considering these facts, it cannot be said that the tariff structure is against small scale industries.

2.1.10 Agriculture tariff

Vidyut Dar Vadh Virodhi Sangharsh Samiti submitted that MSEDCL has increased tariff by 2 times in last 3 yrs for Agricultural consumers. Proposed per-HP tariff for Unmetered Agricultural consumers is also very high. Only 50% metering is done for Agricultural consumers and unmetered Agricultural consumers are being charged on higher units when average usage per HP per year is around 1000 to 1100 units.

Gokul Shirgaon Manufacturer's Association submitted that for Agricultural Category, the tariff has been increased by more than double in last 3 years. For unmetered Agricultural consumer category, Mahavitaran is proposing tariff hike from Rs. 3,360/HP/ annum to Rs. 4,188/HP/annum. This tariff hike for unmetered Agricultural consumers is unjustifiable.

MSEDCL's Response

MSEDCL submitted that as per the EA 2003, it is envisioned to reduce the cross subsidy surcharge in phased manner. Also as per the Tariff Policy, it is expected that the actual cost of electricity production be reflected in the tariff charged to the consumers. MSEDCL submitted that the policy for reduction of cross subsidy in a phased manner is under consideration of the Commission, which will be implemented after notification. Even though this policy is currently under consideration, there is no alternative to reduce the cross subsidy in a phased manner. Considering these facts, the proposed hike in tariff was made in order to reduce cross subsidy to Agricultural category and to soften the blow of abrupt increase in tariff. The Commission has directed MSEDCL to install meters for all agricultural consumers. MSEDCL has started acting on the said directive but, has come across resistance from the Agricultural consumers. In order to inspire unmetered Agricultural consumers to install meters, the proposed tariff hike for unmetered Agricultural consumers is higher in percentage terms than for the metered Agricultural consumers.

2.1.11 Usage wise tariff & subsidy

Shri Ajit Abhyankar submitted that tariff should be charged as per the usage of electricity by consumers. For low usage, below average tariff should be charged, while for higher usage of electricity, above average tariff should be charged and the system of subsidising should be continued.

MSEDCL's Response

No reply was received from MSEDCL.

2.1.12 Tariff hike for Railways

The Central Railways submitted that for HT III Railways category, existing tariff is 605 paise per kWh (580 paise energy charge + 25 paise FAC charge), with an additional energy charge of 32 paise per kWh, while the proposed tariff is 660 paise per kWh. Additional energy charge of 32 paise per kWh was approved by the Commission vide its Order in Case No. 69 of 2010 dated December 2, 2010. As per the said Order total additional energy charges at 24 paise per unit for the year were to be recovered in the remaining 9 months of the tariff year w.e.f. December 1, 2010 at 32 paise per unit. The same has been recovered hence there is no justification for its continuance. Instead of further rationalizing the tariff for the Railways to bring it closer to the cost of supply, as visualized in the EA 2003 and other guiding principles the proposed energy charges for Railways has been increased by 13.79%, which is unjustified and against the spirit of EA 2003.

Also, the objector submitted a comparison table for average tariff charged to the Railways by various SEBs to highlight that the rate charged by MSEDCL is highest amongst all. Therefore, the objector submitted, traction tariff requires immediate rationalization to a lower rate instead of the proposed tariff hike by MSEDCL.

MSEDCL's Response

MSEDCL submitted that the major contributors to Revenue Gap are deviation in power purchase cost (23%) and revenue estimation (50%) which is beyond the control of MSEDCL. Similarly, about 20% of contribution is due to approval of capitalisation of 50% of capitalisation against the DPR Schemes and 20% on the capitalisation of Non DPR Schemes. Therefore, about 70% of the proposed gap is beyond the control of the MSEDCL. Therefore, MSEDCL is compelled to propose increase in tariff in order to serve its customer better along with supplying reliable and quality power.

MSEDCL submitted that the tariff rate of MSEDCL prima facie appears to be on higher side compared to tariff rates of other State Utilities, however following issues need to considered:

a) The difference in power generation, power purchase expenses considering the diversity in the power generation sources, available power resources (Thermal/Hydro/Nuclear/NCE);

b) MSEDCL distributes electricity in the largest geographical area in India as compared to other Distribution Utilities;

c) Geographical diversity in the State;

d) Variation in power purchase cost in different States;

e) Diversity in consumer mix and consumption pattern;

f) Economic/Industrial/Agricultural Policy of the State; and

g) Other terms and conditions of tariff.

Considering above parameters, it is not appropriate to compare stand alone tariff of MSEDCL with the tariffs of other State Distribution Utilities.

2.1.13 Load factor

M/s Arvind Cotspin submitted that the load factor should be computed based on actual hours of supply. At present power is not available for 60 hours in a billing month. This is not being considered for computation of load factor. With the non availability of power for 60 hours in a month, no industry can achieve maximum load factor, though throughout the month the company is running with better load factor.

MSEDCL's Response

MSEDCL submitted that such matters of Tariff categorization and parameters to be considered for evaluation of Load Factor come under the purview of the Hon'ble Commission.

2.1.14 Cross subsidy

Yashvantrao Chavan Pratishthan, Shri Anil Shidore, and M/s Maharashtra Elektrosmelt Limited submitted that MSEDCL has changed its earlier policy regarding cross subsidy. State Government has not yet notified any guidance policy regarding subsidy. Yet, in order to reduce cross subsidy, MSEDCL has increased tariff by 40% & fixed charges by 100% for domestic consumers.

Hon'ble Commission ruled in Case 116 of 2008 that *"The Commission has determined the tariffs in line with the tariff philosophy adopted by it in the past, and the provisions of law. The tariff categorization have been determined so that the cross subsidy is reduced without subjecting any consumer category to a tariff shock, and also to consolidate the movement towards uniform tariff categorization throughout the state of Maharashtra"*. MSEDCL has not indicated the impact of cross-subsidy in proposed tariff; the Commission may direct MSEDCL to submit the same. The objector requested the Commission that while designing the tariffs for each category, the Cross-subsidy is to be brought within +- 20% of Average Cost of Supply.

MSEDCL's Response

No reply was received from MSEDCL.

2.1.15 Distribution collection loss (DCL) charges

MIDC Industrial Association submitted that category wise DCL charges should be made applicable to categories of Group C, D, E & F to reduce the distribution losses and to avoid burden on regular payee consumers.

MSEDCL's Response

MSEDCL is charging all consumers according to their category. There is no provision of charging DCL to various divisions according to their Distribution collection loss.

2.1.16 Change of category

Gokul Shirgaon Manufacturer's Association and Maharashtra Vij Grahak Sanghatana submitted that many small shops operated from homes in rural parts of Maharashtra are being charged commercial category tariff although as per Commission's Order in urban areas, Doctors can run O.P.D. from home. Auditors, CAs, Engineers and Lawyers can use their homes for commercial purposes. Similarly, the Commission should allow small shops in rural areas to operate from homes under domestic tariff.

MSEDCL's Response

The Petition concerning applicability of domestic tariff rate for small shops located in rural areas is pending with Hon'ble Commission. Hence, it would not be correct to comment on the same.

2.1.17 Average cost of supply

Federation of Industries Association, Vidharbha submitted that MSEDCL's Average Cost of Supply is one of the highest in India. Being an industrially progressive and developed State, Maharashtra should have the lowest power tariff in India. About 42% of electricity is being consumed by the industrial consumers of MSEDCL. Hence, MSEDCL should achieve lowest average cost of supply of all distribution companies in India. Ironically, year after year, MSEDCL's Average Cost of Supply has been growing leading to imposition of highest tariff, particularly on honest and efficient industrial consumers.

MSEDCL's Response

MSEDCL submitted that its current collection efficiency is about 98.5% excluding a certain category of consumers. MSEDCL states that distribution loss plays an important role in determination of Average Cost of Supply & MSEDCL has taken measures to reduce losses wherein it has reduced distribution loss in 5 yrs from 35% to current 17.28%.

The basic reason for increase in Average Cost of Supply is due to power purchase expense. Due to unavailability of water, the generating station at

Chandrapur was shut down. Consequently MSEDCL had to procure power from other sources to cater to its consumers, thereby leading to an increase in power purchase cost.

2.1.18 Implementation of Tariff Policy

Federation of Industries Association, Vidharbha submitted that Clause 8.2(2) of Tariff Policy states that AT&C loss reduction should be incentivized by linking returns in a MYT framework to an achievable trajectory. MSEDCL should introduce "Theft Charge" to the feeder and DTC level, where meters are installed, to reward honest consumers and punish dishonest consumers. Areas with Distribution loss greater than 40% should be charged with highest "Theft Charge".

MSEDCL's Response

MSEDCL submitted that this matter falls under the purview of the Commission who shall rightly issue the requisite directions.

2.1.19 Cost of supply & voltage level tariff

Federation of Industries Association, Vidharbha submitted that some of the SERCs switched over to determining tariffs by adopting cost of supply of each category in tune with Section 61 (g) of EA 2003. Many SERCs are adopting voltage level tariffs. Same approach should be followed in Maharashtra.

MSEDCL's Response

MSEDCL submitted that voltage wise cost of supply method for tariff designing is being implemented in very few States across India. At present, estimating voltage wise cost of supply is at a very premature stage and implementing the same is not feasible at this point of time. Therefore, a regular practice of estimation of tariff identified at HT and LT voltage level is being followed by MSEDCL.

2.1.20 Additional Energy Charge (AEC)

Ulhasnagar Manufacturer's Association submitted that in the tariff comparison table MSEDCL has considered AEC applicable for 9 months instead of that applicable for 12 months for calculating total energy charges and has compared it with proposed tariff to highlight increase. However, the actual increase proposed is much higher, i.e., 28 paise/ unit for LT V category against 20 paise/ unit shown & 20 paise/ unit for HT I category against 14 paise/ unit shown, if AEC based on 12 months is considered.

MSEDCL's Response

MSEDCL submitted that it had filed Petition for review of the Tariff Order dated September 12, 2010 (Case No 111 of 2009). Accordingly, the Commission passed an Order on December 2, 2010 (Case No. 69 of 2010). As per the said Order, the additional energy charges are levied in addition to the base tariff approved in Tariff Order in Case No. 111 of 2009 dated September 12, 2010. In the Review Order, the Commission has directed that for the first 9 months the levy of additional charges will be as per 9 months charges and after completion of 9 months, the additional charges will have to be levied as per 12 month charges. Accordingly, the 9 month charges were levied from December 2010 to August 2011 and 12 months charges are being levied from September 2011.

In this regard, MSEDCL clarified that in its Petition it has considered the tariff, which was prevailing at the time of submission of the Petition, i.e., in the month of July 2011 and comparison has been made accordingly.

Commission's rulings in tariff related objections

All the suggestions and objections made by various objectors as referred to in the aforegoing paragraphs have been considered by the Commission and addressed as follows.

The Commission observed that the objections raised were mainly in relation to increase in MSEDCL's tariff over the years and also in relation to the frequency of tariff revision that has happened in the recent past. Some objectors, who are affected by increase in Fixed/Demand Charges, have objected to the idea of any increase in such charges suggested by MSEDCL. Some objectors have proposed design of tariff with linkage to voltage of supply and fulfilling the objectives of the Tariff Policy to bring down cross subsidization amongst categories. Also, objection has been raised against unmetered agricultural consumption with suggestion that it tends to increase tariff for the paying consumers. Tariff design has been proposed linking it with circle wise distribution loss level.

While, the Commission finds merit in some of the objections, it cannot but observe that MSEDCL, as a licensee, is faced with increasing input costs on various fronts. Also, it cannot be denied that the distribution loss level in MSEDCL's system has reduced over the years to some extent, though not up to the desired level. Therefore, increase in tariff of a distribution licensee may not be avoidable. However, the Commission always carries out due diligence before approving any cost incurred by the licensees in Maharashtra, before passing that cost into Tariff. In relation to suggestions of designing Tariff fulfilling the objectives of the Tariff Policy, it may be noted that the Commission is carrying out a study for designing a roadmap for reducing cross subsidy in Maharashtra. Regarding unmetered agricultural connection, the Commission has made its observation in Section 2.14 of this Order dealing with unmetered agricultural connections.

It must be noted, that the present Petition of MSEDCL is for Truing Up of FY 2009-10 & APR for FY 2010-11 only and not about tariff fixation. Therefore, the objections raised are not relevant for this Petition. However, the objectors may come up with their objections/ suggestions/comments during the proceedings of tariff fixation.

In relation to the demand for change of category of consumers of small shops operated from homes in rural parts of Maharashtra, the MSEDCL may address this issue in its next Tariff Petition.

2.2 Interest on security deposit

Shri Harishchandra Chowdhary submitted that MSEDCL should give interest at a rate of 11% on security deposits of consumers, as loan taken from outside is at 11% interest rate.

Akhil Bharatiya Grahak Panchayat submitted that MSEDCL is required to include interest on consumer security deposit in APR in the month of April every year, but MSEDCL includes the same in July/ August. MSEDCL should pay extra interest for the delay.

MSEDCL's Response

MSEDCL submitted that it is trying its best to pay the interest on security deposit in April. However, due to certain administrative delays, it got paid in May or June, previously.

Commission's Ruling

Interest on security deposit is to be paid as per Tariff Regulations 2005. MSEDCL is directed to pay the interest on security deposit to the consumers in time.

2.3 Arrears

Shri Harishchandra Chowdhary submitted that in the Petition, MSEDCL has shown 60% arrears, if these arrears are fully recovered there would be no need for tariff increase.

Bhartiya Grahak Panchayat submitted that MSEDCL has arrears of around Rs.23,000 Crore in which big societies, Government offices, Agricultural consumers are defaulters. Free electricity to such defaulters should be stopped and arrears should be recovered to avoid tariff hike.

Shivsena Grahak Sanrakshan Kaksha submitted that arrears of Rs. 10,000 Crore should be recovered from major consumers.

Vij Grahak Sangh submitted that Government's policy of offering free electricity to farmers has resulted in arrears of Rs. 6,000 -7,000 Crore. Arrears pertaining to Mula Pravara are about Rs. 2,500 Crore. There is no action taken to recover these arrears. Number of employees trying to recover arrears is disproportionately lower than number of consumers. Recovery of arrears and meter reading on contract basis is harmful to the commercial establishment.

MSEDCL's Response

MSEDCL submitted that it is taking number of steps to recover arrears such as introduction of photo billing, Damini Squad (to check over the readings taken by private agency), reduction in average billing, Jeevan Sanjivani Yojana to reduce burden on Sarvajanik Nal Pani Yojana.

Other general measures undertaken are issue of notices, disconnecting supply temporarily/ permanently, filing a legal suit for recovery of arrears, encouraging consumers to pay arrears by giving various facilities, introducing concession schemes, contacting the defaulters personally by local offices, etc.

Commission's Ruling

The Commission vide earlier Order dated August 17, 2009, in Case 116 of 2008 had addressed the issues concerning arrear collections by MSEDCL. In the said Order the Commission observed,

> *"It is true that MSEDCL's receivables have reached alarming levels, however, it is necessary to understand that the amount of receivables of MSEDCL, has already been considered as revenue, the moment it is billed, by MSEDCL and the Commission for the purpose of determining ARR and tariffs, under the accrual basis of accounting for revenue, i.e., the revenue is booked once the bills are sent out, irrespective of whether the collection is done or not. Hence, recovery of the arrears will not result in reducing the proposed ARR of MSEDCL, and hence, will also not reduce the*

proposed tariff of MSEDCL. However, recovery of the arrears will certainly improve the liquidity position of MSEDCL, and since MSEDCL claims to have a poor liquidity position, it should strive to reduce the receivables by at least 20% to 25% every year, or write-off amounts gradually from the accumulated provision for bad debts that are deemed to be non recoverable despite the best efforts of MSEDCL. MSEDCL is reporting average collection efficiency ranging from 94% to 97%, while in order to reduce the receivables, MSEDCL's average collection efficiency will have to be higher than 100% on a sustained basis."

In continuation of the same view the Commission, in its Order issued on October 31, 2011, in the present Case, directed MSEDCL to submit a roadmap for recovery of arrears. The relevant portion of the Order is extracted below:

"Therefore, MSEDCL is carrying a huge amount of arrears in its books in excess of Rs. 15,000 Crore. It further submitted that out of this about Rs. 2,500 Crore are less than 12 month old. Given the fact that about Rs, 2,500 Crore of arrears is less than 12 month old, the Commission is of the view that MSEDCL can significantly improve its liquidity position by improving its collection efficiency. The Commission directs MSEDCL to submit a roadmap for recovery of this huge amount of arrears. It may be noted that recovery of arrears is key to improving the liquidity position of MSEDCL."

MSEDCL has not yet submitted the roadmap in this regard. Hence, MSEDCL is directed to submit the roadmap for recovery of arrears within thirty (30) days from the date of this Order.

2.4 New connections

Vij Grahak Sangh and Shri Shivaji Patil submitted that nowadays, firm quotation is given through online system. This system has been started so that Mumbai office can keep track of new connections. This process takes 8-10 days for new quotation. Earlier it used to take one day to get a firm quotation.

MSEDCL needs to enquire regarding the delays and should improve this process. New connection is required to be given within one (1) month, but in reality, consumers don't receive the connection within one month.

MSEDCL's Response

No reply was received from MSEDCL.

Commission's Ruling

The procedure for release of new connection is to be dealt with in accordance with the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005. Accordingly, the objector is advised to seek relief for its objection as per the guidelines specified in the said Regulations. The present Case is pertaining to True Up of FY 2009-10 and Annual Performance Review of FY 2010-11. Therefore the objection raised is not relevant to the present Case.

2.5 Uniform procedure

Vij Grahak Sangh submitted that there are no set protocols for undertaking processes and procedures in a uniform manner. Officers from different divisions work as per their will, which irritates consumers.

MSEDCL's Response

No reply was received from MSEDCL.

Commission's Ruling

The present Petition is for Truing Up of FY 2009-10 & APR for FY 2010-11 only. The objections raised by objectors are not relevant to this Petition.

2.6 Pune model

Shri Vivek Velankar submitted that 5 years ago, under the leadership of CII and some social organizations as well as some citizens, Pune Model was implemented, which promised freedom from load shedding. This model worked fine for 5 years, and citizens of Pune paid extra charges without any complaint. In July 2011, Mahavitaran cancelled this model claiming they are able to provide continuous supply without load shedding. But in the 3 month period, Mahavitaran again reverted to load shedding. Hence, Mahavitaran should again re-establish Pune Model by filing a Petition with MERC.

MSEDCL's Response

No response was received from MSEDCL in this regard.

Commission's Ruling

This objection does not pertain to the present Case of Truing Up of FY 2009-10 and APR of FY 2010-11. Therefore the objector is advised to approach MSEDCL for the same or can file a separate Petition before the Commission submitting its prayers.

2.7 Manipulated Revenue Gap

Gokul Shirgaon Manufacturer's Association and Maharashtra Vij Grahak Sanghatana invited the Commission's attention towards manipulation in Revenue Gap. The objector claimed that there is no reason for the fall in consumption by LT Industrial, PWW, other and railways. There has been excess consumption shown for agricultural pumps. This excess consumption is shown in order to support the Revenue Gap.

MSEDCL's Response

MSEDCL submitted that for FY 2010-11, the Order for the ARR has taken into account revenue deficit as well as the sales for the year. The Order came into effect from September 1, 2010 and hence, Mahavitaran was able to collect revenue as per approved revised tariff rate only for remaining 7 months. Hence, the revenue collected is likely to be lower than the revenue approved by the Commission. Also, the Commission did not consider various incentives (Load Factor Incentive, Power Factor Incentive) while calculating revenue as per revised tariff. Yet in reality, Mahavitaran has remitted to consumers Rs. 1,124 Crore as Load Factor Incentive and Power Factor Incentive. As a result of this, there has been Revenue Gap.

Commission's Ruling

The Commission has noted the objection raised. However, the objection is not supported by any analysis or evidence. Therefore, this objection cannot be considered by the Commission. However, the Commission finds merit MSEDCL's response.

2.8 Distribution loss

Janata Dal (Secular) Maharashtra submitted that distribution loss approved by the Commission for FY 2009-10 was 18.2%, whereas as per the Petition, actual loss is 20.6%. This gap of 2.4% in loss reduction results in a burden of Rs. 720 Crore which the consumers have to bear. Also, many high officials in MSEDCL do not take firm action against theft and some of the officials support theft.

Shivsena Grahak Sanrakshan Kaksha submitted that MSEDCL should take serious actions against theft and special teams should be formed to detect theft.

Federation of Industries Association, Vidharbha submitted that Maharashtra has 42% industrial consumption, which is highest in India. Still MSEDCL has high distribution loss. MSEDCL's loss is about 9,700 MU (11.28%) which translates to a revenue loss of Rs. 4,705 Crore on the basis of 485 paise per unit (average cost of supply). MERC has directed MSEDCL to reduce distribution loss to CEA acceptable level of 15% within 15 years. But MSEDCL has set a target of reducing T&D loss by 2% in a year. This is a poor loss reduction target compared to other States in India.

Yashvantrao Chavan Pratishthan submitted that MSEDCL reports electricity loss of 17%. National average for electricity loss is 15%. This shows MSEDCL's inefficiency in loss control. Mahavitaran has not been able to meet electricity loss reduction targets for FY 2009-10 and FY 2010-11 of 18.2% & 17.2%. Instead, Mahavitaran has reported actual leakages of 20.6% and 17.28%. The difference in target set and actual leakages should not be allowed to be recovered from consumers.

MSEDCL's Response

MSEDCL submitted that in its FY 2009-10 Petition it had proposed the distribution loss reduction of 1% for FY 2009-10, to achieve a target of 21.2%. But the Commission has directed MSEDCL to reduce the distribution loss by 4% to achieve loss target of 18.2%. Also, in accordance with 4% loss reduction target, the Commission has deducted the extra revenue of Rs. 750 Crore from total Revenue Gap of FY 2009-10 on account of excess electricity available for sale equivalent to 3% loss reduction. MSEDCL is making rigorous efforts in various areas including metering and billing and is conscious of the fact that reduction in distribution losses will enable reduction in costs and increase in revenue, which will benefit the power sector in Maharashtra.

MSEDCL submitted that it is taking the following steps to check and control the Distribution loss in its licensed area of supply:

a) **Technical losses:** Strengthening of network through Infrastructure Plan. Following works are covered in recently awarded contracts:

   (i) Erection of new 33/11 kV Sub stations at load centers;

   (ii) Erection of new 33/11 kV Lines;

   (iii) Augmentation of existing substation capacity;

   (iv) Reducing LT/HT ratio;

   (v) Reconductoring; and

   (vi) HVDS.

b) Commercial Losses:

(i) At present, there are 40 flying squad units working under the directorate of Vigilance & Security;

(ii) In addition to this, 120 special squads at O&M Divisional level are established;

(iii) If the theft is detected, FIR is lodged and assessed bill is charged at the rate of 1.5 times the regular tariff and compounding charges are levied as per the rule;

(iv) A reward of Rs. 1,000/- is declared for giving the correct information of theft. Further, the informer is entitled to get 5% of the amount recovered against theft. The name of the informer is kept anonymous;

(v) Special theft drive is arranged for Flying Squad to detect theft cases;

(vi) DTC metering is extended and Energy Audit is carried out to find out the Energy loss on that DTC, in order to trace the loss pockets;

(vii) Meter and CT Box are welded and properly sealed to avoid the theft;

(viii) Electronic meters are being installed in which 45 to 60 days history can be stored in the memory, which can be retrieved for further analysis;

(ix) To avoid theft, metering is provided in the closed KIOSK in case of high tension consumers;

(x) Accuchecks are provided to flying squad units. Hence, they are calibrating each and every meter at site while they visit the consumer's premises;

(xi) EDP Data Sheet, MRI, Energy audit are studied and analysis are carried out to find out the suspected consumers, who are indulging in theft of energy;

(xii) The Government vide Order No. A 1217/2005 dated December 12, 2005, has given special powers to all additional district and session Judges except Mumbai to run the theft cases under EA 2003;

(xiii) Govt. of Maharashtra vide its CR No. POS/3603/12PK/Pol-3 dated 31.01.2006 created six dedicated police stations at Kalyan, Pune, Nasik, Jalna & Nagpur in theft prone areas to deal with the theft of energy cases.

These police stations started functioning in September, 2006 and the one at Latur started functioning in December, 2008;

(xiv) High loss making Bhiwandi Circle is already franchised to M/s. Torrent Power since Year 2007. This experiment proved to be very successful and a trend setter in power distribution sector of the country; and

(xv) Encouraged by the Bhivandi experiment, MSEDCL handed over for franchising 3 divisions (Civil Lines, Gandhibag, Mahal) of Nagpur to M/s SPANCO in May 2011 and 2 divisions (1 & 2) of Aurangabad to M/s GTL Infra in April 2011. LOI has been issued to M/s Crompton Greaves for Jalgaon Franchisee Area in May 2011.

It is a well known fact that the present system of MSEDCL has been overloaded and deteriorated which is the main cause for increase of technical loss. This is the real challenge for MSEDCL.

Commission's Ruling

Commission had given directions to MSEDCL for reduction of distribution loss in its previous Tariff Orders. Accordingly, the Commission has computed the efficiency gain/ (loss) to be shared with consumers as per Regulation 19 of MERC (Terms & Conditions of Tariff) Regulations, 2005, though MSEDCL has not proposed to share its efficiency loss in this Petition in accordance with the said Regulations. This has been dealt with in Section 3.26 of this Order.

2.9 Mismanagement in operations of MSEDCL

Yashvantrao Chavan Pratishthan and Vivek Velankar submitted that machinery/ transformers which M/s Tata Power Company bought for Rs. 11 lakh were bought by MSEDCL for Rs. 17.5 lakh. These transformers were lying for about 2 years in the godowns till complaints were made regarding the same.

Every year about 400 accidents occur and these result in a loss of crores of rupees. These accidents result from low quality machinery and poor service of operators.

Instead of taking action on the concerned personnel, all the losses incurred are recovered from consumers through tariff hikes.

Shri Vivek Velankar drew attention to a news article published in Maharashtra Times on June 6, 2011. The article is based on information obtained under RTI. The article draws attention to the fact that 10 TOD meters were purchased by Pune Zone in 2009 by paying 1.5 times more money (total purchase price was Rs. 2 Crore). There was no rate contract for the purchase and the said meters are still not installed at consumer end.

MSEDCL's Response

No response was received from MSEDCL.

Commission's Ruling

The Commission directs MSEDCL to submit its reply to the Commission and the objectors within thirty (30) days from the date of this Order. Notwithstanding the aforesaid, the Commission clarifies that the objection raised by the objector is not germane for deciding the present petition.

2.10 Agricultural consumers

Shri Chandrasen Wankhede & other farmers submitted that Agricultural Consumers should receive a continuous supply of electricity for at least 8 hours. There should not be any discrimination in supply to urban and rural areas.

Shri Vijay Malokar, MNS, submitted that the details regarding number of Agricultural consumers, supply hrs to Agricultural consumers and number of Permanently Disconnected consumers are not given in the Petition.

MSEDCL's Response

No response is received from MSEDCL.

Commission's Ruling

The Commission directs MSEDCL to provide all details regarding agricultural consumers while submitting its next Petition for Tariff determination. The data shall be presented for the last five years. In the present Case, MSEDCL has submitted the following details to the Commission under a separate query raised by the Commission.

Table 6: Details of unmetered and metered agricultural consumers

Category	Particular	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Ag. Unmetered consumers	No. of consumers	1,491,514	1,441,319	1,407,668	1,535,159
	Load in HP	6,286,356	6,086,496	5,940,885	7,252,058
Ag Metered consumers	No. of consumers	1,091,519	1,227,228	1,393,567	1,621,818
	Load in HP	4,607,505	5,200,299	5,885,311	7,650,990

2.11 Discrepancies observed in data provided in the Petition

M/s Tata Motors has pointed out some discrepancies in the data provided as per Petition and data provided as per Audit Report of FY 2009-10 for total power purchase expenses for FY 2009-10, total power purchase cost to traders plus ZLS and net revenue from existing Tariff for FY 2009-10. Further discrepancies in Public Notice, Executive Summary and Main Petition for total power purchase from MSPGCL in 2009-10, Zero Load Shedding Units for FY 2009-10, total power available at intra-state periphery for FY 2009-10 and incentive paid by MSEDCL for FY 2009-10 have been highlighted.

MSEDCL's Response

MSEDCL submitted that in the executive summary (which is available for sale as well on website of MSEDCL), MSEDCL has put a footnote stating *"Subsequent to submission of compliance of data gaps received from the Commission, the values / figures considered in the main Petition for determination of Revenue Gap have been reconciled. After reconciliation, the Revenue Gap is Rs. 5097 Crore as against the net Revenue Gap of Rs. 5155 Crore projected in the main Petition. However, this has not resulted in any change in the proposed tariff schedule. The revised values / figures have been considered in Public Notice. Petition may be read along with the replies to data gaps which form an integral part of Petition"*.

MSEDCL then provided details regarding changes in figures for total power purchase, incentives and net revenue.

Commission's Ruling

MSEDCL had revised the numbers relating to power purchase, ZLS power purchase, ZLS revenue, etc. after it submitted it's Petition. Accordingly, it submitted relevant details while replying to various data gaps pointed out by the Commission during the Technical Validation Session. In the present Order, while Truing Up of FY 2009-10 & APR of FY 2010-11, the Commission has taken appropriate view on all the submissions made by MSEDCL in the relevant parts of this Order. Also, the objector may refer to Section 1.1 of this Order, where the Commission has provided detailed background of this Case, including the issues raised by the objector.

2.12 Tariff based on actual circle wise distribution losses of MSEDCL

M/s Maharashtra Elektrosmelt Limited submitted that in case of MSEDCL's Chandrapur & Vashi Circle, the losses are being maintained to the level of 7% and in some other Circles, the Distribution Losses are very high (25-34%). Further, in the Order in Case 42 & 97 of 2007, the Commission has viewed as under, *"It was directed that the circle level energy audits should continue, and the MSEB should operate these circles as profit centers with adequate monitoring. It was clearly stipulated that once, more reliable estimates of circle level T&D losses are possible, the Commission may revert to the differential T&D loss charge mechanism"*. Thus, MSEDCL should provide incentives to consumers in the circles, where losses are lower as compared to targets, by giving benefit based on efficiency.

MSEDCL's Response

No response was received from MSEDCL,

Commission's Ruling

The present case is not a tariff determination exercise for MSEDCL. The present case is in the matter of MSEDCL's Petition for Truing Up of FY 2009-10, and APR of FY 2010-11. Therefore, the issue raised by the objector cannot be addressed in these proceedings. However, the Commission directs MSEDCL to address this issue in its next Tariff Petition.

2.13 Publicity of Hearing

Shri Mangesh Sangale and Shri Shishir Shinde submitted that advertisement regarding Public Hearing from the portal of Commission does not lead to wide publicity of the event. Such an important decision should not be published in a limited and clandestine manner. The need to increase tariff should be given wide publicity through public media.

MSEDCL's Response

MSEDCL submitted that as per Section 90 of MERC (Conduct of Business) Regulations, 2004, the message as prescribed by Hon'ble Commission and the notice pertaining to True Up/ APR as validated by Hon'ble Commission was published in the newspapers.

Commission's Ruling

The notification of Public Notices is governed by the provision of Section 64 of EA 2003. Accordingly, the Commission directed MSEDCL to publish the Public Notice, which MSEDCL has complied with.

2.14 Unmetered connections

Shri Anil Vyas, Shri Uday Apte and others submitted that MSEDCL did not follow the Regulation of providing metered connections even after 10 years of the Regulation and is still providing unmetered connections.

Federation of Industries Association, Vidharbha submitted that MSEDCL contravened many rulings of the Commission and provision of EA 2003, Tariff

Policy, and NEP for completion of 100% metering and DTC metering. MSEDCL is intentionally ignoring completion of DTC metering which costs less than Rs. 3 lakhs. Commission should take stern action for non compliance.

Akhil Bharatiya Grahak Panchayat submitted that as per page 60, paragraph 3.3.5 of MSEDCL's Petition, MSEDCL released 1 lakh agricultural connections without meters in FY 2010-11. No explanation has been offered for the same. As per Section 55(1) of EA 2003, no connection should be given without meter. MERC had ordered MSEDCL to install meters to 18-19 lakh pumps which were unmetered. MSEDCL has not submitted the report regarding the same.

MSEDCL's Response

No reply was received from MSEDCL.

Commission's Ruling

The Commission noted that MSEDCL did not reply to the objections. However, the Commission directs MSEDCL as follows:

a) MSEDCL must submit an action plan for 100% completion of DTC metering and to submit sample (circle wise) DTC wise energy audit reports within thirty (30) days from the date of this Order;

b) MSEDCL must take up massive programme of metering of all the unmetered agricultural consumers and submit an action plan for the same within thirty (30) days from the date of this Order;

c) During Public Hearing MSEDCL indicated that in FY 2010-11 over one lakh new unmetered agricultural connections were released due to shortage of meters. MSEDCL must complete metering of these unmetered connections on priority within six (6) months from the date of this Order and report compliance of the same; and

d) Under any circumstances no new agricultural connection shall be released under unmetered category.

2.15 R&M expenses

Vidyut Dar Vadh Virodhi Sangharsh Samiti submitted that MSEDCL has shown Rs. 46.93 Crore as excess Repair & Maintenance cost on account of Cyclone (Phyan). The total expense on account of the cyclone in other areas of the State is Rs. 10.93 Crore, whereas it is Rs. 36 Crore for Baramati and Khedgaon divisions taken together. The skewed distribution of expenses should be verified by the Commission.

Vij Grahak Sangh, and Akhil Bharatiya Grahak Panchayat submitted that there is lack of day to day maintenance of assets of MSEDCL. This results in frequent faults in substations, burnt transformers and line faults. This results in loss to MSEDCL and consumer dissatisfaction. Most of the assets of MSEDCL are in very bad condition.

MSEDCL's Response

MSEDCL submitted that during Nov-Dec 2010, due to heavy rainfall and storms in some areas of State, there were heavy losses to poles, transformers, lines, etc. Baramati and Khedgaon divisions suffered from heavy losses due to which high cost was incurred for repair and maintenance of poles, transformers, lines, etc.

Commission's Ruling

The Commission has considered MSEDCL's submission in this matter while approving R&M expenses of MSEDCL. This has been dealt with in Section 3.5 of this Order.

2.16 Uncontrollable expenditure

Akhil Bhartiya Vij Grahak Samiti, Chamber of Small Industry Associations, and Shri N. Ponrathnam submitted that MSEDCL has termed all expenditures as uncontrollable which is unjustifiable. Distribution companies are supposed to estimate the cost incurred and the revenue collected. Considering all power purchases as uncontrollable and also the revenue collected (incentive given) as uncontrollable by the petitioner is baseless.

MSEDCL's Response

MSEDCL submitted that the power purchase cost has to be classified as uncontrollable only as its cost depends upon quantum of input energy, source of power, hydro-thermal mix, fuel cost etc in each year which are not fully under the control of the utilities. It submitted that power purchase costs are uncontrollable and volatile in nature, making it difficult to accurately estimate power purchase costs at the time of annual tariff fixation. The power purchase cost is beyond the control of distribution licensees and dependent upon following factors:

a) Price of Fuel (Coal /Gas) which are highly unpredictable as has been seen from past few years;
b) Availability of Power from New Sources;
c) Weather conditions such as extreme harsh summers/ cold which have direct impact on the demand; and
d) Demand Supply Gap of the power within the country.

Similarly, it is very difficult to estimate the PF Penalty & CD penalty/ Penal Charges, Load Factor Incentive, PF Incentive etc. at the time of filing the Petition.

Commission's Ruling

The Commission has taken appropriate view on different controllable and uncontrollable expenses by MSEDCL and accordingly has considered sharing of the gains/ (losses) with the consumers as per relevant Regulations. Sharing of gains/ (losses) due to uncontrollable factors has been dealt with in Section 3.26 of this Order.

2.17 Fuel Adjustment Cost (FAC)

MIDC Industrial Association submitted that MSEDCL has proposed to remove the 10% limit on Fuel Adjustment Cost which overburdens the consumers. So the provision should be kept as it is.

M/s Baramati Agro submitted that a cap of 10% on Fuel Adjustment Cost should be kept constant. FAC should be decided once in a year and should not be changed throughout the year.

MSEDCL's Response

MSEDCL submitted that Regulation 82 of the Tariff Regulations 2005, as amended and also the MYT Regulations, 2011 provides that the changes in cost of power generation & power procurement due to changes in fuel cost shall be recovered through Fuel Adjustment Cost formula. The said recovery does not provide levy of monthly FAC exceeding 10% of variable component of the prevailing tariff. The Commission can however alter such ceiling if it so desires. Regulation prescribes that any excess in FAC charge over and above the ceiling is to be carried forward and shall be recovered over such future period as may be directed by the Commission. Such ceiling unnecessarily aggravates the liquidity problems and adversely affects the financial health of MSEDCL.

The EA 2003 has, however, no such binding provision restricting levy of FAC to maximum of 10% of variable component. Instead, the various provision of the said Act emphasizes the need for full recovery of fuel cost. The spirit of the Act embodies the fact that utility shall move towards full cost recovery model.

The Tariff Policy also re-emphasizes the above spirit of the Act and specially prescribes that the uncontrollable cost should be recovered speedily to ensure that future consumers are not burdened with past cost. Hence, since FAC is an important component of variable cost, there should not be any reason to restrict the recovery of FAC.

Commission's Ruling

The cap on FAC is applied according to the provisions of the Commission's Tariff Regulations, 2005. FAC is allowed to be recovered by the licensee on a monthly basis. Also, as part of annual Truing Up and tariff determination exercise, the Commission considers all allowable power purchase cost for computation of revenue requirement (ARR). The Commission is of the view that if the licensee strictly follows the Regulations on power purchase, there would not be many instances when the FAC will be higher than the applicable 10% cap. Therefore, the Commission is not inclined to consider lifting the cap at present.

2.18 Subsidy by the State Govt

The Central Railways submitted that for FY 2010-11, revenue from LT industrial consumers included Rs. 360 Crore subsidy given to power loom and agricultural revenue included Rs. 2,138 Crore Agricultural subsidy (ref para 3.3.3 page 59 of APR Petition for FY 2010-11). Total subsidy was of Rs. 3,454 Crore. However, subsidy received from the Government of Maharashtra to MSEDCL has not been mentioned in the APR.

MSEDCL's Response

MSEDCL submitted that the APR calculated was inclusive of the total subsidy received from the Government of Maharashtra.

Commission's Ruling

The Commission has noted MSEDCL's reply and noted from the Annual Accounts of MSEDCL that subsidy has been considered as revenue. Accordingly, the Commission has trued up MSEDCL's expenses and revenue.

2.19 Excess expenditure

Urja Prabodhan Kendra submitted that MSEDCL seems to be on a borrowing spree as revealed by excess expenditure (almost 100%) on interest on working capital and interest on long-term loan capital as well as on depreciation. It pointed out that the approved and actual expenses (in Rs. Crore) are as below:

Year	Interest on working capital		Interest on long-term loan capital		Depreciation	
	Approved	Actual	Approved	Actual	Approved	Actual
2009-10	425	526	253	428	230	350
2010-11	458	673	305	607	249	492

MSEDCL's Response

MSEDCL submitted that the Commission has approved all Capital Expenses related expenditure such as interest expenses, depreciation and return on equity etc. after approving the capitalisation rate of 50% for DPR Schemes and 20% on Non DPR Schemes. Hence, MSEDCL felt that the basic approved figures are very low and the difference appears more. The Commission allowed very low capitalisation citing the reason that MSEDCL did not submit the Cost Benefit analysis. MSEDCL has now submitted cost benefit analysis for the capital expenditure schemes undertaken for FY 2009-10 and FY 2010-11 and hence requested the Commission to allow the capital expenditure related expenses as submitted. MSEDCL also submitted that it has filed an Appeal before the ATE against the methodology of MERC for approving the capital expenditure and capitalisation.

Commission's Ruling

As part relief in Case 100 of 2011, the Commission by an Order dated October 31, 2011, approved 50% of the deviations in the capitalisation related expenses in FY 2009-10. However, such relief was allowed subject to further prudence check by the Commission in the matter. Accordingly, the Commission has taken appropriate view in relation to capital expenditure and capitalisation of MSEDCL during Truing Up of FY 2009-10 and Annual Performance Review of FY 2010-11 in this Order. The issues raised by the objector have been dealt with in the Sections 3.9 and 4.10 of this Order.

2.20 Transmission charges

Urja Prabodhan Kendra submitted that as per Table 1, Sr. No. 9 of MSEDCL's Petition, transmission charges paid to Transmission Licensee during FY 2010-11 (Rs. 1,892 Crore) have increased by 26% over FY 2009-10 (Rs. 1494 Crore). However the increase in net revenue (Sr. No. 24) shows corresponding increase (increase from Rs. 26,604 Crore to Rs. 29,509 Crore) of only 10.9%. MSEDCL should clarify the high expenditure on Transmission.

MSEDCL's Response

MSEDCL submitted that the transmission charges paid to the Transmission Licensee are based on tariff approved by the Commission.

Commission's Ruling

The Commission noted MSEDCL's response, which is in order.

2.21 Average realization per unit

Urja Prabodhan Kendra submitted that average revenue realization per unit of electricity sold was Rs. 4.16 (Rs. 26,604 Crore / 63,941 MU) in FY 2009-10, which has declined to Rs. 4.14 (Rs. 29,509 Crore / 71,280 MU) in FY 2010-11. There was no reduction in the tariff during this period. MSEDCL should give the reason for lower realization per unit of electricity.

MSEDCL's Response

MSEDCL submitted that it has received some additional revenue in FY 2009-10 due to:

a) The Commission had allowed MSEDCL to recover additional FAC @ 38 paise per kWh in the bills of November 09 to January 2010;

b) The Commission permitted MSEDCL to recover the impact of the ATE Order dated August 25, 2009 in Interlocutory Application No. 243 of 2009 by way of Additional Charge to the extent of Rs. 785.90 Crore for FY 2009-10 from December 2009 to March 2010 @ 35.28 paise/kWh; and

c) The Commission allowed MSPGCL to recover the approved amount of Rs. 762.77 Crore in 12 equal monthly installments; MSEDCL accordingly made suitable adjustments in FAC to recover the same.

Hence, it is quite obvious that the revenue realized in FY 2009-10 would be higher by these additional approvals by Commission. If these additional amounts are deducted from the revenue realized during FY 2009-10, the revenue realization would be on lower side than claimed by the Consumer.

Similarly, the Commission has given the Tariff Order for FY 2010-11 on September 12, 2010, which was applicable from September 1, 2010. Therefore, for almost 5 months, MSEDCL had to charge the previous tariff. MSEDCL eventually got only 7 Months to recover the revenue at revised tariff. So it is quite obvious that MSEDCL realized lesser revenue due to less time to recover at revised tariff. Hence, eventually, the revenue realization for FY 2010-11 will be lower than that for FY 2009-10.

Commission's Ruling

The Commission has noted MSEDCL's reply and finds it is in order.

2.22 Legal expenses

Janata Dal (Secular) Maharashtra submitted that MSEDCL's legal expense for FY 2008-09 were Rs. 8.59 Crore, for FY 2009-10 were Rs. 19.17 Crore & for FY 2010-11 it were Rs. 11.27 Crore, which is expense on ATE, Supreme Court, etc., and are against the consumers. However, these expenses are met from money paid by consumers. Hence such expenses should not be allowed.

MSEDCL's Response

MSEDCL submitted that legal expense for FY 2009-10 and FY 2010-11 are only 0.06% & 0.03% of total expenses. It cannot be said that all the legal expenses are related to MSEDCL's matters in ATE and Supreme Court. MSEDCL files appeal against MERC's selected Orders only.

Commission's Ruling

The Petitioner is within its rights to prefer appeals against the Commission's Order as per the provisions of the Act. Hence, the expenses on this account cannot be disallowed unless it can be proved that such expenses were made without specific reasons. Therefore, the Commission cannot consider the objector's submission.

2.23 Power purchase expenses

Federation of Industries Association, Vidharbha submitted that for FY 2010-11, MSPGCL supplied 8,251 MUs lower and collected additional approved amount of Rs. 261 Crore. After making lower power purchase & collecting FAC, MSEDCL is claiming the requirement to collect additional amount of Rs. 1,076 Crore. Also, MSEDCL has purchased 2,470 MUs from Traders at the average rate of Rs. 4.21 per unit and 1,333 MUs under UI & IBSM with average cost of Rs. 3.48 per unit during FY 2010-11, which was not approved by MERC.

So MERC should defer allowing of additional cost of Rs. 178 Crore and 1076 Crore in power purchase expense for FY 2009-10 and FY 2010-11, and direct MSEDCL to reduce power purchase expenses during FY 2011-12.

MSEDCL's Response

MSEDCL submitted that it has considered power purchase expenses based on actual generation and actual monthly fixed charges and variable charges. The major reason for the increase in the power purchase expenses in FY 2009-10 is due to additional cost of Rs. 100 Crore in RGPPL charges. The additional cost was due to the CERC Order dated August 18, 2010 in Petition No. 283/2009 whereby CERC has revised the fixed cost for FY 2009-10 to FY 2013-14. Since MSEDCL is following the Mercantile (Accrual) method of accounting, the provision related to increase in fixed cost related to RGPPL as per the CERC Order has been accounted for in FY 2009-10.

The variation in the approved and the provisional power purchase expenses is mainly due to the fact that the generation from MSPGCL has reduced drastically. It is pertinent to note that the Chandrapur TPS of MSPGCL was completely shut down due to unavailability of water. Because of this, MSEDCL has to procure power from other sources including, traders, Exchanges at higher rates. Additional procurement from Traders/UI and other sources have resulted in additional cost of Rs. 1,078 Crore and the same is submitted for approval by the Commission.

While approving the power purchase cost for FY 2010-11, the generation from Parli U3 and Paras U6 is not considered by the Commission in total power purchase quantum approved for FY 2010-11, however, the same is considered in Form 2 of FY 2010-11. The O & M expenses and lease rent of Rs. 299 Crore including net energy charges @7.95 p/u for Ghatghar Hydro power station plant is taken into account.

Commission's Ruling

The Commission addressed in detail the power purchase expense of MSEDCL for FY 2009-10 & FY 2010-11 in its Order passed on October 31, 2011, in the present Case 100 of 2011. It has been further dealt with in the Sections 3.3 and 4.4 of this Order.

2.24 O&M expenses

Federation of Industries Association, Vidharbha submitted that with increase in sales of MSEDCL, overhead costs should decrease. It was submitted that MSEDCL has been spending Crores of rupees on MIS, etc. without any results in real terms. Also, MSEDCL is litigating in ATE, against almost every Tariff Order, for approval of higher O&M expenses. MERC should direct MSEDCL to submit the results of capital expenditure schemes in real terms, in order to demonstrate the extent of reduction in O&M expenses by implementing such schemes.

MSEDCL's Response

MSEDCL submitted that the increase in Administrative and General Expenses is due to inflation and increase in volume of transaction. MSEDCL being the largest Distribution Utility in India, has wide spread presence across the State of Maharashtra. With increased business volume and increased number of consumers, overall expenditure on computer billing, stationary expenses have increased. There is increase in special recovery drive, theft detection drive including Damini Squad, the expense on petrol and diesel expenditure on conveyance and travel has also increased considerably.

MSEDCL has been performing various Repairs and Maintenance activities as a step towards improvement of systems, reliability of supply, reduction in breakdowns, improvements in quality of supply & services to the consumers, reduction in response time and increasing preventive maintenance, etc, which is mandatory as per the EA 2003. The immediate requirement of sizeable R&M works arises mainly due to ageing effect and non-attendance to these R&M needs in the past owing to paucity of funds. The major expenses have occurred mainly due to the shifting and repair & maintenance of lines and cables and increase in material cost.

Commission's Ruling

The Commission has dealt with the O&M expenses of MSEDCL in the Sections 3.5 and 4.6 of this Order. Since MSEDCL's appeal is pending before the Hon'ble ATE, the Commission has not considered MSEDCL's views in this Order. O&M expenses are approved according to the principles set out by the Commission vide earlier Orders.

2.25 Capital expenditure schemes

Federation of Industries Association, Vidharbha submitted that MSEDCL has provided details of capital expenditure schemes, but not provided how much benefit is achieved in real terms for reducing tariff to consumers by implementing each scheme. Therefore, MERC must direct MSEDCL to show impact in monetary terms, in order to understand the extent of benefit received by consumers through these schemes. If expenditure is more than benefits achieved, then MERC should not allow the burden of expenditure of these schemes on consumers.

MSEDCL's Response

MSEDCL submitted that the Commission has approved all Capital Expenses related expenditure such as interest expenses, depreciation and return on equity etc. after approving the capitalisation rate of 50% for DPR Schemes and 20% on Non DPR Schemes. Hence, MSEDCL feels that the basic approved figures of MERC are very low and hence the difference appears more.

The Commission allowed very less capitalisation citing the reason that MSEDCL did not submit the Cost Benefit analysis report. MSEDCL has now submitted Cost Benefit analysis for the capital expenditure schemes undertaken for FY 2009-10 and FY 2010-11 and hence requested the Commission to allow the capital expenditure related expenses as submitted.

MSEDCL also submitted that MSEDCL has filed an Appeal before the ATE against the methodology of MERC for approving the capital expenditure and capitalisation.

Commission's Ruling

MSEDCL has submitted the Cost-benefit analysis of various schemes. The Commission has analysed the submissions of MSEDCL and has addressed this in the Sections 3.9 and 4.10 of this Order.

2.26 Interest on working capital

Federation of Industries Association, Vidharbha submitted that as per Audited Accounts of FY 2008-09, MSEDCL paid interest on security deposit to the tune of Rs. 3,545.65 Crore. The necessity of higher working capital limits of MSEDCL was due to an alarming rise in arrears to the tune of Rs.13,130 Crore. If 25% of this amount is collected, there would not be any working capital problem. Hence, Commission should not allow any amount on interest on working capital incurred by MSEDCL.

Akot MIDC Industries Association submitted that the contention of MSEDCL that they have not received Security Deposit amount of approx Rs. 1,800 Crore at the time of demerger should not be accepted.

MSEDCL's Response

MSEDCL submitted that after restructuring of MSEB in the year 2005, Consumer Security Deposit to the tune Rs.1,822.65 Crore appearing in the books of erstwhile MSEB was allocated to MSEDCL in the Opening Balance Sheet of MSEDCL. However, this was a book entry rather than cash available to MSEDCL in the form of Consumer Security Deposit. As per Tariff Regulations, 2005, MSEDCL is allowed normative working capital requirement based on such high Consumer Security Deposit (including Rs. 1,822.65 Crore. pertaining to erstwhile MSEB) which works out to be negative. As per Audited Accounts of FY 2008-09, Consumer Security Deposit amount is Rs.3,545.65 Crore. MSEDCL has collected Rs. 1,723 Crore as Consumer Security Deposit over the opening balance. However, the Final Transfer Scheme is still under consideration before Government of Maharashtra and the same is yet to be notified.

Commission's Ruling

The Commission has dealt with the interest on working capital as per the relevant Regulations of the Commission's Tariff Regulations. The same has been computed and approved by the Commission in Sections 3.12 and 4.13 of this Order.

2.27 Provision for bad debts

Federation of Industries Association, Vidharbha submitted that MSEDCL's claim of Rs. 415 Crore and Rs. 464 Crore as provision for bad debts in FY 2009-10 & FY 2010-11 respectively, is inefficiency of MSEDCL in collecting arrears and this is additional burden on honest consumers. Also, MSEDCL is claiming to provide provision of bad debt on 1.5% of revenue when the collection efficiency is more than 98.50%. Hence, Commission should not allow any provision for bad debt.

Akot MIDC Industries Association submitted that provision of bad debt on revenue from Agriculture subsidy and power loom subsidy cannot be allowed considering advance payment of these amounts. Also, revenue from franchisee should not be eligible for provision of bad debt.

MSEDCL's Response

MSEDCL submitted that the Commission allows provision for bad debts. Accordingly, MSEDCL has calculated the provision of bad debt as per MERC principle. Further, in Order dated September 12, 2010 in Case No.111 of 2009, the Commission has stated that *"MSEDCL should take efforts to recover the amount receivable, which is increasing every year, or write off the bad debts that are considered as not recoverable, despite MSEDCL's best efforts to recover the same"*.

Commission's Ruling

The Commission is of the view that bad debts are inseparable incidents of the business of electricity distribution. However, there should be efforts to minimize the bad debts to the best possible extent and organisations should have prudent policies to deal with bad debts recovery and write off. The Commission follows the principle that bad debts shall not exceed 1.5% of revenue in any financial year.

2.28 Prior period expenses & income

Federation of Industries Association, Vidharbha submitted that MSEDCL is claiming huge amount of Rs. 159.79 Crore during FY 2009-10 on account of prior period expenses. MERC should go through details minutely before allowing this kind of expenditure.

MSEDCL's Response

MSEDCL submitted that this is a specific request to the Commission. Hence, the Commission shall deal with it appropriately.

Commission's Ruling

The Commission has dealt with this issue in Section 3.19 of this Order.

2.29 A&G expenses

Akot MIDC industries association submitted that A&G expenses of MSEDCL is abnormally high. Administrative expenses on staff service, phones & security guards, etc can be reduced. Some of the higher posts in administrative functions can be curtailed. Most of the field work is being outsourced at high rates.

MSEDCL's Response

MSEDCL submitted that the Administration & General expenses have increased because of inflation and increase in volume of transaction. The increase in Administrative and General Expenses is not only due to inflation and increase in volume of transaction, but the following facts have also affected the estimation of the expenditure (specially, expenditure on conveyance and travels, vehicle expenses and computer stationery etc.).

a) Three new zones i.e. Nanded, Jalgaon and Baramati have become fully operational since the year 2009-10;

b) Three new Circles i.e. Nandurbar, Washim and Baramati have become fully operational since the year 2009-10;

c) Further, new divisions and sub-divisions have also been created since the year 2009-10;

d) Damini squad is operative since the year 2009-10;

e) Frequent drives are being taken to detect theft of power;

f) Number of consumers has increased significantly, hence, overall expenditure on computer billing, stationary has increased; and

g) While running the administration, there are certain events which cannot be anticipated in advance.

MSEDCL being one of the Largest Distribution Utilities in India, has wide spread presence across the State of Maharashtra. With increased business volume and increased number of consumers, overall expenditure on computer billing, stationary, etc. has increased. There is increase in special recovery drive, theft detection drive including Damini Squad, the expense on petrol and diesel expenditure on conveyance and travel has also increased considerably. Because of this, a deviation of Rs.18 Crore is seen in A&G expenses during FY 2010-11.

MSEDCL would also like to submit that the A&G expenses appear to be higher because the base figures approved by the Commission are not determined properly, and because the Commission approved the expenses based on the increase in Consumer Price Index (CPI) and Wholesale Price Index (WPI). MSEDCL has challenged the Methodology of the Commission before the Hon’ble ATE.

Commission’s Ruling

The Commission has dealt with this issue in the Sections 3.5 and 4.6 of this Order.

3 TRUING UP OF AGGREGATE REVENUE REQUIREMENT FOR FY 2009-10

MSEDCL, in its Petition in Case No. 100 of 2011, sought approval for Final Truing Up of expenditure and revenue for FY 2009-10 based on actual expenditure and revenue for FY 2009-10 as per Audited Accounts. In this Section, the Commission has analysed all the elements of actual revenue and expenses for FY 2009-10, and has undertaken the Truing Up of expenses and revenue after due prudence check. Further, for FY 2009-10, the Commission has approved the sharing of gains and losses on account of controllable factors between MSEDCL and the consumers, in accordance with Regulation 19 of the Tariff Regulations, 2005.

3.1 Sales

3.1.1 MSEDCL submitted the month-wise actual category-wise sales in FY 2009-10 in its APR Petition. The actual sales reported by MSEDCL (64,157 MUs), considering sales to Bhiwandi Distribution Franchisee area at input level (3,043 MUs), are higher than the sales originally approved (63,582 MUs) in the previous APR Order dated September 12, 2011 by 575 MUs.

3.1.2 The Commission noted that MSEDCL's statutory auditors have reported sales at 63,941 MUs in the Notes to MSEDCL's Audited Accounts for FY 2009-10. This represents the sales, including those to the consumers of the Bhiwandi Distribution Franchisee area (2,449 MUs).

3.1.3 During the proceedings in the previous APR Order, the Commission had obtained the details of category-wise sales from April 2009 to March 2010 from MSEDCL. MSEDCL had submitted that unmetered agricultural consumption had increased from earlier projected sales of 7,069 MU to 7,653 MU, but no rationale was submitted for the same. Therefore, MSEDCL's estimate of unmetered agricultural consumption, at 7,653 MU, was not accepted by the Commission.

3.1.4 The Commission observes that in the present APR Petition, MSEDCL has maintained sales to unmetered agriculture consumers at 7,653 MUs.

3.1.5 In a separate submission, in response to a letter submitted by the President, Maharashtra Veej Grahak Sangathana (MVGS), MSEDCL stated that it had supplied power to metered and unmetered agricultural consumers for 1309 hours and 1727 hours respectively in FY 2009-10 compared to 1305 hours and 1561 hours respectively in FY 2007-08. MSEDCL also submitted that daily supply in FY 2007-08 and FY 2009-10 was ten (10) hours and it was restricted to eight (8) hours in FY 2010-11. However, it was not explained how maintaining the same 10 hours of daily supply, the total hours of supply to the unmetered category increased from 1561 hours to 1727 hours, when for metered category there was no increase in hours of supply. In the same reply, MSEDCL also submitted that the number of unmetered agricultural consumers in FY 2009-10 reduced to 1,407,668 from 1,441,319 in FY 2008-09. Similarly, connected load of the unmetered agricultural consumers reduced from 6,086,496 HP in FY 2008-09 to 5,940,885 HP in FY 2009-10, a reduction of 2%. MSEDCL submitted the following details in its reply.

Table 7: MSEDCL's submission for unmetered agricultural sales

Description	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
No. of Unmetered Ag consumers	1,491,514	1,441,319	1,407,668	1,535,159
Connected Load in HP	6,286,356	6,086,496	5,940,885	7,252,058
Total Unmetered Ag Sale (in MUs)	7,323	7,101	7,653	8,476

3.1.6 The Commission observed that the specific consumption (kWh/HP/year) in FY 2007-08 and FY 2008-09 works out to 1,165 and 1,167 respectively, which is almost same. However, for FY 2009-10, it works out to 1,288. MSEDCL has not provided any explanation for such increase in specific consumption. Therefore, the Commission cannot consider MSEDCL’s submission of sales to LT IV Agriculture Unmetered Category.

Table 8: Unmetered agricultural sales summary

Particulars	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
No. of Unmetered Ag consumers	1,491,514	1,441,319	1,407,668	1,535,159
Load in HP	6,286,356	6,086,496	5,940,885	7,252,058

Particulars	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Total Unmetered Ag Sale (in MUs)	7,323	7,101	7,653	8,476
Units/HP	**1,165**	**1,167**	**1,288**	**1,169**

3.1.7 The Commission considered the specific consumption for FY 2009-10 at the same level as that of FY 2007-08, as MSEDCL submitted that in both these years it had supplied ten (10) hours per day. Accordingly, the Commission observed that the sales to LT IV Agriculture Unmetered Category in FY 2009-10 works out to 6,921 MUs, based on MSEDCL's submission that the connected load of this category was 5,940,885 HP. This is close to the Commission's approval of 7,069 MUs in the last APR Order. Therefore, in absence of any other justifiable explanation from MSEDCL, the Commission maintains its approval for the sales to LT IV Agriculture Unmetered Category in FY 2009-10 at 7,069 MUs instead of 7,653 MUs submitted by MSEDCL.

Table 9: Unmetered agricultural sales for FY 2009-10

Particulars	MSEDCL's submission	Approved after Truing Up
No of Unmetered Agricultural Consumers	1,407,668	1,407,668
Total Load in HP	5,940,885	5,940,885
HP/Consumer	4.22	4.22
Units/HP	1,288	1,165
Total Units	7,653	7,069

3.1.8 Accordingly, the summary of actual sales reported by MSEDCL and sales approved by the Commission for FY 2009-10 is given in the Table below:

Table 10: MSEDCL's actual sales in FY 2009-10

(MU)

Particulars	APR Order	Actual	Allowed after Final Truing Up
Total MSEDCL Sales (Bhiwandi DF Sales considered at Input Level)	63,582	64,157	63,574
Total MSEDCL Sales (Bhiwandi DF Sales considered at Retail Level)	-	63,941	63,357

3.2 Distribution losses and energy balance

3.2.1 In its Petition, MSEDCL submitted that in FY 2009-10, the actual distribution loss was 20.60% as against the approved level of 20.12%. While computing its energy balance, MSEDCL submitted that actual retail sales to consumers in Bhiwandi franchisee area was 2,499 MUs against input to the franchisee of 3,043 MUs. Based on this, total retail sales to consumers of MSEDCL stood at 63,941 MUs. In other Sections of this Order the Commission has approved total power purchase of MSEDCL at 85,474 MUs.

3.2.2 However, the Commission observed certain discrepancies in MSEDCL's submissions, which are summarized below:

Table 11: MSEDCL's submission on energy balance

FY 2009-10 (MUs)	Form-2	Form-Energy Balance	Form-11	Form-13	Form-15
Retail sale		63,941	61,114	64,157	63,941
Energy at distribution Periphery	85,474	80,526			80,526
Energy at transmission Periphery	85,474	84,418			

3.2.3 On query, MSEDCL submitted that Form 11 data (month-wise details of category-wise sales) was without consideration of sales to Bhiwandi Franchisee area consumers. Therefore, it had to be lower than the total retail sales. It further explained that the retail sale presented in Form 13 for revenue computation considered the sale to the Bhiwandi franchisee at input level (3,043 MUs). However, the other discrepancies were not explained by MSEDCL.

3.2.4 Regarding discrepancy in the energy at transmission periphery as presented in Form 2 and in the Energy Balance Form, MSEDCL explained that this number was derived based on metered data of energy purchase, retail sale, energy recorded at distribution periphery and the pooled transmission system losses reported by SLDC. Therefore, MSEDCL submitted that it had not computed the transmission losses in Form 2 to arrive at the energy input at transmission periphery.

3.2.5 MSEDCL submitted, *"MSEDCL also submits that it considers the metered energy at bus-bar of the generating station, metered energy at T <> D interface i.e. at*

Distribution Periphery and metered sales at consumer end. It further to state that MSEDCL considers metered energy at Distribution periphery and metered sales at consumer end and calculates the Distribution Loss of MSEDCL. The losses submitted by MSETCL taken as Intra State Loss and balance considered as inter-state loss. Thus interstate loss is derived figure. Accordingly, MSEDCL has calculated the Inter-State Losses in the Energy Balance Statement".

3.2.6 The Commission observed that in the Notes to Accounts of MSEDCL's Annual Report, the statutory auditors certified total energy purchase at 85,474 MUs, total retail sales at 63,941 MUs and energy at distribution periphery at 80,526 MUs. Therefore, the Commission has accepted the same for the purpose of energy balance computation. Based on SLDC report, the Commission has considered intra-state pooled transmission losses at 4.59% against MSEDCL's submission of 4.61%. Accordingly, the approved energy balance for MSEDCL is as below.

Table 12: Energy balance for FY 2009-10

Particulars	Units	2009-10	
		Actual	Approved after Truing Up
Within Maharashtra			
Purchase from MSPGCL	MUs	46,467	46,467
Purchases from other sources	MUs	11,286	11,286
Purchases from other sources (unaudited)	MUs	391	391
IBSM	MUs	126	126
Total Purchase within Maharashtra	***MUs***	***58,270***	***58,270***
Outside Maharashtra			
Purchase from Central Generating Stations, Sardar Sarovar, Pench	MUs	24,610	24,610
Traders	MUs	942	942
UI	MUs	549	549
Zero Load Shedding	MUs	1,494	1,494
Total purchase outside Maharashtra	**MUs**	**27,595**	**27,595**
Inter-State transmission loss	%	5.25%	5.31%
Total purchase at Maharashtra periphery	MUs	26,148	26,130
Total power purchase payable	MUs	85,865	85,865
Total power available at transmission	***MUs***	***84,418***	***84,400***

Particulars	Units	2009-10	
		Actual	Approved after Truing Up
periphery			
Energy available at distribution periphery			
Intra-State loss	%	4.61%	4.59%
Energy at distribution periphery	MUs	80,526	80,526
Distribution losses	%	20.60%	21.32%
Distribution losses	MUs	16,585	17,169
Energy sales	***MUs***	***63,941***	***63,357***

3.2.7 Therefore, the Commission has computed MSEDCL's distribution loss at 21.32%. This was against the approved target of 18.20%. MSEDCL's submission that the approved level of distribution loss were at 20.60% was not correct. In the APR Order dated September 12, 2010, in Case 111 of 2009, the Commission observed, *"As discussed earlier, the Commission has approved the distribution losses for FY 2009-10 and FY 2010-11 as 18.20% and 17.20%, respectively, as compared to MSEDCL's projections of 20.98% and 19.98 % FY 2009-10 and FY 2010-11, respectively. For FY 2009-10, for the purpose of Provisional Truing Up, the distribution loss of 20.12% indicated in subsequent submission by MSEDCL has been considered, however, the efficiency loss on this account has not been computed, and will be done at the time of Final Truing Up."*

3.2.8 Further, in the said Order, the Commission had stated, "Sharing of gain and losses will be done at the time of Final True Up of FY 2009-10, considering normative distribution loss of 18.20%".The Commission also observed that MSEDCL has not proposed to share the efficiency loss in accordance with the Tariff Regulations, 2005. In a separate Section of this Order, the Commission has computed the effective sharing of distribution losses in FY 2009-10 in accordance with Regulation 19 of the Tariff Regulations, 2005.

3.3 Power purchase quantum and cost

3.3.1 The Commission vide Order dated October 31, 2011 in Case No. 100 of 2011, MA No. 4 of 2011 and Case No. 143 of 2011 had dealt with considerable details on MSEDCL's power purchase expenses for FY 2009-10 and FY 2010-11.

3.3.2 In Order dated October 31, 2011, the Commission had approved the power purchase expense for FY 2009-10, as per the Audited Accounts of MSEDCL after adjusting for expenses for ZLS purchase and power purchase cost disallowed to MSEDCL during approval of Fuel Adjustment Costs (FAC) on a monthly basis. The reason for such disallowances was failure of MSEDCL to meet the target level of distribution loss reduction.

3.3.3 However, since the Commission has separately considered sharing of gains and losses due to controllable factors, including distribution loss, in accordance with Regulations 17 and 19 of the Tariff Regulations, 2005, disallowance of power purchase cost as adjusted for FAC is not considered in the Final Truing Up of power purchase cost.

3.3.4 As regards power purchase from Renewable Energy (RE) sources, based on actual power purchase details submitted by MSEDCL for FY 2009-10, it was observed that MSEDCL had purchased around 3.30 % of energy from renewable energy sources against the target of 6%. The Commission, vide Order in the matter of long-term development of renewable energy sources and associated regulatory (RPS) framework in Case No. 6 of 2006 dated August 16, 2006, while stipulating the enforcement of the RPS framework vide Para 3.1.9, stipulated as follows:

"Enforcement: The Eligible Persons will have to comply with their RPS obligations as stipulated under Clause 2.6.8 of this Order subject to conditions stipulated under cl. 2.10.7 and cl. 2.10.8. Shortfall in RE procurement by Eligible Persons shall be treated as non-compliance with the Commission's directives, and shall attract action as per appropriate provisions of EA 2003. The Commission directs MEDA to report such incidences of failure to comply by Eligible Persons, to the Commission. During first year of RPS operating framework, i.e., 2006-07, there shall not be any charge towards enforcement. However, the Eligible Persons shall be liable to pay at the rate of Rs. 5.00 per unit of shortfall in 2007-08, Rs. 6.00 per unit of shortfall in 2008-09, and Rs. 7.00 per unit of shortfall for 2009-10. Such charges towards shortfall in renewable energy procurement levied on distribution licensees will not be allowed as "pass through expenses under their Annual Revenue Requirement."

3.3.5 However, in the context of enforcement on account of non-fulfilment of the RPS target, Petitions for waiver of the RPS target were filed by MSEDCL, RInfra-D and BEST in Cases No. 104, 122 and 125 of 2008, respectively. The Commission, vide Order dated August 7, 2009, in the above mentioned cases stipulated as under:

"38. The Commission is of the view that while it has noted the efforts taken by licensees for RE procurement, the failure to generate RE power or install capacity sufficiently in advance, despite contracts being in place (in case of MSEDCL) will have to be addressed through suitable contracting arrangements. In this context, the Commission notes that one of the licensees, namely, TPC has been able to achieve the RPS target.

39. Further, considering year-to-year shortfall in RE capacity addition, the Commission is of the view that it would not be practical to expect that such shortfall can be made good on cumulative basis by the end of FY 2009-10. Hence, the Commission believes that in pursuance of Cl. 2.6.12 of RPS Order (Case 6 of 2006), it would be most appropriate to modify the RPS percentage requirement for FY 2007-08, FY 2008-09 and FY 2009-10 to be lower of (a) RPS target as specified under Cl. 2.6.7 or (b) actual achievement of RPS target in respect of each 'Eligible Person'."

3.3.6 In view of the above, the Commission has considered the actual power purchase of MSEDCL from renewable sources for FY 2009-10.

3.3.7 Therefore, for FY 2009-10, the power purchase expenses of MSEDCL, after Truing Up stands approved at Rs. 21,528 Crore, as given in the Table below:

Table 13: Power purchase cost for FY 2009-10

(*Rs. Crore)*

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Approved in Order dated Oct 31, 2011	Approved after Final Truing Up
Total Cost	21,373	22,347	22,347	22,347
Less: ZLS	-	*(819)*	*(819)*	*(819)*
Less: FAC disallowed	-	-	*(12)*	*0*
Total Cost for ARR	**21,373**	**21,528**	**21,516**	**21,528**

3.4 Transmission charges and SLDC charges

3.4.1 MSEDCL submitted that it had paid actual intra-state transmission charges including SLDC charges of Rs. 1,494 Crore, against the Commission's approval of Rs. 1,492 Crore. This is according to the Audited Accounts of MSEDCL. Therefore, the Commission approves the same for Truing Up of FY 2009-10.

Table 14: Transmission charges including SLDC charges for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Approved after Final Truing Up
Total Cost	1,492	1,494	1,494

3.5 O&M Expenses

3.5.1 Operation & Maintenance (O&M) expenditure comprises employee related expenditure, administrative & general (A&G) expenditure, and repair & maintenance (R&M) expenditure. MSEDCL's submissions on each of the heads of O&M expenditure for FY 2009-10, and the Commission's ruling on the Truing Up of the O&M expenditure are detailed below.

3.6 Employee expenses

3.6.1 MSEDCL submitted that the total actual employee expenses for FY 2009-10 were Rs. 1,926 Crore as against Rs. 2,402 Crore approved by the Commission in the previous APR Order. MSEDCL submitted that the main reason for this deviation of Rs. 476 Crore in the employee expenses was on account of erroneous projection by MSEDCL for gratuity and leave encashment on the higher side. In FY 2008-09, provision for gratuity and leave encashment was made by MSEDCL considering the impact of the pay fixation. For FY 2009-10, MSEDCL estimated Rs. 273.46 Crore for gratuity and Rs. 448.63 Crore for leave encashment. However, actual provision for gratuity and leave encashment for FY 2009-10 was only Rs. 120.27

Crore and Rs. 38.15 Crore respectively. MSEDCL requested the Commission to allow this deviation, as per actual audited expenses.

3.6.2 The Commission observed that the erroneous projection by MSEDCL for gratuity and leave encashment expenses on the higher side account for a deviation of Rs. 343 Crore in employee expenses from the amount approved in the previous APR Order.

3.6.3 MSEDCL added that it had considered Rs. 88 Crore as net employee expenses corresponding to deferred expenses for Earned Leave Encashment as per the Commission's Order dated June 20, 2008 on MSEDCL's APR Petition for FY 2007-08.

3.6.4 Considering the details of actual employee expenses submitted by MSEDCL, the Commission has accepted the actual employee expenses for FY 2009-10 under the Truing Up exercise. The capitalisation of employee expenses has been considered as per the actual capitalisation submitted by MSEDCL.

3.6.5 The summary of the employee expenses approved by the Commission after Truing Up has been shown in the following Table.

Table 15: Employee expenses for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Gross employee expenses	2,524	2,077	2,077
Less: Expenses Capitalised	*209*	*238*	*238*
Employee expenses (net after capitalisation)	2,314	1,838	1,838
Deferred expenses for Earned Leave Encashment	88	88	88
Net employee expenses	**2,402**	**1,926**	**1,926**

3.7 A&G expenses

3.7.1 MSEDCL submitted that it has challenged the methodology adopted by the Commission for approval of O&M Expenses in the previous APR Order dated September 12, 2010 and the Review Order dated December 2, 2010 before the Hon'ble Appellate Tribunal for Electricity (ATE) vide Appeal No. 42 of 2011.

3.7.2 MSEDCL submitted that the actual net A&G expenses incurred in FY 2009-10 was Rs. 303 Crore against Rs. 245 Crore approved by the Commission in the APR Order for FY 2009-10. The reasons for increase in A&G expenses for FY 2009-10 as submitted by MSEDCL are as follows:

a) **Conveyance and Travel Expenses:** The Commission, while determining the ARR for FY 2009-10, considered an increase of around 5.48% over the A&G expenses approved in FY 2008-09. However, petrol and diesel expenditure on conveyance and travel increased considerably. Moreover, expenses also increased on account of special recovery drive, theft detection drive, etc. Damini Squad was also established in FY 2009-10.

b) **Expenditure on Computer Billing/Expenditure:** The actual expenditure has increased due to increase in the number of consumers by 11.22 lakhs during FY 2009-10. Further, system of monthly billing was extended in some additional areas in FY 2009-10.

c) **Creation of New Circles/Zones:** Due to the creation of three new zones – Nanded, Jalgaon and Baramati, and four new circles – Baramati, Hingoli, Washim and Nandurbar, overall A&G expenses, on account of security charges, conveyance and travel, vehicle running and vehicle hire expenses, telephone and postage charges, etc., increased during FY 2009-10.

3.7.3 MSEDCL submitted that while running the administration, there are always certain events which cannot be anticipated in advance. Accordingly, without prejudice to any of its rights and contentions, MSEDCL submitted that the full extent of the deviation in A&G expenses be allowed while Truing Up.

3.7.4 MSEDCL further submitted that the actual expenditure might not be exactly the same as estimated by MSEDCL during the time of the previous ARR Petition or as approved by the Commission and there will always be variance between the actual and estimated expenditure. MSEDCL submitted that A&G expenses are incurred at the field office level, and reconciliation is done at the end of the financial year. This results in difference between actual and estimated expenses. MSEDCL submitted that the Commission may carry out prudence check of A&G expenses.

3.7.5 The Commission is of the view that A&G expenses, being controllable in nature, cannot be allowed to increase to the extent submitted by MSEDCL, and MSEDCL has to share the efficiency loss due to controllable factors as provided under the MERC (Terms & Conditions of Tariff) Regulations, 2005. Moreover, MSEDCL has failed to provide the quantified impact for each of the reasons provided for explaining the deviation in A&G expenses from the approved amount. MSEDCL did not respond to the query raised by the Commission on the deviation in A&G expenses.

3.7.6 The Commission has considered the A&G expenses as approved after the Provisional True Up for FY 2009-10 in the APR Order dated September 12, 2010. The Commission observed that the actual capitalisation rate for FY 2009-10 has increased considerably to 23%, from 9% in FY 2008-09. Given the large deviation in A&G capitalisation, which can vary from year to year, the Commission has approved A&G expenses as per the previous APR Order on a net basis.

3.7.7 The summary of A&G expenses approved in the APR Order, actual A&G expenses, and A&G expenses approved after Truing Up for FY 2009-10 has been shown in the following Table.

Table 16: A&G expenses for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Gross A&G expenses	269	391	
Less: capitalisation	25	88	
Net A&G expenses	245	303	245

3.7.8 The difference between the actual A&G expenses and the A&G expenses allowed after Truing Up for FY 2009-10 has been considered as a controllable efficiency loss and has been shared between MSEDCL and the consumers in accordance with Regulation 19 of the Tariff Regulations, 2005, as explained subsequently in this Section.

3.8 R&M expenses

3.8.1 MSEDCL once again reiterated that it has challenged the methodology adopted by the Commission for approval of O&M Expenses in the previous APR Order dated September 12, 2010 and the Review Order dated December 2, 2010 before the Hon'ble Appellate Tribunal for Electricity (ATE) vide Appeal No. 42 of 2011.

3.8.2 MSEDCL submitted that the actual R&M expenses for FY 2009-10 were Rs. 596 Crore compared to the R&M expenses of Rs. 481 Crore approved by the Commission in the APR Order for FY 2009-10. MSEDCL submitted that the increase of Rs. 115 Crore in R&M expenses in FY 2009-10 over the approved amount is attributable to the following reasons:

a) Various lines and cable network collapsed in several areas due to the cyclone Phayan. As a result, MSEDCL had to incur additional expenditure on R&M in the areas like Baramati, Khedgaon, Satara and Ratnagiri Divisions to the extent of Rs. 46.93 Crore;

b) The Nagpur Municipal Corporation (NMC) undertook works under Integrated Road Development Plan (IRDP) in Nagpur city. This required shifting of certain electric poles. As per the Hon'ble Supreme Court Judgement dated February 13, 2009, in Case No. SLP (C) 3994, MSEDCL was required to bear 50% of expenditure for shifting poles under the IRDP scheme in Nagpur city, amounting to Rs. 5 Crore. MSEDCL has claimed that this expenditure on account of shifting of poles was due to unpredictable circumstances;

c) Ageing of infrastructure and equipment; and

d) MSEDCL has been performing various R&M activities on a continuous basis for reducing breakdown and response time and increasing preventive maintenance.

3.8.3 MSEDCL submitted that Rs. 52 Crore of the deviation in R&M expenses were unpredictable and uncontrollable in nature, and not envisaged at the time of estimating the R&M expenses for FY 2009-10. Accordingly, the same may be passed through as an adjustment in the tariff of the Distribution Licensee.

3.8.4 MSEDCL further submitted that R&M expenses by nature cannot be considered controllable as it is necessary to incur them on as and when required basis to supply quality supply to the consumers on a continuous basis. Since the reconciliation of budget and actual figures is done at the end of the year, any additional cost incurred cannot be considered controllable as it is required to sustain the operations of MSEDCL.

3.8.5 MSEDCL submitted that the balance deviation of Rs. 63 Crore also be considered as uncontrollable in nature and allowed to be passed through.

3.8.6 As the Commission is undertaking the Truing Up of expenses for FY 2009-10 based on actual expenses subject to prudence check, the Commission has considered R&M expenses of Rs. 533 Crore for FY 2009-10. Rs. 481 Crore was approved by the Commission in the previous APR Order, while an additional expenditure of Rs. 52 Crore has been considered on account of the R&M activity carried out in the wake of the Cyclone Phayan and due to shifting of electric poles in Nagpur city, as submitted by MSEDCL.

3.8.7 The Commission has not considered the additional expenditure of Rs. 63 Crore claimed by MSEDCL, over and above the approved expenditure, since there has been no extra-ordinary circumstance necessitating additional R&M expenses of Rs. 63 Crore, and the reasons given by MSEDCL are normal annual occurrences. Also, the allowed R&M expenses as a percentage of opening GFA is already 3.97%, and cannot be allowed at higher rates of around 4.44% of opening GFA, as sought by MSEDCL. However, the difference between the actual R&M expenses and the R&M expenses allowed after Truing Up for FY 2008-09 has been considered by the Commission as a controllable loss and has been shared between MSEDCL and the consumers in accordance with Regulation 19 of the MERC (Terms & Conditions of Tariff) Regulations, 2005, as explained subsequently in this Section.

3.8.8 The summary of R&M expenses approved in the previous APR Order, actual R&M expenses and R&M expenses approved after Truing Up for FY 2009-10 has been shown in the following Table:

Table 17: R&M expenses for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Net R&M expenses	481	596	533

3.9 Capital expenditure and capitalisation for FY 2009-10

3.9.1 MSEDCL submitted that the capitalisation for FY 2009-10 was Rs. 2,065 Crore, out of which Rs. 1,247 Crore was on account of capitalisation of DPR schemes.

3.9.2 The project details, capital expenditure and capitalisation for DPR schemes, as submitted by MSEDCL, are shown below:

Table 18: DPR schemes in FY 2009-10

(Rs. Crore)

S. No	Scheme code No.	MERC Approved Cost	Capital Expenditure During the Year	Cumulative Capital Expenditure	Overrun of Capital Expenditure	Capitalisation During the Year	Cumulative Capitalisation	Excess Capitalisation
1	INFRA PLAN							
1.1	MSEDCL/FY08/75 (total 120 DPR)	9,014	707	1,144	-	245	408	-
2	GFSS							
2.1	MSEDCL FY/07/01	895	251	967	**72**	222	671	-
2.2	MSEDCL FY/07/02	1,300	161	268	-	126	224	-
2.3	MSEDCL FY/10/19	209	45	54	-	31	31	-
3	Fixed Capacitor Scheme							
3.1	MSEDCL FY/10/13	26	-	2	-	-	-	-
3.2	MSEDCL FY/11/13	37	-	-	-	-	-	-
4	AMR							
4.1	MSEDCL/FY-05/01	48	-	6	-	0	5	-
5	APDRP							

S. No	Scheme code No.	MERC Approved Cost	Capital Expenditure During the Year	Cumulative Capital Expenditure	Overrun of Capital Expenditure	Capitalisation During the Year	Cumulative Capitalisation	Excess Capitalisation
	PHASE I							
	MSEDCL/FY-06/02	1,137	58	1,456	**319**	104	974	-
	PHASE II							
	MSEDCL/FY-09/04	238	-	200	-	-	170	-
6	R-APDRP A							
	MSEDCL/FY-10/18	301	-	-	-	-	-	-
8	Internal Reforms (DTC Metering)							
	MSEDCL/FY-06/01, Phase I-I (Part -I & Part II)	92	19	121	29	11	107	14
	MSEDCL/FY-09/01 (Phase – III)	150	3	3	-	3	3	-
9	SPA: PE	2,462	283	283	-	273	273	-
10	P:SI	480	59	143	-	65	129	-
11	P:IE	188	50	50	-	0	0	-
12	DRUM	147	58	178	30	77	159	11
13	RGGVY	925	101	196	-	90	143	-
	Total DPR	17,647	1,795	5,071	451	1,247	3,297	26

3.9.3 The information as submitted by MSEDCL for FY 2009-10 for Non-DPR schemes is as below:

Table 19: Non-DPR schemes for FY 2009-10

(Rs. Crore)

S. No	Particulars	Capital Expenditure During the Year	Cumulative Capital Expenditure	Capitalisation During the Year	Cumulative Capitalisation
1	SPA: PE	105	666	127	451
2	P:SI	-	158	13	105
3	P:IE	90	169	157	221
4	FMS	1	1	0	2
5	MIS	0	30	-	30
6	Load Management	8	26	11	28
7	Dist. Scheme	-	-	-	-

S. No	Particulars	Capital Expenditure During the Year	Cumulative Capital Expenditure	Capitalisation During the Year	Cumulative Capitalisation
a	P.F. C. Urban Distribution	7	392	16	458
b	MIDC Interest free Loan Scheme	-	41	0	32
c	Evacuation	0	2	0	3
d	Evacuation wind Generation	0	11	-	11
8	R E Dist. (RE/ND)	-	-	-	-
a	DPDC/Non Tribal	162	440	179	483
b	DPDC/SCP	25	124	23	125
c	DPDC TSP + OPTSP	26	126	34	136
d	RE	21	58	26	67
9	JBIC	22	52	13	50
10	Backlog	181	528	218	626
11	Single Phasing	-	-	-	17
12	Agricultural Metering	-	41	-	34
13	New Consumer	-	63	-	53
14	ERP	-	-	-	-
	Total	**649**	**2,928**	**818**	**2,934**

3.9.4 The Commission vide Order dated September 12, 2010 directed MSEDCL to provide cost-benefit analysis of the DPR schemes. In the said Order the Commission observed as below:

"…The capitalisation estimated by MSEDCL for FY 2009-10 is more than double the capitalisation approved by the Commission in its previous APR Order. The Commission enquired regarding the actual (un-audited) scheme-wise capital expenditure and capitalisation for FY 2009-10, in reply to which MSEDCL submitted the actual scheme wise capitalisation for FY 2009-10 as Rs. 1690 Crore. The Commission observed that, out of the actual capitalisation of Rs. 1690 Crore submitted by MSEDCL, capitalisation of only Rs. 769.10 Crore pertains to the capitalisation of DPR schemes for which in-principle approval has been granted by the Commission. Further, it is also observed that MSEDCL has not submitted any details on the benefits accrued through such schemes against that projected in the DPR of such schemes, as was directed by the Commission in the previous APR Order. In view of the

above, the Commission approves a capitalisation of 50% of the capitalisation against DPR schemes for which, in-principle approval has been granted by the Commission, which amounts to capitalisation of Rs. 384.55 Crore. The Commission shall consider the disallowed capitalisation against such DPR schemes, once the benefits of such schemes are established by MSEDCL. As regards capitalisation of Non DPR schemes, the Commission had set a general rule in its previous APR Order that the capitalisation against Non DPR schemes shall have to be restricted to 20% of the capitalisation of DPR schemes. Accordingly, for the purpose of Provisional Truing Up for FY 2009-10, the Commission has considered Rs. 76.91 Crore towards the capitalisation of Non-DPR schemes. Thus, a total capitalisation of Rs. 461.46, including capitalisation of DPR and Non DPR schemes has been approved by the Commission for FY 2009-10."

3.9.5 MSEDCL had obtained in-principle approval for the DPR schemes proposed in this Petition. Subsequently, in line with the observations of the Commission in the previous APR Order, as quoted above, MSEDCL submitted cost-benefit analysis for the DPR schemes. The Commission found these submissions satisfactory. However, the Commission has also decided to conduct a scrutiny of the completed capital expenditure schemes on sample basis through an independent agency. For this purpose, the Commission has decided to appoint Administrative Staff College of India (ASCI), Hyderabad, as an Independent Agency. In particular, the Commission has decided to scrutiny completed schemes under the Gaothan Feeder Separation Scheme/ Infrastructure Plan Scheme and DTC Metering Scheme of MSEDCL on sample basis with one District from each Revenue Division as sample size. Based on the finding of ASCI in regard to efficiency of project management, time and cost overrun, etc. the Commission may revisit the capitalisation allowed in this Order. Accordingly, the Commission may recompute the revenue requirement of MSEDCL for FY 2009-10 and make necessary adjustments, if any, in Tariff Orders to be passed after receipt of the ASCI report.

3.9.6 The Commission, in previous APR Order, had approved 50% of the capitalisation for DPR schemes and restricted the capitalisation of Non-DPR schemes to 20% of that of approved DPR schemes for FY 2008-09 due to the non submission of cost-benefit analysis. MSEDCL, in its Petition, requested the Commission to consider the disallowed amount on interest, RoE and depreciation for FY 2008-09. However, MSEDCL has not provided any computational details of the same. The Commission will consider the disallowed capitalisation for FY 2008-09 when MSEDCL provides the computational details.

3.9.7 The Commission directed MSEDCL to submit the actual year-wise phasing of capital expenditure and capitalisation for each of the schemes, the reasons for excess capitalisation, if any, and the benefits accrued in each of the capital expenditure schemes. MSEDCL submitted information on the same on December 10, 2011.

3.9.8 The Commission noticed that there have been incidences of cost over-run in various DPR schemes, namely, "DTC metering - Phase 2" and "DRUM". Total expenditure capitalised by MSEDCL in these schemes till FY 2009-10 exceeded the in-principle approval granted for these schemes by Rs. 25.87 Crore.

Table 20: Cost over-run on capital expenditure schemes for FY 2009-10

(Rs. Crore)

Schemes	Total Approved Cost	Actual Capital Expenditure (till FY 10)	Cost Over-run (till FY 10)	Total Capitalisation (till FY 10)	Excess Capitalisation
GFSS Phase – I	894.71	966.80	72.09	671.03	-
APDRP Phase-I	1136.54	1455.91	319.37	973.91	-
DTC metering-Phase 2	92.49	121.15	28.66	106.97	14.48
DRUM	147.38	177.84	30.46	158.77	11.39
Total					**25.87**

3.9.9 However, MSEDCL submitted that during the time of execution of these schemes the scope of work underwent some revision. This coupled with increase in material cost resulted into the cost over-run. The Commission, found MSEDCL's explanations satisfactory. Accordingly, the Commission approves total capitalisation in FY 2009-10 as submitted by MSEDCL.

3.9.10 MSEDCL submitted that the capitalisation for Non-DPR schemes was Rs. 818.03 Crore in FY 2009-10, which works out to 65.6% of DPR schemes. The Commission in the APR Order of FY 2008-09 for MSEDCL had ruled that the total capitalisation on non-DPR schemes in any financial year shall not exceed 20% of that for DPR schemes. However, the Hon'ble ATE in its judgement dated August 4, 2011, in Appeal No. 199 of 2010, in the case of MSPGCL, had directed the Commission to approve the amount for non-DPR schemes carried out by the utility after prudence check for FY 2009-10 with a view that the rule of 20% shall not be applied retrospectively. Accordingly, the Commission has not applied this rule of 20% while allowing Truing Up of capitalisation of Non-DPR schemes of MSEDCL for FY 2009-10.

3.9.11 Total capitalisation of MSEDCL for FY 2009-10 as approved by the Commission is shown in the table below:

Table 21: Capitalisation for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Approved after Final Truing Up
DPR schemes	384.55	1,246.94	1,246.94
Non-DPR schemes	76.91	818.03	818.03
Total capitalisation	**461.46**	**2,064.97**	**2,064.97**

3.10 Depreciation including advance against depreciation

3.10.1 The depreciation for FY 2009-10 was approved at Rs. 425 Crore in the previous APR Order. In its present Petition, MSEDCL has claimed depreciation of Rs. 566 Crore for FY 2009-10. The Commission, after verifying the accumulated depreciation of MSEDCL's assets, observed that the accumulated depreciation was more than the maximum allowable accumulated depreciation of 90% according to the Tariff Regulations, 2005. Also, MSEDCL did not make any depreciation adjustment for retirement of assets.

3.10.2 The average depreciation rate as claimed by MSEDCL is 3.89%. The Commission, for the purpose of Final Truing Up, has recomputed the depreciation rate after disallowing depreciation for assets which have been depreciated more than the maximum permissible amount and adjusting for asset retirements. The revised depreciation rate has been computed as 3.79%.

3.10.3 Further, the Commission has computed depreciation based on the approved Opening GFA and the approved additions to GFA. Accordingly, the Commission approves a depreciation of Rs. 465 Crore for FY 2009-10.

Table 22: Depreciation for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	As submitted by MSEDCL	Approved after Final Truing Up
Opening GFA	11,256	13,439	11,256
Addition to GFA during the year	427	2,273	2,065
Retirement of assets during the year	(2)	(25)	(25)
Closing GFA	11,718	15,687	13,296
Depreciation	425	566	465
Depreciation (as a % of average GFA)	3.70%	3.89%	3.79%

3.10.4 It is further observed that the actual repayment of long-term loans in FY 2009-10 was lower than the approved depreciation. Therefore, the Commission has not considered any advance against depreciation in FY 2009-10.

3.11 Interest on long-term debts

3.11.1 The Commission vide APR Order dated September 12, 2010, had approved interest expenses of Rs. 257.45 Crore after considering the interest on debt corresponding to capitalised assets only. MSEDCL has submitted that the actual net interest expenses on long-term loans in FY 2009-10 were Rs. 428 Crore. The actual loan addition during FY 2009-10 reported by MSEDCL was Rs. 1477 Crore.

3.11.2 MSEDCL did not submit the amount of consumer contribution to the capital expenditure. However, the Commission, on verifying the same with the Audited Accounts, noticed that the funding pattern for capital expenditure in FY 2009-10 was as given below. The equity has been calculated by subtracting the amount from loan addition, grants and subsidies received towards capital assets and consumer contribution according to Schedule-2 of the Audited Accounts of MSEDCL.

Table 23: Funding pattern as per Audited Accounts of MSEDCL

(Rs. Crore)

S. No.	Particulars	Amount
1	Consumer contribution (CC)	363
2	Grants received during the year	445
3	Equity	160
4	Debt	1,477
	Capital expenditure	2,444

3.11.3 The funding pattern for capitalisation for FY 2009-10 has been considered in the same ratio as that of the capital expenditure. The amount of approved loan addition due to capitalisation was adjusted based on the ratio of approved capitalisation to actual capital expenditure.

3.11.4 The funding pattern for capitalisation for FY 2009-10 approved for MSEDCL is as under:

Table 24: Funding pattern of capitalisation for FY 2009-10

(Rs. Crore)

S.No.	Particulars	Amount
1	**Capitalisation approved**	**2,065**
2	As a % of capital expenditure	84.5%
3	Consumer contribution (CC)	306
4	Grants received during the year	376
5	Equity	135
6	Debt	1,248

3.11.5 The interest rate for the long-term loans has been considered as per the actual effective interest rate of MSEDCL. This has been computed as 10.4%. Moreover, the repayment has been considered equal to the depreciation allowed, i.e. Rs. 465 Crore. In this regard, it may be noted that the Tariff Regulations, 2005 of the Commission requires repayment to be considered in this manner. The relevant portion of the Tariff Regulations, 2005 are quoted below.

"The loan capital calculated using the normative debt:equity ratio under Regulation 61 above shall be assumed to be repaid each year based on a normative repayment schedule:

Provided that the amount of such normative repayment for a year shall be equal to the amount of depreciation on the fixed asset to which such loan relates:

Provided further that where the outstanding normative loan balance is less than the amount of normative loan repayment calculated as above, the repayment shall be assumed to be equal to the outstanding normative loan balance and no further amount shall be permitted on account of such loan..”

3.11.6 The summary of the interest expenses for long-term debt approved for FY 2009-10 is as follows:

Table 25: Interest on long-term debt for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Approved after Final Truing Up
Op. balance	2,254	4,025	2,254
Additions	253	1,477	1,248
Repayments	(350)	(381)	(465)
Cl. balance	2,157	5,121	3,037
Gross interest expense	269	475	275
Less: IDC	(11)	(47)	(36)
Net interest expense	257	428	238
Average interest rate (%)	12.2%	10.4%	10.4%

3.12 Interest on working capital, consumers’ security deposit, and other interest and finance charges

3.12.1 MSEDCL submitted that the actual interest on working capital in FY 2009-10 was Rs. 108 Crore, as compared to ‘NIL’ interest approved by the Commission vide previous APR Order.

3.12.2 It submitted that after restructuring of MSEB in the year 2005, ‘Consumer Security Deposits’ to the tune Rs.1680 Crore appearing in the books of erstwhile MSEB was allocated to MSEDCL in the opening Balance Sheet of MSEDCL. This amount was transferred as a liability to MSEDCL, but liquid assets equivalent to the consumer security deposit was not transferred to MSEDCL, thus affecting the working capital of the company from the date of un-bundling. Therefore, MSEDCL submitted that there was a shortfall in cash needed for working capital.

3.12.3 With regard to interest on working capital, the Tariff Regulations, 2005 clearly stipulate that working capital interest has to be considered on normative basis. In MSEDCL's case, because of the significant amount of consumers' security deposit lying with MSEDCL (as per its books of accounts), and the credit period of one-month considered on power purchase expenses, the normative working capital requirement works out to be negative. Hence, the Commission has considered the interest on working capital as NIL for FY 2009-10. However, the difference between normative and actual interest on working capital has been considered as a controllable loss and shared between MSEDCL and the consumers in accordance with Regulation 19 of the Tariff Regulations, 2005, as explained later in this Section.

3.12.4 MSEDCL submitted that the actual expenditure on security deposit of consumers and other finance charges amounted to Rs. 242 Crore, of which Rs. 184 Crore is for interest on consumer deposit. The Commission verified the same from the Audited Accounts of MSDECL and was found to be accurate. The Commission has allowed Rs. 184 Crore for interest on security deposit as submitted by MSEDCL for FY 2009-10.

3.12.5 The actual expenditure on other interest and finance charges has been accepted by the Commission. Thus, the interest on working capital, other interest and finance charges including interest on consumers' security deposit, approved by the Commission for FY 2009-10 works out to Rs. 242 Crore.

Table 26: Interest on working capital, consumers' security deposit and other interest and finance charges for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Working capital requirement as per Regulations	-	(607)	(498)
Interest on working capital	-	108	-

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Security deposit (Rs. Crore)	3,481	3,546	3,546
Interest on security deposit	190	184	184
Guarantee charges	26	18	18
Finance charges	12	30	30
Stamp duty	2	10	10
Service fee	-	-	-
Total other interest and finance charges	**230**	**350**	**242**

3.13 Incentives and discounts

3.13.1 In its Petition, MSEDCL submitted that the incentives and discounts paid/allowed to consumers during FY 2009-10 were Rs. 121 Crore (Rs. 120.40 Crore in the forms submitted) as compared to the Rs. 155 Crore approved by the Commission. This amount was verified with Schedule-20 of the Audited Accounts of MSEDCL, where incentives/discounts are shown as Rs. 120.40 Crore. The Commission therefore approves Rs. 120.40 Crore as incentives and discounts, as shown in the Table below:

Table 27: Incentives/ discounts for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Incentives/ discounts	155	120.4	120.4

3.14 Other expenses

3.14.1 MSEDCL submitted that other expenses for FY 2009-10 were Rs. 14.08 Crore as against the approved amount of Rs. 15.78 Crore.

3.14.2 The Commission examined the break-up of other expenses and observed that MSEDCL claimed all the expenses appearing in Schedule 19 of its Annual

Accounts. The heads under which such expenses were claimed included items like "bad debts written off', 'Intangible asset written off', 'Non moving items written off', 'Write off of deferred revenue expenditure', 'Incentive to distribution franchisee' and 'Small and low value write off / scraped' bad debts written off under this head. The Commission is of the view that the nature of such expenses, though permissible under Accounting Standards, cannot be admitted as part of regulated expenses. Because, for all such items the Commission has allowed expenditure to MSEDCL either under norms specified in the Tariff Regulations, 2005, or under principles set out by the Commission in various Orders relating to determination of Tariff. The Commission is already allowing provisioning for bad debts separately. Therefore, both provisioning as well bad debts written off cannot be allowed, since the amount actually written off has to be reduced from the provisions created by MSEDCL. However, expenses claimed as compensation for injuries, death and damages; and expenses towards staff welfare can be admitted as these expenses are essentially incurred towards welfare of people working for MSEDCL. Accordingly, the Commission has approved other expenses as summarised below.

Table 28: Other expenses for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Other expenses	15.78	14.08	10.92

3.15 RLC refund

3.15.1 MSEDCL submitted that it had refunded a total amount of Rs. 639 Crore to the consumers in FY 2009-10. In the previous APR Order dated September 12, 2010; the Commission had considered the amount of Rs. 500 Crore towards RLC refund in FY 2009-10. However MSEDCL submitted that it has actually paid Rs. 463 Crore as RLC refund for FY 2009-10. MSEDCL also submitted that the refund of RLC has been done as per the Commission's Order and methodology prescribed in the Commission's Order of Case No.144 of 2008. In Schedule-19 of its Audited Accounts, the expenditure due to refund of RLC is shown as Rs. 633.25 Crore.

This amount includes Rs. 176 Crore which was the RLC amount for repayment against efficiency gains. MSEDCL further submitted that the claimed amount also included Rs. 6 Crore paid to the Bhiwandi DF, which the franchisee had refunded to the consumers falling under its franchised area. To show evidence that the RLC refund has been actually paid to the Bhiwandi franchisee, MSEDCL submitted the audit report of the franchisee, IT report generated from MSEDCL's billing and invoice database and further proof through letters showing the amount refunded over the period. MSEDCL also submitted the copies of invoices raised on the distribution franchisee, M/s Torrent Power, wherein the adjustments for the RLC refund was made. MSEDCL also produced certificate from the statutory auditor of M/s Torrent Power certifying that the consumers were actually refunded the claimed amount. The Commission has found the evidences satisfactory and has accordingly approved the RLC refund paid to Bhiwandi DF.

3.15.2 The Commission has accepted the claim of MSEDCL and approves the amount of Rs. 639 Crore due to RLC refund.

Table 29: RLC refund for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
RLC refund for True Up	500	457	457
Add: RLC refund against efficiency gains	0	176	176
Total RLC refund as per Annual Accounts	500	633	633
Add: RLC refund (Bhiwandi DF)	0	6	6
Total RLC refund	**500**	**639**	**639**

3.15.3 MSEDCL also submitted in its Petition that the Commission had disallowed Rs. 4.17 Crore of RLC refund to the consumers in Bhiwandi franchisee area in FY

2008-09 for non-submission of audit report and also for the fact that it did not reflect in its audited annual accounting statements. Accordingly, it submitted similar documentary evidence of payment of RLC refund to the consumers of Bhiwandi in FY 2008-09 as it submitted for FY 2009-10 (discussed in the preceding paragraphs). Therefore, the Commission approves the same.

Table 30: RLC refund for FY 2008-09

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
RLC refund for True Up (Bhiwandi DF)	0	4.17	4.17

3.16 ASC refund

3.16.1 In the previous APR Order, the Commission had approved an ASC refund to the tune of Rs. 592 Crore for FY 2009-10. MSDECL submitted that the refund is done as per the Commission's Order and methodology as described in the Commission's Order in Case No. 144 of 2008. MSEDCL submitted that the ASC refund for FY 2009-10 was Rs. 475 Crore, of which Rs. 15 Crore was ASC refund for the Bhiwandi Distribution Franchisee. In its Petition, MSEDCL submitted that that the amount paid out to consumers in Bhiwandi Distribution Franchisee (DF) area has not been clubbed with the ASC refund figures shown in the Audited Accounts but has been accounted for by either providing credit to DF for onwards refund of RLC to eligible consumers or adjusting against the recovery of the outstanding arrears of the DF area. The expenditure on account of ASC was verified in Schedule-19 of the accounts submitted by MSEDCL and was found to be Rs. 460.20 Crores. To show evidence that the ASC refund has been actually paid to the Bhiwandi franchisee, MSEDCL submitted the audit report of the franchisee, IT report generated from MSEDCL's billing and invoice database and further proof through letters showing the amount refunded over the period. MSEDCL also submitted the copies of invoices raised on the distribution franchisee, M/s Torrent Power, wherein the adjustments for the ASC refund was made. MSEDCL also produced certificate from the statutory auditor of M/s Torrent Power certifying that the consumers were actually refunded the claimed amount. The Commission has found the evidences satisfactory and has accordingly approved the ASC refund paid to Bhiwandi DF.

3.16.2 Therefore, the Commission approves the amount of Rs. 475 Crore as claimed by MSEDCL for FY 2009-10.

Table 31: ASC refund for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
ASC refund (excluding to Bhiwandi consumers)	592	460	460
ASC refund to Bhiwandi DF	0	15	15
Total ASC refund	**592**	**475**	**475**

3.17 Provision for bad debts

3.17.1 MSEDCL submitted that the provision for bad debts was Rs. 415 Crore for FY 2009-10. MSEDCL's provision amounts to 1.5% of the revenue billed during FY 2009-10. The Commission verified the same from Schedule-19 of the Audited Accounts of MSEDCL and found it to be accurate. However, for the purpose of Truing Up, the Commission is not considering the revenue from sale of ZLS power. Accordingly, the Commission approves the provision for bad debts at 1.5% of the actual revenue (excluding ZLS) for FY 2009-10, which works out to Rs. 399 Crore.

Table 32: Provision for bad debts for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Income billed	27,716	26,621	26,621

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Provision for bad debts	416	415	399
Provision for bad debts as % of income billed	*1.50%*	*1.56%*	*1.50%*

3.18 Contribution to contingency reserves

3.18.1 MSEDCL submitted that the contribution to contingency reserves for FY 2009-10 has been considered as Rs. 29 Crore, in accordance with the MERC Tariff Regulations. The Tariff Regulations, 2005 stipulate that the amount appropriated under contingency reserve shall be invested in securities authorized under the Indian Trusts Act, 1882 within a period of six months of the close of the financial year.

3.18.2 The Commission verified the amount from the Profit & Loss statement of the Audited Accounts and found the amount to be accurate. The Commission further sought documentary evidence from MSEDCL to confirm that the contingency reserve has been invested in the approved securities. In reply, MSEDCL submitted documentary evidence to prove that the contingency Reserve amounting to Rs. 29 Crore had been invested in prescribed securities.

3.18.3 Accordingly, the Commission approves Rs. 29 Crore based on the Audited Accounts and documentary proof submitted by MSEDCL in this regard.

Table 33: Contribution to contingency reserve for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Contribution to contingency reserves	28	29	29

3.19 Prior period charges

3.19.1 MSEDCL submitted that net prior period credits/ (charges) amounted to Rs. 160 Crore for FY 2009-10. MSEDCL submitted that 65% of this adjustment was due to adjustment of consumer bills relating to the previous years. On verification of Schedule-21, the net expenses due to billing related issues and receipts from consumers amounted to Rs. 105.70 Crore out of the total 159.79 Crore. However, the Commission is of the view that MSEDCL's claim for any excess/ short provision for depreciation, taxation and interest cannot be accepted in relation to prior periods, as these have been approved by the Commission on an actual basis for all prior periods. Under the Regulatory process, capitalisation related expenses like depreciation and interest on long-term loans are approved based on approved capital cost. Income tax is allowed based on actual subject to prudence check. Also, the Commission cannot allow any claim for prior period operating, R&M and administrative expenses as they are controllable factors, and approved by the Commission as per the principles set out in all the previous Tariff Orders in the first control period. Accordingly, the Commission has approved prior period expenses of MSEDCL for FY 2009-10 as provided in the table below.

Table 34: Prior period expenses for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Net prior period credits/(charges)		**159.79**	**152.64**

3.20 Return on equity (RoE)

3.20.1 MSEDCL submitted that the Equity portion of the capital expenditure during FY 2009-10 was Rs. 425 Crore. However, based on the approved funding pattern discussed under interest expenses Section, the equity portion of capitalisation has been considered as Rs. 133 Crore against Rs. 359 Crore submitted by MSEDCL. The return on equity approved for MSEDCL for FY 2009-10 is Rs. 520 Crore, as given below.

Table 35: Return on equity for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	As per MSEDCL's claim	Allowed after Final Truing Up
Regulatory equity at beginning of year	3,185	3,441	3,185
Equity portion of capitalisation (excluding grants and consumer contribution)	95	359	135
Regulatory equity at the end of the year	3,281	3,800	3,320
Return on regulatory equity at beginning of the year	510	550	510
Return on equity portion of capitalisation	8	29	11
Return on excess portion of equity	-	-	-
Total return on regulated equity	**517**	**579**	**520**

3.21 Income tax

3.21.1 MSEDCL submitted that it has not paid any income tax in FY 2009-10, and hence, the Commission has not considered any expenditure towards income tax for FY 2009-10, since the same is based on the actual payment.

3.22 State Government assistance for power purchase

3.22.1 MSEDCL submitted that in FY 2008-09, MSEDCL was facing an unprecedented situation of shortage of power. The demand for power was increasing continuously without corresponding increase in generation, which was further aggravated by the shortfall in MAHAGENCO and RGPPL generation on account of coal and gas shortage. In order to bridge this gap and mitigate load shedding, the State Government had instructed MSEDCL to purchase additional power from available sources such as short-term power from traders or any other available sources even at a higher rate for the period of December 2008 to March 2009. MSEDCL had requested the State Government to grant financial assistance for purchase of such costly power from traders. Accordingly, GoM vide resolution dated May 29, 2009 approved a grant of Rs. 200 Crore per month for the period from March 2009 to May 2009. Therefore, total sanctioned grant was Rs. 600 Crore.

3.22.2 However, MSEDCL submitted that the actual cost of additional costly power procured (783.72 MUs) for the concerned period was Rs. 581.65 Crore. Considering the revenue from the additional purchase and applicable T&D loss, MSEDCL worked out the additional burden to be Rs. 428.05 Crore. In view of this, GoM has finally approved and passed GR dated March 10, 2011 and March 31, 2010 for financial assistance of Rs. 428 Crore to MSEDCL. MSEDCL submitted the relevant copies of the Govt. orders in this respect.

3.22.3 MSEDCL further submitted that the Commission had considered an amount of Rs. 600 Crore as Govt. assistance in this respect. Out of this, Rs. 200 Crore was trued up in FY 2008-09. Balance Rs. 400 Crore was considered by the Commission for determination of ARR for FY 2009-10 in the last APR Order dated September 12, 2010. Considering that Rs. 200 Crore was actually trued up in FY 2008-09, MSEDCL submitted that the actual amount that requires to be trued up in FY 2009-10 is the actual assistance of Rs. 228 Crore (Rs. 428 Crore – Rs. 200 Crore) against the Commission's consideration of Rs. 400 Crore at the time of last APR Order. Accordingly, MSEDCL has claimed a True Up amount of Rs. 228 Crore in FY 2009-10.

3.22.4 The Commission has accepted MSEDCL's submission and approves actual Govt. assistance of Rs. 228 Crore for Truing Up.

Table 36: Govt. of Maharashtra assistance for additional power purchase for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Govt. assistance	400	228	228

3.23 Non tariff income

3.23.1 MSEDCL submitted that non-tariff income for FY 2009-10 was Rs. 1,146 Crore as against Rs. 1,381 Crore approved in the APR Order. 76.7% of the non tariff income was on account of delayed payment charges and interest on arrears. The Commission verified the same from Schedule – 15 of the Audited Accounts of MSEDCL and therefore approves Rs. 1,146 Crore as non tariff income for FY 2009-10.

Table 37: Non tariff income for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Non tariff income	1,381	1,146	1,146

3.24 Income from wheeling charges

3.24.1 MSEDCL submitted that the income from wheeling charges was Rs. 18 Crore. The same was verified from Schedule-14 of the Audited Accounts of MSEDCL and found to be accurate. Accordingly, the Commission approves the same.

Table 38: Income from wheeling charges for FY 2009-10

(Rs. Crore)

Particular	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up
Income from wheeling charges	0	18	18

3.25 Revenue from Sale of Power

3.25.1 MSEDCL has submitted that the revenue from Sale of Power in FY 2009-10 was Rs. 26,604 Crore as against Rs. 27,710 Crore approved by the Commission in the previous APR Order.

3.25.2 The Commission vide Review Order dated December 2, 2010, corrected the overestimation of revenue to the extent of Rs. 1,092 Crore. Hence, the same has been deducted from the approved revenue in the previous APR Order in Case No.

111 of 2009 dated September 12, 2010. The revised revenue from sale of power stands at Rs. 26,618 Crore.

3.25.3 As per the Audited Accounts submitted by MSEDCL, the revenue is Rs. 27,642 Crore. However, this amount includes the revenue from ZLS sales and wheeling charges.

3.25.4 MSEDCL, in its Petition dated July 12, 2011 submitted that the "Revenue from ZLS power" was Rs. 972 Crore. However, in reply to the Commission's query on revenue from ZLS power, MSEDCL replied that the actual revenue from ZLS was Rs. 1,021 Crore. The Commission has accepted the same. The approved revenue from sale of power in FY 2009-10 is given below:

Table 39: Revenue from sale of power for FY 2009-10

(Rs. Crore)

Particulars	Approved in APR Order dated Sep 12, 2010	Revised revenue as per Dec'10 Order	Actual	Allowed after Final Truing Up
Revenue from sale of power as Audited Accounts	27,710	26,618	27,642	27,642
Less: revenue from ZLS sales	-	-	(1,021)	(1,021)
Less: revenue from wheeling charges	-	-	(18)	(18)
Revenue from sale of power	**27,710**	**26,618**	**26,604**	**26,604**

3.26 Sharing of Efficiency Gains & Losses for FY 2009-10 due to Controllable Factors

3.26.1 MSEDCL categorised all the expenditure as uncontrollable and hence, did not propose to share the gains and losses for the controllable heads of expenditure. The relevant provisions under the Tariff Regulations, 2005, stipulating sharing of gains/losses due to controllable factors are reproduced below:

"17.6.2 Some illustrative variations or expected variations in the performance of the applicant which may be attributed by the Commission to controllable

factors include, but are not limited to, the following: (a) Variations in capital expenditure on account of time and/ or cost overruns/efficiencies in the implementation of a capital expenditure project not attributable to an approved change in scope of such project, change in statutory levies or force majeure events;

(b) Variations in technical and commercial losses, including bad debts; (c) Variations in the number or mix of consumers or quantities of electricity supplied to consumers as specified in the first and second proviso to clause (b) of Regulation 17.6.1; (d) Variations in working capital requirements; (e) Failure to meet the standards specified in the Standards of Performance Regulations, except where exempted in accordance with those Regulations; (f) Variations in labour productivity; (g) Variations in any variable other than those stipulated by the Commission under Regulation 15.6 above, except where reviewed by the Commission under the second proviso to this Regulation 17.6. …

………

19.1 The approved aggregate gain to the Generating Company or Licensee on account of controllable factors shall be dealt with in the following manner: (a) One-third of the amount of such gain shall be passed on as a rebate in tariffs over such period as may be specified in the Order of the Commission under Regulation 17.10; (b) In case of a Licensee, one-third of the amount of such gain shall be retained in a special reserve for the purpose of absorbing the impact of any future losses on account of controllable factors under clause (b) of Regulation 19.2; and (c) The balance amount of gain may be utilized at the discretion of the Generating Company or Licensee.

19.2 The approved aggregate loss to the Generating Company or Licensee on account of controllable factors shall be dealt with in the following manner:

(a) One-third of the amount of such loss may be passed on as an additional charge in tariffs over such period as may be specified in the Order of the Commission under Regulation 17.10; and

(b) The balance amount of loss shall be absorbed by the Generating Company or Licensee.”

3.26.2 The Commission is of the view that all expenditure and revenue heads cannot be considered as uncontrollable, which would mean that the Licensee has no control over any of its activities, particularly when this is a regulated business, and the actual allowable costs have to be passed through to the consumers. The Commission has considered certain controllable expenses and revenue for computing the sharing of gains/losses in accordance with the provisions of Tariff Regulations, 2005, as elaborated in the following paragraphs.

3.26.3 **O&M Expenses:** The actual A&G and R&M expenses have been higher than that allowed by the Commission in the APR Order. Not all these expenses are uncontrollable and hence, the controllable components have been considered as efficiency loss and shared in accordance with the Tariff Regulations, 2005, as reproduced above. One-third of the efficiency loss has been passed on to the consumers through increase in the Trued Up ARR of FY 2009-10 and the balance amount of the efficiency loss has to be absorbed by MSEDCL. The summary of sharing of efficiency gain is shown in the Table below:

Table 40: Efficiency loss due to O&M expenses for FY 2009-10

(Rs. Crore)

S. No.	Particulars	Approved in APR Order dated Sep 12, 2010	Actual	Allowed after Final Truing Up	Efficiency Gain/ (Loss)	Efficiency Gain/ (Loss) shared with consumer
1	Administrative & General expenses	245.0	302.8	245.0	(57.8)	(19.3)
2	Repair & Maintenance expenses	481.0	596.2	533.0	(63.2)	(21.1)

3.26.4 **Interest on working capital:** The actual interest on working capital incurred by MSEDCL during FY 2009-10 is Rs. 108 Crore, as against 'Nil' normative interest on working capital approved by the Commission. As stated earlier, the Commission has considered the difference between the actual interest on working capital and normative interest, amounting to Rs. 108 Crore, as an efficiency loss and shared the same between MSEDCL and the consumers in accordance with the MERC Tariff Regulations. Thus, Rs. 36 crore (1/3rd of Rs. 108 Crore) has been passed on to the consumers through increase in ARR. The balance amount of the efficiency loss has to be absorbed by MSEDCL.

Table 41: Efficiency loss due to interest on working capital for FY 2009-10

(Rs. Crore)

S. No.	Particulars	Approved in APR Order dated Sep 12, 2010	Actuals	Allowed after Final Truing Up	Efficiency Gain/ (Loss)	Efficiency Gain/ (Loss) shared with consumers
1	Interest on working capital	-	108.2	-	(108.2)	(36.1)

3.26.5 **Distribution loss achievement:** MSEDCL reported the distribution loss in FY 2009-10 as 20.60%. However, the Commission has approved distribution loss for MSEDCL during FY 2009-10 at 21.32%. Considering the target distribution loss of 18.2%, there is an under-achievement of 3.12%. Therefore, this efficiency loss has to be shared between MSEDCL and the consumers in accordance with the Tariff Regulations, 2005. Sales to unmetered agricultural consumers in FY 2009-10 have been approved at 7,069 MUs, which is same as approved in the previous APR Order. The Commission has not approved the sales at the reported level as MSEDCL could not furnish justifiable explanation for the same. Therefore, the Commission directs MSEDCL to institute a study to determine the correct specific consumption for unmetered agricultural connections based on consumption of metered connections. MSEDCL must submit the report containing the findings of such study to the Commission within one year from the date of this Order. For the purpose of computing the efficiency losses by computing loss of revenue as a result of higher distribution loss, the Commission has considered the distribution loss level reported by MSEDCL, i.e. 20.60%. When MSEDCL will submit the report, the Commission will reconsider sales to unmetered agricultural consumers in FY 2009-10. Based on the findings of the report the Commission will recompute the sales for this category and accordingly decide the final distribution loss level for FY 2009-10 and make adjustments for sharing of gains/ (losses) for FY 2009-10. The adjustment will be considered in the next Tariff Order to be passed by the Commission after receipt of the report. However, if MSEDCL fails to present the report within one year from the date of this Order, the Commission will compute loss level on the basis of the sales to the unmetered agricultural consumers approved in this Order, i.e. 7,069 MUs, and accordingly make the adjustments for sharing of gains/ (losses) for FY 2009-10. However, the future adjustment shall be without any carrying cost either to MSEDCL or the consumers. In this Order, the Commission has computed the efficiency loss due to under achievement of distribution loss reduction based on the actual average billing rate of MSEDCL in FY 2009-10, as shown in the Table below:

Table 42: Efficiency loss due to higher distribution losses for FY 2009-10

Particulars	Unit	Amount
Normative distribution losses	%	18.20%
Actual distribution losses	%	20.60%
Actual energy input	MU	80,526
Normative sales	MU	65,870
Actual sales	MU	63,941
Additional/(Lower) sales due to higher distribution loss	MU	(1,929)
Average Billing Rate*	Rs/kWh	4.24
Additional/(Lower) revenue due to higher distribution loss	Rs. Crore	(817.22)
Efficiency Loss to be borne by MSEDCL	Rs. Crore	(544.81)
Efficiency Loss passed on to consumers	Rs. Crore	(272.41)
** Based on "Revenue from Sale of Power" as per Schedule 14 of Audited Accounts of MSEDCL excluding Standby Charges, Miscellaneous charges from consumers, wheeling charges and theft recovery income.*		

3.26.6 In accordance with the above analyses the sharing of efficiency gains/ (losses) in relation to A&G expenses, R&M expenses, interest on working capital and distribution loss will be allowed to pass through to the consumers. The summary of efficiency gains/ losses is as below:

Table 43: Summary of Efficiency Gain/Loss to be considered in ARR for FY 2009-10

(Rs. Crore)

Sl. No.	Particulars	Amount
1	A&G expenses	19.26
2	R&M expenses	21.07
3	Interest on working capital	36.06

Sl. No.	Particulars	Amount
4	Revenue loss (on account of distribution losses)	(544.81)
5	**Total addition to ARR**	**(468.43)**

3.27 Aggregate Revenue Requirement and Revenue Gap for FY 2009-10 after Truing Up

3.27.1 The Aggregate Revenue Requirement for FY 2009-10 after Final Truing Up is summarised in the Table below.

Table 44: Aggregate Revenue Requirement and Revenue gap for FY 2009-10

(Rs. Crore)

S. No.	Particulars	Approved in APR Order dated Sep 12, 2010	Actuals	Allowed after Final Truing Up
1	Power purchase expenses	21,373	21,528	21,528
2	Operation & Maintenance Expenses			
2.1	*Employee expenses*	2,314	1,838	1,838
2.11	*Deferred expenses for earned Leave encashment as per Commission's order dated 20.06.2008*	88	88	88
2.2	*A&G Expenses*	245	303	245
2.3	*R&M Expenses*	481	596	533
3	Depreciation, including advance against depreciation	425	566	465
4	Interest on long-term loan capital	253	428	238
5	Interest on working capital and on consumer security deposits	230	350	242
6	Provisions for bad debts	416	415	399
7	Other expenses	16	14	11
8	Income tax	-	-	-
9	Transmission charges paid to Transmission Licensee	1,492	1,494	1,494
10	Contribution to contingency reserves	28	29	29
11	Incentives/discounts paid to consumers	155	120	120
12	Sharing of gains/(losses)	-	-	(468)

S. No.	Particulars	Approved in APR Order dated Sep 12, 2010	Actuals	Allowed after Final Truing Up
13	**Total Revenue Expenditure**	**27,516**	**27,770**	**26, 763**
14	Return on equity capital	517	579	520
15	**Aggregate Revenue Requirement**	**28,033**	**28,349**	**27,283**
16	Less: non tariff income	(1,381)	(1,146)	(1,146)
17	Less: Income from wheeling charges	(15)	(18)	(18)
18	Less: amount given by the State Government to meet power purchase expenses	(400)	(228)	(228)
19	RLC refund adjustment (2nd Dec 2010 Order)	500	639	639
20	ASC refund adjustment (2nd Dec 2010 Order)	592	475	475
21	Truing Up for 2007-08	551	551	551
22	Truing Up for 2008-09	421	421	421
23	Review Petition: Interest expenses & AAD disallowed in FY 2006-07	61	61	61
24	ATE judgement and A&G expenses FY 2005-06	103	103	103
25	Less: additional revenue from surplus energy available	(750)	(750)	(750)
26	Prior period expenses and income	-	160	153
27	**Aggregate Revenue Requirement from Retail Tariff**	**27,716**	**28,618**	**27,544**
28	Add: disallowance of RLC refund to Bhiwandi DF in FY 2008-09	-	**4**	**4**
29	**Revised ARR required from Tariff**	**27,716**	**28,622**	**27,549**
30	Revenue from sale of power	26,618*	27,642	27,642
31	Less: revenue from ZLS sales	-	(1,021)	(1,021)
32	Less: income from wheeling charges	-	(18)	(18)
33	Net revenue	26,618	26,604	26,604
34	**Revenue Gap**	**1,098**	**2,018**	**945**

* As approved in Review Order dated December 2, 2010.

3.27.2 Therefore, the Commission approves Rs. 945 Crore as Revenue Gap after Final Truing Up for FY 2009-10.

4 ANNUAL PERFORMANCE REVIEW FOR FY 2010-11

4.1 Provisional Truing Up for FY 2010-11

4.1.1 MSEDCL, in its Petition in Case No. 100 of 2011 sought for Annual Performance Review for FY 2010-11. It submitted the performance of FY 2010-11 based on its provisional annual accounts comparing each element of expenditure and revenue with that approved by the Commission vide Order dated September 12, 2010 on MSEDCL's Annual Performance Review for FY 2009-10 and Tariff Determination for FY 2010-11.

4.1.2 The Commission will undertake the Final Truing Up of the revenue requirement for FY 2010-11 once the Audited Accounts of MSEDCL for FY 2010-11 are available. In this Order, the Commission has carried out Provisional Truing Up for FY 2010-11 on the basis of provisional actuals as submitted by MSEDCL.

4.1.3 The Commission clarifies that the Final Truing Up and the computation of sharing of gains and losses due to controllable factors will be undertaken only after the Audited Accounts for FY 2010-11 are available. Further, for computing sharing of efficiency gains/losses for FY 2010-11, the revised expenses and revenue approved for FY 2010-11 in this Order under Provisional Truing Up will be considered as base expenses and revenue.

4.2 Sales

4.2.1 For FY 2010-11, the Commission obtained the details of provisional actual category-wise sales for the period from April 2010 to March 2011 from MSEDCL. The sales to Bhiwandi Distribution Franchisee Area were considered at input level.

4.2.2 MSEDCL submitted that provisional sale for FY 2010-11 was 71,469 MU, as compared to the 70,482 MU approved by the Commission vide Order dated September 12, 2010. In its Petition, MSEDCL submitted that the sales to HT category and LT category for FY 2010-11 were 30,748 MU and 37,660 MU respectively.

4.2.3 MSEDCL has reported consumption of unmetered agriculture consumers for FY 2010-11 as 8,476 MU. MSEDCL had submitted the details of number of consumers, connected load and sales to unmetered agricultural consumers from FY 2007-08 to FY 2010-11 as provided in the table below.

Table 45: Unmetered agricultural sales as submitted by MSEDCL

Particular	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
No. of Unmetered Agricultural consumers	1,491,514	1,441,319	1,407,668	1,535,159
Load in HP	6,286,356	6,086,496	5,940,885	7,252,058
Total Unmetered Agricultural Sales	7,323	7,101	7,653	8,476
Units/HP	**1,165**	**1,167**	**1,288**	**1,169**

4.2.4 In continuation of the Commission's observations regarding MSEDCL's sales to unmetered Agricultural consumers, it is further noted that the sales reported by MSEDCL for FY 2010-11 is very high. Though the units per HP of connected load (specific consumption) shows similar trend as it was in FY 2007-08 and FY 2008-09, it cannot be assumed that all the new connections in FY 2010-11 were released simultaneously at the beginning of the year.

4.2.5 Therefore, for the purpose of approving sales to the unmetered agricultural consumers in FY 2010-11 the commission considered the average connected load during the year, which is 6,596,472 HP. Considering the specific consumption of 1,165 kWh/HP/year, the Commission approves sales to unmetered agricultural consumers in FY 2010-11 as 7,684 MUs.

Table 46: Unmetered agricultural sales for FY 2010-11

Particulars	Submitted by MSEDCL	Approved after Provisional Truing Up
No of Unmetered Agricultural Consumers	1,535,159	1,535,159
Total Load in HP	7,252,058	7,252,058
Units/HP	1,169	1,165
Total Units (MUs)	**8,476**	**7,684**

4.2.6 The category-wise sales submitted by MSEDCL and approved by the Commission in this Order are given in the Table below:

Table 47: Category-wise approved sales for FY 2010-11

(MU)

Category	FY 2009-10	FY 2010-11

	Approved in ARR Order dated Sep 12, 2010	Approved after Final Truing Up	Provisional Actual	Approved after Provisional Truing Up
HT-I Industries	**25,024**	**22,343**	**25,151**	**25,151**
Express Feeders	15,581	14,629	16,677	16,677
Non Express Feeders	9,265	7,588	8,320	8,320
Seasonal	179	127	155	155
HT-II Commercial	**1,619**	**1,577**	**1,900**	**1,900**
HTP III Railways	**1,427**	**1,275**	**1,348**	**1,348**
HT IV-PWW	**1,190**	**1,042**	**1,104**	**1,104**
HT IV- PWW (Express Feeders)	854	742	878	878
HT IV- PWW (Non Express Feeders)	335	300	226	226
HT V Agricultural	**496**	**390**	**378**	**378**
HT VI Bulk Supply	**407**	**325**	**295**	**295**
Residential Complex	406	323	295	295
Commercial Complex	1	2	-	-
HT Poultry/SP. AG	**-**	**103**	**66**	**66**
HT VII MPECS	**743**	**743**	**506**	**506**
Inter-State	**-**	**0**	**0**	**0**
P.D. Consumers	**-**	**1**	**(0)**	**(0)**
HT Total	**30,905**	**27,798**	**30,748**	**30,748**
LT I Domestic	**12,538**	**11,428**	**12,590**	**12,590**
BPL (0-30 Units)	68	64	148	148
Consumption > 30 Units Per Month	12,470	11,364	12,442	12,442
0-100 Units	8,546	3,562	3,823	3,823
101-300 Units	2,856	4,094	4,490	4,490
301-500 Units	462	2,636	3,005	3,005
500 -1000Units	288	453	505	505
Above 1000 units	318	619	619	619
LT II -Non Residential or Commercial	**3,814**	**3,069**	**3,428**	**3,428**
0-20 KW	3,238	2,460	2,707	2,707
>20- 50 kW	459	473	528	528
>50 kW	117	136	193	193
LT III PWW	**591**	**475**	**490**	**490**
0-20 kW	406	389	407	407
20-40 kW	119	44	51	51
40-50 kW	66	42	33	33
LT IV Metered Agriculture	**6,988**	**5,778**	**7,335**	**7,335**
Metered Tariff (Including Poultry Farms)	6,988	5,778	7,335	7,335
LT V Industrial	**4,549**	**4,044**	**4,537**	**4,537**
0-20 KW	1,956	1,660	1,881	1,881
Above 20 KW	2,593	2,384	2,656	2,656
LT VI Streetlight	**732**	**716**	**756**	**756**
Grampanchayat, A, B & C Class Municipal Council	436	410	422	422

Category	FY 2009-10		FY 2010-11	
	Approved in ARR Order dated Sep 12, 2010	Approved after Final Truing Up	Provisional Actual	Approved after Provisional Truing Up
Municipal Corporation Areas	296	307	334	334
LT VII- Temporary Connection	**248**	**160**	**55**	**55**
Temporary Connections (Religious)	3	0	0	0
Temporary Connections (Other Purposes)	245	159	55	55
LT VIII Advertisement & Hoardings	**4**	**3**	**4**	**4**
LT IX – Crematoriums & Burial Grounds	**1**	**1**	**2**	**2**
Shopping Malls		**-**	**-**	**-**
P.D. Consumers		**(11)**	**(15)**	**(15)**
Total LT Category	**29,465**	**25,664**	**29,184**	**29,184**
Bhiwandi Franchisee Area Input Sales	*3,043*	*3,043*	*3,061*	*3,061*
LT IV Agriculture Unmetered	*7069*	*7,069*	*8,476*	*7,684*
GRAND TOTAL	**70,482**	**63,574**	**71,469**	**70,677**

4.3 Energy balance and distribution loss for FY 2010-11

4.3.1 In the earlier paragraphs the Commission has already approved sales of MSEDCL at 70,677 MUs (considering energy sales to Bhiwandi Franchisee area at the input level). MSEDCL submitted that energy sales to Bhiwandi area consumers were 2,511 MUs against input energy at 3,061 MUs. It also submitted that HT credit sales were 345 MUs and sales to permanently disconnected consumers were 15 MUs. Considering this, MSEDCL reported total retail level sales at 71,280 MUs. However, based on the Commission's observation above regarding sales to unmetered agricultural consumers, the Commission approves total retail sales of MSEDCL for FY 2010-11 at 70,488 MUs.

4.3.2 MSEDCL submitted its energy balance for FY 2010-11 based on its reported distribution loss of 17.28% against the target of 17.20% fixed by the Commission.

4.3.3 It was observed that the inter-state losses for transmission of power purchased from outside the State were 1.17% against the Commission's approval of 5.69%. The Commission pointed out that this was unlikely and there could be some discrepancy in MSEDCL's energy accounting. Therefore, the Commission asked MSEDCL to submit the correct energy balance computation.

4.3.4 However, the Commission did not receive any reply from MSEDCL. MSEDCL submitted that the energy is accounted for on the basis of meter reading taken at the following points:

a) Energy purchased at the generating station end bus bar of respective sources of generation;

b) Energy sold to consumers; and

c) The energy accounted for at the input of distribution system.

4.3.5 MSEDCL also submitted that energy at all other points are accounted for on a derived basis.

4.3.6 However, with the observations of the Commission spelt out in the earlier paragraphs, the Commission provisionally approves the Energy Balance of MSEDCL as per the following table.

Table 48: Energy balance and distribution loss for FY 2010-11

Particulars	Units	FY 2010-11		
		Approved in ARR Order dated Sep 12, 2010	Provisional (MSEDCL)	Approved after Provisional Truing Up
Within Maharashtra				
Purchase from MSPGCL	MUs	50,490	42,239	42,239
Purchases from other sources	MUs	16,880	16,639	16,639
Purchases from other sources (unaudited)	MUs			
IBSM	MUs		225	225
Total purchase within Maharashtra	***MUs***	***67,370***	***59,102***	***59,102***
Outside Maharashtra				
Central Generating Station + NPCIL + UMPP + Case I + Sardar Sarovar + Pench + Banking	MUs	22,548	25,084	25,084
Traders	MUs	875	2,420	2,420
UI	MUs	-	1,108	1,108
Zero Load Shedding	MUs	-	2,626	2,626

Particulars	Units	FY 2010-11		
		Approved in ARR Order dated Sep 12, 2010	Provisional (MSEDCL)	Approved after Provisional Truing Up
Total purchase outside Maharashtra	**MUs**	**23,423**	**31,239**	**31,239**
Inter-state transmission Loss	%	5.69%	1.17%	1.17%
Total purchase at Maharashtra periphery	MUs	22,090	30,874	30,874
Total power purchase payable	MUs	90,793	90,341	90,341
Total power available at transmission periphery	***MUs***	***89,460***	***89,976***	***89,976***
Energy available at distribution periphery				
Intra-state loss	%	4.85%	4.23%	4.23%
Energy at distribution periphery	MUs	85,121	86,170	86,170
Distribution losses	%	17.20%	17.28%	18.20%
Distribution losses	MUs	14,641	14,890	15,682
Energy sales	***MUs***	***70,481***	***71,280***	***70,488***

4.3.7 The Commission is of the opinion that such a drastic change in inter-state transmission losses cannot happen in a single year. Therefore, it is likely that some necessary information of energy accounting has gone unnoticed on the part of MSEDCL, causing this abnormal aberration. It is also to be noted that MSEDCL's accounts for FY 2010-11 are all provisional at this stage. Therefore, the Commission directs MSEDCL to completely review its energy accounting for FY 2010-11 and present the correct energy balance when it submits its Petition for Final Truing Up for FY 2010-11.

4.4 Power purchase cost for FY 2010-11

4.4.1 The Commission vide Order dated October 31, 2011 in the matters of Case No. 100 of 2011, MA No. 4 of 2011 and Case No. 143 of 2011 had dealt with considerable details of MSEDCL's power purchase expenses for FY 2009-10 and FY 2010-11. MSEDCL has submitted its actual power purchase expense for the entire FY 2010-11 based on its provisional accounts. The Commission had analysed these expenses in detail in the Order dated Oct 31, 2011. In the said Order the Commission observed,

"At this stage, MSEDCL has submitted, MSEDCL's annual accounts are yet to be audited. The Commission is in the process of evaluating MSEDCL's Petition for Truing Up of FY 2009-10, Provisional Truing Up for FY 2010-11, and Annual Performance Review of FY 2010-11. Therefore, the Commission is of the view that MSEDCL's power purchase expense for FY 2010-11 needs further examination before allowing MSEDCL's claim of entire variation of Rs. 1009 Crore. Therefore, the Commission approves 80% of the admitted increase in power purchase expenses for FY 2010-11".

4.4.2 The summary of the actual power purchase quantum and expense as submitted by MSEDCL for FY 2010-11 is shown in the Table below:

Table 49: MSEDCL's power purchase expenses for FY 2010-11

FY 2010-11	MSEDCL's Submission		Approved after Provisional Truing Up	
Source of Power	**Energy sent out (MU)**	**Total Cost (Rs. Crore)**	**Energy sent out (MU)**	**Total Cost (Rs. Crore)**
MAHA GENCO	**42239**	**11571**	**42239**	**11571**
DODSON I	28	6	28	6
DODSON II	41	15	41	15
RGPPL	11707	4480	11707	4480
NCE	3146	1297	3146	1297
CPP	578	271	578	271
IPP – JSW	1139	296	1139	296
IBSM	225	136	225	136
Other Sources within the State	**16863**	**6501**	**16863**	**6501**
KSTPS	5297	662	5297	662
VSTP I	3595	757	3595	757
VSTP II	2917	645	2917	645
VSTP III	2510	618	2510	618

FY 2010-11	**MSEDCL's Submission**		**Approved after Provisional Truing Up**	
Source of Power	**Energy sent out (MU)**	**Total Cost (Rs. Crore)**	**Energy sent out (MU)**	**Total Cost (Rs. Crore)**
KAWAS GAS	1162	350	1162	350
GANDHAR	1220	403	1220	403
FSTPP	40	14	40	14
KhTPS-I	17	5	17	5
KhTPS-II	736	259	736	259
TSTPS	24	7	24	7
Sipat TPS	2475	452	2475	452
NTPC	**19992**	**4171**	**19992**	**4171**
KAPP	430	94	430	94
TAPP 1&2	1120	107	1120	107
TAPP 3&4	2493	683	2493	683
NPCIL	**4044**	**884**	**4044**	**884**
CGS Stations	**24036**	**5055**	**24036**	**5055**
U.I. CHARGES	**1108**	**328**	**1108**	**328**
SSP	948	194	948	194
PENCH	100	20	100	20
Trading Company	2420	1012	2420	1012
MSEDCL PP through IEX	0	0	0	0
Other Sources from outside the State	**3468**	**1226**	**3468**	**1226**
Total PP from Outside State	**28612**	**6609**	**28612**	**6609**
Power Grid	0	537	0	537
Reactive Charges	0	-3	0	-3
WRPC	0	0	0	0
PSEB (Supplied)	-226	1	-226	1

FY 2010-11	MSEDCL's Submission		Approved after Provisional Truing Up	
Source of Power	**Energy sent out (MU)**	**Total Cost (Rs. Crore)**	**Energy sent out (MU)**	**Total Cost (Rs. Crore)**
PSEB (Received)	226	1	226	1
Banking	**0**	**2**	**0**	**2**
Wheeling	**0**	**5**	**0**	**5**
Total power purchase	**87715**	**25222**	**87715**	**25222**

4.4.3 However, MSEDCL has not submitted its final Audited Accounts for FY 2010-11 so far. Also, no new information has been presented before the Commission subsequent to the Order of October 31, 2011. Therefore, for FY 2010-11, based on the analysis presented in the said Order, the Commission provisionally approves the power purchase cost as submitted by MSEDCL.

4.4.4 In Order dated October 31, 2011, the Commission had approved the power purchase expense as per provisional accounts of MSEDCL for FY 2010-11. Such expenses were approved after adjusting for power purchase expense for ZLS and expenses disallowed to MSEDCL towards failure in meeting T&D loss targets, while approving its Fuel Adjustment Cost (FAC) on a monthly basis.

4.4.5 However, since the Commission will separately consider sharing of gains and losses due to controllable factors, including distribution loss, in accordance with Regulations 17 and 19 of the Tariff Regulations, 2005, disallowance of power purchase cost as adjusted for FAC is not considered in this Provisional Truing Up of power purchase cost.

4.4.6 Therefore, for FY 2010-11 the power purchase expense of MSEDCL after Truing Up stands provisionally approved at Rs. 25,222 Crore. When MSEDCL will submit its Petition for Final Truing Up of FY 2010-11 as per Audited Accounts, the Commission will take the exercise of Final Truing Up.

Table 50: Power purchase expenses of MSEDCL for FY 2010-11

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up
Total Cost	24,213	26,399	26,399
Less: ZLS	-	*(1,176)*	*(1,176)*
Total Cost for ARR (Rs. Crore)	**24,213**	**25,222**	**25,222**

4.4.7 As regards power purchase from Renewable Energy (RE) sources, based on actual power purchase details submitted by MSEDCL for FY 2010-11, it is observed that MSEDCL has purchased around 3.48 % of energy from renewable energy sources. This is against the target of 6% as per Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its compliance and REC framework Implementation) Regulations, 2010. Therefore, MSEDCL has not met its RPO obligations for FY 2010-11. The Commission will take a final view on this at the time of Final Truing Up when MSEDCL will submit its Petition for Final Truing Up of FY 2010-11 based on Audited Accounts.

4.5 Transmission charges and SLDC charges

4.5.1 MSEDCL submitted that it had paid actual intra-state transmission charges including SLDC charges of Rs. 1,892 Crore, against Commission's approval of Rs. 1,879 Crore. This is according to the provisional accounts of MSEDCL. Therefore, the Commission approves the same for Provisional Truing Up. When MSEDCL will submit its Petition for Final Truing Up of FY 2010-11 as per Audited Accounts, the Commission will take the exercise of Final Truing Up.

Table 51: Transmission charges including SLDC charges for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Approved after Provisional Truing Up
Total Cost	1,879	1,892

4.6 O&M Expenses

4.6.1 The O&M expenses comprise employee expenses, A&G expenses and R&M expenses, as discussed below.

4.7 Employee expenses

4.7.1 MSEDCL submitted that for FY 2010-11, it incurred employee expenses of Rs. 2,173 Crore as compared to the expenses of Rs. 2,591 Crore approved in the Commission's Order dated September 12, 2010.

4.7.2 MSEDCL submitted that the net employee expenses for FY 2010-11 has been estimated at Rs. 2,173 Crore after adjusting for capitalisation of Rs. 446 Crore, which amounts to a decrease of around 16% from the approved expenses of Rs. 2,512 Crore for FY 2010-11. For FY 2010-11, MSEDCL has additionally considered the amortisation of leave encashment equivalent to Rs. 88 Crore annually, as approved by the Commission in the Order dated September 12, 2010. MSEDCL submitted that the capitalisation of employee expenses for FY 2010-11 has been considered at the rate of 17.6%, as compared to the rate of 11.5% for FY 2009-10. However, MSEDCL did not submit any reasons for the decrease in employee expenses for FY 2010-11 as compared to the expenses approved by the Commission.

4.7.3 For FY 2010-11, under each sub-head of employee expenses, the Commission has considered an increase of around 8.82% on account of inflation over the revised level of employee expenses as approved for FY 2009-10 under the Final Truing Up exercise in this Order, based on the increase in Consumer Price Index (CPI). Amortisation of leave encashment has been considered separately. The Commission has considered the actual point to point inflation over CPI numbers for Industrial Workers (as per Labour Bureau, Government of India) for FY 2010-11. The Commission will undertake the Final Truing Up of employee expenses for FY 2010-11 based on actual employee expenses for the entire year after due prudence check.

4.7.4 As regards leave encashment, the Commission has accepted 50% of the provisioning proposed by MSEDCL. This has been done because MSEDCL has failed to provide any explanation, documentary evidence, basis or rationale for the

330% year on year increase in leave encashment expenses from FY 2009-10 to FY 2010-11.

4.7.5 Capitalisation of employee expenses for FY 2010-11 has been considered at the same rate as submitted by MSEDCL in its Petition.

4.7.6 The approved employee expenses for FY 2010-11 are summarized in the Table below:

Table 52: Employee expenses for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up
Gross employee expenses	2,730	2,531	2,300
Less: Expenses Capitalised	227	446	405
Employee expenses (net after capitalisation)	2,503	2,085	1,895
Deferred expense for Earned Leave Encashment	88	88	88
Net employee expenses	**2,591**	**2,173**	**1,983**

4.8 A&G expenses

4.8.1 MSEDCL submitted that for FY 2010-11, the actual net A&G expenses were Rs. 280 Crore as compared to the approved expenses of Rs. 262 Crore.

4.8.2 MSEDCL submitted that it has challenged the methodology adopted by the Commission for approval in O&M Expenses in the Order dated September 12, 2010 and the Review Order dated December 2, 2010 before the Hon'ble Appellate Tribunal for Electricity (ATE) vide Appeal No. 42 of 2011.

4.8.3 Accordingly, without prejudice to any of its rights and contentions, MSEDCL requested the Commission to allow the additional expenditure of Rs. 18 Crore under Provisional True Up of FY 2010-11.

4.8.4 MSEDCL has not provided any justification for the deviation in A&G expenses from the amount approved by the Commission in the Order dated September 12,

2010. As the judgment of the Hon'ble ATE is awaited, the Commission is following the same principles as adopted previously. The Commission is treating the A&G expenses as being controllable in nature, as MSEDCL did not provide enough justification for the variation in expenses.

4.8.5 For FY 2010-11, the Commission has considered an increase of around 9.34% on account of inflation over the A&G expenses for FY 2009-10 as approved in this Order, based on the increase in Wholesale Price Index (WPI) and Consumer Price Index (CPI). The Commission has considered the point to point inflation over WPI numbers (as per Office of Economic Advisor of Govt. of India) and CPI numbers for Industrial Workers (as per Labour Bureau, Government of India) during FY 2010-11. The Commission has considered a weight of 60% to WPI and 40% to CPI, based on the expected relationship with the cost drivers.

4.8.6 The Commission will undertake the Final Truing Up of A&G expenses for FY 2010-11 based on actual A&G expenses for the entire year and prudence check. Further, as regards capitalisation, the Commission has noticed that there are large variations in the capitalisation rate for A&G expenses year over year. In FY 2009-10, it was 23% and in FY 2010-11, it is provisionally at 37%. Since, capitalisation rate of MSEDCL has varied widely from year to year; the Commission has approved A&G expenses of MSEDCL for FY 2010-11 considering the net A&G expenses approved for FY 2009-10.

4.8.7 Accordingly, the approved A&G expenses for FY 2010-11 are summarised in the following Table:

Table 53: A&G expenses for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up
Net A&G expenses	262	280	268

4.9 R&M expenses

4.9.1 MSEDCL submitted that the provisional R&M expenses for FY 2010-11 were Rs. 456 Crore as compared to the approved expense of Rs. 510 Crore.

4.9.2 MSEDCL submitted that Repair and Maintenance is dependent on various factors. The assets of MSEDCL are old and require regular maintenance to ensure uninterrupted operations. MSEDCL submitted that it is trying its best to ensure uninterrupted operations of the system and has been undertaking necessary expenditure for R&M activities accordingly.

4.9.3 MSEDCL also submitted that it has challenged the methodology adopted by the Commission for approval of O&M Expenses in the Order dated September 12, 2010 and the Review Order dated December 2, 2010 before the Hon'ble Appellate Tribunal for Electricity (ATE) vide Appeal No. 42 of 2011.

4.9.4 For FY 2010-11, the Commission has considered an increase of around 9.68% on account of inflation over the R&M expense as approved for FY 2009-10 after Truing Up (excluding incidental one-time expenses approved for FY 2009-10), based on the increase in Wholesale Price Index (WPI). The Commission has considered the point to point inflation over WPI numbers (as per Office of Economic Advisor of Govt. of India) during FY 2010-11. The Commission will undertake the Final Truing Up of R&M expenses for FY 2010-11 based on actual R&M expenses for the entire year subject to prudence check.

4.9.5 Accordingly, the approved R&M expenses for FY 2010-11 are summarised in the following Table:

Table 54: R&M expenses for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up
Net R&M expenses	510	456	528

4.10 Capital expenditure and capitalisation for FY 2010-11

4.10.1 MSEDCL submitted that the capitalisation for FY 2010-11 was Rs. 3,280 Crore, out of which Rs. 2,724 Crore was on account of capitalisation of DPR schemes.

4.10.2 The project details, capital expenditure and capitalisation for DPR schemes, as submitted by MSEDCL are shown below:

Table 55: DPR schemes for FY 2010-11

(Rs. Crore)

S. No	Scheme code No.	MERC Approved Cost	Capital Expenditure during the year	Cumulative Capital Expenditure	Overrun of Capital Expenditure	Capitalisation during the year	Cumulative Capitalisation	Excess Capitalisation
1	INFRA PLAN							
1.1	MSEDCL/FY08/75 (total 120 DPR)	9,014	4,136	5,280	-	1,526	1,934	-
2	GFSS							
2.1	MSEDCL FY/07/01	895	41	1,007	**113**	130	801	-
2.2	MSEDCL FY/07/02	1,300	368	636	-	129	353	-
2.3	MSEDCL FY/10/19	209	96	150	-	96	127	-
3	Fixed Capacitor Scheme							
3.1	MSEDCL FY/10/13	26	-	2	-	0	2	-
3.2	MSEDCL FY/11/13	37	-	-	-	-	-	-
4	AMR							
4.1	MSEDCL/FY-05/01	48	0	7	-	1	7	-
5	APDRP							
	PHASE I							
	MSEDCL/FY 06/02	1,137	-	1,456	**319**	99	1,073	-
	PHASE II							
	MSEDCL/FY-09/04	238	-	200	-	-	170	-
6	R-APDRP A							
	MSEDCL/FY-10/18	301	44	44	-	-	-	-
7	Internal Reforms (DTC Metering)							
	MSEDCL/FY-06/01, Phase I-I (Part -I & Part II)	92	-	121	**29**	11	118	**26**
	MSEDCL/FY-09/01 (Phase – III)	150	60	63	-	25	27	-
8	SPA: PE	2,462	497	780	-	404	678	-
9	P:SI	480	12	155	-	25	154	-
10	P:IE	188	10	60	-	15	15	-
11	DRUM	147	2	180	**33**	11	170	**22**

S. No	Scheme code No.	MERC Approved Cost	Capital Expenditure during the year	Cumulative Capital Expenditure	Overrun of Capital Expenditure	Capitalisation during the year	Cumulative Capitalisation	Excess Capitalisation
12	RGGVY	925	364	561	-	252	395	-
	Total DPR	**17,647**	**5,631**	**10,702**	**494**	**2,724**	**6,022**	**48**

4.10.3 The information as submitted by MSEDCL for Non-DPR schemes is as below:

Table 56: Non-DPR schemes for FY 2010-11

(Rs. Crore)

S. No	Particulars	Capital Expenditure During the Year	Cumulative Capital Expenditure	Capitalisation During the Year	Cumulative Capitalisation
1	SPA: PE	31	696	8	451
2	P:SI	11	169	1	105
3	P:IE	30	199	20	221
4	FMS	0	2	1	2
5	MIS	1	31	3	30
6	Load Management	11	37	7	28
7	Dist. Scheme	-	-	-	-
A	P.F. C. Urban Distribution	103	495	96	458
B	MIDC Interest free Loan Scheme	15	57	15	32
C	Evacuation	4	6	2	3
D	Evacuation wind Generation	-	11	0	11
8	R E Dist. (RE/ND)	-	-	-	-
A	DPDC/Non Tribal	78	518	107	483
B	DPDC/SCP	23	147	30	125
C	DPDC TSP + OPTSP	51	177	38	136
D	RE	11	69	8	67
9	JBIC	15	67	13	50
10	Backlog	197	725	189	626
11	Single Phasing	35	35	17	17
12	Agricultural Metering	-	41	-	34
13	New Consumer	-	63	-	53
14	ERP	0	0	-	-
	Total	**617**	**3,545**	**556**	**2,934**

4.10.4 The Commission noticed that there have been incidences of cost over-run in various DPR schemes, namely, “DTC metering - Phase 2” and “DRUM”. Total expenditure capitalised by MSEDCL in these schemes till FY 2010-11 exceeded the in-principle approval granted for these schemes by Rs. 48.02 Crore.

Table 57: Cost over-run for schemes in FY 2010-11

(Rs. Crore)

S. No	Schemes	Total Approved Cost	Actual Capital Expenditure (till FY 11)	Cost Over-run (till FY 11)	Total Capitalisation (till FY 11)	Excess Capitalisation (if any)
1	GFSS Phase – I	894.71	1007.43	112.72	800.96	-
2	APDRP Phase-I	1136.54	1455.91	319.37	1072.99	-
3	DTC metering - Phase 2	92.49	121.15	28.66	118.31	25.82
4	DRUM	147.38	180.15	32.77	169.58	22.20
	Total					**48.02**

4.10.5 However, in view of the observations made by the Commission in paragraph 3.9.9 the Commission approves total capitalisation in FY 2010-11 as submitted by MSEDCL.

4.10.6 MSEDCL submitted that the capitalisation for Non-DPR schemes was Rs. 556.26 Crore in FY 2010-11, which is 20.42% of the approved capitalisation of DPR schemes. It is important to consider that the Commission had set a general rule in (ref. paragraph 3.9.4) that the capitalisation against Non DPR schemes shall have to be restricted to 20% of the capitalisation of DPR schemes. With this consideration, the maximum allowable capitalisation for Non-DPR schemes shall be Rs. 545 Crore (20% of the approved capitalisation for DPR schemes). However, in the present case, the Commission observed that out of the total capital investments in Non-DPR schemes, Rs. 189 Crore was for energisation of agriculture pumps in the backlog schemes, which have been funded through grant from the Government of Maharashtra. Taking into consideration of this fact, the Commission approves total capitalisation of Rs. 556.26 Crore for Non-DPR schemes, as submitted by MSEDCL.

4.10.7 Total capitalisation of MSEDCL for FY 2010-11 as approved by the Commission is shown in the table below:

Table 58: Capitalisation for FY 2010-11

(Rs. Crore)

Schemes	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up
DPR schemes	1406.78	2723.50	2,723.50
Non-DPR schemes	281.356	556.26	556.26
Total capitalisation	**1688.14**	**3279.76**	**3279.76**

4.11 Depreciation including advance against depreciation

4.11.1 The depreciation approved for FY 2010-11 was Rs. 450 Crore (excluding Advance Against Depreciation of Rs. 8 Crore) in the Order dated September 12, 2010. In its present Petition, MSEDCL has claimed depreciation of Rs. 673 Crore. The Commission, after verifying the accumulated depreciation of MSEDCL's assets, observed that the accumulated depreciation was more than the maximum allowable accumulated depreciation of 90% according to the Tariff Regulations, 2005.

4.11.2 The average depreciation rate as claimed by MSEDCL is 3.89%. The Commission, for the purpose of Final Truing Up, has recomputed the depreciation rate after disallowing depreciation for assets which have been depreciated more than the maximum permissible amount. The revised depreciation rate has been computed as 3.80%.

4.11.3 Further, the Commission has computed depreciation based on the approved Opening GFA and the approved additions to GFA. Accordingly, the Commission approves a depreciation of Rs. 568 Crore for FY 2009-10.

Table 59: Depreciation for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up
Opening GFA	11,718	15,687	13,296
Additions to GFA	1,688	3,280	3,280
Retirement of Assets	-	-	-
Closing GFA	12,594	18,967	16,576
Depreciation	450	673	568
Depreciation (as a % of	3.70%	3.89%	3.80%

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Approved after Provisional Truing Up
average GFA)			

4.11.4 It is further observed that actual repayment on long-term loans approved for FY 2010-11 is lower than the approved depreciation. Therefore, the Commission has not considered any advance against depreciation under Provisional True Up for FY 2010-11.

4.12 Interest on long-term debts

4.12.1 The interest expense approved for FY 2010-11, according to the Order dated September 12, 2010, were Rs. 321 Crore. However, the Commission vide Order dated December 2, 2010, had approved an additional interest expense of Rs. 46 Crore. The total interest expenses approved for FY 2010-11 have hence been revised to Rs. 367 Crore. MSEDCL has submitted the actual interest expenses on long-term loans in FY 2010-11 as Rs. 607 Crore, net of capitalisation. The loan addition during FY 2009-10 as submitted by MSEDCL was Rs. 3,618 Crore.

4.12.2 MSEDCL, in reply to the pre-TVS data gaps dated August 2, 2011, submitted the following funding pattern for capital expenditure in FY 2010-11:

Table 60: Capital expenditure contribution as submitted by MSEDCL

(Rs. Crore)

Particulars	Amount
Consumer contribution (CC)	311
Grants received during the year	61
Equity	2,259
Debt	3,617
Capital Expenditure	6,248

4.12.3 However, in the revised forms submitted by MSEDCL on September 8, 2011, the equity portion of the capital expenditure during FY 2010-10 was Rs. 2,078 Crore. The Commission has considered the equity contribution as Rs. 2,078 Crore for Provisional Truing Up and will consider the actual equity at the time of Final Truing Up of FY 2010-11. The Commission has accepted the revised equity submitted by MSEDCL and approves the following capitalization for FY 2010-11.

The amount from received from grants and consumer contribution has been accordingly adjusted.

Table 61: Revised capital expenditure submission of MSEDCL

(Rs. Crore)

Particulars	Amount
Consumer contribution (CC) Grants received during the year	553
Equity	2,078
Debt	3,617
Capital Expenditure	6,248

4.12.4 Since the capitalised amount has been adjusted, the amount of loan addition was adjusted based on the ratio of approved capitalisation to actual capital expenditure.

Table 62: Approved funding pattern of capitalisation for FY 2010-11

(Rs. Crore)

Particulars	Amount
Capitalisation approved	3280
As a % of capital expenditure	52.5%
Consumer contribution (CC) Grants received during the year	290
Equity	1,091
Debt	1,899

4.12.5 Further, for FY 2010-11, 33.26% equity has been used by MSEDCL for the capitalisation of assets. The MERC (Terms & Conditions of Tariff) Regulations, 2005 allow return on equity only on a maximum of 30% equity. The percentage of equity over and above the norm of 30%, in this case 3.26%, shall be treated as normative debt. Hence the Commission has added Rs. 107 Crore to the debt of MSEDCL and has reduced this amount from the Regulatory equity for FY 2010-11.

4.12.6 The interest rate for the long-term loans has been considered as per the actual effective interest rate of MSEDCL. This has been computed as 10.10%. The summary of the interest expenses for long-term debt approved for FY 2010-11 is as follows:

Table 63: Interest on long-term debt for FY 2010-11

(Rs. Crore)

Particulars	Previous ARR Order (Revised as per Order dated December 2, 2010)	Provisional Actual	Approved after Provisional Truing Up
Op. balance	2,157	5,134	3,037
Additions	1,521	3,617	2,006
Repayments	(458)	(547)	(568)
Cl. balance	3,220	8,204	4,475
Gross interest expense	381	674	379
Less: IDC	(14)	(66)	(39)
Net interest expense	367	607	340
Average interest rate (%)	14.2%	10.1%	10.1%

4.13 Interest on working capital, consumers' security deposit and other interest and finance charges

4.13.1 MSEDCL submitted that the actual interest on working capital in FY 2010-11 was Rs. 196 Crore; as compared to 'NIL' interest approved by the Commission vide previous Order dated September 12, 2010.

4.13.2 The MERC Tariff Regulations, 2005 clearly stipulate that working capital interest has to be considered on normative basis. In MSEDCL's case, because of the significant amount of consumers' security deposit lying with MSEDCL and the credit period of one-month considered on power purchase expenses, the normative working capital requirement works out to be negative. Hence, the Commission has considered the interest on working capital as NIL for FY 2010-11.

4.13.3 MSEDCL submitted that the actual expenditure on security deposit of consumers and other finance charges amounted to Rs. 296 Crore, of which Rs. 247 Crore is for interest on security deposit. The Commission allows interest on security deposit at the bank rate (6%) of the security deposit and will consider the actual expenditure on interest on security deposit at the time of Final Truing Up of FY 2010-11.

4.13.4 The actual expenditure on other interest and finance charges of Rs. 49 Crore has been accepted by the Commission. Thus, total other interest and finance charges including interest on consumers' security deposit, considered by the Commission for FY 2010-11 works out to Rs. 296 Crore.

Table 64: Interest on working capital, consumers' security deposit and other interest and finance charges for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Actual	Allowed after Provisional Truing Up
Working capital requirement as per Regulations	NA	(892)	(737)
Interest on working capital	-	196	-
Security deposit (Rs. Crore)	3,481	4,114	4,114
Interest on security deposit	209	247	247
Guarantee charges	26	14	14
Finance charges	23	29	29
Stamp duty	9	6	6
Service fee	0	-	-
Total other interest and finance charges	**267**	**492**	**296**

4.14 Contribution to contingency reserves

4.14.1 MSEDCL submitted that the contribution to contingency reserves was Rs. 39 Crore as against Rs. 29 Crore approved in the Order dated September 12, 2010. The Commission approves contribution to contingency reserve at Rs. 33 Crore corresponding to 0.25% of the approved opening GFA for FY 2010-11.

Table 65: Contribution to contingency reserves for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
Contribution to contingency reserves	29	39	33

4.15 Other expenses

4.15.1 MSEDCL submitted that other expenses for FY 2010-11 were Rs. (12.58) Crore as against the approved amount Rs. 16.57 Crore in the Order dated September 12, 2010.

4.15.2 In the Section 3.14.2 had examined the details of other expenses claimed by MSEDCL for FY 2009-10. In the said Section the Commission observed that certain items of expenses claimed by MSEDCL cannot be admitted as part of regulated expenses though permissible under Accounting Standards. Because, for all such items the Commission has allowed expenditure to MSEDCL either under norms specified in the Tariff Regulations, 2005, or under principles set out by the Commission in various Orders relating to determination of Tariff. Also, bad debts cannot be claimed both for provisioning as well as amount actually written off, since the amount actually written off has to be reduced from the provisions created by MSEDCL. Accordingly, the Commission has allowed other expenses under Provisional Truing Up, as summarised below:

Table 66: Other expenses for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
Other expenses	16.57	(12.58)	(16.11)

4.16 Provision for bad debts

4.16.1 MSEDCL submitted that the provision for bad debts was Rs. 464 Crore for FY 2010-11. MSEDCL's provision amounts to 1.5% of the revenue billed during FY 2010-11. The Commission approves the provision for bad debts at 1.5% of the provisionally approved revenue (after adjustment for ZLS power) for FY 2010-11 at Rs. 443 Crore.

Table 67: Provision for bad debts for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
Income billed	32,038	29,509	29,509
Provision for bad debts	450	464	443
Provision for bad debts as % of income billed	*1.4%*	*1.6%*	*1.50%*

4.17 Incentives and discounts

4.17.1 MSEDCL submitted that the incentives and discounts paid/allowed to consumers during FY 2010-11 were Rs. 132 Crore as compared to Rs. 168 Crore approved by the Commission in the Order dated September 12, 2010. The Commission has accepted MSEDCL's submission in this regard and approves Rs. 132 Crore as incentives and discounts for FY 2010-11.

Table 68: Incentives/ discounts for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
Incentives/discounts	168	132	132

4.18 Return on equity (RoE)

4.18.1 The equity contribution to total capital expenditure of MSEDCL is 33.26%. However, since the Tariff Regulations, 2005, do not allow RoE on equity component over and above a maximum of 30% of total capital expenditure, the additional 3.26% of equity (Rs. 107 Crore) has been added to the debt of MSEDCL.

4.18.2 Hence, the equity portion of capitalization has been considered as Rs. 984 Crore (Rs. (1091-107) Crore). The RoE approved after Provisional Truing Up of FY 2010-11 is as follows:

Table 69: Return on equity for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Actual	Allowed after provisional Truing Up
Regulatory equity at beginning of year	3,281	3,747	3,320
Equity portion of capitalisation (excluding grants and consumer contribution)	98	1,091	1,091
Less: disallowed excess equity portion of capitalisation (>30% equity)	-	-	(107)
Regulatory equity at the end of the year	3,379	5,825	4,304
Return on regulatory equity at beginning of the year	525	600	531
Return on equity portion of capitalisation	8	87	79
Total return on regulated equity	**533**	**687**	**610**

4.19 Income tax

4.19.1 MSEDCL has submitted that it has paid Rs. 126 Crore as income tax in FY 2010-11. MSEDCL submitted the income tax challans as documentary evidence for the same. Accordingly, the Commission had allowed Rs. 126 Crore to MSEDCL through the Order dated October 31, 2011.

4.19.2 The Commission further obtained from MSEDCL the details of its income tax computations and relevant correspondences with the Income Tax Department of the Govt. of India. Analysis of such details revealed that some amount had been paid by MSEDCL on account of delayed payment of taxes. The Commission observed that MSEDCL had to pay a total interest of Rs. 6.37 Crore for 4 Assessment Years due to delay in making the payment of TDS as per the Income Tax Act, 1961. The interest was charged because MSEDCL did not deduct TDS while making wheeling and transmission charges payment to MSETCL and PGCIL. Therefore the said expenses have been disallowed by the Commission as MSEDCL failed to make the statutory payments within the time period specified by the Income Tax Authority.

4.19.3 For the remaining tax payment of Rs.119.62 Crore, it was observed that MSEDCL had not deducted the grants and consumer contribution while calculating the depreciation as per the Income Tax Act, 1961. Hence the Income Tax Department recomputed the said depreciation after deducting the grants and consumer contribution from Fixed Assets, and reassessed MSEDCL's income tax liabilities. Due to this, there was increase in the profit of MSEDCL and it had to pay income tax on the increased profit.

4.19.4 Out of Rs. 119.2 Crore, MSEDCL has not provided the break-up of the income tax amount, interest and penalty charged by the Income Tax Department. Therefore, the Commission is not approving 20% of this amount till MSEDCL submits further details to the Commission. Accordingly, the Commission approves Rs. 95.7 Crore on account of income tax for FY 2010-11.

Table 70: Income tax for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Actual	Allowed after Provisional Truing Up
Income tax	0	126	95.70

4.20 Non tariff income

4.20.1 MSEDCL submitted that the provisional Non-tariff income for FY 2010-11 was Rs. 1,361 Crore as against Rs. 1,450 Crore approved in the Order dated September 12, 2010. 71.8% of the non tariff income was on account of delayed payment charges and interest on delayed payment charges. The Commission approves Rs. 1,361 Crore as non tariff income for FY 2010-11 and will consider the actual amount at the time of Final Truing Up of FY 2010-11.

Table 71: Non tariff income for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
Non tariff income	1,450	1,361	1,361

4.21 Revenue from Existing Tariff

4.21.1 In the APR Petition for FY 2010-11, MSEDCL submitted that the actual revenue in FY 2010-11 from sale of power at existing tariff was Rs. 30,964 Crore. Out of which, MSEDCL submitted, revenue from sale of ZLS sales was Rs. 1,455 Crore. Accordingly, the net revenue for FY 2010-11, excluding the revenue from sale of ZLS power was Rs. 29,509 Crore. The Commission had approved ARR of Rs. 32,038 Crore for FY 2010-11 comprising:

a) Rs. 29,993 Crore as expected revenue from sale of power in FY 2010-11 at existing tariff in Case 111 of 2009. (Order dated September 12, 2010);

b) Revenue gap of Rs. 909 Crore in Case 111 of 2009. (Order dated September 12, 2010); and

c) Additional Revenue Gap of Rs. 1,136.27 Crore in the Review Order in Case 69 of 2010 (Order dated December 2, 2010).

4.21.2 Accordingly, MSEDCL claimed a shortfall in revenue of Rs. 2,529 Crore, as given in the Table below:

Table 72: Revenue from Sale of Power for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Revenue Gap
Revenue from sale of power	32,038	30,964	1,074
Less: Revenue from sale of ZLS power	0	1,455	1,455

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Revenue Gap
Net Revenue	**32,038**	**29,509**	**2,529**

4.21.3 The Commission analysed MSEDCL's submissions about the reasons for such a huge shortfall in revenue in the interim Order dated October 31, 2011. The Commission was of the opinion that such difference has occurred primarily because of the following factors:

a) Revised tariffs for recovering the Revenue Gap of Rs. 909 Crore in the Tariff Order dated September 12, 2010 came into effect from September 1, 2010, thereby being applicable only for a period of 7 months in FY 2010-11;

b) Additional energy charge for recovering additional revenue of Rs. 1136 Crore recognised in the Review Order dated December 2, 2010 came into effect from December 1, 2010, thereby being applicable for a period of 4 months in FY 2010-11;

c) Payments made to consumers on account of Power Factor Incentives, Load Factor Incentives etc. during FY 2010-11 amounting to Rs. 1,124 Crore (as per MSEDCL's claim), which were not considered by the Commission at the time of determining the tariff, as MSEDCL also had not submitted any estimate of the same;

d) According to the Commission's Tariff Regulations, 2005, FAC can be recovered by MSEDCL up to the cap on energy charge computed on monthly basis. Therefore, some under-recovery may have happened due to this applicable cap; and

e) Any impact due to change in sales mix of MSEDCL.

4.21.4 In the Order dated October 31, 2011, for granting part relief to MSEDCL, the Commission had approved Rs. 2,023 Crore, which is 80% of the revenue difference claimed by MSEDCL. For the purpose of Provisional Truing Up of FY 2010-11, the Commission approves the revenue as claimed by MSEDCL on the basis of the provisional actuals.

Table 73: Approved revenue from sale of power for FY 2010-11

(Rs. Crore)

Particulars	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
Revenue from sale of power	32,038	29,509	29, 509

4.22 Additional revenue allowed in Review Order

4.22.1 MSEDCL submitted that the Commission had approved additional revenue of Rs. 1,136.27 Crore to MSEDCL against its Review Petition; vide Order dated December 2, 2010, in Case No. 69 of 2010. This was allowed for the following reasons:

a) Additional Revenue of Rs. 1,092 Crore on account of Revenue from existing tariff for FY 2009-10;

b) Reduction in total revenue by Rs. 2.40 Crore on account of error in calculation of revenue for FY 2010-11; and

c) Additional cost of Rs. 46.67 Crore on approval of interest on additional capitalisation for FY 2010-11.

4.22.2 Accordingly, MSEDCL claimed that it expected to recover Rs. 395 Crore in FY 2010-11 out of the total amount of Rs. 1,136 Crore. Therefore, it submitted, Rs. 395 Crore shall be recognized as part of its additional revenue requirement of FY 2010-11.

4.22.3 However, the Commission has Trued Up MSEDCL's accounts for FY 2009-10 as per actual expenses and revenue in FY 2009-10. In this Section the Commission is Truing Up MSEDCL's revenue and expenses for FY 2010-11 on the basis of provisional actual numbers of FY 2010-11. The effect of additional revenue recognition will have a reflection in MSEDCL's actual revenue for FY 2010-11 and FY 2011-12. Therefore, when the Commission will True Up MSEDCL's actual accounts for FY 2010-11 and FY 2011-12 the effects of such additional revenue requirement will be automatically taken care of. Therefore, MSEDCL's claim that Rs. 395 Crore has to be recognized separately in its ARR for FY 2010-11 is without merit. Therefore the Commission is not allowing the same.

4.22.4 It is pertinent to note here that while proposing Truing Up for FY 2009-10, MSEDCL had restated the approved revenue for FY 2009-10 to Rs. 26,618 Crore by reducing the originally approved revenue of Rs. 27,710 Crore by Rs. 1,092 Crore. However, this amount has been again considered by MSEDCL as expenses in FY 2010-11 while proposing for Provisional Truing Up of 2010-11.

4.22.5 The Commission had considered approved revenue of FY 2009-10 after considering the overstatement of revenue in APR Order at Rs. 27,716. Therefore, the Commission considered the approved revenue for FY 2009-10 at Rs. 26,618 Crore. Similarly the Commission has considered the approved interest on long-term loan capital for FY 2010-11 after increasing the same by Rs. 46.67 Crore. The revised interest on long-term loan capital, therefore, is Rs. 352 Crore against original approval of Rs. 305 Crore. Similarly the Commission has reduced the approved revenue for FY 2010-11 by Rs. 2.40 Crore. The revised approved revenue for FY 2010-11 is Rs. 30,900 Crore.

4.22.6 The Commission will consider these revised numbers at the time of Final Truing Up of MSEDCL.

4.23 RLC refund

4.23.1 MSEDCL submitted that the provisional RLC refund for FY 2010-11 was Rs. 519 Crore, whereas the approved RLC refund for FY 2010-11 was Rs. 500 Crore. The Commission has considered the same for the purpose of Provisional Truing Up for FY 2010-11.

Table 74: RLC refund for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
RLC refund	500	519	519

4.24 ASC refund

4.24.1 In the Order dated September 12, 2010, the Commission had not approved any ASC refund for FY 2010-11. However, MSEDCL was to recover the amount approved in FY 2009-10 in the period from September, 2010 to August, 2011. Hence, a part of the ASC refund was to happen in FY 2010-11. MSEDCL submitted that it had made an ASC refund of Rs. 475 Crore in FY 2009-10 and Rs. 212 Crore in FY 2010-11. MSEDCL submitted that the refund is done as per the Commission's Order and methodology as described in Case No. 144 of 2008. The Commission approves the provisional amount of Rs. 212 Crore as estimated by MSEDCL for FY 2010-11 and will consider the actual amount at the time of Final Truing Up.

Table 75: ASC refund for FY 2010-11

(Rs. Crore)

Particular	Approved in ARR Order dated Sep 12, 2010	Provisional Actual	Allowed after Provisional Truing Up
ASC refund	0	212	212

4.25 Other claims – Bhiwandi audit review impact

4.25.1 In its Petition, MSEDCL submitted that the Commission, in the Order dated September 12, 2010, in Case No. 111 of 2009 allowed an ad hoc amount of Rs. 200 Crore to partly mitigate the MSEDCL difficulties in relation to underestimated Revenue Gap of FY 2009-10 during the time of determination of Tariff for FY 2009-10. The Commission also directed MSEDCL to expedite the Audit of Bhiwandi DF Area and to claim the net impact. Accordingly MSEDCL submitted the Audit Review of Bhiwandi Franchisee area and claimed additional impact of Rs. 185 Crore in this Petition.

4.25.2 This matter has to be seen in its original perspective. In the Order dated January 7, 2010, in Case No. 63 of 2009 the Commission reviewed certain decisions taken in the Commission's Order dated August 17, 2009 in Case 116 of 2008. This was according to the Petition filed by MSEDCL praying for such review. In the said Review Order the Commission had observed that computation of MSEDCL's revenue for the purpose of tariff determination of FY 2009-10 on the basis of retail sales of the Bhiwandi franchisee area was not correct. Therefore, the Commission admitted, in-principle, that projected revenue of MSEDCL in the Order dated August 17, 2009, while estimating the Revenue Gap/(surplus) of FY 2009-10 at the tariff existing at that time was overstated. This was required to be computed at the input level to the franchisee as per the franchisee agreement instead of computing at the retail level.

4.25.3 However, the Commission observed in the Review Order in Case 63 of 2009 that an independent audit was necessary for the franchisee area to establish actual sales, revenue, ABR, and subsidy claimable, claimed and received from GoM for the relevant period. MSEDCL had claimed that its revenue was overstated by Rs. 385 Crore. However, considering the observation made, the Commission directed MSEDCL to submit such audit report before allowing the entire amount claimed. The Commission directed that an ad-hoc amount of Rs. 200 Crore would be considered for this purpose at the time of Truing Up of FY 2009-10, pending the audit review.

4.25.4 Accordingly, at the time of determination of tariff for FY 2010-11 in Case 111 of 2009, MSEDCL claimed the said amount of Rs. 200 crore for consideration in the revenue requirement of FY 2010-11, as its audit review report was still pending. The Commission accepted MSEDCL's proposal and considered the same in tariff determination for FY 2010-11. However, MSEDCL was directed to expedite the audit review of the Bhiwandi franchisee area as per the requirement of its franchisee agreement.

4.25.5 In its present Petition for Truing Up of FY 2009-10 and Provisional Truing Up of FY 2010-11, MSEDCL has claimed the balance amount of Rs. 185 Crore, as it has now submitted the audit review report till FY 2009-10. This amount has been claimed as part of total Revenue Gap to be trued up provisionally for FY 2010-11.

4.25.6 The Commission observed that MSEDCL has prayed for Final Truing Up of FY 2009-10 in accordance with its final Audited Accounts. The Audited Accounts have captured actual cost and revenues of MSEDCL for FY 2009-10, including that of Bhiwandi franchisee area. Accordingly, the Commission has trued up MSEDCL's Annual Revenue Requirement for FY 2009-10 in previous Sections of this Order. Therefore, MSEDCL's claim of this additional Rs. 185 Crore is not correct as all possible under recovery has been trued up based on actual cost and revenue.

4.25.7 It is also required to recast the revenue requirement of MSEDCL for FY 2010-11 to capture the effect of Final Truing Up of FY 2009-10. The Commission had allowed the ad-hoc amount of Rs. 200 Crore as part of revenue requirement of FY 2010-11 at the time of tariff determination for FY 2010-11. In the present Petition, MSEDCL has also claimed this amount as part of Provisional Truing Up of FY 2010-11. However, under Provisional True Up of FY 2010-11 the Commission cannot continue to consider this ad-hoc amount of Rs. 200 Crore as part of revenue requirement of FY 2010-11, because the actual requirement of revenue adjustment has been captured in the Final True Up of FY 2009-10. Therefore, MSEDCL's proposal to consider the amount of Rs. 200 Crore as part of revenue requirement of FY 2010-11 over and above Final Truing Up of FY 2009-10 cannot be accepted.

4.26 Aggregate Revenue Requirement and Revenue Gap of MSEDCL for FY 2010-11

4.26.1 Based on the above expenses approved by the Commission, the Aggregate Revenue Requirement approved by the Commission for MSEDCL for FY 2010-11 is given below:

Table 76: ARR and Revenue gap for FY 2010-11

(Rs. Crore)

S. No.	Particulars	Order	Provisional Actual	Approved after Provisional Truing Up
1	Power purchase expenses	24,213	25,222	25,222
2	Operations and Maintenance expenses			
2.1	*Employee expenses*	*2,591*	*2,173*	*1,983*
2.2	*A&G expenses*	*262*	*280*	*268*
2.3	*R&M expenses*	*510*	*456*	*528*

S. No.	Particulars	Order	Provisional Actual	Approved after Provisional Truing Up
3	Depreciation, including advance against depreciation	458	673	568
4	Interest on long-term loan capital	352	607	340
5	Interest on working capital, consumer security deposits and finance charges	249	492	296
6	Provisions for bad debts	450	464	443
7	Other expenses	17	(13)	(16)
8	Income tax / wealth tax	-	126	96
9	Transmission charges paid to Transmission Licensee	1,879	1,892	1,892
10	Contribution to contingency reserves	29	39	33
11	Incentives/discounts paid to consumers	163	132	132
12	**Total Revenue Expenditure**	**31,173**	**32,545**	**31,783**
13	Return on equity capital	533	687	610
14	**Aggregate Revenue Requirement**	**31,706**	**33,232**	**32,393**
15	Less: non tariff income	(1,450)	(1,361)	(1,361)
16	Less: income from wheeling charges	(15)	(17)	(17)
17	Add: RLC refund	500	519	519
18	Add: ASC refund	-	212	212
19	Bhiwandi sales revenue impact allowed in Review Order	200	200	-
20	Audit review of Bhiwandi DF	-	185	-
21	Calculation Error in Order dated Sept. 12, 2010 w.r.t FY 2009-10	-	395	-
22	Additional revenue as per Order dated Dec 2, 2010		0	-
23	Provisional True Up requirement for FY 2009-10	6	6	-
25	**Aggregate Revenue Requirement from Retail Tariff**	**30,947**	**33,372**	**31,747**
26	Total revenue from sale of power		30,964	30,964
27	Less: revenue from ZLS sales		(1,455)	(1,455)
28	**Revenue from Sale of Power at Existing Tariff**	**30,900**	**29,509**	**29,509**
29	Revenue Gap for FY 2010-11	47	3,863	2,238

4.26.2 Therefore, the Commission approves Rs. 2,238 Crore as Revenue Gap after Provisional Truing Up for FY 2010-11.

5 OTHER CLAIMS AND CONSOLIDATED REVENUE GAP

5.1 Additional claim due to impact of the Hon'ble ATE Judgement

5.1.1 In its Petition, MSEDCL has drawn reference to a judgement of the Hon'ble Appellate Tribunal for Electricity and based on the judgement has claimed an amount of 487.46 Crore for consideration in its Revenue Gap.

5.1.2 MSEDCL submitted,

"4.1.2.1 Erstwhile MSEB had filed the Petition for FY 2001-02 on 15th March 2001 in accordance to the statutory requirements of the Electricity (Supply) Act, 1948. MSEB in the said Petition had claimed mandatory surplus in line with Section 59 of the Electricity (Supply) Act, 1948 @4.5% of total capital base amounting to Rs. 493.20 Crore. The Hon'ble Commission issued the Tariff Order on 10th January 2002, which had Revenue Gap of Rs. 452 Crore. Since the remaining period in the financial year were only 3 months, the Hon'ble Commission allowed recovery of additional revenue to the extent of Rs. 119 Crore only.

4.1.2.2 MSEB aggrieved by the said order, filed an appeal no. 04 of 2002 before Hon'ble High Court of Mumbai challenging issues such as unrecovered Revenue Gap, delay in tariff determination, denial of tariff revision, disallowance of achievable T&D loss etc.

4.1.2.3 The Hon'ble High Court of Mumbai vide its judgment dated 11th February 2004, directed Hon'ble Commission to create one time Regulatory Asset for the unrecovered gap. The Hon'ble High Court had also ruled that as per Section 59 of the Electricity (Supply) Act 1948, the tariffs should be fixed in a manner to ensure no tariff gap and in fact, there should be revenue surplus as provided in the Act or as may be prescribed by the State Government. True Up for FY 2009-10; Annual Performance Review for FY 2010-11

4.1.2.4 Based on the above directions, MSEB sought the Truing Up and the process was initiated by Hon'ble Commission. However it was only during the process of MYT filing (Case No. 72 of 2007), MSEDCL (the successor company of MSEB) was able to sought the Final Truing Up of FY 2001-02 which was dealt in *chapter 3 of the Hon'ble Commission order dated 20th June 2008. The Hon'ble Commission had added back the income through excess T&D loss of Rs. 635.90 Crore to the actual total revenue which worked out to Rs. 13528.76 Crore. The actual expenditure approved in Truing Up was Rs. 13059.94 Crore. Accordingly; the Hon'ble Commission had approved a surplus of Rs. 468.8 Crore as against MSEDCL's claim of Revenue Gap of Rs. 539.46 Crore. However in the said process, the Hon'ble Commission erred in excluding the mandatory surplus of Rs. 493.20 Crore.*

4.1.2.5 MSEDCL filed the appeal (Appeal No.185 of 2008 & IA No.96 of 2009) before Hon'ble Appellate Tribunal seeking suitable directions from the Tribunal to State Commission to consider the grant of mandatory surplus of 4.5% on total asset base which was already been directed by Hon'ble High Court, Mumbai vide judgment dated 11th February 2004.

4.1.2.6 The Hon'ble ATE passed the judgment on 7th July 2010 in the matter of Appeal No.185 of 2008 regarding MSEDCL wherein it ruled in MSEDCL's favour.

4.1.2.7 The minimum surplus specified by the State Govt. was 4.5% of the value of the fixed assets of MSEB for FY 2001-02 in terms of Section 59 of the Electricity (Supply) Act, 1948. The required minimum surplus at the beginning of FY 2001-02 was Rs. 487.46 Crore as per the Audited Accounts of MSEB for FY 2001-02. Hence MSEDCL request the Hon'ble Commission to allow Rs. 487.46 Crore."

5.1.3 In the said judgement, in Appeal No. 185 of 2008, the Hon'ble ATE observed,

"With reference to the above prayer, the Appellant has filed an affidavit dated 03.08.2009, in which the relevant portion – Paras 5 & 6 are reproduced below:

> *"5. The erstwhile MSEB approached the MERC asking the MERC to provide for the mandatory surplus @ 4 ½% of the total capital base being Rs.493.18 Crore and a deficit of Rs. 539.46 Crore for FY 2001-02. While the application filed by the erstwhile MSEB before the MERC was pending, the successor in interest i.e. MSEDCL filed a Tariff Petition for the year 2008-09 in which MSEDCL sought to recover the actual expenses incurred for FY 2001-02. In the said Petition the MSEDCL sought to recover the actual expenses incurred during the year 2001-02 without excluding any amount on account of sharing*

of 50% of T & D losses over the target set by MERC but without also including therein the mandatory surplus which the MSEDCL is bound to get under Section 59 of the Electricity Supply Act 1948, which claim of the MSEDCL had been upheld by the Hon'ble High Court and in fact there was a specific direction to the MERC to grant the same to the Appellant.

6. The MERC in the impugned Order corrected the Tariff Petition of the Appellant to the extent of amount equivalent to 50% of the T & D losses over the target set by MERC to the Appellant, which denial has been affirmed by the High Court but the MERC failed to consider to grant to the Appellant the mandatory surplus of 4.5% as mentioned above earlier which was a specific direction by the High Court and which had been specifically claimed by the MSEB in their application to the MERC filed on 24TH March 2004, which application had to be considered at the time of fixation of Tariff for the year 2008-09."

In view of this limited prayer, we deem it appropriate to remit the matter to the State Commission directing it to consider the aspect with reference to the mandatory surplus of 4.5% in the next Truing Up exercise after hearing the parties and to pass an Order in accordance with law. Accordingly directed."

5.1.4 Therefore, according to the submission of MSEDCL and in view of the judgement of the Hon'ble ATE, the Commission approves an amount of Rs. 487.46 Crore towards mandatory surplus for FY 2001-02 as per the erstwhile Electricity Supply Act, 1948.

5.2 Consolidated Revenue Gap for FY 2009-10 and FY 2010-11

5.2.1 The consolidated Revenue Gap for the 2 years FY 2009-10 and FY 2010-11 is shown in the table below. In the Order dated October 31, 2011, the Commission had approved an interim relief of Rs. 3,265 Crore for MSEDCL. The net Revenue Gap to be recovered from the tariff for FY 2011-12 is as below:

Table 77: Consolidated Revenue gap for FY 2009-10 and FY 2010-11

(Rs. Crore)

S. No.	Particulars	Approved by the Commission
1	Final True Up requirement for FY 2009-10	945
2	Provisional True Up requirement for FY 2010-11	2,238
3	Additional impact of the Hon'ble ATE Judgement	487
3	**Total Revenue Gap**	**3,670**
4	Less: Approved Revenue in Order dated October 31, 2011	(3,265)
5	**Net Revenue Gap**	**405**

5.2.2 Therefore, the final Revenue Gap of MSEDCL at the end of FY 2010-11 after Final Truing Up of FY 2009-10 and Provisional Truing Up of FY 2010-11 is approved at Rs. 405 Crore.

5.3 Directions issued to MSEDCL in this Order

5.3.1 The Commission has issued various directions to MSEDCL in this Order. These are specified in the Sections 2.2, 2.3, 2.9, 2.10, 2.12, 2.14, 3.26.5, and 4.3.7.

5.4 Applicability of this Order

5.4.1 This Order shall come into force with immediate effect. The Commission acknowledges the efforts taken by the Consumer Representatives and other individuals and organisations for their valuable contribution to the True Up process for MSEDCL for FY 2009-10 and Annual Performance Review for FY 2010-11.

Sd/-	Sd/-
(Vijay L. Sonavane)	(V.P. Raja)
Member	Chairman

APPENDIX – 1

List of Objectors

Annexed as a separate file