

Before the
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Case No. 121 of 2008

IN THE MATTER OF
Reliance Infrastructure Ltd. Distribution Business' (RInfra-D) Petition for
Truing Up for FY 2007-08, Annual Performance Review for FY 2008-09 and
Tariff Determination for FY 2009-10

Shri V. P. Raja, Chairman
Shri A. Velayutham, Member
Shri S. B. Kulkarni, Member

ORDER

Dated: June 15, 2009

In accordance with the Tariff Regulations notified by the Maharashtra Electricity Regulatory Commission (hereinafter referred as MERC or the Commission), Reliance Infrastructure Limited's Distribution Business (RInfra-D), submitted its application on affidavit for approval of truing up of Aggregate Revenue Requirement (ARR) for FY 2007-08, Annual Performance Review (APR) for FY 2008-09 and ARR and Tariff for FY 2009-10. 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 RInfra-D, all the suggestions and objections of the public, responses of RInfra-D, issues raised during the Public Hearing, and all other relevant material, and after review of Annual Performance for FY 2008-09 determines the ARR and Tariff for RInfra-D for FY 2009-10 as under.



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Abbreviations

A&G	Administrative and General
APR	Annual Performance Review
ARR	Aggregate Revenue Requirement
ATE	Appellate Tribunal for Electricity
Capex	Capital Expenditure
CWIP	Capital Work In Progress
CERC	Central Electricity Regulatory Commission
CAGR	Compounded Annual Growth Rate
CPI	Consumer Price Index
CTC	Cost To Company
DTPS	Dahanu Thermal Power Station
DA	Dearness Allowance
DSM	Demand Side Management
DPR	Detailed Project Report
EA 2003	Electricity Act, 2003
EoI	Expression of Interest
EHV	Extra High Voltage
FAC	Fuel Adjustment Charge
GCC	Grid Co-ordination Committee
GFA	Gross Fixed Assets
HPMV	High Pressure Mercury Vapour
HPSV	High Pressure Sodium Vapour
HT	High Tension
HV	High Voltage
IBSM	Interim Balancing & Settlement Mechanism
InSTS	Intra-State Transmission System
IT	Income Tax
IDC	Interest During Construction
IWC	Interest on Working Capital
kV	Kilo Volt
kW	Kilo Watt
kVA	Kilo-Volt Amperes



LT	Low Tension
LV	Low Voltage
MCGM	Municipal Corporation of Greater Mumbai
MERC/Commission	Maharashtra Electricity Regulatory Commission
MEDA	Maharashtra Energy Development Agency
MSLDC	Maharashtra State Load Despatch Centre
MSPC	Maharashtra State Power Committee
MW	Mega Watt
MT	Metric Tonne
MU	Million Units
MYT	Multi Year Tariff
MCGM	Municipal Corporation of Greater Mumbai
NFA	Net Fixed Assets
O&M	Operation & Maintenance
PLF	Plant Load Factor
PMG	Power Management Group
PLR	Prime Lending Rate
RE	Renewable Energy
REL	Reliance Energy Limited
RInfra	Reliance Infrastructure Limited
RE	Renewable Energy
RPS	Renewable Purchase Specification
R&M	Repair & Maintenance
RoE	Return on Equity
RoW	Right of Way
SBI	State Bank of India
STU	State Transmisison Utlity
SHR	Station Heat Rate
TPTCL	Tata Power Trading Comany Ltd.
TVS	Technical Validation Session
ToD	Time of Day
TTSC	Total Transmission System Cost
TSU	Transmission System Users



WPI	Wholesale Price Index
WDV	Written Down Value

1 BACKGROUND AND BREIF HISTORY

1.1 BACKGROUND

This Order relates to the Petition filed by Reliance Infrastructure Limited (RInfra) for truing up of expenses and revenue for FY 2007-08, Annual Performance Review for FY 2008-09 and determination of Aggregate Revenue Requirement and Tariff for FY 2009-10 for its Distribution Business.

RInfra (formerly known as BSES Ltd and Reliance Energy Limited [REL]) is a vertically integrated utility carrying out the functions of Generation, Transmission, Wheeling and Retail Supply of electricity in the suburbs of Mumbai.

1.2 MERC TARIFF REGULATIONS

The Commission, in exercise of the powers conferred by the Electricity Act, 2003, notified the Maharashtra Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2005, on August 26, 2005 (hereinafter referred as MERC Tariff Regulations). These Regulations superseded the MERC (Terms and Conditions of Tariff) Regulations, 2004.

1.3 MERC ORDER ON ARR AND TARIFF PETITION FOR FY 2005-06 AND FY 2006-07

Reliance Energy Limited (REL) submitted its ARR and Tariff Petition for FY 2006-07 on February 24, 2006. The Commission issued the Order on the ARR Petition of REL for FY 2005-06 and ARR and Tariff Petition of REL for FY 2006-07 on October 3, 2006.

1.4 ATE ORDER

The Commission, in the Tariff Order dated October 3, 2006, decided on the revenue requirement of Reliance Energy Limited (REL) for FY 2006-07. In the same Order,



the Commission also dealt with the truing up of cost and revenues for FY 2004–05 and FY 2005–06 based on actuals subject to prudence check.

REL challenged this Order of the Commission in the Appellate Tribunal for Electricity (ATE) on the issues of:

- a) Disallowance of actual Employee expenditure and A&G expenditure for FY 2004-05, FY 2005-06 and FY 2006-07,
- b) Disallowance of actual R&M expenditure for FY 2006-07,
- c) Disallowance of higher Income Tax for FY 2004-05 and FY 2005-06,
- d) Direction to reduce distribution loss level in FY 2006-07,
- e) Deviation in the operating norms of station heat rate, auxiliary consumption and secondary oil consumption for generation vis-à-vis the norms stipulated in the Tariff Regulations, and
- f) Reversal of treatment on rebate given by REL to its consumers on account of Judgment passed by the ATE dated May 22, 2006 by including it in the ARR of REL as a distribution licensee by the Commission in the manner set out in paragraph 7.16 and 7.17 of Tariff Order for FY 2006-07.

The ATE upheld the appeals of REL in its Judgment dated April 4, 2007 in Appeal No. 251 of 2006 as given below:

- a) The ATE upheld REL's appeal regarding the allowance of the actual employee expenditure, A&G expenditure and Income Tax of Rs. 207.34 Crore, Rs 102.02 Crore and Rs 101 Crore, respectively, as claimed by REL as against the Commission approved figures of Rs 161.85 Crore, Rs 74.05 Crore and Rs 7.64 Crore, respectively, for FY 2004-05. The total net additional expenditure allowed by ATE for REL as a whole for FY 2004-05, vis-à-vis the Commission's Tariff Order, works out to Rs. 167 crore.
- b) The ATE also upheld REL's appeal regarding the allowance of the actual employee expenditure, A&G expenditure and Income Tax of Rs. 207.26 Crore, Rs 101.64 Crore and Rs 74 Crore, respectively, as against the Commission approved figures of Rs 182.76 Cr, Rs 76.48 Cr and Rs 26.96 Cr, respectively, for FY 2005-06. The total net additional expenditure allowed by ATE for REL as a whole for FY 2005-06, vis-à-vis the Commission's Tariff Order, works out to Rs. 95.7 crore.



- c) ATE also upheld REL's appeal in the context of applicability of norms stipulated under the Tariff Regulations, and ruled that the Commission should not deviate from the operating norms for station heat rate, auxiliary consumption and specific consumption of secondary fuel as specified in the MERC (Terms and Conditions of Tariff) Regulations, 2005, even though REL's performance was better than the norms.

1.5 MERC ORDER ON MYT PETITION OF REL-D FOR FY 2007-08 TO FY 2009-10

REL submitted its ARR and Multi Year Tariff (MYT) Petition for the first Control Period from FY 2007-08 to FY 2009-10 for its Distribution Business on January 31, 2007. The Commission issued the MYT Order for REL-D for the first Control Period, i.e., FY 2007-08 to FY 2009-10, on April 24, 2007, which came into effect from April 24, 2007. As the Annual Performance Review for FY 2007-08 and Tariff determination for FY 2008-09 were under process, the various Utilities filed a Petition for continuation of revenue requirement determined for FY 2007-08 till the time of issuance of the respective Orders for each Utility. Accordingly, the Commission in its Order issued on April 1, 2008 in Case No. 102 of 2007 extended the applicability of the aforesaid Tariff Orders for the Utilities till the revised tariffs are determined for FY 2008-09 under the APR framework and Orders issued there under.

1.6 MERC ORDER ON APR PETITION FOR REL-D FOR FY 2007-08 AND TARIFF DETERMINATION FOR FY 2008-09

REL-D submitted its Petition for Annual Performance Review (APR) for FY 2007-08 and Tariff Determination for FY 2008-09 for its Distribution Business on November 30, 2007 numbered as Case No. 66 of 2007. The Commission issued the APR Order for REL on June 4, 2008, which came into effect from June 1, 2008, and the tariffs were initially valid upto March 31, 2009, which was later extended till the revised revenue requirement is determined for FY 2009-10, vide the Commission's Order dated April 15, 2009 in Case No. 152, 153 and 154 of 2008. REL-D has appealed against the Commission's Order on the APR for FY 2007-08 and determination of tariff for FY 2008-09 on the issue of sharing of efficiency gains and losses, income tax computation and computation of transmission system availability, before the ATE. The ATE's decision on REL-D's Appeal is awaited.



1.7 PETITION FOR ANNUAL PERFORMANCE REVIEW FOR FY 2008-09 AND TARIFF DETERMINATION FOR FY 2009-10

In accordance with Regulation 9.1 of the MERC Tariff Regulations, an Application for the determination of tariff is required to be made to the Commission not less than 120 days before the date from when the tariff is intended to be made effective. Further, the first proviso to Regulation 9.1 of the MERC Tariff Regulations provides that the “*date of receipt of application for the purpose of this Regulation shall be the date of intimation about receipt of a complete application in accordance with Regulation 8.4 above.*” The Commission had directed RInfra-D to submit the Petition for APR latest by 30th November of each year in accordance with Regulation 9.1 of the MERC Tariff Regulations.

RInfra-D submitted its Petition for truing up for FY 2007-08, APR for FY 2008-09 and tariff determination for FY 2009-10 on December 15, 2008, based on actual audited expenditure for FY 2007-08, actual expenditure for first half of FY 2008-09, i.e., from April to September 2008, and revised estimated expenses for October 2008 to March 2009, and projections for FY 2009-10. RInfra-D, in its Petition, requested the Commission to:

- Approve the ARR for FY 2007-08 for truing up purpose
- Approve the revised ARR for FY 2008-09 and FY 2009-10 for the purpose of determination of tariff for FY 2009-10.

The Commission, vide its letter dated January 16, 2009 and January 19, 2009, forwarded the preliminary data gaps and information required from RInfra-D. RInfra submitted its replies to preliminary data gaps and information requirement on January 23, 2009.

The Commission held a Technical Validation Session (TVS) on RInfra’s APR for FY 2008-09 and Tariff Petition for FY 2009-10, on January 28, 2009, in the presence of Consumer Representatives authorised on a standing basis under Section 94(3) of the EA 2003 to represent the interest of consumers in the proceedings before the Commission. The list of individuals, who participated in the TVS, is provided at **Appendix-1**. During the TVS, the Commission directed RInfra to provide additional information and clarifications on issues raised during the TVS. The Commission also directed RInfra to submit the draft Public Notice in the format prescribed by the Commission.



1.8 ADMISSION OF PETITION AND PUBLIC PROCESS

RInfra-D submitted its responses on February 14, 2009 to the queries raised during the TVS and the revised APR Petition on February 20, 2009, and the Commission admitted the APR Petition of RInfra-D on February 20, 2009.

In accordance with Section 64 of the EA 2003, the Commission directed RInfra-D to publish its application in the prescribed abridged form and manner, to ensure public participation. The Commission also directed RInfra-D to reply expeditiously to all the suggestions and comments from stakeholders on its Petition. RInfra-D issued the public notices in newspapers inviting comments/suggestions from stakeholders on its APR Petition. The Public Notice was published in The Times of India (English), Indian Express (English), Loksatta (Marathi) and Samana (Marathi), newspapers on February 25, 2009. The copies of RInfra-D's Petitions and its summary were made available for inspection/purchase to members of the public at RInfra's offices and on RInfra's website (www.rel.co.in). The copy of Public Notice and Executive Summary of the Petition was also available on the website of the Commission (www.mercindia.org.in) in downloadable format. The Public Notice specified that the suggestions/objections, either in English or Marathi, may be filed in the form of affidavits along with proof of service on RInfra.

The Commission received written objections expressing concerns primarily on several issues, including procedural issues, distribution losses, sales projections, high power purchase expenses, capital expenditure, high O&M expenditure, etc., in case of RInfra-D. The Public Hearing was held on **March 26, 2009 at 11:00 hours at Rangsharda Natya Mandir, Bandra Reclamation, Bandra (W), Mumbai 400 050**. The list of objectors, who participated in the Public Hearing, is provided in **Appendix- 2**.

The Commission has ensured that the due process, contemplated under law to ensure transparency and public participation has been followed at every stage meticulously and adequate opportunity was given to all the persons concerned to file their say in the matter. The Order is being issued well within the time period of 120 days from the date of admission of complete Petition, as stipulated under the EA 2003.

Though a common Public Hearing was held for processing the APR Petitions for FY 2008-09 and determination ARR and tariff for FY 2009-10 filed by RInfra-G (numbered as Case No. 120 of 2008), RInfra-T (numbered as Case No. 119 of 2008) and RInfra-D (numbered as Case No. 121 of 2008), the Commission is issuing



separate Orders on the three Petitions filed by RInfra. This Order deals with the truing up for FY 2007-08, Annual Performance Review of FY 2008-09 and Aggregate Revenue Requirement and Tariff determination of RInfra-Distribution Business for FY 2009-10. Various suggestions and objections that were raised on RInfra-D's Petition after issuing the Public Notice both in writing as well as during the Public Hearing, along with RInfra-D's response and the Commission's rulings have been detailed in Section 2 of this Order.

1.9 ORGANISATION OF THE ORDER

This Order is organised in the following five Sections:

- **Section 1** of the Order provides a brief history of the quasi-judicial regulatory process undertaken by the Commission. For the sake of convenience, a list of abbreviations with their expanded forms has been included.
- **Section 2** of the Order lists out the various objections raised by the objectors in writing as well as during the Public Hearing before the Commission. The various objections have been summarized, followed by the response of RInfra and the ruling of the Commission on each of the issues.
- **Section 3** of the Order details the truing up of expenses and revenue of RInfra's Distribution Business for FY 2007-08, including sharing of efficiency gains/losses due to controllable factors.
- **Section 4** of the Order comprises the Review of Performance for FY 2008-09, covering both physical performance and expenditure heads. This Section also comprises the Commission's analysis on various components of aggregate revenue requirement of RInfra-D for FY 2009-10.
- **Section 5** of the Order comprises the Tariff Philosophy adopted by the Commission and the category-wise tariffs applicable for FY 2009-10.



2 OBJECTIONS RECEIVED, RINFRA-D's RESPONSE AND COMMISSION'S RULING

2.1 PROCEDURE FOR APR FILING AND PUBLIC HEARING

Several Shopping Malls submitted that though the Commission, in its Order dated June 4, 2008, had directed RInfra-D to submit its Petition for Annual Performance Review of FY 2008-09 as well as truing up of the revenue and expenses for FY 2007-08 latest by November 30, 2008, the Petition was filed on December 15, 2008, thereby violating the Commission's Order. Further, the time provided for filing objections is not sufficient and the consumers should be permitted to file their objections on or before March 19, 2009. The objectors added that the time granted for filing the objections was not sufficient for the following reasons:

- § Petition is very voluminous
- § Data is not comprehensive to the lay man
- § The aid of experts is required to decipher the true intent of the Petition
- § There are various fundamental errors, faults and inconsistencies in the Petition

Further, proper and sufficient data has not been provided to the consumers in the Petition.

RInfra's Response

RInfra clarified that it has submitted all information/clarifications as required by the Commission with reference to the present APR Petition.

RInfra submitted that the ARR for the distribution business is as stated in the Public Notice, and the objector is referring to the numbers, which are applicable for the consolidated business activities of Reliance Infrastructure Limited, rather than the distribution business of RInfra-D.

Commission's Ruling

As regards the delay in filing of the Petition, the Commission clarifies that RInfra-D had requested for extension of time for filing of the APR Petition, which was granted by the Commission.



The Public Notice was published on February 25, 2009 in leading newspapers and the Public Hearing in the matter was scheduled on March 26, 2009, i.e., four weeks after the Public Notice was published. Regulation 64 (a) of the MERC (Conduct of Business) Regulations, 2004 specifies that a minimum of three weeks time should be given before the Public Hearing for submission of objections and comments, as far as possible. Further, an additional time of 7 days was also provided to the objectors to file their rejoinders after the Public Hearing. Thus, the Commission has followed the due regulatory process in accordance with the provisions of EA 2003 and the Commission's Regulations.

On the issue of simplicity of information to be made available to stakeholders, the Commission directed the Petitioner to include an Executive Summary of the Petition and made it available to the public. Further, the Commission also directed the Petitioner to make available the soft copy of formats in MS Excel.

2.2 COST PLUS TARIFF BASED REGULATION VIS-À-VIS PERFORMANCE BASED REGULATIONS

Juhu Schemes Residents Association and others submitted that the cost plus approach of determining the tariff must be abandoned and should be replaced with Performance Based Regulations, whereby the Commission should set the targets for key performance parameters and compute the tariff assuming that such targets are met. Juhu Schemes Residents Association further submitted that the private monopoly in the power sector has led to exploitation of the consumers. Further, the Generating Company sells power to the Transmission Companies at cost plus tariff, then the Transmission Company sell power to Distribution Companies at cost plus tariff, and then the Distribution Companies sell power to the consumers again at cost plus tariff. Hence, in an environment of cost plus tariff at all stages, where the price increase would be the sole objective of the licensees, efficiency and competition would be eliminated, resulting in higher prices and poor services.

RInfra-G's Response

RInfra submitted that the MERC Tariff Regulations provides for treatment of efficiencies and inefficiencies while determining tariffs.



Commission's Ruling

As regards the contentions raised regarding Performance based Regulations, the existing MERC Tariff Regulations stipulates a judicious mix of cost plus approach and Performance based Regulations to the extent practicable and feasible.

2.3 MAINTENANCE OF SEPARATE BOOKS OF ACCOUNTS

Shri Sandeep N. Ohri representing BIJLEE-Yahogroup and several other objectors submitted that RInfra should maintain separate books of accounts for generation, transmission and distribution businesses under Section 51 of the EA 2003, Regulation 2.1 (a)(c) and Regulation 55 of MERC Tariff Regulations and Regulation 8.4.2 of MERC (General Conditions of Distribution Licence) Regulations, 2006, to ensure that the distribution business neither subsidises in any way other business undertaking nor encumbers its distribution assets in any way to support other businesses of RInfra. However, RInfra-D has not followed the condition of the distribution licence. The Commission should direct RInfra-D to submit separate audited accounts for the Mumbai electricity distribution business for the period from FY 2004-05 to FY 2007-08.

Consumer Human Rights Activist (CHRA) submitted that the past performance of RInfra should be scrutinised and excess amount should be refunded to the consumers.

Jain Sweet & Bhelpuri House (JSBH) submitted that the admission of the APR Petition is not in accordance with the Regulations as the exercise carried out by the Commission is based on incomplete information. Further, admission of RInfra's Petition amounts to virtually exempting RInfra from submission of Accounting Statements or maintaining separate accounts for the licensed business.

Shri K R. Nevrekar and several others submitted that the Commission has issued a Discussion Paper in August 2008 titled as "Uniform Recording, Maintenance and Reporting Information" and had submitted to the ATE that the same would be



applicable from the next financial year; however, the same has not been implemented till now.

RInfra-D's Response

RInfra-D submitted that it has submitted all the information/clarification as required by the Commission with reference to the present APR Petition.

In the matter of Uniform Accounting, RInfra-D submitted that the issue is under the Commission's consideration.

Commission's Ruling

The Commission, with the help of its staff as well as consultants, undertakes the detailed scrutiny of the APR Petitions filed by the Utilities.

The Commission had asked RInfra-D to submit the same information under Regulation 2.1 (a)(c) and Regulation 55 of MERC Tariff Regulations, and Regulation 8.4.2 of MERC (General Conditions of Distribution Licence) Regulations, 2006, before the TVS on RInfra-D's APR Petition for FY 2008-09. In response, RInfra-D submitted that presently RInfra-D does not maintain separate accounting statements for the licensed distribution business, as the same is not required under Part-1, Schedule-VI of the Companies Act, 1956, and such Accounting Statements are prepared for the entire Company and not for one particular business of that Company. RInfra-D submitted that it however, understands the importance of clear and categorical data relating to its different businesses – generation, transmission and distribution - and the same is presently provided to the Commission in the formats as specified by the Commission, along-with a Reconciliation Statement to reconcile costs and income among its various businesses. RInfra-D submitted that the Commission is in the process of preparing the Information Requirements Regulation, where separate accounting information for different business segments would be required to be reported by the licensees on a quarterly basis to the Commission, in the formats specified by the Commission. RInfra-D submitted that it taking steps to maintain such information and to institute processes required for reporting the information to the Commission, in accordance with the draft formats floated by the Commission. Moreover, the basis for charging revenue, cost, liability, etc., from the



licensed business to any other business or vice-versa is contained in the allocation statement submitted along with the APR Petition.

As an alternative, the Commission has obtained the Reconciliation Statements towards reconciliation of expenses and revenue submitted in the APR Petitions with the expenses and revenue allocated to its various businesses as per the Audited Accounts. Further, the Audited Accounts of the Petitioner as well as the Allocation Statements for allocating the expenses and revenue to its various businesses are submitted by the Petitioner on affidavit and are duly certified by auditor. The Commission has recently notified the MERC (Uniform Recording, Maintenance and Reporting of Information) Regulations, 2009 on April 20, 2009 which is designed to show more clear segment-wise information for each of the Businesses regulated by the Commission.

2.4 THIRD PARTY SCRUTINY

Janhit Manch and several other objectors submitted that the facts and figures projected in the APR Petition appear to be contrary to the segment-wise Balance Sheet of RInfra-D and it is necessary that an independent auditor should be appointed for the purpose of carrying out an audit of the Petition and the Report should be made available to the Public.

RInfra-D's Response

RInfra submitted that all information sought by the Commission has been furnished from time to time.

Commission's Ruling

The Commission, with the help of its staff as well as consultants, undertakes the detailed scrutiny of the APR Petitions filed by the Utilities. The Commission has obtained the Reconciliation Statements towards reconciliation of expenses and revenue submitted in the APR Petitions with the expenses and revenue allocated to its various businesses as per the Audited Accounts. Further, the Audited Accounts of the Petitioner as well as the Allocation Statements for allocating the expenses and revenue to its various businesses are submitted by the Petitioner on affidavit and are duly certified by auditor. The Commission has recently notified the MERC (Uniform Recording, Maintenance and Reporting of Information) Regulations, 2009 on April



20, 2009 which is designed to show more clear segment-wise information for each of the Businesses regulated by the Commission.

2.5 APPOINTMENT OF CONSUMER REPRESENTATIVES

Shri K Sampath, Shri Jude G. Tandon and others submitted that the Commission should appoint new Consumer Representatives under Regulation 18 of the MERC (Terms and Conditions of Tariff) Regulations, 2005, as the existing Consumer Representative remain absent during Public Hearings. The Petitions are being processed without consumer interest being taken care of, in the absence of the Consumer Representatives. Further, authorised Consumer Representatives have been grossly negligent in pointing out all discrepancies.

RInfra's Response

RInfra has not submitted any reply on this issue.

Commission's Ruling

The Commission does not agree with the contentions. The representatives of M/s Prayas Energy Group and M/s Mumbai Grahak Panchayat were present during the Technical Validation Session and the representatives of three authorised Consumer Representatives viz., M/s Prayas Energy Group, Mumbai Grahak Panchayat, and Thane Belapur Industries Association were present during the Public Hearing, and also made detailed submissions after study of the Petition filed by RInfra.

2.6 CAPITAL EXPENDITURE

Electrical Contractors Association of Maharashtra (ECAM) submitted that the very high and unrealistic capital expenditure incurred by RInfra-G directly affects the consumers in the form of Return on Equity. ECAM added that the Commission should not allow any additional expense over the capital expenditure already approved in the MYT Order. Dr. Ashok Pendse of Mumbai Grahak Panchayat submitted that the prudence of the capital expenditure should be checked and a part of it should be disallowed.



Shri Sandeep Ohri and several others referred to the ATE Judgment in the matter of Appeal No. 251 of 2006, which states that “Merely incurring of expenditure by the licensee cannot be the grounds (for) passing on costs to the consumers”.

Janhit Manch, Juhu Scheme Residents Association (JSRA) and several others submitted that the capital expenditure plan of RInfra-G is not transparent, and a detailed scrutiny and audit needs to be carried out in this respect for the period from FY 2006-07 to FY 2009-10. They added that in the cost plus regime, there is a tendency to over invest in order to get additional benefits, which are linked to the capital expenditure. They further added that cost benefit analysis should be carried out for individual schemes and schemes should be approved only after prudence check for usefulness. Further, the capital base of RInfra-G should be reassessed as all the benefits are linked to the capital base, and RInfra should be directed to submit the detailed working of the reasonable return on the capital base.

Shri Tapan Sharma and several other objectors submitted that RInfra-G should reduce the capital expenditure in view of the economic slowdown and should not burden its consumers with this additional expenditure. They added that the RInfra-G is unable to realize the revenue to support the capital expenditure on account of approved DPRs and should hence, be prudent in undertaking capital expenditure. Several objectors submitted that the investments and operations of other divisions undertaking infrastructure projects including Metro-One project and investment in Reliance Power Limited needs to be scrutinized in the interest of electricity consumers.

Prayas Energy Group (PEG) submitted that the in principle clearance given by the Commission for Capex Schemes clearly states that “*in-principle clearance should not be construed as final approval for ARR purpose and the schemes will be open for scrutiny during tariff determination process/ARR review...*” Further, it is necessary to validate that the completed schemes have been completed within the scope and other parameters mentioned in the in-principle approval by the Commission and that the expected benefits are realised. As capital expenditure of such high magnitude has enormous tariff implications for years to come, it is very important to analyse the prudence as well as performance improvement and efficiency gains in monetary terms of such expenditure. Further, scrutiny of investment plans in terms of prudence and detailed cost benefit analysis should be carried out before passing on these costs to the consumers.

PEG submitted that RInfra has described the investment schemes individually in the Petition, but not the benefits of the schemes. PEG added that the Commission should



scrutinize the individual capex schemes and approve the schemes based on the test of prudence and usefulness. PEG further submitted that the Commission has not done this exercise in past and there is no defined procedure for undertaking the same. PEG further referred to a case in which the Delhi Electricity Regulatory Commission (DERC) scrutinized the capital expenditure of BSES Yamuna Power Limited and BSES Rajdhani Power Limited (group companies of Reliance Infrastructure Ltd), in the matter of ARR for the Control Period from FY 2007-08 to FY 2010-11 and found quite revealing results. Further, DERC disallowed the amount of Rs. 535 Crore in respect of capital expenditure and capitalisation thereof. PEG added that in the view of the above case, there is a need for detailed scrutiny of investment plans beyond in-principle clearance. PEG added that the tariff impact of such huge capital expenditure is largely subdued in initial years due to assumption of long-term of loan payment and depreciation considered based on normative approach. However, this capital expenditure has incremental impact on tariff.

Inorbit Malls and several others submitted that the Commission should collect and analyse comprehensive data and information before giving 'in-principle clearance' to any capital expenditure scheme and should carry out independent audit of the data submitted by RInfra-D in this regard.

Shri. Shantanu Dixit of Prayas submitted that the CAGR of Capital Expenditure during the period from FY 1997-98 to FY 2002-03 was 1%, which has increased to 30% over the next six years, as shown in the Graph below:



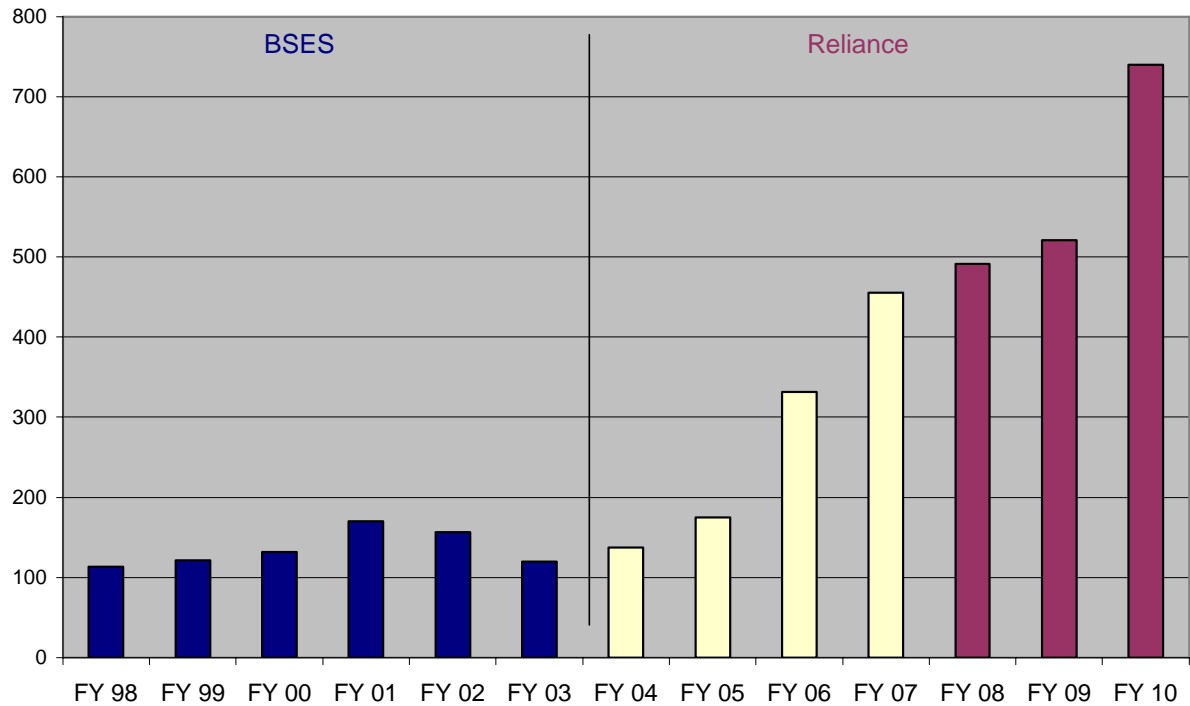
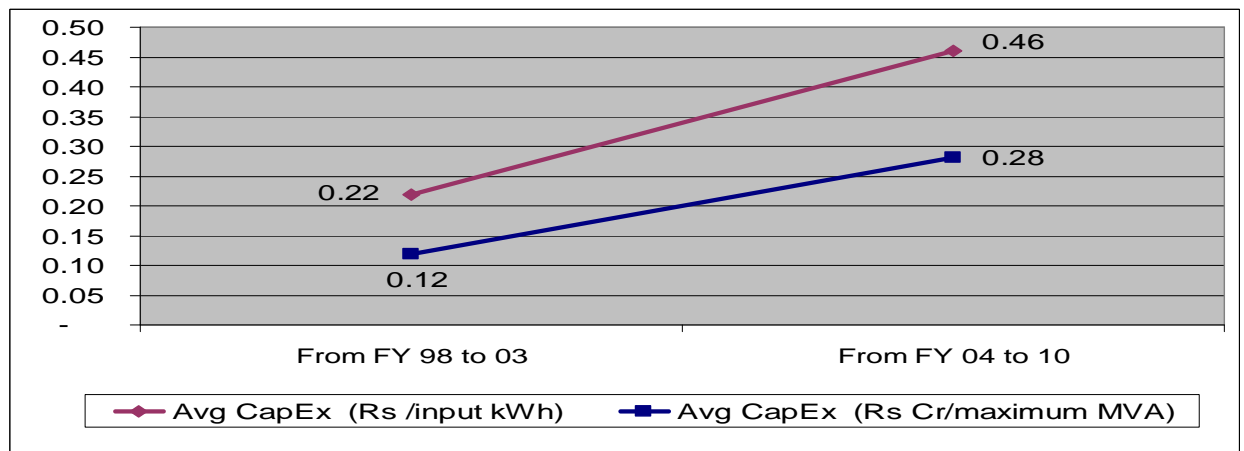


Fig: Capital Expenditure (Rs. Crore)



Growth in CAPEX vs. I/p Energy and Max Demand

Shri Dixit further submitted that the average capital expenditure per unit of input energy which was Rs. 0.22 per unit during FY 1997-98 to FY 2002-03 has gone up to Rs. 0.46 per unit during FY 2003-04 to FY 2009-10. Similarly the average capital expenditure per MVA of maximum demand has gone up from Rs. 0.12 per MVA to Rs. 0.28 per MVA during the same period. The table below shows that average Capex



was Rs. 135 Crore during FY 1997-98 to FY 2002-03 has gone up to Rs.407 Crore during FY 2003-04 to FY 2009-10.

Particulars	From FY 1997-98 to FY 2002-03	From FY 2003-04 to FY 2009-10
Average Capital expenditure in Rs. Crore / year	135	407
Compounded Annual growth in Input energy in %	1%	5%
Compounded Annual growth in Maximum MVA demand in %	3%	3%
Increase in CAPEX in Rs. Crore per unit MVA increase	4.62	8.22

Shri. Dixit submitted that as the capital expenditure of such high magnitude has enormous tariff implications for years to come, it is very important to analyze the prudence as well as performance improvement and efficiency gains in monetary terms of such expenditure.

Shri Sandeep Ohri and Janhit Manch submitted that RInfra-D should submit certain details of the capex, including pending schemes, approved schemes, tariff impact of new projects

RInfra's Response

RInfra replied that the details of the capital expenditure have been submitted in the Petition. RInfra added that the relevant Detailed Project Reports (DPRs) have been submitted to the Commission for its consideration.

The ARR is evaluated by the Commission in three phases, namely one for fixing tariff for the ensuing year, mid-year review through APR and finally through the truing up mechanism after the year is completed and the actual data is available.

RInfra submitted that the details of the equity component eligible for return is given in the Petition and computed in Form 8 of the Financial Model.



RInfra submitted that the need for capital expenditure has been explained in the Petition as well as in the DPR.

Commission's Ruling

The Commission shares the concerns raised by several stakeholders regarding the excessive capital expenditure being undertaken by RInfra, and the impact of the same on the tariff. The Commission has carried out a detailed analysis regarding the capital expenditure and capitalisation and the treatment of the same in Section 4.7 of this Order. The Commission's computations in this regard, as well as the treatment of non-DPR capital expenditure has been elaborated subsequently in Section 3.5 on truing up of expenses and revenue for FY 2007-08.

2.7 RETURN ON EQUITY

Shri Guruprasad Shetty and Indian Hotel & Restaurant Association (IHRA) submitted that return on equity has increased enormously in the previous five years on account of high capital expenditure. This payment of whopping return on equity capital is injustice to the consumers.

They submitted that RInfra has misled the Commission that the funds of the Company are provided to shareholders. RInfra initially contributed Rs. 235 Crore and has taken back more than Rs. 460 Crore in last five years. Further, RInfra had Rs. 10,024 Crore as reserves and surplus and investment of Rs. 7,664 Crore, after payment to shareholders. The market value of this investment was Rs. 33,986 Crore in March 2008. Loans and advances given, along with current assets, amount to Rs. 9,673 Crore. They submitted that this money has been collected from poor consumers. However, on the contrary, RInfra is claiming that there is a 'Revenue Gap and Need for Additional Revenue Requirement'. RInfra has been overcharging the consumers for a long period of time and this over charged amount should be returned to the consumers.

They further submitted that as per the Profit & Loss Account and Balance Sheet, the net profit of RInfra has increased by Rs. 697 Crore (280%), operating income has increased by Rs. 2,175 Crore (152%), investment in markets has increased by nearly Rs. 7,000 Crore (1100%) and reserve and surplus has increased by Rs. 5,190 Crore (210%) in the past three years. They added that RInfra would not have made such huge money, had there been a Revenue Gap. They added that RInfra has manipulated the numbers to show higher revenue requirement.



Dadar Merchants' Association submitted that RInfra has net operating income of Rs. 6,331.50 Crore, net profits of Rs. 1,084.83 Crore and Reserve and Surplus of Rs. 10,024 Crore. Further, the profit of RInfra has increased to Rs. 1,094.93 Crore in March 2008 from Rs. 387 Crore in March 2005. Further, RInfra has earned profit of Rs. 301.75 Crore in FY 2007-08, in spite of high fuel price.

Inorbit Malls and several others submitted that the Return on Equity should be reduced equivalent to the additional expenditure incurred by RInfra-D over and above the Commission's approval particularly for the controllable expenses. They further submitted that the RoE should be considered only on assets capitalised and should be limited to 10%. They further submitted that providing assured returns breeds inefficiency and a lack of resolve to minimise the expenditure.

RInfra's Response

As regards the contention raised regarding the approved RoE, RInfra replied that RoE has to be segregated in two components namely:

- § Relating to shareholders, on the total performance of the Company including businesses other than regulated business;
- § Return on regulated business as computed and reflected in the Petition.

RInfra further submitted that the two returns on the equity stated above have their distinct nature including risks and therefore, should not be mixed. The RoE under regulated business forms a part of reserves for the benefit of shareholders of RInfra and any money invested therefrom is eligible for treatment as Equity or Loan in the regulated business as applicable.

RInfra submitted that the contents of the Petition, including equity, loan, etc., should be looked at as applicable for regulated business, whereas the financial statements of RInfra as a Company includes its activities beyond the regulated business and thus, accrual of benefit and the risks thereon are for the shareholders of the Company.

Commission's Ruling

The Return on Equity has been computed in accordance with the MERC Tariff Regulations as elaborated in Sections 3.12 and 4.16 of the Order. The Commission, as elaborated in Section 4.7 of the Order, agrees with the stakeholders that due to huge capital investments in the last 4-5 years, the return on equity component of RInfra-D has increased substantially.



As regards the total reserves and surplus of the Company based on Audited Accounts, it is clarified that in accordance with the MERC Tariff Regulations, the Commission has provided return only on normative regulatory equity at the beginning of the year. Any investment by RInfra-G from the internal accruals (i.e. reserves and surplus) over and above the normative equity of 30% of the capital investments has been considered by the Commission as normative loan and the Commission on such normative loan has allowed a normative interest rate of 9% as against return of 14% on equity. Further, the total equity, reserves and surplus, and investments as reflected in the Audited Accounts of RInfra, are for the Company as a whole, which has other Businesses, apart from the Businesses in Maharashtra regulated by the Commission and the Commission has not allowed RoE on that component.

2.8 TAX ON SALE OF ELECTRICITY

Shri N.Ponrathnam and several others submitted that there should not be any differentiation in the levy of tax on sales of electricity for different consumer categories, and the Government should collect taxes from the source itself. Further, the usage of electricity should not be taxed, as increase in usage of electricity will increase the growth of Gross Domestic Product (GDP).

RInfra-D's Response

RInfra-D submitted that the Tax on Sale of Electricity and Duty are levied as per applicable Law/Regulations.

Commission's Ruling

The levy of taxes and duties are not within the purview of the Commission.

2.9 SALES FORECAST

Inorbit Malls submitted that the sales projected by RInfra-D are incomplete and incorrect and do not take into account all existing/proposed categories and the Commission must reconsider the CAGR projected by RInfra-D for HT category as 12% and for LT category as 11%. Inorbit Malls suggested that the Commission should take into account only the category-wise sales based on the actual sales in the past as against that projected by RInfra-D.



Several other objectors submitted that the category-wise projected sales including the increase and decrease in sales to various categories and cross-subsidy figures should be looked into, as a massive increase in tariff in FY 2009-10 is being called a mere 5% average increase.

RInfra-D's Response

RInfra submitted that the issues raised by the objectors have been incorporated in its Petition.

Commission's Ruling

For FY 2007-08, the Commission has accepted the actual sales as submitted by RInfra-D in its APR Petition. For FY 2008-09, the Commission has considered the actual sales for the 11-month period from April 2008 to February 2009, as submitted by RInfra-D in reply to the Commission's query in this regard, and pro-rated the same for the entire year, under the provisional truing up exercise. The sales for FY 2009-10 have been projected on the basis of the revised sales estimate for FY 2008-09, considering the past trends in sales. The details of category-wise sales considered by the Commission have been elaborated in Section 4.3 of this Order.

2.10 ENERGY CHARGES

Shri Guruprasad Shetty and Indian Hotel & Restaurant Association submitted that the actual Energy Charge in FY 2007-08 was Rs. 1.41 per unit but for working out Fuel Adjustment Charges, the energy charge was estimated at Rs. 1.61 per unit and Rs. 23.72 Crore of excess FAC was charged to the consumers.

RInfra-D's Response

RInfra-D submitted that the movement in coal price and fuel oil price has not been in synchronisation. RInfra-G, in its Petition, submitted that the cost of imported coal was lower in H1 of FY 09 and higher in H2 of the same year.

Commission's Ruling

The FAC charged by RInfra-D on account of variation in fuel costs incurred in FY 2007-08 have been periodically vetted by the Commission. Under the FAC Formula, Any excess recovery of FAC due to the mismatch in monthly consumption is adjusted in the following month.



2.11 DISTRIBUTION LOSS

Shri A.R Bapat submitted that the distribution loss for FY 2007-08 was 11%, which reduced to 10.25% for FY 2008-09. He suggested that a loss reduction target of 9.75% should be set, instead of maintaining the distribution loss level of 10.25% for FY 2009-10.

Shri Guruprasad Shetty and Indian Hotel & Restaurant Association submitted that RInfra-D has submitted that the distribution loss is 10.25%, including 4.85% transmission loss, which is nearly 21 times more than the distribution loss of TPC-D, amounting to nearly 850 MU and costing nearly Rs. 300 Crore. They submitted that the actual losses should be scrutinised and distribution loss levels in excess of distribution loss level of TPC-D should be disallowed. Moreover, RInfra-D has not provided any additional details about distribution losses. Further, the Commission should specify the target for reduction in distribution losses and any loss higher than the specified targets should be borne by the distribution licensee..

Shri N. Ponrathnam and several other objectors submitted that the Commission should ensure that proper metering is done to curtail Aggregate Technical & Commercial (AT&C) loss level to 5% of the total supply.

Shri Sandeep Ohri and others submitted that the Tariff Policy states that:

“....Third party verification of energy audit results for different areas/locality could be used to impose area/locality specific surcharges for greater AT&C loss levels and in turn could generate local consensus for effective action for better governance.....”

They further submitted that third party audit should be done for verification of loss percentage and the results should be placed before public.

RInfra-D's Response

RInfra submitted that the distribution loss predominantly comprises technical loss. Considering RInfra's distribution network and element of losses contributed by the low end consumers in slums, which constitute 45% of total residential consumers, any further reduction in losses predominantly depends on the reduction of losses in slums, which are unorganized habitation areas. Any efforts towards this require time, which extends beyond 1 year. Therefore, the loss levels for FY 2009-10 have been maintained at 10.25% and steps are continuously being taken to reduce the losses.



RInfra-D further submitted that TPC-D as of now caters to a limited number of consumers most of whom are on HT/EHT (78% of total sales). In view of TPC-D having been recognized as a full licensee and assuming that they extend their services to all categories of consumers as RInfra is undertaking (90% LT sale, 27% to low end residential consumers), it is unlikely that their losses would be substantially different as is also evident from the losses reflected in BEST's Petition (87% LT sale, 15% to low end residential consumers).

Commission's Ruling

The Commission's detailed analysis of the energy balance of RInfra-D and the actual distribution losses in FY 2007-08 has been elaborated in Section 3.2 of this Order. As regards the distribution loss levels considered for FY 2008-09 and FY 2009-10, the Commission has deliberated on this issue in detail in Section 4.1.1 of this Order.

As regards the comparison of distribution losses between RInfra-D distribution system and that of TPC-D, the Commission is of the view that the comparison is not appropriate, due to the intrinsic differences in the nature of the distribution system, LT:HT ratio, consumer mix, etc.

As regards the suggestion for undertaking third party audit for verification of loss percentage, the Commission will consider the same at an appropriate time for all the licensees.

2.12 RE-BRANDING

Janhit Manch and several other objectors submitted that the RInfra-D is not a licensee as per the terms and conditions of EA 2003. Further, the name of Bombay Suburban Electric Supply Limited was changed to BSES Limited without transfer of authorisation as per EA 2003. Hence, the changeover to Reliance Energy Limited from BSES Limited is also not in compliance with the EA 2003. Further it is not merely change of name, and activities performed by the Company have also changed with the name. RInfra-D has averred that it does not need any 'amendment/alteration' in the Distribution Licence, which was originally held in the name of "Bombay Suburban electricity Supply Company Limited", hence, this licence should be called "Bombay Suburban Electricity Supply Licence". Shri Jatin Sanghvi and several other objectors further requested the Commission to re-evaluate the licence status of both REL and RInfra.



Shri Sandeep Ohri and several other objectors submitted that Reliance Energy Limited announced in a Formal Press Release about the name change and stated that the “Name change to better the business profile and vision of the company; The Company to expand its footprint across infrastructure verticals like Metro Rail, highways, Roads, Bridges, etc.” which reflected that the change was not merely in name but the entire profile, vision and business of the Company has changed and such change undertaken without the Commission’s approval is a violation of the Licence Conditions under Section 14, 15, 16, 17 and 18 of EA 2003. He further submitted that RInfra-D cannot operate under the licence of Reliance Energy Limited as the nature of business has changed. Further, carrying out of other business in the name of RInfra-D is a violation of Section 51 of EA 2003. Further, the electricity bills are raised in the name of Reliance Energy Limited directing payment in the name of Reliance Infrastructure Limited.

Shri N. Ponrathnam submitted that the distribution licence cannot be transferred or reassigned.

Janhit Manch submitted that RInfra has violated Section 51 of Electricity Act 2003 by carrying out other businesses under the same name. Further, along with several other objectors, they enquired regarding whether RInfra-D had taken the Commission’s permission before changing its name and engaging in other businesses for optimum utilisation of assets and if they had done so then the documents should be made available to the public.

RInfra-D’s Response

RInfra-D submitted that it is governed by its Object Clause in the Articles of Association being an incorporated Company and confirmed that the businesses it is undertaking are within the purview of this Clause. RInfra-D further submitted that the Commission had issued the MERC (Specific Conditions of Distribution Licence applicable to Reliance Energy Limited) Regulations, 2008 after undertaking due process including Public Hearing required as per EA 2003 and Regulations there under. RInfra-D submitted the following points in reply to the objections raised on the distribution licence of RInfra-D:



- a) The Specific Conditions of Licence issued by the Commission clearly state the name of the Company as Reliance Infrastructure Limited on the date of issue of these Conditions.
- b) The name of the Company was changed to Reliance Infrastructure Limited from Reliance Energy Limited as of April 28, 2008, information whereof was submitted to the Commission vide its letter dated April 30, 2008.
- c) All the energy bills raised by the Company have been raised by Reliance Infrastructure Limited, however “Reliance Energy” has been retained as an identity of the Distribution business of Reliance Infrastructure Limited and the same was informed to the consumers as a message in its energy bill.
- d) RInfra-D confirmed that it will abide by all the requirements of law for any change to its corporate structure, which has been referred to by the Objector.

RInfra-D submitted that the licensed assets are not being used for ‘other businesses’ referred in Section 51 of the EA 2003

Commission’s Ruling

As stated by RInfra-D, the Commission has issued the MERC (Specific Conditions of Distribution Licence applicable to Reliance Energy Limited) Regulations, 2008, on August 20, 2008. The above Regulations also states as under:

“2 (b) “REL” or “Distribution Licensee” means Reliance Energy Limited (now known as Reliance Infrastructure Limited pursuant to Fresh Certificate of Incorporation Consequent upon Change of Name dated 28th April, 2008 issued by the Registrar of Companies, Maharashtra, Mumbai);”

The Commission does not sustain the objection that a distribution licensee, which is a Company under the Companies Act, 1956 cannot operate across other infrastructure verticals like Metro Rail, highways, Roads, Bridges, etc.

2.13 REGULATORY ASSET

Shri Shantanu Dixit submitted that for FY 2009-10, the total revenue gap after considering the carrying cost has been estimated by RInfra-D as Rs. 1,376 Crore, which would require an average increase in tariff of 23% for all the consumers. However, RInfra-D has proposed to recover only Rs. 297 Crore of the revenue gap during FY 2009-10, which requires an average tariff increase of 5%. The balance un-



recovered amount of Rs. 1,079 Crore is being proposed to be deferred to FY 2010-11 and FY 2011-12. Moreover, the term of RInfra-D's distribution licence ends on August 15, 2011. As such, any burden of past liability cannot be passed on to a new licensee that will take over after this date. Hence, the Commission should not allow RInfra-D to create any financial burden for the future licensee. Further, the Tariff Policy (TP) clearly states that the facility of a regulatory asset should be used only as exception, and subject to certain guidelines such as:

'The circumstances should be clearly defined through regulations, and should only include natural causes or force majeure conditions. Under business as usual conditions, the opening balances of uncovered gap must be covered through transition financing arrangement or capital restructuring'.

Clearly, the excessive increase in revenue gap on account of exceeding distribution and energy costs is a result of failure in planning and RInfra-D's inefficiency, resulting in higher than approved/prudent expenditure, and is not due to natural causes or a force majeure event.

Shri Tapan Sharma submitted that the despite raising tariffs as proposed, RInfra-D has submitted that there would still remain an un-recovered gap of around Rs. 1000 Crore after receiving revenue of Rs. 4000 Crore. It signifies that RInfra-D is not competitive enough to run its business in a cost effective manner.

Dr. Ashok Pendse and Shri A.R bapat submitted that the total revenue gap for FY 2009-10 projected by RInfra-D is Rs. 1376 Crore, but RInfra-D wants to recover only Rs. 297 Crore. The under recovery of Rs. 1079 Crore will pass on to FY 2010-11, which will result in a tariff increase of 129% without taking into account the carrying cost.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

While it is true that under ideal circumstances, the revenue gap of the particular year should be recovered in the same year through the tariffs levied, and Regulatory Asset



should be created only as an exception, the Commission is of the view that the circumstances in case of RInfra-D are exceptional, and is a fit case for deferring a part of the revenue requirement to the future years. RInfra-D's category-wise tariffs are already very high and if the Commission passes on the entire revenue requirement as determined by the Commission for FY 2009-10, then the average tariff increase amounts to around 10.65%. With the prevalent cross-subsidy levels, the tariff increase for the subsidised categories will have to be higher, if the cross-subsidy is to be reduced. The Commission has hence, taken a pragmatic view in the matter, and has determined the category-wise tariffs in such a manner that the average tariff increase is less than 2%, and at the same time, the cross-subsidy is also reduced to some extent. As regards the creation of a burden on the future distribution licensee, once the term of RInfra-D's distribution licence expires, the Commission is of the view that the distribution business is an ongoing business, and the existing consumers will continue to be consumers of the new licensee, in case of any change in the licensee. In other words, the distribution licensee may change, but the distribution business will remain the same, and hence, there should be no problem with the spill over of the revenue gap into the term of the next distribution licence. In any case, it is for the existing and future licensee to ponder over the treatment of the un-recovered amounts.

2.14 IMPACT OF ATE JUDGMENT

Shri Shantanu Dixit submitted that RInfra-D has appealed against most of the Tariff Orders issued by the Commission and has mostly received favourable Judgments in these appeals. The cumulative impact of these ATE Judgments has been a tariff increase of around Rs. 1000 Crore that has been charged to consumers over the last 3 to 4 year period.

PEG further submitted that the Commission should make all efforts to defend its Orders right up to the highest legal forum, i.e., the Supreme Court of India to protect sanctity of the regulatory process and consumer interests.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling



As regards the contention raised regarding the impact of the ATE Judgment, the Commission is of the view that Prayas' submissions are factual in nature. However, as regards the contention that the Commission should defend its Orders upto the highest legal forum to protect the sanctity of the regulatory process and consumer interest, the Commission clarifies that it takes the appropriate view to defend its Orders on a case to case basis. The Commission is also of the view that since any Judgment on a Tariff Order affects the consumers, the consumers can also take the initiative to file second appeals before the Supreme Court.

2.15 OPERATION & MAINTENANCE (O&M) EXPENSES

Shri Shantanu Dixit of Prayas, one of the authorised Consumer Representatives, submitted that the sharp growth in O&M expenses of RInfra-D (18% annually in the last 6 years) is very worrisome; given that very little or no operational efficiency gains have been achieved. He added that many of the cost heads under distribution cost such as O&M and capital investment related costs are controllable parameters under the MYT framework. Shri. Dixit added that O&M expenses comprise 51% of the distribution costs for FY 2008-09, as projected by RInfra-D, with employee cost comprising 27% and A&G and R&M together comprising 24%, and hence, there is a need to analyze in detail the O&M expenses and capital expenditure related costs, which comprise 33% of the distribution costs for FY 2008-09, as projected by RInfra-D.

Based on analysis of the components of O&M expenses, Shri. Dixit submitted that the 'prudent' O&M expense during the 3 years of the Control Period, considering growth at a rate of 6.5% per year works out to Rs.1443 Crore as against Rs.1640 Crore claimed by RInfra-D. Thus, the additional O&M expense of Rs.198 Crore should not be passed on to the consumers through the ARR.

RInfra-D's Response

As regards O&M expenditure, RInfra-D submitted that the cost per 1000 consumers over the period from FY 2006-07 to FY 2009-10 does not show any abnormal increase, having increased from Rs. 17 lakh per 1000 consumers in FY 2006-07, which is projected to increase to Rs. 21 lakh per 1000 consumers in FY 2009-10. RInfra-D added that these expenses have already undergone review by the Commission and the Objector as an authorized Consumer Representative. RInfra-D



added that the O&M cost of TPC and BEST per 1000 consumers were much higher at Rs. 1.53 crore and Rs. 30 lakh, respectively, for FY 2009-10.

Commission's Ruling

The Commission has deliberated on this issue in detail in Section 4.6 of this Order. The Commission is concerned with the rise in O&M expenses projected by the Utilities. Even though the O&M expenses have been approved by the Commission for each year of the Control Period in the MYT Order, wherein, by and large, the Utility's projections have been accepted, most Utilities have projected significant further annual increase in the O&M expenses for each year in the Control Period. If this increase in O&M expenses is allowed as sought by the Utilities, then the MYT framework created by the Commission in its MYT Orders will have no sanctity. Hence, the Commission rules that for FY 2008-09 and FY 2009-10, the O&M expenses allowed by the Commission for FY 2007-08 under the final truing up for FY 2007-08, after considering the base as audited expenses for FY 2006-07, will be considered as the base and increase will be allowed strictly as per the CPI/WPI growth as applicable, which incidentally, is higher than the growth rate projected by the Utilities in their respective original Petitions. Any variation between allowed expenses and actual expenses will be considered as a controllable gain/loss, and will be shared between the Utilities and the respective consumers, in accordance with Regulation 19 of the MERC (Terms and Conditions of Tariff) Regulations, 2005.

As regards RInfra-D's contention that the O&M cost per 1000 consumers is lower than that of TPC-D and BEST, the Commission is of the view that benchmarking of the expenses needs to be done with different parameters, rather than only on a per 1000 consumer basis. Each of the elements of O&M expenses, have different drivers, and hence, the benchmark ratio for each component may have to be designed differently. The Commission intends to undertake such a benchmarking exercise as a part of the formulation of the MYT Regulations for the second Control Period from FY 2010-11 to 21014-15.

2.16 EMPLOYEE EXPENSE

Inorbit Malls and several others submitted that for FY 2009-10, RInfra-D has proposed an increase of 19% in employee expenses over the approved value for FY 2008-09, which is exceptionally high and RInfra-D has not submitted any justification



for this increase. They added that the recruitment of additional staff should not be permitted and the increased salary should be compensated with increased working hours. The staff should be trained and profitability should be improved by cost cutting methods.

Shri Shantanu Dixit of Prayas, submitted that RInfra-D claims to have incurred an amount of Rs. 273 Crore towards employee expenses for FY 2007-08, which is Rs. 26.5 Crore higher than that allowed by the Commission in its APR Order dated June 4, 2008. Shri. Dixit added that ever since the year 2004, there has been a steady rise in the employee expenses, as shown in the graph below:

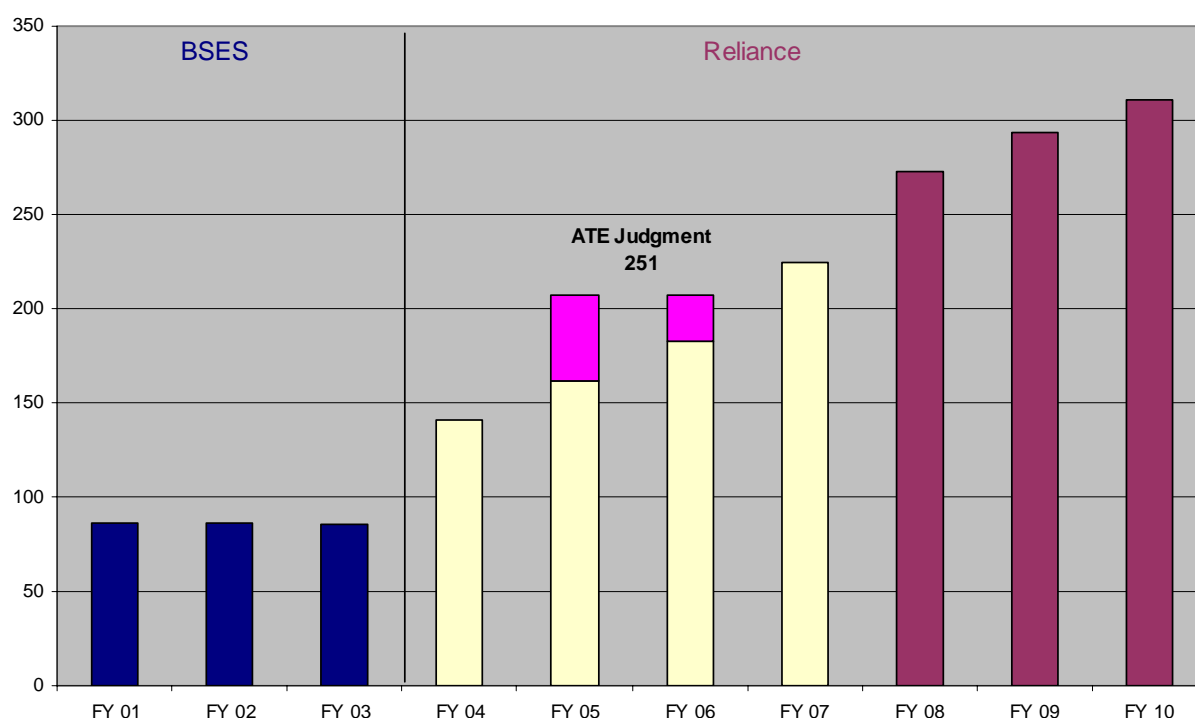


Fig: Employee Expenses (Rs. Crore)

Shri. Dixit submitted that the blue bars indicate employee costs during the BSES regime, the yellow bars indicate employee costs approved by the Commission for RInfra, and the the red bars are the employee costs estimated by RInfra-D for the current Control Period.



Shri. Dixit added that the ATE Judgments in Appeal No. 251 of 2006 and Appeal No. 90 of 2007 have led to increase in total employee expenses of FY 2004-05 and FY 2005-06 by Rs.45 Crore and Rs. 25 Crore, respectively and thus, have significantly changed the baseline of employee expenses. He further submitted that if a Utility is spending heavily on system modernization and state-of-the-art facilities such as GPS enabled automatic consumer meter reading and so on, its manpower requirement and A&G expenses should actually reduce.

RInfra-D's Response

RInfra-D has not submitted any reply to this specific objection, apart from its reply to Prayas' objection on O&M expenses, which comprises employee expenses.

Commission's Ruling

The Commission has deliberated on this issue in detail in Section 4.6.1 of this Order, while deliberating on each component of O&M expenses. As stated above, the Commission rules that for FY 2008-09 and FY 2009-10, the employee expenses allowed by the Commission for FY 2007-08 under the final truing up for FY 2007-08, after considering the base as audited expenses for FY 2006-07, will be considered as the base and increase will be allowed strictly as per the CPI/WPI growth as applicable. Any variation between allowed expenses and actual expenses will be considered as a controllable gain/loss, and will be shared between the Utilities and the respective consumers, in accordance with Regulation 19 of the MERC (Terms and Conditions of Tariff) Regulations, 2005.

2.17 ADMINISTRATION & GENERAL EXPENSE

Inorbit Malls and several others submitted that for FY 2009-10, RInfra-D has proposed an increase of 12% over the expenses in the last year, with the main reason being increase in rent and security expenses for which no justification or explanation has been provided. They suggested that the Commission must set benchmarks and rationalise the cost and specify a ceiling.



Shri. Shantanu Dixit of Prayas submitted that while estimating A&G expenses for FY 2008-09, RInfra has assumed an increase of approximately 4% over audited values of FY 2007-08 and for FY 2009-10, it has considered an increase of 6% over the estimated values of FY 2008-09. Shri. Dixit added that the ATE Judgment in Appeal No. 251 of 2006 led to an increase in total A&G expenses of FY 2004-05 and FY 2005-06 by Rs. 28 Crore and Rs. 25 Crore, respectively, and thus significantly increased the baseline of A&G expenses. Shri. Dixit added that the Compounded Annual Growth Rate (CAGR) of A&G expenses is 15% from FY 2003-04 to FY 2009-10, which is almost twice the inflation rate, as shown in the graph below:

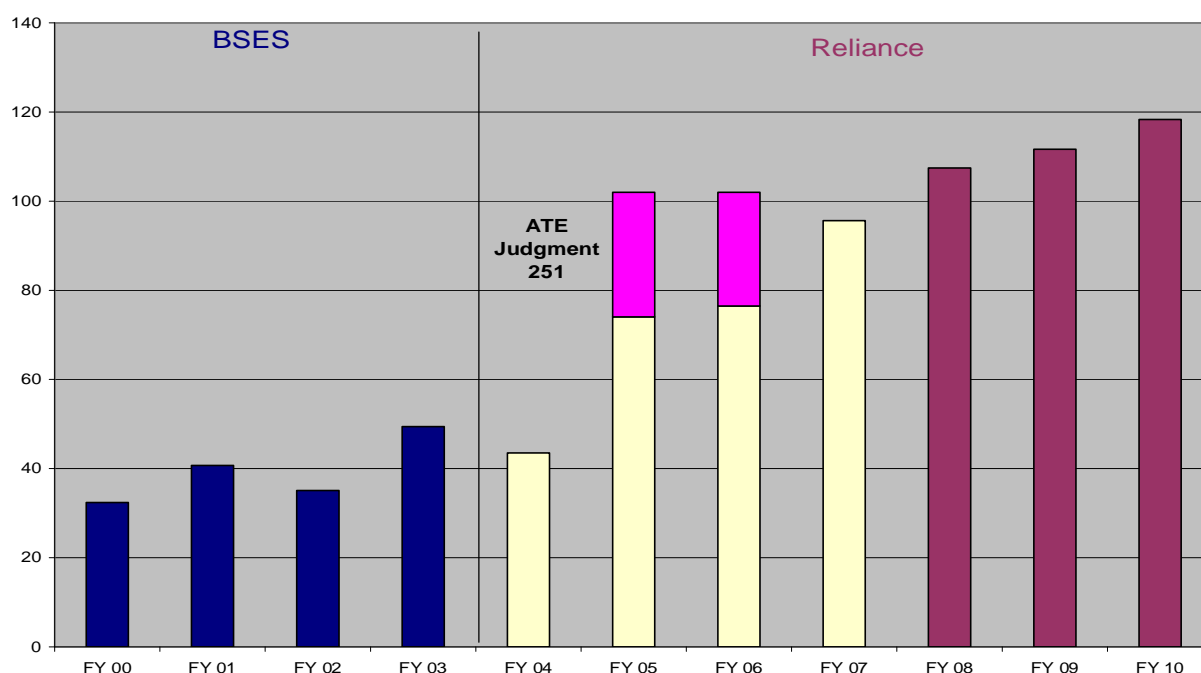


Fig: A&G Expenses (Rs. Crore)

RInfra-D's Response

RInfra-D has not submitted any reply to this specific objection, apart from its reply to Prayas' objection on O&M expenses, which comprises A&G expenses.

Commission's Ruling

The Commission has deliberated on this issue in detail in Section 4.6.2 of this Order, while deliberating on each component of O&M expenses. As stated above, the



Commission rules that for FY 2008-09 and FY 2009-10, the A&G expenses allowed by the Commission for FY 2007-08 under the final truing up for FY 2007-08, after considering the base as audited expenses for FY 2006-07, will be considered as the base and increase will be allowed strictly as per the CPI/WPI growth as applicable. Any variation between allowed expenses and actual expenses will be considered as a controllable gain/loss, and will be shared between the Utilities and the respective consumers, in accordance with Regulation 19 of the MERC (Terms and Conditions of Tariff) Regulations, 2005.

2.18 REPAIR & MAINTENANCE (R&M) EXPENDITURE

Inorbit Malls and several others submitted that RInfra-D has indicated steep increase of 31% in R&M expenses in FY 2007-08 over the audited values of FY 2006-07 without any justification. Further, RInfra-D should submit the basis for projecting Rs. 149.32 Crore towards R&M expenditure for FY 2009-10. They added that the loss reduction on account of R&M expenditure should be determined by the Commission.

Shri Shantanu Dixit of Prayas submitted that for FY 2009-10, RInfra has considered an increase of 6% in R&M expenses over the estimated value for FY 2008-09. Further, R&M expenses have also witnessed a sharp rise since FY 2003-04 and more so after the ATE Judgments in Appeal No. 251 of 2006 and Appeal No. 90 of 2007, as shown in the graph below:



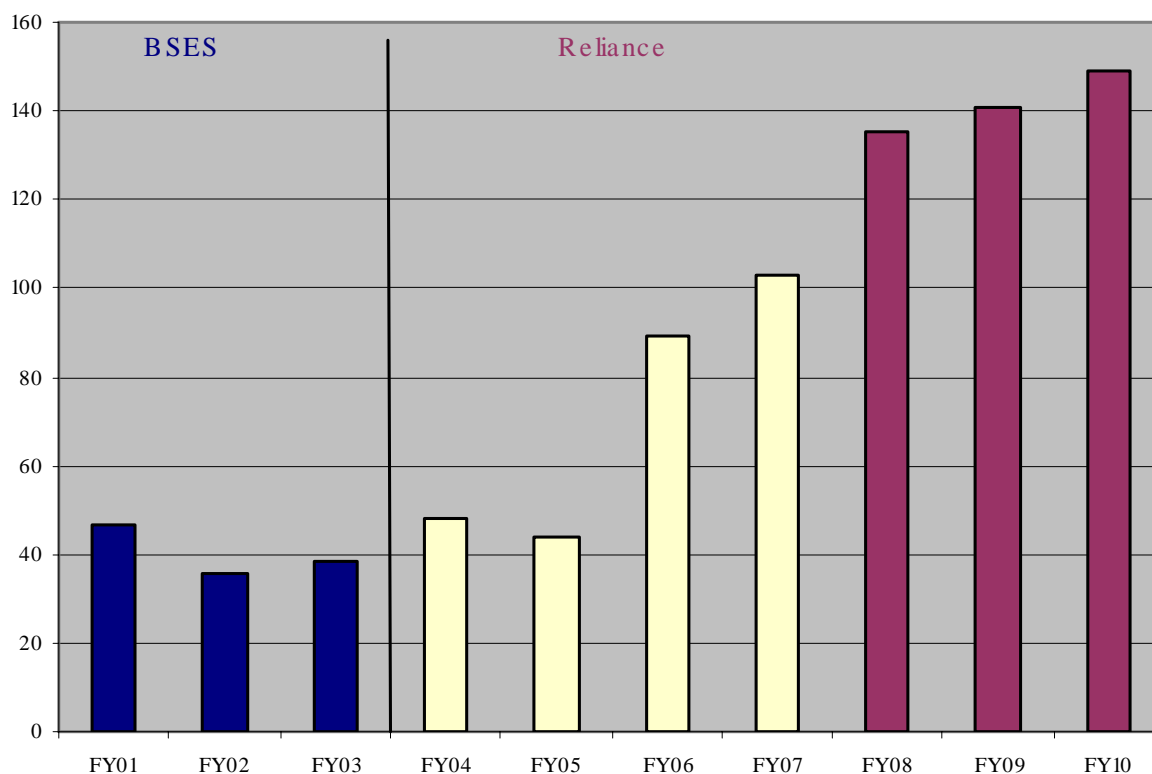


Fig: R&M Expenses (Rs. Crore)

Shri. Dixit added that the R&M expenses have increased at a CAGR of 18% during the period from FY 2003-04 to FY 2009-10, which is more than twice the inflation rate.

RInfra-D's Response

RInfra-D has not submitted any reply to this specific objection, apart from its reply to Prayas' objection on O&M expenses, which comprises R&M expenses.

Commission's Ruling

The Commission has deliberated on this issue in detail in Section 4.6.3 of this Order, while deliberating on each component of O&M expenses. As stated above, the Commission rules that for FY 2008-09 and FY 2009-10, the R&M expenses allowed by the Commission for FY 2007-08 under the final truing up for FY 2007-08, after considering the base as audited expenses for FY 2006-07, will be considered as the base and increase will be allowed strictly as per the CPI/WPI growth as applicable.



Any variation between allowed expenses and actual expenses will be considered as a controllable gain/loss, and will be shared between the Utilities and the respective consumers, in accordance with Regulation 19 of the MERC (Terms and Conditions of Tariff) Regulations, 2005.

2.19 DEPRECIATION

Inorbit Malls and several others submitted that depreciation should be calculated over the estimated life of the assets rather than in accordance with the specified rates, and moreover, the rates should be revised over a period of time.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

The ARR and tariff of the distribution licensees is being determined in accordance with the MERC Tariff Regulations, as specified in the EA 2003. The depreciation is accordingly, being allowed in accordance with the rates specified in the Schedule to the MERC Tariff Regulations. Further, it is clarified that the depreciation rates are based on the estimated life of the assets, and are charged on a straight line basis, and depreciation is also not allowed beyond 90% of the asset value.

2.20 INTEREST ON WORKING CAPITAL

Inorbit Malls and several others submitted that RInfra-D should submit the reasons for proposed increase of 89% in interest on working capital for FY 2008-09 over FY 2007-08 levels.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling



The interest on working capital has been computed in accordance with the MERC Tariff Regulations. The Commission's computations in this regard have been elaborated in Section 4.10 of this Order.

2.21 PROVISIONING FOR BAD DEBTS

Inorbit Malls and several others submitted that RInfra-D has written off 1.45% of receivables as bad debts, which is very high as compared to that in the previous years.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

The Commission's computations in this regard have been elaborated in Section 3.9 of this Order on truing up for FY 2007-08.

2.22 INCOME-TAX COMPUTATION

Inorbit Malls and several others submitted that while calculating Income Tax, the normative interest on working capital and normative long-term debt is added back and as a result, higher income tax is allowed as a part of ARR. They added that irrespective of normative or actual debt, interest is a tax deductible expense and should not be added back, while computing the income tax.

Shri Guruprasad Shetty submitted that RInfra has reported a net profit of Rs. 1084 Crore in FY 2007-08 and has paid Rs. 121 Crore as Income Tax and since income tax is tax on income, therefore, it should not be recovered from consumers.

RInfra-D's Response

RInfra submitted that the income tax has been computed in accordance with the principles as set out by the Judgment of the ATE dated April 4, 2007 which states that income tax assessment has to be made on a stand-alone basis for the licensed business.

Commission's Ruling



The Income Tax is considered as a part of the ARR, in accordance with Regulation 63.2 of the MERC Tariff Regulations, which stipulates as under:

“63.2.1 Income-tax on the income of the Distribution Business of the Distribution Licensee shall be allowed for inclusion in the aggregate revenue requirement.”

Further, in accordance with the principle set out by the ATE Judgement dated April 4, 2007 in Appeal No. 251 of 2006, the income tax of the regulated business is assessed and allowed on stand-alone basis. The detailed principles and computations of Income Tax are given in Section 3.11 and Section 4.13 of this Order, including the rationale for considering the normative interest on working capital and normative interest on long-term debt.

2.23 INVOLVEMENT OF CONSUMERS BY THE ATE

Shri Guruprasad Shetty submitted that the ATE should involve consumers in matters that could be prejudicial to consumers interest. Further, the ATE should call for objections and suggestions on the matter, which affects the consumers.

RInfra's Response

RInfra has not submitted any reply on this issue.

Commission's Ruling

The Hon'ble ATE has recently started a process in terms of which whenever a Tariff Order is challenged by the Licensee/Utility, a Public Notice is to be given in the same manner in which the Public Notice was given for filing of the Tariff Petition. In this manner, the consumers' right of getting heard would be ensured by the Hon'ble ATE. If any such consumer(s) chooses to be heard in support of their objections, they may appear in person or through Counsel at the hearing of the Appeal.

2.24 FIXED CHARGES

Inorbit Malls and several others submitted that RInfra-D is charging fixed charges for 24 hours supply even if the power is available only for 8 to 20 hours for different



consumer categories. They submitted that the fixed charges should be levied on the basis of hours of power availability, i.e., fixed charges should be reduced in proportion to the failure of power supply.

Shri N. Ponrathnam submitted that there should not be any difference in the levy of fixed charges for different consumer categories since meters for all the consumers are same.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

It is clarified that levy of fixed/demand charges are intended to recover a part of the fixed costs of the licensee, and not only the cost of the meter, with the balance fixed costs being recovered through the energy charges. The fixed charges have been retained at the same level as under the existing tariff, which was determined through the APR Order dated June 4, 2008. In the above-said APR Order, the Commission had reduced the fixed charges/demand charges applicable for different consumer categories, and correspondingly increased the energy charges, so that the bills are more directly linked to the consumption. Economic theory states that the recovery of fixed costs through fixed charges should be increased, so that a reasonable portion of the fixed costs are recovered through the fixed charges. However, the ability of the Licensees to supply cheap power on continuous basis has been eroded due to the stressed demand-supply position in recent times, and hence, the Commission had reduced the fixed charges for FY 2008-09. It was expected that this would provide certain relief to the consumers who have lower load factor, as the consumers will be billed more for their actual consumption rather than the load, and the licensees also have an incentive to ensure that continuous 24 hour supply is given to the consumers.

2.25 SECURITY DEPOSIT

Inorbit Malls and several others submitted that the security deposits of the consumers should be considered as long-term deposits with RInfra-D, and RInfra should pay the interest at bank rates. Further, RInfra-D should accept Bank Guarantee or revolving



Letter of Credit in place of security deposit and cash deposit should be refunded back to the consumers.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

It is clarified that in accordance with Regulation 11.10 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, only certain consumers can pay security deposit in the form of Bank Guarantee or revolving Letter of Credit, as reproduced below:

“A consumer -

(i) with a consumption of electricity of not less than one lakh (1,00,000) kilowatt

hours per month; and

(ii) with no undisputed sums payable to the Distribution Licensee under Section 56 of the Act may, at the option of such consumer, deposit security under this Regulation 11, by way of cash, irrevocable letter of credit or unconditional bank guarantee issued by a scheduled commercial bank.”

Further, as regards the interest payable on the amount of the security deposit, it is clarified that in accordance with Regulation 11.11 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, the interest shall be paid at a rate equivalent to the Bank Rate of the Reserve Bank of India.

For FY 2007-08, the Commission has considered the actual interest on consumer security deposit as submitted by RInfra-D. For FY 2008-09 and FY 2009-10, though the Commission has considered RInfra-D projections of interest rate for computing the ARR, however, RInfra-D should ensure that the interest provided by it on the consumers' security deposit should be based on the prevailing Bank Rate of the Reserve Bank of India.



2.26 INCENTIVES AND REBATES

Inorbit Malls and several others submitted that a bulk discount should be given only to those consumers who have higher consumption and make prompt payment.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

As ruled in Section 5.7 of this Order, a prompt payment discount of one percent on the monthly bill (excluding Taxes and Duties) shall be available to the consumers if the bills are paid within a period of 7 working days from the date of issue of the bill. The Commission has not provided for any bulk discount, since in these times of energy scarcity, it may not be appropriate to encourage higher consumption.

2.27 NON-TARIFF INCOME

Inorbit Malls and several others submitted that RInfra-D should try to explore the feasibility of providing services to other sectors to augment its income from other business, which could be used to reduce the burden on electricity consumers.

Bhartiya Udhami Avam Upbhokta Sangh and several others submitted that RInfra-D should have provided the details of non-tariff income incurred by selling the burnout parts, electric meters and other equipments. Further, RInfra-D should submit the detailed breakup of revenue received as fixed charges, TOD charges and revenue received from various consumer category such as BPL, LT-I, LT-IIA, LT-IIB, LT-IIC, LT-III, LT-IV, LT-VI, HT-I housing, HT-II Commercial, HT-I, HT-II, HT-III, etc. RInfra-D should submit the number of units having the supply only for LF purpose, number of consumers having the supply for elevators and lifts in their premises and the number of consumers listed under each category and their average electricity consumption per month.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

In this Order, the Commission has undertaken truing up of the actual revenue from non tariff income in FY 2007-08 vis-à-vis the income approved in the APR Order for



FY 2007-08, subject to prudence check. The Commission has obtained the details of the non tariff income under various heads as specified in the desired Formats. As regards the suggestions made regarding exploring the opportunities for earning income by optimally utilising the existing assets, the Commission agrees with the views of the objectors and suggests that RInfra-D should explore the opportunities for earning income by optimally utilising the existing assets by rendering other services. As regards the details of non-tariff income earned by RInfra by selling the burnt out parts, electric meters and other equipments, the Commission is of the view that the objectors cannot seek to obtain such data from the distribution licensee under the regulatory process being undertaken for the APR Petition for FY 2008-09.

2.28 LOAN REPAYMENT SCHEDULE

Inorbit Malls submitted that RInfra-D, without mentioning any reasons has increased the normative loan repayment tenure from 10 years to 20 years for loan drawn during FY 2006-07 and afterwards. As a result, the interest burden for extra years has been loaded onto ARR. They further submitted that since the entire loan repayment schedule is based on assumptions, therefore, the same should not be taken into account by the Commission.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

As regards the tenure of loan, it is clarified that the Commission has considered the tenure of normative loan for previous years and ensuing year on the basis of the MERC Tariff Regulations and the Commission's previous Orders in this regard, and the same has been elaborated in detail in Section 3.7 and Section 4.9 of this Order.

2.29 COLLECTION EFFICIENCY

Inorbit Malls and several others submitted that RInfra-D should provide information regarding category-wise collection efficiency and should achieve the stipulated target.

RInfra-D's Response

RInfra-D has not submitted any response to this objection.



Commission's Ruling

As regards the computation of collection efficiency, the same is traditionally computed as the ratio of current collection over current billing, where current collection includes collection of arrears. The Commission obtained the details of the collection efficiency for various consumer categories under the Format F16 that was published along with the APR Petition.

2.30 TRANSMISSION SYSTEM USAGE

Brihanmumbai Electric Supply and Transport Undertaking (BEST) submitted that RInfra-D has made a suggestion in the Petition that the Transmission System Users (TSUs) should sign a Bulk Power Transmission Agreement (BPTA) with Transmission Licensee, which would set out the contracted demand capacity of the TSU and that the total transmission system cost should be allocated to the TSUs based on the contracted capacity as set out in the BPTA.

BEST objected to the above proposal of RInfra-D based on the Transmission Capacity Rights. BEST submitted that in Regulation 5 of Transmission Open Access Regulations, it has been stipulated that the TSU shall be deemed to have capacity contracted by it with the generating company after approval of the Commission. However, the sharing of total transmission capacity cost of the State is based on the contribution of the licensee to the coincident peak demand of the State as specified in the Order dated June 26, 2006 on "Base Transmission Capacity Rights for Sharing of Total Transmission Capacity Charge". Hence, the capacity rights of the TSU as defined in the Open Access Regulations and the Base Transmission Capacity Rights for Sharing of Transmission Capacity Cost are not one and the same. BEST submitted that RInfra-D is trying to contend that these two are the same and therefore, RInfra-D has Transmission Capacity Rights in the total transmission capacity. BEST submitted that the contention of sharing the total cost of the transmission system for usage of the system does not confer any rights on the transmission system without a Power Purchase Agreement. The Proposal of RInfra-D should hence, be rejected.

RInfra-D's Response

RInfra-D submitted that it has explained in detail in the Petition the issues related to Transmission Capacity Rights and the reasons behind the suggestions. RInfra-D submitted certain additional arguments in support of its contention.



Commission's Ruling

As regards the contentions raised regarding transmission capacity right and sharing of the transmission cost among the transmission system users, this issue has been deliberated and ruled upon by the Commission in the APR Order for FY 2008-09 for MSETCL in Case No. 114 of 2008, which has not been reproduced in this Order.

2.31 GOVERNMENT DUTIES

Several objectors submitted that the Government Duties should be reduced as tariff is continuously increasing, and the levy of duties has resulted in windfall gain to the Government.

RInfra-D's Response

RInfra-D submitted that the levy of duties is the prerogative of the Government of Maharashtra.

Commission's Ruling

The levy of taxes and duties are not within the purview of the Commission.

2.32 METERING

Shri Jatin Sanghvi and Shri Shrikant Prabhu submitted that RInfra should submit the calibration test certificates for meters, and faulty meters should be immediately replaced as per CEA Regulations, 2006 wherein it is mandatory to install meters of correct range and correct accuracy duly calibrated at NABL accredited test laboratories.

Shri Rajesh Varma enquired whether the consumers have an option to purchase their own meter and give it to the licensee for installation after due testing.

Shri N. Ponrathnam, Shri. Gopal, and several others submitted that the electronic meters installed by RInfra-D give incorrect readings, and should be replaced with correct meters duly calibrated in NABL accredited test laboratories.

RInfra's Response

RInfra-D submitted during the Public Hearing that the meters installed by it at the consumers' premises are in accordance with the prevailing Regulations for metering and meet all the specified standards for the meters, and that there is no problem with the metering accuracy.

Commission's Ruling

The Commission is concerned with the contentions raised regarding the meters. RInfra-D should ensure that meters are properly checked and calibrated.

2.33 TARIFF HIKE

Jain Sweets & Bhelpuri House (JSBH) submitted that the energy bill for LT-II has gone up by 100% in the last three years, which makes it difficult to survive in their business in a slow moving economy. They objected that the ARR of FY 2008-09 (Rs. 6140 Crore) is 60% higher than the ARR of FY 2007-08 (Rs.3840 Crore) and the estimate of ARR for FY 2009-10 is approximately Rs. 6500 Crore which is 70% higher than the ARR of FY 2007-08.

The Westminster Co-operative Housing Society Limited and several other objectors submitted that they opposed the tariff hike proposed by RInfra and the tariffs should be frozen at the present level till the end of the MYT regime.

Shri K Sampath and several other objectors also suggested that the price of electricity should be same for each electric distribution company. Further, the Commission should enforce the same tariff for similar type of consumers to avoid violation of Section 3 of Electricity Act 2003 and Article 14 of the Indian Constitution.

Shri Shrikant Prabhu and several other objectors submitted that the tariff rates of distribution licensees under various Commissions should be compared to ensure transparency.

Shri Tapan Sharma submitted that during economic slowdown, when the prices of all raw material are going down, RInfra has projected increase in prices of raw material. He submitted that the RInfra-D should submit authentic data to establish future trend. He further submitted that the prices have fallen over last 30 months as per latest



World Bank Report (Global Economic Prospectus 2009) and the data available on the website of the Finance Ministry.

Inorbit Mall and several others submitted that if the entire revenue gap of Rs. 1376 Crore is passed through in the tariffs, it will result in an average tariff hike of 23% resulting in a tariff shock. Therefore, they suggested that the average tariff rise should not be more than 5%.

Shri Sandeep Ohri submitted that between September 2006 and March 2009, RInfra has proposed tariff hike of 104% for residential category, i.e., for consumers consuming less than 100 units per month, while for consumers consuming upto 400 units per month, the tariff hike is 85%, though, during the same period, WPI/CPI has recorded annual increase of just 6%.

Energy Study Group submitted that increase in tariff for the residential category should be minimised, and tariff for other categories should be progressively increased.

RInfra-D's Response

RInfra-D submitted that the primary reasons for increase in tariff are the increase in power purchase expense and related factors, as under:

- a) 80% of ARR comprises power purchase expenses, of which approximately 33% is being undertaken at high market prices, in view of the shortage of power in the Country
- b) Lower allocation of TPC-G capacity to the extent of 262 MW, i.e., approx. 1600 MU, total impact whereof is approximately Rs. 1300 Crore in FY 2008-09 and FY 2009-10.
- c) TPC-G is expanding its existing capacity by 250 MW at existing location at Trombay, which shares the location and infrastructure of existing capacity of 1777 MW. TPC-G has allocated this capacity between TPC-D, BEST and 100 MW to its trading arm (Tata Power Trading Co. Ltd. - TPTCL). The allocation to TPTCL is being intended to be used by them for selling in open market at market prices. RInfra, in the interest of its consumers, has already raised this issue in the current Petition with the Commission.
- d) No allocation of Power to Mumbai from Maharashtra State share in lower cost Central Generating Sector power



Commission's Ruling

The category-wise tariff and the average tariff increase are directly dependent on the Aggregate Revenue Requirement (ARR) as approved by the Commission, in accordance with the EA 2003, MERC Tariff Regulations, and Judgments of the ATE, Supreme Court, etc., since the cross-subsidies have to be reduced, while at the same time ensuring that no category is subjected to a tariff shock.

As elaborated in Section 5.3 of this Order, the total revenue from the existing tariffs comes to Rs. 6017 crore vis-à-vis the revenue requirement of Rs. 6658.60 Crore, thus, showing a cumulative revenue gap of Rs. 641.3 crore. If the entire revenue gap as determined by the Commission is recovered from the consumers through tariffs in FY 2009-10, it would require an average tariff increase of around 10.65%, which is very high, in view of the already prevailing high tariffs.

The Commission has been deeply concerned for the past few years, about the increasing tariffs to consumers of Maharashtra. The Commission is of the view that the retail tariffs in RInfra-D licence area are already very high and any further significant increase in tariff, may not be sustainable by the consumers. Hence, the Commission has decided to restrict the tariff hike to slightly less than 2% over existing levels, after considering the impact of the FAC and additional FAC that have been merged with the base tariff. This average increase of less than 2% is expected to yield additional revenue of around Rs. 105 crore, leaving a deferred amount of Rs. 554 crore, out of the total revenue gap of Rs. 659 crore. This is in comparison with RInfra-D's proposal to defer recovery of around Rs. 1079 crore to FY 2010-11 and FY 2011-12.

While increasing the average tariffs by less than 2%, the Commission has also continued its efforts to reduce the cross-subsidy between consumer categories over that prevailing in the previous year.

As regards the request for uniform tariffs across all licence areas, the Commission is of the view that it is not feasible to have uniform tariffs across different licensees, due to inherent differences, such as revenue requirement, consumer mix, consumption mix, LT:HT ratio, etc. It is also, not appropriate to compare category-wise tariffs across different licensees for the same reasons. However, in the APR Order for FY



2007-08, the Commission had initiated the move to gradually rationalise and make uniform the tariff categorisation and applicability of tariffs for licensees in the State, and these efforts have been continued in this Order also. The differences exist because of historical reasons and differences in management policies and approach across licensees.

The issue of power purchase expense and allocation of TPC-G capacity, raised by RInfra-D in its reply, have been addressed in the next sub-section on power purchase expenses.

2.34 POWER PURCHASE EXPENSES

Shri A.R Bapat submitted that RInfra-D should submit the reason behind increase in bilateral power purchase cost from Rs. 1700 Crore to Rs. 2000 Crore.

Shri Ashok Pendse of MGP submitted that for FY 2006-07 the average power purchase rate was Rs. 3.17 per unit, Rs. 4.38 per unit for FY 2007-08, Rs. 6.39 per unit for FY 2008-09, and projected as Rs. 5.60 per unit for FY 2009-10. He submitted that there should be reduction in power purchase cost for FY 2009-10 on the account of reduction in fuel cost. He also submitted that it is essential that the licensee should procure power through long-term PPAs and visible efforts should be made for procuring power through competitive bidding.

Shri Vijay B. Malwankar and others submitted that in spite of the availability of power from the proposed Ultra Mega Power Projects (UMPP) along with a number of private projects at an affordable price range of Rs. 1.20 per unit to Rs. 2.80 per unit, no efforts are being made to bring in cheaper power and shortfall is being met by external purchases costing up to Rs. 9 per unit to Rs. 10 per unit, as the power purchase cost is a pass through. He also suggested that since RInfra-D has failed to tie up for the required amount of cheaper power, part of the difference between Rs. 8.20 per unit and average cost of Rs. 4 per unit must be borne by RInfra-D.

BEST submitted that RInfra-D, in its Petition, has submitted that the power generated from Unit-8 of TPC cannot be sold to the traders and should be allocated between the distribution licensees uniformly. However, the Commission in its Order in Case No.



66 of 2007 has not allocated power to RInfra-D since it did not come forward to sign PPA for the 100 MW capacity of Unit-8.

Jain Sweets & Bhelpuri House (JSBH) objected that the power purchase cost of RInfra-D has gone up by 66% in FY 2008-09 over FY 2007-08 levels, and the same trend seems to be continuing on account of RInfra's inability to execute long term Power Purchase Agreement (PPA). As a result, the consumers are being burdened to the extent of Rs. 725 Crore every year. Incremental expense for procurement of expensive power should not be recovered from the consumers as despite repeated directions by the Commission, RInfra-D has failed to sign any long-term PPA.

Shri Jatin Sanghvi submitted that RInfra-D should be directed to enter into long term Power Purchase Agreement (PPA) for required quantum of demand for interrupted power supply. He also submitted that if RInfra fails to comply with the Commission's directions, then RInfra-D's distribution licence should be cancelled. Shri N. Ponrathnam submitted that the Commission should ensure that the PPA for the total requirement of MVA and MU should be in place so as to provide uninterrupted supply to the consumers and the cost of power purchase approved should only be considered while approving the ARR.

Shri Tapan Sharma and several others submitted that the increase in tariff is due to the absence of any long term PPA with TPC-G or other generators. They further submitted that the Commission should disallow the tariff increase on account of any costly power purchase.

Many objectors submitted that the loss on account of power purchase cost should be shared under Regulation 19.2 of the MERC (Terms and Conditions of Tariff) Regulations, 2005.

Inorbit Mall and several other objectors have submitted that the average power purchase price during FY 2007-08 was Rs. 3.27 per unit as against the approved price of Rs. 3.07 per unit. Further, RInfra-D has projected an average power purchase cost of Rs. 4.99 per unit for FY 2008-09 as against the approved price of Rs. 3.65 per unit. Further, RInfra-D should provide details of power purchases from imbalance pool, imbalance pool settlement and costly power purchase from bilateral contracts.



Shri Guruprasad Shetty and Indian Hotel & Restaurant Association submitted that during FY 2008-09, fuel prices had peaked by August 2008 and crashed by February 2009 to a historic low level. Power purchase cost will be all time low during FY 2009-10 and the actual cost of generation would reduce by 20% and actual cost of power purchase from outside source would reduce by atleast 40%. He further submitted that RInfra-D purchased 4570 MU from TPC-G during FY 2007-08 at Rs. 3.71 per unit and rate of TPC-G's Unit No.-6 in FY 2009-10 is expected to reduce by Rs. 3 per unit or less because of lower fuel cost but instead of increasing purchase from TPC-G, RInfra-D plans to reduce the purchase by 1650 MU and buy 2913 MU from bilateral sources at estimate cost of Rs. 7 per unit. Expensive power purchase should be disallowed. For FY 2009-10, RInfra-D submitted that after subtracting BEST requirement of 4589 MU and TPC-D's requirement of 2736 MU out of TPC-G estimated generation of 11496 MU there remains a balance of 4171 MU, which belongs to consumers of RInfra-D, who require approximately around 9500 MU. If nearly 4100 MU can come from Dahanu Thermal Power Station at a cost of Rs. 2 per unit, 4171 MU from TPC-G at a cost of Rs. 3 per unit and the balance from the external sources at an average cost of Rs. 5.50 per unit, the total power purchase cost for FY 2009-10 would be around Rs. 2747 Crore and if RInfra-D maintains same tariff as FY 2007-08, it would make a gross profit of Rs. 1369.67 Crore in FY 2009-10, because of lower fuel cost but RInfra-D wants to inflate power purchase cost by Rs. 1504 Crore by buying from external sources.

Shri Shantanu Dixit and others submitted that in the ARR and Tariff Petition submitted last year, RInfra-D stated that the bilateral power purchase for FY 2007-08 and FY 2008-09 forms only 5-7% of the energy input requirement and the power procured so far has been at various rates ranging from Rs. 3.97/kWh to Rs. 5.51/kWh.

Table: Source-wise average cost and share of power procured

Source	FY 07	FY 08	FY 09	FY 10
DTPS	2.01 (48%)	2.13 (44%)	2.45 (41%)	2.65 (39%)
TPC-G	3.02 (51%)	4.02 (50%)	4.83 (30%)	3.82 (30%)



RPO	0.00 (0%)	3.49 (0%)	3.50 (0%)	3.65 (2%)
Bilateral	4.39 (1%)	5.49 (5%)	8.77 (20%)	7.00 (29%)
Imbalance Pool	7.13 (0%)	5.69 (1%)	9.45 (8%)	0.00

Shri. Dixit submitted that during FY 2008-09, RInfra-D has purchased 20% of the total input from bilateral sources at an average cost of Rs. 8.77 per unit and further, for FY 2009-10, they have estimated that 29% of the total will be purchased from bilateral sources at an average cost of Rs. 7.00 per unit, which will result in placing a high tariff burden on the consumers. In spite of being aware about the likely shortage, since the past 6 years, RInfra-D has not entered into any long or even medium term power purchase agreement with any new supplier/source.

Shri. Dixit submitted that in the Order dated January 4, 2008 for RInfra-D, the Commission has ruled as under:

“licensees should not seek post facto approval for power procurement that has been undertaken on account of inadequate planning and demand assessment.”

Thus, the licensee should be financially and legally penalized for failure to ensure cost effective power procurement on timely basis.

Shri Shrikant Prabhu submitted that the Commission should direct RInfra-D to work out the quantum of energy required and enter into a long term PPA to provide uninterrupted supply at a reasonable price.

RInfra's Response

RInfra-D submitted that as per para 31 of the Commission's Order dated September 29, 2006:

“31....., actual energy units drawn by TSU (as recorded by T<>D interface) shall be grossed up by applying composite transmission loss factor (i.e. multiplication factor of 1/(1-loss%), as determined based on methodology outlined under Appendix-1 on monthly basis. The grossed up energy drawal by



each TSU (or distribution licensee) shall be compared against the energy contracted (through own generation or power purchase by concerned TSU) to establish overdrawal or under-drawal by the concerned TSU (or distribution licensee). The overdrawal and underdrawal by various TSUs shall be settled on the basis of Weighted Average System Marginal Price (WASMP) prevalent for the month and shall be paid for by overdrawing TSU to under-drawing TSU”.

In short, this means that inter-utility settlement is done at the WASMP.

RInfra submitted that the bilateral purchase for FY 2009-10 represents incremental requirement due to load growth as adjusted for the unit price variation in FY 2008-09 and FY 2009-10. RInfra-D added that the imbalance pool settlement includes the component of bilateral power, which is dependent on market prices available power for bilateral trade.

RInfra further submitted that the reason behind the increase in the average cost of supply is the impact of inequitable allocation of TPC-G capacity, the Appeal on which is currently pending before the Supreme Court. RInfra-D further submitted as under:

- a) The matter relating to signing of PPA with TPC-G has been explained in detail in the Petition including the status of discussion with TPC and the last draft PPA.
- b) In September 2008, RInfra proposed to execute a PPA for 500 MW with TPC-G without prejudice to the rights of both the Parties, to which TPC expressed its inability to execute the same in view of various proceedings.
- c) RInfra-D has taken the cost of power based on the projections made by RInfra-G, TPC-G and the likely cost of purchased power. Further, during FY 2007-08, 762 MW of TPC-G's capacity was allocated to it which has been revised to 500 MW for FY 2008-09 and FY 2009-10. The impact of this shift is expected to be approximately Rs. 700 Crore of incremental cost for RInfra-D's consumers for FY 2008-09 and approximately Rs. 600 Crore for FY 2009-10, and the matter has been reviewed by the ATE for reallocation of TPC-G's capacity and is at present pending with the Supreme Court.
- d) RInfra further submitted that if the allocation of 262 MW is ultimately decided in favour of RInfra towards the benefit of its consumers, the gap for power



requirement would be approximately 200 MW representing about 12% of the total requirement. Pending outcome of the dispute on allocation of TPC-G's capacity, RInfra had to continue procurement as short term power. There are deviations in power demand due to seasonal variation and therefore, part of the power requirement would always be procured on short term basis. Further, there is no allocation of power to Mumbai from Maharashtra State share in lower cost Central Generating Sector power generation.

- e) The bilateral power procurement includes power procured through Mumbai Power Management Group for FY 2008-09.

RInfra further submitted that the detailed calculations for all the information required by the Commission to process the APR Petition have been submitted in the Petition filed.

Commission's Ruling

As regards the contentions raised by many objectors over the increase in power purchase cost due to costly power purchase from external sources, and suggestions that such expenditure should be treated as controllable expenditure, and certain portion of the cost of purchase from other sources on short-term basis should be borne by the Distribution Licensee, rather than being entirely passed through to the consumers, in a manner similar to that adopted for other controllable expenses such as Operation & Maintenance (O&M) expenses, etc., the Commission is of the view that there is merit in the suggestions of the objectors, given that the Commission has given repeated directives to all the distribution licensees to enter into long-term contracts for their power purchase requirement, at reasonable rates, rather than relying on costly short-term sources. However, the Commission has to consider the power purchase expenses in accordance with the provisions of the MERC Tariff Regulations, which categorise the power purchase expenses under uncontrollable factors and any variation in the power purchase cost is to be allowed as pass through in the ARR. Therefore, at this stage, under the first Control Period under the MYT framework, the Commission has not considered any sharing of the increase in cost on account of purchase from other sources on short-term basis. However, the Commission has noted the point made by the objectors in this regard and would consider this suggestion of treating power purchase expenses as a controllable expense, and sharing of increase in power purchase expenses between the Distribution Licensee and the consumers under



the second Control Period of the MYT framework, after making suitable modifications to the MERC Tariff Regulations.

The power purchase expenses of RInfra-D have been computed in accordance with the PPA for purchase from RInfra-G, which has been approved by the Commission and the remaining capacity available from TPC-G Generating Stations after considering the allocation to TPC-D and BEST based on the approved PPA. The rate of power purchase from TPC-G and RInfra-G has been considered in accordance with the generation tariff approved by the Commission for TPC-G and RInfra-G in its Orders dated May 28, 2009 in Case No. 111 of 2008 and Case No. 119 of 2008, respectively. In case of RInfra-D, there is a requirement of quantum of costly power purchase due to the mismatch between the MW requirement and the MW available from RInfra-G and TPC-G, which has been assumed to be available at the rate of Rs. 7 per kWh. As regards the dispute on the share of TPC-G capacity available to RInfra-D, the Honourable Supreme Court has already ruled on this matter, vide its Judgment dated May 6, 2009, the salient features of which have been elaborated in Section 4.5.2 of this Order. The detailed computation of source-wise power purchase quantum and cost for FY 2008-09 and FY 2009-10 has been elaborated in Section 4.5 of this Order.

2.35 WHEELING CHARGES PHILOSOPHY

Jain Sweets & Bhelpuri House (JSBH) and many other objectors submitted that the consumers should be made aware of the philosophy of wheeling charges so that they can take the advantage of the differential tariff.

RInfra-D's Response

RInfra-D submitted that the philosophy for determination of Wheeling Charges has been presented in the Petition.

Commission's Ruling

It is clarified that the methodology of computation of the wheeling charges has been elaborated in Section 5.5 of this Order. Further, for facilitating easier understanding of the Open Access charges, a sample illustration of the application of Open Access



charges including Wheeling Charges is uploaded on the Commission's website, viz., www.mercindia.org.in

2.36 RENEWABLE PURCHASE SPECIFICATION

Shri A.R Bapat enquired whether the Commission has directed RInfra to procure renewable power from only within the State.

The Tata Power Company Limited submitted that RInfra-D has not been able to meet the specified target of purchasing 4% of its total requirement from renewable energy sources and as per the Commission's directive, penalty of Rs. 5 per unit should be levied on RInfra-D for falling short of its obligations and the penalty works out to 183.63 Crore. If such penalty is levied, then the total gap will considerably reduce giving relief to the consumers.

Jain Sweets & Bhelpuri House (JSBH) and many other objectors submitted that 2/3rd part of the penalty for non-achievement of the RPS target, should be borne by RInfra-D.

Inorbit Malls and several other objectors submitted that for FY 2007-08, the energy input to RInfra-D was 9207 MU and RPS target at 4% works out to 368 MU, but the actual procurement was only 2 MU. Further, they submitted that for FY 2008-09, the RPS target was 475 MU, but the actual procurement was projected as 64 MU. They suggested that the Commission must penalise RInfra-D for not achieving the minimum specified target.

RInfra-D's Response

RInfra-D submitted that the reason for lower procurement of power from RE sources was shortage of supply. Therefore, no penalty has been accounted for in the Petition. Further, procurement of RE within Maharashtra is as per the Commission's Order dated August 16, 2006 in Case No. 6 of 2006.

Commission's Ruling

Considering energy input for FY 2007-08 as 9207.57 MU, 4% of RPS target works out to be 368.30 MU, and as against RInfra-D's actual purchase of RE of 2.24 MU. Thus, RInfra-D has not achieved the RPS target corresponding to FY 2007-08. For



truing up purposes for FY 2007-08, the Commission has considered purchase of 2.24 MU from renewable sources at a purchase cost of Rs. 0.78 crore.

However, as regards the enforcement on account of non-fulfilment of the RPS target, RInfra-D has filed a separate Petition to the Commission for waiver of the RPS target in Case No. 122 of 2008, which is under the Commission's consideration. Accordingly, for truing up purposes, the Commission has not considered any enforcement charge in the present Petition, however, based on the Commission's ruling on this issue in the separate case pending before the Commission for waiver of the RPS target, the Commission will consider the appropriate impact on account of the Order of the Commission on this issue. However, the Commission directs RInfra-D to expedite its activities to procure power from possible renewable sources to meet the targets as specified by the Commission for FY 2009-10 in this Order.

2.37 CONSUMER CATEGORISATION

Shri Shrikant Prabhu submitted that the Commission should not permit the distribution licensee to create any new tariff category for HT Public/Government and Railways as there is no provision in the EA 2003 for any categories. He added that the Commission should remove the differentiation of tariff by category, which will help in removing the problem of the consumer mix.

Shri S.C Gupta representing Prasar Bharati (Broadcasting Corporation of India) submitted that Prasar Bharati was categorised under HT-II Industrial consumers for determination of tariff till May 2008, but from June 2008, Prasar Bharati has been re-categorised under HT-II Commercial Tariff, which has resulted in severe tariff impact. Prasar Bharati requested the Commission to re-categorise them again under HT-II Industrial consumers from April 2009.

The Associations of Hospitals submitted that all the charitable hospitals charge for treatment to those who can afford and offer free and concessional services to those who cannot. Presently all the charitable hospitals are categorised under 'HT-II Commercial', which adversely affects their ability to provide quality service. Thus, all the charitable hospitals should be covered under a separate special category wherein lowest tariff rate is applicable or at par with LT-Residential and HT-Industrial.



Municipal Corporation of Greater Mumbai (MCGM) submitted that a separate category should be created for Public Water and Waste Water Utilities and they should be charged 28% cheaper than the HT industrial consumers for the power drawn through the HT connections as 28% cost reduction was offered by various licensees for different social obligations. They emphasized that all the deserving categories should get a concessional tariff with some uniformity in the concessions offered across the country by other utilities.

Mahanagar Telephone Nigam Limited submitted that they should be categorised under Industrial category since Gazette Notification No. 1 dated February 28, 2002 has declared telecom services as industry. Therefore, MTNL should be charged tariff under industrial category and an electricity duty of 6% should be applicable to it.

Shri V.Gopal submitted that there should not be different slab rates for different consumption patterns, since the income with the consumers is after tax, thus, there is no justification of having rate slabs.

Shri N.Ponrathnam submitted that consumers like airport terminal, BEST terminals, Central and State Government offices falling under the new category of HT Public/Government should not be subsidised as they are profit centres and there is no law to provide subsidy for this category. He further added that HT-III housing category is being subsidised and its benefits are reaped by builders/real estate players. He further submitted that the Commission in its Tariff Orders has sub-classified LT-II (Commercial) based on Sanctioned Load, but RInfra has proposed that if the drawal of a consumer exceeds the sanctioned load, the consumer would be billed in the respective sub-category. Further, in the tariff schedule it has been mentioned that for the consumers who exceed contract demand on more than three occasions during a financial year the action shall be taken as per the Supply Code. In this regard, he submitted that the distribution licensee cannot consider recorded demand as Contract Demand and increase or decrease in contract demand could be done only as per Regulation 6.8 of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulations, 2005, which states that the distribution licensee shall increase or reduce the contract demand upon receipt of an application from the consumer.



Spencer's Retail Ltd. submitted that during FY 2007-08, the Commission classified all the multiplexes, shopping malls, departmental stores under LT-IX category and subjected them to a substantial higher tariff on the ground that the consumers covered are unwanted/unwarranted commercial consumers. The increase in tariff was set aside by the ATE vide its Judgment dated February 18, 2008 passed in Appeal No. 16 of 2008. In view of the above, the aforesaid stores were classified under LT II category. During FY 2008-09, there was a substantial increase in the tariff of the above category consumers. The Tariff Order was challenged before the ATE and was set aside by the ATE in Appeal No. 98 of 2008. The ATE directed that the above category should be subjected to a tariff determined in accordance with the principles laid down in Appeal No. 146 of 2006, 16 of 2008 and 98 of 2008. RInfra-D, in its Petition, proposed to reduce the cross-subsidy between the categories of consumers and hence, projected a reduction of 13% in tariff for LT-II category. Therefore, they requested the Commission to reduce the tariff rate to an extent of 13% as submitted by RInfra-D for LT-II commercial category having a connected load of 20kW and above.

Mumbai International Airport Pvt. Ltd. submitted that they should not be categorised under the new category HT-Public and Government, since the tariff applicable to this category is much higher than HT-Industrial and even HT-Commercial. Therefore, MIAL requested the Commission to consider formation of separate category for airports without any reliability charge component being levied on them.

RInfra's Response

RInfra submitted that as per APR Order dated June 4, 2008, there is no separate category for charitable activity for HT consumers. RInfra-D, in its present Tariff Petition, has proposed that the hospitals run by charitable trusts be categorized under HT-Housing. RInfra-D submitted that HT-Public and Government category has been proposed keeping in mind the services to the public at large, thereby assuming that these services are not driven by profits.

In response to the query raised by MIAL, RInfra-D submitted that the amount indicated by MIAL appears to include the proposed tariff, TOSE and Electricity Duty, however, does not seem to include the benefits of power factor incentive and load factor incentive, considering that the power factor and load factor are efficient as stated by MIAL.



As regards the contentions of Spencers Retail Limited, RInfra-D submitted that this objection is subject to the outcome of RInfra's Appeal in the Supreme Court.

Commission's Ruling

While undertaking the differentiation between the tariff categories and rationalisation of the same, the Commission has borne in mind the provisions of Section 62(3) of the Electricity Act, 2003, which stipulates as under:

“The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.”

It should be noted that it is not possible to apply all the above specified criteria at the same time, for designing the tariff categories; else, with many permutations and combinations, there will be too many categories. Perhaps, that is also not the intention behind the provision, which merely enables the Regulators to work within the criteria.

In this context, quite a few consumers have been sending communications to the Commission after the issue of the Tariff Orders, as well as representing before the Commission during and after the Public Hearings, stating that they are not undertaking any 'commercial' activity or activities for making 'profit' within their premises, and hence, they should not be classified under the 'commercial' category. It is clarified that the 'commercial' category actually refers to all 'non-residential, non-industrial' purpose, or which has not been classified under any other specific category. For instance, any all office establishments (whether Government or private), hospitals, educational institutions, airports, bus-stands, multiplexes, shopping malls, small and big stores, automobile showrooms, etc., are all covered under this categorisation. Clearly, they cannot be termed as residential or industrial. In order to remove the confusion bring clarity in this regard, the Commission has renamed this category as 'non-residential or commercial' in this Order.

A similar impression is conveyed as regards the 'Industry' categorisation, with the Commission receiving several representations during and after the Public Hearings,



from the hotel industry, leisure and travel industry, etc., stating that they have also been classified as 'industry' for the purpose of taxation and/or other benefits being extended by the Central Government or State Government, and hence, they should also be classified as 'industry' for the purpose of tariff determination. In this regard, it is clarified that classification under Industry for tax purposes and other purposes by the Central or State Government shall apply to matters within their jurisdiction and have no bearing on the tariffs determined by the Commission under the EA 2003, and the import of the categorisation under Industry under other specific laws cannot be applied to seek relief under other statutes. Broadly, the categorisation of 'Industry' is applicable to such activities, which entail 'manufacture'.

While appreciating the anxiety of different classes of consumers to reduce their payments on account of use of electricity, the reasonable costs incurred by the Utilities have to be met, and irrespective of the number of consumer categories or the sub-classification considered in accordance with the provisions of Section 62(3) of the EA 2003, the cross-subsidies have to be reduced gradually and the tariff differential between categories cannot be very significant in the long-run.

Further, the suggestion to create a new 'HT: Public and Government' category has been rejected, since Section 62(3) does not permit differentiation between consumer categories on the basis of ownership, i.e., public or private, as elaborated above. Moreover, even if MIAL were operating on a no-loss, no-profit basis, it would not provide a basis for determining preferential tariffs for MIAL, since Section 62(3) of the EA 2003 does not provide for differentiation between consumers on the basis of whether the consumer is profit making, loss making or operating on no-loss, no profit basis.

The contentions regarding tariff increase and cross-subsidy reduction have been dealt with separately in this Section.

2.38 COST OF SUPPLY AND CROSS-SUBSIDY

Shri Krishna Sarbadhikari submitted that the average cost of supply of BEST should be considered as benchmark for TPC-D and RInfra-D, and any increase in the average cost of supply beyond the benchmark should not be allowed. He added that any increase in the electricity charges should be in accordance with the increase in inflation index.



Shri Ashok Pendse submitted that the cross-subsidy should be reduced gradually; otherwise cross-subsidising consumers will switch to captive generation or open access.

Dadar Merchants Association submitted that with the current price of fuel oil, the tariff ought to be reduced by 30-45% as the input cost has gone down. They further submitted that the average cost of generation from all sources would be around Rs. 2 per unit but levy of additional charges like energy charges, reliability charges, fixed charges, etc., increases the average cost per unit.

Shri N. Ponrathnam and several others submitted that in accordance with Section 62 (3) of EA 2003 and Article 14 of the Constitution of India, the cost of supply of different Utilities should be same across the Mumbai licensee area. They further submitted that the Commission should not levy different tariff to the consumers taking supply at the same voltage, e.g., LT-I, LT-II, LT-III (a) (b) (c), etc., they also submitted that three phase supply should be charged less since average cost of supply is less for three phase connections. Further, the cost of supply should be less in urban areas than in rural areas since the percentage of loss increases with erection of large number of small transformers at 50 kVA in rural areas. They further submitted that as per Tariff Policy, the cost of supply should not vary with the purpose for which it is used. They submitted that the Government should bear the cost of subsidy provided to BPL consumers, and that the subsidy should be reduced in a gradual manner without giving tariff shock to other consumer categories.

Shri V.Gopal submitted that since FY 1988-89, the average rate of electricity supply has increased by 850%, the reason behind being high establishment charges and other charges incurred by private companies, which are passed on to the consumers. He further submitted that charges like reliability charges, cost for leakages and non-recovery of bills should be borne by RInfra-D. He submitted that the Government of India should form a central organisation for purchasing the entire power generated and should work out an average rate for all the distribution licensees and thus, a uniform rate could be applicable for all the consumers. If the private sector companies are unable to lower their charges, then the Government should consider taking over the distribution activity.



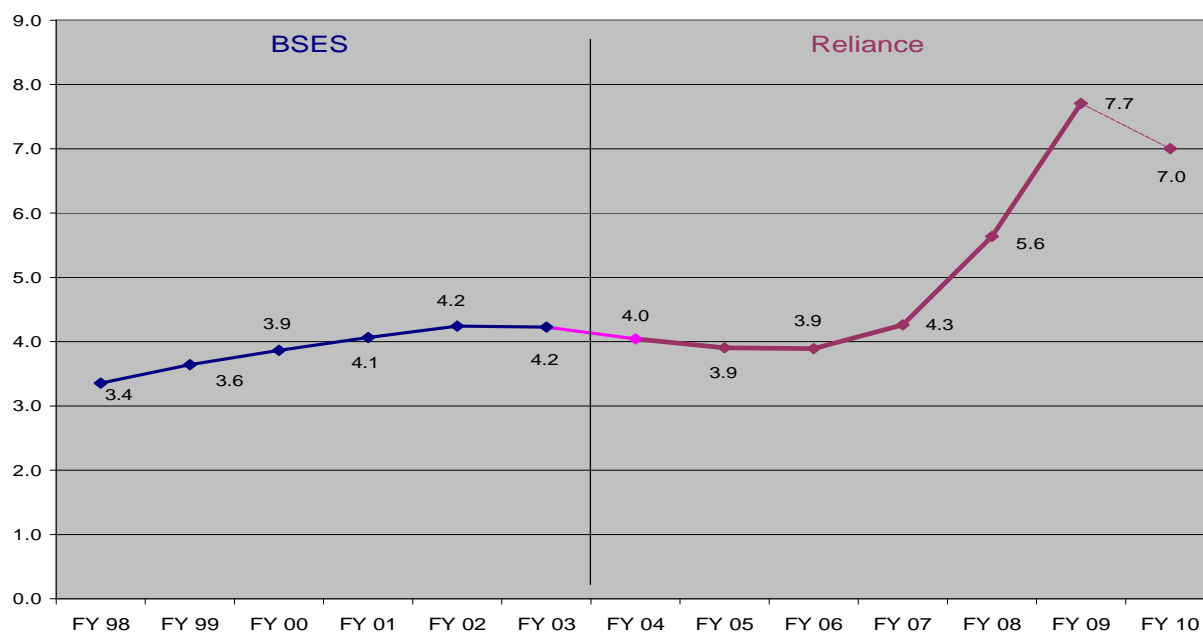
Shri Jatin Sanghvi submitted that the cost of service should be in compliance with Section 62(3) of EA 2003. He further submitted that there should be a cap on the maximum cost of supply.

MIAL submitted that RInfra-D has not submitted any details regarding the level of cross-subsidy applicable to HT-Public and Government category.

Shri Shantanu Dixit submitted that there has been a sharp increase in the cost of supply from FY 2006-07, and it has increased from Rs. 4.30 per unit to Rs. 7.70 per unit on account of the following reasons:

- a) Steep rise in energy costs
- b) Lack of planning and timely efforts to source economical/reasonable cost power
- c) Very high capital expenditure in the recent years
- d) Steep increase in O&M expenses in spite of very high capital expenditure

Fig: Average cost of supply per unit sales



For FY 2009-10, the total cost of supply has almost doubled as compared to FY 2006-07 levels. Further, the controllable factors under the distribution costs have significantly gone up and thus, need to be analysed in detail.

Shri Jatin Sanghvi and Shri Shrikant Prabhu submitted that the subsidy should be given by the State Government through a separate fund to help poor people, rather than by cross-subsidy from other consumers. Further cross-subsidy should be eliminated complying with the Section 65 of Electricity Act 2003, Section 8.3 and 8.2 (3) of the Tariff Policy and other Regulations.

Shri N. Ponrathnam and several other objectors submitted that the Commission should treat the cost of electricity to be the cost to serve, and consider a cap of 425 paise/unit for Cost of Supply and should cap the maximum price at 510 paise/unit for all the consumers.

Inorbit Malls and several others submitted that according to Section 65 of the EA 2003, Clause 8.3 of the Tariff Policy and Section 83.1 of the MERC Tariff Regulations, subsidy is to be borne by the State Government, and not by other categories. RInfra-D has proposed to increase the cross-subsidy instead of gradual reduction in cross-subsidy and a time-frame must be fixed for complete removal of cross-subsidy, thereby reducing the tariff so as to reflect the actual cost of supply.

Hardcastle Restaurants Pvt. Ltd. submitted that it is classified under LT-II C category and is cross subsidising other consumer categories. According to Section 61 (g) of EA 2003, Clause 5.5.3 and 8.3.2 of the National Electricity Policy, the cross-subsidy should be gradually reduced and subsequently eliminated, and should be brought closer to average Cost of Supply (CoS). They further submitted that there should be no increase in the tariff for a consumer beyond average percentage hike in average CoS, and the Commission should lay down a roadmap for cross-subsidy reduction, so as to bring it within the range of +20% of the CoS by FY 2010-11. They also submitted they have been placed under LT-II C category, which has resulted in severe tariff shock.

RInfra's Response



In response to the query raised by Dadar Merchants Association, RInfra-D submitted that generation at Dahanu is coal based and is not directly related to the movement in fuel oil prices. TPC-G capacity includes generation based on fuel oil and the cost of generation has therefore, been taken as proposed by TPC-G in its Petition.

In response to the query raised by MIAL, RInfra-D submitted that the HT-Public and Government being a newly proposed category, it was missed out in Table 5.4 – “category wise cross subsidy”. RInfra-D submitted that the ratio of average billing rate to projected cost of supply (%) based on proposed tariff is 96%, as the projected average cost of supply is Rs. 7.43 per unit and average billing rate for HT-Public is Rs. 7.16 per unit.

RInfra-D submitted that, in its Petition, RInfra-D has made an attempt to reduce cross subsidy and accordingly proposed the tariff structure.

RInfra submitted that the Petition contains all the relevant details as regards the Aggregate Revenue Requirement (ARR) and the tariff proposed, and approximately 80% of the ARR is contributed by power purchase cost. In the continued shortage scenario of power availability in the country, the prices for the power available in the market have continued to be substantially higher than cost of generation.

RInfra-D further submitted that upward movement in the cost of power purchase continues to have an adverse impact on the tariffs. RInfra-D added that the tariff determination is based on the purpose of use and the Commission has differentiated the categories within “overall purpose of use”.

Commission’s Ruling

The comparison between the category-wise tariffs of different licensees has to be seen in the context of the cost of supply, the consumer mix, consumption mix, current level of cross-subsidy, and other factors. The cost of supply of different licensees depends upon various factors such as cost of power procured, distribution losses, operational and administrative expenses, capital related expenditure such as depreciation and interest, etc., which is bound to vary between different licensees, due to inherent differences in power purchase mix, availability and cost of own generation, and operational efficiency in controlling distribution losses. The Commission has to



determine the category-wise tariffs for different licensees on the basis of the respective cost of supply and consumption mix.

As regards the contentions that the EA 2003 mandates that the cross-subsidies have to be eliminated, it is clarified that this provision of the EA 2003 has subsequently been amended, and the word 'eliminated' has been removed. However, the Commission is well aware of the need to reduce the cross-subsidies between different consumer categories, and has been successfully reducing the cross-subsidy over successive Tariff Orders. In this Order, as elaborated in Section 5.3 of this Order, the Commission has succeeded in reducing the cross-subsidy for most consumer categories, vis-à-vis the cross-subsidy prevalent in the previous APR Order, while at the same time ensuring that none of the tariff categories is subjected to a tariff shock.

As regards the contentions regarding uniform cost of supply and references made to Section 62(3) of the EA 2003, it is clarified that Section 62(3) does not require determination of uniform cost of supply across the Mumbai licence area, and also permits differentiation between consumers taking supply at the same voltage, as elaborated earlier in this Section.

As regards the suggestions regarding creation of a Central power purchase entity, which will pool all the power purchase and ensure that the electricity tariffs are uniform throughout the country, it would not be possible to have uniform tariffs across the country and as explained above, due to inherent differences, the tariffs will vary even across different licensees located in the same State.

As regards the contentions that the subsidy burden should be borne by the State Government through direct subsidy as mandated under Section 65 of the EA 2003, rather than through cross-subsidy by other consumers, it is clarified that the EA 2003 provides for both, cross-subsidy as well as Government subsidy. The cross-subsidy has to be reduced gradually over a period of time, and if the State Government desires to offer a subsidy to any consumer category vis-à-vis the tariffs determined by the Commission, the methodology is prescribed under Section 65 of the EA 2003.

2.39 NEW CATEGORIES

Shri Sandeep Ohri and Janhit Manch submitted that RInfra-D has asked for a separate categorisation for Railways, where the sole beneficiary would be its own subsidiary, i.e., Mumbai Metro Rail Project. They submitted that RInfra-D should submit the details of proposed rates and expected revenue on the account of this usage and a



situation may arise where RInfra-D is allowed to charge tariff to metro at concessional rates and then sublet the supply to the other commercial offices/shops at commercial rates, thus making an unjust profit. The Commission should not allow any new categorisation on account of this project and RInfra-D should be directed to include the revenue on account of sales to Railways, to reduce the revenue gap. Shri N. Ponrathnam and several other objectors submitted that the power intended for the use of consumers of Mumbai should not be provided to the Railways. Jain Sweets & Bhelpuri House (JSBH) objected to the creation of new category for Railways. They further submitted that given the huge demand-supply gap, supplying power to the Metro-One Project will further increase the gap and will create a huge tariff impact. Shri Ishwar D. Kewalramani submitted that a new category for continuous process industry should be introduced.

RInfra's Response

RInfra-D submitted that the proposal made for separate categorisation for Railway was not only for metro rail, but also for mono rail. In absence of specific tariff for Railways, the power supply to Mumbai Metro for construction is being provided at the Temporary (Others) Tariff. However, a representation has been received from Mumbai Metro highlighting the discriminatory tariff being applied to them as compared to the tariff applied to Railways including for construction activity. RInfra therefore, requested the Commission to create a separate "Railway" category so that the power given to Mumbai Metro or any other similar activity in its area can be supplied at that tariff.

RInfra-D submitted that as of now Metro One has only requested for construction power for which Tariff as applicable for construction power has been applied. In addition, RInfra submitted that its endeavour to meet the requirement of Metro One would be similar to meeting permanent load requirement of consumers of Residential, Commercial and Other categories whose projects are under way and are being provided power for construction purposes.

RInfra submitted that it has proposed the tariff with an objective to reflect the parity of classification with other distribution licensees in this regard.

Commission's Ruling

As regards RInfra-D's request for creation of new category for Metro Rail and Monorail, the Commission has not considered the request for the time being, since



these consumers are yet to be commissioned. In the meantime, as clarified in RInfra-D's APR Order for FY 2007-08, RInfra-D may provide construction power at the tariff applicable for Temporary Others (LT VII (B) or HT IV, as applicable)

As regards the request to create a separate categorisation for continuous process industry, the Commission is of the view that Section 62(3) of the EA 2003 permits differentiation on account of difference in the nature of supply, rather than nature of consumption, i.e., continuous or otherwise. It is clarified that in MSEDCL licence area, the classification is based on continuous power supply through express feeders, and not for continuous process industries, per se.

2.40 OPEN ACCESS

Shri Vijay B. Malankar representing Shivsena Grahak Sanrakshan Kaksh and others submitted that open access should be allowed so that a licensee can utilise the assets created by other licensees in case of consumer migration. Further, the Commission should publish the details and procedures of applying for open access so that all the consumers are made aware of the options. Further, the Commission should publish the comparative tariff analysis of all the three distribution licensee of Mumbai.

RInfra's Response

RInfra submitted that in a competitive environment internationally, the matter is addressed as follows:

- a) Separating wire and retail and tariff thereto
- b) Determining tariff applicable for wires business (wheeling charges) for each category of consumers
- c) Permitting open access for all consumers
- d) Appropriate principles to have minimum or no cross subsidy and the neutralizing impact of cross subsidy, if any.

Further, it has also been emphasised in Section 5.2 of the Tariff Policy that multiple service providers will enhance the quality of service through competition.

Commission's Ruling

As regards the information for availing open access, it is clarified that to encourage the open access, the Commission has already notified the MERC (Distribution Open



Access) Regulations, 2005 in this regard. As per these Regulations, all consumers with load above 1 MVA are eligible for open access from April 1, 2007. Further, as regards the suggestion regarding use of the distribution network of one distribution licensee by another distribution licensee, the MERC (General Conditions of Distribution Licence) Regulations, 2006, specifies as under:

“8.3.5 The Distribution Licensee shall provide “Non discriminatory Open Access” to the Distribution System (for wheeling of electricity) for use by any Licensee, Generating Companies including Captive Generating Plants or Consumers in accordance with the Regulations made by the Commission for the purpose.

8.3.6 The Distribution Licensee shall provide to other licensees the intervening distribution facilities to the extent of surplus capacity available, in his Distribution System in accordance with the Regulations made by the Commission for the purpose or as directed by the Commission and in the event of any dispute as to the availability of the surplus capacity the same shall be determined by the Commission. The charges, terms and conditions for the use of the intervening facilities may be mutually agreed between the Licensees subject to any order made by the Commission for the purpose.”

Further, the Commission has also uploaded on its website in easy downloadable form the illustrative open access charges for seeking open access at different voltage levels for all the distribution licensees.

2.41 RELIABILITY CHARGES

Shri Jatin Sanghvi, Shri Shrikant Prabhu and several others submitted that the Reliability Charges should not be levied. Shri N. Ponrathnam submitted that there is no provision in law for charging Reliability Charges and Standby Charges to the consumers.

MIAL submitted that in the Tariff Petition filed by RInfra-D, Reliability Charges have not been applied to the new category HT-Public and Government. Therefore, it is assumed that the reliability charges are not applicable to this category.

RInfra’s Response



RInfra submitted that HT-Public and Government being a new category, the proposed tariff shown is inclusive of Reliability Charges, and the Reliability Charge component applicable to this new category will be similar to that of the Reliability Charge applicable to other HT consumers.

RInfra submitted that the tariff is determined as per the provisions of law and Regulations.

Commission's Ruling

In the MYT Order and the APR Order for FY 2007-08, the Commission had separately indicated the component of standby charges and expensive power charges chargeable to specific consumer categories, as a part of the energy charges, with the intention of sensitising the consumers about the consequences of the rapid increase in consumption and the ever-increasing demand-supply gap. The Commission is of the view that the desired objective has been achieved to some extent, since there have been several representations regarding these charges, which indicate that the desired awareness has been created. In this Tariff Order, the Commission has discontinued the practice of indicating the Standby Charges and expensive power charges separately (also called as Reliability Charges), and has specified a unified energy charge applicable for the energy consumed.

2.42 TIME OF DAY (TOD) METERING

Shri N. Ponrathnam and several others submitted that a price incentive/disincentive mechanism should be developed so as to encourage use of electricity when the demand is less and discourage the use of electricity when demand is more. They further submitted that TOD charges should be levied only with the written consent of the consumers.

Shri Ishwar D. Kewalramani submitted that the costly power charges should be recovered from the residential and commercial establishments and should be added to their TOD charges between 18 to 22 hours proportionately, since the peak demand between 18:00 hours to 20:00 hours mainly arises due to increase in demand of residential and commercial consumers.



Shree Bhayander Stainless Steel Manufacturers and Traders Association submitted that the TOD charges should be removed as it restricts the working hours from 8:00 hours to 20:00 hours.

RInfra's Response

RInfra submitted that the benefit of Time of Day (ToD) incentive should be availed by the continuous process industries to the maximum and tariff determination based on ToD reflects the effect of variability in price of power with reference to these periods (5 time blocks) to the extent possible.

Commission's Ruling

The Commission has designed the TOD tariffs in such a manner that it disincentivises consumption during the peak hours in the State, and incentivises shift in consumption from peak hours to off-peak hours, by charging higher tariffs for consumption during peak hours and providing a rebate for consumption during off-peak hours. The ToD tariffs are applicable compulsorily to HT I and HT II categories, LT II (B) and (C) and LT IV category consumers having TOD meters, as well as optionally available to LT – II (A) and LT III category consumers, who have TOD meters. The details of time-slots and applicable ToD tariffs have been elaborated in Section 5.3 of this Order.

2.43 FUEL ADJUSTMENT COST (FAC) CHARGE

Shri Guruprasad Shetty and others submitted that there should be monthly review of the licensee's performance, as any increase or decrease in revenue requirement and tariff can be done on real time basis by adjusting fuel charges. They further submitted that instead of speculating on future trends, the tariffs can be determined by the review of previous month's performance by a panel of experts and further, the tariff fixation for the subsequent month or quarter can be done based on actual audited figures and any change in variable cost can be recovered by upward or downward revision of Fuel Adjustment Charge.

Indian Hotel & Restaurant Association submitted that due to lower price of fuel there should be nil or negative fuel adjustment charge for FY 2009-10. They further submitted that the Commission should disallow this charge and reduce the Energy Charges.



TPC submitted that the Commission in its Order dated November 28, 2008 has permitted RInfra-D to charge an additional amount of Rs. 0.59 per unit for recovering their past FAC but this additional charge was permitted only till March 2009. It is noticed that RInfra-D has included the revenue from this charge at the rate of Rs. 0.54 per unit for FY 2009-10 under "Revenue from Existing Tariff" and hence, a total of Rs. 960 Crore has been considered. RInfra should explain the rationale behind considering the amount upfront, as FAC for FY 2009-10 would depend on the fuel price prevailing during the year. RInfra-D has projected a tariff increase of 5% translating to Rs. 297 Crore but the revenue requirement sought by RInfra is Rs. 1257 Crore, which translates to an increase of 25% in the tariff. RInfra-D should clarify whether it is seeking a hike of 25% or 5% over the existing tariff.

Several objectors submitted that the over-recovered FAC during previous years should be adjusted.

Adv. Parag M. Alavani representing Bhartiya Janata Party submitted that RInfra-D should submit the reason behind the increase in the actual fuel related charges of Rs. 579 Crore for FY 2008-09, and Rs. 772.36 Crore for FY 2009-10 as against the approved charges of Rs. 619.09 Crore for FY 2008-09 and Rs. 581.37 Crore for FY 2009-10.

Shri Jatin Sanghvi and several others submitted that the FAC on costly power purchase should be disallowed as there is no provision in EA 2003 to increase tariff once in a year except for the cost variation in the fuel in compliance with Section 82 of the MERC (Terms and Condition of Tariff) Regulations, 2005 and relevant provisions of Electricity Act 2003.

Shri N. Ponrathnam submitted that FAC charges levied on the consumers should be same for all the licensees since the source of power purchase is same for all the licensees.

RInfra-D's Response

RInfra-D submitted that the prevailing FAC is an integral part of existing tariff. Hence increase, if any, in retail tariff would have to be considered over the existing tariffs including FAC to reflect the effective increase. Further, the licensees are directed by



the Commission to bring the existing FAC to zero, whereby the prevailing FAC gets subsumed in the revised tariffs.

However, for the purpose of clarity RInfra-D has indicated the prevailing FAC separately so that the proposed retail tariffs reflect separately the increase on account of base tariff.

RInfra submitted that in the process of truing up and Annual Performance Review, the impact of total cost of power for the year is taken into consideration for arriving at surplus and/or deficit for the year and carried over to the subsequent year for tariff determination.

RInfra submitted that FAC is addressed as per the prevailing MERC Tariff Regulations and is recovered on post facto basis (after incurrence and duly substantiated) and therefore, would be dependent on prevailing prices/costs.

Commission's Ruling

It is clarified that the ARR and tariffs have been determined in accordance with the EA 2003 and the MERC Tariff Regulations, which do not provide for tariff determination on a monthly/quarterly basis after review of the distribution licensee's performance.

It is clarified that the philosophy behind the Fuel Adjustment Cost (FAC) Charge has been elaborated in several Orders by the Commission, which is in accordance with Regulation 82 of MERC Tariff Regulations, which stipulates as under:

"82.3 The FAC charge shall be computed and charged on the basis of actual variation in fuel costs relating to power generated from own generation stations and power procured during any month subsequent to such costs being incurred, in accordance with these Regulations, and shall not be computed on the basis of estimated or expected variations in fuel costs.

Moreover, the Commission also approves the purchase from external/bilateral sources and purchase from imbalance pool consider as a source of power purchase. Accordingly, the same is being considered for the computation of FAC charge. Since the power purchase costs are based on the prevailing fuel costs, the prevailing FAC is effectively equated to zero, and will come into the picture, in case there is a variation in the fuel prices (positive or negative) and the generators ask RInfra-D to pay for the difference in fuel costs, which is a pass-through expense. The FAC is allowed to be recovered on a monthly basis, in accordance with the Formula stipulated in the MERC



Tariff Regulations, and the FAC is vetted on a post-facto basis for each quarter. The detailed vetting reports are available on the Commission's website.

The existing Fuel Adjustment Cost (FAC) Charge has been brought to zero, on account of the adoption of the existing fuel costs for projection of the fuel expenses. In case of any variation in the fuel prices with respect to these levels, RInfra-D will be able to pass on the corresponding increase to the consumers through the existing FAC mechanism, subject to the stipulated ceiling of 10% of average energy charges. The FAC will be charged on a monthly basis, and the details of the computation and recovery from the same will have to be submitted to the Commission for post-facto approval, on a quarterly basis.

By its very nature, FAC is a licensee specific charge, and the suggestion that the FAC should be uniform for all the licensees in the State is rejected as being devoid of any merit.

For FY 2009-10, the Commission has computed the category-wise revenue based on the existing tariffs and the category-wise sales and demand as projected by the Commission, which works out to Rs. 6017.30 crore.

2.44 TARIFF PHILOSOPHY

Shri Jatin Sanghvi and several other objectors submitted that the tariff of the distribution company should be determined only after determination of tariff for the Generation Company and Transmission Company.

JVPD Tenants and Residents, and several other objectors submitted that performance should be evaluated by setting targets for key performance parameters instead of the cost plus method to stabilise the tariff hike and the tariffs should be calculated assuming that the targets are met. They further submitted that the State Government should take over power distribution in the suburban areas of Mumbai.

Shri N. Ponrathnam and several others submitted that the SERC's are forced to violate the Tariff Policy, which states that two-part tariff should be applicable to the High-Tension (HT) consumers, by approving single part tariff for windmills connected on the HT side and also the load factor is very poor. He further submitted that the demand charges cannot be levied without the consent of the consumers. He requested that the Commission should allow all the licensees to charge two-part tariff as suggested in their respective Petitions.



RInfra-D's Response

With reference to setting targets for key performance parameters instead of the cost plus method to stabilise the tariff hike, RInfra-D submitted that the cost plus regime limits the profit of a distribution licensee to the permitted level as per the MERC Tariff Regulations and therefore, the contention of unjust enrichment is not correct. RInfra-D further submitted that the present MERC Tariff Regulations provides for treatment of efficiencies and inefficiencies in deciding the Tariffs.

Commission's Ruling

As regards the contentions raised regarding Performance based Regulations, the existing MERC Tariff Regulations stipulates a judicious mix of cost plus approach and Performance based Regulations to the extent practicable and feasible. However, the Commission will evaluate whether any further linkages to performance is possible, and modify the Tariff Regulations accordingly, if required.

The ARR and tariff for the Distribution Licensees have been determined after considering the ARR and tariff determined for the Generation Companies and Transmission Licensees, since these form the input costs for the Distribution Licensees.

Two-part tariff has been stipulated for all consumer categories for all distribution licensees. As regards levy of Demand Charges, the same is applicable only for the consumers who have entered into a Contract Demand with the distribution licensee, irrespective of whether the connections have been released on the basis of Sanctioned Load or Contract Demand.

2.45 TRANSMISSION CHARGES

Shri Guruprasad Shetty and Indian Hotel & Restaurant Association submitted that only 8% of the total power is sourced from outside, whereas distribution utilities have paid Rs. 738 Crore as transmission and stand-by charges in addition to the power purchase cost. Consumers are forced to pay more than 6 times the average generation cost to get just 8% of the power shortfall from outside sources. RInfra-D should explore the possibility to establish Captive Power Plant near usage area. He suggested that open access should be provided to other utilities, payment should be done for actual usage or power purchases and using facilities from MSEDCL and MSETCL should be minimised.



RInfra's Response

RInfra submitted that the transmission charges are determined by the Commission for the integrated Transmission system of Maharashtra State with all the three transmission licensees (MSETCL, RInfra-T and TPC-T) as integral part of State transmission system.

RInfra submitted that the ARR of RInfra-T forms a part of Intra State Transmission System (InSTS), comprising of RInfra-T, TPC-T and MSETCL for allocation of transmission charges to all the licensees in Maharashtra. The Commission in Tariff Order dated June 4, 2008 stated:

“For FY 2007-08, the Commission has considered the transmission charge of Rs. 189.55 Crore as approved by the Commission in its MYT Order for REL-D”.

“The Commission vide its Order dated May 31, 2008 in Case No. 104 of 2007 on determination of Transmission Tariff for the Intra-State Transmission System, has approved the revised Transmission charges for FY 2008-09. The total transmission charges payable by REL-D for FY 2008-09 as approved by the Commission works out to Rs. 221.63 Crore”.

RInfra in Section 3.6 of its Petition has explained the methodology of arriving at projected transmission charges of Rs. 260.81 Crore for FY 2009-10.

Commission's Ruling

The Commission has taken note of suggestions made by the Objector in this regard. In accordance with the provisions of Electricity Act, 2003 and the Commission's Regulations, the Commission can only direct the Distribution Licensee to make adequate arrangements for supply of power to consumers in the license area. However, the Commission cannot direct the distribution licensee to set up generating capacity, and it is for the management of the distribution licensee to decide on the appropriate approach to be followed in this regard. However, at the same time, the distribution licensees should ensure that the entire quantum of required power supply is tied up through optimum long-term Power Purchase Agreements, so that the need for costly short-term power purchase, is minimised and eliminated.

As regards the payment of the transmission charges, the Commission clarifies that from FY 2006-07, the Commission has recognised the concept of composite Intra State Transmission System as detailed out in various Orders of the Commission. Accordingly, the consolidated ARR of all transmission entities is recovered from all



the Distribution Licensees in the State, who are long-term Transmission System Users through uniform transmission tariff.

2.46 CONTINGENCY RESERVES

Several objectors submitted that the amounts kept as contingency reserves should be apportioned to meet the projected revenue gap.

RInfra's Response

RInfra submitted that the Contingency Reserves can be deployed only under the circumstances as specified in MERC Tariff Regulations, under Regulation 63.7.2 and Regulation 76.9.2.

Commission's Ruling

The contingency reserve can be drawn only under specific circumstances, as stipulated under Regulation 76.9.2 of the MERC Tariff Regulations, as reproduced below:

“The Contingency Reserve shall not be drawn upon during the term of the licence except to meet such charges as may be approved by the Commission as being:

- (a) Expenses or loss of profits arising out of accidents, strikes or circumstances which the management could not have prevented;*
- (b) Expenses on replacement or removal of plant or works other than expenses requisite for normal maintenance or renewal;*
- (c) Compensation payable under any law for the time being in force and for which no other provision is made:*

Provided that such drawal from Contingency Reserve shall be computed after making due adjustments for any other compensation that may have been received by the Licensee as part of an insurance cover.”

Thus, amounts kept as contingency reserves cannot be apportioned to meet the projected revenue gap, under normal circumstances.



2.47 STANDBY CHARGES

Inorbit Malls and several others submitted that RInfra-D should submit the details of the stand-by charges paid. It should be noted that RInfra-D paid Rs. 222.35 Crore as against the approved stand-by charges of Rs. 220.21 Crore for FY 2008-09.

In the context of RInfra-D's proposal for revision in the allocation of standby charges between the Mumbai distribution licensees, TPC submitted that the stand-by support should not diminish due to reduction in the allocated capacity primarily on the account of the fact that the stand-by support does not relate to the total capacity contracted by any utility. Accordingly, at the most, the stand-by allocation may be made on the impact of loss of generation on the distribution licensee. The impact can be assessed by the loss in share of the generation of the highest capacity.

RInfra's Response

Standby charges payable by RInfra, TPC-D and BEST is towards an arrangement with MSEDCL to provide supply of electricity during the non-availability of generation (plant outage for repair and maintenance) from RInfra-G and TPC-G. Therefore, standby charges paid and passed on to the consumers of these distribution licensees represents the reliability towards availability of power during the generation outages and as determined by the Commission. RInfra's share in these charges is Rs. 222.40 Crore as per the Tariff Order dated June 4, 2008.

In response to TPC's objection, RInfra-D submitted that the standby support required would move in tandem with the capacity allocation as proposed by RInfra-D in its present Tariff Petition. It is submitted that by reason of the change in the allocation of capacity, the standby support would be restricted only to 500 MW from TPC-G and 500 MW of RInfra-G's generation aggregating to 1,000 MW. In view of the aforesaid, it is not justified to consider the Coincident Peak Demand of the respective licensees for the purpose of determining standby charges when standby support would be restricted only to 1,000 MW. In the circumstances it is submitted that the standby support would diminish due to the reduced capacity allocation. It is submitted that even otherwise the shortfall in the generation would be restricted to only 1,000 MW.

Commission's Ruling



For the purposes of this Order, the Commission has considered the Standby Charges in accordance with the philosophy adopted in the MYT Order and the APR Order, and has accordingly allocated the Standby Charges for FY 2009-10 between the three Distribution Licensees in Mumbai in proportion to the coincident peak demand for the last one year, i.e., for the period from October 2007 to September 2008. As regards the need for standby arrangement, the Commission will look into this matter separately, as there are certain matters pending before the Commission and the higher Courts in this regard.

2.48 LOAD FACTOR INCENTIVES

Shri. N. Ponrathnam submitted that load factor incentives should be given to consumers operating at higher load factor.

Several objectors submitted that the load factor incentive should be retained and the methodology for calculating the load factor may be modified from Contract Demand to highest Maximum Demand achieved in billing, thereby, the consumers having Captive power plant may optimise their self generation to achieve the maximum benefits on load factor, which will reduce the peak load on grid.

RInfra's Response

RInfra submitted that the benefit of load factor incentive should be availed by the continuous process industries to the maximum.

Commission's Ruling

The objective behind the load factor incentive is not to ensure that some consumer gets the incentive, rather, the objective is to ensure that the load factor of the system is maintained at higher levels, to maximize the utilization of the load.

RInfra-D's proposal to link the Load Factor incentive with the recorded Maximum Demand instead of Contract Demand is rejected, since such a step goes against the basic design of the Load factor incentive. The consumer can only plan to maximise his load with reference to his Contract Demand, and if the Load Factor incentive is linked to the Maximum Demand, then the consumer will not be able to plan his consumption.



2.49 POWER FACTOR INCENTIVES

Shri N. Ponrathnam submitted that it is the responsibility of the licensee to improve power factor by installing auto power factor correction panels. Further, the power factor incentives/ disincentives should be levied with the consent of the consumers.

Shree Bhayander Stainless Steel Manufacturers and Traders Association submitted that power factor incentives should be given to LT-III category also.

RInfra's Response

RInfra-D submitted that it maintains an efficient power factor overall in its distribution system. However, unless the power factor is corrected at the load end, the system would not achieve the efficiency of use. Further, that Bureau of Energy Efficiency (BEE) in its initiative of "Star categorizing" various equipments, for e.g. CFL, A/c's, Refrigerator, etc., does take into account the impact of power factor, which clearly indicates that it is efficient to achieve good power factor at the use/load itself.

Commission's Ruling

The system of power factor incentive and penalty beyond specified limits has been in vogue for quite some time now in the State, and has yielded good results, and the Commission does not find any rationale for removing the power factor penalty. However, the power factor incentive and penalties has not been extended to LT-III category, due to the absence of appropriate meters capable of recording the power factor, since these consumers are not billed on the basis of recorded demand.

2.50 DEMAND SIDE MANAGEMENT

Inorbit Malls and several others submitted that consumers should be given some benefit in the form of rate reduction or incentive to reduce their consumption through measures like Green Building.

Several objectors submitted that under Prime Minister Bachat Lamp Yojana, CFLs may be distributed among the residential category consuming up to 100 units per month to reduce the peak demand. An awareness campaign should be launched to convince citizens to purchase BEE certified electrical products.



International Institute of Energy Conservation (IIEC) submitted that DSM is one of the cost effective solutions to curtail the load growth and reduce the demand-supply gap. The Commission introduced a Load Management Charge (LMC) in May 2005 to create a fund to promote targeted implementation of energy conservation programmes, which was discontinued later. IIEC added that world-over, some efforts are being pursued for energy conservation and DSM programmes through Public Benefit Charge (PBC), which is similar to Load Management Charge (LMC). It further submitted that as per EA 2003, the distribution utility can create mechanism to pass through investments in energy conservation programs. This can be implemented through moderate PBC levied on sale of power to high consuming categories. It further submitted that Utilities should create PBC in Mumbai to promote DSM options, in line with the draft guidelines issued for benchmarking the technical options based on specific benefit-cost analysis.

RInfra's Response

RInfra-D submitted that that increase in demand supply gap is contributed by addition of new consumers and increased per capita consumption of the existing consumers. RInfra-D agreed that Demand Side Management (DSM) efforts can support in efficiency of energy use and thus, reduce the demand supply gap. RInfra-D further submitted that is had submitted the Detailed Project Reports of DSM programmes for Energy Efficient Refrigerators, T5 FTLs, CFLs and Mass Awareness Programme as part of RInfra DSM programme to the Commission and some are under the process of approval with the Commission. RInfra-D also submitted that the expenses of the DSM programme approved by the Commission have been considered during determination of ARR. Further, the Commission had directed all Utilities to establish DSM Cell/ Department and undertake DSM measures based on load research studies and energy audits. The specialized DSM cell at RInfra undertakes these studies regularly to identify and develops DSM programmes. The Commission has also issued Guidelines (available on the website of the Commission) to verify the cost effectiveness of DSM programme to be implemented by Utilities and only such DSM programmes, which qualify under the criteria specified in the Guidelines can be implemented after approval of the Commission.

RInfra submitted that in the year 2006, it had launched a scheme for promotion of CFLs and approximately 6 Lakh CFLs were taken by consumers for their use. In



addition, RInfra continues its participation in explaining energy saving measures under Demand Side Management (DSM) program through consumer meets, society meets, meets in the school, energy audit, etc.

Commission's Ruling

RInfra-D submitted that the estimated expenses on Demand Side Management (DSM) activities in FY 2008-09 and FY 2009-10 were Rs. 42.64 crore and Rs. 70.41 crore. However, RInfra-D has not included these amounts for recovery through the ARR. In response to a specific query from the Commission in this regard, RInfra-D submitted that only approved DSM activities are being undertaken and the expenses against the same are not included in the ARR of the respective years since the same is required to be adjusted against the Load Management Charge (LMC) as per the directives of the Commission.

The Commission has accepted RInfra-D's estimates of expenses on DSM activities for FY 2008-09 and FY 2009-10, and considered that the same will be off-set to the extent of availability of funds under the DSM Fund. No addition has been considered to the ARR on this account, since RInfra-D has not considered the same. However, this should not be construed as approval given by the Commission for the DSM schemes, for which, RInfra-D will have to obtain the Commission's approval through a separate process.

2.51 CAPACITY ALLOCATION

The Tata Power Company Limited and BEST submitted that RInfra-D submitted that RInfra-D, in its Petition, has proposed that the Commission should exercise its powers under Section 23 of EA 2003 and should allocate the generation capacity of TPC-G between the three licensees, i.e., BEST, TPC-D and RInfra-D overriding the contractual commitments of TPC-G with BEST and TPC-D. TPC submitted that the issue of allocation of the capacity of TPC-G under Section 23 of the EA 2003 is pending before the Supreme Court of India. Further, RInfra-D has not entered into any Agreements for availing any supply from Unit-8 of TPC-G, therefore, RInfra-D cannot claim any allocation of 100 MW capacity from Unit-8. They submitted that the adjudication should be done through detailed hearing between two Parties and not during the public hearing for the determination of tariff. TPC submitted that it reserves the right to sell its power to any distribution licensee of its choice.



Shri Sandeep Ohri and others further submitted that if RInfra-D is keen on avoiding duplicity of proceedings, then it should not file many appeals before the ATE and the Supreme Court on the same issue of allocation of TPC-G generation capacity. The Commission should direct RInfra to enter into a formal with TPC-G and any failure should lead to cancellation of the distribution licence.

Energy Study Group submitted that the cheaper power generated from Ultra Mega Power Projects should be allocated to Mumbai licensee area.

RInfra's Response

RInfra submitted that it is willing to enter into an Agreement for availing of supply from Unit 8 and have made the same clear to TPC in correspondence exchanged in this regard between the Parties. They further submitted that RInfra-D is entitled to a share from the capacity of Unit 8. It is submitted that it is within the jurisdiction of the Commission to decide the issue in the proceedings under Sections 61 and 62 of the Electricity Act, 2003 for determination of tariff for the relevant year, in the present case, being FY 2009-10. RInfra-D denied that the Commission cannot go into the issue in the process of Public Hearing for the determination of tariff since, the same would have a bearing on the tariff chargeable by RInfra-D to its consumers. RInfra-D denied that TPC is entitled to sell power generated from Unit 8 or any other generating unit owned by it to any consumers or licensees of its choice. In fact, the Commission has by its Order dated November 6, 2007 categorically held that in future in order to protect interest of consumers it may issue directions under section 23 if necessary and found expedient. Under these circumstances it is respectfully submitted that the Commission is required to consider RInfra's claim for 100 MW from Unit 8 in the present proceedings. It is submitted that the Commission ought to exercise its powers under Section 23 while determining tariff under Sections 61 and 62 of EA 2003, the Commission has set out in the Order dated November 6, 2007 especially keeping in mind the rate of expensive power, the shortage of power in the State of Maharashtra as well as the burden on RInfra-D's consumers on procurement of such expensive power due to the shortage of power not only in the State of Maharashtra but also in the country. However, it should be noted that RInfra-D has filed two Petitions separately for procurement of medium term power and long term power before the Commission, which are currently being processed by the Commission.



Commission's Ruling

As regards the dispute on the share of TPC-G capacity available to RInfra-D, the Honourable Supreme Court has already ruled on this matter, vide its Judgment dated May 6, 2009, the salient features of which have been elaborated in Section 4.5.2 of this Order.

As regards the suggestion of allocation of generation capacity of UMPPs to the Mumbai licensees, the Commission has no jurisdiction over the allocation of generation capacity of UMPPs to respective distribution licensees.

2.52 COMPETITION AMONG DISTRIBUTION LICENSEES

Shri Sandeep Ohri and others submitted that the Supreme Court has allowed TPC to supply electricity across the entire city of Mumbai to consumers availing less than 1000 kVA. The Commission should ensure that the Order is complied with and the benefits of the competitive environment should flow to the consumers.

RInfra's Response

RInfra submitted that with TPC being a distribution licensee, the consumers of both distribution licence areas, i.e., BEST and RInfra-D have TPC-D as a second distribution licensee and therefore, the consumers have a choice of getting supply. It is submitted that the full benefits of competition to the consumers would be achieved once the power availability situation substantially improves and there is a reasonable distribution of consumer (consumer mix) amongst the distribution licensees.

Commission's Ruling

Subsequent to the Judgment of the Honourable Supreme Court, the Commission has notified the MERC (Specific Conditions of Distribution Licence applicable to The Tata Power Company Limited) Regulations, 2008, on August 20, 2008, in terms of which, TPC-D has to comply with all the provisions of the EA 2003 as well as the MERC (General Conditions of Distribution Licence) Regulations, 2006, notified on November 28, 2006. Accordingly, TPC-D has to ensure that the Universal Service Obligations are met. The Commission has also directed TPC-D to ensure wide publicity periodically to communicate to all categories of consumers in its entire licence area that they can approach TPC-D for availing supply, detailing the



procedure and contact addresses, ward-wise, etc., for going about the process of submitting applications, etc.

2.53 EVOLVE NEW TARIFF POLICIES

Shri Shantanu Dixit submitted that the main purpose behind initiating MYT framework was to ensure good planning and efficiency improvements so as to have better control on various costs. But in reality, the MYT regime has failed to control the high investment in capital expenditure and O&M expenses, which can certainly be controlled to achieve efficiency improvements, whereas, RInfra-D has claimed much higher expenses as compared to the approved estimates and recovered all the additional spending by way of true-up, thus, completely defeating the purpose behind implementing MYT regime. Therefore, the Commission should consider newer approaches such as 'distribution margin' based tariff mechanism, (which allows distribution margin/cost to increase at a rate lower than inflation rate) to ensure efficiency improvements.

RInfra's Response

RInfra-D has not submitted any response to this objection.

Commission's Ruling

The Commission shares the concern expressed by the Consumer Representative as regards the increase in capital expenditure and O&M expenses vis-à-vis the expenses approved in the MYT Order. The detailed observations and rulings of the Commission in this regard have been elaborated in Sections 4.6 and 4.7 of this Order. As regards the suggestions for evolving new tariff frameworks, the Commission has taken note of the suggestions in this regard.

2.54 NON-COMPLIANCE WITH THE MYT-REGULATIONS

Shri Ohri and several others submitted that Commission should amend the MERC Tariff Regulations in order to incorporate the principles laid down by the Tariff Policy, with respect to MYT and APR.

Janhit Manch submitted that Section 5 (h) (3) of the Tariff Policy states that



“Once the revenue requirements are established at the beginning of the control period, the Regulatory Commissions should focus on regulation of outputs and not on the input cost elements. At the end of the control period, a comprehensive review of performance may be undertaken”

Hence, under MYT framework, once the tariff has been determined, it can be reviewed only at the end of the Control Period.

RInfra’s Response

RInfra-D submitted that the issues related to the periodicity of tariff determination during MYT period have been addressed by the Commission in Tariff Order dated June 4, 2008.

Commission’s Ruling

As regards determination of tariff on annual basis, the Commission in its MYT Order for RInfra-D dated April 24, 2007 in Case No. 75 of 2006, has approved the ARR and trajectory of performance parameters for RInfra-D for the Control Period from FY 2007-08 to FY 2009-10, while the tariff was determined for FY 2007-08 only, in accordance with Regulation 20.1 of the MERC (Terms and Conditions of Tariff) Regulations, 2005, which stipulates that the tariff will be determined on an annual basis. Accordingly, the Commission had approved the tariff for FY 2008-09 in its Order in Case No. 66 of 2007. Hence, the Commission in this Order is approving the tariff for FY 2009-10.

Moreover, Para 5.0 (h) (3) of the Tariff Policy (TP) referred by the objectors stipulates as under:

“Once the revenue requirements are established at the beginning of the control period, the Regulatory Commission should focus on regulation of outputs and not the input cost elements. At the end of the control period, a comprehensive review of performance may be undertaken.”



The Commission is of the view that the above provision of the Tariff Policy referred to by the objectors does not stipulate that the tariff cannot be determined on an annual basis.

2.55 OTHER ISSUES

Shri Shantanu Dixit submitted that it is the primary responsibility of the distribution licensee to build an efficient and economical distribution system and ensure reasonable cost of supply. As per the MERC (Specific Conditions of Distribution Licence applicable to Reliance Infrastructure Limited) Regulations, 2008, the term of RInfra-D's licence ends on August 15, 2011. The Commission should undertake a public process for deciding terms of new licence and licensee, with agreed distribution cost reduction trajectory and firm commitment to procure adequate amount of economical/reasonable cost power should be the criteria for appointing new licensee.

Shri N. Ponrathnam submitted that the lease agreement for Distribution Transformers (DT) as per the MERC (Electricity Supply Code and other Condition of Supply) Regulation, 2005 has expired on January 2007 and the new agreement has not been made by RInfra-D and instead of following the Regulations in its true letter and spirit, the distribution companies have prepared a draft to amend the Regulations.

Shri Shrikant Prabhu further submitted that the Commission should direct electricity companies to enter into a formal contract for the space required for Distribution Transformers (DT) in compliance with Regulation 5.5 of the MERC (Electricity supply code and other Conditions of Supply) Regulations, 2005.

Shri Shrikant L. Belwalkar submitted that RInfra-D has collected Rs. 1500 per connection instead of Rs. 126 as specified the Commission, for providing new service lines.

RInfra's Response

The Objectors have contended violation of various provisions of the Electricity Act 2003 and Regulations of the Commission. These aspects are not within the scope of the present exercise, which is being undertaken to determine the truing up requirement for FY 2007-08, provisional truing up for FY 2008-09, and determination of ARR and



tariff for FY 2009-10. The objectors may approach the appropriate forum under the appropriate provisions of law to seek the desired relief, if necessary.

Commission's Ruling

The issues raised by the objectors are not within the scope of the present exercise, which is being undertaken to determine the truing up requirement for FY 2007-08, provisional truing up for FY 2008-09, and determination of ARR and tariff for FY 2009-10. The objectors may approach the appropriate forum under the appropriate provisions of law to seek the desired relief, if necessary.

2.56 REFUND OF EXCESS AMOUNT

Jain Sweets & Bhelpuri House (JSBH) submitted that LT-II category should be re-categorised in view of the ATE Judgment on January 27, 2009. JSBH and Shri V. Gopal further submitted that the Commission should ensure that RInfra-D takes necessary actions for refunding the excess amount charged by it. JSBH further submitted that the admission of the Petition without taking into account the impact of ATE Judgment in the Tariff Rates is ex-facie contrary to the Judgment.

Multiplex Association of India submitted that during FY 2007-08, the Commission classified all the multiplexes, shopping malls, departmental stores under LT-IX category and subjected them to a substantial higher tariff on the ground that the consumers covered are unwanted/unwarranted commercial consumers. The increase in tariff was set aside by the ATE vide Judgment dated February 18, 2008 passed in Appeal No. 16 of 2008. Thus, the APR Petition should reflect the refund entitlement of all the consumers under the LT-IX category. For consumers categorised under LT-II commercial and HT-III commercial category there is no need to refund the excess amount charged by the licensee since RInfra-D has filed against the ATE Order dated January 27, 2009 and as the Appeal is not admitted, hence, there is no stay on applicability of the Order. Therefore, RInfra-D must have revised the tariff rate for both the categories in accordance with the directions of the ATE in the said Order.

RInfra's Response

RInfra submitted that it has referred an appeal before the Hon'ble Supreme Court (Appeal No. 1602 of 2009) with reference to the Hon'ble ATE Judgment dated



January 19, 2009 relating to the tariff for the category to which members of the Objector were classified.

Commission's Ruling

RInfra-D submitted that the actual revenue from sale of electricity in FY 2007-08 was Rs. 4111.67 crore, which has been accepted by the Commission. RInfra-D should ensure that all Orders issued by the Commission, ATE and the Supreme Court are implemented in letter and in spirit.



3 TRUING UP OF AGGREGATE REVENUE REQUIREMENT FOR FY 2007-08

RInfra-D, in its Petition, sought approval for the final truing up of expenditure and revenue for FY 2007-08 based on actual expenditure and revenue as per audited accounts. RInfra-D provided the comparison of actual expenditure against each head with the expenditure approved by the Commission along with the reasons for deviations.

Accordingly, the Commission in this Section has analysed all the elements of actual expenditure and revenue for RInfra-D for FY 2007-08, and has undertaken the truing up of expenses and revenue after prudence check. Further, for FY 2007-08, the Commission has approved the sharing of gains and losses on account of controllable between RInfra-D and the consumers, in accordance with Regulation 19 of the MERC Tariff Regulations, in this Section.

3.1 SALES

RInfra-D submitted the month-wise actual category-wise sales in the Formats annexed to the APR Petition. The summary of the sales considered by the Commission in the APR Order and actual sales is given in the Table below:

Table: RInfra-D's Actual Sales in FY 2007-08 (MU)

Sl.	Particulars	APR Order	Actuals
1	Sales	7912	7807

The Commission had approved the sales for FY 2007-08 by considering the actual sales from April 2007 to January 2008 and pro-rated the same by considering the share of sales in February and March of the previous year, for each consumer category separately. RInfra-D submitted that the primary reason for the difference in actual sales vis-à-vis the sales approved by the Commission was the reduction in demand on account of unusually cold weather encountered in the month of February 2008.

The Commission has considered the actual sales under the truing up process.



3.2 DISTRIBUTION LOSSES AND ENERGY INPUT REQUIREMENT

RInfra-D submitted that with continuous efforts in improving operational efficiency in the distribution system, RInfra-D contained the distribution losses for FY 2007-08 at 11.10%, which has been computed based on sales and input energy considered by the Maharashtra State Load Despatch Centre (MSLDC) under the Interim Balancing and Settlement Mechanism (IBSM) statements for each month of FY 2007-08.

However, the Commission has revised the level of actual distribution loss in FY 2007-08, on account of revision in intra-State transmission loss, which has been considered as 4.67% based on the Balancing and Settlement Mechanism data provided by the Maharashtra State Load Despatch Centre (MSLDC), as against 4.61% considered by RInfra-D. As a result, the actual distribution losses of RInfra-D in FY 2007-08 works out to 11.04%,

3.3 POWER PURCHASE QUANTUM AND COST FOR FY 2007-08

The Commission, in its APR Order dated June 4, 2008 in Case No. 66 of 2007 approved the total quantum of power purchase of 9342.63 MU for FY 2007-08 from RInfra-G, The Tata Power Company-Generation Business (TPC-G), Renewable Energy (RE) sources and short-term power purchase from external sources and imbalance pool. However, the actual quantum of power purchased by RInfra-D from various sources during FY 2007-08 as submitted in RInfra-D's APR Petition, is slightly lower at 9207.07 MU.

The Commission, in its above-said APR Order dated June 4, 2008 in Case No. 66 of 2007 had allowed total power purchase expenses of Rs. 2862.02 crore, excluding transmission charges, Maharashtra State Load Despatch Centre (MSLDC) charges and Standby Charges, while the actual power purchase expense for FY 2007-08 as submitted by RInfra-D in its APR Petition is Rs. 3007.68 crore, excluding transmission charges, MSLDC charges and Standby Charges. For FY 2007-08, the Commission has considered the actual quantum of power purchase by RInfra-D from DTSP, TPC-G and other sources, for truing up purposes.



3.3.1 Power Purchase from RInfra-G

RInfra-D submitted that it had purchased power from RInfra-G, which has a capacity of 500 MW and which has been operating consistently at over 100% Plant Load Factor (PLF) and contributing to supplying low cost energy to its consumers.

As regards actual purchase from RInfra-G during FY 2007-08, the Commission has considered the net energy available and cost of power purchase from RInfra-G for FY 2007-08 in accordance with the Commission's Order dated May 28, 2009 in Case No. 120 of 2008 in the matter of RInfra-G's APR for FY 2008-09 and Tariff Petition for FY 2009-10. Accordingly, the Commission has considered a total quantum of 4089.09 MU and total cost of Rs. 870.44 crore for purchase from RInfra-G for FY 2007-08.

3.3.2 Power Purchase from TPC-G

The Commission validated the actual expenses on power purchase from TPC-G by the three Distribution Licensees in Mumbai, i.e., The Tata Power Company Ltd.-Distribution Business (TPC-D), Brihan-Mumbai Electric Supply & Transport Undertaking (BEST) and RInfra-D as submitted in their respective APR Petitions with the details of revenue submitted by TPC-G in its APR Petition and observed that TPC-G has shown a different value as revenue from Distribution Licensees during FY 2007-08. In order to reconcile the power purchase quantum and expense amongst the Mumbai Distribution Licensees for FY 2007-08, the Commission's staff convened a common meeting between representatives of the three Distribution Licensees of Mumbai and Maharashtra State Load Despatch Centre on April 6, 2009.

Subsequently, RInfra-D submitted the reconciled statement for power purchase quantum and expense for FY 2007-08 from various sources including TPC-G, considering the MSLDC's final energy balance statement for FY 2007-08 and submitted the revised power purchase details in the Format F2, which has been considered by the Commission.

The summary of power purchase by RInfra-D from TPC-G is given in the following Table:

Source	RInfra-D		Approved after truing up	
	Quantum (MU)	Total Cost (Rs Crore)	Quantum (MU)	Total Cost (Rs Crore)
TPC-G	4747.76	1895.79	4747.76	1895.79



3.3.3 Power Purchase from other Sources

RInfra-D, in its APR Petition, submitted that the requirement of Mumbai Distribution Licensees (i.e., RInfra-D, TPC-D and BEST) was higher than the availability from RInfra-G and TPC-G and the shortage was met through purchase of power under bilateral contracts to make continuous power available to the consumers. RInfra-D submitted that each Distribution Licensee is required to source its power requirement to meet the demand in its area of supply. In order to have a better flexibility of power management (procurement and sale of surplus power, if any) and to prevent artificial competition in favour of the suppliers, a common Power Management Group (PMG) has been formed with an equal representation of all the three Distribution Licensees of Mumbai, which ensures that power is procured for Mumbai at a competitive price and helps a balance among the varying demand requirement of the consumers of the three distribution companies. The power procured by PMG was divided amongst the three Distribution Licensees in the ratio of capacity allocation as considered by the Commission for FY 2007-08 from the existing generating stations, which was based on an understanding amongst the PMG members. Accordingly, RInfra-D's share of this power worked out to 42.85% of the total power procured by PMG during FY 2007-08.

During the public regulatory process on the APR Petitions filed by the Distribution Licensees, many objectors voiced their concerns over the increase in power purchase cost due to costly power purchase from external sources. Some objectors also suggested that such expenditure should be treated as controllable expenditure, and certain portion of the cost of purchase from other sources on short-term basis should be borne by the Distribution Licensee, rather than being entirely passed through to the consumers, in a manner similar to that adopted for other controllable expenses such as Operation & Maintenance (O&M) expenses, etc. The Commission is of the view that there is merit in the suggestions of the objectors, given that the Commission has given repeated directives to all the distribution licensees to enter into long-term contracts for their power purchase requirement, at reasonable rates, rather than relying on costly short-term sources. However, the Commission has to consider the power purchase expenses in accordance with the provisions of the MERC Tariff Regulations, which categorise the power purchase expenses under uncontrollable factors and any variation in the power purchase cost is to be allowed as pass through in the ARR. Therefore, at this stage, under the first Control Period under the MYT framework, the Commission has not considered any sharing of the increase in cost on account of



purchase from other sources on short-term basis. However, the Commission would consider this suggestion of treating power purchase expenses as a controllable expense, and sharing of increase in power purchase expenses between the Distribution Licensee and the consumers, under the second Control Period of the MYT framework, after making suitable modifications to the MERC Tariff Regulations.

As regards the purchase from pool, RInfra-D submitted that as per the Interim Balancing and Settlement Mechanism (IBSM) approved by the Commission, the monthly energy balancing and accounting is undertaken by MSLDC, wherein all surplus power available in the Imbalance Pool is set off against the deficits. Through this mechanism, RInfra-D has absorbed 80.36 MU (subsequently RInfra-D revised to 80.05 MU) of power from the pool during the period FY 2007-08, and has paid the costs for the same based on the monthly System Marginal Price worked out by MSLDC, in accordance with the method specified by the Commission. Subsequent to the meeting, RInfra-D also submitted the details of the sales to Outside License Area and Banking of power.

As discussed in previous paragraphs, based on revised details submitted by RInfra-D after validating the same based on MSLDC's energy settlement for FY 2007-08, the Commission has considered the revised power purchase costs for purchase of energy from other sources like purchase from short-term/bilateral sources, pool purchase, Outside Licence Area sale and Banking of power during FY 2007-08 for truing up purposes. The summary of power purchase by RInfra-D from other sources is given in the following Table:

Source	RInfra-D		Approved after truing up	
	Quantum (MU)	Total Cost (Rs Crore)	Quantum (MU)	Total Cost (Rs Crore)
Short Term/bilateral sources	465.75	255.71	465.75	255.71
Pool Purchase/(Sales)	80.05	24.18	80.05	24.18
Outside Licence Area Sale and Banking	(177.32)	(44.42)	(177.32)	(44.42)



3.3.4 Renewable Purchase Specification (RPS) Obligation

As regards the purchase from Renewable energy sources for FY 2007-08, RInfra-D submitted that it purchased only 2.24 MU at an cost of Rs. 0.78 crore.

RInfra-D submitted that the RPS Order provides options for all eligible persons to meet RPS targets such as having own generation, procurement from developers or traders and procurement from other eligible persons.

RInfra-D submitted that it has explored all the options and made diligent efforts to meet the RPS targets, as discussed below:

✓ Own generation:

RInfra-D submitted that it has entered into a contract (through group companies of Anil Dhirubhai Ambani Group (ADAG)) with M/s Suzlon Energy Limited (SEL) for setting up 150 MW wind farms in Maharashtra worth Rs.900 Crore, in two stages, i.e.

Stage 1: 45 MW (machines commissioned in FY 2007-08, however EHV substation commissioned in FY 2008-09);

Stage 2: 105 MW (RInfra paid around Rs. 95 crore as advance to SEL in March 2007).

✓ Procurement from developers and traders:

RInfra-D submitted that it periodically publishes its Expression of Interest (EoI) for Renewable Energy (RE) procurement.

✓ Procurement from eligible persons who have surplus RE after meeting their own RPS targets:

RInfra-D submitted that the Maharashtra Energy Development Agency (MEDA) made available RPS achievements of Distribution Licensees according to which only one Licensee, i.e., TPC-D, had surplus RE in FY 2007-08. RInfra-D submitted that it had approached TPC-D for procuring the surplus RE. However, MEDA is yet to compile RPS data of eligible persons under Captive Consumers and Open Access consumer category.

RInfra-D submitted that for FY 2007-08, the energy input to RInfra-D system was 9207 MU and accordingly, the RPS target at 4% as stipulated in the Commission's Order dated August 16, 2006 in Case No. 6 of 2006, works out to 368 MU.



RInfra-D submitted that it has explored all possible options to procure RE; however it could procure only 2.24 MU during FY 2007-08 on account of constraints outlined below:

✓ **Supply-side Constraints:**

- a. RE availability in base year FY 2005-06 was lower than that considered by the Commission while specifying the RPS targets
- b. Capacity addition during FY 2006-07 and FY 2007-08 was significantly lower than that considered by the Commission while specifying the RPS targets.
- c. Uneven Distribution of available RE, since most of the capacity added during FY 2006-07 and FY 2007-08 was already contracted by MSEDCL and hence, not available for other Distribution Licensees.
- d. The overall shortage of power has seen RE developers entering into EPA with traders, which begets them a higher tariff than that approved by the Commission:

✓ **Operational Constraints:**

- a. RInfra-D submitted that it faced several operational problems in commissioning of 45 MW (through another ADAG company). The 45 MW wind project which was scheduled for commissioning by December 2007 has been commissioned only by March 2008 owing to problems in land acquisition and Right of Way (RoW). The land related problems are still plaguing Extra High Voltage (EHV) substation required for power evacuation from this 45 MW project. In the absence of EHV substation, the said wind project is connected to MSEDCL system which has technical limitation of 10 MW load carrying capacity.
- b. The 105 MW wind energy project planned by RInfra (through ADAG company) for commissioning by March 2008 has also met with a similar problem as original site offered by Suzlon Energy Limited (SEL) has since been declared as a Wild Life Sanctuary. Although SEL identified alternate sites for 105 MW wind farm, it faced severe and unprecedented resistance from local population. In such a scenario, ADAG/RInfra has been constrained to cancel the order for 105 MW placed on SEL.



RInfra-D further submitted considering the above difficulties, it has filed a Petition (Case No. 122 of 2008) with the Commission to waive the minimum targets under RPS during FY 2007-08, FY 2008-09 and FY 2009-10. RInfra-D submitted that the Petition has been admitted and the same is under consideration of the Commission.

Considering energy input for FY 2007-08 as 9207.57 MU, 4% of RPS target works out to be 368.30 MU, and as against RInfra-D's actual purchase of RE of 2.24 MU. Thus, RInfra-D has not met the RPS target corresponding to FY 2007-08. For truing up purposes, the Commission for FY 2007-08 has considered purchase of 2.24 MU from renewable sources at purchase cost of Rs. 0.78 crore.

However, as regards the enforcement on account of non-fulfilment of the RPS target, RInfra-D's Petition for waiver of the RPS target in Case No. 122 of 2008 is under the scrutiny of the Commission. Based on the Commission's ruling on this issue in Case No. 122 of 2008, the Commission will consider the appropriate impact on account of the Order of the Commission on this issue. However, the Commission directs RInfra-D to expedite its activities to procure power from possible renewable sources to meet the targets as specified by the Commission for FY 2009-10 in this Order.

3.3.5 Reduction through Demand Side Management (DSM)

The Commission, in its MYT Order, had ruled that 2% of the costly power purchase requirement will have to be reduced by implementation of DSM as an initial step. This translated to reduction in power purchase cost by Rs. 4.71 crore for RInfra-D for FY 2007-08. However, RInfra-D did not consider any reduction in costly power purchase on this account under its truing up requirement, hence, the Commission asked RInfra-D to submit the justification for the same.

RInfra-D submitted the details of the actual power purchase reduction achieved through various DSM measures initiated by RInfra-D, which is shown in the Table below:

Title	Short Descriptions	Life of technology	Period	Quantity Nos	Demand Reduction	Energy Reduction
CFL Scheme	Distribution of 15 W CFL through a special scheme	3 years	Jan 2006 to Jan 2007	617436	9 MW	16 MU



APFC Panels	APFC Panels were installed in the substations with Low Pf.	10 Years	Mar 2006 to April 2007	380	30 MVA	1.44 MU
Total Savings in FY 07-08						17.44 MU

RInfra-D submitted that during FY 2007-08, the Commission had approved following DSM plans vide its letters dated July 09, 2007 and November 08, 2007. RInfra-D submitted the status of these projects as under.

- ✓ RInfra-D submitted that it has setup DSM/EE/EC Cell within RInfra
- ✓ RInfra-D submitted that it has initiated an 18-month project during FY 2007-08 for developing a systematic DSM plan for RInfra
- ✓ RInfra-D submitted that it has been carrying out Energy Audits for its commercial and industrial consumers to encourage them to implement DSM/EE/EC measures in their premises.
- ✓ There was no response to the DSM Bidding Project (8th Road Khar area). In the absence of positive response from bidders and with the feedback received from bidders as above, RInfra-D proposed to revise the project by splitting the work into individual projects for lighting, pumps, geysers, etc. This proposal has been submitted to the Commission for approval vide letter dated May 9, 2008
- ✓ RInfra-D submitted that it has initiated Consumer Survey and Load Research of Residential and Commercial consumers, to work out the feasibility and potential for implementation of Energy Conservation
- ✓ RInfra-D's DSM/EE/EC cell has undertaken the activity of replacing HPMV lamps by HPSV for streetlights in RInfra area. Around 37000 Nos of 125 W and 80 W HPMV lamps were replaced by 70 W HPSV lamps with higher lumens output. The installation has been completed during March to August 2008.

As RInfra-D has not clearly illustrated whether the desired reduction in power purchase cost has been achieved through DSM activities in a measurable and verifiable manner, the Commission has considered the reduction in power purchase cost of Rs. 4.71 crore for FY 2007-08 as approved in the APR Order for FY 2007-08 while carrying out the final truing up for FY 2007-08. However, if RInfra-D is able to



substantiate that the benefits have been achieved in a verifiable manner, then the same will be allowed in the next APR Order.

3.3.6 MSDLC and Transmission Charges

As regards transmission charges and MSLDC charges paid during FY 2007-08, RInfra-D submitted that it has considered an amount of Rs. 189.55 crore for FY 2007-08 and Rs. 1.56 crore, respectively, in accordance with the approved figures, which has been considered by the Commission under the truing up exercise.

3.3.7 Standby Charges

As regards Standby Charges being paid to Maharashtra State Electricity Distribution Company Ltd. (MSEDCL), RInfra-D submitted that it has considered an amount Rs. 220.21 crore as approved by the Commission in its APR Order dated June 4, 2008 in Case No. 66 of 2007, which has been considered by the Commission under the truing up exercise.

The summary of power purchase quantum and costs including Standby Charges and transmission tariff for FY 2007-08 is given in the following Table:

Table: Summary of Power Purchase Quantum and Costs for FY 2007-08

Source	APR Order		RInfra-D APR Petition		RInfra-D submission after reconciliation		Approved after truing up	
	Quantum	Cost	Quantum	Cost	Quantum	Cost	Quantum	Cost
	MU	Rs Crore	MU	Rs crore	MU	Rs crore	MU	Rs crore
RInfra-G	3969.49	800.45	4089.09	870.44	4089.09	870.44	4089.09	870.44
TPC-G	4829.96	1743.22	4569.63	1,835.03	4747.76	1,895.79	4747.76	1,895.79
Outside License Area Sale					(177.32)	(44.42)	(177.32)	(44.42)
External purchase/Bilateral Sources	439.72	241.85	465.75	255.71	465.75	255.71	465.75	255.71
RPS	0.00	0.00	2.24	0.78	2.24	0.78	2.24	0.78
Other	103.47	81.22	80.36		80.05		80.05	



Source	APR Order		RInfra-D APR Petition		RInfra-D submission after reconciliation		Approved after truing up	
	Quantum	Cost	Quantum	Cost	Quantum	Cost	Quantum	Cost
	MU	Rs Crore	MU	Rs crore	MU	Rs crore	MU	Rs crore
Sources/Imbalance Pool				45.72		24.18		24.18
Standby Charges	0.00	220.21		220.21		220.21		220.21
Transmission Charges	0.00	189.55		189.55		189.55		189.55
SLDC Charges	0.00	1.56		1.56		1.56		1.56
Reduction of Cost (DSM)		(4.71)				-		(4.71)
Total	9342.63	3273.34	9207.07	3419.00	9207.57	3413.80	9207.57	3409.09

3.4 O&M EXPENSES

Operation and Maintenance (O&M) expenditure comprises employee related expenditure, Administrative and General (A&G) expenditure, and Repair and Maintenance (R&M) expenditure. RInfra-D's submissions on each of these expenditure heads, and the Commission's ruling on the truing up of the O&M expenditure heads are detailed below.

3.4.1 Employee Expenses

RInfra-D submitted that the total actual employee expenses for FY 2007-08 was Rs 273.09 Crore against Rs 246.29 Crore approved by the Commission in the APR Order dated June 4, 2008. RInfra-D submitted that the major reasons for increase in actual expenditure for FY 2007-08 under this head were on account of increase in wages due to more than estimated wage revision, under provisioning for FY 2006-07 towards wage revision, Increase in Leave Encashment / Gratuity Liability and Impact of Wage Revision on Overtime, which amounted to Rs. 48.8 crore.

RInfra-D submitted that the Commission, while approving the estimated expenses for FY 2007-08 did not consider the full impact of wage revision in respect of the wage agreement entered into in July/August 2007 between RInfra and the Labour/Staff Union as well as with the Officers. An amount of Rs. 20.65 Crore, pertaining to FY 2006-07, was paid in FY 2007-08 on account of wage revision. RInfra-D added that even though wage revision was not considered by the Commission, there was a



provision made in the Financial Statement of the Company for FY 2006-07 partially. The full impact of wage agreement which is effective from July 2006 for Staff and Labour and April 2006 for Officers has now been reflected in FY 2007-08, including under provision for the period related to FY 2007-08.

RInfra-D further submitted the Dearness Allowance (DA) Index for FY 2007-08 of Officers and Staff cadre of employees and stated that the DA, which has shown significant increase over recent years, forms an important component in the realignment of wages of employees in addition to increase on account of performance and to retain employees. RInfra-D also submitted that the DA movement is not in the control of the licensee.

RInfra-D had projected to reduce the number of employees in FY 2007-08 in the APR Petition for FY 2007-08. However, in the present APR Petition, RInfra-D submitted that the number of employees in FY 2007-08 had increased over FY 2006-07 levels. In response to justification sought by the Commission regarding the same, RInfra-D submitted that although a reduction in employees was shown in the APR of FY 2007-08, the same has not been possible due to continuous increase of close of 70,000 consumers per year and consequent requirement of manpower.

In response to the Commission's query regarding significant increase in the staff welfare expenditure of FY 2007-08 compared to the previous year, RInfra-D submitted that the employees, over a period of time, have opted from the earlier salary structure to Cost to Company (CTC) structure, which enables them to allocate part of their CTC into facilities like Food Coupons, Leave Travel, etc. This change from old salary structure to CTC has resulted into certain regrouping within the components of employee expenses, which has led to the increase as noted by the Commission.

The Reconciliation Statement for FY 2007-08 submitted by RInfra-D between the Audited Annual Accounts and numbers indicated in the APR Petition states that RInfra has not considered the Gratuity excess provision written back, amounting to Rs. 6.82 Crore, in the APR Petition. The Commission sought justification from RInfra-D regarding the same. In response, RInfra-D submitted that RInfra-D had provided for Rs. 11.90 Crore towards expected wage revision. The MYT Order dated April 24, 2007 had not considered the impact of the wage revision, which included the provision for Gratuity thereon. Subsequently based on the ATE Judgment on December 11, 2007, the APR Order dated June 4, 2008 allowed the impact of wage revision as claimed by RInfra-D. RInfra-D clarified that the amount Rs. 6.82 Crore



relates to the provision made in FY 2006-07, which was part of the amount disallowed by the Commission in FY 2006-07 and subsequently allowed in accordance with Hon'ble ATE Judgment in FY 2007-08. In view of disallowance in FY 2006-07 and subsequent allowance of the same by the Hon'ble ATE, this credit of Rs. 6.82 Crore was missed out for consideration in FY 2007-08. RInfra-D agreed that this credit should be considered in truing up of FY 2007-08. The Commission has considered the same.

Considering the details of actual employee expenses and reasons submitted by RInfra-D for increase in employee expenses, the Commission has considered the actual employee expenses for FY 2007-08 under the truing up exercise, after considering the the impact of gratuity excess provision written back, as admitted by RInfra-D. The summary of the employee expenses approved by the Commission under the truing up exercise has been shown in the following Table:

Table: Employee Expenses for FY 2007-08 **(Rs Crore)**

Particulars	APR Order	Actuals	Allowed after truing up
Net Employee Expenses	246.29	273.09	266.27

3.4.2 A&G Expenses

RInfra-D submitted that the actual A&G expenses in FY 2007-08 were Rs 107.43 Crore as against Rs 99.36 Crore approved by the Commission in the APR Order dated June 4, 2008. RInfra-D submitted the following reasons for the variation in A&G expenditure:

- There has been an increase in required resources to serve the growing number of consumers efficiently, new premises taken on rental for customer care centres and Distribution business. Further, there has been an increase in rentals paid on existing premises. Due to this, rent expenses have increased by Rs. 4.50 crore.
- Security Charges have gone up from Rs. 5.54 Crore in FY 2006-07 to Rs. 6.19 Crore in FY 2007-08, on account of upward revision by 30% in Security Guard Board charges for Mumbai.



- Conveyance and travelling expenses have increased from Rs.5.90 crore to Rs 7.16 crore, primarily due to the shifting of the offices. The employees are paid Rs. 28 per day as Conveyance Allowance due to shifting as part of the agreement with the Union. Also, the increase is due to increase in the conveyance allowance expenditure of employees subsequent to the wage revision.

The Commission observes that 'contribution/donations' sub-head under A&G expenses includes an expense of Rs 1.97 Crore as against the actual expenses of Rs 0.62 Crore in FY 2006-07.

RInfra-D was asked about the exact nature of Contributions and Donations as claimed under A&G expenses. In reply, RInfra-D submitted that this includes contributions given to various events organized by customers such as Navrathri, Ganpathi, etc. and customary annual gifts to some of the customers. The Commission is of the view that the donations as made above are not statutorily required to be so made, neither has RInfra submitted that such donations are to be made as required by law. These donations are incurred to voluntarily undertake social welfare measures. If the Company or the shareholders of the Company wish to contribute/donate towards charitable causes, the same should be contributed from the return earned out of the business, and not by passing on such costs to the Utility's consumers. Hence, for truing up purposes for FY 2007-08, the Commission has not considered the expense of Rs 1.97 Crore towards contribution/donations as claimed by RInfra-D.

The Commission is of the view that these expenses are 'controllable' in nature, and the licensee has to ensure that the expenses are managed within the approved levels. Hence, the Commission has allowed A&G expenses only to the extent approved in the APR Order dated June 4, 2008, and has considered the difference between the allowed A&G expenses and actual A&G expenses under the sharing of gains and losses due to controllable factors (without giving effect to the disallowed expenses, since these cannot be allowed under the mechanism of sharing of controllable gains/losses), since A&G is a controllable expense. The summary of A&G expenses approved in the Order, actual A&G expenses and A&G expenses approved after truing up for FY 2007-08 has been shown in the following Table:

Table: A&G Expenses

(Rs Crore)

Particular	APR Order	Actuals	Allowed after truing up
A&G Expenses	99.36	107.43	99.36



3.4.3 R&M Expenses

RInfra-D submitted that the actual R&M expense for FY 2007-08 was Rs. 135.19 Crore as against Rs. 137.67 Crore approved by the Commission in the APR Order issued on June 4, 2008. RInfra-D submitted the following reasons for reduction in A&G expenses for FY 2007-08.

- § Rescheduling and Partially completed activities
- § Controlled usage of materials and effective Safeguarding

The Commission is of the view that these expenses are 'controllable' in nature, and the licensee has to ensure that the expenses are managed within the approved levels. In case of RInfra-D, the R&M expenses of the Wire Business are within the R&M expenses allowed by the Commission in the APR Order, while the R&M expenses of the Supply Business are higher than the R&M expenses allowed by the Commission in the APR Order. Hence, the Commission has allowed R&M expenses only to the extent approved in the APR Order dated June 4, 2008 for the Supply Business, and considered the actual R&M expenses of the Wire Business, and has considered the difference between the allowed A&G expenses and actual A&G expenses under the sharing of gains and losses due to controllable factors (without giving effect to the disallowed expenses, since these cannot be allowed under the mechanism of sharing of controllable gains/losses), since R&M is a controllable expense. The summary of R&M expenses approved in the Order, actual R&M expenses and R&M expenses approved after truing up for FY 2007-08 has been shown in the following Table:

Table: R&M Expenses (Rs Crore)

Particular	APR Order	Actuals	Allowed after truing up
R&M Expenses	137.67	135.19	134.18

3.5 CAPITAL EXPENDITURE AND CAPITALISATION

The capital expenditure and capitalisation significantly influences computation of various expenses such as depreciation, interest on long term debt, and return on equity. RInfra-D, in its Petition, submitted that it had incurred an amount of Rs. 491.87 Crore towards capital expenditure in FY 2007-08, and total capitalisation during FY 2007-08 amounted to Rs. 285.29 Crore. The Interest During Construction (IDC) for FY 2007-08, as submitted by RInfra-D works out to Rs. 8.87 Crore out of



total capitalisation of Rs. 285.29 Crore. The Commission in its APR Order dated June 4, 2008 had approved capital expenditure of Rs. 390.21 Crore and capitalisation of Rs. 266.30 Crore for FY 2007-08.

In reply to data gaps raised, RInfra-D submitted that the increase in capitalisation over the Commission approved values for FY 2007-08 was on account of carry forward of DPR schemes approved by the Commission in the past.

For the purpose of trueing up of FY 2007-08, the Commission observes that RInfra-D has considered the capitalisation of DPR schemes for which the Commission has given in-principle approval, amounting to Rs. 235.91 Crore for FY 2007-08. These include capitalisation of schemes for receiving stations (15 nos.)(Rs. 18.44 Crore), DTSP absorption schemes (Rs. 22.16 Crore), 11 kV mains and distribution transformers (Rs. 28.17 Crore and Rs 22.06 Crore), services (Rs 30.27 Crore), LT mains (Rs 40.27 Crore), 11 kV system strengthening (Rs 52.57 Crore). However, for the purpose of true-up for FY 2007-08, the Commission is of the view that the benefits of such scheme need to be examined and until it is ascertained that the projected benefits actually accrue for the benefit of the stakeholder, it would not be appropriate to allow such expenses. Accordingly, the Commission has at this stage considered a provisional fifty percent (50%) of the capitalisation in FY 2007-08 for the Detailed Project Report (DPR) schemes for which in-principle approval was granted by the Commission (i.e., Rs. 117.96 Crore as 50% of the in-principle approved DPR Schemes). As regards the balance 50%, the Commission will examine whether projected benefits have actually accrued for the benefit of the stakeholders, and if so, then the Commission will consider capitalisation of the DPRs in the next Annual Performance Review.

The Commission has not considered the capitalisation of the metering schemes as the scheme has not yet been approved by the Commission pending scrutiny and clarifications. Subject to scrutiny and ascertaining the benefits, the Commission shall consider capitalisation of such metering schemes at the time of annual performance review. Further, the Commission has not considered capitalisation of the scheme pertaining to street lighting as the DPR for the same has not been submitted for the Commission's approval. The Commission has considered capitalisation of Non-DPR schemes of Rs 2.95 Crore as proposed by RInfra-D.



In order to ensure that the projected benefits have actually accrued for the benefit of the consumers, the Commission directs RInfra-D to submit the detailed report with established benefits vis-à-vis the benefits projected with the schemes within one month from the issuance of this Order. Accordingly the approved capital expenditure and capitalisation for FY 2007-08 is summarised in the following table:

Table: Approved Capitalisation (Rs Crore)

Particulars	FY 2007-08		
	APR Order	Actuals	Approved after truing up
TOTAL			
Capitalisation	266.30	285.29	120.90
Wire Related			
Capitalisation	236.82	250.26	120.90
Retail Supply Related			
Capitalisation	29.48	35.03	0.00

3.6 DEPRECIATION

The Commission, in its APR Order dated June 4, 2008, had permitted depreciation for Wire related business to the extent of Rs 52.19 Crore for FY 2007-08, which amounted to 2.64% of Opening level of Gross Fixed Assets (GFA) of RInfra-D for FY 2007-08, which was stated at Rs 1979.86 Crore. The depreciation permitted by the Commission in its APR Order dated June 4, 2008 for Retail Supply business was Rs. 17.29 Crore for FY 2007-08, which amounted to 4.70% of Opening level of Gross Fixed Assets (GFA) of RInfra-D for FY 2007-08, which was stated at Rs 367.53 Crore. The depreciation rates were considered as prescribed under the MERC Tariff Regulations. RInfra-D, in its APR Petition, submitted that the actual depreciation expense incurred in FY 2007-08 on account of Wire related business was Rs 51.60 Crore, at an overall depreciation rate of 2.61% corresponding to opening GFA of Rs 1979.86 Crore. The actual depreciation expense incurred in FY 2007-08 on account of Supply related business was Rs. 18.48 Crore, at an overall depreciation rate of 5.03% corresponding to opening GFA of Rs. 367.53 Crore. RInfra-D requested the Commission to allow the actual depreciation expenses after truing up.



RInfra-D, in its APR Petition submitted prior to TVS, had claimed depreciation amount of Rs.76.98 Crore for FY 2007-08 as against the Commission approved expense of Rs. 69.48 Crore. In reply to data gaps raised on account of increase in depreciation amount of Rs. 7.5 Crore over the approved levels; RInfra-D submitted that on account of inadvertent error in computation of depreciation, an additional amount of Rs. 7.5 Crore was reflected. Accordingly, RInfra-D rectified the same in its revised Petition to Rs. 70.08 Crore. Further, the Commission enquired regarding the reasons for the actual depreciation for FY 2007-08 being reported as Rs. 70.08 Crore, which was higher than Rs. 69.48 Crore approved by the Commission in the APR Order of FY 2007-08, though the opening GFA is the same. The Commission observed that RInfra-D had considered higher average depreciation rate (5.03%) for retail supply business as compared to the depreciation rate of 4.70% projected in the APR Petition of FY 2007-08 for the same opening GFA. In its reply, RInfra-D submitted that there was a change in the grouping of certain assets (with total remaining the same) resulting in the aforesaid change. Accordingly, the Commission has considered the depreciation rate as 5.03% as submitted by RInfra-D.

Analysis of the detailed computation of depreciation for FY 2007-08 submitted by RInfra-D indicates that RInfra-D has modified its capitalisation to Rs. 453.40 Crore for FY 2006-07 as against Rs. 455.61 Crore approved by the Commission for FY 2006-07 in its Order dated June 4, 2008. The Commission has considered the restated opening Gross Fixed Asset of Rs. 2345.18 Crore for FY 2007-08 as submitted by RInfra-D in its replies. Accordingly, the depreciation expenditure approved by the Commission for FY 2007-08 has been summarised in the following Table:

Table: Approved Depreciation Expenses (Rs Crore)

Particulars	FY 2007-08		
	APR Order	Actuals	Approved after truing up
TOTAL			
Depreciation	69.48	70.08	70.02
Opening GFA	2347.39	2347.39	2345.18
Depreciation as % of Op. GFA	2.96%	2.99%	2.99%
Wire Related			



Particulars	FY 2007-08		
	APR Order	Actuals	Approved after truing up
Depreciation	52.19	51.60	51.54
Opening GFA	1979.86	1979.86	1977.65
Depreciation as % of Op. GFA	2.64%	2.61%	2.61%
Retail Supply Related			
Depreciation	17.29	18.48	18.48
Opening GFA	367.53	367.53	367.53
Depreciation as % of Op. GFA	4.70%	5.03%	5.03%

3.7 INTEREST EXPENSES

The Commission, in its Order dated June 4, 2008, had approved interest expense of Rs 64.79 Crore, after considering the interest expense on normative debt corresponding to capitalised assets only. The Commission had considered an interest rate of 10% p.a. for the assets put to use during FY 2004-05 and FY 2005-06 and an interest rate of 8% p.a. for assets put to use during FY 2006-07. RInfra-D in its Petition submitted the revised interest expense of Rs. 64.48 Crore for FY 2007-08, which comprises Rs. 52.77 Crore of interest expense towards Wire related business and Rs. 11.71 Crore towards Supply related business.

As mentioned in the earlier section on depreciation for FY 2007-08, the Commission noted that RInfra-D had restated its capitalisation from Rs. 455.61 Crore to Rs. 453.40 Crore for FY 2006-07. Any change in capitalisation during the year will have a direct impact on the equity contribution towards funding the asset added during the year and the loan drawal during the year. The Commission has computed the net effect of the reduction in capitalisation of Rs. 2.21 Crore (i.e., 455.61-453.40) on the interest expense, retrospectively for FY 2006-07. The reduction on this account towards interest expense for FY 2006-07 works out to Rs. 0.07 Crore.

The Commission has considered the interest expense on the normative debt corresponding to capitalised assets only in line with the principles adopted in the APR Order dated June 4, 2008. The Commission has considered normative loan repayment tenure of 10 years for loan drawal during FY 2004-05 and FY 2005-06 and 20 years for loan drawal during FY 2006-07 and FY 2007-08. Further, in the case of interest expense for FY 2007-08, the Commission has considered the loan drawal, loan



repayment and interest expense based on actual capitalisation during respective halves (i.e., H1 and H2) of FY 2007-08. Accordingly, the interest expense during FY 2007-08 works out to Rs 49.21 Crore as against Rs 52.77 Crore as claimed by RInfra-D for Wire related business and Rs. 10.08 Crore as against Rs. 11.71 Crore claimed by RInfra-D towards Retail Supply related business, as shown in the following Table:

Table: Interest Expenses (Rs Crore)

Particulars	FY 2007-08		
	APR Order	Revised Estimate	Approved after truing up
TOTAL			
Opening Loan Balance	656.84	657.00	657.00
Loan Addition	186.40	199.71	84.63
Loan Repayment	(50.93)	(73.37)	(66.48)
Closing Loan Balance	792.31	783.34	675.15
Interest	64.78	64.48	59.29
Overall Interest Rate	8.9%	8.9%	8.9%
Wire Related			
Opening Loan Balance	565.18	542.72	542.72
Loan Addition	165.77	175.18	84.63
Loan Repayment	(39.79)	(59.13)	(53.47)
Closing Loan Balance	691.16	658.78	573.88
Interest	56.00	52.77	49.21*
Overall Interest Rate	8.9%	8.8%	8.8%
Retail Supply Related			
Opening Loan Balance	91.66	114.28	114.28
Loan Addition	20.63	24.52	0.00
Loan Repayment	(11.14)	(14.24)	(13.01)
Closing Loan Balance	101.15	124.56	101.27
Interest	8.78	11.71	10.08
Overall Interest Rate	9.1%	9.8%	9.4%

(* Includes deduction of Rs. 0.07 Crore on account of restatement of capitalisation for FY 2006-07)



3.8 INTEREST ON WORKING CAPITAL AND CONSUMERS' SECURITY DEPOSIT

As regards Interest on Working Capital, RInfra-D submitted that the interest rate has been considered at 11.50% as considered by the Commission in its APR Order dated June 4, 2008. RInfra-D submitted that the working capital requirement and Interest on Working Capital has been computed in line with MERC Tariff Regulations. However, the interest on consumers' security deposit has been considered as 6.0% against 5.5% considered by the Commission in its APR Order. Accordingly, RInfra-D estimated the revised Interest on Working Capital (IWC) as Rs. 24.57 Crore, and the interest on consumers' security deposit has been considered as Rs. 14.96 Crore. Thus, the total expenditure on these two heads for FY 2007-08 works out to Rs 39.53 Crore as against Rs 39.63 Crore approved by the Commission.

RInfra-D confirmed in its reply to the queries raised by the Commission that RInfra-D had not availed any loan for working capital requirement, and has funded such requirement through internal accruals. Hence, RInfra has not actually incurred any expenditure towards interest on working capital during FY 2007-08.

In its original APR Petition, RInfra-D submitted that it has not considered any efficiency gains on account of interest on working capital for FY 2007-08. However, this is not in accordance with the Commission's ruling in this regard in the APR Order for FY 2007-08 and the Commission sought the rationale for the same. RInfra-D submitted that source of funding (debt or own funds) ought to have no relevance to the amount of normative Working Capital required for licensed business. Even if working capital requirements are met through company's own reserves and surplus of non-licensed business, the Company is entitled to consider normative working capital allowance for licensed business and the same is also corroborated in the ATE Order dated December 11, 2007, which recognised that the licensed business must operate in a water-tight compartment, so that it does not subsidize or get subsidized by any other business of the company. Further, RInfra stated that the MERC ruling in this regard in the APR Order for FY 2007-08 has been appealed before ATE in Appeal No. 117 of 2008 and the matter is sub-judice.

In its revised Petition submitted after the TVS, RInfra-D submitted that without prejudice to the outcome of the Appeal No. 117 of 2008 and its contentions as expressed above, RInfra-D has computed the efficiency gains on interest on working



capital for FY 2007-08 as Rs. 24.57 crore, this being the entire normative interest on working capital as the same has been funded through Corporate Treasury.

RInfra-D further stated that it has also not deducted the amount against the power purchase from RInfra-G while computing the working capital requirement for FY 2007-08. RInfra-D submitted that while computing the working capital requirement for RInfra-G, the Commission has not considered receivables from sale of electricity by RInfra-G to RInfra-D. As per Regulation 76.8 of the MERC Tariff Regulations, the working capital requirement of the distribution licensee should include – on the negative side - one month's equivalent cost of power purchased. RInfra-D submitted that the reason MERC Tariff Regulations, with respect to generation, do not include receivables from own retail supply business is, presumably, that the payments are received immediately or, without any lag of one month. The same logic would, therefore, hold good on the supply side as well, i.e., since the supply business would make payments for power purchase to own generating business immediately, the requirement of working capital for supply business cannot be reduced by one month equivalent cost of such power purchase from own generating business.

RInfra-D submitted that the approach adopted by the Commission for RInfra-G and RInfra-D should be consistent as far as receivables by RInfra-G from RInfra-D or payables to RInfra-G from RInfra-D are concerned, as the Commission, for the purpose of regulatory accounting has treated them as separate entities. RInfra-D submitted that without prejudice to its contentions as expressed above, RInfra-D, has for the purpose of this petition considered the payables to RInfra-G by RInfra-D while computing the working capital requirement of RInfra-D. The Interest on Working Capital amounts to Rs. 3.55 crore for Wires Business and Rs. 21.02 crore for Retail Business.

The Commission has estimated the normative working capital interest for FY 2007-08 in accordance with the MERC Tariff Regulations and based on expenses approved in this Order after truing up, considering both supply business as well as wires business. As regards RInfra-D's contention that the cost of power purchase from RInfra-G should not be included while computing the working capital requirement of RInfra-D, it is clarified that the computation of normative working capital requirement is being done in accordance with the MERC Tariff Regulations, which requires that the entire power purchase cost be included while computing the normative working capital requirement, without excluding for purchase from own generating sources. RInfra-D



is effectively seeking amendment to the MERC Tariff Regulations through this request made in the APR Petition. In case RInfra-D desires to seek any amendment to the MERC Tariff Regulations in this regard, RInfra-D may approach the Commission separately for the same, under appropriate provisions of law.

The Commission has computed the sharing of gains/losses on the difference between normative working capital interest and the actual working capital interest incurred, which in this case is zero, since this is a controllable parameter. The ATE has issued its Judgment on similar Appeals filed by RInfra-G and RInfra-T recently. The ratio of these Judgments and the issues related to sharing of gains and losses on this account, have been elaborated in Section 3.14 of this Order, while computing the sharing of gains and losses due to controllable factors. It is clarified that the normative working capital interest is not being disallowed, as interpreted by RInfra-D. Only the efficiency gains due to the fact that actual working capital loans have not been utilised, and RInfra-D has managed to save on this interest through its operational efficiency, have been shared with the consumers in accordance with the MERC Tariff Regulations. The detailed rationale in this regard has been elaborated in the APR Order dated June 4, 2008 for RInfra-D. Further, the Tariff Regulations stipulates that rate of interest on working capital shall be considered on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on the date on which the application for determination of tariff is made. As the short-term Prime Lending Rate of State Bank of India at the time when RInfra filed the Petition for tariff determination for FY 2006-07 was 11.50%, the Commission has considered the interest rate of 11.50% for estimating the normative interest on working capital, which works out to Rs 24.52 Crore.

RInfra-D's computation of interest on consumers' security deposit has been accepted by the Commission. Thus, the total Interest on Working Capital (IWC) and the interest on consumers' security deposit, considered by the Commission under the truing up exercise, works out to Rs. 39.48 crore.

3.9 PROVISIONING FOR BAD DEBTS

In the APR Order for FY 2007-08, the Commission had allowed provisioning for bad and doubtful debts as Rs. 7.17 crore. In the APR Petition, RInfra-D submitted that the actual receivables as on March 2008 are Rs. 494.17 Crore, and the actual provisioning for bad debts is Rs. 7.15 crore.



For the purposes of truing up for FY 2007-08, the Commission has considered provisioning for bad debts as Rs. 7.15 Crore as submitted by RInfra-D.

3.10 CONTRIBUTION TO CONTINGENCY RESERVES

RInfra-D submitted that the contribution to contingency reserves for FY 2007-08 has been computed at 0.5% of opening GFA in accordance with the MERC Tariff Regulations, as Rs. 11.74 Crore, which is the same as that approved by the Commission in the previous APR Order. RInfra-D also submitted documentary evidence that the amount appropriated under contingency reserve has been invested in securities authorized under the Indian Trusts Act, 1882.

The Commission has slightly revised the Opening GFA for FY 2007-08 for reasons mentioned in earlier sections of this Order. Thus, the Commission has considered the contribution to contingency reserves at 0.5% of the revised opening GFA for FY 2007-08, and has allowed Rs. 11.73 as contribution to contingency reserve.

3.11 INCOME TAX

RInfra-D, in its Petition, submitted that the income tax liability of RInfra-D for FY 2007-08 is Rs 97.45 Crore, as against the income tax of Rs. 90.44 Crore approved in the APR Order. RInfra-D submitted that the Income tax computation has been done in accordance with the provisions of Income Tax Act and the income tax is payable at the corporate tax rate of 33.99% (30% tax, 10% surcharge, and 3% education cess on tax and surcharge).

In reply to data gaps, RInfra-D submitted copies of challans of actual income tax paid for FY 2007-08 for RInfra as a Company as a whole as per the provisions of Income Tax Act, 1961. RInfra-D submitted that actual income tax paid by it for the Company as a whole for FY 2007-08 is Rs. 82.49 Crore.

The Commission subsequently asked RInfra-D to submit the detailed computations of income tax for RInfra-D, after considering the 80 IA tax benefits, and other tax exemptions as applicable, including tax depreciation. RInfra, in its reply, submitted the revised workings for income tax in which it has computed tax by adding back the regulatory depreciation and reducing Tax depreciation on Written Down Value (WDV) basis under provisions of the Income Tax Act. RInfra, also added back the



normative interest on loan and normative interest on working capital to the taxable income while computing the income tax.

For the purpose of income tax computations, the Commission has considered the RoE as the regulatory profit before tax, in accordance with the approach suggested by RInfra in the earlier APR Petition, and adopted by the Commission in the previous APR Order. Further, the Commission has not grossed up such RoE component for income tax, since the income tax is being allowed as an expense under the ARR, in accordance with the MERC Tariff Regulations. Further, the interest on normative long-term loans and normative interest on working capital have been added to the regulated RoE, for computing the income tax, since actual loans have not been taken by RInfra-D, and normative interest expenses will not be allowed as tax deductible expenses.

Based on the above principles, the Commission has estimated the income tax of RInfra-D on standalone basis as Rs 59.68 Crore. The income tax projected by RInfra-D in its APR Petition and the income tax approved by the Commission after truing up is shown in the Table below:

Table: Income Tax**(Rs Crore)**

Sl.	Particulars	FY 2007-08	
		Petitioned	Approved after truing up
1	Profit Before Tax/Regulated Return on Equity	264.83	162.45
2	Add: Depreciation as per APR	70.08	70.02
3	Less: Depreciation as per Income Tax	(137.26)	(137.26)
4	Add: Normative Interest on Long Term Loan	64.48	59.29
5	Add: Normative Interest on Working Capital	24.58	24.52
6	Total	286.70	179.02
7	Income Tax on Total Profit	97.45	60.85

3.12 RETURN ON EQUITY (ROE)

The Commission, in its APR Order, has approved RoE of Rs. 156.59 Crore for FY 2007-08 towards Wire related business and Rs. 17.76 Crore towards Supply related business. RInfra-D in its Petition has claimed RoE of Rs.156.91 Crore for FY 2007-08



towards Wire related business and Rs. 17.90 Crore towards Supply related business. Further, RInfra-D has computed RoE on the opening equity at 16% as well as on 50% of the equity portion of the capitalisation during the year, in accordance with the MERC Tariff Regulations.

As mentioned in the earlier sub-section on depreciation for FY 2007-08, the Commission noted that RInfra-D had restated its capitalisation from Rs. 455.61 Crore to Rs. 453.40 Crore for FY 2006-07. The Commission has computed the net effect of the reduction in capitalisation of Rs. 2.21 Crore (i.e., 455.61-453.40) on RoE, retrospectively for FY 2006-07. Further, the equity contribution for FY 2006-07 needs to be adjusted for consumer contribution provided during FY 2006-07 in accordance with Regulation 63.1 and 76.1 of the MERC Tariff Regulations. The relevant extract of the MERC Tariff Regulations is as under:

“76.1.1 The Distribution Licensee shall be allowed a return at the rate of 16 per cent per annum, in Indian Rupee terms, on the amount of approved equity capital:

*Explanation I – for the purpose of this Regulation, equity capital shall be the sum total of paid-up equity capital, preference share capital, fully / compulsorily convertible debentures (or other financial instruments with equivalent characteristics), foreign currency convertible bonds, share premium account and any reserves, available for distribution as dividend or for capitalization by way of issue of bonus shares, which have been invested in the Distribution Business and in the Retail Supply Business. **The amount of any grant, revaluation reserve, development reserve, contingency reserve and contributions from consumers/users shall not be included in the equity capital.** The amount reflected in the books of account as deferred tax liability or deferred tax asset of the Distribution Business and the Retail Supply Business shall be added or deducted, as the case may be, from the amount of equity capital.” (emphasis added)*

In this context, while allowing RoE of Rs 157.03 Crore for FY 2006-07 in the APR Order dated June 4, 2008, the regulatory equity addition was not adjusted to the extent of capitalised assets funded through consumer contribution by RInfra-D for FY 2006-07. However, in accordance with the MERC Tariff Regulations, the ROE has to be



computed based on actual or normative equity contribution, after deducting the funding through consumer contribution, as reproduced above. Thus, RInfra-D is not entitled to RoE on the amount of assets capitalised, which has been funded through consumer contribution. Thus, equity addition for FY 2006-07 should be considered as Rs 111.50 Crore instead of earlier approved equity addition of Rs 136.68 Crore. Hence, in the truing up exercise for FY 2007-08, the Commission has disallowed the corresponding amount towards excess RoE component to the extent of Rs 2.01 Crore allowed during FY 2006-07, and has deducted the same from the ROE computations for FY 2007-08.

Accordingly, the opening regulatory equity of Rs 1049.78 Crore for FY 2007-08 as claimed by RInfra-D needs to be adjusted for the consumer contribution and grants used to fund assets capitalised during previous years. Based on reply to data gaps raised, the Commission observed that that the capital assets for FY 2006-07 have been funded to an extent of Rs 24.52 Crore through consumer contribution. Accordingly, opening regulatory equity for FY 2007-08 amounts to Rs 1024.60 Crore instead of Rs 1049.78 Crore as claimed by RInfra-D.

Further, for FY 2007-08, RInfra-D has submitted that the consumer contribution was Rs 29.68 Crore. Accordingly, regulatory equity addition during FY 2007-08 has been considered as Rs 6.59 Crore after adjustment of above consumer contribution. The summary of RoE as projected by RInfra-D and approved by the Commission for FY 2007-08 is summarised in the following Table:

Table: Return on Equity for FY 2007-08 (Wire and Supply business) (Rs. Crore)

Particulars	FY 2007-08		
	APR Order	Actuals	Allowed after truing up
Regulated Equity at beginning of year	1,049.77	1,049.78	1,024.60
Equity Portion of Capitalised Expenditure	79.89	85.59	6.59
Reg. Equity at the end of the year	1,129.66	1,135.37	1031.19
Return on Reg. Equity at beginning of year	167.96	167.96	163.94
Return on Equity Portion of Capital Expenditure Capitalised	6.39	6.85	0.53
Total Return on Regulated Equity	174.35	174.81	164.46
Less: Excess Return on Equity Allowed for	-	-	(2.01)



Particulars	FY 2007-08		
	APR Order	Actuals	Allowed after truing up
FY 2006-07 and restated capitalisation			
Net Return on Regulatory Equity	-	-	162.45

Table: Return on Equity for FY 2007-08 (Wire business) (Rs. Crore)

Particulars	FY 2007-08		
	APR Order	Actuals	Allowed after truing up
Regulated Equity at beginning of year	943.17	943.17	917.99
Equity Portion of Capitalised Expenditure	71.05	75.08	6.59
Regulated Equity at the end of the year	1014.21	1018.25	924.58
Return on Regulated Equity at beginning of year	150.91	150.91	146.88
Return on Equity Portion of Capital Expenditure Capitalised	5.68	6.01	0.53
Total Return on Regulated Equity	156.59	156.91	147.40
Less: Excess Return on Equity Allowed for FY 2006-07 and restated capitalisation			(2.01)
Net Return on Regulatory Equity			145.39

Table: Return on Equity for FY 2007-08 (Supply business) (Rs. Crore)

Particulars	FY 2007-08		
	APR Order	Actuals	Allowed after truing up
Regulated Equity at beginning of year	106.61	106.61	106.61
Equity Portion of Capitalised Expenditure	8.84	10.51	-
Regulated Equity at the end of the year	115.45	117.12	106.61
Return on Regulated Equity at beginning of year	17.06	17.06	17.06
Return on Equity Portion of Capital Expenditure Capitalised	0.71	0.84	-
Total Return on Regulated Equity	17.76	17.90	17.06
Less: Excess Return on Equity Allowed for FY 2006-07 and restated capitalisation			-



Particulars	FY 2007-08		
	APR Order	Actuals	Allowed after truing up
Net Return on Regulatory Equity			17.06

3.13 NON TARIFF INCOME

RInfra-D submitted that the actual non-tariff income for FY 2007-08 is higher at Rs 71.22 Crore as against Rs 59.03 Crore approved by the Commission in its APR Order dated June 4, 2008. RInfra-D submitted that this includes one time adjustment of miscellaneous provision written back of Rs. 4 crore and Unclaimed Liabilities written back of Rs. 6 crore as per AS-15.

RInfra-D submitted that it has not included the projected level of Interest on Arrears (Interest on Customer Dues) in the Non-Tariff Income for FY 2007-08 to FY 2009-10, and the amounts are Rs. 5.99 crore for FY 2007-08, Rs. 5.52 crore for FY 2008-09 and Rs. 5.85 crore for FY 2009-10. RInfra-D submitted that interest on arrears only compensates the supplier for the interest cost on additional working capital requirement created due to non-payment of dues by the consumers. RInfra-D would like to point out that the MERC Tariff Regulations allow normative working capital to a distribution licensee considering two months receivables from sale of power. These receivables are considered as such and without adjusting for any default in payment by the consumers. Hence, in practice, when a consumer defaults, the receivables increase, creating a working capital shortage. RInfra-D submitted that this would be bridged by the distribution licensee through short-term borrowings from the market, which are considered at a normative interest cost – as approved by the Commission – at Short-Term SBI PLR. Therefore, the interest on arrears received by the distribution licensee is not an extra income, but merely a compensation for the cost of borrowing incurred by the licensee for borrowing funds to bridge the shortfall in revenue collection.

RInfra-D submitted that the consumers are also levied Delayed Payment Charges (DPC) at the rate of Rs. 20 for any delay in payment of electricity bills by them. This charge is not related to interest cost and is actually a penalty to deter the consumers from delaying payment of charges, beyond the due date. This charge, therefore, is an additional income and should be considered under Non-Tariff Income. RInfra-D has



accordingly considered the DPC under Non-Tariff Income, but has excluded Interest on Arrears.

The Commission is of the view that there is no merit in RInfra-D's contention that the interest on arrears should not be included in the Non-Tariff Income, since the normative working capital computations include receivables of upto two months of billing during the year, whereas, the average time of realisation of bills for energy consumed would be around one month, since the consumption starts from the first day of the month to the last day, the bill is raised around a week after the month is over, and the payment is due within 15 days after the bill is raised. Even considering different billing cycles, it is for the consumption of the first day of the billing month that the payment is received after two months, whereas for all the remaining days of consumption, the effective time of payment is less than two months. Also, several consumers pay well within the due date of payment, thus, the collection cycle of two months itself has a lot of in-built cushion, and the licensee will not be required to take any additional loan on account of the delayed payment of the receivables. This is obvious from the fact that RInfra-D has not taken any actual working capital loan to meet even the normative level of working capital, leave alone any additional requirement for this purpose. Given RInfra-D's high collection efficiency, the receivables are not too high. Hence, the Commission has thus has considered an additional Rs 5.99 Crore towards interest on delayed payment under non tariff income, whereby the total non-tariff income for FY 2007-08 of RInfra-D works out to Rs. 77.21 crore, as compared to the non-tariff income reported by RInfra-D. The summary of Non tariff income as allowed by the Commission is below:

Table: Non-Tariff Income (Rs Crore)

Particulars	APR Order	Actuals	Allowed after truing up
Non-Tariff Income	59.03	71.22	77.21

3.14 SHARING OF GAINS AND LOSSES IN FY 2007-08

RInfra-D categorised all the expenditure as uncontrollable and hence, did not compute the gains and losses for the controllable expenditure.

The relevant provisions under the MERC Tariff Regulations 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.”

The Commission has considered the performance parameters and expenses for computing the sharing of gains/losses in accordance with the provisions of Tariff Regulations, as elaborated below:

Operation & Maintenance Expenses

The actual O&M expense for FY 2007-08 as approved by the Commission after final true-up is Rs 499.81 Crore as against earlier approved expense of Rs 483.32 Crore and the actual expenditure of Rs. 515.71 crore as submitted by RInfra-D.

In case of employee expenses, the Commission has not computed any gains or losses, since the actual expenses, though higher than the levels approved in the APR Order, have been allowed by the Commission, except for the write-back of gratuity provisioning, which has been admitted by RInfra-D. In case of A&G expenses, there is an efficiency loss of Rs. 6.13 crore, which has been shared between the consumers and RInfra-D in the proportion specified under the MERC Tariff Regulations. On the other hand, there is an efficiency gain of Rs. 3.49 crore, on account of R&M expenses, which has been shared between the consumers and RInfra-D in the proportion specified under the MERC Tariff Regulations.

Interest on Working Capital

As discussed in the above paragraphs, the actual interest on working capital incurred by RInfra-D during FY 2007-08 is nil and the normative interest on working capital approved by the Commission considering other elements of expenses as approved after trueing up, works out to Rs 24.52 Crore. Since, this is a controllable parameter, as clearly stipulated in the MERC Tariff Regulations as 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:

...



(d) Variations in working capital requirements;...”

By virtue of the above provision in the MERC Tariff Regulations, it follows that if the actual working capital requirement is higher/lower than the normative level of working capital, then the difference between the actual working capital requirement and the normative working capital requirement will have to be treated as a loss/gain as the case may be. Thus, in case the actual working capital requirement and hence, actual working capital interest incurred is zero, then the entire normative working capital interest is considered as a controllable efficiency gain and shared between the licensee and the consumers.

In this regard, the ATE has issued its Judgments in Appeal No. 111 of 2008 and 115 of 2008 on Appeals filed by RInfra-G and RInfra-T, respectively, and has ruled on various issues. On the issue of sharing of interest on normative working capital, the ATE has ruled as under:

“13) The Commission observed that in actual fact no amount has been paid towards interest. Therefore, the entire interest on working capital granted as pass through in tariff has been treated as efficiency gain. It is true that internal funds also deserve interest in as much as the internal fund when employed as working capital loses the interest it could have earned by investment elsewhere. Further the licensee can never have any funds which has no cost. The internal accruals are not like some reserve which does not carry any cost. Internal accruals could have been inter corporate deposits, as suggested on behalf of the appellant. In that case the same would also carry the cost of interest. When the Commission observed that the REL had actually not incurred any expenditure towards interest on working capital it should have also considered if the internal accruals had to bear some costs themselves. The Commission could have looked into the source of such internal accruals and the cost of generating such accruals. The cost of such accruals or funds could be less or more than the normative interest. In arriving at whether there was a gain or loss the Commission was required to take the total picture into consideration which the Commission has not done. It cannot be said that simply because internal accruals were used and there was no outflow of funds by way of interest on working capital and hence the entire



interest on working capital was gain which could be shared as per Regulation No. 19. Accordingly, the claim of the appellant that it has wrongly been made to share the interest on working capital as per Regulation 19 has merit.

14) Accordingly, we allow the appeal with the following directions:

...

(b) The Commission shall not treat the entire interest on working capital for the year in question as efficiency in gain”

Considering that the ATE has laid down the principles in this regard based on the existing MERC Tariff Regulations, the Commission has considered whether it is possible to implement the principle for RInfra-D in this APR Order. However, since the ATE Judgments have been issued just before the finalisation of the RInfra-D Order which is to be issued within a statutory timeline under Section 64 of the EA 2003, and since significant amount of data will have to be obtained from RInfra-D regarding RInfra-D's cash flow, source of funds, cost of funds, etc., and analysed to determine the cost of funds utilised by RInfra-D, if any, to fund the working capital requirements, the Commission has not considered any cost of funds for the purpose of this Order, and has continued with the earlier methodology of considering the entire interest on normative working capital as efficiency gains and has shared the same.

Hence, for the purpose of this Order, 1/3rd of the gains on account of saving of interest on working capital, i.e., difference between normative IWC and actual IWC, will have to be shared between RInfra-D and the retail consumers, in accordance with the MERC Tariff Regulations. Accordingly, net entitlement of RInfra-D towards interest on working capital works to Rs 16.35 Crore and efficiency gain to be shared with retail consumers users works out to Rs 8.17 Crore.

However, it is clarified that at the time of the APR for FY 2009-10, the Commission will look into this aspect and obtain the necessary data, and re-compute the sharing of efficiency gains and losses accordingly.

Efficiency Gain/Loss due to Distribution Loss



In this context, RInfra-D submitted that RInfra-D's efficiency gains on account of reduction of distribution losses should be worked out by considering 12.10% as the target (norm). The efficiency gains would thus be as worked out in the Table below:

Particulars	Unit of Measurement	FY 2007-08	
		Distribution loss at 11.10%	Distribution loss at 12.10%
Sales	MU	7808	7720
Distribution Loss	%	11.10%	12.10%
Energy Input to the Distribution System	MU	8783	8783
Intra State Transmission System Losses	%	4.61%	4.61%
Energy Input	MU	9207	9207

RInfra-D submitted that due to reduction in Distribution Loss from 12.1% to 11.1%, RInfra-D has been able to sell additional 87 MU (7720 MU vis-à-vis 7807 MU). The Average Billing Rate (ABR) for FY 2007-08 is Rs. 5.27/unit. Thus, RInfra-D computed the efficiency gains as Rs. 45.91 crore.

RInfra-D added that the Commission in the MYT Order dated April 24, 2007 has approved Distribution Losses of 11.5% for FY 2007-08, and later in the APR Order for FY 2007-08, has approved distribution losses at 11% for FY 2007-08. RInfra-D requested that the Commission should in the light of ATE Order consider the target loss level for FY 2007-08 as 12.10% in order to measure efficiency gains. Without prejudice to RInfra-D's contentions, RInfra-D submitted that the process of resetting loss targets on an annual basis during the Control Period does not render any incentive to the Utility to reduce loss levels. RInfra-D added that even if the Commission does not consider RInfra-D's contentions about loss level to be 12.10%, as raised above and chooses to recognize its own trajectory, the target loss level for the purpose of measuring efficiency gains should be 11.50% as set originally in the MYT Order, and not the revised level of 11%. Without prejudice to RInfra-D's contentions as raised above, the revised workings for efficiency gains/losses have been submitted by RInfra-D as under:



Particulars	UoM	FY 2007-08		
		Distribution loss at 11.10%	Distribution loss at 11.5%	Distribution loss at 11%
Sales	MU	7808	7773	7816
Distribution Loss	%	11.10%	11.50%	11.00%
Energy Input to the Distribution System	MU	8783	8783	8783
Intra State Transmission System Losses	%	4.61%	4.61%	4.61%
Energy Input	MU	9207	9207	9207
Increase/(decrease) in sales	MU		35	(9)
Efficiency Gains @5.27/unit ABR	Rs. Crore		18.45	(4.74)

The Commission has clearly enunciated its views as regards the distribution loss norm to be considered for RInfra-D for FY 2007-08 in the APR Order for FY 2007-08 dated June 4, 2008, and has considered the distribution loss target as 11% for FY 2007-08. Accordingly, the Commission has estimated the efficiency loss on account of distribution loss by considering the normative level as 11%. However, the Commission has revised the level of actual distribution loss, on account of revision in intra-State transmission loss, which has been considered as 4.67% based on the Balancing and Settlement Mechanism data provided by the Maharashtra State Load Despatch Centre (MSLDC), as against 4.61% considered by RInfra-D. As a result, the actual distribution losses of RInfra-D in FY 2007-08 works out to 11.04%, as shown in the Table below. The value loss has been computed on the same basis as computed by RInfra-D, as shown in the Table below:

Table: Computation of Efficiency Loss on account of Distribution Loss

Particulars	UoM	FY 2007-08	
		Actual Distribution loss	
Sales	MU	7808	7812
Distribution Loss	%	11.04%	11.00%
Energy Input to the Distribution System	MU	8777	8777
Intra State Transmission System Losses	%	4.67%	4.67%
Energy Input	MU	9207	9207
Increase/(decrease) in sales	MU	(9)	(4)
Efficiency Gains/(Losses) @5.27/unit ABR	Rs. Crore	(4.74)	(2.15)



This efficiency loss of Rs. 2.15 crore has been shared between RInfra-D and the consumers in accordance with the MERC Tariff Regulations.

Thus, the total efficiency gain to be shared with the consumers, after accounting for all the above gains and losses, works out to Rs. 6.58 crore, which has been reduced from the ARR of FY 2007-08, under the final truing up exercise.

3.15 AGGREGATE REVENUE REQUIREMENT IN FY 2007-08

The summary of the net ARR as approved by the Commission for FY 2007-08 is given in the following Table:

Sl.	Particulars	FY 07 - 08		
		APR Order	April - March (Audited)	Commission
1	Power Purchase Expenses	3,083.79	3229.45	3,219.54
2	Operation & Maintenance Expenses	483.32	515.71	499.81
2.1	Employee Expenses	246.29	273.09	266.27
2.2	Administration & General Expenses	99.36	107.43	99.36
2.3	Repair & Maintenance Expenses	137.67	135.19	134.18
3	Depreciation, including advance against depreciation	69.48	70.08	70.02
4	Interest on Long-term Loan Capital	64.79	64.48	59.29
5	Interest on Working Capital and on consumer security deposits	39.63	39.53	39.48
6	Bad Debts Written off	7.17	7.15	7.15
8	Income Tax	90.44	97.45	60.85
9	Transmission Charges intra-State	189.55	189.55	189.55
10	Contribution to contingency reserves	11.74	11.74	11.73
11	Adjustment for profit/loss on account controllable/uncontrollable factors		0.00	(6.58)
12	Total Revenue Expenditure	4039.91	4225.13	4149.66
13	Return on Equity Capital	174.35	174.81	162.45
14	Aggregate Revenue Requirement	4214.26	4399.94	4312.11
15	Less: Non Tariff Income	59.03	71.22	77.21
20	Aggregate Revenue Requirement from Retail Tariff	4155.23	4328.72	4234.91



3.16 REVENUE FROM SALE OF ELECTRICITY AND REVENUE GAP

RInfra-D submitted that the actual revenue from sale of electricity in FY 2007-08 was Rs. 4116.67 crore, which has been accepted by the Commission.

RInfra-D submitted that the revenue gap in FY 2007-08 was equal to the difference between the revenue earned from tariff and the actual ARR, i.e., Rs. 212 crore.

The Commission has re-computed the revenue gap, by considering the ARR approved under the truing up exercise. Further, the Commission has also considered the sharing of gains and losses due to controllable factors, as discussed in earlier paragraphs, while determining the revenue requirement of RInfra-D for FY 2007-08.

Thus, the revenue gap for FY 2007-08 works out to Rs. 118.24 crore, which has been added to the ARR of FY 2009-10, as discussed in the subsequent Section.



4 PERFORMANCE REVIEW OF FY 2008-09 AND DETERMINATION OF AGGREGATE REVENUE REQUIREMENT FOR FY 2009-10

4.1 PERFORMANCE PARAMETERS

Regulation 16.1 of the MERC (Terms and Conditions of Tariff) Regulations, 2005, stipulates,

“The Commission may stipulate a trajectory, which may cover one or more control periods, for certain variables having regard to the reorganization, restructuring and development of the electricity industry in the State.

Provided that the variables for which a trajectory may be stipulated include, but are not limited to, generating station availability, station heat rate, transmission losses, distribution losses and collection efficiency.”

4.1.1 Distribution Loss

For FY 2008-09, the Commission has specified the distribution loss levels as 10.75%, in the APR Order for RInfra-D dated June 4, 2008 in Case No. 66 of 2007, by considering a target loss reduction of 0.25% over the target loss level for FY 2007-08 (11%), after considering the benefits of capital expenditure being undertaken by RInfra-D, as projected by RInfra-D. For FY 2009-10, the target distribution loss was specified as 10.5% in the MYT Order for RInfra-D in Case No. 75 of 2006.

RInfra-D submitted that the energy balance for H1 of FY 2008-09 has been carried out based on the MSLDC settlement for H1 of FY 2008-09, and the Distribution Loss works out to 10.23%. For H2 of FY 2008-09, the estimated distribution loss is 10.27%. RInfra-D submitted that for FY 2008-09 as a whole, based on the summation of the two halves pertaining to Sales, Energy input to Distribution System and Total Energy Input, the Distribution Loss is estimated at 10.25%. RInfra-D submitted that the distribution loss level of 10.25% has been considered for FY 2009-10 as well.

In this context, as discussed in the previous Section on truing up for FY 2007-08, the actual distribution losses in FY 2007-08 at 11.04%, as against the normative loss level of 11%. Also, the actual distribution losses indicated for the first half of FY 2008-09 are lower, at 10.23%. However, the Commission has considered the distribution losses



for FY 2008-09 in accordance with the loss level specified under the APR Order, viz., 10.75%. Any sharing of gains due to better performance of RInfra-D as regards this controllable parameter will be undertaken at the time of final truing up for FY 2008-09.

For FY 2009-10, the Commission has considered the distribution losses of 10.50% in accordance with the loss level specified under the MYT trajectory, for computing the energy input requirement.

4.2 PROVISIONAL TRUING-UP FOR FY 2008-09

RInfra-D, in its APR Petition for FY 2008-09 and ARR Petition for FY 2009-10, submitted the performance for FY 2008-09 based on actual performance for the first half of the year, i.e., April to September 2008, and estimated performance for the second half of the year, i.e., October 2008 to March 2009. RInfra-D submitted the comparison of each element of expenditure and revenue with that approved by the Commission in its Order dated June 4, 2008 on RInfra-D's Annual Performance Review for FY 2007-08 and Tariff Determination for FY 2008-09.

The Commission in this Order on APR for FY 2008-09 and determination of ARR and Tariff for FY 2009-10 has considered provisional truing up of certain elements of the revenue requirement and revenue, in cases where the impact is very high, or there is a change in principles/methodology, and due to revision in capital expenditure/capitalisation figures. The revised estimate of performance of RInfra-D during FY 2008-09 and FY 2009-10 as compared to the Commission's MYT/APR Order for RInfra-D is discussed in the following paragraphs.

The Commission clarifies that the final truing up and the computation of sharing of gains and losses due to uncontrollable factors will be undertaken only after the audited expenses and revenue are available, i.e., during Annual Performance Review for the third year of the Control Period, viz., FY 2009-10. Further, for computing sharing of efficiency gains/losses for FY 2008-09, the revised expenses approved for FY 2008-09 in this Order under the provisional truing up exercise will be considered as base expenses.



4.3 SALES

RInfra-D submitted that the sales for FY 2008-09 have been estimated on the basis of the actual sales in H1 of FY 2008-09 and projections for H2 of FY 2008-09, in the same proportion of H1:H2 sales as in FY 2007-08 (52%:48%). RInfra-D submitted that the actual sales in H1 of FY 2008-09 were 4287 MU. RInfra-D submitted the estimated sales for FY 2008-09 and FY 2009-10 as 8126 MU and 8457 MU, respectively.

For FY 2008-09, the Commission obtained the details of category-wise sales for the 11-month period from April 2008 to February 2009 and pro-rated the same for the entire FY 2008-09, by considering the share of sales in March of the previous year, for each consumer category separately. As shown in the Table below, the actual sales in FY 2008-09 have been higher than that considered by the Commission in the APR Order, as a result of which, the power purchase has also increased to that extent, after considering the distribution losses on the sales.

For FY 2009-10, the Commission has considered 5-year CAGR for LT I Residential and LT III-Industrial (less than and equal to 20kW) for projecting the sales. For categories like HT I Industrial and HT II Commercial, 3-year CAGR was used, as it appeared to be more representative of the immediate trend, while for categories like LT II Commercial, Streetlight, Temporary and LT VIII, realistic projections have been considered based on Year-on-Year growth to reflect the immediate trend and for other categories, RInfra-D's sales projections were accepted. The category-wise sales projected by RInfra-D and approved by the Commission in this Order are given in the Table below:

Table: Approved sales for FY 2008-09 and FY 2009-10

Categories	FY 2007-08	FY 2008-09				FY 2009-10	
		APR Order	RInfra-D Revised Estimates	Actual till Feb'09 and prorated for Mar'09	Approved	RInfra-D	Approved
	MU	MU	MU	MU	MU	MU	MU
LT Category							
Below Poverty Line (BPL)	2	2	2.0	0.5	0.5	1.92	1.92
LT I	4148	4414	4273	4,327		4485	4532



Categories	FY 2007-08	FY 2008-09				FY 2009-10	
		APR Order	RInfra-D Revised Estimates	Actual till Feb'09 and prorated for Mar'09	Approved	RInfra-D	Approved
	MU	MU	MU	MU	MU	MU	MU
(Residential)					4,327		
LT II (Commercial)	1394	1453	2026	1,991	1,991	2238	2290
LT III (below 20 kW load)	167	193	160	161	161	165	165
LT IV (above 20 kW load)	1200	1345	634	661	661	514	536
LT VI (Street Light)	52	52	53	54	54	53	54
LT VII (Temporary) Others	88	95	98	105	105	100	120
LT VII (Temporary) Religious				1	1	0	0
LT VIII (Advt & Hoardings)	3	3	3	3	3	3	3
LT IX (Crematorium)				1	1	0.48	1
HT Category							
HT III (Housing)	36	36	33	32	32	34	33
HT I (Industrial)	822	832	403	435	435	311	457
HT II (Commercial)			439	458	458	551	482
Total	7,912	8,424	8,126	8,230	8,230	8,457	8,676

Thus, the total sales estimated by the Commission for FY 2008-09 and FY 2009-10 is 8230 MU and 8676 MU, as compared to RInfra-D's estimate of 8126 MU and 8457 MU, respectively.



4.4 DISTRIBUTION LOSSES AND ENERGY INPUT

As discussed earlier, RInfra-D submitted that it had considered the distribution losses of 10.25% for both FY 2008-09 and FY 2009-10 for computing the energy input requirement. As discussed in earlier paragraphs, the Commission has considered the distribution losses for FY 2008-09 and FY 2009-10, as 10.75% and 10.5%, respectively.

The Energy Balance for FY 2009-10 is given in the Table below:

Table: Energy Balance for FY 2009-10

Particulars	Units	FY 2009-10	
		RInfra-D APR Petition	Commission
Sales	MU	8457	8676
Distribution Loss	%	10.25%	10.50%
Energy Requirement at T<->D interface	MU	9423	9694
Transmission Loss	%	4.85%	4.85%
Total Energy Requirement	MU	9903	10188

Thus, the total energy input required to be purchased by RInfra-D in FY 2009-10 has been approved as 10188 MU.

4.5 ENERGY AVAILABILITY AND POWER PURCHASE COST FOR FY 2008-09 AND FY 2009-10

4.5.1 Power Purchase from RInfra-G

RInfra-D, in its Petition, has submitted that it will procure the entire generation of RInfra-G during FY 2008-09 and FY 2009-10 as per the details submitted in the APR Petition of RInfra-G for FY 2008-09. Accordingly, RInfra-D projected a power purchase of 3943 MU and 3911 MU from RInfra-G at an estimated cost of Rs. 967.69 crore and Rs. 1038.15 crore for FY 2008-09 and FY 2009-10, respectively.

For FY 2008-09, the Commission has undertaken the provisional truing up and considered the power purchase quantum and cost as projected by RInfra-D and hence, approves power purchase of 3943 MU at an estimated cost of Rs. 967.69 crore for FY 2008-09 for purchase from RInfra-G. The Commission will undertake the final truing



up of power purchase from RInfra-G for FY 2008-09 based on actual generation by RInfra-G during the APR process for FY 2009-10.

For FY 2009-10, the Commission has considered the power purchase from RInfra-G in accordance with its Order dated May 28, 2009 in Case No. 120 of 2008 in the matter of approval of Reliance Infrastructure Limited (RInfra)'s Generation Business' Annual Performance Review for FY 2008-09 and Tariff Petition for FY 2009-10, at 3915.24 MU. As regards the power purchase cost, considering the fact that the tariff for FY 2009-10 for generating stations of RInfra-G is applicable from June 1, 2009, the Commission has considered the fixed and energy charges for 10 months on the basis of approved charges in the Order dated May 28, 2009 in Case No. 120 of 2008, and considered the fixed and energy charges for 2 months on the basis of approved charges in the Order dated April 2, 2008 in Case No. 65 of 2007.

The summary of the power purchase quantum and cost from RInfra-G during FY 2008-09 and FY 2009-10 as projected by RInfra-D and as approved by the Commission is shown in the Table below:

Table: Summary of Power Purchase from RInfra-G

Particulars	Unit	FY 2008-09			FY 2009-10	
		APR Order	Revised Estimate	Approved after provisional truing up	Petition	Approved
Purchase from RInfra-G	MU	3701.00	3943.29	3943.29	3911.06	3915.24
	Rs Crore	814.95	967.69	967.69	1038.15	966.12

4.5.2 Power Purchase from TPC-G

For FY 2008-09, RInfra-D submitted that it procures power from generating stations of TPC-G in accordance with the APR Order, dated June 4, 2008 in Case No. 66 of 2007 for FY 2008-09. RInfra-D submitted that it has considered the actual units of energy received (1482 MU) from TPC-G during the first half of FY 2008-09. For the second half of FY 2008-09, RInfra-D submitted that it considered the energy as projected by TPC-G to be sold by it to RInfra-D, in its APR Petition in Case No. 111 of 2008. As regards the power purchase cost, RInfra-D considered the fixed charges and variable charges as per actuals during the first half of FY 2008-09, while for the



second half of FY 2008-09, RInfra-D considered the cost as projected by TPC-G, in its APR Petition, in Case No. 111 of 2008.

RInfra-D further submitted that the matter relating to allocation of capacity of TPC-G is pending before the Hon'ble Supreme Court and therefore, the power purchase cost considered as discussed above are without prejudice to RInfra-D's rights and contentions expressed in the said proceedings.

Existing Capacity of 1777 MW of TPC-G

As regards the power purchase from TPC-G existing generating stations, RInfra-D submitted that its claim of its entitlement of 762 MW is pending before the Hon'ble Supreme Court. RInfra-D further submitted that without prejudice to its request for allocation of 762 MW of existing TPC-G capacity and its views expressed on exercise of powers under Section 23 and Section 60 of the Electricity Act, 2003 by the Commission for effecting the same, it has considered only 500 MW allocation from TPC-G in accordance with the directives issued by the Commission during the TVS. For projecting the power purchase costs, RInfra-D considered the fixed and variable cost of power from TPC-G for FY 2009-10 as projected by TPC-G in its APR Petition in Case No. 111 of 2008.

Unit-8 of TPC-G

RInfra-D submitted that TPC-G, in its Tariff Petition for FY 2006-07, submitted to the Commission on May 16, 2006 its proposal for expansion of existing generation capacity upto 900 MW including 250 MW coal based Unit (now called Unit-8) at Trombay to meet the shortfall in Mumbai. RInfra-D submitted that TPC, in its proposal, also referred to the relevant provisions of the Tariff Policy for justifying its case that Unit-8 is not a new capacity, but only an expansion of existing capacity.

RInfra-D submitted that subsequently, TPC-G entered into discussions with RInfra-D on PPA for capacity allocation including 100 MW from Unit-8. RInfra-D also submitted the copy of the draft PPA agreed between TPC-G and RInfra-D during the meeting held on April 5, 2007. The Unit-8 was scheduled for commissioning during October 2008 and TPC-G in its APR Petition for FY 2007-08 and Tariff Petition for FY 2008-09 dated November 30, 2007 also proposed allocation of 100 MW from Unit-8 to RInfra-D. RInfra-D submitted that the said Petition was the basis for the public hearing relating to TPC-G APR Petition held on February 13, 2008.



RInfra-D submitted that however, it received a letter from TPC-G dated December 31, 2007 informing that 100 MW of Unit-8 is already committed for sale to other parties. Since the allocation of RInfra-D from capacity of TPC-G was subjudice before the Hon'ble Appellate Tribunal for Electricity, RInfra-D by its reply dated January 14, 2008 advised TPC-G not to take any precipitate action by creating third party rights on its generation capacity.

RInfra-D submitted that Unit-8 is not a new capacity but expansion of existing capacity, as also admitted by TPC-G in its Petition dated May 16, 2006. In accordance with the Tariff Policy, the tariff for such capacity is to be determined by the Commission for sale to the beneficiary Distribution Licensees, including RInfra-D.

RInfra-D further submitted that in accordance with the Section 62 of the Electricity Act, 2003 the State Regulatory Commission has the authority to determine price of generation only in the event the power is meant to be sold to a Distribution Licensee of such State. RInfra-D submitted that therefore, it is logical that if the Commission has determined tariff for Unit-8 generation, the power from Unit-8 is only meant to be sold to a Distribution Licensees of the State and the power from Unit 8 cannot be sold to a trader, whether within or outside the State. RInfra-D submitted that now, since the other two Distribution Licensees of Mumbai have already tied up their respective capacities from Unit-8, it is only logical that the balance capacity is meant for RInfra-D.

Based on the above, RInfra-D requested the Commission to consider its allocation from Unit-8 of TPC-G as 100 MW. RInfra-D further submitted that without prejudice to its claim of entitlement of 100 MW from Unit-8 as elaborated above, it has prepared its Petition without considering any allocation from Unit-8, in accordance with the Commission's Order dated June 4, 2008 in Case No. 66 of 2007.

RInfra-D submitted that the Commission should exercise its powers under Section 23 and Section 60 of the Electricity Act, 2003, under which the Commission can direct a generator for allocation of its capacity/generation.

For provisional truing up for FY 2008-09, the Commission has considered the quantum and cost of power purchase from TPC-G as projected by RInfra-D and hence, approves power purchase of 4829.96 MU at an estimated cost of Rs 1743.22 Crore. The Commission will undertake the final truing up of power purchase from



TPC-G for FY 2008-09 based on actual data for the entire year during the APR process for FY 2009-10.

The Commission issued its Order in Case No. 86 of 2006, Case No. 87 of 2006 and Case No. 30 of 2007 on November 6, 2007 in the matter of BEST's Petition for Approval of Revised Power Purchase Agreement between BEST and TPC; TPC's Petition seeking approval of Power Purchase Arrangement between TPC-G and TPC-D; and dispute raised by RInfra-D (earlier named as REL) for adjudication under the provisions of Section 86(1) (f) of the Electricity Act, 2003. The Commission, in its Order, approved the PPA between BEST and TPC and the internal capacity allocation from the generation division of TPC to its own distribution division, with effect from April 1, 2008.

Subsequently, the Appellate Tribunal for Electricity passed its Judgment in the matter of Appeal No. 41 of 2007, Appeal No. 51 of 2007, Appeal No. 143 of 2007, Appeal No. 145 of 2007, Appeal No. 159 of 2007 and Appeal No. 14 of 2008, filed by the Mumbai licensees, on May 6, 2008. The relevant extract of the said Judgment has been reproduced below:

“103. We conclude from the aforementioned that the Commission has wide powers to regulate the quantity of energy that may be supplied by a generating company to a distribution licensee when both are under the jurisdiction of the same Commission.

104. It is not in dispute that the claims of REL have not been considered by the Commission while approving the PPA between the TPC(G) and BEST and arrangement between TPC(G) and TPC(D). It is also not in dispute that the approval of PPA and the arrangement has affected the allocation of power to REL. The interests of REL have been adversely affected by the Commission in violation of the principle of natural justice. The Commission ought to have considered the claim of REL for allocation of power while considering the approval of PPAs between TPC(G) and BEST and arrangement between TPC(G) and TPC(D).

105. In the circumstances, appeal No. 143 of 2007 is allowed and order dated November 06, 2007 of the MERC approving the PPA of TPC and BEST and arrangement between TPC and TPC(D) with reference to allocation of power to BEST and TPC(D) is set aside. The Commission is directed to consider the question of approval of PPA and the arrangement afresh after taking into



consideration the claims of BEST, REL and TPC (D). While considering the case of the parties the Commission shall have regard to the fact that the consumers of respective areas have been bearing the Depreciation and Interest on Loan elements of the Fixed Cost of tariff and also consider all other submissions of the parties which are permissible in the law.

106. Since we have held that the Commission has wide powers to regulate the quantity of energy that may be supplied by a generating company to Distribution Licensees when both are under its jurisdiction, appeal No. 159 of 2007 and appeal No. 14 of 2008 are liable to be dismissed. Accordingly, appeal No. 159 of 2007 and appeal No. 14 of 2008 are hereby dismissed.”

Thus, the ATE set aside the Commission’s Order approving the PPA between TPC-G and BEST and the Power Purchase Arrangement between TPC-G and TPC-D. However, subsequent to the ATE Judgment on the said issue, TPC and BEST filed appeals with the Hon’ble Supreme Court against the ATE Judgment. The Hon’ble Supreme Court in its Interim Judgment dated May 14, 2008 stayed the ATE Judgment in the matter of Appeal No. 41 of 2007, Appeal No. 51 of 2007, Appeal No. 143 of 2007, Appeal No. 145 of 2007, Appeal No. 159 of 2007 and Appeal No. 14 of 2008. Subsequently on May 6, 2009, the Hon’ble Supreme Court in Civil Appeal Nos. 3510, 3511, 3593, 6098, 6099 of 2008 upheld the Appeals of TPC and BEST in this regard and accordingly, upheld the Order of the Commission regarding approval of the Power Purchase Agreement between TPC and BEST. The summary of the Judgment of the Hon’ble Supreme Court in this regard is as under:

- 1) “Activities of a generating company are beyond the purview of the licensing provisions.*
- 2) The Parliament therefore did not think it necessary to provide for any regulation or issuance of directions except that which have expressly been stated in the Act.*
- 3) Section 21 occurs in the chapter of “licensing” under which the generating companies would not be governed.*
- 4) As almost all the sections preceding Section 23 as also Section 24 talk about licensee and licensee alone, the word “supply” if given its statutorily defined meaning as contained in Section 2(70) of the Act would lead to an anomalous situation as by reason thereof supply of electrical energy by the generating company to the consumers directly in terms of Section 12(2) of the Act as also*



- by the transmission companies to the consumers would also come within its purview.*
- 5) In a case of this nature the principle of exclusion of the definition of Section by resorting to “unless the context otherwise requires” should be resorted to.*
 - 6) Section 86(1)(a) of the 2003 Act clearly shows the parameters of supply for the purpose of Regulation, viz. supply of electricity by the distribution company to the consumer.*
 - 7) If regulatory clause is sought to be applied in relation to allocation of power, the same would defeat the de-licensing provisions. Generating companies have the freedom to enter into contract and in particular long term contracts with a distribution company subject to the regulatory provisions contained in the 2003 Act.*
 - 8) PPA for a long term is essential for increasing and decreasing the capacity of generation of electricity by the generating company, which purpose by the 2003 Act must be allowed to be achieved.*
 - 9) Duration of the contract in regard to supply of electricity by and between TPC (G) and RInfra prior to coming into force of the contract is of no consequence, particularly when no written long term or short term contract had been entered into by and between them.*
 - 10) Fairness or otherwise of the supply of electricity to different distribution companies being outside the jurisdiction of the Commission, the same by itself cannot be a ground for bringing back the licence raj, which is not contemplated by the Act.*
 - 11) For true and correct construction of the Act, the principle of harmonious construction is required to be resorted to.*
 - 12) Recourse to the principle of purposive construction does not militate against the conclusion reached by us and as indicated hereinbefore in fact in terms of the said doctrine the purpose and object of the Parliament must prevail over a narrow and/or literal interpretation, which would defeat the purpose and object of the Act.”*

Since the Hon'ble Supreme Court's Judgment has upheld the TPC's and BEST's appeals, the Commission's Order dated November 6, 2007, is still in force, and the issue of share of RInfra-D in TPC-G's generation capacity has attained finality.



TPC-G, in its Petition for Annual Performance Review for FY 2008-09 and Tariff Petition for FY 2009-10, submitted that the PPAs between TPC-G with BEST and between TPC-G and TPC-D have been approved by the Commission. As per the approved PPAs, out of the existing capacity of 1777 MW, 800 MW has been allocated to BEST, while a capacity of 477 MW has been allocated to TPC-D leaving a balance untied capacity of 500 MW. TPC-G, in its Petition, submitted that though RInfra has not signed the PPA with TPC-G so far, TPC-G it has considered that the balance capacity would be utilised by RInfra-D.

TPC, in its Petition further submitted that out of the 250 MW capacity of Unit-8, as per the approved PPA, 100 MW has been allocated to BEST and 50 MW has been allocated to TPC-D. TPC submitted that it has tied up the balance capacity of 100 MW from Unit-8 with Tata Power Trading Comany Ltd. (TPTCL) and thus, the same is not available for sale to RInfra.

Subsequently, RInfra-D vide its letter dated May 9, 2009 submitted that it has approached TPC regarding signing of the available capacity of 500 MW from the existing generating stations. As regards the need for having a firm capacity to support the base load, the Commission has time and again directed RInfra-D to enter into long-term PPAs, however, till date it has not signed any Agreement except with its own generation capacity at Dahanu.

As regards the request of RInfra-D to exercise the power conferred under Section 23 of the Electricity Act, 2003 and direct the generator i.e., TPC-G, to allocate its capacity in an equitable manner, the Commission has not accepted RInfra-D's request in this regard considering the Judgment of the Hon'ble Supreme Court cited above. Further, the Commission is of the view that the increased cost of power purchase on account of short-term purchase is due to the failure of RInfra-D to enter into any long-term contract for power procurement.

Considering the fact that the Supreme Court has upheld the Commission's Order on approval of PPA between TPC-G and BEST and internal arrangement between TPC-G and TPC-D, the Commission has considered the allocation of power from the existing capacity and Unit-8 of TPC-G based on the approved PPA between TPC-G and BEST and the internal capacity allocation from the generation division of TPC to its own distribution division. Accordingly, from the existing capacity of TPC-G, the Commission has considered the power availability of 500 MW for RInfra-D for FY



2009-10. However, considering TPC's submissions, the Commission has not considered any power available from Unit 8 of TPC-G for RInfra-D.

For estimating the quantum and cost of power purchase from TPC-G during FY 2009-10, the Commission has considered the net generation and tariff approved by the Commission in its Order dated May 28, 2009 in Case No. 111 of 2008 on TPC-G's APR Petition for FY 2008-09. Considering the fact the tariff for FY 2009-10 for generating stations of TPC-G is applicable from June 1, 2009, the Commission has considered the fixed and energy charges for 10 months on the basis of approved charges in the Order dated May 28, 2009 in Case No. 111 of 2008 and considered the fixed and energy charges for 2 months on the basis of approved charges for FY 2008-09 in the Order dated April 2, 2008 in Case No. 68 of 2007.

The summary of the approved power purchase quantum and cost of power purchase for RInfra-D from TPC-G in FY 2009-10 as considered by the Commission is given in the following Table:

Table: Energy and Variable Cost for Purchase of Power from TPC-G in FY 2009-10

Particulars	Quantum	Variable Cost
	MU	Rs Crore
Unit-5, 6 & 7	2,501.87	845.73
Unit- 4	20.30	11.02
Hydel	419.81	76.62
Total	2,941.98	933.37

Table: Other Costs for Purchase of Power from TPC-G in FY 2009-10

Particulars	Rs Crore
Fixed Charges-Thermal	151.14
Incentive at Projected Generation	6.69
Less Rebate-Hydel Excess Recovery	(25.20)
Total	132.62

4.5.3 Renewable Purchase Specification (RPS)

RInfra-D submitted that it signed EPA with M/s Bajaj Finserve Limited to purchase energy generated from 3x9.8 MW wind farms under Group-II category and the same has been submitted to the Commission for approval.



RInfra-D further submitted that in view of constraints regarding availability of energy from renewable sources, the RE procurement during FY 2008-09 is estimated at 64 MU (34 MU from own generation and 30 MU from M/s Bajaj Finserve Limited) during FY 2008-09 against 476 MU target (i.e., 5% of energy input of 9513.57 MU). RInfra-D submitted considering the above difficulties, it has filed a Petition (Case No. 122 of 2008) with the Commission to waive the minimum targets under RPS during FY 2007-08, FY 2008-09 and FY 2009-10. RInfra-D submitted that the Petition has been admitted and the same is under consideration of the Commission.

For FY 2009-10, RInfra-D submitted that RPS target of 6% of energy input works out to be 594 MU. RInfra-D further submitted that in view of the availability constraints, it projected procurement of only 150 MU (100 MU from 45 MW own generation and 50 MU from M/s Bajaj Finserve Limited) during FY 2009-10.

RInfra-D further submitted that, in view of supply-side constraints to meet RPS targets, the Commission may allocate the total RE available in Maharashtra among all the Distribution Licensees on pro-rata basis, as was done during FY 2004-05 and FY 2005-06 under RPO regime. RInfra-D further requested the Commission to allow RE power procurement from other States to meet the RPS targets.

For FY 2008-09, the Commission has considered the power purchase quantum of 63.76 MU and cost as Rs. 22.32 crore from renewable sources, as projected by RInfra-D for provisional truing up purposes. However, the Commission clarifies that it would deliberate on the issue considering the final settlement of RPS for FY 2008-09, during the final truing-up of FY 2008-09.

For FY 2009-10, the Commission has considered the power purchase from Renewable Energy Sources as per RPS obligation, i.e., 6% of the total energy input. Based on the total energy input approved by the Commission, the RPS obligation of RInfra-D for FY 2009-10 works out to 611.28 MU and corresponding total cost of meeting the RPS obligation works out to Rs. 223.12 crore by assuming an average rate of Rs. 3.65/kWh. Though the Commission has considered the purchase rate of Rs. 3.65/kWh from renewable sources as projected by RInfra-D, the Commission clarifies that it would consider the actual power purchase cost considering the actual purchase and effective purchase rate in accordance with the tariff approved for wind projects from which RInfra-D will purchase RE, while undertaking the truing up for FY 2009-10.

As regards RInfra-D's request to waive the RPS targets for FY 2008-09 and FY 2009-10 and allow purchase from renewable sources from outside the State of Maharashtra,



RInfra-D's Petition in this regard in Case No. 122 of 2008 is under the Commission's consideration, and based on the ruling of the Commission in that Petition, the Commission would consider the impact during the truing up.

4.5.4 Purchase from Bilateral Contracts and Imbalance Pool

RInfra-D submitted that the requirement of Mumbai Distribution Licensees (RInfra-D, TPC-D and BEST) is higher than the availability from RInfra-G and TPC-G and therefore, the net shortage is being met through purchase of power under bilateral contracts to make continuous power available to the consumers.

RInfra-D submitted that the actual rate of bilateral power purchase during the first half of FY 2008-09 is Rs. 8.77/kWh. RInfra submitted that in view of the fluctuating prices depending on various external factors, it has considered the actual rate during the first half of FY 2008-09 for considering the purchase during the second half of FY 2008-09. Accordingly, RInfra-D projected a total quantum of 1919.87 MU with an estimated cost of Rs. 1683.44 crore during FY 2008-09 for purchase from bilateral sources.

RInfra-D submitted that the balance power requirement after sourcing from RInfra-G, TPC-G and short term bilateral contracts is being met through imbalance pool settlement undertaken by MSLDC and projected a total quantum of 742.06 MU with an estimated cost of Rs. 701.41 crore during FY 2008-09.

For FY 2009-10, RInfra-D submitted that the balance requirement of power after sourcing from RInfra-G, TPC-G and renewable energy sources has been considered to met through procurement from Bilateral Sources. As regards the price of procurement, RInfra-D submitted that due to the present economic downturn and the consequent reduction in demand of power-primarily in the manufacturing sector, the price of external power is expected to be lower as compared to FY 2008-09. Further, the expected reduction in the price of liquid fuels would also contribute to reduction in price of power. On account of the above reasons, RInfra-D considered the rate of procurement of bilateral power at Rs. 7.00/kWh for FY 2009-10.

For FY 2008-09, the Commission has considered the quantum and cost of power purchase from bilateral sources based on the total energy input requirement as approved in this Order and accordingly has estimated power purchase of 1919.87 MU at an estimated cost of Rs. 1683.44 crore. However, the Commission will undertake



the final truing up of power purchase from bilateral sources for FY 2008-09 based on actual data and prudence check, during the APR of FY 2009-10.

As regards the purchase from imbalance pool during FY 2008-09, the Commission has accepted RInfra-D's projection for meeting the balance power requirement for FY 2008-09 and considered power purchase of 742.06 MU at an estimated cost of Rs. 701.41 crore during FY 2008-09.

For FY 2009-10, after considering the power available from RInfra-G, TPC-G and RPS, the total power purchase quantum requirement from other sources works out to be 2719.51 MU to meet the projected energy input requirement. This balance power requirement has to be met from bilateral contracts and imbalance pool settlement. For estimating the power purchase cost in this Order, the Commission has considered this balance power as available through bilateral contracts. The Commission observed that the short-term purchase rate as submitted by RInfra-D for short term purchase during April to September 2007 is around Rs. 8.77/kWh. However, the power purchase from external sources is approved for the entire year and the rate will vary depending upon the demand and supply situation in various months of the year. For estimating the power purchase cost for FY 2009-10 in this Order, the Commission has considered the average rate of Rs. 7.00/kWh for purchase from bilateral sources and imbalance pool, considering the fact that the Central Electricity Regulatory Commission (CERC) has notified the CERC (Unscheduled Interchange charges and related matter Regulations), 2009, wherein it has revised the maximum ceiling of Unscheduled Interchange (UI) charge to Rs. 7.35/kWh as against the earlier ceiling of UI charges of Rs 10/kWh. Therefore, it is expected that the cost of power available on short-term basis would reduce and accordingly, the Commission has assumed the rate of Rs. 7.00/kWh. However, the Commission clarifies that it would consider such purchase/sale based on actuals subject to prudence check during the truing up for FY 2009-10.

The summary of power purchases/sale from bilateral sources/imbalance pool as projected by RInfra-D and as approved by the Commission for FY 2008-09 and FY 2009-10 is given in the Table below:

Table: Purchase of Power from bilateral sources in FY 2008-09 & FY 2009-10

Particulars	Unit	FY 2008-09	FY 2009-10
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		APR Order	Revised Estimate	Approved after provisional truing up	Petition	Approved
Purchase from bilateral sources/imbalance pool	MU	2718.9	2661.9	2661.9	2,913.19	2719.51
	Rs Crore	1495.4	2384.8	2384.8	2,039.23	1903.66
Average Rate	Rs/kWh	5.50	8.96	8.96	7.00	7.00

4.5.5 Month-wise Power Purchase Quantum for FY 2009-10

The summary of month wise power purchase quantum approved by the Commission based on trends of month-wise energy input requirement in previous is given in the Table below:

Table: Month-wise Power Purchase Quantum (MU) for FY 2009-10

TPC-D	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Total
Power Purchase (MU)	940.05	884.09	920.22	873.38	881.26	886.41	905.34	884.75	792.29	735.14	691.30	833.76	10188

4.5.6 Demand Side Management (DSM) Mechanism

The Commission in its MYT Order has deliberated on the need for DSM and opined that the distribution licensees need to take steps toward meeting their energy requirement by Supply Side as well as Demand Side Management (DSM). Traditionally, the distribution licensees have been looking at the supply side alone. Since there has been no capacity addition in the State for last many years, the licensees in the State of Maharashtra have had to resort to purchase of power from other sources at a very high rate and this has resulted in a higher retail tariff for the consumers, in the form of reliability charges, which comprises expensive power charges and Standby Charges.

The Commission, in its MYT Order, ruled that 2% of the costly power purchase requirement will have to be reduced as an initial step by implementation of DSM. However, for FY 2008-09, the Commission has considered reduction to the extent of only 1% of the expenditure on costly power purchase for DSM measures as the estimated power purchase quantum for FY 2008-09 from costly sources is very high. This translates to 0.10% of the total power purchase and reduction in power purchase cost by Rs 16.01 Crore.



For FY 2008-09, the Commission has considered the reduction in power purchase cost of Rs 16.01 crore as approved in the APR Order for FY 2008-09 in Case No. 66 of 2007 for the purpose of provisional truing up for FY 2008-09.

For FY 2009-10, the Commission has not considered any reduction in the power purchase expenses towards DSM measures.

4.5.7 Standby Charges

RInfra-D, in its Petition, submitted that the Commission in the APR Order for FY 2007-08 for RInfra-D has allocated Standby Charges of Rs. 396 Crore among the three Distribution Licensees on the basis of the coincident peak demand and accordingly, RInfra-D share was 56.16% amounting to Rs. 222.40 crore for FY 2008-09. For FY 2008-09, RInfra-D has considered the Standby Charges of Rs. 222.40 Crore as approved by the Commission in its APR Order for FY 2007-08 for RInfra-D.

RInfra-D submitted that in accordance with the prevailing arrangement, the Standby support rendered by the MSEDCL exists as a back-up to Mumbai Distribution Licensees only in case of non-availability of supply from generating capacities/plants of RInfra-G and TPC-G.

RInfra-D submitted that the peak demand of the Distribution Licensee, which is met through short-term power purchase should not form the basis for allocation of Standby Charges, which is not available for meeting shortage but only during non-availability of supply from Generation of RInfra-G and TPC-G. RInfra-D submitted that till FY 2007-08, it had not objected to this allocation by the Commission because the generating capacity of 1262 MW (500 MW from RInfra-G and 762 MW from TPC-G) was approximately same as its share in system coincident peak demand (which was 1245 MW in FY 2007-08). RInfra-D submitted that however, from FY 2008-09, the allocation to RInfra-D from TPC-G is reduced to 500 MW and hence, its firm generating capacity is reduced to 1000 MW, while its share in the system coincident peak demand, as approved by the Commission for FY 2008-09, stays at 1228 MW.

RInfra-D submitted that the coincident peak demand of Mumbai Distribution Licensees has no nexus with stand-by support made available by MSEDCL as the stand-by support is limited to 550 MVA irrespective of actual coincident peak demand of Mumbai Distribution Licensees. Also, such a support is available only as contingency during the forced or planned outage of generating plants of TPC-G or



RInfra-G. Further, MSEDCL is not obligated to render stand-by support to the Distribution Licensees in the event of failure of any short-term/bilateral source. Therefore, as the stand-by support is provided only during the forced or planned outage of generation plants of TPC-G and RInfra-G, the sharing of charges for stand-by facility ought to be on the extent of share of firm generation capacity allocated to Mumbai Distribution Licensees.

Accordingly, RInfra-D requested the Commission to modify the mechanism of apportionment of Standby Charges considering the above submissions and work out the Stand-by charges on the basis of each Mumbai Distribution Licensee's share of the total allocated generation capacity.

RInfra-D submitted that without prejudice to its contentions expressed above and as directed by the Commission during the TVS, it has worked out the Standby Charges based on coincident peak demand as per the Intra-State Transmission System (InSTS) Order for FY 2008-09 dated May 31, 2008. Accordingly, the Standby Charges for FY 2009-10 as worked out by RInfra-D amount to Rs. 222.35 crore.

For FY 2008-09, the Commission has considered the Standby Charges approved in the APR Order, i.e., Rs. 222.40 crore.

As regards change in the sharing mechanism of standby charges for FY 2009-10 as proposed by RInfra-D, the Commission does not find it appropriate to change the principles adopted in MYT Order during the last year of the Control Period. The need for standby arrangement and the sharing of the same between the distribution licensees will be looked into separately, as there are certain matters pending before the Commission and the higher Courts in this regard.

Therefore, in accordance with the philosophy adopted in the MYT Order and the APR Order, the Commission has allocated the Standby Charges between the three Distribution Licensees in Mumbai in proportion to the coincident peak demand for the last one year, i.e., for the period from October 2007 to September 2008. The Standby Charges allocated to RInfra-D works out to Rs. 224.50 crore. RInfra-D will hence, pay Standby Charges of Rs. 224.50 crore to MSEDCL during FY 2009-10.

4.5.8 MSLDC Charges

For FY 2009-10, RInfra-D submitted that it has considered MSLDC charges as Rs. 1.52 crore as approved by the Commission for FY 2008-09 in the APR Order for FY 2007-08.



As regards the MSLDC charges for FY 2008-09, the Commission has considered the approved share of RInfra-D of the MSLDC charges, i.e., Rs 1.52 crore for FY 2008-09 as approved in the MSLDC Budget for FY 2008-09 vide Order dated May 30, 2008 in Case No. 88 of 2007. As regards the MSLDC charges for FY 2009-10, the Commission in its Order dated April 29, 2009 in the matter of Approval of MSLDC Budget for FY 2009-10 (Case No. 117 of 2008) has determined the mechanism for the recovery of MSLDC Fees and Charges for FY 2009-10. The Commission has considered RInfra-D's share of the approved MSLDC Fee for FY 2009-10, however, the Commission has considered the MSLDC Operating charge for 11 months based on Order dated April 29, 2009 in Case No. 117 of 2008 and for 1 month based on the MSLDC operating fees as approved in the Order dated May 30, 2008 in Case No. 88 of 2007, which works out to Rs. 1.07 crore.

4.5.9 Transmission Charges

RInfra-D, in its Petition, submitted that the Commission in its Order dated May 31, 2008 in the matter of Determination of Transmission Tariff for Intra-State Transmission System (InSTS) determined the manner in which the transmission charges are to be paid by the Transmission System Users (TSU's) for FY 2008-09. Accordingly, RInfra-D has considered the approved transmission charges payable by RInfra-D for FY 2008-09.

For FY 2009-10, RInfra-D submitted that the transmission charges have been computed in the following manner:

1. For projecting the Total Transmission System Cost (TTSC) for FY 2009-10, RInfra-D has projected the respective ARR of Maharashtra State Electricity Transmission Company Ltd. (MSETCL) and The Tata Power Company Ltd.-Transmission business (TPC-T);
2. RInfra-D considered the projected ARR of RInfra-T in accordance with RInfra-T's APR Petition for FY 2009-10;
3. RInfra-D considered the ARR of MSETCL and TPC-T considering the actual and/or approved ARRs of these Licensees for the period FY 2006-07 to FY 2008-09 and after working out appropriate growth rates based on these figures;



4. RInfra-D considered the data for this from the Commission's Order dated May 31, 2008 (Case No. 70 of 2007) – for MSETCL and the Commission's Order dated May 26, 2008 (Case No. 67 of 2007) for TPC-T.
5. RInfra-D submitted that in the InSTS Order of the Commission dated May 31, 2008 on determination of Transmission Tariff for the Intra-State Transmission System in Case No. 104 of 2007, the Commission has determined RInfra-D's share in the TTSC based on its contribution to the System Peak Demand, which is 10.2%, as per the said Order. On the presumption that individual TSU's shares would not alter for FY 2009-10, the same percentage share is considered for working out RInfra-D's share in TTSC for FY 2009-10.
6. Accordingly, RInfra-D worked out the InSTS cost for FY 2009-10, which amount to Rs. 260.81 crore.

Issues with Transmission Capacity Rights and Short-Term Open Access Charges

RInfra-D submitted that the Commission, in its Order on "Development of Transmission Pricing Framework for the State of Maharashtra and other related matters", prescribed the principles for sharing of total transmission system cost-on the basis of individual TSU's share in System Peak Demand (Coincident Peak Demand). In the said Order, the Commission stipulated as follows:

"2.3.18 In view of above, the Commission rules that Alternative-2, which is based on sharing the pooled transmission costs (TTSC) depending on contribution to 'system maximum demand' (coincident peak demand), presents the most accurate representation of 'actual utilisation' of the transmission capacity."

RInfra-D submitted that the Commission considered share in system peak demand for sharing of transmission cost, since in case of a User, demand of the user is the best indicator of the extent of his utilization of the network. RInfra-D submitted that the charges being paid by a TSU based on this method reflect the charges for his base utilization of transmission system and the capacity so determined (based on share in coincident peak) is the transmission capacity that is 'reserved' for the user on the InSTS.



For RInfra-D, the transmission capacity so assigned (or reserved) for FY 2008-09, as per the Commission's Order, dated May 31, 2008, is 1228 MW. RInfra-D further submitted the Commission's Regulations also specify that any long-term TSU could book short-term open access and to such extent the long-term TSU shall be treated at par with any short-term open access user.

RInfra-D submitted that its total firm generation capacity for FY 2008-09 is 1000 MW (based on current allocation from TPC-G) and its peak demand is in the vicinity of 1450 MW. Hence, at present, short-term power is procured by RInfra-D to the extent of 450 MW. RInfra-D submitted that the charges paid for such short-term power also include the short-term open access charges collected by the MSLDC.

RInfra-D submitted that it being a long-term TSU, a base transmission capacity of 1228 MW (presently), is being charged for both long-term as well as short-term open access to the extent of 228 MW (1228 MW – 1000 MW), which clearly, amounts to double counting and completely dilutes the significance of any rights on or reservations of transmission capacity. RInfra-D submitted that it has raised this issue time and again with State Transmission Utility (STU) and MSLDC in Grid Co-ordination Committee (GCC) meetings, Maharashtra State Power Committee (MSPC) sub-committee meetings, etc. RInfra-D, requested the Commission to intervene in the matter to direct the concerned entities, i.e., MSLDC and STU to rectify the present practices so that the Regulations of the Commission are followed in true letter and spirit. RInfra-D also requested the Commission to direct the concerned entities to refund the short-term open access charges collected by them to the extent such charges are collected during all such past periods when RInfra-D's capacity drawal was within its Base TCR (as worked out by the Commission for the period in question).

As regards the contention raised regarding the transmission capacity rights and short-term open access charges, the Commission clarifies that the Commission has addressed this issue in detail in its "Development of Transmission Pricing Framework for the State of Maharashtra and other related matters" and also while addressing the similar issue raised by MSETCL in its APR Petition in Case No. 114 of 2008. Accordingly, the Commission has not reiterated its rulings of the said Orders and the Commission does not agree with the contentions raised by RInfra-D in this regard.



For FY 2008-09, the Commission has considered the transmission charge of Rs. 221.63 crore as projected by RInfra-D for FY 2008-09. For FY 2009-10, the Commission vide its Order dated May 28, 2009 in Case No. 155 of 2008 on determination of Transmission Tariff for the Intra-State Transmission System, has approved the revised Transmission Charges for FY 2009-10 with effect from June 1, 2009. Accordingly the Commission has considered the approved monthly transmission charges for FY 2009-10 payable by RInfra-D as approved in the Order dated May 28, 2009 in Case No. 115 of 2008 for 10 months and has considered the approved monthly transmission charges for 2 months as approved in the Order in Case No. 104 of 2007. Accordingly, the total transmission charges payable by RInfra-D for FY 2009-10 as approved by the Commission works out to Rs. 183.72 crore.

4.5.10 Summary of Power Purchase Related Cost

The summary of the total power purchase cost as approved in APR Order dated June 4, 2008 in Case No. 66 of 2007, as estimated by RInfra-D in the APR Petition and as approved by the Commission based on provisional truing up for FY 2008-09, is shown in the Table below:

Table: Summary of Provisional Truing up of Power Purchase for FY 2008-09

Source	APR Order		RInfra-D APR Petition		Approved after provisional truing up	
	Quantum	Total Cost	Quantum	Cost	Quantum	Cost
	MU	Rs Crore	MU	Rs crore	MU	Rs crore
RInfra-G	3,701.00	814.95	3,943.29	967.69	3,943.29	967.69
TPC-G: Thermal excl Unit 4	2,470.17	984.97				
TPC-G Unit 4	148.28	105.51				
TPC-G Hydel	384.92	42.22	2,844.59	1,373.46	2,844.59	1,373.46
RPS	495.96	173.59	63.76	22.32	63.76	22.32
External Power Purchase	2,718.95	1,495.42	1,919.87	1,683.44	1,919.87	1,683.44
Purchase from imbalance pool	-	-	742.06	701.41	742.06	701.41
Standby Charges	-	222.40	-	222.40	-	222.40
sub-total (Power Purchase)	9,919.29	3,839.05	9,513.57	4,970.71	9,513.57	4,970.71
Transmission Charges	-	221.63	-	221.63	-	221.63
SLDC Charges	-	1.52	-	1.52	-	1.52
Reduction of Cost (DSM)	-	(16.01)	-	-	-	(16.01)



Source	APR Order		RInfra-D APR Petition		Approved after provisional truing up	
	Quantum	Total Cost	Quantum	Cost	Quantum	Cost
	MU	Rs Crore	MU	Rs crore	MU	Rs crore
Total	9,919.29	4,046.20	9,513.57	5,193.86	9,513.57	5,177.85

The summary of the total power purchase cost considered by the Commission for FY 2009-10 is shown in the Table below:

Table : Summary of Power Purchase for FY 2009-10

Source	RInfra-D APR Petition		Approved	
	Quantum	Total Cost	Quantum	Total Cost
	MU	Rs Crore	MU	Rs Crore
RInfra-G	3,911.06	1,038.15	3,915.24	966.12
TPC-G: Thermal excl Unit 4	2,928.12	1,119.06	2,501.87	1,003.55
TPC-G: Unit 4			20.30	11.02
TPC-G Hydel			419.81	76.62
RPS	150.00	54.75	611.28	223.12
External Power Purchase	2,913.19	2,039.23	2719.51	1903.66
Standby Charges	-	222.35	-	224.50
Less Hydel Rebate	-	-	-	(25.20)
sub-total (Power Purchase)	9,902.37	4,473.54	10,188.01	4,383.38
Transmission Charges	-	260.81	-	183.72
SLDC Charges	-	1.52	-	1.07
Reduction of Cost (DSM)	-	-	-	-
Total	9,902.37	4,735.87	10,188.01	4,568.17
Impact of the ATE Judgment	-	-	-	34
Total	9,902.37	4,735.87	10,188.01	4,602.17

4.6 O&M EXPENSES FOR FY 2008-09 AND FY 2009-10

The O&M expenditure comprises employee expenditure, A&G expenditure and R&M expenditure, as discussed below.

Relevance of Multi-Year Tariff

In this context, the Commission observes that during the public regulatory process on the APR Petitions, several consumers have expressed their opinion that revising tariff on an annual basis is against the principles of MYT. While this is not incorrect if one



goes by the pure concept of MYT, in Maharashtra, parameters like sales and power purchase have not been stipulated in the MYT Orders, due to the uncertainty on account of the prevailing supply shortages in the State and the respective licence area. Consequently, the tariff has been specified for only one year, rather than the Control Period, which is also in accordance with the MERC Tariff Regulations, which specifies that tariff will be determined annually.

Consequently, in the MYT Orders, the Commission has primarily stipulated the following parameters separately for each year of the Control Period, viz.

- (a) Performance trajectory
 - i. Station Heat Rate (SHR), auxiliary consumption, transit losses and secondary oil consumption for Generating Companies;
 - ii. Availability for Transmission Licensees; and
 - iii. Distribution loss for Distribution Licensees
- (b) Cost elements
 - i. Operation & Maintenance (O&M) expenses have been approved as a whole for Generating Companies, and for individual elements, viz., employee expenses, A&G expenses, and R&M expenses, for Transmission Licensees and Distribution Licensees
 - ii. Interest on Working capital

However, even though the O&M expenses have been approved by the Commission for each year of the Control Period, wherein, by and large, the Utility's projections have been accepted, most Utilities have projected significant further annual increase in the O&M expenses for each year in the Control Period. If this increase in O&M expenses is allowed as sought by the Utilities, then the MYT framework created by the MERC in its MYT Orders will have no sanctity. Hence, the Commission rules that for FY 2008-09 and FY 2009-10, the O&M expenses allowed by the Commission for FY 2007-08 under the final truing up for FY 2007-08, after considering the base as audited expenses for FY 2006-07, will be considered as the base and increase will be allowed strictly as per the CPI/WPI growth as applicable, which incidentally, is higher than the growth rate projected by the Utilities in their respective original Petitions. The variation between allowed expenses and actual expenses will be considered as a controllable gain/loss, and will be shared between the Utilities and the respective



consumers, in accordance with Regulation 19 of the MERC (Terms and Conditions of Tariff) Regulations, 2005.

4.6.1 Employee Expenses

RInfra-D submitted that the estimated employee expenditure for FY 2008-09 was Rs. 293.28 crore as against Rs. 273 Crore incurred in FY 2007-08 and Rs. 265.51 crore approved by the Commission. RInfra-D submitted that the actual employee expenses in the first half of FY 2008-09 has been about Rs. 141 crore, and a similar level of expenses have been assumed for H2 of FY 2008-09. The employee expenses have been considered based on impact on DA, which is linked to CPI:WPI Index.

For FY 2009-10, RInfra-D submitted that it has projected employee expenses based on the Composite CPI, which has increased by 5.14% per annum on an average for the last six years. Further, this composite index grew by 5.85% during the first five months in the current year, which translates into 14.04% per annum, if projected linearly. RInfra-D submitted that considering the current economic and financial scenario in the country and overseas; and buoyant with the policy directives and fiscal measures of the Government and RBI for inflation control, RInfra-D expects ease in inflation in the next fiscal year. Hence, RInfra-D has put more weightage on long-term trends for price variation and considered an escalation factor of 6 % for projecting employee expenses for FY 2009-10. Accordingly, the Employee Expenses projected for FY 2009-10 are Rs. 310.87 Crore.

For FY 2008-09, for each sub-head of employee expenditure, the Commission has considered an increase of around 7.31% p.a. on account of inflation factor corresponding to increase in Consumer Price Index (CPI) over the revised level of employee expenses as approved for FY 2007-08 under the truing up exercise in this Order. The Commission has considered the point to point inflation over CPI numbers for Industrial Workers (as per Labour Bureau, Government of India) for a period of 3 years, i.e., FY 2006-07 to FY 2008-09 (upto December 2008), to smoothen the inflation curve. The Commission will undertake the final truing up of employee expenses for FY 2008-09 based on actual employee expenses for the entire year and prudence check, during the APR process for FY 2009-10.

Similarly, for FY 2009-10, for each sub-head of employee expenditure, the Commission has considered an increase of around 7.31% p.a. on account of inflation over the revised level of employee expenses as approved for FY 2008-09 under the



provisional truing up exercise in this Order, based on the increase in Consumer Price Index (CPI). Accordingly, the approved employee expenses for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: Employee Expenses for FY 2008-09 and FY 2009-10 (Rs. Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Approved After provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Net employee expenses	265.51	293.28	285.73	213.75	310.87	306.62

4.6.2 Administrative & General (A&G) Expenses

RInfra-D submitted that it has been introducing many initiatives to enhance consumer education and awareness as well as measures towards improving administrative efficiency. RInfra-D submitted that it has estimated total A&G expenses of Rs. 111.64 crore as against Rs. 106.84 crore approved by the Commission for FY 2008-09. RInfra added that it has assumed an increase of around 4% over actuals of FY 2007-08 vis-à-vis 5.29% increase considered by the Commission over FY 2007-08 level. For FY 2009-10, RInfra-D submitted that it has projected A&G Expenses based on the Composite WPI CPI index, which has increased by 5.47% per annum on an average for last six years. Further, this composite index grew by 6.52% during the first five months in the current year, which translates into 15.64% per annum, if projected linearly. RInfra-D submitted that more weightage has been given for long-term trends for price variation and hence, the A&G expenses are projected to grow by 6% in FY 2009-10. Accordingly, the A&G expenses for FY 2009-10 have been projected by RInfra-D at Rs. 118.34 Crore.

For FY 2008-09, the Commission has considered an increase of around 6.04% p.a. on account of inflation factor corresponding to increase in Wholesale Price Index (WPI) and Consumer Price Index (CPI) over the revised level of A&G expenses as approved for FY 2007-08 in this Order. 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) for a period of 3 years, i.e., FY 2006-07 to FY 2008-09 (upto December 2008), to smoothen the inflation curve. The Commission has considered a weight of 60% to WPI and 40% to CPI, based on the expected relationship with the cost drivers. Further, the Commission has not considered expenses towards contributions/donations incurred in FY 2008-09 in line with the philosophy adopted while truing up A&G expenses for FY 2007-08, which has been elaborated in this Order. The Commission will undertake the final truing up of A&G expenses for FY 2008-09 based on actual A&G expenses for the entire year and prudence check, during the APR process for FY 2009-10.

Further, as regards appointment of consultants, the Commission directs RInfra-D that in future, any appointment of consultants where the estimated cost for the engagement of the Consultants is more than Rs. 1 crore, it should ensure that the selection is made through a competitive bidding process, proper Terms of Reference are prepared, cost benefit analysis is stated upfront and the deliverables of the consultancy assignment are properly defined. RInfra-D should submit the following details for all consultancy assignments of more than Rs 1 Crore in its APR and Tariff Petition:

- Process followed for appointment of Consultant including number of bids received along with bid documents
- Stated Cost-Benefit analysis and assessment of cost benefit analysis after completion of the assignment
- List of Deliverables submitted by Consultant

For FY 2009-10, for each sub-head of A&G expenditure, the Commission has considered an increase of around 6.04% p.a. on account of inflation over the revised level of A&G expenses as approved for FY 2008-09 under the provisional truing up exercise in this Order, based on the increase in Wholesale Price Index (WPI) and Consumer Price Index (CPI). Accordingly, the approved A&G expenses for FY 2008-09 and FY 2009-10 are summarised in the following Table:

Table: A&G Expenses for FY 2008-09 and FY 2009-10 (Rs. Crore)

Particulars	FY 2008-09	FY 2009-10
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	APR Order	Revised Estimate by RInfra-D	Approved After provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Net A&G expenses	106.84	111.64	105.36	101.04	118.34	111.73

4.6.3 R&M expenses

RInfra-D submitted that R&M expenditure is required to be incurred to maintain the system in healthy condition by carrying out prescribed preventive maintenance and attending to breakdowns. RInfra-D submitted that it has estimated total R&M expenses of Rs. 140.87 crore for FY 2008-09 as against Rs. 145 crore approved by the Commission. For FY 2009-10, the same escalation factor as used for projecting A&G expenses has been used to project R&M expenses. Hence, R&M expenses for FY 2009-10 have been projected after applying 6% escalation on estimated expenses of FY 2008-09, which works out to Rs. 149.32 Crore.

For FY 2008-09, the Commission has considered an increase of around 5.19% p.a. on account of inflation factor corresponding to increase in Wholesale Price Index (WPI) over the revised level of R&M expenses as approved for FY 2007-08 under the truing up exercise in this Order. The Commission has considered the point to point inflation over WPI numbers (as per Office of Economic Advisor of Govt. of India) for a period of 3 years, i.e., FY 2006-07 to FY 2008-09 (upto December 2008), to smoothen the inflation curve. The Commission will undertake the final truing up of R&M expenses for FY 2008-09 based on actual R&M expenses for the entire year and prudence check, during the APR process for FY 2009-10.

For FY 2009-10, for each sub-head of R&M expenditure, the Commission has considered an increase of around 5.19% p.a. on account of inflation over the revised level of R&M expenses as approved for FY 2008-09 under the provisional truing up exercise in this Order, based on the increase in Wholesale Price Index (WPI), as detailed above. Accordingly, the approved R&M expenses for FY 2008-09 and FY 2009-10 is summarised in the following Table:



Table: R&M Expenses for FY 2008-09 and FY 2009-10 (Rs. Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Approved After provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Net R&M expenses	145.00	140.87	141.14	160.30	149.32	148.47

4.6.4 O&M expenses

The total O&M expenses approved by the Commission for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: O&M Expenses for FY 2008-09 & FY 2009-10 (Rs. Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Approved After provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Net employee expenses	265.51	293.28	285.73	213.75	310.87	306.62
Net A&G expenses	106.84	111.64	105.36	101.04	118.34	111.73
Net R&M expenses	145.00	140.87	141.14	160.30	149.32	148.47
Total O&M expenses	517.35	545.79	532.23	475.09	578.53	566.82

4.7 CAPITAL EXPENDITURE AND CAPITALISATION

Variation between approved and actual values of capital expenditure and capitalisation significantly influences computation of various critical parameters such as depreciation, interest on long term debt, and return on equity. The comparison



between capital expenditure and capitalisation approved by the Commission with RInfra-D's revised estimates of capital expenditure and capitalisation are given in the Table below:

Table: Capital expenditure and Capitalisation projected by RInfra-D (Rs Crore)

Particulars	FY 2008-09		FY 2009-10	
	APR Order	Revised Estimate by RInfra-D	MYT Order	Revised Estimate by RInfra-D
TOTAL				
Capital Expenditure	356.11	521.15	-	740.25
Capitalisation	378.87	375.69	40.57	538.04
Wire Related				
Capital Expenditure	352.86	425.20	-	658.34
Capitalisation	352.36	281.83	40.57	458.14
Retail Supply Related				
Capital Expenditure	3.25	95.95	-	81.91
Capitalisation	26.52	93.86	-	79.91

In the APR Order dated June 4, 2008 the Commission had considered capital expenditure and capitalisation for FY 2008-09 on account of the DPR schemes already been approved by the Commission. In the MYT Order dated April 24, 2007 for REL-D (now RInfra-D), the Commission had not considered any capital expenditure towards DPR schemes during the Control Period as no DPR scheme was approved in-principle until then.

In the APR Petition, RInfra-D submitted revised estimate of capital expenditure of Rs 521.15 Crore for FY 2008-09 and Rs 740.25 Crore for FY 2009-10. RInfra-D submitted that the Commission had approved all DPR schemes for FY 2007-08, FY 2008-09 and FY 2009-10, except for the metering schemes submitted in FY 2005-06, FY 2006-07 and FY 2007-08. As regards the non-DPR schemes for FY 2008-09, RInfra-D submitted that it includes Street lighting schemes (Rs. 10.22 Crore), LT switchgear (Rs. 9.99 Crore) in order to enhance reliability of distribution network and



equipments, and procurement of printers, telephones, software, servers, etc., (Rs. 9.48 Crore) for its distribution activity.

RInfra-D, in its APR Petition, further submitted that the capital expenditure for FY 2009-10 has been revised to Rs. 740.25 Crore from Rs. 524.15 Crore as submitted by RInfra-D in its MYT Petition. RInfra-D submitted that upward revision of the capex was mainly on account of material cost escalation, which has contributed to an overall increase of Rs. 23 Crore in the capex, increase in reinstatement charges paid to Municipal Corporation of Greater Mumbai (MCGM) against reinstatement of road surface excavated during cable laying work, by around 63% with an impact of Rs. 53.27 crore, increase in the labour charges over the past three years, which contributed to an increase of Rs. 24.64 Crore, and deferral of some of the approved schemes to FY 2009-10, etc..

In this context, the Commission observes that the revision in ARR/tariff sought by different Utilities as a part of the Annual Performance Review (APR) process for FY 2008-09 can be attributed primarily to increase in power purchase cost of distribution licensees and the steep increase in capital expenditure and capitalisation being undertaken by the Utilities in recent years. The issue of increase in power purchase expenses is being dealt with in the Orders of the respective distribution licensees, since the reasons for the increase are different for different distribution licensees. However, the issue of steep increase in capital expenditure and capitalisation is a generic issue and relevant for all the Utilities.

The Commission appreciates that the investment on capex schemes is an ongoing process for any Utility/Licensee. It is required for healthy system development with tangible and intangible benefits. The scope, objective and benefits are identified while formulating project reports. After implementation of the scheme, before capitalisation, the benefits are to be demonstrated by the Utility. The Utility is required to execute the capex schemes in a phased manner so as to minimise tariff shock attributable to capex implementation. The Commission can permit capex in ARR only after prudence check as there is an impact on tariff.

To understand the significance of the capitalisation claimed by RInfra-D, the actual capitalisation over the last four to five years vis-à-vis the opening GFA prevailing around 5 years ago have been compiled as under:



	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
Particulars	Actuals	Actuals	Actuals	Actuals	Revised Estimate	Projected
Opening GFA						
RInfra-G	1294.09	1294.59	1302.83	1311.18	1560.14	1592.19
RInfra-T	284.14	284.86	296.68	298.09	303.64	405.91
RInfra-D	1,562.94	1707.92	1923.72	2,347.39	2,594.22	2,955.97
Total RInfra	3141.17	3287.37	3523.23	3956.67	4457.99	4954.07
Asset addition during the year						
RInfra-G	1.20	9.63	8.44	249.18	38.24	63.24
RInfra-T	0.72	6.90	1.41	5.55	102.27	536.67
RInfra-D	177.36	282.94	455.61	285.29	375.70	538.05
Total RInfra	179.28	299.47	465.46	540.02	516.21	1137.96
Asset write off/retirement during the year						
RInfra-G	(0.71)	(1.64)	(0.09)	(0.21)	(6.19)	-
RInfra-T	-	-	-	-	-	-
RInfra-D	(32.38)	(57.35)	(31.94)	(38.47)	(13.94)	(14.45)
Total RInfra	(33.09)	(58.99)	(32.03)	(38.68)	(20.13)	(14.45)
Closing GFA						
RInfra-G	1294.59	1302.58	1311.18	1560.14	1592.19	1655.43
RInfra-T	284.86	291.75	298.09	303.64	405.91	942.58
RInfra-D	1707.92	1933.51	2347.39	2594.22	2955.97	3479.57
Total RInfra	3287.37	3527.85	3956.66	4457.99	4954.07	6077.58

The above compilation has been done for RInfra as a whole, to give a better picture of the overall increase in asset addition over the last five years, since RInfra was earlier being regulated as an integrated Utility.

It is clear from the above Table that the Gross Fixed Assets have increased by around 28%, 230%, and 104% for the Generation, Transmission, and Distribution Business, respectively, over the last five years. The pace of asset addition has increased by leaps and bounds over the last five years. RInfra-D has projected to almost double its asset base (as in FY 2004-05) by the end of FY 2009-10, while RInfra-G and RInfra-T have proposed to increase their asset base (as in FY 2004-05) to around 1.3 to 3.3 times. Further, when RInfra was operating in an integrated manner in FY 2004-05, the total



asset addition every year was less than around Rs. 200 Crore, whereas in FY 2008-09 and FY 2009-10, the Transmission and Distribution Businesses are individually adding assets of more than this amount every year on an average, while the capital asset addition in Generation Business has also increased significantly in scale. The addition to the asset base is clearly not commensurate either with the increase in sales or increase in demand in MW served. Since the Utilities were able to serve the existing consumer base well enough with the existing assets, the rationale for this steep increase in the asset base needs to be examined further.

In the regulated business, the returns to the investors are linked to the equity invested in the business, which in turn is directly linked to the existing asset base and assets added every year. The steep increase in the asset base every year has been suggested by the consumers to be an attempt by the Utilities to increase the returns from the regulated business, as during the Public Hearing conducted by the Commission on the APR Petitions filed by the Utilities.

The Commission has conducted a Public Hearing on the Petitions filed by different Utilities to ascertain the views of the consumers and other stakeholders on the Petition and the tariff increase sought by the Utility. During the Public Hearings, there was a huge resistance to the proposed tariff increase and one of the common objections has been that the increase in ARR/tariff being sought by the Utilities is exorbitant and the capital expenditure should not be allowed to the extent sought by the Utilities, since there has been no great increase in the sales quantum or any great improvement in some cases deterioration in the service quality over the period.

Further, as regards capital expenditure, the Commission has instituted a process of giving in-principle approval for the capital expenditure schemes costing above Rs. 10 Crore (together known as DPR Schemes), wherein the Utility has to submit Detailed Project Report (DPR) as well as the expected cost-benefit analysis, pay back period, etc., as per well laid out guidelines. Schemes costing less than Rs. 10 Crore are considered as non-DPR schemes and the Utilities are not required to submit any DPR for the approval of the same. It is often observed that at the time of obtaining in-principle approval of the Commission for the DPR schemes, the Utilities indicate several quantifiable benefits and a short payback period. However, the Utilities are not able to substantiate the benefits once the capital investment is actually undertaken and the assets are added to the Gross Fixed Assets (GFA). As a result, the costs and hence, the tariffs are increased, but the expected benefits to the system do not accrue.



In this regard, the in-principle approval given by the Commission to the DPR Schemes has certain standard covenants. One such in-principle approval given to a scheme submitted by MSETCL is reproduced below, for reference:

“...2. Please note that this in-principle clearance should not be construed as final approval for ARR purpose and the scheme will be open for scrutiny during the tariff determination process/ARR review, particularly in the context of actual cost incurred, scope and objective achieved etc. ex post after implementation of the scheme. MSETCL will be required to submit the status of implementation of the scheme with cost incurred till date, likely completion date etc. along with their ARR petition or during the tariff determination process at the appropriate time.

3. MSETCL should submit half yearly report giving the status of implementation of the scheme in terms of expenditure incurred and item wise physical progress achieved during the implementation of the scheme.

4. Assets created after execution of the scheme should be maintained separately in the Asset register.

5. Immediately after completion / commissioning of the respective scheme, MSETCL should communicate to the Commission the date of completion of the scheme, actual cost incurred, escalation in cost, if any with reasons, the scope and objectives of the scheme and to what extent they have been achieved, etc. so as to facilitate a comparison between the in-principle clearance and the actual.”(emphasis added)

However, the Utilities have not been able to submit any evidence that the scope and objective of the scheme have been achieved.

In this context, the recent Report by Forum of Regulators on Multi-Year Framework has also emphasized that the capital expenditure plans of Utilities should clearly bring out cost benefit analysis and targeted reduction in technical losses.

Further, the Commission has observed that most of the Utilities have projected very high non-DPR schemes, and in some cases, the capital expenditure and capitalisation projected under non-DPR schemes is several times that projected under DPR schemes. This defeats the very purpose of classifying schemes costing above Rs. 10 Crore as DPR schemes and requiring regulatory scrutiny of the schemes.



In this regard, the Commission in its APR Order for Maharashtra State Electricity Transmission Company Limited (MSETCL) for FY 2007-08 as well as the MYT Orders for Utilities had observed as under:

“However, the Commission would like to reiterate that in-principle approval of the scheme does not absolve the senior management of MSETCL of their responsibility to prioritise various schemes and undertake cost benefit analysis and financial analysis to validate the commercial prudence of each scheme. MSETCL should ensure that the projected benefits actually accrue for the benefit of the stakeholders. It would be essential to monitor progress of each scheme as well as track expenditure and benefits accrued as per the scheme.”

...

“The increase in quantum of Non-DPR schemes indicates an unhealthy trend, as the Commission feels that there is a tendency to split distribution scheme so that capital outlay of the scheme is below Rs. 10 Crore, to escape regulatory scrutiny. The Commission will take a review of the schemes being classified under Non-DPR category, and in case it is found that these schemes should have ideally been classified under DPR category, then that capex and the related capital charges will be disallowed till the DPR is submitted and the scheme is approved by the Commission.”

In view of the above, as a general rule, the Commission has decided that the total capital expenditure and capitalisation on non-DPR schemes in any year should not exceed 20% of that for DPR schemes during that year. To achieve the purpose, the purported non-DPR schemes should be packaged into larger schemes by combining similar or related non-DPR schemes together and converted to DPR schemes, so that the in-principle approval of the Commission can be sought in accordance with the guidelines specified by the Commission.

Further, in the absence of documentary evidence that the stated purpose and objective of the capex schemes have been achieved, MERC is restricting the capitalisation considered for the purposes of determination of ARR and tariff. Once the Utilities submit the necessary justification to prove that the scope and objective of the capex scheme has been achieved as projected in the DPR, the same may be considered in future Orders.



RInfra-D is directed to prioritise the capex schemes based on importance and the schemes may be implemented in phased manner to minimise the impact on distribution costs.

For the purpose of APR exercise for FY 2008-09 and revised projection for FY 2009-10, the Commission has not considered capitalisation of such DPR schemes where in-principle approval of the Commission is yet to be provided. For the purpose of APR exercise for FY 2008-09, the Commission is of the view that the benefits of such scheme need to be examined and until it is ascertained that the projected benefits actually accrue for the benefit of the stakeholder, it would not be appropriate to allow such expenses. Accordingly, the Commission has considered a provisional fifty percent (50%) of the capitalisation in FY 2008-09 for the DPR schemes approved by the Commission (i.e., Rs. 166.46 Crore for DPR Schemes). As regards the Non-DPR Schemes, the Commission has provisionally approved an amount of Rs. 26.40 Crore for FY 2008-09, which includes capitalisation of LT Switchgear (Rs. 9.87 Crore), Capacitors (Rs. 1.16 Crore), instruments (Rs. 6.31 Crore) among others. The Commission has not approved the capitalisation of metering schemes for FY 2008-09 (Rs.93.86 Crore) as projected by RInfra-D as the scheme is yet to be approved by the Commission, in principle.

For the purpose of determination of Revenue Requirement for FY 2009-10, the Commission is of the view that the benefit of such schemes needs to be examined and until it is ascertained that the projected benefits actually accrue for the benefit of the stakeholder, it would not be appropriate to allow such expenses. Accordingly, the Commission has provisionally considered the total capitalisation of Rs. 179.65 Crore corresponding to 50% of the capitalisation of the approved DPR schemes proposed to be capitalised during FY 2009-10. As regards the Non-DPR schemes, the Commission has considered an amount of Rs. 16.31 Crore for FY 2009-10, which includes capitalisation of LT Switchgear (Rs. 1.50 Crore), Capacitors (Rs. 2.83 Crore), and instruments (Rs. 7.09 Crore) among others. The Commission has not approved the capitalisation of metering schemes for FY 2009-10 (Rs.79.91 Crore) as projected by RInfra-D as the scheme is under review by the Commission.

The Commission is of the view that until it is ascertained that the projected benefits actually accrue for the benefit of the consumers, it would not be appropriate to allow



the entire expenses. Accordingly, revised estimate for capitalisation and approved capitalisation for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: Approved Capitalisation for FY 2008-09 and FY 2009-10 (Rs. Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Total Capitalisation	378.87	375.69	192.86	40.57	538.04	195.96
Wire Related Capitalisation	352.36	281.83	192.86	40.57	458.14	195.96
Supply Related Capitalisation	26.52	93.86	-	-	79.91	-

4.8 DEPRECIATION

Wire related depreciation

The Commission, in its APR Order, had permitted depreciation expense for Wire related business to the extent of Rs 50.46 Crore, which amounts to 2.28% of Opening level of Gross Fixed Assets (GFA) of RInfra-D for FY 2008-09. The opening GFA was stated at Rs 2213.29 Crore for FY 2008-09. The Commission in its MYT Order, had permitted depreciation expense for Wire related business to the extent of Rs 70.69 Crore for FY 2009-10 which amounts to 3.49% of Opening level of Gross Fixed Assets (GFA) of RInfra-D for FY 2009-10. The opening GFA was stated at Rs 2023.69 Crore for FY 2009-10. The depreciation rates were considered as prescribed under MERC Tariff Regulations.

RInfra-D, in its APR Petition, submitted the revised estimate for depreciation expenses for wire related business for FY 2008-09 and FY 2009-10 as Rs 58.05 Crore and Rs 68.12 Crore, respectively, at an overall depreciation rate of 2.62% and 2.73% corresponding to opening GFA of Rs 2217.29 Crore and Rs 2498.40 Crore, respectively. Further, RInfra-D in its additional submissions, confirmed that depreciation has not been claimed beyond 90% of the asset value in line with the MERC Tariff Regulations.



The Commission has examined the depreciation and actual capitalisation claimed by RInfra-D in respect of its wire related business in detail as against the various capex schemes approved by the Commission. In view of revised value of capitalisation as approved under previous paragraphs, the approved depreciation expenditure for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: Approved Depreciation Expenses (Wire Related) (Rs Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Wire Related						
Depreciation	50.46	58.05	54.56	70.69	68.12	59.31
Opening GFA	2213.29	2217.79	2086.22	2023.69	2498.40	2277.85
Depreciation as % of Op. GFA	2.28%	2.62%	2.62%	3.49%	2.73%	2.61%

Retail Supply related depreciation

The Commission, in its APR Order, had permitted depreciation expense for Retail Supply Related business to the extent of Rs 21.85 Crore, which amounts to 5.82% of Opening level of Gross Fixed Assets (GFA) of RInfra-D for FY 2008-09. The opening GFA was stated at Rs 375.31 Crore for FY 2008-09. The Commission in its MYT Order, had permitted depreciation expense for Retail Supply related business to the extent of Rs 10.95 Crore for FY 2009-10 which amounts to 3.53% of Opening level of Gross Fixed Assets (GFA) of RInfra-D for FY 2009-10. The opening GFA was stated at Rs 310.45 Crore for FY 2009-10. The depreciation rates were considered as prescribed under MERC Tariff Regulations.

RInfra-D, in its APR Petition, submitted the revised estimate for depreciation expenses for FY 2008-09 and FY 2009-10 as Rs 19.48 Crore and Rs 19.60 Crore, respectively, at an overall depreciation rate of 5.18 % and 4.28 % corresponding to opening GFA of Rs 376.43 Crore and Rs 457.57 Crore, respectively. Further, RInfra-



D in its additional submissions, confirmed that depreciation has not been claimed beyond 90% of the asset value in line with the MERC Tariff Regulations.

The Commission has examined the depreciation and actual capitalisation claimed by RInfra-D in respect of its Retail Supply related business in detail as against the various capex schemes approved by the Commission. In view of revised value of capitalisation as approved under previous paragraphs, the approved depreciation expenditure for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: Approved Depreciation Expenses (Retail Supply) (Rs Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Retail Supply Related						
Depreciation	21.85	19.48	17.55	10.95	19.60	16.85
Opening GFA	375.31	376.43	341.40	310.45	457.57	328.68
Depreciation as % of Op. GFA	5.82%	5.18%	5.14%	3.53%	4.28%	5.13%

Thus, total depreciation expense for RInfra-D (Wire + Retail Supply) is summarised in the following Table:

Table: Approved Depreciation Expenses (Wire + Retail Supply) (Rs Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Wire and Retail Supply Related						
Depreciation	72.31	77.53	72.12	81.64	87.72	76.16
Opening GFA	2588.59	2594.22	2427.62	2334.14	2955.97	2606.53
Depreciation as % of Op. GFA	2.79%	2.99%	2.97%	3.50%	2.97%	2.92%



The Commission will undertake the truing up of Depreciation based on actual expenditure during the entire year, subject to prudence check, during Performance Review for the third year of the Control Period, i.e., FY 2009-10.

4.9 INTEREST EXPENSES

Wire related interest expense

The Commission, in its APR Order, had permitted wire related interest expense of Rs 68.48 Crore for FY 2008-09, at a weighted average interest rate of 8.7%. Loan addition of Rs 246.65 Crore was considered in the APR Order for FY 2008-09 corresponding to 70% of the assets capitalised during the year. The Commission, in its MYT Order, had permitted wire related interest expense of Rs 40.52 Crore for FY 2009-10, at a weighted average interest rate of 8.0%. Loan addition of Rs 28.40 Crore was considered in the MYT Order for FY 2009-10 corresponding to 70% of the assets capitalised during the year.

RInfra-D, in its APR Petition, submitted the revised estimate for interest expenses for FY 2008-09 and FY 2009-10 as Rs 68.26 Crore and Rs 84.51 Crore, respectively, as shown in the Table below:

Table: Long-term Interest Expenses by RInfra-D (Wire related) (Rs Crore)

Particulars	FY 2008-09		FY 2009-10	
	APR Order	Revised Estimate by RInfra-D	MYT Order	Revised Estimate by RInfra-D
Wire Related				
Opening Loan Balance	691.16	658.78	503.64	790.28
Loan Addition	246.65	197.28	28.40	320.70
Loan Repayment	(52.12)	(65.78)	(25.59)	(81.81)
Closing Loan Balance	885.69	790.28	506.45	1029.16
Interest	68.48	68.26	40.52	84.51
Overall Interest Rate	8.69%	9.42%	8.00%	9.29%

RInfra-D submitted that in accordance with the philosophy of the Commission, 70% of the total capitalisation (works capitalised + interest capitalised + expenses capitalised) is considered as a normative loan for computing interest on loan capital.



RInfra-D submitted that interest on debt for FY 2008-09 and FY 2009-10 has been computed considering normative loans for the assets put to use. Further, RInfra-D submitted that normative loan repayment tenure of 10 years has been considered for loan drawal during FY 2004-05 and FY 2005-06 and 20 years for loan drawal during FY 2006-07 and afterwards.

As regards the interest rate for FY 2008-09 and FY 2009-10, RInfra-D quoted the relevant paragraph of the Commission's Order in Case No. 25 of 2005 and 53 of 2005, which stipulates:

“Further, the Commission has considered interest cost at the interest rate of 10% p.a. for the assets put to use during FY 2004-05 and FY 2005-06 and at the interest rate of 8%p.a. for assets put to use during FY 2006-07. Interest rate of 8% is reasonable, considering REL's credit rating and the fact that the successor entities of erstwhile MSEB, viz., MSPGCL and MSEDCL have been able to raise loans at the interest rate of 8%.”

RInfra-D submitted that the economic scenario has undergone a change as compared to FY 2006-07 when the Commission issued the MYT Order. The prevailing PLRs of various banks have been around 13.50% p.a. RInfra-D submitted that Reliance Metro (one of the subsidiary of RInfra) has availed of finance for its ongoing project at PLR minus 200 bps, which works out to be 11.50%. RInfra-D submitted that the interest rate currently being allowed by the Commission at 8% for projects initiated in FY 2008-09 onwards, does not reflect the market reality. In response to a specific suggestion by the Commission during the TVS, RInfra-D submitted that as a support to the consumer and goodwill gesture, it has re-computed the loan borrowings at 9% for FY 2008-09 and FY 2009-10.

The Commission has considered the interest expense on the normative debt corresponding to capitalised assets only in line with the principle adopted in the Tariff Order dated October 3, 2006 and MYT Order. Accordingly, approved interest expenses for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: Approved Long-term Interest Expenses (Wire Related) (Rs Crore)

Particulars	FY 2008-09	FY 2009-10
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	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Wire Related						
Opening Loan Balance	691.16	658.78	573.88	503.64	790.28	649.05
Loan Addition	246.65	197.28	135.00	28.40	320.70	137.17
Loan Repayment	(52.12)	(65.78)	(59.83)	(25.59)	(81.81)	(68.21)
Closing Loan Balance	885.69	790.28	649.05	506.45	1029.16	718.01
Interest	68.48	68.26	53.88	40.52	84.51	59.86
Overall Interest Rate	8.69%	9.42%	8.8%	8.00%	9.29%	8.8%

Retail Supply related interest expense

The Commission, in its APR Order, had permitted Retail Supply related interest expense of Rs 9.26 Crore for FY 2008-09, at a weighted average interest rate of 8.9 % for FY 2008-09. Loan addition of Rs 18.56 Crore was considered in the APR Order for FY 2008-09 corresponding to 70% of the assets capitalised during the year. The Commission in its MYT Order had permitted wire related interest expense of Rs 4.04 Crore for FY 2009-10, at a weighted average interest rate of 8.0% for FY 2009-10. Loan addition for FY 2009-10 considered in the MYT Order was nil.

RInfra-D, in its APR Petition, submitted the revised estimate for interest expenses for FY 2008-09 and FY 2009-10 as Rs 14.15 Crore and Rs 17.91 Crore, respectively, as shown in the Table below:

Table: Long-term Interest Expenses by RInfra-D (Retail Supply related) (Rs Crore)

Particulars	FY 2008-09		FY 2009-10	
	APR Order	Revised Estimate by RInfra-D	MYT Order	Revised Estimate by RInfra-D
Retail Supply Related				
Opening Loan Balance	101.15	124.56	51.70	173.89
Loan Addition	18.56	65.70	0.00	55.93



Loan Repayment	(12.06)	(16.38)	(2.41)	(19.17)
Closing Loan Balance	107.65	173.89	49.29	210.65
Interest	9.26	14.15	4.04	17.91
Overall Interest Rate	8.87%	9.48%	8.00%	9.31%

RInfra-D submitted that interest on long-term debt for FY 2008-09 and FY 2009-10 has been computed considering normative loans for the assets put to use. Further, RInfra-D has submitted that normative loan repayment tenure for loans drawn during FY 2004-05 and FY 2005-06 has been considered as 10 years, and for loans drawn during FY 2006-07 and afterwards, the loan repayment tenure has been considered as 20 years.

The Commission has considered the interest expense on the normative debt corresponding to capitalised assets only and has considered the interest rate of 10% p.a. for the assets put to use during FY 2004-05 and FY 2005-06, and interest rate of 8% p.a. for assets put to use during FY 2006-07. However, no loan addition is considered during FY 2007-08, FY 2008-09 and FY 2009-10 as no capitalisation has been approved by the Commission for the reasons stated in the sub-section on capital expenditure and capitalisation earlier. Accordingly, approved interest expenses for retail supply of REL for FY 2007-08 and FY 2008-09 is summarised in the following Table:

Table: Approved Long-term Interest Expenses (Retail Supply Related) (Rs Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Retail Supply Related						
Opening Loan Balance	101.15	124.56	101.27	51.70	173.89	88.26
Loan Addition	18.56	65.70	0.00	0.00	55.93	0.00
Loan Repayment	(12.06)	(16.38)	(13.01)	(2.41)	(19.17)	(13.01)
Closing Loan	107.65	173.89	88.26	49.29	210.65	75.25



Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Balance						
Interest	9.26	14.15	8.82	4.04	17.91	7.55
Overall Interest Rate	8.87%	9.48%	9.3%	8.00%	9.31%	9.2%

Thus, total interest expense for RInfra-D business (Wire + Retail Supply) is summarised under following table.

Table: Approved Long-term Interest Expenses (Wire + Retail Supply) (Rs Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Wire and Retail Supply Related						
Opening Loan Balance	792.31	783.34	675.15	555.34	964.17	737.30
Loan Addition	265.21	262.99	135.00	28.40	376.63	137.17
Loan Repayment	(64.19)	(82.16)	(72.84)	(28.00)	(100.99)	(81.23)
Closing Loan Balance	993.34	964.17	737.30	555.74	1239.81	793.25
Interest	77.73	82.41	62.69	44.56	102.42	67.41
Overall Interest Rate	8.71%	9.43%	8.9%	8.02%	9.29%	8.8%

4.10 INTEREST ON WORKING CAPITAL FOR FY 2008-09 AND FY 2009-10

RInfra-D has estimated the Interest on Working Capital (IWC) considering interest rate @ 12.75% for FY 2008-09 as per the components considered in the Tariff Regulations, with the revised IWC estimated at Rs 47.08 Crore as against Rs 37.85 Crore approved by the Commission, for the Wire Business and Supply Business combined. For FY 2009-10, RInfra-D estimated the interest on working capital,



considering interest rate as 13%, as Rs. 67.65 crore, for the Wire Business and Supply Business combined.

The Commission has estimated the working capital requirement of RInfra-D for FY 2008-09 in accordance with the components of working capital specified in the MERC Tariff Regulations, after considering the provisional truing up of various expenditure heads. The MERC Tariff Regulations stipulates that the rate of interest on working capital shall be on normative basis and shall be equal to the short-term Prime Lending Rate of State Bank of India as on the date on which the application for determination of tariff is made. As the application for determination of tariff for FY 2008-09 was made on December 14, 2007, the Commission has considered the short-term Prime Lending Rate of State Bank of India of 12.75% prevalent at that time for estimating the interest on working capital.

For FY 2009-10, the Commission has estimated the working capital requirement of RInfra-D in accordance with the components of working capital specified in the MERC Tariff Regulations, after considering the revised expenditure approved in this Order. The Commission has considered the interest rate as 13.00% in accordance with the short-term Prime Lending Rate of State Bank of India prevalent at the time of filing the Petition for FY 2009-10. The Commission, in accordance with the MERC Tariff Regulations, has computed the normative interest on working capital for both the wires and supply business.

RInfra has projected the interest on consumers' security deposits for the Supply Business at the interest rate of 6.0% and the Commission has accepted the same. However, while projecting the interest on Security Deposit, the Commission has considered an annual increase of 10% in the quantum of Security Deposit for FY 2008-09 and FY 2009-10 over FY 2007-08 and FY 2009-10 levels, respectively.

The approved interest on working capital and consumers' security deposit for RInfra-D for FY 2008-09 and FY 2009-10 is given in the following Table:

Table: Interest on Working Capital and Consumers' Security Deposit for FY 2008-09 & FY 2009-10
(Rs Crore)

Particulars	FY 2008-09	FY 2009-10
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	APR Order	Revised Estimate by RInfra-D	Approved After provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Interest on Working Capital and consumer security deposits	37.85	47.08	47.69	-	67.65	68.14

4.11 CONTRIBUTION TO CONTINGENCY RESERVES FOR FY 2008-09 AND FY 2009-10

RInfra-D submitted that the contribution to contingency reserves has been computed at 0.5% of opening GFA in accordance with the MERC Tariff Regulations, as Rs. 12.97 Crore for FY 2008-09 against Rs. 6.47 crore approved by the Commission in the APR Order and as Rs. 14.78 Crore for FY 2009-10 against Rs. 11.67 Crore approved by the Commission in the MYT Order.

In this regard, the MERC (Terms and Conditions of Tariff) Regulations, 2005 stipulates,

“50.7.1 Where the Distribution Licensee has made an appropriation to the Contingencies Reserve, a sum not less than 0.25 per cent and not more than 0.5 per cent of the original cost of fixed assets shall be allowed towards such appropriation in the calculation of aggregate revenue requirement:

Provided that where the amount of such Contingencies Reserves exceeds five (5) per cent of the original cost of fixed assets, no such appropriation shall be allowed which would have the effect of increasing the reserve beyond the said maximum:...”

In the APR Order for FY 2007-08, the Commission had provide for contingency reserves for all transmission licensees and distribution licensees at the minimum rate of 0.25% of opening GFA, as permitted under the MERC Tariff Regulations, rather than 0.5% of opening GFA as claimed by the licensees. Hence, the Commission has provided for contingency reserves @ 0.25% of opening GFA for FY 2008-09 and FY



2009-10, after considering the approved capitalisation for the corresponding years, as discussed in earlier paragraphs.

The approved contribution to contingency reserves for RInfra-D for FY 2008-09 and FY 2009-10 is given in the following Table:

Table: Contribution to Contingency Reserves for FY 2008-09 and FY 2009-10

(Rs Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra	Approved After provisional truing up	MYT Order	Revised Estimate by Rinfra	Approved
Contribution to Contingency Reserves	6.47	12.97	6.07	10.12	14.78	6.52

4.12 PROVISIONING FOR BAD DEBTS

In the APR Order for FY 2007-08, the Commission had allowed provisioning for bad and doubtful debts as Rs. 7.17 crore for FY 2008-09. In the present APR Petition, RInfra-D submitted that the receivables as on March 2009 are Rs. 587.62 Crore, and the provisioning for bad debts is Rs. 5.00 crore.

Similarly for FY 2009-10 RInfra has considered Provision for Bad Debts at Rs. 5.50 Crore.

For FY 2008-09 and FY 2009-10, the Commission has allowed the provisioning of bad debts as estimated by RInfra-D.

4.13 INCOME TAX FOR FY 2008-09 AND FY 2009-10

RInfra-D submitted that for FY 2008-09 and FY 2009-10, the income tax has been estimated at the prevalent corporate tax rate of 33.99%, and is estimated at Rs 105.82 Crore and Rs. 118.04 Crore, respectively, as against the income tax of Rs. 98.73 Crore considered by the Commission for FY 2008-09 in its APR Order for FY 2007-08.



In reply to data gaps, RInfra-D submitted copies of challans of actual advance income tax paid for FY 2008-09 by RInfra as a Company as a whole as per the provisions of Income Tax Act, 1961. RInfra submitted that actual advance income tax paid by it for the Company as a whole for FY 2008-09 is Rs. 38.2 Crore.

In reply to data gaps, RInfra-D submitted detailed income tax computations for RInfra-D, after considering the prevalent tax exemptions as applicable, including tax depreciation, for FY 2008-09 and FY 2009-10. RInfra-D submitted the workings for income tax by grossing up the RoE, adding back the regulatory depreciation and reducing Tax depreciation on WDV basis under provisions of the Income Tax Act. RInfra-D has also added back the normative interest on loan and normative interest on working capital to the taxable income while computing the income tax.

The Commission has dealt with the issues of income tax in Section 3 while discussing the income tax for FY 2007-08. However, while normative interest on long-term loans has been added to the RoE while computing the Income Tax for FY 2008-09, the normative interest on working capital loan has not been added to the RoE, since it is not possible to project the exact actual interest expense that will be incurred by RInfra-D. Depending on the actual interest on working capital incurred by RInfra-D, only the difference between the normative interest and actual interest, and that too, only if the actual interest is lower than the normative interest on working capital, will have to be added to the RoE, for computing the Income Tax. Hence, this can be considered at the time of final truing up. Further, the Commission has not grossed up such RoE component for income tax, since the income tax is allowed as part of the ARR as an expense head, in accordance with the MERC Tariff Regulations.

The Commission has estimated the income tax for FY 2008-09 on stand alone business considering the RoE as per the revised estimate of ARR. The income tax projected by RInfra-D in its APR Petition, and the income tax estimated by the Commission for FY 2009-10 is shown in the Table below. The Commission will however, true up the income tax, based on final truing up for FY 2008-09 and FY 2009-10.

Table: Income Tax approved by the Commission for RInfra-D (Rs Crore)

Sl.	Particulars	FY 2008-09	FY 2009-10
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		Revised Estimate	Approved after provisional truing up	Revised Estimate	Approved
1	Profit Before Tax	288.86	168.49	322.08	176.69
2	Add: Depreciation as per APR	76.34	72.12	87.72	76.16
3	Less: Depreciation as per Income Tax	(167.02)	(167.02)	(218.31)	(218.31)
4	Add: Normative Interest on Long Term Loan	82.57	62.70	104.93	67.41
5	Add: Normative Interest on Working Capital	30.57	-	50.85	-
6	Total	311.32	136.28	347.27	101.95
7	Income Tax on Total	105.82	46.32	118.04	34.65

4.14 NON-TARIFF INCOME FOR FY 2007-08 AND FY 2008-09

RInfra-D submitted that the Non-Tariff Income for FY 2008-09 is estimated at Rs 120.66 Crore, as against Rs 59.05 Crore approved by the Commission in the APR Order for FY 2007-08. For FY 2009-10, RInfra-D estimated non-tariff income as Rs. 77.90 Crore as against Rs. 51.81 Crore approved by the Commission in the MYT Order. RInfra submitted that it is difficult to predict the movement of items under non-tariff income and hence, no specific growth pattern is considered.

As explained in Section 3 of this Order, the Commission has considered Interest on Arrears under Non-Tariff Income for the purpose of truing up, which has not been considered by RInfra-D in its projections. Further, the interest on arrears has been projected to increase by 10% annually, while projecting non-tariff income for FY 2008-09 and FY 2009-10.

RInfra-D, in its projections, has not considered income from rent for FY 2008-09 and FY 2009-10, though the same is included in FY 2007-08 under Non-Tariff Income. The Commission has hence, considered income from rent for FY 2008-09 and FY 2009-10 at the same level as in FY 2007-08. Further, for FY 2009-10, additional interest has been projected at 7% on the incremental contingency reserves, in addition to the interest on the existing contingency reserves.

Accordingly, Non-Tariff Income considered by the Commission for FY 2008-09 and FY 2009-10 is as shown in the Table below:

Table: Non-tariff Income for FY 2008-09 and FY 2009-10

(Rs Crore)



Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra	Approved After provisional truing up	MYT Order	Revised Estimate by RInfra	Approved
Non-Tariff Income	59.05	120.66	129.22	51.81	77.90	88.41

4.15 DEMAND SIDE MANAGEMENT (DSM) EXPENSES FOR FY 2008-09 AND FY 2009-10

RInfra-D submitted that the estimated expenses on Demand Side Management (DSM) activities in FY 2008-09 and FY 2009-10 were Rs. 42.64 crore and Rs. 70.41 crore. However, RInfra-D has not included these amounts for recovery through the ARR. In response to a specific query from the Commission in this regard, RInfra-D submitted that only approved DSM activities are being undertaken and the expenses against the same are not included in the ARR of the respective years since the same is required to be adjusted against the Load Management Charge (LMC) as per the directives of the Commission. In response to a specific further query from the Commission regarding the funds available under the LMC Fund and whether the ARR needed to be restated on account of DSM activities, RInfra-D submitted that the balance amount under the LMC Fund is Rs. 7.77 crore, and the DSM budget, to the extent approved by the Commission, can be offset against the available balance in the LMC fund, and hence, no adjustment is required in the ARR on this account.

The Commission has accepted RInfra-D's estimates of expenses on DSM activities for FY 2008-09 and FY 2009-10, and considered that the same will be off-set to the extent of availability of funds under the DSM Fund. No addition has been considered to the ARR on this account, since RInfra-D has not considered the same. However, this should not be construed as approval given by the Commission for the DSM schemes, for which, RInfra-D will have to obtain the Commission's approval through a separate process.

4.16 RETURN ON EQUITY (ROE)

Wire Related RoE



The Commission, in its APR Order, had permitted return on equity for its Wire related business to the extent of Rs 170.73 Crore for FY 2008-09, considering rate of return of 16%. The Commission, in its MYT Order, had permitted return on equity for its Wire related business to the extent of Rs 148.23 Crore for FY 2009-10, considering rate of return of 16%.

RInfra-D, in its APR Petition, submitted the revised estimate of return on equity for FY 2008-09 and FY 2009-10 as Rs 169.68 Crore and Rs 187.44 Crore, respectively. RInfra-D submitted that based on the capital expenditure, capitalisation, and normative debt:equity norm of 70:30, the return on equity on the equity portion has been considered at 16%.

In response to the Commission's query, RInfra-D provided the information regarding consumer contribution/grants/capital subsidy, which have been utilised for funding the schemes that have been capitalised during FY 2006-07, FY 2007-08 and FY 2008-09 as Rs. 24.52 Crore, Rs. 29.68 Crore and Rs.14.11 Crore respectively.

The Commission has computed the RoE for FY 2008-09 and FY 2009-10 on the opening balance of equity as well as 50% of the equity component of the assets capitalised during the year in accordance with the MERC Tariff Regulations as applicable for the distribution business. Further, based on the data on funding of capitalisation in FY 2008-09 through consumer contribution and grants, the Commission has reduced the equity portion on that account, as highlighted under the earlier paragraph. Accordingly, approved Return on Equity for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: Return on Equity (Wire Related)

(Rs Crore)

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved



Regulated Equity at beginning of year	1014.21	1018.25	924.58	920.36	1102.80	968.32
Equity Portion of Capitalised Expenditure	105.71	84.55	43.75	12.17	137.44	58.79
Regulated Equity at the end of the year	1119.92	1102.80	968.32	932.53	1240.24	1027.11
Return on Regulated Equity at beginning of year	162.27	162.92	147.93	147.26	176.45	154.93
Return on Equity Portion of Capital Expenditure Capitalised	8.46	6.76	3.50	0.97	11.00	4.70
Total Return on Regulated Equity	170.73	169.68	151.43	148.23	187.44	159.63

Retail Supply Related RoE

The Commission, in its APR Order, had permitted return on equity for its Retail supply related business to the extent of Rs 19.11 Crore for FY 2008-09, considering rate of return of 16%. The Commission, in its MYT Order, had permitted return on equity for its Retail Supply related business to the extent of Rs 16.06 Crore for FY 2009-10, considering rate of return of 16%.

RInfra-D, in its APR Petition, submitted the revised estimate of return on equity for FY 2008-09 and FY 2009-10 as Rs 20.99 Crore and Rs 25.16 Crore, respectively. RInfra-D submitted that based on the capital expenditure, capitalisation, and normative debt:equity norm of 70:30, the return on equity on the equity portion has been considered at 16%.

In view of revised capitalisation as approved by the Commission in this Order, the Commission has computed the RoE for FY 2008-09 and FY 2009-10 on the opening balance of equity. However the Commission has not considered 50% of the equity portion of the approved asset value capitalised during the year, as the asset capitalisation for FY 2008-09 and FY 2009-10 for its Retail supply business is considered as nil for the reasons mentioned earlier in this Order. Accordingly,



approved Return on Equity for FY 2008-09 and FY 2009-10 is summarised in the following Table:

Table: Return on Equity (Retail Supply Related)**(Rs Crore)**

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Regulated Equity at beginning of year	115.45	117.12	106.61	100.38	145.28	106.61
Equity Portion of Capitalised Expenditure	7.95	28.16	0.00	0.00	23.97	0.00
Regulated Equity at the end of the year	123.40	145.28	106.61	100.38	169.25	106.61
Return on Regulated Equity at beginning of year	18.47	18.74	17.06	16.06	23.24	17.06
Return on Equity Portion of Capital Expenditure Capitalised	0.64	2.25	0.00	0.00	1.92	0.00
Total Return on Regulated Equity	19.11	20.99	17.06	16.06	25.16	17.06

Thus, total Return on Equity for RInfra-D business (Wire + Retail Supply) is summarised under the following Table:

Table: Return on Equity (Wire + Retail Supply)**(Rs Crore)**

Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Regulated Equity at beginning of year	1129.66	1135.37	1031.19	1020.74	1248.08	1074.93
Equity Portion of Capitalised Expenditure	113.66	112.71	43.75	12.17	161.41	58.79



Particulars	FY 2008-09			FY 2009-10		
	APR Order	Revised Estimate by RInfra-D	Allowed after provisional truing up	MYT Order	Revised Estimate by RInfra-D	Approved
Regulated Equity at the end of the year	1243.32	1248.08	1074.93	1032.91	1409.49	1133.72
Return on Regulated Equity at beginning of year	180.75	181.66	164.99	163.32	199.69	171.99
Return on Equity Portion of Capital Expenditure Capitalised	9.09	9.02	3.50	0.97	12.91	4.70
Total Return on Regulated Equity	189.84	190.68	168.49	164.29	212.61	176.69

4.17 REVENUE FROM SALE OF ELECTRICITY IN FY 2008-09 AND FY 2009-10 FROM EXISTING TARIFFS

In its APR Petition, RInfra-D estimated the revenue from sale of electricity for FY 2008-09 as Rs. 5270.58 crore, and submitted the computations of the same for H1 and H2 of FY 2008-09 as a part of the Formats submitted along with the APR Petition. For FY 2009-10, RInfra-D estimated the revenue from sale of electricity as Rs. 5938.77 crore, based on the existing tariffs and the category-wise sales and demand.

For FY 2008-09, the Commission sought the details of actual revenue earned by RInfra-D from sale of electricity during the year. RInfra-D submitted the data of actual category-wise sales and revenue earned by RInfra-D for the 11-month period from April 2008 to February 2009, which has been extrapolated by the Commission to determine the revenue for the entire FY 2008-09 as Rs. 5309.15 crore, under the provisional truing up exercise, for computing the revenue gap/(surplus) for FY 2008-09 as discussed in the next sub-section. Based on audited results submitted at the time of APR of FY 2009-10, the Commission will true up the actual expenses and revenue for FY 2008-09, subject to prudence check.



For FY 2009-10, the Commission has computed the category-wise revenue based on the existing tariffs and the category-wise sales and demand as projected by the Commission, which works out to Rs. 6017.30 crore.

4.18 AGGREGATE REVENUE REQUIREMENT AND REVENUE GAP OF RINFRA-D FOR FY 2008-09 AND FY 2009-10

Based on analysis of each element discussed above, the Aggregate Revenue Requirement of RInfra-D for FY 2008-09 and FY 2009-10 as approved by the Commission in its respective APR and MYT Order, as estimated by RInfra-D in the APR Petition and as approved by the Commission in this Order is given in the following Tables:

Table: Aggregate Revenue Requirement for FY 2008-09 (Rs Crore)

Sl.	Particulars	FY 2008 - 09		
		April - March (Estimated)	Order	Commission
1	Power Purchase Expenses	4,972.23	3,838.23	4,956.22
2	Operation & Maintenance Expenses	545.79	517.35	532.24
2.1	Employee Expenses	293.28	265.51	285.73
2.2	Administration & General Expenses	111.64	106.84	105.36
2.3	Repair & Maintenance Expenses	140.87	145.00	141.14
3	Depreciation, including advance against depreciation	76.34	72.31	72.12
4	Interest on Long-term Loan Capital	82.57	77.74	62.69
5	Interest on Working Capital and on consumer security deposits	47.08	37.85	47.69
6	Bad Debts Written off	5.00	7.17	5.00
7	Income Tax	105.82	98.73	46.32
8	Transmission Charges intrastate	221.63	221.63	221.63
9	Contribution to contingency reserves	12.97	6.47	6.07
10	Total Revenue Expenditure	6,069.44	4,877.48	5,949.99
11	Return on Equity Capital	190.68	189.84	168.49
12	Aggregate Revenue Requirement	6,260.11	5,067.32	6,118.48
13	Less: Non Tariff Income	120.66	59.05	129.22
14	Aggregate Revenue Requirement from Retail Tariff	6,139.45	5,008.27	5,989.26



Based on provisional truing up of various elements for FY 2008-09 as discussed in above paragraphs, the Aggregate Revenue Requirement for FY 2008-09 works out to Rs 5989.26 Crore as against the amount of Rs 5008.27 Crore approved in the APR Order. This increase in the Aggregate Revenue Requirement is primarily on account of the increase in the power purchase expenses. After considering the revenue from sale of electricity in FY 2008-09, the revenue gap in FY 2008-09 after provisional truing up, works out to Rs. 680.11 crore, as compared to Rs. 869 crore projected by RInfra-D. This revenue gap has been carried forward to FY 2009-10, while estimating the total revenue requirement for FY 2009-10, as shown in the Table below:

The Net Revenue Requirement for FY 2009-10 and the Revenue Gap are shown in the Table below:

Table: Aggregate Revenue Requirement for FY 2009-10 (Rs Crore)

Sl.	Particulars	FY 2009 - 10	
		RInfra-D	Commission
1	Power Purchase Expenses	4,475.06	4,418.45
2	Operation & Maintenance Expenses	578.54	566.82
2.1	Employee Expenses	310.87	306.62
2.2	Administration & General Expenses	118.34	111.73
2.3	Repair & Maintenance Expenses	149.32	148.47
3	Depreciation, including advance against depreciation	87.72	76.16
4	Interest on Long-term Loan Capital	104.93	67.41
5	Interest on Working Capital and on consumer security deposits	67.65	68.14
6	Bad Debts Written off	5.50	5.50
7	Income Tax	118.04	34.65
8	Transmission Charges intra-State	260.81	183.72
9	Contribution to contingency reserves	14.78	6.52
10	Total Revenue Expenditure	5,713.03	5,427.36
11	Return on Equity Capital	212.61	176.69
12	Aggregate Revenue Requirement	5,925.64	5,604.05
13	Less: Non Tariff Income	77.90	88.41
14	Aggregate Revenue Requirement from Retail	5,847.73	5,515.64



Sl.	Particulars	FY 2009 - 10	
		RInfra-D	Commission
	Tariff		
15	Deferred Recovery - MYT Order	138	138
16	Deferred Recovery - APR Order for FY 2007-08	178	178
17	Carrying cost on deferred recovery	71	46.74
18	Revenue Gap/(Surplus) for FY 2007-08	212.06	118.24
19	Revenue Gap/(Surplus) for FY 2008-09	868.87	680.11
20	Net revenue requirement for FY 2009-10	7,315.66	6676.73
21	Revenue realised from existing tariff	5,938.77	6,017.30
22	Net Revenue Gap for FY 2009-10	1,376.89	659.42

Thus, the net revenue requirement and hence, revenue gap for FY 2009-10 determined by the Commission is much lower than that projected by RInfra-D, mainly on account of:

- § Reduction in the power purchase expenses on account of the reduction in cost of power purchase from TPC-G, due to the revision in the tariff applicable for TPC-G, as determined in a separate Order for TPC-G in Case No. 111 of 2008, and the revision in the tariff applicable for RInfra-G, as determined in a separate Order for RInfra-G in Case No. 120 of 2008. Hence, this does not affect RInfra-D.
- § Reduction in transmission tariff payable by RInfra-D, due to the downward revision in the transmission tariff, as determined in a separate Order in Case No. 155 of 2008. Hence, this does not affect RInfra-D.
- § Reduction in proposed capitalisation and consequent reduction in interest costs and return on equity components, reduction in approved Income Tax for FY 2009-10, adjustments of revenue surplus due to final true-up of FY 2007-08 and provisional true-up of FY 2008-09. These being adjustments from other heads, notional payment of tax, etc., do not affect RInfra-D.

Accordingly, the Commission approves Aggregate Revenue Requirement for FY 2009-10 as Rs 6676.73 Crore.



5 TARIFF PHILOSOPHY AND CATEGORY-WISE TARIFFS FOR FY 2009-10

5.1 APPLICABILITY OF REVISED TARIFFS

The revised tariffs will be applicable from June 1, 2009. In cases, where there is a billing cycle difference for a consumer with respect to the date of applicability of the revised tariffs, then the revised tariff should be made applicable on a pro-rata basis for the consumption. The bills for the respective periods as per existing tariff and revised tariffs shall be calculated based on the pro-rata consumption (units consumed during respective period arrived at on the basis of average unit consumption per day multiplied by number of days in the respective period falling under the billing cycle).

The Commission has determined the tariffs and revenue from revised tariffs as if the revised tariffs are applicable for the entire year. The Commission clarifies that any shortfall/surplus in actual revenue vis-à-vis the revenue requirement approved after truing up, due to the applicability of the revised tariffs for only ten months of FY 2008-09, will be trued up at the end of the year.

The Commission will undertake the Annual Review of RInfra-D's performance during the last quarter of FY 2009-10. RInfra-D is directed to submit its Petition for Annual Review of its performance during the first half of FY 2009-10, as well as truing up of revenue and expenses for FY 2008-09, with detailed reasons for deviation in performance, latest by November 30, 2009.

5.2 TREATMENT OF REVENUE GAP PROPOSED BY RINFRA-D FOR FY 2009-10

Cumulative Revenue Gap

RInfra-D submitted that the ATE had permitted RInfra-D to recover Rs. 264 Crore towards O&M expenses pertaining to FY 2004-05 (Rs. 166.51 crore) and FY 2005-06 (Rs. 97.14 crore). Considering this Order, RInfra-D, in its MYT Petition, had requested the Commission to equally spread the gap of Rs. 264 Crore over the three years of the Control Period, thus recovering Rs. 88 Crore each in FY 2007-08, FY



2008-09 and FY 2009-10. This was accepted by the Commission in its MYT Order dated April 24, 2007.

Further, in the said Order, the Commission had worked out the total revenue gap of Rs. 716 Crore at existing tariffs for FY 2007-08. This amount contained the stand-alone revenue gap at existing tariffs for FY 2007-08 and the amount of Rs. 88 Crore as described above. Out of the total revenue gap of Rs. 716 Crore, the Commission, in order to avoid a tariff shock to the consumers, permitted RInfra-D to recover only Rs. 614 Crore, and spread the balance Rs. 102 Crore to be recovered during the next two years of the Control Period, i.e., FY 2008-09 and FY 2009-10. Subsequently, through an Errata Order, dated June 26, 2007 for RInfra-G, the Commission had adjusted Rs. 2 Crore incidence on RInfra-D, thus bringing the balance revenue gap to Rs. 100 Crore. Hence, as stated above, RInfra-D was permitted to recover Rs. 50 Crore each in FY 2008-09 and FY 2009-10. Therefore, the deferred recovery allowed by the Commission is Rs. 138 crore (Rs. 88 crore plus Rs. 50 crore) each in FY 2008-09 and FY 2009-10. Further, in the FY 2008-09 Tariff Order, the Commission re-computed the cumulative revenue gap as Rs. 813.35 crore, out of which Rs. 457.35 crore was allowed to be recovered in tariffs of FY 2008-09 and Rs. 356 crore was deferred for recovery equally over FY 2009-10 and FY 2010-11.

RInfra-D submitted that the stand-alone revenue gap/surplus for FY 2007-08, FY 2008-09 and FY 2009-10 in addition to the deferred recoveries as explained above, would together form the cumulative revenue gap to be considered for determination of FY 2009-10 tariffs, as shown in the Table below:

Table: Cumulative Revenue Gap

Particulars	Amount (Rs. Crore)
Deferred Recovery	138
Deferred Recovery as per APR Order	178
Revenue Gap of FY 2007-08	212
Provisional Revenue Gap of FY 2008-09	870
Projected Revenue Surplus of FY 2009-10	-94
Cumulative Revenue Gap	1304

As regards carrying cost, RInfra-D submitted as under:

- § The carrying cost has been computed based on equal distribution of the Gap, i.e., only half period has been considered for computation of carrying cost in such year.



- § The issue of interest rate to be applied to determine carrying cost is a subject matter of RInfra-D's appeal before the ATE, against the Commission's APR Order dated June 4, 2008. However, pending the outcome of the said appeal and without prejudice to the contentions expressed therein, RInfra-D submitted that it had considered interest rate of 6% in accordance with the Commission's APR Order dated June 4, 2008.
- § Carrying cost has not been calculated on FY 2008-09 and FY 2009-10 stand alone Gap/Surplus, and the same would be considered at the time of final Truing up.

Table: Carrying Cost as submitted by RInfra-D

Particulars	Rs. Crore
MERC Order dated April 24, 2007	138
Carrying cost on above for 3 years	25
MERC Order dated June 4, 2008	178
Carrying cost on Rs. 365 crore for 1 year	21
FY 2007-08 Truing up	212
Carrying cost on above for 2 years	25

Table: Total Gap with Carrying Cost as submitted by RInfra-D

Particulars	Rs. Crore
Cumulative Gap for FY 2009-10	1304
Carrying Cost	72
Total Gap	1376
Gap on account of Power Purchase	1248
Gap on account of Carrying Cost	72
Others (Net)	56

Tariff Proposal Principles

RInfra-D submitted that it had adopted the following principles while formulating its Tariff Proposal, in order to recover the revenue gap, as estimated above:

- § To reduce the cross-subsidy between the categories of consumers.
- § Achieving a near parity in tariff for subsidizing categories to the extent possible in comparison with that of other Distribution Licensees in trying to create a fair competitive environment.
- § Minimize the impact of tariff on the subsidized consumers in the Residential category



RInfra-D submitted that the total revenue gap in FY 2009-10, after considering the carrying cost is Rs. 1,376 Crore, which would require an average tariff increase of 23% to all the consumers, which will cause a tariff shock in particular to the low end residential consumers. RInfra-D submitted that in order to minimize the impact of tariff revision, RInfra-D proposed to recover only an amount of Rs. 297 Crore during FY 2009-10, which requires an average tariff increase of 5%. RInfra-D submitted that the balance un-recovered amount of Rs. 1,079 Crore is being proposed to be deferred to FY 2010-11 and FY 2011-12.

Table: Proposed Recovery through Tariff Revision

Particulars	Rs. Crore
Total Revenue Gap for FY 2009-10	1376
Average Tariff increase required	23%
Tariff Hike proposed	5%
Revenue gap recovered from proposed tariff hike	297
Adjusted towards carrying cost	72
Balance towards Gap	225
Balance Revenue Gap to be carried forward for FY 2010-11 & FY 2011-12	1079

Tariff Proposal Principles

(a) RInfra-D submitted that in the last Tariff Order, the Commission created an additional category for HT consumer, i.e., HT Commercial. Since there were only three categories namely HT-I, HT-II and HT-III, all HT consumers who are taking supply for purpose other than Residential and Industrial purpose were covered under HT Commercial category. The consumers covered under this category who are “Non Commercial” in nature objected to such nomenclature and categorization. RInfra-D submitted that in the APR Order, the Commission opined that the nomenclature of categories should be consistent across the licensees. RInfra-D added that in view of TPC-D’s status as Distribution Licensee in the area served by RInfra-D, it is imperative to have a uniform categorization and nomenclature for all categories of consumers. Thus, RInfra-D proposes to introduce new sub category in HT as “HT – Public and Government”, and proposes to include the following types of services to be included under this category:

- Airport terminals



- BEST terminals
 - BMC Offices
 - Central and State Government Offices, including State Govt. owned dairy farms and poultry farms
- (b) RInfra-D submitted that at present, hospitals run by charitable trusts are being billed under LT-I (if seeking supply at LT voltage) or HT-II Commercial (if seeking supply at HT voltage). RInfra-D proposed to bring parity among such hospitals at LT and HT voltages and has therefore, proposed categorization of such charitable hospitals at HT voltage in the category HT-III Housing.
- (c) RInfra-D proposed that for consumers who exceed contract demand on more than 3 occasions in a calendar year, the Distribution Licensee shall be authorized to consider highest of the recorded demand as Contract Demand and will include in the bill charges to be paid for enhancement of Contract Demand as per Schedule of Charges approved by the Commission.
- (d) RInfra-D submitted that the Load Factor Incentive, which is computed based on the Contract Demand, is higher than the penalty for exceeding the Contract Demand. Hence, it has been observed that higher Load Factor consumers prefer to reduce the Contract Demand to earn higher Load Factor incentive. Hence, it is proposed to link the Load Factor incentive with the recorded Maximum Demand instead of Contract Demand.
- (e) RInfra-D proposed that for LT Commercial (LT-II) category, which is sub-classified based on Sanctioned Load, if the drawal of a Consumer exceeds the Sanctioned Load as available in the records of the Distribution Licensee, the Consumer would be billed in the respective sub category.
- (f) RInfra-D submitted that there are a number of projects being envisaged for Public Transportation, in furtherance of the existing suburban Rail transport system such as Metro Rail, Mono Rail, etc. some of which are under construction in RInfra Distribution area and are being provided the supply at Temporary Tariff as applicable for construction. However as and when these projects are completed, there shall be a need to provide a category "Railways" and an appropriate Tariff will be requested at that time. RInfra-D added that the power for construction to Railways is being supplied at normal Tariff applicable to Railways and not at Temporary Tariff. In order to bring parity in applicability of Tariff, RInfra-D proposed that a tariff category "Railways" should be created.



5.3 COMMISSION'S TARIFF PHILOSOPHY

As elaborated in Section 4.18 of this Order, the Commission has recomputed the revenue gap in FY 2008-09 after considering the ARR approved by the Commission for FY 2008-09 after provisional truing up and the estimated revenue for FY 2008-09. This works out to a revenue gap of Rs. 680.11 crore, which has been added to the revenue requirement for FY 2009-10, in order to determine the overall revenue requirement for FY 2009-10.

The total revenue requirement for FY 2009-10 has been estimated as elaborated in Section 4.18 of this Order, by adding the revenue requirement of FY 2009-10 on a stand-alone basis, past deferred recoveries, carrying cost on the past deferred recoveries at the rate of 6% per annum, revenue gap for FY 2007-08 after final truing up, and revenue gap for FY 2008-09 after provisional truing up.

The total revenue from the existing tariffs comes to Rs. 6017 crore vis-à-vis the revenue requirement of Rs. 6676.73 Crore, thus, showing a cumulative revenue gap of Rs. 659.42 crore. If the entire revenue gap as determined by the Commission is recovered from the consumers through tariffs in FY 2009-10, it would require an average tariff increase of around 11%, which is very high, in view of the already high prevailing tariffs.

The Commission has been deeply concerned for the past few years, about the increasing tariffs to consumers of Maharashtra. The Commission is of the view that the retail tariffs in RInfra-D licence area are already very high and any further significant increase in tariff, may not be sustainable by the consumers. Hence, the Commission has decided to restrict the tariff hike to slightly less than 2% over existing levels, after considering the impact of the FAC and additional FAC that have been merged with the base tariff. This average increase of less than 2% is expected to yield additional revenue of around Rs. 105 crore, leaving a deferred amount of Rs. 554 crore, out of the total revenue gap of Rs. 659 crore. This is in comparison with RInfra-D's proposal to defer recovery of around Rs. 1079 crore to FY 2010-11 and FY 2011-12.

While increasing the average tariffs by less than 2%, the Commission has also continued its efforts to reduce the cross-subsidy between consumer categories over that prevailing in the previous year.



The Commission has determined the tariffs in line with the tariff philosophy adopted by it in the past, and the provisions of law. The tariffs and tariff categorisation 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 categorisation throughout the State of Maharashtra.

Rationalisation of Tariff Categories

As enunciated by the Commission in the previous APR Order, the Commission is of the view that it is not feasible to have uniform tariffs across different licensees, due to inherent differences, such as revenue requirement, consumer mix, consumption mix, LT:HT ratio, etc. It is also, not appropriate to compare category-wise tariffs across different licensees for the same reasons. However, in the APR Order for FY 2007-08, the Commission had initiated the move to gradually rationalise and make uniform the tariff categorisation and applicability of tariffs for licensees in the State, and these efforts have been continued in this Order also. The differences exist because of historical reasons and differences in management policies and approach across licensees. There will of course, be some differences, on account of certain consumer categories being present only in certain licence areas, such as agricultural category, power looms, etc., which will exist only in certain licence areas.

At the same time, the Commission has attempted to ensure that the changes due to rationalisation are such that the impact on consumer categories is minimised, to the extent possible, and also, that the modifications are undertaken in small incremental steps, rather than making wholesale changes to the tariff structure. Also, the fact that the consumers may not be aware of the modifications proposed to be undertaken by the Commission has also been kept in mind, in view of certain Judgments given by the ATE in this regard, though the ATE has also ruled that the Commission has all the powers to determine the tariff categories and category-wise tariffs, irrespective of whether the distribution licensee has specifically asked for the same in its Petition, which has been published for public comments. Hence, the categorisation has by and large, been retained in accordance with the prevailing consumer categories, save for any rationalisation required on account of differences prevailing in different licence areas, and in case the licensee has specifically asked for any category, the same has also been considered in accordance with the provisions of Section 62(3) of the EA 2003.



While undertaking the rationalisation of tariff categories, the Commission has borne in mind the provisions of Section 62(3) of the Electricity Act, 2003, which stipulates as under:

“The Appropriate Commission shall not, while determining the tariff under this Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.”

It should be noted that it is not possible to apply all the above specified criteria at the same time, for designing the tariff categories; else, with many permutations and combinations, there will be too many categories. Perhaps, that is also not the intention behind the provision, which merely enables the Regulators to work within the criteria.

Thus, it will be seen from the elucidation given below, as to how different criteria have been used to categorise different types of consumers:

- § The ‘load factor’ and ‘power factor’ criteria have been used to provide rebates and disincentives, such as load factor incentive for load factor above certain specified levels, and power factor rebates and disincentives are provided to consumers who are able to maintain their power factor above specified levels.
- § The consumer categories are broadly classified under High Tension (HT) and Low Tension (LT) categories, in accordance with the ‘voltage’ criteria under Section 62(3) reproduced above.
- § The ‘time of supply’ criteria has been used to specify time of day (ToD) tariffs, so that the consumers are incentivised to shift their consumption to off-peak periods and thus, reduce the burden on the system during peak hours.
- § The ‘nature’ of supply criteria has been used to specify differential tariff for continuous (non-interruptible) and non-continuous supply (interruptible)
- § The criteria of ‘purpose’ of supply has been used extensively to differentiate between consumer categories, with categories such as residential, non-residential/commercial purposes, industrial purpose, agricultural purpose, street lighting purpose, etc.



In this context, quite a few consumers have been representing before the Commission during and after the Public Hearings, stating that they are not undertaking any 'commercial' activity or activities for making 'profit' within their premises, and hence, they should not be classified under the 'commercial' category. It is clarified that the 'commercial' category actually refers to all 'non-residential, non-industrial' purpose, or which has not been classified under any other specific category. For instance, all office establishments (whether Government or private), hospitals, educational institutions, airports, bus-stands, multiplexes, shopping malls, small and big stores, automobile showrooms, etc., are all covered under this categorisation. Clearly, they cannot be termed as residential or industrial. In order to bring clarity in this regard, the Commission has renamed this category as 'non-residential or commercial' in this Order.

A similar impression is conveyed as regards the 'Industry' categorisation, with the Commission receiving several representations during and after the Public Hearings, from the hotel industry, leisure and travel industry, etc., stating that they have also been classified as 'industry' for the purpose of taxation and/or other benefits being extended by the Central Government or State Government, and hence, they should also be classified as 'industry' for the purpose of tariff determination. In this regards, it is clarified that classification under Industry for tax purposes and other purposes by the Central or State Government shall apply to matters within their jurisdiction and have no bearing on the tariffs determined by the Commission under the EA 2003, and the import of the categorisation under Industry under other specific laws cannot be applied to seek relief under other statutes. Broadly, the categorisation of 'Industry' is applicable to such activities, which entail 'manufacture'.

While appreciating the anxiety of different classes of consumers to reduce their payments on account of use of electricity, the reasonable costs incurred by the Utilities have to be met, and irrespective of the number of consumer categories or the sub-classification considered in accordance with the provisions of Section 62(3) of the EA 2003, the cross-subsidies have to be reduced gradually and the tariff differential between categories cannot be very significant in the long-run.



As regards RInfra's request for creation of new consumer categories, the Commission rules as under:

- § 'HT: Public and Government' category has not been created, since Section 62(3) does not permit differentiation between consumer categories on the basis of ownership, i.e., public or private, as elaborated in earlier paragraphs. The consumers earlier classified under this category would now be classified under either HT I: Industry or HT II: Commercial, as the case may be, depending on their purpose of supply. The Commission has done away with this consumer category for other distribution licensees also.
- § Request to create a 'Railways' category to cover the Metro Rail and Monorail has not been considered for the time being, since these consumers are yet to be commissioned. In the meantime, as clarified in RInfra-D's APR Order for FY 2007-08, RInfra-D may provide construction power at the tariff applicable for Temporary Others (LT VII (B) or HT IV, as applicable)
- § Request to classify 'charitable hospitals' under HT: Group Housing Society, has been rejected as being devoid of any merit, in view of the Commission's philosophy as detailed in earlier paragraphs as regards hospitals, etc., irrespective of ownership pattern
- § The treatment of consumers who exceed contract demand on more than 3 occasions in a calendar year will have to be done as per the Supply Code, and if the relevant provision does not exist, then the Supply Code will have to suitably amended.
- § RInfra-D's proposal to link the Load Factor incentive with the recorded Maximum Demand instead of Contract Demand is rejected, since such a step goes against the basic design of the Load factor incentive. The consumer can only plan to maximise his load with reference to his Contract Demand, and if the Load Factor incentive is linked to the Maximum Demand, then the consumer will not be able to plan his consumption.
- § RInfra-D's proposal that for LT Commercial (LT-II) category, if the drawal of a Consumer exceeds the Sanctioned Load as available in the records of the Distribution Licensee, the Consumer would be billed in the respective sub category, is also rejected, as the basis of billing for such consumer is the Sanctioned Load, and if the consumer exceeds the Sanctioned Load, then the prevailing stipulations of penalty are sufficient.



In addition, the Commission has also made the following changes:

- § 'HT IV: HT Temporary Supply' has been created
- § The numbering of tariff categories as LT V, LT VIII, etc., has been modified
- § The applicability for different consumer categories has been addressed in the approved Tariff Schedule, which is annexed as a part of this Order (**Annexure II**).

Rationalisation of Tariff Components

In the MYT Order and the APR Order for FY 2007-08, the Commission had separately indicated the component of standby charges and expensive power charges chargeable to specific consumer categories, as a part of the energy charges, with the intention of sensitising the consumers about the consequences of the rapid increase in consumption and the ever-increasing demand-supply gap. The Commission is of the view that the desired objective has been achieved to some extent, since there have been several representations regarding these charges, and the need to separately show these charges, which indicate that the desired awareness has been created. In this Tariff Order, the Commission has discontinued with the practice of indicating the standby charges and expensive power charges separately (also called as reliability charges), and has specified a unified energy charge applicable for the energy consumed.

The Commission has continued to determine the tariffs such that there is an in-built incentive to consumers to reduce their consumption, as the impact on the bills is designed to increase as the consumption increases, on account of the higher telescopic tariffs applicable for the higher consumption slabs, while at the same time ensuring that even the consumers falling in the higher consumption slabs are charged lower for the consumption corresponding to the lower consumption slab.

The Commission has retained the fixed charges/demand charges applicable for different consumer categories at the previous year's level.

The applicability of the BPL category tariffs has been retained same as that specified in the previous APR Order, read with any clarification thereon. The eligibility criteria has been retained at an annual limit of 360 units. The applicability of BPL category



will have to be assessed at the end of each financial year. In case any BPL consumer has consumed more than 360 units in the previous financial year, then the consumer will henceforth, be considered under the LT-I residential category. Once a consumer is classified under the LT-I category, then he cannot be classified under BPL category.

The Commission has ensured that the HT tariffs are lower than the LT tariffs, as the cost of supply is lower than the cost of supply at lower voltages, due to the lower losses at higher voltages, and the lower network related costs since the electricity does not have to be stepped down to lower voltages.

The Time of Day (ToD) tariffs will be applicable compulsorily to HT I and HT II categories, LT II (B) and (C) and LT IV category consumers having TOD meters, as well as optionally available to LT – II (A) and LT III category consumers, who have TOD meters. The TOD tariffs have been retained at the existing levels as under:

§ Five time slots, viz., (a) 2200 to 0600 hours, (b) 0600 to 0900 hours, (c) 0900 to 1200 hours, (d) 1200 to 1800 hours, and (e) 1800 to 2200 hours.

§ Additional peak hour tariff will be payable for consumption during the peak hours in the State, viz., 0900 to 1200 hours – morning peak, and 1800 to 2200 hours – evening peak, in the following manner:

○ 0900 to 1200 hours : Additional 0.50 Rs/kWh

○ 1800 to 2200 hours : Additional 1.00 Rs/kWh

§ For consumption during night off-peak hours, viz., 2200 to 0600 hours, a rebate of 0.75 Rs/kWh will be available

§ Neither additional tariff nor rebate will be applicable for consumption during 0600 to 0900 hours and 1200 to 1800 hours

Additional demand charges of Rs 20 per kVA per month would be chargeable for the stand by component, for CPPs, only if the actual demand recorded exceeds the Contract Demand.

The Billing Demand definition has been retained at the existing levels, i.e.,

Monthly Billing Demand will be the higher of the following:

(a) Actual Maximum Demand recorded in the month during 0600 hours to 2200 hours;



- (b) 75% of the highest billing demand/Contract Demand, whichever is lower, recorded during the preceding eleven months;
- (c) 50% of the Contract Demand.

Fuel Adjustment Charges

The existing Fuel Adjustment Cost (FAC) Charge has been brought to zero, on account of the adoption of the existing fuel costs for projection of the fuel expenses. In case of any variation in the fuel prices with respect to these levels, RInfra-D will be able to pass on the corresponding increase to the consumers through the existing FAC mechanism, subject to the stipulated ceiling of 10% of average energy charges, which works out to 67 paise/kWh. The FAC will be charged on a monthly basis, and the details of the computation and recovery from the same will have to be submitted to the Commission for post-facto approval, on a quarterly basis.

Average Cost of Supply and Cross-Subsidy

The average cost of supply (CoS) is given below:

Table: Average Cost of Supply for FY 2009-10

Sl.	Particulars	Amount
1	Total Revenue Requirement (Rs. Crore)	6676.73
2	Total Sales (MU)	8676
3	Average Cost of Supply (Rs/kWh)	7.70
4	Average cost of supply, considering that only part of revenue gap is being recovered	7.06

The prevailing cross-subsidy and the reduction in cross-subsidy considered by the Commission are given in the Table below:

Category	Average Cost of Supply (Rs./unit)	Average Billing Rate (Rs./unit)			Ratio of Average Billing Rate to Average Cost of Supply (%)			Percentage increase in tariff (%)
		Existing Tariff	Tariff Proposed by RInfra-D	Revised Tariff	APR Order for FY08	Existing Tariff to current ACOS	Revised Tariff to current ACOS	
LT Category								



Category	Average Cost of Supply (Rs./unit)	Average Billing Rate (Rs./unit)			Ratio of Average Billing Rate to Average Cost of Supply (%)			Percentage increase in tariff (%)
		Existing Tariff	Tariff Proposed by RInfra-D	Revised Tariff	APR Order for FY08	Existing Tariff to current ACOS	Revised Tariff to current ACOS	
LT I - Residential	7.06	4.89	5.73	5.24	72%	64%	74%	7%
LT II A - Commercial upto 20 kW		8.27	9.48	8.56	126%	108%	121%	4%
LT II B - Commercial > 20 kW & ≤50 kW		10.72	9.13	10.82	166%	140%	153%	1%
LT II C - Commercial above 50 kW		12.41	10.70	11.41	187%	162%	162%	-8%
LT III - LT Industrial upto 20 kW		7.71	10.00	8.01	112%	100%	113%	4%
LT-IV - LT Industrial >20 kW		7.82	7.17	7.82	115%	102%	111%	0%
LT V - Advertisement & Hoardings		17.90	23.14	18.10	289%	233%	256%	1%
LT-VI - Street Lighting		8.80	11.85	8.80	128%	115%	125%	0%
LT VII (B) - Temporary - Others		14.48	18.89	15.88	228%	189%	225%	10%
HT Category								
HT I - Industrial	7.06	7.78	8.04	7.88	115%	101%	112%	1%
HT II - Commercial		10.47	9.21	8.97	179%	136%	127%	-14%
HT III - Group Housing Society		5.42	5.92	5.42	72%	71%	77%	0%

In the above Table,

- (a) 'Existing Tariff' refers to the tariff approved by the Commission in the APR Order dated June 4, 2008
- (b) 'Revised Tariff' refers to the tariff approved by the Commission in the present APR Order
- (c) Ratio of Average Billing Rate (ABR) to Average Cost of Supply (ACOS)
 - i) 'APR Order for FY08' refers to the ratio of ABR to ACOS as envisaged in the APR Order for FY 2007-08
 - ii) 'Existing Tariff to current ACOS' refers to the ratio of ABR approved in the APR Order for FY 2007-08 to the ACOS approved in the present APR Order, i.e., Rs. 7.06 per kWh
 - iii) 'Revised Tariff to current ACOS' refers to the ratio of ABR approved in this APR Order for FY 2008-09 to the ACOS approved in the present APR Order, i.e., Rs. 7.06 per kWh



The above Table clearly shows that the Commission has reduced the cross-subsidy levels for most consumer categories, while at the same time, ensuring that no category is subjected to a tariff shock due to revision in tariff, since the reference tariff and cross-subsidy levels have to be considered based on the APR Order for FY 2007-08.

It is possible that the actual revenue earned by RInfra-D may be higher or lower than that considered by the Commission. The revenue shortfall/surplus if any, will be trued up at the time of provisional truing up for FY 2008-09 and final truing up for FY 2009-10.

5.4 REVISED TARIFFS WITH EFFECT FROM JUNE 1, 2009

Sl.	Consumer category & Consumption Slab	Tariffs	
		Fixed/ Demand Charge	Energy Charge (Rs/kWh)
	LOW TENSION CATEGORIES		
1	LT I - Residential – BPL	Rs. 3 per month	0.40
	LT I - Residential - Other Residential		
	0-100 units	Rs. 30 per month	2.96
	101-300 units	Rs. 50 per month ^{\$\$}	5.56
	301 to 500 units		9.16
	Above 500 units (balance units)	Rs. 100 per month ^{\$\$}	10.61
2	LT II - LT Non-residential or Commercial		
(A)	0-20 kW	Rs. 200 per month	7.95
(B)	> 20 kW and ≤ 50 kW	Rs. 150 per kVA per month	10.26
(C)	> 50 kW		10.91
3	LT III - LT Industrial upto 20 kW load	Rs. 200 per month	7.76
4	LT IV - LT Industrial above 20 kW load	Rs 150 per kVA per month	7.41
5	LT V - Advertisement & Hoardings, incl. floodlights & neon signs	Rs. 200 per month	17.66
6	LT VI – Streetlights	Rs 150 per kVA per month	8.31
7	LT VII – Temporary Supply		



Sl.	Consumer category & Consumption Slab	Tariffs	
		Fixed/ Demand Charge	Energy Charge (Rs/kWh)
	A) TSR – Temporary Supply Religious	Rs 200 per connection per month	3.81
	B) TSO - Temporary Supply Others	Rs 200 per connection per month	15.81
8	LT VIII – Crematoriums and Burial Grounds	Rs 200 per connection per month	3.81
9	LT IX – Agriculture	Rs. 15 per HP per month	0.80
	<i>TOD Tariffs (in addition to above base tariffs) – compulsory for LT II (B) and (C), and LT IV category, and optional for LT II (A) and LT III category</i>		
	0600 hours to 0900 hours		0.00
	0900 hours to 1200 hours		0.50
	1200 hours to 1800 hours		0.00
	1800 hours to 2200 hours		1.00
	2200 hours to 0600 hours		-0.75
	HIGH TENSION CATEGORIES		
10	HT I – Industry	Rs 150 per kVA per month	7.56
11	HT II – Commercial	Rs 150 per kVA per month	8.41
12	HT III – Group Housing Society	Rs 150 per kVA per month	5.16
13	HT IV – Temporary Supply	Rs 200 per connection per month	11.00
	<i>TOD Tariffs (in addition to above base tariffs) for HT I and HT II categories</i>		



Sl.	Consumer category & Consumption Slab	Tariffs	
		Fixed/ Demand Charge	Energy Charge (Rs/kWh)
	0600 hours to 0900 hours		0.00
	0900 hours to 1200 hours		0.50
	1200 hours to 1800 hours		0.00
	1800 hours to 2200 hours		1.00
	2200 hours to 0600 hours		-0.75

Notes:

1. Fuel Adjustment Cost (FAC) will be applicable to all consumers and will be charged over the above tariffs, on the basis of the FAC formula prescribed by the Commission, and computed on a monthly basis.
2. \$\$: Fixed charge of Rs. 100 per month will be levied on residential consumers availing 3 phase supply. Additional Fixed Charge of Rs. 100 per 10 kW load or part thereof above 10 kW load shall be payable.

The detailed computation of category-wise revenue with revised tariffs has been given as **Annexure I** to this Order.

The approved Tariff Schedule has been given as **Annexure II** to this Order

5.5 WHEELING CHARGES AND LOSS COMPENSATION

The Commission under its APR Order in Case No. 66 of 2007 approved wheeling charges for FY 2008-09 at HT level as Rs 122 per kW per month and wheeling loss of 2.40%, whereas at LT level, wheeling charges were approved as Rs 140 per kW per month with a wheeling loss of 9.30%.

RInfra-D, under its APR Petition has sought the Commission's approval for wheeling charges for FY 2008-09 at HT level as Rs 50.53 per kW per month and wheeling loss of 1.54%, whereas at LT level RInfra-D has sought approval of wheeling charges at Rs 97.33 per kW per month and wheeling loss of 9.79%.



The Commission under MYT Order has observed that separate accounting of network related costs and supply related costs is essential for un-bundling of cost and tariff components and is a pre-requisite for appropriate determination of wheeling charges and affects open access transactions as mandated under the Electricity Act 2003. Further, network costs need to be segregated in terms of voltage level (at least at HT and LT level). The Commission had asked RInfra-D to submit voltage-wise segregated wire cost component of ARR during the annual performance review.

Accordingly, RInfra-D had furnished its workings for wheeling charges as well as furnished aggregate revenue requirement for network related costs and retail supply related costs for FY 2009-10, separately. RInfra-D has also submitted voltage-wise (HT and LT level) opening GFA of its distribution assets. The Commission has considered the same as the basis for determination of network related costs for the purpose of determination of wheeling charge for FY 2009-10.

Accordingly, approved network related aggregate revenue requirement for RInfra-D for FY 2009-10 amounts to Rs 708.64 Crore. The total ARR of the Wires business has been apportioned to HT and LT voltages on the basis of voltage-wise Opening GFA, and the HT cost has further been apportioned to LT category, since the HT system is also being used for supply to the LT consumers. Thus, the wheeling charge applicable to consumers connected on the **HT network** during FY 2009-10 works out to **Rs. 108 per kW per month** and that for consumers connected to **LT network** works out to **Rs 121 per kW per month**.

In addition, wheeling loss in kind shall be applicable for wheeling transactions entailing drawal at HT level at the rate **1.5%** and at the rate of **9.0%** for drawal at LT level, equivalent to estimated technical loss of RInfra-D's distribution network.

Approved Wheeling Charges and Wheeling loss at HT and LT level for FY 2008-09 is summarised in the following Table.

Item Description	Wheeling Charge (Rs/kW/month)	Wheeling Loss (%)
HT level	108	1.5%
LT level	121	9.0%



5.6 CROSS-SUBSIDY SURCHARGE

The cross-subsidy surcharge for eligible open access consumers will continue to be zero, in continuation of the Commission's decision in this regard in the previous Tariff Order.

5.7 INCENTIVES AND DISINCENTIVES

Power Factor Incentive (Applicable for all HT categories, LT II (B), LT II (C) and LT IV categories)

Whenever the average power factor is more than 0.95, an incentive shall be given at the rate of 1% (one percent) of the amount of the monthly bill including energy charges, reliability charges, FAC, and Fixed/Demand Charges, but excluding Taxes and Duties for every 1% (one percent) improvement in the power factor (PF) above 0.95. For PF of 0.99, the effective incentive will amount to 5% (five percent) reduction in the monthly bill and for unity PF, the effective incentive will amount to 7% (seven percent) reduction in the monthly bill.

Power Factor Penalty (Applicable for all HT categories, LT II (B), LT II (C) and LT IV categories)

Whenever the average PF is less than 0.9, penal charges shall be levied at the rate of 2% (two percent) of the amount of the monthly bill including energy charges, reliability charges, FAC, and Fixed/Demand Charges, but excluding Taxes and Duties for the first 1% (one percent) fall in the power factor below 0.9, beyond which the penal charges shall be levied at the rate of 1% (one percent) for each percentage point fall in the PF below 0.89.

Prompt Payment Discount

A prompt payment discount of one percent on the monthly bill (excluding Taxes and Duties) shall be available to the consumers if the bills are paid within a period of 7 working days from the date of issue of the bill.



Delayed Payment Charges (DPC)

In case the electricity bills are not paid within the due date mentioned on the bill, delayed payment charges of 2 percent on the total electricity bill (including Taxes and Duties) shall be levied on the bill amount. For the purpose of computation of time limit for payment of bills, "the day of presentation of bill" or "the date of the bill" or "the date of issue of the bill", etc. as the case may be, will not be excluded.

Rate of Interest on Arrears

The rate of interest chargeable on arrears will be as given below for payment of arrears-

Sr. No.	Delay in Payment (months)	Interest Rate p.a. (%)
1	Payment after due date upto 3 months (0 - 3)	12%
2	Payment made after 3 months and before 6 months (3 - 6)	15%
3	Payment made after 6 months (> 6)	18%

Load Factor Incentive

Consumers having load factor over 75% upto 85% will be entitled to a rebate of 0.75% on the energy charges for every percentage point increase in load factor from 75% to 85%. Consumers having a load factor over 85 % will be entitled to rebate of 1% on the energy charges for every percentage point increase in load factor from 85%. The total rebate under this head will be subject to a ceiling of 15% of the energy charges for that consumer. This incentive is limited to HT I and HT II categories only. Further, the load factor rebate will be available only if the consumer has no arrears with RInfra-D, and payment is made within seven days from the date of the bill. However, this incentive will be applicable to consumers where payment of arrears in instalments has been granted by RInfra-D, and the same is being made as scheduled. RInfra-D has to take a commercial decision on the issue of how to determine the time frame for which the payments should have been made as scheduled, in order to be eligible for the Load Factor incentive.

The Load Factor has been defined below:

$$\text{Load Factor} = \frac{\text{Consumption during the month in MU}}{\text{Maximum Consumption Possible during the month in MU}}$$



Maximum consumption possible = Contract Demand (kVA) x Actual Power Factor
x (Total no. of hrs during the month less planned load shedding hours*)

* - Interruption/non-supply to the extent of 60 hours in a 30 day month has been built in the scheme.

In case the billing demand exceeds the contract demand in any particular month, then the load factor incentive will not be payable in that month. (The billing demand definition excludes the demand recorded during the non-peak hours i.e. 22:00 hrs to 06:00 hrs and therefore, even if the maximum demand exceeds the contract demand in that duration, load factor incentives would be applicable. However, the consumer would be subjected to the penal charges for exceeding the contract demand and has to pay the applicable penal charges).

5.8 APPLICABILITY OF ORDER

This Order for the third year of the first Control Period, i.e., for FY 2009-10, shall come into force with effect from June 1, 2009. The Commission will undertake the Annual Review of RInfra-D performance during the last quarter of FY 2009-10 and determine the revised revenue requirement for FY 2010-11, if required. RInfra-D is directed to submit its Petition for Annual Review of its performance during the first half of FY 2009-10, as well as truing up of revenue and expenses for FY 2008-09 based on audited accounts, with detailed reasons for deviation in performance, latest by November 30, 2009.

The Commission acknowledges the efforts taken by the Consumer Representatives and other individuals and organisations for their valuable contribution to the APR process for RInfra-D for FY 2008-09 and determination of revised revenue requirement for FY 2009-10.

Sd/-
(S. B. Kulkarni)
Member

Sd/-
(A. Velayutham)
Member

Sd/-
(V.P. Raja)
Chairman

(P.B. Patil)
Secretary, MERC



ANNEXURE I
REVENUE FROM REVISED TARIFFS

	Avg. No of consumers	Components of tariff			Relevant sales & load/demand data for revenue calculation		Full year revenue excluding external subsidy				Average Billing Rate (Rs/kWh)
		Energy Charge (Rs/Unit)	Fixed Charge (Rs / Consumer/month)	Demand Charge (Rs/KVA/month)	Energy Units (MUs)	Avg. Demand (KVA / month)	Energy Charge (Rs Cr)	Fixed Charge (Rs Cr)	Demand Charge (Rs Cr)	Total	
LT Category											
LT I Residential (BPL)	2,746	0.40	3	na	1.92		0.08	0.01	na	0.09	0.45
LT I Residential											
0 - 100 units	953650	2.96	30	na	2,331	na	690.08	34.33	na	724	3.11
101 - 300 units	1202770	5.56	50	na	1,496	na	831.87	72.17	na	904	6.04
301 - 500 units	165189	9.16	50	na	308	na	281.90	9.91	na	292	9.48
>= 501 units	71559	10.61	100		397		421.08	8.59	na	430	10.83
Three Phase Consumers*	225408	na	100	na	na	na	na	27.05	na	27	
Sub Total	2,618,576				4,532		2,225	152	na	2,377	5.24
LT II Non-residential or Commercial											
(A) 0 - 20 kW	376,258	7.95	200	na	1,483	na	1,179.31	90.30	na	1,270	8.56



	Avg. No of consumers	Components of tariff			Relevant sales & load/demand data for revenue calculation		Full year revenue excluding external subsidy				Average Billing Rate (Rs/kWh)
		Energy Charge (Rs/Unit)	Fixed Charge (Rs / Consumer/month)	Demand Charge (Rs/KVA/month)	Energy Units (MUs)	Avg. Demand (KVA / month)	Energy Charge (Rs Cr)	Fixed Charge (Rs Cr)	Demand Charge (Rs Cr)	Total	
(B) > 20 and < 50 kW	4,663	10.26	na	150	243	75,914	249.02	na	13.66	263	10.82
ToD		0.50			10		1			1	
		1.00			10		2			2	
		-0.75			9		(1)			(1)	
(C) > 50 kW	3,540	10.91	na	150	564	156,345	615.38	na	28.14	644	11.41
ToD		0.50			31		2			2	
		1.00			34		4			4	
		-0.75			31		(3)			(3)	
Sub Total	384,462				2,290		2,048	90	42	2,180	9.52
LT III Industry (< 20 kW load)	17,169	7.76	200	na	165	na	128.13	4.12	na	132	8.01
LT IV Industry (> 20 kW load)	4,882	7.41	na	150	536	122,696	397.02	na	22.09	419	7.82
ToD		0.50			31		2			2	
		1.00									



	Avg. No of consumers	Components of tariff			Relevant sales & load/demand data for revenue calculation		Full year revenue excluding external subsidy				Average Billing Rate (Rs/kWh)
		Energy Charge (Rs/Unit)	Fixed Charge (Rs / Consumer/month)	Demand Charge (Rs/KVA/month)	Energy Units (MUs)	Avg. Demand (KVA / month)	Energy Charge (Rs Cr)	Fixed Charge (Rs Cr)	Demand Charge (Rs Cr)	Total	
					28		3			3	
		-0.75			33		(2)			(2)	
LT IX (Agriculture)	10	2.21	15	na	-	na	-	0.00	na	0	
LT VI (Street Light)	30	8.31	na	150	54	14,655	45.11	na	2.64	48	8.80
LT VII (B) Temporary Others	3,610	15.81	200	na	120	na	189.77	0.87	na	191	15.88
LT VII (A) Temporary Religious	158	3.81	200	na	-	na	-	0.04	na	0	
LT V (Advt & Hoardings)	640	17.66	200	na	3	na	6.12	0.15	na	6	18.10
LT VIII (Crematorium & Burial Grounds)	6	3.81	200	na	1	na	0.27	0.00	na	0	3.83
HT Category											
HT III (Group Housing Society)	18	5.16	na	100	33	7,145	17.21	na	0.86	18	5.42
HT I (Industry)	176	7.56	na	150	457	81,598	345.84	na	14.69	361	7.88
ToD		0.50			26		1			1	



	Avg. No of consumers	Components of tariff			Relevant sales & load/demand data for revenue calculation		Full year revenue excluding external subsidy				Average Billing Rate (Rs/kWh)
		Energy Charge (Rs/Unit)	Fixed Charge (Rs / Consumer/month)	Demand Charge (Rs/KVA/month)	Energy Units (MUs)	Avg. Demand (KVA / month)	Energy Charge (Rs Cr)	Fixed Charge (Rs Cr)	Demand Charge (Rs Cr)	Total	
		1.00			26		2			2	
		-0.75			44		(2)			(2)	
HT II (Commercial)	272	8.41	na	150	482	149,023	405.02	na	26.82	432	8.97
ToD		0.50			27		2			2	
		1.00			31		4			4	
		-0.75			42		(4)			(4)	
Total	2,807,347				8,676		5,811	248	109	6,168	7.11

**Other Heads of Income
(not included in other
income)**

PF Surcharge	30
PF Incentive / Load Factor Incentive	(63)
Prompt Payment & ECS Payment Discount	(13)
TOTAL REVENUE FROM SALE OF	6122



	Avg. No of consumers	Components of tariff			Relevant sales & load/demand data for revenue calculation		Full year revenue excluding external subsidy				Average Billing Rate (Rs/kWh)
		Energy Charge (Rs/Unit)	Fixed Charge (Rs / Consumer/month)	Demand Charge (Rs/KVA/month)	Energy Units (MUs)	Avg. Demand (KVA / month)	Energy Charge (Rs Cr)	Fixed Charge (Rs Cr)	Demand Charge (Rs Cr)	Total	
ELECTRICITY											



ANNEXURE II**RELIANCE INFRASTRUCTURE LIMITED
SCHEDULE OF ELECTRICITY TARIFFS
(With Effect from June 1, 2009)**

The Maharashtra Electricity Regulatory Commission, in exercise of the powers vested in it under Section 61 and Section 62 of the Electricity Act, 2003 and all other powers enabling it in this behalf, has determined, by this Order dated June 15, 2009 in Case No. 121 of 2008, the retail tariff for supply of Electricity by Reliance Infrastructure Limited, Distribution Business (RInfra-D) for various classes of consumers as applicable from June 1, 2009.

General

1. These tariffs supersede all tariffs so far in force including in the case where any agreement provides specifically for continuance of old agreemental tariff, or any modifications thereof as may have been already agreed upon.
2. Tariffs are subject to revision and/or surcharge that may be levied by RInfra-D from time to time as per the directives of the Commission.
3. The tariffs are exclusive of electricity duty, Tax on Sale of Electricity (ToSE) and other charges as levied by Government or other competent authorities and the same, will be payable by the consumers in addition to the charges levied as per the tariffs hereunder.
4. The tariffs are applicable for supply at one point only.
5. RInfra-D reserves the right to measure the Maximum Demand on any period shorter than 30 minutes period of maximum use, subject to conformity with the prevalent Supply Code, in cases where RInfra-D considers that there are considerable load fluctuations in operation.
6. The tariffs are subject to the provisions of the MERC (Electricity Supply Code and Other Conditions of Supply) Regulation, 2005 in force (i.e. as on June 1, 2009) and directions, if any that may be issued by the Commission from time to time.
7. Unless specifically stated to the contrary, the figures of Energy Charge relate to Rupees per unit (kWh) charge for energy consumed during the month.



8. Fuel Adjustment Costs (FAC) Charge as may be approved by the Commission from time to time shall be applicable to all categories of consumers and will be charged over and above the tariffs on the basis of FAC formula specified by the Commission and computed on a monthly basis.

LOW TENSION (LT) - TARIFF

LT I: LT – Residential (BPL)

Applicability

Residential consumers who have a sanctioned load of upto and less than 0.1 kW, and who have consumed less than 360 units per annum in the previous financial year. The applicability of BPL category will have to be assessed at the end of each financial year. In case any BPL consumer has consumed more than 360 units in the previous financial year, then the consumer will henceforth, be considered under the LT-I residential category. Once a consumer is classified under the LT-I category, then he cannot be classified under BPL category.

The categorisation of such BPL consumers will be reassessed at the end of the financial year, on a pro-rata basis. Similarly, the classification of BPL consumers who have been added during the previous year would be assessed on a pro-rata basis, i.e., 30 units per month.

All the new consumers subsequently added in any month with sanctioned load of upto and less than 0.1 kW and consumption between 1 to 30 units (on pro rata basis of 1 unit/day) in the first billing month, will be considered in BPL Category.

Rate Schedule

Consumption Slab (kWh)	Fixed /Demand Charge	Energy Charge (Rs./kWh)
BPL Category	Rs. 3 per month	0.40

LT I: LT – Residential

Applicability

Electricity used at Low/Medium Voltage for operating various appliances used for purposes like lighting, heating, cooling, cooking, washing/cleaning, entertainment/leisure, pumping in the following places:

- a) Private residential premises,
- b) Premises exclusively used for worship such as temples, gurudwaras, churches, mosques, etc. Provided that Halls, Gardens or any other portion of the premises



that may be let out for consideration or used for commercial activities would be charged at LT-II tariff as applicable.

- c) All Students Hostels affiliated to Educational Institutions.
- d) All Ladies Hostels, such as Students (Girls) Hostels, Working Women Hostels, etc.
- e) Other type of Hostels, like (i) Homes/Hostels for Destitute, Handicap or Mentally deranged persons (ii) Remand Homes (iii) Dharamshalas, etc., subject to verification and confirmation by RInfra's concerned Zonal Chief Engineer.
- f) Telephone booth owned/operated by handicapped person subject to verification and confirmation by RInfra's concerned Zonal Chief Engineer.
- g) Residential premises used by professionals like Lawyers, Doctors, Professional Engineers, Chartered Accountants, etc., in furtherance of their professional activity in their residences but shall not include Nursing Homes and any Surgical Wards or Hospitals.

Rate Schedule

Consumption Slab (kWh)	Fixed/Demand Charge	Energy Charge (Rs./kWh)
0-100 units	Rs. 30 per month	2.96
101 – 300 units	Rs. 50 per month ^{\$\$}	5.56
301 – 500 units		9.16
Above 500 units (balance units)	Rs. 100 per month ^{\$\$}	10.61

Note:

- a) ^{\$\$}: Above fixed charges are for single phase supply. Fixed charge of Rs. 100 per month will be levied on residential consumers availing 3 phase supply. Additional Fixed Charge of Rs. 100 per 10 kW load or part thereof above 10 kW load shall be payable.

LT II: Low Tension – Non-Residential or Commercial

Applicability

Electricity used at Low/Medium Voltage in all non-residential, non-industrial premises and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/leisure, pumping in following places:

- a) Non-Residential, Commercial and Business premises, including Shopping malls



- b) All Educational Institutions, Hospitals and Dispensaries
- c) Combined lighting and power services for Entertainment including film studios, cinemas and theatres, including multiplexes, Hospitality, Leisure, Meeting Halls and Recreation places.
- d) Electricity used for the external illumination of monumental/historical/heritage buildings approved by MTDC.

Rate Schedule

Consumption Slab (kWh)	Fixed/ Demand Charge	Energy Charge (Rs./kWh)
(a) 0-20 kW	Rs. 200 per month	7.95
(b) > 20 kW and ≤ 50 kW	Rs. 150 per kVA per month	10.26
(c) > 50 kW		10.91
TOD Tariffs (in addition to above base tariffs)		
0600 to 0900 hours		0.00
0900 to 1200 hours		0.50
1200 to 1800 hours		0.00
1800 to 2200 hours		1.00
2200 to 0600 hours		-0.75

Note:

- a) The ToD tariff is available to LT-II (b) and (c) category, and optionally available to LT- II (a) having ToD meter installed.

LT III: LT- Industrial upto 20 kW

Applicability

Electricity used at Low/Medium Voltage in premises for purpose of manufacturing, including that used within these premises for general lighting, heating/cooling, etc., having a sanctioned load upto and including 20 kW (26.8 HP). This consumer category also includes IT industry and IT enabled services (as defined in the Government of Maharashtra Policy).

Rate Schedule

Consumption Slab (kWh)	Fixed/Demand Charge	Energy Charge (Rs. /kWh)
0-20 kW	Rs. 200 per month	7.76
TOD Tariffs (Optional - in addition to above base tariffs)		



0600 to 0900 hours		0.00
0900 to 1200 hours		0.50
1200 to 1800 hours		0.00
1800 to 2200 hours		1.00
2200 to 0600 hours		-0.75

Note:

a) The ToD tariff is optionally available to LT- III having ToD meter installed.

LT IV: LT– Industrial above 20 kW load

Applicability

Electricity used at Low/Medium Voltage in premises for purpose of manufacturing including that used within these premises for general lighting, heating/cooling, etc. and having sanctioned load greater than 20 kW (26.8 HP). This consumer category also includes IT industry and IT enabled services (as defined in the Government of Maharashtra Policy).

Rate Schedule

Consumption Slab (kWh)	Fixed/Demand Charge	Energy Charge (Rs./kWh)
Above 20 kW	Rs. 150 per kVA per month	7.41
TOD Tariffs (in addition to above base tariffs)		
0600 to 0900 hours		0.00
0900 to 1200 hours		0.50
1200 to 1800 hours		0.00
1800 to 2200 hours		1.00
2200 to 0600 hours		-0.75

LT V: LT - Advertisements and Hoardings

Applicability

Electricity used for the purpose of advertisements, hoardings and other conspicuous consumption such as external flood light, displays, neon signs at departmental stores, malls, multiplexes, theatres, clubs, hotels and other such entertainment/leisure establishments except those specifically covered under LT-II as well as electricity used for the external illuminations of monumental, historical/heritage buildings approved by MTDC, which shall be covered under LT-II category depending upon Sanctioned Load.

Rate Schedule



Consumption Slab (kWh)	Fixed / Demand Charge	Energy Charge (Rs./kWh)
All Units	Rs. 200 per month	17.66

Note

a) The electricity, that is used for the purpose of indicating/displaying the name and other details of the shops or Commercial premises, for which electric supply is rendered, shall not be under LT V tariff Category. Such usage of electricity shall be covered under the prevailing tariff of such shops or commercial premises.

LT VI: LT- Street LightsApplicability

Electricity used at Low/Medium Voltage for purpose of public street lighting, lighting in public gardens, traffic island, bus shelters, public sanitary conveniences, police chowkies, traffic lights, public fountains, other such common public places irrespective of whether such facilities are being provided by the Government or the Municipality, or Port Trust or other private parties.

Rate Schedule

Consumption Slab (kWh)	Fixed/Demand Charge	Energy Charge (Rs./kWh)
All Units	Rs. 150 per kVA per month	8.31

Note

- Street Lightings having ‘Automatic Timers’ for switching On/Off the street lights would be levied Demand Charges on lower of the following–
 - a) 50 percent of ‘Contract Demand’ or
 - b) Actual ‘Recorded Demand’

LT VII: LT-Temporary SupplyApplicability**LT VII (A) – Temporary Supply Religious (TSR)**

Electricity supplied at Low/Medium Voltage for temporary purposes during public religious functions like Ganesh Utsav, Navaratri, Eid, Moharam, Ram Lila, Ambedkar Jayanti, Diwali, Christmas, Guru Nanak Jayanti, etc., or areas where community prayers are held.

LT VII (B) - Temporary Supply Others (TSO)

Electricity used at Low/Medium Voltage on a temporary basis for any construction work, decorative lighting for exhibitions, circus, film shooting, marriages, etc. and any activity not covered under tariff LT VII (A), and electricity used at low/medium voltage on an emergency basis for purpose of fire fighting activity by the fire department in residential/other premises. Rate Schedule

Consumption (kWh)	Slab	Fixed/Demand Charge	Energy Charge (Rs./kWh)
LT VII (A) – All Units		Rs. 200 per connection per month	3.81
LT VII (B) – All Units		Rs. 200 per connection month	15.81

Note

(a) In case of LT VII (B) the Additional fixed charges of Rs. 150 per 10 kW load or part thereof above 10 kW load shall be payable.

LT VIII: LT- Crematorium and Burial Grounds

Applicability

Electricity used at Low/Medium Voltage in Crematorium and Burial Grounds for all purposes including lighting, and will be applicable only to the portion catering to such activities, and in case part of the area is being used for other commercial purposes, then a separate meter will have to be provided for the same, and the consumption in this meter will be chargeable under LT-II Commercial rates as applicable.

Rate Schedule

Consumption (kWh)	Slab	Fixed/Demand Charge	Energy Charge (Rs./kWh)
All Units		Rs. 200 per connection per month	3.81

LT IX: LT- Agriculture

Applicability

Electricity used at Low/Medium Voltage by LT agricultural consumers for motive power loads exclusively used for agricultural purposes.

Rate Schedule

Consumption during a	Fixed/Demand Charge	Energy Charge
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For all units	Rs. 15 per HP per month	0.80



HIGH TENSION (HT) - TARIFF**HT I: HT – Industry****Applicability**

This category includes consumers taking 3-phase electricity supply at High Voltage for purpose of manufacturing. This Tariff shall also be applicable to IT Industry & IT enabled services (as defined in the Government of Maharashtra policy), taking 3-phase electricity supply at High Voltage.

Rate Schedule

Consumption Slab (kWh)	Fixed/ Demand Charge	Energy Charge (Rs./kWh)
All Units	Rs 150 per kVA per month	7.56
TOD Tariffs (in addition to above base tariffs)		
0600 to 0900 hours		0.00
0900 to 1200 hours		0.50
1200 to 1800 hours		0.00
1800 to 2200 hours		1.00
2200 to 0600 hours		-0.75

HT II: HT- Commercial**Applicability**

This category includes consumers of electricity such as all Educational Institutions, all Hospitals taking supply at High Voltage.

This category also includes consumers taking electricity supply at High Voltage for commercial purposes, including Hotels, Shopping Malls, film studios, cinemas and theatres, including multiplexes.

The Consumers belonging to HT II requiring a single point supply for the purpose of downstream consumption by separately identifiable entities will have to either operate through a franchisee route or such entities will have to take individual connections under relevant category. These downstream entities will pay appropriate tariff as applicable as per RInfra Tariff Schedule i.e. LT II.

Rate Schedule

Consumption Slab (kWh)	Fixed/ Demand Charge	Energy Charge (Rs./kWh)
All Units	Rs. 150 per kVA per	8.41



Consumption Slab (kWh)	Fixed/ Demand Charge	Energy Charge (Rs./kWh)
	month	
TOD Tariffs (in addition to above base tariffs)		
0600 to 0900 hours		0.00
0900 to 1200 hours		0.50
1200 to 1800 hours		0.00
1800 to 2200 hours		1.00
2200 to 0600 hours		-0.75

HT III: HT- Group Housing Society

Applicability

This category includes Group Housing Societies taking single point electricity supply at High Voltage for consumption by individual dwellings. Such individual dwellings will pay appropriate tariff LT I: LT- Residential as per RInfra-D Tariff Schedule in force.

Rate Schedule

Consumption Slab (kWh)	Fixed/ Demand Charge	Energy Charge (Rs./kWh)
All Units	Rs. 150 per kVA per month	5.16

HT IV- HT - Temporary Supply

Applicability

Electricity used at High Voltage on a temporary basis of supply for any construction work, decorative lighting for exhibitions, circus, film shooting, marriages, etc.

This category also includes electricity supplied at High Voltage for temporary purposes during public religious functions like Ganesh Utsav, Navaratri, Eid, Moharam, Ram Lila, Ambedkar Jayanti, Diwali, Christmas, Guru Nanak Jayanti, etc. or areas where community prayers are held.

Rate Schedule

Consumption Slab (kWh)	Fixed/Demand Charge	Energy Charge (Rs./kWh)
Temporary Supply - All units	Rs. 200 per connection per month	11.00





MISCELLANEOUS AND GENERAL CHARGES

Fuel Adjustment Cost (FAC) Charges

The FAC charge will be determined based on the approved Formula and relevant directions, as may be given by the Commission from time to time and will be applicable to all consumer categories for their entire consumption. The FAC Formula takes into account any change in the cost of own generation and power purchase due to variations in the fuel cost. Fuel Price shall mean the landed cost of fuel at power station battery limits and will consist of only following components:

- a) Basic Fuel Price including statutory taxes, duties, royalty as applicable
- b) Transportation (freight) cost by rail/road/pipeline or any other means including transportation service charges for bringing fuel up to the Power Station boundary.
- c) Fuel Treatment Charges such as washing/ leaning charges, Sizing Crushing Charges, Fuel Analysis Charges, etc. for making fuel up to the required grade/quality
- d) Fuel Handling Charges, including that towards loading and unloading charges for bringing fuel to the power station boundary.

Besides above, the Commission specifies a ceiling on 'transportation service charge', at 2% of the freight charge.

The FAC charge shall be computed and levied/refunded, as the case may be, on a monthly basis. The following Formula shall be used for computing FAC:

FAC = C + I + B where,

FAC = Total Fuel Cost and Power Purchase Cost Adjustment

C = Change in cost of own generation and power purchase due to variation in the fuel cost,

I = Interest on Working Capital,

B = Adjustment Factor for over-recovery/under-recovery.

The details for each month shall be available on RInfra-D website at www.rel.co.in

Electricity Duty and Tax on Sale of Electricity

The electricity duty and Tax on Sale of Electricity will be charged in addition to charges levied as per the tariffs mentioned hereunder (as approved by the Commission) as per the Government guidelines from time to time. However, the rate and the reference number of the Government Resolution/ Order vide which the Electricity Duty and Tax on Sale of Electricity is made effective, shall be stated in the



bill. A copy of the said resolution / order shall be made available on RInfra-D website at www.rel.co.in

Power Factor Calculation

Wherever, the average power factor measurement is not possible through the installed meter, the following method for calculating the average power factor during the billing period shall be adopted-

$$\text{Average Power Factor} = \frac{\text{Total}(kWH)}{\text{Total}(kVAh)}$$

$$\text{Wherein the kVAh is} = \sqrt{\sum (kWh)^2 + \sum (RkVAh)^2}$$

(i.e. Square Root of the summation of the squares of kWh and RkVAh)

Power Factor Incentive

Power Factor Incentive (Applicable for all HT categories, LT II (B) and (C) and LT IV categories)

Whenever the average power factor is more than 0.95, an incentive shall be given at the rate of 1% (one percent) of the amount of the monthly bill including Energy Charges, Reliability Charges, FAC, and Fixed/Demand Charges, but excluding Taxes and Duties for every 1% (one percent) improvement in the power factor (PF) above 0.95. For PF of 0.99, the effective incentive will amount to 5% (five percent) reduction in the monthly bill and for unity PF, the effective incentive will amount to 7% (seven percent) reduction in the monthly bill.

Power Factor Penalty

Power Factor Penalty (Applicable for all HT categories, LT II (B) and (C) and LT IV categories)

Whenever the average PF is less than 0.9, penal charges shall be levied at the rate of 2% (two percent) of the amount of the monthly bill including Energy Charges, Reliability Charges, FAC, and Fixed/Demand Charges, but excluding Taxes and Duties for the first 1% (one percent) fall in the power factor below 0.9, beyond which the penal charges shall be levied at the rate of 1% (one percent) for each percentage point fall in the PF below 0.89.



Prompt Payment Discount

A prompt payment discount of one percent on the monthly bill (excluding Taxes and Duties) shall be available to the consumers if the bills are paid within a period of 7 days from the date of issue of the bill.

Delayed Payment Charges (DPC)

In case the electricity bills are not paid within the due date mentioned on the bill, delayed payment charges of 2 percent on the total electricity bill (including Taxes and Duties) shall be levied on the bill amount. For the purpose of computation of time limit for payment of bills, "the day of presentation of bill" or "the date of the bill" or "the date of issue of the bill", etc. as the case may be, will not be excluded.

Rate of Interest on Arrears

The rate of interest chargeable on arrears will be as given below for payment of arrears-

Sr.No.	Delay in Payment (months)	Interest Rate per annum (%)
1	Payment after due date upto 3 months (0-3)	12
2	Payment made after 3 months and before 6 months (3-6)	15
3	Payment made after 6 months (>6)	18

Load Factor Incentive

There is a Load factor incentive for consumers having Load Factor above 75% based on Contract Demand. Consumers having load factor over 75% upto 85% will be entitled to a rebate of 0.75% on the energy charges for every percentage point increase in load factor from 75% to 85%. Consumers having a load factor over 85 % will be entitled to rebate of 1% on the energy charges for every percentage point increase in load factor from 85%. The total rebate under this head will be subject to a ceiling of 15% of the energy charges for that consumer. This incentive is limited to HT I and HT II categories only. Further, the load factor rebate will be available only if the consumer has no arrears with RInfra-D, and payment is made within 7 days from the date of the bill. However, this incentive will be applicable to consumers where payment of arrears in instalments has been granted by RInfra-D, and the same is being made as scheduled. RInfra-D has to take a commercial decision on the issue of how to



determine the time frame for which the payments should have been made as scheduled, in order to be eligible for the Load Factor incentive.

Load Factor means the ratio of total number of units (kWh) consumed during a given period to the total number of units (kWh) which may have been consumed had the Contract Demand / Sanctioned Load been maintained throughout the same period, subject to availability of power supply from RInfra and shall usually be expressed as a percentage.

The Load Factor has been defined below:

$$\text{Load Factor} = \frac{\text{Consumption during the month in MU}}{\text{Maximum Consumption Possible during the month in MU}}$$

Maximum consumption possible = Contract Demand (kVA) x Actual Power Factor x (Total no. of hrs during the month less planned load shedding hours*)

* - Interruption/non-supply to the extent of 60 hours in a 30 day month has been built in the scheme.

In case the billing demand exceeds the contract demand in any particular month, then the load factor incentive will not be payable in that month. (The billing demand definition excludes the demand recorded during the non-peak hours i.e. 22:00 hrs to 06:00 hrs and therefore, even if the maximum demand exceeds the contract demand in that duration, load factor incentives would be applicable. However, the consumer would be subjected to the penal charges for exceeding the contract demand and has to pay the applicable penal charges).

Penalty for exceeding Contract Demand

In case, a consumer (availing Demand based Tariff) exceeds his Contract Demand, he will be billed at the appropriate Demand Charge rate for the Demand actually recorded and will be additionally charged at the rate of 150% of the prevailing Demand Charges (only for the excess Demand over the Contract Demand).

In case any consumer exceeds the Contract Demand on more than three occasions in a calendar year, the action taken in such cases would be governed by the Supply Code.

Additional Demand Charges for Consumers having Captive Power Plant

For customers having Captive Power Plant (CPP), the additional demand charges would be at a rate of Rs. 20/ kVA/month only on extent of Stand-by demand



component, and not on the entire Contract Demand. Additional Demand Charges will be levied on such consumers on the Stand-by component, only if the consumer's demand exceeds the Contract Demand.

Security Deposit

- 1) Subject to the provisions of sub-section (5) of Section 47 of the Act, RInfra-D would require any person to whom supply of electricity has been sanctioned to deposit a security in accordance with the provisions of clause (a) of subsection (1) of Section 47 of the Electricity Act, 2003.
- 2) The amount of the security shall be an equivalent of the average of three months of billing or the billing cycle period, whichever is lesser. For the purpose of determining the average billing, the average of the billing to the consumer for the last twelve months, or in cases where supply has been provided for a shorter period, the average of the billing of such shorter period, shall be considered
- 3) Where RInfra-D requires security from a consumer at the time of commencement of service, the amount of such security shall be estimated by the Distribution Licensee based on the tariff category and contract demand / sanctioned load, load factor, diversity factor and number of working shifts of the consumer.
- 4) RInfra-D shall re-calculate the amount of security based on the actual billing of the consumer once in each financial year.
- 5) Where the amount of security deposit maintained by the consumer is higher than the security required to be maintained under this Supply Code Regulation 11, RInfra-D shall refund the excess amount of such security deposit in a single payment: Provided that such refund shall be made upon request of the person who gave the security and with an intimation to the consumer, if different from such person, shall be, at the option of such person, either by way of adjustment in the next bill or by way of a separate cheque payment within a period of thirty (30) days from the receipt of such request: Provided further that such refund shall not be required where the amount of refund does not exceed the higher of ten (10) per cent of the amount of security deposit required to be maintained by the consumer or Rupees Three Hundred.
- 6) Where the amount of security re-calculated pursuant as above, is higher than the security deposit of the consumer, RInfra-D shall be entitled to raise a demand for additional security on the consumer. Provided that the consumer



- shall be given a time period of not less than thirty days to deposit the additional security pursuant to such demand.
- 7) Upon termination of supply, RInfra-D shall, after recovery of all amounts due, refund the remainder amount held by the Distribution Licensee to the person who deposited the security, with intimation to the consumer, if different from such person.
 - 8) A consumer - (i) with a consumption of electricity of not less than one lakh (1,00,000) kilo-watt hours per month; and (ii) with no undisputed sums payable to RInfra-D under Section 56 of the Act may, at the option of such consumer, deposit security, by way of cash, irrevocable letter of credit or unconditional bank guarantee issued by a scheduled commercial bank.
 - 9) RInfra-D shall pay interest on the amount of security deposited in cash (including cheque and demand draft) by the consumer at a rate equivalent to the bank rate of the Reserve Bank of India: Provided that such interest shall be paid where the amount of security deposited in cash under this Regulation 11 of Supply Code is equal to or more than Rupees Fifty.
 - 10) Interest on cash security deposit shall be payable from the date of deposit by the consumer till the date of dispatch of the refund by RInfra-D.

Definitions:

Maximum Demand

Maximum Demand in Kilowatts or Kilo-Volt-Amperes, in relation to any period shall, unless otherwise provided in any general or specific Order of the Commission, means twice the largest number of kilowatt-hours or kilo-Volt-Ampere-hours supplied and taken during any consecutive thirty minute blocks in that period.

Contract Demand

Contract Demand means demand in Kilowatt (kW) / Kilo –Volt Ampere (kVA), mutually agreed between RInfra-D and the consumer as entered into in the agreement or agreed through other written communication (For conversion of kW into kVA, Power Factor of 0.80 shall be considered).

Sanctioned Load

Sanctioned Load means load in Kilowatt (kW) mutually agreed between RInfra-D and the consumer

Billing Demand (for LT categories):

Monthly Billing Demand will be the higher of the following:



- a) 65% of the actual Maximum Demand recorded in the month during 0600 hours to 2200 hours.
- b) 40% of the Contract Demand.



Note:

- c) Demand registered during the period 0600 to 2200 Hrs. will only be considered for determination of the Billing demand.
- d) In case of change in Contract Demand, the period specified in Clause (a) above will be reckoned from the month following the month in which the change of Contract Demand takes place.

Billing Demand (for HT categories):

Monthly Billing Demand will be the higher of the following:

- a) Actual Maximum Demand recorded in the month during 0600 hours to 2200 hours.
- b) 75% of the highest billing demand recorded during preceding eleven months subject to limit of contract demand.
- c) 50% of the Contract Demand.

Note:

- d) Demand registered during the period 0600 to 2200 Hrs. will only be considered for determination of the Billing demand.
- e) In case of change in Contract Demand, the period specified in Clause (a) above will be reckoned from the month following the month in which the change of Contract Demand takes place.



APPENDIX 1**List of persons who attended the Technical Validation Session held on January 28, 2009**

S.No	Name
RInfra Officials	
1.	Shri G. Khandelwal
2.	Shri Kapil Sharma
3.	Shri Kamal Kant
4.	Shri G.Srinivas Rao
5.	Shri Ganesh Balasubramanian
6.	Shri Sharad Nath
7.	Shri Kishor Patil
8.	Shri. P.G. Phokmare
9.	Shri A C Tambawala
10.	Shri Mohan Limaye
11.	Shri A Shahi
12.	Shri P.S. Pandya
13.	Shri R.R. Mehta
14.	Shri Madan Biyami
15.	Shri P.M Hundil
16.	Shri M.S.Rao
17.	Shri P.V. Chawada
18.	Shri Vikas Sonar
19.	Shri Dhiraj Manikar
20.	Shri Sanjay B
21.	Shri Karman .K
22.	Shri Karan Pallav
23.	Shri A. Vijay
24.	Shri S.A. Radke
25.	Shri A. Mondal
26.	Shri Vivek Mishra
27.	Shri Mangle Sumegh
28.	Shri Prasad Rao
29.	Shri Atul Joshi
30.	Shri Anish J
Others	
31.	Dr. Ashok Pendse
32.	Shri S. Dixit



S.No	Name
Consultants to Commission	
33.	Shri Ajit Pandit
34.	Shri Palaniappan M
35.	Shri Suresh Gehani
36.	Shri S.R.Karkhanis
37.	Kum. Kirty Sharma
38.	Shri Anand Kulkarni
39.	Shri Santosh Kumar Singh
40.	Shri Krishnajith M.U.
41.	Shri M.N. Bapat
42.	Shri. Saurabh Gupta



Appendix-2**List of Objectors**

S.No.	Name & Address of the Objector	Designation	Institution
1.	Dr. Ashok Pendse		Mumbai Grahak Panchayat
2.	Dr. S.L. Patil	Secretary General	Thane Belapur Industries Association
3.	Shri Shantanu Dixit/ Ashwini Chitinis	Member	Prayas, Energy Group
4.	Shri V. Gopal		Individual
5.	Shri Srinivasan Krishnan		Individual
6.	Shri Sanjeev Kapoor		Kapoor Glass India Pvt. Ltd.
7.	Shri Krishna Sarbadhikary		Individual
8.	Shri Ramniklal Chheda		The Retail Grain Dealers Co.op.So.Ltd
9.	Shri. S. S. Seth	Dy. CE (SO) W.S	Municipal Corporation of Greater Mumbai (MCGM)
10.	Shri Sandeep N. Ohri	Moderator	Individual/BIJLEE Yahoo Groups
11.	Shri K.C. Varshney	Divisional Engineer (Bldg)	Mahanagar Telephone Nigam Ltd
12.	Shri S.K. Lahiri		Individual
13.	Col. M. Masand	President	The Association of Hospitals
14.	Shri Mukund K. Parikh		Individual
15.	Shri Jitendra N. Gupta		Individual
16.	Shri Tapan Sharma		Individual
17.	Shri Bankim P. Gor		Individual
18.	N.A	Trustee	Shri Sarvodaya Hospital
19.	Shri Dilip Modi	Secretary	Pinky Prestige CHS Ltd
20.	Shri Sandeep Jalan		Janhit Manch
21.	Shri Bhagvanji Raiyani	President	Janhit Manch
22.	Shri Shatadru Sengupta	Director-Legal and Company Secretary	Hardcastle Restaurants Pvt. Ltd.
23.	Shri Krishnanath R. Nevrekar, (Shri Vinayak Joshi),		Individual



S.No.	Name & Address of the Objector	Designation	Institution
	(Shri Vasant Shirali)		
24.	Shri Dejul M. Shah		Individual
25.	Shri Mohammed Afzal		Consumer / Human Right Activist
26.	Shri Hiren Shah		Individual
27.	Shri Rupesh S. Jadhav		Individual
28.	AshokKumar Hasija	Wing Commander	Individual
29.	Shri Vijay B. Malwankar, Shri Prasad P. Ayare	Executive Committee Member	Shivsena Grahak Sauraksan Sangh
30.	Shri Girdhari B. Lutharia		Individual
31.	Shri Darakh		Individual
32.	Smt. Shyama Nivas		Individual
33.	Dr. Laxmi Vyas		Individual
34.	Shri Anil M. K.		Individual
35.	Smt. Meenakshi Bhalla		Individual
36.	Shri Jatin Sanghavi		Individual
37.	Shri M. J. Gajaria		The Westminster Co-op Housing Society Ltd.
38.	Ms. Usha Chandra Sekhar		Athreya Associates
39.	N.A	Partner	Jain Sweet & Bhelpuri House
40.	Smt. Shweta A. Abrol/ Shri Rakshpal Abrol	Chief Co-ordinator/ Convenor	Bharitya Udhami Avam Upbhokta Sangh
41.	Shri Satya.K. Srivastava	Chief Financial Officer	Spencer's Retail Limited
42.	Shri K. Sampath		Individual
43.	Shri Abhigyan Jha		Individual
44.	Shri Parthasarthy Ganguly	Dy. GM (Legal)	Mumbai International Airport P. Ltd.
45.	Shri Nitin Pandit	President	International Institute for Energy Conservation (IIEC)
46.	Shri Pankaj D. Muni	President	Electrical Contractors'



S.No.	Name & Address of the Objector	Designation	Institution
			Association of Maharashtra
47.	Shri Guruprasad Shetty		Association of Hotels & Restaurant / Individual
48.	Shri Shrikant S. Prabhu		Individual
49.	Shri Yashwant Trimbak Oke		Individual
50.	Shri Sandeep R. Borkar		Individual
51.	Shri Zaheer M. Kondkar		Individual
52.	Shri Hiroo P. Malkani		Individual
53.	Shri Rajesh Varma		Individual
54.	Shri Madanmohan R. Singh		Individual
55.	Shri T. R. Saranathan		Individual
56.	Shri Manohar Pednekar		Sahil International, Mumbai
57.	Shri S.A. Puranik	Dy. GM (Electric Supply)	BEST Undertaking
58.	Shri Vasant Shetty, Shri Narayan.M. Alva	Vice-President	Indian Hotel & Restaurant Association
59.	Shri N. Ponarathanam, [Total 74 Applications]		Vel Induction Hardenings
60.	Shri N. Thampan		Individual
61.	Smt. Jude G. Tandon		Individual
62.	Shri P. N. Sridharan		Individual
63.	Smt. Iona Dias		Individual
64.	Shri Avinash Fortes		Individual
65.	Shri V. Thanumoorthy		Individual
66.	Shri V.H.Wagle	Assistant General Manager	Tata Power Company Ltd.
67.	Shri Utsal Karani, [Total 213 Applications]		Individual
68.	Smt. Kruti Shah		Individual
69.	Shri Mukeshchandra P. Parekh		Individual
70.	Shri N.K. Pratapan	General Secretary	Pestom Sagar Citizens Forum
71.	Shri Kangaraj		Individual
72.	Shri M. Babu		Individual
73.	Smt. Rima Chavan		Individual



S.No.	Name & Address of the Objector	Designation	Institution
74.	Shri R.N. Vakharia		Individual
75.	Shri Ashok Parekh/Sanjay Shah	President/Secretary	Kamla Vihar G-5, Co-op Housing Society
76.	Shri Jeet Gulati	Chairman	Maker Arcade Premises Co.op.Soc.Ltd
77.	Shri Mahendrakumar B. Mehta		Individual
78.	Shri Amit. S. Gajaria	Member (Special Power Committee)	Kandivali Co.op.Indl. Estate Ltd.
79.	Wadia Ghandy & Co. Advocate & Solicitors		Retailers Association of India
80.	Wadia Ghandy & Co. Advocate & Solicitors		Hyper City Retail (I) Ltd
81.	Wadia Ghandy & Co. Advocate & Solicitors		BD & P Hotels (I) Pvt. Ltd
82.	Wadia Ghandy & Co. Advocate & Solicitors		Inorbit Mall (I) Pvt. Ltd.
83.	Wadia Ghandy & Co. Advocate & Solicitors		Shoppers Stop Limited
84.	Wadia Ghandy & Co. Advocate & Solicitors		Globus Stores Pvt. Ltd
85.	Dr. Rajas A. Rane	Working Committee Member	Shivsena Grahak Saurakshan Kaksh
86.	Shri D.D Chaphalkar		Multiplex Association of India, [FICCI]
87.	Shri Prakash Khatiwala	President	Juhu Scheme Residents Association
88.	Shri Mahesh Barbhaya	Proprietor	Lata Enterprises
89.	Shri Jubal Braganza		Individual
90.	Shri Surendrakumar Suri		Individual
91.	Shri D. D Savla	President	Dadar Merchant's Association
92.	N.A	Manager	Shree Bhayander Stainless Steel Mfrs. & Traders Association



S.No.	Name & Address of the Objector	Designation	Institution
93.	Adv. Parag M. Alavani,	General Secretary	Bhartiya Janata Party
94.	Shri. Ishwar P. Kewalramani		Excel Electric
95.	Shri S.C. Gupta	Supt. Engineer	Prasar Bharati, (Broadcasting Corporation of India)
96.	Shri S. Amin [Total 85 Applications]		Seagull Anglore Co-op Housing Society, Chembur
97.	Shri. A.K Khanna	Director	Isha Steel Treatment Pvt. Ltd.
98.	Shri A. R. Bapat,		Individual
99.	Total 45 objectors	NA	The Tenants of Kalyan Bldg
100.	Shri Shrikant R. Belwalkar		Individual
101.	Shri Kantilal Jangbari	President	JVPD Tenants & Residents Association
102.	Shri Utsal Karani		JVPD Tenants & Residents Association
103.	Shri Harish B.Sheatty	President	Maharashtra Manav Seva Sangh
104.	Shri Mahadev Gaikwad		Bhimshakti Ekta Mitra Mandal
105.	Shri Kisan Gaikwad		Individual
106.	Shri N.D. Manjrekar		Individual
107.	Shri Vanraj Patil		Individual
108.	Smt. Anjali		Individual
109.	Smt. Surekha K. Nilakh [Total 67 Applications]		Individual
110.	Shri Vasant K. Gade [Total 110 Applications]		Islampur Samaj Kalyan Society
111.	Shri. Pradeep [Total 47 Applications]		Shetye Pvt. Ltd.
112.	Shri G.A. Gohin [Total 85 Applications]		Individual
113.	Smt. Prema Shetty [Total 84 Applications]		Neelkant Apartment, Chembur
114.	Wadia Ghandy & Co. Advocate & Solicitors		Asian Hotels Ltd.
115.	Wadia Ghandy & Co.		Lifestyle International Pvt. Ltd.



S.No.	Name & Address of the Objector	Designation	Institution
	Advocate & Solicitors		
116.	Wadia Ghandy & Co. Advocate & Solicitors		R. Mall Developers Pvt. Ltd.
117.	Shri Yazdi Tantra	Representative	Juhu Scheme Residents Association
118.	Shri Jayant Patel		Individual
119.	Shri Sumit Dutt		Individual
120.	Shri Samprati Gada		Individual
121.	Shri Bhaskar Prabhu		Individual
122.	Shri Rajiv Arora		Individual
123.	Shri Anil Mani		Individual
124.	Shri Ketan B. Kapadia		Individual
125.	Shri Tirath R. Sonpar		Individual
126.	Shri Chaitanya P. Kalve		Individual
127.	Shri Pravin Jain		Individual
128.	Shri Malav Ravel		Individual
129.	Shri Shirlyn Galbao		Individual
130.	Shri Sharat Bangera		Individual
131.	Shri Rajesh Bhatt		Individual
132.	Smt. Shradda Mathure		Individual
133.	Smt. P. Fernandes		Individual
134.	Shri Rajive Prasad		Individual
135.	Shri Jayesh Thacker		Individual
136.	Smt. Anita Balani		Individual
137.	Ms. Sherly J. Singh	Director	Hotel Samraj
138.	Shri Sunay Gandhi,		Individual



S.No.	Name & Address of the Objector	Designation	Institution
139.	Shri Kantilal Bheda,		Individual
140.	V.C. Darak		V.C. Darak & Associates
141.	Smt. Archana Mehta,		Individual
142.	Dr. Anupam Karmakar	Chief Operating Officer	Parakh Hospital
143.	Shri Amin Mukhi		Individual
144.	Shri Sanjay Sakpal	General Secretary	Ishanya Mumbai District Congress Committee
145.	Shri Sundararaman S Iyer, Shri Suresh M.Mehta	President and Managing Trustee, Executive Trustee	Mumbai Citizens & Commuters' Trust & Citizens Development Trust of India
146.	Shri A.V. Shenoy, Shri Pramod Muzumdar	Convener, Co-convener	Energy Study Group
147.	N.A	Chairman and Hon. Secretary	Navsamaj Co.Op. Housing Soc. Ltd.
148.	Shri Shabbir Udaipurwala and Shri Diwakar Udywar	Secretary and Chairman	Ram Mandir Road Factory Owners Association
149.	N.A	Secretary and Chairman	Juhu Abhishek Apmt. CHS Ltd
150.	Shri Anuj Dhokai		Xoriant Solutions Pvt. Ltd.
151.	Shri Joseph Gonsalves		Individual
152.	Smt. Yojana Pednekar		Individual
153.	Shri Amit Khemka		Individual
154.	Smt. Supriti Singh		Individual
155.	Shri Pankaj Bhatia		Individual
156.	Shri Joy Bimal Roy		Individual
157.	Shri Sajjan Kumar Poddar		Individual
158.	Shri Bhawan Khatwani		Individual
159.	Shri Kumar Pravesh		Individual
160.	Shri Adhir Varma		Individual
161.	Smt. Alice Syam		Individual



S.No.	Name & Address of the Objector	Designation	Institution
162	Shri Bhupendra C. Jhaveri		Individual
163	Shri Sanjay Khullar		Individual
164	Shri Sundeep Nagpal		Individual
165	Shri K. Shanmugam		Individual
166	N.A	Secretary	Ghatkopar Presidential Towers 'B' CHS Ltd
167	Smt. Usha Bhende		Individual
168	Shri K.R. Seshadri		Individual

List of Objectors present during Public Hearing held on March 26, 2009

S.No.	Name & Address of the Objector	Institution
1.	Dr. Ashok Pendse	Mumbai Grahak Panchayat
2.	Dr. S.L. Patil	Thane Belapur Industries Association
3.	Ms. Ashwini Chitnis	Prayas, Energy Group
4.	Shri V. Gopal	Individual
5.	Shri Sandeep N. Ohri	Individual
6.	Shri I.C. Shukla	Shri Bhagwanji Raiyani, Janhit Manch
7.	Shri Vijay B. Malwankar	Shivsena Grahak Sauraksan Sangh
8.	Shri R.K.Seth	Mumbai International Airport P. Ltd.
9.	Shri O.P. Singh	Mumbai International Airport P. Ltd.
10.	Shri Pravind Kumar	Mumbai International Airport P. Ltd.
11.	Shri P.S. Ganguly	Mumbai International Airport P. Ltd.
12.	Shri Mahesh Patankar	International Institute for



S.No.	Name & Address of the Objector	Institution
		Energy Conservation (IIEC)
13.	Shri Rahul Agnihotri	International Institute for Energy Conservation (IIEC)
14.	Ms. Ira Athalle	International Institute for Energy Conservation (IIEC)
15.	Shri Sanjay Sakpal	Electrical Contractors' Association of Maharashtra
16.	Shri Guruprasad Shetty	Association of Hotels & Restaurant
17.	Shri Dipankar Das, Shri Harinder Toor	BEST Undertaking
18.	Shri N. Ponarathanam	Vel Induction Hardenings
19.	Shri Jude G. Tandon	Individual
20.	Shri P. N. Sridharan	Individual
21.	Shri V. Thanumoorthy	Mumbai Citizens Welfare Forum
22.	Shri Prashant Awekar	Tata Power Company Ltd.
23.	Shri V.H. Wagle	Tata Power Company Ltd
24.	Shri Prashant Joshi	Tata Power Company Ltd
25.	Shri Shekar Khedia	Tata Power Company Ltd
26.	Shri A.Sethi	Tata Power Company Ltd
27.	Wadia Ghandy & Co. Advocate & Solicitors	Retailers Association of India
28.	Wadia Ghandy & Co. Advocate & Solicitors	Hyper City Retail (I) Ltd
29.	Wadia Ghandy & Co. Advocate & Solicitors	BD & P Hotels (I) Pvt. Ltd
30.	Wadia Ghandy & Co. Advocate & Solicitors	Inorbit Mall (I) Pvt. Ltd.
31.	Wadia Ghandy & Co. Advocate & Solicitors	Shoppers Stop Limited
32.	Wadia Ghandy & Co. Advocate & Solicitors	Globus Stores Pvt. Ltd
33.	Wadia Ghandy & Co. Advocate & Solicitors	Asian Hotels Ltd.
34.	Wadia Ghandy & Co.	Lifestyle International Pvt. Ltd.



S.No.	Name & Address of the Objector	Institution
	Advocate & Solicitors	
35.	Wadia Ghandy & Co. Advocate & Solicitors	R. Mall Developers Pvt. Ltd.
36.	Dr. Dedhia	Parakh Hospital
37.	Shri Champalal Jain	Individual
38.	Shri V. Sequeria	Individual
39.	Shri Praveen Mehra	Mirage Hotel
40.	Shri Antony Samy	Individual
41.	Shri V. Gopal	Individual
42.	Shri H.S. Kamath	Individual
43.	Ms. Sunila Manerikar	Individual
44.	Shri Ashish Patankar	Individual
45.	Shri Shabbir	Ram Mandir Road Factory Owners Association
46.	Shri Kumarpal Chaganraji Rathore	Individual
47.	Shri Suhajul Hassan	Individual
48.	Shri Deepak N. Israni	DLH
49.	Shri A.D. Golandaz	AITUC
50.	Shri Subash C. Patel	Individual
51.	Shri P.G. Muzumdar	Energy Study Group
52.	Shri A.V. Shenoy	Energy Study Group
53.	Shri U.P. Naniwadekar	Municipal Corporation of Greater Mumbai
54.	Mary Antony	Jagrut Kamgar Manch
55.	Shri Murali Nair	Legal Advisor
56.	Shri S.A. Nikalje	MSPGCL
57.	Shri S.D. Maithi	PAEC
58.	Shri R. Mago	PAEC
59.	Shri A.S. Bhattaharya	PAEC
60.	Shri Yasmdev Bahl	Blue Drat Express Ltd.
61.	Shri K. Vinodham	Individual
62.	Shri S.V. Varadkar	OHRC
63.	Shri A.M. Goklani	Individual
64.	Shri Himanshu Chandavarkar	PXI, Mumbai



S.No.	Name & Address of the Objector	Institution
65.	Girija Gupte	Jagrut Kamgar Manch
66.	Shri S.Sharma	Power Age Consultants
67.	Shri R.S.Verma	Individual
68.	Shri Navin Pandey	Society and You
69.	Shri Hardeo R. Patel	Individual
70.	Ms. Archana Patankar	Tata Institute of Social Science
71.	Bhecmeshwar	Tata Institute of Social Science
72.	Shri R. Thomas	Advisor
73.	Shri S.M. Mehra	M.C.C.T, Mumbai
74.	Shri P.M.Suru	Borosil Glass Works
75.	Ms. Vanita	CCN News
76.	Shri Mohan S	Ahav
77.	H.A.D'Silva	Holy Family Hospital, Bandra
78.	Shri K.J.Shah	Individual
79.	Shri Mukund	Individual
80.	Shri S.Chandrashekar	Amrapali Industries
81.	Shri Rajesh Shinde	Rajesh Industries
82.	Shri Vinay Sethi	Hotel Nataraj
83.	Ms. Ruchita Saxena	Individual
84.	Shri Ketan Malhotra	J.M.D.Engineering Works
85.	Shri Jimit Joshi	Individual
86.	Ms. Sapna Desai	Mid-day
87.	Shri Sachin S. Nachnekar	Rhyth
88.	Ms. Smita Kamble	Prerna
89.	Shri Akshay Rane	Prerna
90.	Shri Pravin Kamble	Prerna
91.	Shri Sujaad Hurane	Individual
92.	Shri Thakur Gautamraj	Individual
93.	Shri Ramji Bhanvshali	Individual
94.	Shri Kausar Patel	Vashi Naka Islampura
95.	Ms. Amina Akhtar	Vashi Naka Islampura
96.	Kamrunnisa	Vashi Naka Islampura
97.	Shri Shashank Rao	Individual
98.	H.M.Mandliya	Individual
99.	Shri Rajil Menon	Down to Earth



S.No.	Name & Address of the Objector	Institution
100.	Ms. Rachita Prasad	News Wire 18
101.	Shri Chittaranjan	The Times of India
102.	Khatuni Bi	Samaj Kalyan Society, Vashi Naka
103.	Shri Vasant K Gade	Samaj Kalyan Society, Vashi Naka
104.	Shri V.R. Khandekar	Angelore Co-Hsg.Society
105.	Shri Sunil Joglekar	HIRCO Powai
106.	Shri Vipul Ravze	Talent Securities
107.	Shri Shanti Patel	Individual
108.	Shri H.K.Bulbwalla	Individual
109.	Shri K.R.Seshadri	Individual

